



EDF Renewables North America
505 14th Street, Suite 1150
Oakland, CA 94612
www.edf-re.com

February 1, 2019

Department of Fish and Wildlife

C/O Medeleine Wieland

Habitat Conservation Planning Branch, CESA Permitting

1740 North Market Blvd.

Sacramento, CA 95834

RE: Palen Solar Project (No. [CD-2081-2017-052-06]): attached replacement for the previous incorrect signature page

Dear Medeleine Wieland,

Please see the attached replacement original for the previous incorrect signature page for the Palen Solar Project issued by the CDFW to the Applicant on December 18th, 2018 (No. [CD-2081-2017-052-06]) working with Magdalena.

Thanks,

A handwritten signature in blue ink, appearing to read "ABBS" with a long horizontal flourish extending to the right.

Amity Balbutin-Burnham

RECEIVED

FEB 04 2019

HABITAT CONSERVATION
PLANNING BRANCH

RECEIVED

FEB 04 2019

HABITAT CONSERVATION
PLANNING BRANCH

- ATTACHMENT 4 Mitigation Payment Transmittal Form
- ATTACHMENT 5 Tortoise Testing Sample Submission Form
- ATTACHMENT 6 Tortoise Nasal Flush Protocol
- ATTACHMENT 7 Desert Tortoise Guard Design
- ATTACHMENT 8 Desert Tortoise Monitor and Biologist Responsibilities and Qualifications

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 12/18/18



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: 1/31/2019

Printed Name: Ryan Pfaff

Title: Executive Vice President, Grid-Scale Power

Incidental Take Permit
No. 2081-2017-052-06
PALEN SOLAR PHOTOVOLTAIC PROJECT



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



January 25, 2019

Mr. Ryan Pfaff, Executive Vice President Grid-Scale Power
Palen Solar Holdings, LLC
505 14th Street, Suite 1150
Oakland, CA 94612

Subject: Incidental Take Permit for Palen Solar Photovoltaic Project (2081-2017-052-06)

Dear Mr. Pfaff:

Please find two original copies of the signature page for incidental take permit for the above referenced Project, which have been signed by the Department of Fish and Wildlife (Department). Please sign both copies and return one signed original by registered first class mail or overnight delivery to the following address:

Department of Fish and Wildlife
C/O Medeleine Wieland
Habitat Conservation Planning Branch, CESA Permitting
P.O. Box 944209
Sacramento, CA 94244-2090

You are advised to keep a copy of the fully executed permit in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of approval of the permit. Note that you are required to comply with certain conditions of approval prior to initiation of ground-disturbing activities. Additionally, a copy of the permit must be maintained at the project work site and made available for inspection by Department staff when requested.

If you have any questions, regarding the permit, please contact Ms. Magdalena Rodriguez, Senior Environmental Scientist (Specialist), at (909) 844-2520 or Magdalena.Rodriguez@wildlife.ca.gov

Sincerely,

Leslie MacNair,
Regional Manager
Inland Deserts Region

Attachments



State of California –The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Inland Deserts Region
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
www.wildlife.ca.gov

EDMUND G. BROWN, JR., Governor
CHARLTON H. BONHAM, Director



December 18, 2018

Ryan Pfaff, Executive Vice President Grid-Scale Power
Palen Solar Holdings, LLC
505 14th Street, Suite 1150
Oakland, CA 94612

RECEIVED

JAN 14 2019

HABITAT CONSERVATION
PLANNING BRANCH

Subject: Incidental Take Permit for Palen Solar Photovoltaic Project (2081-2017-052-06)

Dear Mr. Pfaff:

Please find two original copies of the incidental take permit for the above referenced Project, which have been signed by the Department of Fish and Wildlife (Department). Please read the permit carefully, sign both copies and return one signed original by registered first class mail or overnight delivery to the following address **no later than 30 days from Department signature to:**

Department of Fish and Wildlife
Habitat Conservation Planning Branch, CESA Permitting
P.O. Box 944209
Sacramento, CA 94244-2090

You are advised to keep a copy of the fully executed permit in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of approval of the permit. Note that you are required to comply with certain conditions of approval prior to initiation of ground-disturbing activities. Additionally, a copy of the permit must be maintained at the project work site and made available for inspection by Department staff when requested.

The permit will not take effect until the Department receives the signed acknowledgement. In addition, please send a copy of the signed ITP by email to Magdalena Rodriguez at Magdalena.Rodriguez@wildlife.ca.gov. If you wish to discuss these instructions or have questions regarding the permit, please contact Ms. Rodriguez, Senior Environmental Scientist (Specialist), at (909) 844-2520.

Sincerely,

Leslie MacNair,
Regional Manager
Inland Deserts Region



RECEIVED

JAN 14 2019

HABITAT CONSERVATION
PLANNING BRANCH

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

California Endangered Species Act
Incidental Take Permit No. 2081-2017-052-06

PALEN SOLAR PHOTOVOLTAIC 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: Palen Solar Holdings, LLC
Principal Officer: Ryan Pfaff, Executive Vice President Grid-Scale Power
Contact Person: Amity Balbutin-Burnham, Project Development Manager
(510) 457-2143
Mailing Address: 505 14th Street, Suite 1150
Oakland, CA 94612

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 11, 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 7.8 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 Palen Solar Photovoltaic Project (Project) is located entirely on lands administered by the Bureau of Land Management (BLM) in unincorporated Riverside County, California (Figure 1). It is located approximately ten miles east of the unincorporated community of Desert Center just north of Interstate (I-10), halfway between the cities of Indio and Blythe. It is located at Latitude: N 33.70° and Longitude: W -115.22° (NAD 83 or WGS 84).

Project Description:

This Project description is based on the ITP application submitted on September 28, 2017 and the Palen Solar Project Draft Supplemental Environmental Impact Statement/ Environmental Impact Report (SEIS/SEIR). The applicant will construct the BLM Preferred Alternative (Alternative 1) which is the Reduced Footprint Alternative that avoids the center wash. Alternative 1 will cover 3,140 acres of the approximately 4,221 acre right-of-way (ROW) application. BLM will issue the ROW for the disturbed acreage only and the remaining acreage from the application will return to BLM. The Project will be a 500-megawatt (MW) nominal capacity, alternating current (AC) solar photovoltaic (PV) energy-generating facility. The Project will use a single-axis tracking system (rotating east to west) and may use a variety of PV technologies, including, but not limited to Crystalline Silicon panels or Copper Indium Gallium Selenide panels. The tracking system can be up to 18 feet high, constructed of galvanized and stainless steel, and controlled by a wireless communication system.

Alternative 1 will have its solar arrays configured into two separate fields to avoid the desert wash woodland located in the center of the ROW (Figure 2). Each solar field will be fenced separately. The wash area will be between 1,750 and 2,300 feet wide and will be undisturbed with the exception of three roads connecting the two solar fields as well as the entrances to each field. The solar fields will consist of approximately 200 power blocks with each power block consisting of four quadrants of 25 rows with 27 panels each, producing 2.5 MW AC electricity. Each block would require two 1.25 MW inverters, set along the access roads, in the middle of the panel array area.

Substation, Switchyard, and Interconnect

An onsite substation will be constructed in the northern portion of the site, would cover approximately 5 acres and be surrounded by 12-foot security fencing and locked gates. The substation would include an electrical switchyard within the substation fence line. The transformer(s) would be set on a concrete pad within a containment area designed to hold any accidental releases of transformer oil. The high-voltage side of the transformer(s) will connect to the solar plant's substation.

Electricity generated by the Project will be conveyed to the Southern California Edison Devers-Palo Verde #2 (DPV2) 500-kilovolt (kV) regional transmission line through an electrical generation tie-line (gen-tie). The gen-tie line will be 6.9 miles long, exiting the northernmost portion of the Project. It will head northwest for 1.2 miles, then due west for 0.5 miles, then southwest for 0.7 miles, and then west for approximately 3.5 miles, and finally due south for 1 mile to enter the Red Bluff Substation. Self-weathering steel monopoles approximately 15 to 135 feet tall will be used with 900 to 1,100 feet spans between poles. Each tower foundation will require ground disturbance to a depth of 20 to 30 feet. The gen-tie line road is proposed to be up to a 20 foot wide compacted soil road. Culvert or other drainage structures would be installed only if necessary and will follow guidelines in the Lake and Streambed Alteration Agreement. Construction of the gen-tie line would include staging/pulling areas for installation of conductors. The staging/pulling areas would be located within the gen-tie ROW and may be fenced for security, if temporary material storage is required. Temporary disturbance areas would be minimized to the maximum feasible extent, and there will be no blading at pull sites if the terrain is sufficiently level

Access Roads (External and Internal)

The main access road will consist of a 1,264-foot long gravel road with a 24-foot wide travel surface. The access road will begin from a point just north of the I-10/Corn Springs Road entrance/exit ramps east of the project site. The new road will enter the site at its southwestern most extent, near the temporary construction laydown area. The road includes a 12-foot wide shoulder with gravel surface for truck staging on one side to preclude traffic interferences. All internal access roads would be up to 24 feet wide and would be cleared and graded: north-south access roads would be covered with aggregate. An up to 30-foot wide road separating the solar arrays from the perimeter fence will be constructed around the entire perimeter of the solar arrays. Aggregate for the roads will be sifted from the onsite soils, using gravel from within the southwest corner of the solar field disturbance area.

Water Usage

An estimated 497 to 700 acre-feet of water per year will be needed for the 30-month construction period for uses such as; soil compaction, dust control, and sanitary needs for construction workers. An estimated 15 to 41 acre-feet of water per year will be needed for panel washing and general operations and maintenance activities during the life of the project. Up to 10 wells may be constructed throughout the project site, with eight of the wells used solely during construction and then decommissioned. Two onsite wells would be used during operations. Water may also be obtained from off-site sources, or it may be a combination of onsite and offsite.

Impervious groundcover would be limited to the PV panel foundations, inverter and transmission equipment pads, a small parking area, the O&M facility, some access roads, Arizona crossings, and the substation. All other areas within the site will be constructed

using grading techniques that maximize the sheet flow from natural drainage washes across and through the site. Up to six retention basins may be built within the site depending on final engineering designs. They will range in size from 1 acre to 4 acres.

Fencing

The Project will have a permanent security fence that will be 8 feet high with a top rail, bottom tension wire, and three strands of barbed wire mounted on 45 degree extension arms. With the strands of barbed wire, it will have an overall height of no more than 12 feet. Permanent desert tortoise fencing will be installed around the perimeter of each solar field prior to desert tortoise clearance surveys. If feasible the Applicant may install the desert tortoise fence attached to the permanent security fence at the same time, however if not they will install the desert tortoise fence first to perform clearance surveys and then at a later time install the permanent security fence attached to the desert tortoise fence. Immediately prior to the desert tortoise fencing construction a designated biologist will conduct a clearance survey of the fence alignment. A controlled access gate would be located at the entrance to the facility and will be either swing or rolling style. The project will install a DT guard at any gate entrance to preclude desert tortoise from entering the site.

Surveying, Vegetation Removal, Grading, Site Clearance

Site preparation techniques proposed will use a "disk and roll" technique that uses grading equipment to till the soil over much of the site and then roll it level, as well as "micro-grading" or "isolated cut and fill and roll" of other areas of the site to trim off high spots and use the material to fill in low spots. The Permittee would minimize grading and vegetation removal as much as possible and when feasible will use a drive and crush rather than grading to minimize impacts to the roots of desert shrubs. Site grading within the project would be limited to the major access roads, the inverter pad locations, laydown areas, tracker locations, internal and external transmission poles, and ancillary facilities (including parking area, material storage, operations and maintenance building, and substation).

Vegetation over 18 inches high will be removed to avoid interaction with solar panels. Annuals and smaller perennials will remain. Access roads for installation, maintenance, and cleaning of the panels will be moderately graded to allow regular access with a small vehicle. Weed management in cleared areas will be maintained through regular monitoring and targeted herbicide application, as outlined in an approved Weed Management Plan (WMP). No disturbance to vegetation will take place outside the perimeter fence.

Operations & Maintenance

An operations and maintenance (O&M) building will be located either on or offsite. If onsite, it will be located in the southwest portion of the site. The facility will be designed for project security, employee offices, and parts storage. O&M activities for the solar site will include

cleaning, maintenance, and repair of the perimeter and desert tortoise fencing, access gates, collection and transmission lines, solar arrays, and building structures identified in the As-Built Plans (Condition of Approval 7.10). O&M activities for the linear facilities that may result in ground or vegetation disturbance include pole and tower repair, insulator replacement, cross arm replacement, anchor and guy replacement, pole and tower replacement, restringing corridors, and road maintenance. These activities are expected to occur throughout the year, as needed. Herbicide may be used in the immediate vicinity of the generation line infrastructure to control invasive plant species if hand labor methods are not feasible.

Temporary Construction Workspace, Yards, and Laydown Areas

One temporary 28 acre construction laydown area will be located in the southwest portion of the site. This area would be used for laydown of materials, staging of traffic, and for a temporary concrete batch plant, if required. The staging area will include temporary construction trailers, a parking area, site security facilities, and portable toilets. Both the staging area and laydown area will occur inside the perimeter fence.

Decommissioning

The minimum operational lifetime of the Project is 30 years. A closure, decommissioning, and reclamation plan is included in the SEIS/SEIR and if a permanent closure of the site is needed it will be updated and submitted to BLM at a minimum of 12 months prior to closure. At decommissioning, Permittee will determine if the on-site wells will be utilized in the future. Any well that will not remain for future use will be abandoned in accordance with federal, state, and local regulations. **This ITP does not cover decommissioning activities.**

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. Desert tortoise (<i>Gopherus agassizii</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 expected to result in incidental take of individuals of the Covered Species include vegetation removal, grading,

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

backfilling, cleanup, installation of underground collector lines, fence installation, trench digging, construction of buildings, warehouses, substation, switchyard and interconnection facilities, vehicle and equipment strikes (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 dehydration as a result of being trapped in holes or trenches or stress induced dehydration as a result of translocation activities, predator predation as a result of predators being attracted to the project site (e.g., ravens), vehicle strikes, crushing of burrows by construction equipment and vehicles and walking through the Project site, resulting in crushing or suffocation. 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 or trenches, uncovering Covered Species through the excavation of burrows, by corralling the Covered Species into a confined area when barrier fencing is constructed, and relocation of Covered Species when required by this ITP.

The areas where authorized take of the Covered Species is expected to occur include:

The Project is expected to cause the loss of 3,140 acres of habitat (3,036 acre solar field, 2 acre main access road, and 102 acre gen-tie line) which includes 40 acres of federally designated critical habitat. For the purposes of this ITP, all Project impacts are considered permanent. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, increased predator presence in the construction vicinity (e.g., ravens), and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from tunneling and 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 Site, 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.

Incidental Take Permit
No. 2081-2017-052-06
PALEN SOLAR PHOTOVOLTAIC PROJECT

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Site, including areas used for vehicular/equipment ingress and egress, staging and parking, noise, and vibration generating activities that have the potential to 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 (Conditions):

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **California Environmental Quality Act (CEQA) Compliance:** CDFW's issuance of this ITP is subject to CEQA. CEQA review by the Lead Agency, Riverside County, is provided in the Final Supplemental Environmental Impact Statement/Environmental Impact Report (SEIS/SEIR) for the Palen Solar Project (formerly Palen Solar Power Project), (SCH. 2011054002).
3. **Lake and Streambed Alteration Agreement (LSAA) Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. 1600-2017-0165-R6) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **Endangered Species Act Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Biological Opinion for the Palen Solar Project, Riverside, California (FWS-ERIV-18B0083-18F0403) 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 responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing a

Incidental Take Permit
No. 2081-2017-052-06
PALEN SOLAR PHOTOVOLTAIC PROJECT

minimum of 30 days 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. Biologists.

6.2.1. Biological Monitor(s). Biological Monitor(s) shall be 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.

6.2.2. Authorized Biologist(s). Permittee shall ensure that the Authorized Biologist(s) is knowledgeable in the biology and natural history of the Covered Species and has experience excavating burrows, handling and temporarily holding desert tortoises, relocating/translocating desert tortoises, reconstructing desert tortoise burrows, unearthing and relocating desert tortoise eggs, can locate, identify, and record all forms of desert tortoise sign, experience collecting blood samples, conducting health assessments, conducting protocol level surveys, and can attach/remove transmitters. The Authorized Biologist(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.

6.2.3. Approvals. For approval of the Authorized Biologist(s), Biological Monitor(s), and if needed veterinarian(s) submit to CDFW **Attachment 8** a minimum of 30 days before starting Covered Activities or if there are any changes to personnel. In addition to **Attachment 8** submit an Excel spreadsheet listing in alphabetical order (last name first) the names of all personnel the Permittee wants approved by CDFW as Authorized Biologist(s), Biological Monitor(s), and veterinarian(s) and each activity as outlined in this ITP and associated DTTP for which the Permittee is requesting authorization.

6.3. Authorized Biologist(s) and Biological Monitor(s) Authority. To ensure compliance with the Conditions of Approval of the ITP, the Biological Monitor(s) and/or Authorized Biologist(s) shall have authority to immediately stop work if the activities do not comply with this ITP, and shall notify the onsite manager to stop work. Work shall not continue until the Authorized Biologist determines compliance with the ITP and provides that determination to the onsite manager. The Biological Monitor(s) and/or Authorized Biologist(s) shall order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.

- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Site before performing any work. The program shall consist of a presentation from or prepared by the 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 Site. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Site. 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 twice annually for long-term and/or permanent employees that will be conducting work on the Project Site. Any prerecorded presentation shall be accompanied by a formal process that allows submission of questions to the Authorized Biologist or Biological Monitor that shall be read and answered within 24 hours of submission.
- 6.5. Construction Monitoring Notebook. The Biological Monitor(s) and 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.
- 6.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Biological Monitor(s) and Authorized Biologist(s). Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.
- 6.8. 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 Project Site. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Site with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 6.10. Delineation of Habitat. Outside the Project Site or within the Project Site prior to desert tortoise clearance the Permittee shall clearly delineate habitat of the Covered Species with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.11. Project Access. Project-related personnel shall access the Project Site 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 Site. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 25 miles per hour on dirt roads to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Site, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.12. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to designated laydown areas or disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Site.
- 6.13. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Site and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.14. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.15. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Site and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables,

wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

- 6.16. 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.
- 6.17. Entrapment Inspections. Any pipes, culverts, or similar structures with a diameter greater than 3 inches and less than 8 inches aboveground shall be inspected by the Authorized Biologist(s) or Biological Monitor(s) for Covered Species' before the material is moved, buried, or capped. The Authorized Biologist(s) or Biological Monitor(s) shall inspect all open holes and trenches within Covered Species habitat at a minimum of twice a day and just prior to back-filling. At the end of each work day, Permittee shall place an escape ramp at each end of trenches to allow any animals that may have become trapped 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. If any worker discovers that Covered Species have become trapped, they shall halt Covered Activities and notify the Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) or Authorized Biologist(s) shall allow the Covered Species to escape unimpeded if possible, or an Authorized Biologist(s) approved under Condition of Approval 6.2.3 of this ITP shall move the Covered Species out of harm's way before allowing work to continue.
- 6.18. Herbicides. Only herbicides containing a harmless dye and registered with the California Department of Pesticide Regulation (DPR) shall be used. All herbicides shall be applied in accordance with regulations set by DPR. All herbicides shall be used according to labeled instructions. Labeled instructions for the herbicide used shall be made available to CDFW upon request. No herbicide application shall occur when winds are greater than five (5) miles per hour.
- 6.19. Rodenticides and Insecticides. Permittee shall not use rodenticides and/or insecticides on the Project Site without prior written permission from CDFW. Permittee shall not use any second generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project Site. Permittee shall not use any first generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project Site without prior written permission from CDFW.
- 7. Monitoring, Notification and Reporting Provisions:**
- 7.1. Notification Before Commencement of Covered Activities. The Designated Representative shall notify CDFW in writing **14 calendar days** before starting Covered Activities and shall document using the MMRP 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 immediately report in writing any non-compliance with this ITP to CDFW.
- 7.3. Emergency Activities. The Authorized Biologist(s) or Biological Monitor(s) shall implement measures to minimize the impacts to the Covered Species to the maximum extent possible. As a part of the emergency response, the Designated Representative shall notify CDFW in writing within 24 hours after the emergency work begins. The Designated Representative shall provide a description and location of the Emergency Activities and if any impacts to Covered Species occurred. Following containment and during cleanup, CDFW may recommend specific measures to protect the Covered Species, their habitat, or for the recovery of damaged habitat. A written report summarizing these actions shall be provided to CDFW **within 15 days** following completion of Emergency Activities.
- 7.4. Compliance Monitoring. The Authorized Biologist(s) and Biological Monitor(s) shall be on-site daily when Covered Activities occur. The Authorized Biologist(s) and Biological Monitor(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 Site. The Designated Representative, Authorized Biologist(s), and Biological Monitor(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 Authorized Biologist(s) shall conduct compliance inspections a minimum of three times a day (once during the onset of the day's work, once mid-day, and once at the conclusion of that day's work) during periods of inactivity and after clearing, grubbing, and grading] are completed.
- 7.5. Quarterly Compliance Report. The Designated Representative or Authorized Biologist(s) shall compile the observation and inspection records identified in Condition 7.4 into a Quarterly Compliance Report, which shall include a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. The Designated Representative shall submit in writing the Quarterly Compliance Report to CDFW. The Designated Representative shall submit the Quarterly Compliance Reports to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Magdalena Rodriguez

(Magdalena.Rodriguez@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.

- 7.6. Annual Status Report (ASR). Permittee's Designated Representative shall provide CDFW with an Annual Status Report (ASR) for the previous year 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 7.5; (2) a general description of the status of the Project Site 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.
- 7.7. California Natural Diversity Data Base (CNDDB) Observations. The Designated Representative shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDB) **within 60 calendar days** of the observation and the Designated Representative shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation. More information is available at <https://www.wildlife.ca.gov/Data/CNDDB>
- 7.8. Final Mitigation Report. **No later than 45 days** after completion of all mitigation measures, Permittee's Designated Representative shall provide CDFW with a Final Mitigation Report. The Authorized Biologist(s) 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.
- 7.9. Notification of Take or Injury (NTI). Permittee shall immediately notify the Designated

Representative or Authorized Biologist(s) if a Covered Species is taken or injured by Covered Activities, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Authorized Biologist(s) or Designated Representative shall provide **initial notification immediately** to CDFW by calling the Regional Office at (909) 466-8462 and by notifying via email the CDFW Regional Representative Magdalena Rodriguez (Magdalena.Rodriguez@wildlife.ca.gov). The initial immediate notification to CDFW shall include information regarding the location of the animal and/or carcass, date and incident location, time of incident, name of the Authorized Biologist(s) present, the activity that caused the take or injury, common and scientific names of species taken or injured, and the ITP Number. Following initial notification, Permittee's Designated Representative shall send CDFW a Notification of Take or Injury (NTI) written report via email **within two (2) calendar days**. The NTI written report shall include the information in the initial notification, and if possible provide a photograph, explanation as to cause of take or injury, preventative measures that will be implemented to prevent take or injury of Covered Species, and any other pertinent information.

- 7.10. As-Built Plans. Permittee shall submit as-built plans, surveys, and before and after aerial photos to document the disturbance footprint to CDFW within six months of completing Project construction disturbance. In addition, the Permittee shall provide an update that documents the final disturbance numbers for the project as built compared to the proposed disturbance. Information shall be presented at a scale of 1".250' (one inch to 250 feet) or smaller. The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.

8. Take Minimization Measures:

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

8.1. Desert Tortoise

- 8.1.1. Raven Management. The Permittee shall prepare a Raven Management Plan to minimize the potential to attract common ravens to the site and submit it to CDFW for review and approval. In addition, the Permittee shall provide funds to the Renewable Energy Action Team (REAT) account established with the National Fish and Wildlife Foundation (NFWF) to contribute to a region-wide raven control plan to help address raven predation on the tortoise. This contribution shall be used to address raven predation on a regional basis and shall be calculated as a one-time payment of \$105 per acre of project disturbance. Based on this calculation the Permittee shall provide a one-time

payment **at \$105.00 for 3140 acres for a total of \$329,700** to the REAT account established with NFWF's Raven Management Plan fund. **A minimum of 30 days** prior to the start of Covered Activities these funds shall be provided to NFWF and proof of paying this fee shall be provided to CDFW within 24 hours after the funds have been provided to NFWF.

- 8.1.2. Pre-Construction Clearance Surveys. No more than **30 days prior** to start of Covered Activities, the Authorized Biologist(s) and/or Biological Monitor(s) approved under this ITP shall conduct pre-construction surveys for desert tortoise, using the methods described in Chapter 6 of the United States Fish and Wildlife Service (USFWS) Desert Tortoise Field Manual (Manual) 2009, incorporated herein by reference. In addition to the guidance provided in the Manual, CDFW provides the following requirement(s):
- a) Preconstruction clearance surveys shall be completed using perpendicular survey routes within the Project site. Preconstruction clearance surveys cannot be combined with other clearance surveys conducted for other species while using the same personnel. Covered Activities cannot start until two (2) negative results from consecutive surveys using perpendicular survey routes for the Covered Species are documented.
 - b) These surveys shall cover 100 percent of the Project site and a 50-foot buffer zone. The Biological Monitor(s) or Authorized Biologist(s) shall record all potential Covered Species burrows within the pre-construction survey area, using high-accuracy global positioning system (GPS) technology. The Biological Monitor(s) or Authorized Biologist(s) shall provide the results of the pre-construction survey (using the USFWS Protocol data sheet) to CDFW within 10 days of completing the surveys.
- 8.1.3. Pre-construction sweeps. The Authorized Biologist(s) shall conduct sweeps involving walking the Project area searching for desert tortoise before construction, to ensure that desert tortoises are absent from the Project area. Additionally, the Authorized Biologist(s) shall be on site during construction of the desert tortoise exclusion fencing and all Covered Activities. Upon completion of construction of the desert tortoise exclusion fencing, a Biological Monitor(s) shall be on site during all covered activities. If handling of a Covered Species is required the Biological Monitor(s) shall contact the Authorized Biologist(s). Only an Authorized Biologist(s) shall be allowed to excavate burrows, handle, and relocate Covered Species.
- 8.1.4. Desert Tortoise Translocation. Regardless of the number of desert tortoise estimated to be translocated, the Permittee shall prepare a DTTP and submit it to CDFW's Regional Representative a minimum of **30 days prior to the start**

of Covered Activities. Covered Activities are not authorized to start until the DTTP is approved by CDFW. The list of items below will need to be included in the DTTP: that includes, but is not limited to the following guidance:

- a) Health Assessments can start after May 15th.^{4 5 6} Any blood results that come back suspect or inconclusive shall be retested.
- b) Ambient Air Temperature: During all handling procedures, desert tortoises shall be treated in a manner to ensure that they do not overheat or exhibit signs of overheating (e.g., gaping, foaming at the mouth, etc.), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Desert tortoises shall be kept shaded at all times until it is safe to release them. For the purposes of this permit, ambient air temperature shall be measured in the shade, protected from wind, at a height of 5 centimeters above the ground surface.

For all Covered Activities no desert tortoise shall be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95° Fahrenheit (F) (35° Celsius (C)). No desert tortoise shall be captured if the ambient air temperature is anticipated to exceed 95° F (35° C) before handling or processing can be completed. If the ambient air temperature exceeds 95° F (35° C) during handling or processing, desert tortoises shall be kept shaded in an environment that does not exceed 95° F (35° C), and not released until ambient air temperature declines to below 95°F (35°C). Desert tortoises moved during less periods shall be monitored by the Authorized Biologist(s) for at least two 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.

- c) Tortoises ≤ 100 millimeters (mm) midline carapace length (MCL) shall be released immediately without being held, transmittered, nasal flush performed, or blood drawn for disease testing as long as the temperature requirements above are met.

⁴ Elliott R. Jacobson, Mary B. Brown, Lori Wendland, Daniel R. Brown, Paul A. Klein, Mary M. Christopher, Kristin H. Berry, Mycoplasmosis and upper respiratory tract disease of tortoises: A review and update, *The Veterinary Journal* (2014), <http://dx.doi.org/doi:10.1016/j.tvjl.2014.05.039>.

⁵ Henen, B.T., Peterson, C.C., Wallis, I.R., Berry, K.H., and Nagy, K.A., 1998, Effects of climatic variation on field metabolism and water relations of desert tortoises: *Oecologia*, v. 117, p. 365–373.

⁶ Peterson, C.C., 1996, Anhomeostasis: seasonal water and solute relations in two populations of the desert tortoise (*Gopherus agassizii*) during chronic drought: *Physiological Zoology*, v. 69, p. 1,324–1,358.

- d) If any tortoises ≥ 100 mm MCL are translocated within 500 meters of the Project site, tortoise fencing shall be 16 gauge or heavier galvanized after welded wire with mesh opening of $\frac{1}{2}$ inch horizontal by $\frac{1}{2}$ inch vertical.
- e) Transmitting Guidelines: Any desert tortoise that is transmitted shall follow the guidance in Boarman, W.I., T. Goodlett, G. Goodlett, and P. Hamilton. 1998. Review of radio transmitter attachment techniques for turtle research and recommendations for improvement, incorporated herein by reference.
- f) Linear Facilities: Tortoises ≥ 100 mm MCL that are moved out of harm's way due to their burrow being collapsed shall be transmitted. Disease testing is only required if physical signs of disease are observed. The DTTP shall include how tortoises found on project linear facilities will be handled.
- g) Disease testing shall not be done between November 1 and May 14. If a tortoise ≥ 100 mm MCL is found between November 1 and May 14 the tortoise will be held in quarantine facilities and shall remain in quarantine until tested twice (once in the spring and once in the fall). Blood draw samples for *Mycoplasma agassizii* and *Mycoplasma testudineum* shall determine if a tortoise is negative or positive for disease. A combination of results from blood testing and visual inspection will be used to determine the health of a tortoise. Blood draw samples will be sent to: Dr. Mary Brown, University of Florida Mycoplasma Laboratory, 2015 SW Archer Road, Room V2-234, Gainesville Florida 32608. CDFW uses enzyme-linked immune assay (ELISA) test results to determine if a tortoise is positive for disease. The ELISA tests will be used to test for exposure to herpes virus (*Mycoplasma agassizii* and *Mycoplasma testudineum*). If a tortoise tests positive or suspect for disease then the tortoise will be tested twice for disease (once in the spring after May 15 to and once in the fall). To determine results of blood testing use the most current guidelines provided by the University of Florida Mycoplasma Laboratory Department of Infectious Diseases and Pathology. The University of Florida Mycoplasma Laboratory Department of Infectious Diseases & Pathology 2013 criteria for classifying *Mycoplasma agassizii* and *Mycoplasma testudineum* is a titer < 32 is negative, a titer ≥ 64 is positive, and a titer of 32 is suspect (retesting in 6 weeks).
- h) Blood samples shall be obtained from the brachial plexus in the forelegs of large mature, subadult, and adult desert tortoises, i.e., tortoises > 100 mm MCL. **Attachment 5 (Tortoise Testing Sample Submission Form)** and **Attachment 6 (Tortoise Nasal Flush Protocol)** shall be included in the DTTP. These forms shall be filled out when samples are collected and prior

to mailing the form with the sample a copy of the form shall be sent via email to the CDFW Regional Representative Magdalena Rodriguez (Magdalena.Rodriguez@wildlife.ca.gov).

- i) All sizes of tortoises are included in translocation numbers.
- j) The exact location of the translocation site will be within the larger Desert Sunlight Recipient area and will be determined in consultation with CDFW. If a suitable location within the Desert Sunlight Recipient area cannot be identified for translocation purposes due to disease prevalence, the applicant will identify an alternative recipient site and contact CDFW for approval of the site prior to its use.
- k) All tortoises >100 mm MCL removed off the Project site will need to be transmittered and monitored for a minimum of 5 years.
- l) Eggs and tortoises shall only be placed on lands administered by a Federal agency or on private lands when written authorization to bury the eggs and/or relocate the tortoises has been obtained in writing from the private landowner prior to the start of Covered Activities. The written permission will be included in the DTTP.
- m) Fatally injured or killed tortoises: At the expense of the Permittee any Covered Species fatally injured or killed by Covered Activities shall be sent for necropsy.
- n) Cleaning and Disinfection Protocol: Trifectant is the only product authorized under this ITP or its associated DTTP to be used as a disinfectant. This product is sold as a powder or tablet and is effective against viruses, bacteria (including mycoplasma), and fungi. It is also fairly resistant to inactivation by hard water and organic matter. Contact time for disinfection is 10 minutes and metal instruments should not be soaked for more than ten minutes. A 1-2% solution should be mixed according to instructions on the packaging. Once mixed, the solution is stable for seven days, therefore, the mixture shall not be used if over seven days old.

Cleaning and Disinfection Protocol Shall include the following⁷:

- Remove all grossly visible debris.
- Wash the area or item with water and mild detergent.
- Thoroughly rinse the cleaned area to remove any detergent residue.

⁷ Brown, Mary. Cleaning and Disinfection Protocol. Department of Infectious Diseases and Pathology, College of Veterinary Medicine, Gainesville FL.

- Allow the area to dry completely
- Apply Trifectant mixture.
- Allow the 10 minutes contact time.
- Thoroughly rinse away any residual disinfectant and allow the area or item to dry.

- 8.1.5. Excavating Burrows. Only Authorized Biologist(s) and Biological Monitor(s) approved by CDFW under this ITP are authorized to conduct burrow excavation. Conduct excavation of burrows following the methods described in Chapter 6 of the Manual.
- 8.1.6. Nest and Egg Handling. Only Authorized Biologist(s) and Biological Monitor(s) approved by CDFW under this ITP are authorized to handle eggs. Conduct egg handling, using the methods described in Chapter 6 and 7 of the Manual.
- 8.1.7. Extracting Desert Tortoises from Burrows. Only Authorized Biologist(s) and Biological Monitor(s) approved by CDFW under this ITP are authorized to extract desert tortoises from burrows. Extract Desert tortoises from burrows, using the methods described in Chapter 6 of the Manual.
- 8.1.8. Project Activities Outside Permanent Desert Tortoise Exclusion Fence. Covered Activities that occur outside the maintained permanent desert tortoise exclusion fence shall be monitored for the life of the permit by an Authorized Biologist(s) or Biological Monitor(s) approved by CDFW under this ITP.
- 8.1.9. Desert Tortoise Guards. All desert tortoise guards installed shall follow the design in **Attachment 7**.
- 8.1.10. Permanent Security Fencing with Attached Desert Tortoise Fencing. The permanent desert tortoise exclusion fencing shall be attached to the 6-foot-high standard chain link security fencing. This fencing shall be installed around the array fields, operation and maintenance facilities, warehouses, substations, switchyard and interconnection facilities. Construct the desert tortoise fence according to Chapter 8 of the Manual, but if any tortoises ≤ 100 mm MCL are translocated within 500 meters of the Project site, tortoise fencing shall be 16 gauge or heavier galvanized after welded wire with mesh opening of $\frac{1}{2}$ inch horizontal by $\frac{1}{2}$ inch vertical.
- 8.1.11. Desert Tortoise Fence Maintenance. During the Covered Activities, the Authorized Biologist(s) shall inspect the fence at the end of each working day to ensure the Covered Species is prohibited from entering the site. If the fence is compromised, repairs shall be completed at that time. Once Covered Activities are finished the Biological Monitor(s) shall inspect during and immediately after

heavy rainfalls.

- 8.1.12. Vehicle Inspection. Workers shall inspect for desert tortoise under vehicles and equipment every time before the vehicles and equipment are moved. If a desert tortoise is present, the worker shall contact the Authorized Biologist(s) and wait for the desert tortoise to move unimpeded to a safe location **OR** the Authorized Biologist(s) shall translocate the desert tortoise as described in Condition 8.1.4 of this ITP before moving vehicles and equipment.
- 8.1.13. Minimization of Vegetation Removal. Permittee shall minimize vegetation removal associated with construction activities to the fullest extent possible. The Biological Monitor(s) or Authorized Biologist(s) shall review and approve or deny any grubbing or clearing of vegetation.
- 8.1.14. Desert tortoise Observations. If a desert tortoise is observed during Covered Activities all work within 300 feet of the desert tortoise shall immediately stop and the observation shall be immediately reported to the Authorized Biologist(s). Covered Activities shall not resume until the Authorized Biologist(s) has verified the desert tortoise has left the Project Site **OR** an Authorized Biologist(s) approved under this ITP shall relocate the desert tortoise as described in this ITP and DTTP. The Designated Representative shall immediately, notify CDFW of any Covered Species observed within the Project Site. Notification shall occur immediately to CDFW's Regional Representative Magdalena Rodriguez by e-mail at (Magdalena.Rodriguez@wildlife.ca.gov) Within 24 hours after CDFW receives the initial notification the Permittee shall follow up with a written report sent by e-mail to CDFW's Regional Representative listed above. Notification and the written report shall include the date, location, and circumstances of the observation, the name of the Authorized Biologist(s) that relocated the individual, pictures, map, and the location (including GPS coordinates) where the individual was moved.
- 8.1.15. Desert Tortoise Re-hydration. 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 or were 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 rehydrate each desert tortoise individually for a minimum of 10 to 20 minutes. 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.

- 8.1.16. 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 ("facilities"). Approved facilities can be found at <http://www.dfg.ca.gov/wildlife/WIL/rehab/facilities.html>. Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species.
- 8.1.17. Vehicles. During construction Permittee shall confine all vehicle traffic to existing routes of travel and the speed limit shall not exceed 25 miles per hour on all dirt roads. On paved access roads speed limit shall not exceed 35 mph during the Covered Species active season and 45 mph outside the Covered Species active season. Parking and staging areas shall be enclosed by desert tortoise exclusion fencing to the extent feasible. All parked vehicles outside of the Project site shall be inspected prior to being moved. If a tortoise is found beneath a vehicle, the vehicle shall not be moved until the Covered Species leaves on its own accord. If the tortoise does not move out from underneath the vehicle on its own within a minimum of 20 minutes, the Authorized Biologist shall be contacted to move the animal out of harm's way following the handling protocol outlined in the Manual, Chapter 7-Guidelines for Handling Desert Tortoises.
- 8.1.18. Desert Tortoise Handling Records. The Authorized Biologist(s) or Biological Monitor(s) shall maintain a record of all desert tortoises handled. This information shall include the following for each tortoise: (1) the locations (narrative and maps) 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); (4) diagnostic markings (i.e., identification numbers or marked lateral scutes); (5) ambient air temperature when handled and released; and (6) digital photographs of each handled desert tortoise as described below. Authorized Biologist(s) shall mark each desert tortoise moved from within the Project Area for future identification. Authorized Biologist(s) shall place an identification number using the acrylic paint/epoxy covering technique on the fourth left costal scute as described in the Desert Tortoise Handling Guidelines. Authorized Biologist(s) or Biological Monitor(s) shall take digital photographs of the carapace, plastron, and fourth costal scute of each desert tortoise handled. No notching of scutes shall be allowed. The Designated Representative shall record the information detailed above in the daily written observation and inspection records and provide it to CDFW as directed in Condition of Approval 7.5.

8.2. Operations and Maintenance (O&M)

- 8.2.1. O&M Personnel Requirements. During O&M activities that follow initial construction, all personnel working at the site shall obey the speed limits specified in this ITP (Condition of Approval 8.1.17) and shall have participated in a twice annual worker/contractor education program (Condition of Approval 6.5) based on the measures in this ITP. Permittee shall provide to CDFW a record of annual worker training, including the list of attendees, with the annual monitoring reports required by this ITP.
- 8.2.2. O&M Vehicle Access. Access to the Project Area during the O&M phase shall only be by permanent roads established during the construction phase, BLM-designated routes, and public roads maintained by the County.
- 8.2.3. O&M Activity Location. O&M activities shall stay within the areas delineated in the construction phase of the Project as described in the as-built plans in Condition of Approval 7.10. Impacts from ground-disturbing O&M activities that may result in an impact to habitat not previously disturbed during the Project construction phase are not authorized by this ITP. Permittee shall request an ITP amendment if O&M impacts beyond the Project area are anticipated and shall not conduct such activities until an ITP amendment is issued by CDFW.
- 8.2.4. O&M Covered Species Avoidance. During the O&M period of Project implementation, all workers shall inform the Designated Representative if a Covered Species is seen within or near the Project area. Permittee shall cease all work in the vicinity of the Covered Species until the Covered Species moves from the construction area on its own or is moved by an Authorized Biologist(s). If a Covered Species is found within the Project site, the Authorized Biologist(s) shall translocate the animal according to the desert translocation plan guidelines. Permittee shall inspect the perimeter fence for a breach and repair any damage immediately.
- 8.2.5. O&M Activity Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, it shall be immediately taken to a CDFW-approved wildlife rehabilitation or veterinary facility by an Authorized Biologist. Permittee shall identify the facility prior to the start of ground- or vegetation-disturbing 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 unless the incident occurs outside of normal business hours. In that event CDFW shall be notified no later than noon on the next business day. Notification to CDFW shall be via telephone or email, followed by a written incident report within two (2) calendar days of the event.

Notification shall include the date, time, location and circumstances of the incident, the name of the facility where the animal was taken, and the ITP number.

- 8.2.6. O&M Activity Daily Entrapment Inspections. Any pipes, culverts, or similar structures with a diameter greater than 3 inches and less than 8 inches above ground and outside of the Project Site shall be inspected for Covered Species' before the material is moved, buried, or capped. All open holes and trenches within Covered Species habitat shall be inspected for trapped animals at a minimum of twice a day, usually at the beginning of the day and end of the day.
- 8.2.7. O&M Herbicide Use. Permittee shall ensure that all herbicide use (mixing, application, and clean-up) conforms to all applicable federal, state, and local regulations. Permittee shall ensure that any application of herbicide is done by a licensed applicator in accordance with all applicable federal, state, and local laws and regulations.
- 8.2.8. O&M Reconductoring. Permittee may only string conductor in Covered Species' habitat only if the conductor and the line are not allowed to drag on the ground or through vegetation.

8.3 Decommissioning

- 8.3.1 Decommissioning Activity. **This ITP does not cover decommissioning activities.**

9. Habitat Management Land Acquisition:

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Site, 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 3,300 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 3,300 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. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or within **18 months** of the effective date of

this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

Compensation for Take:

- 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 **\$1,300/acre for 3,300 acres for a total of \$4,290,000.00** (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 9.3.6 below, estimated at **\$290.00/acre for 3,300/acre for a total of \$957,000.00**;
 - 9.1.3. Interim management period funding as described in Condition of Approval 9.3.7 below, estimated at **\$250.00/acre for 3,300 acres for a total of \$825,000.00**;
 - 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at **\$1,450.00/acre for 3,300 acres for a total \$4,785,000.00** (Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management);
 - 9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at. **\$5,000.00.**
- 9.2. Covered Species Credits. Permittee shall purchase 3300 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below.

OR:

- 9.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of HM Lands, the Permittee shall:
- 9.3.1. Fee Title/Conservation Easement. Transfer fee title of 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). Alternatively, CDFW in its sole discretion may accept, in lieu of a portion of the required HM lands, appropriate mitigation on federal public lands administered by the United States Bureau of Land Management (BLM) without a conservation easement if CDFW and BLM reach written agreement on provisions regarding the durability of the enhancement, management, and conservation of those federal public lands pursuant to the 2012 MOU and the 2015 agreement between BLM and CDFW;

- 9.3.2. HM Land(s) Approval. Permittee shall submit to CDFW a Proposed Lands for Acquisition Form (**see Attachment 2A/2B**) identifying the HM land(s) the Permittee proposes to meet the HM lands requirement in Condition of Approval 9 of this ITP. The Permittee shall submit the PLFAF to CDFW within 6 months before acquisition and/or transfer of the land. CDFW signature to the PLFAF does not guarantee the proposed HM lands are accepted by CDFW. Once the Final Habitat Management Land Acquisition (HMLA) package is submitted to CDFW for review, CDFW will determine the suitability of the proposed HM lands to meet the mitigation requirements outlined in this ITP.
- 9.3.3. HM Land(s) Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents. 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 in writing 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; (7) installing signage; and (8) establishing corner survey markers for each parcel.

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 9.3. 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 **\$10,862,000.00**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (**see Attachment 3**) 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 a minimum of **30 days** prior to the start of Covered Activities.
- 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 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 **18 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. California Code of Regulations, Title 14, section 783.7, and any other applicable law shall govern suspension and revocation of this ITP. 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
P.O. Box 944209
Sacramento, CA 94244-2090

Written notices, reports and other communications relating to this ITP shall be delivered to

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PALEN SOLAR PHOTOVOLTAIC PROJECT

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 (2081-2017-052-06) 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 Blvd., Suite C-220
Ontario, CA 91764
Telephone (909) 466-8462
Fax (909) 948-4358

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:

Magdalena Rodriguez, Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Telephone (909) 844-2520
Magdalena.Rodriguez@wildlife.ca.gov

Compliance with California Environmental Quality Act (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, Riverside County. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Palen Solar Project Supplemental Environmental Impact Statement/Environmental Impact Report (SEIS/SEIR), (SCH No.: 2011054002) dated May 2018 that the Riverside County certified for the Palen Solar Project on December 4, 2018. At the time the lead agency certified the SEIS/SEIR and

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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 SEIR 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 California Endangered Species Act (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 Palen Solar Project SEIR, 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) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Site, 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 3,300 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.

Figures:

FIGURE 1 Regional Map of Project

FIGURE 2 Alternative 1 Design

Attachments:

ATTACHMENT 1 Mitigation Monitoring and Reporting Program

ATTACHMENT 2A, 2B Habitat Management Lands Checklist, Proposed Land for Acquisition Form "PLFAF"

ATTACHMENT 3 Letter of Credit

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ATTACHMENT 4 Mitigation Payment Transmittal Form

ATTACHMENT 5 Tortoise Testing Sample Submission Form

ATTACHMENT 6 Tortoise Nasal Flush Protocol

ATTACHMENT 7 Desert Tortoise Guard Design

ATTACHMENT 8 Desert Tortoise Monitor and Biologist Responsibilities and Qualifications

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 12/18/18



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: 11/11/2015

Printed Name: Ryan Pfaff Title: Executive Vice President, Grid-Scale Power

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

Issue Date: [*date*]

Beneficiary:

Department of Fish and Wildlife
Post Office Box 944209
Sacramento, CA 94244-2090
Attn: HCPB Mitigation Account Coordinator

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

Expiry: [*Date*] at our counters

Dear Sirs:

1. At the request and on the instruction of our customer, [*name of applicant*] ("Applicant"), we, [*Name of financial institution*] ("Issuer"), hereby establish in favor of the beneficiary, the California Department of Fish and Wildlife ("CDFW"), this irrevocable standby letter of credit ("Credit") in the principal sum of U.S. \$[*dollar number*] [(*dollar amount*)] ("Principal Sum").
2. We are informed this Credit is and has been established for the benefit of the CDFW pursuant to the terms of the incidental take permit for the [*name of project*] issued by the CDFW to the Applicant on [*date*] (No. [*number*]) ("Permit").
3. We are further informed that pursuant to the Permit, the Applicant has agreed to complete certain mitigation requirements, as set forth in Conditions [*numbers*] in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by the CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. The CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A, which is attached hereto, at our office located at [*name and address of financial institution*].
6. The Certificate shall be completed and signed by an "Authorized Representative" of the CDFW as defined in paragraph 12 below. Presentation by the CDFW of a

completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.

7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to the CDFW, or to the account of the CDFW, in immediately available funds, as the CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give the CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, the CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to the CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of the CDFW, as defined in paragraph 12 below.
12. An "Authorized Representative" shall mean either the Director of the Department of Fish and Wildlife, the General Counsel of the Department of Fish and Wildlife, or a Regional Manager of the Department of Fish and Wildlife.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify the CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at **[name and address of financial institution]**, specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for the CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 1416 Ninth Street, 12th Floor, Sacramento, California 95814-2090 Attn: HCPB Mitigation Account Coordinator; and (ii) for the Applicant: **[name and address of applicant]**.
15. This Credit may not be transferred.

16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.
17. This Credit shall, if not canceled, expire on [***expiration date***], or any extended expiration date.
18. We hereby agree with the CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.
19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____

Name: _____

Title: _____

ATTACHMENT A

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [*Number issued by financial institution*]
CERTIFICATE FOR DRAWING

To:

[*Name and address of financial institution*]

Re: Incidental Take Permit No. [*permit number*]

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

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

Therefore, the CDFW has executed and delivered this Certificate as of the ____ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[*Insert one of the following: "DIRECTOR" or "GENERAL COUNSEL" or "REGIONAL MANAGER, [NAME OF REGIONAL OFFICE]"*]

ATTACHMENT B

IRREVOCABLE LETTER OF CREDIT NO. [*Number issued by financial institution*]
CERTIFICATE FOR CANCELLATION

To:

[*Name of financial institution and address*]

Re: Incidental Take Permit No. [*permit number*]

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

1. [*Insert one of the following statements:* "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "The natural expiration of this Credit has occurred."]
2. The CDFW therefore requests the cancellation of the Credit.

Therefore, the CDFW has executed and delivered this Certificate for Cancellation as of the ____ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[*Insert one of the following:* "DIRECTOR" **or** "GENERAL COUNSEL" **or** "REGIONAL MANAGER, [*NAME OF REGIONAL OFFICE*"]]

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: _____	

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2017-052-06

PERMITTEE: Palen Solar Holdings, LLC

PROJECT: Palen Solar Photovoltaic 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 responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing a minimum of 30 days 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.	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, office and mobile phone numbers, and email address of Authorized Biologist(s), Biological Monitor(s), and if needed veterinarian(s) at least 30 days prior to starting Covered Activities or with change of personnel at least 30 days before starting Covered Activities. Permittee shall ensure that the Authorized Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology and natural history of the Covered Species. The Authorized Biologist(s) and 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 in writing a minimum of 30 days before starting Covered Activities, and shall also obtain approval in advance in writing if the Authorized Biologists(s), Biological Monitor(s), or veterinarian(s) must be changed. Only Authorized Biologist(s) can handle desert tortoise.	ITP Condition # 6.2 and #6.3	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
3	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from or prepared by 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, booklet 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. Any prerecorded presentation shall be accompanied by a formal process that allows submission of questions to the Designated Biologist that shall be read and answered within 24 hours of submission.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in closed (animal-proof) containers and removed regularly (at least once a week) to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
5	Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition # 6.7	During project construction activities. Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities in that area.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	Outside the Project Site or within the Project Site prior to desert tortoise clearance the Permittee shall clearly delineate habitat, in areas of impact, of the Covered Species 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 # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	The permanent desert tortoise exclusion fencing will be attached to the 6-foot-high standard chain link security fencing. This fencing will be installed around the array fields, operation and maintenance facilities, warehouses, substations, switchyard and interconnection facilities. Construct the desert tortoise fence according to Chapter 8 of the USFWS Desert Tortoise Field Manual 2009, but if any tortoises ≤ 100 mm MCL are translocated within 500 meters of the Project Site tortoise fencing shall be 16 gauge or heavier galvanized after welded wire with mesh opening of ½ inch horizontal by ½ inch vertical.	ITP Condition #8.1.10	Before commencing ground- or vegetation-disturbing activities	Permittee	
10	Permittee shall either (1) purchase a total of 3,300 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank; OR shall provide for the permanent protection and management of 3,300 acres of Habitat Management (HM) lands and the calculation and deposit of the management funds. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or within 18 months of the initiation of Covered Activities pursuant to Condition of Approval 10 for all uncompleted obligations.	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months from initiation of Covered Activities 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> <p>9.1.1 Land acquisition costs for HM lands were estimated at \$1300.00/acre for 3,300 acres: \$4,290,000.00. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;</p> <p>9.1.2 Start-up costs for HM lands, including initial site protection and enhancement costs as described in for Phase II were estimated at \$290.00/acre for 3,300 acres: \$957,000.00;</p> <p>9.1.3 Interim management period funding of 3 years is estimated at \$250.00/acre for a total of \$825,000.00;</p> <p>9.1.4 Long-term management funding costs were estimated at \$1450.00/acre for 3,300 acres: \$4,785,000.00. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management</p> <p>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 were estimated at \$5,000.00.</p>	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months from initiation of Covered Activities if Security is provided)	Permittee	
12	<p>Permittee shall purchase a total of 3,300 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities for or no later than 18 months from the initiation of Covered Activities if Security is provided pursuant to Condition of Approval 10.</p> <p>OR:</p>	ITP Condition #9.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months from initiation of Covered Activities 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 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). Alternatively, CDFW in its sole discretion may accept, in lieu of a portion of the required HM lands, appropriate mitigation on federal public lands administered by the United States Bureau of Land Management (BLM) without a conservation easement if CDFW and BLM reach written agreement on provisions regarding the durability of the enhancement, management, and conservation of those federal public lands pursuant to the 2012 MOU and the 2015 agreement between BLM and CDFW;	ITP Condition #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months from initiation of Covered Activities if Security is provided)	Permittee	
14	Permittee shall submit to CDFW a Proposed Lands for Acquisition Form (PLFAF, Attachment 2A/2B) identifying the HM land(s) the Permittee proposes to meet the HM lands requirement in Condition 9 of this ITP. The Permittee shall submit the PLFAF to CDFW within 6 months before acquisition and/or transfer of the land. CDFW signature to the PLFAF does not guarantee the proposed HM lands are accepted by CDFW. Once the Final Habitat Management Land Acquisition (HMLA) package is submitted to CDFW for review, CDFW will determine the suitability of the proposed HM lands to meet the mitigation requirements outlined in this ITP.	ITP Condition #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months from initiation of Covered Activities if Security is provided)	Permittee	
15	Permittee shall provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents. 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 18 months from initiation of Covered Activities if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
16	Permittee shall designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW in writing 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 from initiation of Covered Activities if Security is provided)	Permittee	
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 (8) establishing corner survey markers for each parcel..	ITP Condition #9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months from initiation of Covered Activities 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 18 months from initiation of Covered Activities if Security is provided)	Permittee	
19	If the Permittee will permanently protect and perpetually manage compensatory habitat as described above in this 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). 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.	ITP Condition #9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months from initiation of Covered Activities 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 18 months from initiation of Covered Activities if Security is provided)	Permittee	
21	After obtaining CDFW approval of the HM lands, long-term management plan, and Endowment Fund 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 18 months from initiation of Covered Activities if Security is provided)	Permittee	
22	Permittee shall obtain the capitalization rate from the selected Endowment Fund 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 18 months from initiation of Covered Activities 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 Fund: <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 Fund Manager and CDFW. 	ITP Conditions #9.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months from initiation of Covered Activities 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 Fund Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Fund 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 Fund. 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.	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months from initiation of Covered Activities 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 18 months from initiation of Covered Activities 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 of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>10.1 <u>Security Amount.</u> The Security shall be in the amount of \$10,862,000.00. This amount is based on the cost estimates identified in condition 9.1 above;</p> <p>10.2 <u>Security Form.</u> The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel;</p> <p>10.3 <u>Security Timeline.</u> The Security shall be provided to CDFW 30 days prior to Phase II ground disturbance and/or before Covered Activities begin for Phase II, whichever occurs first;</p> <p>10.4 <u>Security Holder.</u> The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW;</p> <p>10.5 <u>Security Transmittal.</u> 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;</p> <p>10.6 <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;</p> <p>10.7 <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:</p> <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands • Timely submission of all required reports; • An on-site inspection by CDFW; and • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment • Copies of all executed and recorded conservation easements <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all Phase II HM lands and record any required conservation easements no later than 18 months after initiation of Covered Activities for Phase II. 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 18 months from initiation of Covered Activities if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
27	The Authorized Biologist(s) and Biological Monitor(s) shall be on-site daily when Covered Activities occur. The Authorized Biologist(s) and Biological Monitor(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) check for compliance with all measures of the ITP; (3) check all exclusion zones; and (4) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative, Authorized Biologist(s), and Biological Monitor(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 Authorized Biologist shall conduct compliance inspections a minimum of once a week during periods of less activity and after clearing, grubbing, and grading are completed.	ITP Condition # 7.4	Entire Project	Permittee	
28	The Designated Representative or Authorized Biologist(s) shall compile the observation and inspection records identified in Condition 7.4 into a Quarterly Compliance Report, which shall include a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. The Designated Representative shall submit in writing the Quarterly Compliance Report to CDFW. The Designated Representative shall submit the Monthly Compliance Reports to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Magdalena Rodriguez (Magdalena.Rodriguez@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 # 7.5	Entire Project	Permittee	
29	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 7.5; (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 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 # 7.6	Entire Project	Permittee	
30	The Designated Representative 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 Representative shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation. https://www.wildlife.ca.gov/Data/CNDDDB	ITP Condition # 7.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or the MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW.	ITP Condition # 7.2	Entire Project	Permittee	
32	The Authorized Biologist(s) and Biological Monitor(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 # 6.5	Entire Project	Permittee	
33	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.	ITP Condition # 6.8	Entire Project	Permittee	
34	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 # 6.16	Entire Project	Permittee	
35	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description, and shall not cross Covered Species' habitat outside of or en-route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.11	Entire Project	Permittee	
36	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.	ITP Condition # 6.12	Entire Project	Permittee	
37	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.	ITP Condition # 6.13	Entire Project	Permittee	
38	Permittee shall provide CDFW staff with reasonable access to the Project [and mitigation lands under Permittee control], and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 6.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
39	<p>No more than 30 days prior to start of Covered Activities, the Authorized Biologist(s) and/or Biological Monitor(s) approved under this ITP shall conduct pre-construction surveys for desert tortoise, using the methods described in Chapter 6 of the United States Fish and Wildlife Service (USFWS) Desert Tortoise Field Manual 2009, incorporated herein by reference. In addition to the guidance provided in the Manual, CDFW provides the following requirement(s):</p> <ul style="list-style-type: none"> a) Preconstruction clearance surveys will be completed using perpendicular survey routes within the Project Site. Preconstruction clearance surveys cannot be combined with other clearance surveys conducted for other species while using the same personnel. Covered Activities cannot start until two (2) negative result separate consecutive surveys using perpendicular survey routes have been done for the Covered Species. b) These surveys shall cover 100 percent of the Project Area and a 50-foot buffer zone. The Biological Monitor(s) or Authorized Biologist(s) shall record all potential Covered Species burrows within the pre-construction survey area, using high-accuracy global positioning system (GPS) technology. The Biological Monitor(s) or Authorized Biologist(s) shall provide the results of the pre-construction survey (using the USFWS Protocol data sheet) to CDFW within 10 days of completing the surveys. 	ITP Condition # 8.1.2	Entire Project	Permittee	
40	The Authorized Biologist(s) shall conduct sweeps involving walking the Project area searching for desert tortoise before construction, to ensure that desert tortoises are absent from the Project area. Additionally, the Authorized Biologist(s) shall be on site during construction of the desert tortoise exclusion fencing and all Covered Activities. Upon completion of construction of the desert tortoise exclusion fencing, a Biological Monitor(s) shall be on site during all covered activities. If handling of a Covered Species is required the Biological Monitor(s) shall contact the Authorized Biologist(s). Only an Authorized Biologist(s) shall be allowed to excavate burrows, handle, and relocate Covered Species.	ITP Condition #8.1.3	Project Site	Permittee	
41	Regardless of the number of desert tortoise estimated to be translocated, the Permittee shall prepare a Desert Tortoise Translocation Plan (DTTP) and submit it to CDFW's Regional Representative for written approval a minimum of 30 days prior to the start of Covered Activities. Covered Activities are not authorized to start until the DTTP is approved by CDFW. The list of items included in the ITP condition 8.1.4 will need to be included in the DTTP.	ITP Condition #8.1.4	Project Site	Permittee	
42	During construction Permittee shall confine all vehicle traffic to existing routes of travel and the speed limit shall not exceed 25 miles per hour on all dirt roads. On paved access roads speed limit shall not exceed 35 mph during the Covered Species active season and 45 mph outside the Covered Species active season. Parking and staging areas shall be enclosed by desert tortoise exclusion fencing to the extent feasible. All parked vehicles outside of the Project Site shall be inspected prior to being moved. If a tortoise is found beneath a vehicle, the vehicle shall not be moved until the Covered Species leaves on its own within a minimum of 20 minutes, the Authorized Biologist shall be contacted to move the animal out of harm's way following the handling protocol outlined in the <i>Desert Tortoise Field Manual, Chapter 7-Guidelines for Handling Desert Tortoises</i> .	ITP Condition #8.1.17	Project Area	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43	Any pipes, culverts, or similar structures with a diameter greater than 3 inches and less than 8 inches aboveground shall be inspected by the Authorized Biologist(s) or Biological Monitor(s) for Covered Species' before the material is moved, buried, or capped. The Authorized Biologist(s) or Biological Monitor(s) shall inspect all open holes and trenches within Covered Species habitat at a minimum of twice a day and just prior to back-filling. At the end of each work day, Permittee shall place an escape ramp at each end of trenches to allow any animals that may have become trapped 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. If any worker discovers that Covered Species have become trapped, they shall halt Covered Activities and notify the Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) or Authorized Biologist(s) shall allow the Covered Species to escape unimpeded if possible, or an Authorized Biologist(s) approved under Condition of Approval 6.2.3 of this ITP shall move the Covered Species out of harm's way before allowing work to continue.	ITP Condition #6.17	Entire Project	Permittee	
44	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 or were 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 rehydrate each desert tortoise individually for a minimum of 10 to 20 minutes. 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 #8.1.15	Entire Project	Permittee	
45	If a desert tortoise is observed during Covered Activities all work within 300 feet of the desert tortoise shall immediately stop and the observation shall be immediately reported to the Authorized Biologist(s). Covered Activities shall not resume until the Authorized Biologist(s) has verified the desert tortoise has left the Project Site OR an Authorized Biologist(s) approved under this ITP shall relocate the desert tortoise as described in this ITP and DTTP. The Designated Representative shall immediately, notify CDFW of any Covered Species observed within the Project Site. Notification shall occur immediately to CDFW's Regional Representative Magdalena Rodriguez by e-mail at (Magdalena.Rodriguez@wildlife.ca.gov) Within 24 hours after CDFW receives the initial notification the Permittee shall follow up with a written report sent by e-mail to CDFW's Regional Representative listed above. Notification and the written report shall include the date, location, and circumstances of the observation, the name of the Authorized Biologist(s) that relocated the individual, pictures, map, and the location (including GPS coordinates) where the individual was moved.	ITP Condition #8.1.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
46	Designated or Authorized Biologist(s) shall maintain a record of all desert tortoises handled. This information shall include the following for each tortoise: (1) the locations (narrative and maps) 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); (4) diagnostic markings (i.e., identification numbers or marked lateral scutes); (5) ambient air temperature when handled and released; and (6) digital photographs of each handled desert tortoise as described below. Authorized Biologist(s) shall mark each desert tortoise moved from within the Project Area for future identification. Authorized Biologist(s) shall place an identification number using the acrylic paint/epoxy covering technique on the fourth left costal scute as described in the Desert Tortoise Handling Guidelines. Designated or Authorized Biologist(s) shall take digital photographs of the carapace, plastron, and fourth costal scute of each desert tortoise handled. No notching of scutes shall be allowed. The Designated Representative shall record the information detailed above in the daily written observation and inspection records and provide it to CDFW as directed in Condition 7.5.	ITP Condition #8.1.18	Entire Project	Permittee	
47	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 ("facilities"). Approved facilities can be found at http://www.dfg.ca.gov/wildlife/WIL/rehab/facilities.html . Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species.	ITP Condition #8.1.16	Entire Project	Permittee	
48	Permittee shall immediately notify the Designated Representative or Authorized Biologist(s) if a Covered Species is taken or injured by Covered Activities, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Authorized Biologist(s) or Designated Representative shall provide initial notification immediately to CDFW by calling the Regional Office at (909) 466-8462 and by notifying via email the CDFW Regional Representative Magdalena Rodriguez (Magdalena.Rodriguez@wildlife.ca.gov). The initial immediate notification to CDFW shall include information regarding the location of the animal and/or carcass, date and incident location, time of incident, name of the Authorized Biologist(s) present, the activity that caused the take or injury, common and scientific names of species taken or injured, and the ITP Number. Following initial notification, Permittee's Designated Representative shall send CDFW a Notification of Take or Injury (NTI) written report via email within two (2) calendar days. The NTI written report shall include the information in the initial notification, and if possible provide a photograph, explanation as to cause of take or injury, preventative measures that will be implemented to prevent take or injury of Covered Species, and any other pertinent information.	ITP Condition # 7.9	Entire Project	Permittee	
49	To ensure compliance with the Conditions of Approval of the ITP, the Biological Monitor(s) and/or Authorized Biologist(s) shall have authority to immediately stop work if the activities do not comply with this ITP, and shall notify the onsite manager to stop work. Work shall not continue until the Authorized Biologist determines compliance with the ITP and provides that determination to the onsite manager. The Biological Monitor(s) and/or Authorized Biologist(s) shall order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Entire Project	Permittee	

POST-CONSTRUCTION

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
50	Upon completion of Covered Activities, Permittee shall remove from the Project Site 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 # 6.15	Post-construction	Permittee	
51	No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in 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 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 # 7.8	Post-construction and after completion of mitigation	Permittee	
52	Permittee shall submit As-built plans, surveys, and before and after aerial photos to document the disturbance footprint to CDFW within six months of completing Project construction disturbance. In addition, the Permittee shall provide an updated Table 1 that documents the final disturbance numbers for the project as built compared to the proposed disturbance. Information shall be presented at a scale of 1".250' (one inch to 250 feet) or smaller. The plans shall be submitted in Portable Document Format (PDF) or a similar electronic format.	ITP Condition # 7.10	Post-construction	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: _____
Regional Manager, Region Name

From: _____
Project Applicant

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)



ATTACHMENT 2B

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

Applicant proposes that the following parcel(s) of land be considered for approval by the California Department of Fish and Wildlife as suitable for purposes of habitat management lands to compensate the adverse environmental impacts of the Project:

<u>Section(s)</u>	<u>Township</u>	<u>Range</u>	<u>County</u>	<u>Acres</u>
_____	_____	_____	_____	_____

Current Legal Owner(s), of the surface and mineral estates, include Assessor's Parcel Number(s):

General Description of Location of Parcel(s):

Land Value: \$

For Region Use Only

APPROVED ____ By: _____ DATE: _____

Regional Manager's Signature

REJECTED ____

Region: _____

Explanation: _____

Sample Submission Form for Tortoise Mycoplasma Testing
Mycoplasma Research Laboratory, University of Florida

Species of animal(s): _____

County and state of origin (free-ranging only): _____

Date of sample(s): _____

Identification #(s): _____

Is this animal awaiting relocation? Yes ☐ No ☐

NOTE: Price discounts (20%) are available for larger numbers of samples (>20) that are submitted for testing or for large volume contracts. Large volume costs are reduced; discounted costs are \$28/assay; \$11 for dilution curve; \$45 for both *M. agassizii* & *M. testudineum*.

Test requested (please check appropriate box):

† ☐ **ELISA serology for *Mycoplasma agassizii*- \$35 each.** This is the most commonly used test to detect exposure to *M. agassizii*, a cause of URTD in tortoises; submit serum or plasma.

†† ☐ **ELISA serology for *Mycoplasma testudineum*- \$35 each.** This test detects exposure to a second species of mycoplasma that can be associated with URTD and eye infections; submit serum or plasma. Please note that this test has not been extensively validated at this time.

†† ☐ **NEW 20% DISCOUNT for ELISA serology for both *M. agassizii* & *M. testudineum*- \$56 per sample.** Discount applies to a single plasma sample being tested for antibodies to both pathogens.

†† ☐ **ELISA serum dilution curves - \$14 each**

† ☐ **Culture/PCR- \$35 each.** To avoid false negative results, this test is recommended primarily for clinically ill animals with active nasal discharge; submit choanal swab (preferred), nasal lavage or nasal swab (only if clinical signs are present).

† ☐ **PCR sequence if amplicon obtained and RFLP suggests new species- \$35.**

Person submitting sample(s): _____

Report results to: _____

Phone: _____ Email _____ Fax: _____

Preferred method of getting results (check one)†

☐ Email

† ☐ Fax

† ☐ Mail

Preferred method of billing (check one)†

☐ Email

† ☐ Fax

† ☐ Mail

Name & address of person to be billed:

Please ship samples from Monday to Thursday only:

Dr. Mary Brown
University of Florida
Dept. of Infectious Disease and Pathology
2015 SW 16th Ave
Rm V2-234
Gainesville, FL 32608
Telephone: (352) 294-4071 or (352)294-4029
Lab contact: Alex Burne, burnea@ufl.edu

***Please label tubes with investigator's
name, tortoise species, tortoise
identification name/number, and date
sample collected.

***NOTE: Federal Express is the only carrier that delivers directly to our laboratory. Other carriers deliver to the VMTH, and samples may take 1-2 days to be delivered to our lab. In such cases, the quality of the samples may be compromised.

For laboratory use only

Date Received: _____

Samples cold: ☐ Yes ☐ No

No. ELISA: _____

Comments: _____

No. Culture/PCR; _____

****All Samples MUST arrive FROZEN in order to perform an accurate test****

Nasal Lavage Collection in Tortoises

1. Evaluate for the presence of clinical signs using established data sheet.
2. Clean head/nares:
 - a. If very dirty, first rinse with water.
 - b. If nares are dirty, use alcohol soaked gauze/cotton ball to wipe off nares, face, and chin. Allow to air dry.
 - c. If significant nasal discharge, first take an aspirate of the discharge and place directly in 1 ml media aliquot. Then clean head & nares as above and perform flush.
3. Prepare flush material:
 - a. Pull up 10 cc of sterile 0.9% NaCl (saline) using a 10cc syringe and large gauge needle (i.e. 18-20 ga.). Smaller volumes may be used for subadult tortoises (approx. 6 cc saline) and juvenile tortoises (approx. 2-4 cc).
 - b. Use a 22 ga. IV catheter to flush the nares. First remove the needle stylet from the IV catheter. Then remove the needle from the syringe and attach the plastic catheter to the 10 cc syringe without touching the distal tip of the catheter.
4. Restrain the tortoise and perform the flush:
 - a. Have an assistant gently hold and stabilize the tortoise's head with one hand. When grasping the tortoise, make sure to hold the head behind the jaw at the neck to minimize the chance for causing trauma to the head. Pressure is applied to the ventral aspect of the chin to push the tongue dorsally into the choanae. This will decrease the chance of aspiration of the saline or the tortoise swallowing the saline as the flush is performed.
 - b. Either the person restraining the tortoise or the person performing the flush can hold an opened, sterile collection cup (i.e. urine cup) under the tortoise's chin. Try to minimize the amount you touch the tortoise with the cup in order to keep the cup sterile and minimize sample contamination.
 - c. Gently advance the catheter into the tortoise's nare. Typically, the catheter is only advanced 2-4 millimeters. Flush half the volume of the saline (5cc for adults) into one nare and have your assistant catch the fluid in the collection cup. Sometimes the tortoise will pool the flush in its oral cavity if pressure is not maintained on the tongue between the jaws. Fluid will often be expelled through the other nare and sometimes through the mouth.
 - d. Repeat the procedure in the other nare, flushing with the remaining volume (5cc for adults).
 - e. Occasionally, you may notice a small amount of blood in the collected fluid. Gentle advancement of the catheter only a short distance will help to minimize this.
 - f. For hatchlings or very small tortoises: In 2 separate 1cc syringes, draw up 0.5 cc – 1 cc sterile saline or SP-4 media. Grasp the head and apply dorsal

pressure to the tongue as described above. Place the syringe (no needle attached) directly over the nare and flush media/saline in and out of each nare. Do not flush the entire volume. Leave at least 0.1 cc remaining in the syringe as typically only a very small amount of fluid is recovered and the remaining volume will be needed to flush that fluid out of the syringe. Put media into a screw-cap tube or saline directly into the media aliquot tube.

5. Label the collection cup/tube with the tortoise identification #, date collected, study site, and person submitting the sample. If available, add SP4 medium or sterile 5% bovine serum albumin to collection cup while in the field (1cc media into approx. 10cc saline). Store the sample on ice when in the field. If samples will be shipped within 3 days, store samples in a refrigerator. If samples will be held longer, transfer them to a freezer as soon as possible. As with the serum samples, it is best to use a freezer that does NOT have an automatic defrost cycle and if you plan to store the samples for an extended period of time, a -80 C deep freezer should be used.
6. Ship samples on dry ice if possible. If not, use multiple ice packs to ensure that samples stay cold.

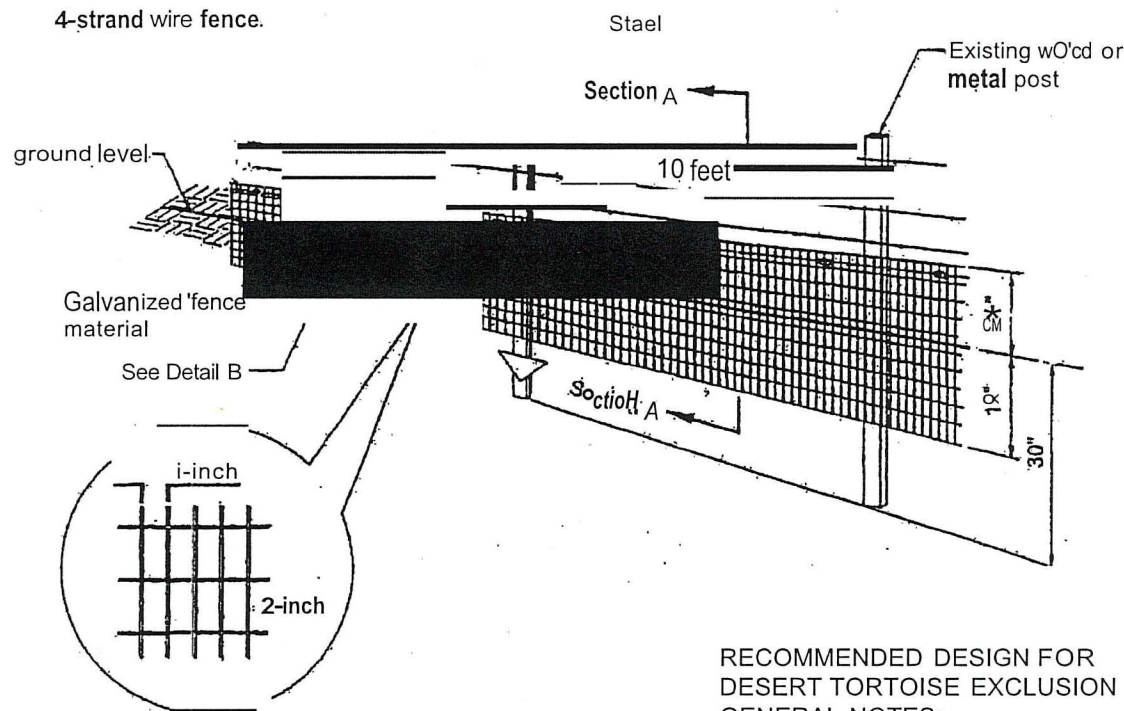
L. Wendland 5/04

Attachment 5

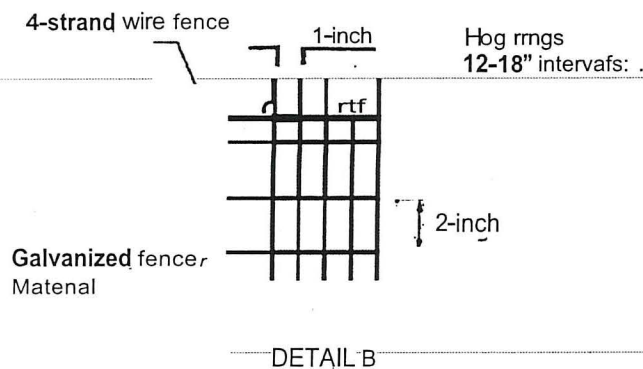
APPENDIX C

Recommended Specifications for Desert Tortoise Exclusion Fencing and Tortoise Guard

DESERT TORTOISE EXCLUSION FENCE (2005)



DETAIL A



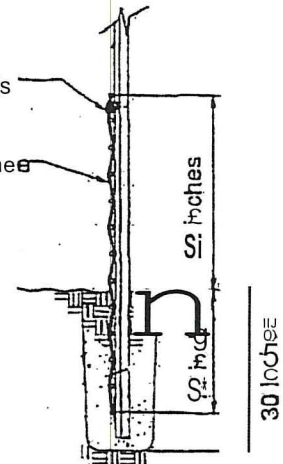
RECOMMENDED DESIGN FOR DESERT TORTOISE EXCLUSION FENCE GENERAL NOTES:

1. Ensure that fence posts and materials conform to the standards approved by the U.S. Fish and Wildlife Service.
2. Ensure that the height above ground level is no less than 18 inches and no higher than 24 inches.
3. Ensure that the depth of fence material below ground level is about 12 inches but no less than 6 inches. (See SECTION A above)
4. Install additional steel posts when the distance between existing fence posts exceed 10 feet.
5. Attach fence material to existing fence or wire using hog rings at 12-inch intervals.
6. Fasten fence material to posts with 3 tie wires with a wire near the top, bottom and center of the fence material.
7. Backfill trenches with excavated material and compact the material.
8. Attach fence material to all gates. Ensure that clearance at base of gate achieves zero ground clearance.
9. Substitute smooth wire for barbed wire if additional support wires are necessary.
10. The number and placement of support wires may be modified to allow sheep and deer to pass safely.
11. Erosion at the edge of the fence material where the fence crosses washes may occur and requires appropriate and timely monitoring and repair.
12. Tie the fence into existing culverts and cattle guards when determined necessary to allow desert tortoise passage underneath roadways.

4-strand wire fence

Hog rings
12-18" intervals
See Detail B

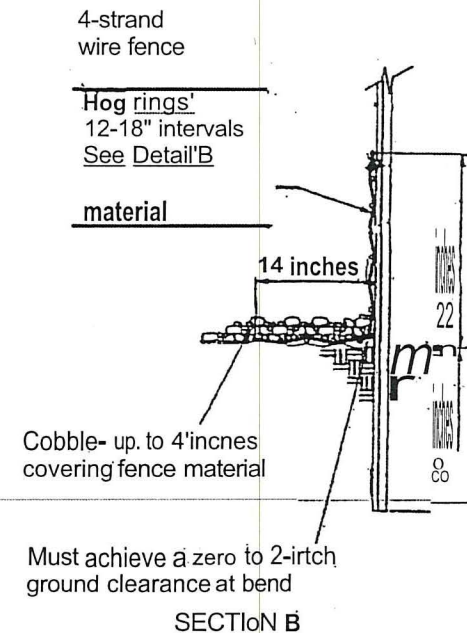
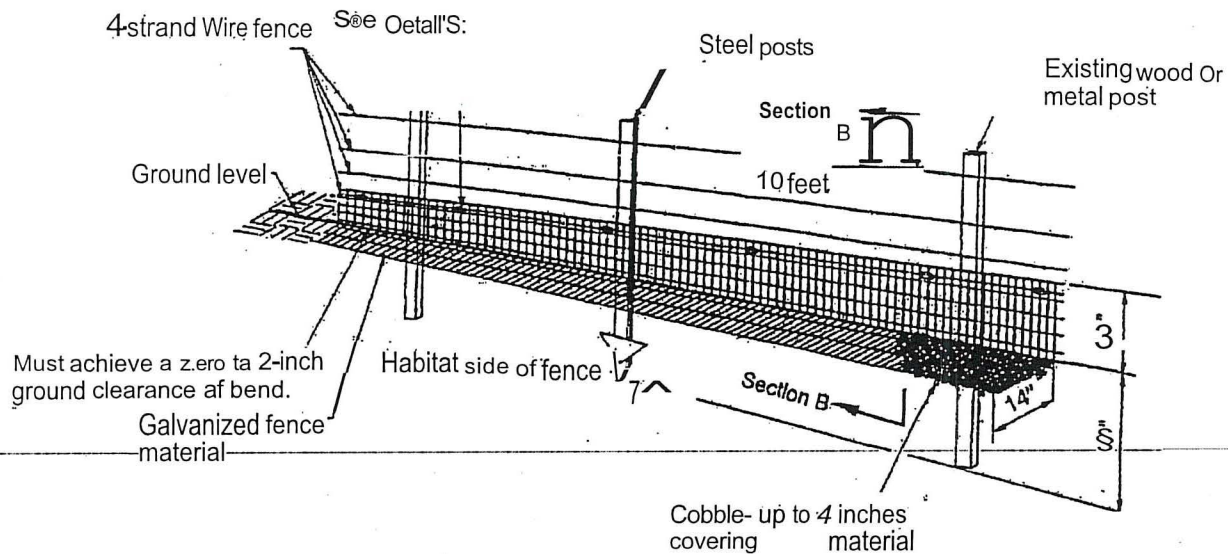
Galvanized fence material



SECTION A

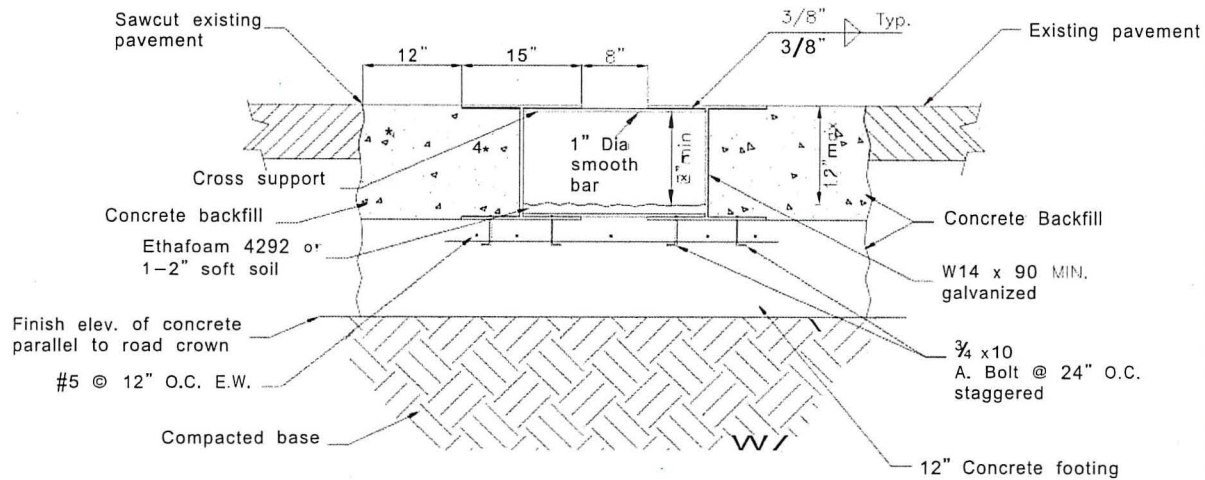
FOR BEDROCK OR CALICHE SUBSTRATE

1. Use this fence design (see below) only for that portion of the fence where fence material cannot be placed 6 inches below existing ground level due to presence of bedrock, large rocks or caliche substrate.
2. Ensure that the fence height above ground level is no less than 22 inches.
3. Ensure that there is a zero to 2-inch ground clearance at the bend.
4. Ensure that the bent portion of the fence is lying on the ground and pointed in the direction of desert tortoise habitat.
5. Cover the portion of the fence that is flush with the ground with cobble (rocks placed on top of the fence material to a vertical thickness up to 4 inches).
6. When substrate no longer is composed of bedrock or caliche, install fence using design shown above.

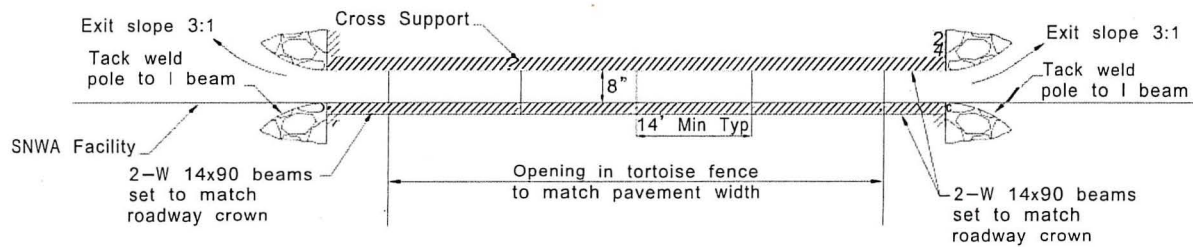


PERMANENT TORTOISE GUARD

CROSS SECTION



TOP VIEW



NOTE:
All metal should be
galvanized per spec
05500, paragraph 3.3

**DESERT TORTOISE MONITOR AND BIOLOGIST
RESPONSIBILITIES AND QUALIFICATIONS**

DESERT TORTOISE MONITOR -- Approved by the Fish and Wildlife Service to monitor project activities within desert tortoise habitat, ensure proper implementation of protective measures, and record and report desert tortoise and sign observations in accordance with approved protocol, report incidents of noncompliance in accordance with a biological opinion or permit, move desert tortoises from harm's way when desert tortoises enter project sites and place these animals in "safe areas" pre-selected by Authorized Biologists or maintain the desert tortoises in their immediate possession until an Authorized Biologist assumes care of the animal. Monitors assist Authorized Biologists during surveys and often serve as "apprentices" to acquire experience. Monitors are not authorized to conduct presence/absence or clearance surveys unless directly supervised by an Authorized Biologist; "directly supervised" means the Authorized Biologist is direct voice and sight contact with the Monitor.

AUTHORIZED BIOLOGIST -- Approved by the Fish and Wildlife Service to conduct all activities described in the previous section for Desert Tortoise Monitors, and to locate desert tortoises and their sign (i.e., conduct presence/absence and clearance surveys) and ensure that the effects of the project on the desert tortoise and its habitat are minimized in accordance with a biological opinion incidental take permit. Authorized Biologists must keep current with the latest information on U.S. Fish and Wildlife Service protocols and guidelines. An Authorized Biologist must have thorough and current knowledge of desert tortoise behavior, natural history, and ecology, physiology, and demonstrated substantial field experience and training to safely and successfully:

- handle and temporarily hold desert tortoises
- excavate burrows to locate desert tortoise or eggs
- relocate/translocate desert tortoises
- reconstruct desert tortoise burrows
- unearth and relocate desert tortoise eggs
- locate, identify, and record all forms of desert tortoise sign

GENERAL DESERT TORTOISE BIOLOGIST/MONITOR QUALIFICATIONS STATEMENT

This form should be used to provide your qualifications to agency officials if you intend to handle or survey desert tortoises during construction or other projects authorized under Sections 7 or 10 (HCPs) of the Endangered Species Act. If you seek approval to attach/remove/insert any devices or equipment to/into desert tortoises, withdraw blood, or conduct other procedures on desert tortoises, a recovery permit or similar authorization may be required.

Application for a recovery permit requires completion of Form 3-200-55, which can be downloaded at <http://www.fws.gov/forms/3-200-55.pdf>. Supplemental information for the recovery permit application should be provided with the form, *Statement of Skills and Experience with Specialized Desert Tortoise Procedures*, which is available from a U.S. Fish and Wildlife Service Field Office.

1. Contact Information:

Name	
Address	
City, State, Zip Code	
Phone Number(s)	
Email Address	

2. Date of Statement:

3. Requesting Approval as: ☐ Desert Tortoise Monitor ☐ Authorized Biologist

4. States in which authorization is requested (check all that apply):

☐ California ☐ Nevada ☐ Utah ☐ Arizona

5. Please provide information on the project:

USFWS BO or HCP Number		Date:	
Project Name			
Federal Agency			
Proponent or Contractor			

6. Specify project and/or activities anticipated that require authorization (e.g. capture/release, weigh, measure, attach and remove telemetry devices and other hardware, etc.). Specifically reference the relevant document and page numbers with authorizing statements (e.g., BO, page 19, terms and conditions 6, 7, and 8):

7. If you hold, or have held, any relevant state or federal wildlife permits, provide the following:

Species	Dates	State (specify) or Federal Permit Number	Authorized Activities

8. Education (provide up to three, listing most recent first):

Institution	Dates attended	Major/Minor	Degree received
1.			
2.			
3.			

9. Desert Tortoise Training. Include numbers of animals handled under the Experience section (No. 10 below).

Name/Type of Training	Dates (From/To)	Location	Instructor/Sponsor
1.			
2.			
3.			
4.			

10. Experience – Complete for each position held, attach additional sheets as necessary. Include only those positions relevant to the requested work with desert tortoises. Distinguish between Mojave desert tortoise and other experience. Include only your experience, not information for the project you worked on (e.g. if 100 tortoises were handled on a project and you handled 5 of those tortoises, include only those 5). List most recent experience first.

General Field Experience:

General Field Experience:		
Project Name, Biological Opinion, or Permit No. & Job Title	Dates (From/To)	Job Duties & Responsibilities/ Skills Used or Acquired
1.		
2.		
3.		
4.		

Specific Desert Tortoise Field Experience:

a. Number of hours or 8-hour days (specify) conducting desert tortoise-related activities (referenced above):

b. Number of miles/kilometers walked conducting survey transects:

c. Number of wild, free-ranging desert tortoises you encountered:

<100 mm carapace length:
≥100 mm carapace length:

d. Number of wild, free-ranging desert tortoises you personally handled (circle one for each size category).

<100 mm: Zero	<10	10-50	50-100	100-200	>200
≥100 mm: Zero	<10	10-50	50-100	100-200	>200

e. Number of captive desert tortoises you personally handled (circle one for each size category).

<100 mm: Zero	<10	10-50	50-100	100-200	>200
>100 mm: Zero	<10	10-50	50-100	100-200	>200

f. Number of transmitters or other devices (specify) you personally attached to or removed from <u>wild, free-ranging</u> desert tortoises (circle one for each size category).						
<u>Attached:</u>						
<100 mm: Zero	<10	10-50	50-100	100-200	>200	
≥100 mm: Zero	<10	10-50	50-100	100-200	>200	
<u>Removed:</u>						
<100 mm: Zero	<10	10-50	50-100	100-200	>200	
≥100 mm: Zero	<10	10-50	50-100	100-200	>200	
g. Number of transmitters or other devices (specify) you personally attached to or removed from <u>other relevant species</u> or <u>captive</u> desert tortoises (circle one for each size category).						
<u>Specify species or if captive desert tortoises:</u>						
<u>Attached:</u>						
<100 mm: Zero	<10	10-50	50-100	100-200	>200	
≥100 mm: Zero	<10	10-50	50-100	100-200	>200	
<u>Removed:</u>						
<100 mm: Zero	<10	10-50	50-100	100-200	>200	
≥100 mm: Zero	<10	10-50	50-100	100-200	>200	
h. Number of blood samples that you personally collected from <u>wild, free-ranging</u> desert tortoises (circle one for each size category).						
<100 mm: Zero	<10	10-50	50-100	100-200	>200	
≥100 mm: Zero	<10	10-50	50-100	100-200	>200	
i. Number of blood samples that you personally collected from <u>other relevant species</u> or <u>captive</u> desert tortoises (circle one for each size category).						
<u>Specify species or if captive desert tortoises:</u>						
<u>Specify type of procedure:</u>						
<100 mm: Zero	<10	10-50	50-100	100-200	>200	
≥100 mm: Zero	<10	10-50	50-100	100-200	>200	
j. Experience conducting other procedures on <u>wild, free-ranging</u> desert tortoises (circle one for each size category).						
<u>Specify type of procedure:</u>						
<100 mm: Zero	<10	10-50	50-100	100-200	>200	
≥100 mm: Zero	<10	10-50	50-100	100-200	>200	

k. Experience conducting other procedures on other relevant species or captive desert tortoises (circle one for each size category).

Specify species or if captive desert tortoises:

Specify type of procedure:

<100 mm: Zero <10 10-50 50-100 100-200 >200

≥100 mm: Zero <10 10-50 50-100 100-200 >200

l. Prior authorizations for desert tortoise under Biological Opinions or Habitat Conservation Plans (specify number, date, project name and location). Do not reiterate "general field experience" information:

11. Provide at least 3 references that can verify your field qualifications and skills:

Name	Employer/Position	Address/Location	Phone Number	Email
1.				
2.				
3.				

I certify that the information submitted in this form is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to the criminal penalties of 18 U.S.C. Ch.47, Sec. 1001.

Signed: _____

Date: _____

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APPENDIX B. CONTENT OF A MINERALS ASSESSMENT REPORT

1. Introduction - Report purpose, location maps, legal description.
2. Title report review (both preliminary (if available) and final title reports).
3. Description of surface and mineral estate ownerships, including all changes in ownership over the fifteen preceding years and rights to access the surface by the owners of the mineral estate.
4. Specific mineral resources included and excluded in the mineral estate.
5. Review of locatable, useable and salable mineral resources on the property.
6. Maps and aerial photographs of property with delineated mineral estates.
7. Assessment of mineral resource potential, including a map showing locations.
8. Discussion of environmental constraints which may constrain mining.
9. Opinion as to the likelihood of surface mining, or other forms of mining, including a determination whether the "probability of surface mining is so remote as to be negligible".
10. References cited.
11. Preparer's qualifications. Preparer's expertise shall include the ability to competently assemble, review and interpret title reports and provide legal descriptions of the ownership. All discussion of minerals, geology and mining potential shall be prepared by a California-Licensed Professional Geologist with demonstrated experience with mining and mineral experience. The report shall bear a California-Licensed Professional Geologist stamp and signature.

APPENDIX D. SAMPLE FORMAT FOR REGIONAL MANAGER DETERMINATION

Property Description

Category 1 Risk Assessment – for department lands and conservation easements

		Yes	No	Unknown or Not Applicable
1	Is the subject property within any sedimentary basin mapped for oil, gas or geothermal production by California Department of Conservation's Division of Oil, Gas, and Geothermic Resources (DOGGR)?			
2	Do the regional lands or habitat conservation programs have any record of communication with parties who wish to conduct exploration or mining on the land?			
3	Is there evidence of past or current mining ⁷ on the land (this includes any application or issuance of a permit to mine in counties where mining requires a permit)?			
4	Is there any information indicating that the mineral estate is severed from the surface estate?			
	If #'s 1, 2 and 3 are all answered no; or if # 4 is answered no, the risk is Low and it is not necessary to answer #'s 5 through 11.			
5	Review County Assessor records to determine if any recent ownership transactions have occurred. Is there any evidence of recent (within the past five years) changes in mineral estate ownership?			
6	Has the current mineral estate owner previously conducted any exploratory actions on the property or entered into any leases for others to do so?			
7	Is there a mineral assessment report/remoteness opinion on the property indicating more than a negligible risk?			
8	Is mining currently practiced on the property or on adjoining lands?			
9	Is the mineral estate owner or mineral lease holder an entity known to be actively engaged in mining elsewhere in California?			

⁷ For purposes of this assessment, small historic inactive prospecting excavations and recent non-commercial aggregate borrow sites may be ignored.

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10	Does the Federal Government own and plan to lease the mineral estate?			
11	Is there any recent and credible indication of litigation risk over mining access posed by owners of the mineral estate?			
	If any answer to #5 through #11 is yes, a determination of High risk is warranted. Otherwise, the risk is Low.			

Based on the above, the risk is _____ (Low or High).

Category 2 Risk Assessment – for prospective conservation lands

		YES	NO	Unknown or Not Applicable
1	Is the subject property within any sedimentary basin mapped for oil, gas or geothermal production by DOGGR?			
2	Is there evidence of past mining ⁸ on the land (this includes any application or issuance of a permit to mine in counties where mining requires a permit)?			
3	Is the mineral estate severed from the surface estate?			
	If #'s 1, 2 and 3 are all answered no, a Low risk determination is appropriate and it is not necessary to answer #'s 4 or 5.			
4	Has a mineral assessment report been prepared and have all mineral estate owners or lessees been provided an opportunity to review the Mineral Assessment Report?			
5	Based on the mineral assessment report, and any comments received from mineral estate owners, in the independent judgement of the Regional Manager, is the probability of future surface mining more likely than not?			
	If the answer to # 5 is yes, a determination of High risk is warranted. Otherwise, the risk is Low.			

Based on the above, the risk is _____ (Low or High).

⁸ For purposes of this assessment, small historic inactive prospecting excavations and recent non-commercial aggregate borrow sites may be ignored. Note that past mining may pose additional risks of hazardous materials contamination or abandoned mine safety hazards.

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If the mining risk is High, list any methods which will be implemented to avoid, minimize or mitigate mining impacts:

- 1.
- 2.
- 3.

Based on the above, I determine that:

Check all that apply and attach all supporting documentation:

<input type="checkbox"/>	Mining risk is Low, further actions are not necessary
<input type="checkbox"/>	Mining risk is High, methods to avoid, minimize or mitigate risk will be implemented and are likely to be effective
<input type="checkbox"/>	Mining risk is High, risk cannot be effectively avoided, minimized or mitigated
<input type="checkbox"/>	Acquisition or approval is not recommended
<input type="checkbox"/>	Acquisition or approval is recommended
<input type="checkbox"/>	Acquisition or approval is recommended contingent on actions specified above or in attachments

~~Original signed by~~

Regional Manager

Date

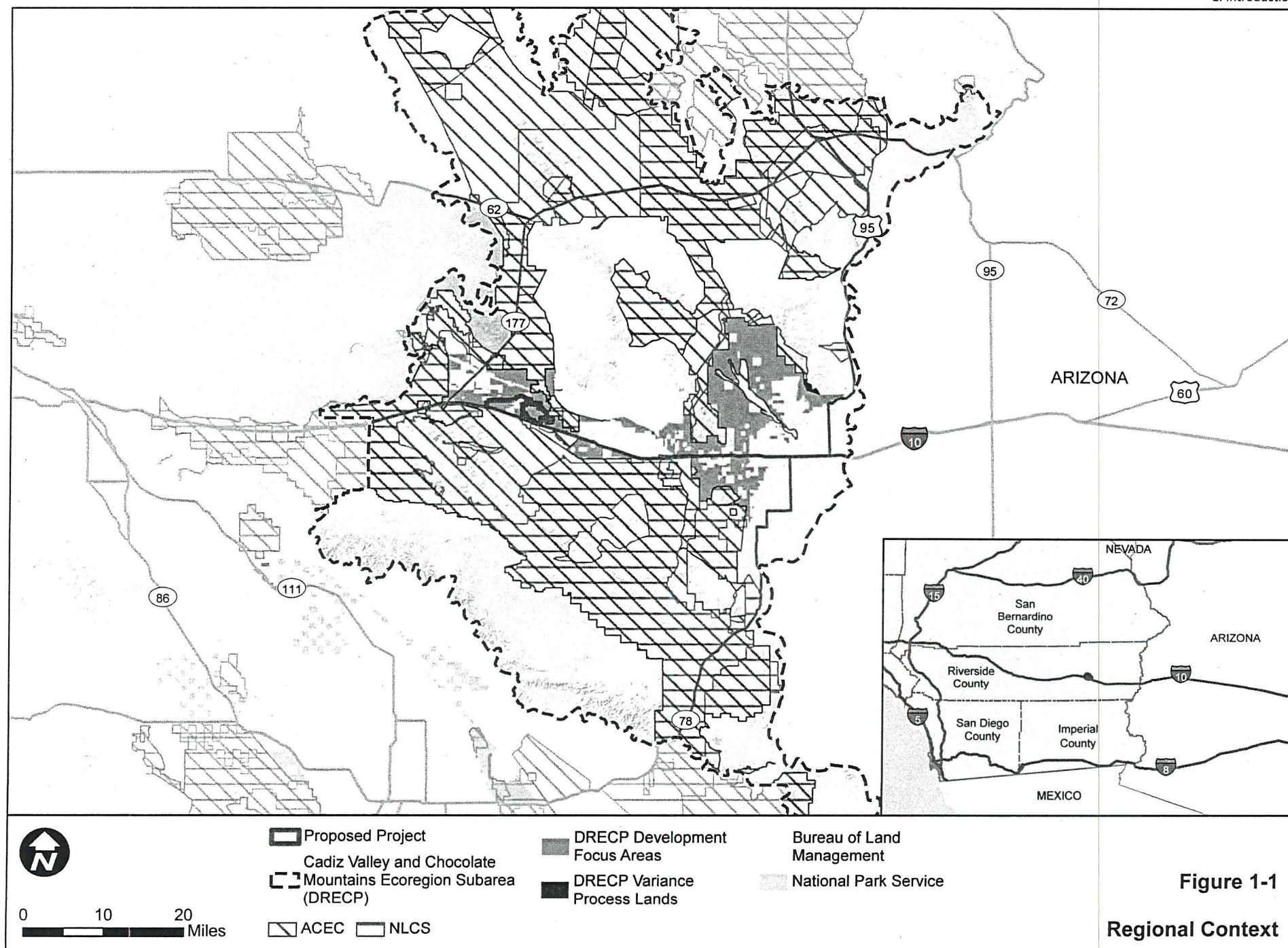
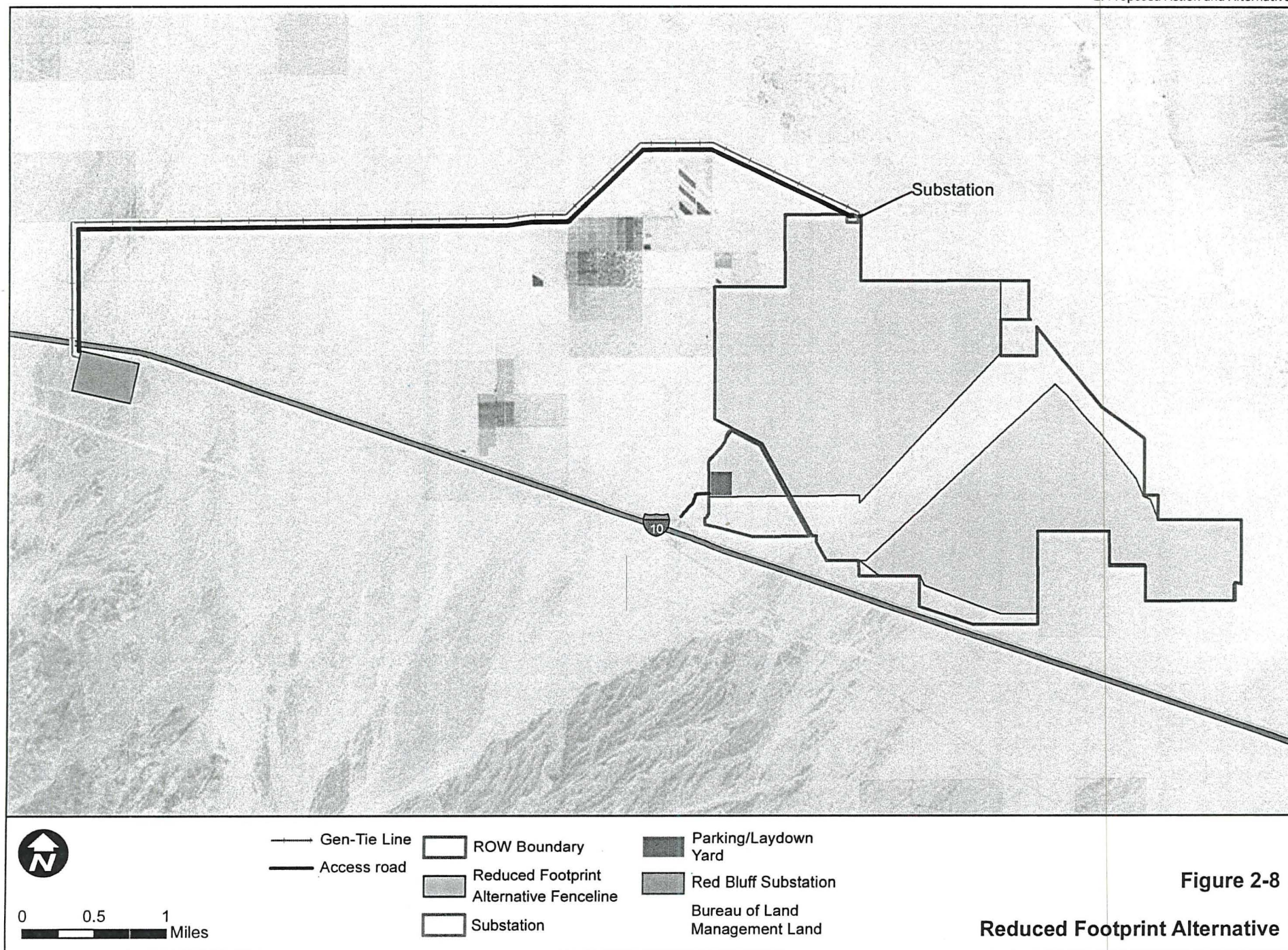


Figure 1-1

Regional Context





TRANSPORTATION AND
LAND MOVEMENT AGENCY

Date / Time 11/30/2018 2:00:13 PM Cashier pdcash

Transaction ID	78074234	\$3,218.00	Base
		\$73.37	Conv. Fee
		<u>\$3,291.37</u>	Total

Invoice Number 00062664
Permit Number CFW180063

Payment Summary : Mastercard payment for \$3,291.37.

Business Name :

Account Last 4: 8088, 8088

Billing Name : Andrew Bell

Billing Address :
, 94110

Customer ANI:

Phone Number :

Email Address :

Signature _____

Note: The convenience fee is collected by Heartland Payment Systems.