



**California Department of Fish and Wildlife
North Central Region
1701 NIMBUS ROAD
RANCHO CORDOVA, CA 95670**

California Endangered Species Act
Incidental Take Permit No. 2081-2025-018-02

BUTTE SLOUGH OUTFALL GATES REPAIR 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 and 786.9, subdivision (b). 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) and California Code of Regulations, Title 14, section 786.9, subdivision (b). (See Cal. Code Regs., tit. 14, § 783.4).

Permittee:	California Department of Water Resources
Principal Officer:	Mitra Emami, Manager
Contact Person:	Scott Deal, Environmental Program Manager
Mailing Address:	3310 El Camino Avenue, Suite 140 Sacramento, VA 95821

II. Effective Date and Expiration Date of this ITP:

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **December 31, 2030**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee’s obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee’s Final Mitigation Report required by Condition of Approval 7.7 of this ITP.

III. Project Location:

The Butte Slough Outfall Gates Repair Project (Project) is located at Butte Slough tributary to Sacramento River and Sacramento River within the town of Colusa, County of Colusa. The Project is located approximately 343 feet southeast of Ward’s Boat Landing at approximately 39.195171, -121.93597 (WGS 84 datum, decimal degrees); Assessor’s Parcel Numbers (APNs) 015-250-016-000, 015-250-017-000, 08-140-017, 08-140-020, 08-140-02. The Project site is bounded by Marty Road on the Sutter County side north end of the Project and

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.

Butte Slough Road on the Colusa County side south end of the Project.

IV. Project Description:

The project consists of maintenance repairs and improvements to address structural and operational degradation of the existing structure, as well as project site improvements. Maintenance repairs and improvements will include the installation of supplemental outlet headwall support, replacing the existing inlet catwalk, repairing the inlet slide gates, and installing water flow/condition monitoring equipment.

The project includes the following components:

Mobilization, Dewatering, and Pile Driving

Initial site preparation consists of clearing and grubbing vegetation within the staging, access, and laydown areas within the project footprint prior to offloading/storing equipment. Tree trimming and vegetation removal will occur along the project site access routes and with the identified project staging areas.

Dewatering will be required on both the inlet (Butte Slough) and outlet (Sacramento River) sides of the facility to facilitate site preparations, removal of existing structures, and construction and testing of new features. Cofferdam sheet piling or similar method will be installed to create areas that will be dewatered. Dewatering wells will be installed outside the cofferdams to manage seepage in proximity to the sheet piling areas. The wells will extract water just below the ground level, and sump pumps within the sheet piling areas will be used to dewater the project area within the inlet and outlet sides. Two upland equipment pads will be installed on both sides of the facility for a crane to facilitate cofferdam installation. Small flexiflow barges may potentially be installed and deployed on the inlet side to assist with cofferdam installation.

The dewatered area on the inlet side of the project will cover approximately 0.54-acre and dewatering of the outlet side of the project will cover approximately 0.52-acre. The dewatered area will be approximately 23 feet deep on both sides of the project facility. Dewatering of the project area will take place over approximately 4 to 6 days. Water pumped out of the project area will be discharged back into the contributing surface waters of Butte Slough and the Sacramento River. Dewatering activities may create bank destabilization requiring potential bank stabilization anticipated to be approximately 373-linear feet, by a 6-foot with riprap or other rock revetment that may be bare rock or may be mixed with soil.

Pile driving activities will be conducted for an estimated 7 to 10 days for both cofferdam sheet piles and inlet catwalk H-piles. On the south bank of the inlet side, an existing maintenance ramp will be used to minimize temporary site disturbances. Site grading and a temporary ramp or pad will be created for pile or vibratory pile driving equipment to be staged for the installation of the dewatering features. On the outlet side, eight sheet piles will be driven into the top of the lower sand layer (approximately 60 feet below the top layer of bottom substrate, approximately 75 to 90 feet below the surface of the water depending on flow level), and

fastened to the outlet headwall structure, to create the outer boundaries of the permanent outlet structural improvements. Pile driving equipment will be staged landside, with a location above the outlet headwall and along the south bank of the Sacramento River. To facilitate cofferdam installation pile driving, one sandbar willow will be trimmed to the ground on the south bank of the Sacramento River just downstream of the outfall gates.

Outlet Repairs

Activities to stabilize the outlet headwall will consist of backfilling the scour area beneath the outlet concrete headworks and applying a lightweight concrete slurry to protect exposed timber piles against future scour. Approximately 34 cubic yards of fill will be placed along the headwall at 77 feet long, 4 feet deep, and 3 feet high. Equipment and materials for formwork will be dropped with the crane equipment from the staging pad above the outlet headwall. Equipment staging for the dump truck, pump, and hose needed to apply the concrete slurry will occur at the staging location above the outlet headwall. Equipment use within the dewatered area will be limited to an excavator and construction workers with hand tools.

All seepage pumps, clearing/grubbing, pile driving, and concrete slurry pumping equipment will be staged at the location shown in Figure 1. Facility inspections and repairs to the existing flap gates on the outlet headwall will occur while the area is dewatered.

Inlet Repairs

Activities to repair the inlet catwalk include the removal of the existing catwalk and support frame, installing four new support piles, and erecting a new catwalk system. Activities to repair the inlet slide gates include replacement of the existing inlet slide gates, gate frames, and stems; attaching and aligning the slide frames to the new catwalk; replacing the existing manual slide gate actuators with modern actuators.

Removal of existing project features and assembly of prefabricated project components, including the catwalk platform; railing; walkway support cross members, and inlet-slide gate components, will be accomplished within the identified staging areas identified in Figure 1. Equipment and material deliveries will occur at the identified staging areas using delivery trucks/trailers. On-site component assembly at the staging locations will occur using hand-held power tools. A landside crane will assist with removal and placement of these project components within the dewatered area, eliminating the need for construction equipment use/movement within sensitive habitat areas.

Project Site Improvements

A new equipment or facility building to maintain controls and electrical equipment necessary for facility operation will be built. The structure will be a modular container with climate control and electrical service. The control building will be developed on the Butte Slough side of the project, and the building will be supported by a power generator and an above-ground propane tank that will be protected by fencing and concrete walls. Power for the facility

controls will be routed through a trench from an existing Pacific Gas and Electric Company (PG&E) pole near the control building and a PG&E meter will be mounted on the outside of control building, inside the fenced area.

Additional maintenance repairs and improvements may include security cameras, lights, and some bank stabilization work at locations in the dewatered area on the Sacramento River side.

Project Completion and Site Restoration

Following completion of the maintenance repair and improvement construction activities, the dewatered areas and cofferdams will be removed. Disturbed soil areas will be hydroseeded with a native seed mix and/or covered with native vegetation after construction activities have been completed. The dewatering wells will be capped and abandoned. Erosion and stormwater controls will be removed, and site clean-up will be completed.

A variety of equipment such as a crane-track mounted Large Excavator, Skidsteer, Front-end loader, Drilling Rig, Dump trucks, Flatbed delivery truck/trailer, Utility vehicles, Water trucks, Pick-up trucks and other typical construction vehicles will be present.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ³
1. Chinook Salmon – Sacramento River spring run (<i>Oncorhynchus tshawytscha</i>)	Threatened ⁴
2. Chinook Salmon – winter run (<i>O. tshawytscha</i>)	Endangered ⁵

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

VI. Impacts of the Taking on Covered Species:

Project activities as described above in the Project Description (Covered Activities) and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include: site preparation activities such as clearing, grubbing, and vegetation trimming; demolition, removal, and replacement of structures; capture and relocation; surveying or monitoring activities; placement of revetment and fill; sediment deposition; pile installation; dewatering; modification of habitat; capture and relocation; and operation of equipment.

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur

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

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

⁵See *Id.*, subd. (a)(2)(M).

as a result of Covered Activities such as exposure to suspended sediments or other pollutants resulting from in-water work, runoff from construction sites, or sediment removal activities; fish-kills resulting from pressure waves generated by construction activities such as pile driving; stranding of fish during dewatering; and mortality resulting from stress or injury associated with capture and relocation efforts. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from capture and relocation efforts associated with dewatering activities and/or fish rescue efforts associated with stranding. The areas where authorized take of the Covered Species is expected to occur include: the Project work area within the Sacramento River and Butte Slough channels (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.07 acres of aquatic habitat for the Covered Species and temporary loss of 1.06 acres of aquatic habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, blockage of migratory route, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: temporarily blocking passage during construction; stress resulting from noise and vibrations from construction activities and capture and relocation; potential injury and illness resulting from contaminants entering the water from the construction site; temporary increases in turbidity due to in-water work and erosion from the construction site; reduction in habitat complexity due to placement of revetment/fill and removal of riparian vegetation.

In addition to expected impacts of Project Activities, rehabilitating and modernizing the flood control structure without providing fish passage substantially impacts state and federally listed salmonids in several ways, including continuing to block an essential migratory route; substantially reducing the availability of and access to holding, spawning, and rearing habitat; and reducing the range of individual species ultimately contributing to the decline of imperiled Covered Species in Butte Creek. Impacts to migration on Covered Species individuals are considered significant due to the recent significant decline of this population and its status as the stronghold for the species.

VII. Incidental Take Authorization of Covered Species:

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

VIII. Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area, including areas used for in-water staging, and noise and vibration generating activities that may 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. 2024061069) adopted by the California Department of Water Resources on February 20, 2025 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. COL-52026-R2) 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 Butte Slough Outfall Gate Repair Project Biological Opinion (WCRO-2024-01554) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
 - 6.1. **Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative’s name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

- 6.2. Designated Biologist(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) using or referring to the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) is knowledgeable and experienced in the biology, natural history, and identification of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) must be changed.
- 6.2.1. Biological Monitors.** The Designated Biologist may authorize Biological Monitors to assist in ITP compliance efforts, led by the Designated Biologist(s). The Designated Biologist(s) is responsible for assuring that any Biological Monitors working under their lead are knowledgeable and experienced in the biology, natural history, and identification of the Covered Species, the Conditions of Approval of this ITP, the definition of "take" in CESA, and in implementation of standard avoidance and minimization measures used on construction projects in Covered Species' habitat. Permittee shall submit to CDFW in writing the name, qualifications, description of duties, and contact information of the Biological Monitor(s) using or referring to the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 30 days before starting Covered Activities.
- 6.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.

- 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, general behavior, and identification of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.
- 6.5. Construction Monitoring Documentation.** The Designated Biologist(s) 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.
- 6.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 6.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 6.9. Delineation of Property Boundaries.** Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or

flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.

- 6.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area where feasible with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.
- 6.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.
- 6.16. Final Mitigation Report.** CDFW accepts the Final Mitigation Report as complete.

7. Monitoring, Notification and Reporting Provisions:

7.1. 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.

7.2. 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.

7.3. 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.

7.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 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 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 R2CESA@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.

- 7.5. Annual Status Report.** Permittee shall provide CDFW with an Annual Status Report no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.4; (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.
- 7.6. 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 Annual Status Report, whichever is submitted first relative to the observation.
- 7.7. Final Mitigation Report.** No later than 60 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 Annual Status Reports; (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.
- 7.8. Notification of Take or Injury.** Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by contacting the Regional Office at R2CESA@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location,

species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

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

8.1. Timing of Work. Permittee shall conduct in-water Covered Activities within suitable Covered Species aquatic habitat during the Covered Species work period (June 15-October 31). CDFW may consider requests to work outside of this work window on an activity-by-activity basis. The Permittee shall submit these requests in writing for review and approval by CDFW. Requests shall include a justification for the request and any additional information CDFW deems necessary.

8.2. Extended Construction Season Reevaluation. If in-water Covered Activities result in: (1) more than one construction season, (2) the cofferdam remaining in place November 1 – June 14, or (3) blockage of migratory pathways of Covered Species outside the in-water work period, the Permittee shall contact CDFW to reevaluate the Conditions of Approval and ensure that Project related impacts to the Covered Species are fully mitigated. CDFW’s reevaluation may require conservation of additional compensatory habitat. Covered Activities may continue during reevaluation. Permittee shall notify the CDFW Regional Representative at R2CESA@wildlife.ca.gov to request reevaluation.

8.3. Sound Attenuation. If in-water impact pile driving is conducted during installation of the cofferdam, Permittee shall reduce underwater noise by placing a bubble curtain or similar sound attenuation structure around the area of disturbance. Permittee shall monitor underwater noise during pile driving to ensure that it does not exceed 206 decibels (dB) peak Sound Pressure Level (SPL) and 183 dB cumulative Sound Exposure Level (SEL).

8.4. Soft Start Pile Driving. The initial strikes of all in-water pile driving and pile driving within 200 linear feet of the water’s edge shall not commence until warning noises and vibrations are provided in an escalating series to reach the maximum sound levels as described in Condition of Approval 8.2, providing aquatic species a warning to evacuate the area.

8.5. Fish Salvage. The Designated Biologist shall stop work if fish are stunned or otherwise directly impacted by noise and vibration from pile driving. Work shall not

resume until the fish clears or is captured and relocated consistent with Condition of Approval 8.9 from the construction area.

- 8.6. Instream Woody Material.** Permittee shall avoid moving or altering instream woody material within the Sacramento River and/or Butte Slough to the greatest extent possible. If instream woody material must be moved or altered, Permittee shall notify CDFW prior to moving or altering it and provide a plan to either move the instream woody material back to its original location or replace it with a functional habitat equivalent as soon as possible, as approved by CDFW in writing.
- 8.7. Erosion Control.** Permittee shall actively implement best management practices to minimize turbidity and siltation and prevent erosion and the discharge of sediment into the Sacramento River, Butte Slough, or other waterways. Precautions shall include but are not limited to: pre-construction planning to identify site specific turbidity and siltation minimization measures; best management erosion control practices during project activity; and settling, filtering, or otherwise treating silty and turbid water prior to discharge into a stream or storm drain. This may require the placement of silt fencing, coir logs, coir rolls, straw bale dikes, or other siltation barriers so that silt and/or other deleterious materials are not allowed to pass to downstream reaches.
- 8.8. Equipment Maintenance.** Staging and storage areas for equipment materials, fuels, lubricants and solvents will be located outside of the channel and banks. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the channel will be positioned over drip pans. Any equipment or vehicles driven and/or operated within or adjacent to the channel will be checked and maintained daily to prevent leaks of materials that if introduced to water could be deleterious to aquatic life. Vehicles will be moved away from the channel prior to refueling and lubrication. When refueling of equipment outside of the channel is infeasible, refueling activities shall be conducted in such a way that spilled petroleum products will not enter the watercourse.
- 8.9. Dewatering and Monitoring Plan.** Permittee shall submit for approval a detailed dewatering and monitoring plan to CDFW **no less than thirty (30) calendar days prior** to any dewatering activities. The Plan must include a description of dewatering strategies—such as cofferdams, bypass pumping with inflatable or sheet-pile barriers, or flow diversion—to isolate the work area and ensure site-specific protection. Dewatering pump intakes shall be fitted with appropriately sized NMFS- and CDFW-approved fish screens to prevent fish from becoming entrained, while also limiting velocity through the screens in an effort to prevent impingement. To further minimize impingement, pump intakes shall be fitted with a secondary containment such as a perforated tub, bucket, or another method to reduce suction and prevent Covered Species from entering the pump intake system. The Plan must

also describe monitoring efforts to monitor the conditions of the pump intake screens and secondary containment periodically to ensure that Covered Species do not become impinged during dewatering activities. Permittee shall ensure that water is returned gradually to the waterbody following removal of cofferdams or barriers, consistent with the Plan. Permittee may not commence dewatering of water without approval from CDFW.

8.10. Fish Rescue and Relocation Plan. Permittee shall prepare and implement a Fish Rescue and Relocation Plan to minimize fish entrained and/or stranded during construction activities. The plan shall include, at minimum: 1) a list of fish species that may be encountered, 2) descriptions of the proposed methods and equipment to be used to prevent fish stranding, 3) descriptions of the proposed methods and equipment to be used to conduct fish rescue and relocation activities, 4) the proposed timing of fish relocation activities, 5) the proposed location where captured fish will be released, and 6) the qualifications of the Designated Biologist(s) implementing the plan. Permittee shall submit the Fish Rescue and Relocation Plan to CDFW **no less than thirty (30) calendar days** prior to planned dewatering for construction and maintenance activities. Permittee shall obtain CDFW's written approval of the Fish Rescue and Relocation Plan prior to starting project activities. For the purposes of this ITP, the requirements described in this Condition of Approval apply only to the rescue and relocation of Covered Species and not to other species of fish.

Permittee shall incorporate, but not be limited to, the following requirements into the Fish Rescue and Relocation Plan:

- Permittee shall conduct fish capture and relocation efforts in accordance with all required state and federal permits.
- Fish capture and relocation operations shall occur at all in-water construction sites where dewatering and resulting isolation of fish may occur.
- The Designated Biologist(s) shall, in consultation with CDFW, determine appropriate site-specific procedures for excluding fish from construction areas, removing fish from construction areas should they become trapped, and preventing fish from reentering construction areas prior to dewatering based on site-specific conditions and construction activities.
- Each team conducting fish capture and relocation efforts shall include at least one approved Designated Biologist.

- To avoid and minimize the risk of injury to fish and where it can be safely done, attempts to seine and/or net fish shall always precede the use of electrofishing equipment. Electrofishing shall be conducted in accordance with National Marine Fisheries Service electrofishing guidelines (NMFS 2000) and other appropriate fish and wildlife agency guidelines. One or two teams, consisting of three to four people each, shall conduct electrofishing, with each team having an electrofishing unit operator and two or three netters.
- Permittee shall include the results of all fish capture and relocation efforts in the Annual Status Report described in Condition of Approval 7.5, including, but not limited to, date, time, location, comments, method of capture, fish species, number of fish, life stage, condition, release location, and release time.
- Unless otherwise agreed-upon in writing by CDFW, fish capture, release, and relocation measures in the Fish Rescue and Relocation Plan shall be consistent with the following general guidelines:
 - Begin fish capture and relocation operations as soon as fish stranding is discovered and when conditions are safe enough to do so, and complete within 48 hours after isolation of a construction site to minimize potential predation and adverse water quality impacts (high water temperature, low dissolved oxygen) associated with confinement.
 - Install cofferdams, block nets, or other exclusion methods to exclude fish from the construction site prior to the fish removal process.
 - When monitoring for stranded fish, record dissolved oxygen, temperature, flow, and turbidity/conductivity at any pool with stranded fish to prioritize relocation efforts. Record these parameters again immediately prior to any fish relocation effort.
 - Use dip nets made of soft (nonabrasive) nylon material and small mesh size (0.125 inch) to collect small fish.
 - Utilizing a seine, make at least three passes through enclosed areas to be dewatered to remove as many fish as possible.
 - Conducting herding and netting operations use electrofishing, if needed, to remove as many fish as possible from the enclosure.
 - Initially place captured fish in containers filled with water obtained from the immediate area.
 - Transfer captured fish into 5-gallon buckets (or larger) equipped with a lid and an aerator and filled with clean river water at ambient

temperature. Add fresh river water or small amounts of ice made from river water if the water temperature rises to more than two (2) degrees Fahrenheit (2°F) warmer than ambient river waters

- Maintain low densities of captured fish in holding containers to avoid overcrowding.
- Use water-to-water transfers whenever possible.
- Release captured fish at predetermined locations approved by CDFW with appropriate habitat upstream or downstream of the construction/maintenance site with similar water temperature to the area from which fish were captured and a low likelihood of fish reentering the construction/maintenance site or being impinged on exclusion nets/screens.
- Segregate larger fish from smaller fish to minimize the risk of predation and/or injury.
- Limit holding time to about ten minutes, to the extent possible.
- Avoid handling fish during processing unless absolutely necessary. Use wet hands or dip nets if handling is necessary. Handle fish with hands that are free of potentially harmful products, including but not limited to sunscreen, lotion, and insect repellent.
- Avoid anesthetizing or measuring fish.
- Note the date, time, and location of fish collection; species; number of fish; approximate age (e.g. young-of-the-year, yearling, adult); fish condition (e.g. dead, visibly injured, healthy); and water temperature.
- If positive identification of fish cannot be made without handling fish, note this and release the fish without handling.
- In notes, indicate the level of accuracy of visual estimates to allow appropriate reporting to CDFW (e.g., “approx... 10-20 young-of-the-year steelhead”).
- Note the fish release date, time, and location.

8.11. Covered Fish Species Mortality. If a Covered Species is found recently deceased, the carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number. Deposition of biological samples shall be coordinated with the CDFW Region 2 District Fisheries Biologist for Colusa County

and NMFS to determine whether the specimen shall be delivered to the CDFW Low Elevation Fisheries Lab, 1701 Nimbus Road, Suite 1, Rancho Cordova, CA 95670 or another facility specified by CDFW, within two calendar days of the discovery.

9. Habitat Management Land Acquisition and Restoration: 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 purchase 1.27 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 9.1 below.

Purchase of Covered Species credits must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall also restore on-site 3 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.2 below.

9.1. Covered Species Credits. Permittee shall purchase 1.27 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. Prior to transfer of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for impacts of the Project. Permittee shall submit to CDFW a copy of the executed Credit Transfer Agreement prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.

9.2. Habitat Restoration. Permittee shall restore on-site 1.27 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 1.27 acres of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as native seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur.

9.3. Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost of credit purchase and on-site restoration. The estimated credit purchase of 1.27 acres of Covered Species credits described in Condition of Approval 9.1, is calculated at \$350,000/acre at 1.27 acre for **\$444,500**. The estimated restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.2, is calculated at \$5,000/acre for 1.27 acres: **\$6,350**.

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

- a) Security Amount. The Security shall be in the amount of **\$450,850** or in the amount identified in 9.3 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.3 above, sufficient for CDFW or its contractors to complete the required compensatory mitigation.
- b) 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.
- c) 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.
- d) Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- e) Security Transmittal. Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.
- f) 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.
- g) 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:
 - Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits;
 - Documentation of completed on-site restoration; and
 - Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required compensatory mitigation no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional mitigation 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. 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.

XII. Notices:

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2025-018-02) in a cover letter

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and on any other associated documents.

Original cover with attachment(s) to:

Morgan Kilgour, Regional Manager
California Department of Fish and Wildlife
1701 Nimbus Road
Rancho Cordova, CA 95670
(916) 358-2900
morgan.kilgour@wildlife.ca.gov

and a copy to:

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

CESA Desk
1701 Nimbus Road
Rancho Cordova, CA 95670
(916) 358-2900
R2CESA@wildlife.ca.gov

XIII. 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, Department of Water Resources. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Butte Slough Outfall Gates Repair Project Mitigated Negative Declaration, (SCH No. 2024061069) dated June 25, 2024 that the Department of Water Resources adopted for Butte Slough Outfall Gates Repair Project on February 20, 2025. 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

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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.

XIV. 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, Butte Slough Outfall Gates Repair Project Mitigated Negative Declaration, Butte Slough Outfall Gate Repair Project Biological Opinion, 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:

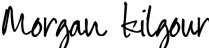
- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) Education Program; (2) Monthly Compliance Reports; (3) Fish Rescue and Relocation Plan; and (4) Permanent Habitat Protection. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW’s estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 1.27 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.

XV. Attachments:

FIGURE 1	Map of Project Site and Features
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Resume Form
ATTACHMENT 3	Letter of Credit_CESA_Reduction.9.25.2024

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 5/7/2026

DocuSigned by:

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Morgan Kilgour, Regional Manager
North Central Region

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BUTTE SLOUGH OUTFALL GATES REPAIR PROJECT

Butte Slough Outfall Gates and Repair Project

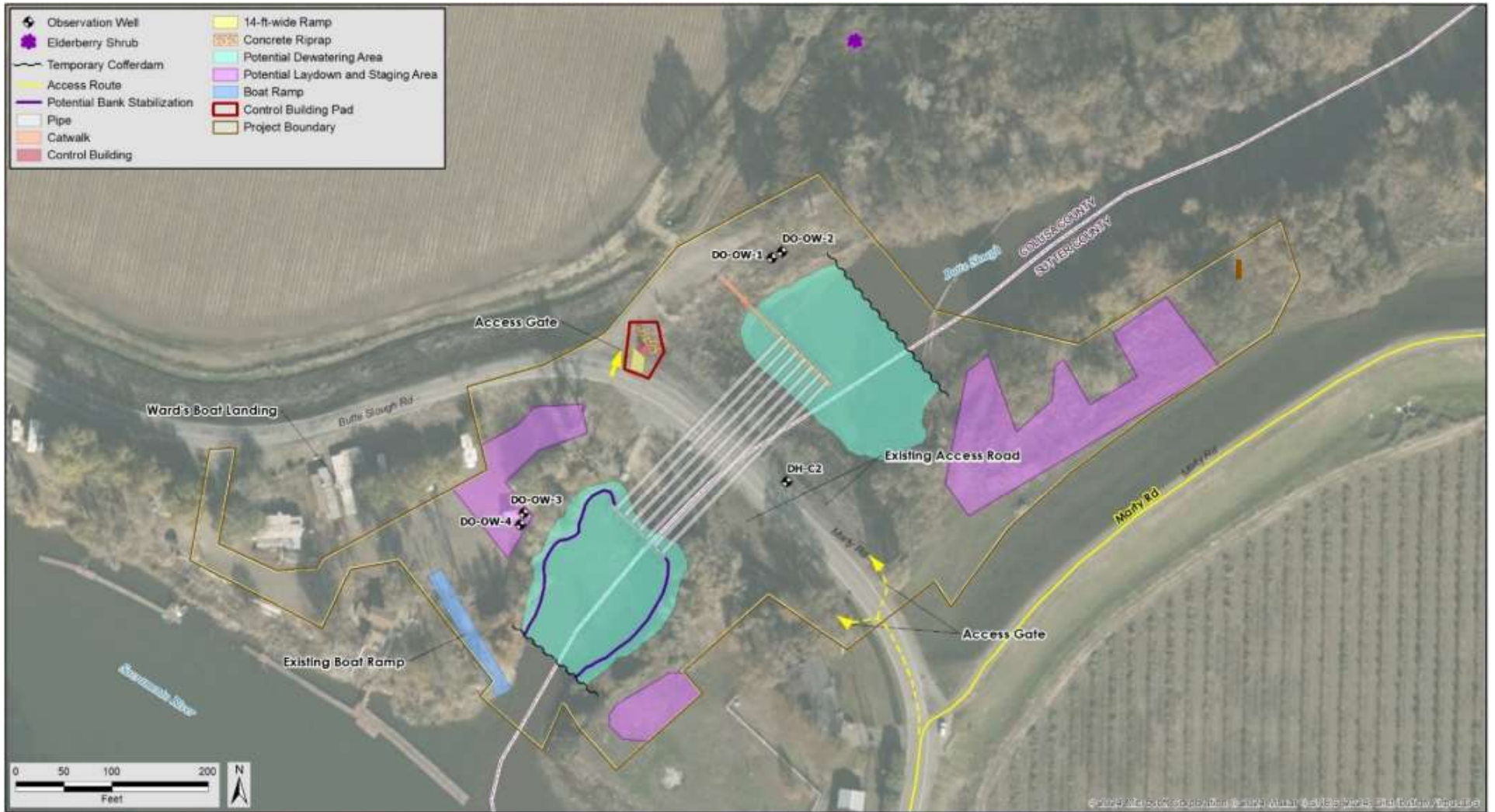


Figure 1.

Map of Project Site and Features