



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

California Endangered Species Act
Amended Incidental Take Permit No. 2081-2012-005-04
(Amendment No. 3)

MADERA QUARRY

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 also Cal. Code Regs., tit. 14, § 783.4).

Permittee:	Madera Quarry, Inc.
Principal Officer:	Jaxon 'Jack' Baker, President
Contact Person:	Jaxon 'Jack' Baker, 530-515-6683 Jon Baker, 530-277-9095
Mailing Address:	P.O. Box 994248 Redding, California 96099

II. Amended ITP³ Background

On May 17, 2013, CDFW issued the original ITP No. 2081-2012-005-04 to Shimmick-Baker, LLC (Shimmick-Baker), authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the Madera Quarry project in Madera County, California (Project). The Project as described in the ITP as originally issued by CDFW includes development and operation of a 78-acre hardrock quarry and 28-acre processing plant; and approximately 14.6 acres of impacts associated with alignment and widening of Road 209 and improvements at the intersection of Road 209 and State Route 41. The Covered Activities were expected to result in the permanent loss of 135.7 acres of upland grassland habitat for the Covered Species. These impacts were to be mitigated through protection of 270 acres of Habitat Management (HM) lands to offset the

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

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

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

impacts to non-native grassland and vernal pool habitat. To meet this requirement, Shimmick-Baker secured the ITP under an Irrevocable Standby Letter of Credit (LOC) in the amount of \$2,027,750.40 (IS0307747U). Shimmick-Baker also committed to provide for both the permanent protection and perpetual management of a minimum of 270 acres of HM lands, located immediately north of the Project that provide potential breeding opportunities in the form of an existing stockpond and grassland upland refugia habitat for the Covered Species, within 18 months of ITP issuance.

On January 2, 2018, CDFW notified Shimmick-Baker of several instances of non-compliance with the ITP that CDFW was made aware of through the required Quarterly Compliance Reports. Through these reports, CDFW became aware of the following: (1) new ground-disturbing activity occurring prior to Covered Species and/or small mammal burrow surveys and excavation (inconsistent with ITP Conditions of Approval (COA) 8.2 and 8.3); (2) erosion of soil stockpiles into on-site streams and swales (inconsistent with COA 8.11); and (3) lack of protection of compensatory habitat within 18 months of the effective date of the original ITP (inconsistent with COAs 9 and 10). In response to the Notice of Non-Compliance, in a series of letters spanning from January 24, 2018, to June 25, 2018, Shimmick-Baker requested an amendment to the ITP. On January 31, 2018, Shimmick-Baker requested to amend the ITP by letter (Major Amendment No. 1).

On April 13, 2019, CDFW issued Major Amendment No. 1. Major Amendment No. 1 updated Contact Person information; increased the required HM lands to 272 acres to remediate and compensate for impacts to Covered Species upland habitat and on-site streams and swales under *Project Description*; added additional 0.90 acres of habitat disturbance occurring in the absence of implementing take minimization measures under *Impacts of the Taking on Covered Species*; added a requirement for Shimmick-Baker to prepare and obtain CDFW's approval of an Erosion Control Plan under COA 8.11 (Soil Stockpiles); increased the required HM lands to 272 acres and extended the timeline to provide HM lands to 76 months under COA 9 (Habitat Management Land Acquisition); revised *Cost Estimates* for 272 acres of HM lands; revised the total Security Amount and extended the timeline to provide HM lands to 76 months under COA 10 (Performance Security); and updated contact information for CDFW regional staff. These changes increased the amount of impacts on Covered Species habitat as a result of the Project and, therefore, increased the amount of HM lands required to compensate for the increase in impacts on the Covered Species. On May 1, 2019, Shimmick-Baker secured the ITP under an amended LOC in the amount of \$2,042,681.97 (IS0307747U).

On July 23, 2019, a meeting was held at CDFW regarding California Environmental Quality Act (CEQA) compliance, issuance of a Lake and Streambed Alteration Agreement (LSAA), and Covered Species breeding habitat improvements on the HM lands. The meeting discussed a discrepancy with permanent impacts to aquatic habitat features on the HM lands between the ITP, as amended, and the LSAA. An application for an LSAA submitted to

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CDFW regarding the enhancement of an existing stockpond to improve potential breeding habitat quality for Covered Species demonstrated that the drawdown would cause a reduction of the existing stockpond surface area from 0.5 acres to 0.2 acres, an impact of 0.3 acres. On September 11, 2019, CDFW received a request from Shimmick-Baker to amend the ITP. A representative from Shimmick-Baker subsequently contacted CDFW by phone to request an additional extension of the deadline to complete the permanent protection of HM lands (Major Amendment No. 2).

On December 12, 2019, CDFW issued Major Amendment No. 2. Major Amendment No. 2 added 0.3 acres of impacts when a 0.5-acre stockpond on the HM lands is reduced to 0.2 acres to enhance breeding habitat for the Covered Species under *Project Description*; revised the *Impacts of the Taking on Covered Species* to state 0.26 acres of seasonal breeding ponds to be provided on HM lands, permanent habitat loss of 135.4 acres instead of 135.7 acres as a result of the Project, permanent loss of 0.24 acres of breeding habitat on the proposed HM lands, and vernal pool creation on 0.06 acres and a reduction of a stockpond by 0.3 acres; revised COA 8.6 (Wetland Development Plan) to refer to a 0.36-acre footprint where habitat creation and enhancement activities will occur; extended the timeline to provide HM lands to 82 months under COA 9 (Habitat Management Land Acquisition) and COA 10 (Performance Security); and updated contact information for CDFW regional staff. These changes increased the amount of impacts on Covered Species habitat as a result of the Project.

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

On January 5, 2022, legal counsel representing Shimmick-Baker submitted a letter to CDFW via email and registered U.S. mail requesting CDFW's consent to the assignment and transfer of the ITP to Chowchilla Asphalt Inc. because Chowchilla Asphalt Inc. is the new record owner of property on which Madera Quarry is located and intends to assume the benefits and burdens of the ITP. In addition, Shimmick-Baker requested the LOC by Wells Fargo Bank (IS0307747U)⁴ placed at the request of Shimmick-Baker be replaced by a LOC for \$2,042,681.97 dated December 20, 2021, by Cornerstone Community Bank (No. 2021001) placed at the request of Chowchilla Asphalt Inc. After a series of email and phone correspondence from January 20, 2022, to February 28, 2022, between CDFW and Shimmick-Baker, CDFW determined that the ITP can be transferred to Chowchilla Asphalt, Inc. (Permittee). On June 17, 2022, CDFW reissued the ITP to Chowchilla Asphalt, Inc. and

⁴On June 8, 2021, CDFW submitted a letter and Certificate for Drawing to Wells Fargo Bank N.A. demanding payment on the Irrevocable Standby Letter of Credit (IS0307747U). The LOC IS0307747U was cashed, and Wells Fargo wire transferred the funds to CDFW in the amount of \$2,042,681.97 on June 14, 2021.

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to the ITP, added the word “Reissued” where appropriate; replaced the Permittee name and contact information to that of Chowchilla Asphalt, Inc.; added a sentence to state that the ITP is being reissued to replace Shimmick-Baker, LLC with Chowchilla Asphalt, Inc. under *Effective Date and Expiration Date of this ITP*; and to incorporate the changes detailed in Major Amendment No. 1 and Major Amendment No. 2.

On September 19, 2023, CDFW received a letter from the Permittee advising CDFW that Chowchilla Asphalt, Inc. changed its name to Madera Quarry, Inc.

On July 13, 2026, CDFW met with the Permittee regarding the status of providing 272 acres of HM lands. The deadline for completing the HM lands requirement in accordance with the ITP, as amended, is October 23, 2026. The Permittee informed CDFW that they have been waiting since November 5, 2024, for the U.S. Army Corps of Engineers (USACE) to respond to a request from the Permittee to modify the Project’s Department of the Army (DA) permit (SPK-2005-00673), aspects of which pertain to the HM lands requirement. With the request to USACE pending, the Permittee is unable to move forward with protection of the HM lands, and there is no indication of when USACE would be able to review the Permittee’s request to modify the Project’s DA permit. Accordingly, the Permittee is unable to meet the October 23, 2026, deadline to complete permanent protection of HM lands. CDFW requested the Permittee submit an application to amend the ITP to extend the timeline to provide HM lands to remain in compliance with the ITP. CDFW also advised the Permittee that the ITP would need to be amended to change the HM lands requirement to an alternative approach that was proposed by Permittee and conceptually agreed to by CDFW in conversations between the Permittee and CDFW. The Permittee proposes to increase the extent of the HM lands from 272 acres to 408 acres while removing all requirements to create and enhance ponds on the HM lands.

On July 28, 2026, CDFW received an application from the Permittee requesting a third amendment to the ITP and on July 29, 2026, CDFW received the corresponding application fee. The Permittee requested a timeline extension to complete the permanent protection of HM lands by an additional 96 months. In addition, the Permittee requested updates to ‘Contact Person’ and change of the Permittee’s name to Madera Quarry, Inc. The Permittee did not request to amend the ITP to change the HM lands requirement at this time and would prefer to wait until the USACE modifies the Project’s DA permit and approves of the Permittee’s proposed 408.18 acres HM lands. The Permittee’s request is only to extend the timeline to complete the permanent protection HM lands which will remain at 272 acres as required in the ITP, as amended. CDFW finds that this amendment (Minor Amendment No. 3) is a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4). Issuance of Minor Amendment No. 3 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Minor Amendment No. 3 increase other Project impacts on the Covered Species (i.e., “impacts of taking” as used in Fish and Game Code Section 2081, subd. (b)(2)).

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CDFW now reissues this ITP including the revised provisions in Major Amendment No. 1, Major Amendment No. 2, and Minor Amendment No. 3 (collectively, the Amended ITP). The Amended ITP includes all the operative provisions as of the issue date of this Amended ITP. The previous Proposed Lands for Acquisition Form, Habitat Management Lands Checklist, and Mitigation Payment Transmittal Form attachments to the ITP were removed because those documents became obsolete following updates to CDFW's incidental take permit and HM lands processes since the original ITP and prior amendments to the ITP were issued. The previous "Amendment No. 1" and "Amendment No. 2" attachments to the ITP were removed because Major Amendment No. 1 and Major Amendment No. 2 have been incorporated into this Amended ITP. Attachment 4 to this Amended ITP shows the specific red-lined changes made to the ITP as a result of Minor Amendment No. 3.

III. Effective Date and Expiration Date of this ITP:

The original ITP's effective date was May 17, 2013. This remains the effective date for the original take authorization. This Amended ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **February 28, 2066**.

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.

IV. Project Location:

The Madera Quarry (Project) is located east of Road 209 approximately 4.0 miles north of its intersection with State Route (SR) 41 within an unincorporated area of Madera County (Figure 1). The Project is located approximately 16 miles northeast of the City of Madera in Township 10N, Range 20E, Section 4 Mount Diablo Baseline and Meridian.

V. Project Description:

The Project includes development of a new 78-acre hardrock quarry that will mine 900,000 tons of aggregate annually, which will result in a total of approximately 45 million tons of material being mined over the 50-year life of the Project. The mining excavation area will be approximately 2,200 feet in length; 1,700 feet wide; and up to 200 feet in depth. Project implementation will also result in development of a 28-acre aggregate processing plant, hot mix asphalt plant, materials stockpile areas, administration complex, and parking areas. Haul roads within the quarry will connect to a new 1.7-acre main access road. The whole of the quarry site will be surrounded by a 12.9-acre buffer and the buffer, quarry site, batch plants, buildings, and main access haul road will occur within an approximately 121-acre portion of the 540-acre Madera Ranch property (Figure 2). The 121-acre Project site is itself comprised of two acreage areas; a 68.71-acre northern section and a 52.29-acre southern section. The northern 68.71 acres of the Project site is under a Williamson Act Contract (Contract) which will expire February 28, 2014, under a Notice of Non-Renewal.

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This northern 68.71-acre portion of the Project site cannot be developed until March 1, 2014. The Contract on the southern 52.29 acres has previously been canceled and can be developed without restrictions. The 52.29 acres are to be developed first into the 28-acre processing plant and administration building areas as well as the 17.29 acres of the quarry mine excavation area. The remaining 68.71 acres will be subsequently developed after the Contract expires in 2014 into the remaining 61 acres of quarry mine excavation site and the 12.9 acres of quarry buffer.

Additional construction includes the alignment and widening of Road 209 and improvements to the Road 209 and State Highway 41 intersection which will result in an additional 14.6 acres of impact and requires crossing Hildreth Creek and its tributaries in ten (10) locations; these crossings necessitate installation of new culverts or replacement of existing culverts for which a Streambed Alteration Agreement (SAA) (No. 1600-2007-0209-R4) was obtained and which expires on June 16, 2013. Project activities will also result in diversion of an unnamed intermittent drainage currently located within the mine area. An SAA for the stream alignment will be sought.

The Project will also set aside 272 acres of Habitat Management (HM) lands to offset the impacts to non-native grassland and vernal pool habitat. Within these Habitat Management (HM) lands, the Project proposes to fulfill its wetland creation and enhancement mitigation. This will be accomplished in accordance with a CDFW-approved Wetland Development Plan (Plan). This Plan will include the methodology for the creation of one vernal pool and the enhancement of an existing stockpond to function as a seasonal pond located on the HM lands and will result in a maximum of 0.06-acres of grassland habitat impacts (Figure 3) and a maximum 0.3 acres of impacts to the area of the stockpond, reducing the size of pond to 0.2 acres.

Project activities include the following: clearing of vegetation; removal and storage of topsoil and overburden material; mining the Project site through drilling, blasting, excavation, and operation of heavy equipment; construction of haul roads; alignment and widening of Road 209; improvements to the Road 209 and State Highway 41 intersection; construction of a stationary plant site within the quarry pit; diversion of an unnamed intermittent drainage; construction of operations facilities including the aggregate processing plant, hot mix asphalt batch plant, materials storage sites, an administrative building, and parking areas; reclamation of the Project site by contouring the sides of the mine pit and other disturbed areas, redistribution of stockpiled soil and overburden material, reseeding some of the disturbed areas; and creation and enhancement of seasonal ponds on the HM lands.

Equipment needed to perform the above Project activities include bulldozers, backhoes, motor graders, hydraulic shovel scrapers, blasthole drill rigs, water trucks, front-end loaders, and haul trucks. Mine operating hours, including hauling of mined material and operation of the asphalt batch plant, will be from 6:00 a.m. to 7:00 p.m. Monday through Friday though

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some Saturday and night work may be required to keep up with contracted material demands, including some 24-hour per day work for limited periods. However, notwithstanding any other authorized operations, any hauling of mined materials is prohibited along Road 209 from December 1 through February 28 beginning 30 minutes before sunset and ending 30 minutes after sunrise, for each year of operation.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ⁵
California tiger salamander (<i>Ambystoma californiense</i>)	Threatened ⁶

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

VII. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include grubbing; clearing, grading; leveling (soil cut and/or fill); compaction of building pads and new access roads; removal and stockpiling of topsoil; removal and stockpiling of overburden; blasting, excavation, removal, processing, and stockpiling of mined material; trenching and boring to accommodate water, utility, and fuel lines; improvements to an existing road and intersection including widening and resurfacing; construction of new haul road including surfacing, the installation of stream crossings, culverts, and alignment of the stream course; construction and operation of the processing plant and the concrete and asphalt batch plant including installation of materials storage silos, mixer bins, weigh belts, batch control facilities, mixer washout facilities, dust control bag houses, truck hopper, asphalt storage tanks, ingress and egress routes; construction of pads and the installation of equipment fuel tanks; construction of the administrative building area including the development of building pads and the preparation and paving of a parking area, ornamental landscape areas; application of dust suppressants; accidental spills of oil, asphalt, wastewater, or other hazardous materials used in mining operations and at concrete/hot mix asphalt batch plants; mine reclamation activities including topography contour, spreading of stockpiled topsoil, fill, reseeding and revegetation, and invasive species management; and modification of HM lands to create one new vernal pool and enhancement of an existing stockpond to provide seasonal breeding ponds on approximately 0.26 acres of HM lands (Covered Activities).

⁵Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

⁶See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as vehicle/equipment strikes during site preparation, on-going mining operations, hauling of mined material, and at road/intersection improvements; collapse or excavation of occupied burrows during removal of topsoil, overburden, blasting activities, and excavation of mined material, or during trenching, cut/fill, grading, removal of vegetation, road construction and alignment activities; entombment of individuals from deposition of stockpiled soil or mined material over occupied burrows; crushing or entombment of individuals during vegetation, top soil, or overburden removal, soil compaction, grading activities, development of structure and equipment building pads, construction of haul roads, intersection improvements, stream course alignment, and installment of tanks, and other facilities; entrapment and burial within trenches and open pipelines; by ingestion or entrapment in spilled oil, wastewater, or other hazardous materials; and excavation, crushing, or entombment of individuals during pond creation and enhancement. Incidental take of individuals of the Covered Species in the form of pursuit or capture is also expected through the entrapment in holes or trenches, uncovering Covered Species through the excavation of burrow systems, by corralling Covered Species into a confined area when barrier fencing is constructed around the mine pit, and when individuals of the Covered Species are relocated out of harm’s way as required by this ITP.

The Project is expected to cause the permanent loss of 135.4 acres of upland grassland habitat for the Covered Species through the excavation and development of the 121 acres of the mining site (including stream alignment activities); the 14.6 acres associated with the Road 209 alignment and the Road 209 and State Highway 41 intersection improvements; and permanent loss of 0.24 acres of breeding habitat on the proposed HM lands where new or enhanced CTS breeding ponds will be developed in accordance with a CDFW-approved wetland development plan (collectively, the Project Area). Covered Species breeding habitat enhancements include new vernal pool creation on 0.06 acres and a reduction of a stockpond by 0.3 acres. The reduction of the stockpond size is expected to improve breeding habitat quality for the Covered Species by reducing habitat quality for invasive species such as bullfrogs (*Rana catesbeiana*). The area exposed by the pond reduction is expected to provide 0.3 acres of upland grassland habitat for the Covered Species and result in a net 0.24 acres of new upland grassland habitat on the HM lands. Additional impacts within the 135.4-acre Project Area include 0.90 acres of habitat disturbance occurring in the absence of implementing take minimization measures. Specifically, 0.17 acres of upland habitat subject to ground disturbance in the absence of pre-construction surveys and burrow excavation and 0.73 acres of impacts to upland habitat and on-site streams and swales to remedy uncontrolled erosion. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibration associated with blasting and other mining activities; introduction or spread of invasive species; changes in drainage patterns that favors different vegetative growth; and long-term effects due to increased

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pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

VIII. Incidental Take Authorization of Covered Species:

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

IX. Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **California Environmental Quality Act (CEQA) Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Final Revised Environmental Impact Report (SCH Number 2003102128) certified by Madera County on June 16, 2010, as lead agency and as further described and considered in the Addendum to the Final Revised Environmental Impact Report approved by CDFW acting as a Responsible Agency (as defined in the CEQA Guidelines section 15381) May 14, 2013, for the Project pursuant to CEQA (Pub. Resources Code, § 21000 *et seq.*).
3. **Lake and Streambed Alteration (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. 1600-2007-0209-R4), as amended for the Project, and any future LSAs necessary to conduct Covered Activities, executed by CDFW pursuant to Fish and Game Code section 1602 *et seq.*
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation on the Proposed Madera

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Quarry, Inc., Mining Operation, Madera County, California (Corps File No. 200300748) 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. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling 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 in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the

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

- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, shall not allow water to form puddles, and shall only water during daylight hours (30 minutes after sunrise and stop 30 minutes before sunset).
- 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. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those

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in the possession of authorized security personnel or local, State, or Federal law enforcement officials.

- 6.10. Delineation of Property Boundaries. Before starting Covered Activities in each work area (Road 209 alignment, Road 209 and State Highway 41 intersection, processing area, mining areas, and pond enhancement/creation areas) (Work Area), 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 each Work Area.
- 6.11. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.12. Project Access. Project-related personnel shall access the Project Area using existing routes or new routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.13. 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.
- 6.14. Hazardous Waste. In the event of a fuel or hazardous waste leak or spill, the Permittee shall immediately stop work and, following pertinent state and federal statutes and regulations arrange for repair and clean up by qualified individuals at the time of occurrence or as soon as it is safe to do so. Any hazardous materials stored on-site during construction or operation and maintenance (O&M) shall be the minimum necessary for Project implementation and shall be stored in contained areas that preclude exposure to wildlife.

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- 6.15. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.16. Refuse Removal. Upon completion of Covered Activities in each Work Area, Permittee shall remove from each Work Area and properly dispose of all temporary fill, stockpiled mined materials, and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 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 in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when vegetation removal, topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur within each Work Area. 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, relocation efforts, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing, and grading (including topsoil and overburden removal) are completed.
- 7.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in

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Condition of Approval 7.3 into a Quarterly 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. Quarterly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Ruby Kwan (Ruby.Kwan@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 7.5. 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 Quarterly 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. Permittee shall submit ASRs to CDFW's Regional Office, Regional Representative, and Headquarters CESA Program.
- 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 Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.7. 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 Quarterly Compliance Reports and

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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.

- 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 calling the Regional Office at (559) 243-4005 and by email to the CDFW's Regional Office and the Regional Representative. The initial notification to CDFW shall include information regarding the location, species, number of animals taken 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.

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. California Tiger Salamander Relocation Plan. The Designated Biologist shall prepare a California tiger salamander (CTS) Relocation Plan that shall include, but not be limited to, identification of capture methods, handling methods, relocation methods, identification of relocation areas, and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the CTS relocation plan is approved in writing by CDFW. Only approved Designated Biologist(s) are authorized to capture and handle CTS.
- 8.2. California Tiger Salamander Surveys. Prior to starting any Covered Activities within each Work Area during the CTS breeding season, the Designated Biologist shall survey breeding sites and upland habitat within each Work Area.

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If any life stages of CTS (adults, eggs, or larvae) are found, the Designated Biologist(s) shall relocate all life stages of CTS from the Project Area footprint in accordance with the CDFW-approved CTS Relocation Plan prepared in accordance with ITP Condition of Approval 8.1 above. Only approved Designated Biologist(s) are authorized to capture and handle CTS.

- 8.3. Small Mammal Burrow Surveys and Excavation. Prior to starting Covered Activities within each Work Area, the Designated Biologist shall survey each Work Area to be disturbed for the presence of small mammal burrows. All small mammal burrows that cannot be fully avoided by at least 50 feet shall be fully excavated by hand. The Designated Biologist shall relocate any live CTS discovered during burrow excavation in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1 above.
- 8.4. California Tiger Salamander Exclusion Fencing. To prevent CTS migrating from the HM lands into the Project Area and from potentially falling into the open active mine pit, permanent CTS exclusion fencing shall be installed along the northern border of the Project Area and around the mine and processing area. Fencing location, material, and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fence shall be installed after all small mammal burrows inside the planned fence zone are hand excavated by the Designated Biologist in accordance with Condition of Approval 8.3 above to prevent entrapment of CTS within the Work Area. The exclusion fence shall be equipped with one-way exits to avoid entrapment of CTS and other amphibians or reptiles. The Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be hand excavated by the Designated Biologist prior to commencing trenching activities as described in ITP Condition of Approval 8.3 above.
- 8.5. California Tiger Salamander in Project Area. If any CTS are found in the Project Area during Covered Activities, all work that could potentially harm the CTS shall stop immediately until the Designated Biologist(s) can relocate the CTS following the CDFW-approved CTS Relocation Plan specified in ITP Condition of Approval 8.1. Relocation areas shall be identified by the Designated Biologist(s) prior to the start of Covered Activities, and are subject to CDFW approval in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1 above.
- 8.6. Wetland Development Plan. The Permittee shall prepare and submit to CDFW a wetland development plan (Plan) for review and written approval prior to

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starting any CTS breeding pond creation or enhancement activities on the HM lands. The creation and enhancement activities will occur within a maximum 0.36-acre footprint. Potential CTS burrows shall be avoided by at least 50 feet during all wetland creation or enhancement activities within the HM lands to prevent the collapse of the burrow openings, the burrow system, or otherwise entombing or crushing CTS. If burrows cannot be avoided, then they shall be hand excavated in accordance with ITP Condition of Approval 8.3 and any CTS uncovered during burrow excavation shall be captured and relocated in accordance with the CDFW-approved Relocation Plan as described in ITP Condition of Approval 8.1 above.

- 8.7. California Tiger Salamander Reporting. All CTS captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the animal; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the California Natural Diversity Database (CNDDB) as per ITP Condition of Approval 7.6. This information should also be included in the Quarterly and Annual Compliance Reports.
- 8.8. Rain Forecast. The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, topsoil and overburden removal, grading, compacting, blasting, and excavation) has yet to occur until no further rain is forecast. Work may continue 24 hours after the rain ceases and there is no precipitation in the 72-hour forecast. If work must continue when rain is forecast, a Designated Biologist shall survey each Work Area construction footprint before construction begins each day that rain is forecast to capture and relocate any CTS that are discovered during the surveys. Work Areas that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events.
- 8.9. Night Work. Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast.

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- 8.10. Seasonal Hauling Restrictions. Hauling of mining materials shall be prohibited along Road 209 during the period of December 1 through February 28 each year beginning 30 minutes before sunset and ending 30 minutes after sunrise.
- 8.11. Soil Stockpiles. Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding pools or into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall prepare an Erosion Control Plan that shall include, but not be limited to, planned proximity of soil stockpiles to waterways, description of stockpile height, description of erosion control methods and materials, and information to support efficacy of erosion control methods and materials. The Permittee shall submit the Erosion Control Plan to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Erosion Control Plan is approved in writing by CDFW.
- 8.12. Fieldwork Code of Practice. Permittee shall follow the fieldwork code of practice developed by the Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2) at all times to ensure that disease is not conveyed between work sites by the Designated Biologist(s). The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. The Designated Biologist will ensure that all traces of the disinfectant are removed before entering the next aquatic habitat.
- 8.13. Open Trenches. The Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Designated Biologist shall oversee the covering of all excavated, steep-walled holes or trenches of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning, mid-day, the end of each day (including weekends and any other non-work days), and immediately before holes, sumps, or trenches are back-filled, the Designated Biologist shall thoroughly inspect them for Covered Species. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist immediately. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are between two and eight feet deep shall be covered when

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workers or equipment are not actively working in the excavation or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist shall capture and relocate the Covered Species as per the CTS Relocation Plan described in ITP Condition of Approval 8.1 above. The Designated Representative shall contact the CDFW's Regional Representative and the United States Fish and Wildlife Service Sacramento Office within one working day if an injured Covered Species is discovered at any time.

- 8.14. Equipment Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Project Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved relocation plan required in ITP Condition of Approval 8.1.
- 8.15. Materials Inspection. Workers shall thoroughly inspect all construction pipe, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the pipe is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure before moving and utilizing the structure.
- 8.16. Covered Species Injury. If a Covered Species is injured as a result of Covered Activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats amphibians. Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.

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9. **Habitat Management Land Acquisition:**

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

To meet this requirement, the Permittee shall provide for both the permanent protection and management of 272 acres of HM lands located immediately north of the Project Area that provide potential breeding opportunities in the form of an existing stockpond and grassland upland refugia habitat for CTS pursuant to Condition of Approval 9.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or by September 29, 2034, if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

9.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$4,400.00/acre for 272 acres: **\$1,196,800.00**. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 below, estimated at **\$53,238.79**;
- 9.1.3. Interim management period funding as described in Condition of Approval 9.2.6 below, estimated at **\$106,477.58**;
- 9.1.4. Long-term management funding as described in Condition of Approval 9.3 below, estimated at **\$2,478.55/acre** for 272 acres: **\$674,165.60**. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management.
- 9.1.5. 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

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overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.4, estimated at **\$12,000.00**.

- 9.2. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:
 - 9.2.1. Fee Title. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.
 - 9.2.2. 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 does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
 - 9.2.3. 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;
 - 9.2.4. HM Lands Documentation. Provide a recent preliminary title report, Phase 1 Environmental Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW,

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and if applicable, the Wildlife Conservation Board and the Department of General Services;

- 9.2.5. 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.
- 9.2.6. 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 optional management plan template at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.2.7. 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, and reporting.

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

- 9.3. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.2.6. 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.

- 9.3.1. 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

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required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).

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

9.3.2. Calculate the Endowment 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 obtain written approval from CDFW of the endowment assessment before transferring funds to the Endowment Manager.

9.3.2.1. 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.

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

9.3.2.2.1. 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.

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

9.3.2.2.3. 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.

9.3.3. 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.

9.3.4. 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.

9.4. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative

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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.

10. Performance Security

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

- 10.1. Security Amount. The Security shall be in the amount of **\$2,042,681.97**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. 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.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, 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 escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied as evidenced by:
 - Written documentation of the acquisition of the HM lands;
 - Copies of all executed and recorded conservation easements;

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- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than September 29, 2034. 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.

X. Amendment:

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

XI. Stop-Work Order:

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

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

XII. Compliance with Other Laws:

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

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XIII. Notices:

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2012-005-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

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

and a copy to:

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

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

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

XIV. Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Madera County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Final Revised Environmental Impact Report for Madera Quarry, (State Clearinghouse No. 2003102128)

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dated March 2010, that Madera County certified for the Madera Quarry Project on June 16, 2010. At the time the lead agency certified the Environmental Impact Report (EIR) and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

Madera County's Final Revised EIR assumed presence of the Covered Species although, at the time of the Final Revised EIR's certification, the California Fish & Game Commission's (Commission) decision to list California Tiger Salamander was not in effect. Notably, on August 19, 2010, less than a month after the County's June 15, 2010 certification of the Final Revised EIR, the Commission's decision to list CTS pursuant to CESA became effective.

CDFW acting as a Responsible Agency (as defined in the CEQA Guidelines section 15381) prepared and approved CEQA Findings and Addendum dated May 14, 2013 to the Lead Agency's Final Revised EIR dated March 2010. Mitigation measures described in the Final Revised EIR and further considered in the May 14, 2013 CEQA Findings and Addendum are conditions necessary for the issuance of this ITP.

This ITP, along with CDFW's related CEQA Findings and Addendum provide evidence of CDFW's consideration of the lead agency's EIR, and its own Addendum 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 its own Addendum, 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, the Final Revised EIR for Madera Quarry, the Addendum to the Final Revised EIR, the results of a site visit 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;

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- (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) 272 acres of permanent compensatory habitat that is adjacent to and of equal value to the Covered Species as the habitat being destroyed by the Project; (2) enhancement of an existing potential breeding pond, and creation of a new potential breeding pond within the HM lands to enhance their value as Covered Species breeding habitat; (3) establishment of avoidance zones to minimize impacts to the Covered Species; (4) worker education; and (5) Quarterly and Annual 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, along with the minimization, monitoring, reporting, and funding requirements of this ITP, CDFW determined that the impacts of the taking caused by the Project will be minimized and fully mitigated.
- (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.

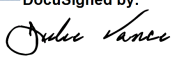
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Attachments:

FIGURE 1	Project Location Map
FIGURE 2	Project Site Map
FIGURE 3	Pond Enhancement and Creation
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Minor Amendment No. 3 with Track Changes

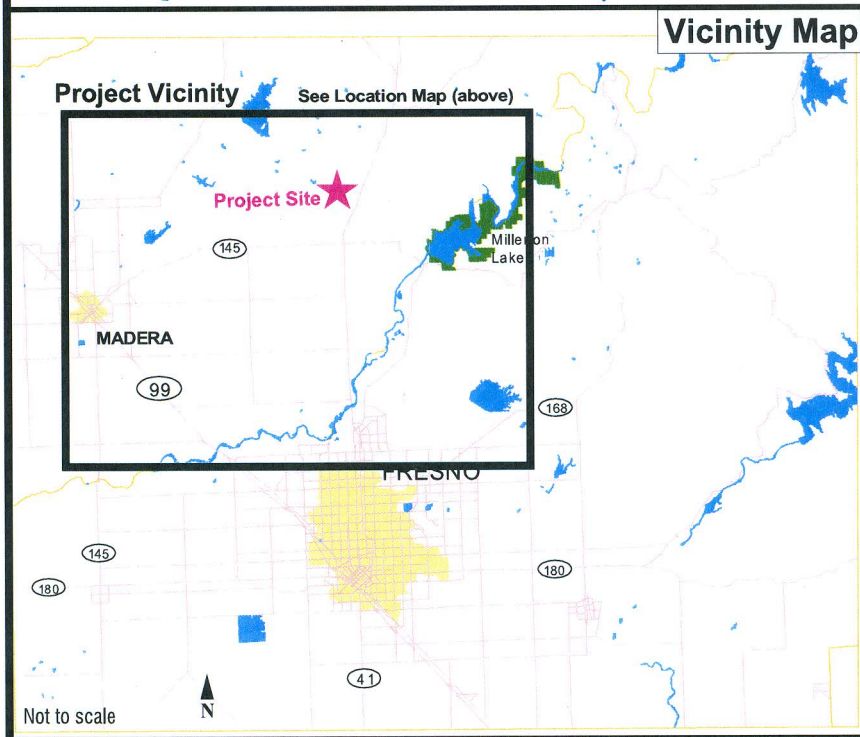
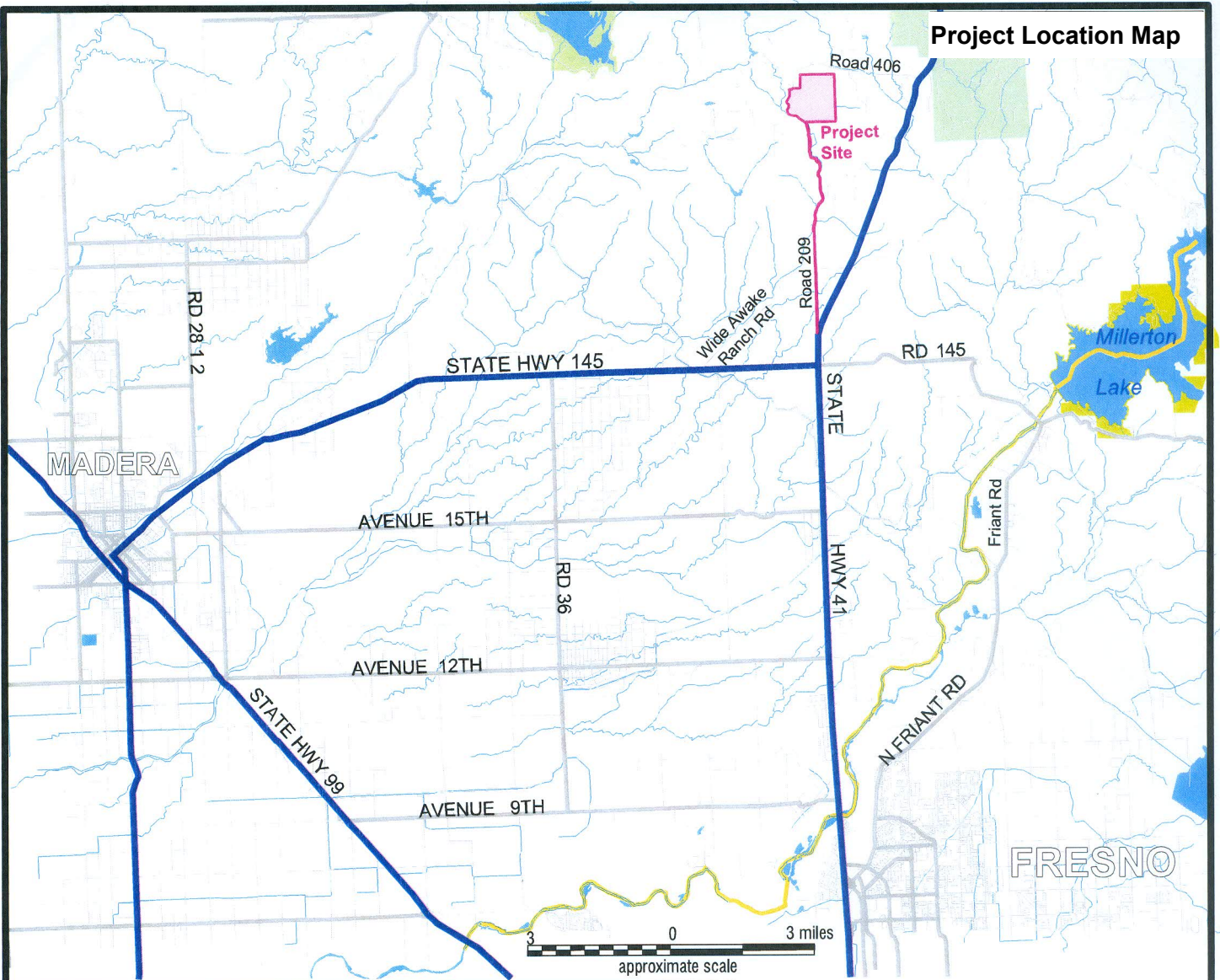
ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

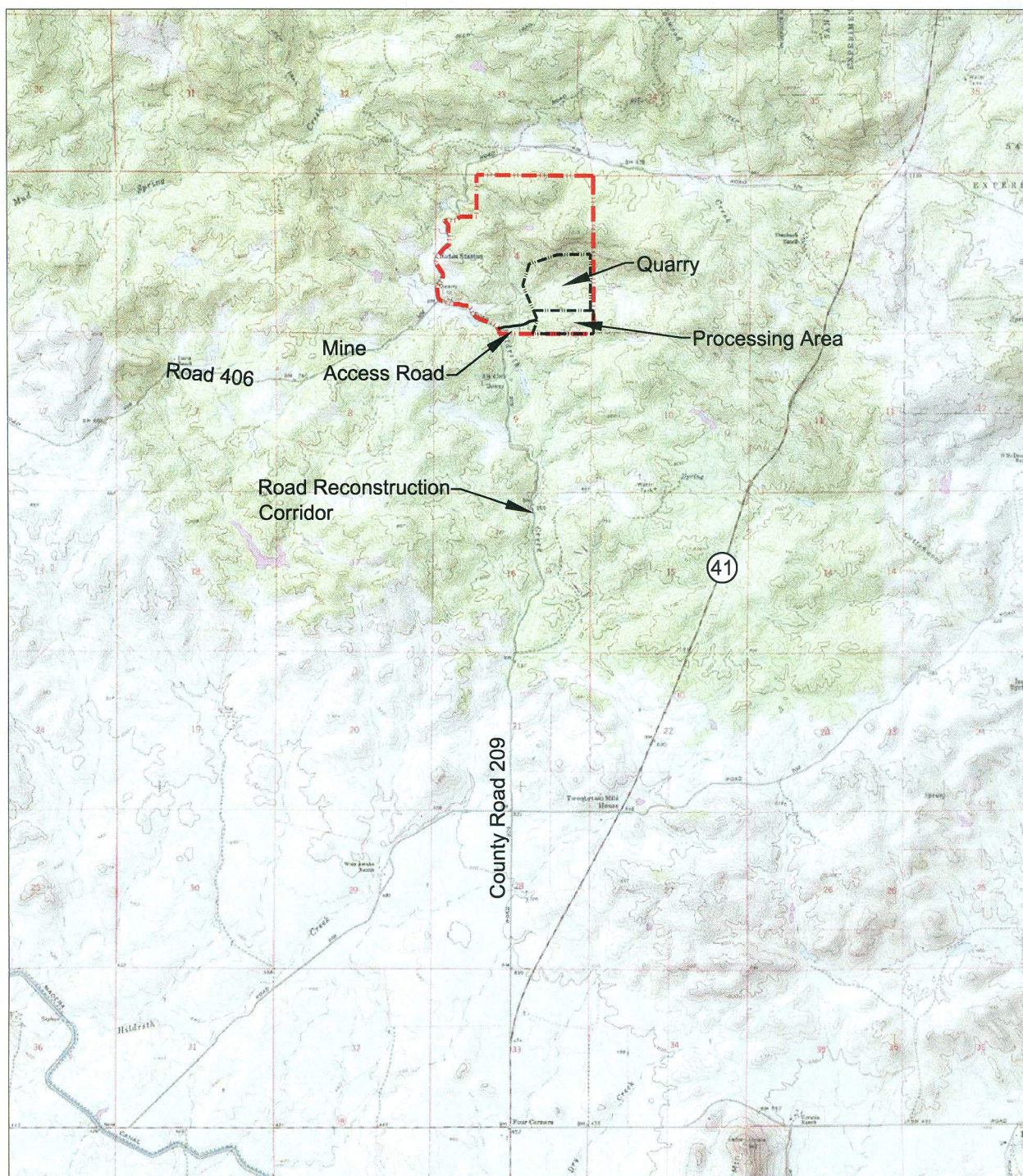
on 9/16/2026

DocuSigned by:

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Julie A. Vance, Regional Manager
CENTRAL REGION

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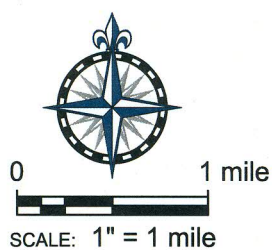




Source: TOPO USA

T. 10 South, R. 20 East, Mt. Diablo B&M

- - - - - Madera Ranch Property Boundary
- - - - - Proposed Mining Operation and Processing Area



RESOURCE DESIGN TECHNOLOGY, INC.

Figure 2: Site Location
DRAFT REVISED ENVIRONMENTAL IMPACT REPORT
MADERA QUARRY PROJECT

Project Location Map

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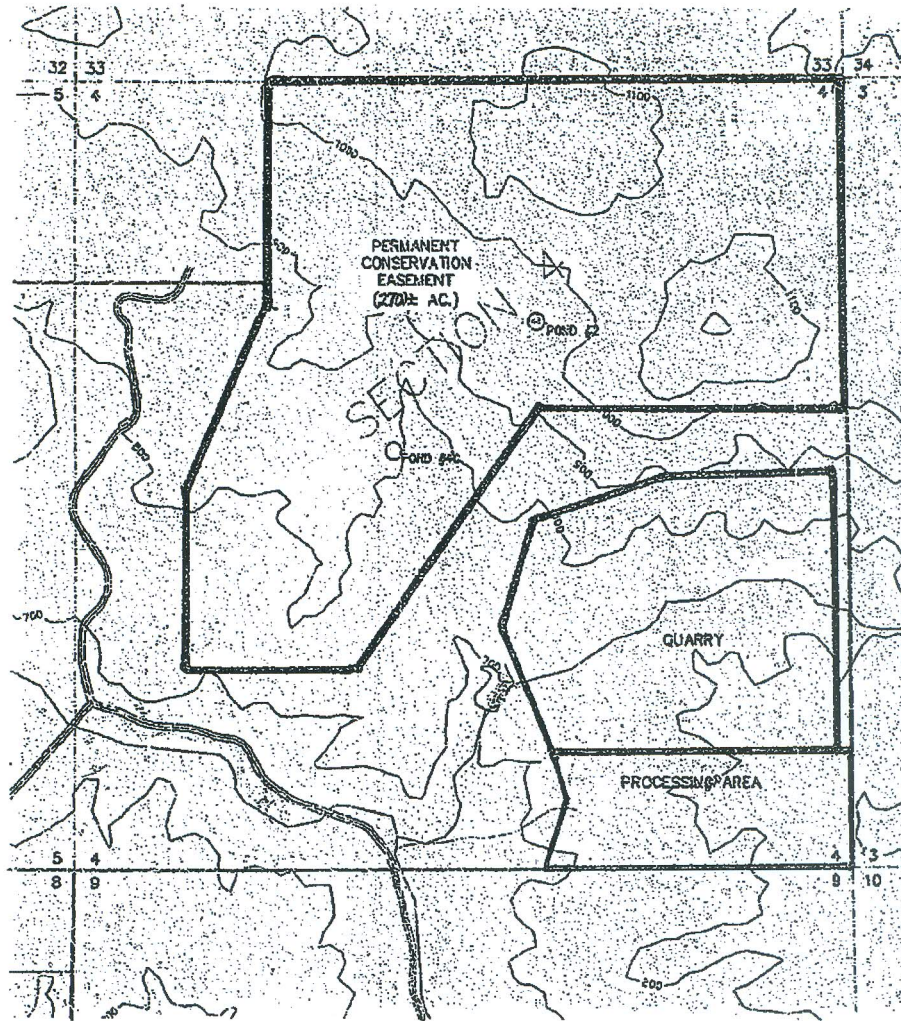


EXHIBIT C

Attachment 1

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

**AMENDED INCIDENTAL TAKE PERMIT NO. 2081-2012-005-04
(Amendment No. 3)**

PERMITTEE: Madera Quarry, Inc.

PROJECT: Madera Quarry

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology and natural history 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 in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
3	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before their performing work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. The training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	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, shall not allow water to form puddles, and shall only water during daylight hours (30 minutes after sunrise and stop 30 minutes before sunset).	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	Before starting Covered Activities in each work area (Road 209 alignment, Road 209 and State Highway 41 intersection, processing area, mining areas, and pond enhancement/creation areas)(Work Areas), 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 each Work Area.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	The Designated Representative shall notify CDFW before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	The Designated Biologist shall prepare a California tiger salamander (CTS) Relocation Plan that shall include, but not be limited to, identification of capture methods, handling methods, relocation methods, identification of relocation areas, and identification of a wildlife rehabilitation center or veterinary facility and submit it to CDFW for written approval prior to the start of Covered Activities.	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities	Designated Biologist	
10	The Designated Biologist shall survey breeding sites and upland habitat within each Work Area. If any life stages of CTS are found, the Designated Biologist(s) shall relocate all life stages of CTS from the Project Area footprint in accordance with the CDFW-approved CTS Relocation Plan prepared in accordance with ITP Condition of Approval 8.1.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities in each Work Area / Entire Project	Designated Biologist	
11	The Designated Biologist shall survey each Work Area to be disturbed for the presence of small mammal burrows. All small mammal burrows that cannot be fully avoided by at least 50 feet shall be fully excavated by hand. The Designated Biologist shall relocate any live CTS discovered during burrow excavation in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities in each Work Area / Entire Project	Designated Biologist	
12	The Designated Biologist shall install permanent CTS exclusion fencing along the northern border of the Project Area and around the mine and processing area. Fencing location, material, and design shall be reviewed and approved in writing by CDFW before exclusion fencing installation. The exclusion fencing shall be installed after all small mammal burrows inside the planned fence zone are hand excavated by the Designated Biologist in accordance with Condition of Approval 8.3 to prevent entrapment of CTS with the Work Areas. The exclusion fence shall be equipped with one-way exits to avoid entrapment of CTS and other amphibians or reptiles. The Permittee shall also avoid small mammal burrows to the maximum extent possible during the installation of the exclusion fencing. When small mammal burrows cannot be avoided by a 50-foot no-disturbance buffer from the fence line, they shall be hand excavated by the Designated Biologist prior to commencing trenching activities as described in ITP Condition of Approval 8.3	ITP Condition # 8.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	Permittee shall provide for the permanent protection and management of 272 acres of Habitat Management (HM) lands by completing the transfer of fee title to a CDFW-approved public agency or the recordation of a conservation easement pursuant to Government Code 65965, and calculation and deposit of the management funds (Condition of Approval 9.3). Permanent protection and perpetual management of compensatory habitat must be complete before starting Covered Activities or by September 29, 2034, if Security is provided pursuant to Condition 10.	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
14	CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows: i) Land acquisition costs for HM lands identified in Condition of Approval 9, estimated at \$4,400.00/acre for 272 acres: \$1,196,800.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements; ii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 below, estimated at \$52,238.79; iii) Interim management period funding as described in Condition of Approval 9.2.6 below, estimated at \$106,477.58; iv) Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$2,478.55/acre for 272 acres: \$674,165.60. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management v) 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 9.4, estimated at \$12,000.00.	ITP Condition # 9.1	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
15	Permittee shall transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.	ITP Condition # 9.2.1	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
16	If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.	ITP Condition # 9.2.2	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
17	Permittee shall obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species.	ITP Condition #9.2.3	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
18	Permittee shall provide a recent preliminary title report, Phase 1 Environmental Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.	ITP Condition #9.2.4	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
19	Permittee shall designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.	ITP Condition #9.2.5	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
20	Permittee shall provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see optional management plan template at: https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.	ITP Condition # 9.2.6	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
21	Permittee shall provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, vegetation and invasive species management, and reporting. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement sub-account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition # 9.2.7	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
22	Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.2.6. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended. After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.	ITP Condition # 9.3	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	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).	ITP Conditions # 9.3.1	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
24	After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Fund 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 obtain written approval from CDFW of the endowment assessment before transferring funds to the Endowment Manager.	ITP Conditions # 9.3.2	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
25	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.	ITP Conditions # 9.3.2.1	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
26	Permittee shall include in the endowment assessment assumptions of the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: - A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. - The endowment shall be established assuming spending will not occur for the first three years after full funding. - 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.	ITP Conditions # 9.3.2.2	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
27	Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Conditions # 9.3.3	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
28	The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended. <u>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.</u> 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.	ITP Conditions # 9.3.4	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	
29	Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW related to issuance and monitoring of the ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM Lands to CDFW.	ITP Conditions # 9.4	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
30	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: <u>Security Amount</u>. The Security shall be in the amount of \$2,042,681.97. This amount is based on the cost estimates identified in Condition 9.1 above; <u>Security Form</u>. 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; <u>Security Timeline</u>. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first; <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW; <u>Security Transmittal</u>. If CDFW holds the Security, 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 escrow, irrevocable letter of credit, or other; <u>Security Drawing</u>. 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 the ITP; <u>Security Release</u>. 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; and - Timely submission of all required reports. Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than September 29, 2034. 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.	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or by September 29, 2034, if Security is provided)	Permittee	

DURING CONSTRUCTION

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	The Designated Biologist shall be on-site daily when vegetation removal, topsoil removal, overburden removal, other mass grading, or other initial ground-disturbing Covered Activities occur within each Work Area. 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 the 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, relocation efforts, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections a minimum of once quarterly within the Project Area during periods of inactivity and after initial clearing, grubbing, and grading (including topsoil and overburden removal) are completed.	ITP Condition # 7.3	Entire Project	Permittee	
32	The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative. At the time of the ITP's approval, the CDFW Regional Representative is Ruby Kwan (Ruby.Kwan@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@wildlife.ca.gov , and Headquarters CESA Program email is CESA@wildlife.ca.gov . CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.4	Entire Project	Permittee	
33	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 the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition 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 this 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; and (6) information about other Project impacts on the Covered Species. Permittee shall submit ASRs to CDFW's Regional Office, Regional Representative, and Headquarters CESA Program.	ITP Condition # 7.5	Entire Project	Permittee	
34	The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35	The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Entire Project	Permittee	
36	The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
37	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 6.8	Entire Project	Permittee	
38	Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.	ITP Condition # 6.9	Entire Project	Permittee	
39	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP among other reasons, if additional take of Covered Species will result from Project modification.	ITP Condition # 6.12	Entire Project	Permittee	
40	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 specifically provided for in Condition 6.11 of the ITP.	ITP Condition # 6.13	Entire Project	Permittee	
41	Permittee shall immediately stop work and following 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. Any hazardous materials stored on-site during construction or operation and maintenance (O&M) shall be the minimum necessary for Project implementation and shall be stored in contained areas that preclude exposure to wildlife.	ITP Condition # 6.14	Entire Project	Permittee	
42	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 the ITP.	ITP Condition # 6.15	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43	If any CTS are found in the Project Area during Covered Activities, all work that could potentially harm the CTS shall stop immediately until the Designated Biologist(s) can relocate the CTS following the CDFW-approved CTS Relocation Plan specified in ITP Condition of Approval 8.1. Relocation areas shall be identified by the Designated Biologist(s) prior to the start of Covered Activities, and are subject to CDFW approval in accordance with the CDFW-approved CTS Relocation Plan required in ITP Condition of Approval 8.1.	ITP Condition # 8.5	Entire Project	Permittee / Designated Biologist	
44	The Permittee shall prepare and submit to CDFW a wetland development plan (Plan) for review and written approval prior to starting any CTS breeding pond creation or enhancement activities on the HM lands. The creation and enhancement activities will occur within a maximum 0.36-acre footprint. Potential CTS burrows shall be avoided by at least 50 feet during all wetland creation or enhancement activities within the HM lands to prevent the collapse of the burrow openings, the burrow system, or otherwise entombing or crushing CTS. If burrows cannot be avoided, then they shall be hand excavated in accordance with ITP Condition of Approval 8.3 and any CTS uncovered during burrow excavation shall be captured and relocated in accordance with the CDFW-approved Relocation Plan as described in ITP Condition of Approval 8.1.	ITP Condition # 8.6	Entire Project	Permittee	
45	All CTS captures, relocations, and observations by the Designated Biologist(s) shall include the following documented information: the date, time, and location of each occurrence using Global Positioning System (GPS) technology; the name of the party that actually identified the animal; circumstances of the incident; the general condition and health of each individual; any diagnostic markings, sex, age (juvenile or adult); actions undertaken; and habitat description. Permittee shall also submit this information to the California Natural Diversity Database (CNDDDB) as per ITP Condition of Approval 7.6. This information should also be included in the Quarterly and Annual Compliance Reports.	ITP Condition # 8.7	Entire Project	Permittee / Designated Biologist	
46	The Designated Biologist and Permittee shall monitor the National Weather Service 72-hour forecast for the Project Area. If a 70 percent or greater chance of rainfall is predicted within 72 hours, Permittee shall cease all Covered Activities in all Work Areas where initial ground disturbance (vegetation removal, topsoil and overburden removal, grading, compacting, blasting, and excavation) has yet to occur until no further rain is forecast. Work may continue 24 hours after the rain ceases and there is no precipitation in the 72-hour forecast. If work must continue when rain is forecast, a Designated Biologist shall survey each Work Area construction footprint before construction begins each day that rain is forecast to capture and relocate any CTS that are discovered during the surveys. Work Areas that have already been previously disturbed within the active portions of the mine may continue Covered Activities during rainfall events.	ITP Condition # 8.8	Entire Project	Designated Biologist	
47	Permittee shall strictly prohibit any work that may occur beginning 30 minutes before sunset and ending 30 minutes after sunrise when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until no further rain is forecast.	ITP Condition # 8.9	Entire Project	Permittee	
48	Permittee shall prohibit hauling of mining materials along Road 209 during the period of December 1 through February 28 each year beginning 30 minutes before sunset and ending 30 minutes after sunrise.	ITP Condition # 8.10	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
49	Permittee shall ensure that soil stockpiles are placed where soil will not pass into potential CTS breeding pools or into any other "Waters of the State," in accordance with Fish and Game Code 5650. Permittee shall appropriately protect stockpiles to prevent soil erosion. Permittee shall prepare an Erosion Control Plan that shall include, but not be limited to, planned proximity of soil stockpiles to waterways, description of stockpile height, description of erosion control methods and materials, and information to support efficacy of erosion control methods and materials. The Permittee shall submit the Erosion Control Plan to CDFW for written approval prior to the start of Covered Activities. Covered Activities within the Project Area may not proceed until the Erosion Control Plan is approved in writing by CDFW.	ITP Condition # 8.11	Entire Project	Permittee	
50	Permittee shall follow the fieldwork code of practice developed by the, Declining Amphibian Populations Task Force Fieldwork Code of Practice (see Attachment 2), at all times to ensure that disease is not conveyed between work sites by the Designated Biologist(s). The Designated Biologist(s) may substitute a bleach solution (0.5 to 1.0 cup of bleach to 1.0 gallon of water) for the ethanol solution. The Designated Biologist will ensure that all traces of the disinfectant are removed before entering the next aquatic habitat.	ITP Condition # 8.12	Entire Project	Permittee	
51	The Designated Biologist shall inspect all open holes, sumps, and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Designated Biologist shall oversee the covering of all excavated, steep-walled holes or trenches of any depth with barrier material (such as hardware cloth) at the close of each working day such that animals are unable to dig or squeeze under the barrier and become entrapped. The outer two feet of excavation cover shall conform to solid ground so that gaps do not occur between the cover and the ground and secured with soil staples or similar means to prevent gaps. Each morning, mid-day, the end of each day (including weekends and any other non-work days), and immediately before holes, sumps, or trenches are back-filled, the Designated Biologist shall thoroughly inspect them for Covered Species. If any worker discovers that Covered Species have become trapped, Permittee shall cease all Covered Activities in the vicinity and notify the Designated Biologist immediately. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are between two and eight feet deep shall be covered when workers or equipment are not actively working in the excavation or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or the Designated Biologist shall capture and relocate the Covered Species as per the CTS Relocation Plan described in ITP Condition of Approval 8.1. The Designated Representative shall contact the CDFW's Regional Representative and the United States Fish and Wildlife Service Sacramento Office within one working day if an injured Covered Species is discovered at any time.	ITP Condition # 8.13	Entire Project	Permittee	
52	Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall notify the Designated Biologist and wait for the Covered Species to move unimpeded to a safe location. Alternatively, especially if the animal is inside the fenced Project Area, the Designated Biologist shall move the Covered Species out of harm's way outside of the Project Area and in compliance with the approved relocation plan required in ITP Condition of Approval 8.1.	ITP Condition # 8.14	Entire Project	Workers / Designated Biologist	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
53	Workers shall thoroughly inspect all construction pipe, culverts, or other similar structures with a diameter of one inch or greater that are stored for one or more overnight periods for the Covered Species before the pipe is subsequently moved, buried, or capped. If during inspection, a Covered Species is discovered inside a pipe, culvert, or similar structure, workers shall notify the Designated Biologist and allow the animal to safely escape that section of the structure before moving and utilizing the structure.	ITP Condition # 8.15	Entire Project	Workers / Designated Biologist	
54	If a Covered Species is injured as a result of Covered Activities, the Designated Biologist shall immediately take it to a CDFW-approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats amphibians. Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Permittee shall notify CDFW of the injury to the Covered Species immediately unless the incident occurs outside of normal business hours. In that event, CDFW shall be notified no later than the next business day. Notification to CDFW shall be via telephone or e-mail, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.	ITP Condition # 8.16	Entire Project	Designated Biologist	
55	Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4014 and by email to the CDFW's Regional Office and the Regional Representative. The initial notification to CDFW shall include information regarding the location, species, number of animals taken, 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, and any other pertinent information.	ITP Condition # 7.8	Entire Project	Permittee	
56	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	CDFW	
POST-CONSTRUCTION					
57	Upon completion of Covered Activities in each Work Area, Permittee shall remove from each Work Area and properly dispose of all temporary fill, stockpiled mined materials, and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.16	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
58	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 Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.7	Post-construction and after completion of mitigation	Permittee	

Attachment 2

The Declining Amphibian Task Force Fieldwork Code of Practice

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

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

Attachment 3

[Financial institution letterhead]

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

Issue Date: **[date]**

Beneficiary:

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

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

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

Dear Sirs:

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

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

6. The Certificate shall be completed and signed by an Authorized Representative of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.
12. An Authorized Representative shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Manager of CDFW's Habitat Conservation Planning Branch.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 960 Riverside Parkway, Suite 90, West

Sacramento, CA 95605, Attn: HCPB Mitigation Funds; and (ii) for the Applicant:
[name and address of applicant].

15. This Credit may not be transferred.
16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the laws of the State of California.
17. This Credit shall, if not canceled, expire on **[expiration date]**, or any extended expiration date.
18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.
19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____
Name: _____
Title: _____
Telephone: _____

ATTACHMENT A

CERTIFICATE FOR DRAWING

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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

ATTACHMENT B

CERTIFICATE FOR CANCELLATION

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

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

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

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

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

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

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

Attachment 4

~~Reissued~~Amended Incidental Take Permit No. 2081-2012-005-04
(Amendment No. 3)

MADERA QUARRY

1. The Authority section has been amended as follows:

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, ~~however,~~ may authorize the take of any such species by permit ~~if pursuant to~~ the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) ~~are met.~~ (See also Cal. Code Regs., tit. 14, § 783.4).

Permittee: ~~Chowchilla Asphalt~~Madera Quarry, Inc.
Principal Officer: Jaxon 'Jack' Baker, President
Contact Person: Jaxon 'Jack' Baker, 530-515-6683
~~Kim Enderson~~Jon Baker, 530-241-21122277-9095
Mailing Address: P.O. Box 994248
Redding, California 96099

2. An Amended ITP³ Background section has been added as follows:

On May 17, 2013, CDFW issued the original ITP No. 2081-2012-005-04 to Shimmick-Baker, LLC (Shimmick-Baker), authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the Madera Quarry project in Madera County, California (Project). The Project as described in the ITP as originally issued by CDFW includes development and operation of a 78-acre hardrock quarry and 28-acre processing plant; and approximately 14.6 acres of impacts associated with alignment and widening of Road 209 and improvements at the intersection of Road 209 and State Route 41. The Covered Activities were expected to result in the permanent loss of 135.7 acres of upland grassland habitat for the Covered Species. These impacts were to be mitigated through protection of 270 acres of Habitat Management (HM) lands to offset the impacts to non-native grassland and vernal pool habitat. To meet this requirement, Shimmick-Baker secured the ITP under an Irrevocable Standby Letter of Credit (LOC) in the amount of \$2,027,750.40 (IS0307747U). Shimmick-Baker also committed to provide for both

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

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

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

the permanent protection and perpetual management of a minimum of 270 acres of HM lands, located immediately north of the Project that provide potential breeding opportunities in the form of an existing stockpond and grassland upland refugia habitat for the Covered Species, within 18 months of ITP issuance.

On January 2, 2018, CDFW notified Shimmick-Baker of several instances of non-compliance with the ITP that CDFW was made aware of through the required Quarterly Compliance Reports. Through these reports, CDFW became aware of the following: (1) new ground-disturbing activity occurring prior to Covered Species and/or small mammal burrow surveys and excavation (inconsistent with ITP Conditions of Approval (COA) 8.2 and 8.3); (2) erosion of soil stockpiles into on-site streams and swales (inconsistent with COA 8.11); and (3) lack of protection of compensatory habitat within 18 months of the effective date of the original ITP (inconsistent with COAs 9 and 10). In response to the Notice of Non-Compliance, in a series of letters spanning from January 24, 2018, to June 25, 2018, Shimmick-Baker requested an amendment to the ITP. On January 31, 2018, Shimmick-Baker requested to amend the ITP by letter (Major Amendment No. 1).

On April 13, 2019, CDFW issued Major Amendment No. 1. Major Amendment No. 1 updated Contact Person information; increased the required HM lands to 272 acres to remediate and compensate for impacts to Covered Species upland habitat and on-site streams and swales under *Project Description*; added additional 0.90 acres of habitat disturbance occurring in the absence of implementing take minimization measures under *Impacts of the Taking on Covered Species*; added a requirement for Shimmick-Baker to prepare and obtain CDFW's approval of an Erosion Control Plan under COA 8.11 (Soil Stockpiles); increased the required HM lands to 272 acres and extended the timeline to provide HM lands to 76 months under COA 9 (Habitat Management Land Acquisition); revised *Cost Estimates* for 272 acres of HM lands; revised the total Security Amount and extended the timeline to provide HM lands to 76 months under COA 10 (Performance Security); and updated contact information for CDFW regional staff. These changes increased the amount of impacts on Covered Species habitat as a result of the Project and, therefore, increased the amount of HM lands required to compensate for the increase in impacts on the Covered Species. On May 1, 2019, Shimmick-Baker secured the ITP under an amended LOC in the amount of \$2,042,681.97 (IS0307747U).

On July 23, 2019, a meeting was held at CDFW regarding California Environmental Quality Act (CEQA) compliance, issuance of a Lake and Streambed Alteration Agreement (LSAA), and Covered Species breeding habitat improvements on the HM lands. The meeting discussed a discrepancy with permanent impacts to aquatic habitat features on the HM lands between the ITP, as amended, and the LSAA. An application for an LSAA submitted to CDFW regarding the enhancement of an existing stockpond to improve potential breeding habitat quality for Covered Species demonstrated that the drawdown would cause a reduction of the existing stockpond surface area from 0.5 acres to 0.2 acres, an impact of

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0.3 acres. On September 11, 2019, CDFW received a request from Shimmick-Baker to amend the ITP. A representative from Shimmick-Baker subsequently contacted CDFW by phone to request an additional extension of the deadline to complete the permanent protection of HM lands (Major Amendment No. 2).

On December 12, 2019, CDFW issued Major Amendment No. 2. Major Amendment No. 2 added 0.3 acres of impacts when a 0.5-acre stockpond on the HM lands is reduced to 0.2 acres to enhance breeding habitat for the Covered Species under *Project Description*; revised the *Impacts of the Taking on Covered Species* to state 0.26 acres of seasonal breeding ponds to be provided on HM lands, permanent habitat loss of 135.4 acres instead of 135.7 acres as a result of the Project, permanent loss of 0.24 acres of breeding habitat on the proposed HM lands, and vernal pool creation on 0.06 acres and a reduction of a stockpond by 0.3 acres; revised COA 8.6 (Wetland Development Plan) to refer to a 0.36-acre footprint where habitat creation and enhancement activities will occur; extended the timeline to provide HM lands to 82 months under COA 9 (Habitat Management Land Acquisition) and COA 10 (Performance Security); and updated contact information for CDFW regional staff. These changes increased the amount of impacts on Covered Species habitat as a result of the Project.

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

On January 5, 2022, legal counsel representing Shimmick-Baker submitted a letter to CDFW via email and registered U.S. mail requesting CDFW's consent to the assignment and transfer of the ITP to Chowchilla Asphalt Inc. because Chowchilla Asphalt Inc. is the new record owner of property on which Madera Quarry is located and intends to assume the benefits and burdens of the ITP. In addition, Shimmick-Baker requested the LOC by Wells Fargo Bank (IS0307747U)⁴ placed at the request of Shimmick-Baker be replaced by a LOC for \$2,042,681.97 dated December 20, 2021, by Cornerstone Community Bank (No. 2021001) placed at the request of Chowchilla Asphalt Inc. After a series of email and phone correspondence from January 20, 2022, to February 28, 2022, between CDFW and Shimmick-Baker, CDFW determined that the ITP can be transferred to Chowchilla Asphalt, Inc. (Permittee). On June 17, 2022, CDFW reissued the ITP to Chowchilla Asphalt, Inc. and to the ITP, added the word "Reissued" where appropriate; replaced the Permittee name and contact information to that of Chowchilla Asphalt, Inc.; added a sentence to state that the ITP is being reissued to replace Shimmick-Baker, LLC with Chowchilla Asphalt, Inc. under

⁴On June 8, 2021, CDFW submitted a letter and Certificate for Drawing to Wells Fargo Bank N.A. demanding payment on the Irrevocable Standby Letter of Credit (IS0307747U). The LOC IS0307747U was cashed, and Wells Fargo wire transferred the funds to CDFW in the amount of \$2,042,681.97 on June 14, 2021.

Effective Date and Expiration Date of this ITP; and to incorporate the changes detailed in Major Amendment No. 1 and Major Amendment No. 2.

On September 19, 2023, CDFW received a letter from the Permittee advising CDFW that Chowchilla Asphalt, Inc. changed its name to Madera Quarry, Inc.

On July 13, 2026, CDFW met with the Permittee regarding the status of providing 272 acres of HM lands. The deadline for completing the HM lands requirement in accordance with the ITP, as amended, is October 23, 2026. The Permittee informed CDFW that they have been waiting since November 5, 2024, for the U.S. Army Corps of Engineers (USACE) to respond to a request from the Permittee to modify the Project's Department of the Army (DA) permit (SPK-2005-00673), aspects of which pertain to the HM lands requirement. With the request to USACE pending, the Permittee is unable to move forward with protection of the HM lands, and there is no indication of when USACE would be able to review the Permittee's request to modify the Project's DA permit. Accordingly, the Permittee is unable to meet the October 23, 2026, deadline to complete permanent protection of HM lands. CDFW requested the Permittee submit an application to amend the ITP to extend the timeline to provide HM lands to remain in compliance with the ITP. CDFW also advised the Permittee that the ITP would need to be amended to change the HM lands requirement to an alternative approach that was proposed by Permittee and conceptually agreed to by CDFW in conversations between the Permittee and CDFW. The Permittee proposes to increase the extent of the HM lands from 272 acres to 408 acres while removing all requirements to create and enhance ponds on the HM lands.

On July 28, 2026, CDFW received an application from the Permittee requesting a third amendment to the ITP and on July 29, 2026, CDFW received the corresponding application fee. The Permittee requested a timeline extension to complete the permanent protection of HM lands by an additional 96 months. In addition, the Permittee requested updates to 'Contact Person' and change of the Permittee's name to Madera Quarry, Inc. The Permittee did not request to amend the ITP to change the HM lands requirement at this time and would prefer to wait until the USACE modifies the Project's DA permit and approves of the Permittee's proposed 408.18 acres HM lands. The Permittee's request is only to extend the timeline to complete the permanent protection HM lands which will remain at 272 acres as required in the ITP as amended. CDFW finds that this amendment (Minor Amendment No. 3) is a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4). Issuance of Minor Amendment No. 3 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Minor Amendment No. 3 increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

CDFW now reissues this ITP including the revised provisions in Major Amendment No. 1, Major Amendment No. 2, and Minor Amendment No. 3 (collectively, the Amended ITP). The

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MADERA QUARRY, INC.
MADERA QUARRY

Amended ITP includes all the operative provisions as of the issue date of this Amended ITP. The previous Proposed Lands for Acquisition Form, Habitat Management Lands Checklist, and Mitigation Payment Transmittal Form attachments to the ITP were removed because those documents became obsolete following updates to CDFW's incidental take permit and HM lands processes since the original ITP and prior amendments to the ITP were issued. The previous "Amendment No. 1" and "Amendment No. 2" attachments to the ITP were removed because Major Amendment No. 1 and Major Amendment No. 2 have been incorporated into this Amended ITP. Attachment 4 to this Amended ITP shows the specific red-lined changes made to the ITP as a result of Minor Amendment No. 3.

3. The Effective Date and Expiration Date of this ITP section has been amended as follows:

The original ITP's effective date was May 17, 2013. This remains the effective date for the original take authorization. This Amended ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **February 28, 2066**.

* * *

4. The Project Description section has been amended as follows:

* * *

The Project will also set aside 272 acres of Habitat Management (HM) lands to offset the impacts to non-native grassland and vernal pool habitat. Within these Habitat Management (HM) lands, the Project proposes to fulfill its wetland creation and enhancement mitigation. This will be accomplished in accordance with a CDFW-approved Wetland Development Plan (Plan). This Plan will include the methodology for the creation of one vernal pool and the enhancement of an existing stockpond to function as a seasonal pond located on the HM lands and will result in a maximum of 0.06-acres of grassland habitat impacts (Figure 3) and a maximum 0.3 ~~acres~~ acres of impacts to the area of the stockpond, reducing the size of pond to 0.2 acres.

5. The Covered Species Subject to Take Authorization Provided by this ITP section has been amended as follows:

This ITP covers the following species:

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MADERA QUARRY, INC.
MADERA QUARRY

Name

CESA Status⁵

California tiger salamander (*Ambystoma californiense*)

Threatened⁶

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

* * *

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

* * *

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

* * *

7.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly 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. Quarterly Compliance Reports shall be submitted to CDFW’s Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW’s Regional Representative. At the time of this ITP’s approval, the CDFW Regional Representative is Lisa Gymer (lisa.gymer@wildlife.ca.gov); Ruby Kwan (Ruby.Kwan@wildlife.ca.gov), the Regional Office CESA Program email is R4CESA@wildlife.ca.gov, and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

7.5. 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

⁵Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

⁶See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(3)(G).

continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports 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. Permittee shall submit ASRs to CDFW's Regional Office, Regional Representative, and Headquarters CESA Program.

- 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 calling the Regional Office at (559) 243-4005, and by email to the CDFW's Regional Office and the Regional Representative. The initial notification to CDFW shall include information regarding the location, species, number of animals taken 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.

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 with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall provide for both the permanent protection and management of 272 acres of HM lands located immediately north of the Project Area that provide potential breeding opportunities in the form of an existing stockpond and grassland upland refugia habitat for CTS pursuant to Condition of Approval 9.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below. Permanent protection and funding for perpetual

management of compensatory habitat must be complete before starting Covered Activities or ~~within 82 months of the effective date of this ITP~~ by September 29, 2034, if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

* * *

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

~~9.2.1. Fee Title/Conservation Easement~~. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, [...].

~~9.2.1.~~ 9.2.2. Conservation Easement. If CDFW does not hold fee title to the HM lands, [...]. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government code sections 65966(j) and 65967(e); Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.

~~9.2.2.~~ 9.2.3. 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, ~~a formal Proposed Lands for Acquisition Form (see Attachment 3B)~~ documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

~~9.2.3.~~ 9.2.4. HM Lands Documentation. Provide a recent preliminary title report, ~~initial hazardous materials survey report~~ Phase 1 Environmental Assessment, and other necessary documents (~~see Attachment 3A~~ please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

~~9.2.4.~~ 9.2.5. Land Manager. Designate both an interim and long-term land manager approved by CDFW. [...]. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the

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conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.

9.2.5-9.2.6. 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 <http://www.wildlife.ca.gov/habcon/conplan/mitbank/>); optional management plan template at: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736>; (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; [...];

9.2.7. Interim Management (Initial and Capital). [...].

9.3. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. [...]. The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.2.56. [...].

9.3.1. Identify an Endowment Manager. [...]. 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)(43) 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)(43).

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

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Permittee shall submit to CDFW for review and obtain written approval from CDFW of the ~~PAR results~~endowment assessment before transferring funds to the Endowment Manager.

- 9.3.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the ~~PAR~~endowment assessment and adjust for any additional administrative, periodic, or annual fees.
- 9.3.2.2. Endowment Buffers/Assumptions. Permittee shall include in ~~PAR~~the endowment assessment assumptions of the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

* * *

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

~~9.3.3.~~9.3.4. 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. [...].

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

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

- 9.4. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW ~~such as~~related to issuance and monitoring of this

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ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

10. Performance Security

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

* * *

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 82 months from the effective date of this ITP, September 29, 2034. 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.

* * *

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

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 2530 days 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 ~~comply with the stop-work order~~ 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 2530 additional days.

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

8. The Notices section has been amended as follows:

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~~The Permittee shall deliver a fully executed duplicate original ITP by 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, California 94244-2090~~

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2012-005-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

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

R4CESA@wildlife.ca.gov

and a copy to:

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

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

~~Crystal Sinclair, Environmental Scientist~~
Ruby Kwan
California Department of Fish and Wildlife
Central Region

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1234 East Shaw Avenue
Fresno 20 Lower Ragsdale Drive, Suite 100
Monterey, California 9371093940
Crystal.Sinclair@wildlife.ca.gov

Telephone (805) 748-3624
Ruby.Kwan@wildlife.ca.gov

* * *

9. The Attachments section has been amended as follows:

FIGURE 1	Project Location Map
FIGURE 2	Project Site Map
FIGURE 3	Pond Enhancement and Creation
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3A, 3B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 43	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form
ATTACHMENT 6	4 Minor Amendment No. <u>43 with Track Changes</u>
ATTACHMENT 7	Amendment No. 2

10. The Acknowledgement section has been removed:

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: _____

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