



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

California Endangered Species Act
Incidental Take Permit No. 2081-2017-062-06
Amendment 2

STATE ROUTE 210 MIXED FLOW LANE ADDITION PROJECT

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

Permittee: San Bernardino County Transportation Authority
Principal Officer: Raymond Wolfe, Executive Director
Contact Person: Greg Hoisington, (949) 333-6622
Mailing Address: 1170 W. 3rd Street, 2nd floor
San Bernardino, California 92410

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 31, 2028**.

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

Project Location:

The State Route 210 Mixed Flow Lane Addition Project (Project) is located along an 8.2-mile

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

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

stretch of State Route 210 (SR-210), between post mile marker (PM) R25.0 and R33.2, within the cities of Highland, San Bernardino, and Redlands, and a portion of unincorporated San Bernardino County, State of California (see Figure 1).

Project Description:

The Project includes the widening of the existing segment of SR-210 from Sterling Avenue to San Bernardino Avenue (6.1 miles between PM R26.3 and R32.4) from four mixed flow lanes (two lanes in each direction) to six mixed flow lanes (three lanes in each direction) with the addition of one mixed flow lane in each direction within the median. The proposed improvements are expected to reduce congestion and improve operational efficiency by providing lane continuity with the existing segments of freeway to the west and east of the Project limits. The general Project area gently slopes from northeast to southwest and occurs on alluvial fans and floodplains extending from the San Bernardino Mountains. Habitat conditions on the site range from developed and disturbed to undeveloped open areas consisting of creeks and the Santa Ana River. Project activities include grading, establishment and utilization of staging areas for equipment and materials, establishment of access and haul roads, utilization of borrow and stock pile locations, temporary water diversions, installation of scour protection, bank stabilization, demolition, bridge column drilling/excavation, bridge column construction, construction of bridge false work, construction of bridge expansions, construction of additional lanes and appurtenances, landscaping, and demobilization. **Refer to Figure 1.**

More specifically, the Project proposes to:

- 1) Create one auxiliary lane in each direction between the Base Line and 5th Street interchanges.
- 2) Create a deceleration lane on the eastbound SR-210 from the Sterling Avenue undercrossing to the proposed two-lane exit at Highland Avenue.
- 3) Create an acceleration lane at the 5th Street eastbound on-ramp.
- 4) Regrade the existing SR-210 median for the construction of the new mixed flow lanes.
- 5) Widen the Highland Avenue-Arden Avenue undercrossing, Sand Creek bridge, Victoria Avenue undercrossing, 5th Street-Greenspot Road undercrossing, City Creek bridge, Plunge Creek bridge, Access Road undercrossing, Santa Ana River bridge, and Pioneer Avenue undercrossing to accommodate the new mixed flow lanes.
- 6) Bridge piers within the Santa Ana River will be lengthened between 13.5 and 16.7 feet and widened approximately 1 foot (six inches on each side). Bridge piers within City Creek will be lengthened 22.5 to 23.5 feet. Bridge pier footings for the lengthened piers will be extended to a depth of 10–12 feet below grade. No scour or pier protection will be installed within 3 feet of the surface.
- 7) Install scour and pier protection features at drainages to protect bridge foundations. Scour protection at abutment(s) within the Santa Ana River may be repaired in-kind if

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damage results from the bridge widening activities. No new rock slope protection will be installed within Santa Ana River and City Creek. Vertically-positioned rock slope protection may be installed within Plunge Creek directly under each existing riprap slope. This additional rock scour protection will be added below 10 feet from original grade.

- 8) Create temporary water diversions within the Santa Ana River, City Creek, and Plunge Creek during the wet season to provide dry work areas around bridge piers and/or for the installation of below-grade rock scour protection at the bridge abutments.
- 9) Install stormwater treatment and pollution prevention best management practice (BMP) features. Temporary and/or permanent erosion control, including fiber rolls, silt fencing, soil binders, rock slope protection, revegetation with a CDFW-approved erosion control seed mix, the use of 4:1 slopes or flatter, would be installed at locations of disturbance to existing slopes and at newly constructed slopes. Permanent treatment BMPs would include biofiltration swales, strips, and basins, and would be located between the mainline freeway toe of slope and right of way, within the infield areas of the interchanges, or along new slopes.
- 10) Construct drainage system improvements to carry runoff away from travel lanes and into traditional drainage courses. Rock slope protection will be provided where concentrated flows discharge to unlined channels. Conveyance systems, such as overside drains, ditches, rock slope protection, and treatment prior to discharge will be constructed to reduce the downstream impacts to the maximum extent practicable.
- 11) Install a new fiber optic backbone system within the existing median with branch connections linking the backbone system to existing traffic management system elements (e.g., wireless vehicle detection stations, ramp metering systems, and changeable message sign) along the corridor.
- 12) Install ramp metering systems on the existing on-ramps at the 5th Street-Greenspot Road interchange.
- 13) Reconstruct an existing weigh-in-motion system, located one-half mile north of San Bernardino Avenue, to accommodate the additional lanes on the freeway.
- 14) Relocate utilities to accommodate the widened SR-210. No new utilities will be added to areas with suitable habitat for state- or federally-listed species.
- 15) Construct retaining walls where changes in elevation are needed that cannot be accommodated by regrading. No retaining walls will be constructed in areas with suitable habitat for state- or federally-listed species.
- 16) Reconstruct the existing sound wall between Base Line Street and 5th Street in the eastbound direction to accommodate the proposed auxiliary lane.
- 17) Construct additional sound walls where noise abatement is required and where they are considered feasible and reasonable. No sound walls will be constructed in areas with suitable habitat for state- or federally-listed species.

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Construction duration is expected to be approximately 3 years. Construction is expected to begin in 2019 and to end in 2022. Following construction activities, the areas within the Project that were temporarily impacted will be restored and managed for an additional 5 years (Conditions of Approval 9.3).

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. Santa Ana River woollystar (<i>Eriastrum densifolium</i> ssp. <i>sanctorum</i>)	Endangered ³
2. Slender-horned spineflower (<i>Dodecahema leptoceras</i>)	Endangered ⁴
3. San Bernardino Kangaroo Rat (<i>Dipodomys merriami parvus</i>)	Candidate ⁵

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include vegetation removal, grading, filling, excavation, operation and staging of vehicles and heavy equipment, and installation and/or construction of Project facilities (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as crushing of individuals, collapse or damage of burrows, increased exposure, increased risk of predation, vehicle strikes, injury to individuals, soil disturbance and compaction, uprooting of individuals, covering of individuals with soil or landfill materials, alteration of plant community structure, and changes in fluvial processes, hydrology, and sediment transport due to installation and construction of Project facilities. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of capture, or attempt to do so, of the Covered Species from handling and relocation of individuals (i.e. seed collection for restoration and the capture and relocation of SBKR), trapping individuals within exclusionary fencing, and creating barriers to movement. The areas where authorized take of the Covered Species is expected to occur

³See Cal. Code Regs. tit. 14 § 670.2, subd. (a)(25)(A).

⁴See *Id.*, subd. (a)(26)(D).

⁵See Cal. Code Regs, tit. 14, § 783 – 787.7.

include the areas identified as 'Permanent' and 'Temporary' (Impacts) that overlap with areas identified as 'scalebroom scrub', 'California buckwheat scrub', 'disturbed scalebroom scrub', and 'disturbed California buckwheat scrub' (collectively, the Project Area).

SANTA ANA WOOLLYSTAR AND SLENDER-HORNED SPINEFLOWER

The Project is expected to cause the permanent loss of 0.75 acres of habitat for Santa Ana River woollystar and the slender-horned spineflower and temporary loss of ~~7.46~~ **7.628** acres of habitat for Santa Ana River woollystar and the slender-horned spineflower. The total Project impacts are 8.21 acres and the permanent and temporary impact acreages correspond to both the Santa Ana River woollystar and the slender-horned spineflower. 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: long-term effects due increased pollution, increased competition for water, nutrients, and space, increased vulnerability to herbivory, and increased competition from nonnative invasive plants.

SAN BERNARDINO KANGAROO RAT (SBKR)

The Project is expected to cause the temporal loss of 4.2 acres of habitat for SBKR. Impacts of the authorized taking also include adverse impacts to the Covered Species related to decreased movement, including the reduction of individuals' nightly movements, home range pattern, and dispersal events; decreased connectivity and habitat fragmentation, including the increased risk of predation; heightened stress from capture and relocation activities, including the reduction or elimination of day burrows and food caches, interrupted behavioral dynamics and structural community (intra/inter competition, disruption of breeding and/or lower reproductive success; use of night lighting, including reduced movement, foraging, and breeding behavior, and increased risk of predation; and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include long-term effects due to increased competition for resources, a reduction in habitat values and connectivity, and disruption of breeding and/or lower reproductive success.

Incidental Take Authorization of Covered Species:

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

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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. 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. 2016051039) adopted by California Department of Transportation on December 30, 2016 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. 1600-2017-0120-R6) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
4. **ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the formal and informal section 7 consultation on the State Route 210 Mixed Flow Lane Addition Project, San Bernardino County, California (FWS-SB-12B0290-16F0701) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
5. **ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

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6. General Provisions:

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

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protection measures. This training shall be repeated at least once annually for long-term and permanent employees that will be conducting work in the Project Area.

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

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roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

- 6.12. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.
- 6.13. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 6.14. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.15. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.
- 6.16. General Habitat and Species Avoidance. To the maximum extent practicable the Permittee shall (1) avoid impacts/disturbances to sensitive plants, plant communities and wildlife within the Project Area, (2) avoid impacts/disturbance to perennial, native vegetation within the Project Area, (3) limit access-related Covered Activities to "drive and crush" rather than vegetation removal or grubbing, (4) leave roots systems intact in instances where above-ground native plant materials must be removed.
- 6.17. Weed Management Plan. Permittee shall prepare and implement a Weed Management Plan (WMP) to prevent the introduction and spread of nonnative plant material during the construction and restoration phases of the Project. The WMP shall provide an inventory of existing weed species within and adjacent to the Project Area; evaluate each project-activities' potential to introduce or spread weeds; identify

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specific prevention and treatment strategies; and propose a monitoring and treatment schedule. The WMP shall be provided to CDFW for review no later than 30 days prior to the initiation of the Project Activities.

- 6.18. Use of Native Plant Materials. Permittee shall utilize local native plants in the landscaped areas adjacent to the Covered Species' habitat within and adjacent to the Project Area. Permittee shall not plant, seed, or otherwise introduce nonnative plant species to the landscaped areas adjacent to Covered Species' habitat within and adjacent to the Project Area. Nonnative plant species not to be used include those species listed on the *California Invasive Plant Inventory* (California Invasive Plant Council; <https://www.cal-ipc.org/plants/inventory/>).

7. Monitoring, Notification and Reporting Provisions:

- 7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.
- 7.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the

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CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Kimberly Romich (kimberly.romich@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

- 7.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year following commencement of Covered Activities and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.6. CNDDDB Observations. The Designated Biologist shall submit all observations online of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 7.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species;

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(7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

7.8. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of individuals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the plants/animal or parts thereof, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

8. Take Minimization Measures:

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

SANTA ANA WOOLLYSTAR AND SLENDER-HORNED SPINEFLOWER

8.1. Harvesting of Covered Species Seeds. Prior to commencement of Covered Activities, Permittee shall harvest seeds from those Covered Species individual plants located within the Project Area that are anticipated to be incidentally taken in the form of kill as a result of Project construction activities. If seed is not available for collection prior to disturbance to Covered Species, Permittee shall salvage soil as described in Condition of Approval 8.2. Permittee shall store a portion of the seeds (quantity to be determined by the Restoration Specialist, see Condition of Approval 9.5) for dispersal post-Project within the Project impact areas where the seed was collected. Permittee shall donate the remainder of the harvested seeds to the Rancho Santa Ana Botanic Garden for future propagation and/or research purposes.

8.2. Harvesting of Soil. If Covered Activities that may damage the seed bank (e.g. grading, compaction, dust control, etc.) occur in temporary impact areas where Covered Species individual plants occur, Permittee shall harvest the top 6 inches of soil from all these areas prior to the commencement of Covered Activities. Permittee, under the supervision of the Restoration Specialist, shall store the soil appropriately to maintain viability of seeds and soil organisms and return the soil to the locations where it was collected during the restoration activities.

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SAN BERNARDINO KANGAROO RAT

- 8.3 Season Restriction. If feasible, Covered Activities shall avoid initial ground disturbing impacts to SBKR and SBKR habitat during peak breeding season (~~January 15 through May 15~~ **March-July**).
- 8.4 Pre- Exclusionary Fencing – Burrow Mapping. No less than 20 days prior to installing the exclusionary fencing, the Designated Biologist(s) shall identify and map all potential kangaroo rat burrows within the Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted. The kangaroo rat burrows map shall be provided to CDFW within 10 days prior to any Covered Activities being performed, including exclusionary fence installation or other ground disturbing activities.
- 8.5 Pre-Exclusionary Fencing – Small Mammal Trapping. No less than 25 days prior to erecting the exclusionary fencing, Designated Biologist(s) shall design small mammal trapping grids/transects for CDFW review and approval. To achieve total coverage of SBKR suitable habitat, transects shall be used within narrow linear habitat and grids shall be used within larger areas of habitat. Transects and grids shall be established within the Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner is granted. Trap locations shall be geographically indexed with latitude/longitude coordinates along with the datum used (e.g., degrees/minutes/seconds, decimal degrees, etc.). The grids shall be permanent (e.g. capable of replication), with equal stratification to be representative of different qualities of suitable SBKR habitat and distributed throughout the Project Area and 500-foot buffer where permission by the landowner is granted. Once the permanent grids and transect locations are approved by CDFW, the Designated Biologist(s) shall trap the grids/transects for 5 consecutive nights no less than 20 days prior to installing the exclusionary fencing. The Designated Biologist(s) shall conduct trapping only if the nightly low temperature is forecasted to be 40 degrees Fahrenheit or above, and if no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or will unduly imperil the lives of the animals. If temperature is forecast to drop below 40 degrees, at the discretion of the biologist, trapping will not occur, or traps will be set, then checked and closed at midnight. To measure future SBKR survivorship and abundance/density estimates, as well as measure conspecific interactions, all captured kangaroo rats shall be individually

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marked using ear tags with unique alphanumeric codes. Trapping results shall include captured kangaroo rats' age, gender, mass, trap location, new/recapture status, tag identification, and any burrow locations that are used upon release. Pre-exclusionary fencing trapping results shall be provided to CDFW no less than 10 days prior to installing the exclusionary fence.

8.6 Exclusionary Fencing Installation. Fencing to exclude SBKR shall be erected no more than 10 days prior to the initiation of any Covered Activities and following completion of the trapping described in Condition of Approval 8.5. The Designated Biologist(s) shall be present during the fence installation.

8.7 Post-Exclusionary Fencing Installation. Within 7 days following the installation of the exclusionary fence, the Designated Biologist(s) shall perform the following:

8.7.1 The Designated Biologist(s) shall conduct small mammal trapping within the exclusionary fenced area. Small mammal trapping shall continue for a minimum of 5 consecutive nights with at least 3 consecutive nights of no SBKR captures. The Designated Biologist(s) shall conduct trapping only if the nightly low temperature is forecast to be 40 degrees Fahrenheit or above, and if no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or will unduly imperil the lives of the animals. If temperature is forecast to drop below 40 degrees, at the discretion of the biologist, trapping will not occur, or traps will be set, then checked and closed at midnight. **The Designated Biologist(s) shall affix ear tags with a unique alphanumeric code to each captured SBKR and each shall be placed in a standard rodent carrier.**

8.7.1.1 If a SBKR lactating female is captured, she shall be released and followed to determine where her burrow is located. A fiber-optic scope or mini camera shall be immediately used within the located burrow or, if not found, all kangaroo burrows within a 20-meter (66 feet) radius. If no kangaroo rats are observed within the burrow, it shall be hand excavated to ensure no occupancy. If kangaroo rat pups are observed, CDFW shall be notified at once, and the pups shall be captured and placed in a rodent carrier with the female.

8.7.1.2 All juveniles and non-lactating females captured shall be "soft" released, as specified in Condition of Approval 8.8. If a previously ear-tagged juvenile or non-lactating female is captured, the Designated Biologist(s) shall consult previous capture locations to

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inform the release location. If the animal was previously captured outside of the exclusion zone, that animal shall be “soft” released within 24 hours, at the last-known capture location outside of the exclusionary fence. If the animal had not been previously trapped, or was previously trapped only inside the exclusion fence area, the Designated Biologist(s) shall hold the animal until trapping within the exclusionary fence is complete (after 3 consecutive nights of no SBKR captures) and CDFW approves the proposed relocation site (see Condition of Approval 8.7.6).

8.7.1.3 All males captured within the exclusion fence shall be evaluated as candidates to receive transmitters based on weight (see Condition of Approval 8.7.4). If 15 or fewer males are captured within the exclusionary fence, all males of appropriate weight shall be held in individual cages in a temperature-controlled location where daylight is excluded until transmitters can be fitted on the individuals. If more than 25 males are captured within the exclusion fence, the Designated Biologist shall use a ‘5 on-5 off’ approach, whereby the first 5 males trapped of appropriate size will be held for transmitters and the next five will be “soft” released. The release procedures for any males not slated to receive transmitters shall follow the “soft” release approach described in Condition of Approval 8.7.1.2, whereby any previously ear-tagged males previously captured outside of the exclusion zone shall be “soft” released within 24 hours, at the last-known capture location outside of the exclusionary fence. If the animal had not been previously trapped, or was previously trapped only inside the exclusion fence area, the Designated Biologist(s) shall hold the animal until trapping within the exclusionary fence is complete (after 3 consecutive nights of no SBKR captures) and CDFW approves the proposed relocation site (see Condition of Approval 8.7.6).

8.7.2 Upon receipt of the transmitters, the Designated Biologist(s) shall conduct small mammal trapping within the 500-foot buffer where permission by the landowner is granted. The Designated Biologist(s) shall conduct trapping for 3 consecutive nights to fit the remaining transmitters on males of appropriate size (see Condition of Approval 8.7.4) within the proposed receiver sites/relocation areas upstream and downstream of the project. The

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distribution of transmitters upstream and downstream shall be proportional to the number of SBKR moved in each direction, as determined by the proposed relocation receiver sites approved by CDFW per Condition of Approval 8.7.6. Trapping shall occur where the nightly low temperature is forecasted to be 40 degrees Fahrenheit or above, and if no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or will unduly imperil the lives of the animals. If temperature is forecast to drop below 40 degrees, at the discretion of the biologist, trapping will not occur, or traps will be set, then checked and closed at midnight. **To ensure even distribution of transmitters, the Designated Biologist shall use a '5 on-5 off' approach, whereby the first 5 males trapped will receive transmitters and the next five will not. Males selected to receive transmitters shall be held for 24 hours to observe the fit and function of the transmitter harnesses before being released at their respective trap locations. Transmittered SBKR shall be held in individual cages in a temperature-controlled location where daylight is excluded. If an individual proves to be unfit or unable to wear a harness, the Designated Biologist shall remove the harness and transmitter before release.**

- 8.7.3 The Designated Biologist(s) shall affix ear tags with a unique alphanumeric code to all kangaroo rats. The Designated Biologist(s) shall affix radio transmitters on SBKR as described in Condition of Approval 8.7.4. All small mammals shall be released at the trap location, **or CDFW-approved relocation site for animals trapped within the exclusion area**, following the installation of tracking devices and recordation of data as described in Condition of Approval 8.7.5;
- 8.7.4 ~~The~~ **A Designated Biologist(s) with previous experience fitting and assessing harness functionality and impact (e.g., Dr. Shier or other similarly-qualified, CDFW-approved person)** shall place **or oversee the placement of** Very High Frequency (VHF) radio transmitters (e.g., Holohil Systems [model BD-2C]) with a ~~plastic-coated loop and crimp attachment system~~ **backpack harness, created from a modified figure 8 design used for small passerine birds (10-200 g) (Rappole & Tipton 1991) and Wildlife Materials International transmitters [SOM-2038 HWSC] with a cable tie attachment system)** on male SBKR so that movements and survival can be monitored after release. **The loops of the figure 8 wrap around the animal's front legs and the transmitter sits across the animals back (Shier and Swaisgood 2012).**

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Transmitters shall be placed on 10% of all captures, or 30 animals, whichever is greater. The transmitters shall generally be 5% of body mass or less;

- 8.7.5 The Designated Biologist(s) shall record captured kangaroo rats' age, gender, reproductive status, mass, trap location, new/recapture status, and radio transmitter/ear tag identification; and
- 8.7.6 Prior to SBKR relocation, the Designated Biologist(s) shall provide CDFW for review and approval: spatial map of kangaroo rats trapped both within the exclusionary fence and adjacent 500-foot buffer surrounding the Project Area where permission by the landowner was granted, individual(s) information (Condition of Approval 8.7.4), map of proposed relocation area(s) that includes individual spatial grouping, and any other details related to the relocation.
- 8.8 Soft Release Exclusion. To limit dispersal and allow SBKR to acclimate to relocation, the Designated Biologist(s) shall perform a "soft release" at CDFW-approved locations as follows:
- 8.8.1 Construct above-ground wire mesh retention cage using 6.4 mm (1/4 in) hardware cloth, each measuring about 90 x 60 cm (23.6 x 35.4 in) and closed on the top and open on the bottom (Refer to Figure 2);
- 8.8.2 Dig burrows into the ground using a soil auger that is approximately the same diameter as a SBKR burrow (45 mm) at roughly a 30° angle to a length of 1 m (3.3 feet). **To maintain the integrity of the created burrow, cardboard mailing tubes, or other structural material shall be placed in the burrow, as required.** The burrows shall be established outside of the exclusionary fencing in the same approximate neighbor relationship as trapped, and as approved by CDFW. Holes should be close to natural size (Refer to Figure 2);
- 8.8.3 Place each retention cage over the burrow. The sides of the cage will be buried to an approximate depth of 20 cm (8 in) to discourage animals from digging out;
- 8.8.4 Place retention cages/burrows at least 15 m apart to avoid aggressive interactions when the retention cage is removed, unless trapping and burrow mapping suggests otherwise;
- 8.8.5 Move SBKR from the Project Area to outside of the exclusionary fencing in the same approximate neighbor relationship as trapped and approved by CDFW;
- 8.8.6 Install remote infrared wildlife cameras at 10% of the enclosures, or 10 cameras, whichever is greater, to video record activity during acclimation and for 30 days

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following removal of the cage. **If, after placing one camera at each enclosure, there are cameras remaining from the 10 total cameras, the additional cameras shall be placed at the entrance and exit of the corridor created through the work area in the Santa Ana River, and along the exclusionary fence line;**

8.8.7 Place each relocated SBKR into its own retention cage for 7-10 days to allow acclimation to the release site and dampen dispersal. The burrow entrance shall be plugged during the day and unplugged each night to allow the SBKR to enter into the cage;

8.8.8 Feed SBKR a combination of romaine lettuce, **inoculated** finch seed mix, and plant seeds native to the release site daily while in the retention cage/burrow. **Seed shall be microwaved for 1-3 minutes before broadcast at the release site to prevent seed germination and alteration of the native vegetation community;**

8.8.9 After 7-10 days, remove the retention cages; and

8.8.10 Provide CDFW daily updates on the status of SBKR during, and 30 days following, the soft release, including any camera data information (activity period, behaviors, physical trauma, predation attempts), daily monitoring summary, cage damage, and vandalism.

8.9 Supplemental Feeding. **Permittee shall complete supplemental feeding, as follows, for each “soft” release session (i.e., at the initial release following the exclusion fence installation and trapping, and when the transmitterd males are released)**. Seed shall be broadcast at the release sites 3 evenings per week for the first month following the removal of the retention cages and one evening each week thereafter for the next 3 months. Seed will be microwaved for 1-3 minutes before broadcast at the release site to prevent seed germination and alteration of the native vegetation community.

8.10 Exclusionary Fence Removal. Within 30 days following the initial site disturbance (i.e., clearing and grubbing), Permittee shall reconfigure the SBKR exclusionary fencing within the Santa Ana River, Plunge Creek, and City Creek to allow for SBKR movement through (upstream-downstream) the Project Area. The fencing plan shall be provided to CDFW no less than 7 days prior to the removal of the exclusionary fencing. The Designated Biologist(s) shall be present during the fence removal.

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8.11 Relocation Monitoring. Following the removal of the retention cages, the Designated Biologist(s) shall log the location of the radio transmitted animals **3-4 times per night** at least 3 times weekly **and 1 time per day at least once weekly** ~~until the battery life ends or~~ **for 10 weeks** ~~3 months, whichever is greater,~~ **or other variation of frequency and duration, as approved by CDFW, consistent with the existing allotted funding.** The Designated Biologist(s) shall also conduct live small mammal trapping in SBKR suitable habitat within the Project Area, including where Covered Activities are occurring, the relocation release area(s), and the 500-foot buffer where permission by the landowner was granted. **Permittee shall conduct trapping, as follows, for each “soft” release session (i.e., at the initial release following the exclusion fence installation and trapping, and when the transmitted males are released).** Small mammal trapping shall occur each month for the first 3 months following relocation, and then annually thereafter for the duration of the Project. The Designated Biologist(s) shall individually mark all captured kangaroo rats using ear tags with unique alphanumeric codes and record captured kangaroo rats’ age, gender, mass, trap location, new/recapture status, and tag identification. The Designated Biologist(s) shall remove the radio transmitters from any recaptured SBKR ~~once the battery life has ended~~ **after 10 weeks of monitoring.** A report of the relocation monitoring findings shall be submitted to CDFW annually for the duration of the Project.

8.12 Exclusionary Fence Maintenance. SBKR exclusionary fencing that remains within the Project Areas shall be inspected by the Designated Biologist(s) at the close of each workday to ensure that it is in place and properly maintained for the duration of Covered Activities.

8.13 SBKR Monitoring. Designated Biologist(s) shall perform daily visual surveys for kangaroo rat burrows, sign, and individuals prior to the start of Covered Activities within the project and a 100-foot buffer, including stockpiles and equipment storage areas. Positive new findings shall be mapped and submitted to CDFW within 24 hours. If Covered Activities are occurring within 100 feet of a kangaroo rat burrow, the Designated Biologist(s) shall monitor the burrow for disturbance (e.g. debris or water accumulation) a minimum of 3 times daily. If the burrow shows evidence of disturbance, the Designated Biologist(s) shall immediately make adjustments to the location, type, and/or frequency of the Covered Activities occurring to preclude further potential impacts, and increase monitoring of the burrow to ensure the adjustments were effective. The Designated Biologist(s) shall use best professional judgement regarding the monitoring period and adjustment of the work buffer surrounding the burrow. If impacts beyond those authorized in this ITP are identified or suspected,

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Permittee shall cease the Project Activities potentially responsible for those impacts and notify CDFW immediately. Results of monitoring, including photographs and a brief assessment, the type of activity occurring (e.g. drilling, grading, falsework, etc.), distance from the burrow, impacts measured/noted, and any buffer adjustment made shall be provided to CDFW within 24 hours.

8.14 Lighting Minimization. During nighttime construction, Permittee shall implement the following measures within 500 feet of SBKR habitat:

8.14.1 The Designated Biologist(s) shall be present at all times;

8.14.2 Vehicles and equipment shall not exceed 5 miles per hour;

8.14.3 All construction related lighting shall not have significant illumination pass beyond the immediate work area. Shielding techniques may include, but should not be limited to, the use of fence slats, netting, mesh, or tarps; and

8.14.4 All construction lighting used shall be yellow or orange lighting.

9. Habitat Management Credit Purchase and Restoration and Conservation:

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 provide the following:

- Purchase 18.08 acres of Covered Species credits from Cajon Creek Conservation Bank (Bank) (Condition of Approval 9.2);
- Restore on-site ~~7.46~~ **7.628** acres of impacted Covered Species habitat pursuant to Condition of Approval 9.3 – 9.6 below; and
- Permanent protection and management of 4.2 acres of SBKR-occupied habitat within the Santa Ana River (HM Land). Permittee shall obtain CDFW approval, in writing, regarding the choice of HM Lands pursuant to Condition of Approval 9.7 below and the calculation and deposit of the management funds pursuant to

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Condition of Approval 9.8 below. Permanent protection and funding for perpetual management of HM Land 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 11 below for all uncompleted obligations.

9.1. Cost Estimates. CDFW has accepted the Permittee's estimated cost of restoration of the temporarily disturbed habitat as follows:

9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.7.1 below, estimated at \$135,000/acre for 4.2 acres: \$567,000. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;

9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.7.5 below, estimated at \$58,250;

9.1.3. Interim management period funding for HM Lands as described in Condition of Approval 9.7.6 below, estimated at \$87,060;

9.1.4. Long-term management funding as described in Condition of Approval 9.8 below, estimated at \$23,235.95/acre for 4.2 acres: \$97,591. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM Land management.

9.1.5. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.3, calculated at ~~\$31,154.55~~ **\$30,468.40/acre** for ~~7.46~~ **7.628** acres: \$232,412.94.

9.2. Covered Species Credits. Permittee shall purchase 18.08 acres of Covered Species credits from the Cajon Bank and shall provide receipt of credit purchase to CDFW prior to initiating Covered Activities.

9.3. Habitat Restoration. Upon completion of Project construction activities, Permittee shall restore ~~7.46~~ **7.628** acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions (restored habitat). Restoration activities shall include: recontouring and decompaction of the stream, floodplain, scalebroom and buckwheat scrub habitats to pre-impact grade; placement of harvested soil (Condition of Approval 8.2); if necessary to meet performance criteria, planting of local, native, scalebroom and buckwheat scrub species by installing container plants and/or broadcasting seeds; replanting of Covered Species seeds (Conditions of Approval 8.1). Permittee shall complete all restoration activities within

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30 days of Project completion. Permittee shall submit a report and photos to CDFW documenting the completion of restoration activities within 60 days of Project completion. Permittee shall monitor and maintain the ~~7.46~~ **7.628** acres of restored habitat for a minimum of 5 years and submit progress reports and photos to CDFW annually.

9.4. Protection of Restored Habitat. To protect the ~~7.46~~ **7.628** acres of restored habitat, Permittee shall implement the following measures concurrently when performing restoration activities outlined in Condition 9.3:

9.4.1. Install Signage. Permittee shall install signage around the perimeter of the restored habitat identifying the areas as under restoration.

9.5. Restoration Specialist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Restoration Specialist at least 30 days before starting Covered Activities. Permittee shall obtain CDFW approval of the Restoration Specialist in writing before starting Covered Activities, and shall also obtain approval in advance, in writing, if the Restoration Specialist must be changed. Permittee shall ensure the Restoration Specialist implements all the take minimization measures described in Conditions of Approval 8.1 and 8.2 and all the habitat restoration and protection activities described in Conditions of Approval 9.3-, 9.4, and 9.6. The Restoration Specialist or equivalent shall possess the following qualifications: (1) have knowledge and experience in the biology and natural history of the Covered Species, scalebroom scrub, buckwheat scrub, and alluvial fan ephemeral stream habitats; (2) have experience in the restoration and enhancement of scalebroom scrub, buckwheat scrub, and alluvial fan ephemeral stream habitats. Permittee may utilize the Designated Biologist (Condition of Approval 6.2) as the Restoration Specialist if the Designated Biologist possesses all the qualifications required for the Restoration Specialist as listed in this condition.

9.6. Habitat Restoration and Revegetation Plan. No later than 3 months of commencement of Project Activities, Permittee shall submit to CDFW for review and approval, a Habitat Restoration and Revegetation Plan (HRRP) to facilitate restoration of the ~~7.46~~ **7.628** acres temporary construction disturbance on-site (restored habitat). At minimum, the HRRP shall include the following information for the restored habitat: (1) an aerial map that identifies the placement of the protective signage; (2) a description of the wording of the signage to be installed to protect the areas and a plan to maintain the signage until CDFW restoration sign off; (3) a quantitative description that includes percent cover and species diversity of the existing pre-project habitat; (4) a plan for recontouring and decompaction of disturbed stream, floodplain, and scalebroom and buckwheat scrub habitat within the temporary Project

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impact areas to pre-impact or better conditions, and methods for placement of harvested soil; (5) a plan for the removal of nonnative plant species, trash, and debris; (6) a California native local plant palette and/or seed mix appropriate for scalebroom and buckwheat scrub and application methods if necessary to meet performance criteria; (7) a planting plan, including specific measures for replanting/broadcasting harvested Covered Species seeds; (8) performance criteria based on quantitative description of existing habitat; (9) contingency measures if performance criteria are not met (i.e. planting of container plants, irrigation plan, etc.); (10) maintenance and monitoring schedule including at least quarterly visits for the first year. Permittee shall ensure that the HRRP is successfully implemented by the restoration contractor. Monitoring and maintenance of the restored habitat shall be conducted for a minimum of 5 years, or until CDFW determines the restoration effort is successful.

9.7. Habitat Protection. To provide for the perpetual protection and management of the HM Land, the Permittee shall:

9.7.1. Conservation Easement. Transfer fee title of the HM Land to 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. CDFW shall approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM Land if the entity, agency, or tribe meets the requirements of Civil Code section 815.3. 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);

9.7.2. HM Lands Approval. Obtain CDFW written approval of the HM Land before transfer of the land by submitting, at least 3 months before transfer of the HM Land, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

9.7.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM Land and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

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9.7.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change;

9.7.5. Start-up Activities. Provide for the implementation of start-up activities once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a Small Mammal Restoration Plan, if applicable for CDFW approval; (2) preparing a Final Management Plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates>); (3) conducting a baseline biological assessment and land survey report within four months of recording or transfer; and (4) developing and transferring Geographic Information Systems (GIS) data if applicable; and

9.7.6. 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 LTMP and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the LTMP shall include fence repair, continuing trash removal, site monitoring, habitat assessments, species surveys, 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.

9.8 Endowment Fund. 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 Land 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

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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.

9.8.1 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); and

9.8.2 Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM land, 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 Land (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval

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the results of the PAR before transferring funds to the Endowment Manager including:

9.8.2.1. 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.

9.8.2.2. 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:

9.8.2.2.1. 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.

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

9.8.2.2.3. 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.

9.8.3. Transfer Long-term Endowment Funds. 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 Land 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.

9.9. Reimburse CDFW. Reimbursement to 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 Land to CDFW.

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10. Management Activities to Support Slender-horned Spineflower

The Bank contains suitable habitat for slender-horned spineflower, however, the species has not yet been observed within the Bank. There are two known populations of slender-horned spineflower within Cajon Creek, upstream of the Bank. To enhance existing Cajon Creek populations and to further understanding of the management activities required to conserve slender-horned spineflower, the Permittee shall provide funds to Rancho Santa Ana Botanic Garden to conduct soil sampling, soil analysis, seed collection and storage, and optimization of seed propagation methods for the extant Cajon Creek populations. The Bank shall then use the soil information, seeds, and seed propagation methods for seed bulking activities and slender-horned spineflower introduction trials within the Bank. Permittee shall provide the funds to Rancho Santa Ana Botanic Garden prior to commencement of Covered Activities, **or within 60 days of initiating Covered Activities, if Security is provided.**

10.1 Soil Sampling and Analyses. Permittee shall provide **\$19,000.00** to Rancho Santa Ana Botanic Garden for soil sampling and analysis of Cajon Creek slender-horned spineflower populations.

10.2 Seed Collection, Storage and Propagation. Permittee shall provide **\$21,432.40** to Rancho Santa Ana Botanic Garden to collect seeds over a 3-year period, optimize seed propagation methods, and store seeds from the Cajon Creek slender-horned spineflower populations.

11. 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 and Condition of Approval 10 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

11.1. Security Amount. The Security shall be in the amount of **\$1,082,746.34**. This amount is based on the cost estimates identified in Conditions of Approval 9.1, 10.1, and 10.2 above.

11.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.

11.3. Security Timeline. The Security shall be provided to CDFW at least 60 days before Covered Activities begin.

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11.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.

11.5. Security Transmittal. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.

11.6. 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.

11.7. 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:

- Timely submission of all required reports.
- An on-site inspection by CDWF; and
- Written approval from CDFW.

Even if Security is provided, the Permittee must complete the required habitat restoration and protection activities described in Conditions of Approval 9.3 through 9.6 within the specified timeframes described in those Conditions. CDFW may require the Permittee to provide additional mitigation credits, and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

Amendment:

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

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations,

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or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

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

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2017-062-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

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

and a copy to:

Incidental Take Permit (Amendment 2)
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**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY
STATE ROUTE 210 MIXED FLOW LANE ADDITION PROJECT**

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

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

Kimberly Romich
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Telephone (909) 980-3818
Fax (909) 481-2945

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Mitigated Negative Declaration and Initial Study, (SCH No. 2016051039) dated December 2016, that the California Department of Transportation adopted for State Route 210 Mixed Flow Lane Addition from Highland Avenue to San Bernardino Avenue Project on December 30, 2016. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

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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, Mitigated Negative Declaration for the State Route 210 Mixed Flow Lane Addition from Highland Avenue to San Bernardino Avenue Project, Streambed Alteration Agreement, the results consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project 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 18.08 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and 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 used by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those

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measures for the Project; and

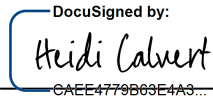
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1	Project Area
FIGURE 2	Retention Cage and Burrow Design
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A	HMLA Checklist
ATTACHMENT 2B	Proposed Lands for Acquisition form
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

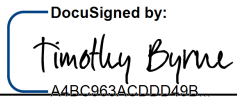
on 4/24/2020 _____

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for 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:  _____
DocuSigned by: A4BC963ACDD049B

Date: 4/24/2020 _____

Printed Name: Timothy Byrne _____

Title: Project Delivery Manager _____

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Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2017-062-06 (Amendment 2)

PERMITTEE: San Bernardino County Transportation Authority

PROJECT: State Route 210 Mixed Flow Lane Addition Project

PURPOSE OF THIS MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities Project Area	Permittee	
2	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.	ITP Condition # 6.2	At least 30 days before commencing ground- or vegetation-disturbing activities Project Area	Permittee	
3	Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities Project Area	Permittee	
4	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
5	Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities Project Area	Permittee	
6	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 # 6.10	Before commencing ground- or vegetation-disturbing activities Project Area	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	Permittee shall prepare and implement a Weed Management Plan (WMP) to prevent the introduction and spread of nonnative plant material during the construction and restoration phases of the Project. The WMP shall provide an inventory of existing weed species within and adjacent to the Project Area; evaluate each project-activities' potential to introduce or spread weeds; identify specific prevention and treatment strategies; and propose a monitoring and treatment schedule. The WMP shall be provided to CDFW for review no later than 30 days prior to the initiation of the Project Activities.	ITP Condition # 6.17	At least 30 days before commencing ground- or vegetation-disturbing activities Project Area	Permittee	
8	The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 7.1	14 days before commencing ground- or vegetation-disturbing activities	Permittee	
9	Prior to commencement of Covered Activities, Permittee shall harvest seeds from those Covered Species individual plants located within the Project Area that are anticipated to be incidentally taken in the form of kill as a result of Project construction activities. If seed is not available for collection prior to disturbance to Covered Species, Permittee shall salvage soil as described in Condition of Approval 8.2. Permittee shall store a portion of the seeds (quantity to be determined by the Restoration Specialist, see Condition of Approval 9.5) for dispersal post-Project within the Project impact areas where the seed was collected. Permittee shall donate the remainder of the harvested seeds to the Rancho Santa Ana Botanic Garden for future propagation and/or research purposes.	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities Project Area	Permittee	
10	If Covered Activities that may damage the seed bank (e.g. grading, compaction, dust control, etc.) occur in temporary impact areas where Covered Species individual plants occur, Permittee shall harvest the top 6 inches of soil from all these areas prior to the commencement of Covered Activities. Permittee, under the supervision of the Restoration Specialist, shall store the soil appropriately to maintain viability of seeds and soil organisms and return the soil to the locations where it was collected during the restoration activities.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities Project Area	Permittee	
11	Designated Biologist(s) shall identify and map all potential kangaroo rat burrows within the Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted. The kangaroo rat burrows map shall be provided to CDFW within 10 days prior to any Covered Activities being performed, including exclusionary fence installation or other ground disturbing activities.	ITP Condition # 8.4	No less than 20 days prior to erecting SBKR exclusionary fencing Project Area	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	Designated Biologist(s) shall design small mammal trapping grids/transects for CDFW review and approval. To achieve total coverage of SBKR suitable habitat, transects shall be used within narrow linear habitat and grids shall be used within larger areas of habitat. Transects and grids shall be established within the Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner is granted (Refer to Figure 3). Trap locations shall be geographically indexed with latitude/longitude coordinates along with the datum used (e.g., degrees/minutes/seconds, decimal degrees, etc.). The grids shall be permanent (e.g. capable of replication), with equal stratification to be representative of different qualities of suitable SBKR habitat and distributed throughout the Project Area and 500-foot buffer where permission by the landowner is granted. Once the permanent grids and transect locations are approved by CDFW, the Designated Biologist(s) shall trap the grids/transects for 5 consecutive nights no less than 20 days prior to installing the exclusionary fencing. The Designated Biologist(s) shall conduct trapping only if the nightly low temperature is forecasted to be 40 degrees Fahrenheit or above, and if no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or will unduly imperil the lives of the animals. If temperature is forecasted to drop below 40 degrees, at the discretion of the biologist, trapping will not occur, or traps will be set, then checked and closed at midnight. To measure future SBKR survivorship and abundance/density estimates, as well as measure conspecific interactions, all captured kangaroo rats shall be individually marked using ear tags with unique alphanumeric codes. Trapping results shall include captured kangaroo rats' age, gender, mass, trap location, new/recapture status, tag identification, and any burrow locations that are used upon release. Pre-exclusionary fencing trapping results shall be provided to CDFW no less than 10 days prior to installing the exclusionary fence.	ITP Condition # 8.5	No less than 25 days prior to erecting the SBKR exclusionary fencing Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	
13	Fencing to exclude SBKR shall be erected to the initiation of any Covered Activities and following completion of the trapping described in Condition of Approval 8.5. The Designated Biologist(s) shall be present during the fence installation.	ITP Condition # 8.6	No more than 10 days prior to erecting the SBKR exclusionary fencing Project Area	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	<p>Designated Biologist(s) shall perform small mammal trapping within the exclusionary fenced area. Small mammal trapping shall continue for a minimum of 5 consecutive nights with at least 3 consecutive nights of no SBKR captures. Each captured SBKR shall be placed in a standard rodent carrier. The Designated Biologist(s) shall affix ear tags with a unique alphanumeric code to each captured SBKR and each shall be placed in a standard rodent carrier.</p> <p>8.7.1.1 If a SBKR lactating female is captured, she shall be released and followed to determine where her burrow is located. A fiber-optic scope or mini camera shall be immediately used within the located burrow or, if not found, all kangaroo burrows within a 20-meter (66 feet) radius. If no kangaroo rats are observed within the burrow, it shall be hand excavated to ensure no occupancy. If kangaroo rat pups are observed, CDFW shall be notified at once, and the pups shall be captured and placed in a rodent carrier with the female.</p> <p>8.7.1.2 All juveniles and non-lactating females captured shall be "soft" released, as specified in Condition of Approval 8.8. If a previously ear-tagged juvenile or non-lactating female is captured, the Designated Biologist(s) shall consult previous capture locations to inform the release location. If the animal was previously captured outside of the exclusion zone, that animal shall be "soft" released within 24 hours, at the last-known capture location outside of the exclusionary fence. If the animal had not been previously trapped, or was previously trapped only inside the exclusion fence area, the Designated Biologist(s) shall hold the animal until trapping within the exclusionary fence is complete (after 3 consecutive nights of no SBKR captures) and CDFW approves the proposed relocation site (see Condition of Approval 8.7.6).</p> <p>8.7.1.3 All males captured within the exclusion fence shall be evaluated as candidates to receive transmitters based on weight (see Condition of Approval 8.7.4). If 15 or fewer males are captured within the exclusionary fence, all males of appropriate weight shall be held in individual cages in a temperature-controlled location where daylight is excluded until transmitters can be fitted on the individuals. If more than 25 males are captured within the exclusion fence, the Designated Biologist shall use a '5 on-5 off' approach, whereby the first 5 males trapped of appropriate size will be held for transmitters and the next five will be "soft" released. The release procedures for any males not slated to receive transmitters shall follow the "soft" release approach described in Condition of Approval 8.7.1.2, whereby any previously ear-tagged males previously captured outside of the exclusion zone shall be "soft" released within 24 hours, at the last-known capture location outside of the exclusionary fence. If the animal had not been previously trapped, or was previously trapped only inside the exclusion fence area, the Designated Biologist(s) shall hold the animal until trapping within the exclusionary fence is complete (after 3 consecutive nights of no SBKR captures) and CDFW approves the proposed relocation site (see Condition of Approval 8.7.6).</p>	ITP Condition # 8.7.1	<p>Within 7 days following the installation of the SBKR exclusionary fence</p> <p>Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted</p>	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	Upon receipt of the transmitters, the Designated Biologist(s) shall conduct small mammal trapping within the 500-foot buffer where permission by the landowner is granted. The Designated Biologist(s) shall conduct trapping for 3 consecutive nights to fit the remaining transmitters on males of appropriate size (see Condition of Approval 8.7.4) within the proposed receiver sites/relocation areas upstream and downstream of the project. The distribution of transmitters upstream and downstream shall be proportional to the number of SBKR moved in each direction, as determined by the proposed relocation receiver sites approved by CDFW per Condition of Approval 8.7.6. Trapping shall occur where the nightly low temperature is forecasted to be 40 degrees Fahrenheit or above, and if no extended periods of wind, rain, fog, or other inclement weather will occur to make conditions unsuitable for trapping or will unduly imperil the lives of the animals. If temperature is forecast to drop below 40 degrees, at the discretion of the biologist, trapping will not occur, or traps will be set, then checked and closed at midnight. To ensure even distribution of transmitters, the Designated Biologist shall use a '5 on-5 off' approach, whereby the first 5 males trapped will receive transmitters and the next five will not. Males selected to receive transmitters shall be held for 24 hours to observe the fit and function of the transmitter harnesses before being released at their respective trap locations. Transmitted SBKR shall be held in individual cages in a temperature-controlled location where daylight is excluded. If an individual proves to be unfit or unable to wear a harness, the Designated Biologist shall remove the harness and transmitter before release.	ITP Condition # 8.7.2	Within 7 days following the installation of the SBKR exclusionary fence Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	
16	Designated Biologist(s) shall affix ear tags with a unique alphanumeric code to all kangaroo rats. The Designated Biologist(s) shall affix radio transmitters on SBKR as described in Condition of Approval 8.7.4. All small mammals shall be released at the trap location, or CDFW-approved relocation site for animals trapped within the exclusion area, following the installation of tracking devices and recordation of data as described in Condition of Approval 8.7.5.	ITP Condition # 8.7.3	Within 7 days following the installation of the SBKR exclusionary fence Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	
17	A Designated Biologist(s) with previous experience fitting and assessing harness functionality and impact (e.g., Dr. Shier or other similarly-qualified, CDFW-approved person) shall place or oversee the placement of Very High Frequency (VHF) radio transmitters (e.g., Holohil Systems [model BD-2C]) with a backpack harness, created from a modified figure 8 design used for small passerine birds (10-200 g) (Rappole & Tipton 1991) on male SBKR so that movements and survival can be monitored after release. The loops of the figure 8 wrap around the animal's front legs and the transmitter sits across the animals back (Shier and Swaisgood 2012). Transmitters shall be placed on 10% of all captures, or 30 animals, whichever is greater. The transmitters shall generally be 5% of body mass or less;	ITP Condition # 8.7.4	Within 7 days following the installation of the SBKR exclusionary fence Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	
18	Designated Biologist(s) shall record captured kangaroo rats' age, gender, reproductive status, mass, trap location, new/recapture status, and radio transmitter/ear tag identification.	ITP Condition # 8.7.5	Within 7 days following the installation of the SBKR exclusionary fence Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	Designated Biologist(s) shall provide CDFW for review and approval: spatial map of kangaroo rats trapped both within the exclusionary fence and adjacent 500-foot buffer, surrounding the Project Area where permission by the landowner was granted, individual(s) information (Condition of Approval 8.7.4), map of proposed relocation area(s) that includes individual spatial grouping, and any other details related to the relocation.	ITP Condition # 8.7.6	Within 7 days following the installation of the SBKR exclusionary fence and prior to SBKR relocation Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	
20	To limit dispersal and allow SBKR to acclimate to relocation, the Designated Biologist(s) shall perform a "soft release" at CDFW-approved locations as follows: 8.8.1 Construct above-ground wire mesh retention cage using 6.4 mm (1/4 in) hardware cloth, each measuring about 90 x 60 cm (23.6 x 35.4 in) and closed on the top and open on the bottom (Refer to Figure 2); 8.8.2 Dig burrows into the ground using a soil auger that is approximately the same diameter as a SBKR burrow (45 mm) at roughly a 30° angle to a length of 1 m (3.3 feet). To maintain the integrity of the created burrow, cardboard mailing tubes, or other structural material shall be placed in the burrow, as required. The burrows shall be established outside of the exclusionary fencing in the same approximate neighbor relationship as trapped, and as approved by CDFW. Holes should be close to natural size (Refer to Figure2); 8.8.3 Place each retention cage over the burrow. The sides of the cage will be buried to an approximate depth of 20 cm (8 in) to discourage animals from digging out; 8.8.4 Place retention cages/burrows at least 15 m apart to avoid aggressive interactions when the retention cage is removed, unless trapping and burrow mapping suggests otherwise; 8.8.5 Move SBKR from the Project Area to outside of the exclusionary fencing in the same approximate neighbor relationship as trapped and approved by CDFW;	ITP Condition # 8.8.1 -8.8.5	After SBKR exclusion Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	
21	Install remote infrared wildlife cameras at 10% of the enclosures, or 10 cameras, whichever is greater, to video record activity during acclimation and for 30 days following removal of the cage. If, after placing one camera at each enclosure, there are cameras remaining from the 10 total cameras, the additional cameras shall be placed at the entrance and exit of the corridor created through the work area in the Santa Ana River, and along the exclusionary fence line.	ITP Condition # 8.8.6	After SBKR exclusion and for 30 days following removal of the retention cage Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	
22	Place each relocated SBKR into its own retention cage for 7-10 days to allow acclimation to the release site and dampen dispersal. The burrow entrance shall be plugged during the day and unplugged each night to allow the SBKR to enter into the cage. Feed SBKR a combination of romaine lettuce, inoculated finch seed mix, and plant seeds native to the release site daily while in the retention cage/burrow. Seed shall be microwaved for 1-3 minutes before broadcast at the release site to prevent seed germination and alteration of the native vegetation community	ITP Condition # 8.8.7 and 8.8.8	For 7-10 days following SBKR exclusion Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	Remove the retention cages.	ITP Condition # 8.8.9	7-10 days following SBKR exclusion Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted.	Permittee	
24	Provide CDFW daily updates on the status of SBKR during, and 30 days following, the soft release, including any camera data information (activity period, behaviors, physical trauma, predation attempts), daily monitoring summary, cage damage, and vandalism.	ITP Condition # 8.8.10	For 30 days following SBKR exclusion Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted.	Permittee	
25	Permittee shall complete supplemental feeding, as follows, for each "soft" release session (i.e., at the initial release following the exclusion fence installation and trapping, and when the transmitters are released). Seed shall be broadcast at the release site 3 evenings per week for the first month following the removal of the retention cages and one evening each week thereafter for the next 3 months. Seed will be microwaved for 1-3 minutes before broadcast at the release site to prevent seed germination and alteration of the native vegetation community.	ITP Condition # 8.9	For 3 months following SBKR exclusion Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted.	Permittee	
26	Permittee shall purchase 18.08 acres of Covered Species credits from the Bank and shall provide receipt of credit purchase to CDFW prior to initiating Covered Activities.	ITP Condition # 9.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
27	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Restoration Specialist at least 30 days before starting Covered Activities. Permittee shall obtain CDFW approval of the Restoration Specialist in writing before starting Covered Activities, and shall also obtain approval in advance, in writing, if the Restoration Specialist must be changed. Permittee shall ensure the Restoration Specialist implements all the take minimization measures described in Conditions of Approval 8.1 and 8.2 and all the habitat restoration and protection activities described in Conditions of Approval 9.3, 9.4, and 9.6. The Restoration Specialist or equivalent shall possess the following qualifications: (1) have knowledge and experience in the biology and natural history of the Covered Species, scalebroom scrub, buckwheat scrub, and alluvial fan ephemeral stream habitats; (2) have experience in the restoration and enhancement of scalebroom scrub, buckwheat scrub, and alluvial fan ephemeral stream habitats. Permittee may utilize the Designated Biologist (Condition of Approval 6.2) as the Restoration Specialist if the Designated Biologist possesses all the qualifications required for the Restoration Specialist as listed in this condition.	ITP Condition # 9.5	At least 30 days before commencing ground- or vegetation-disturbing activities Project Area	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	No later than 3 months of commencement of Project Activities, Permittee shall submit to CDFW for review and approval, a Habitat Restoration and Revegetation Plan (HRRP) to facilitate restoration of the 7.628 acres temporary construction disturbance on-site (restored habitat). At minimum, the HRRP shall include the following information for the restored habitat: (1) an aerial map that identifies the placement of the protective signage; (2) a description of the wording of the signage to be installed to protect the areas and a plan to maintain the signage until CDFW restoration sign off; (3) a quantitative description that includes percent cover and species diversity of the existing pre-project habitat; (4) a plan for recontouring and decompaction of disturbed stream, floodplain, and scalebroom and buckwheat scrub habitat within the temporary Project impact areas to pre-impact or better conditions, and methods for placement of harvested soil; (5) a plan for the removal of nonnative plant species, trash, and debris; (6) a California native local plant palette and/or seed mix appropriate for scalebroom and buckwheat scrub and application methods if necessary to meet performance criteria; (7) a planting plan, including specific measures for replanting/broadcasting harvested Covered Species seeds; (8) performance criteria based on quantitative description of existing habitat; (9) contingency measures if performance criteria are not met (i.e. planting of container plants, irrigation plan, etc.); (10) maintenance and monitoring schedule including at least quarterly visits for the first year. Permittee shall ensure that the HRRP is successfully implemented by the restoration contractor. Monitoring and maintenance of restored habitat shall be conducted for a minimum of 5 years, or until CDFW determines the restoration effort is successful.	ITP Conditions # 9.6	No later than 3 months of commencement of Project Activities Project Area	Permittee	
29	The Bank contains suitable habitat for slender-horned spineflower, however, the species has not yet been observed within the Bank. There are two known populations of slender-horned spineflower within Cajon Creek, upstream of the Bank. To enhance existing Cajon Creek populations and to further understanding of the management activities required to conserve slender-horned spineflower, the Permittee shall provide funds to Rancho Santa Ana Botanic Garden to conduct soil sampling, soil analysis, seed collection and storage, and optimization of seed propagation methods for the extant Cajon Creek populations. The Bank shall then use the soil information, seeds, and seed propagation methods for seed bulking activities and slender-horned spineflower introduction trials within the Bank. Permittee shall provide the funds to Rancho Santa Ana Botanic Garden prior to commencement of Covered Activities, or within 60 days of initiating Covered Activities, if Security is provided. 10.1 Soil Sampling and Analyses. Permittee shall provide \$19,000.00 to Rancho Santa Ana Botanic Garden for soil sampling and analysis of Cajon Creek slender-horned spineflower populations. 10.2 Seed Collection, Storage and Propagation. Permittee shall provide \$21,432.40 to Rancho Santa Ana Botanic Garden to collect seeds over a 3 year period, optimize seed propagation methods, and store seeds from the Cajon Creek slender-horned spineflower populations.	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
30	<p>The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 and Condition of Approval 10 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>11.1 <u>Security Amount</u>. <u>Security Amount</u>. The Security shall be in the amount of \$1,082,746.34. This amount is based on the cost estimates identified in Conditions of Approval 9.1, 10.1, and 10.2 above.</p> <p>11.2 <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>11.3 <u>Security Timeline</u>. The Security shall be provided to CDFW at least 60 days before Covered Activities begin.</p> <p>11.4 <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>11.5 <u>Security Transmittal</u>. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>11.6 <u>Security Drawing</u>. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of the ITP.</p> <p>11.7 <u>Security Release</u>. 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:</p> <ul style="list-style-type: none"> • Timely submission of all required reports; • An on-site inspection by CDFW; and • Written approval from CDFW. <p>Even if Security is provided, the Permittee must complete the required habitat restoration and protection activities described in Conditions of Approval 9.3 through 9.6 within the specified timeframes described in those Conditions. CDFW may require the Permittee to provide additional mitigation credits, 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 # 11	At least 60 days before commencing ground- or vegetation-disturbing activities	Permittee	
DURING CONSTRUCTION					
31	To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.3	Project Area	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
32	The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period, which shall include a copy of the ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Project Area	Permittee	
33	Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
34	Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities Project Area	Permittee	
35	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. Any seed mix used for erosion control shall be submitted to CDFW for review and approval prior to use.	ITP Condition # 6.8	Project Area	Permittee	
36	Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to the ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition # 6.11	Project Area	Permittee	
37	Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of the ITP.	ITP Condition # 6.12	Project Area	Permittee	
38	Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition # 6.13	Project Area	Permittee	
39	Permittee shall provide CDFW staff with reasonable access to the Project, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition # 6.14	Project Area	Permittee	
40	To the maximum extent practicable the Permittee shall (1) avoid impacts/disturbances to sensitive plants, plant communities and wildlife within the Project Area, (2) avoid impacts/disturbance to perennial, native vegetation within the Project Area, (3) limit access-related Covered Activities to "drive and crush" rather than vegetation removal or grubbing, (4) leave roots systems intact in instances where above-ground native plant materials must be removed.	ITP Condition # 6.16	Project Area	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41	Permittee shall utilize local native plants in the landscaped areas adjacent to the Covered Species' habitat within and adjacent to the Project Area. Permittee shall not plant, seed, or otherwise introduce nonnative plant species to the landscaped areas adjacent to Covered Species' habitat within and adjacent to the Project Area. Nonnative plant species not to be used include those species listed on the California Invasive Plant Inventory (California Invasive Plant Council; https://www.cal-ipc.org/plants/inventory/).	ITP Condition # 6.18	Project Area	Permittee	
42	The Designated Representative shall immediately notify CDFW in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to CDFW within 24 hours.	ITP Condition # 7.2	Project Area	Permittee	
43	The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP.	ITP Condition # 7.3	Project Area	Permittee	
44	The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of the ITP's approval, the CDFW Regional Representative is Kimberly Romich (kimberly.romich@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov . CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 7.4	Project Area	Permittee	
45	Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year following commencement of Covered Activities and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 7.5	Project Area	Permittee	
46	The Designated Biologist shall submit all observations online of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.6	Project Area	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
47	Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of individuals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the plants/ animal or parts thereof, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 7.8	Project Area	Permittee	
48	If feasible, Covered Activities shall avoid initial ground disturbing impacts to SBKR and SBKR habitat during peak breeding season (March-July).	ITP Condition #8.3	Project Area	Permittee	
49	Permittee shall reconfigure the SBKR exclusionary fencing within the Santa Ana River, Plunge Creek, and City Creek to allow for SBKR movement through (upstream-downstream) the Project Area. The fencing plan shall be provided to CDFW no less than 7 days prior to the removal of the exclusionary fencing. The Designated Biologist(s) shall be present during the fence removal.	ITP Condition # 8.10	Within 30 days following the initial site disturbance (i.e., clearing and grubbing) Project Area	Permittee	
50	Following the removal of the retention cages, the Designated Biologist(s) shall log the location of the radio transmitted animals 3-4 times per night at least 3 times weekly and 1 time per day at least once weekly for 10 weeks, or other variation of frequency and duration, as approved by CDFW, consistent with the existing allotted funding. The Designated Biologist(s) shall also conduct live small mammal trapping in SBKR suitable habitat within the Project Area, including where Covered Activities are occurring, the relocation release area(s), and the 500-foot buffer where permission by the landowner was granted. Permittee shall conduct trapping, as follows, for each "soft" release session (i.e., at the initial release following the exclusion fence installation and trapping, and when the transmittered males are released). Small mammal trapping shall occur each month for the first 3 months following relocation, and then annually thereafter for the duration of the Project. The Designated Biologist(s) shall individually mark all captured kangaroo rats using ear tags with unique alphanumeric codes and record captured kangaroo rats' age, gender, mass, trap location, new/recapture status, and tag identification. The Designated Biologist(s) shall remove the radio transmitters from any recaptured SBKR after 10 weeks of monitoring. A report of the relocation monitoring findings shall be submitted to CDFW annually for the duration of the Project.	ITP Condition # 8.11	Project Area and 500-foot buffer surrounding the Project Area where permission by the landowner was granted.	Permittee	
51	SBKR exclusionary fencing that remains within the Project Areas shall be inspected by the Designated Biologist(s) at the close of each workday to ensure that it is in place and properly maintained for the duration of Covered Activities.	ITP Condition # 8.12	Project Area	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
52	Designated Biologist(s) shall perform daily visual surveys for kangaroo rat burrows, sign, and individuals prior to the start of Covered Activities within the project and a 100-foot buffer, including stockpiles and equipment storage areas. Positive new findings shall be mapped and submitted to CDFW within 24 hours. If Covered Activities are occurring within 100 feet of a kangaroo rat burrow, the Designated Biologist(s) shall monitor the burrow for disturbance (e.g. debris or water accumulation) a minimum of 3 times daily. If the burrow shows evidence of disturbance, the Designated Biologist(s) shall immediately make adjustments to the location, type, and/or frequency of the Covered Activities occurring to preclude further potential impacts, and increase monitoring of the burrow to ensure the adjustments were effective. The Designated Biologist(s) shall use best professional judgement regarding the monitoring period and adjustment of the work buffer surrounding the burrow. If impacts beyond those authorized in the ITP are identified or suspected, Permittee shall cease the Project Activities potentially responsible for those impacts and notify CDFW immediately. Results of monitoring, including photographs and a brief assessment, the type of activity occurring (e.g. drilling, grading, falsework, etc.), distance from the burrow, impacts measured/noted, and any buffer adjustment made shall be provided to CDFW within 24 hours.	ITP Condition # 8.13	Project Area and 100-foot buffer surrounding the Project Area where permission by the landowner was granted	Permittee	
53	8.14 <u>Lighting Minimization</u> . During nighttime construction, Permittee shall implement the following measures within 500 feet of SBKR habitat: 8.14.1 The Designated Biologist(s) shall be present at all times; 8.14.2 Vehicles and equipment shall not exceed 5 miles per hour; 8.14.3 All construction related lighting shall not have significant illumination pass beyond the immediate work area. Shielding techniques may include, but should not be limited to, the use of fence slats, netting, mesh, or tarps; and 8.14.4 All construction lighting used shall be yellow or orange lighting.	ITP Condition # 8.14	During nighttime construction Within 500 feet of SBKR habitat	Permittee	
POST-CONSTRUCTION					
54	Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.15	Post-construction	Permittee	
55	No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 7.7	No later than 45 days after completion of mitigation measures	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
56	Upon completion of Project construction activities, Permittee shall restore 7.628 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions (restored habitat). Restoration activities shall include: recontouring and decompaction of the stream, floodplain, scalebroom and buckwheat scrub habitats to pre-impact grade; placement of harvested soil (Condition of Approval 8.2); if necessary to meet performance criteria, planting of local, native, scalebroom and buckwheat scrub species by installing container plants and/or broadcasting seeds; replanting of Covered Species seeds (Conditions of Approval 8.1). Permittee shall complete all restoration activities within 30 days of Project completion. Permittee shall submit a report and photos to CDFW documenting the completion of restoration activities within 60 days of Project completion. Permittee shall monitor and maintain the 7.46 acres of restored habitat for a minimum of 5 years and submit progress reports and photos to CDFW annually.	ITP Condition # 9.3	Within 30 days post-construction	Permittee	
57	To protect the 7.628 acres of restored habitat, Permittee shall install signage around the perimeter of the Restoration Areas identifying the areas as under restoration concurrently when performing restoration activities outlined in Condition 9.3:	ITP Condition # 9.4.1	Post-construction	Permittee	
58	Transfer fee title of the HM Land to 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. CDFW shall approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM Land if the entity, agency, or tribe meets the requirements of Civil Code section 815.3. CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e)	ITP Condition # 9.7.1	Post-construction	Permittee	
59	Obtain CDFW written approval of the HM Land before transfer of the land by submitting, at least 3 months before transfer of the HM Land, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species	ITP Condition # 9.7.2	At least 3 months before transfer of the HM Land	Permittee	
60	Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM Land and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition # 9.7.3	Post-construction	Permittee	
61	Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change.	ITP Condition # 9.7.4	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
62	Provide for the implementation of start-up activities once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a Small Mammal Restoration Plan, if applicable for CDFW approval; (2) preparing a Final Management Plan for CDFW approval (see https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates); (3) conducting a baseline biological assessment and land survey report within four months of recording or transfer; and (4) developing and transferring Geographic Information Systems (GIS) data if applicable.	ITP Condition # 9.7.5	Post-construction	Permittee	
63	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 LTMP and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the LTMP shall include fence repair, continuing trash removal, site monitoring, habitat assessments, species surveys, 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 # 9.7.6	Post-construction	Permittee	
64	The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM Land by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended. 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 the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.	ITP Condition # 9.8	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
65	The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).	ITP Condition # 9.8.1	Post-construction	Permittee	
66	<p>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 Land (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 including:</p> <p>9.8.2.1 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.</p> <p>9.8.2.2 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:</p> <p>9.8.2.2.1 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.</p> <p>9.8.2.2.2 Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.</p> <p>9.8.2.2.3 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.</p>	ITP Condition # 9.8.2	After obtaining CDFW written approval of the HM land, long-term management plan, and Endowment Manager	Permittee	
67	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 Land for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.	ITP Condition # 9.8.3	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
68	Reimbursement to 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 Land to CDFW.	ITP Condition # 9.9	Post-construction	Permittee	