



California Department of Fish and Wildlife
South Coast Region 5
3883 RUFFIN ROAD
SAN DIEGO, CA 92123

California Endangered Species Act
Incidental Take Permit No. 2081-2023-018-05

VAN NORMAN COMPLEX ROUTINE MAINTENANCE

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:	Los Angeles Department of Water and Power
Principal Officer:	Jane Hauptman
Contact Person:	Matthew Kerby, (213) 367-1795
Mailing Address:	111 N. Hope Street, Room 1004 Los Angeles, CA 90012

II. Effective Date and Expiration Date of this ITP:

This ITP shall become effective when signed by all parties and received by CDFW as described in the Notices section of this ITP. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **March 16, 2035**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.7 of this ITP.

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.

III. Project Location:

The Van Norman Routine Maintenance Project (Project) is located at the 1,340-acre Van Norman Complex within the City of Los Angeles, Los Angeles County (see Attachment 1, Figure 1). The Project is located immediately northwest of the Interstate 5 and Interstate 405 interchange. The Project lies within the U.S. Geological Survey 7.5-minute San Fernando quadrangle at Township 2 North, Range 15 West, Sections 5 and 6.

IV. Project Description:

The Los Angeles Department of Water and Power is the City of Los Angeles' municipal utility and supplies water and electricity to 4 million residents, business, and visitors. The Van Norman Complex is an industrial complex owned by the Los Angeles Department of Water and Power. The Van Norman Complex is the termination point for the Los Angeles Aqueducts and contains the Los Angeles Reservoir, the largest in-basin reservoir in the City of Los Angeles. The Van Norman Complex serves many functions, including those relating to water service, power service, and flood control.

Sediment and/or Vegetation Removal

The Project will remove sediment and vegetation from both within and outside of 14 earthen channels, earthen basins, or concrete-lined channels in the Van Norman Complex. Routine sediment and vegetation removal is needed to protect water and power infrastructure and property, and reduce flood risk. Vegetation and sediment removal, as well as access and staging, will occur in the following areas (see Attachment 1, Figures 2A through 2C).

Upper Debris Basin (Earthen Basin) – Sediment and Vegetation Removal

The work area at Upper Debris Basin is 2.42 acres. The Project will remove sediment and vegetation in the low flow channel. Accumulated sediment will be removed using excavators, backhoes, dozers, and loaders. Brittle bush scrub (*Encelia farinosa*), giant reed (*Arundo donax*), and sandbar willow/mulefat (*Salix exigua-Baccharis salicifolia*) will be removed in the low flow channel along with sediment. Vegetation obstructing or overhanging the low flow channel will be removed. This will include dead trees, tree limbs, downed vegetation, and trimming of tree branches. Tree branches will be trimmed no higher than 4 feet measured from the base of the tree. The Project will mow mustard and non-native forbs and grasses to maintain approximately 440 linear feet of existing access roads ranging between 25 to 30 feet wide.

Sediment and vegetation will be stockpiled on site and then transported off site for disposal. There will be two staging areas, one within a 0.37-acre area that was previously disturbed at the northern portion of Upper Debris Basin, and another located at the southern portion of Upper Debris Basin. The staging areas will be prepared by removing vegetation using a mower or by hand. Equipment will access the northern portion of the low flow channel via the southern end of the staging area along the path of an existing water pipeline that crosses into the low flow channel. Equipment will access the southern portion of the low flow channel via an existing paved Arizona crossing located along the southern boundary of Upper Debris Basin.

Middle Debris Basin (Earthen Basin) – Sediment and Vegetation Removal

The work area at Middle Debris Basin is 3.48 acres. The Project will remove sediment and vegetation in the low flow channel. Accumulated sediment will be removed from the low flow channel using excavators, backhoes, dozers, and loaders. Giant reed, mulefat thickets, red willow-arroyo willow/mulefat (*Salix laevigata-Salix lasiolepis*), and sandbar willow/mulefat in the low flow channel will be removed along with sediment. Vegetation obstructing or overhanging the low flow channel will be removed. This will include dead trees, tree limbs, downed vegetation, and trimming of tree branches. Tree branches will be trimmed no higher than 4 feet measured from the base of the tree. Trash, debris, and non-native vegetation including castor bean (*Ricinus communis*), tamarisk (*Tamarix* genus), tree tobacco (*Nicotiana glauca*), eucalyptus (*Eucalyptus* genus), and giant reed in the low flow channel will be removed by hand or with mechanical tools (e.g., weed wacker, chainsaw, and polesaw). The Project will mow red willow-arroyo willow/mule fat, blue elderberry scrub (*Sambucus nigra* ssp. *caerulea*), mustard, and non-native forbs and grasses in the adjacent upland terrace. In addition, hand removal of vegetation will occur in the upland terrace where vegetation: 1) interferes with the right-of-way easement for the high-voltage transmission lines; 2) interferes with access roads; or, 3) is a fire hazard as defined by the Fire Department.

Sediment and vegetation will be stockpiled on site and then transported off site for disposal. There will be two staging areas located at the southern portion of Middle Debris Basin. The staging areas will be prepared by removing vegetation using a mower or by hand. Equipment will access the northern portion of the low flow channel at two locations: an existing paved Arizona crossing and via an existing dirt access road and ramp located along the northeast boundary of the Middle Debris Basin. Equipment will access the southern portion of the low flow channel work area via an existing paved road located along the western boundary of Middle Debris Basin and equipment will enter the channel at two points via an existing dirt road at the southern end of Middle Debris Basin (parallel to Bee Drainage Channel).

Bee Drainage Channel (Earthen Channel) – Sediment and Vegetation Removal

The work area at Bee Drainage Channel is 1.98 acres. The Project will remove sediment and vegetation in the channel. Accumulated sediment will be removed from the channel using excavators, backhoes, dozers, and loaders. Red willow-arroyo willow/mulefat established in the channel will be removed along with sediment. Trash, debris, and non-native vegetation, including giant reed, in the channel will be cleared by hand. The Project will mow brittle bush scrub, mustard, and non-native forbs and grasses outside of the channel.

Sediment and vegetation will be stockpiled on site and then transported off site for disposal. There will be one staging area located at the western end of Bee Drainage Channel. The staging areas will be prepared by removing vegetation using a mower or by hand. Equipment will access the Bee Drainage Channel from the middle of the channel.

San Fernando Gate Drain (Earthen Channel) – Sediment Removal

The work area at San Fernando Gate Drain is 0.43 acres. The Project will remove sediment in the channel. Accumulated sediment will be removed from the concrete channel using excavators, backhoes, dozers, and loaders. Non-native forbs and grasses will be mowed within 30 feet of the San Fernando Gate Drain.

Sediment will be placed directly into vehicles and transported off site for disposal. There will be no staging areas. Equipment will access the San Fernando Gate Drain from a location at the northern portion of the channel and a location at the southern portion of the channel.

Upper San Fernando Drain Line (Earthen Channel) – Sediment and Vegetation Removal

The work area at Upper San Fernando Gate Drain is 3.29 acres. The Project will remove sediment and vegetation in the channel. Accumulated sediment will be removed from the channel using excavators, backhoes, dozers, and loaders. Giant reed, cattails (*Typha* genus), red willow thickets, and red willow-arroyo willow/mulefat will be removed along with sediment. Trash and debris in the channel will be removed by hand. Mustard, non-native forbs and grasses, and sagebrush scrub will be mowed within 30 feet of the Upper San Fernando Gate Drain.

Sediment and vegetation will be stockpiled on site and then transported off site for disposal. There will be one staging area located northeast of Upper San Fernando Drain Line on a previously disturbed area. Equipment will access Upper San Fernando Drain Line via existing access roads.

Upper San Fernando Drain Line – Feature 2 (Earthen Channel) – Vegetation Removal

The work area at Upper San Fernando Drain Line – Feature 2 is 0.11 acres. The Project will remove vegetation in the channel. Arroyo willow thickets will be removed using bulldozers or backhoes. Trash and debris in the channel will be removed by hand. The Project will mow non-native forbs and grasses outside of the channel.

Vegetation will be placed directly into vehicles and transported off site for disposal or will be placed in the staging area designated for the Upper San Fernando Drain Line. Equipment will access Upper San Fernando Drain Line – Feature 2 from the northeast end of the channel.

Yarnell Basin (Earthen Channel) – Vegetation Removal

The work area at Yarnell Basin is 3.93 acres. The Project will remove vegetation no more than 50 feet from an existing dirt road around Yarnell Basin. Non-native grasses and forbs will be mowed. Trash, debris, and non-native vegetation will be removed by hand adjacent to the existing dirt road.

There will be no staging areas. Equipment will access Yarnell Basin via existing access roads.

East Channel (Concrete Channel) – Vegetation Removal

The work area at East Channel is 2.81 acres. The Project will remove vegetation in the channel. Algae and cattail will be removed using a bulldozer. A crane will be used to lower a bulldozer into East

Channel. Brittle bush scrub will be removed outside of the channel. Equipment will access East Channel via existing access roads. Vegetation will be directly loaded into vehicles and transported off site for disposal. There will be no staging areas.

East Channel Outlet (Earthen Channel) – Vegetation Removal

The work area at East Channel Outlet is 0.95 acres. The Project will remove vegetation at this segment of the East Channel where the East Channel lets out into the Lower San Fernando Detention Basin. Red willow thickets will be removed by hand and/or using mechanical tools (e.g., weed wacker, chainsaw, and polesaw). Trash and debris will be removed by hand. Mustard and brittle bush scrub within 50 feet of the East Channel Outlet will be impacted by vehicles and machinery driving, operating, and parking within 50 feet of the East Channel Outlet.

Vegetation will be stockpiled and then transported off site for disposal. There will be one staging area located on the east side of East Channel Outlet. Equipment will access via existing access roads and from the east side East Channel Outlet near the staging area.

LAR UV Plant Drainage & V-Ditch (Concrete Channel) – Vegetation Removal

The work area at LAR UV Plant Drainage is 1.39 acres. The Project will remove vegetation in the channel using mowers, tractors, or backhoes. Arroyo willow thickets and Fremont cottonwood/sandbar willow (*Populus fremontii*) will be removed. The Project will impact brittle bush scrub and California buckwheat scrub (*Eriogonum fasciculatum*) within 50 feet of the LAR UV Plant Drainage. Vegetation will be impacted by vehicles and machinery driving, operating, and parking within 50 feet of the LAR UV Plant Drainage.

Vegetation will be directly transported off site for disposal. There will be no staging areas. Equipment will access LAR UV Plant Drainage via existing access roads.

Upper Northeast Drainage (Earthen Channel) – Vegetation Removal

The work area at Upper Northeast Drainage is 0.16 acres. The Project will remove vegetation by hand and/or with mechanical tools (e.g., weed wacker, chainsaw, and polesaw). Arroyo willow thickets, Fremont cottonwood, brittle bush scrub, and California sagebrush scrub will be removed.

Vegetation will be directly transported off site for disposal. There will be no staging areas. Equipment will access Upper Northeast Drainage from one location at the northern portion of the drainage.

Northeast Drainage (Earthen Basin) – Vegetation Removal

The work area at Northeast Drainage is 0.35 acres. The Project will remove vegetation with mechanical tools (e.g., weed wacker, chainsaw, and polesaw). Red willow thickets and mulefat thickets will be removed. The Project will impact brittle bush scrub and mustard within 50 feet of the Northeast Drainage. Vegetation will be impacted by vehicles and machinery driving, operating, and parking within 50 feet of the Northeast Drainage.

Vegetation will be directly transported off site for disposal. There will be one staging area located on the east side of Northeast Drainage on a dirt lot. Equipment will access the work area from an existing dirt road adjacent to the Northeast Drainage. Equipment will be operated from the top of the west and east banks of the Northeast Channel along the entire length of the work area (approximately 180 feet).

Bull Creek Extension (Concrete Channel) – Sediment and Vegetation Removal

The work area at Bull Creek Extension is 0.55 acres. The Project will remove vegetation with bulldozers or backhoes at the rip-rap portion of the Bull Creek Extension. Mulefat thickets will be removed. Bull Creek Extension is concrete-lined upstream from the rip-rap. Accumulated sediment will be removed in the concrete-lined segment using bulldozers or loaders.

Vegetation will be directly transported off site for disposal. There will be no staging areas. Equipment will access Bull Creek Extension via existing access roads.

San Fernando Creek (Earthen Channel) – Vegetation Removal

The work area at San Fernando Creek is 2.21 acres. The Project will remove vegetation with excavators, bulldozers, backhoes, and loaders. Brittle bush scrub, red willow thickets, and red willow-arroyo willow will be removed. Trash, debris, and non-native vegetation will be removed by hand.

Vegetation will be stockpiled on site and then transported off site for disposal. There will be one staging area located at the southern portion of San Fernando Creek. Equipment will access San Fernando Creek from two locations on either end of San Fernando Creek or via existing access roads.

Timeframe

The Project is anticipated to start September 2024.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ³
least Bell's vireo (<i>Vireo bellii pusillus</i>)	Endangered ⁴

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

VI. Impacts of the Taking on Covered Species:

Project activities and their subsequent impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above which will likely result in incidental take of individuals of the Covered Species include routine sediment and vegetation removal,

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

⁴See Cal. Code Regs., tit. 14, § 670.5, subd. (a)(5)(I).

equipment staging associated with routine sediment and vegetation removal, and sediment or vegetation stockpiling during routine sediment and vegetation removal (Covered Activities). Covered Activities also include monitoring activities for the Covered Species and maintaining and managing mitigation lands which may result in incidental take of individuals of the Covered Species.

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as loss or degradation of Covered Species obligate riparian nesting habitat at an established breeding location. The Covered Species exhibits high site fidelity for nesting, and repeatedly return to the same location to nest. In addition, the Covered Species is an area-sensitive species whose occurrence and successful reproduction are highly dependent on the size of the riparian habitat patch in which they occur. Covered Species may be forced or displaced from an established breeding territory and preferred riparian habitat into habitat that may be less suitable. Subsequently, Covered Species may be at risk of predation, starvation, or other injury, interspecies and intraspecies competition for food and space, and increased vulnerability to predation, resulting in reduced breeding success, nesting success, or nest failure. In addition, incidental take of individuals of the Covered Species may occur from the Covered Activities in the form of pursuit as a result of monitoring activities for the Covered Species needed to document compliance with this ITP and effectiveness of required mitigation. Furthermore, incidental take of the Covered Species may occur during maintenance of mitigation lands in the form of increased noise and vegetation disturbance during the nesting season resulting from installation of permanent protective fencing, trash removal, and non-native vegetation control.

The areas where authorized take of the Covered Species is expected to occur include Upper Debris Basin, Middle Debris Basin, Bee Drainage Channel, San Fernando Gate Drain, Upper San Fernando Drain Line, Upper San Fernando Drain Line Feature 2, Yarnell Basin, East Channel, East Channel Outlet, Bull Creek Extension, Upper Northeast Drainage, LAR UV Plant Drainage & V-Ditch, Northeast Drainage, and San Fernando Creek (collectively, the Project Area; see Attachment 1, Figure 2A). The Project Area includes proposed Big Tujunga Canyon mitigation site (see Attachment 1, Figure 4).

The Project is expected to cause the permanent loss of **6.04 acres** of riparian nesting habitat for the Covered Species and take of **one (1) nesting pair** of the Covered Species (see Attachment 1, Figures 3A through 3C). Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal loss of foraging habitat, introducing or spreading non-native, invasive plants, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include:

- 1) Reducing, eliminating, or degrading the quality of foraging habitat or food resources in upland areas adjacent to nesting territories, subsequently reducing foraging success of adults or fledglings, or reducing feeding frequency for nestlings.
- 2) Spreading non-native plants, subsequently degrading the quality of Covered Species nesting and foraging habitat. Exotic plant species do not provide the branch architecture, thermal

cover, hiding cover, or insect fauna to which the Covered Species is adapted;

- 3) Reducing, eliminating, or degrading the quality of microhabitat cover and understory density through sediment and/or vegetation removal, or spreading non-native plants, subsequently creating favorable conditions for predators, including brown-headed cowbird (*Molothrus ater*). Covered Species could become more vulnerable to brood parasitism by brown-headed cowbirds; and
- 4) Contributing to the cumulative loss, degradation, and fragmentation of habitat for the Covered Species. The Covered Species is an obligate riparian breeder. Dramatic decline of the Covered Species can be attributed to riparian habitat loss throughout the Covered Species range, especially in the County of Los Angeles. The population of the Covered Species at the Van Norman Complex is regionally significant in the County of Los Angeles, being an intermediary for nesting activity and migrating birds between Hanson Dam, Sepulveda Basin, and Tujunga Creek (approximately 9 miles to the south/southeast) and the Santa Clara River (approximately 11 miles to the north). In 2016, vegetation removal was completed in the Lower San Fernando Debris Basin within the Van Norman Complex⁵. Vegetation removal may have resulted in temporary extirpation of the Covered Species from a known breeding location, likely causing reduced likelihood of Covered Species breeding and nesting success for a number of years, and contributing to decline of the Covered Species through habitat loss. Covered Activities could contribute additionally to the cumulative decline of the Covered Species in the County of Los Angeles.

This ITP does not cover any emergency repair work or other activities that may become necessary under unforeseen circumstances. Emergency repair work should be covered under an amendment of this ITP or a new Incidental Take Permit.

VII. Incidental Take Authorization of Covered Species:

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

VIII. Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for vehicular ingress and egress, staging and parking, and noise and

⁵CDFW did not issue an Incidental Take Permit for the vegetation removal that occurred in 2016 in the Lower San Fernando Debris Basin.

vibration generating activities that may/will cause take. CDFW's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration (SCH No.: 2019119023), adopted by Los Angeles Department of Water and Power on October 12, 2021, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*).
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. 1600-2019-0249-R5) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 *et seq.*
- 4. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 2 to this ITP.
- 5. General Provisions:**
 - 5.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 5.2. Designated Biologist(s), Biological Monitor(s), and/or Veterinarian(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (see Attachment 3) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered

Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.

- 5.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Area and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with this ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 5.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 5.5. Construction Monitoring Documentation.** The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.

- 5.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 5.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 5.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 5.9. Delineation of Property Boundaries.** Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area, including all Staging Areas, with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 5.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area not subject to Covered Activities with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 5.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description (see Attachment 1, Figures 2A through 2C), 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 or outside routes identified in the Project Description, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 5.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using areas identified in the Project Description and to the extent possible, previously disturbed areas (see Attachment 1, Figures 2A through 2C). Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 5.11 of this ITP.

- 5.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement.** The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.2. Notification of Non-compliance.** The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.
- 6.3. Compliance Monitoring.** The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to:
- (1) minimize incidental take of the Covered Species;
 - (2) prevent unlawful take of species;
 - (3) check for compliance with all measures of this ITP;
 - (4) check all exclusion zones; and
 - (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

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

- 6.4. Monthly Compliance Report.** The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports and the MMRP table shall be submitted to CDFW no later than seven (7) days from the beginning of every month. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Steve Gibson (R5CESA@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.
- 6.5. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 6.6. CNDDDB Observations.** The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.7. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall

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

6.8. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by email to Steve Gibson (R5CESA@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two (2) calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

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

7.1. Work Outside of the Nesting Season. Permittee shall conduct all Covered Activities between September 16 to March 14 of each calendar year, including generating construction or operational noise; piling, stockpiling, loading, or moving vegetation, sediment, debris, or trash; staging and operating equipment (e.g., mowers, tractors, backhoes, bulldozers, bucket trucks, and cranes); and installing 'or dismantling any fences, gates, stakes, or signs associated with Covered Activities.

7.2. Rotation of Work Activities at Middle Debris Basin and Upper Debris Basin. Permittee shall phase Covered Activities at the entire Upper Debris Basin, southern half of the Middle Debris Basin, and the northern half of the Middle Debris Basin for the first three (3) years. Afterwards, Permittee shall conduct Covered Activities at the entire Upper Debris Basin, southern half of the Middle Debris Basin, and the northern half of the Middle Debris Basin once every three (3) years. The northern half of the Middle Debris Basin starts just south of the Arizona crossing located in between the Upper Debris Basin and Middle Debris Basins and continues south approximately 1,300 feet and ends at a point parallel to electric

transmission towers “Adelanto-Rinaldi 76-4” and “Victorville-Rinaldi 84-4”. The southern half of the Middle Debris Basin starts at a point parallel to electrical transmission towers “Adelanto-Rinaldi 76-4” and “Victorville-Rinaldi 84-4” and continues south approximately 1,400 feet to the confluence of Bee Drainage Channel and Middle Debris Basin where the Bull Creek Extension begins.

- 7.3. Work Activities Rotation Plan.** Permittee shall submit to CDFW for review and approval an Adaptive Work Activities Rotation Plan before starting Covered Activities. Permittee shall prepare a schedule for rotating Covered Activities between all Project Areas that allows for temporary recovery of Covered Species habitat in between Covered Activities. Permittee shall rotate work between Project Areas a minimum of once every three (3) years, and rotate work at the Upper Debris Basin and Middle Debris Basin consistent with Condition of Approval 7.2. The Adaptive Work Activities Rotation Plan shall also include the following: 1) a definition for the two halves of the Middle Debris Basin; 2) a map of the Middle Debris Basin consistent with the definition provided; 3) methods for delineating the work area in the Middle Debris Basin during Covered Activities; and 4) methods for gradual removal of sediment in the Middle Debris Basin in order to minimize scouring or erosion of the low flow channel. If the Work Activities Rotation Plan needs to be revised, Permittee shall notify CDFW via email and meet with CDFW at CDFW’s request to discuss any proposed revisions to the Adaptive Work Activities Rotation Plan. Permittee shall obtain CDFW approval prior to revising the Adaptive Work Activities Rotation Plan. Permittee shall submit to CDFW a revised Adaptive Work Activities Rotation Plan within seven (7) days of CDFW’s approval of revisions.
- 7.4. Fencing at Middle Debris Basin.** Permittee shall delineate the half of the Middle Debris Basin where Covered Activities will occur prior to starting Covered Activities. Permittee shall remove all temporary fencing, stakes, signs, or other materials installed to facilitate Covered Activities at the Middle Debris Basin after Covered Activities are completed or before March 14 each year regardless of whether Covered Activities at the Middle Debris Basin were completed.
- 7.5. Brown-headed Cowbird Trapping Plan.** Permittee shall implement a program to control brown-headed cowbirds annually within the Van Norman Complex. Within ninety (90) days of issuance of this ITP, Permittee, in consultation with the Designated Biologist, shall submit to CDFW for its review and approval a Brown-headed Cowbird Trapping Plan. The Brown-headed Cowbird Trapping Plan shall provide, at a minimum, the following information: 1) trap locations and a justification of each location as it relates to Covered Species occupancy and territories; 2) standard trapping season (i.e., month, how many trap days); 3) trap equipment, conditions, and setup; 4) methods to attract brown-headed cowbirds; 5) deployment of traps in the field; 5) trap operation, monitoring, and maintenance; 6) protection of non-target species; and 7) sample field datasheets. If the Brown-headed Cowbird Trapping Plan needs to be revised by the Permittee or CDFW, Permittee shall notify

CDFW via email and meet with CDFW at CDFW's request to discuss any proposed changes to the Brown-headed Cowbird Trapping Plan. Permittee shall obtain CDFW approval prior to revising the Brown-headed Cowbird Trapping Plan. Permittee shall revise the Brown-headed Cowbird Trapping Plan to incorporate any and all additional measures that CDFW may require. Permittee shall submit to CDFW a revised Brown-headed Cowbird Trapping Plan within seven (7) days of CDFW's approval of revisions.

- 7.6. Brown-headed Cowbird Annual Report.** Permittee shall submit a report summarizing brown-headed cowbird trapping activities performed within 30 days of the last trap day. Permittee shall provide, at a minimum, the following information: 1) trap locations; 2) trap conditions; 3) trap operation, monitoring, and maintenance; 4) total captures of brown-headed cowbird and non-target species; 5) observations of brown-headed cowbird parasitism; 6) suggestions for improvement of methods for implementation the following season. Permittee shall revise the Brown-headed Cowbird Trapping Plan according to any suggestions made by CDFW to the annual report.
- 7.7. Covered Species Surveys.** Permittee, in consultation with the Designated Biologist, shall conduct surveys for the Covered Species within the Van Norman Complex. Permittee shall conduct surveys for the Covered Species every year for the first three (3) years, then every other year following the third year of Covered Species surveys. Permittee shall follow U.S. Fish and Wildlife Service's least Bell's vireo survey protocol available at: <https://www.fws.gov/sites/default/files/documents/survey-protocol-for-least-bells-vireo.pdf>. Permittee shall submit a survey report to CDFW within 30 days after the last field survey.
- 7.8. Daily Refuse Removal.** Permittee shall remove and properly dispose of all trash and food waste at the end of each work day to avoid attracting opportunistic predators to the Project Area such as crows, ravens, brown-headed cow birds, and raccoons. Permittee shall dispose of refuse outside of the Project Area in designated and secure waste disposal areas within the Van Norman Complex.
- 7.9. Check Equipment for Leaks.** Permittee shall ensure that construction equipment and vehicles operated in the Project Area are checked and maintained daily to prevent leaks of fuel, lubricants, solvents, or other fluids that could contaminate soils supporting the Covered Species.
- 7.10. Spill Cleanup.** Permittee shall immediately cleanup all spills per Condition of Approval 5.13. The Designated Biologist or Designated Representative shall notify CDFW immediately of any spills that may have contaminated the root system and/or habitat of the Covered Species.

7.11. Fire. Permittee shall ensure workers conducting activities with the potential to inadvertently cause a fire (e.g., excavating) are be equipped with an appropriate level of fire prevention and suppression equipment, such as fire extinguishers, backpack pumps filled with water, shovels, welding tents, shields, and/or fire-resistant mats in order to avoid impacts on individuals of the Covered Species and/or habitat of the Covered Species as a result of fire.

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

To meet this requirement, the Permittee shall provide for both the permanent protection and management of **17.6 acres** of Covered Species Habitat Management (HM) lands pursuant to Condition of Approval 8.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.3 below. The Permittee has proposed five parcels (collectively, Big Tujunga Canyon) for the permanent protection and management of HM lands (Assessor's Parcel Numbers 2551-012-900, 2552-003-900, 2552-004-900, 2552-007-902 and 2552-005-901; see Attachment 1, Figures 4A through 4C). The Permittee shall provide **17.6 acres** if mitigation will occur at Big Tujunga Canyon. If the Permittee is unable to provide HM lands at Big Tujunga Canyon, the Permittee shall provide **17.6 acres** of HM lands at a site to be determined. Regardless of the location of the HM lands, Permittee must complete permanent protection and funding for perpetual management of HM lands before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.

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

8.1.1. Land acquisition costs for HM lands identified in Condition of Approval 8.2 below, estimated at \$51,000/acre for 17.6 acres: **\$897,600**. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;

8.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 8.2.1 and 8.2.2 below: **\$17,440**;

- 8.1.3.** Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.2.6 below, estimated at **\$152,825**; including;
 - 8.1.4.** Interim management period funding as described in Condition of Approval 8.2.7 below, estimated at **\$251,139**;
 - 8.1.5.** Long-term management funding as described in Condition of Approval 8.3 below, estimated at \$97,616/acre for 17.6 acres: **\$1,718,044**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
 - 8.1.6.** Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 8.4, estimated at **\$6,000**.
 - 8.1.7.** All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work: **\$75,000**.
- 8.2. Habitat Management Lands Acquisition and Protection.** If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:
- 8.2.1. Fee Title.** Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.
 - 8.2.2. Conservation Easement.** If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or

recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.

- 8.2.3. HM Lands Approval.** Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project’s impacts on Covered Species;
- 8.2.4. HM Lands Documentation.** Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 8.2.5. Land Manager.** Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.
- 8.2.6. 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 <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&inline>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;

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

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

8.3. Endowment Fund. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 8.2.6. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

- 8.3.1. 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).

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

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

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

- 8.3.2.2.1. **10 Percent Contingency.** A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

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

8.3.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

8.3.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.

8.3.4. 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.

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

- 9. Security:** The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:
- 9.1. Security Amount.** The Security shall be in the amount of **\$3,019,608** or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 8. above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.
- 9.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 9.3. Security Timeline.** The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 9.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 9.5. Security Transmittal.** Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5) or by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
- 9.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 9.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
- 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;
 - Timely submission of all required plans (Conditions of Approval 7.3 and 7.5); and
 - Timely submission of all required reports for the first (3) three years of the Project.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully

mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

IX. Amendment:

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

X. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

XI. Liability:

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

XII. Compliance with Other Laws:

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

XIII. Notices:

The Permittee shall sign and return this ITP to CDFW. A manual or digital signature is acceptable, provided a digital signature complies with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned. Manual (wet) signatures on duplicate original paper copies shall be returned by the Permittee via registered first-class mail or overnight delivery to the following address:

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2023-018-05) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Victoria Tang, Regional Manager
California Department of Fish and Wildlife
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4210
Victoria.Tang@wildlife.ca.gov

and a copy to:

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

Unless Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing

Incidental Take Permit
No. 2081-2023-018-05
LOS ANGELES DEPARTMENT OF WATER AND POWER
VAN NORMAN COMPLEX ROUTINE MAINTENANCE

issues that arise during implementation of this ITP is:

Steve Gibson
California Department of Fish and Wildlife
3030 Old Ranch Parkway
Suite 400
Seal Beach, CA 90740
(562) 252-2362
Steve.Gibson@wildlife.ca.gov

XIV. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Los Angeles Department of Water and Power (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Van Norman Complex Routine Operation and Maintenance Program Mitigated Negative Declaration (SCH No.: 2019119023) dated November 7, 2019, that the Los Angeles Department of Water and Power adopted for the Van Norman Complex Routine Operation and Maintenance on October 12, 2021. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

XV. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Van Norman Complex Routine Operation and Maintenance Program Mitigated Negative Declaration, 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:


Incidental Take Permit
No. 2081-2023-018-05
LOS ANGELES DEPARTMENT OF WATER AND POWER
VAN NORMAN COMPLEX ROUTINE MAINTENANCE

- (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 protection of 17.6 acres of habitat for the Covered Species; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 17.6 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (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:

ATTACHMENT 1	Figures 1 through 4
ATTACHMENT 2	Mitigation Monitoring and Reporting Program
ATTACHMENT 3	Biologist Resume Form
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 10/13/2023

DocuSigned by:

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Victoria Tang, Acting Regional Manager
 South Coast Region

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of this ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions.

By: _____ Date: _____

Printed Name: _____ Title: _____

Incidental Take Permit
 No. 2081-2023-018-05
LOS ANGELES DEPARTMENT OF WATER AND POWER
VAN NORMAN COMPLEX ROUTINE MAINTENANCE