



United States Department of the Interior



In Reply Refer to:
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FISH AND WILDLIFE SERVICE
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JUN 28 2019

Chief, Regulatory Division
San Francisco District
U.S. Army Corps of Engineers
450 Golden Gate Avenue, 4th Floor, Suite 0134
San Francisco, California 94102-3406

Subject: Formal Consultation on the Proposed West County Transportation Agency Project, Santa Rosa, Sonoma County, California (Corps File Number: 2018-00421N)

Dear Chief:

This letter is in response to the U.S. Army Corps of Engineers' (Corps) March 22, 2019, request for formal consultation with the U.S. Fish and Wildlife Service (Service) on the proposed West County Transportation Agency Project (proposed project), in Santa Rosa, Sonoma County, California. Your request was received by the Service on March 29, 2019. At issue are the proposed project's effects on the federally-listed as endangered Sonoma County Distinct Population Segment of the California tiger salamander (*Ambystoma californiense*) (salamander) and its critical habitat, Sonoma Sunshine (*Blennosperma bakeri*), Burke's goldfields (*Lasthenia burkei*), and Sebastopol meadowfoam (*Limnathes vincularis*) (collectively, listed plants). This response is provided under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), and in accordance with the implementing regulations pertaining to interagency cooperation (50 CFR 402).

The federal action we are consulting on is the issuance of a Clean Water Act, Section 404 permit by the Corps to West County Transportation Agency (WCTA) (applicant) for the fill of wetlands associated with the construction of the proposed project. Pursuant to 50 CFR 402.12(j), you submitted the May 2018, *West County Transportation Agency Project – USFWS Section 7 Biological Assessment* (biological assessment) for our review and requested concurrence with the findings presented therein. The findings presented in the biological assessment conclude that the proposed project may affect, and is likely to adversely affect the salamander, critical habitat for the salamander, and the listed plants.

In considering your request, we based our evaluation on the following: (1) your March 22, 2019, letter initiating consultation; (2) the May 2018, biological assessment, prepared by WRA Environmental Consultants (consultant); (3) email and telephone correspondence between the Service, the Corps, and the consultant; and (4) other information available to the Service.

Consultation History

- March 29, 2019: The Service received the Corps' March 22, 2019, letter initiating consultation on the proposed project with the biological assessment enclosed.
- April 30, 2019: The Service requested additional information regarding the Corps effects determinations for the listed plants and salamander critical habitat.
- June 14, 2019: The Service received the June 5, 2019, updated effects determinations for the listed plants and salamander critical habitat.

This document provides our biological opinion on the effects of the proposed project on the salamander, its critical habitat, and the listed plant species.

BIOLOGICAL OPINION

Description of the Action

The proposed project includes the development of a school bus parking area and bioretention features on approximately 5.49 acres located immediately west of 367 West Robles Avenue in the city of Santa Rosa. The proposed project includes the conversion of an undeveloped lot, owned by the applicant into a parking lot that can accommodate a majority of WCTA's bus fleet, as well as employee vehicles. The proposed project will convert the 5.49 acres of undeveloped lot into a 3.5 acre paved parking lot with associated bioretention features on the remainder of the parcel. The parking lot is intended to accommodate 138 passenger vehicles, 51 coach buses, and 26 vans.

The Corps has determined that there is a total of 1.06 acres of jurisdictional Waters of the United States within the action area of the proposed project. This includes six seasonal wetlands totaling 1.04 acres and three drainage ditches totaling 0.02 acre. The man-made drainage ditches do not provide suitable habitat for the plants, as they were created for drainage of the parcel and are highly incised. In addition, the proposed project provides 5.47 acres of suitable upland habitat for the salamander. A portion of the project footprint (0.02 acre) is not considered suitable upland habitat for the salamander. This portion of the project footprint comprises an existing street and is hardscaped.

Salamander and Plant Conservation Measures

The following is a summary of the proposed conservation measures, as outlined in the biological assessment, to minimize effects on the salamander and the listed plants. The conservation measures proposed below are considered part of the proposed action evaluated by the Service in this biological opinion.

1. Prior to any earthmoving activities, the applicant has proposed to purchase salamander upland habitat preservation credits at a 1:1 ratio associated with the proposed project. Therefore, the applicant has proposed to offset the loss of 5.47 acres of salamander upland habitat by proposing to purchase 5.47 acres of salamander upland habitat preservation credits from Service approved mitigation bank(s) that are located in a California tiger salamander Conservation Area as defined in the Santa Rosa Plain Conservation Strategy

(Conservation Strategy Team, 2005) (Conservation Strategy) and within a California tiger salamander Core Area as defined in the 2016 Recovery Plan (unless otherwise approved by the Service).

2. Prior to any earthmoving activities, the applicant has proposed to purchase listed plant preservation or establishment credits at a 1:1.5 ratio from a Service approved mitigation bank(s). Therefore, the applicant has proposed to offset the loss of 1.04 acres of suitable listed plant habitat by proposing to purchase 1.56 acres (1.04 acres x 1.5) of suitable listed plant habitat preservation or establishment credits from a Service approved mitigation bank(s) located in a Core or Management Area as defined in the 2016 Recovery Plan (unless otherwise approved by the Service).
3. Training Program. A qualified biological monitor will conduct a training session for all construction workers before work is started on the proposed project. The training program is for all construction personnel including contractors and subcontractors. The training will include, at a minimum, a description of the salamander, and the applicable listed plants and their habitat within the action area; an explanation of the species' status and protection under state and federal laws; the avoidance and minimization measures to be implemented to reduce loss of these species; and communication and work stoppage procedures in case a listed species is observed within the action area. A fact sheet conveying this information will be prepared and distributed to all construction personnel. The applicant shall provide interpretation for non-English speaking workers.
4. Environmentally Sensitive Areas. Access routes, number and size of staging areas, and work areas will be limited to the minimum necessary to achieve the project goals. Boundaries of the construction work area will be clearly marked prior to initiating construction/grading. Environmentally Sensitive Areas (ESAs) containing sensitive habitats adjacent to or within construction work areas for which physical disturbance is not allowed will be clearly delineated using high visibility orange fencing. The ESA fencing will remain in place throughout the duration of the proposed action, while construction activities are ongoing, and will be regularly inspected and fully maintained at all times. The final project plans will depict all locations where ESA fencing will be installed and will provide installation specifications. The bid solicitation package special provisions will clearly describe acceptable fencing material and prohibited construction-related activities including vehicle operation, material and equipment storage, access roads and other surface-disturbing activities within ESAs.
5. Equipment. All equipment will be maintained such that there will be no leaks of automotive fluids such as gasoline, oils, or solvents.
6. Hazardous Materials. Hazardous materials such as fuels, oils, solvents, etc., will be stored in sealable containers in a designated location that is at least 200 feet from aquatic habitats. All fueling and maintenance of vehicles and other equipment and staging areas will occur at least 200 feet from any aquatic habitat.
7. Implementation of Biological Opinion. The applicant shall ensure the Onsite Project Manager or their designee shall have full authority to implement and enforce all onsite Conservation Measures and Terms and Conditions of this Biological Opinion. The Onsite Foreman/Manager or their designee shall maintain a copy of this Biological Opinion onsite

whenever construction is in progress. Their name(s) and telephone number(s) shall be provided to the Service at least 30 calendar days prior to groundbreaking at the proposed project.

8. Biological Monitors. Qualified biological monitor(s) will be on site each day during all earth moving activities including initial grading. The biological monitor(s) shall conduct clearance surveys at the beginning of each day and regularly throughout the workday when construction activities are occurring that may result in take of salamanders. All suitable aquatic and upland habitat including refugia habitat such as small woody debris, refuse, burrow entries, etc., shall be duly inspected. The Service will consider the implementation of specific project activities without the oversight of an on-site biological monitor on a case-by-case basis.

Before the start of work each day, the biological monitor will check for animals under any equipment such as vehicles and stored pipes. The biological monitor will check all excavated steep-walled holes or trenches greater than one foot deep for any salamander. Salamanders will be removed by the biological monitor and relocated according to the Relocation Plan (see number 12 below). To prevent inadvertent entrapment of animals during construction, all excavated, steep-walled holes or trenches more than 6 inches deep will be covered with plywood (or similar materials) that leave no entry gaps at the close of each working day or provided with one or more escape ramps constructed of earth fill or wooden planks. The Service-approved biologist shall inspect all holes and trenches at the beginning of each workday and before such holes or trenches are filled. All replacement pipes, culverts, or similar structures stored in the action area overnight will be inspected before they are subsequently moved, capped, and/or buried.

9. Biological Monitor Approval and Stop Work Authority. Qualified biological monitor(s) will possess a working wireless/mobile phone whose number will be provided to the Service prior to the start of construction and ground disturbance. The biological monitor(s) shall keep a copy of this Biological Opinion in his/her possession when onsite. Through the Onsite Project Manager or his/her designee, the biological monitor(s) shall be given the authority to communicate verbally, by telephone, email, or hardcopy with the applicant, project personnel, and any other person(s) at the project Site or otherwise associated with the proposed project to ensure that the Terms and Conditions of this biological opinion and appendage are met. The biological monitor(s) shall have oversight over implementation of the Terms and Conditions in this Biological Opinion, and shall have the authority to stop project activities if they determine any of the associated requirements are not being fulfilled. If the biological monitor exercises this authority, the Service shall be notified by telephone and email within 24 hours. The Service contact is the Coast Bay Division Chief of the Endangered Species Program, Sacramento Fish and Wildlife Office at telephone number (916) 414-6623.
10. Biological Monitoring Records. The biological monitor(s) shall maintain monitoring records that include: (1) the beginning and ending time of each day's monitoring effort; (2) a statement identifying the listed species encountered, including the time and location of the observation; (3) the time the specimen was identified and by whom and its condition; (4) the capture and release locations of each individual; (5) photographs and measurements (snout to vent and total length) of each individual; and (6) a description of any actions taken. The biological monitor(s) shall maintain complete records in their possession while conducting

monitoring activities and shall immediately provide records to the Service upon request. All monitoring records shall be provided to the Service within 30 days of the completion of monitoring work.

11. Vegetation Removal. A Service-approved biologist will be present during all vegetation clearing and grubbing activities. Grasses and weedy vegetation should be mowed to a height no greater than 6 inches prior to ground-disturbing activities. All cleared vegetation will be removed from the project footprint to prevent attracting animals to the project site. Prior to vegetation removal, the Service-approved biologist shall thoroughly survey the area for salamanders. Once the qualified biologist has thoroughly surveyed the area, clearing and grubbing may continue without further restrictions on equipment; however, the qualified biologist shall remain onsite to monitor for salamanders until all clearing and grubbing activities are complete.
12. Wildlife Exclusion Fencing (WEF). Prior to the start of construction, WEF will be installed at the edge of the Project footprint in all areas where salamanders could enter the construction area. WEF with exit ramps may be required to allow any salamander onsite to move into an adjacent habitat offsite. The location of the fencing shall be determined by the onsite project manager and the Service-approved biologist in cooperation with the Service prior to the start of staging or surface disturbing activities. A conceptual fencing plan shall be submitted to the Service for review and approval prior to WEF installation. The location, fencing materials, installation specifications, and monitoring and repair criteria shall be approved by the Service prior to start of construction. The applicant shall include the WEF specifications on the final project plans. The applicant shall include the WEF specifications including installation and maintenance criteria in the bid solicitation package special provisions. The WEF shall remain in place throughout the duration of the proposed project and shall be regularly inspected and fully maintained. Repairs to the WEF shall be made within 24 hours of discovery. Upon completion of the proposed project, the WEF shall be completely removed, the area cleaned of debris and trash, and returned to natural conditions.
13. Relocation Plan. The Corps through its applicant shall prepare and submit a Relocation Plan for the Service's written approval. The Relocation Plan shall contain the name(s) of the Service-approved biologist(s) to relocate salamanders, method of relocation (if different than number 13 below), a map, and description of the proposed release site(s) and burrow(s), and written permission from the landowner to use their land as a relocation site. At various times, a mitigation or conservation bank may be a desired location to relocate salamanders from a salvage site, however no mitigation or conservation bank may receive relocated salamanders until all the bank's credits have been sold to prevent interfering with their performance criteria and credit release schedule.
14. Protocol for Species Observation, Handling, and Relocation. Only Service-approved biologists shall participate in activities associated with the capture, handling, relocation, and monitoring of salamanders. If a salamander is encountered in the action area, work activities within 50 feet of the individual shall cease immediately and the Onsite Project Manager and Service-approved biologist shall be notified. Based on the professional judgment of the Service-approved biologist, if project activities can be conducted without harming or injuring the individual(s), it may be left at the location of discovery and monitored by the Service-approved biologist. All project personnel shall be notified of the finding and at no time shall work occur within 50 feet of the salamander without a Service-approved biologist present. If

relocation of the species to another site has been approved by the Service and CDFW prior to the start of the Project, the following steps shall be followed:

- a. Prior to handling and relocation, the Service-approved biologist will take precautions to prevent introduction of amphibian diseases in accordance with the Interim Guidance on Site Assessment and Field Surveys for Determining Presence or a Negative Finding of the California Tiger Salamander (Service 2003). Disinfecting equipment and clothing is especially important when biologists are coming to the action area to handle amphibians after working in other aquatic habitats. Salamanders shall also be handled and assessed according to the Restraint and Handling of Live Amphibians (USGS National Wildlife Health Center 2001).
 - b. Salamanders shall be captured by hand, dipnet, or other Service-approved methodology, transported, relocated and released as soon as practicable the same day of capture. Individuals should be relocated to areas with one or more potential breeding pools and an active burrow system (unless otherwise with written approved by the Service). The Service shall be notified within 24 hours of all capture, handling, and relocation efforts.
 - c. If an injured salamander is encountered and the Service-approved biologist determines the injury is minor or healing and the salamander is likely to survive, the salamander shall be released as soon as possible, in accordance with the Service-approved Relocation Plan. The relocated salamander shall be monitored until it is determined that it is not imperiled by predators or other dangers.
 - d. If the Service-approved biologist determines that the salamander has major or serious injuries as a result of project-related activities the Service-approved biologist shall immediately take it to a licensed veterinarian, the Sonoma County Wildlife Rescue, or another Service-approved facility. If taken into captivity the individual shall remain in captivity and not be released into the wild unless it has been kept in quarantine and the release is authorized by the Service. The applicant shall bear any costs associated with the care or treatment of such injured individuals. The circumstances of the injury, the procedure followed and the final disposition of the injured animal shall be documented in a written incident report.
 - e. Notification to the Service of an injured or dead salamander in the action area will be made within 2 calendar days of the finding. Written notification to the Service shall include the following information: the species, number of animals taken or injured, sex (if known), date, time, location of the incident or of the finding of a dead or injured animal, how the individual was taken, photographs of the specific animal, the names of the persons who observe the take and/or found the animal, and any other pertinent information. Dead specimens will be preserved, as appropriate, and held in a secure location until instructions are received from the Service regarding the disposition of the specimen.
15. Stormwater Pollution Prevention Plan (SWPPP). An erosion and sediment control plan will be implemented to prevent impacts of wetland restoration and construction on habitat outside the work areas. An SWPPP prepared in full accordance with the State Water Resources Control Board, National Pollutant Discharge Elimination System Construction General Permit. The SWPPP would include Best Management Practices (BMPs) for

controlling sediment, turbidity and the release of other pollutants into water courses during construction. The SWPPP would also include a rainy season erosion prevention and monitoring plan to ensure that surface runoff from the construction site meets RWQCB water quality standards and objectives for the Hydrologic Unit and Hydrologic Subunit in which the proposed project is located. The SWPPP would be subject to the approval of the RWQCB prior to the start of work.

16. Work Windows. Ground disturbance will commence between April 15 and October 15, of any given year, depending on the level of rainfall and/or site conditions. However, grading and other disturbance in pools and ponds, if unavoidable, shall be conducted only when dry, typically between July 15 and October 15. Work within a pool or wetland may begin prior to July 15 if the pool or wetland has been dry for a minimum of 30 days prior to initiating work. Work would be limited to periods of low rainfall (less than 0.08 inches per 24-hour period and less than 40 percent chance of rain). Construction activities shall cease 24 hours prior to a 40 percent or greater forecast of rain from the National Weather Service (NWS). Construction may continue 24 hours after the rain ceases if no precipitation is in the 24-hour forecast. Any work in pools and wetlands that are holding water shall be subject to approval of the Service. If work must continue when rain is forecast (greater than 40 percent chance of rain), a Service-approved biologist(s) shall survey the Project Site before construction begins each day rain is forecast. If rain exceeds 0.5 inches during a 24-hour period, work shall cease until NWS forecasts no further rain. This restriction is not applicable for areas within 1.3 miles of potential or known salamander breeding sites once the applicant encircles the site with WEF.
17. Agency Access. If verbally requested before, during, or upon completion of ground disturbance and construction activities, the applicant will ensure the Service can immediately and without delay, access and inspect the Project Site for compliance with the Project description, Conservation Measures, and reasonable and prudent measures of this biological opinion, and to evaluate Project effects to the salamander and its habitat.
18. Proper Use of Erosion Control Devices. To prevent salamanders from becoming entangled, trapped, or injured, erosion control materials that use plastic or synthetic monofilament netting will not be used within the action area. This includes products that use photodegradable or biodegradable synthetic netting, which can take several months to decompose. Acceptable materials include natural fibers such as jute, coconut, twine or other similar fibers. Following site restoration, any materials left behind as part of the restoration, such as straw wattles, should not impede movement of this species.
19. Pest Control. No rodenticides will be used at the proposed project during construction or long-term operational maintenance in areas that support suitable upland habitat for the salamander. Larval mosquito abatement efforts should be avoided in occupied breeding habitat for the species.
20. Nighttime Activities. Construction and ground disturbance will occur only during daytime hours, and will cease no less than 30 minutes before sunset and will not begin again prior to no less than 30 minutes after sunrise. Night lighting of ESAs should be avoided.
21. Reduce Spread of Invasive Species. A qualified biologist shall ensure that the spread or introduction of invasive non-native plant species, via introduction by arriving vehicles,

equipment, and other materials, by thoroughly cleaning equipment and vehicles prior to start of use. Any new piece of equipment brought in, or any piece of equipment taken off site and then returned to the site, will also be washed. When practicable, invasive non-native plants in the project area shall be removed and properly disposed of in a manner that will not promote their spread. Areas subject to invasive non-native weed removal or disturbance will be replanted with appropriate mix of fast-growing native species. Invasive non-native plant species include those identified in the California Invasive Plant Council's (Cal-IPC) Inventory Database, accessible at: www.cal-ipc.org/ip/inventory/index.php.

22. Trash. All foods and food-related trash items will be enclosed in sealed trash containers at the end of each day, and removed from the site every three days.
23. Pets. No pets will be allowed on the proposed project.
24. Speed Limit. No more than a maximum speed limit of 15 mph will be permitted.

Action Area

The action area is defined in 50 CFR §402.02, as “all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.” For the proposed action, the Service considers the action area to be the footprint of the proposed project which is approximately 5.49 acres.

Analytical Framework for the Jeopardy Determination

Section 7(a)(2) of the Endangered Species Act requires that federal agencies ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of listed species. “Jeopardize the continued existence of” means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR § 402.02).

The jeopardy analysis in this biological opinion considers the effects of the proposed federal action, and any cumulative effects, on the rangewide survival and recovery of the listed species. It relies on four components: (1) the *Status of the Species*, which describes the rangewide condition of the species, the factors responsible for that condition, and its survival and recovery needs; (2) the *Environmental Baseline*, which analyzes the condition of the species in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the species; (3) the *Effects of the Action*, which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated or interdependent activities on the species; and (4) the *Cumulative Effects*, which evaluates the effects of future, non-federal activities in the action area on the species.

Analytical Framework Adverse Modification

Section 7(a)(2) of the ESA requires that Federal agencies insure that any action they authorize, fund, or carry out is not likely to destroy or to adversely modify designated critical habitat. A final rule revising the regulatory definition of “destruction or adverse modification” (DAM) was published on

February 11, 2016 (81 FR 7214). The final rule became effective on March 14, 2016. The revised definition states:

“Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat for the conservation of a listed species. Such alterations may include, but are not limited to, those that alter the physical or biological features essential to the conservation of a species or that preclude or significantly delay development of such features.”

The DAM analysis in this biological opinion relies on four components: (1) the *Status of Critical Habitat*, which describes the range-wide condition of the critical habitat in terms of the key components (i.e., essential habitat features, primary constituent elements, or physical and biological features) that provide for the conservation of the listed species, the factors responsible for that condition, and the intended value of the critical habitat overall for the conservation/recovery of the listed species; (2) the *Environmental Baseline*, which analyzes the condition of the critical habitat in the action area, the factors responsible for that condition, and the value of the critical habitat in the action area for the conservation/recovery of the listed species; (3) the *Effects of the Action*, which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated and interdependent activities on the key components of critical habitat that provide for the conservation of the listed species, and how those impacts are likely to influence the conservation value of the affected critical habitat; and (4) *Cumulative Effects*, which evaluate the effects of future non-Federal activities that are reasonably certain to occur in the action area on the key components of critical habitat that provide for the conservation of the listed species and how those impacts are likely to influence the conservation value of the affected critical habitat.

For purpose of making the DAM determination, the Service evaluates if the effects of the proposed Federal action, taken together with cumulative effects, are likely to impair or preclude the capacity of critical habitat in the action area to serve its intended conservation function to an extent that appreciably diminishes the rangewide value of critical habitat for the conservation of the listed species. The key to making that finding is understanding the value (i.e., the role) of the critical habitat in the action area for the conservation/recovery of the listed species based on the *Environmental Baseline* analysis.

Status of the Species

Salamander and Listed Plants

For the most recent comprehensive assessment of the species' range-wide status, please refer to the Recovery Plan (Service 2016). Threats evaluated and discussed in the Recovery Plan have continued to affect the species since these species were listed as endangered, with loss of habitat being the most significant effect. While there have been continued losses of the salamander and the listed plants habitat throughout the various Core and Management Areas, to date no project has proposed a level of effects for which the Service has issued a Biological Opinion of jeopardy for these species.

Status of Critical Habitat

Salamander

The Service placed a notice in the Federal Register to propose critical habitat designation for the Salamander (70 FR 44301) (Service 2005a). On December 14, 2005, the Service made a final determination to designate and exclude approximately 17,418 acres (7,049 hectares) of critical habitat for the Sonoma population (70 FR 74137) (Service 2005b). All of the critical habitat was excluded based on interim conservation strategies and measures being implemented by those local governing agencies with land use authority over the area and also as a result of economic exclusions authorized under section 4(b)(2) of the Act. On August 18, 2009, the Service proposed to designate approximately 74,223 acres (30,037 hectares) of critical habitat for the California tiger salamander in Sonoma County, California (74 FR 41662) (Service 2009). On August 31, 2011, the Revised Designation of Critical Habitat for the Sonoma County Distinct Population Segment of California Tiger Salamander; Final Rule was published (76 FR 54346 54372) (Service 2011). Approximately 47,383 acres were designated as critical habitat.

Critical habitat is defined in Section 3 of the Act as: (1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (a) essential to the conservation of the species and (b) that may require special management considerations or protection and; (2) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. In determining which areas to designate as critical habitat, the Service considers those physical and biological features that are essential to a species' conservation and that may require special management considerations or protection (50 CFR 424.12(b)). The Service is required to list the known PCEs together with the critical habitat description. Such physical and biological features include, but are not limited to, the following: (1) space for individual and population growth, and for normal behavior; (2) food, water, air, light, minerals, or other nutritional or physiological requirements; (3) cover or shelter; (4) sites for breeding, reproduction, rearing of offspring, or dispersal and; (5) generally, habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

Based on the above needs and our current knowledge of the life history, biology, and ecology of the species, and the habitat requirements for sustaining the essential life-history functions of the species, the Service determined that the following PCEs are essential to the conservation of the salamander:

- PCE 1: standing bodies of fresh water (including natural and manmade (e.g., stock) ponds, vernal pools and other ephemeral or permanent water bodies that typically support inundation during winter/early spring and hold water for a minimum of 12 consecutive weeks in a year of average rainfall);
- PCE 2: upland habitats adjacent and accessible to and from breeding ponds that contain small mammal burrows or other underground refugia that Salamanders depend upon for food, shelter, and protection from the elements and predation; and
- PCE 3: accessible upland dispersal habitat between occupied locations that allow for movement between such sites.

A single unit was designated as critical habitat for the Salamander (Service 2011). The Santa Rosa Plains Unit is located in Central Sonoma County and contains approximately 47,383 acres, which includes 745 acres of State lands, 744 acres of city lands, 498 acres of county lands, 9 acres of individually owned tribal trust land, and 45,387 acres of private lands. No Federal lands were included in this unit. The unit is partially bordered on the west by the generalized eastern boundary of the 100-year Laguna de Santa Rosa floodplain, on the southwest by Hensley Road, on the south by Pepper Road (northwest of Petaluma), on the east generally by and near Petaluma Hill Road or by the urban centers of Santa Rosa and Rohnert Park, and on the north by the Town of Windsor. A segment of the 100-year floodplain that is located between the Stony Point Conservation Area (near Wilfred Avenue) and the Northwest Cotati Conservation Area (near Nahmens Road) is included within the final designation to prevent fragmentation of the northern and southern breeding concentrations within the unit, by allowing for potential dispersal and genetic exchange. Designated critical habitat excludes the urbanized centers of Santa Rosa, Bennett Valley, Rohnert Park, and Cotati. These urban centers consist almost exclusively of hardened, developed landscapes. The remnant natural habitat within these areas is limited to small, isolated parcels within a matrix of urban development. These areas are not included in the final rule because developed areas (lands covered by buildings, pavement, and other structures) lack the physical or biological features essential to the conservation of the species, according to section 3(5)(A) of the Act.

We also do not consider the remnant open space within these city centers as essential for the conservation of the salamander. However some of these areas have been left inside the critical habitat boundaries shown on the maps of the final rule due to the mapping methodology, but have been excluded by text in this rule, and are not designated as critical habitat. This includes approximately 636 acres east of Stony Point Road and following the urban growth boundary east along Bellevue Avenue and south along Juniper Avenue to the intersection of Scenic Avenue and Highway 101.

The recovery role of critical habitat in the action area includes opportunities for providing suitable aquatic and upland habitat that supports or can support one or more life stages of the salamander. With the revised designation of critical habitat, the Service intends to conserve the geographic areas containing the physical and biological features that are essential to the conservation of the species, through the identification of the appropriate quantity and spatial arrangement of the PCEs sufficient to support the life-history functions of the species. Not all life-history functions require all the PCEs and not all areas designated as critical habitat will contain all the PCEs. Refer to the final designation of critical habitat for the salamander for additional information.

Environmental Baseline

Salamander and Listed Plants

The action area primarily consists of non-native annual grassland habitat and seasonal wetland habitat. The proposed project is surrounded by development, specifically the highway 101 corridor to the east, and a mix of residential and agricultural development to the west. In addition, a portion of the site includes a developed area (0.02 acre) of the 5.49-acre site. This area does not provide any suitable upland dispersal habitat for the salamander. The remainder of the project footprint (5.47 acres) provides suitable upland habitat for the salamander.

According to the California Natural Diversity Database (CNDDDB), the nearest known occurrences of the salamander are adult sightings occurring approximately 500 feet to southeast of the proposed

project. The nearest known breeding location is approximately 4,000 feet to the northwest. The proposed project occurs within the known dispersal range of the salamander and it is likely the salamander is able to disperse between known breeding sites and the proposed project. Therefore, based on the biology and ecology of these species, it is likely that the salamander is present within the action area and has the potential to utilize the upland areas within the proposed project for foraging, cover, and dispersal habitat.

Guideline rare plant surveys were conducted on the project site during a three-year period between 2013 and 2015. No listed plant species were detected in these surveys. There are no CNDDDB occurrences of any of the listed plants on any adjacent parcels; however, occurrences of all the listed plants occur approximately within 1 mile of the proposed project. The action area supports 1.04 acres of seasonal wetlands, which is considered listed plant habitat since seeds from the listed plants may be present in the wetlands. Therefore, based on the suitable habitat, the Service believes that the listed plants are likely to occur within the proposed project.

Salamander Critical Habitat

The proposed project occurs within Critical Habitat Unit for the Sonoma County Distinct Population Segment of the California tiger salamander, which totals 47,383 acres. The proposed project also provides 5.47 acres that support the PCEs of the salamander. The 5.47 acres that support the PCEs affected by the proposed project provide suitable upland salamander refugia (PCE 2) and suitable upland dispersal habitat (PCE 3) which allows salamander movements between occupied sites. The action area represents a small area of the overall unit. The 5.47 acres of the proposed project compromise only 0.0001 percent of the entire critical habitat designated for the salamander.

Effects of the Action

Salamander

The proposed project will result in direct effects to 5.47 acres of suitable upland dispersal habitat for the salamander. The project related activities, such as grading, placement of fill, and the use of earth moving equipment, will result in the permanent loss of upland habitat that is utilized by the salamander. This loss of upland habitat will further fragment and reduce the amount of habitat available to the salamander in the area for foraging and dispersing within the proposed project and the loss of individual salamanders that may be underground may be killed during the construction of the proposed project. Construction of the proposed project will destroy 5.47 acres of upland salamander habitat used by the salamander for feeding, sheltering, and dispersal.

As noted previously in the Description of the Action section, the project proponent has proposed a set of conservation measures, including the commitment to provide compensatory habitat as a condition of the action. This compensatory habitat is intended to minimize the effect on the species of the proposed project's anticipated permanent loss and degradation of habitat described above. Compensatory habitat proposed includes the preservation, management, and monitoring of 5.47 acres of salamander habitat. The 5.47 acres of salamander compensation will occur within the Core or Management Area as defined in the 2016 Recovery Plan (unless otherwise approved by the Service).

The compensation will have the effect of protecting and managing lands for the species' conservation in perpetuity. The compensatory lands will provide suitable habitat for breeding, feeding, sheltering, and dispersing, commensurate with or better than habitat lost as a result of the proposed project. Providing this compensatory habitat as part of a relatively large, contiguous block of conserved land is expected to contribute to other recovery efforts for this species.

Listed Plants

The proposed project will result in direct effects to 1.04 acres of suitable wetland habitat for the listed plants. The project related activities, such as grading, placement of fill, and the use of earth moving equipment, will result in the permanent loss of 1.04 acres of seasonal wetland habitat that provides suitable habitat for the listed plants.

As noted previously in the Description of the Action section, the project proponent has proposed a set of conservation measures, including the commitment to provide compensatory habitat as a condition of the action. This compensatory habitat is intended to minimize the effect on the species of the proposed project's anticipated permanent loss and degradation of habitat described above. Compensatory habitat proposed includes the preservation, management, and monitoring of 1.56 acres of endangered plant habitat. The 1.56 acres of endangered plant compensation will be within the Burke's goldfields, Sonoma sunshine, or Sebastopol meadowfoam Core or Management Area as defined in the 2016 Recovery Plan (unless otherwise approved by the Service).

The compensation will have the effect of protecting and managing lands for the species' conservation in perpetuity. The compensatory lands will provide suitable and / or occupied habitat for at least one of the three listed plants commensurate with or better than habitat lost as a result of the proposed project. Providing this compensatory habitat as part of a relatively large, contiguous block of conserved land is expected to contribute to other recovery efforts for these species.

Salamander Critical Habitat

The proposed project will remove 5.47 acres of designated salamander critical habitat. The project related activities, such as grading, placement of fill, and the use of earth moving equipment, will result in the loss of all PCEs present within the action area. This includes 5.47 acres of suitable upland salamander refugia (PCE 2) and dispersal habitat (PCE 3). However, the loss of this portion of critical habitat represents a very small portion (0.0001 percent) of the overall critical habitat unit. Although development of the proposed project will result in additional fragmentation of the critical habitat unit, other lands within the critical habitat unit will remain undeveloped that provide upland and dispersal habitat (PCEs 2 and 3) for this species.

Cumulative Effects

Cumulative effects include the effects of future State, Tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act. During this consultation, the Service did not identify any future non-federal actions that are reasonably certain to occur in the action area of the proposed project.

Conclusion

After reviewing the current status of the salamander and the listed plants, the environmental baseline for the action area, the effects of the proposed project, and the cumulative effects, it is the Service's biological opinion that the West County Transportation Agency Project, as proposed, is not likely to jeopardize the continued existence of the salamander and the listed plants. The Service reached this conclusion because the project-related effects to the salamander and the listed plants, when added to the environmental baseline and analyzed in consideration of the lack of cumulative effects, will not rise to the level of precluding recovery or reducing the likelihood of survival of the species. The salamander and listed plants habitat affected by the proposed project represents a small proportion of habitat available to the salamander and the plants, and the loss will be minimized by the proposed purchase of salamander and listed plants conservation credits at a Service-approved conservation bank.

After reviewing the current status of designated critical habitat for the salamander, the environmental baseline for the action area, the effects of the proposed project, and the cumulative effects, it is the Service's biological opinion that the West County Transportation Project, as proposed, is not likely to destroy or adversely modify designated critical habitat. The Service reached this conclusion because the project-related effects to the designated critical habitat, when added to the environmental baseline and analyzed in consideration of all potential cumulative effects, will not rise to the level of precluding the function of the salamander critical habitat to serve its intended conservation role for the species. The effects to salamander critical habitat are small and discrete, relative to the entire area designated, and are not expected to appreciably diminish the value of the critical habitat or prevent it from sustaining its role in the conservation of the salamander. In addition, new areas that occur within critical habitat will be protected in perpetuity, which will maintain and enhance the conservation role for the salamander.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and Federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by Service regulations at 50 CFR 17.3 as an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is defined by the same regulations as an act which actually kills or injures wildlife. Harm is further defined to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing essential behavior patterns, including breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited taking under the Act provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

The measures described below are non-discretionary, and must be undertaken by the Corps so that they become binding conditions of any grant or permit issued to the applicant, as appropriate, for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity covered by this incidental take statement. If the Corps (1) fails to assume and implement the terms and conditions or (2) fails to require the applicant to adhere to the terms and conditions of the

incidental take statement through enforceable terms that are added to the permit or grant document, the protective coverage of section 7(o)(2) may lapse. In order to monitor the impact of incidental take, the Corps or the applicant must report the progress of the action and its impact on the species to the Service as specified in the incidental take statement [50 CFR §402.14(i)(3)].

Sections 7(b)(4) and 7(o)(2) of the Act generally do not apply to listed plant species. However, limited protection of listed plants from take is provided to the extent that the Act prohibits the removal and reduction to possession of federally-listed endangered plants or the malicious damage of such plants on areas under federal jurisdiction, or the destruction of endangered plants on non-federal areas in violation of State law or regulation or in the course of any violation of a State criminal trespass law.

Amount or Extent of Take

The Service anticipates that incidental take of salamanders will be difficult to detect or quantify due to the salamander's life history and ecology. Specifically, when salamanders are not in their breeding ponds, foraging, migrating, or conducting other surface activity, they spend the majority of the year under the ground in small animal burrows or fissures in the soil. Finding an injured or dead salamander is unlikely due to their relatively small body size, rapid deterioration, and likelihood that the remains will be removed by a scavenger or indistinguishable amongst the disturbed soil and debris. In addition, losses of the salamander may be difficult to quantify due to seasonal fluctuations in their numbers, random environmental events, changes in hydrology or other characteristics of breeding ponds, or other environmental disturbances. However, the Service expects the number of salamanders that either occur in their burrows or encountered dispersing across the proposed project to be low based on the distance from known locations and the size of the action area.

Therefore, the Service anticipates take incidental to the proposed project as the injury or mortality of one (1) adult or juvenile salamander, and the non-lethal harm of any number of salamanders that are moved as part of the Service-approved relocation plan. No other forms of take are exempted under this opinion. Exceeding take beyond this amount during construction including any mortality or injury associated with salvage and relocation will require reinitiation of consultation.

Effect of the Take

In the accompanying biological opinion, the Service determined that this level of anticipated take is not likely to result in jeopardy to the species or destruction or adverse modification of critical habitat.

Reasonable and Prudent Measures

All necessary and appropriate measures to avoid or minimize effects on the salamander resulting from implementation of this project have been incorporated into the project's proposed conservation measures. Therefore, the Service believes the following reasonable and prudent measure is necessary and appropriate to minimize incidental take of the salamander:

1. All conservation measures, as described in the Project Description section of this biological opinion, shall be fully implemented and adhered to. Further, this reasonable and prudent measure shall be supplemented by the terms and conditions below.

Terms and Conditions

In order to be exempt from the prohibitions of section 9 of the Act, the Corps must ensure compliance with the following terms and condition, which implement the reasonable and prudent measure described above. These terms and conditions are nondiscretionary.

1. The Corps shall include full implementation and adherence to the conservation measures as a condition of any permit or contract issued for the project.

Salvage and Disposition of Individuals:

Injured listed species must be cared for by a licensed veterinarian or other qualified person(s), such as the Service-approved biologist. Dead individuals must be sealed in a resealable plastic bag containing a paper with the date and time when the animal was found, the location where it was found, and the name of the person who found it, and the bag containing the specimen frozen in a freezer located in a secure site, until instructions are received from the Service regarding the disposition of the dead specimen. The Service contact person is the Coast Bay Division Chief of the Endangered Species Program at the SFWO at (916) 414-6623.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. The Service recommends the following actions:

1. The Corps should assist the Service in implementing recovery actions for the salamander and the listed plants.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefiting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

REINITIATION—CLOSING STATEMENT

This concludes formal consultation on the West County Transportation Agency Project. As provided in 50 CFR §402.16, reinitiation of formal consultation is required and shall be requested by the Federal agency or by the Service where discretionary federal agency involvement or control over the action has been retained or is authorized by law and:

- (a) If the amount or extent of taking specified in the incidental take statement is exceeded;
- (b) If new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered;
- (c) If the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or

- (d) If a new species is listed or critical habitat designated that may be affected by the identified action.

If you have any questions regarding this biological opinion, please contact Jason Hanni (Jason_Hanni@fws.gov) or Ryan Olah (Ryan_Olah@fws.gov), at the letterhead address or at (916) 414-6656.

Sincerely,



Jennifer M. Norris Ph.D.
Field Supervisor

cc:

Bianca Clark, WRA Associates, San Rafael, California

LITERATURE CITED

- California Natural Diversity Database (CNDDDB). 2019. Biogeographic Data Branch, Department of Fish and Wildlife. Sacramento, California. Accessed April 24, 2019.
- Conservation Strategy Team. 2005. Santa Rosa Plain Conservation Strategy. Final. December 1, 2005.
- U.S. Fish and Wildlife Service (Service). 2005a. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the California Tiger Salamander in Sonoma County. Federal Register 70: 44301-44322.
- _____. 2005b. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Sonoma County Distinct Population Segment of the California Tiger Salamander; Final Rule. Federal Register 70: 74137-74163.
- _____. 2007. Programmatic Biological Opinion (Programmatic) for U.S. Army Corps of Engineers (Corps) Permitted Projects that May Affect California Tiger Salamander and Three Endangered Plant Species on the Santa Rosa Plain, California (Corps File Number 223420N); Service file number 81420-2008-F-0261), dated November 9, 2007.
- _____. 2009. Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Sonoma County Distinct Population Segment of California Tiger Salamander (*Ambystoma californiense*). Federal Register 74(158): 41662 41673
- _____. 2011. Endangered and threatened wildlife and plants; revised designation of critical habitat for the Sonoma County distinct population segment of California tiger salamander. Federal Register 76(169): 54345 - 54372.
- _____. 2016. Recovery Plan for the Santa Rosa Plain: *Blennosperma bakeri* (Sonoma sunshine); *Lasthenia burkei* (Burke's goldfields); *Limnanthes vinculans* (Sebastopol meadowfoam); California Tiger Salamander Sonoma County Distinct Population Segment (*Ambystoma californiense*). U.S. Fish and Wildlife Service, Pacific Southwest Region, Sacramento, California. vi + 128 pp.

CARINALLI NATURE PRESERVE, LLC
520 Mendocino Avenue - #250
Santa Rosa, CA 95401
(707) 696-8588

BILL OF SALE

Buyer: West County Transportation Agency

Type and Amount of Credits: Combination Credits: 0.07 acre of Sebastopol meadowfoam, 0.07 acre of Sonoma sunshine, and 0.07 acre of California tiger salamander mitigation credits

Project Name: West County Transportation Agency Project

Project Assessor's Parcel Number: 134-074-022

Contract Date:

Service File Number: 2019-F-1552-1

Corps File Number: 2018-00421N

CDFW File Number: N/A

RWQCB File Number:

In consideration of \$40,250 (Forty Thousand Two Hundred Fifty Dollars), receipt of which is hereby acknowledged by the Carinalli Nature Preserve, LLC, a California limited liability company does hereby bargain, sell and transfer to West County Transportation Agency, herein referred to as "Buyer," 0.07 acre of Combination Credits the in the Carinalli Todd Road Mitigation Bank in Sonoma County, California, developed and approved by the U. S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

Carinalli Nature Preserve, LLC, represents and warrants that it has good title to the Combination Credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Carinalli Nature Preserve, LLC, covenants and agrees with the Buyer to warrant and defend the sale of the Combination Credits herein before described against all and every person and persons whomsoever lawfully claiming or to claim the same.

Dated: 2/15/2020
Carinalli Nature Preserve, LLC
A California Limited Liability Company

By: 
Kevin Carinalli
Its: Managing Member

CARINALLI NATURE PRESERVE, LLC
520 Mendocino Avenue - #250
Santa Rosa, CA 995401
(707) 696-8588

PROJECT. CARINALLI TODD ROAD MITIGATION BANK

PAYMENT RECEIPT. 0.07 Acre of Combination Sebastopol Meadowfoam, Sonoma sunshine, and California tiger salamander credits

PARTICIPANT INFORMATION.

Name: West County Transportation Agency

Address: 367 West Robles Avenue, Santa Rosa, CA 95407

Telephone: 707-206-9988

Contact: Chad Barksdale, Executive Director

PROJECT INFORMATION.

Project Description: West County Transportation Agency Project

Service File Number: 2019-F-1552-1

Corps File Number: 2018-00421N

CDFW File Number: N/A

RWQCB File Number:

Species/Habitat Affected: Wetlands, Plants, California Tiger Salamander

Combination Credits Purchased: 0.07 Acre

Payment Amount: \$40,250(Forty Thousand Two Hundred Fifty Dollars)

Project Location: Sonoma County

County/Address: West County Transportation Project

Assessor's Parcel Numbers: 134-074-022

PAYMENT INFORMATION.

Payee: Carinalli Nature Preserve LLC, a California limited liability company

Payor: West County Transportation Agency

Amount: \$40,250 (Forty Thousand Two Hundred Fifty Dollars)

Method of Payment: Exchange of Funds

RECEIVED BY.

Carinalli Nature Preserve, LLC
A California Limited Liability Company

By: 
Kevin Carinalli

Its: Managing Member

Date: 2.15/2020

CARINALLI NATURE PRESERVE, LLC
520 Mendocino Avenue - #250
Santa Rosa, CA 95401
(707) 696-8588

BILL OF SALE

Buyer: West County Transportation Agency

Type and Amount of Credits: Combination Credits: 1.53 acres of Wetlands, 1.53 acres of Sebastopol meadowfoam, 1.53 acres of Sonoma sunshine, and 1.53 acres of California tiger salamander Mitigation Credits

Project Name: West County Transportation Agency Project

Project Assessor's Parcel Number: 134-074-022

Contract Date:

Service File Number: 2019-F-1552-1

Corps File Number: 2018-00421N

CDFW File Number: N/A

RWQCB File Number:

In consideration of \$1,147,500 (One Million One Hundred Forty-Seven Thousand Five Hundred Dollars), receipt of which is hereby acknowledged by the Carinalli Nature Preserve, LLC, a California limited liability company does hereby bargain, sell and transfer to West County Transportation Agency, herein referred to as "Buyer," 1.53 acres of Combination Credits the in the Carinalli Todd Road Mitigation Bank in Sonoma County, California, developed and approved by the U. S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

Carinalli Nature Preserve, LLC, represents and warrants that it has good title to the Combination Credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Carinalli Nature Preserve, LLC, covenants and agrees with the Buyer to warrant and defend the sale of the Combination Credits herein before described against all and every person and persons whomsoever lawfully claiming or to claim the same.

Dated: January 24, 2020
Carinalli Nature Preserve, LLC
A California Limited Liability Company

By: 
Kevin Carinalli
Its: Managing Member

CARINALLI NATURE PRESERVE, LLC
520 Mendocino Avenue - #250
Santa Rosa, CA 995401
(707) 696-8588

PROJECT. CARINALLI TODD ROAD MITIGATION BANK

PAYMENT RECEIPT. 1.53 Acres of Combination wetlands, Sebastopol Meadowfoam, Sonoma sunshine, and California tiger salamander credits

PARTICIPANT INFORMATION.

Name: West County Transportation Agency

Address: 367 West Robles Avenue, Santa Rosa, CA 95407

Telephone: 707-206-9988

Contact: Chad Barksdale, Executive Director

PROJECT INFORMATION.

Project Description: West County Transportation Agency Project

Service File Number: 2019-F-1552-1

Corps File Number: 2018-00421N

CDFW File Number: N/A

RWQCB File Number:

Species/Habitat Affected: Wetlands, Plants, California Tiger Salamander

Combination Credits Purchased: 1.53 Acres

Payment Amount: \$1,147,500 (One Million One Hundred Forty-Seven Thousand Five Hundred Dollars)

Project Location: Sonoma County

County/Address: West County Transportation Project

Assessor's Parcel Numbers: 134-074-022

PAYMENT INFORMATION.

Payee: Carinalli Nature Preserve LLC, a California limited liability company

Payor: West County Transportation Agency

Amount: \$1,147,500 (One Million One Hundred Forty-Seven Thousand Five Hundred Dollars)

Method of Payment: Exchange of Funds

RECEIVED BY.

Carinalli Nature Preserve, LLC
A California Limited Liability Company

By: 

Kevin Carinalli

Its: Managing Member

Date: January 24, 2020

HAZEL MITIGATION PRESERVE, LLC
336 Bon Air Center - #232
Greenbrae, CA 94904
(415) 472-1086

BILL OF SALE

Buyer: West County Transportation Agency

Type and Amount of Credits: Credits: 0.10 acre of Wetland Mitigation Credits

Project Name: West County Transportation Agency Project

Project Assessor's Parcel Number: 134-074-022

Contract Date: January 24, 2020

Service File Number: 2019-F-1552-1

Corps File Number: 2018-00421N

CDFW File Number: N/A

RWQCB File Number:

In consideration of \$12,500 (Twelve Thousand ffve Hundred Dollars), receipt of which is hereby acknowledged by the Hazel Mitigation Preserve, LLC, a California limited liability company does hereby bargain, sell and transfer to West County Transportation Agency, herein referred to as "Buyer," 0.10 acre of Wetlands Credits the in the Hazel Mitigation Bank in Sonoma County, California, developed and approved by the U. S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

Hazel Mitigation Preserve, LLC, represents and warrants that it has good title to the Wetlands Credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Hazel Mitigation Preserve, LLC, covenants and agrees with the Buyer to warrant and defend the sale of the Wetlands Credits herein before described against all and every person and persons whomsoever lawfully claiming or to claim the same.

Dated: January 24, 2020
Hazel Mitigation Preserve, LLC
A California Limited Liability Company

By: 
Harvey O. Rich
Its: Managing Member

HAZEL MITIGATION PRESERVE, LLC
336 Bon Air Center #232
Greenbrae, CA 94904
(415) 472-1086

PROJECT. HAZEL MITIGATION PRESERVE

PAYMENT RECEIPT. 0.10 Acre of Wetland Credits

PARTICIPANT INFORMATION.

Name: West County Transportation Agency

Address: 367 West Robles Avenue, Santa Rosa, CA 95407

Telephone: 707-206-9988

Contact: Chad Barksdale, Executive Director

PROJECT INFORMATION.

Project Description: West County Transportation Agency Project

Service File Number: 2019-F-1552-1

Corps File Number: 2018-00421N

CDFW File Number:

RWQCB File Number:

Species/Habitat Affected: Wetlands, Plants, California Tiger Salamander

Combination Credits Purchased: 0.10 Acre

Payment Amount: \$12,500 (Twelve Thousand Five Hundred Dollars)

Project Location: Sonoma County

County/Address: West County Transportation Project

Assessor's Parcel Numbers: 134-074-022

PAYMENT INFORMATION.

Payee: Hazel Mitigation Preserve LLC, a California limited liability company

Payor: West County Transportation Agency

Amount: \$12,500 (Twelve Thousand Five Hundred Dollars)

Method of Payment: Exchange of Funds

RECEIVED BY.

Hazel Mitigation Preserve, LLC
A California Limited Liability Company

By:  _____

Harvey O. Rich

Its: Managing Member

Date: January 24, 2020

HAZEL MITIGATION PRESERVE, LLC
336 Bon Air Center - Box 232
Greenbrae, CA 94904
(415) 472-1086

BILL OF SALE

Buyer: West County Transportation Agency

Type and Amount of Credits: 3.87 Acres California Tiger Salamander Mitigation Credits

Project Name: West County Transportation Project

Project Assessor's Parcel Number: 134-074-022

Contract Date: January 24, 2020

Service File Number: 2019-F-1552-1

Corps File Number: 2018-00421N

CDFW File Number: N/A

RWQCB File Number:

In consideration of \$812,700 (Eight Hundred Twelve Thousand Seven Hundred Dollars), receipt of which is hereby acknowledged, Hazel Mitigation Preserve, LLC, does hereby bargain, sell and transfer to West County Transportation Agency herein referred to as "Buyer," 3.87 acres of California tiger salamander credits ("CTS Credits") in the Hazel Mitigation Bank in Sonoma County, California, developed and approved by the U. S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife.

Hazel Mitigation Preserve, LLC, represents and warrants that it has good title to the CTS Credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

Hazel Mitigation Preserve, LLC, covenants and agrees with the Buyer to warrant and defend the sale of the CTS Credits herein before described against all and every person and persons whomsoever lawfully claiming or to claim the same.

Dated: January 24, 2020

HAZEL MITIGATION PRESERVE, LLC
A California Limited Liability Company

By: 
Harvey O. Rich
Its: Managing Member

**HAZEL MITIGATION PRESERVE, LLC
336 Bon Air Center - Box 232
Greenbrae, CA 94904
(415) 472-1086**

PROJECT. HAZEL MITIGATION BANK

PAYMENT RECEIPT. 3.87 ACRES OF CALIFORNIA TIGER SALAMANDER CREDITS

PARTICIPANT INFORMATION.

Name: West County Transportation Agency

Address: 367 West Robles Avenue, Santa Rosa, CA 95407

Telephone: 707-206-9988

Contact: Chad Barksdale, Executive Director

PROJECT INFORMATION.

Project Description: West County Transportation Agency Project

Service File Number: 2019-F-1552-1

Corps File Number: 2018-00421N

CDFW File Number: N/A

RWQCB File Number:

Species/Habitat Affected: California Tiger Salamander

California Tiger Salamander Credits Purchased: 3.87 Acres

Payment Amount: \$812,700 (Eight Hundred Twelve Thousand Seven Hundred Dollars)

Project Location: Sonoma County

County/Address: West County Transportation Project

Assessor's Parcel Numbers: 134-074-022

PAYMENT INFORMATION.

Payee: Hazel Mitigation Preserve, LLC

Payor: West County Transportation Agency

Amount: \$812,700 (Eight Hundred Twelve Thousand Seven Hundred Dollars)

Method of Payment: Exchange of Funds

RECEIVED BY.

HAZEL MITIGATION PRESERVE, LLC
A California Limited Liability Company

By:  _____

Harvey O. Rich

Its: Managing Member

Date: January 24, 2020



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Deputy Director
Ecosystem Conservation Division
Post Office Box 944209
Sacramento, CA 94244-2090
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



November 16, 2020

Mr. Chad Barksdale, Executive Director
West County Transportation Agency
367 West Robles Avenue
Santa Rosa, CA 95497
cbarksdale@westcountytransportation.org

Re: Request for Consistency Determination for West County Transportation Agency
Parking Lot Project (2080-2020-010-03), Sonoma County

Dear Mr. Barksdale:

As of October 21, 2020, the California Department of Fish and Wildlife (CDFW) has received the appropriate application fee and a notification from WRA, Inc. (WRA) on behalf of West County Transportation Agency that on June 28, 2019, the United States Fish and Wildlife Service (USFWS) issued a Biological Opinion (BO) (Service file No. 08ESMF00-2019-F-1552-1) for the proposed West County Transportation Agency Parking Lot Project (Project). (See Cal. Reg. Notice Register 2020, No. 45-Z, p. 1459). The BO describes the Project and sets forth a series of measures to minimize and mitigate the incidental take of California tiger salamander (CTS; *Ambystoma californiense*), a species designated as threatened pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(3)(G).)

WRA's notification includes a request pursuant to Fish and Game Code Section 2080.1 that CDFW determine that the BO, including its Incidental Take Statement (ITS), is consistent with CESA as to the Project.

CDFW has determined that for purposes of CTS and the Project as described in the BO, the BO and its associated ITS are **consistent** with CESA. A copy of the CDFW determination is enclosed for your records. (See also Fish & G. Code, § 2080.1, subd. (d).)

If you have questions regarding CDFW's consistency determination, please contact Ms. Melanie Day, Senior Environmental Scientist (Specialist), at Melanie.Day@wildlife.ca.gov; or Mr. Craig Weightman, Environmental Program Manager, at Craig.Weightman@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Chad Dibble

40BCCD3DEE9340B...

Chad Dibble, Deputy Director
Ecosystem Conservation Division
California Department of Fish and Wildlife

Conserving California's Wildlife Since 1870

Mr. Chad Barksdale, Executive Director
West County Transportation Agency
November 16, 2020
Page 2 of 2

Enclosure

ec: Bianca Clarke, WRA, Inc. – clarke@wra-ca.com

California Department of Fish and Wildlife

Gregg Erickson
Regional Manager
Bay Delta Region
gregg.erickson@wildlife.ca.gov

Katrina Smith
Senior Environmental Scientist (Specialist)
Habitat Conservation Planning Branch
CESA@wildlife.ca.gov

Wendy Bogdan
General Counsel
Office of General Counsel
wendy.bogdan@wildlife.ca.gov



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
ECOSYSTEM CONSERVATION DIVISION
POST OFFICE BOX 944209
SACRAMENTO, CA 94244-2090

CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION NO. 2080-2020-010-03

Project: West County Transportation Agency Parking Lot

Location: Sonoma County

Applicant: West County Transportation Agency

Notifier: WRA, Inc.

Background

West County Transportation Agency (Applicant), represented by Mr. Chad Barksdale, proposes to develop a school bus parking area and bioretention features on approximately 5.49 acres. The West County Transportation Agency Parking Lot Project (Project) includes the conversion of an undeveloped lot into a paved parking lot that can accommodate a majority of the Applicant's bus fleet, as well as employee vehicles. The Project is located on Assessor Parcel Number 134-074-022 at Latitude 38.394996, Longitude -122.727837 and is situated directly west of the Applicant's existing operations facility at 367 West Robles Avenue south of the city of Santa Rosa. The Project is centrally located near all member school districts and would provide contiguous operational services, maintenance, and parking area for all buses and employees, alleviating strains associated with leasing and traveling between six remote bus yards. The parking lot would be 3.5 acres in size with the capacity to accommodate 138 passenger vehicles, 51 coach buses, and 26 vans. Bioretention areas to treat storm water would be constructed on the remainder of the Project site.

The Project activities described above are expected to incidentally take¹ California tiger salamander (CTS; *Ambystoma californiense*), where those activities take place within the Project site. In particular, CTS could be incidentally taken as a result of crushing or entombing of individuals during construction, cut and fill grading, vehicular access; collapsing of burrows; and entrapment in excavated pits, trenches, storm drains, or within construction materials. Incidental take may also occur in the form of pursue, catch, capture, or attempt to do so from CTS surveying and relocation. CTS is designated as an endangered species pursuant to the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and a threatened species pursuant to the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(3)(G).)

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

CTS individuals are documented as present approximately 500 feet southeast of the Project site and there is suitable CTS habitat within and adjacent to the Project site. Because of the proximity of the nearest documented CTS, dispersal patterns of CTS, and the presence of suitable CTS habitat within the Project site, the U. S. Fish and Wildlife Service (USFWS) determined that CTS is reasonably certain to occur within the Project site and that Project activities are expected to result in the incidental take of CTS.

According to USFWS, the Project will result in the permanent loss of 5.47 acres of upland CTS habitat.

Because the Project is expected to result in take of a species designated as endangered under the federal ESA, the U.S. Army Corps of Engineers (USACE) consulted with USFWS as required by ESA. On June 28, 2019, USFWS issued a biological opinion (Service file No. 08ESMF00-2019-F-1552-1) (BO) to USACE. The BO describes the Project, requires the Applicant to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures.

On October 21, 2020, the Director of the California Department of Fish and Wildlife (CDFW) received a notice from WRA, Inc. on behalf of the Applicant requesting a determination pursuant to Fish and Game Code section 2080.1 that the BO and its related ITS are consistent with CESA for purposes of the Project and CTS. (Cal. Reg. Notice Register 2020, No. 45-Z, p. 1459.)

Determination

CDFW has determined that the BO, including the ITS, is consistent with CESA as to the Project and CTS because the mitigation measures contained in the BO and ITS meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, CDFW finds that: (1) take of CTS will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the BO and ITS will minimize and fully mitigate the impacts of the authorized take; (3) adequate funding is ensured to implement the required avoidance minimization and mitigation measures and to monitor compliance with, and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of CTS. The mitigation measures in the BO and ITS include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- Prior to any earthmoving activities, the Applicant will purchase 5.47 acres of CTS habitat credits from a USFWS-approved mitigation bank(s) that are in a CTS Conservation Area as defined in the Santa Rosa Plain Conservation Strategy and within a CTS Core Area as defined in the 2016 Recovery Plan.
- Ground disturbance will commence between April 15 and October 15, of any given year, depending on the level of rainfall and/or site conditions. However, grading and

other disturbance in pools and ponds, if unavoidable, will be conducted only when dry, typically between July 15 and October 15. Work within a pool or wetland may begin prior to July 15 if the pool or wetland has been dry for a minimum of 30 days prior to initiating work. Work will be limited to periods of low rainfall (less than 0.08 inches per 24-hour period and less than 40 percent chance of rain). Construction activities shall cease 24 hours prior to a 40 percent or greater forecast of rain from the National Weather Service (NWS). Construction may continue 24 hours after the rain ceases if no precipitation is in the 24-hour forecast. Any work in pools and wetlands that are holding water will be subject to approval of USFWS.

- Prior to the start of construction, the Applicant will install wildlife exclusion fencing (WEF) at the edge of the Project footprint in all areas where CTS could enter the construction area. WEF with exit ramps may be required to allow any CTS on-site to move into an adjacent habitat off-site. The location of the fencing shall be determined by the on-site Project manager and the USFWS-approved biologist in cooperation with USFWS prior to the start of staging or surface disturbing activities. A conceptual fencing plan shall be submitted to USFWS for review and approval prior to WEF installation. The location, fencing materials, installation specifications, and monitoring and repair criteria shall be approved by USFWS prior to start of construction. The Applicant shall include the WEF specifications on the final project plans. The Applicant shall include the WEF specifications including installation and maintenance criteria in the bid solicitation package special provisions. The WEF shall remain in place throughout the duration of the proposed project and will be regularly inspected and fully maintained. Repairs to the WEF shall be made within 24 hours of discovery. Upon completion of the Project, the WEF shall be completely removed, the area cleaned of debris and trash, and returned to natural conditions.
- The Applicant will limit access routes, the number and size of staging areas, and work areas to the minimum necessary to achieve the Project goals. Boundaries of the construction work area will be clearly marked prior to initiating construction/grading. Environmentally Sensitive Areas (ESAs) containing sensitive habitats adjacent to or within construction work areas for which physical disturbance is not allowed will be clearly delineated using high visibility orange fencing. The ESA fencing will remain in place throughout the duration of the Project, while construction activities are ongoing, and will be regularly inspected and fully maintained at all times. The final Project plans will depict all locations where ESA fencing will be installed and will provide installation specifications. The bid solicitation package special provisions will clearly describe acceptable fencing material and prohibited construction-related activities including vehicle operation, material and equipment storage, access roads and other surface-disturbing activities within ESAs.
- A qualified biological monitor will conduct a training session for all construction workers before work is started on the Project. The training program is for all construction personnel including contractors and subcontractors. The training will include, at a minimum, a description of CTS, an explanation of CTS' status and

protection under state and federal laws, the avoidance and minimization measures to be implemented to reduce loss of this species, and communication and work stoppage procedures in case CTS is observed within the Project site. A fact sheet conveying this information will be prepared and distributed to all construction personnel. The Applicant shall provide interpretation for non-English speaking workers.

- The Applicant shall submit a CTS Relocation Plan to USFWS for written approval. The Relocation Plan shall contain the name(s) of the USFWS-approved biologist(s) to relocate CTS, method of relocation, a map, and a description of the proposed release sites and burrows, and written permission from the landowner to use their land as a relocation site. A mitigation or conservation bank may be a desired location to relocate CTS from a salvage site; however, no mitigation or conservation bank may receive relocated CTS until all the bank's credits have been sold to prevent interfering with their performance criteria and credit release schedule.

Monitoring and Reporting Measures

- USFWS-approved qualified biological monitor(s) will be on-site each day during all earth moving activities including initial grading. The biological monitor(s) will conduct clearance surveys at the beginning of each day and regularly throughout the workday when construction activities are occurring that may result in take of CTS. All suitable aquatic and upland habitat including refugia habitat such as small woody debris, refuse, burrow entries, etc., shall be duly inspected. USFWS will consider the implementation of specific Project activities without the oversight of an on-site biological monitor on a case-by-case basis.
- Before the start of work each day, the biological monitor will check for animals under any equipment such as vehicles and stored pipes. The biological monitor will check all excavated steep-walled holes or trenches greater than one foot deep for any CTS. CTS will be removed by the biological monitor and relocated according to the CTS Relocation Plan. To prevent inadvertent entrapment of animals during construction, all excavated, steep-walled holes or trenches more than six inches deep will be covered with plywood (or similar materials) that leave no entry gaps at the close of each working day or provided with one or more escape ramps constructed of earth fill or wooden planks. The USFWS-approved biologist shall inspect all holes and trenches at the beginning of each workday and before such holes or trenches are filled. All replacement pipes, culverts, or similar structures stored in the action area overnight will be inspected before they are subsequently moved, capped, and/or buried.
- The biological monitor(s) shall maintain monitoring records that include: (1) the beginning and ending time of each day's monitoring effort; (2) a statement identifying the listed species encountered, including the time and location of the observation; (3) the time the specimen was identified and by whom and its condition; (4) the capture and release locations of each individual; (5) photographs and measurements (snout to vent and total length) of each individual; and (6) a description of any actions taken.

The biological monitor(s) shall maintain complete records in their possession while conducting monitoring activities and will immediately provide records to USFWS upon request. All monitoring records will be provided to USFWS within 30 days of the completion of monitoring work. Although not a condition of the BO, CDFW also requests a copy of the monitoring records.

- If verbally requested before, during, or upon completion of ground disturbance and construction activities, the Applicant will ensure USFWS can immediately and without delay access and inspect the Project site for compliance with the Project description, Conservation Measures, and reasonable and prudent measures of the BO, and to evaluate Project effects to CTS and its habitat.
- To prevent CTS from becoming entangled, trapped, or injured, the Applicant will not use erosion control materials with plastic or synthetic monofilament netting within the Project site. This includes products that use photodegradable or biodegradable synthetic netting, which can take several months to decompose. Acceptable materials include natural fibers such as jute, coconut, twine or other similar fibers.

Financial Assurances

- The Notifier has provided CDFW with three bills of sale confirming the purchase of 5.47 acres of CTS credits at the Carinalli Todd Road Mitigation Bank (1.6 acres) and Hazel Mitigation Bank (3.87 acres) as required by the BO.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of CTS, provided the Applicant implements the Project as described in the BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the BO and ITS. If there are any substantive changes to the Project, including changes to the mitigation measures, or if USFWS amends or replaces the BO and ITS, the Applicant will be required to obtain a new Consistency Determination or a CESA Incidental Take Permit for the Project from CDFW. (See generally Fish & G. Code, §§ 2080.1, 2081, subs. (b) and (c).)

In making this determination, CDFW acknowledges that the BO addresses Sonoma sunshine (*Blennosperma bakeri*), Burke's goldfields (*Lasthenia burkei*), and Sebastopol meadowfoam (*Limnanthes vinculans*) species designated as endangered under ESA, and endangered under CESA. See Cal. Code Regs., tit. 14, § 670.2, subs. (a)(2)(B), (a)(2)(L) and (a)(18)(D). Individuals of these species are not known to occur within the Project site, therefore, the Applicant recognized that take, as defined by CESA, of Sonoma sunshine, Burke's goldfields, and Sebastopol meadowfoam is unlikely. However, the Project site does provide potential habitat for these species and as such, the Applicant mitigated for the loss of the species habitat by purchasing 1.56 acres of these species habitat credits as required by the BO, and an additional 0.04 acres due to combination credits. The Applicant is aware that, for purposes of CESA, take of Sonoma sunshine, Burke's goldfields, and Sebastopol meadowfoam as defined by state law is prohibited, except as authorized by the Fish and

Game Code. (See generally Fish & G. Code, §§ 86, 2080). CDFW's determination that the USFWS BO and ITS are consistent with CESA is limited to CTS, and does not authorize take of the plant species pursuant to CESA.

DocuSigned by:
Chad Dibble
40BCCD3DEE9340B...

By: _____

11/16/2020

Date: _____

Chad Dibble, Deputy Director
Ecosystem Conservation Division
California Department of Fish and Wildlife



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
450 GOLDEN GATE AVENUE
SAN FRANCISCO, CALIFORNIA 94102

June 24, 2020

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: Chad Barksdale, West County Transit Authority (WCTA)

PERMIT NO.: 2018-00421N

ISSUING OFFICE: San Francisco District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below:

PROJECT DESCRIPTION: The project would convert a 5.49 acre undeveloped lot into a 3.5 acre paved parking lot with associated bioretention features. The proposed lot would be used for commercial vehicles and employee parking and is intended to accommodate 138 passenger vehicles, 51 coach buses, and 26 vans.

Grading of the entire Project Area would occur prior to installing the proposed parking lot and bioretention basins (6,890 cubic yards of cut), resulting in the placement of fill in six seasonal wetlands (1.04 acres; 1,121 linear feet) and three drainage ditches (0.02 acres; 570 linear feet). The remainder of the Project Area that would be graded and filled comprises 0.02 acres of developed land and 4.41 acres of non-native annual grasslands. In total, approximately 5,100 cubic yards of fill would be placed in the Project Area. The top 4.5 inches of fill would be composed of asphalt concrete, which would overlay 18 inches of type II aggregate base rock.

Construction activities would require the use of dozers, compactors, excavators, scrapers, dump trucks, and pavers. Staging would occur within the disturbed portions of the Project Area (i.e., the Project would not result in temporary impacts outside of the permanent impact area). Bioretention areas would be graded and planted per the Standard Urban Storm Water Mitigation. The bioretention areas would be sized for the 85th percentile – 24 hour (2 year- 24 hour) storm event. As the Project would connect to an existing storm drain system developed and sized for the general area, no increase in the volume of the hydrograph would occur.

Ground disturbing Project activities are proposed to begin during the dry season (April 15 – October 15).. All earthmoving activities would be completed within the same dry season in which disturbance was initiated. Construction activities including framework, electrical, and plumbing would continue through the wet season with completion within 18 months of Project initiation.

All work shall be completed in accordance with the plans and drawings titled "USACE file #2018-00421N, West County Transportation Agency Project, May 2020, Figure 1," provided as enclosure 1.

PROJECT LOCATION: 3300 Juniper Ave. in the City of Santa Rosa, Sonoma County, California (APN: 134-074-022; Lat. 38.3935°, Long. -122.7260°)

PERMIT CONDITIONS:

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on May 10, 2025. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least

one month before the above date is reached.

2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. For your convenience, a copy of the water quality certification or waiver is attached. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. You understand and agree that, if future operations by the United States require the removal, relocation or other alteration of the structure or work authorized herein, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

SPECIAL CONDITIONS:

1. To remain exempt from the prohibitions of Section 9 of the Endangered Species Act, the non-discretionary Terms and Conditions for incidental take of federally-listed California tiger salamander (*Ambystoma californiense*) shall be fully implemented as stipulated in the Biological Opinion(s) titled "Formal Consultation on the Proposed West County Transportation Agency Project, Santa Rosa, Sonoma County, California (Corps File Number: 2018-00421N)" (pages 14-16), dated June 28, 2019 (Enclosure 2). Project authorization under this permit is conditional upon compliance with the mandatory terms and conditions associated with incidental take. Failure to comply with the terms and conditions for incidental take, where a take of a federally-listed species occurs, would constitute an unauthorized take and non-compliance with the authorization for your project. The USFWS and or NMFS is/are, however, the authoritative federal agency for determining compliance with the incidental take statement and for initiating appropriate enforcement actions or penalties under the Endangered Species Act.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).

- (X) Section 404 of the Clean Water Act (33 U.S.C. Section 1344).
- () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. Section 1413).

2. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal project.
3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:
 - a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate. (See Item 4 above.)
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 C.F.R. § 325.7 or enforcement procedures such as those contained in 33 C.F.R. §§ 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

- 6. Extensions: General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.

Chad Bantoka _____ 5/20/2020 _____
(PERMITTEE) (DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

for _____ 24 June 2020 _____
John C. Cunningham (DATE)
Lieutenant Colonel, US Army
District Engineer

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFEREE) (DATE)

North Coast Regional Water Quality Control Board

March 4, 2020

In the Matter of Water Quality Certification for the West County Transportation Authority Parking Project

APPLICANT: West County Transportation Authority, Chad Barksdale
RECEIVING WATER: Seasonal Wetlands
HYDROLOGIC UNIT: Santa Rosa Plain, within the Middle Russian River hydrologic area (114.21)
COUNTY: Sonoma
FILE NAME: West County Transportation Authority Parking Project
ECM PIN CW-850872; WDID 1B180138WNSO

FINDINGS BY THE EXECUTIVE OFFICER:

1. On September 7, 2018, Bianca Clarke of WRA on behalf of Chad Barksdale, West County Transportation Authority (applicant) filed an application for water quality certification (certification) under section 401 of the Clean Water Act (33 U.S.C. § 1341) with the North Coast Regional Water Quality Control Board (Regional Water Board) for activities associated with the West County Transportation Authority Parking Project (project). The project is located at 3300 Juniper Avenue in Santa Rosa,.
2. **Public Notice:** The Regional Water Board provided public notice of the application pursuant to Title 23, California Code of Regulations, Section 3858 on October 15, 2018, and posted information describing the project on the Regional Water Board's website. No comments were received.
3. **Receiving Waters:** The proposed project would cause disturbances to jurisdictional wetlands on the Santa Rosa Plain, within the Middle Russian River hydrologic area (114.21).
4. **Project Description:** The purpose of the project is to provide centralized parking for buses and staff vehicles next to the West County Transportation Authority (WCTA) operations building at 367 West Robles. The project will involve grading a vacant 5.49-acre lot in a predominantly developed area of southwest Santa Rosa. The new

parking lot will have the capacity for 51 buses, 26 vans, and 138 passenger vehicles. Bioretention areas will be incorporated to treat and retain stormwater runoff.

Currently the WCTA operates a fleet of 214 buses and 9 support vehicles. Due to the size of the fleet and lack of parking options, the WCTA leases six bus yards, most of which have no supervision, security, facilities, or utilities. The WCTA spends over \$100,000 per year on leasing and operational costs related to operating out of multiple yards. The WCTA must maintain an excessively large spare fleet to compensate for rapid response needs throughout their operating district. The new parking facility will alleviate the strains associated with leasing and traveling between remote bus yards and provide contiguous operational services, maintenance, staff parking, and bus parking.

The project will involve the permanent fill of 1.06 acres of jurisdictional waters including 1.04 acres of seasonal wetlands and 0.02 acre of jurisdictional ditches. An alternatives analysis was performed for the project. Three properties were purchased in 1999 with California State funding. At the time, the WCTA only had funds to develop two of the parcels. This project's parcel was planned for development once additional funding was received. In the alternative's analysis, relocating the project off-site was evaluated. However, no suitable properties are available for sale, other properties would contain similar amounts of jurisdictional waters, and costs associated with purchasing another property would be infeasible.

5. **Construction Timing:** The project is expected to begin in May 2020 and would take approximately 18 months to complete.
6. **Project Impacts:** Approximately 1.06 acres of jurisdictional waters including 1.04 acres of seasonal wetlands and 0.02 acre of jurisdictional ditches would be permanently impacted.
7. **Mitigation for Project Impacts:** On February 14, 2020, the applicant provided bills of sale for 1.53 acres of combination wetlands, Sebastopol Meadowfoam, Sonoma Sunshine, and California tiger salamander credits from Carinalli Todd Road Mitigation Bank and for 0.10 acre of wetland creation credits from Hazel Mitigation Bank.
8. **Project Tracking:** It has been determined through regional, state, and national studies that tracking of mitigation and restoration projects must be improved to better assess their performance. In addition, to effectively carry out the state's Wetlands Conservation Policy of no net loss to wetlands, the state needs to closely track both aquatic habitat losses and the success of mitigation and restoration projects. Therefore, this certification requires the Applicant to upload impact totals and mitigation measures to a web-based project tracking system called "EcoAtlas" using the "Project Tracker" form, which can be found here: <http://ptrack.ecoatlas.org>. Instructions and how to request a username and password are on the Project Tracker website. More information about EcoAtlas is available at: www.ecoatlas.org.

9. **Disturbed Soil Area:** Project implementation will result in greater than one acre of disturbed soil area. The applicant shall obtain coverage under the National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ) and prepare a Stormwater Pollution Prevention Plan detailing best management practices (BMPs) to control pollution from the project area during construction. All temporarily disturbed areas within the project area shall be appropriately stabilized and/or replanted with appropriate native vegetation.
10. **Storm Water Control and Treatment:** Low-impact development (LID) bioretention areas will be constructed to capture, treat, and infiltrate storm water from the added impervious area.
11. **Other Agency Actions:** The applicant has applied to the United States Army Corps of Engineers for an individual permit, pursuant to section 404 of the Clean Water Act.
12. **CEQA Compliance:** As lead agency, the County of Sonoma certified a Mitigated Negative Declaration on February 2, 1999, pursuant to the requirements of the California Environmental Quality Act (CEQA).
13. **Antidegradation Policy:** The federal antidegradation policy requires that state water quality standards include an antidegradation policy consistent with the federal policy. The State Water Board established California's antidegradation policy in State Water Board Resolution 68-16, which incorporates the federal antidegradation policy where the federal policy applies under federal law. Resolution 68-16 requires that existing high-quality waters be maintained unless degradation is justified under specific provisions. The Regional Water Board's Basin Plan implements, and incorporates by reference, both the state and federal antidegradation policies. This Certification is consistent with applicable federal and state antidegradation policies, as it does not authorize the discharge of increased concentrations of pollutants or increased volumes of treated wastewater, and does not otherwise authorize degradation of the waters affected by this project.
14. This discharge is also regulated under State Water Resources Control Board Order 2003-0017-DWQ, *General Waste Discharge Requirements for Dredge and Fill Discharges that have Received State Water Quality Certification*, which requires compliance with all conditions of this water quality certification.
https://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf

Receiving Water: Seasonal wetlands on the Santa Rosa Plain, within the Middle Russian River hydrologic area (114.21)

Permanent Impacts: 1.06 acres

Latitude/Longitude: 38.394974°N/122.727970°W

Certification Expiration: March 4, 2025

Accordingly, based on its independent review of the record, the Regional Water Board certifies that the West County Transportation Authority Parking Project (WDID 1B180138WNSO), as described in the application, will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, and with applicable provisions of state law, provided that the applicant complies with the following terms and conditions:

All conditions of this Certification apply to the applicant (and all their employees) and all contractors (and their employees), sub-contractors (and their employees), and any other entity or agency that performs activities or work on the project as related to this water quality certification.

Project-Specific Conditions

1. Within 30 days of issuance of this Order, the Applicant shall upload Project information to EcoAtlas using the “Project Tracker” form found at the following website: <http://ptrack.ecoatlas.org/>. Required information includes a Project map that may either be uploaded to EcoAtlas or created within EcoAtlas by using the “draw polygon” tool.
2. The Applicant shall implement the storm water treatment and volume control BMPs identified in the Project application, including the March 2018, Standard Urban Stormwater Mitigation Plan prepared by EBA Engineering. BMPs identified in the application include seven bioretention areas.
3. The mitigation measures detailed in the Mitigated Negative Declaration are hereby incorporated by reference and are conditions of approval of this certification. Notwithstanding any more specific conditions in this certification, the applicant shall comply with all mitigation measures identified in the Mitigated Negative Declaration that are within the Regional Water Board’s jurisdiction.
4. It is the responsibility of the applicant to seek authorization from the California Department of Fish and Wildlife (CDFW) for “take” of any California Endangered Species Act (CESA) listed species that may be affected by the project.

Project Specific Conditions Requiring Reports

5. Regional Water Board staff shall be notified in writing at least five working days prior to the commencement of ground disturbing activities, with details regarding the construction schedule, in order to allow staff to be present onsite during construction, and to answer any public inquiries that may arise regarding the project.

Standard Conditions

6. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and title 23, California Code of Regulations, section 3867.
7. This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to title 23, California Code of Regulations, section 3855, subdivision (b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
8. The validity of this certification is conditioned upon total payment of any fee required under title 23, California Code of Regulations, section 3833, and owed by the applicant.
9. A complete fee of \$14,064, (Category A, Fill & Excavation Discharges), was received for the Project on September 7, 2018. This Certification will be subject to annual billing while the project is constructed and monitored, per the fee schedule that is current at the time of annual billing. Currently the annual fee is \$1,638; the annual fee is expected to increase every year. The fee calculator may be found at: https://www.waterboards.ca.gov/resources/fees/water_quality/docs/dredgefillcalculator.xlsm

Annual fees will be automatically invoiced to the Applicant. **The applicant must notify the Regional Water Board at project and/or mitigation completion with a final report in order to request to terminate annual billing. Notification should be sent to the staff listed at the bottom of this Order and to Northcoast@waterboards.ca.gov.** Regional Water Board staff will verify conditions of the Certification have been met and may request a site visit at that time to confirm status of Project and compliance with this Certification.

10. This certification does not authorize drafting of surface waters. Any drafting of surface waters shall be in compliance with state water rights law and diversion requirements overseen by the State Water Resources Control Board's Division of Water Rights.

11. Herbicides and other pesticides shall not be used within the project limits. If the applicant has a compelling case as to why pesticides should be used, then a request for pesticide use and a BMP plan may be submitted to the Regional Water Board staff for review and acceptance.
12. Only wildlife-friendly, 100 percent biodegradable erosion and sediment control products that will not entrap or harm wildlife shall be used. Erosion and sediment control products shall not contain synthetic (e.g., plastic or nylon) netting. Photodegradable synthetic products are not considered biodegradable. The applicant shall request approval from the Regional Water Board if an exception from this requirement is needed for a specific location.
13. Only 100 percent biodegradable geotextiles shall be used for permanent applications within waters of the state unless explicitly approved for specific purposes in the project design.
14. Best management practices (BMPs) shall be implemented according to the submitted application and the conditions in this certification. BMPs for erosion, sediment, and turbidity control shall be implemented and in place at commencement of, during, and after any ground clearing activities or any other project activities that could result in erosion or sediment discharges to surface water. BMPs shall be immediately available for deployment at all times to prevent discharges to waters of the state.
15. The applicant is prohibited from discharging waste to waters of the state, unless explicitly authorized by this certification. For example, no debris, soil, silt, sand, bar, slash, sawdust, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this Certification, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the state. When operations are completed, any excess material or debris shall be removed from the work area.
16. The Applicant is liable and responsible for the proper disposal, reuse, and/or recycling of all Project-generated waste in compliance with applicable state and federal laws and regulations.
17. The applicant shall provide Regional Water Board staff access to the project site to document compliance with this certification.
18. Work in flowing or standing surface waters, unless otherwise proposed in the project description and approved by the Regional Water Board, is prohibited.
19. If, at any time, an unauthorized discharge to surface water (including wetlands, lakes, rivers, or streams) occurs, or any water quality problem arises, the associated project activities shall cease immediately until adequate BMPs are implemented

including stopping work. The Regional Water Board shall be notified promptly and in no case more than 24 hours after the unauthorized discharge or water quality problem arises.

20. All project activities shall be implemented as described in the submitted certification application package and the findings and conditions of this certification. Subsequent project changes that could significantly impact water quality shall first be submitted to Regional Water Board staff for prior review, consideration, and written concurrence. If the Regional Water Board is not notified of a significant alteration to the project, it will be considered a violation of this certification, and the applicant may be subject to Regional Water Board enforcement actions.
21. Prior to implementing any change to the project that may be a material change as defined in California Water Code section 13260(c) as a proposed change in character, location, or volume of the discharge, the applicant shall obtain prior written approval of the Regional Water Board Executive Officer. If the Regional Water Board is not notified of the material change to the discharge, it will be considered a violation of this certification, and the applicant may be subject to Regional Water Board enforcement action(s).
22. The applicant shall provide a copy of this Certification and State Water Board Order 2003-0017-DWQ to any contractor(s), subcontractor(s), and utility company(ies) conducting work on the project, and shall require that copies remain in their possession at the work site. The applicant shall be responsible for ensuring that all work conducted by its contractor(s), subcontractor(s), and utility companies is performed in accordance with the information provided by the applicant to the Regional Water Board.
23. Disturbance or removal of existing vegetation as detailed within the application shall not exceed the minimum necessary to complete the project.
24. Fueling, lubrication, maintenance, storage, and staging of vehicles and equipment shall not result in a discharge or threatened discharge to any waters of the state including dry portions of wetlands. At no time shall the applicant or its contractors allow use of any vehicle or equipment that leaks any substance that may impact water quality.
25. The Applicant shall not use leaking vehicles or equipment within state waters or riparian areas. Vehicles and equipment used within state waters shall be checked for leaks at the beginning of each workday.
26. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under applicable state or federal law. For the purposes of section 401 (d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or

threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification. In response to a suspected violation of any condition of this certification, the Regional Water Board may require the holder of any federal permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the Regional Water Board deems appropriate, provided that the burden, including costs, of the reports shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In response to any violation of the conditions of this Certification, the Regional Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance pursuant to Section 13267 of the Porter-Cologne Water Quality Control Act.

27. The Regional Water Board may add to or modify the conditions of this Certification, as appropriate, to implement any new or revised water quality standards and implementation plans adopted and approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.

28. In the event of any change in control of ownership of land presently owned or controlled by the applicant, the applicant shall notify the successor-in-interest of the existence of this certification by letter and shall email a copy of the letter to the Regional Water Board at the following email address:
NorthCoast@waterboards.ca.gov.

The successor-in-interest shall email the Regional Water Board Executive Officer at: NorthCoast@waterboards.ca.gov to request authorization to discharge dredged or fill material under this certification. The request must contain the following:

- i) Effective date of ownership change;
 - ii) Requesting entity's full legal name;
 - iii) The state of incorporation, if a corporation;
 - iv) The address and phone number of contact person; and
 - v) A description of any changes to the Project or confirmation that the successor-in-interest intends to implement the project as described in this certification.
29. Except as may be modified by any preceding conditions, all certification actions are contingent on:
- i) the discharge being limited to and all proposed mitigation being completed in strict compliance with the applicant's Project description, and
 - ii) compliance with all applicable requirements of the Water Quality Control Plan for the North Coast Region (Basin Plan).

30. The authorization of this certification for any dredge and fill activities expires on March 4, 2025. Conditions and monitoring requirements outlined in this Certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Conditions 5 and 9 are requirements for information and reports. Any requirement for a report made as a condition to this certification is a formal requirement pursuant to California Water Code section 13267, and failure or refusal to provide, or falsification of such required report is subject to civil liability as described in California Water Code, section 13268.

If you have any questions or comments, please contact Kaete King of my staff, at (707) 576-2848, or via e-mail at Kaete.King@waterboards.ca.gov.

Matthias St. John
Executive Officer

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Original to: Chad Barksdale, WCTA, 367 West Robles Avenue
Santa Rosa, CA 95407

cc: State Water Resources Control Board, Stateboard401@waterboards.ca.gov
Jennifer Siu, EPA Wetlands Office, siu.jennifer@epa.gov
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