



California Department of Fish and Wildlife
Inland Deserts Region
3602 INLAND EMPIRE BOULEVARD, SUITE C-220
ONTARIO, CA 91764

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HABITAT CONSERVATION
PLANNING BRANCH

California Endangered Species Act
Incidental Take Permit No. 2081-2018-055-06

OLANCHA-CARTAGO FOUR LANE PROJECT

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

Permittee:	California Department of Transportation, District 9
Principal Officer:	Angela Calloway, District 9 Environmental Office Chief
Contact Person:	Katie Rodriguez
Mailing Address:	500 South Main Street Bishop, CA 93514

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2029**.

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

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

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

Project Location:

The Olancho-Cartago Four Lane Project (Project) is located along U.S. Highway 395 from Post Mile (PM) 29.2 to PM 41.8 in Inyo County, California near the communities of Olancho and Cartago. The Project site is in the Haiwee Reservoir, Vermillion Canyon, Olancho, and Bartlett United States Geological Survey (USGS) 7.5-minute quadrangles. The Project extends from Latitude N36 22' 47.1" and Longitude W118 1' 25.2" in the south to Latitude N36 12' 24.6" and Longitude W117 58' 46.0" in the north.

Project Description:

The Project includes widening U.S Highway 395 from two lanes to four lanes near the communities of Olancho and Cartago, by constructing a controlled-access, four-lane divided expressway. The purpose of the Project is to accommodate increased traffic demands by improving levels of service, enhance safety by allowing faster traffic to pass slower vehicles and by separating opposing lanes of traffic, and to provide route continuity.

The Project is about 12.6 miles long, extending from the existing four-lane highway segment just south of the Los Angeles Aqueduct (LAA) at PM 29.2, north to the four-lane segment at the Ash Creek bridge at PM 41.8. The Project would construct a controlled-access, four-lane divided expressway for the entire length of the Project. It would begin in the existing four-lane section of U.S. Hwy 395 south of Olancho and travel west of Olancho and the LAA. After crossing Olancho Creek, the alignment would cross the LAA and continue north through Cartago along the existing highway to join the four-lane section of U.S. Hwy 395 to the north. The northbound and southbound lanes would be separated by a 100-foot-wide unpaved median. The proposed segments are as follows:

- Begin Work 1.4 miles south of LAA Bridge #48-10 (PM 29.2): the existing lanes would be rehabilitated for use as northbound and southbound lanes.
- 1.3 miles south of LAA Bridge #48-10 (PM 30): new northbound and southbound lanes would be constructed west of the existing highway and would cross the LAA and return to the existing alignment south of Cartago.
- 0.3 miles south of Lake Street (PM 37.3): new northbound and southbound lanes would be constructed west of the existing highway and would pass through Cartago between the existing highway and Pine Street.
- 1.7 miles north of Whitney Street (PM 39): the existing lanes would be rehabilitated for use as the northbound lanes and new southbound lanes would be constructed to the west. The southbound lanes would diverge to the west to avoid an existing utility corridor.
- 1.7 miles south of Ash Creek Bridge #48-11 (PM 40.1): the southbound lanes would return to the northbound lanes and the existing lanes would be rehabilitated for use as the southbound lanes. New northbound lanes would be constructed to the east.
- End work 0.2 miles south of Ash Creek Bridge (PM41.8).

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The above segments of the Project will not be phased over time; the entire 12.6 miles will be constructed as one project, and is anticipated to last approximately two years, with project work being done continuously in that timeframe with no seasonal shutdowns.

The new expressway would be built on an independent alignment and would consist of an asphalt concrete surface on an aggregate base, and a sub-grade constructed on earthen excavations and embankments. Two new concrete structures will be required to span the LAA and approximately 80 to 85 reinforced concrete box and corrugated metal pipe culverts will be installed to convey cross-drainage under the new expressway. Minor items of work associated with the Project would include constructing temporary storm water and permanent erosion control measures, installing new right of way fencing, installing new metal beam guard railing, and placing new signs and pavement delineation. In addition to the new alignment, two vehicle staging areas and a soil borrow site have been included as part of the Project.

In addition to the construction of the new alignment, surveys and studies will be required prior to construction within and outside of the project footprint, including geotechnical studies for new bridge structures, archaeological survey and excavation for cultural mitigation requirements, material site assessment studies, and utility relocation of power lines. This work will occur within the proposed new road alignment where construction activities will occur.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. Mohave ground squirrel (<i>Xerospermophilus mohavensis</i>)	Threatened ³
2. Desert tortoise (<i>Gopherus agassizii</i>)	Threatened ⁴

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include vegetation clearing and grubbing, fence installation, road construction, culvert installation, bridge construction, implementation of temporary storm water BMPs, rock slope protection, preconstruction activities (geoarchaeology coring, geotechnical study boring, utility relocation), and use of

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

⁴See *Id.*, subd. (b)(4)(A).

equipment staging and storage areas within the Project area (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as collapsing burrows by hand prior to mechanical vegetation removal or clearing and grubbing; vehicle strikes and crushing of burrows during vegetation removal by construction equipment; construction equipment and vehicles driving within the Project limits; walking through the Project area and unintentionally collapsing burrows, resulting in crushing or suffocation; entombment of individuals from deposition of stockpiled material or spoils over occupied burrows; and accidental crushing by construction equipment. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from capture or entrapment in holes, trenches or equipment; uncovering Covered Species through the excavation of burrows; by corralling the Covered Species into a confined area when barrier fencing is constructed; and by relocation of Covered Species when required by this ITP. The areas where authorized take of the Covered Species is expected to occur include: within the Caltrans right-of-way and temporary construction easement (collectively, the Project Area).

The Project is expected to cause the permanent loss of 604 acres of habitat for the Covered Species; of this, all 604 acres are desert tortoise habitat, and approximately 288 acres are Mohave ground squirrel habitat. The area of new pavement will be approximately 120 acres, and although the remainder will not become part of the new roadway, all impacts from the Project will be treated as permanent and mitigated for accordingly. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include stress resulting from noise and vibrations, trapping, capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, disturbance to burrows, removal and/or damage of vegetation, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

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

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Conditions of Approval:

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2010091023) certified by Caltrans on June 29, 2017 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (notification not yet submitted) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Biological Opinion for the Olancho/Cartago Four-Lane Project (09-INY-395, PM29.2/41.8 EA 09-21340) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
 - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify

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CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

- 6.2. Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Biological Monitor(s) at least 30 days prior to starting Covered Activities or with change of personnel. Permittee shall ensure that the Biological Monitor(s) is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Biological Monitor(s) in advance in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Biological Monitor(s) must be changed.
- 6.3. Authorized Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information for a biologist(s) who, in addition to meeting the qualifications to be Biological Monitor(s) identified in Condition 6.2 above, possesses a valid Memorandum of Understanding (MOU) with CDFW for handling the Covered Species. Only Authorized Biologist(s) shall be allowed to excavate burrows, handle, and relocate Covered Species.
- 6.4. Designated Representative and Authorized Biologist/Biological Monitor Authority. Only an Authorized Biologist(s) with an MOU with CDFW is authorized to excavate burrows, handle, and relocate Covered Species. To ensure compliance with the Conditions of Approval of this ITP, the Designated Representative, Authorized Biologist(s), and/or Biological Monitor(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 6.5. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Representative, Biological Monitor(s), or Authorized Biologist(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for

workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- 6.6. Construction Monitoring Notebook. The Biological Monitor(s) and/or Authorized Biologist(s) shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 6.7. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.8. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Biological Monitor(s) and/or Authorized Biologist(s). Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 6.9. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 6.10. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 6.11. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.12. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross

Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

6.13. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.12 of this ITP.

6.14. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.

6.15. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

6.16. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6.17. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs (except service dogs) from the Project Site and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials.

7. Monitoring, Notification and Reporting Provisions:

7.1. Notification Before Commencement. The Designated Representative shall notify CDFW's Regional Representative Rose Banks (Rose.Banks@wildlife.ca.gov) in writing 14 calendar days before starting Covered Activities and shall document

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compliance with all pre-Project Conditions of Approval before starting Covered Activities.

- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW's Regional Representative Rose Banks at (760) 873-4412 and in writing (Rose.Banks@wildlife.ca.gov) if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Biological Monitor(s) and/or Authorized Biologist(s) shall be on-site daily during all initial ground-disturbing activities. If no covered species are found once ground-disturbing activities are completed, the Biological Monitor(s) and/or Authorized Biologist(s) shall conduct weekly site visits and shall be on-call to resolve any biological resource issues that arise during construction. The Biological Monitor(s) and/or Authorized Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. During initial ground-disturbing activities, the Designated Representative, Biological Monitor(s) or Authorized Biologist(s) shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Biological Monitor(s) or Authorized Biologist(s) shall conduct compliance inspections a minimum of twice a day (once during the onset of the day's work and one at the conclusion of that day's work), and once a week during periods of inactivity and after area disturbances are completed.
- 7.4. Quarterly Compliance Report. The Designated Representative, Biological Monitor(s), or Authorized Biologist(s) shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Rose Banks (Rose.Banks@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting

schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 7.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.6. CNDDDB Observations. The Biological Monitor(s) or Authorized Biologist(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Biological Monitor(s) and/or Authorized Biologist(s) shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.7. Final Mitigation Report. No later than 60 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Representative shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 7.8. Notification of Take or Injury. Permittee shall immediately notify the Biological Monitor(s) and/or Authorized Biologist(s) if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured

within the vicinity of the Project. The Biological Monitor(s), Authorized Biologist(s) or Designated Representative shall provide initial notification to CDFW by calling the Bishop Field Office at (760) 873-4412 and by notifying via email the CDFW Regional Representative Rose Banks (Rose.Banks@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

8. Take Minimization Measures:

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

Mojave ground squirrel

- 8.1. Preconstruction Surveys No more than 14 days prior to initiating ground-or vegetation-disturbing Project activities, the Project Area shall be surveyed for Covered Species by the Biological Monitor(s) and/or Authorized Biologist(s) using protocols approved by CDFW. If a covered Species is found, a follow-up survey shall be conducted no more than 48 hours in advance of initiating ground- or vegetation-disturbing Project activities. During these surveys, all burrows of Covered Species that may be affected by Project activities shall be prominently flagged by the Biological Monitor(s) or Authorized Biologist(s) and avoided to the maximum possible extent during Project activities. Permittee shall include the survey results in the Quarterly Compliance Report and in the ASR.
- 8.2. Burrow Excavation. The Authorized Biologist(s) shall fully excavate by hand all burrows OR scope each burrow within the Project Area that are suspected or known to be occupied by the Covered Species. The Authorized Biologist(s) shall allow Covered Species encountered in the excavated burrows during their *active period* (February through August) to escape out of harm's way. During the Covered Species' *dormant period* (approximately September through January), the Authorized Biologist(s) shall collect and immediately relocate them to an artificial burrow at a protected off-site location approved in advance by CDFW's Regional Representative. The Covered Species may only be relocated by the Authorized Biologist(s). The Authorized Biologist(s) shall prepare relocation burrows in the following manner: (1) dig a hole of at least two feet deep; (2) install a nine-inch diameter non-collapsible plastic container, which shall be connected to a three-inch diameter non-collapsible

pipe that runs to the ground surface at a 45-degree angle; (3) the Authorized Biologist(s) shall place the Covered Species in the artificial burrow and lightly plug the burrow mouth with soil in a manner that is similar to a natural Covered Species burrow.

Desert Tortoise

- 8.3. Pre-Construction surveys. No more than 30 days prior to start of Covered Activities, the Biological Monitor(s) or Authorized Biologist(s) shall conduct pre-construction surveys for desert tortoise. These surveys shall cover 100 percent of the Project Area with a 50-foot buffer zone. The Biological Monitor(s) or Authorized Biologist(s) shall follow the survey methodology in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise Field Manual 2009. The Biological Monitor(s) and /or Authorized Biologist(s) shall flag all potential burrows within this area. If the Covered Species is active above-ground, a final survey for the Covered Species shall occur no more than 48 hours before the onset of surface-disturbing activities. Within 30 days of performing the pre-construction surveys, the Biological Monitor(s) or Authorized Biologist(s) shall submit a report to CDFW documenting results (following most current USFWS guidance document).
- 8.4. Excavating Burrows. Only the Authorized Biologist(s) may excavate burrows and handle the Covered Species and their eggs. During pre-construction clearance surveys the Authorized Biologist(s) shall excavate all burrows by hand that cannot be avoided within the area to be impacted as a result of the Project, including burrows not recently used that are considered by the Authorized Biologist(s) at the time of the survey to be potentially suitable for the Covered Species. Potentially suitable burrows shall be excavated and then blocked, collapsed, or fenced by the Authorized Biologist(s) at the time of the survey to prevent re-entry by the Covered Species. Burrows shall only be collapsed where Covered Activities will directly impact the burrow. Otherwise, burrows shall be left intact, and the entrance temporarily blocked to prevent re-entry using methods determined to be appropriate by the Authorized Biologist(s). The Authorized Biologist(s) shall excavate potentially suitable burrows in accordance with the handling protocol outline in Chapter 7-Guidelines for Handling Desert Tortoises (USFWS 2009).
- 8.5. Clearance Survey and Burrow Collapse. Immediately prior to start of ground disturbance activities, the Biological Monitor(s) and/or Authorized Biologist(s) shall resurvey the Project area and access routes for Covered Species and their burrows. The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect all the burrows within the Project area for habitation prior to collapsing them in accordance with this ITP. If handling of a desert tortoise is required, the Designated Representative shall contact the Authorized Biologist(s). Only an Authorized Biologist shall be allowed to

excavate burrows, handle, and relocate desert tortoise.

- 8.6. Desert Tortoise Handling. In the event that individuals of the Covered Species or their eggs must be handled and/or relocated, the Authorized Biologist(s) shall follow all procedures/guidelines in the USFWS Field Manual, including, but not limited to, procedures to avoid transmission of diseases and parasites, guidelines for addressing temperature extremes, data collection requirements, and general measures to protect the well-being of the Covered Species. All instances of handling and relocation shall be documented and provided to CDFW as specified in Condition of Approval 8.15.
- 8.7. Vehicle Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Biological Monitor(s) and/or Authorized Biologist(s) and wait for the Covered Species to move unimpeded to a safe location OR the Authorized Biologist(s) shall relocate the Covered Species as described in Condition of Approval 8.6 and 8.9 of this ITP before moving vehicles and equipment.
- 8.8. Covered Species Observations. All personnel on the Project site shall immediately report all encounters with the Covered Species to the Biological Monitor(s) and/or Authorized Biologist(s). If a Covered Species is identified during Project activities, the Permittee shall immediately stop all work in the area and contact the Biological Monitor(s) and/or Authorized Biologist(s). The Biological Monitor(s) and/or Authorized Biologist shall allow the Covered Species to escape unimpeded, or relocate the Covered Species as described in this ITP or Chapter 7-Guidelines for Handling Desert Tortoises (USFWS 2009). Permittee shall not resume work until the Authorized Biologist has relocated the animal or allowed it to move outside the Project Area on its own. The Designated Representative shall immediately, or no later than noon on the next business day, notify CDFW of any Covered Species Observations. Notification to CDFW shall be to Rose Banks via telephone (760) 873-4412 and email (Rose.Banks@wildlife.ca.gov), followed by a written report. Notification and the written report shall include the date, location, and circumstances of the observation, the name(s) of the Authorized Biologist(s) that relocated the individual, and the location (including GPS coordinates) where the individual was moved.
- 8.9. Relocation of Desert Tortoise. To the maximum extent practicable, disturbance to and relocation of desert tortoises shall be avoided. If any desert tortoises are found to be at risk of harm as a result of Covered Activities, the individual(s) shall be moved out of harm's way by an Authorized Biologist and released no more than 1000 feet from the point of collection for adults and 300 feet for juveniles. Tortoises shall not be relocated to adjacent private property unless the Permittee obtains written permission from the property owner. Desert tortoises found above ground shall be allowed reasonable time to move out of harm's way on their own accord, and if relocated by

the Authorized Biologist(s), the tortoise shall be released above ground in suitable habitat and conditions. Desert tortoises found in burrows, especially during the species' less active period, shall be avoided to the extent practicable, as determined by the Authorized Biologist(s). If a desert tortoise or eggs are found during burrow excavation, the Authorized Biologist(s) shall relocate them to an unoccupied burrow of similar size. If no such burrow is available for relocating, the Authorized Biologist(s) shall construct an artificial burrow similar in size, depth and orientation as the original burrow, and monitor them until Covered Activities in the area are complete. The Authorized Biologist(s) shall follow all excavation, capture, handling, identification, data collection, relocation, and burrow construction procedures described in the USFWS Field Manual to protect the health and well-being of desert tortoise. The Authorized Biologist(s) shall follow all protocols for the construction of the artificial burrows found in the Chapter 7-Guidelines for Handling Desert Tortoises (USFWS 2009). The Authorized Biologist(s) shall document any relocation efforts and provide a report to CDFW as specified in Condition of Approval 8.15.

- 8.10. Temporary Fencing. Except for areas where impacts to cultural resources may occur (as identified by the Caltrans Archaeologist), Permittee shall install temporary desert tortoise exclusion fencing around any active construction area, lay down area, and storage area prior to site use for Covered Activities. The Biological Monitor(s) and/or Authorized Biologist(s) shall be present for fence installation. Fencing may be taken down temporarily to allow for access to the Project site and to allow for any Covered Activities for the day. The Biological Monitor(s) and/or Authorized Biologist shall be on site if the fencing is taken down, and fencing shall be reinstalled at the end of each working day. The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect the temporary exclusionary fencing each morning prior to the start of construction and at the end of the day after work has ceased for any gaps/breaches or required repairs.
- 8.11. Desert Tortoise Fencing Maintenance. The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect the desert tortoise fencing during the Covered Activities, at the end of each working day, and during and after major rainfall events to ensure the desert tortoise is prohibited from entering the site. If the fence is compromised, repairs shall be completed at that time.
- 8.12. Ambient Air Temperature. The Authorized Biologist(s) shall ensure that desert tortoises are not captured, moved, transported, released, or purposefully caused to leave their burrow for any reason when the ambient air temperature is above 95 degrees Fahrenheit (35 degrees Celsius). The Authorized Biologist(s) shall ensure that no desert tortoise is captured if the ambient air temperature is anticipated to exceed 95 degrees Fahrenheit before handling or processing can be completed. If the ambient air temperature exceeds 95 degrees Fahrenheit during handling or processing, the Authorized Biologist(s) shall ensure the desert tortoise is kept in a

shaded environment with a temperature that does not exceed 95 degrees Fahrenheit, and that the individual is not released until ambient air temperature declines to below 95 degrees Fahrenheit. Desert tortoises moved during inactive periods shall be monitored by the Authorized Biologist(s) for at least 2 days after placement in the new burrows to ensure their safety. During relocation, the Authorized Biologist(s) may hold a captured desert tortoise overnight and move them the following morning within these temperature constraints.

8.13. Desert Tortoise Rehydration. If a desert tortoise voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the individual(s). The Authorized Biologist(s) shall rehydrate the desert tortoise at the location where the individual(s) was captured, or the location where the individual(s) is or will be relocated. The Authorized Biologist(s) shall rehydrate the desert tortoise by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the desert tortoise. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration. After each tortoise is rehydrated the water shall be emptied and a new plastic disposable liner placed in the tub.

8.14. Fatally Injured or Killed Desert Tortoise. Permittee shall submit tortoises fatally injured or killed by project for necropsy, according to *Protocol for Salvaging Injured, Recently Dead, Ill, and Dying Wild, Free-Roaming Desert Tortoises* (2007) (Attachment 4), at the expense of the Permittee.

8.15. Record of Handling. The Authorized Biologist shall maintain a record of all desert tortoises handled. This information shall include the following for each tortoise: (1) the locations (narrative and maps, including whether the individual(s) was found above ground or in a burrow) and dates of observation; (2) the general condition and health, including injuries, state of healing, and whether the desert tortoise voided its bladder; (3) the location moved from and location moved to (using GPS technology), including information on any burrow (natural or artificial) utilized; (4) diagnostic markings (i.e., identification numbers or marked lateral scutes); (5) ambient temperature when handled and released; (6) whether any eggs were discovered and relocated; (7) digital photographs of any desert tortoises or eggs handled; and (8) results of any ongoing monitoring. The Authorized Biologist(s) shall provide CDFW a written summary via email to Rose Banks (Rose.Banks@wildlife.ca.gov) of the handling/relocation event, including the information listed above, within 24 hours of the event. This information shall also be recorded in the daily observation and inspection records for inclusion in the Quarterly Compliance and Annual Status Reports as directed in Conditions 7.4 and 7.5 above.

Other Minimization Measures:

- 8.16. Trench Inspection. The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect all open holes and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Authorized Biologist(s) shall oversee the covering of all excavated, steep-walled holes or trenches more than two feet deep, or of any depth if they contain water or other material, at the close of each working day by plywood or other barrier materials such that animals are unable to enter and become entrapped. Permittee shall provide escape ramps in holes greater than two feet deep that do not hold water or other material, to allow animals to escape. Before holes or trenches are filled, the Biological Monitor(s) and/or Authorized Biologist(s) shall thoroughly inspect them for trapped animals. If any worker discovers that Covered Species have become trapped, they shall halt Project-related activities and notify the Authorized Biologist(s) immediately. Project workers, Biological Monitor(s), and the Authorized Biologist(s) shall allow the Covered Species to escape out of harm's way unimpeded if possible, or the Authorized Biologist(s) shall move the Covered Species out of harm's way before allowing work to continue.
- 8.17. Covered Species Injury. If a Covered Species is injured as a result of Covered Activities, the Authorized Biologist(s) shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone (760) 873-4412 and e-mail (Rose.Banks@wildlife.ca.gov) followed by a written incident report as described in Condition 7.8. Notification shall include the name of the facility where the animal was taken.
- 8.18. Vehicular Traffic Restrictions. Permittee shall restrict Project-related vehicle traffic to established roads and the delineated Project Area; cross-country (off-road) vehicle travel is prohibited and signs shall be posted to this effect during covered activities. Vehicle speeds shall be posted not to exceed 20 mph in order to see, identify, and avoid Covered Species on or traversing the Project Area and roads. If a Covered Species is encountered, drivers shall stop, wait for the Covered Species to move off the road, and immediately notify the Biological Monitor(s) and/or Authorized Biologist(s) of the Covered Species location. If handling of a Covered Species is required, the Biological Monitor shall notify the Authorized Biologist(s) and shall halt Project-related activities in that area until the situation has been addressed.

9. Habitat Management Land Acquisition:

CDFW has determined that permanent protection and perpetual management of

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

To meet this requirement, the Permittee shall either purchase 1,654 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of 1,654 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Mitigation shall occur within Inyo County; if Permittee must go elsewhere to secure mitigation, the amount to meet the full mitigation requirement shall be 1,798 acres, and the proposed bank or mitigation site must be approved by CDFW in advance in writing. If Permittee can only mitigate a portion in Inyo County, then the remainder shall be based on the 1,798-acre requirement, minus the number of acres in Inyo County. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 24 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

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

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$2300/acre for 1,654 acres: **\$3,804,200**. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at **\$496,200**;
- 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at **\$1,232,230**;
- 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$2,400/acre for 1,654 acres: **\$3,969,600**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management, plus the ten percent contingency fee as described in Condition 9.4.2.2.1 (\$396,960) for a total of **\$4,366,560**.

9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at **\$3,000**.

9.2. Covered Species Credits. Permittee shall purchase 1,654 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 24 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. If Permittee cannot purchase mitigation credits within Inyo County, the amount to meet the full mitigation requirement shall be increased to 1,798 acres, and the proposed bank must be approved by CDFW in advance in writing. If Permittee can only mitigate a portion in Inyo County, then the remainder to be purchased shall be based on the 1,798-acre requirement, minus the amount that was purchased in Inyo County.

OR:

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

9.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

9.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before

acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

- 9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 9.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.
- 9.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <http://www.dfg.ca.gov/habcon/conplan/mitbank/>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or

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

9.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

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

proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;

9.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

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

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

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

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

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

9.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered

Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

- 9.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

10. Performance Security

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

- 10.1. Security Amount. The Security shall be in the amount of **\$9,902,190**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. Security Form. The Security shall be in the form of a funds transfer to either the CDFW Master Mitigation Account, a CDFW approved third party, or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 3) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

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

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 24 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

Amendment:

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

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Biological Monitor(s)/Authorized Biologist(s) nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

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

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail

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or overnight delivery to the following address:

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2018-055-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Leslie MacNair, Regional Manager
California Department of Fish and Wildlife
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
Telephone (909) 484-0167
Fax (909) 481-2945

and a copy to:

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

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

Rose Banks, Environmental Scientist
California Department of Fish and Wildlife
787 North Main Street, Suite 220
Bishop, CA 93514
Telephone (760) 873-4412
Fax (760) 872-1284

Compliance with California Environmental Quality Act:

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CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Olancho-Cartago Four Lane Project Environmental Impact Report (EIR), (SCH No.: 2010091023) dated May 2017 that Caltrans certified August 17, 2017. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, the Olancho-Cartago Four Lane Project EIR and accompanying Natural Environment Study, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this

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evaluation, CDFW determined that the protection and management in perpetuity of 1,654 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

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

Attachments:

ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 3	Mitigation Payment Transmittal Form
ATTACHMENT 4	Desert Tortoise Salvage Protocol

Incidental Take Permit
No. 2081-2018-055-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION
OLANCHA-CARTAGO FOUR LANE PROJECT

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 11/9/18


Leslie MacNair, Regional Manager
INLAND DESERTS REGION

ACKNOWLEDGMENT

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

By:  Date: 11/14/18

Printed Name: Angela Calloway Title: Environmental Office Chief

Incidental Take Permit
No. 2081-2018-055-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION
OLANCHA-CARTAGO FOUR LANE PROJECT

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2018-055-06

PERMITTEE: California Department of Transportation

PROJECT: Olancho-Cartago Four Lane Project

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition #6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Biological Monitor(s) at least 30 days before starting Covered Activities or with change of personnel. Permittee shall ensure that the Biological Monitor(s) is knowledgeable and experienced in the biology and natural history of the Covered Species. The Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Biological Monitor(s) in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Biological Monitor(s) must be changed.	ITP Condition #6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information for a biologist(s) who, in addition to meeting the qualifications to be Biological Monitor(s) identified in Condition 6.2 above, possesses a valid Memorandum of Understanding (MOU) with CDFW for handling the Covered Species. Only Authorized Biologist(s) shall be allowed to excavate burrows, handle, and relocate Covered Species.	ITP Condition #6.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
4	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Representative, Biological Monitor(s), or Authorized Biologist(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition #6.5	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition #6.7	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Biological Monitor(s) and/or Authorized Biologist(s). Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition #6.8	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
7	Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities in that area.	ITP Condition #6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition #6.11	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
9	The Designated Representative shall notify CDFW's Regional Representative Rose Banks (Rose.Banks@wildlife.ca.gov) in writing 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition #7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
10	Permittee shall either purchase 1,654 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of 1,654 acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Mitigation shall occur within Inyo County; if Permittee must go elsewhere to secure mitigation, the amount to meet the full mitigation requirement shall be 1,798 acres, and the proposed bank or mitigation site must be approved by CDFW in advance in writing. If Permittee can only mitigate a portion in Inyo County, then the remainder shall be based on the 1,798-acre requirement, minus the number of acres in Inyo County. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 24 months of the effective date of the ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.	ITP Condition #9	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	<p>CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:</p> <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition 9.3 below, estimated at \$2,300.00/acre for 1,654 acres: \$3,804,200.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements; ii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition 9.3.5 below, estimated at \$496,200.00; iii) Interim management period funding as described in Condition 9.3.6 below, estimated at \$1,232,230.00; iv) Long-term management funding as described in Condition 9.4 below, estimated at \$2,400.00/acre for 1,654 acres: \$3,969,600.00. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management, plus the ten percent contingency fee as described in Condition 9.4.2.2.1 (\$396,960) for a total of \$4,366,560.00 v) Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM Lands to CDFW as described in Condition 9.5, estimated at \$3,000.00. 	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	
12	<p>Permittee shall purchase 1,654 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 24 months from the issuance of the ITP if Security is provided pursuant to Condition of Approval 10 below. If Permittee cannot purchase mitigation credits within Inyo County, the amount to meet the full mitigation requirement shall be increased to 1,798 acres, and the proposed bank must be approved by CDFW in advance in writing. If Permittee can only mitigate a portion in Inyo County, then the remainder to be purchased shall be based on the 1,798-acre requirement, minus the amount that was purchased in Inyo County.</p> <p>OR:</p>	ITP Condition #9.2	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
13	To provide for the acquisition and protection of the HM lands, the Permittee shall transfer fee title to the HM lands to CDFW pursuant to terms approved by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e)	ITP Condition #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	
14	Permittee shall obtain CDFW approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species.	ITP Condition #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	
15	Permittee shall provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.	ITP Condition #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	
16	Permittee shall designate an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.	ITP Condition #9.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
17	Permittee shall provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see http://www.dfg.ca.gov/habcon/conplan/mitbank/); (2) conducting a baseline biological assessment and land survey report within 4 months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.	ITP Condition #9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
18	Permittee shall provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition #9.3.6	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	
19	If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition 9.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Condition #9.4	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
20	The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).	ITP Conditions #9.4.1	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	
21	After obtaining CDFW approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Fund Manager.	ITP Conditions #9.4.2	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	
22	Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.	ITP Conditions #9.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	
23	Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: <ul style="list-style-type: none"> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. The endowment shall be established assuming spending will not occur for the first three years after full funding. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	ITP Conditions #9.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
24	Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment Fund with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
25	Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM Lands to CDFW.	ITP Conditions #9.5	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
26	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ul style="list-style-type: none"> b) <u>Security Amount</u>. The Security shall be in the amount of \$9,902,190.00. This amount is based on the cost estimates identified in Condition 9.1 above; c) <u>Security Form</u>. The Security shall be in the form of a funds transfer to either the CDFW Master Mitigation Account, a CDFW approved third party, or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.; d) <u>Security Timeline</u>. The Security shall be provided to CDFW before Covered Activities begin; e) <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW; f) <u>Security Transmittal</u>. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 3) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other; g) <u>Security Drawing</u>. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of the ITP; h) <u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittee after all secured requirements have been met as evidenced by: <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 24 months from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition #10	Before commencing ground- or vegetation-disturbing activities (or within 24 months of issuance of the ITP if Security is provided)	Permittee	
DURING CONSTRUCTION					
27	<p>Only an Authorized Biologist(s) with an MOU with CDFW is authorized to excavate burrows, handle, and relocate Covered Species. To ensure compliance with the Conditions of Approval of the ITP, the Designated Representative, Authorized Biologist(s), and/or Biological Monitor(s) shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.</p>	ITP Condition #6.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	The Biological Monitor(s) and/or Authorized Biologist(s) shall be on-site daily during all initial ground-disturbing activities. If no covered species are found once ground-disturbing activities are completed, the Biological Monitor(s) and/or Authorized Biologist(s) shall conduct weekly site visits and shall be on-call to resolve any biological resource issues that arise during construction. The Biological Monitor(s) and/or Authorized Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. During initial ground-disturbing activities, the Designated Representative, Biological Monitor(s) or Authorized Biologist(s) shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP. The Biological Monitor(s) or Authorized Biologist(s) shall conduct compliance inspections a minimum of twice a day (once during the onset of the day's work and one at the conclusion of that day's work), and once a week during periods of inactivity and after area disturbances are completed.	ITP Condition #7.3	Entire Project	Permittee	
29	The Designated Representative, Biological Monitor(s), or Authorized Biologist(s) shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Rose Banks (Rose.Banks@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition #7.4	Entire Project	Permittee	
30	Annual Status Report: Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition #7.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	The Biological Monitor(s) or Authorized Biologist(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Biological Monitor(s) and/or Authorized Biologist(s) shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition #7.6	Entire Project	Permittee	
32	The Designated Representative shall immediately notify CDFW's Regional Representative Rose Banks at (760) 873-4412 and in writing (Rose.Banks@wildlife.ca.gov) if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition #7.2	Entire Project	Permittee	
33	The Biological Monitor(s) and/or Authorized Biologist(s) shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition #6.6	Entire Project	Permittee	
34	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 6.8	Entire Project	Permittee	
35	Permittee shall prohibit firearms and domestic dogs (except service dogs) from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials.	ITP Condition #6.9	Entire Project	Permittee	
36	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition #6.12	Entire Project	Permittee	
37	Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless specifically provided for in Condition 6.12 of the ITP.	ITP Condition #6.13	Entire Project	Permittee	
38	Permittee shall immediately stop and following pertinent State and federal statutes and regulations arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition #6.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
39	Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition #6.15	Entire Project	Permittee	
40	No more than 14 days prior to initiating ground-or vegetation-disturbing Project activities, the Project Area shall be surveyed for Covered Species by the Biological Monitor(s) and/or Authorized Biologist(s) using protocols approved by CDFW. If a covered Species is found, a follow-up survey shall be conducted no more than 48 hours in advance of initiating ground- or vegetation-disturbing Project activities. During these surveys, all burrows of Covered Species that may be affected by Project activities shall be prominently flagged by the Biological Monitor(s) or Authorized Biologist(s) and avoided to the maximum possible extent during Project activities. Permittee shall include the survey results in the Quarterly Compliance Report and in the ASR.	ITP Condition # 8.1	Entire Project	Permittee	
41	The Authorized Biologist(s) shall fully excavate by hand all burrows OR scope each burrow within the Project Area that are suspected or known to be occupied by the Covered Species. The Authorized Biologist(s) shall allow Covered Species encountered in the excavated burrows during their <i>active period</i> (February through August) to escape out of harm's way. During the Covered Species' <i>dormant period</i> (approximately September through January), the Authorized Biologist(s) shall collect and immediately relocate them to an artificial burrow at a protected off-site location approved in advance by CDFW's Regional Representative. The Covered Species may only be relocated by the Authorized Biologist(s). The Authorized Biologist(s) shall prepare relocation burrows in the following manner: (1) dig a hole of at least two feet deep; (2) install a nine-inch diameter non-collapsible plastic container, which shall be connected to a three-inch diameter non-collapsible pipe that runs to the ground surface at a 45-degree angle; (3) the Authorized Biologist(s) shall place the Covered Species in the artificial burrow and lightly plug the burrow mouth with soil in a manner that is similar to a natural Covered Species burrow.	ITP Condition #8.2	Entire Project	Permittee	
42	No more than 30 days prior to start of Covered Activities, the Biological Monitor(s) or Authorized Biologist(s) shall conduct pre-construction surveys for desert tortoise. These surveys shall cover 100 percent of the Project Area with a 50-foot buffer zone. The Biological Monitor(s) or Authorized Biologist(s) shall follow the survey methodology in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise Field Manual 2009. The Biological Monitor(s) and /or Authorized Biologist(s) shall flag all potential burrows within this area. If the Covered Species is active above-ground, a final survey for the Covered Species shall occur no more than 48 hours before the onset of surface-disturbing activities. Within 30 days of performing the pre-construction surveys, the Biological Monitor(s) or Authorized Biologist(s) shall submit a report to CDFW documenting results (following most current USFWS guidance document).	ITP Condition #8.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43	Only the Authorized Biologist(s) may excavate burrows and handle the Covered Species and their eggs. During pre-construction clearance surveys the Authorized Biologist(s) shall excavate all burrows by hand that cannot be avoided within the area to be impacted as a result of the Project, including burrows not recently used that are considered by the Authorized Biologist(s) at the time of the survey to be potentially suitable for the Covered Species. Potentially suitable burrows shall be excavated and then blocked, collapsed, or fenced by the Authorized Biologist(s) at the time of the survey to prevent re-entry by the Covered Species. Burrows shall only be collapsed where Covered Activities will directly impact the burrow. Otherwise, burrows shall be left intact, and the entrance temporarily blocked to prevent re-entry using methods determined to be appropriate by the Authorized Biologist(s). The Authorized Biologist(s) shall excavate potentially suitable burrows in accordance with the handling protocol outline in Chapter 7-Guidelines for Handling Desert Tortoises (USFWS 2009).	ITP Condition #8.4	Entire Project	Permittee	
44	Immediately prior to start of ground disturbance activities, the Biological Monitor(s) and/or Authorized Biologist(s) shall resurvey the Project area and access routes for Covered Species and their burrows. The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect all the burrows within the Project area for habitation prior to collapsing them in accordance with the ITP. If handling of a desert tortoise is required, the Designated Representative shall contact the Authorized Biologist(s). Only an Authorized Biologist shall be allowed to excavate burrows, handle, and relocate desert tortoise.	ITP Condition #8.5	Entire Project	Permittee	
45	In the event that individuals of the Covered Species or their eggs must be handled and/or relocated, the Authorized Biologist(s) shall follow all procedures/guidelines in the USFWS Field Manual, including, but not limited to, procedures to avoid transmission of diseases and parasites, guidelines for addressing temperature extremes, data collection requirements, and general measures to protect the well-being of the Covered Species. All instances of handling and relocation shall be documented and provided to CDFW as specified in Condition of Approval 8.15.	ITP Condition #8.6	Entire Project	Permittee	
46	Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Biological Monitor(s) and/or Authorized Biologist(s) and wait for the Covered Species to move unimpeded to a safe location OR the Authorized Biologist(s) shall relocate the Covered Species as described in Condition of Approval 8.6 and 8.9 of the ITP before moving vehicles and equipment.	ITP Condition #8.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	All personnel on the Project site shall immediately report all encounters with the Covered Species to the Biological Monitor(s) and/or Authorized Biologist(s). If a Covered Species is identified during Project activities, the Permittee shall immediately stop all work in the area and contact the Biological Monitor(s) and/or Authorized Biologist(s). The Biological Monitor(s) and/or Authorized Biologist shall allow the Covered Species to escape unimpeded, or relocate the Covered Species as described in the ITP or Chapter 7-Guidelines for Handling Desert Tortoises (USFWS 2009). Permittee shall not resume work until the Authorized Biologist has relocated the animal or allowed it to move outside the Project Area on its own. The Designated Representative shall immediately, or no later than noon on the next business day, notify CDFW of any Covered Species Observations. Notification to CDFW shall be to Rose Banks via telephone (760) 873-4412 and email (Rose.Banks@wildlife.ca.gov), followed by a written report. Notification and the written report shall include the date, location, and circumstances of the observation, the name(s) of the Authorized Biologist(s) that relocated the individual, and the location (including GPS coordinates) where the individual was moved.	ITP Condition #8.8	Entire Project	Permittee	
48	To the maximum extent practicable, disturbance to and relocation of desert tortoises shall be avoided. If any desert tortoises are found to be at risk of harm as a result of Covered Activities, the individual(s) shall be moved out of harm's way by an Authorized Biologist and released no more than 1000 feet from the point of collection for adults and 300 feet for juveniles. Tortoises shall not be relocated to adjacent private property unless the Permittee obtains written permission from the property owner. Desert tortoises found above ground shall be allowed reasonable time to move out of harm's way on their own accord, and if relocated by the Authorized Biologist(s), the tortoise shall be released above ground in suitable habitat and conditions. Desert tortoises found in burrows, especially during the species' less active period, shall be avoided to the extent practicable, as determined by the Authorized Biologist(s). If a desert tortoise or eggs are found during burrow excavation, the Authorized Biologist(s) shall relocate them to an unoccupied burrow of similar size. If no such burrow is available for relocating, the Authorized Biologist(s) shall construct an artificial burrow similar in size, depth and orientation as the original burrow, and monitor them until Covered Activities in the area are complete. The Authorized Biologist(s) shall follow all excavation, capture, handling, identification, data collection, relocation, and burrow construction procedures described in the USFWS Field Manual to protect the health and well-being of desert tortoise. The Authorized Biologist(s) shall follow all protocols for the construction of the artificial burrows found in the Chapter 7-Guidelines for Handling Desert Tortoises (USFWS 2009). The Authorized Biologist(s) shall document any relocation efforts and provide a report to CDFW as specified in Condition of Approval 8.15.	ITP Condition #8.9	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
49	Except for areas where impacts to cultural resources may occur (as identified by the Caltrans Archaeologist), Permittee shall install temporary desert tortoise exclusion fencing around any active construction area, lay down area, and storage area prior to site use for Covered Activities. The Biological Monitor(s) and/or Authorized Biologist(s) shall be present for fence installation. Fencing may be taken down temporarily to allow for access to the Project site and to allow for any Covered Activities for the day. The Biological Monitor(s) and/or Authorized Biologist shall be on site if the fencing is taken down, and fencing shall be reinstalled at the end of each working day. The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect the temporary exclusionary fencing each morning prior to the start of construction and at the end of the day after work has ceased for any gaps/breaches or required repairs.	ITP Condition #8.10	Entire Project	Permittee	
50	The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect the desert tortoise fencing during the Covered Activities, at the end of each working day, and during and after major rainfall events to ensure the desert tortoise is prohibited from entering the site. If the fence is compromised, repairs shall be completed at that time.	ITP Condition #8.11	Entire Project	Permittee	
51	The Authorized Biologist(s) shall ensure that desert tortoises are not captured, moved, transported, released, or purposefully caused to leave their burrow for any reason when the ambient air temperature is above 95 degrees Fahrenheit (35 degrees Celsius). The Authorized Biologist(s) shall ensure that no desert tortoise is captured if the ambient air temperature is anticipated to exceed 95 degrees Fahrenheit before handling or processing can be completed. If the ambient air temperature exceeds 95 degrees Fahrenheit during handling or processing, the Authorized Biologist(s) shall ensure the desert tortoise is kept in a shaded environment with a temperature that does not exceed 95 degrees Fahrenheit, and that the individual is not released until ambient air temperature declines to below 95 degrees Fahrenheit. Desert tortoises moved during inactive periods shall be monitored by the Authorized Biologist(s) for at least 2 days after placement in the new burrows to ensure their safety. During relocation, the Authorized Biologist(s) may hold a captured desert tortoise overnight and move them the following morning within these temperature constraints.	ITP Condition #8.12	Entire Project	Permittee	
52	If a desert tortoise voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the individual(s). The Authorized Biologist(s) shall rehydrate the desert tortoise at the location where the individual(s) was captured, or the location where the individual(s) is or will be relocated. The Authorized Biologist(s) shall rehydrate the desert tortoise by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the desert tortoise. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration. After each tortoise is rehydrated the water shall be emptied and a new plastic disposable liner placed in the tub.	ITP Condition #8.13	Entire Project	Permittee	
53	Permittee shall submit tortoises fatally injured or killed by project for necropsy, according to <i>Protocol for Salvaging Injured, Recently Dead, Ill, and Dying Wild, Free-Roaming Desert Tortoises</i> (2007) (Attachment 4), at the expense of the Permittee.	ITP Condition #8.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	The Authorized Biologist shall maintain a record of all desert tortoises handled. This information shall include the following for each tortoise: (1) the locations (narrative and maps, including whether the individual(s) was found above ground or in a burrow) and dates of observation; (2) the general condition and health, including injuries, state of healing, and whether the desert tortoise voided its bladder; (3) the location moved from and location moved to (using GPS technology), including information on any burrow (natural or artificial) utilized; (4) diagnostic markings (i.e., identification numbers or marked lateral scutes); (5) ambient temperature when handled and released; (6) whether any eggs were discovered and relocated; (7) digital photographs of any desert tortoises or eggs handled; and (8) results of any ongoing monitoring. The Authorized Biologist(s) shall provide CDFW a written summary via email to Rose Banks (Rose.Banks@wildlife.ca.gov) of the handling/relocation event, including the information listed above, within 24 hours of the event. This information shall also be recorded in the daily observation and inspection records for inclusion in the Quarterly Compliance and Annual Status Reports as directed in Conditions 7.4 and 7.5 above.	ITP Condition #8.15	Entire Project	Permittee	
55	The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect all open holes and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Authorized Biologist(s) shall oversee the covering of all excavated, steep-walled holes or trenches more than two feet deep, or of any depth if they contain water or other material, at the close of each working day by plywood or other barrier materials such that animals are unable to enter and become entrapped. Permittee shall provide escape ramps in holes greater than two feet deep that do not hold water or other material, to allow animals to escape. Before holes or trenches are filled, the Biological Monitor(s) and/or Authorized Biologist(s) shall thoroughly inspect them for trapped animals. If any worker discovers that Covered Species have become trapped, they shall halt Project-related activities and notify the Authorized Biologist(s) immediately. Project workers, Biological Monitor(s), and the Authorized Biologist(s) shall allow the Covered Species to escape out of harm's way unimpeded if possible, or the Authorized Biologist(s) shall move the Covered Species out of harm's way before allowing work to continue.	ITP Condition #8.16	Entire Project	Permittee	
56	If a Covered Species is injured as a result of Covered Activities, the Authorized Biologist(s) shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone (760) 873-4412 and e-mail (Rose.Banks@wildlife.ca.gov) followed by a written incident report as described in Condition 7.8. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 8.17	Entire Project	Permittee	
57	Permittee shall restrict Project-related vehicle traffic to established roads and the delineated Project Area; cross-country (off-road) vehicle travel is prohibited and signs shall be posted to this effect during covered activities. Vehicle speeds shall be posted not to exceed 20 mph in order to see, identify, and avoid Covered Species on or traversing the Project Area and roads. If a Covered Species is encountered, drivers shall stop, wait for the Covered Species to move off the road, and immediately notify the Biological Monitor(s) and/or Authorized Biologist(s) of the Covered Species location. If handling of a Covered Species is required, the Biological Monitor shall notify the Authorized Biologist(s) and shall halt Project-related activities in that area until the situation has been addressed.	ITP Condition #8.18	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
58	Permittee shall immediately notify the Biological Monitor(s) and/or Authorized Biologist(s) if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Biological Monitor(s), Authorized Biologist(s) or Designated Representative shall provide initial notification to CDFW by calling the Bishop Field Office at (760) 873-4412 and by notifying via email the CDFW Regional Representative Rose Banks (Rose.Banks@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 7.8	Entire Project	Permittee	
POST-CONSTRUCTION					
59	Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition #6.16	Post-construction	Permittee	
60	No later than 60 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Representative shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition #7.7	Post-construction and after completion of mitigation	Permittee	

ATTACHMENT 2A
DEPARTMENT OF FISH AND WILDLIFE
HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

The following checklist is provided to inform you of what documents are necessary to expedite the Department of Fish and Wildlife (CDFW) processing of your Habitat Management Land acquisition proposal. Any land acquisition processing requests which are incomplete when received, will be returned. The Region contact will review and approve the document package and forward it to the Habitat Conservation Planning Branch Senior Land Agent with a request to process the land acquisition for formal acceptance.

To: _____
Leslie MacNair, Inland Deserts Region

From: _____
California Department of Transportation

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

Enclosed is the complete package for the ☐ Conservation Easement OR ☐ Grant Deed

Documents in this package include:

☐ Fully executed, approved as to form Conservation Easement Deed or Grant Deed with legal description stamped by a licensed surveyor. Date executed: _____

☐ Proposed Lands for Acquisition Form (PLFAF)

☐ Phase I Environmental Site Assessment Report Date on report: _____
(An existing report may be used, but it must be less than two years old.)

☐ Preliminary Title Report(s) for subject property is enclosed and has been reviewed for Encumbrances, including severed mineral estates, and other easements. The title report must be less than six months old when final processing is conducted.

Included are additional documents:

☐ document(s) to support title exceptions

☐ document(s) to explain title encumbrances

☐ a plot or map of easements/encumbrances on the property

☐ Policy of Title Insurance (an existing title policy is not acceptable)

☐ County Assessor Parcel Map(s) for subject property

☐ Site Location Map (Site location with property boundaries outline on a USGS 1:24,000 scale topo)

☐ Final Permit or Agreement (or other appropriate instrument)

Type of agreement: ☐ Bank Agreement ☐ Mitigation Agreement

☐ Permit _____ Other: _____
(write in type of permit)

☐ Final Management Plan (if required prior to finalizing permit or agreement or if this package is for a Grant Deed)

☐ Biological Resources Report

☐ Draft Summary of Transactions ☐ hard copy ☐ electronic copy (both are required)

State of California - Department of Fish and Wildlife
MITIGATION PAYMENT TRANSMITTAL FORM
DFW 1057 (NEW 07/28/17)

Project Applicant Instructions: Please fill out and attach this form to payment. For conservation banks, also attach the Bill(s) of Sale for credits sold. One form may be used for multiple transactions, **BUT YOU MUST USE A SEPARATE FORM FOR EACH CHECK YOU TRANSMIT.** Make sure to include Project Name, Project Tracking Number, and ASB Mitigation Tracking Number (if available) on the attached payment type.

1. DATE: _____ TO: _____ Regional Manager _____ Region Office Address	2. FROM: _____ Name _____ Mailing Address _____ City, State, Zip _____ Telephone Number/FAX Number
3. RE: _____ Project Name as appears on permit/agreement	

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type) <input type="checkbox"/> 2081 Permit <input type="checkbox"/> Conservation Bank <input type="checkbox"/> 2835 NCCP <input type="checkbox"/> 1802 Agreement <input type="checkbox"/> 1600 Agreement <input type="checkbox"/> Other _____ _____ Project Tracking Number

5. PAYMENT TYPE (One check per form only): The following funds are being remitted in connection with the above referenced project:

Check information:

Total \$ _____ Check No. _____
Account No. _____ Bank Routing No. _____

- | | |
|--|-------------------|
| a. Endowment: for Long-Term Management | Subtotal \$ _____ |
| b. Habitat Enhancement | Subtotal \$ _____ |
| c. Security: | |
| 1. Cash Refundable Security Deposit | Subtotal \$ _____ |
| 2. Letter of Credit | Subtotal \$ _____ |
| 1. Financial Institution: _____ | |
| 2. Letter of Credit Number: _____ | |
| 3. Date of Expiration: _____ | |

ACCOUNTING OFFICE USE ONLY	
Description	FI\$Cal Coding
Speedchart (Project, Program, Reference, Fund)	
Reporting Structure	
Category	
Date Established: _____ By: _____	

PROTOCOL – AUGUST 2007
Original: 2001; Revised August 2007

**SALVAGING INJURED, RECENTLY DEAD, ILL, AND DYING
WILD, FREE-ROAMING DESERT TORTOISES (*GOPHERUS AGASSIZII*)**

prepared by Kristin H. Berry for

Federal Fish and Wildlife Permit TE006556-11 and as amended

Salvage of injured, recently dead, ill, and dying desert tortoises is a very important part of recovery programs for threatened and endangered species. Salvaged desert tortoises can provide a wealth of information about such subjects as health, disease, presence of heavy metals and other toxicants, and causes of mortality in populations. When tortoises are salvaged because they are injured (e.g., by a vehicle, fire, or domestic dogs), they may be appropriate for use as control or healthy individuals in comparisons with ill and diseased tortoises. Such tortoises, if sufficient in number, may reduce the need to take healthy animals from the wild for research purposes.

By far the most valuable specimens are tortoises taken while still alive or within a few hours of death and necropsied within 24-72 hours by a licensed clinical veterinary research pathologist with expertise in desert tortoises. The reason is that much more can be learned from a tortoise with very fresh tissues that can be processed for histological and other types of laboratory work. Once a tortoise is frozen, then level of detail that can be obtained from frozen tissues is considerably reduced. One desert tortoise research program involves necropsy of tortoises and the U.S. Geological Survey has a contract with pathologists with expertise in desert tortoises.

The following protocol deals only with wild desert tortoises, not captives. It is divided into four parts: (1) determination of the status of the tortoise; (2) collection of critical data in the field; (3) instructions on handling the tortoises; and (4) disposition of the tortoise after it has been removed from the field. Several parts of the protocol require contact with Dr. Berry, the Project Leader and Principal Investigator, and whose address and phone numbers are listed at the end.

ACTION 1. DETERMINE THE STATUS OF THE TORTOISE. The tortoise must have tissues that are sufficiently fresh for laboratory analysis. If the tortoise has died and the organ systems are putrefying (decaying), then the remains are not appropriate for salvage, except for analysis of scute and bone. Decaying remains are not part of this protocol.

1. Tortoise is recently dead (e.g., death is occurring, has just occurred, or death occurred within a few hours). Critical questions to ask include: how fresh are the remains? Are the soft tissues decaying (smelling of putrefaction)? If the remains are fresh (don't smell, are soft, death has recently occurred), then the tortoise should be salvaged and immediately put

Attachment 4
2081-2018-055-06

on ice, then frozen. GO TO ACTION 2.

DEPARTMENT OF TRANSPORTATION

DISTRICT 9
500 SOUTH MAIN STREET
BISHOP, CA 93514
PHONE (760) 872-0601
FAX (760) 872-0678
TTY 711
www.dot.ca.gov



*Making Conservation
a California Way of Life.*

November 15, 2018

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

To Whom It May Concern,

The enclosed Final Signed Incidental Take Permit (ITP), Pursuant to 14 CCR Section 783.2 and California Public Resources Code Section 2081, is being submitted to finalize the ITP for Caltrans' Olancha-Cartago Four Lane Project. The Project is located along US 395 from Post Mile 29.2 to 41.8 in Inyo County near the communities of Olancha and Cartago. There are two species present in portions of the project area that may be impacted by the construction of this project; the Desert tortoise (*Gopherus agassizii*) and the Mohave Ground Squirrel (*Xerospermophilus mohavensis*). As both of these species are California State Threatened under the California Endangered Species Act, an ITP is required if take is possible. Our office has worked closely with the CDFW Bishop Field Office to finalize this permit and enclosed is the final signed permit, as requested.

Please contact myself at (760)872-2424 or angie.calloway@dot.ca.gov, or Katie Rodriguez at (760)872-5204 or katie.rodriguez@dot.ca.gov if additional information is required.

Sincerely,

A handwritten signature in blue ink, appearing to read "Angela Calloway", is positioned above the typed name.

ANGELA CALLOWAY
Office Chief, District 9
Environmental Analysis

Enclosure:
Final Signed Incidental Take Permit