



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

California Endangered Species Act
Amended Incidental Take Permit No. 2081-2016-051-04
(Amendment No. 5)

AUSTIN QUARRY PROJECT

I. Authority:

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

Permittee:	CalMat Company dba Vulcan Materials Company, West Region
Principal Officer:	Terry Marshall, Area Permitting Manager
Contact Person:	Terry Marshall, (559) 770-7793
Mailing Address:	40450 East Highway 145 Fresno, California 93636

II. Amended ITP³ Background:

On September 25, 2018, CDFW issued the original ITP No. 2081-2016-051-04 to CalMat Company dba Vulcan Materials Company, West Region (Permittee), authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the Austin Quarry Project in Madera County, California (Project). The Project as described in the ITP as originally issued by CDFW included development and operation of a hard rock quarry over approximately half of an approximately 672-acre Project site.

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

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

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

On February 8, 2020, CDFW issued Major Amendment No. 1 which updated the Project Location and Project Description to include improvements to a 1.51-mile-long segment of the Caltrans State Route (SR) 145 right-of-way where it adjoined the original approximately 672-acre Austin Quarry Project site to the north and where it extended east beyond the original Project site to its intersection with SR 41. The Project Description was updated to include roadway and shoulder backing widening, replacement of three culverts and extension of a fourth culvert, and installation of temporary and permanent signage. These changes increased the permanent and temporary impacts of the Project and, therefore, increased the amount of Habitat Management land required to compensate for the increase in impacts to the Covered Species and added the option to purchase Covered Species credits from a CDFW-approved conservation bank.

On February 23, 2022, CDFW issued Minor Amendment No. 2 which clarified the Project Location, updated the Project Description, updated the Impacts of the Taking on the Covered Species, updated Conditions of Approval Delineation of the Project Area of the Project Site, Delineation of Work Area Boundaries, As-Built Plans, Pre-Activity Clearance Surveys and Reporting, and Habitat Management Land Acquisition for consistency with the updated Project Description, clarified language in Conditions of Approval Covered Species Exclusion Fencing, Rain Forecast, and Night Work, and updated the ITP's attachments to reflect updates to the Project Location and an increase of acreage to the Project Area related to Minor Amendment No. 1. CDFW determined these changes were necessary to ensure that the Conditions of Approval are implemented as intended to ensure impacts on the Covered Species as a result of Covered Activities are minimized and fully mitigated, as required by Fish and Game Code section 2081(b)(2). The resulting impacts to the Covered Species remained the same with Minor Amendment No. 2.

On November 21, 2023, CDFW issued Major Amendment No. 3 which updated the Permittee's Principal Officer, Contact Person, and Mailing Address; modified the boundary of the Phase 1 mine area and expanded the size by 6 acres into the current Phase 2 mine area; added a new haul road along the border of the Phase 3 mine area; added the installation of a 7-acre 2,800-kilowatt solar facility, associated infrastructure, security perimeter fence, road, and overhead electrical lines within a 10-acre portion of the Phase 4 mine area; added installation, operations, and maintenance of a solar facility and associated infrastructure to the Covered Activities; referenced the Addendum to the Final Environmental Impact Report prepared and approved by the Madera County Planning Department; revised Condition of Approval Rain Forecast to allow Covered Activities to occur during predicted rainfall or rainfall events under certain circumstances; extended the deadline in which to complete the purchase of Covered Species Credits from a CDFW-approved conservation bank; and updated the ITP's attachments to reflect updates to the Project Description. The resulting impacts to the Covered Species remained the same with Major Amendment No. 3.

On December 13, 2023, CDFW issued Minor Amendment No. 4 which revised the location of the solar facility within the Phase 4 area, revised the size and location of the solar facility

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access road and overhead electrical distribution line, and updated Figure 3a to reflect these changes to the Project Description and location of the solar facility and associated infrastructure. The resulting impacts to the Covered Species remained the same with Minor Amendment No. 4.

In issuing the original ITP, Major Amendment No. 1, Minor Amendment No. 2, Major Amendment No. 3, and Minor Amendment No. 4, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval will fully mitigate impacts to the Covered Species and will not jeopardize the continued existence of the Covered Species.

On June 25, 2025, CDFW received an application from the Permittee requesting a fifth amendment to the ITP and on July 2, 2025, CDFW received the corresponding application fee. The Permittee requested to add western burrowing owl (*Athene cunicularia hypugaea*) as a Covered Species in the ITP. The Project will impact suitable habitat for western burrowing owl therefore the Permittee is requesting take authorization for western burrowing owl incidental to carrying out the Project. Following meetings and email correspondence with the Permittee, the Permittee requested that the scope of the fifth amendment also include an extension of the Permittee's deadline to complete the purchase of 12.75 Covered Species credits from a CDFW-approved conservation bank by 36 months. CDFW finds that this Amendment (Major Amendment No. 5) is a Major Amendment as defined in California Regulations, title 14, section 783.6, subdivision (c)(5). Issuance of Major Amendment No. 5 will increase the amount of take and result in take of a CESA-listed species not previously subject to take authorization provided in original ITP or ITP as previously amended; however, through permanent protection and perpetual management of compensatory habitat for western burrowing owl, it is not expected that Major Amendment No. 5 will increase Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2).) Issuance of Major Amendment No. 5 does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

CDFW now reissues this ITP including the revised provisions in all previous and this fifth amendment (collectively, the Amended ITP). The Amended ITP includes all the operative provisions as of the issue date of this Amended ITP. Figure 4b was added to show the Project's impact on BUOW and Figure 4c was added to show BUOW observations at the Fenston Property. The previous Proposed Lands for Acquisition Form, Habitat Management Lands Checklist, and Mitigation Payment Transmittal Form attachments to the ITP were removed because those documents became obsolete following updates to CDFW's incidental take permit and Habitat Management lands processes since the original ITP was issued. Attachment 5 to this Amended ITP shows the specific red-line changes made to the ITP as a result of Major Amendment No. 5.

III. Effective Date and Expiration Date of this ITP:

The original ITP's effective date was October 11, 2018. This remains the effective date for the original take authorization. This Amended ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **June 1, 2068**.

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

IV. Project Location:

Generally, the approximately 689-acre Austin Quarry Project (Project) site is located southwest of the intersection of State Route (SR) 145 and SR 41 in central Madera County (Figure 1) and approximately 12 miles east of the City of Madera. More specifically, the Project site constitutes portions of the parcels identified APN 051-185-004 and 051-183-001 located within Sections 4 and 5 of Township 11 South, Range 20 East, Mount Diablo Baseline and Meridian. The Project site and surrounding lands exist as rangeland. The Project site is owned by the Urrutia family and will be leased to the Permittee.

The Project site is comprised of two general elements: 1) the 671.83-acre Austin Quarry Property and 2) a 17.12-acre State Route (SR) 145 improvement area (Figure 2a). The Austin Quarry Property will be the site of a hard rock quarry, plant/operations/access road area, and Exclusion Area (Figure 2b). The SR 145 improvement area will involve improvements to the approximately 1.51-mile (7,965-foot) long segment of SR 145 which exists immediately north of the Austin Quarry Property Project site and extends east to the intersection of SR 41. This 17.12-acre area includes paved roadway and engineered shoulder backing (8.66 acres), and ruderal habitat areas beyond the roadway/shoulder backing (8.46 acres). In total, the Project site is 688.95 acres in size.

V. Project Description:

The Project involves development and operation of a hard rock quarry over 348.32 acres of the 671.83-acre Austin Quarry Property, and improvements within a 17.12-acre area of SR 145 right-of-way which adjoins the Austin Quarry Property and extends east to the intersection of SR 41 (Figure 2b). The 365.44-acre Project Area (Project Area) will encompass an aggregate mine that will not exceed 257 acres, a processing plant/operations/access road area that will not exceed 92 acres, and SR 145 improvement area that will not exceed 17.12 acres. A total of 8.66 acres of the Project, coincident with the SR 145 improvement area exists as paved roadway and engineered shoulder backing. In total, the Project Area will not exceed 365.44 acres. The remainder of the Project site will be placed into a 323.51-acre Exclusion Area which will be completely avoided and left undisturbed for the life of the Project (Figure 2b). Improvements within the SR 145 right-of-way will involve widening of the paved roadway to incorporate

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acceleration/deceleration lanes and left/right turn lanes, work on four existing culverts to accommodate the widened roadway, and the installation of signage. Project implementation will commence in 2018 and the quarry will operate for 97 years, at which time aggregate mining/processing will cease and a three-year reclamation phase will commence.

The approximately 92-acre processing plant/operations/access road area will include a 78-acre plant site and materials processing facility. The plant site and materials processing facility will be comprised of an aggregate processing plant, rock conveyor/crushing/washing equipment, aggregate stockpile areas, a 0.5-acre process and storm water storage/recycling pond, freshwater conveyance facilities, an above-ground clarifier and water tank, a well, load-out facility, load-out scales, a maintenance shop, and administrative offices. The plant site will also include areas for transport-vehicle staging and employee vehicle parking. In addition, the plant/operations/access road area will include a 4-acre paved entrance road connecting with SR 145, through which all Project-related traffic will enter and exit. Approximately 7 acres of perimeter roads will serve the quarry. Also, an approximately 3,000-foot long/1.4-acre linear segment along the south side of SR 145 to the west of the paved entrance road will be landscaped and irrigated to provide a vegetative screen. An 8.56-acre, 10-foot-high vegetated berm along the northern quarry perimeter will provide visual screening. An additional 4-foot-high vegetated berm along the eastern, southern, and southwestern perimeter will serve as a safety barrier. These berms will be constructed as components of buildout of each project phase.

The processing plant/operations/access road area will also include the diverted reach of a storm water swale. A natural drainage channel traverses the quarry site and drains from north to south. Prior to topsoil removal, this seasonal drainage will be routed west around the Project Area by pipe to an existing downstream point within the natural drainage channel upstream of Madera Canal. The diversion pipe will be installed underground and be maintained for the lifespan of quarry operations.

The approximately 257-acre aggregate mine will be developed over six (6) phases (Figure 3a). Project implementation will commence in 2018 with concurrent development of Phase 1; a retention and recharge basin, conveyance pipeline, and overburden stockpiling area within the boundary of Phase 6; the processing plant/operations/access road area; installation of visual/safety barrier berms using the topsoil and overburden from Phase 1; and the piped diversion of a natural swale around the aggregate mine. Quarrying of Phase 1, which will not exceed 42 acres, will begin in 2018 and continue over approximately 10 years. Phases 2 through 6 of the mine will be quarried in accordance with the schedule set forth in Table 1, below. A new haul road will be installed along the eastern border of Phase 3 to facilitate access from Phase 1 to Phase 6, and a 2,800-kilowatt solar facility, associated infrastructure, security perimeter fence, road, and overhead electrical lines will be installed within Phase 4 before these Phases are developed as outlined below.

Table 1 Mine Phasing Schedule		
Mine Phase	Phase Acreage* (ac)	Phase Development (yr)
2	46 acres ¹	2028
3	26 acres	2046
4	59 acres ²	2055
5	15 acres	2072
6	63 acres	2083

* Acreages are approximate
¹ The same acreage will be quarried, but the boundary between Phases 1 and 2 will shift by approximately 6 acres to more efficiently mine Phase 1 and prepare for future quarrying in Phase 2.
² The Phase 4 acreage will remain the same; the solar facility and infrastructure will be removed prior to quarrying.

At each mine phase, hard rock will be exposed by removing the topsoil and overburden, then extracted by drilling, blasting, and crushing the hard rock to moveable sizes, which can be transferred to the on-site processing plant for further crushing, sizing, washing, and stockpiling. Groundwater encountered within the mine pit will be pumped to the retention and recharge basin initially constructed within the boundary of mine Phase 6. When mine Phase 6 is prepared for mining in 2083, the retention and recharge basin will be relocated to the processing plant/operations/access road area. None of the encountered groundwater will be discharged from the Project Area outside of the rainy season (December through April). This discharge during the rainy season will: coincide with storm events producing storm water run on into the mine; be limited in volume to just mimic run on into the mine; and will be in compliance with Waste Discharge Requirements adopted by the California Regional Water Quality Control Board for the Project.

Development of the processing plant/operations/access road area and each phase of the mine will involve the use of heavy equipment for vegetation clearing, grubbing, excavation, backfilling, stockpiling, compacting, grading, contouring, trenching, paving, blasting, and the transport and handling of construction materials. The heavy equipment needed to accomplish development of the quarry will include bulldozers, excavators, excavator hammers, backhoes, trenchers, wheel tractors, motor graders, shovel scrapers, water trucks, front-end loaders, pavers, sweepers, rollers, rock drillers, man lifts, artificial lighting, service trucks, cranes, and haul trucks. Operation of the quarry for the production of crushed aggregate will involve some of the same equipment.

In 2115, mining operations will cease and the three-year long reclamation phase of the Project will be initiated, in accordance with the *Reclamation Plan* approved for the Project by Madera County. Upon final reclamation, the diversion pipe diverting the storm water swale will be removed and a surface drainage channel will be constructed around the quarry excavation along an alignment similar to the diversion pipe alignment.

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Improvements within the SR 145 right-of-way will involve widening of the paved roadway approaching and departing the Austin Quarry Property. Along the north boundary of the Austin Quarry Property, SR 145 exists as two 12-foot wide eastbound and westbound through lanes. The existing roadway within 800 feet east of the Austin Quarry Property entrance will be widened to accommodate a new 12-foot deceleration/left turn lane and a 12-foot wide eastbound acceleration lane. The existing roadway within 2,020 feet west of the Austin Quarry Property entrance will be widened to accommodate a new 12-foot wide deceleration/right turn lane and a 12-foot wide westbound acceleration lane. This work will result in the conversion of what currently exists as unpaved compacted/engineered shoulder backing and adjoining grasslands within the right-of-way to paved roadway and new compacted/engineered shoulder backing, entirely south of the existing roadway.

Four culverts currently convey ephemeral streams across SR 145 with inlets located north of the roadway but within the right-of-way, and outlets located south of the roadway but within the right-of-way. Three of the culverts will be replaced and the fourth culvert will only be extended (to the south). The culvert replacement work will involve ground disturbance directly over and within ten feet beside the culvert north and south of the roadway. The culvert extension work will involve ground disturbance directly over and within ten feet beside the culvert south of the roadway.

Temporary and permanent signage will be installed north and south of the widened roadway where it exists immediately north of the Austin Quarry Property. All work within the right-of-way will be done under an Encroachment Permit issued to the Permittee by the California Department of Transportation.

A 2,800 kW solar facility will be constructed within the boundaries of a portion of Phase 4 and will include: photovoltaic (PV) arrays; vibratory driven steel piles to affix the racking to the ground; single-axis tracker racking configurations; rack-mounted PV string inverters; a step-up transformer, a PV switchboard; a riser pole with disconnect; a recloser pole; a 572-kW battery system; a 20-foot wide compacted native internal access path with sand surfacing; a 7-foot barbed wire-topped, chain-link security fence surrounding the solar facility to comply with electrical codes; an approximately 50-foot long, 20-foot wide access road; and double swing gate leading into the solar facility through Phase 6. The access road will be located within the eastern portion of Phase 6 to allow access to the southwest side of the solar facility (Figure 3a).

A 6-foot by 12-foot concrete pad will be constructed for the inverters, battery, and transformer. There will be an approximately 200-foot-long trench within the solar facility for electrical lines from the DC combiner boxes to the inverter pad. An approximately 3,800-foot-long overhead gen-tie circuit will connect the solar facility to the overhead distribution circuit within the processing plant which will connect to a directional power relay with radio signal for battery management control, a recloser, a PG&E service disconnect switch and pole meter located near the entrance of the Austin Quarry Property along SR 145.

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The heavy equipment needed to construct the solar facility as well as the operations and maintenance (O&M) will be the same as for the development of the quarry described above. There will be no temporary or permanent artificial lighting installed during construction or operation of the solar facility. If maintenance requires de-energizing the solar facility during daylight hours, the plant will operate with electrical power from the existing grid as it does now. The solar facility will operate for 25 years with decommissioning anticipated to occur in 2049, prior to mining activities commencing within Phase 4, and will use some of the same equipment.

The solar facility will operate seven days a week during daylight hours. Periodic monitoring and maintenance activities, planned and unplanned, will be required and will occur during daylight hours. Operations of the solar facility will focus on the monitoring of the overall system status, performance, and diagnostics, such as meter reading, production reporting, and updating of O&M manuals.

Planned and unplanned preventative and corrective maintenance will occur as needed during daytime hours throughout the life of the solar facility. Planned and unplanned maintenance activities could include ground- or vegetation-disturbing activities. Planned maintenance activities within the solar facility will include routine inspection, repair, restoration, repair, replacement, and modifications on all solar facility equipment, facilities, and associated infrastructure.

Unplanned maintenance activities on all solar facility equipment and facilities may be necessary due to unexpected damage to, or failure of, equipment or facilities. Forced outages are characterized by an unexpected failure of solar facility equipment or facilities, which requires immediate inspection, repair, restoration, replacement and/or modification. Forced outage conditions are characterized as more urgent or emergency-type work where potential for harm to persons, property, or the environment exists and requires expedited action to remedy the situation to avoid such risks. Forced outage activities could include ground- or vegetation-disturbing activities.

Inspections, testing, maintenance, and repairs will be performed on a continual basis, with most activities occurring once or twice per year for every tracker and major piece of equipment. Staff will use lightweight vehicles and all-terrain vehicles for traversing the site along access roads.

The Project will require occasional replacement of solar panels, equipment and associated infrastructure. Support-facility maintenance or repair will occur on an as-needed basis should deterioration or damage occur or retrofitting be necessary. The access roads could require occasional re-grading, leveling, or filling. Supporting facilities and structures such as the security system, battery storage area, electrical transmission facilities, including the gen-tie line, and security perimeter fencing may require corrective maintenance or repair. Other O&M

activities include erosion control maintenance and vegetation maintenance (i.e., weed control including herbicide spraying or mechanical removal).

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ⁴
1. California tiger salamander (<i>Ambystoma californiense</i> , CTS)	Threatened ⁵
2. Western burrowing owl (<i>Athene cunicularia hypugaea</i> , BUOW)	Candidate ⁶

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

VII. Impacts of the Taking on Covered Species:

The Project activities which are expected to result in incidental take of individuals of the Covered Species are collectively referred to as the **Covered Activities**, and, as described above, include: blasting; operation of heavy equipment to accomplish grading, cut-and-fill, crushing, scraping, contouring, vegetation-clearing, grubbing, excavating, trenching, stockpiling, backfilling, compacting, asphalt removal, levelling, paving, drilling in association with the development and mining activities, and improvements to SR 145; installing, operating, and maintaining a solar facility and associated infrastructure within the Project Area; operating a hard rock quarry and processing facilities; hauling and transporting material throughout the quarry and processing facility; staging and laying down equipment and vehicles; equipment and vehicle traffic; installing and maintaining erosion control; pre-disturbance excavation of small mammal burrows; burrow exclusion; and salvage, capture, and relocation efforts required by this ITP. Solar facility decommissioning activities are outside the scope of the Covered Activities in this ITP.

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities. This mortality could occur as a result of: construction vehicle/equipment strikes and burrow collapse associated with earthwork, vegetation removal, road construction, and operation of heavy equipment and vehicles; crushing or suffocation by heavy equipment or laydown of equipment and materials; entrapment and desiccation within trenches, open pipelines, and uncovered excavations; entombment from deposition of stockpiled soil over occupied burrows, and during vegetation removal and earthwork associated with development of roadbeds, paved parking, building pads, and other infrastructure. Incidental take of individuals of the Covered Species may also occur from the

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

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

⁶ The species status may change following the decision of the Fish and Game Commission to designate the species as threatened or endangered but if there is such a designation, the species will remain a Covered Species.

Covered Activities in the form of pursuit or capture through: entrapment in holes or trenches; capture or corral of individuals in confined areas when wildlife exclusion fencing is constructed around the Project Area; burrow excavation and exclusion as required by this ITP; when individuals and eggs of the Covered Species are salvaged, collected, and relocated or translocated out of harm's way as required by this ITP; and increased possibility of injury or mortality during and after capture and relocation/translocation activities as required by this ITP. Take of the Covered Species is authorized and expected to occur in the 365.44-acre Project Area and only as a result of Covered Activities. Take of the Covered Species is also authorized in the 323.51-acre Exclusion Area and **only** as a result of BUOW burrow exclusion and salvage, capture, and relocation activities required by this ITP and if approved in advance and in writing by CDFW.

The Project is expected to cause the permanent loss of 346.55 acres of upland refugia habitat for CTS, three (3) acres of potential breeding habitat for CTS, and temporary impacts to 6.91 acres of upland refugia habitat for CTS for a total of **356.46 acres** of impacts to CTS habitat, and permanent loss of **147.55 acres** of suitable habitat for BUOW at Phase 1 Adjustment Area, Phase 2, Phase 3, Phase 4 (minus the solar facility), and Phase 5 areas. The 147.55 acres are undeveloped and comprised of annual grassland. Small mammal burrows were documented in Phase 1 Adjustment Area, Phase 2, and Phase 4 areas, in addition to multiple observations and signs of BUOW and BUOW burrows within Phase 1 Adjustment Area and Phase 4 areas (Figures 4a and 4b). In addition to impacts on BUOW in undeveloped areas, the Project is expected to impact BUOW in areas that have already been developed as of 2019. The developed area is approximately 200.77 acres and consists of Phase 1, processing plant, Phase 6, solar facility, and the vegetated earthen berm along the quarry's northern perimeter. Prior to development, small mammal burrows were documented in Phase 1, in addition to multiple observations/signs of BUOW and BUOW burrows in Phase 1 and solar facility areas. BUOW could occur in developed areas where there are suitable burrow features such as buckled concrete, rock piles, pipes, and culverts that could provide shelter and escape cover, and where there is suitable habitat under the elevated solar panels and at the vegetated berm. Accordingly, the 200.77-acre developed area is also considered suitable for BUOW. Impact in the form of mortality at the developed areas is likely to be from construction vehicle/equipment strikes; operation of heavy equipment and vehicles, laydown of equipment and materials; entrapment in uncovered trenches, pipes, and excavations; entombment; and capture, corral, and relocation activities.

Take of Covered Species in the form of mortality in the 323.51-acre Exclusion Area is not anticipated. The Exclusion Area is to be avoided and remain as grassland, natural drainage channels, and wetlands for the approximate 100-year life of the Project. However, the Project is expected to have adverse and indirect impacts on the Covered Species by displacing individuals of the Covered Species from suitable habitat in the Exclusion Area. Noise and ground vibrations resulting from rock drilling and blasting in the Project Area could have indirect impacts on individuals of the Covered Species in the Exclusion Area as discussed further below. In addition, individuals of the Covered Species could be displaced from the

Exclusion Area as a result of habitat loss. Prior to the Project, the Exclusion Area was subject to cattle grazing consistent with historic use of the land. The Exclusion Area has not been grazed by cattle since approximately 2020 when construction of the quarry began. Livestock grazing is compatible with, and even beneficial for, Covered Species habitat and the continued use of rangelands by the Covered Species by reducing thatch build-up and shortening the height of taller grasses. The absence of grazing or vegetation management in the Exclusion Area has resulted in significant thatch build-up and taller grasses and overtime, this could degrade the suitability, functionality, and quality of habitat for the Covered Species in the Exclusion Area. Moreover, thatch build-up and taller grass have been associated with declines in ground squirrel populations that create the burrows that are used by the Covered Species for shelter, escape cover, and nesting. Adverse and indirect impacts on the Covered Species as a result of habitat loss in the Exclusion Area are expected to occur over the 100-year life of the Project and therefore considered to be a permanent impact.

Impacts of the authorized taking also include adverse impacts to the Covered Species related to physiological and/or behavioral disruptions, depressed reproduction, temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: introduction, attraction, or spread of invasive species and predators such as ravens, coyotes, racoons, and feral cats; changes in drainage patterns that favor different vegetative growth; stress, disorientation, and disruptions to Covered Species breeding, rearing, and feeding of dependent eggs, young, or fledglings resulting from noise and ground vibrations from earthwork, equipment operation, blasting, rock drills, traffic, nighttime lighting, fugitive dust, and increased human presence; nest abandonment resulting in loss of eggs, young, or fledglings; earthwork, vegetation removal, noise, and operation of heavy equipment and vehicles that could cause individuals of the Covered Species to leave burrows at inappropriate times increasing stress, overheating, and exposure to predation; displacement from preferred breeding, foraging, and sheltering habitat due to reductions or loss of open grassland and low vegetation; disruptions to Covered Species movement/dispersal to preferred breeding, foraging, and sheltering habitat forcing Covered Species to disperse via longer movement routes causing decreased reproductive output, reduced ability of the parent to acquire food for their dependent young, increased energetic expense, and increased risk of vehicle strikes, predation, or desiccation; increased competition for food, sheltering habitat, and space; increased vulnerability to predation, exposure, or stress through disorientation; reduction or loss of foraging opportunities; reduction or loss of prey quality or quantity; reduction or loss of small mammals that create the burrows used by the Covered Species; and loss of burrows used for shelter, escape cover, and nesting. Individuals of the Covered Species displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization.

VIII. Incidental Take Authorization of Covered Species:

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

IX. Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. California Environmental Quality Act Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the following: Biological Resources section of the Environmental Impact Report (EIR) (SCH No.: 2010071036) certified by Madera County Planning Department on 12 September 2016 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.); the Addendum to the EIR approved by the California Department of Transportation on 13 January 2020; and the Addendum to the FEIR approved by the Madera County Planning Department on 22 May 2023.
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in both Lake and Streambed Alteration Agreement (LSAA) Notification Nos. 1600-2014-0228-R4 and 1600-2020-0077-R4 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 Formal Consultation on the *Vulcan Material Aggregate Mining, Austin Quarry Project, Madera County, California* (Service File No. 81420-2009-F-0061) 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) and/or Designated Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of proposed Designated Biologist(s) and/or Designated Monitor(s) at least 30 days before starting Covered Activities using the Biologist Resume Form (Attachment 4) or another format containing the same information. Permittee shall review qualifications before submission and ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in Covered Species' biology, natural history, collecting, and handling of the Covered Species, positive field identification, excavating burrows and crevices to minimize mortality of Covered Species, installation of exclusion techniques, camera monitoring of burrows, and monitoring construction activities following the Conditions of Approval of an ITP for the Covered Species.

CDFW may approve Designated Biologist(s) for one or both Covered Species in this ITP. For example, CDFW may approve a Designated Biologist to implement all Conditions of Approval for CTS, approve a Designated Biologist to implement all Conditions of Approval for BUOW, or approve a Designated Biologist to implement all Conditions of Approval in this ITP. CDFW may approve Designated Monitor(s) not meeting the qualifications of a Designated Biologist to assist in compliance monitoring and/or implementation of Conditions of Approval as specified by CDFW. Designated Monitor responsibilities shall be restricted to specific Conditions of Approval, specified by the Permittee or Designated Representative at the time their qualifications are submitted for review. Designated Monitor(s) and their specific activities shall be approved in advance and in writing by CDFW. Designated Biologist(s) and Designated Monitor(s) shall

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

- 6.3. Designated Biologist(s) and/or Designated Monitor(s) Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s) and Designated Monitor(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure(s) 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(s) and/or Designated Monitor(s) in the performance of their duties. If the Designated Biologist(s) and/or Designated Monitor(s) are unable to comply with this ITP, then the Designated Biologist(s) and/or Designated Monitor(s) shall notify the CDFW Regional Representative (detailed in the Notices section below) immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist(s)/Designated Monitor(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 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 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. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. 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.** Operation Monitoring Notebook. The Designated Biologist shall maintain an operation-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the operation-monitoring notebook is available for review at the Project site 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 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. This includes photodegradable or biodegradable synthetic netting. Permittee shall use erosion control fabric/mats, blankets, and/or fiber rolls consisting of only natural fibers such as jute, coconut, twine, or other similar fibers.
- 6.9.** Delineation of the Project Area. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the 365.44-acre Project Area to distinguish it from the 323.51-acre on-site Exclusion Area (representing the balance of the Project site). The boundary of the Project Area shall be delineated with stakes and/or flags and shall be maintained with signage for the life of the Project.
- 6.10.** Delineation of Work Area Boundaries. Before starting Covered Activities at each phase of development, including the SR 145 improvements and the solar facility with associated infrastructure, Permittee shall clearly delineate the boundaries of the active Work Area where the Covered Activities will occur for that development phase with fencing, stakes, or flags. A Work Area is defined as the discrete zone(s) within the Project Area where Covered Activities will actively occur for that development phase. Permittee shall restrict all Covered Activities during that development phase to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area.

- 6.11. Project Area Access.** Project-related personnel shall access the Project Area from SR 145, the dedicated route for the Project, 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 or Covered Species habitat impacts will occur as a result of the Project modification. Access to the on-site Exclusion Area shall be prohibited unless approved in advance and in writing by CDFW and **only** as a result of BUOW burrow exclusion and salvage, capture, and relocation activities required by this ITP.
- 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 delineated Project Area unless provided for as described in Condition of Approval Project Area Access, above.
- 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 properly contain and dispose of any hazardous wastes produced within the Project Area.
- 6.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project Area, Exclusion Area, and Habitat Management lands (described below) 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 in each Work Area, Permittee shall remove from each Work Area and properly dispose of all temporary fill, stockpiled mined materials, 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.
- 6.16. Fire Prevention.** Permittee shall implement fire prevention measures during Covered Activities, including but not limited to: (1) equipping all motorized vehicles with spark arrestors when working in designated State Responsibility Areas; (2) ensuring water-filled backpack pumps, shovels, shields, and fire-resistant mats and/or windscreens are available on-site during grinding and welding operations; (3) prohibiting welding operations during "red flag" conditions

as determined by the California Department of Forestry and Fire Protection; (4) equipping all fuel trucks with an appropriate fire extinguisher; and (5) ensuring that flammable materials are cleared from parking and storage areas.

- 6.17. Domestic Animals.** Permittee shall prohibit domestic animals from the Project Area and Exclusion Area, except for those that are possessed by authorized security personnel or federal, state, or local law enforcement officials, dogs used in official and CDFW-approved monitoring procedures/protocols, or service dogs under Title II and Title III of the American with Disabilities Act.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement.** The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities at each phase and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities. In addition, the Designated Representative shall notify CDFW 14 calendar days before starting passive exclusion, if approved in writing by CDFW, in accordance with Condition of Approval Passive Exclusion of Subsequent Mine Phases, below.
- 7.2. Notification of Non-compliance.** The Designated Representative shall immediately notify CDFW in writing if he/she determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring and Inspections.** The Designated Biologist shall be on-site daily when topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur in each phase. For each phase, the Designated Biologist shall conduct compliance monitoring 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 exclusion and delineating fence 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, relocation efforts, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing and grading (including topsoil and overburden removal) are completed.

- 7.4. As-Built Plans.** Permittee shall submit as-built plans to CDFW within six (6) months of completing construction of individual Project phases, including the SR 145 improvements and the solar facility with associated infrastructure. The as-built plan sheets shall delineate and quantify the extent of all facilities, infrastructure, and features associated with the Project phase. The as-built plans shall include an estimate of disturbance resulting from construction and quarrying by highlighting the disturbance areas on the as-built plan sheets. Plans shall include topographic data, with contour intervals not to exceed five feet, as a background layer. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from engineering survey data acquired after Project construction and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.
- 7.5. Quarterly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval Compliance Monitoring and Inspections as well as the As-Built Plans into a Quarterly Compliance Report (QCR) and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. QCRs shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail no later than the 15th day of every third month to CDFW's Regional Representative and Regional Office and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Ruby Kwan (Ruby.Kwan@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@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.
- 7.6. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all QCRs for that year; (2) As-Built Plans; (3) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (4) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (5) summary (with maps) of replacement BUOW burrow location(s) and status (if applicable); (6) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (7) all

available information about Project-related incidental take of the Covered Species; and (8) information about other Project impacts on the Covered Species. Permittee shall submit ASRs to CDFW's Regional Office, Regional Representative and Headquarters CESA Program.

- 7.7. 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 QCR or ASR, whichever is submitted first relative to the observation.
- 7.8. Final Mitigation Report.** Permittee shall provide CDFW with a Final Mitigation Report no later than 45 days after the expiration of this ITP. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all QCRs 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-related 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.
- 7.9. Notification of Take, Injury, or Abandonment.** Permittee shall immediately notify CDFW and the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, if a Covered Species is otherwise found dead or injured within the vicinity of the Project, and if BUOW nestling(s) or eggs(s) are abandoned as a result of Covered Activities. Permittee shall notify CDFW of the take, injury, or abandonment immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005 and by email to the CDFW's Regional Office and the Regional Representative. The initial notification to CDFW shall include information regarding the location, species, number of animals taken, injured, or abandoned, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two (2) calendar days. The report shall include the date and time of the finding or incident, location of where the animal or carcass was found, sex (if known), life stage/age class (if known), observer name and contact information, ITP number, photographs, explanation as to cause of take, injury, or abandonment, and 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 the Covered Species:

California Tiger Salamander Specific Conditions of Approval

- 8.1.** CTS Mortality Reduction and Relocation Plan. Prior to initiating Covered Activities, the Designated Biologist(s) shall prepare, and submit to CDFW for written approval, a CTS Mortality Reduction and Relocation Plan. The CTS Mortality Reduction and Relocation Plan shall include, but not be limited to; a discussion of the survey, excavation method, capture, handling, and relocation methods; a protocol for the conditional passive exclusion (trapping out) of CTS over the deferred mine phases; identification of where the salvaged CTS individuals will be relocated to; and identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat CTS individuals. The CTS Mortality Reduction and Relocation Plan must indicate that only the approved Designated Biologist(s) is/are authorized to capture and handle CTS individuals.
- 8.2.** CTS Pre-Activity Clearance Surveys and Reporting. Prior to initiating Covered Activities in each phase, including the SR 145 improvements and the solar facility with associated infrastructure, the Designated Biologist shall survey that portion of the Project Area, where those Covered Activities will be initiated, for CTS. These surveys shall provide 100 percent visual coverage of the area, including burrow openings in each phase and a 50-foot buffer zone around each phase as access allows. If CTS are found, the Designated Biologist(s) shall relocate CTS from the Project Area in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within each phase.
- 8.3.** Flag Burrows/Crevices. During the CTS Pre-Activity Clearance Surveys and Reporting, the Designated Biologist shall flag all small mammal burrows and crevices which could potentially harbor CTS. Burrows/crevices outside of the Permittee's access do not have to be flagged. Those flagged burrows which occur within 562 meters of known or potential breeding habitat and which cannot be avoided by 50 feet shall be fully excavated in accordance with Condition of Approval CTS Burrow and Crevice Excavation below.
- 8.4.** CTS Burrow and Crevice Excavation. All small mammal burrows and crevices identified and flagged per Conditions of Approval CTS Pre-Activity Clearance Surveys and Reporting and Flag Burrows/Crevices and within 562 meters of

known or potential CTS breeding habitat and that cannot be avoided by 50 feet, shall be fully excavated under the direct supervision of the Designated Biologist(s) in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. Burrows/crevices outside of the Permittee's access do not have to be excavated. Live individuals of CTS which are found shall be relocated by the Designated Biologist in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. Excavation shall occur no more than 14 days after the completion of the CTS Pre-Activity Clearance Surveys and Reporting described above (for excavation of BUOW burrows, see Condition of Approval BUOW Burrow/Nest Excavation).

- 8.5. Covered Species Exclusion Fencing.** To prevent Covered Species from becoming entrapped in or migrating into active Work Areas and the Project Area, exclusion fencing shall be installed around the perimeter of applicable Work Areas and the processing plant/operations area prior to ground-disturbing activities within each phase. Permittee shall install exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, fencing shall not be installed simultaneously at all Work Areas. Covered Species exclusion fencing shall be installed after surveying, flagging, and excavating in accordance with Conditions of Approval CTS Pre-Activity Clearance Surveys and Reporting, Flag Burrows/Crevices, and CTS Burrow and Crevice Excavation above. The fencing material and design shall be summarized in a fencing plan that will be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed no later than 48 hours **after** the burrow excavation/Covered Species relocation work is completed. Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing (also see Condition of Approval BUOW Burrow Avoidance Buffer). When small mammal burrows outside the cleared area cannot be avoided by a 50-foot no-disturbance buffer, they shall be excavated as described in Condition of Approval CTS Burrow and Crevice Excavation above prior to commencing fence installation (also see Condition of Approval BUOW Burrow/Nest Excavation).
- 8.6. Covered Species Exclusion Fence Installation and Inspection.** The Designated Biologist(s) shall accompany the exclusion fence construction crew to ensure that Covered Species are not killed or injured during fence installation. The Designated Biologist shall inspect the exclusion fence and refuge areas (e.g., cover boards) at least once weekly and frequencies in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. Permittee shall maintain/repair the fence when necessary. Permittee shall ensure that exclusion fence remains in place and supported sufficiently to maintain its effectiveness under all conditions such as wind and heavy rain for the duration of the Covered Activities in the Work Area being fenced.

- 8.7.** Passive Exclusion of Subsequent Mine Phases. Mine Phase 1 Adjustment Area and Mine Phases 2 through 6 will not be developed and/or quarried immediately (see Table 1). Phased passive relocation of CTS may be proposed as an alternative to CTS burrow excavation and active relocation (see Condition of Approval CTS Burrow and Crevice Excavation) in areas of Mine Phase 1 Adjustment Area and Mine Phases 2 through 6 not slated for immediate development. Phased passive exclusion of CTS shall occur only with express written authorization from CDFW. Permittee's plans to trap-out these portions of the Project Area will be outlined in, and conducted in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan, as well as the Project's exclusion fencing plan required by Condition of Approval Covered Species Exclusion Fencing.
- 8.8.** Record of CTS Observations, Handling, and Relocation. The Designated Biologist shall maintain a record of all CTS handled and relocated. For each CTS handled and relocated, the Designated Biologist(s) shall provide the following information: (1) date, time, and location of each occurrence using Global Positioning System (GPS) coordinates and maps; (2) the name of the party that actually identified the CTS; (3) circumstances of the incident; (4) the general condition and health of each individual, noting all visible conditions including gait and behavior, ectoparasites, injuries, etc.; (5) any diagnostic markings, sex, age (juvenile or adult); (6) actions undertaken; (7) habitat description; (8) ambient temperature when handled, released, and/or observed; and (9) photographs of the CTS. Permittee shall also submit this information to the CNDDDB as per Condition of Approval CNDDDB Observations. This information should also be included in the QCRs and ASRs.
- 8.9.** Dry Season Work. Ground-disturbing activities within or immediately adjacent (within 250 feet) to the on-site potential CTS breeding habitat shall not occur until the pools are dry, unless surveys are conducted to demonstrate the absence of CTS eggs or larvae in these pools.
- 8.10.** Rain Forecast. The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. During rainfall events and/or when a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, topsoil and overburden removal, grading, compacting, blasting, and excavation) has yet to be completed until the rainfall ceases and a zero percent chance of rain is forecast. Work may continue 24 hours after the rain ceases and there is a zero percent chance of rain in the 72-hour forecast. Covered Activities may continue during rainfall events and/or a 50 percent or greater chance of rain is forecast, within Work Areas where initial ground disturbance has yet to be completed only if: 1) Pre-Activity Clearance

Surveys have been conducted, 2) small mammal burrows have been excavated, and 3) the Work Area is completely enclosed with Covered Species exclusion fencing, in accordance with Conditions of Approval CTS Pre-Activity Clearance Surveys and Reporting, CTS Burrow and Crevice Excavation, and Covered Species Exclusion Fencing above. In Work Areas where these conditions have been satisfied, a Designated Biologist shall survey the applicable Work Area footprint before ground disturbance begins each day that rain is forecast or actively falling to capture and relocate any CTS that are discovered during the surveys. Work Areas where Conditions of Approval CTS Pre-Activity Clearance Surveys and Reporting, CTS Burrow and Crevice Excavation, and Covered Species Exclusion Fencing have previously been satisfied and that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events, if Covered Species Exclusion Fencing is properly maintained and in effective condition, in accordance with the Project's CDFW-approved exclusion fence plan.

- 8.11. Night Work.** Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise during rainfall events and/or when a 50 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast. Covered Activities may continue at night during rainfall events and/or when a 50 percent or greater chance of rain is forecast within Work Areas where initial ground disturbance has been completed and has yet to be completed only if: 1) Pre-Activity Clearance Surveys have been conducted; 2) small mammal burrows have been excavated; and 3) the Work Area is completely enclosed with Covered Species exclusion fencing as described in the Project's CDFW-approved exclusion fence plan, is properly maintained, and is in effective condition in accordance with Conditions of Approval CTS Pre-Activity Clearance Surveys and Reporting, CTS Burrow and Crevice Excavation, and Covered Species Exclusion Fencing above. In Work Areas where these conditions have been satisfied, a Designated Biologist shall survey the applicable Work Area footprint before ground disturbance begins each night that rain is forecast or actively falling to capture and relocate any CTS that are discovered during the surveys.
- 8.12. Fieldwork Code of Practice.** To ensure that disease is not conveyed between work areas by the Designated Biologist(s) or Designated Monitors(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 2) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. The Designated Biologist(s) and Designated Monitor(s) shall take care so that all traces of the disinfectant are removed before entering the next aquatic habitat.

Western Burrowing Owl Specific Conditions of Approval

- 8.13. BUOW Mortality Reduction Plan.** Permittee shall prepare and submit a BUOW Mortality Reduction Plan to CDFW for review and approval within 45 days of issuance of this ITP and before implementing BUOW burrow excavation, artificial burrow construction, burrow exclusion, and other BUOW relocation activities (collectively, "BUOW Exclusion Activities"). The BUOW Mortality Reduction Plan shall include but not be limited to, the following: (1) methods to monitor avoided BUOW burrows/nest; (2) methods to minimize impacts to BUOW burrow/nest (e.g., visual screens, noise attenuation during blasting); (3) methods to monitor BUOW burrows before excavation and blockage; (4) burrow excavation methods using hand tools with refilling; (5) burrow blockage materials and methods that prevents any animals from digging back into the burrow; (6) methods to monitor and minimize risk of BUOW exposure to predators and heat stress if BUOW return to the excavated or blocked BUOW burrow (e.g., shade structures); (7) procedures in the event that a BUOW is observed in or adjacent to the Project Area during Covered Activities; (8) methods to relocate at-risk BUOW out of immediate harm's way; (9) identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured BUOW or care for at-risk BUOW, BUOW eggs, and/or BUOW chicks; (10) proper handling and transport procedures to the wildlife rehabilitation center or veterinary facility to reduce desiccation risk; and (11) description and plan for unanticipated emergencies that may require the Permittee to encroach into BUOW Avoidance Buffers. Only the Designated Biologists, or personnel following directions from and under the supervision of the Designated Biologist(s), shall relocate at-risk BUOW out of immediate harm's way and handle injured or at-risk BUOW, BUOW eggs, and/or BUOW chicks for transport to a wildlife rehabilitation center or veterinary facility. All other BUOW handling is prohibited.
- 8.14. BUOW Artificial Burrow Replacement Plan.** Permittee shall prepare and submit a BUOW Artificial Burrow Replacement Plan to CDFW for review and approval within 45 days of issuance of this ITP and before implementing BUOW Exclusion Activities. The BUOW Artificial Burrow Replacement Plan shall include but not be limited to, the following: (1) BUOW burrow replacement location(s) with maps and discussion of the biological suitability (e.g., foraging habitat, prey, burrows, vegetation composition), proximity to the Project Area and features (e.g., roads, drainages, water bodies, solar panels, powerlines), and property information (e.g., conservation status, land uses, any conflicting land uses); (2) location(s) with maps of any known and nesting BUOW burrows at the replacement location(s); (3) number of replacement burrows to be installed for each type of burrow that is excavated; (4) replacement burrow design, materials, number and orientation of entrances, tunnel length and depth, and installation methods; (5) replacement BUOW burrow maintenance methods including vegetation

Amended Incidental Take Permit
No. 2081-2016-051-04
(Amendment No. 5)

**CALMAT COMPANY DBA VULCAN
MATERIALS COMPANY, WEST REGION
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management around replacement burrows; (6) methods to avoid and minimize impacts to BUOW during installation and maintenance activities; and (7) repeatable, science-based methods for assessing and monitoring replacement burrow(s) to obtain BUOW use, survival, and reproductive information through a minimum of the first two (2) BUOW breeding seasons, at a minimum, to start immediately following creation of each replacement BUOW burrow.

8.15. Pre-Activity BUOW Clearance Survey and Report. No more than 14 days before starting Covered Activities in the Work Area and before implementing BUOW Exclusion Activities, the Designated Biologist shall conduct surveys for BUOW using the methods described in the CDFW Staff Report on BUOW Mitigation, Appendix D (2012) or other appropriate method, if agreed upon in writing by CDFW, with the last survey occurring no more than 48 hours before starting Covered Activities in the Work Area. Surveys shall provide 100 percent visual coverage in the Work Area and a 500-foot buffer zone around the Work Area, except areas outside of the Permittee's access and/or control and shall include the Exclusion Area where the Exclusion Area is within the 500-foot buffer. Surveys shall include culverts, buckled concrete, rock piles, and similar features that could support BUOW burrows. The Designated Biologist shall identify BUOW burrows if present in the survey area and as follows:

- A **potential (suitable) burrow** is any hole, 3 inches or larger, for which no evidence is present to conclude that the burrow is being used or any past use by a BUOW.
- A **known burrow** is a burrow that is known to have been used or shows evidence of current or past use showing signs of occupancy (e.g., BUOW presence, whitewash, pellets, prey remains, etc.) including auxiliary "satellite" burrows.
- A **nest** is a known BUOW burrow with indications of the presence of an adult pair, mating behaviors, eggs, chicks, dependent young, and/or brooding or egg incubation, including satellite burrows.

The Designated Biologist shall submit the survey results including a Burrow Complex Map to CDFW before starting Covered Activities in the Work Area. The Pre-Activity BUOW Clearance Survey report shall include but not be limited to the date and time of survey; surveyor name(s); surveyor qualifications; location of BUOW sightings (if any); and the location of any burrow, type, and status. The Burrow Complex Map shall be at a scale of 1:24,000 or finer to show locations of BUOW, burrows, and areas of concentrated BUOW burrows. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the survey area, title, north arrow, scale bar, and legend.

8.16. BUOW Burrow Avoidance Buffer. Permittee shall delineate an avoidance buffer around any known or nesting BUOW burrows and satellite burrows (i.e., entire burrow complex) before starting Covered Activities. Permittee shall establish a minimum avoidance buffer as follows:

- **1,600 feet** around a nesting burrow, year-round
- **100 feet** around a known burrow
- **1,600 feet** around a known burrow that is occupied during the BUOW nesting season from February 1 through August 31
- **150 feet** around a known burrow that is occupied outside of the nesting season by an overwintering, resident, or migrating BUOW.

Permittee shall also delineate an avoidance buffer when any BUOWs are observed during Covered Activities (see Condition of Approval Covered Species Observations below). If the BUOW burrow or nest is located outside of the Project Area, in the Exclusion Area, or in an area that is outside of the Permittee's access and/or control, Permittee shall delineate the part of the avoidance buffer that is located within the Work Area. Permittee shall delineate avoidance buffers with different materials than those used per Conditions of Approval Delineation of Work Area Boundaries and Delineation of Habitat and with materials that avoid providing perches for predatory corvids, raptors, or other predators. Avoidance buffers shall not prevent BUOW from accessing or leaving the BUOW burrow/nest. Permittee shall not reduce, encroach, or otherwise modify avoidance buffers without prior approval from CDFW. Permittee shall maintain materials used for delineating avoidance buffers in effective condition under all conditions such as wind and heavy rain. If known or nesting BUOW burrows cannot be avoided in the manner described in this Condition of Approval, then Permittee shall implement Condition of Approval BUOW Avoidance Buffer Reduction, Artificial BUOW Burrow Replacement, and BUOW Burrow Excavation below.

8.17. BUOW Avoidance Buffer Reduction. Permittee may submit a BUOW Avoidance Buffer Reduction request in writing to CDFW if a known or nesting BUOW burrow cannot be avoided in accordance with Condition of Approval BUOW Burrow Avoidance Buffer and if the Designated Biologist determines that specific Covered Activities are not likely to affect the BUOW a using known or nesting burrow due to the nature of the specific Covered Activities, objects, topography, or physical conditions that might reduce potential noise disturbance and obstruct view of the Covered Activities from the BUOW burrow/nest, or if the Permittee implements methods to minimize the impacts of Covered Activities to the BUOW burrow/nest (e.g., visual screens, additional exclusion fencing) in accordance with the CDFW-approved BUOW Mortality Reduction Plan. The Buffer Reduction

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Request shall include at a minimum a monitoring report from the Designated Biologist that documents the status of the BUOW burrow/nest, if BUOWs have not displayed any courtship behavior and are not in the process of egg-laying or incubation, or all chicks have fledged, and a discussion of any objects, topography, or physical conditions that might reduce impacts to BUOW. The Designated Biologist shall monitor the burrow/nest with a wildlife camera(s) for a minimum of four (4) consecutive 24-hour periods to document the status of the burrow/nest. The wildlife camera type used for camera monitoring shall be chosen at the discretion of the Designated Biologist and shall have daytime and nighttime recording/photo-capture capabilities. CDFW may request additional surveys to be performed in order to evaluate the Permittee's request. CDFW will review the Permittee's request on a case-by-case basis and CDFW shall determine whether to approve a BUOW Avoidance Buffer Reduction request.

- 8.18. Artificial BUOW Burrow Replacement.** If the Permittee must excavate a known/nesting BUOW burrow in the Work Area or block a burrow for longer than one year per Conditions of Approval BUOW Burrow/Nest Excavation and BUOW Burrow Blockage below, Permittee shall first replace each known/nesting BUOW burrow that must be excavated with an artificial burrow to compensate for the loss of important shelter used by BUOW for protection, reproduction, and escape from predators. Permittee shall install artificial burrows in accordance with the CDFW-approved BUOW Artificial Burrow Replacement Plan before excavating the known/nesting BUOW burrow. If there are no suitable existing burrows within 100 meters of the known/nesting BUOW burrow that must be excavated or blocked, Permittee shall install artificial burrows within 100 meters of the burrow that must be excavated or blocked unless otherwise approved in advance and in writing by CDFW per the CDFW-approved BUOW Artificial Burrow Replacement Plan. Permittee shall monitor replacement BUOW burrows in accordance with the CDFW-approved BUOW Artificial Burrow Replacement Plan and provide a status summary of replacement BUOW burrows in ASRs.
- 8.19. BUOW Burrow/Nest Excavation.** After replacing known/nesting BUOWs burrows per Condition of Approval Artificial BUOW Burrow Replacement if applicable, the Designated Biologist or individuals under the direct supervision of the Designated Biologist shall excavate potential, known, and nesting burrows that cannot be avoided in the Work Area. The Designated Biologist shall excavate unoccupied known burrows before starting Covered Activities in the Work Area where Covered Activities are planned to occur in the immediate future **and** only after the Designated Biologist determines that no BUOW is observed occupying nor near the burrow for a minimum of four (4) consecutive 24-hour periods (see Condition of Approval BUOW Avoidance Buffer Reduction for wildlife camera specifications). After determining that no BUOW is occupying nor near the known burrow, the Designated Biologist shall immediately excavate the unoccupied

known burrow. Permittee may excavate an unoccupied nest after the Designated Biologist confirms that the chicks have fledged and are no longer dependent on the nest **and** after obtaining written concurrence from CDFW to do so. Potential burrows without any sign of BUOW use or characteristics suggesting it is a BUOW burrow may be excavated without advance monitoring as specified above. The Designated Biologist shall excavate BUOW burrows in accordance with the CDFW-approved BUOW Mortality Reduction Plan. If the excavation process reveals BUOW, eggs, young, or adults, then burrow excavation shall cease immediately and monitoring by a Designated Biologist shall be conducted/resumed and the Designated Biologist shall contact CDFW immediately and obtain written guidance from CDFW regarding how to proceed. Permittee shall not destroy or excavate any BUOW burrows in the Exclusion Area.

- 8.20. BUOW Burrow and Nest Monitoring.** The Designated Biologist shall monitor BUOW burrows within avoidance buffers daily during initial ground-disturbance and vegetation removal activities that occur during the nesting season (February 1-August 31), and frequencies in accordance with the CDFW-approved BUOW Mortality Reduction Plan during initial ground-disturbance and vegetation removal activities occurring outside of the nesting season, after initial ground-disturbance and vegetation removal activities and once Covered Activities are on-going and more routine in nature, and during periods of inactivity. Wildlife cameras may be used as an alternative or to supplement on-site surveys provided that it is approved in the CDFW-approved BUOW Mortality Reduction Plan in order to minimize the number of visits and disturbance to BUOW (see Condition of Approval BUOW Avoidance Buffer Reduction for wildlife camera specifications). Monitoring of BUOW burrows within 500 feet of the Work Area but outside of the Project Area and in an area that is outside of the Permittee's access and/or control shall be conducted as access allows. The Designated Biologist shall stop work if BUOW exhibits distress and/or abnormal behavior (e.g., excessive vocalizations, defensive flights at intruders, flushing frequently, or otherwise displaying agitated behavior). Permittee shall not resume Covered Activities causing BUOW to be distressed until the Designated Biologist consults with CDFW. CDFW shall determine whether to increase the size of the avoidance buffer. If CDFW determines to increase the size of an avoidance buffer, an increased avoidance buffer shall be delineated before Covered Activities can recommence.
- 8.21. BUOW Burrow Blockage.** If after monitoring per Condition of Approval BUOW Burrow and Nest Monitoring the Designated Biologist, in consultation with CDFW, determines that usage of a BUOW burrow in the Work Area or immediately adjacent in the Exclusion Area during Covered Activities poses a direct risk of harm to a BUOW, if approved in writing by CDFW and if access allows, the

Designated Biologist may block the unoccupied burrow in accordance with the CDFW-approved BUOW Mortality Reduction Plan. If a burrow must be blocked for longer than one year, Permittee shall first replace the burrow that will be blocked in accordance with Condition of Approval Artificial BUOW Burrow Replacement. The Designated Biologist shall monitor the burrow until no BUOW is observed occupying nor near the burrow for a minimum of four (4) consecutive 24-hour periods (see Condition of Approval BUOW Avoidance Buffer Reduction for wildlife camera specifications). After determining that no BUOW is occupying nor near the burrow, the Designated Biologist shall immediately block the unoccupied burrow. Permittee may block an unoccupied nest only after the Designated Biologist confirms that the chicks have fledged and are no longer dependent on the nest **and** only after obtaining written concurrence from CDFW to do so. The Designated Biologist shall monitor the blocked burrow/nest at least two times per day and in accordance with the CDFW-approved BUOW Mortality Reduction Plan for BUOW that may return and to ensure that the blocked burrow/nest materials are still intact. If a BUOW returns to the blocked burrow/nest, Permittee shall implement measures in accordance with the CDFW-approved BUOW Mortality Reduction Plan if the Designated Biologist determines that the BUOW is at risk of injury or mortality. If BUOW regains access to the burrow/nest, the Designated Biologist shall contact CDFW immediately and obtain written guidance from CDFW regarding how to proceed. Permittee shall remove materials blocking BUOW burrows/nest within 48 hours of completion of Covered Activities or after Covered Activities are on-going and more routine in nature **and** after obtaining written concurrence from CDFW to do so.

- 8.22. BUOW Protocol Surveys.** Permittee shall conduct protocol-level BUOW Breeding and Non-Breeding Season Surveys in accordance with the CDFW Staff Report on BUOW Mitigation, Appendix D (2012). The Designated Biologist shall conduct protocol-level surveys every five (5) years to document any changes in BUOW presence such as colonizing BUOWs that have recently moved into the Project Area, migrating owls, resident BUOWs changing burrow use, etc. The first survey shall be conducted in year 2030. The Designated Biologist shall survey the Project Area plus a 500-foot buffer zone around the Project Area as access allows, where there is suitable habitat for BUOW including culverts, buckled concrete, rock piles, and similar features that could support BUOW burrows. Permittee shall submit the survey report to CDFW no more than 14 days after the last survey. The survey report shall include a Burrow Complex Map of the Project Area and Exclusion Area (see Condition of Approval Pre-Activity BUOW Clearance Survey). If changes in BUOW presence are detected, the Permittee and Designated Biologist shall consult with CDFW. CDFW may determine that the Permittee must implement additional methods to minimize the impacts of

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Covered Activities on BUOW through revisions to the BUOW Mortality Reduction Plan and/or BUOW Artificial Burrow Replacement Plan.

- 8.23. Detering Predator Attraction. Permittee shall avoid attracting BUOW predators to the Project Area. Permittee shall store large mobile equipment that will not be used for more than 5 days at least 500 feet away from known or nesting BUOW burrows to prevent avian predators from using large mobile equipment as perches.
- 8.24. Rodenticides. Permittee shall prohibit management of ground squirrel populations or any small mammals/rodents by any means and shall prohibit the use of rodenticides within the Project Area for the term of this ITP. Permittee shall not use any second-generation anticoagulant rodenticides (e.g., brodifacoum, bromadiolone, difethialone, and difenacoum) and first-generation anticoagulant rodenticide (e.g., diphacinone, coumachlor, chlorophacinone, and warfarin). If small mammal/rodent control is needed, Permittee shall obtain written approval from CDFW prior to controlling small mammals/rodents within the Project Area.

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- 8.25. Plan Revisions and Updates. Once the CTS Mortality Reduction and Relocation Plan, fencing plan in accordance with Covered Species Exclusion Fencing, BUOW Mortality Reduction Plan, and BUOW Artificial Burrow Replacement Plan are approved by CDFW, they shall be used for the duration of this ITP unless the Permittee is required by CDFW to update these plans to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes by the Permittee shall be submitted in writing to CDFW and approved by CDFW in writing before Permittee implements any proposed plan modifications.
- 8.26. Open Excavations. The Designated Biologist and worker(s) shall inspect all open holes, sumps, trenches, and other excavations within the Work Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped Covered Species. The Designated Biologist and worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity which could cause further entrapment, or injure or kill the Covered Species, and notify the Designated Biologist(s) immediately. Workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue. Alternatively, the Designated Biologist(s) shall capture and relocate CTS out of harm's way outside of the Project Area and in accordance

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with the CDFW-approved CTS Mortality Reduction and Relocation Plan. If a BUOW is found, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with BUOW Burrow Avoidance Buffer. If the BUOW does not vacate of its own accord within a reasonable timeframe and is at-risk, the Designated Biologist shall consult with CDFW and if approved by CDFW in writing, may move the at-risk BUOW out of immediate harm's way in accordance with the CDFW-approved BUOW Mortality Reduction Plan.

- 8.27. Covers and Ramps.** Permittee shall ensure that all open holes, sumps, trenches, and other excavations are covered or escape ramps are provided to prevent inadvertent entrapment of Covered Species. At the end of the workday **after** thorough inspection, workers shall cover all open holes, sumps, trenches, and other excavations of any depth that have sidewalls greater than 1:1 (45 degree) slope with barrier material (e.g., plywood or other hard material) such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. If any open holes, sumps, trenches, and other excavations cannot be covered, Permittee, in consultation with the Designated Biologist shall provide at least one escape ramp constructed of earthen fill or a non-slip wooden plank with a less than 1:1 (45 degree) slope for each open hole, sump, trench, or other excavation. If a situation is encountered that this Condition of Approval does not anticipate and alternative methods of preventing entrapment in open holes, sumps, trenches, and other excavations are warranted, Permittee shall request and obtain CDFW's written approval before implementing the alternative. Designated Biologist and worker(s) shall inspect covers and ramps to ensure that covers and ramps are in effective condition, secured, and with no gaps.
- 8.28. Vehicle and Equipment Inspection.** Permittee shall prohibit vehicles and equipment from parking on top of small mammal and Covered Species burrows, except within designated staging areas for which burrows have been excavated in accordance with Conditions of Approval CTS Small Mammal Burrow and Crevice Excavation and BUOW Burrow Excavation. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist(s) shall move the Covered Species out of harm's way outside of the Project Area and in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. If a BUOW is found, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance

buffer in accordance with BUOW Burrow Avoidance Buffer. If the BUOW does not vacate of its own accord within a reasonable timeframe and is at-risk, the Designated Biologist shall consult with CDFW and if approved by CDFW in writing, may move the at-risk BUOW out of immediate harm's way in accordance with the CDFW-approved BUOW Mortality Reduction Plan.

- 8.29. Pipes and Other Structures Entrapment Prevention.** Permittee shall ensure that all pipes, hoses, conduits, culverts, or similar materials stockpiled or installed in the Project Area be capped or otherwise enclosed at the ends to prevent entry by Covered Species. Workers shall thoroughly inspect all construction pipes, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the object is subsequently moved, buried, or capped. If during inspection, an individual of the Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall immediately cease all Covered Activities in the vicinity which could injure or kill the Covered Species and notify the Designated Biologist. Covered Species shall be allowed to escape unimpeded to a safe location, if possible, before Covered Activities are allowed to continue. If a CTS is found, the Designated Biologist may move CTS out of harm's way outside of the Project Area and in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. If a BUOW is found, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with BUOW Burrow Avoidance Buffer. If the BUOW does not vacate of its own accord within a reasonable timeframe and is at-risk, the Designated Biologist shall consult with CDFW and if approved by CDFW in writing, may move the at-risk BUOW out of immediate harm's way in accordance with the CDFW-approved BUOW Mortality Reduction Plan.
- 8.30. Soil Stockpiles.** Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding habitat in the Project Area, or into any other "Waters of the State". Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall stockpile all materials and equipment in a manner that discourages Covered Species' use.
- 8.31. Equipment Fueling and Maintenance.** Permittee shall ensure that equipment fueling and maintenance occurs at least 250 feet from CTS breeding habitat or any other "Waters of the State". Permittee shall ensure that equipment fueling and maintenance occurs outside of BUOW avoidance buffers.
- 8.32. Night Lighting.** Permittee shall eliminate nonessential lighting and avoid or limit the use of artificial light during the hours of 30 minutes before sunset and ending 30 minutes after sunrise when wildlife is most active. Permittee shall ensure that all nighttime lighting used during Covered Activities is fully shielded, cast

downward and directed away from surrounding habitat, open space, burrows, avoidance buffers, and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding areas or upward into the night sky.

- 8.33. Covered Species Observations.** During all Covered Activities, all workers shall inform the Designated Biologist if a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved CTS Mortality Reduction and Relocation Plan. If a BUOW is observed, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with Condition of Approval BUOW Avoidance Buffer. If a BUOW is at-risk and in immediate harm's way, the Designated Biologist shall consult with CDFW to determine if the BUOW should be relocated if approved by CDFW in writing.
- 8.34. Covered Species Injury, Abandonment, or Carcass.** If a Covered Species is found injured as a result of Covered Activities or if BUOW chicks or eggs are found abandoned as a result of Covered Activities, the Designated Biologist(s) shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility in accordance with Conditions of Approval CTS Mortality Reduction and Relocation Plan and BUOW Mortality Reduction Plan. The Designated Biologist or Designated Representative shall provide weekly updates to CDFW on the status of the rehabilitation facility's treatment of the Covered Species individual. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species, including hacking (controlled release of captive reared BUOW) if required by CDFW. Controlled release of captive reared young shall be conducted in coordination with CDFW. CDFW, in its sole discretion, will determine controlled release procedures, including but not limited to release location, timing, and monitoring timing, methods, and frequency after the controlled release of captive reared young. If a BUOW is found deceased, the Designated Biologist shall immediately collect, bag, and freeze the carcass and consult with CDFW to determine if submittal of the carcass to a laboratory is warranted and/or follow any approved storage or transport methods as approved in the BUOW Mortality Reduction Plan. Permittee shall bear any costs associated with submittal of a carcass to a laboratory.
- 8.35. Herbicide Use.** Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable state, federal, and local regulations. Herbicides shall not be applied during rainfall events and/or when rainfall is predicted within 72 hours. Permittee shall ensure

herbicide mixing occurs within the Project Area where there is no potential of a spill reaching waters at the on-site Exclusion Area or off site. Permittee shall only use herbicides registered with the California Department of Pesticide Regulation (CDPR) and any dyes must be EPA-registered dyes approved for use in California. Permittee shall ensure that any herbicide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment. All herbicides shall be applied in accordance with labeled instructions and regulations set by the CDPR. Label instructions for the pesticide(s) used shall be made available to CDFW upon request. Permittee shall only apply herbicide sprays via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid herbicide outside the boundaries of the Project Area. All herbicide sprays utilized within the Project Area adjacent to the on-site Exclusion Area shall contain a dye to prevent overspray.

9. Habitat Management Land Acquisition:

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the Covered Species' habitat in the Project Area and Exclusion Area, CDFW's estimate of the acreage required to provide for adequate compensation, the existence of a severed mineral right covering a portion of the proposed mitigation site, and the duration Habitat Management (HM) lands will be permanently protected and managed prior to impacts associated with Project Phases 1 Adjustment Area through 6. Protection and management of HM lands for the Covered Species prior to Project Phases 1 Adjustment Area through 6 allow opportunities to refine management techniques and adaptively manage the HM lands to benefit the Covered Species for years, and in some cases decades, before Project impacts occur in these phases. Alternatively, or in combination with the permanent protection and perpetual management of compensatory habitat, Permittee may purchase Covered Species credits from a CDFW-approved conservation bank.

To meet this requirement, the Permittee proposes the purchase of 12.75 CTS upland credits from a CDFW-approved conservation bank to mitigate the Project-related take of CTS in association with the SR 145 improvement work, pursuant to Condition of Approval Bill of Sale and Payment Receipt or Credit Transfer Agreement, below. Further, the Permittee proposes to provide for both the permanent protection and perpetual management of 765 acres adjoining the Project Area to mitigate the Project-related take of the Covered Species in association with the Quarry development and operation, pursuant to Conditions of Approval Habitat Acquisition and Protection and Endowment Fund, below. In addition to fully mitigating the Project-related take of

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the Covered Species in the 365.44-acre Project Area, the Permittee must also fully mitigate the Project's indirect impacts on the Covered Species and Covered Species' habitat at the Exclusion Area over the approximate 100-year lifespan of the Project. Although the Exclusion Area will be avoided, avoidance of the Exclusion Area is not considered to contribute towards fully mitigating the Project's indirect impacts. The Exclusion Area will not be permanently protected nor perpetually managed for the Covered Species and could be reclaimed to a usable condition for post-mining land use (e.g., developed). As such, avoidance of the Exclusion Area without permanent protection does not address the long-term ecological sustainability and maintenance of habitat for the Covered Species. Permanent protection and perpetual management of the 765 acres adjoining the Project site will, in part, fully mitigate for the Project's indirect impacts on Covered Species' habitat by addressing the long-term ecological sustainability of habitat to promote biologically sustainable populations of the Covered Species, including small mammals that create the burrows used by the Covered Species. This 765-acre property is commonly referred to as the Fenston Property and is owned in fee title by the Permittee. This property is fenced, exists as non-native grassland/vernal pool habitat immediately west and southwest of the Project site, is comprised of high quality grassland refugia surrounding known CTS aquatic breeding habitat; supports nesting, foraging, and overwintering habitat for BUOW; and represents superior functional quality habitat relative to the habitat being permanently impacted by the Project. CDFW considers the 765-acre Fenston Property high quality grassland habitat, superior to that constituting the 365.44-acre Project Area, due to the relatively high burrow density compared to the burrow density at the Project Area. In September 2016 and on behalf of the Permittee, ESR, Inc. surveyed burrow densities at both the Project Area and the Fenston Property. ESR, Inc., found fewer than one (0.93) burrow opening per acre at the Project Area and almost seven (6.6) burrow openings per acre at the Fenston Property (Figure 4a). The Fenston Property contains significant CTS aquatic breeding habitat. Further, BUOW has been observed at the Fenston Property, including one BUOW nest observed in 2022 (Figure 4c). The perpetual management of the Fenston Property will include management of predators (e.g., bullfrogs) of CTS and management of high quality and functional grassland habitat for the Covered Species and small mammals. The mineral rights for a portion of the Fenston Property are severed from the surface rights and are not owned by the Permittee (Figure 5). However, remoteness opinions have been prepared which conclude that development of mineral resources on the Fenston Property are so remote as to be considered negligible. Prior to CDFW conceptually approving the Fenston Property, CDFW shall review applicable biological information, conduct a site visit, and review the information submitted as described in Conditions of Approval HM Lands Approval and HM Lands Documentation.

Permittee shall provide for all of the following:

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- Permanent protection and funding for perpetual management of all 765 acres of the Fenston Property for CTS before starting Covered Activities associated with any Quarry development and operation work or within 18 months of the effective date of this ITP or in accordance with timelines set forth by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval Performance Security, below.

AND

- Purchase 12.75 CTS upland credits from a CDFW-approved conservation bank pursuant to Condition of Approval Bill of Sale and Payment Receipt or Credit Transfer Agreement below, before starting any Covered Activities associated with the SR 145 improvement work or within 102 months of the timeline set forth by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval Performance Security, below.

AND

- Permanent protection and funding for perpetual management of all 765 acres of the Fenston Property for BUOW before starting any Covered Activities in the Phase 1 Adjustment Area (except for passive exclusion of Phase 1 Adjustment Area) or within 18 months of the effective date of this ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval Performance Security, below.

9.1. Cost Estimates. For the purposes of determining the Security amount for compensatory habitat for CTS and BUOW, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of HM lands for CTS and BUOW, and purchase CTS upland credits from a CDFW-approved conservation bank as follows:

9.1.1. Land acquisition costs for HM lands identified in Conditions of Approval Habitat Acquisition and Protection and Endowment Fund, estimated at **\$7,879,500.00** (\$10,300.00/acre) for 765 acres of HM lands for CTS and estimated in 2026 at **\$14,439,375.00** (\$18,875.00/acre) for 765 acres of HM lands for BUOW. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements.

9.1.2. All other costs necessary to review and acquire 765 acres of HM lands for BUOW in fee title and record a conservation easement as described in Conditions of Approval Fee Title and Conservation Easement: **\$450,000.00.**

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- 9.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval Start-up Activities below, estimated at **\$402,076.35** (\$525.59/acre) for 765 acres of HM lands for CTS and estimated in 2026 at **\$339,294.00** (\$443.52/acre) for 765 acres of HM lands for BUOW.
 - 9.1.4. Interim management period funding as described in Condition of Approval Interim Management (Initial and Capital) below, estimated in 2018 at **\$348,564.60** (\$455.64/acre) for 765 acres of HM lands for CTS and estimated in 2026 at **\$211,538.00** (\$276.52/acre) for 765 acres of HM lands for BUOW.
 - 9.1.5. Long-term management funding as described in Condition of Approval Endowment Fund below, estimated at **\$1,993,437.00** (\$2,605.80/acre) for 765 acres of HM lands for CTS and estimated in 2026 at **\$3,100,547.00** (\$4,053.00/acre) for 765 acres of HM lands for BUOW. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of management of HM lands for CTS and BUOW.
 - 9.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW, as described in Condition of Approval Reimburse CDFW, estimated in 2018 at **\$12,000** for 765 acres of HM lands for CTS and estimated in 2026 at **\$15,000** for 765 acres of HM lands for BUOW.
 - 9.1.7. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks for 765 acres of HM lands for BUOW, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands for BUOW and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work, estimated at **\$45,000**.
 - 9.1.8. Upland credits at a CDFW-approved conservation bank purchased for the benefit of CTS estimated at \$20,000 per credit, for a total of **\$255,000** for the purchase of 12.75 CTS upland credits.
- 9.2. Bill of Sale and Payment Receipt or Credit Transfer Agreement. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt or an**

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executed Credit Transfer Agreement for 12.75 CTS upland credits from a CDFW-approved conservation bank prior to initiating Covered Activities associated with the SR 145 improvement work or within 102 months of the timeline set forth by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval Performance Security, below.

9.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:

- 9.3.1. Fee Title. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.
- 9.3.2. Conservation Easement. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
- 9.3.3. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project’s impacts on Covered Species;
- 9.3.4. HM Lands Documentation. Provide a recent preliminary title report, Phase I Environmental Assessment, and other necessary documents

(please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

- 9.3.5. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.
- 9.3.6. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see optional management plan template at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement if applicable; and (7) installing signage;
- 9.3.7. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, species monitoring, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim

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

9.4. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan(s) required by Condition of Approval Start-up Activities. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

9.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the

proposed Endowment Manager’s certification pursuant to Government Code section 65968(e). Within thirty days of CDFW’s receipt of Permittee’s written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3);

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

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

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

9.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

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

9.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement,

payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

- 9.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.
- 9.4.4. Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

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

- 9.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.
- 9.6. Provisions to Address Severed Mineral Title. To safeguard for the potential exercise of severed mineral rights on the Fenston Property, and to ensure the acquisition, perpetual protection, and management of HM lands, the Permittee shall:

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- 9.6.1. Replace HM lands. If any of the 765 acres of HM lands is ever legally disturbed based on a previously existing severed mineral right on the Fenston Property, the Permittee shall replace the impacted land at a 1:1 ratio (Replacement HM lands) at some off-site location or through purchase of Covered Species credits from a CDFW-approved mitigation or conservation bank (for the same resource values). Replacement HM lands shall be acquired within two years of disturbance resulting from the severed mineral right. Replacement of HM lands should take into account that, due to the high habitat value for the Covered Species at Fenston Property, the Permittee was only required to preserve 750 acres of HM lands to offset the Project's impacts. Therefore, a surplus of 15 acres of HM lands will be protected at Fenston Property. Should exercise of severed mineral rights occur on the Project's HM lands, the first 15 acres of disturbance shall be deemed compensated by the existing 15-acre surplus mitigation.
- 9.6.2. Demonstrate Biological Equivalency of Replacement HM Lands. The biological value of disturbed HM lands and the Replacement HM lands shall be determined based on a report prepared by a qualified biological consultant ("Biological Equivalency Report"). The Biological Equivalency Report shall: (1) Consider aerial photographs, prior biological studies covering the disturbed HM lands, and other relevant evidence to determine the biological value of the disturbed area; (2) Identify and describe biological resources contained within the disturbed HM lands by habitat type; and (3) State, based on evidence, whether the proposed Replacement HM lands are biologically equivalent to the disturbed HM lands. The Biological Equivalency Report shall be submitted to CDFW for review and written approval.
- 9.6.3. Source Replacement HM Lands. Replacement HM lands can be either acquired from off-site areas or from a CDFW-approved mitigation or conservation bank. If Permittee acquires off-site lands (i.e., not a mitigation bank), upon approval of the Biological Equivalency Report, Permittee shall within one year record a perpetual conservation easement over the proposed Replacement HM lands and supply an additional endowment amount (if necessary).
- 9.6.4. Bond for Value of Replacement HM Lands. Following any disturbance of the HM lands as a result of the mineral reservation, Permittee shall submit a bond for the fair market value of any biological resources contained within the disturbed lands, as calculated by a qualified appraiser. The value of the bond shall also include an additional \$13,700 to cover potential transactions costs associated with acquiring substitute

land. The bond shall be rescinded upon completion and CDFW's written approval of the Biological Equivalency Report and once either of the following occurs: recordation of the conservation easement over Replacement HM lands; or certificate of purchase of the equivalent habitat credits from a CDFW approved conservation or mitigation bank. In the event that the HM lands are disturbed by the owner of a previously existing mineral reservation, and the Permittee does not provide Replacement HM lands within two (2) years of that disturbance, CDFW will redeem the value of the bond in order to acquire replacement conservation lands.

9.6.5. Apply All Other Conditions of Approval. Conditions of Approval Cost Estimates, Habitat Acquisition and Protection, Endowment Fund, and Reimburse CDFW, above, shall also apply to Replacement HM lands sourced off site.

10. Performance 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 Habitat Management Land Acquisition that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

10.1. Security Amount. The Covered Activities associated with the Quarry development and operation work may be secured separately, or at the same time as the Covered Activities associated with the SR 145 improvement work. Before commencing the Quarry development and operation work, the Security shall be in the amount of **\$10,635,577.95** for 765 acres of HM lands for CTS. Before commencing the SR 145 improvement work, additional Security in the amount of **\$255,000** shall be provided for 12.75 CTS upland credits at a CDFW-approved conservation bank. Before commencing Covered Activities in the Phase 1 Adjustment Area (except for passive exclusion of Phase 1 Adjustment Area), the Security shall be in the amount of **\$18,600,754** for 765 acres of HM lands for BUOW. These amounts are based on the cost estimates identified in Condition of Approval Cost Estimates above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

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 in draft form to CDFW's Regional Representative for review and approval prior to execution. Permittee

shall execute the CDFW-approved Security before Covered Activities begin as described above in subsection Security Amount.

- 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 escrow, 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:

Credit Purchase

- Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits.

AND

Habitat Management Land Acquisition (HMLA)

- Written documentation of the acquisition of the HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

Even if Security is provided, Permittee must complete the required acquisition, protection, and transfer of HM lands for CTS and record any required conservation easements within **18 months** from the effective date of this ITP, or in accordance with timelines set forth by CDFW at the time the Security is accepted **and** Permittee must provide a copy of the Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of CTS upland credits at a CDFW-approved conservation bank within **102 months** in accordance with timelines set forth by CDFW at the time the Security is accepted **and** Permittee must complete the required acquisition, protection, and transfer of HM lands for BUOW and record any required conservation easements within **18 months** from the effective date of this ITP, or in accordance with timelines set

forth by CDFW at the time the Security is accepted. CDFW may require the Permittee to provide additional HM lands for CTS and/or BUOW, additional Covered Species credits, 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.

X. Amendment:

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

XI. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days. If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

XII. 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 registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall

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reference the Project name, Permittee, and ITP Number (2081-2016-051-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

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

and a copy to:

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

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

Ruby Kwan
California Department of Fish and Wildlife
20 Lower Ragsdale Drive, Suite 100
Monterey, California 93940
Telephone (805) 748-3624
Ruby.Kwan@wildlife.ca.gov and R4CESA@wildlife.ca.gov

XIV. Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agencies, the Madera County Planning Department (Madera County) and the California Department of Transportation (Caltrans). (See generally Pub. Resources Code, §§ 21067, 21069.) Madera County analyzed the environmental impacts associated with implementation of the original Project in the Austin Quarry Project Final Environmental Impact Report (FEIR) (SCH No. 2010071036) and approved the Project on 19 July 2016. Caltrans analyzed the environmental impacts associated with the Project-related improvements to State Route 145 in an Addendum to the FEIR and approved this part of the Project on 13 January 2020. Madera County analyzed the environmental impacts associated with the installation, operations, maintenance, and decommissioning of the solar facility and mining phase

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adjustments in an Addendum to the FEIR and approved this part of the Project on 22 May 2023. At the time the lead agencies approved the Project, they also adopted various mitigation measures for impacts to 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 agencies' FEIR and Addenda 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 agencies. 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 agencies, 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. None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment No. 5.

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, associated attachments, Austin Quarry Project FEIR, Addenda to the FEIR, 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) permanent un-phased habitat protection of 765 acres of HM land for the benefit of the Covered Species and the purchase of 12.75 CTS upland credits at a CDFW-approved conservation bank; (2) establishment of avoidance zones; (3) worker education; (4) mortality reduction measures, and (5) Quarterly 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, CDFW's estimate of the acreage required to provide for adequate compensation, and the duration HM lands will be permanently protected

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and managed prior to impacts associated with Project Phases 1 Adjustment Area through 6. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 765 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and is of higher quality than the habitat being destroyed by the Project, the purchase of 12.75 CTS upland credits at a CDFW-approved conservation bank, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

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

XVI. Attachments:

FIGURE 1	Project Vicinity Map
FIGURE 2a	Project Site Map
FIGURE 2b	Project Area Map
FIGURE 3a	Revised Aggregate Mine Phases Map (Amendment No. 4)
FIGURE 4a	CA Ground Squirrel Populations September 2016
FIGURE 4b	Burrowing Owl Observations
FIGURE 4c	Fenston Property BUOW Observations

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FIGURE 5	Fenston Property Mineral Reservation Map
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3	Letter of Credit Form for CESA ITP Security
ATTACHMENT 4	Biologist Resume Form
ATTACHMENT 5	Major Amendment No. 5 with Track Changes

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 3/27/2026

DocuSigned by:

FA83F09FE08945A...
Julie A. Vance, Regional Manager
CENTRAL REGION

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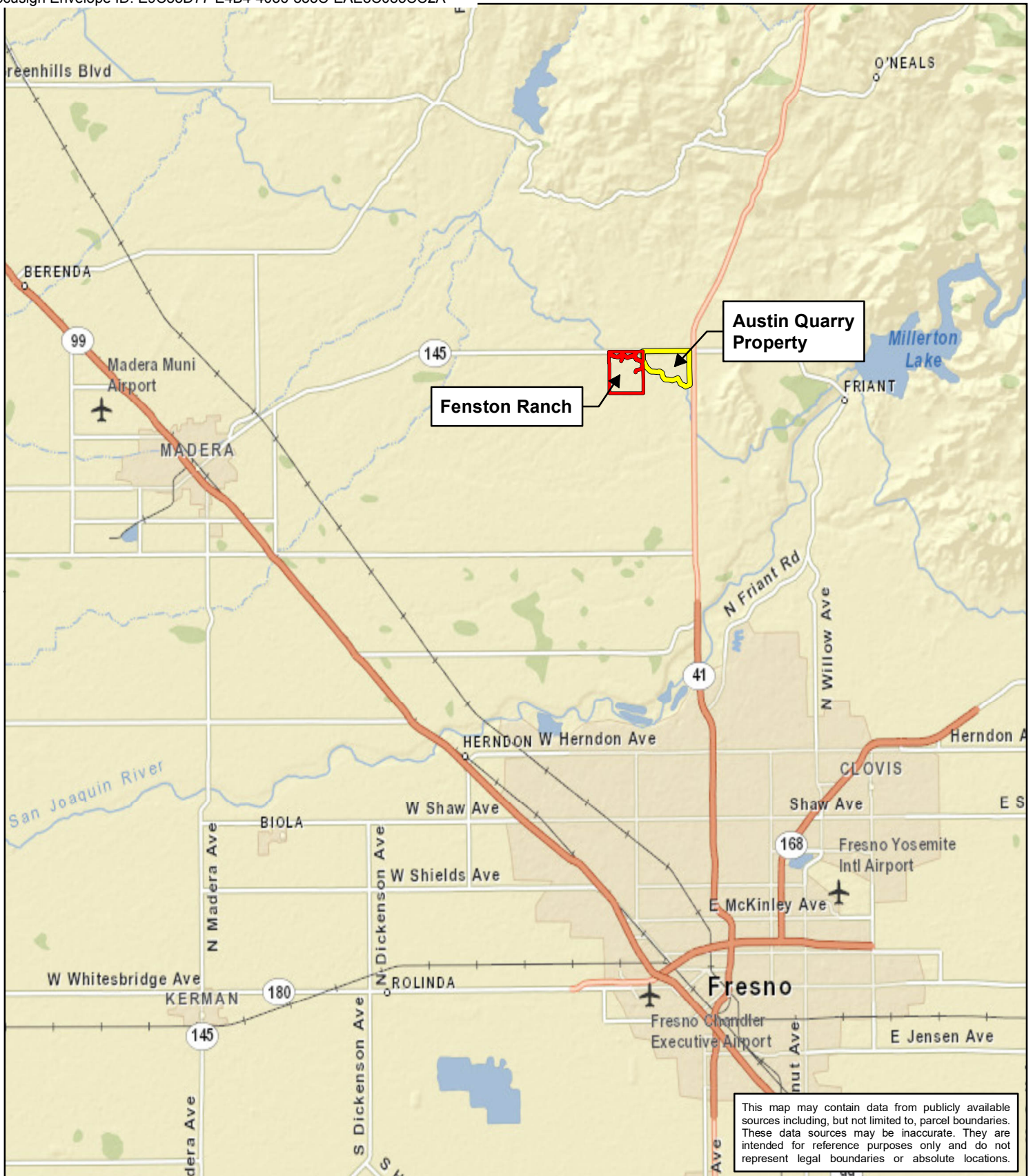


Figure 1. Project Vicinity Map

Austin Quarry Project
California Incidental Take Permit
Madera County, California



ENVIRONMENTAL CONSULTANTS

0 1 2 4
Miles

Map Prepared Date: 6/25/2018
Map Prepared By: SGillespie
Base Source: Esri Streaming - Street Map
Data Source(s): WRA

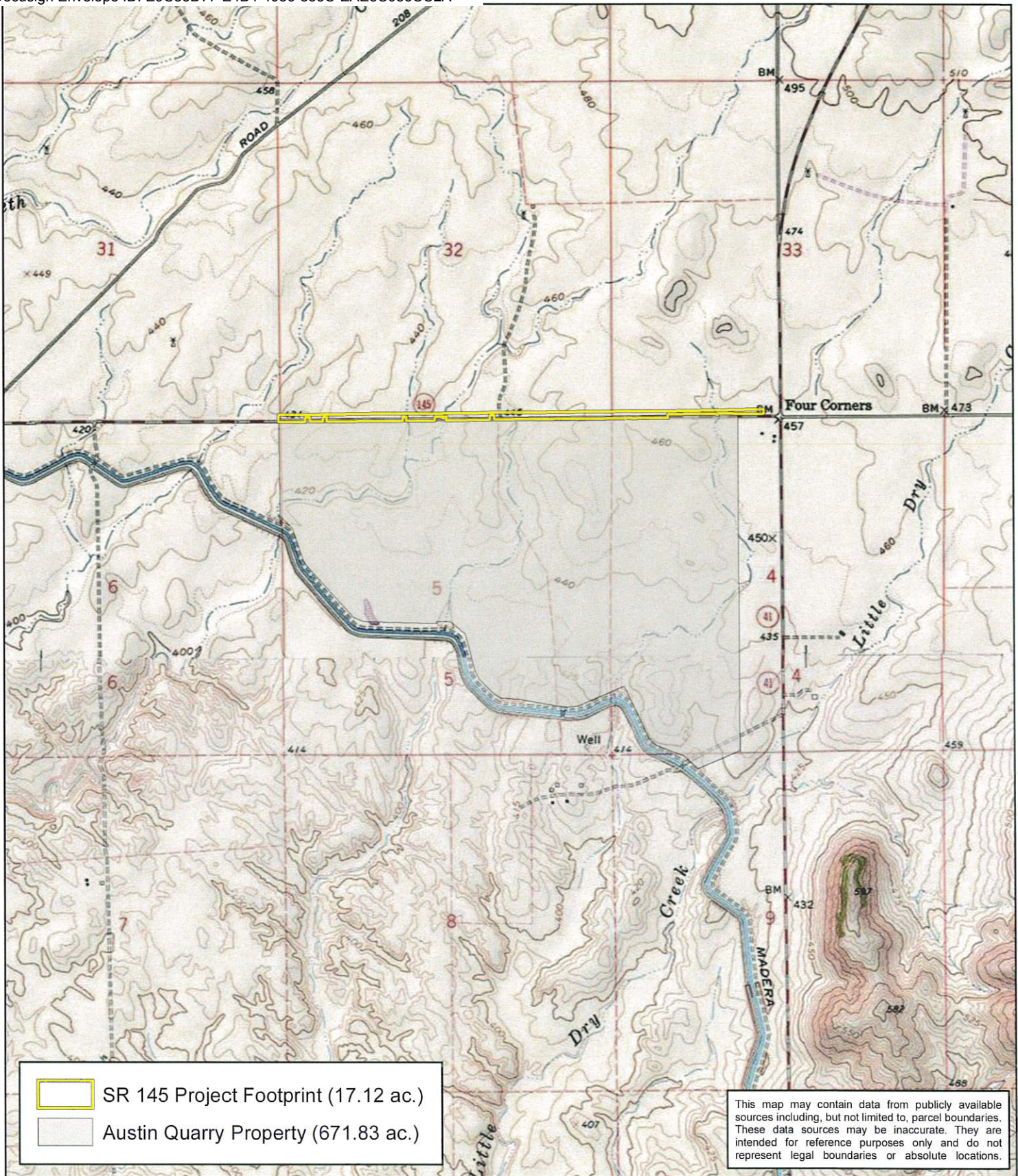


Figure 2a. Project Site Map

Austin Quarry Project
California Incidental Take Permit
Madera County, California



0 1,500 3,000 Feet

Map Prepared Date: 5/18/2020
Map Prepared By: SGillespie
Base Source: Esri Streaming - US Topo Maps
Data Source(s): WRA

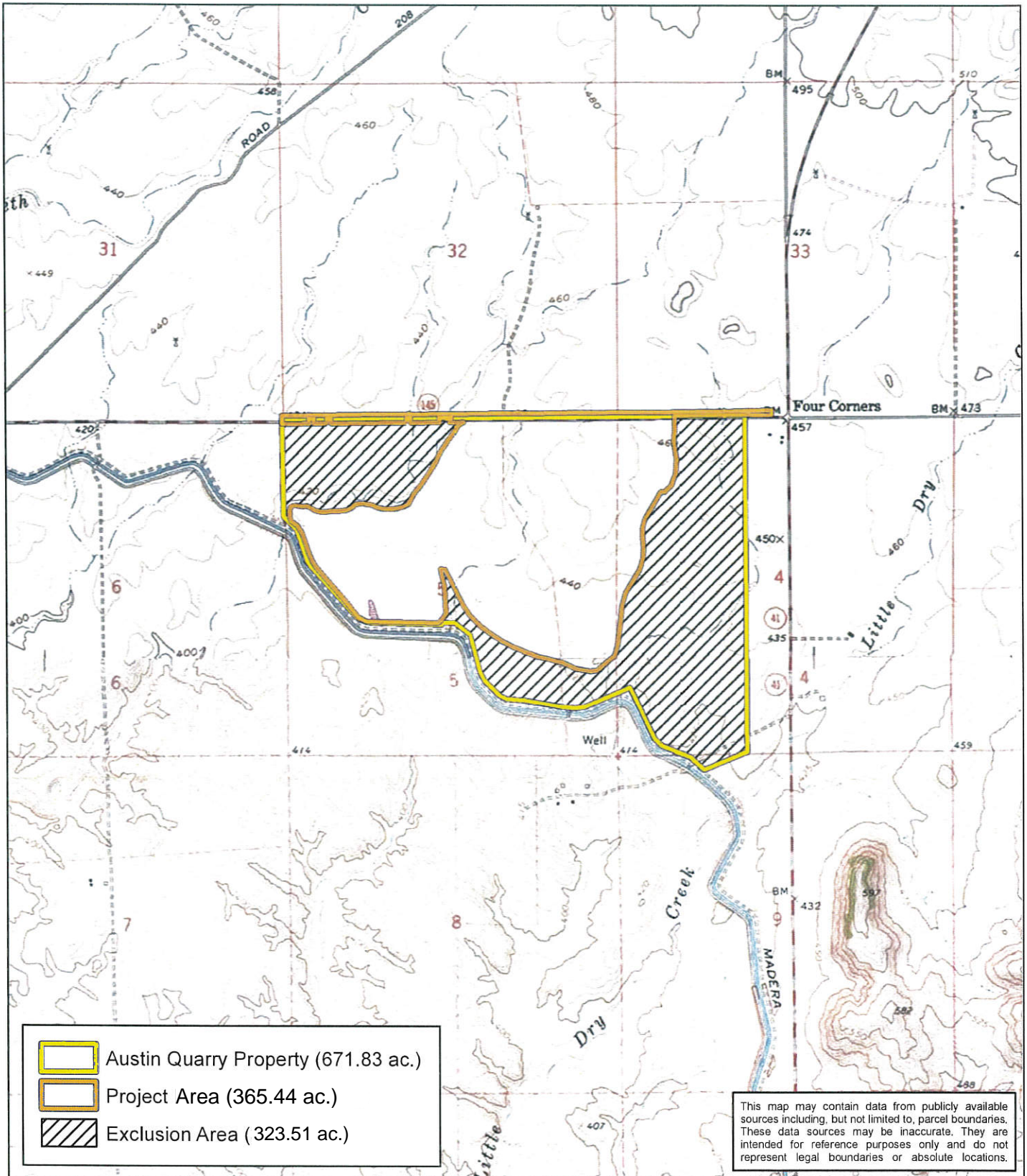
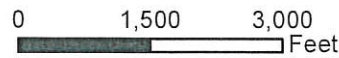


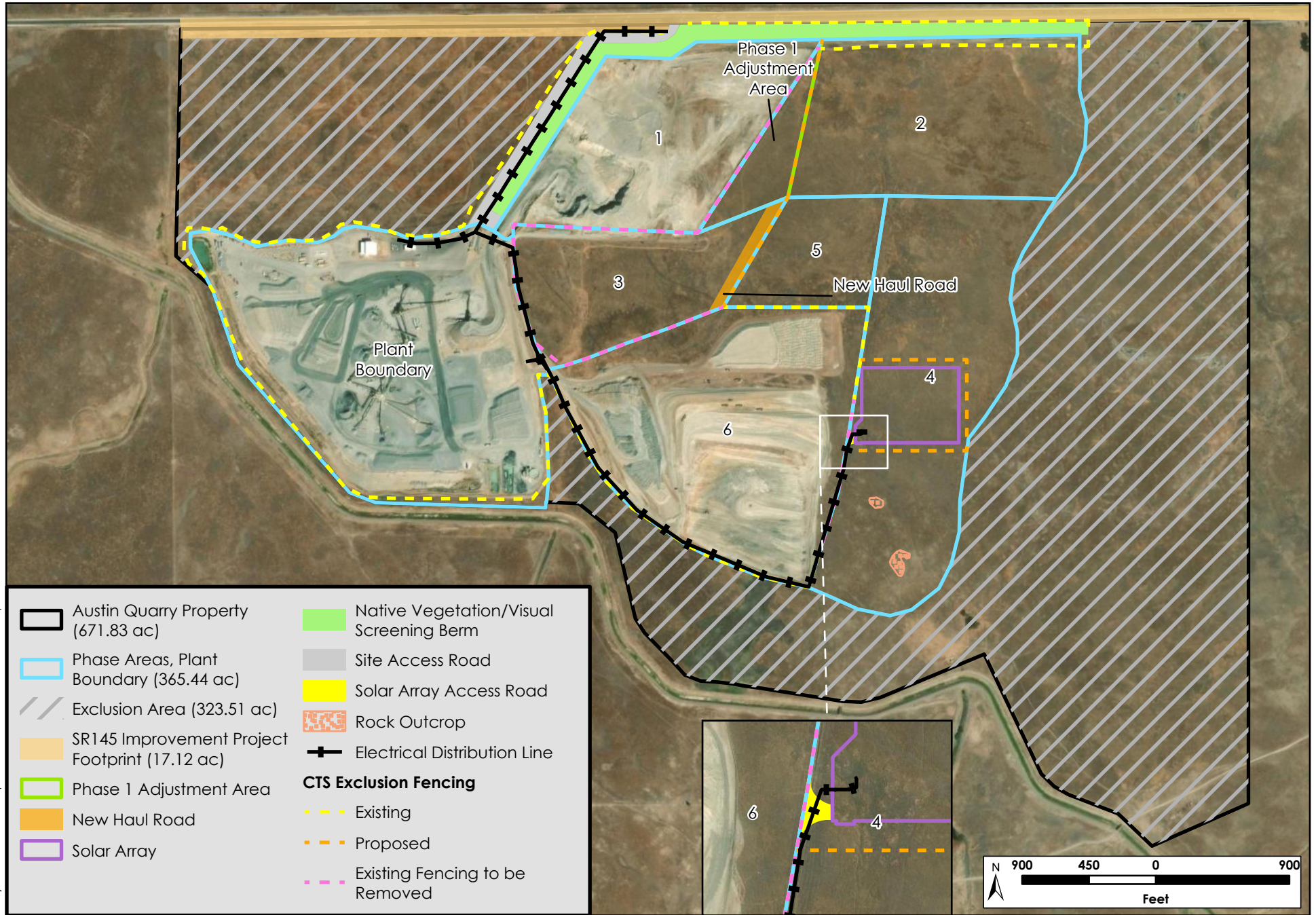
Figure 2b. Project Area Map



Austin Quarry Project
California Incidental Take Permit
Madera County, California



Map Prepared Date: 3/22/2020
Map Prepared By: SGillespie
Base Source: Esri Streaming - US Topo Maps
Data Source(s): WRA



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H. T. HARVEY & ASSOCIATES

Ecological Consultants

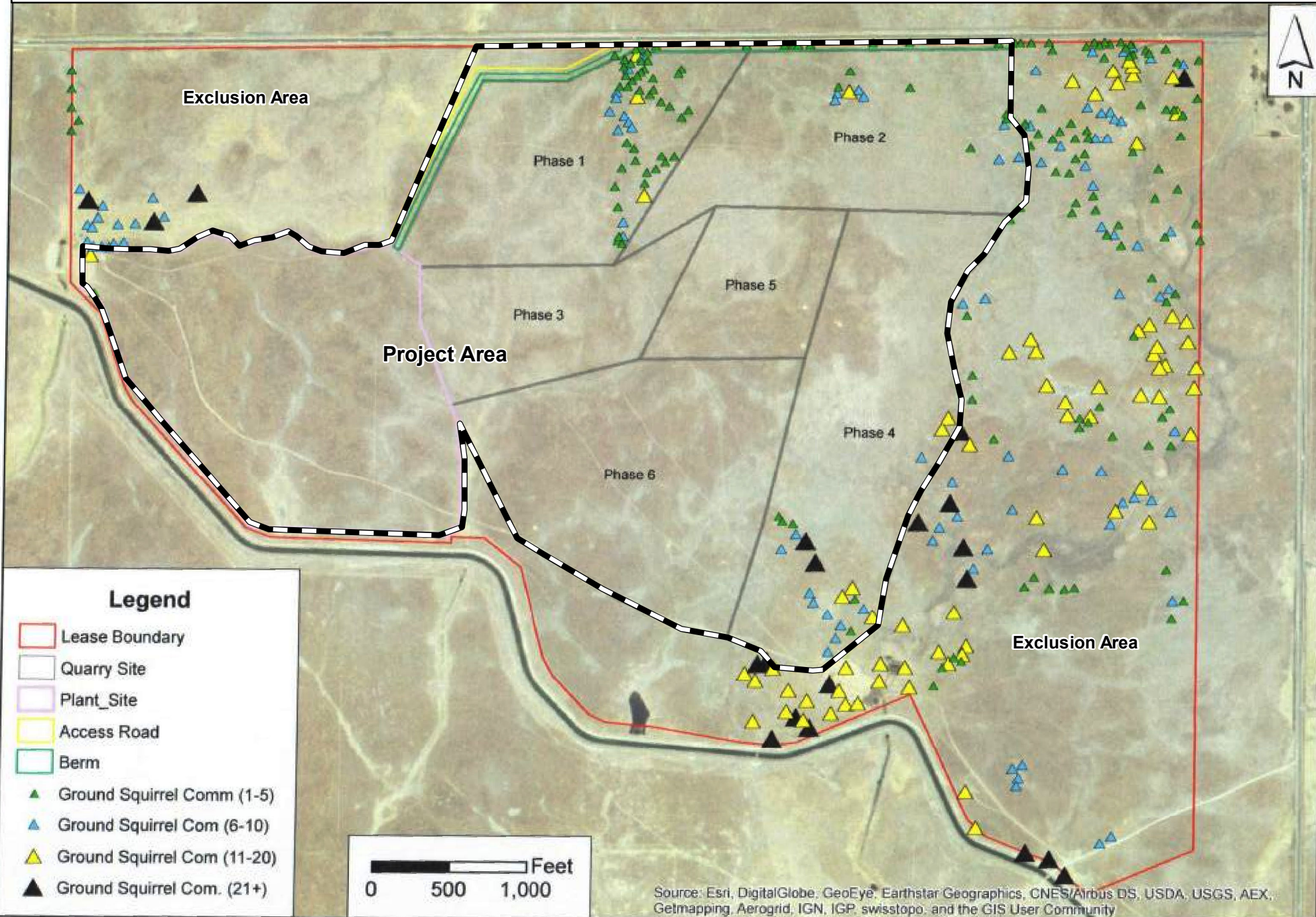
Figure 3a. Revised Aggregate Mine Phases Map (Amendment No. 4)

CalMat Company dba Vulcan Materials Company, West Region
Austin Quarry Project (4571-05)

December 2023

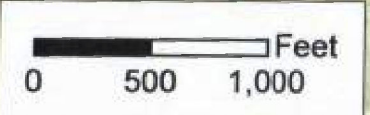


Figure 4a



Legend

- Lease Boundary
- Quarry Site
- Plant_Site
- Access Road
- Berm
- ▲ Ground Squirrel Comm (1-5)
- ▲ Ground Squirrel Com (6-10)
- ▲ Ground Squirrel Com (11-20)
- ▲ Ground Squirrel Com. (21+)

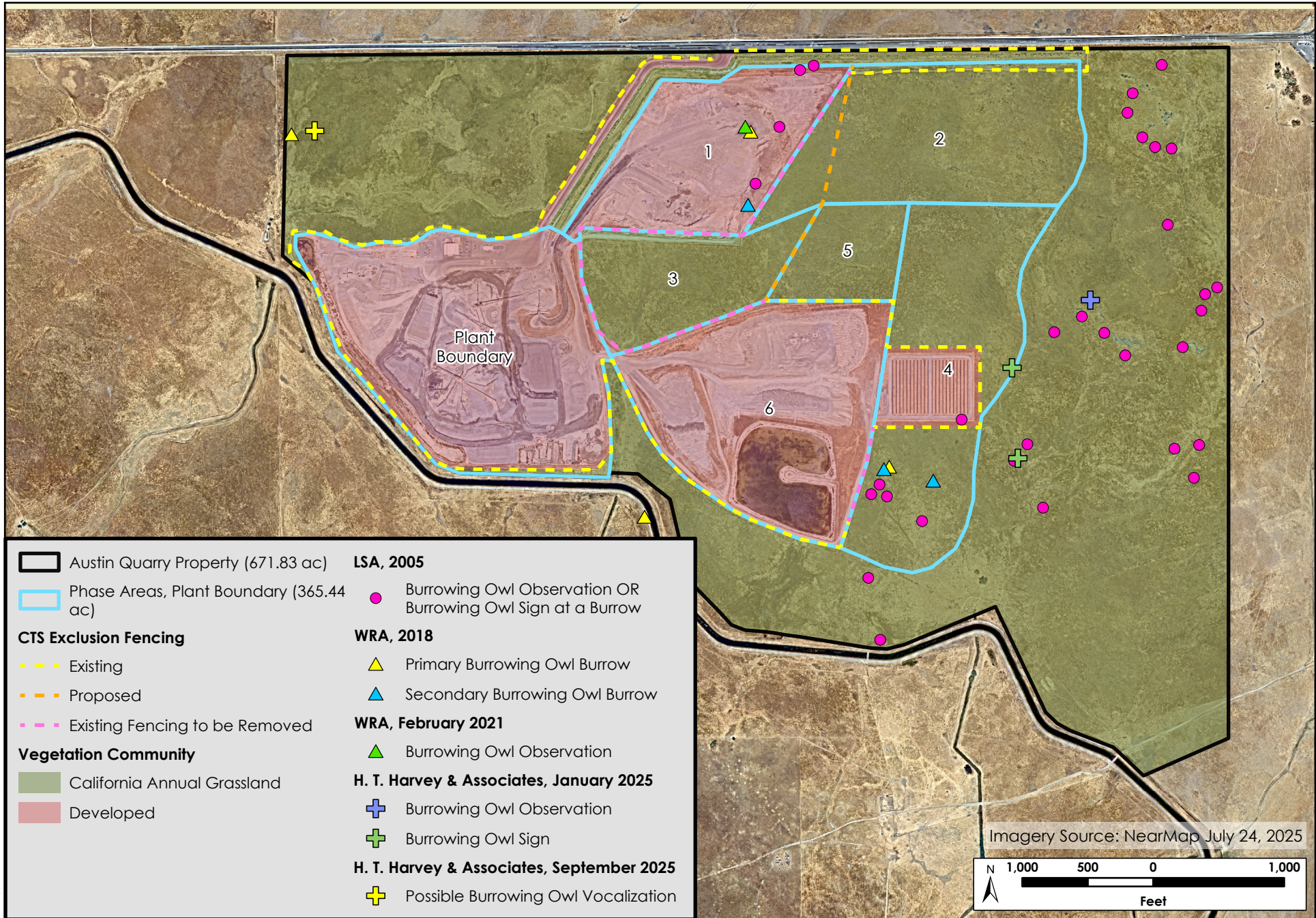


Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Austin Quarry

CA Ground Squirrel Populations September 2016

Survey completed by ESR, Inc.
on September 26 - 27, 2016



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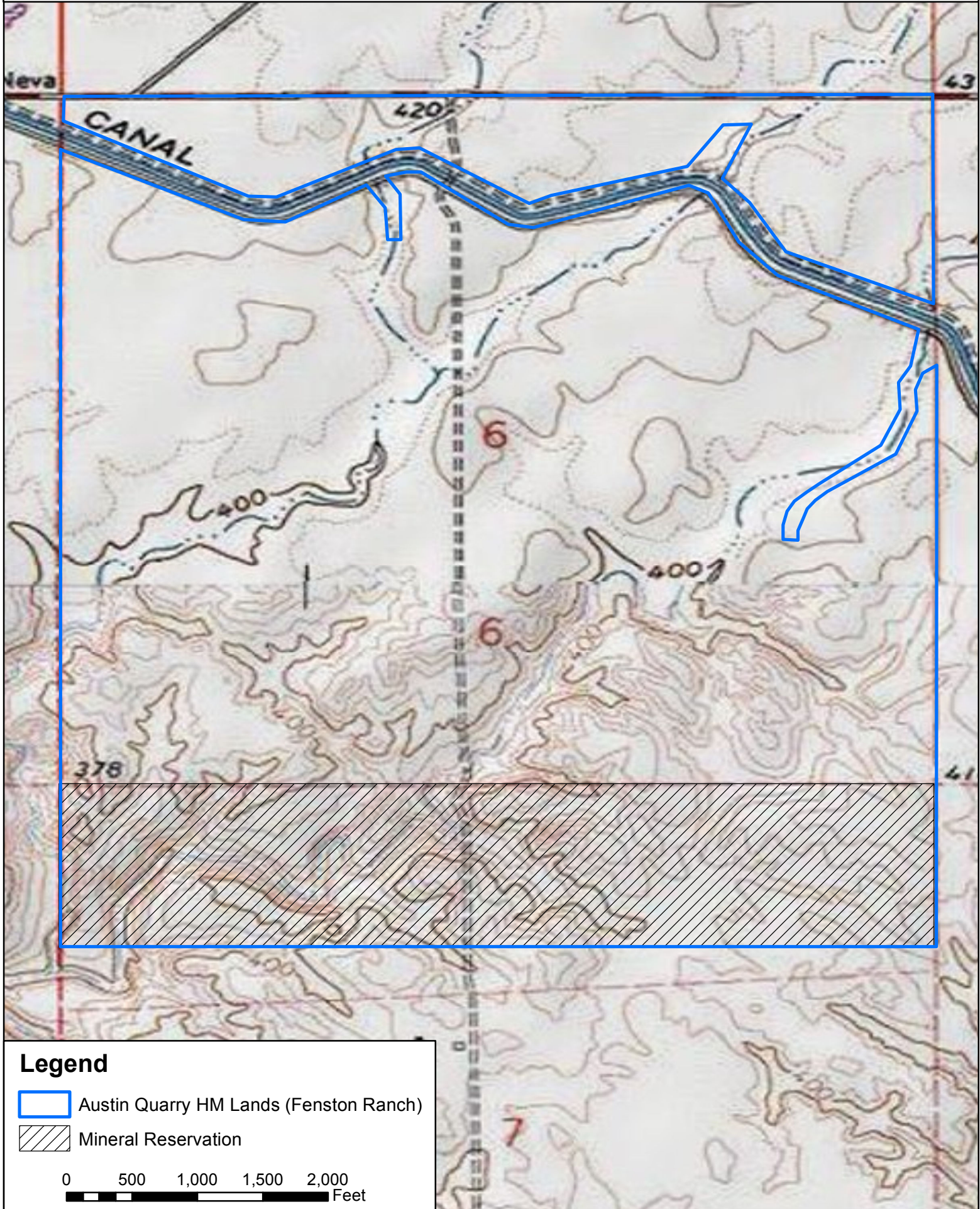
Figure 4b. Project Area and Burrowing Owl Observations and Vegetation Communities



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MINERAL RESERVATION MAP

Figure 5



Legend

 Austin Quarry HM Lands (Fenston Ranch)

 Mineral Reservation

0 500 1,000 1,500 2,000 Feet

Attachment 1

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

**AMENDED INCIDENTAL TAKE PERMIT NO. 2081-2016-051-04
(Amendment No. 5)**

**PERMITTEE: CalMat Company dba
Vulcan Materials Company, West Region**

PROJECT: Austin Quarry Project

PURPOSE OF THE MMRP

The purpose of this MMRP is to ensure that the impact minimization and mitigation measures required by the Department of Fish and Wildlife (CDFW) for the above-referenced Project are properly implemented, and thereby to ensure compliance with section 2081(b) of the Fish and Game Code and section 21081.6 of the Public Resources Code. A table summarizing the mitigation measures required by CDFW is attached. 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	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition of Approval <u>Designated Representative</u>	Before commencing ground- or vegetation-disturbing activities Notify CDFW in writing if a substitute Designated Representative is selected or identified at any time	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of proposed Designated Biologist(s) and/or Designated Monitor(s) at least 30 days before starting Covered Activities using the Biologist Resume Form (Attachment 4) or another format containing the same information. Permittee shall review qualifications before submission and ensure that the Designated Biologist(s) and Designated Monitor(s) are knowledgeable and experienced in Covered Species' biology, natural history, collecting, and handling of the Covered Species, positive field identification, excavating burrows and crevices to minimize mortality of Covered Species, installation of exclusion techniques, camera monitoring of burrows, and monitoring construction activities following the Conditions of Approval of an ITP for the Covered Species. CDFW may approve Designated Biologist(s) for one or both Covered Species in the ITP. For example, CDFW may approve a Designated Biologist to implement all Conditions of Approval for CTS, approve a Designated Biologist to implement all Conditions of Approval for BUOW, or approve a Designated Biologist to implement all Conditions of Approval in the ITP. CDFW may approve Designated Monitor(s) not meeting the qualifications of a Designated Biologist to assist in compliance monitoring and/or implementation of Conditions of Approval as specified by CDFW. Designated Monitor responsibilities shall be restricted to specific Conditions of Approval, specified by the Permittee or Designated Representative at the time their qualifications are submitted for review. Designated Monitor(s) and their specific activities shall be approved in advance and in writing by CDFW. Designated Biologist(s) and Designated Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Designated Monitor(s) must be changed.	ITP Condition of Approval <u>Designated Biologist(s) and/or Designated Monitor(s)</u>	At least 30 days before commencing ground- or vegetation-disturbing activities Obtain approval in advance, in writing, if the Designated Biologist(s) or Designated Monitor(s) must be changed	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
3	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 the ITP. 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. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. 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 of Approval <u>Education Program</u>	Before commencing ground- or vegetation-disturbing activities Repeated at least once annually for long-term and/or permanent employees Entire Project	Permittee/ Designated Biologist	
4	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 at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition of Approval <u>Trash Abatement</u>	Before commencing ground- or vegetation-disturbing activities At least once a week Entire Project	Permittee	
5	Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the 365.44-acre Project Area to distinguish it from the 323.51-acre on-site Exclusion Area (representing the balance of the Project site). The boundary of the Project Area shall be delineated with stakes and/or flags and shall be maintained with signage for the life of the Project.	ITP Condition of Approval <u>Delineation of the Project Area</u>	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
6	Before starting Covered Activities at each phase of development, including the SR 145 improvements and the solar facility with associated infrastructure, Permittee shall clearly delineate the boundaries of the active Work Area where the Covered Activities will occur for that development phase with fencing, stakes, or flags. A Work Area is defined as the discrete zone(s) within the Project Area where Covered Activities will actively occur for that development phase. Permittee shall restrict all Covered Activities during that development phase to within the fenced, staked, or flagged Work Area. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that Work Area.	ITP Condition of Approval <u>Delineation of Work Area Boundaries</u>	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities at each phase and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities. In addition, the Designated Representative shall notify CDFW 14 calendar days before starting passive exclusion, if approved in writing by CDFW, in accordance with Condition of Approval <u>Passive Exclusion of Subsequent Mine Phases</u> , below.	ITP Condition of Approval <u>Notification Before Commencement</u>	14 calendar days before commencing ground- or vegetation-disturbing activities and before passive exclusion Entire Project	Permittee	
8	Prior to initiating Covered Activities, the Designated Biologist(s) shall prepare, and submit to CDFW for written approval, a CTS Mortality Reduction and Relocation Plan. The CTS Mortality Reduction and Relocation Plan shall include, but not be limited to; a discussion of the survey, excavation method, capture, handling, and relocation methods; a protocol for the conditional passive exclusion (trapping out) of CTS over the deferred mine phases; identification of where the salvaged CTS individuals will be relocated to; and identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat CTS individuals. The CTS Mortality Reduction and Relocation Plan must indicate that only the approved Designated Biologist(s) is/are authorized to capture and handle CTS individuals. Covered Activities shall not proceed until a CTS Mortality Reduction and Relocation Plan is approved in writing by CDFW. Once the CTS Mortality Reduction and Relocation Plan is approved, it shall be used for the duration of the ITP. Any proposed changes shall be submitted in writing to CDFW and approved by CDFW in writing before implementing any proposed CTS Mortality Reduction and Relocation Plan modifications.	ITP Condition of Approval <u>CTS Mortality Reduction and Relocation Plan</u>	Before commencing ground- or vegetation-disturbing activities	Permittee / Designated Biologist	
9	Prior to initiating Covered Activities in each phase, including the SR 145 improvements and the solar facility with associated infrastructure, the Designated Biologist shall survey that portion of the Project Area, where those Covered Activities will be initiated, for CTS. These surveys shall provide 100 percent visual coverage of the area, including burrow openings in each phase and a 50-foot buffer zone around each phase as access allows. If CTS are found, the Designated Biologist(s) shall relocate CTS from the Project Area in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> . Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within each phase.	ITP Condition of Approval <u>CTS Pre-Activity Clearance Surveys and Reporting</u>	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee / Designated Biologist	
10	During the <u>CTS Pre-Activity Clearance Surveys and Reporting</u> , the Designated Biologist shall flag all small mammal burrows and crevices which could potentially harbor CTS. Burrows/crevices outside of the Permittee's access do not have to be flagged. Those flagged burrows which occur within 562 meters of known or potential breeding habitat and which cannot be avoided by 50 feet shall be fully excavated in accordance with Condition of Approval <u>CTS Burrow and Crevice Excavation</u> .	ITP Condition of Approval <u>Flag Burrows/Crevices</u>	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	All small mammal burrows and crevices identified and flagged per Conditions of Approval <u>CTS Pre-Activity Clearance Surveys and Reporting</u> and <u>Flag Burrows/Crevices</u> and within 562 meters of known or potential CTS breeding habitat and that cannot be avoided by 50 feet, shall be fully excavated under the direct supervision of the Designated Biologist(s) in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> . Burrows/crevices outside of the Permittee's access do not have to be excavated. Live individuals of CTS which are found shall be relocated by the Designated Biologist in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> . Excavation shall occur no more than 14 days after the completion of the <u>CTS Pre-Activity Clearance Surveys and Reporting</u> (for excavation of BUOW burrows, see Condition of Approval <u>BUOW Burrow/Nest Excavation</u>).	ITP Condition of Approval <u>CTS Burrow and Crevice Excavation</u>	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee / Designated Biologist	
12	To prevent Covered Species from becoming entrapped in or migrating into active Work Areas and the Project Area, exclusion fencing shall be installed around the perimeter of applicable Work Areas and the processing plant/operations area prior to ground-disturbing activities within each phase. Permittee shall install exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, fencing shall not be installed simultaneously at all Work Areas. Covered Species exclusion fencing shall be installed after surveying, flagging, and excavating in accordance with Conditions of Approval <u>CTS Pre-Activity Clearance Surveys and Reporting</u> , <u>Flag Burrows/Crevices</u> , and <u>CTS Burrow and Crevice Excavation</u> . The fencing material and design shall be summarized in a fencing plan that will be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed no later than 48 hours after the burrow excavation/Covered Species relocation work is completed. Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing (also see Condition of Approval <u>BUOW Burrow Avoidance Buffer</u>). When small mammal burrows outside the cleared area cannot be avoided by a 50-foot no-disturbance buffer, they shall be excavated as described in Condition of Approval <u>CTS Burrow and Crevice Excavation</u> prior to commencing fence installation (also see Condition of Approval <u>BUOW Burrow/Nest Excavation</u>).	ITP Condition of Approval <u>Covered Species Exclusion Fencing</u>	Before commencing ground- or vegetation-disturbing activities No later than 48 hours after the burrow excavation/Covered Species relocation work is completed Entire Project	Permittee	
13	The Designated Biologist(s) shall accompany the exclusion fence construction crew to ensure that Covered Species are not killed or injured during fence installation. The Designated Biologist shall inspect the exclusion fence and refuge areas (e.g., cover boards) at least once weekly and frequencies in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> . Permittee shall maintain/repair the fence when necessary. Permittee shall ensure that exclusion fence remains in place and supported sufficiently to maintain its effectiveness under all conditions such as wind and heavy rain for the duration of the Covered Activities in the Work Area being fenced.	ITP Condition of Approval <u>Covered Species Exclusion Fence Installation and Inspection</u>	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	Mine Phase 1 Adjustment Area and Mine Phases 2 through 6 will not be developed and/or quarried immediately (see Table 1). Phased passive relocation of CTS may be proposed as an alternative to CTS burrow excavation and active relocation (see Condition of Approval <u>CTS Burrow and Crevice Excavation</u>) in areas of Mine Phase 1 Adjustment Area and Mine Phases 2 through 6 not slated for immediate development. Phased passive exclusion of CTS shall occur only with express written authorization from CDFW. Permittee's plans to trap-out these portions of the Project Area will be outlined in, and conducted in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> , as well as the Project's exclusion fencing plan required by Condition of Approval <u>Covered Species Exclusion Fencing</u> .	ITP Condition of Approval <u>Passive Exclusion of Subsequent Mine Phases</u>	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee / Designated Biologist	
15	Ground-disturbing activities within or immediately adjacent (within 250 feet) to the on-site potential CTS breeding habitat shall not occur until the pools are dry, unless surveys are conducted to demonstrate the absence of CTS eggs or larvae in these pools.	ITP Condition of Approval <u>Dry Season Work</u>	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
16	To ensure that disease is not conveyed between work areas by the Designated Biologist(s) or Designated Monitors(s), the Fieldwork Code of Practice developed by the Declining Amphibian Populations Task Force (see Attachment 2) shall be followed at all times. The Designated Biologist(s) or Designated Monitor(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. The Designated Biologist(s) and Designated Monitor(s) shall take care so that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition of Approval <u>Fieldwork Code of Practice</u>	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee / Designated Biologist	
17	Permittee shall prepare and submit a BUOW Mortality Reduction Plan to CDFW for review and approval within 45 days of issuance of the ITP and before implementing BUOW burrow excavation, artificial burrow construction, burrow exclusion, and other BUOW relocation activities (collectively, "BUOW Exclusion Activities"). The BUOW Mortality Reduction Plan shall include but not be limited to, the following: (1) methods to monitor avoided BUOW burrows/nest; (2) methods to minimize impacts to BUOW burrow/nest (e.g., visual screens, noise attenuation during blasting); (3) methods to monitor BUOW burrows before excavation and blockage; (4) burrow excavation methods using hand tools with refilling; (5) burrow blockage materials and methods that prevents any animals from digging back into the burrow; (6) methods to monitor and minimize risk of BUOW exposure to predators and heat stress if BUOW return to the excavated or blocked BUOW burrow (e.g., shade structures); (7) procedures in the event that a BUOW is observed in or adjacent to the Project Area during Covered Activities; (8) methods to relocate at-risk BUOW out of immediate harm's way; (9) identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured BUOW or care for at-risk BUOW, BUOW eggs, and/or BUOW chicks; (10) proper handling and transport procedures to the wildlife rehabilitation center or veterinary facility to reduce desiccation risk; and (11) description and plan for unanticipated emergencies that may require the Permittee to encroach into <u>BUOW Avoidance Buffers</u> . Only the Designated Biologists, or personnel following directions from and under the supervision of the Designated Biologist(s), shall relocate at-risk BUOW out of immediate harm's way and handle injured or at-risk BUOW, BUOW eggs, and/or BUOW chicks for transport to a wildlife rehabilitation center or veterinary facility. All other BUOW handling is prohibited.	ITP Condition of Approval <u>BUOW Mortality Reduction Plan</u>	Within 45 days of issuance of the ITP and before implementing BUOW Exclusion Activities	Permittee / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
18	<p>Permittee shall prepare and submit a BUOW Artificial Burrow Replacement Plan to CDFW for review and approval within 45 days of issuance of the ITP and before implementing BUOW Exclusion Activities. The BUOW Artificial Burrow Replacement Plan shall include but not be limited to, the following: (1) BUOW burrow replacement location(s) with maps and discussion of the biological suitability (e.g., foraging habitat, prey, burrows, vegetation composition), proximity to the Project Area and features (e.g., roads, drainages, water bodies, solar panels, powerlines), and property information (e.g., conservation status, land uses, any conflicting land uses); (2) location(s) with maps of any known and nesting BUOW burrows at the replacement location(s); (3) number of replacement burrows to be installed for each type of burrow that is excavated; (4) replacement burrow design, materials, number and orientation of entrances, tunnel length and depth, and installation methods; (5) replacement BUOW burrow maintenance methods including vegetation management around replacement burrows; (6) methods to avoid and minimize impacts to BUOW during installation and maintenance activities; and 7() repeatable, science-based methods for assessing and monitoring replacement burrow(s) to obtain BUOW use, survival, and reproductive information through the first two (2) BUOW breeding seasons, at a minimum, to start immediately following creation of each replacement BUOW burrow.</p>	<p>ITP Condition of Approval <u>BUOW Artificial Burrow Replacement Plan</u></p>	<p>Within 45 days of issuance of the ITP and before implementing BUOW Exclusion Activities</p>	<p>Permittee / Designated Biologist</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<p>No more than 14 days before starting Covered Activities in the Work Area and before implementing BUOW Exclusion Activities, the Designated Biologist shall conduct surveys for BUOW using the methods described in the CDFW Staff Report on BUOW Mitigation, Appendix D (2012) or other appropriate method, if agreed upon in writing by CDFW, with the last survey occurring no more than 48 hours before starting Covered Activities in the Work Area. Surveys shall provide 100 percent visual coverage in the Work Area and a 500-foot buffer zone around the Work Area, except areas outside of the Permittee's access and/or control and shall include the Exclusion Area where the Exclusion Area is within the 500-foot buffer. Surveys shall include culverts, buckled concrete, rock piles, and similar features that could support BUOW burrows. The Designated Biologist shall identify BUOW burrows if present in the survey area and as follows:</p> <ul style="list-style-type: none"> • A potential (suitable) burrow is any hole, 3 inches or larger, for which no evidence is present to conclude that the burrow is being used or any past use by a BUOW. • A known burrow is a burrow that is known to have been used or shows evidence of current or past use showing signs of occupancy (e.g., BUOW presence, whitewash, pellets, prey remains, etc.) including auxiliary "satellite" burrows. • A nest is a known BUOW burrow with indications of the presence of an adult pair, mating behaviors, eggs, chicks, dependent young, and/or brooding or egg incubation, including satellite burrows. <p>The Designated Biologist shall submit the survey results including a Burrow Complex Map to CDFW before starting Covered Activities in the Work Area. The Pre-Activity BUOW Clearance Survey report shall include but not be limited to the date and time of survey; surveyor name(s); surveyor qualifications; location of BUOW sightings (if any); and the location of any burrow, type, and status. The Burrow Complex Map shall be at a scale of 1:24,000 or finer to show locations of BUOW, burrows, and areas of concentrated BUOW burrows. Locations documented by use of GPS coordinates must be collected in NAD83 datum. The map shall include an outline of the survey area, title, north arrow, scale bar, and legend.</p>	<p>ITP Condition of Approval <u>Pre-Activity BUOW Clearance Survey and Report</u></p>	<p>No more than 14 days before starting Covered Activities in the Work Area and before implementing BUOW Exclusion Activities</p>	<p>Permittee / Designated Biologist</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	<p>Permittee shall delineate an avoidance buffer around any known or nesting BUOW burrows and satellite burrows (i.e., entire burrow complex) before starting Covered Activities. Permittee shall establish a minimum avoidance buffer as follows:</p> <ul style="list-style-type: none"> • 1,600 feet around a nesting burrow, year-round • 100 feet around a known burrow • 1,600 feet around a known burrow that is occupied during the BUOW nesting season from February 1 through August 31 • 150 feet around a known burrow that is occupied outside of the nesting season by an overwintering, resident, or migrating BUOW. <p>Permittee shall also delineate an avoidance buffer when any BUOWs are observed during Covered Activities (see Condition of Approval <u>Covered Species Observations</u>). If the BUOW burrow or nest is located outside of the Project Area, in the Exclusion Area, or in an area that is outside of the Permittee's access and/or control, Permittee shall delineate the part of the avoidance buffer that is located within the Work Area. Permittee shall delineate avoidance buffers with different materials than those used per Conditions of Approval <u>Delineation of Work Area Boundaries</u> and <u>Delineation of Habitat</u> and with materials that avoid providing perches for predatory corvids, raptors, or other predators. Avoidance buffers shall not prevent BUOW from accessing or leaving the BUOW burrow/nest. Permittee shall not reduce, encroach, or otherwise modify avoidance buffers without prior approval from CDFW. Permittee shall maintain materials used for delineating avoidance buffers in effective condition under all conditions such as wind and heavy rain. If known or nesting BUOW burrows cannot be avoided in the manner described in this Condition of Approval, then Permittee shall implement Condition of Approval <u>BUOW Avoidance Buffer Reduction</u>, <u>Artificial BUOW Burrow Replacement</u>, and <u>BUOW Burrow Excavation</u>.</p>	<p>ITP Condition of Approval <u>BUOW Burrow Avoidance Buffer</u></p>	<p>Before commencing ground- or vegetation-disturbing activities Entire Project</p>	<p>Permittee / Designated Biologist</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
21	<p>Permittee may submit a BUOW Avoidance Buffer Reduction request in writing to CDFW if a known or nesting BUOW burrow cannot be avoided in accordance with Condition of Approval <u>BUOW Burrow Avoidance Buffer</u> and if the Designated Biologist determines that specific Covered Activities are not likely to affect the BUOW a using known or nesting burrow due to the nature of the specific Covered Activities, objects, topography, or physical conditions that might reduce potential noise disturbance and obstruct view of the Covered Activities from the BUOW burrow/nest, or if the Permittee implements methods to minimize the impacts of Covered Activities to the BUOW burrow/nest (e.g., visual screens, additional exclusion fencing) in accordance with the CDFW-approved <u>BUOW Mortality Reduction Plan</u>. The Buffer Reduction Request shall include at a minimum a monitoring report from the Designated Biologist that documents the status of the BUOW burrow/nest, if BUOWs have not displayed any courtship behavior and are not in the process of egg-laying or incubation, or all chicks have fledged, and a discussion of any objects, topography, or physical conditions that might reduce impacts to BUOW. The Designated Biologist shall monitor the burrow/nest with a wildlife camera(s) for a minimum of four (4) consecutive 24-hour periods to document the status of the burrow/nest. The wildlife camera type used for camera monitoring shall be chosen at the discretion of the Designated Biologist and shall have daytime and nighttime recording/photo-capture capabilities. CDFW may request additional surveys to be performed in order to evaluate the Permittee's request. CDFW will review the Permittee's request on a case-by-case basis and CDFW shall determine whether to approve a BUOW Avoidance Buffer Reduction request.</p>	<p>ITP Condition of Approval <u>BUOW Avoidance Buffer Reduction</u></p>	<p>Before commencing ground- or vegetation-disturbing activities Entire Project</p>	<p>Permittee / Designated Biologist</p>	
22	<p>If the Permittee must excavate a known/nesting BUOW burrow in the Work Area or block a burrow for longer than one year per Conditions of Approval <u>BUOW Burrow/Nest Excavation</u> and <u>BUOW Burrow Blockage</u> below, Permittee shall first replace each known/nesting BUOW burrow that must be excavated with an artificial burrow to compensate for the loss of important shelter used by BUOW for protection, reproduction, and escape from predators. Permittee shall install artificial burrows in accordance with the CDFW-approved <u>BUOW Artificial Burrow Replacement Plan</u> before excavating the known/nesting BUOW burrow. If there are no suitable existing burrows within 100 meters of the known/nesting BUOW burrow that must be excavated or blocked, Permittee shall install artificial burrows within 100 meters of the burrow that must be excavated or blocked unless otherwise approved in advance and in writing by CDFW per the CDFW-approved <u>BUOW Artificial Burrow Replacement Plan</u>. Permittee shall monitor replacement BUOW burrows in accordance with the CDFW-approved <u>BUOW Artificial Burrow Replacement Plan</u> and provide a status summary of replacement BUOW burrows in <u>ASRs</u>.</p>	<p>ITP Condition of Approval <u>Artificial BUOW Burrow Replacement</u></p>	<p>Before commencing ground- or vegetation-disturbing activities and before excavating a known/nesting BUOW burrow per Condition of Approval <u>BUOW Burrow/Nest Excavation</u></p>	<p>Permittee / Designated Biologist</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<p>After replacing known/nesting BUOWs burrows per Condition of Approval <u>Artificial BUOW Burrow Replacement</u> if applicable, the Designated Biologist or individuals under the direct supervision of the Designated Biologist shall excavate potential, known, and nesting burrows that cannot be avoided in the Work Area. The Designated Biologist shall excavate unoccupied known burrows before starting Covered Activities in the Work Area where Covered Activities are planned to occur in the immediate future and only after the Designated Biologist determines that no BUOW is observed occupying nor near the burrow for a minimum of four (4) consecutive 24-hour periods (see Condition of Approval <u>BUOW Avoidance Buffer Reduction</u> for wildlife camera specifications). After determining that no BUOW is occupying nor near the known burrow, the Designated Biologist shall immediately excavate the unoccupied known burrow. Permittee may excavate an unoccupied nest after the Designated Biologist confirms that the chicks have fledged and are no longer dependent on the nest and after obtaining written concurrence from CDFW to do so. Potential burrows without any sign of BUOW use or characteristics suggesting it is a BUOW burrow may be excavated without advance monitoring as specified above. The Designated Biologist shall excavate BUOW burrows in accordance with the CDFW-approved <u>BUOW Mortality Reduction Plan</u>. If the excavation process reveals BUOW, eggs, young, or adults, then burrow excavation shall cease immediately and monitoring by a Designated Biologist shall be conducted/resumed and the Designated Biologist shall contact CDFW immediately and obtain written guidance from CDFW regarding how to proceed. Permittee shall not destroy or excavate any BUOW burrows in the Exclusion Area.</p>	ITP Condition of Approval <u>BUOW Burrow/Nest Excavation</u>	Before commencing ground- or vegetation-disturbing activities and only after installing replacement burrows per Condition of Approval Condition of Approval <u>Artificial BUOW Burrow Replacement</u>	Permittee / Designated Biologist	
24	<p>Permittee shall provide for all of the following:</p> <ul style="list-style-type: none"> Permanent protection and funding for perpetual management of all 765 acres of the Fenston Property for CTS before starting Covered Activities associated with any Quarry development and operation work or within 18 months of the effective date of the ITP or in accordance with timelines set forth by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval <u>Performance Security</u>. <p>AND</p> <ul style="list-style-type: none"> Purchase 12.75 CTS upland credits from a CDFW-approved conservation bank pursuant to Condition of Approval <u>Bill of Sale and Payment Receipt or Credit Transfer Agreement</u> below, before starting any Covered Activities associated with the SR 145 improvement work or within 102 months of the timeline set forth by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval <u>Performance Security</u>. <p>AND</p> <ul style="list-style-type: none"> Permanent protection and funding for perpetual management of all 765 acres of the Fenston Property for BUOW before starting any Covered Activities in the Phase 1 Adjustment Area (except for passive exclusion of Phase 1 Adjustment Area) or within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval <u>Performance Security</u>. 	ITP Condition of Approval <u>Habitat Management Land Acquisition</u>	Before commencing ground- or vegetation-disturbing activities or within 18 months (765 acres of HM lands for CTS and BUOW) of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided, and within 102 months (12.75 CTS upland credits) of the timeline set forth by CDFW at the time Security is accepted if Security is provided.	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt or an executed Credit Transfer Agreement for 12.75 CTS upland credits from a CDFW-approved conservation bank prior to initiating Covered Activities associated with the SR 145 improvement work <u>or</u> within 102 months of the timeline set forth by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval <u>Performance Security</u> .	ITP Condition of Approval <u>Bill of Sale and Payment Receipt or Credit Transfer Agreement</u>	Before commencing ground- or vegetation-disturbing activities <u>or</u> within 102 months of the timeline set forth by CDFW at the time Security is accepted if Security is provided.	Permittee	
26	To provide for the acquisition and perpetual protection and management of the HM lands, Permittee shall transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.	ITP Condition of Approval <u>Habitat Acquisition and Protection – Fee Title</u>	Before commencing ground- or vegetation-disturbing activities <u>or</u> within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.	Permittee	
27	If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.	ITP Condition of Approval <u>Habitat Acquisition and Protection – Conservation Easement</u>	Before commencing ground- or vegetation-disturbing activities <u>or</u> within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	Permittee shall obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species	ITP Condition of Approval <u>Habitat Acquisition and Protection – HM Lands Approval</u>	Before commencing ground- or vegetation-disturbing activities or within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.	Permittee	
29	Permittee shall provide a recent preliminary title report, Phase I Environmental Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.	ITP Condition of Approval <u>Habitat Acquisition and Protection – HM Lands Documentation</u>	Before commencing ground- or vegetation-disturbing activities or within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.	Permittee	
30	Permittee shall designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.	ITP Condition of Approval <u>Habitat Acquisition and Protection – Land Manager</u>	Before commencing ground- or vegetation-disturbing activities or within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	<p>Permittee shall provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see optional management plan template at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement if applicable; and (7) installing signage.</p>	<p>ITP Condition of Approval <u>Habitat Acquisition and Protection – Start-up Activities</u></p>	<p>Before commencing ground- or vegetation-disturbing activities <u>or</u> within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.</p>	Permittee	
32	<p>Permittee shall provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, species monitoring, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.</p>	<p>ITP Condition of Approval <u>Habitat Acquisition and Protection – Interim Management (Initial and Capital)</u></p>	<p>Before commencing ground- or vegetation-disturbing activities <u>or</u> within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.</p>	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	<p>Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the ITP, the conservation easement, and the management plan(s) required by Condition of Approval <u>Start-up Activities</u>. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	<p>ITP Condition of Approval <u>Habitat Acquisition and Protection – Endowment Fund</u></p>	<p>Before commencing ground- or vegetation-disturbing activities or within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.</p>	<p>Permittee</p>	
34	<p>The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).</p>	<p>ITP Condition of Approval <u>Habitat Acquisition and Protection – Identify an Endowment Manager</u></p>	<p>Before commencing ground- or vegetation-disturbing activities or within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.</p>	<p>Permittee</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35	<p>After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.</p> <ul style="list-style-type: none"> • <u>Capitalization Rate and Fees</u>. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees. • <u>Endowment Buffers/Assumptions</u>. Permittee shall include in endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: <ul style="list-style-type: none"> • <u>10 Percent Contingency</u>. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. • <u>Three Years Delayed Spending</u>. The endowment shall be established assuming spending will not occur for the first three years after full funding. • <u>Non-annualized Expenses</u>. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	<p>ITP Condition of Approval <u>Habitat Acquisition and Protection – Calculate the Endowment Funds Deposit</u></p>	<p>Before commencing ground- or vegetation-disturbing activities <u>or</u> within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.</p>	<p>Permittee</p>	
36	<p>Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.</p>	<p>ITP Condition of Approval <u>Habitat Acquisition and Protection – Transfer Long-term Endowment Funds</u></p>	<p>Before commencing ground- or vegetation-disturbing activities <u>or</u> within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.</p>	<p>Permittee</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
37	<p>The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.</p> <p>Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.</p>	<p>ITP Condition of Approval <u>Habitat Acquisition and Protection – Management of the Endowment</u></p>	<p>Before commencing ground- or vegetation-disturbing activities <u>or</u> within 18 months of the effective date of the ITP or in accordance with timelines set for by CDFW at the time the Security is accepted if Security is provided.</p>	<p>Permittee</p>	
38	<p>Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.</p>	<p>ITP Condition of Approval <u>Habitat Acquisition and Protection – Reimburse CDFW</u></p>		<p>Permittee</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
39	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval <u>Habitat Management Land Acquisition</u> that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ul style="list-style-type: none"> • <u>Security Amount</u>. The Covered Activities associated with the Quarry development and operation work may be secured separately, or at the same time as the Covered Activities associated with the SR 145 improvement work. Before commencing the Quarry development and operation work, the Security shall be in the amount of \$10,635,577.95 for 765 acres of HM lands for CTS. Before commencing the SR 145 improvement work, additional Security in the amount of \$255,000 shall be provided for 12.75 CTS upland credits at a CDFW-approved conservation bank. Before commencing Covered Activities in the Phase 1 Adjustment Area (except for passive exclusion of Phase 1 Adjustment Area), the Security shall be in the amount of \$18,600,754 for 765 acres of HM lands for BUOW. These amounts are based on the cost estimates identified in Condition of Approval <u>Cost Estimates</u> sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring. • <u>Security Form</u>. 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. • <u>Security Timeline</u>. The Security shall be provided in draft form to CDFW's Regional Representative for review and approval prior to execution. Permittee shall execute the CDFW-approved Security before Covered Activities begin as described above in subsection <u>Security Amount</u>. • <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW. • <u>Security Transmittal</u>. Permittee shall transmit Security to CDFW by way of an approved instrument such as escrow, irrevocable letter of credit, or other. <p>Even if Security is provided, Permittee must complete the required acquisition, protection, and transfer of HM lands for CTS and record any required conservation easements within 18 months from the effective date of the ITP, or in accordance with timelines set forth by CDFW at the time the Security is accepted and Permittee must provide a copy of the Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of CTS upland credits at a CDFW-approved conservation bank within 102 months in accordance with timelines set forth by CDFW at the time the Security is accepted and Permittee must complete the required acquisition, protection, and transfer of HM lands for BUOW and record any required conservation easements within 18 months from the effective date of the ITP, or in accordance with timelines set forth by CDFW at the time the Security is accepted. CDFW may require the Permittee to provide additional HM lands for CTS and/or BUOW, additional Covered Species credits, and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition of Approval <u>Performance Security</u>	Before Covered Activities begin	Permittee	

DURING CONSTRUCTION ACTIVITIES					
	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
40	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist(s) and Designated Monitor(s) shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure(s) 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(s) and/or Designated Monitor(s) in the performance of their duties. If the Designated Biologist(s) and/or Designated Monitor(s) are unable to comply with the ITP, then the Designated Biologist(s) and/or Designated Monitor(s) shall notify the CDFW Regional Representative (detailed in the Notices section below) immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist(s)/Designated Monitor(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of the ITP.	ITP Condition of Approval <u>Designated Biologist(s) and/or Designated Monitor(s) Authority</u>	Entire Project	Permittee / Designated Biologist	
41	The Designated Biologist shall maintain an operation-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the operation-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition of Approval <u>Operation Monitoring Notebook</u>	Entire Project	Permittee / Designated Biologist	
42	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 of Approval <u>Dust Control</u>	Entire Project	Permittee	
43	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. This includes photodegradable or biodegradable synthetic netting. Permittee shall use erosion control fabric/mats, blankets, and/or fiber rolls consisting of only natural fibers such as jute, coconut, twine, or other similar fibers.	ITP Condition of Approval <u>Erosion Control Materials</u>	Entire Project	Permittee	
44	Project-related personnel shall access the Project Area from SR 145, the dedicated route for the Project, 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 the ITP, among other reasons, if additional take of Covered Species or Covered Species habitat impacts will occur as a result of the Project modification. Access to the on-site Exclusion Area shall be prohibited unless approved in advance and in writing by CDFW and only as a result of BUOW burrow exclusion and salvage, capture, and relocation activities required by the ITP.	ITP Condition of Approval <u>Project Area Access</u>	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
45	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 delineated Project Area unless provided for as described in Condition of Approval <u>Project Area Access</u> , above.	ITP Condition of Approval <u>Staging Areas</u>	Entire Project	Permittee	
46	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 properly contain and dispose of any hazardous wastes produced within the Project Area.	ITP Condition of Approval <u>Hazardous Waste</u>	Entire Project	Permittee	
47	Permittee shall provide CDFW staff with reasonable access to the Project Area, Exclusion Area, and Habitat Management lands and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition of Approval <u>CDFW Access</u>	Entire Project	Permittee	
48	Permittee shall implement fire prevention measures during Covered Activities, including but not limited to: (1) equipping all motorized vehicles with spark arrestors when working in designated State Responsibility Areas; (2) ensuring water-filled backpack pumps, shovels, shields, and fire-resistant mats and/or windscreens are available on-site during grinding and welding operations; (3) prohibiting welding operations during "red flag" conditions as determined by the California Department of Forestry and Fire Protection; (4) equipping all fuel trucks with an appropriate fire extinguisher; and (5) ensuring that flammable materials are cleared from parking and storage areas.	ITP Condition of Approval <u>Fire Prevention</u>	Entire Project	Permittee	
49	Permittee shall prohibit domestic animals from the Project Area and Exclusion Area, except for those that are possessed by authorized security personnel or federal, state, or local law enforcement officials, dogs used in official and CDFW-approved monitoring procedures/protocols, or service dogs under Title II and Title III of the American with Disabilities Act.	ITP Condition of Approval <u>Domestic Animals</u>	Entire Project	Permittee	
50	The Designated Representative shall immediately notify CDFW in writing if he/she determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or the MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition of Approval <u>Notification of Non-compliance</u>	Immediately/within 24 hours Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
51	<p>The Designated Biologist shall be on-site daily when topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur in each phase. For each phase, the Designated Biologist shall conduct compliance monitoring to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and exclusion and delineating fence 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, relocation efforts, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections a minimum of once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing and grading (including topsoil and overburden removal) are completed.</p>	<p>ITP Condition of Approval <u>Compliance Monitoring and Inspections</u></p>	<p>On-site daily when topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur in each phase</p> <p>Once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing and grading (including topsoil and overburden removal) are completed</p> <p>Entire Project</p>	<p>Permittee / Designated Biologist</p>	
52	<p>Permittee shall submit as-built plans to CDFW within six (6) months of completing construction of individual Project phases, including the SR 145 improvements and the solar facility with associated infrastructure. The as-built plan sheets shall delineate and quantify the extent of all facilities, infrastructure, and features associated with the Project phase. The as-built plans shall include an estimate of disturbance resulting from construction and quarrying by highlighting the disturbance areas on the as-built plan sheets. Plans shall include topographic data, with contour intervals not to exceed five feet, as a background layer. The plan scale shall be 1":250' (one inch to 250 feet) or smaller. Plans shall be derived from engineering survey data acquired after Project construction and shall be verified by the Designated Biologist(s). The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.</p>	<p>ITP Condition of Approval <u>As-Built Plans</u></p>	<p>Within six (6) months of completing construction of individual Project phases, including the SR 145 improvements and the solar facility with associated infrastructure</p> <p>Entire Project</p>	<p>Permittee</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
53	The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval <u>Compliance Monitoring and Inspections</u> as well as the <u>As-Built Plans</u> into a Quarterly Compliance Report (QCR) and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. QCRs shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail no later than the 15 th day of every third month to CDFW's Regional Representative and Regional Office and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Ruby Kwan (Ruby.Kwan@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@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.	ITP Condition of Approval <u>Quarterly Compliance Report</u>	No later than the 15 th day of every third month Entire Project	Permittee / Designated Representative/ Designated Biologist	
54	Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all <u>QCRs</u> for that year; (2) <u>As-Built Plans</u> ; (3) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (4) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (5) summary (with maps) of replacement BUOW burrow location(s) and status (if applicable); (6) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (7) all available information about Project-related incidental take of the Covered Species; and (8) information about other Project impacts on the Covered Species. Permittee shall submit ASRs to CDFW's Regional Office, Regional Representative and Headquarters CESA Program.	ITP Condition of Approval <u>Annual Status Report</u>	No later than January 31 of every year Entire Project	Permittee	
55	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 <u>QCR</u> or <u>ASR</u> , whichever is submitted first relative to the observation.	ITP Condition of Approval <u>CNDDDB Observations</u>	Entire Project	Permittee / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
56	<p>Permittee shall immediately notify CDFW and the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, if a Covered Species is otherwise found dead or injured within the vicinity of the Project, and if BUOW nestling(s) or eggs(s) are abandoned as a result of Covered Activities. Permittee shall notify CDFW of the take, injury, or abandonment immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005 and by email to the CDFW's Regional Office and the Regional Representative. The initial notification to CDFW shall include information regarding the location, species, number of animals taken, injured, or abandoned, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two (2) calendar days. The report shall include the date and time of the finding or incident, location of where the animal or carcass was found, sex (if known), life stage/age class (if known), observer name and contact information, ITP number, photographs, explanation as to cause of take, injury, or abandonment, and any other pertinent information.</p>	<p>ITP Condition of Approval <u>Notification of Take, Injury, or Abandonment</u></p>	<p>Immediately/no later than the next business day/written report within two (2) calendar days Entire Project</p>	<p>Permittee / Designated Biologist</p>	
57	<p>The Designated Biologist shall maintain a record of all CTS handled and relocated. For each CTS handled and relocated, the Designated Biologist(s) shall provide the following information: (1) date, time, and location of each occurrence using Global Positioning System (GPS) coordinates and maps; (2) the name of the party that actually identified the CTS; (3) circumstances of the incident; (4) the general condition and health of each individual, noting all visible conditions including gait and behavior, ectoparasites, injuries, etc.; (5) any diagnostic markings, sex, age (juvenile or adult); (6) actions undertaken; (7) habitat description; (8) ambient temperature when handled, released, and/or observed; and (9) photographs of the CTS. Permittee shall also submit this information to the CNDDDB as per Condition of Approval <u>CNDDDB Observations</u>. This information should also be included in the <u>QCRs</u> and <u>ASRs</u>.</p>	<p>ITP Condition of Approval <u>Record of CTS Observations, Handling, and Relocation</u></p>	<p>Entire Project</p>	<p>Permittee / Designated Biologist</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
58	<p>The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. During rainfall events and/or when a 50 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, topsoil and overburden removal, grading, compacting, blasting, and excavation) has yet to be completed until the rainfall ceases and a zero percent chance of rain is forecast. Work may continue 24 hours after the rain ceases and there is a zero percent chance of rain in the 72-hour forecast. Covered Activities may continue during rainfall events and/or a 50 percent or greater chance of rain is forecast, within Work Areas where initial ground disturbance has yet to be completed only if: 1) Pre-Activity Clearance Surveys have been conducted, 2) small mammal burrows have been excavated, and 3) the Work Area is completely enclosed with Covered Species exclusion fencing, in accordance with Conditions of Approval <u>CTS Pre-Activity Clearance Surveys and Reporting</u>, <u>CTS Burrow and Crevice Excavation</u>, and <u>Covered Species Exclusion Fencing</u>. In Work Areas where these conditions have been satisfied, a Designated Biologist shall survey the applicable Work Area footprint before ground disturbance begins each day that rain is forecast or actively falling to capture and relocate any CTS that are discovered during the surveys. Work Areas where Conditions of Approval <u>CTS Pre-Activity Clearance Surveys and Reporting</u>, <u>CTS Burrow and Crevice Excavation</u>, and <u>Covered Species Exclusion Fencing</u> have previously been satisfied and that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events, if <u>Covered Species Exclusion Fencing</u> is properly maintained and in effective condition, in accordance with the Project's CDFW-approved exclusion fence plan.</p>	<p>ITP Condition of Approval <u>Rain Forecast</u></p>	<p>Entire Project</p>	<p>Permittee / Designated Biologist</p>	
59	<p>Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise during rainfall events and/or when a 50 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast. Covered Activities may continue at night during rainfall events and/or when a 50 percent or greater chance of rain is forecast within Work Areas where initial ground disturbance has been completed and has yet to be completed only if: 1) Pre-Activity Clearance Surveys have been conducted; 2) small mammal burrows have been excavated; and 3) the Work Area is completely enclosed with Covered Species exclusion fencing as described in the Project's CDFW-approved exclusion fence plan, is properly maintained, and is in effective condition in accordance with Conditions of Approval <u>CTS Pre-Activity Clearance Surveys and Reporting</u>, <u>CTS Burrow and Crevice Excavation</u>, and <u>Covered Species Exclusion Fencing</u>. In Work Areas where these conditions have been satisfied, a Designated Biologist shall survey the applicable Work Area footprint before ground disturbance begins each night that rain is forecast or actively falling to capture and relocate any CTS that are discovered during the surveys.</p>	<p>ITP Condition of Approval <u>Night Work</u></p>	<p>Entire Project</p>	<p>Permittee / Designated Biologist</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
60	<p>The Designated Biologist shall monitor BUOW burrows within avoidance buffers daily during initial ground-disturbance and vegetation removal activities that occur during the nesting season (February 1-August 31), and frequencies in accordance with the CDFW-approved <u>BUOW Mortality Reduction Plan</u> during initial ground-disturbance and vegetation removal activities occurring outside of the nesting season, after initial ground-disturbance and vegetation removal activities and once Covered Activities are on-going and more routine in nature, and during periods of inactivity. Wildlife cameras may be used as an alternative or to supplement on-site surveys provided that it is approved in the CDFW-approved <u>BUOW Mortality Reduction Plan</u> in order to minimize the number of visits and disturbance to BUOW (see Condition of Approval <u>BUOW Avoidance Buffer Reduction</u> for wildlife camera specifications). Monitoring of BUOW burrows within 500 feet of the Work Area but outside of the Project Area and in an area that is outside of the Permittee's access and/or control shall be conducted as access allows. The Designated Biologist shall stop work if BUOW exhibits distress and/or abnormal behavior (e.g., excessive vocalizations, defensive flights at intruders, flushing frequently, or otherwise displaying agitated behavior). Permittee shall not resume Covered Activities causing BUOW to be distressed until the Designated Biologist consults with CDFW. CDFW shall determine whether to increase the size of the avoidance buffer. If CDFW determines to increase the size of an avoidance buffer, an increased avoidance buffer shall be delineated before Covered Activities can recommence.</p>	<p>ITP Condition of Approval <u>BUOW Burrow and Nest Monitoring</u></p>	<p>Entire Project</p>	<p>Permittee / Designated Biologist</p>	
61	<p>If after monitoring per Condition of Approval <u>BUOW Burrow and Nest Monitoring</u>, the Designated Biologist in consultation with CDFW, determines that usage of a BUOW burrow in the Work Area or immediately adjacent in the Exclusion Area during Covered Activities poses a direct risk of harm to a BUOW, if approved in writing by CDFW and if access allows, the Designated Biologist may block the unoccupied burrow in accordance with the CDFW-approved <u>BUOW Mortality Reduction Plan</u>. The Designated Biologist shall monitor the burrow until no BUOW is observed occupying nor near the burrow for a minimum of four (4) consecutive 24-hour periods (see Condition of Approval <u>BUOW Avoidance Buffer Reduction</u> for wildlife camera specifications). After determining that no BUOW is occupying nor near the burrow, the Designated Biologist shall immediately block the unoccupied burrow. Permittee may block an unoccupied nest only after the Designated Biologist confirms that the chicks have fledged and are no longer dependent on the nest and only after obtaining written concurrence from CDFW to do so. The Designated Biologist shall monitor the blocked burrow/nest at least two times per day and in accordance with the CDFW-approved <u>BUOW Mortality Reduction Plan</u> for BUOW that may return and to ensure that the blocked burrow/nest materials are still intact. If a BUOW returns to the blocked burrow/nest, Permittee shall implement measures in accordance with the CDFW-approved <u>BUOW Mortality Reduction Plan</u> if the Designated Biologist determines that the BUOW is at risk of injury or mortality. If BUOW regains access to the burrow/nest, the Designated Biologist shall contact CDFW immediately and obtain written guidance from CDFW regarding how to proceed. Permittee shall remove materials blocking BUOW burrows/nest within 48 hours of completion of Covered Activities or after Covered Activities are on-going and more routine in nature and after obtaining written concurrence from CDFW to do so.</p>	<p>ITP Condition of Approval <u>BUOW Burrow Blockage</u></p>	<p>Entire Project</p>	<p>Permittee / Designated Biologist</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
62	Permittee shall conduct protocol-level BUOW Breeding and Non-Breeding Season Surveys in accordance with the CDFW Staff Report on BUOW Mitigation, Appendix D (2012). The Designated Biologist shall conduct protocol-level surveys every five (5) years to document any changes in BUOW presence such as colonizing BUOWs that have recently moved into the Project Area, migrating owls, resident BUOWs changing burrow use, etc. The first survey shall be conducted in year 2030. The Designated Biologist shall survey the Project Area plus a 500-foot buffer zone around the Project Area as access allows, where there is suitable habitat for BUOW including culverts, buckled concrete, rock piles, and similar features that could support BUOW burrows. Permittee shall submit the survey report to CDFW no more than 14 days after the last survey. The survey report shall include a Burrow Complex Map of the Project Area and Exclusion Area (see Condition of Approval <u>Pre-Activity BUOW Clearance Survey</u>). If changes in BUOW presence are detected, the Permittee and Designated Biologist shall consult with CDFW. CDFW may determine that the Permittee must implement additional methods to minimize the impacts of Covered Activities on BUOW through revisions to the <u>BUOW Mortality Reduction Plan</u> and <u>BUOW Artificial Burrow Replacement Plan</u> .	ITP Condition of Approval <u>BUOW Protocol Surveys</u>	Entire Project	Permittee / Designated Biologist	
63	Permittee shall avoid attracting BUOW predators to the Project Area. Permittee shall store large mobile equipment that will not be used for more than 5 days at least 500 feet away from known or nesting BUOW burrows to prevent avian predators from using large mobile equipment as perches.	ITP Condition of Approval <u>Detering Predator Attraction</u>	Entire Project	Permittee	
64	Permittee shall prohibit management of ground squirrel populations or any small mammals/rodents by any means and shall prohibit the use of rodenticides within the Project Area for the term of the ITP. Permittee shall not use any second-generation anticoagulant rodenticides (e.g., brodifacoum, bromadiolone, difethialone, and difenacoum) and first-generation anticoagulant rodenticide (e.g., diphacinone, coumachlor, chlorophacinone, and warfarin). If small mammal/rodent control is needed, Permittee shall obtain written approval from CDFW prior to controlling small mammals/rodents within the Project Area.	ITP Condition of Approval <u>Rodenticides</u>	Entire Project	Permittee	
65	Once the <u>CTS Mortality Reduction and Relocation Plan</u> , fencing plan in accordance with <u>Covered Species Exclusion Fencing</u> , <u>BUOW Mortality Reduction Plan</u> , and <u>BUOW Artificial Burrow Replacement Plan</u> are approved by CDFW, they shall be used for the duration of the ITP unless the Permittee is required by CDFW to update these plans to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes by the Permittee shall be submitted in writing to CDFW and approved by CDFW in writing before Permittee implements any proposed plan modifications.	ITP Condition of Approval <u>Plan Revisions and Updates</u>	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
66	<p>The Designated Biologist and worker(s) shall inspect all open holes, sumps, trenches, and other excavations within the Work Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped Covered Species. The Designated Biologist and worker(s) shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity which could cause further entrapment, or injure or kill the Covered Species, and notify the Designated Biologist(s) immediately. Workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue. Alternatively, the Designated Biologist(s) shall capture and relocate CTS out of harm's way outside of the Project Area and in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u>. If a BUOW is found, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with <u>BUOW Burrow Avoidance Buffer</u>. If the BUOW does not vacate of its own accord within a reasonable timeframe and is at-risk, the Designated Biologist shall consult with CDFW and if approved by CDFW in writing, may move the at-risk BUOW out of immediate harm's way in accordance with the CDFW-approved <u>BUOW Mortality Reduction Plan</u>.</p>	<p>ITP Condition of Approval <u>Open Excavations</u></p>	<p>Beginning, middle, and end of each day (including weekends and any other non-work days) Before backfilling Entire Project</p>	<p>Permittee / Designated Biologist/ Project workers</p>	
67	<p>Permittee shall ensure that all open holes, sumps, trenches, and other excavations are covered or escape ramps are provided to prevent inadvertent entrapment of Covered Species. At the end of the workday <u>after</u> thorough inspection, workers shall cover all open holes, sumps, trenches, and other excavations of any depth that have sidewalls greater than 1:1 (45 degree) slope with barrier material (e.g., plywood or other hard material) such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. If any open holes, sumps, trenches, and other excavations cannot be covered, Permittee, in consultation with the Designated Biologist shall provide at least one escape ramp constructed of earthen fill or a non-slip wooden plank with a less than 1:1 (45 degree) slope for each open hole, sump, trench, or other excavation. If a situation is encountered that this Condition of Approval does not anticipate and alternative methods of preventing entrapment in open holes, sumps, trenches, and other excavations are warranted, Permittee shall request and obtain CDFW's written approval before implementing the alternative. Designated Biologist and worker(s) shall inspect covers and ramps to ensure that covers and ramps are in effective condition, secured, and with no gaps.</p>	<p>ITP Condition of Approval <u>Covers and Ramps</u></p>	<p>At the end of the workday after thorough inspection Beginning, middle, and end of each day (including weekends and any other non-work days) Entire Project</p>	<p>Permittee / Designated Biologist/ Project workers</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
68	Permittee shall prohibit vehicles and equipment from parking on top of small mammal and Covered Species burrows, except within designated staging areas for which burrows have been excavated in accordance with Conditions of Approval <u>CTS Small Mammal Burrow and Crevice Excavation</u> and <u>BUOW Burrow Excavation</u> . Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist(s) shall move the Covered Species out of harm's way outside of the Project Area and in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> . If a BUOW is found, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with <u>BUOW Burrow Avoidance Buffer</u> . If the BUOW does not vacate of its own accord within a reasonable timeframe and is at-risk, the Designated Biologist shall consult with CDFW and if approved by CDFW in writing, may move the at-risk BUOW out of immediate harm's way in accordance with the CDFW-approved <u>BUOW Mortality Reduction Plan</u> .	ITP Condition of Approval <u>Vehicle and Equipment Inspection</u>	Entire Project	Permittee / Designated Biologist/ Project workers	
69	Permittee shall ensure that all pipes, hoses, conduits, culverts, or similar materials stockpiled or installed in the Project Area be capped or otherwise enclosed at the ends to prevent entry by Covered Species. Workers shall thoroughly inspect all construction pipes, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the object is subsequently moved, buried, or capped. If during inspection, an individual of the Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall immediately cease all Covered Activities in the vicinity which could injure or kill the Covered Species and notify the Designated Biologist. Covered Species shall be allowed to escape unimpeded to a safe location, if possible, before Covered Activities are allowed to continue. If a CTS is found, the Designated Biologist may move CTS out of harm's way outside of the Project Area and in accordance with the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> . If a BUOW is found, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with <u>BUOW Burrow Avoidance Buffer</u> . If the BUOW does not vacate of its own accord within a reasonable timeframe and is at-risk, the Designated Biologist shall consult with CDFW and if approved by CDFW in writing, may move the at-risk BUOW out of immediate harm's way in accordance with the CDFW-approved <u>BUOW Mortality Reduction Plan</u> .	ITP Condition of Approval <u>Pipes and Other Structures Entrapment Prevention</u>	Before moving, burying, or capping Entire Project	Permittee / Designated Biologist/ Project workers	
70	Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding habitat in the Project Area, or into any other "Waters of the State". Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall stockpile all materials and equipment in a manner that discourages Covered Species' use.	ITP Condition of Approval <u>Soil Stockpiles</u>	Entire Project	Permittee / Designated Biologist	
71	Permittee shall ensure that equipment fueling and maintenance occurs at least 250 feet from CTS breeding habitat or any other "Waters of the State". Permittee shall ensure that equipment fueling and maintenance occurs outside of BUOW avoidance buffers.	ITP Condition of Approval <u>Equipment Fueling and Maintenance</u>	Entire Project	Permittee / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
72	Permittee shall eliminate nonessential lighting and avoid or limit the use of artificial light during the hours of 30 minutes before sunset and ending 30 minutes after sunrise when wildlife is most active. Permittee shall ensure that all nighttime lighting used during Covered Activities is fully shielded, cast downward and directed away from surrounding habitat, open space, burrows, avoidance buffers, and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding areas or upward into the night sky.	ITP Condition of Approval <u>Night Lighting</u>	Entire Project	Permittee	
73	During all Covered Activities, all workers shall inform the Designated Biologist if a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved <u>CTS Mortality Reduction and Relocation Plan</u> . If a BUOW is observed, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with Condition of Approval <u>BUOW Avoidance Buffer</u> . If a BUOW is at-risk and in immediate harm's way, the Designated Biologist shall consult with CDFW to determine if the BUOW should be relocated if approved by CDFW in writing.	ITP Condition of Approval <u>Covered Species Observations</u>	Entire Project	Permittee / Designated Biologist/ Project workers	
74	If a Covered Species is found injured as a result of Covered Activities or if BUOW chicks or eggs are found abandoned as a result of Covered Activities, the Designated Biologist(s) shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility in accordance with Conditions of Approval <u>CTS Mortality Reduction and Relocation Plan</u> and <u>BUOW Mortality Reduction Plan</u> . The Designated Biologist or Designated Representative shall provide weekly updates to CDFW on the status of the rehabilitation facility's treatment of the Covered Species individual. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species, including hacking (controlled release of captive reared BUOW) if required by CDFW. Controlled release of captive reared young shall be conducted in coordination with CDFW. CDFW, in its sole discretion, will determine controlled release procedures, including but not limited to release location, timing, and monitoring timing, methods, and frequency after the controlled release of captive reared young. If a BUOW is found deceased, the Designated Biologist shall immediately collect, bag, and freeze the carcass and consult with CDFW to determine if submittal of the carcass to a laboratory is warranted and/or follow any approved storage or transport methods as approved in the <u>BUOW Mortality Reduction Plan</u> . Permittee shall bear any costs associated with submittal of a carcass to a laboratory.	ITP Condition of Approval <u>Covered Species Injury, Abandonment, or Carcass</u>	Entire Project	Permittee / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
75	Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable state, federal, and local regulations. Herbicides shall not be applied during rainfall events and/or when rainfall is predicted within 72 hours. Permittee shall ensure herbicide mixing occurs within the Project Area where there is no potential of a spill reaching waters at the on-site Exclusion Area or off site. Permittee shall only use herbicides registered with the California Department of Pesticide Regulation (CDPR) and any dyes must be EPA-registered dyes approved for use in California. Permittee shall ensure that any herbicide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment. All herbicides shall be applied in accordance with labeled instructions and regulations set by the CDPR. Label instructions for the pesticide(s) used shall be made available to CDFW upon request. Permittee shall only apply herbicide sprays via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid herbicide outside the boundaries of the Project Area. All herbicide sprays utilized within the Project Area adjacent to the on-site Exclusion Area shall contain a dye to prevent overspray.	ITP Condition of Approval <u>Herbicide Use</u>	Entire Project	Permittee	
POST-CONSTRUCTION					
	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
76	Upon completion of Covered Activities in each Work Area, Permittee shall remove from each Work Area and properly dispose of all temporary fill, stockpiled mined materials, 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 of Approval <u>Refuse Removal</u>	Post-construction	Permittee	
77	Permittee shall provide CDFW with a Final Mitigation Report no later than 45 days after the expiration of the ITP. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all <u>QCRs</u> and all <u>ASRs</u> ; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related 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 the ITP's Conditions of Approval in minimizing and fully mitigating Project-related impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition of Approval <u>Final Mitigation Report</u>	Post-construction and after completion of mitigation	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
78	<p>The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <p>Credit Purchase</p> <ul style="list-style-type: none"> Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits. <p>AND</p> <p>Habitat Management Land Acquisition (HMLA)</p> <ul style="list-style-type: none"> Written documentation of the acquisition of the HM lands; Copies of all executed and recorded conservation easements; Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and <p>Timely submission of all required reports.</p>	<p>ITP Condition of Approval <u>Performance Security – Security Release</u></p>	<p>After completion of mitigation</p>	<p>Permittee/ CDFW</p>	
79	<p>CDFW accepts the Final Mitigation Report as complete.</p>		<p>Post-construction and after completion of mitigation</p>	<p>CDFW</p>	

PROVISIONS TO ADDRESS SEVERED MINERAL TITLE

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
80	<p>To safeguard for the potential exercise of severed mineral rights on the Fenston Property, and to ensure the acquisition, perpetual protection, and management of HM lands, the Permittee shall:</p> <p>a) <u>Replace HM lands</u>. If any of the 765 acres of HM lands is ever legally disturbed based on a previously existing severed mineral right on the Fenston Property, the Permittee shall replace the impacted land at a 1:1 ratio (Replacement HM lands) at some off-site location or through purchase of Covered Species credits from a CDFW-approved mitigation or conservation bank (for the same resource values). Replacement HM lands shall be acquired within two years of disturbance resulting from the severed mineral right. Replacement of HM lands should take into account that, due to the high habitat value for the Covered Species at Fenston Property, the Permittee was only required to preserve 750 acres of HM lands to offset the Project's impacts. Therefore, a surplus of 15 acres of HM lands will be protected at Fenston Property. Should exercise of severed mineral rights occur on the Project's HM lands, the first 15 acres of disturbance shall be deemed compensated by the existing 15-acre surplus mitigation.</p>	<p>ITP Condition of Approval <u>Provisions to Address Severed Mineral Title</u></p>	<p>In the event severed mineral right is exercised</p>	<p>Permittee</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>b) <u>Demonstrate Biological Equivalency of Replacement HM Lands</u>. The biological value of disturbed HM lands and the Replacement HM lands shall be determined based on a report prepared by a qualified biological consultant ("Biological Equivalency Report"). The Biological Equivalency Report shall: (1) Consider aerial photographs, prior biological studies covering the disturbed HM lands, and other relevant evidence to determine the biological value of the disturbed area; (2) Identify and describe biological resources contained within the disturbed HM lands by habitat type; and (3) State, based on evidence, whether the proposed Replacement HM lands are biologically equivalent to the disturbed HM lands. The Biological Equivalency Report shall be submitted to CDFW for review and written approval.</p> <p>c) <u>Source Replacement HM Lands</u>. Replacement HM lands can be either acquired from off-site areas or from a CDFW-approved mitigation or conservation bank. If Permittee acquires off-site lands (i.e., not a mitigation bank), upon approval of the Biological Equivalency Report, Permittee shall within one year record a perpetual conservation easement over the proposed Replacement HM lands and supply an additional endowment amount (if necessary).</p> <p>d) <u>Bond for Value of Replacement HM Lands</u>. Following any disturbance of the HM lands as a result of the mineral reservation, Permittee shall submit a bond for the fair market value of any biological resources contained within the disturbed lands, as calculated by a qualified appraiser. The value of the bond shall also include an additional \$13,700 to cover potential transactions costs associated with acquiring substitute land. The bond shall be rescinded upon completion and CDFW's written approval of the Biological Equivalency Report and once either of the following occurs: recordation of the conservation easement over Replacement HM lands; or certificate of purchase of the equivalent habitat credits from a CDFW approved conservation or mitigation bank. In the event that the HM lands are disturbed by the owner of a previously existing mineral reservation, and the Permittee does not provide Replacement HM lands within two (2) years of that disturbance, CDFW will redeem the value of the bond in order to acquire replacement conservation lands.</p> <p><u>Apply All Other Conditions of Approval</u>. Conditions of Approval <u>Cost Estimates</u>, <u>Habitat Acquisition and Protection</u>, <u>Endowment Fund</u>, and <u>Reimburse CDFW</u>, shall also apply to Replacement HM lands sourced off site.</p>	<p>ITP Condition of Approval <u>Provisions to Address Severed Mineral Title</u></p>	<p>In the event severed mineral right is exercised</p>	<p>Permittee</p>	

Attachment 2

The Declining Amphibian Task Force Fieldwork Code of Practice

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

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

[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”]

Biologist Resume Submittal Cover Sheet

Project Name: _____

ITP Number: _____

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

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

Number of resumes included in Transmittal: _____

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

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

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

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

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

Name of Biologist & Contact Information

Education: (include year graduated)

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

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

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

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

Location:

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

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

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

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

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Life stage(s) observed:

Individuals Observed (# and lifestage(s)):

Individuals Handled (# and lifestage(s)):

Burrows Excavated:

Project Name #2

Location:

Project date completed: To and from date

Incidental Take Permit # (and Other Agency Permits):

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

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

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Life stage(s) observed:

Individuals Observed (# and lifestage(s)):

Individuals Handled (# and lifestage(s)):

Burrows Excavated:

Species Name #2: (Example: Burrowing Owl)

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

Location:

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

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

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

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

Work description:

Estimated Survey Hours: (include information on preconstruction surveys, surveys during construction, etc.)

Estimated Monitoring Hours: (include information on monitoring avoidance buffers, BUOW behavior during construction, BUOW/burrow activity, nests, camera monitoring, etc.)

Burrows Observed:

Individuals Observed: # of adults and # of juveniles

Burrows Excavated (list all potential, known):

One-way doors installed or other burrow blocking:

Artificial burrows constructed:

Project Name #2

Species Name #3: (Example: Similar or related species to CTS)

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

Location:

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

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

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

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

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Life stage(s) observed:

Individuals Observed (# and lifestage(s)):

Individuals Handled (# and lifestage(s)):

Burrows Excavated:

Species Name #4: (Example: Similar or related species to BUOW)

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

Location:

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

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

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

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

Work description:

Estimated Survey Hours:

Estimated Monitoring Hours:

Burrows Observed:

Individuals Observed: # of adults and # of juveniles

Burrows Excavated (list all potential, known):

Include any other relevant experience with the Covered Species (or related species) or implementation of Conditions of Approval in the ITP (for example: species relocation, installing and monitoring avoidance buffers, construction monitoring, exclusion fencing, etc.)

Attachment 5

Amended Incidental Take Permit No. 2081-2016-051-04
(Amendment No. 45)

AUSTIN QUARRY PROJECT

* * *

1. The Amended ITP Background section has been amended as follows:

On February 8, 2020, CDFW issued Major Amendment No. 1 which updated the Project Location and Project Description to include improvements to a 1.51-mile-long segment of the Caltrans State Route (SR) 145 right-of-way where it adjoined the original approximately 672-acre Austin Quarry Project Sitesite to the north and where it extended east beyond the original Project Sitesite to its intersection with SR 41. [...]

On February 23, 2022, CDFW issued Minor Amendment No. 2 which clarified the Project Location, updated the Project Description, updated the Impacts of the Taking on the Covered Species, updated Conditions of Approval 6.9, 6.10, 7.5, 8.1, Delineation of the Project Area of the Project Site, Delineation of Work Area Boundaries, As-Built Plans, Pre-Activity Clearance Surveys and 9Reporting, and Habitat Management Land Acquisition for consistency with the updated Project Description, clarified language in Conditions of Approval 8.4, 8.10, and 8.11 related to Covered Species Exclusion Fencing, Rain Forecast, and Night Work requirements, respectively, and updated the ITP's attachments to reflect updates to the Project Location and an increase of acreage to the Project Area related to Minor Amendment No. 1. CDFW determined these changes were necessary to ensure that the Conditions of Approval are implemented as intended to ensure impacts to the Covered Species as a result of Covered Activities are minimized and fully mitigated, as required by Fish and Game Code section 2081(b)(2). The resulting impacts to the Covered Species remained the same with Minor Amendment No. 2.

On November 21, 2023, CDFW issued Major Amendment No. 3 which updated the Permittee's Principal Officer, Contact Person, and Mailing Address; modified the boundary of the Phase 1 mine area and expanded the size by 6 acres into the current Phase 2 mine area; added a new haul road along the border of the Phase 3 mine area; added the installation of a 7-acre 2,800-kilowatt solar facility, associated infrastructure, security perimeter fence, road, and overhead electrical lines within a 10-acre portion of the Phase 4 mine area; added installation, operations, and maintenance of a solar facility and associated infrastructure to the Covered Activities; referenced the Addendum to the Final Environmental Impact Report prepared and approved by the Madera County Planning Department; revised Condition of Approval 8.14 Rain Forecast to allow Covered Activities to occur during predicted rainfall or rainfall events under certain circumstances; extended the deadline in which to complete the purchase of Covered Species Credits from a CDFW-approved conservation bank; and updated the

ITP's attachments to reflect updates to the Project Description. The resulting impacts to the Covered Species remained the same with Major Amendment No. 3.

On December 13, 2023, CDFW ~~received a request from the Permittee for a minor amendment to the ITP, as amended, and the corresponding fee payment. The request included revising~~ issued Minor Amendment No. 4 which revised the location of the solar facility within the Phase 4 area, ~~revising~~ revised the size and location of the solar facility access road and overhead electrical distribution line, and ~~updating~~ updated Figure 3a to reflect these changes to the Project Description and location of the solar facility and associated infrastructure. ~~CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4). Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other~~ The resulting impacts to the Covered Species remained the same with Minor Amendment No. 4.

In issuing the original ITP, Major Amendment No. 1, Minor Amendment No. 2, Major Amendment No. 3, and Minor Amendment No. 4, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval will fully mitigate impacts to the Covered Species and will not jeopardize the continued existence of the Covered Species.

On June 25, 2025, CDFW received an application from the Permittee requesting a fifth amendment to the ITP and on July 2, 2025, CDFW received the corresponding application fee. The Permittee requested to add western burrowing owl (*Athene cunicularia hypugaea*) as a Covered Species in the ITP. The Project will impact suitable habitat for western burrowing owl therefore the Permittee is requesting take authorization for western burrowing owl incidental to carrying out the Project. Following meetings and email correspondence with the Permittee, the Permittee requested that the scope of the fifth amendment also include an extension of the Permittee's deadline to complete the purchase of 12.75 Covered Species credits from a CDFW-approved conservation bank by 36 months. CDFW finds that this Amendment (Major Amendment No. 5) is a Major Amendment as defined in California Regulations, title 14, section 783.6, subdivision (c)(5). Issuance of Major Amendment No. 5 will increase the amount of take and result in take of a CESA-listed species not previously subject to take authorization provided in original ITP or ITP as previously amended; however, through permanent protection and perpetual management of compensatory habitat for western burrowing owl, it is not expected that Major Amendment No. 5 will increase Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)). Issuance of ~~this~~ Major Amendment No. 5 does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

CDFW now reissues this ITP including the revised provisions in all previous and this ~~fourth~~ fifth amendment (collectively, the Amended ITP). The Amended ITP includes all

the operative provisions as of the issue date of this Amended ITP. Figure 4b was added to show the Project’s impact on BUOW and Figure 4c was added to show BUOW observations at the Fenston Property. The previous Proposed Lands for Acquisition Form, Habitat Management Lands Checklist, and Mitigation Payment Transmittal Form attachments to the ITP were removed because those documents became obsolete following updates to CDFW’s incidental take permit and Habitat Management lands processes since the original ITP was issued. Attachment ~~6~~5 to this Amended ITP shows the specific red-line changes made to the ITP as a result of ~~this minor amendment (Major Amendment No. 4).~~ Figure 3a is revised to depict the amended locations of the solar facility, access road, and overhead electrical distribution line-5.

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

~~The original ITP was executed in duplicate original form and became effective when a duplicate original was acknowledged by signature of the Permittee on the last page of the original ITP and returned to CDFW’s Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP.~~ The original ITP’s effective date was October 11, 2018. This remains the effective date for the original take authorization. This Amended ITP ~~shall become~~is effective ~~when issued~~as of the date signed by CDFW below. Unless renewed by CDFW, this ~~Amended ITP and its ITP’s~~ authorization to take the Covered Species shall expire on **June 1, 2068**.

Notwithstanding the expiration date on the take authorization provided by this ITP, the 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 7.9 of~~ this ITP.

* * *

3. The Covered Species section has been amended as follows:

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u>
1. California tiger salamander (<i>Ambystoma californiense</i> , <u>CTS</u>)	Threatened
<u>2. Western burrowing owl (<i>Athene cunicularia hypugaea</i>, BUOW)</u>	<u>Candidate</u>

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

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

The Project activities which are expected to result in incidental take of individuals of the Covered Species are collectively referred to as the **Covered Activities**, and, as described above, include: blasting; operation of heavy equipment to accomplish grading, cut-and-fill, crushing, scraping, contouring, vegetation-clearing, grubbing, excavating, trenching, stockpiling, backfilling, compacting, asphalt removal ~~and~~, levelling, paving, ~~and~~ drilling in association with the development and mining activities,

and improvements to SR 145; and installation, operations, and maintenance of installing, operating, and maintaining a solar facility and associated infrastructure within the Project Area; as well as operating a hard rock quarry and processing facilities; hauling and transporting material throughout the quarry and processing facility; staging and laying down equipment and vehicles; equipment and vehicle traffic; installing and maintaining erosion control; pre-disturbance excavation of small mammal burrows; burrow exclusion; and salvage, capture, and relocation efforts required by this ITP. Solar facility decommissioning activities are ~~not a~~ outside the scope of the Covered Activity of Activities in this ITP.

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities. This mortality could occur as a result of: construction vehicle/equipment strikes and burrow collapse associated with earthwork, vegetation removal, road construction, and operation of heavy equipment and vehicles; crushing or suffocation by heavy equipment or laydown of equipment and materials; entrapment and desiccation within trenches, open pipelines, and uncovered excavations; entombment from deposition of stockpiled soil over occupied burrows, and during vegetation removal and earthwork associated with development of roadbeds, paved parking, building pads, and other infrastructure. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursuit or capture through: entrapment in holes or trenches; capture or corral of individuals in confined areas when wildlife exclusion fencing is constructed around the Project Area; and burrow excavation and exclusion as required by this ITP; when individuals and eggs of the Covered Species are salvaged, collected, and relocated or translocated out of harm’s way as required by this ITP; and increased possibility of injury or mortality during and after capture and relocation/translocation activities as required by this ITP. Take of the Covered Species is ~~only~~ authorized and expected to occur in the 365.44-acre Project Area and only as a result of Covered Activities. Take of the Covered Species is also authorized in the 323.51-acre Exclusion Area and only as a result of BUOW burrow exclusion and salvage, capture, and relocation activities required by this ITP and if approved in advance and in writing by CDFW.

The Project is expected to cause the permanent loss of 346.55 acres of upland refugia habitat and for CTS, three (3) acres of potential breeding habitat for ~~the Covered Species~~ CTS, and temporary impacts to 6.91 acres of upland refugia habitat for ~~the Covered Species~~ CTS for a total of **356.46 acres** of impacts to CTS habitat, and permanent loss of 147.55 acres of suitable habitat for BUOW at Phase 1 Adjustment Area, Phase 2, Phase 3, Phase 4 (minus the solar facility), and Phase 5 areas. The 147.55 acres are undeveloped and comprised of annual grassland. Small mammal burrows were documented in Phase 1 Adjustment Area, Phase 2, and Phase 4 areas, in addition to multiple observations and signs of BUOW and BUOW burrows within Phase 1 Adjustment Area and Phase 4 areas (Figures 4a and 4b). In addition to impacts on BUOW in undeveloped areas, the Project is expected to impact BUOW in areas that have already been developed as of 2019. The developed area is approximately 200.77 acres and consists of Phase 1, processing plant, Phase 6, solar facility, and the vegetated earthen berm along the quarry’s northern perimeter. Prior to development,

small mammal burrows were documented in Phase 1, in addition to multiple observations/signs of BUOW and BUOW burrows in Phase 1 and solar facility areas. BUOW could occur in developed areas where there are suitable burrow features such as buckled concrete, rock piles, pipes, and culverts that could provide shelter and escape cover, and where there is suitable habitat under the elevated solar panels and at the vegetated berm. Accordingly, the 200.77-acre developed area is also considered suitable for BUOW. Impact in the form of mortality at the developed areas is likely to be from construction vehicle/equipment strikes; operation of heavy equipment and vehicles, laydown of equipment and materials; entrapment in uncovered trenches, pipes, and excavations; entombment; and capture, corral, and relocation activities.

Take of Covered Species in the form of mortality in the 323.51-acre Exclusion Area is not anticipated. The Exclusion Area is to be avoided and remain as grassland, natural drainage channels, and wetlands for the approximate 100-year life of the Project. However, the Project is expected to have adverse and indirect impacts on the Covered Species by displacing individuals of the Covered Species habitat from suitable habitat in the Exclusion Area. Noise and ground vibrations resulting from rock drilling and blasting in the Project Area could have indirect impacts on individuals of the Covered Species in the Exclusion Area as discussed further below. In addition, individuals of the Covered Species could be displaced from the Exclusion Area as a result of habitat loss. Prior to the Project, the Exclusion Area was subject to cattle grazing consistent with historic use of the land. The Exclusion Area has not been grazed by cattle since approximately 2020 when construction of the quarry began. Livestock grazing is compatible with, and even beneficial for, Covered Species habitat and the continued use of rangelands by the Covered Species by reducing thatch build-up and shortening the height of taller grasses. The absence of grazing or vegetation management in the Exclusion Area has resulted in significant thatch build-up and taller grasses and overtime, this could degrade the suitability, functionality, and quality of habitat for the Covered Species in the Exclusion Area. Moreover, thatch build-up and taller grass have been associated with declines in ground squirrel populations that create the burrows that are used by the Covered Species for shelter, escape cover, and nesting. Adverse and indirect impacts on the Covered Species as a result of habitat loss in the Exclusion Area are expected to occur over the 100-year life of the Project and therefore considered to be a permanent impact.

Impacts of the authorized taking also include adverse impacts to the Covered Species related to physiological and/or behavioral disruptions, depressed reproduction, temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: introduction, attraction, or spread of invasive species and predators such as ravens, coyotes, racoons, and feral cats; changes in drainage patterns that favor different vegetative growth; stress, disorientation, and disruptions to Covered Species breeding, rearing, and feeding of dependent eggs, young, or fledglings resulting from noise and ground vibrations from earthwork, equipment operation, blasting, and rock drills, traffic; temporary, nighttime lighting, fugitive dust, and increased human presence; nest abandonment resulting in loss of eggs, young, or fledglings; earthwork, vegetation

removal, noise, and operation of heavy equipment and vehicles that could cause individuals of the Covered Species to leave burrows at inappropriate times increasing stress, overheating, and exposure to predation; displacement from preferred breeding, foraging, and sheltering habitat due to reductions or loss of open grassland and low vegetation; disruptions to Covered Species movement/dispersal to preferred breeding, foraging, and sheltering habitat forcing Covered Species to disperse via longer movement routes causing decreased reproductive output, reduced ability of the parent to acquire food for their dependent young, increased energetic expense, and increased risk of vehicle strikes, predation, or desiccation; increased competition for food, sheltering habitat, and space; increased vulnerability to predation, exposure, or stress through disorientation; reduction or loss of foraging opportunities; and loss of burrowing habitat-reduction or loss of prey quality or quantity; reduction or loss of small mammals that create the burrows used by the Covered Species; and loss of burrows used for shelter and, escape cover, and nesting. Individuals of the Covered Species displaced due to habitat loss and degradation may be unable to survive in adjacent areas if these areas are at carrying capacity or are unsuitable for colonization.

* * *

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

* * *

6. General Provisions:

* * *

6.2. Designated Biologist(s) and/or Designated Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of ~~a biological monitor (proposed~~ Designated Biologist(s) and/or Designated Monitor(s) at least 30 days before starting Covered Activities: using the Biologist Resume Form (Attachment 4) or another format containing the same information. Permittee shall review qualifications before submission and ensure that the Designated Biologist is(s) and Designated Monitor(s) are knowledgeable and experienced in the Covered Species' biology, natural history, collecting, and handling of the Covered Species. The Designated Biologist, positive field identification, excavating burrows and crevices to minimize mortality of Covered Species, installation of exclusion techniques, camera monitoring of burrows, and monitoring construction activities following the Conditions of Approval of an ITP for the Covered Species.

CDFW may approve Designated Biologist(s) for one or both Covered Species in this ITP. For example, CDFW may approve a Designated Biologist to implement all Conditions of Approval for CTS, approve a

Designated Biologist to implement all Conditions of Approval for BUOW, or approve a Designated Biologist to implement all Conditions of Approval in this ITP. CDFW may approve Designated Monitor(s) not meeting the qualifications of a Designated Biologist to assist in compliance monitoring and/or implementation of Conditions of Approval as specified by CDFW. Designated Monitor responsibilities shall be restricted to specific Conditions of Approval, specified by the Permittee or Designated Representative at the time their qualifications are submitted for review. Designated Monitor(s) and their specific activities shall be approved in advance and in writing by CDFW. Designated Biologist(s) and Designated Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Designated Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Designated Monitor(s) must be changed. ~~The Designated Biologist(s) may be assisted by approved biologists identified as Biological Monitors that do not meet the qualifications to be a Designated Biologist. Biological Monitors and their activities shall be approved in advance and in writing by CDFW. No agreement/contract between the Permittee, its contractors, and/or the Designated Biologist shall prohibit open communication with CDFW.~~

6.2.6.3. Designated Biologist(s) and ~~Biological/or Designated~~ Monitor(s) Authority.
To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s) and ~~Biological~~Designated Monitor(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure(s) 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(s) and/or Designated Monitor(s) in the performance of their duties. If the Designated Biologist(s) and/or Designated Monitor(s) are unable to comply with this ITP, then the Designated Biologist(s) and/or Designated Monitor(s) shall notify the CDFW Regional Representative (detailed in the Notices section below) immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist(s)/Designated Monitor(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.

* * *

6.7.6.8. 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. This includes photodegradable or biodegradable synthetic netting. Permittee shall use erosion control fabric/mats, blankets, and/or fiber rolls consisting of only natural fibers such as jute, coconut, twine, or other similar fibers.

6.8.6.9. Delineation of the Project Area ~~of the Project Site~~. Before starting Covered Activities, [...].

6.9.6.10. Delineation of Work Area Boundaries. Before starting Covered Activities at each phase of development, including the SR 145 improvements and the solar facility with associated infrastructure, ~~the~~ Permittee shall clearly delineate the boundaries of the active Work Area where the Covered Activities will occur for that development phase with fencing, stakes, or flags. A Work Area is defined as the discrete zone(s) within the Project ~~Site~~Area where Covered Activities will actively occur for that development phase. [...].

6.10.6.11. Project Area Access. Project-related personnel shall access the Project Area from SR 145, [...]. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species or Covered Species habitat impacts will occur as a result of the Project modification. Access to the on-site Exclusion Area shall be prohibited, unless approved in advance and in writing by CDFW and only as a result of BUOW burrow exclusion and salvage, capture, and relocation activities required by this ITP.

6.11.6.12. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, [...]. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the delineated Project Area unless provided for as described in Condition of Approval ~~6.11 of this ITP~~Project Area Access, above.

* * *

6.13.6.14. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project ~~site~~Area, Exclusion Area, and Habitat Management lands (described below) and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

* * *

6.16. Fire Prevention. Permittee shall implement fire prevention measures during Covered Activities, including but not limited to: (1) equipping all motorized vehicles with spark arrestors when working in designated State Responsibility Areas; (2) ensuring water-filled backpack pumps, shovels, shields, and fire-resistant mats and/or windscreens are available on-site during grinding and welding operations; (3) prohibiting welding operations during “red flag” conditions as determined by the California Department of Forestry and Fire Protection; (4) equipping all fuel trucks with an appropriate fire extinguisher; and (5) ensuring that flammable materials are cleared from parking and storage areas.

6.17. Domestic Animals. Permittee shall prohibit domestic animals from the Project Area and Exclusion Area, except for those that are possessed by authorized security personnel or federal, state, or local law enforcement officials, dogs used in official and CDFW-approved monitoring procedures/protocols, or service dogs under Title II and Title III of the American with Disabilities Act.

7. Monitoring, Notification and Reporting Provisions:

7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities at each phase and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities. In addition, the Designated Representative shall notify CDFW 14 calendar days before starting passive exclusion, if approved in writing by CDFW, in accordance with Condition of Approval Passive Exclusion of Subsequent Mine Phases, below.

* * *

7.3. Compliance Monitoring and Inspections. The Designated Biologist shall be on-site daily when topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur in each phase. For each phase, the Designated Biologist shall conduct compliance inspections monitoring to (1) minimize incidental take of the Covered Species; [...].

~~7.4. Covered Species Mortality Reduction and Relocation Plan. Prior to initiating Covered Activities, the Designated Biologist(s) shall prepare, and submit to GDFW for written approval, a Covered Species Mortality Reduction and Relocation Plan. The Covered Species Mortality Reduction and Relocation Plan shall include, but not be limited to; a discussion of the survey, excavation method, capture, handling, and relocation methods; a protocol for the conditional passive exclusion (trapping out) of the Covered Species over the deferred mine phases; identification of where the salvaged individuals will be relocated to; and identification of a wildlife~~

~~rehabilitation center or veterinary facility where injured individuals of the Covered Species will be taken. The Covered Species Mortality Reduction and Relocation Plan must indicate that only the approved Designated Biologist(s) is/are authorized to capture and handle individuals of the Covered Species.~~

7.5.7.4. As-Built Plans. [...].

7.6.7.5. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval ~~7.3,~~Compliance Monitoring and Inspections as well as the As-Built Plans identified in Condition of Approval 7.5, into a Quarterly Compliance Report (QCR) and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. ~~Quarterly Compliance Reports~~QCRs shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail no later than the 15th day of every third month to CDFW's Regional Representative and Regional Office and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is ~~Sarah Bahm~~ (sarah.bahm@wildlife.ca.gov), Ruby Kwan (Ruby.Kwan@wildlife.ca.gov), the Regional Office CESA Program email is ~~R4CESA@wildlife.ca.gov,~~ R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is ~~CESA@wildlife.ca.gov.~~ CESA@wildlife.ca.gov. [...].

7.7.7.6. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all ~~Quarterly Compliance Reports~~QCRs for that year ~~identified in Condition of Approval 7.3;~~ (2) As-Built Plans identified in Condition of Approval 7.5; (3) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (4) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (5) summary (with maps) of replacement BUOW burrow location(s) and status (if applicable); (6) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; ~~(67)~~ all available information about Project-related incidental take of the Covered Species; and ~~(78)~~ information about other Project impacts on the Covered Species. Permittee shall submit ASRs to CDFW's Regional Office, Regional Representative and Headquarters CESA Program.

7.8.7.7. 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 Quarterly Compliance Report QCR or ASR, whichever is submitted first relative to the observation.

7.9.7.8. Final Mitigation Report. ~~The~~ Permittee shall provide CDFW with a Final Mitigation Report no later than 45 days after the expiration of this ITP. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports QCRs and all ASRs; [...].

7.10.7.9. Notification of Take ~~or, Injury, or Abandonment.~~ Permittee shall immediately notify CDFW and 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, and if BUOW nestling(s) or eggs(s) are abandoned as a result of Covered Activities. Permittee shall notify CDFW of the take, injury, or abandonment immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005 and emailing by email to the CDFW's Regional Office and the Regional Representative. The initial notification to CDFW shall include information regarding the location, species, number of animals taken ~~or,~~ injured, or abandoned, and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two (2) calendar days. The report shall include the date and time of the finding or incident, location of where the animal or carcass ~~,~~ was found, sex (if known), life stage/age class (if known), observer name and if possible provide a photograph ~~contact information, ITP number, photographs,~~ explanation as to cause of take ~~or,~~ injury, or abandonment, and 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 the Covered Species:

California Tiger Salamander Specific Conditions of Approval

8.1. CTS Mortality Reduction and Relocation Plan. Prior to initiating Covered Activities, the Designated Biologist(s) shall prepare, and submit to CDFW for written approval, a CTS Mortality Reduction and Relocation Plan. The

CTS Mortality Reduction and Relocation Plan shall include, but not be limited to; a discussion of the survey, excavation method, capture, handling, and relocation methods; a protocol for the conditional passive exclusion (trapping out) of CTS over the deferred mine phases; identification of where the salvaged CTS individuals will be relocated to; and identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat CTS individuals. The CTS Mortality Reduction and Relocation Plan must indicate that only the approved Designated Biologist(s) is/are authorized to capture and handle CTS individuals.

8.1.8.2. CTS Pre-Activity Clearance Surveys and Reporting. Prior to initiating Covered Activities in each phase, including the SR 145 improvements and the solar facility with associated infrastructure, the Designated Biologist shall survey that portion of the Project Area, where those Covered Activities will be initiated, for ~~individuals of the Covered Species~~ CTS. These surveys shall provide 100 percent visual coverage of the area, including burrow openings in each phase and a 50-foot buffer zone around each phase. ~~as access allows.~~ If ~~individuals of the Covered Species~~ CTS are found, the Designated Biologist(s) shall relocate ~~them~~ CTS from the Project Area in accordance with the CDFW-approved ~~Covered Species~~ CTS Mortality Reduction and Relocation Plan ~~(Condition of Approval 7.4).~~ The Permittee shall provide the survey results to CDFW in a written report prior to the beginning of Covered Activities within each phase.

8.2.8.3. Flag Burrows/Crevice. During the CTS Pre-Activity Clearance Surveys ~~(Condition of Approval 8.1), and Reporting,~~ the Designated Biologist shall flag all small mammal burrows and crevices which could potentially harbor ~~individuals~~ CTS. Burrows/crevices outside of the ~~Covered Species~~ Permittee's access ~~do not have to be flagged.~~ Those flagged burrows which occur within 562 meters of known or potential breeding habitat and which cannot be avoided by 50 feet shall be fully excavated in accordance with Condition of Approval ~~8.3~~ CTS Burrow and Crevice Excavation below.

8.3.8.4. Small Mammal ~~CTS~~ Burrow and Crevice Excavation. All small mammal burrows and crevices identified and flagged per Conditions of Approval ~~8.1 and 8.2~~ CTS Pre-Activity Clearance Surveys and Reporting and Flag Burrows/Crevices and within 562 meters of known or potential ~~Covered Species~~ CTS breeding habitat and that cannot be avoided by 50 feet, shall be fully excavated under the direct supervision of the Designated Biologist(s) in accordance with the CDFW-approved ~~Covered Species~~ CTS Mortality Reduction and Relocation Plan ~~(Condition of Approval 7.4).~~ Burrows/crevices outside of the Permittee's access do not have to be excavated. Live individuals of ~~the Covered Species~~ CTS which are found shall be relocated by the Designated Biologist in accordance with the CDFW-approved ~~Covered Species~~ CTS Mortality Reduction and Relocation

Plan. Excavation shall occur no more than 14 days after the completion of the CTS Pre-Activity Clearance Surveys and Reporting described ~~in~~above (for excavation of BUOW burrows, see Condition of Approval ~~8.4~~above-BUOW Burrow/Nest Excavation).

8.4.8.5. Covered Species Exclusion Fencing. To prevent Covered Species from becoming entrapped in or migrating into active Work Areas and the Project Area, exclusion fencing shall be installed around the perimeter of applicable Work Areas and the processing plant/operations area prior to ground-disturbing activities within each phase. Permittee shall install exclusion fencing only in the particular Work Area where Covered Activities are planned to occur in the immediate future. For example, fencing shall not be installed simultaneously at all Work Areas. Covered Species exclusion fencing shall be installed after surveying, flagging, and excavating in accordance with Conditions of Approval ~~8.1, 8.2, and 8.3~~above-CTS Pre-Activity Clearance Surveys and Reporting, Flag Burrows/Crevice, and CTS Burrow and Crevice Excavation above. The fencing material and design shall be summarized in a fencing plan that will be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed no later than 48 hours after the burrow excavation/Covered Species relocation work is completed. ~~The~~ Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing- (also see Condition of Approval BUOW Burrow Avoidance Buffer). When small mammal burrows outside the cleared area cannot be avoided by a 50-foot no-disturbance buffer, they shall be excavated as described in Condition of Approval ~~8.3~~CTS Burrow and Crevice Excavation above prior to commencing fence installation- (also see Condition of Approval BUOW Burrow/Nest Excavation).

8.5.8.6. Covered Species Exclusion Fence Installation and Inspection. The Designated Biologist(s) shall accompany the exclusion fence construction crew to ensure that Covered Species are not killed or injured during fence installation. The Designated Biologist shall inspect the exclusion fence ~~shall~~ and refuge areas (e.g., cover boards) at least once weekly and frequencies in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. Permittee shall maintain/repair the fence when necessary. Permittee shall ensure that exclusion fence remains in place and supported sufficiently to maintain its ~~integrity~~effectiveness under all conditions such as wind and heavy rain for the duration of the Covered Activities in the Work Area being fenced. ~~Permittee shall check the exclusion fence at least once weekly and maintain/repair the fence when necessary.~~

8.6.8.7. Passive Exclusion of Subsequent Mine Phases. Mine Phase 1 Adjustment Area and Mine Phases 2 through 6 will not be developed and/or quarried

immediately (see Table 1). Phased passive relocation of CTS may be proposed as an alternative to CTS burrow excavation and active relocation (see Condition of Approval 8.3 CTS Burrow and Crevice Excavation) in areas of Mine Phase 1 Adjustment Area and Mine Phases 2 through 6 not slated for immediate development. Phased passive exclusion of CTS shall occur only with express written authorization from CDFW. Permittee's plans to trap-out these portions of the Project Area will be outlined in, and conducted in accordance with the CDFW-approved Species CTS Mortality Reduction and Relocation Plan ~~required by Condition of Approval 7.4~~, as well as the Project's exclusion fencing plan required by Condition of Approval 8.4 Covered Species Exclusion Fencing.

~~8.7. Covered Species Record of CTS Observations. During all Covered Activities, all workers shall inform the, Handling, and Relocation. The Designated Biologist(s) if shall maintain a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area record of its own accord or all CTS handled and relocated. For each CTS handled and relocated, the Designated Biologist(s) can relocate shall provide the Covered Species following the CDFW-approved Covered Species Mortality Reduction and Relocation Plan specified in Condition of Approval 7.4 above.~~

8.8. Covered Species Record of Observations and Handling. All Covered Species captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the (1) date, time, and location of each occurrence using Global Positioning System (GPS) technology; coordinates and maps; (2) the name of the party that actually identified the Covered Species; CTS; (3) circumstances of the incident; (4) the general condition and health of each individual; , noting all visible conditions including gait and behavior, ectoparasites, injuries, etc.; (5) any diagnostic markings, sex, age (juvenile or adult); (6) actions undertaken; and (7) habitat description; (8) ambient temperature when handled, released, and/or observed; and (9) photographs of the CTS. Permittee shall also submit this information to the CNDDDB as per Condition of Approval 7.8. CNDDDB Observations. This information should also be included in the Quarterly Compliance and Annual Status Reports QCRs and ASRs.

8.9. Dry Season Work. Ground-disturbing activities within or immediately adjacent (within 250 feet) to the on-site potential Covered Species CTS breeding habitat shall not occur until the pools are dry, unless surveys are conducted to demonstrate the absence of Covered Species CTS eggs or larvae in these pools.

8.10. Rain Forecast. The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. During rainfall events and/or when a 50 percent or greater chance of rainfall is predicted within 72 hours, [...], within Work Areas where initial ground disturbance has yet to be completed only if: 1) Pre-Activity Clearance Surveys have been conducted, 2) small mammal burrows have been excavated, and 3) the Work Area is completely enclosed with Covered Species ~~Exclusion Fencing~~ exclusion fencing, in accordance with Conditions of Approval ~~8.1, 8.3, CTS Pre-Activity Clearance Surveys and 8.4 Reporting, CTS Burrow and Crevice Excavation, and Covered Species Exclusion Fencing~~ above. In Work Areas where these conditions have been satisfied, a Designated Biologist shall survey the applicable Work Area footprint before ground disturbance begins each day that rain is forecast or actively falling to capture and relocate any ~~Covered Species CTS~~ that are discovered during the surveys. Work Areas where Conditions of Approval ~~8.1, 8.3, CTS Pre-Activity Clearance Surveys and 8.4 Reporting, CTS Burrow and Crevice Excavation, and Covered Species Exclusion Fencing~~ have previously been satisfied and that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events, if Covered Species Exclusion Fencing ~~has been~~ properly maintained and ~~is in good repair~~ effective condition, in accordance with the Project's CDFW-approved exclusion fence plan.

8.11. Night Work. Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise during rainfall events [...]; 2) small mammal burrows have been excavated; and 3) the Work Area is completely enclosed with Covered Species ~~Exclusion Fencing~~ exclusion fencing as described in the Project's CDFW-approved fencing-exclusion fence plan, ~~has been~~ properly maintained, and is in good repair, effective condition in accordance with Conditions of Approval ~~8.1, 8.3, CTS Pre-Activity Clearance Surveys and 8.4 Reporting, CTS Burrow and Crevice Excavation, and Covered Species Exclusion Fencing~~ above. In Work Areas where these conditions have been satisfied, a Designated Biologist shall survey the applicable Work Area footprint before ground disturbance begins each night that rain is forecast or actively falling to capture and relocate any ~~Covered Species CTS~~ that are discovered during the surveys.

~~**8.12. Soil Stockpiles.** Permittee shall ensure that soil stockpiles are placed where soil will not pass into the potential Covered Species breeding habitat at the Project Area, or into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion.~~

8.13.8.12. Fieldwork Code of Practice. To ensure that disease is not conveyed between work areas by the Designated Biologist(s) or Designated

Monitors(s), [...]. ~~Care shall be taken~~The Designated Biologist(s) and Designated Monitor(s) shall take care so that all traces of the disinfectant are removed before entering the next aquatic habitat.

Western Burrowing Owl Specific Conditions of Approval

8.13. BUOW Mortality Reduction Plan. Permittee shall prepare and submit a BUOW Mortality Reduction Plan to CDFW for review and approval within 45 days of issuance of this ITP and before implementing BUOW burrow excavation, artificial burrow construction, burrow exclusion, and other BUOW relocation activities (collectively, “BUOW Exclusion Activities”). The BUOW Mortality Reduction Plan shall include but not be limited to, the following: (1) methods to monitor avoided BUOW burrows/nest; (2) methods to minimize impacts to BUOW burrow/nest (e.g., visual screens, noise attenuation during blasting); (3) methods to monitor BUOW burrows before excavation and blockage; (4) burrow excavation methods using hand tools with refilling; (5) burrow blockage materials and methods that prevents any animals from digging back into the burrow; (6) methods to monitor and minimize risk of BUOW exposure to predators and heat stress if BUOW return to the excavated or blocked BUOW burrow (e.g., shade structures); (7) procedures in the event that a BUOW is observed in or adjacent to the Project Area during Covered Activities; (8) methods to relocate at-risk BUOW out of immediate harm’s way; (9) identification of a wildlife rehabilitation center or veterinary facility capable of and willing to treat injured BUOW or care for at-risk BUOW, BUOW eggs, and/or BUOW chicks; (10) proper handling and transport procedures to the wildlife rehabilitation center or veterinary facility to reduce desiccation risk; and (11) description and plan for unanticipated emergencies that may require the Permittee to encroach into BUOW Avoidance Buffers. Only the Designated Biologists, or personnel following directions from and under the supervision of the Designated Biologist(s), shall relocate at-risk BUOW out of immediate harm’s way and handle injured or at-risk BUOW, BUOW eggs, and/or BUOW chicks for transport to a wildlife rehabilitation center or veterinary facility. All other BUOW handling is prohibited.

8.14. BUOW Artificial Burrow Replacement Plan. Permittee shall prepare and submit a BUOW Artificial Burrow Replacement Plan to CDFW for review and approval within 45 days of issuance of this ITP and before implementing BUOW Exclusion Activities. The BUOW Artificial Burrow Replacement Plan shall include but not be limited to, the following: (1) BUOW burrow replacement location(s) with maps and discussion of the biological suitability (e.g., foraging habitat, prey, burrows, vegetation composition), proximity to the Project Area and features (e.g., roads, drainages, water bodies, solar panels, powerlines), and property information (e.g., conservation status, land uses, any conflicting land uses); (2) location(s) with maps of any known and nesting BUOW burrows at the

replacement location(s); (3) number of replacement burrows to be installed for each type of burrow that is excavated; (4) replacement burrow design, materials, number and orientation of entrances, tunnel length and depth, and installation methods; (5) replacement BUOW burrow maintenance methods including vegetation management around replacement burrows; (6) methods to avoid and minimize impacts to BUOW during installation and maintenance activities; and (7) repeatable, science-based methods for assessing and monitoring replacement burrow(s) to obtain BUOW use, survival, and reproductive information through a minimum of the first two (2) BUOW breeding seasons, at a minimum, to start immediately following creation of each replacement BUOW burrow.

8.15. Pre-Activity BUOW Clearance Survey and Report. No more than 14 days before starting Covered Activities in the Work Area and before implementing BUOW Exclusion Activities, the Designated Biologist shall conduct surveys for BUOW using the methods described in the CDFW Staff Report on BUOW Mitigation, Appendix D (2012) or other appropriate method, if agreed upon in writing by CDFW, with the last survey occurring no more than 48 hours before starting Covered Activities in the Work Area. Surveys shall provide 100 percent visual coverage in the Work Area and a 500-foot buffer zone around the Work Area, except areas outside of the Permittee's access and/or control and shall include the Exclusion Area where the Exclusion Area is within the 500-foot buffer. Surveys shall include culverts, buckled concrete, rock piles, and similar features that could support BUOW burrows. The Designated Biologist shall identify BUOW burrows if present in the survey area and as follows:

- A **potential (suitable) burrow** is any hole, 3 inches or larger, for which no evidence is present to conclude that the burrow is being used or any past use by a BUOW.
- A **known burrow** is a burrow that is known to have been used or shows evidence of current or past use showing signs of occupancy (e.g., BUOW presence, whitewash, pellets, prey remains, etc.) including auxiliary "satellite" burrows.
- A **nest** is a known BUOW burrow with indications of the presence of an adult pair, mating behaviors, eggs, chicks, dependent young, and/or brooding or egg incubation, including satellite burrows.

The Designated Biologist shall submit the survey results including a Burrow Complex Map to CDFW before starting Covered Activities in the Work Area. The Pre-Activity BUOW Clearance Survey report shall include but not be limited to the date and time of survey; surveyor name(s); surveyor qualifications; location of BUOW sightings (if any); and the location of any burrow, type, and status. The Burrow Complex Map shall be at a scale of 1:24,000 or finer to show locations of BUOW, burrows, and areas of concentrated BUOW burrows. Locations documented by use of GPS

coordinates must be collected in NAD83 datum. The map shall include an outline of the survey area, title, north arrow, scale bar, and legend.

8.16. BUOW Burrow Avoidance Buffer. Permittee shall delineate an avoidance buffer around any known or nesting BUOW burrows and satellite burrows (i.e., entire burrow complex) before starting Covered Activities. Permittee shall establish a minimum avoidance buffer as follows:

- 1,600 feet around a nesting burrow, year-round
- 100 feet around a known burrow
- 1,600 feet around a known burrow that is occupied during the BUOW nesting season from February 1 through August 31
- 150 feet around a known burrow that is occupied outside of the nesting season by an overwintering, resident, or migrating BUOW.

Permittee shall also delineate an avoidance buffer when any BUOWs are observed during Covered Activities (see Condition of Approval Covered Species Observations below). If the BUOW burrow or nest is located outside of the Project Area, in the Exclusion Area, or in an area that is outside of the Permittee's access and/or control, Permittee shall delineate the part of the avoidance buffer that is located within the Work Area. Permittee shall delineate avoidance buffers with different materials than those used per Conditions of Approval Delineation of Work Area Boundaries and Delineation of Habitat and with materials that avoid providing perches for predatory corvids, raptors, or other predators. Avoidance buffers shall not prevent BUOW from accessing or leaving the BUOW burrow/nest. Permittee shall not reduce, encroach, or otherwise modify avoidance buffers without prior approval from CDFW. Permittee shall maintain materials used for delineating avoidance buffers in effective condition under all conditions such as wind and heavy rain. If known or nesting BUOW burrows cannot be avoided in the manner described in this Condition of Approval, then Permittee shall implement Condition of Approval BUOW Avoidance Buffer Reduction, Artificial BUOW Burrow Replacement, and BUOW Burrow Excavation below.

8.17. BUOW Avoidance Buffer Reduction. Permittee may submit a BUOW Avoidance Buffer Reduction request in writing to CDFW if a known or nesting BUOW burrow cannot be avoided in accordance with Condition of Approval BUOW Burrow Avoidance Buffer and if the Designated Biologist determines that specific Covered Activities are not likely to affect the BUOW a using known or nesting burrow due to the nature of the specific Covered Activities, objects, topography, or physical conditions that might reduce potential noise disturbance and obstruct view of the Covered Activities from the BUOW burrow/nest, or if the Permittee implements methods to minimize the impacts of Covered Activities to the BUOW burrow/nest (e.g., visual screens, additional exclusion fencing) in accordance with the CDFW-

approved BUOW Mortality Reduction Plan. The Buffer Reduction Request shall include at a minimum a monitoring report from the Designated Biologist that documents the status of the BUOW burrow/nest, if BUOWs have not displayed any courtship behavior and are not in the process of egg-laying or incubation, or all chicks have fledged, and a discussion of any objects, topography, or physical conditions that might reduce impacts to BUOW. The Designated Biologist shall monitor the burrow/nest with a wildlife camera(s) for a minimum of four (4) consecutive 24-hour periods to document the status of the burrow/nest. The wildlife camera type used for camera monitoring shall be chosen at the discretion of the Designated Biologist and shall have daytime and nighttime recording/photo-capture capabilities. CDFW may request additional surveys to be performed in order to evaluate the Permittee's request. CDFW will review the Permittee's request on a case-by-case basis and CDFW shall determine whether to approve a BUOW Avoidance Buffer Reduction request.

8.18. Artificial BUOW Burrow Replacement. If the Permittee must excavate a known/nesting BUOW burrow in the Work Area or block a burrow for longer than one year per Conditions of Approval BUOW Burrow/Nest Excavation and BUOW Burrow Blockage below, Permittee shall first replace each known/nesting BUOW burrow that must be excavated with an artificial burrow to compensate for the loss of important shelter used by BUOW for protection, reproduction, and escape from predators. Permittee shall install artificial burrows in accordance with the CDFW-approved BUOW Artificial Burrow Replacement Plan before excavating the known/nesting BUOW burrow. If there are no suitable existing burrows within 100 meters of the known/nesting BUOW burrow that must be excavated or blocked, Permittee shall install artificial burrows within 100 meters of the burrow that must be excavated or blocked unless otherwise approved in advance and in writing by CDFW per the CDFW-approved BUOW Artificial Burrow Replacement Plan. Permittee shall monitor replacement BUOW burrows in accordance with the CDFW-approved BUOW Artificial Burrow Replacement Plan and provide a status summary of replacement BUOW burrows in ASRs.

8.19. BUOW Burrow/Nest Excavation. After replacing known/nesting BUOWs burrows per Condition of Approval Artificial BUOW Burrow Replacement if applicable, the Designated Biologist or individuals under the direct supervision of the Designated Biologist shall excavate potential, known, and nesting burrows that cannot be avoided in the Work Area. The Designated Biologist shall excavate unoccupied known burrows before starting Covered Activities in the Work Area where Covered Activities are planned to occur in the immediate future **and** only after the Designated Biologist determines that no BUOW is observed occupying nor near the burrow for a minimum of four (4) consecutive 24-hour periods (see Condition of Approval BUOW Avoidance Buffer Reduction for wildlife camera specifications). After determining that no BUOW is occupying nor near the known burrow, the

Designated Biologist shall immediately excavate the unoccupied known burrow. Permittee may excavate an unoccupied nest after the Designated Biologist confirms that the chicks have fledged and are no longer dependent on the nest **and** after obtaining written concurrence from CDFW to do so. Potential burrows without any sign of BUOW use or characteristics suggesting it is a BUOW burrow may be excavated without advance monitoring as specified above. The Designated Biologist shall excavate BUOW burrows in accordance with the CDFW-approved BUOW Mortality Reduction Plan. If the excavation process reveals BUOW, eggs, young, or adults, then burrow excavation shall cease immediately and monitoring by a Designated Biologist shall be conducted/resumed and the Designated Biologist shall contact CDFW immediately and obtain written guidance from CDFW regarding how to proceed. Permittee shall not destroy or excavate any BUOW burrows in the Exclusion Area.

8.20. BUOW Burrow and Nest Monitoring. The Designated Biologist shall monitor BUOW burrows within avoidance buffers daily during initial ground-disturbance and vegetation removal activities that occur during the nesting season (February 1-August 31), and frequencies in accordance with the CDFW-approved BUOW Mortality Reduction Plan during initial ground-disturbance and vegetation removal activities occurring outside of the nesting season, after initial ground-disturbance and vegetation removal activities and once Covered Activities are on-going and more routine in nature, and during periods of inactivity. Wildlife cameras may be used as an alternative or to supplement on-site surveys provided that it is approved in the CDFW-approved BUOW Mortality Reduction Plan in order to minimize the number of visits and disturbance to BUOW (see Condition of Approval BUOW Avoidance Buffer Reduction for wildlife camera specifications). Monitoring of BUOW burrows within 500 feet of the Work Area but outside of the Project Area and in an area that is outside of the Permittee's access and/or control shall be conducted as access allows. The Designated Biologist shall stop work if BUOW exhibits distress and/or abnormal behavior (e.g., excessive vocalizations, defensive flights at intruders, flushing frequently, or otherwise displaying agitated behavior). Permittee shall not resume Covered Activities causing BUOW to be distressed until the Designated Biologist consults with CDFW. CDFW shall determine whether to increase the size of the avoidance buffer. If CDFW determines to increase the size of an avoidance buffer, an increased avoidance buffer shall be delineated before Covered Activities can recommence.

8.21. BUOW Burrow Blockage. If after monitoring per Condition of Approval BUOW Burrow and Nest Monitoring the Designated Biologist, in consultation with CDFW, determines that usage of a BUOW burrow in the Work Area or immediately adjacent in the Exclusion Area during Covered Activities poses a direct risk of harm to a BUOW, if approved in writing by CDFW and if access allows, the Designated Biologist may block the

unoccupied burrow in accordance with the CDFW-approved BUOW Mortality Reduction Plan. If a burrow must be blocked for longer than one year, Permittee shall first replace the burrow that will be blocked in accordance with Condition of Approval Artificial BUOW Burrow Replacement. The Designated Biologist shall monitor the burrow until no BUOW is observed occupying nor near the burrow for a minimum of four (4) consecutive 24-hour periods (see Condition of Approval BUOW Avoidance Buffer Reduction for wildlife camera specifications). After determining that no BUOW is occupying nor near the burrow, the Designated Biologist shall immediately block the unoccupied burrow. Permittee may block an unoccupied nest only after the Designated Biologist confirms that the chicks have fledged and are no longer dependent on the nest **and** only after obtaining written concurrence from CDFW to do so. The Designated Biologist shall monitor the blocked burrow/nest at least two times per day and in accordance with the CDFW-approved BUOW Mortality Reduction Plan for BUOW that may return and to ensure that the blocked burrow/nest materials are still intact. If a BUOW returns to the blocked burrow/nest, Permittee shall implement measures in accordance with the CDFW-approved BUOW Mortality Reduction Plan if the Designated Biologist determines that the BUOW is at risk of injury or mortality. If BUOW regains access to the burrow/nest, the Designated Biologist shall contact CDFW immediately and obtain written guidance from CDFW regarding how to proceed. Permittee shall remove materials blocking BUOW burrows/nest within 48 hours of completion of Covered Activities or after Covered Activities are on-going and more routine in nature **and** after obtaining written concurrence from CDFW to do so.

8.22. BUOW Protocol Surveys. Permittee shall conduct protocol-level BUOW Breeding and Non-Breeding Season Surveys in accordance with the CDFW Staff Report on BUOW Mitigation, Appendix D (2012). The Designated Biologist shall conduct protocol-level surveys every five (5) years to document any changes in BUOW presence such as colonizing BUOWs that have recently moved into the Project Area, migrating owls, resident BUOWs changing burrow use, etc. The first survey shall be conducted in year 2030. The Designated Biologist shall survey the Project Area plus a 500-foot buffer zone around the Project Area as access allows, where there is suitable habitat for BUOW including culverts, buckled concrete, rock piles, and similar features that could support BUOW burrows. Permittee shall submit the survey report to CDFW no more than 14 days after the last survey. The survey report shall include a Burrow Complex Map of the Project Area and Exclusion Area (see Condition of Approval Pre-Activity BUOW Clearance Survey). If changes in BUOW presence are detected, the Permittee and Designated Biologist shall consult with CDFW. CDFW may determine that the Permittee must implement additional methods to minimize the impacts of Covered Activities on BUOW through revisions to

the BUOW Mortality Reduction Plan and/or BUOW Artificial Burrow Replacement Plan.

8.23. Detering Predator Attraction. Permittee shall avoid attracting BUOW predators to the Project Area. Permittee shall store large mobile equipment that will not be used for more than 5 days at least 500 feet away from known or nesting BUOW burrows to prevent avian predators from using large mobile equipment as perches.

8.24. Rodenticides. Permittee shall prohibit management of ground squirrel populations or any small mammals/rodents by any means and shall prohibit the use of rodenticides within the Project Area for the term of this ITP. Permittee shall not use any second-generation anticoagulant rodenticides (e.g., brodifacoum, bromadiolone, difethialone, and difenacoum) and first-generation anticoagulant rodenticide (e.g., diphacinone, coumachlor, chlorophacinone, and warfarin). If small mammal/rodent control is needed, Permittee shall obtain written approval from CDFW prior to controlling small mammals/rodents within the Project Area.

All Covered Species Conditions of Approval

8.25. Plan Revisions and Updates. Once the CTS Mortality Reduction and Relocation Plan, fencing plan in accordance with Covered Species Exclusion Fencing, BUOW Mortality Reduction Plan, and BUOW Artificial Burrow Replacement Plan are approved by CDFW, they shall be used for the duration of this ITP unless the Permittee is required by CDFW to update these plans to reflect best available science in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes by the Permittee shall be submitted in writing to CDFW and approved by CDFW in writing before Permittee implements any proposed plan modifications.

~~**8.14.8.26.** Open Excavations. WorkerThe Designated Biologist and worker(s) shall inspect all open holes, sumps, and trenches, and other excavations within the Work Area at the beginning, middle, and end of each day (including weekends and any other non-work days) for trapped Covered Species. To prevent inadvertent entrapment of Covered Species, all open trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45-degree) slope shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45-degree) slope, and the worker(s) shall oversee the covering of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45-degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The Designated Biologist and workerThe outer two feet of excavation cover shall conform to solid ground so that gaps do not occur~~

~~between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Worker(s)~~ shall thoroughly inspect all trenches, holes, sumps, or other excavations for Covered Species (or other wildlife) before they are back-filled. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity which could cause further entrapment, or injure or kill the Covered Species, and notify the Designated Biologist(s) immediately. ~~Project workers~~Workers and the Designated Biologist(s) shall allow Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, ~~or, Alternatively,~~ the Designated Biologist(s) shall capture and relocate ~~the Covered Species as per~~CTS out of harm's way outside of the Project Area and in accordance with the Covered Species CDFW-approved CTS Mortality Reduction and Relocation Plan ~~required in Condition of Approval 7.4 above.~~ If a BUOW is found, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with BUOW Burrow Avoidance Buffer. If the BUOW does not vacate of its own accord within a reasonable timeframe and is at-risk, the Designated Biologist shall consult with CDFW and if approved by CDFW in writing, may move the at-risk BUOW out of immediate harm's way in accordance with the CDFW-approved BUOW Mortality Reduction Plan.

8.27. Covers and Ramps. Permittee shall ensure that all open holes, sumps, trenches, and other excavations are covered or escape ramps are provided to prevent inadvertent entrapment of Covered Species. At the end of the workday after thorough inspection, workers shall cover all open holes, sumps, trenches, and other excavations of any depth that have sidewalls greater than 1:1 (45 degree) slope with barrier material (e.g., plywood or other hard material) such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground, and the excavation cover shall be secured with soil staples or by similar means to prevent gaps. Equipment Inspection. ~~If any open holes, sumps, trenches, and other excavations cannot be covered,~~ Permittee, in consultation with the Designated Biologist shall provide at least one escape ramp constructed of earthen fill or a non-slip wooden plank with a less than 1:1 (45 degree) slope for each open hole, sump, trench, or other excavation. If a situation is encountered that this Condition of Approval does not anticipate and alternative methods of preventing entrapment in open holes, sumps, trenches, and other excavations are warranted, Permittee shall request and obtain CDFW's written approval before implementing the alternative. Designated Biologist and worker(s) shall inspect covers and ramps to ensure that covers and ramps are in effective condition, secured, and with no gaps.

8.15.8.28. Vehicle and Equipment Inspection. Permittee shall prohibit vehicles and equipment from parking on top of small mammal and Covered Species burrows, except within designated staging areas for which burrows have been excavated in accordance with Conditions of Approval CTS Small Mammal Burrow and Crevice Excavation and BUOW Burrow Excavation. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Work Area, the Designated Biologist(s) shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved Covered Species Mortality Reduction and Relocation Plan required in Condition of Approval 7.4 accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. If a BUOW is found, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with BUOW Burrow Avoidance Buffer. If the BUOW does not vacate of its own accord within a reasonable timeframe and is at-risk, the Designated Biologist shall consult with CDFW and if approved by CDFW in writing, may move the at-risk BUOW out of immediate harm's way in accordance with the CDFW-approved BUOW Mortality Reduction Plan.

8.29. Pipes and Other Structures Entrapment Prevention. Permittee shall ensure that all pipes, hoses, conduits, culverts, or similar materials stockpiled or installed in the Project Area be capped or otherwise enclosed at the ends to prevent entry by Covered Species. Workers shall thoroughly inspect all construction pipes, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the object is subsequently moved, buried, or capped. If during inspection, an individual of the Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall immediately cease all Covered Activities in the vicinity which could injure or kill the Covered Species and notify the Designated Biologist. Covered Species shall be allowed to escape unimpeded to a safe location, if possible, before Covered Activities are allowed to continue. If a CTS is found, the Designated Biologist may move CTS out of harm's way outside of the Project Area and in accordance with the CDFW-approved CTS Mortality Reduction and Relocation Plan. If a BUOW is found, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with BUOW Burrow Avoidance Buffer. If the BUOW does not vacate of its own accord within a reasonable timeframe and is at-risk, the Designated Biologist shall consult with CDFW and if approved by CDFW in writing, may move the at-risk BUOW out of immediate harm's way in accordance with the CDFW-approved BUOW Mortality Reduction Plan.

- 8.30. Soil Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding habitat in the Project Area, or into any other "Waters of the State". Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall stockpile all materials and equipment in a manner that discourages Covered Species' use.
- 8.31. Equipment Fueling and Maintenance. Permittee shall ensure that equipment fueling and maintenance occurs at least 250 feet from CTS breeding habitat or any other "Waters of the State". Permittee shall ensure that equipment fueling and maintenance occurs outside of BUOW avoidance buffers.
- 8.32. Night Lighting. Permittee shall eliminate nonessential lighting and avoid or limit the use of artificial light during the hours of 30 minutes before sunset and ending 30 minutes after sunrise when wildlife is most active. Permittee shall ensure that all nighttime lighting used during Covered Activities is fully shielded, cast downward and directed away from surrounding habitat, open space, burrows, avoidance buffers, and agricultural areas, reduced in intensity to the greatest extent possible, and does not result in lighting trespass, including glare, into surrounding areas or upward into the night sky.
- 8.33. Covered Species Observations. During all Covered Activities, all workers shall inform the Designated Biologist if a Covered Species is observed within or near the Project Area. All work in the vicinity of the observed Covered Species, which could injure or kill the animal, shall cease immediately until it moves from the Project Area of its own accord or the Designated Biologist can relocate the Covered Species following the CDFW-approved CTS Mortality Reduction and Relocation Plan. If a BUOW is observed, the Designated Biologist shall temporarily suspend Covered Activities and establish an avoidance buffer in accordance with Condition of Approval BUOW Avoidance Buffer. If a BUOW is at-risk and in immediate harm's way, the Designated Biologist shall consult with CDFW to determine if the BUOW should be relocated if approved by CDFW in writing.
- 8.16.8.34. Covered Species Injury-, Abandonment, or Carcass. If a Covered Species is found injured as a result of Covered Activities or if BUOW chicks or eggs are found abandoned as a result of Covered Activities, the Designated Biologist(s) shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats amphibians. As required in Condition of Approval 7.4, Permittee shall identify the facility prior to the start of Covered Activities in accordance with Conditions of Approval CTS Mortality Reduction and Relocation Plan and BUOW Mortality Reduction Plan. The Designated Biologist or Designated Representative shall provide weekly updates to CDFW on the status of the rehabilitation facility's treatment of the Covered Species individual. Permittee shall bear any costs associated with the care or treatment of such

~~injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was treated. Covered Species observations should also be reported to CNDDDB in accordance with Conditions of Approval 7.8 and 8.8, above, including hacking (controlled release of captive reared BUOW) if required by CDFW. Controlled release of captive reared young shall be conducted in coordination with CDFW. CDFW, in its sole discretion, will determine controlled release procedures, including but not limited to release location, timing, and monitoring timing, methods, and frequency after the controlled release of captive reared young. If a BUOW is found deceased, the Designated Biologist shall immediately collect, bag, and freeze the carcass and consult with CDFW to determine if submittal of the carcass to a laboratory is warranted and/or follow any approved storage or transport methods as approved in the BUOW Mortality Reduction Plan. Permittee shall bear any costs associated with submittal of a carcass to a laboratory.~~

8.17.8.35. Herbicide Use. Permittee shall ensure that all herbicide use (mixing, application, and clean-up) is done by a licensed applicator in accordance with all applicable state, federal, and local regulations. Herbicides shall not be applied during rainfall events and/or when rainfall is predicted within 72 hours. Permittee shall ensure herbicide mixing occurs within the Project Area where there is no potential of a spill reaching waters at the on-site Exclusion Area or off site. Permittee shall only use herbicides registered with the California Department of Pesticide Regulation (CDPR) and any dyes must be EPA-registered dyes approved for use in California. Permittee shall ensure that any herbicide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment. All herbicides shall be applied in accordance with labeled instructions and regulations set by the CDPR. Label instructions for the pesticide(s) used shall be made available to CDFW upon request. Permittee shall only apply herbicide sprays via ground application when wind speed measures less than 3 miles per hour. Permittee shall ensure that great care is taken to avoid herbicide outside the boundaries of the Project Area. All herbicide sprays utilized within the Project Area adjacent to the on-site Exclusion Area shall contain a dye to prevent overspray.

~~**8.18.** Avoid Introduction of Herbicides into Waters. Permittee shall ensure herbicide mixing occurs within the Project Area where there is no potential of a spill reaching waters at the on-site Exclusion Area or off-site. Permittee shall ensure that any herbicide used where there is the possibility that the herbicide could come into direct contact with water is approved for use in an aquatic environment.~~

9. Habitat Management Land Acquisition:

[...]. 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~~Covered Species' habitat in the Project Area and Exclusion Area, CDFW's estimate of the acreage required to provide for adequate compensation, the existence of a severed mineral right covering a portion of the proposed mitigation site, and the duration Habitat Management (HM) lands will be permanently protected and managed prior to impacts associated with Project Phases ~~2-6.1~~Adjustment Area through 6. Protection and management of HM lands for the Covered Species prior to Project Phases ~~2-1~~Adjustment Area through 6 allow opportunities to refine management techniques and adaptively manage [...].

To meet this requirement, the Permittee proposes the purchase of 12.75 ~~Covered Species~~CTS upland credits from a CDFW-approved conservation bank to mitigate the Project-related take of ~~the Covered Species~~CTS in association with the SR 145 improvement work, pursuant to Condition of Approval ~~9.4~~Bill of Sale and Payment Receipt or Credit Transfer Agreement, below. Further, the Permittee proposes to provide for both the permanent protection and perpetual management of 765 acres adjoining the Project ~~site~~Area to mitigate the Project-related take of the Covered Species in association with the Quarry development and operation, pursuant to Conditions of Approval ~~9.2 and 9.3, below~~Habitat Acquisition and Protection and Endowment Fund, below. In addition to fully mitigating the Project-related take of the Covered Species in the 365.44-acre Project Area, the Permittee must also fully mitigate the Project's indirect impacts on the Covered Species and Covered Species' habitat at the Exclusion Area over the approximate 100-year lifespan of the Project. Although the Exclusion Area will be avoided, avoidance of the Exclusion Area is not considered to contribute towards fully mitigating the Project's indirect impacts. The Exclusion Area will not be permanently protected nor perpetually managed for the Covered Species and could be reclaimed to a usable condition for post-mining land use (e.g., developed). As such, avoidance of the Exclusion Area without permanent protection does not address the long-term ecological sustainability and maintenance of habitat for the Covered Species. Permanent protection and perpetual management of the 765 acres adjoining the Project site will, in part, fully mitigate for the Project's indirect impacts on Covered Species' habitat by addressing the long-term ecological sustainability of habitat to promote biologically sustainable populations of the Covered Species, including small mammals that create the burrows used by the Covered Species. This 765-acre property is commonly referred to as the Fenston Property, and is owned in fee title by the Permittee. This property is fenced, exists as non-native grassland/vernal pool habitat immediately west and southwest of the Project site, is comprised of high quality grassland refugia surrounding known ~~Covered Species~~CTS aquatic breeding habitat; supports nesting, foraging, and overwintering habitat for BUOW; and represents superior functional quality habitat relative to the habitat being permanently impacted by the Project. CDFW considers the 765-acre Fenston Property high quality ~~upland~~grassland habitat, superior to that constituting the 365.44-acre Project Area, due to the relatively high burrow density compared to the

burrow density at the Project Area. In September 2016 and on behalf of the Permittee, ESR, Inc. surveyed burrow densities at both the Project Area and the Fenston Property. ESR, Inc., found fewer than one (0.93) burrow opening per acre at the Project Area and almost seven (6.6) burrow openings per acre at the Fenston Property (Figure 4). ~~Further, the~~ 4a). The Fenston Property contains significant CTS aquatic breeding habitat and the. Further, BUOW has been observed at the Fenston Property, including one BUOW nest observed in 2022 (Figure 4c). The perpetual management of the Fenston Property will include management of predators (e.g., bullfrogs) of CTS and management of high quality and functional grassland habitat for the Covered Species and small mammals. The mineral rights for a portion of the Fenston Property are severed from the surface rights and are not owned by the Permittee (Figure 5). However, remoteness opinions have been prepared which conclude that development of mineral resources on the Fenston Property are so remote as to be considered negligible. Prior to CDFW conceptually approving the Fenston Property, CDFW shall review applicable biological information, conduct a site visit, and review the information submitted as described in Conditions of Approval ~~9.2.2 and 9.2.3~~ HM Lands Approval and HM Lands Documentation.

Permittee shall provide for all of the following:

- Permanent protection and funding for perpetual management of all 765 acres of the Fenston Property will be completed for CTS before starting Covered Activities associated with any Covered Activities Quarry development and operation work or within 18 months of the effective date of this ITP or in accordance with timelines set forth by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval 40Performance Security, below. The purchase of Covered Species

AND

- Purchase 12.75 CTS upland credits from a CDFW-approved conservation bank will be completed pursuant to Condition of Approval Bill of Sale and Payment Receipt or Credit Transfer Agreement below, before starting any Covered Activities associated with the SR 145 improvement work, or within 66102 months after of the timeline set forth by CDFW at the time the Security is accepted if Security is provided, pursuant to Condition of Approval 40Performance Security, below.

AND

- Permanent protection and funding for perpetual management of all 765 acres of the Fenston Property for BUOW before starting any Covered Activities in the Phase 1 Adjustment Area (except for passive exclusion of Phase 1 Adjustment Area) or within 18 months of the effective date of this ITP or in accordance with timelines set for by CDFW at the time the Security is

accepted if Security is provided pursuant to Condition of Approval Performance Security, below.

9.1. Cost Estimates. For the purposes of determining the Security amount for compensatory habitat for CTS and BUOW, CDFW has estimated the cost of sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands, the for CTS and BUOW, and purchase of Covered Species CTS upland credits from a CDFW-approved conservation bank, and restoration of temporarily disturbed habitat as follows:

9.1.1. Land acquisition costs for HM lands identified in Condition Conditions of Approval 9.3 below Habitat Acquisition and Protection and Endowment Fund, estimated at \$7,879,500.00 (\$10,300.00/acre for 765 acres: \$7,879,500.00) for 765 acres of HM lands for CTS and estimated in 2026 at \$14,439,375.00 (\$18,875.00/acre) for 765 acres of HM lands for BUOW. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;

9.1.2. All other costs necessary to review and acquire 765 acres of HM lands for BUOW in fee title and record a conservation easement as described in Conditions of Approval Fee Title and Conservation Easement: \$450,000.00.

~~9.1.2.~~ 9.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 Start-up Activities below, estimated at \$402,076.35 (\$525.59/acre;) for 765 acres of HM lands for CTS and estimated in 2026 at \$339,294.00 (\$443.52/acre) for 765 acres of HM lands for BUOW.

~~9.1.3.~~ 9.1.4. Interim management period funding as described in Condition of Approval 9.2.6 Interim Management (Initial and Capital) below, estimated in 2018 at \$348,564.60 (\$455.64/acre;) for 765 acres of HM lands for CTS and estimated in 2026 at \$211,538.00 (\$276.52/acre) for 765 acres of HM lands for BUOW.

~~9.1.4.~~ 9.1.5. Long-term management funding as described in Condition of Approval 9.3 Endowment Fund below, estimated at \$1,993,437.00 (\$2,605.80/acre for 765 acres: \$1,993,437.00) for 765 acres of HM lands for CTS and estimated in 2026 at \$3,100,547.00 (\$4,053.00/acre) for 765 acres of HM lands for BUOW. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management of HM lands for CTS and BUOW.

9.1.5-9.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW, ~~estimated at \$12,000~~ as described in Condition of Approval Reimburse CDFW, estimated in 2018 at \$12,000 for 765 acres of HM lands for CTS and estimated in 2026 at \$15,000 for 765 acres of HM lands for BUOW.

9.1.7. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks for 765 acres of HM lands for BUOW, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands for BUOW and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work, estimated at \$45,000.

9.1.6-9.1.8. Upland credits at a CDFW-approved conservation bank purchased for the benefit of ~~the Covered species~~ CTS estimated at \$20,000 per credit, for a total of **\$255,000** for the purchase of 12.75 CTS upland credits.

9.2. Bill of Sale and Payment Receipt or Credit Transfer Agreement. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipt or an executed Credit Transfer Agreement for 12.75 CTS upland credits from a CDFW-approved conservation bank prior to initiating Covered Activities associated with the SR 145 improvement work or within 102 months of the timeline set forth by CDFW at the time the Security is accepted if Security is provided pursuant to Condition of Approval Performance Security, below.

9.2-9.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:

9.3.1. Fee Title/~~Conservation Easement~~. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. [...].

9.2-1-9.3.2. Conservation Easement. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, [...]. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title

owner of the HM lands serve as grantee for the conservation easement.

~~9.2.2-9.3.3.~~ HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, ~~a formal Proposed Lands for Acquisition Form (see Attachment 3A)~~documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

~~9.2.3-9.3.4.~~ HM Lands Documentation. Provide a recent preliminary title report, ~~initial hazardous materials survey report~~Phase I Environmental Assessment, and other necessary documents (~~see Attachment 3B~~please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

~~9.2.4-9.3.5.~~ Land Manager. Designate both an interim and long-term land manager approved by CDFW. [...]. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.

~~9.2.5-9.3.6.~~ Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <http://www.dfg.ca.gov/habcen/conplan/mitbank/>);optional management plan template at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736); (2) conducting a baseline biological [...];

~~9.2.6-9.3.7.~~ Interim Management (Initial and Capital). [...].

~~9.3-9.4.~~ Endowment Fund. [...]. The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan(s) required by Condition of Approval ~~9.2.5~~Start-up Activities. [...].

~~9.3.1-9.4.1.~~ Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another

entity qualified pursuant to Government Code sections 65965-65968, as amended. [...]. Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4~~3~~) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4~~);3~~);

~~9.3.2.9.4.2.~~ Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR) or PAR equivalent analysis (hereinafter "PAR")) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the PAR endowment assessment before transferring funds to the Endowment Manager.

~~9.3.2.1.9.4.2.1.~~ Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR endowment assessment and adjust for any additional administrative, periodic, or annual fees.

~~9.3.2.2.9.4.2.2.~~ Endowment Buffers/Assumptions. Permittee shall include in PAR endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

~~9.3.2.2.1.9.4.2.2.1.~~ 10 Percent Contingency. [...].

~~9.3.2.2.2.9.4.2.2.2.~~ Three Years Delayed Spending. [...].

~~9.3.2.2.3.9.4.2.2.3.~~ Non-annualized Expenses. [...].

9.4.3. Transfer Long-term Endowment Funds. [...].

~~9.3.3.9.4.4.~~ Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall,

at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

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

9.4.9.5. Reimburse CDFW. [...].

9.5.9.6. Provisions to Address Severed Mineral Title. [...]:

9.5.1-9.6.1. Replace HM lands. If any of the 765 acres of HM lands is ever legally disturbed based on a previously existing severed mineral right on the Fenston Property, the Permittee shall replace the impacted land at a 1:1 ratio (Replacement HM lands~~),~~) at some off-site location or through purchase of Covered Species credits from a CDFW-approved mitigation or conservation bank (for the same resource values). Replacement HM lands shall be acquired within two years of disturbance resulting from the severed mineral right. Replacement of HM lands should take into account that, due to the high habitat value for the Covered Species at Fenston ~~Ranch~~Property, the Permittee was only required to preserve 750 acres of HM lands to offset the Project's impacts. Therefore, a surplus of 15 acres of HM lands will be protected at Fenston Property. Should exercise of severed mineral rights occur on the Project's HM lands, the first 15 acres of disturbance shall be deemed compensated by the existing 15-acre surplus mitigation.

9.5.2-9.6.2. Demonstrate Biological Equivalency of Replacement HM Lands. [...].

9.5.3-9.6.3. Source Replacement HM Lands. [...].

~~9.5.4-9.6.4.~~ **Bond for Value of Replacement HM Lands.** Following any disturbance of the HM lands as a result of the mineral reservation, Permittee shall submit a bond for the fair market value of any biological resources contained within the disturbed lands, as calculated by a qualified appraiser. The value of the bond shall also include an additional ~~\$10,000~~ **\$13,700** to cover potential transactions costs associated with acquiring substitute land. [...].

~~9.5.5-9.6.5.~~ **Apply All Other Conditions of Approval.** Conditions of Approval ~~9.4 through 9.4~~ **Cost Estimates, Habitat Acquisition and Protection, Endowment Fund, and Reimburse CDFW**, above, shall also apply to Replacement HM lands sourced off-site.

10. Performance 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~~ **Habitat Management Land Acquisition** that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

10.1. **Security Amount.** The Covered Activities associated with the Quarry development and operation work may be secured separately, or at the same time as the Covered Activities associated with the SR 145 improvement work. Before commencing the Quarry development and operation work, the Security shall be in the amount of ~~\$10,635,577.95-~~ **for 765 acres of HM lands for CTS.** Before commencing the SR 145 improvement work, additional Security in the amount of **\$255,000** shall be provided: ~~for 12.75 CTS upland credits at a CDFW-approved conservation bank. Before commencing Covered Activities in the Phase 1 Adjustment Area (except for passive exclusion of Phase 1 Adjustment Area), the Security shall be in the amount of \$18,600,754 for 765 acres of HM lands for BUOW.~~ These amounts are based on the cost estimates identified in Condition of Approval ~~9.4~~ **Cost Estimates** above, **sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.**

10.2. **Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment ~~43~~) 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 **in draft form** to **CDFW's Regional Representative for review and approval prior to execution.** **Permittee shall execute the CDFW-approved Security** before Covered Activities begin as described above in subsection ~~10.4~~ **Security Amount.**

10.4. **Security Holder.** [...].

- 10.5. Security Transmittal. ~~If CDFW holds the Security,~~ Permittee shall transmit it Security to CDFW ~~with a completed Mitigation Payment Transmittal Form (see Attachment 5) or~~ by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. [...].
- 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:

Credit Purchase

- Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits.

AND

Habitat Management Land Acquisition (HMLA)

- Written documentation of the acquisition of the HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

Even if Security is provided, ~~the~~ Permittee must complete the required acquisition, protection, and transfer of ~~all~~ HM lands for CTS and record any required conservation easements ~~no later than~~ within 18 months from the effective date of this ITP, or in accordance with timelines set forth by CDFW at the time the Security is accepted. ~~and~~ Permittee ~~shall~~ must provide a copy of the Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of CTS upland ~~Covered Species~~ credits at a CDFW-approved conservation bank within ~~66~~ 102 months ~~of the timeline~~ in accordance with timelines set forth by CDFW at the time the Security is accepted. ~~and~~ Permittee must complete the required acquisition, protection, and transfer of HM lands for BUOW and record any required conservation easements within 18 months from the effective date of this ITP, or in accordance with timelines set forth by CDFW at the time the Security is accepted. CDFW may require the Permittee to provide additional HM lands for CTS and/or BUOW, additional Covered Species credits, 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.

* * *

7. The Stop-Work Order section of the ITP has been amended as follows:

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 requiring Permittee to suspend any Covered Activity for an initial period of up to ~~25 days~~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 ~~25 additional days~~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.

* * *

8. The Notices section of the ITP has been amended as follows:

[...]

Original cover with attachment(s) to:

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

and a copy to:

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

~~Sarah Bahm~~

Ruby Kwan

California Department of Fish and Wildlife

~~1234 East Shaw Avenue~~

Fresno 20 Lower Ragsdale Drive, Suite 100

Monterey, California 9371093940

Telephone ~~(559) 580-3195805~~ 748-3624

~~Sarah.Bahm@wildlife.ca.gov and R4CESA@wildlife.ca.gov~~

Ruby.Kwan@wildlife.ca.gov and R4CESA@wildlife.ca.gov

9. The Compliance with CEQA section of the ITP has been amended as follows:

[...]. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment. None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment No. 45.

10. The Findings Pursuant to CESA section of the ITP has been amended as follows:

[...]

- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent un-phased habitat protection of 765 acres of HM land for the benefit of the Covered Species and the purchase of 12.75 CTS upland credits at a CDFW-approved conservation bank ~~for the benefit of the Covered Species~~; (2) establishment of avoidance zones; (3) worker education; (4) mortality reduction measures, and (5) Quarterly 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, CDFW's estimate of the acreage required to provide for adequate compensation, and the duration HM lands will be permanently protected and managed prior to impacts associated with Project Phases 21 Adjustment Area through 6. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 765 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and is of higher quality than the habitat being destroyed by the Project, the purchase of 12.75 CTS upland ~~Covered Species~~ credits at a CDFW-approved conservation bank, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

* * *

11. The Attachments section of the ITP has been amended as follows:

FIGURE 1	Project Vicinity Map
FIGURE 2a	Project Site Map
FIGURE 2b	Project Area Map
FIGURE 3a	Revised Aggregate Mine Phases Map (Amendment No. 4)
FIGURE 4a	CA Ground Squirrel Populations September 2016
FIGURE 4b	Burrowing Owl Observations
FIGURE 4c	Fenston Property BUOW Observations
FIGURE 5	Fenston Ranch <u>Property</u> Mineral Reservation Map
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3A, 3B	Proposed Lands for Acquisition Form; Habitat Management Lands Checklist
ATTACHMENT 43	Letter of Credit Form <u>for CESA ITP Security</u>
ATTACHMENT 4	Biologist Resume Form
ATTACHMENT 5	Mitigation Payment Transmittal Form
ATTACHMENT 6	Minor <u>Major</u> Amendment No. 45 with Track Changes