



Department of Public Works

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www.buttecounty.net/publicworks

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DEC 06 2018

HABITAT CONSERVATION
PLANNING BRANCH

December 4, 2018

California Department of Fish and Wildlife
Habitat Conservation Planning Branch
1416 Ninth Street, 12th Floor
Sacramento, CA 95814

**Re: 2081-2018-015-02 Agreement
Midway Bridge across Butte Creek
Federal Bridge Replacement Program BRLS-5912 (085)
State Bridge No. 12C-0052 & 12C-0053, County Project No. 26311-09-1
(File 242.3776)**

As requested, in reference to the aforementioned project, please find enclosed a fully executed original copy of the Incidental Take Permit as requested.

Thank you and should you have any questions, or need additional information, please contact me at (530) 538-7681 or by email at rcooper@buttecounty.net.

Sincerely,

Raymond Cooper

cc: Juan.Torres@wildlife.ca.gov ; Jasonj@quincyeng.com ; jody@gallawayenterprises.com ;
kevin@gallawayenterprises.com

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DEC 06 2018

HABITAT CONSERVATION
PLANNING BRANCH

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

California Endangered Species Act
Incidental Take Permit No. 2081-2081-015-02

**MIDWAY/BUTTE CREEK BRIDGE REPLACEMENT,
BUTTE COUNTY, CALIFORNIA**

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:	Butte County Department of Public Works
Principal Officer:	Thomas Fossum
Contact Person:	Jody Gallaway, Gallaway Enterprises, (530) 332-9909
Mailing Address:	7 County Center Drive Oroville, CA 95965

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 **August 10, 2023**.

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 Project is located along Midway Road over Butte Creek in the County of the Butte, State of California (See Figure 1). The Project is located approximately three miles southeast of Durham California near Butte Creek in Township 20N, Range 2E, Nelson United States Geological Survey (USGS) 7.5 minute quadrangle map. The Project location is approximately 39°33'29.06"N by 122°01'19.96"W (Figure 1).

Project Description:

The Project will replace the Butte Creek Bridge and the Butte Creek Overflow Bridge as well as the associated roadway infrastructure. The Project will be implemented because the old bridges are deteriorated and have scour potential. The new structures will also meet updated safety standards. The existing Midway Road will be closed and will act as the staging area for the construction equipment. The Project will consist of the following components:

- **New Bridge.** The new bridge will replace the Butte Creek bridge and the Butte Creek Overflow bridge and will be a cast-in place, post-tensioned structure. It will be approximately 1,400-foot long and 43-foot wide. Cast-in-drilled-hole pile shafts will be used to reinforce the intermediate supports and will be constructed with slurry drilling techniques. Bridge abutments will be reinforced concrete style founded on driven piles that will be installed with impact pile driving. 12-18 piles will be used for each of the 2 abutments and will occur at least 20 feet away from the overflow channel. Rock slope protection (RSP) will be installed approximately 40 feet along the bank stretching the width of the bridge at both ends and at the southern abutment. Approximately 432 cubic yards of rock will be used.
- **Second Bridge.** A second bridge will be constructed to maintain access to nearby agriculture. The bridge will be a 40-foot long and 20-foot wide reinforced concrete box culvert structure.
- **Roadway Approach.** The roadway Approach to both Butte Creek bridge and Butte Creek Overflow bridge will be replaced. 2500 cubic yards of fill will be removed. Midway road will then be widened to a 40-foot width for a 900-foot section on each side of the New Bridge. There will be a tapered asphalt concrete pavement on either side to match the existing cross section. Construction in this area will only occur during summer months when giant garter snakes (GGS) are not using upland habitat.
- **Bridge Demolition.** The existing bridge superstructure will be removed from clean gravel pads placed below the existing bridge. Only the top portion of the existing piers will be removed. All demolished bridge materials and gravel will be removed using a combination of floating tubs, clean gravel pads, and water diversion systems. A seasonal, temporary bridge will be erected on the clean gravel pads to allow for equipment access.

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- **Utility Relocation.** Overhead and underground utilities are present within the Project area. Existing electrical, telephone, and fiber optic utilities are located on the west side of Midway Road. Relocation of the overhead electrical wiring, underground telephone wiring, cable television, and telecommunications infrastructure is anticipated. The underground petroleum pipeline on the east side of the bridge will remain in place.

The proposed Project will result in 0.2 acres of permanent impacts and 1.2 acres of temporary impacts.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. Giant garter snake (<i>Thamnophis gigas</i>)	Threatened ³

This species and only this species is 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 that are expected to result in incidental take of individuals of the Covered Species include bridge construction, pile driving, earth grading activities, soil compaction, pavement overlay, excavation, temporary water diversions, dewatering, water pollution control activities, box culvert construction, and gravel removal (Covered Activities).

Incidental take of individuals of the Covered Species may occur from the Covered Activities in the form of mortality (“kill”) may occur as a result of Covered Activities including impacts in the Covered Species’ aquatic habitat and the upland habitat adjacent to the canal and along the roadside and levee areas. 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 construction activities obstructing movement of the Covered Species or direct take of individuals from crushing or injury from contact with vehicles or construction equipment. Snakes may be adversely affected as a result of the dewatering of their aquatic habitat, removal of the prey base and vegetative cover and destruction of basking sites necessary for thermoregulation. Construction activities may result in filling or crushing burrows or crevices occupied by snakes. Disturbance from construction activities could cause snakes to move into areas of unsuitable habitat where they may experience greater risk of predation or other sources of mortality. Additionally, stored equipment or

³See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(4)(E).

materials could be used by snakes as a place for cover during the evening hours and snakes could get trapped or injured when the equipment or stored material is moved in the morning. The areas where authorized take of the Covered Species is expected to occur are depicted in Figure 2 and include all project construction activities and staging areas (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.2 acres of upland habitat for the Covered Species and temporary loss of 1.2 acres of upland habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and construction-related vibrations, capture and relocation, displacement from preferred habitat, increased competition for food and space, 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.

Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the MND and Biological Assessment (SCH No. 2015102060) adopted by Butte County Department of Public Works on March 24, 2017, as lead agency for the Project pursuant to CEQA (Pub. Resources Code, § 21000 et seq.) and Biological Opinion number 08ESMF00-2017-F-1788-1.

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3. **LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions in the Lake and Streambed Alteration (LSA) Agreement (Notification No. 1600-2017-0406-R2) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation on the Proposed Midway/Butte Creek Bridge Replacement Project, Butte County, California (Caltrans Fed. ID# BRLS-5912(085)) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
6. **General Provisions:**
 - 6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 6.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.

- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that is not in compliance with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species, or a species not covered by this ITP including any rare, special-status, or sensitive species. If there is a threat of harm to any sensitive species, or other aquatic wildlife, the biologist shall halt construction and notify CDFW. Consultation with CDFW is required before re-commencing work in that area.
- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the 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.
- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities, if necessary, to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the

minimum amount needed, and shall not allow water to form puddles or runoff from road or construction surfaces.

- 6.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 6.9. Delineation of Property Boundaries. Before starting Covered Activities 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.
- 6.10. Project Access. Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or in-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 10 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.
- 6.11. 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. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.
- 6.12. 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. All workers will be informed of the importance of preventing spills and appropriate measures to take should a spill occur. All heavy equipment, vehicles, and supplies will be stored at the designated staging area at the end of each work period.
- 6.13. 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.

- 6.14. 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.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting the Project and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site during initial ground breaking activities and daily when Covered Activities that may result in adverse effects to the Covered Species occur. Additionally, the biologist shall conduct site visits every two weeks to review covered activities consistency with the ITP. The Designated Biologist shall be present throughout all phases of construction that may result in adverse effects to the Covered Species, including, but not limited to all earth work occurring within 200-feet of rice fields or other aquatic habitat, excluding Butte Creek and areas north of Butte Creek. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species, including injury, mortality or transport off site of Covered Species, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once per month during periods of inactivity and after clearing, grubbing, and grading are completed.

- 7.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in 7.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to R2CESA@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 Monthly Compliance Reports for that year identified in 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) disclosure of all occurrences of non-compliance and measures implemented to remedy the non-compliance; (5) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (6) all available information about Project-related incidental take of the Covered Species; (7) 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 (8) information about other Project impacts on the Covered Species.
- 7.6. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all 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. Final Monitoring Report. No later than one year following completion of the site restoration Permittee shall provide CDFW with a Final Monitoring Report. The Final Monitoring Report shall include the status of the restored portions of the Project, including any additional remedial measures taken to ensure the successful establishment of targeted vegetation on the restoration site.

7.9. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (916) 358-2900. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

8. Take Minimization Measures:

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

8.1. Pre-construction Survey. No more than 24 hours prior to the commencement of construction activities, the Designated Biologist shall survey for the Covered Species within 200-feet of suitable aquatic habitat. The Designated Biologist will provide the CDFW with a written report that adequately documents the monitoring efforts within 24 hours of commencement of construction activities. The Project Area shall be re-inspected by the Designated Biologist whenever a lapse in construction activity of two weeks or greater has occurred.

8.2. Check for Wildlife in Construction Materials. The Permittee shall visually check all construction materials for the presence of wildlife sheltering within them prior to their use. RSP that will be removed shall be checked to ensure that no wildlife is harmed during its removal.

8.3. Escape Ramp in Trench. At the end of each work day, Permittee shall place an escape ramp at each end of the open trench to allow any animals that may have

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become entrapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees.

- 8.4. Environmentally Sensitive Areas (ESAs). No later than 15 days prior to its installation, Permittee shall submit to CDFW Project plans depicting the ESAs for review and approval. No more than five (5) days prior to the commencement of Covered Activities, the Permittee shall install ESAs as shown in the approved plan to prevent encroachment of construction personnel and equipment into areas of Covered Species habitat that are outside of or adjacent to the Project footprint. All potential Covered Species habitat that can be reasonably avoided during construction activities shall be identified as ESAs. The Permittee shall install exclusionary fencing and orange construction barrier fencing along the portions of the Project Area that are located within the Covered Species habitat. The exclusionary fencing will consist of 3-foot-tall silt fencing buried 6 inches below ground level. All construction personnel shall avoid ESAs. The Permittee shall avoid ESAs when siting all staging areas, spoils disposal areas, borrow pits, and construction equipment access routes. The ESAs will be identified on all engineering plans or construction specifications. The Designated Biologist or Designated Representative shall inspect the fencing before the start of each work day and the Permittee shall maintain the fencing until the completion of the Project.
- 8.5. Vegetation Removal. Vegetation clearing shall be limited to the minimum area necessary within 200 feet of the banks of any aquatic habitat. Equipment staging or the storage of vehicles and other equipment within 200 feet of aquatic habitat will be minimized to the greatest extent practicable.
- 8.6. Snakes Encountered. Uninjured snakes encountered during construction activities shall be allowed to move away from the area on their own volition. Capture and relocation of trapped or injured individuals shall be attempted only by the Designated Biologist and proper species identification must be made prior to any capture or handling. For each Covered Species encountered, the Designated Biologist shall submit a completed CNDDB field survey form (or equivalent) to CDFW no more than 90 days after completing the last field visit to the Project Area.
- 8.7. Injured Snake. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist 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 the CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a

written incident report as described in Condition 7.9. Notification shall include the name of the facility where the animal was taken.

- 8.8. Relocation Plan. Permittee shall develop a Relocation Plan for GGS and submit it to CDFW for review and written approval prior to initiating Covered Activities. Permittee shall quantify the amount, relative location, and quality of suitable habitat (aquatic and terrestrial) including invasive and non-native species present, available upland burrows, suitable prey items, and potential barriers for movement. Due to genetically distinct populations, relocation areas should be within the same watershed as the Project site and must be pre-approved in writing by the CDFW.
- 8.9. Water Quality. Permittee shall retain runoff from dust control, oil, and other chemicals used in construction activities at the construction site and prevent it from flowing into areas containing Covered Species habitat. Permittee shall retain the runoff in the construction areas by creating small earthen berms, installing silt fences or hay-bale dikes, or implementing other measures on the construction site to prevent runoff from entering Covered Species habitat.
- 8.10. Best Management Practices. Best Management Practices (BMPs), including a Storm Water Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP), will be implemented to minimize effects to the Covered Species during construction. BMPs will be implemented to prevent sedimentation from entering ESAs and to reduce erosion, dust, noise, and other deleterious aspects of construction related activities. These BMPs may include, but are not limited to, silt fencing, temporary berms, restrictions on cleaning equipment in or near ESAs, installation of vegetative strips, and temporary sediment disposal. Runoff from dust control and hazardous materials will be retained on the construction site and prevented from flowing into the ESAs and other purposes at the Project site to ensure that the Covered Species is not trapped or become entangled.
- 8.11. Erosion Control. Permittee shall install erosion control structures concurrently with construction. Permittee shall construct these structures so runoff is directed away from ESAs. Permittee shall use tightly woven fiber netting (mesh size less than 0.25 inch) or similar material for erosion control or other purposes at the Project site to ensure the Covered Species and other reptiles or amphibians are not trapped by the erosion control material. Permittee shall communicate this limitation to the contractor through use of Special Provisions included in the bid solicitation package. Coconut coir matting is an acceptable erosion control material. Permittee shall not use plastic monofilament or wire mesh in the straw waddles or erosion control blankets. Only erosion control materials (blankets, rolls, mats, etc.) with natural coir fibers or other netting approved by the wildlife agencies shall be used. The edge of the material shall be buried in the ground to prevent the Covered Species and other reptiles and

amphibians from crawling underneath the material. Erosion control measures shall direct water flow into existing drainages or disperse water across vegetated areas in order to avoid concentrating water. Erosion control measures shall include the proper installation of BMPs and may include applications of seed, certified weed free straw, compost, fiber, commercial fertilizer, stabilizing emulsion mulch, or combinations thereof. Following construction all disturbed upland areas shall be stabilized and re-seeded with an erosion control mix consisting of regionally appropriate, native grass and forb species. Revegetation of such sites shall be completed as soon as possible after Project activities in those areas cease.

- 8.12. Remove Temporary Flagging, Fencing, and Barriers. Permittee shall remove all temporary flagging, fencing, and/or barriers from the Project site upon completion of Covered Activities.

9. Habitat Management Land Acquisition and Restoration:

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result 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 purchased 1.8 acres of Covered Species credits (Attachment 2) from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.1). The Permittee shall also restore on-site 1.2 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.3 below.

- 9.1. Cost Estimates. CDFW has estimated the cost of the restoration of temporarily disturbed habitat as follows:

- 9.1.1. GGS Covered Species Credits identified in Condition of Approval 9.2 below, estimated at \$99,000 for the 1.8-acre mitigation credit. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.3 are estimated at **\$258,600** (Attachment 3).

- 9.2. Covered Species Credits. Permittee purchased 1.8 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities (Attachment 2).

9.3. Habitat Restoration. Permittee shall restore on-site the 1.2 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-Project conditions.

9.3.1. No later than 60 days from the execution of the ITP, Permittee will prepare a Restoration Plan and submit it to CDFW for review and approval. Written approval needs to be obtained prior to starting any construction activities. The plan shall include: (1) Replacement habitat for upland and aquatic habitat components; (2) Removal of construction debris and stockpiled materials; (3) Regrading the Project area to pre-existing contour; (4) Replanting and hydro-seeding the restoration area with low-growing native perennial species on or adjacent to the canal banks, and upland plantings and hydroseeding with native species to stabilize the soils.

9.3.2. All areas within the bank and channel of the canal or the agricultural ditches that are temporarily disturbed by Project construction shall be restored as close as practicable to the original contour and conditions within 10 days of Project completion.

9.3.3. After completion of construction activities, the applicant will remove any temporary fill and construction debris and, wherever feasible, restore disturbed areas to pre-Project conditions. Restoration work includes such activities as re-vegetating the banks and active channels with a seed mix similar as described in the Project plans.

9.3.4. A photo documentation report showing post-Project area conditions will be submitted to CDFW one (1) month after the implementation of the restoration.

9.4. Monitoring Report. Permittee shall submit one monitoring report to CDFW by October 31 of the year after completion of the restoration. The report shall discuss the mitigation performance as it relates to the success criteria. The report shall include the success of revegetation establishment, survival, and percent cover. The number by species of plants replaced (if applicable), an overview of the revegetation effort, and the method used to assess these parameters shall also be included. Monitoring reports should include photographs from designated photo stations.

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:

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- 10.1 Security Amount. The Security shall be in the amount of \$258,600. This amount is based on the cost estimates identified in Condition of Approval 9.1 (Attachment 3).
- 10.2 Security Form. The Security shall be in the form of an escrow account or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3 Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 60 days after the effective date of this ITP, whichever occurs first.
- 10.4 Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5 Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) 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 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:
- Restoration efforts occurred as required by this ITP.
 - Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the habitat restoration immediately after completing construction activities. CDFW may require the Permittee to provide 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 Designated Biologist 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 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 2081-2018-015-02 in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Tina Bartlett, Regional Manager
California Department of Fish and Wildlife
North Central Region

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1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
Telephone (916)-358-2900
Fax (916) 358-2912

And a copy to:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1266
Sacramento, CA 95814

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

CESA Program
R2CESA@wildlife.ca.gov
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
Fax (916) 358-2912
R2CESA@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, Butte County Department of Public Works (See generally Pub. Resources Code, §§ 21067, 21069). The lead agency's prior environmental review of the Project is set forth in the Midway/Butte Creek Bridge Replacement MND (Caltrans Fed. ID # BRLS-5912 (085);SCH No. 2015102060) that the Butte County Department of Public Works adopted for the Midway/Butte Creek Bridge Replacement Project on July 14, 2017. At the time the lead agency adopted the Mitigated Negative Declaration, and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

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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, Midway/Butte Creek Bridge Replacement Project Mitigated Negative Declaration, Federal Project Number BRLS-5912 (085), 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 evaluation, CDFW determined that the protection and management in perpetuity of 1.8 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

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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
- (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:

FIGURE 1	Project Location
FIGURE 2	Project Impacts
FIGURE 3	Project Plans
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Finalized Credit Sales Agreement
ATTACHMENT 3	Cost Estimates
ATTACHMENT 4	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 11/19/18


Tina Bartlett
Regional Manager
NORTH CENTRAL 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: 12-7-18

Printed Name: Thomas A. Fossum Title: Deputy Director PW

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