



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](http://www.wildlife.ca.gov)

GAVIN NEWSOM, Governor  
CHARLTON H. BONHAM, Director



March 12, 2020

Adam Compton, Senior Environmental Planner  
California Department of Transportation District 8  
464 West 4<sup>th</sup> Street, 6<sup>th</sup> Floor, MS 833  
San Bernardino, CA 92401-1400

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APR 21 2020

HABITAT CONSERVATION  
PLANNING BRANCH

**Subject: Incidental Take Permit for Interstate 15 Repair Failed and Eroded  
Earthen Dike Project (Post Mile 110-110.3) (2081-2019-038-06) (1G740)**

Dear Adam Compton:

Enclosed you will find two originals of the incidental take permit for the above referenced Project, which have been signed by the Department. Please read the permit carefully, sign the acknowledgement on both copies of the permit, and return one original **no later than 30 days from Department signature**, and prior to initiation of ground-disturbing activities, to:

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

You are advised to keep the other original signature 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 signed acknowledgement is received by the Department. If you wish to discuss these instructions or have questions regarding the permit, please contact Wendy Campbell, Senior Environmental Scientist (Specialist), at (760) 920-8571.

Sincerely,

Leslie MacNair  
Regional Manager

Enclosures (2)



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

California Endangered Species Act  
Incidental Take Permit No. 2081-2019-038-06

**INTERSTATE 15 REPAIR FAILED AND ERODED EARTHEN DIKE PROJECT  
POST MILE (PM) 110.00 – 110.30 (08-1G740)**

**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 take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> 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).

<b>Permittee:</b>	<b>California Department of Transportation, District 8</b>
<b>Principal Officer:</b>	<b>Adam Compton, Senior Environmental Planner</b>
<b>Contact Person:</b>	<b>Chun-Sheng Wang, Biologist</b>
<b>Mailing Address:</b>	<b>464 West 4<sup>th</sup> Street, 6<sup>th</sup> Floor, MS 833 San Bernardino, CA 92401-1400</b>

**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 **March 6, 2030**.

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 7.9 of this ITP.

**Project Location:**

The Interstate 15 (I-15) Repair Failed and Eroded Earthen Dike Project Post Mile (PM)110 – 110.3 (08-1G740) (Project) is located in the town of "Dunn". The Project limits extend .3 miles from PM 110.0 to 110.3 approximately 1.3 miles northwest of Afton Road, in San

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

<sup>2</sup>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.



Bernardino County. The entirety of the project is located within the BLM Superior Cronese Area of Critical Environmental Concern (ACEC) and within United States Fish and Wildlife Services designated desert tortoise Critical Habitat (Figure 1).

**Project Description:**

The Project includes reconstructing a damaged earthen dike and ditch located 1,130 feet north of the southbound I-15 and to construct a temporary access road. The existing 5 to 20-foot-wide ditch is to be reconstructed by excavating to a depth of 5 to 10 feet. The excavated material will then be used to reconstruct the eroded dike back to its As Built (4 feet wide at its top and 36 to 44 feet wide at its base) with a height of 8 to 10 feet.

**Covered Species Subject to Take Authorization Provided by this ITP:**

This ITP covers the following species:

Name	CESA Status
1. Agassiz's Desert Tortoise ( <i>Gopherus agassizii</i> )	Threatened <sup>3</sup>

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

**Impacts of the Taking on Covered Species:**

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include: vegetation clearing; grading, leveling, and compaction; excavation; installation of fencing or barriers; installation and/or construction of temporary Project facilities and structures; general operation of vehicles and heavy equipment; noise, vibration, and dust generating activities; and capture and relocation activities (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: collision with, or crushing by, vehicles or heavy equipment; crushing or burial of individuals or eggs in burrows; destruction of burrows and refugia; and increased predation. 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 as well as, capture and relocation activities. More specifically, relocation of Covered Species to the translocation site may disrupt the behavior and social structure of resident individuals. Relocated adult Covered Species may continue to disperse and never establish a territory, resulting in no reproductive effort and the loss of offspring to maintain population viability. The areas where authorized take of the Covered Species is expected to occur include the median, overcrossing bridges, staging areas, and areas subject to section 1600 *et seq.* along I-10 between 104.90 and 134.00 (collectively, the Project Area).

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

The Project is expected to cause the permanent loss of **12.95 acres** of designated critical habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

**Incidental Take Authorization of Covered Species:**

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

**Conditions of Approval:**

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

1. **Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
2. **CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No.: 2019039166) adopted by the California Department of Transportation, District 8 on June 13, 2019 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. 1600-2019-0276-R6) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.

Incidental Take Permit  
No. 2081-2019-038-06

CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8  
I-15 REPAIR FAILED AND ERODED EARTHEN DIKE PROJECT PM 110.00-110.30 (1G740)



- 4. FESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Caltrans Desert Tortoise Programmatic Biological Opinion, as issued November 5, 2013 (81440-2007-F-0270) pursuant to the Federal Endangered Species Act (FESA), that encompasses the Project. 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 a minimum of 60 Calendar 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. Biological Monitor(s). Permittee shall designate Biological Monitor(s) (Biological Monitor(s)) knowledgeable and experienced in the biology and natural history of the Covered Species. The Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat.
- 6.3. Authorized Biologist. Permittee shall designate Authorized Biologist(s) (Authorized Biologist(s)) knowledgeable in the biology and natural history of the Covered Species. The Authorized Biologist(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate and avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Additionally, the Authorized Biologist shall have experience with excavating burrows, handling and temporarily holding the Covered Species, relocating/translocating the Covered Species, reconstructing Covered Species burrows, unearthing and relocating Covered Species eggs, locating, identifying, and recording all forms of Covered Species signs, collecting Covered Species blood samples, conducting Covered Species health assessments, conducting Covered Species protocol level surveys, and attaching and removing transmitters to and from the Covered Species.

- 6.4. Biologists and Veterinarians Approvals. Permittee shall obtain CDFW approval of the Authorized Biologist(s), Biological Monitor(s), and if needed veterinarian(s), in writing before starting Covered Activities, and shall also obtain advance written approval if any of these entities are changed. For approval, the Designated Representative shall submit Attachment 2 of this ITP and an Excel spreadsheet listing in alphabetical order the names of the proposed Authorized Biologist(s), Biological Monitor(s), and veterinarian(s) to CDFW a minimum of 45 calendar days before starting Covered Activities or before any changes are made to these personnel. For each proposed Authorized Biologist(s) and Biological Monitor(s), the Excel spreadsheet shall include the activities outlined in this ITP and associated Desert Tortoise Translocation Plan (DTTP) that the Permittee is requesting approval for that individual to carry out.
- 6.5. 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 and take necessary steps to immediately stop work if any activity does not comply with this ITP and/or Authorized Biologist(s) shall order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. If a Biological Monitor or Authorized Biologist stops work, work shall not resume until an Authorized Biologist determines that all activities are in compliance with the ITP and communicates that determination to the onsite manager. Permittee shall inform all persons employed or otherwise working in the Project Area that the Biological Monitor(s) and Authorized Biologist(s) have the authority described in this subsection.
- 6.6 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 Authorized Biologist(s) or Biological Monitor(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually until this ITP expires. If the training program is presented as a prerecorded presentation, it shall be accompanied by a formal process that allows submission of questions that shall be answered by the Authorized Biologist(s) within 24 hours of submission.



- 6.7. Daily Construction Journal. The Biologist 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.
- 6.8. Ongoing Trash Removal. Permittee shall ensure that all food and trash that could attract predators will be properly disposed of in self-closing, sealable containers, with lids that latch to prevent wind, common ravens (*Corvus corax*), and other scavengers from opening the containers. Permittee shall ensure all trash receptacles are regularly inspected, emptied, and removed from the Project Area at least once a week to prevent spillage and maintain sanitary conditions.
- 6.9. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Biological Monitor(s) and/or Authorized Biologist(s). Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles. Tackifier and soil stabilizers may be used only if approved by CDFW prior to the start of Covered Activities.
- 6.10. 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.
- 6.11. General Habitat and Species Avoidance. Permittee shall, to the greatest extent feasible, avoid impacts/disturbances to sensitive plants, plant communities, and animals within the Project Area. In addition, Permittee shall avoid, to the maximum extent practicable, impacts/disturbance to perennial, native vegetation within the Project Area. To the maximum extent practicable, Permittee shall limit access-related Covered Activities to "drive and crush" rather than vegetation removal or grubbing.
- 6.12. Firearms and Dogs. Permittee shall prohibit Project personnel and any other individuals associated with the Project from bringing any firearms or dogs on the Project Area during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials, dogs that may be used to aid in official and approved monitoring procedures/protocols, or service dogs under Title II and Title III of the American with Disabilities Act.
- 6.13. Delineation of Project Boundaries. Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered

Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.

- 6.14. 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.
- 6.15. Vehicular Traffic Restrictions. Permittee shall restrict Project-related vehicle traffic to established roads and the delineated Project Area; cross-country (off-road) vehicle travel shall be prohibited unless specifically accounted for as a Covered Activity. Project-related vehicle traffic shall not exceed 25 miles per hour, except in Covered Species habitat where vehicle speed shall not exceed 15 miles per hour. If a Covered Species is encountered, drivers shall stop, wait for the Covered Species to move off the road, and immediately notify the Biological Monitor(s) and/or Authorized Biologist of the Covered Species location. If handling of a Covered Species is required, the Biological Monitor(s) shall halt Project-related activities and immediately notify the Authorized Biologist(s). Project activities may not resume until the Covered Species has moved, on its own accord, out of harm's way, or until the Authorized Biologist(s) has relocated the Covered Species.
- 6.16. 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.
- 6.17. 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.
- 6.18. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, hardened concrete, and boxes.
- 6.19. Concrete Washout. Permittee shall not conduct concrete washout within the Project Area.



- 6.20. 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.

## **7. Notification, Monitoring, and Reporting Provisions:**

### **Notification Requirements**

- 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 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 or as soon as email is available.
- 7.3. Notification of Take or Injury. Permittee shall immediately notify the Biological Monitor(s) and/or Authorized Biologist(s) if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Biological Monitor(s), Authorized Biologist(s), or Designated Representative shall provide initial notification to CDFW by following Condition of Approval 7.5. Following initial notification, Permittee shall send CDFW a written report within three 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.
- 7.4. Future Take or Injury Prevention. The Permittee shall develop and include measures that will be implemented to prevent or minimize future take or injury of Covered Species in all reports provided under Section 7.3 above.
- 7.5. Notifying Procedures. The Permittee or the Designated Representative shall provide all required notifications in this ITP by sending an email to the CDFW Regional Representative Wendy Campbell ([Wendy.Campbell@wildlife.ca.gov](mailto:Wendy.Campbell@wildlife.ca.gov)) and as described in the Notices section of this ITP. All notifications shall be submitted via email to the Regional Representative and shall include the following information: ITP Number, the ITP Condition number that the notification is addressing, any necessary

photos or attachments, and the name and phone numbers of the Biological Monitor(s) and/or Authorized Biologist(s) (if applicable).

## **Monitoring Requirements**

- 7.6. Compliance Monitoring. The Biological Monitor(s) and/or Authorized Biologist(s) shall be on-site daily when Covered Activities occur. The Biological Monitor(s) and/or Authorized Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative, Biological Monitor(s), and/or Authorized Biologist(s) shall each 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) and/or Biological Monitor 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).

## **Reporting Requirements**

- 7.7. Monthly Compliance Report. The Designated Representative, Biological Monitor(s), and/or Authorized Biologist(s) shall compile the observation and inspection records identified in Condition of Approval 7.6 and 7.3 into a Monthly Compliance Report and submit it by the 15<sup>th</sup> of each month 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 CDFW as identified in Condition of Approval 7.5 and via e-mail to the Headquarters CESA Program. Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.
- 7.8. 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 as identified in Condition of Approval 7.7; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the



effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; (7) Monitoring of Existing Highway Right-of-Way Desert Tortoise Fence; (8) Maintenance of Existing Highway Right-of-Way Desert Tortoise Fence; and (9) information about other Project impacts on the Covered Species.

- 7.9. CNDDDB Observations. 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 Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. More information is available at <https://www.wildlife.ca.gov/Data/CNDDDB>.
- 7.10. Final Mitigation Report. No later than 45 calendar days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Compliance Report. The Biological Monitor(s) and/or Authorized Biologist(s) shall prepare the Final Compliance 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) a final calculation of Covered Species habitat impacts, including geographic information system (GIS) shapefiles in the format specified in Attachment 3 of this ITP; (7) 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; (8) 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 (9) 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. Herbicides. Permittee shall only use herbicides containing a harmless dye and registered with the California Department of Pesticide Regulation (DPR). 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 when

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winds are greater than five (5) miles per hour.

- 8.2. Rodenticides and Insecticides. Permittee shall not use rodenticides and/or insecticides on the Project Area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project Area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project Area without prior written permission from CDFW.
- 8.3. Removal of Debris. Permittee shall remove all hardened concrete and other loose debris in areas that need to be cleared by slowly removing stored material starting from the top and working down to ground level, rather than scooping from the ground up. This method will minimize the possibility of harming a Covered Species using the debris as shelter and will allow them to escape.
- 8.4. 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) and/or Biological Monitor(s) for Covered Species' before the material is moved, buried, or capped. The Authorized Biologist(s) and/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 backfilling. 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 Biological Monitor(s) and/or Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) and/or Authorized Biologist(s) shall allow the Covered Species to escape unimpeded if possible, or an Authorized Biologist(s) approved under Condition of Approval 6.4 of this ITP shall move the Covered Species out of harm's way before allowing work to continue.
- 8.5. Pre-Construction Clearance Surveys. No more than 7 calendar days prior to start of Covered Activities, the Authorized Biologist(s) and/or Biological Monitor(s) approved under this ITP shall conduct pre-construction clearance surveys for Covered Species, using the methods described in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise (Mojave Population) Field Manual (hereinafter referred to as USFWS Field Manual). In addition to the guidance provided in the USFWS Field Manual, CDFW provides the following requirement(s):
- 8.5.1. Pre-construction clearance surveys shall be completed using perpendicular survey routes within the Project Area. Pre-construction 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.

- 8.5.2. These surveys shall cover 100 percent of the Project Area and a 50-foot buffer zone around the Project Area. The Biological Monitor(s) and/or Authorized Biologist(s) shall record all potential Covered Species and burrows within the pre-construction clearance survey area, using high-accuracy (< 1 meter) global positioning system (GPS) technology. The Biological Monitor(s) and/or Authorized Biologist(s) shall provide the results of the pre-construction clearance survey (using the USFWS Protocol data sheet) to CDFW within 10 Calendar days of completing the surveys. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.
- 8.5.3. Twenty-Four (24) hours prior to the start of Covered Activities, the Biological Monitor(s) and/or Authorized Biologist(s) shall conduct a final clearance survey of the Project Area. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.
- 8.6. Construction Monitoring. Biological Monitor(s) and/or Authorized Biologist(s) shall monitor and be present at all time during Covered Activities.
- 8.7. Covered Species Observations. If a Covered Species is observed during Covered Activities all work within 300 feet of the Covered Species 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) and/or Biological Monitor(s) has verified the Covered Species has left the Project Area OR an Authorized Biologist(s) approved under Condition of Approval 6 of this ITP relocates the Covered Species as described in this ITP and Desert Tortoise Translocation Plan. The Designated Representative shall immediately notify CDFW of any Covered Species observations within the Project Area. Notification shall occur as described in Condition of Approval 7.5 within 24 hours. 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 shapefiles with the location (including GPS coordinates) where the individual was moved as specified in the DTTP.
- 8.8. Excavating Burrows. Only Authorized Biologist(s) and Biological Monitor(s) approved by CDFW under Condition of Approval 6.4 of this ITP are authorized to conduct burrow excavation. Excavation of burrows shall follow the methods described the USFWS Field Manual.



8.9. Covered Species Translocation. Regardless of the number of Covered Species estimated to be translocated the Permittee shall prepare a Desert Tortoise Translocation Plan (DTTP) 60 Calendar days prior to start of Covered Activities and submit it according to condition of approval 7.5 of this ITP. Covered Activities are not authorized to start until the DTTP is approved in writing by CDFW. The DTTP shall follow the most current guidelines provided by USFWS and CDFW regarding Covered Species translocation. Where guidance differs between USFWS and CDFW, verbal and/or written direction provided by CDFW always controls.

The list of items below are the most common examples of the differences between CDFW and USFWS guidelines. These shall be included in the DTTP along with the most recent USFWS translocation guidelines:

- Translocated tortoise are tortoises removed from the Project Area and/or have a radio transmitter attached.
- The Authorized Biologist shall determine when the creation of artificial burrows is needed.
- Health Assessments shall start after May 15<sup>th</sup> or earlier with written approval from CDFW.<sup>4 5 6</sup>Any blood results that come back suspect or inconclusive shall be retested.
- Ambient air temperature guidelines shall be followed as specified in Condition of Approval 8.10 of this ITP.
- 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 in Condition of Approval 8.10 of this ITP above are met.
- CDFW does not authorize the release of tortoises that test positive for disease even if it does not show outward signs of the disease. If a tortoise tests positive for disease it is the responsibility of the Permittee to locate a CDFW approved facility to place the tortoise in.

<sup>4</sup> 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>.

<sup>5</sup> 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.

<sup>6</sup> 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.



- Linear Facilities: Tortoises >100 mm MCL that are moved due to their burrow being collapsed shall be transmitted (duration of monitoring shall be determined on an individual project basis and shall be included in the DTTP) and disease tested.
- 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 or earlier with written approval from CDFW the tortoise shall be held in quarantine facilities and shall remain in quarantine until tested twice (once in the spring and once in the fall). If the tortoise tests negative for disease it can be released in accordance to the approved DTTP. 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, or other facility approved by CDFW. 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) or most current guidelines. All sample forms shall come from the University of Florida's guidance.
- The DTTP shall include a requirement that all translocated tortoises regardless of size be included in the translocation numbers and all reports.
- The DTTP shall propose one recipient site. Recipient sites shall have the vegetative structure to support all life stages of desert tortoises. In addition to the USFWS Field Manual guidelines the DTTP shall also include identifying the known threats or potential causes of population decline, how potential threats have been or would be addressed, complete physical examination and health assessments with sample collection, age-structure and sex ratios, protocol level surveys, vegetation classification and quality of habitat. The DTTP shall detail which characteristic are to be used to decide if a recipient site is similar enough to a Project Area including burrow aspects, and recovery needs such as habitat restoration and/or predator control.

- All tortoises >100 mm MCL removed off the Project Area shall be transmittered and monitored for 5 years post translocation.
- Recipient sites shall be a minimum of 4 miles<sup>7</sup> (6.5 kilometers) away from highway/road right-of-way that does not include Covered Species fencing.
- All tortoise burrows within the Project Area shall be excavated following procedures outlined in the U. S. Fish and Wildlife Service Desert Tortoise Field Manual.
- Creation of artificial burrows, as well as translocation of tortoises and eggs shall only occur on land(s) (including Bureau of Land Management), when written authorization has been obtained from the landowner prior to the start of Covered Activities. The written permission from the landowner shall be included in the DTTP and the DTTP shall not be approved by CDFW until authorization is provide in writing. If creation of artificial burrows or translocation of tortoise or eggs is proposed to take place on private lands then in addition to written approval required above, some form of protection for the land such as a conservation easement shall be in place prior to translocation occurring.
- Cleaning and Disinfection Protocol. Trifectant and Rescue Ready to Use One Step Disinfectant Cleaner are the only products authorized under this ITP and its associated DTTP to be used as a disinfectant. These products are not authorized to be applied using a spray bottle or other spray methods.

Cleaning and Disinfection Protocol shall include the following:<sup>8</sup>

- 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.
- Allow the area to dry completely
- Apply disinfectant mixture.
- Allow the full disinfectant product recommended contact time.
- Thoroughly rinse away any residual disinfectant and allow the area or item to air dry.

8.10. Ambient Air Temperature: During all handling procedures, Covered Species shall be treated in a manner to ensure that they do not overheat or exhibit signs of overheating

<sup>7</sup> U.S. Fish and Wildlife Service. 2018. Translocation of Mojave Desert Tortoises from Project Sites: Plan Development Guidance. U.S. Fish and Wildlife Service, Las Vegas, Nevada.

<sup>8</sup> Brown, Mary. Cleaning and Disinfection Protocol. Department of Infectious Diseases and Pathology, College of Veterinary Medicine, Gainesville FL.

(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. Covered Species 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 Covered Species 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 Covered Species 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, Covered Species 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). Covered Species 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 Covered Species overnight and move them the following morning within these temperature constraints.

- 8.11. Covered Species Rehydration. If a Covered Species voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the animal(s). The Authorized Biologist(s) shall rehydrate the Covered Species at the location where the animal(s) was or were captured, or the location where the animal(s) is or will be released. The Authorized Biologist(s) shall rehydrate the Covered Species 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 Covered Species. The Authorized Biologist(s) shall rehydrate each Covered Species 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.
- 8.12. Covered Species Handling Records. The Authorized Biologist(s) and/or Biological Monitor(s) shall maintain a record of all Covered Species handled. This information shall include: (a) the locations (narrative and maps) and dates of observation, including whether the individual(s) was found above ground or in a burrow; (b) ambient temperature when handled and released; (c) general condition and health of the individual(s), including injuries, state of healing, and whether the individual(s) voided its bladders; (d) identified diagnostic markings (i.e., identification numbers or marked lateral scutes); (e) location moved from and location moved to (using GPS technology), including information on any burrow (natural or artificial) utilized; (f) whether any eggs were discovered and relocated; (g) digital photographs of any Covered Species and eggs handled; and (h) results of ongoing monitoring. The Designated Representative(s) shall provide CDFW with the information listed above submitted in the monthly reports.

- 8.13. Covered Species Guards. The design of Covered Species guards shall include exit ramps and cleanout. Guards shall be installed along the Existing Right-of-Way fence where Bureau of Land Management (BLM) designated roads enter the Right-of-Way. Guard locations and design shall be provided to CDFW on design plans a minimum of 2 weeks before the project design is finalized by the California Department of Transportation District 8. The guard design shall be approved by CDFW in writing prior to starting Covered Activities.
- 8.14. Covered Species Temporary Fencing and Maintenance. Temporary fencing shall be used adjacent to open habitat (e.g. ends of project; stockpile, water tank, and staging areas). Stakes shall be used 150 feet off the highway to present a visible marker for areas to be avoided around temporary project facilities. The temporary fence shall be constructed according to USFWS Field Manual and inspected at the end of each workday, during major rainfall events, and within 24 hours to ensure Covered Species is prohibited from entering the Project Area. The temporary fence shall be inspected by the Authorized Biologist(s) and/or Biological Monitor(s) approved by CDFW under Condition of Approval 6.4 of this ITP. If the fence is compromised, repairs shall be completed immediately, and clearance protocol level surveys shall be conducted as described in Condition of Approval 8.5.
- 8.15. Covered Species Fence Maintenance Inspection. The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect the Covered Species fencing during the Covered Activities, at the end of each workday, and during major rainfall events and within 24 hours to ensure Covered Species is prohibited from entering the Project Area. If the fence is compromised, repairs shall be completed immediately, and clearance protocol level surveys shall be conducted as described in Condition of Approval 8.5.
- 8.16. Vehicle Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Biological Monitor(s) or Authorized Biologist(s) and wait for the Covered Species to move unimpeded to a safe location or the Authorized Biologist(s) shall relocate the Covered Species as described in Condition of Approval 8.9 before moving vehicles and equipment.
- 8.17. Staging Area and Parking Area. The Permittee shall enclose all staging areas and parking areas with Covered Species exclusion fencing. All parked vehicles and equipment shall be inspected prior to being moved. If a Covered Species is found within a staging or parking area the worker shall immediately contact a Biological Monitor(s) and/or Authorized Biologist(s) approved in Condition of Approval 6 of this ITP. A biologist approved in Condition of Approval 6 of this ITP shall relocate the Covered Species in accordance with Condition of Approval 8.9 of this ITP and the DTP.



- 8.18. 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 **12.95 acres** for a total of **\$ 1,359.75** 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 using appropriate deposit document (Attachment 4) and proof of paying this fee shall be provided to CDFW within 24 hours after the funds have been provided to NFWF.
- 8.19. Covered Activities Outside Permanent Covered Species Exclusion Fencing. Covered activities are not authorized to occur outside Covered Species exclusion fencing.
- 8.20. Borrow Pit. Removal of material from borrow pits or dumping of construction material into borrow pits is not covered by this ITP.
- 8.21. Maintenance of Existing Highway Right-of-Way Desert Tortoise Fence and Guards. The existing right-of-way fence on the north side (south bound lanes) of the I-15 currently includes desert tortoise fence. Maintenance of the desert tortoise fence shall be done for ten (10) years on 3 miles of existing desert tortoise fence located on the north side (south bound lanes) right-of-way fence between PM 108 and 111. Maintenance shall include but not be limited to replacing and/or repair desert tortoise fence and guards that are non-effective in preventing tortoise from entering the highway. Fence design and material shall follow Attachment 5. Maintenance of Desert tortoise fencing shall be completed prior to the start of Covered Activities and an Biological Monitor(s) and/or Authorized Biologist(s) approved in Condition of Approval 6.4 of this ITP shall be present at all times during the desert tortoise fence maintenance activities.
- 8.22. Monitoring of Existing Highway Right-of-Way Desert Tortoise Fence and Guards. After Conditions of Approval 8.13 and 8.21 are completed, inspection and monitoring of the fence and guards shall occur annually for ten (10) years. Repairs to the fence and/or guards shall occur within 60 days from the date the fence was inspected.
- 8.23. Erosion Control Materials – Monofilament Netting. To minimize the risk of ensnaring and strangling Covered Species, Permittee shall not utilize erosion control materials containing synthetic (e.g., plastic or nylon) monofilament netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, coconut (coir) fiber, or other products without welded weaves.

- 8.24. Natural and Biodegradable Erosion Control Materials. Permittee shall utilize erosion control materials composed entirely of natural-fiber biodegradable materials. Permittee shall not use plastic "photodegradable" erosion control materials.
- 8.25. Temporary Access Road. The temporary access road created as part of the project is not a BLM designed road. Therefore, at the end of each workday temporary desert tortoise fence shall be installed to prevent tortoises from entering the highway and once the project is completed the Permittee shall permanently close off the access road from the highway with Right-of-Way fence and desert tortoise fence (Attachment 5).
- 8.26. Invasive Plant Management Plan. Permittee shall develop an Invasive Plant Management Plan focused on controlling or eradicating existing invasive plants within the project site and preventing the introduction of new nonnative and invasive plants into the project site. The Plan shall include a list of plant species targeted for control or eradication, a description of the methods that will be used for control or eradication, a list of BMPs to prevent the introduction and spread of invasive plant species into and out of the project site, monitoring requirement, success criteria, and a rapid response plan in the event that a new plant species invades the project site. The Plan shall be implemented during Covered Activities and monitored for the time specified in the Plan. The Plan shall be submitted to CDFW for review and approval no later than 60 days prior to the commencement of Covered Activities.
- 8.27. Burrow Protection. Twelve desert tortoise burrows and one live tortoise have been documented within the Project Area. The Authorized Biologist(s) shall determine the burrow(s) that can be excluded from being impacted by Covered Activities. The burrows shall be fenced off using temporary desert tortoise fencing while Covered Activities are occurring. Once Covered activities are complete the temporary desert tortoise fence shall be removed. Prior to the daily start of Covered Activities, the Authorized Biologist shall scope and check the burrows fenced off from Covered Activates.
- 8.28. Full time monitoring. An Authorized Biologist(s) shall be present during Covered Activities. An Authorized Biologist(s) and/or Biological Monitor(s) shall be present at all times while Conditions of approval 8.21 and 8.22 are occurring.
- 8.29. Revegetation. Plantings and seed mix shall be approved by CDFW prior to application. Plantings and seed mix shall be comprised of only native plant material from the same geographic range as the Project.

## **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.

To meet this requirement, the Permittee shall either purchase **32.37 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 **32.37 acres** of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. 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 10.1 below for all uncompleted obligations.

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

- 9.1.1. *Land acquisition.* Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$1,900.00/acre for **32.37 acres: \$61,503.00.** 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.* Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at \$2005.00/acre for **32.37 acres: \$64,901.85;**
- 9.1.3. *Interim management.* Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at \$300.00/acre for **32.37 acres: \$9,711.00;**
- 9.1.4. *Long-term management.* Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$1,550.00/acre for **32.37 acres: \$50,173.50.** 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 **\$3,000.00**.

- 9.2. Covered Species Credits. Permittee shall purchase **32.37 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 10.1 below.

OR:

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

- 9.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);
- 9.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (PLFAF, Attachment 6a) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 6b). All documents conveying the HM lands and all conditions of

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title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

- 9.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 Calendar days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.
- 9.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <http://www.dfg.ca.gov/habcon/conplan/mitbank/>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;
- 9.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.
- 9.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, the Permittee shall

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

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

9.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).;

9.4.2 Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment

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

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

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

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

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

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

9.4.3 Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

9.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees,



title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

## 10. Performance Security

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

- 10.1. Security Amount. The Security shall be in the amount of **\$189,289.35**. 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 7) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 Calendar 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 8) 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 Calendar 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 Authorized 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

Incidental Take Permit  
No. 2081-2019-038-06

CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8  
I-15 REPAIR FAILED AND ERODED EARTHEN DIKE PROJECT PM 110.00-110.30 (1G740)

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 and by electronic mail at the following address. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2019-032-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Leslie MacNair, Regional Manager  
California Department of Fish and Wildlife  
3602 Inland Empire Boulevard, Suite C-220  
Ontario, CA 91764  
Telephone (909) 484-0167  
Fax (909) 941-7364

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

and a copy to:

Wendy.Campbell@wildlife.ca.gov

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

Wendy Campbell  
3602 Inland Empire Boulevard, Suite C-220  
Ontario, CA 91764  
Telephone (760) 920-8571

**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 California Department of Transportation, District 8's prior

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environmental review of the Project is set forth in the I-15 Repair Earthen Dike Project, for the Mitigated Negative Declaration (SCH No.: 2019039166) that the California Department of Transportation, District 8 adopted on June 13, 2019. At the time the California Department of Transportation, District 8 adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's Mitigated Negative Declaration for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project 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, I-10 Repaving Project Mitigated Negative Declaration, Natural Environment Study for the I-10 Repaving Project PM 104.90 to 134.00, the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of **32.37 acres** of compensatory habitat that is contiguous with other protected Covered

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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) 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
- (7) 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	Map of Project
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Biologist Qualifications Form
ATTACHMENT 3	GIS Data Collection Requirements
ATTACHMENT 4	Raven Management Renewable Deposit Document
ATTACHMENT 5	Exclusion Fence
ATTACHMENT 6a	Proposed Lands for Acquisition Form
ATTACHMENT 6b	HMLA Lands Checklist
ATTACHMENT 7	Irrevocable Letter of Credit
ATTACHMENT 8	Mitigation Payment Transmittal Form

Incidental Take Permit  
No. 2081-2019-038-06

CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8  
I-15 REPAIR FAILED AND ERODED EARTHEN DIKE PROJECT PM 110.00-110.30 (1G740)

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 3/12/2020



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: Adam Compton Date: 4/4/2020

Printed Name: Adam Compton Title: Senior Environmental planner

Incidental Take Permit  
No. 2081-2019-038-06

CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8  
I-15 REPAIR FAILED AND ERODED EARTHEN DIKE PROJECT PM 110.00-110.30 (1G740)

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HABITAT CONSERVATION  
PLANNING BRANCH

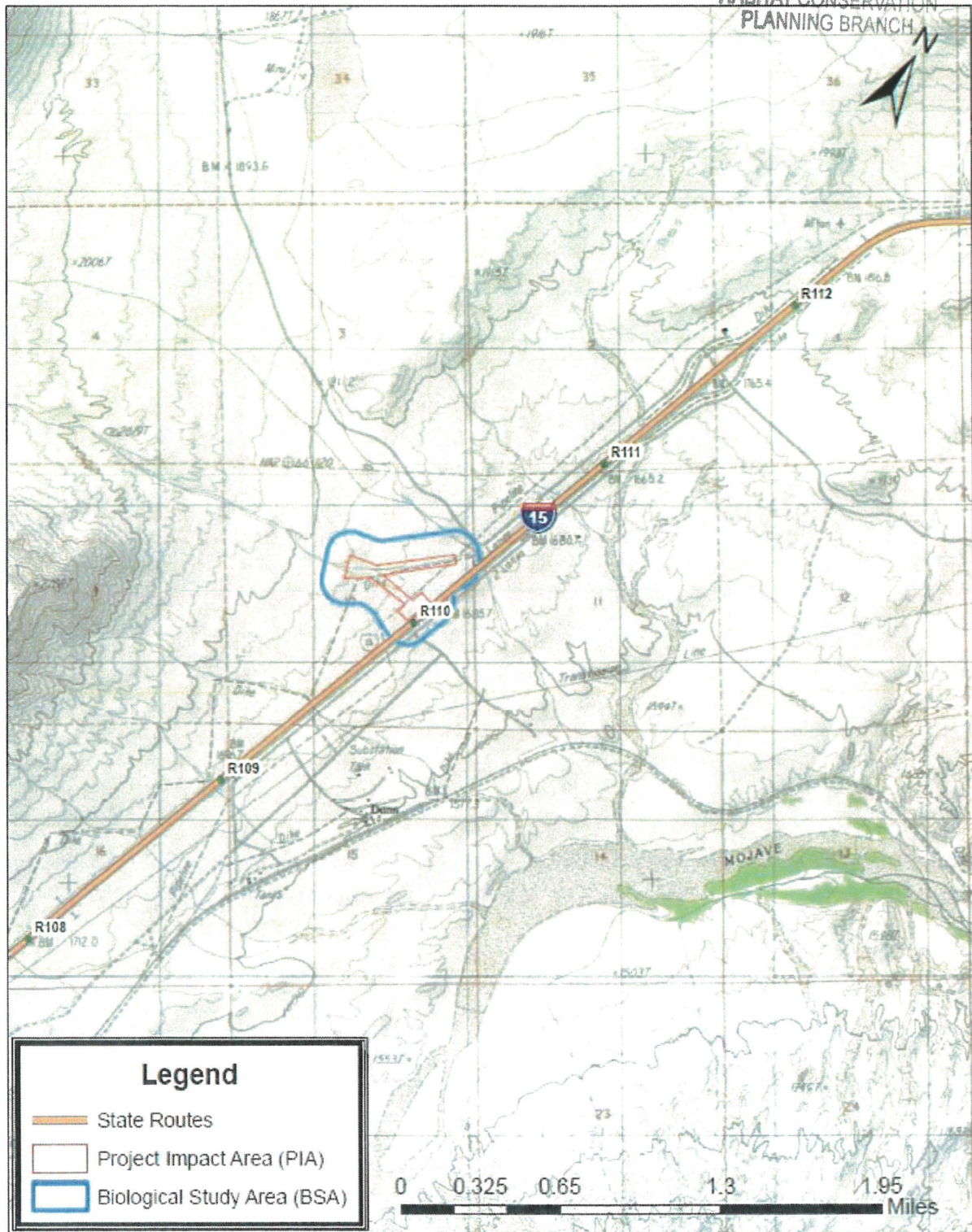


Figure 3: Topographic Map of Project Vicinity



2081-2019-038-06  
Attachment 1

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

**INCIDENTAL TAKE PERMIT NO. 2081-2019-038-06**

**PERMITTEE: California Department of Transportation, District 8**

**PROJECT: Interstate 15 Repair Failed and Eroded Earthen Dike Project Post Mile  
110-110.3 (1G740)**

**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
1	<u>Designated Representative</u> . 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 a minimum of 60 Calendar 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	<u>Biologists and Veterinarians Approvals</u> . Permittee shall obtain CDFW approval of the Authorized Biologist(s), Biological Monitor(s), and if needed veterinarian(s), in writing before starting Covered Activities, and shall also obtain advance written approval if any of these entities are changed. For approval, the Designated Representative shall submit Attachment 2, or information similar to what is required in Attachment 2 in another format, to demonstrate the Authorized Biologist(s), Biological Monitor(s), and veterinarian(s) qualifications and an Excel spreadsheet listing in alphabetical order the names of the proposed Authorized Biologist(s), Biological Monitor(s), and veterinarian(s) to CDFW a minimum of 45 calendar days before starting Covered Activities or before any changes are made to these personnel. For each proposed Authorized Biologist(s) and Biological Monitor(s), the Excel spreadsheet shall include the activities outlined in this ITP and associated Desert Tortoise Translocation Plan (DTTP) that the Permittee is requesting approval for that individual to carry out.	ITP Condition #6.4	Before commencing ground- or vegetation-disturbing activities	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
3	<u>Education Program.</u> 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 Authorized Biologist(s) or Biological Monitor(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually until this ITP expires. If the training program is presented as a prerecorded presentation, it shall be accompanied by a formal process that allows submission of questions that shall be answered by the Authorized Biologist(s) within 24 hours of submission.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities	Permittee	
4	<u>Delineation of Project Boundaries.</u> Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.	ITP Condition # 6.13	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
5	<u>Delineation of Habitat.</u> Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.14	Before commencing ground- or vegetation-disturbing activities  Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	<u>Notification Before Commencement.</u> 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	
7	<u>Covered Species Translocation.</u> Regardless of the number of Covered Species estimated to be translocated the Permittee shall prepare a Desert Tortoise Translocation Plan (DTTP) 60 Calendar days prior to start of Covered Activities and submit it according to condition of approval 7.5 of this ITP. Covered Activities are not authorized to start until the DTTP is approved in writing by CDFW. The DTTP shall follow the most current guidelines provided by USFWS and CDFW regarding Covered Species translocation. Where guidance differs between USFWS and CDFW, verbal and/or written direction provided by CDFW always controls.	ITP Condition # 8.9	Submit to CDFW for approval at least 60 days prior to start of Covered Activities  Entire Project	Permittee	
8	<u>Covered Species Guards.</u> The design of Covered Species guards shall include exit ramps and cleanout. Guards shall be installed along the Existing Right-of-Way fence where Bureau of Land Management (BLM) designated roads enter the Right-of-Way. Guard locations and design shall be provided to CDFW on design plans a minimum of 2 weeks before the project design is finalized by the California Department of Transportation District 8. The guard design shall be approved by CDFW in writing prior to starting Covered Activities.	ITP Condition 8.13	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	<u>Covered Species Fencing and Maintenance.</u> Temporary fencing shall be used adjacent to open habitat (e.g. ends of project; stockpile, water tank, and staging areas). Stakes shall be used 150 feet off the highway to present a visible marker for areas to be avoided around temporary project facilities. The temporary fence shall be constructed according to USFWS Field Manual and inspected at the end of each workday, during major rainfall events, and within 24 hours to ensure Covered Species is prohibited from entering the Project Area. The temporary fence shall be inspected by the Authorized Biologist(s) and/or Biological Monitor(s) approved by CDFW under Condition of Approval 6 of this ITP. If the fence is compromised, repairs shall be completed immediately, and clearance protocol level surveys shall be conducted as described in Condition of Approval 8.5.	ITP Condition # 8.14	Before commencing ground- or vegetation-disturbing activities  Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
10	<u>Staging Area and Parking Area</u> . The Permittee shall enclose all staging areas and parking areas with Covered Species exclusion fencing. All parked vehicles and equipment shall be inspected prior to being moved. If a Covered Species is found within a staging or parking area the worker shall immediately contact a Biological Monitor(s) and/or Authorized Biologist(s) approved in Condition of Approval 6 of this ITP. A biologist approved in Condition of Approval 6 of this ITP shall relocate the Covered Species in accordance with Condition of Approval 8.9 of this ITP and the DTP.	ITP Condition # 8.17	Before commencing ground- or vegetation-disturbing activities  Entire Project	Permittee	
11	<u>Daily Construction Journal</u> . The Biologist 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.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities  Entire Project	Permittee	
12	<u>Dust Control</u> . Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Biological Monitor(s) and/or Authorized Biologist(s). Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles. Tackifier and soil stabilizers may be used only if approved by CDFW prior to the start of Covered Activities.	ITP Condition # 6.9	Entire Project	Permittee	
13	<u>Erosion Control Materials</u> . 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 # 6.10	Entire Project	Permittee	
14	<u>General Habitat and Species Avoidance</u> . Permittee shall, to the greatest extent feasible, avoid impacts/disturbances to sensitive plants, plant communities, and animals within the Project Area. In addition, Permittee shall avoid, to the maximum extent practicable, impacts/disturbance to perennial, native vegetation within the Project Area. To the maximum extent practicable, Permittee shall limit access-related Covered Activities to "drive and crush" rather than vegetation removal or grubbing.	ITP Condition # 6.11	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	<u>Firearms and Dogs.</u> Permittee shall prohibit Project personnel and any other individuals associated with the Project from bringing any firearms or dogs on the Project Area during Covered Activities, except those in the possession of authorized security personnel or local, state, or federal law enforcement officials, dogs that may be used to aid in official and approved monitoring procedures/protocols, or service dogs under Title II and Title III of the American with Disabilities Act.	ITP Condition # 6.12	Entire Project	Permittee	
16	<u>Vehicular Traffic Restrictions.</u> Permittee shall restrict Project-related vehicle traffic to established roads and the delineated Project Area; cross-country (off-road) vehicle travel shall be prohibited unless specifically accounted for as a Covered Activity. Project-related vehicle traffic shall not exceed 25 miles per hour, except in Covered Species habitat where vehicle speed shall not exceed 15 miles per hour. If a Covered Species is encountered, drivers shall stop, wait for the Covered Species to move off the road, and immediately notify the Biological Monitor(s) and/or Authorized Biologist of the Covered Species location. If handling of a Covered Species is required, the Biological Monitor(s) shall halt Project-related activities and immediately notify the Authorized Biologist(s). Project activities may not resume until the Covered Species has moved, on its own accord, out of harm's way, or until the Authorized Biologist(s) has relocated the Covered Species.	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
17	<u>CDFW Access.</u> 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.	ITP Condition # 6.16	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	
18	<u>Hazardous Waste.</u> 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 # 6.17	Before commencing ground- or vegetation-disturbing activities Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	<u>Refuse Removal</u> . Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, hardened concrete, and boxes.	ITP Condition # 6.18	Entire Project	Permittee	
20	<u>Concrete Washout</u> . Permittee shall not conduct concrete washout within the Project Area	ITP Condition # 6.19	Entire Project	Permittee	
21	<u>Staging Areas</u> . 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 # 6.20	Before commencing ground- or vegetation-disturbing activities  Entire Project	Permittee	
22	<u>Herbicides</u> . Permittee shall only use herbicides containing a harmless dye and registered with the California Department of Pesticide Regulation (DPR). 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 when winds are greater than five (5) miles per hour.	ITP Condition # 8.1	Entire Project	Permittee	
23	<u>Rodenticides and Insecticides</u> . Permittee shall not use rodenticides and/or insecticides on the Project Area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project Area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project Area without prior written permission from CDFW.	ITP Condition # 8.2	Entire Project	Permittee	
24	<u>Removal of Debris</u> . Permittee shall remove all hardened concrete and other loose debris in areas that need to be cleared by slowly removing stored material starting from the top and working down to ground level, rather than scooping from the ground up. This method will minimize the possibility of harming a Covered Species using the debris as shelter and will allow them to escape.	ITP Condition # 8.3	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
25	<p>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) and/or Biological Monitor(s) for Covered Species' before the material is moved, buried, or capped. The Authorized Biologist(s) and/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 backfilling. 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 Biological Monitor(s) and/or Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) and/or Authorized Biologist(s) shall allow the Covered Species to escape unimpeded if possible, or an Authorized Biologist(s) approved under Condition of Approval 6.4 of this ITP shall move the Covered Species out of harm's way before allowing work to continue.</p>	ITP Condition # 8.4	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
26	<p><u>Pre-Construction Clearance Surveys.</u> No more than 7 calendar days prior to start of Covered Activities, the Authorized Biologist(s) and/or Biological Monitor(s) approved under this ITP shall conduct pre-construction clearance surveys for Covered Species, using the methods described in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise (Mojave Population) Field Manual (hereinafter referred to as USFWS Field Manual). In addition to the guidance provided in the USFWS Field Manual, CDFW provides the following requirement(s):</p> <p>Pre-construction clearance surveys shall be completed using perpendicular survey routes within the Project Area. Pre-construction 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.</p> <p>These surveys shall cover 100 percent of the Project Area and a 50-foot buffer zone around the Project Area. The Biological Monitor(s) and/or Authorized Biologist(s) shall record all potential Covered Species and burrows within the pre-construction clearance survey area, using high-accuracy (&lt; 1 meter) global positioning system (GPS) technology. The Biological Monitor(s) and/or Authorized Biologist(s) shall provide the results of the pre-construction clearance survey (using the USFWS Protocol data sheet) to CDFW within 10 Calendar days of completing the surveys. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.</p> <p>Twenty-Four (24) hours prior to the start of Covered Activities, the Biological Monitor(s) and/or Authorized Biologist(s) shall conduct a final clearance survey of the Project Area. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.</p>	ITP Condition # 8.5, 8.5.1., 8.5.2., 8.5.3	Entire Project	Permittee	
27	<p><u>Construction Monitoring.</u> Biological Monitor(s) and/or Authorized Biologist(s) shall monitor and be present at all time during Covered Activities.</p>	ITP Condition # 8.6	Entire Project	Permittee	



	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
28	<u>Covered Species Observations.</u> If a Covered Species is observed during Covered Activities all work within 300 feet of the Covered Species 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) and/or Biological Monitor(s) has verified the Covered Species has left the Project Area OR an Authorized Biologist(s) approved under Condition of Approval 6 of this ITP relocates the Covered Species as described in this ITP and Desert Tortoise Translocation Plan. The Designated Representative shall immediately notify CDFW of any Covered Species observations within the Project Area. Notification shall occur as described in Condition of Approval 7.5 within 24 hours. 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 shapefiles with the location (including GPS coordinates) where the individual was moved as specified in the DTTTP.	ITP Condition # 8.7	Entire Project	Permittee	
29	<u>Excavating Burrows.</u> Only Authorized Biologist(s) and Biological Monitor(s) approved by CDFW under Condition of Approval 6 of this ITP are authorized to conduct burrow excavation. Excavation of burrows shall follow the methods described the USFWS Field Manual.	ITP Condition # 8.8	Before commencing ground- or vegetation-disturbing activities  Entire Project	Permittee	
30	<u>Covered Species Fencing and Maintenance.</u> Temporary fencing shall be used adjacent to open habitat (e.g. ends of project; stockpile, water tank, and staging areas). Stakes shall be used 150 feet off the highway to present a visible marker for areas to be avoided around temporary project facilities. The temporary fence shall be constructed according to USFWS Field Manual and inspected at the end of each workday, during major rainfall events, and within 24 hours to ensure Covered Species is prohibited from entering the Project Area. The temporary fence shall be inspected by the Authorized Biologist(s) and/or Biological Monitor(s) approved by CDFW under Condition of Approval 6 of this ITP. If the fence is compromised, repairs shall be completed immediately, and clearance protocol level surveys shall be conducted as described in Condition of Approval 8.5.	ITP Condition # 8.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	<u>Covered Species Fence Maintenance Inspection.</u> The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect the Covered Species fencing during the Covered Activities, at the end of each workday, and during major rainfall events and within 24 hours to ensure Covered Species is prohibited from entering the Project Area. If the fence is compromised, repairs shall be completed immediately, and clearance protocol level surveys shall be conducted as described in Condition of Approval 8.5.	ITP Condition # 8.15	Entire Project	Permittee	
32	<u>Vehicle Inspection.</u> Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Biological Monitor(s) or Authorized Biologists(s) and wait for the Covered Species to move unimpeded to a safe location or the Authorized Biologist(s) shall relocate the Covered Species as described in Condition of Approval 8.9 before moving vehicles and equipment.	ITP Condition # 8.16	Entire Project	Permittee	
33	<u>Raven Management.</u> 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 <b>12.95 acres</b> for a total of <b>\$1,359.75</b> 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 using appropriate deposit document (Attachment 4) and proof of paying this fee shall be provided to CDFW within 24 hours after the funds have been provided to NFWF.	ITP Condition # 8.18	30 days prior to the start of Covered Activities and provide proof of payment to CDFW within 24 hours after funds have been provided to NFWF	Permittee	
34	<u>Notification of Non-compliance.</u> The Designated Representative shall immediately notify CDFW 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 or as soon as email is available.	ITP Condition # 7.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35	<u>Notification of Take or Injury.</u> Permittee shall immediately notify the Biological Monitor(s) and/or Authorized Biologist(s) if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Biological Monitor(s), Authorized Biologist(s), or Designated Representative shall provide initial notification to CDFW by following Condition of Approval 7.5. Following initial notification, Permittee shall send CDFW a written report within three calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition #7.3	Entire Project	Permittee	
36	<u>Future Take or Injury Prevention.</u> The Permittee shall develop and include measures that will be implemented to prevent or minimize future take or injury of Covered Species in all reports provided under Section 7.3 above.	ITP Condition # 7.4	Entire Project	Permittee	
37	<u>Notifying Procedures.</u> The Permittee or the Designated Representative shall provide all required notifications in this ITP by sending an email to the CDFW Regional Representative Wendy Campbell ( <a href="mailto:Wendy.Campbell@wildlife.ca.gov">Wendy.Campbell@wildlife.ca.gov</a> ) and as described in the Notices section of this ITP. All notifications shall be submitted via email to the Regional Representative and shall include the following information: ITP Number, the ITP Condition number that the notification is addressing, any necessary photos or attachments, and the name and phone numbers of the Biological Monitor(s) and/or Authorized Biologist(s) (if applicable).	ITP Condition # 7.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
38	<u>Compliance Monitoring.</u> The Biological Monitor(s) and/or Authorized Biologist(s) shall be on-site daily when Covered Activities occur. The Biological Monitor(s) and/or Authorized Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative, Biological Monitor(s), and/or Authorized Biologist(s) shall each 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) and/or Biological Monitor 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).	ITP Condition # 7.6	Entire Project	Permittee	
39	<u>Monthly Compliance Report.</u> The Designated Representative, Biological Monitor(s), and/or Authorized Biologist(s) shall compile the observation and inspection records identified in Condition of Approval 7.6 and 7.3 into a Monthly Compliance Report and submit it by the 15 <sup>th</sup> of each month 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 CDFW as identified in Condition of Approval 7.5 and via e-mail to the Headquarters CESA Program. Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.7	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
40	<u>Annual Status Report.</u> 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 as identified in Condition of Approval 7.7; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; (7) Monitoring of Existing Highway Right-of-Way Desert Tortoise Fence; (8) Maintenance of Existing Highway Right-of-Way Desert Tortoise Fence; and (9) information about other Project impacts on the Covered Species.	ITP Condition # 7.8	Entire Project	Permittee	
41	<u>CNDDDB Observations.</u> 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 Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. More information is available at <a href="https://www.wildlife.ca.gov/Data/CNDDDB">https://www.wildlife.ca.gov/Data/CNDDDB</a> .	ITP Condition # 7.9	Entire Project	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
42	<p><u>Final Mitigation Report</u>. No later than 45 calendar days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Compliance Report. The Biological Monitor(s) and/or Authorized Biologist(s) shall prepare the Final Compliance 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) a final calculation of Covered Species habitat impacts, including geographic information system (GIS) shapefiles in the format specified in Attachment 3 of this ITP; (7) 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; (8) 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 (9) any other pertinent information.</p>	ITP Condition # 7.10	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43	<p>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.</p> <p>To meet this requirement, the Permittee shall either purchase <b>32.37 acres</b> 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 <b>32.37 acres</b> of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within <b>18 months</b> of the effective date of this ITP if Security is provided pursuant to #44 below and Condition of Approval 10.2 of this ITP.</p> <p><u>Cost Estimates.</u> CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:</p> <p><i>Land acquisition.</i> Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$1,900.00/acre for <b>32.37 acres: \$61,503.00.</b> Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;</p> <p><i>Start-up costs.</i> Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at \$2005.00/acre for <b>32.37 acres: \$64,901.85;</b></p> <p><i>Interim management.</i> Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at \$300.00/acre for <b>32.37 acres: \$9,711.00;</b></p> <p><i>Long-term management.</i> Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$1,550.00/acre for <b>32.37 acres: \$50,173.50.</b> Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.</p> <p>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 <b>\$3,000.00.</b></p>	ITP Condition # 9.0., 9.1., 9.1.1., 9.1.2., 9.1.3., 9.1.4., 9.1.5	Before commencing ground- or vegetation-disturbing activities or no later than 18 months from the issuance of this ITP if Security is provided.	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
44	<u>Security Amount.</u> The Security shall be in the amount of <b>\$189,289.35</b> . This amount is based on the cost estimates identified in Condition of Approval 9.1 above.	10.1	Before commencing ground- or vegetation-disturbing activities or no later than 18 months from the issuance of this ITP if Security is provided.	Permittee	
45	<u>Covered Species Credits.</u> Permittee shall purchase <b>32.37 acres</b> of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than <b>18 months</b> from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10.1 below.	ITP Condition 9.2	Before commencing ground- or vegetation-disturbing activities or no later than 18 months from the issuance of this ITP if Security is provided.	Permittee	
46	<u>HM Lands Approval.</u> Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (PLFAF, Attachment 5a) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;	ITP Condition # 9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	<u>Land Manager.</u> Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 Calendar days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified.	ITP Condition # 9.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
48	<u>Start-up Activities.</u> 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 <a href="http://www.dfg.ca.gov/habcon/conplan/mitbank/">http://www.dfg.ca.gov/habcon/conplan/mitbank/</a> ); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;	ITP Condition # 9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
49	<u>Interim Management (Initial and Capital).</u> 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 of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
50	<p><u>Endowment Fund.</u> If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>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.</p>	ITP Condition # 9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
51	<p><u>Identify an Endowment Manager.</u> 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).;</p>	ITP Condition # 9.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided	Permittee	

	<b>Mitigation Measure</b>	<b>Source</b>	<b>Implementation Schedule</b>	<b>Responsible Party</b>	<b>Status / Date / Initials</b>
52	<p><u>Calculate the Endowment Funds Deposit.</u> 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.</p> <p><u>Capitalization Rate and Fees.</u> 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.</p> <p><u>Endowment Buffers/Assumptions.</u> 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:</p> <p><u>10 Percent Contingency.</u> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.</p> <p><u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p><u>Non-annualized Expenses.</u> 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.</p>	ITP Condition # 9.4.2., 9.4.2.1., 9.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
53	<p><u>Transfer Long-term Endowment Funds.</u> 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.</p>	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	<u>Reimburse CDFW.</u> 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 186 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
55	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <ol style="list-style-type: none"> <li><u>Security Amount</u>. The Security shall be in the amount of <b>\$189,289.35</b>. This amount is based on the cost estimates identified in Condition 9.1 above;</li> <li><u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 6) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel;</li> <li><u>Security Timeline</u>. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first;</li> <li><u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW;</li> <li><u>Security Transmittal</u>. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 7) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other;</li> <li><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;</li> <li><u>Security Release</u>. The Security (or any portion of the Security then remaining) shall be released to the Permittee after all secured requirements have been met as evidenced by: <ul style="list-style-type: none"> <li>Timely submission of all required reports;</li> <li>An on-site inspection by CDFW; and</li> <li>Written approval from CDFW.</li> </ul> </li> </ol> <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than <b>36 months</b> from the effective date of the ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
56	<u>Maintenance of Existing Highway Right-of-Way Desert Tortoise Fence and Guards.</u> The existing right-of-way fence on the north side (south bound lanes) of the I-15 currently includes desert tortoise fence. Maintenance of the desert tortoise fence shall be done for ten (10) years on 3 miles of existing desert tortoise fence located on the north side (south bound lanes) right-of-way fence between PM 108 and 111. Maintenance shall include but not be limited to replacing and/or repair desert tortoise fence and guards that are non-effective in preventing tortoise from entering the highway. Fence design and material shall follow Attachment 5. Maintenance of Desert tortoise fencing shall be completed prior to the start of Covered Activities and an Biological Monitor(s) and/or Authorized Biologist(s) approved in Condition of Approval 6.4 of this ITP shall be present at all times during the desert tortoise fence maintenance activities.	ITP Condition 8.21 and 8.22	One time annually for 10 years	Permittee	
57	<u>Erosion Control Materials – Monofilament Netting.</u> To minimize the risk of ensnaring and strangling Covered Species, Permittee shall not utilize erosion control materials containing synthetic (e.g., plastic or nylon) monofilament netting. Geotextiles, fiber rolls, and other erosion control measures shall be made of loose-weave mesh, such as jute, coconut (coir) fiber, or other products without welded weaves.	ITP Condition 8.23	Entire Project	Permittee	
58	<u>Natural and Biodegradable Erosion Control Materials.</u> Permittee shall utilize erosion control materials composed entirely of natural-fiber biodegradable materials. Permittee shall not use plastic “photodegradable” erosion control materials.	ITP Condition 8.24	Entire Project	Permittee	
59	<u>Temporary Access Road.</u> The temporary access road created as part of the project is not a BLM designed road. Therefore, at the end of each workday temporary desert tortoise fence shall be installed to prevent tortoises from entering the highway and once the project is completed the Permittee shall permanently close off the access road from the highway with Right-of-Way fence and desert tortoise fence (Attachment 5).	ITP Condition 8.25	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
60	<u>Invasive Plant Management Plan.</u> Permittee shall develop an Invasive Plant Management Plan focused on controlling or eradicating existing invasive plants within the project site and preventing the introduction of new nonnative and invasive plants into the project site. The Plan shall include a list of plant species targeted for control or eradication, a description of the methods that will be used for control or eradication, a list of BMPs to prevent the introduction and spread of invasive plant species into and out of the project site, monitoring requirement, success criteria, and a rapid response plan in the event that a new plant species invades the project site. The Plan shall be implemented during Covered Activities and monitored for the time specified in the Plan. The Plan shall be submitted to CDFW for review and approval no later than 60 days prior to the commencement of Covered Activities.	ITP Condition 8.26	Entire Project	Permittee	
61	<u>Burrow Protection.</u> Twelve desert tortoise burrows and one live tortoise have been documented within the Project Area. The Authorized Biologist(s) shall determine the burrow(s) that can be excluded from being impacted by Covered Activities. The burrows shall be fenced off using temporary desert tortoise fencing while Covered Activities are occurring. Once Covered activities are complete the temporary desert tortoise fence shall be removed. Prior to the daily start of Covered Activities, the Authorized Biologist shall scope and check the burrows fenced off from Covered Activates.	ITP Condition 8.27	Entire Project	Permittee	
62	<u>Full time monitoring.</u> An Authorized Biologist(s) shall be present during Covered Activities. An Authorized Biologist(s) and/or Biological Monitor(s) shall be present at all times while Conditions of approval 8.21 and 8.22 are occurring.	ITP Condition 8.28	Entire Project	Permittee	
63	<u>Revegetation.</u> Plantings and seed mix shall be approved by CDFW prior to application. Plantings and seed mix shall be comprised of only native plant material from the same geographic range as the Project.	ITP Condition 8.29	Post Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
64	<u>Ongoing Trash Removal.</u> Permittee shall ensure that all food and trash that could attract predators will be properly disposed of in self-closing, sealable containers, with lids that latch to prevent wind, common ravens ( <i>Corvus corax</i> ), and other scavengers from opening the containers. Permittee shall ensure all trash receptacles are regularly inspected, emptied, and removed from the Project Area at least once a week to prevent spillage and maintain sanitary conditions.	ITP Condition 6.8	Entire Project	Permittee	
65	<u>Notification Before Commencement.</u> 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	14 calendar days before starting Covered Activities	Permittee	

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PLANNING BRANCH

**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:**

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:**

<b>a. Number of hours or 8-hour days (specify) conducting desert tortoise-related activities (referenced above):</b>					
<b>b. Number of miles/kilometers walked conducting survey transects:</b>					
<b>c. Number of wild, free-ranging desert tortoises you encountered:</b>					
<b>&lt;100 mm carapace length:</b>					
<b>≥100 mm carapace length:</b>					
<b>d. Number of <u>wild, free-ranging</u> desert tortoises you personally handled (circle one for each size category).</b>					
<b>&lt;100 mm: Zero</b>	<b>&lt;10</b>	<b>10-50</b>	<b>50-100</b>	<b>100-200</b>	<b>&gt;200</b>
<b>≥100 mm: Zero</b>	<b>&lt;10</b>	<b>10-50</b>	<b>50-100</b>	<b>100-200</b>	<b>&gt;200</b>
<b>e. Number of <u>captive</u> desert tortoises you personally handled (circle one for each size category).</b>					
<b>&lt;100 mm: Zero</b>	<b>&lt;10</b>	<b>10-50</b>	<b>50-100</b>	<b>100-200</b>	<b>&gt;200</b>
<b>≥100 mm: Zero</b>	<b>&lt;10</b>	<b>10-50</b>	<b>50-100</b>	<b>100-200</b>	<b>&gt;200</b>



f. Number of transmitters or other devices (specify) you personally attached to or removed from wild, free-ranging desert tortoises (circle one for each size category).

Attached:

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

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

Removed:

<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 other relevant species or captive desert tortoises (circle one for each size category).

Specify species or if captive desert tortoises:

Attached:

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

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

Removed:

<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 wild, free-ranging 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 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

j. Experience conducting other procedures on wild, free-ranging desert tortoises (circle one for each size category).

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

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: \_\_\_\_\_

**GIS data collection condition for mitigation sites.**

Provide CDFW with GIS Shapefiles. Collect data in WGS84 reference coordinate system in decimal degrees (DD). Provide shapefiles of the following information:

Project Information- County project is in, Project Name, Accessors Parcel Number, Lat, Long, acres, and permit number.

HM Land Information – County HM Lands are located in, Accessors Parcel Number, Lat, Long, acres, and name of mitigation package.

**GIS data collection condition for translocation sites.**

Provide CDFW with GIS Shapefiles. Collect data in WGS84 reference coordinate system in decimal degrees (DD). Provide shapefiles of the following information:

Project Information- County project is in, Project Name, Accessors Parcel Number, Lat, Long, acres, and permit number.

Desert Tortoise Translocation- County recipient site is located, Recipient Site, Recipient Site Accessor Parcel Number, Lat, Long, Acres of recipient site, desert tortoise release location within recipient site, age translocatee, sex of translocatee, date of translocation, and disease test results of each translocatee.

**DESERT MANAGERS GROUP  
DEPOSIT DOCUMENT**

Please fill out all applicable sections highlighted in blue.

**Project Name:** \_\_\_\_\_

**Project Phase (if applicable):** \_\_\_\_\_

**Project Location**  
(i.e. County, Township, Range,  
Section, Base and Meridian): \_\_\_\_\_  
\_\_\_\_\_

**Land Ownership  
of Project Site:** \_\_\_\_\_  
\_\_\_\_\_

**Project Proponent:** \_\_\_\_\_

**Permittee/Grantee:** \_\_\_\_\_

☐ **Prior Deposit Document(s) submitted for previous deposit(s) (check and complete, if applicable)**

Project Phase: \_\_\_\_\_  
Project Phase: \_\_\_\_\_  
Project Phase: \_\_\_\_\_  
Project Phase: \_\_\_\_\_  
Project Phase: \_\_\_\_\_  
Project Phase: \_\_\_\_\_  
Project Phase: \_\_\_\_\_

**Deposit: \$** \_\_\_\_\_  
**Deposit: \$** \_\_\_\_\_  
**Deposit: \$** \_\_\_\_\_  
**Deposit: \$** \_\_\_\_\_  
**Deposit: \$** \_\_\_\_\_  
**Deposit: \$** \_\_\_\_\_  
**Deposit: \$** \_\_\_\_\_



**Permitting Agency (check if applicable) and Decision Documents (identify by name, date, and permit #):**

**FEDERAL AGENCIES**

☐ **Bureau of Land Management** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name:

Decision Document Date:

Project ID or Tracking #:

☐ **National Park Service** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name:

Decision Document Date:

Project ID or Tracking #:

☐ **U.S. Forest Service, San Bernardino National Forest** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name:

Decision Document Date:

Project ID or Tracking #:

☐ **U.S. Bureau of Indian Affairs** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name:

Decision Document Date:

Project ID or Tracking #:

☐ **U.S. Fish and Wildlife Service** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name:

Decision Document Date:

Project ID or Tracking #:

☐ **U.S. Geological Survey** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name:

Decision Document Date:

Project ID or Tracking #:



**U.S. DEPARTMENT OF DEFENSE AGENCIES**

☐ **Marine Corps Installations West-Marine Corps Base Camp Pendleton**

(check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

☐ **Edwards Air Force Base** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

☐ **Marine Corps Air Ground Combat Center, Twentynine Palms** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

☐ **Marine Corps Air Station, Yuma** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

☐ **Marine Corps Logistics Base, Barstow** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

☐ **National Training Center, Fort Irwin** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

☐ **Naval Air Weapons Station, China Lake** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

## STATE OF CALIFORNIA AGENCIES

☐ **California Department of Fish and Wildlife** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

☐ **California Department of Parks and Recreation** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

☐ **California Department of Transportation** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_

☐ **California Energy Commission** (check if applicable)

☐ Check here to confirm that the decision document is attached

Decision Document Name: \_\_\_\_\_

Decision Document Date: \_\_\_\_\_

Project ID or Tracking #: \_\_\_\_\_



**COUNTIES - STATE OF CALIFORNIA**

<input type="checkbox"/>	<b>Imperial County</b> (check if applicable)
<input type="checkbox"/>	Check here to confirm that the decision document is attached
	Decision Document Name: <input type="text"/>
	Decision Document Date: <input type="text"/>
	Project ID or Tracking #: <input type="text"/>

<input type="checkbox"/>	<b>Inyo County</b> (check if applicable)
<input type="checkbox"/>	Check here to confirm that the decision document is attached
	Decision Document Name: <input type="text"/>
	Decision Document Date: <input type="text"/>
	Project ID or Tracking #: <input type="text"/>

<input type="checkbox"/>	<b>Kern County</b> (check if applicable)
<input type="checkbox"/>	Check here to confirm that the decision document is attached
	Decision Document Name: <input type="text"/>
	Decision Document Date: <input type="text"/>
	Project ID or Tracking #: <input type="text"/>

<input type="checkbox"/>	<b>San Bernardino County</b> (check if applicable)
<input type="checkbox"/>	Check here to confirm that the decision document is attached
	Decision Document Name: <input type="text"/>
	Decision Document Date: <input type="text"/>
	Project ID or Tracking #: <input type="text"/>

**Monies Required for Deposit:**

<input type="checkbox"/>	<b>Raven Management Sub-Account</b>	
	Management Measures	\$ <input type="text"/>

<input type="checkbox"/>	<b>NFWF Deposit Fee (\$3,000)</b>	<u>Not Applicable</u>
--------------------------	-----------------------------------	-----------------------

<b>TOTAL DEPOSIT for Project (or Project Phase)</b>	\$ <input type="text"/>
---	-------------------------

**SUB-ACCOUNT AND REQUIRED MEASURE DETAILS:  
Raven Management Sub-Account**

**Measures:**

A. Description of Measure:

--

B. Citation (e.g., page, section, condition number) to Applicable Decision Document(s):

--

C. Implementation Schedule:

--

D. Applicable DMG Agency(ies) with Authority over Implementation of the Measure:

**AGENCY**


**CONTACT PERSON & INFORMATION**


E. Name and contact information for each applicable DMG Agency(ies)' designated DMG Agency Representative for the Sub-Account (if different from the DMG Agency Representative for the DMG Account):

**AGENCY**


**CONTACT PERSON & INFORMATION**


## INFORMATION & INSTRUCTIONS

The Deposit Document is used for internal purposes by the DMG Agencies and NFWF. The Deposit Document is not itself a Decision Document. The following is information and direction with respect to the Deposit Document.

The Deposit Document is to be filled out by the appropriate DMG Agency(ies) staff or depositors, as determined by the DMG Agencies. The DMG Agency staff who takes the lead in preparing the Deposit Document shall coordinate with the other applicable DMG Agency staff, and National Fish and Wildlife Foundation (NFWF) staff prior to finalizing the Deposit Document.

**Project Name:**

- Identify the name of the permitted project.

**Project Phase:**

- If the project has been permitted in phases, specify the phase(s) to which this Deposit Document applies.

**Project Location:**

- Identify the county in which the project is located.
- Provide available information as to township, range, section, and base and meridian.

**Land Ownership of Project Site:**

- Indicate whether the land on which the permitted project or project phase(s) is located is privately or publicly owned.
- If it is publicly owned, identify the applicable governmental entity.

**Permittee/Grantee:**

- Identify the name of the permittee/grantee, which also may be known as the project proponent or responsible party.
- If the permittee/grantee is a company that is owned by another company, identify the name of the parent company.

**Prior Deposit Documents:**

- Check the box if a prior deposit document was submitted for the project. If the box is checked, identify the phase of the project and the total dollar figure of the deposit for which the prior deposit document was submitted. There is space to identify up to six (6) prior deposit documents.

**Permitting Agency and Decision Documents:**

- Check the box of each permitting agency. This is an agency that has issued a decision document (permit or other authorization) for the project or project phase(s).
- Under the applicable permitting agency, identify the decision document by (1) name; (2) date; (3) permit identification number.



- Submit with the Deposit Document, a CD or hard copy of each decision document, and indicate by checking the box that the decision document is attached.
- Under the applicable permitting agency, identify the project identification or tracking number. For example, for BLM, this is the “CACA” number. For DFW, this may be an “ITP”, “SAA”, “SCH”, or other number. For the CEC, this is the “Decision” number. For the USFWS, this is the “Permit” or “File” number.

### **Monies Required for Deposit:**

Currently, there is one single subaccount established under the NFWF DMG Mitigation Account. For purposes of the Deposit Document, a subaccount may be referred to as “Account.” The existing Account and the associated NFWF fees are as follows:

1. Raven Management Account
  - a. NFWF Deposit Fee (\$3,000 for the establishment of a single subaccount into which all deposits will be made. This single, one-time deposit fee will satisfy the deposit fee for all depositors, but shall be deducted from the initial deposit into the subaccount at the time of deposit)
  - b. NFWF Annual Fee (greater of 2% or \$1,000 annual)
2. To calculate the “**TOTAL DEPOSIT for Project (or Project Phase),**” enter the amount of the required Raven Management payment. (The NFWF Deposit Fee need not be added to the calculation of any deposit into the Raven Management Account because the single, one-time Deposit Fee shall be deducted from the initial deposit made into the subaccount at the time of the deposit, and it will satisfy the Deposit Fee for all depositors. In addition, the NFWF Annual Fee need not be added to the calculation of the Total Deposit because it is assessed and collected against earned investment income, and to the extent investment income is insufficient, the Annual Fee is assessed against the Account balance.)

### **Required Measure Details:**

- **Raven Management Measures:** These are actions to manage ravens in order to minimize and mitigate impacts to desert tortoise.
- For each listed measure, subsections a-d call for specific information, as follows:
  - Subsection A.: description of the Measure.
  - Subsection B.: citation(s) to the applicable Decision Document(s) requiring the Measure, such as the page, section, and condition number.
  - Subsection C.: identification of the implementation schedule for the Measure so that the deadlines and time periods within which the Measure must be completed are clear.
  - Subsection D.: identification of the applicable DMG Agency(ies) with authority over implementation of the Measure, the name of the agency contact person, and the contact information for the agency person, including phone number and email address.
  - Subsection E.: Name and contact information for each applicable DMG Agency(ies)’ designated DMG Agency Representative for the Sub-Account (if different from the DMG Agency Representative for the DMG Account.

# Submitting the Deposit Document and Funds for Deposit

The Deposit Document may be submitted to NFWF by a DMG Agency separately from, but concurrent with, the Permittee's payment of funds for deposit, or the Deposit Document may be submitted to NFWF by the Permittee together with the payment of funds for deposit.

The funds for deposit may be paid by check or wire:

## Deposits by check shall be sent to:

National Fish and Wildlife Foundation,  
1133 15th Street, NW, Suite 1000  
Washington, D.C. 20005  
Attn: Chief Financial Officer

## Deposits by wire shall be sent to:

For depositors desiring to send funds to NFWF via electronic funds transfer, the deposit will be made in accordance with wire instructions provided by NFWF in writing at the time of deposit.

**All deposits must include a notation identifying the name of the project for which the deposit is being made.**

## CHAPTER 8. DESERT TORTOISE EXCLUSION FENCE

### RECOMMENDED SPECIFICATIONS FOR DESERT TORTOISE EXCLUSION FENCING

These specifications were developed to standardize fence materials and construction procedures to confine tortoises or exclude them from harmful situations, primarily roads and highways. Prior to commencing any field work, all field workers should comply with all stipulations and measures developed by the jurisdictional land manager and the U.S. Fish and Wildlife Service for conducting such activities in desert tortoise habitat, which will include, at a minimum, completing a desert tortoise education program.

#### Fence Construction

##### Materials

Fences should be constructed with durable materials (*i.e.*, 16 gauge or heavier) suitable to resist desert environments, alkaline and acidic soils, wind, and erosion. Fence material should consist of 1-inch horizontal by 2-inch vertical, galvanized welded wire, 36 inches in width. Other materials include: Hog rings, steel T-posts, and smooth or barbed livestock wire. Hog rings should be used to attach the fence material to existing strand fence. Steel T-posts (5 to 6-foot) are used for new fence construction. If fence is constructed within the range of bighorn sheep, 6-foot T-posts should be used (see New Fence Construction below). Standard smooth livestock wire fencing should be used for new fence construction, on which tortoise-proof fencing would be attached.

##### Retrofitting Existing Livestock Fence

**Option 1 (see enclosed drawing).** Fence material should be buried a minimum of 12 inches below the ground surface, leaving 22-24 inches above ground. A trench should be dug or a cut made with a blade on heavy equipment to allow 12 inches of fence to be buried below the natural level of the ground. The top end of the tortoise fence should be secured to the livestock wire with hog rings at 12 to 18-inch intervals. Distances between T-posts should not exceed 10 feet, unless the tortoise fence is being attached to an existing right-of-way fence that has larger interspaces between posts. The fence must be perpendicular to the ground surface, or slightly angled away from the road, towards the side encountered by tortoises. After the fence has been installed and secured to the top wire and T-posts, excavated soil will be replaced and compacted to minimize soil erosion.

**Option 2 (see enclosed drawing).** In situations where burying the fence is not practical because of rocky or undigable substrate, the fence material should be bent at a 90E angle to produce a lower section approximately 14 inches wide which will be placed parallel to, and in direct

contact with, the ground surface; the remaining 22-inch wide upper section should be placed vertically against the existing fence, perpendicular to the ground and attached to the existing fence with hog rings at 12 to 18-inch intervals. The lower section in contact with the ground should be placed within the enclosure in the direction of potential tortoise encounters and level with the ground surface. Soil and cobble (approximately 2 to 4 inches in diameter; can use larger rocks where soil is shallow) should be placed on top of the lower section of fence material on the ground covering it with up to 4 inches of material, leaving a minimum of 18 inches of open space between the cobble surface and the top of the tortoise-proof fence. Care should be taken to ensure that the fence material parallel to the ground surface is adequately covered and is flush with the ground surface.

### New Fence Construction

Options 1 or 2 should be followed except in areas that require special construction and engineering such as wash-out sections (see below). T-posts should be driven approximately

24 inches below the ground surface spaced approximately 10 feet apart. Livestock wire should be stretched between the T-posts, 18 to 24 inches above the ground to match the top edge of the fence material; desert tortoise-proof fencing should be attached to this wire with hog rings placed at 12 to 18-inch intervals. Smooth (barb-less) livestock wire should be used except where grazing occurs.

If fence is constructed within the range of bighorn sheep, two smooth-strand wires are required at the top of the T-post, approximately 4 inches apart, to make the wire(s) more visible to sheep. A 20 to 24-inch gap must exist between the top of the fence material and the lowest smooth-strand wire at the top of the T-post. The lower of the top two smooth-strand wires must be at least 43 inches above the ground surface.

(72-inch T-posts: 24 inches below ground + 18 inches of tortoise fence above ground + 20 to 24-inch gap to lower top wire + 4 inches to upper top wire = 66 to 70 inches).

### **Inspection of Desert Tortoise Barriers**

The risk level for a desert tortoise encountering a breach in the fence is greatest in the spring and fall, particularly around the time of precipitation including the period during which precipitation occurs and at least several days afterward. All desert tortoise fences and cattleguards should be inspected on a regular basis sufficient to maintain an effective barrier to tortoise movement.

Inspections should be documented in writing and include any observations of entrapped animals; repairs needed including bent T-posts, leaning or non-perpendicular fencing, cuts, breaks, and gaps; cattleguards without escape paths for tortoises or needed maintenance; tortoises and tortoise burrows including carcasses; and recommendations for supplies and equipment needed to complete repairs and maintenance.

All fence and cattleguard inventories should be inspected at least twice per year. However, during the first 2 to 3 years all inspections will be conducted quarterly at a minimum, to identify and document breaches, and problem areas such as wash-outs, vandalism, and cattleguards that fill-in with soil or gravel. GPS coordinates and mileages from existing highway markers should be recorded in order to pinpoint problem locations and build a database of problem locations that may require more frequent checking. Following 2 to 3 years of initial inspection, subsequent inspections should focus on known problem areas which will be inspected more frequently than twice per year. In addition to semi-annual inspections, problem areas prone to wash-outs should be inspected following precipitation that produces potentially fence-damaging water flow. A database of problem areas will be established whereby checking fences in such areas can be done efficiently.

### **Repair and Maintenance of Desert Tortoise Barriers**

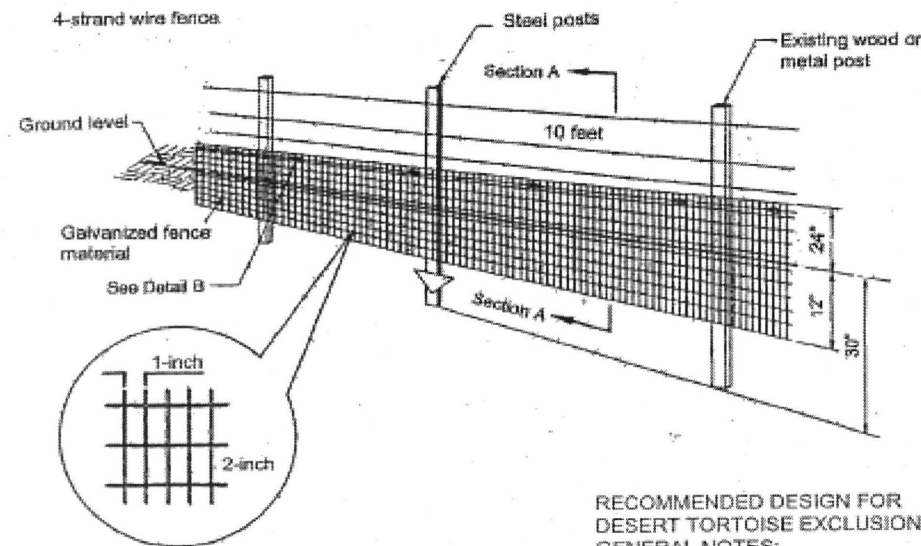
Repairs of fence wash-outs: (1) realign the fence out of the wash if possible to avoid the problem area, or (2) re-construct tortoise-proof fencing using techniques that will ensure that an effective desert tortoise barrier is established that will not require frequent repairs and maintenance.

Gaps and breaks will require either: (a) repairs to the existing fence in place, with similar diameter and composition of original material, (b) replacement of the damaged section to the nearest T-post, with new fence material that original fence standards, (c) burying fence, and/or (d) restoring zero ground clearance by filling in gaps or holes under the fence and replacing cobble over fence constructed under Option 2. Tortoise-proof fencing should be constructed and maintained at cattleguards to ensure that a desert tortoise barrier exists at all times.

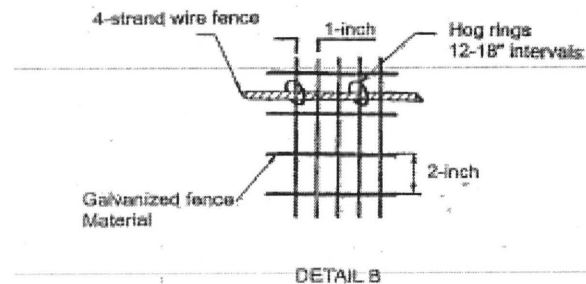
All fence damage should be repaired in a timely manner to ensure that tortoises do not travel through damaged sections. Similarly, cattleguards will be cleaned out of deposited material underneath them in a timely manner. In addition to periodic inspections, debris should be removed that accumulates along the fence. All cattleguards that serve as tortoise barriers should be installed and maintained to ensure that any tortoise that falls underneath has a path of escape without crossing the intended barrier.



# DESERT TORTOISE EXCLUSION FENCE (2005)



DETAIL A



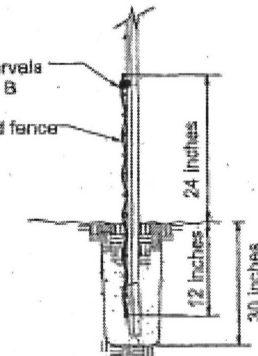
DETAIL B

## 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 span 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 cattleguards when determined necessary to allow desert tortoise passage underneath roadways.

4-strand  
wire fence

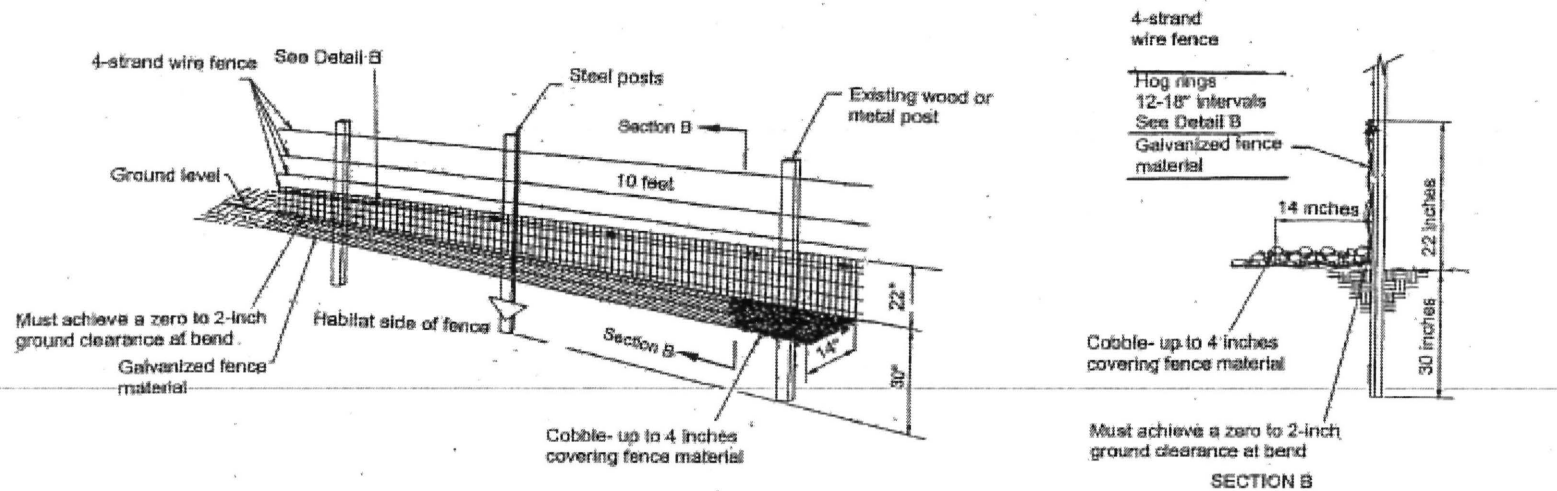
Hog rings  
12-18" intervals  
See Detail B  
Galvanized fence  
Material



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.





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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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)

**[Financial institution letterhead]**

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

---

Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife  
Habitat Conservation Planning Branch  
Post Office Box 944209  
Sacramento, CA 94244-2090  
Attn: HCPB Contract 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 CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by 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 CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.



5. 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 CDFW as defined in paragraph 12 below. Presentation by 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 CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give 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, 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 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/Reduction, 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 CDFW, as defined in paragraph 12 below.
12. An "Authorized Representative" shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Chief of CDFW's Habitat Conservation Planning Branch.
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 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 CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract 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 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: \_\_\_\_\_  
Telephone: \_\_\_\_\_

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 California 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 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 CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by 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. 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, CDFW has executed and delivered this Certificate as of the \_\_\_\_ day of [*month*], [*year*].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: \_\_\_\_\_

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

ATTACHMENT B

IRREVOCABLE LETTER OF CREDIT NO. [*number issued by financial institution*]  
CERTIFICATE FOR [*insert either: "CANCELLATION" or "REDUCTION"*]

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 Applicant has presented documentary evidence of compliance with the following Mitigation Requirement[(s)] referenced in paragraph 3 of the Credit: [insert brief description of requirement(s) or requirement number(s) completed]." or "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."*]
2. [*Insert one of the following statements: "CDFW therefore requests the cancellation of the Credit." or "CDFW therefore requests a reduction in the Principal Sum in the amount of \$\_\_\_\_\_, thereby making the new Principal Sum \$\_\_\_\_\_."*]

[*Insert one of the following statements: "Therefore, CDFW has executed and delivered this Certificate for Cancellation as of the \_\_\_\_ day of [month], [year]. or "Therefore, CDFW has executed and delivered this Certificate for Reduction as of the \_\_\_\_ day of [month], [year]."*]

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: \_\_\_\_\_

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

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.

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

<b>4. AGREEMENT/ACCOUNT INFORMATION:</b> (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: _____	