

DEPARTMENT OF TRANSPORTATION

DISTRICT 3
703 B STREET
MARYSVILLE, CA 95901
PHONE (530) 741-4239
www.dot.ca.gov/dist3

RECEIVED**JUN 18 2019****HABITAT CONSERVATION
PLANNING BRANCH**

*Making Conservation
a California Way of Life*

June 14, 2019

California Department of Fish and Wildlife - Region 2
Habitat Conservation Planning Branch, CESA Permitting
Post Office Box 944209
Sacramento, CA 94244-2090

Subject: Incidental Take Permit (ITP) for Bridge Scour Mitigation Project - American River (03-3F540): (2081-2019-002-02)

Dear California Department of Fish and Wildlife,

Enclosed is the signed original of the accepted ITP for the Bridge Scour Mitigation American River Bridge Project (2081-2019-002-02), for your files.

If you have any questions, please contact me at (530) 741-4239.

Sincerely,

A handwritten signature in blue ink that reads "Michele Lukkarila".

Michele Lukkarila, Project Biologist
Caltrans Office of Environmental Management M-5

Enclosure(s)

RECEIVED

JUN 18 2019

HABITAT CONSERVATION
PLANNING BRANCH



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

California Endangered Species Act
Incidental Take Permit No. 2081-2019-002-02

BRIDGE SCOUR MITIGATION – AMERICAN RIVER PROJECT

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

Permittee:	California Department of Transportation
Principal Officer:	Doug Lange, Caltrans District 3 Project Manager
Contact Person:	Michele Lukkarila, Caltrans Biologist, (530) 741-4465
Mailing Address:	703 B Street Marysville, CA 95901

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2022**.

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"].)

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

Project Location:

The Bridge Scour Mitigation – American River Project (Project) is located on State Route (SR) 160 south bound bridge at postmile (PM) 44.7, within the County of Sacramento (Exhibit A). The Project is located immediately north of a storage facility in the City of Sacramento, at approximately 38°35'46.882 latitude, -121°28'34.826" longitude. The Project site is bounded by Northgate Blvd to the north, and Richards Blvd to the south.

Project Description:

The Project includes placement of temporary piles for access to excavate and install approximately 0.09 acres of scour protection material into the American River channel. Project activities include removing and replacing existing rock slope protection (RSP) to mitigate continuing channel scour. Project activities include excavation, pile driving, dewatering, placement of rock slope protection, trench digging, road construction, tree removal, clearing of riparian vegetation and other activities. It is anticipated that the replacement and rebuilding of the existing RSP could be accomplished from floating barges that attach to adjacent piers.

A temporary trestle is expected to be constructed on bents supported by temporary 18" to 20"-diameter steel pipe piles capped or braced by steel beams. It is assumed that the piles will be spaced about 30 ft. apart along the length of the trestle and between 20-30 ft. apart depending on the width of the structures. Construction of temporary trestles is therefore expected to require the temporary installation of approximately 306 18" to 20"-diameter steel pipe piles. The steel pipe piles for the temporary trestle are expected to be driven to a depth of approximately 40 feet below the mud-line.

Access and staging is expected through an existing fire road through the American River Parkway adjacent to the Project site. Temporary construction easements (TCEs) will be obtained to allow for equipment access and staging. These areas can be accessed from the East Bound State Route 160 off-ramp which turns onto Northgate Boulevard. The staging area is connected with the work site via an in-water platform trestle and pathways under the East and West Bound bridges, which will allow for movement of materials and equipment off of the freeway ramps and local streets. Construction is planned to occur over two seasons beginning in July 2020.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. Chinook salmon – Sacramento River spring run (<i>Oncorhynchus tshawytscha</i>)	Threatened ³

³See *Id.*, subd. (b)(2)(C).

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 pile installation, excavation, modification of habitat and in-water operation of equipment (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 crushing, entombing, hydro acoustic stress, thermal stress, and/or stranding. The areas where authorized take of Sacramento River spring-run salmon (salmon) is expected to occur throughout the Project work area within the American River Channel (collectively, the Project Area).

Including staging and temporary impacts, the Project is expected to affect a total of 0.21 acres of channel and non-riparian habitat and will cause the permanent loss of aquatic habitat for salmon (see Table 1).

Table 1. Salmon habitat impact type in square feet

Project Feature	Permanent Rock Placement	Temporary Trestle Impacts	Removal of Existing Rock
American River Channel	3950		1398
Pile Installation		46104	
Total Loss in Aquatic Habitat	2552	46104	

Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibration, long-term effects due to increased pollution, displacement from preferred channel substrate habitat, increased competition for food and in-water space, and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

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

Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Initial Study with Mitigated Negative Declaration/Environmental Assessment with Finding of No Significant Impact (SCH No.: 2017072043) adopted by California Department of Transportation on February 2, 2018, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. 1600-2018-0369-R2 for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 4. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Endangered Species Act section 7(a)(9)(2) Biological Opinion and Magnuson-Stevens Fishery Conservation and Management Act Essential Fish Habitat Response for the Bridge Scour Mitigation Project in Sacramento County, Project Number 03-3F540 for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
- 5. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 6. General Provisions:**
 - 6.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated

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BRIDGE SCOUR MITIGATION – AMERICAN RIVER PROJECT

Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

- 6.2. Designated Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.
- 6.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 6.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.
- 6.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.

- 6.6. Delineation of Property Boundaries. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with appropriate demarcation. Permittee shall restrict all Covered Activities to within the demarcated areas. Permittee shall maintain all demarcated areas until the completion of Covered Activities.
- 6.7. Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.8. Project Access. Project-related personnel shall access the Project Area using existing 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.
- 6.9. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area.
- 6.10. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.11. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.12. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all unused excavated material, 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.

- 6.13. Equipment Maintenance and Fueling. All equipment operated within the channel shall be checked and maintained daily to prevent leaks of materials that if introduced to the water could be deleterious to Covered Species. No equipment maintenance or fueling shall be done within or near any stream channel where petroleum products or other pollutants from the equipment may enter these areas unless the appropriate spill prevention measures are in place such as catch basins or drip pans, lined with an impermeable layer that has been placed under the equipment. When exchanging tanks over water or filling the vibratory extractor rig, drip pans shall be used. Fuel and other material stored on the barge shall be stored in a plastic tub to contain leaks or spills. Spill equipment such as booms, drip pans, and absorbent pads shall be on-site and be ready to deploy in case of spill.
- 6.14. Cleaning Equipment Prior to Entering Channel. All equipment that will be entering the active channel shall be cleaned of materials deleterious to aquatic life including oil, grease, hydraulic fluid, soil and other debris. Wash water containing mud or silt from washing or other operations shall not be allowed to enter the channel.
- 6.15. Prevention of Spread of Invasive Species. Permittee shall conduct Project activities in a manner that prevents the introduction, transfer, and spread of invasive species, including plants, animals, and microbes (e.g., algae, fungi, parasites, bacteria, etc.), from one Project site and/or waterbody to another. Prevention BMPs and guidelines for invasive plants can be found on the Cal-IPC's website at: <http://www.cal-ipc.org/ip/prevention/index.php> and for invasive mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <http://www.protectyourwaters.net/>.
- 6.16. Spill Prevention. A spill response plan shall be submitted to CDFW for approval in writing at least 7 days prior to the initiation of construction. A designated inspector familiar with the utilized construction equipment shall be onsite during all Project activities in order to monitor equipment operations, prevent waterway contamination and respond to equipment malfunctions. The barge, boat, and heavy equipment shall be regularly inspected for wear, leaks, and/or malfunction. Hazardous material leaks and spills shall be attended to immediately as outlined in the Spill Prevention and Response Plan. Prior to entering the work site, all field personnel shall know the location of spill kits and trained in their appropriate use.
- 6.17. Spill Containment. All activities performed in or near a river, stream, or lake shall have absorbent materials designated for spill containment and cleanup activities on-site for use in an accidental spill. The Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate the cleanup activities. CDFW shall be notified by the Permittee and consulted regarding clean-up procedures.

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. 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.
- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of twice per week during periods of inactivity and after clearing, grubbing, and grading are completed.
- 7.4. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.
- 7.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is R2CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required

under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 7.6. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in 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; and (7) information about other Project impacts on the Covered Species.
- 7.7. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.8. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report for written acceptance. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly 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. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office CESA Desk at (916) 358-2930. The initial notification to CDFW shall include information regarding the location,

species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

8. Take Minimization Measures:

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

- 8.1. Work Period. All in channel Covered Activities within the bed, bank, and channel shall be confined to the period from June 15 to October 15 of each year.
- 8.2. Conduct Work During Daylight Hours. Work is restricted to daylight hours (one hour after sunrise to sunset). Exceptions may be granted upon written request and written approval from CDFW.
- 8.3. Work Period in Dry Weather Only. Permittee shall conduct work within the Project Area, during periods of dry weather. The Permittee shall monitor forecasted precipitation. When 1/2 inch or more of precipitation is forecasted to occur, the Permittee shall stop work before precipitation commences. No Project activities may be started if its associated erosion control measures cannot be completed prior to the onset of precipitation. After any storm event, the Permittee shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sediment problems and take corrective action as needed. Seventy-two hour weather forecasts from National Weather Service shall be consulted and work shall not start back up until runoff ceases.
- 8.4. Pile Driving Hydro-Acoustic Limits. Sound pressure levels generated by impact pile driving within the river, or within a reasonable distance of the water (on dry land) where sound levels may reach the water that are injurious to Covered Species shall be kept below the interim thresholds, 206 decibels (dB) peak Sound Pressure Level (SPL) and 187 dB cumulative Sound Exposure Level (SEL). If the 206 dB SPL or 187 cumulative SEL threshold injury zones are exceeded for impact pile driving the Permittee shall stop all impact pile driving activities and not continue until CDFW has been consulted. The Permittee shall monitor sound levels as specified in Condition of Approval 8.7, during impact pile driving activities occurring within the river channel, as well as for piles within a reasonable distance of the water on dry land (within 200 feet of the edge of water in the active channel) where sound levels may be injurious to Covered Species.

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8.5. Turbidity, Noise and Vibration Reduction. Sound attenuation shall be a requirement of this ITP. The Permittee will furnish, install, operate and maintain a sound attenuation system for all piles installed in water by impact hammer to reduce noise generated into the water. If the sound attenuation system fails, pile driving shall immediately stop and may not resume at the location until the system is put back into operation. A design of the sound attenuation system shall be submitted to CDFW for written approval no less than 14 days prior to the initiation of construction. The following sound attenuation systems may be employed including but not limited to:

- a. Confined bubble curtain
- b. An unconfined bubble curtain
- c. Isolation casings
- d. Wooden pile cushions
- e. Other methods approved in advance by CDFW

8.6. Soft Start Pile Driving. The initial strikes of all in-water piles, or piles that occur within 200 linear feet of the water's edge in the active channel in which injurious sound levels to aquatic species could reach the water shall occur at less than full impact force for a period of 15 seconds followed by 30 seconds of no activity. This action shall be repeated two additional times and impact shall be gradually brought up to full force blows to reduce the initial sound level and provide warning blows to allow aquatic species adequate time to leave the Project Area.

8.7. Hydro-Acoustic Monitoring Plan. A minimum of 14 days prior to the initiation of construction, an acoustic monitoring plan to evaluate sound levels during pile driving activities shall be prepared by the designated hydro-acoustic monitoring specialist who shall possess the same authority as a Designated Biologist and have the ability to direct the resident engineer to stop work as necessary by the conditions of this ITP. The acoustic monitoring plan and hydro-acoustic monitoring specialist must be approved in writing by CDFW before pile driving activities can proceed. The acoustic monitoring plan must be implemented during all impact pile driving activities, including near water piles within 200 feet of the edge of water in the active channel. At minimum, the monitoring plan will include the following:

- Daily acoustical monitoring by the designated hydro-acoustic monitoring specialist.
- Describe the methods necessary to continuously assess underwater noise on a real-time basis, including details on the number, location, distance and depth of hydrophones and associated monitoring equipment.
- Provide a means of recoding the time, number of pile strikes, peak sound energy per strike and interval between strikes.
- A minimum of two hydrophone underwater sound monitoring systems (hydrophone, signal amplifier and calibrator) that utilize current National

- Institute of Standards and Technology traceable calibration method.
- Require a minimum recording distance of 10 meters from each pile being monitored.
- Position a hydrophone at the proposed limits of peak and cumulative strikes to ensure threshold distances are not surpassed or provide specific analysis on how the proposed limits shall be measured and monitored.
- Provide specific inputs and calculations for cumulative sound exposure limits in the monitoring reports.

The results of hydro-acoustic monitoring shall be made available to CDFW upon request and submitted in the appropriate Monthly Report (See Condition of Approval 7.5) Annual Report (See Condition of Approval 7.6) and the Final Construction Report (See Condition of Approval 7.8).

- 8.8. Minimize Use of Impact Hammer. The amount and duration of impact hammer activities shall be minimized. Use of the impact hammer shall be limited to daylight hours to allow movement of fish that may be present in the Project vicinity to pass the Project Area during the night time hours.
- 8.9. Fish Salvage. The Designated Biologist shall stop work if fish are stunned or otherwise directly impacted by noise and vibration from pile driving. Work shall not resume until the fish clears the construction area.
- 8.10. Equipment Maintenance. Staging and storage areas for equipment materials, fuels, lubricants and solvents, will be located outside of the channel and banks. Stationary equipment such as motors, pumps, generators, compressors and welders, located within or adjacent to the channel will be positioned over drip pans. Any equipment or vehicles driven and/or operated within or adjacent to the channel will be checked and maintained daily to prevent leaks of materials that if introduced to water could be deleterious to aquatic life. Vehicles will be moved away from the channel prior to refueling and lubrication. When refueling of equipment outside of the channel is infeasible, refueling activities shall be conducted in such a way that spilled petroleum products will not enter the watercourse.
- 8.11. Covered Species Entrainment. Permittee shall minimize the potential for Covered Species to be entrained in any equipment intakes, excavation areas etc. Permittee shall minimize the potential for aquatic species to be entrained during project activities.
- 8.12. Covered Fish Species Mortality. If the Covered Species is found recently deceased, the carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if

known), and ITP tracking number. The specimen shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road, Suite D, Rancho Cordova, CA 95670 within two calendar days of the discovery.

9. Habitat Management Land Acquisition:

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

Covered Fish Species –Physical Impacts and Injurious Sound Impacts

To meet this requirement, the Permittee shall either purchase 1.20 acres of Covered Fish Species credits from a CDFW-approved mitigation or conservation bank for the Covered Fish Species (Condition of Approval 9.1), OR shall provide security pursuant to Condition of Approval 9.3 below and the calculation and deposit of funds pursuant to Condition of Approval 10 below. Compensatory habitat shall include in-water, floodplain and upland riparian habitat for Covered Fish Species through preservation, restoration, enhancement, and/or creation of habitat that is the same or better quality as the habitat that will be impacted.

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. The Permittee shall also restore on-site 0.21 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.2 below.

- 9.1. Covered Species Credits. Permittee shall restore habitat area onsite and purchase 1.22 acres of salmonid credits from a CDFW-approved mitigation or conservation bank.
- 9.2. Habitat Restoration. Permittee shall restore on-site the 0.21 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 6 months of issuance of this ITP, and at least 30 days before starting restoration work, Permittee shall submit a Vegetation Restoration Plan (Plan) to CDFW for review and approval. The Plan will facilitate revegetation as appropriate of the 0.21 acres of temporary construction disturbance on-site, and shall ensure that the contractor successfully implements the Plan. The Plan shall include detailed specifications for restoring all temporarily disturbed areas.

- 9.3. Cost Estimates. CDFW has estimated the purchase of salmonid credits at a conservation or mitigation bank identified in Condition of Approval 9.1, estimated at \$100,000 per credit, at **\$120,000**. Temporary restoration activities have been estimated at \$2,750 per acre, at **\$577**.
- 9.4. Bill of Sale. Permittee shall submit to CDFW prior to Project activities if no Security is provided for the Covered Species Credit cost estimates, a copy of the Bill of Sale(s) and payment receipt or within 18 months from issuance of this ITP if Security is provided.

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 **\$120,577.00**. 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 2) or another form of Security such as a Separate Expense Authorization (SEA), approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 3) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as

evidenced by:

- Written documentation of the acquisition of the HM lands
- Copies of all executed and recorded conservation easements
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment
- 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. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

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

Notices:

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

or overnight delivery to the following address:

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number 2081-2019-002-02 in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Kevin Thomas, Regional Manager
c/o CESA Desk
California Department of Fish and Wildlife
North Central Region
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
Telephone: (916) 358-2930
Fax: (916) 358-2912

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:

CESA Desk
California Department of Fish and Wildlife
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670
Telephone: (916) 358-2930
Fax: (916) 358-2912

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Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Initial Study with Mitigated Negative Declaration/Environmental Assessment with Finding of No Significant Impact (SCH No.: 2017072043) dated January 2018 that the California Department of Transportation adopted for the Bridge Scour Mitigation Project on February 2, 2018. At the time the lead agency adopted the Mitigated Negative Declaration approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

the Initial Study with Mitigated Negative Declaration/Environmental Assessment with Finding of No Significant Impact (SCH No.: 2017072043) adopted by California Department of Transportation on February 2, 2018.

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

Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, Lagoon Creek Bridge and American River Bridge Scour Repair Project Initial Study with Mitigated Negative Declaration/Environmental Assessment with Finding of No Significant Impact, additional impacts analysis submitted to CDFW on April 18, 2019, 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;

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- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 0.12 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1	Location Map
FIGURE 2	Impact Areas
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Irrevocable Letter of Credit Form
ATTACHMENT 3	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 5/1/19



Kevin Thomas, Regional Manager
NORTH CENTRAL REGION

ACKNOWLEDGMENT

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

By:  Date: 5/31/19

Printed Name: DOUGLAS H. LANGO Title: CALTRANS PROJECT MANAGER

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