



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

California Endangered Species Act  
Incidental Take Permit No. 2081-2019-042-02

**LIBERTY ROAD/SR-88 SAFETY IMPROVEMENTS**

**Authority:** This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

**Permittee:** California Department of Transportation, District 10  
**Principal Officer:** Parisa Rasouli Lodge, Project Manager  
**Contact Person:** Towfiqur Khan, (209) 948-7873  
**Mailing Address:** 1976 E. Dr. Martin Luther King Jr. Blvd.  
Stockton, CA 95205

**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 November 30, 2025.

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 6.6 of this ITP.

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

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

**Project Location:**

The Project is located at the junction of State Route 88 (SR-88) and Liberty Road (Post Mile 22.1) in San Joaquin County, State of California; Latitude 38.236241, Longitude -121.051450; Township 5N, Range 8E, Section 36 and Township 4N, Range 8E, Section 1 of the Clements U.S. Geological Survey 7.5 minute quadrangle map. See Figure 1 for Map of Project Location.

**Project Description:**

The Project will upgrade the intersection of SR-88 and Liberty Road from a two-way stop to a single lane roundabout. The Project will include ground disturbance by clearing, removing existing pavement and concrete, constructing new pavement and concrete curb and gutter, extending and/or replacing culverts, major grading, and excavation using a variety of heavy equipment. Clearing and grubbing of non-native annual grassland vegetation, wetland vegetation, and vernal pools within the newly proposed right of way is necessary to accommodate the roundabout of SR-88. Approximately 144 cubic yards of asphalt will be used to cover fill material over wetland habitat. Vehicle and equipment staging will occur within cleared and grubbed area behind species exclusionary fence. Utility relocation will be required and potholing may be needed to determine the location and depth of the underground utilities. The Project will be hydroseeded upon completion. See Figure 2 for Project Plans.

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

This ITP covers the following species:

<b>Name</b>	<b>CESA Status</b>
California tiger salamander ( <i>Ambystoma californiense</i> )	Threatened <sup>3</sup>

This species and only this species is the “Covered Species” for the purposes of this ITP.

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

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include excavation, grading, and paving associated with the roundabout (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 movement and use of construction equipment, and noise and vibrations from construction equipment. The areas where authorized take of the Covered Species is expected to occur include: vernal pool 1, vernal pool 2, and general

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

Covered Species across the Project location as shown in Figure 3, Project Impact Map.

The Project is expected to cause the permanent loss of 0.0089 acres of aquatic habitat and 1.86 acres of upland habitat, and the temporary loss of 0.095 acres of aquatic habitat and 3.36 acres of upland habitat for the Covered Species (Figure 3). Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from tunneling and capture and relocation, and long-term effects due to displacement from preferred habitat, and increased competition for food and space.

**Incidental Take Authorization of Covered Species:**

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

**Conditions of Approval:**

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration (SCH No.: 2018052029) adopted by California Department of Transportation on August 7, 2018, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. 1600-2019-0215-R2) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.

**4. 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.

**5. General Provisions:**

5.1. 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.

5.2. 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 and natural history 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.

5.2.1. Designated Capture and Handling Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Designated Capture and Handling Biologist (Capture Biologist) responsible for Covered Species Encounters as defined in Condition of Approval 7.8 at least 30 days before starting Covered Activities. Permittee shall ensure that the Capture Biologist is knowledgeable and experienced in the biology, has the valid handling authorizations for the Covered Species, and is experienced in the natural history of the Covered Species. The Capture 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 Capture Biologist in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Capture Biologist must be changed.

5.2.2. Capture Biologist Role. For the purposes of this ITP, the approved Capture Biologist may fulfil any role of the Designated Biologist including monitoring, reporting, or other requirements of this ITP.

- 5.3. 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.
- 5.4. 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. 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 annually for long-term or permanent employees and include training for any personnel performing maintenance on completed portions of the Project.
- 5.5. 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.
- 5.6. 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.
- 5.7. 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.
- 5.8. 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.

- 5.9. Delineation of Property Boundaries. 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.
- 5.10. 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.
- 5.11. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area 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 5.10 of this ITP.
- 5.12. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 5.13. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.14. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all 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. Notification and Reporting Provisions:**

- 6.1. 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.
- 6.2. 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.

- 6.3. 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.
- 6.4. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is CESA Desk, (R2CESA@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.
- 6.5. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.6. Final Mitigation Report. No later than 45 days after Project completion, 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 Monthly Compliance Reports; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to

more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

6.7. Covered Species Injury or Death. The Permittee shall immediately notify the Designated Biologist if a Covered Species is injured or killed 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 shall immediately take the injured Covered Species to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility in the Plan described in Condition of Approval 7.9. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Designated Biologist shall provide initial notification to CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is R2CESA@wildlife.ca.gov. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured, the name of the facility where the animal was taken, and reference ITP# 2081-2019-042-02. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

6.7.1. Deceased Covered Species. If the Covered Species is found recently deceased, the carcass shall be immediately bagged, labeled, and preserved in a freezer. The label shall include time and date, GPS location, circumstances surrounding death (if known), and ITP tracking number 2081-2019-042-02. Specimens shall be delivered to the CDFW Wildlife Investigations Lab, Attention: Deana Clifford, 1701 Nimbus Road Suite D, Rancho Cordova, CA 95670 within two (2) calendar days of the discovery.

## 7. 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:

7.1. Vehicle Speed Limit. The Permittee, Designated Biologist, and work crew shall ensure that Project-related vehicles do not exceed a speed limit of 15 miles per hour when traveling through the Project Area.

7.2. Timing of Work. Covered Activities within Covered Species habitat shall be conducted between May 1 and October 31.

- 7.3. Environmental Sensitive Areas. Permittee shall establish Environmentally Sensitive Areas (ESAs) in the Project Area to minimize the disturbance of Covered species habitat as necessary from Covered Activities. At the discretion of the Designated Biologist, areas within 820 feet of a breeding pond shall be designated ESAs. The Designated Biologist shall identify and flag all potential small mammal burrows and aquatic resources (i.e. wetlands and non-wetland waters as shown in Figure 1) within the Project Area as ESAs. Permittee shall minimize disturbance to ESAs during all phases of the Project. Permittee shall avoid ESAs when siting all staging areas, spoils disposal areas, and borrow pits. Permittee shall not use plastic mono-filament netting on the Project site for ESA fencing, erosion control, or any other purpose to avoid entanglement of Covered Species. The Designated Biologist shall inspect the ESA before the start of each workday and the Permittee shall maintain the ESA until the completion of the Project. Permittee shall remove all ESA material upon completion of the Project. Permittee shall ensure ESAs are clearly visible and recognizable to construction personnel.
- 7.4. Daily Construction Schedule. If Covered Activities must be implemented during the breeding and dispersal season (after October 15 and before July 31), Covered Activities will not start until 30 minutes after sunrise and must be complete 30 minutes prior to sunset.
- 7.5. Covered Species Pre-construction Surveys. No more than 24-hours prior to the commencement of initial ground disturbance, the Designated Biologist shall survey for the Covered Species within 200-feet of suitable habitat. If a Covered Species is found, the Designated Biologist shall delay installation of the exclusion barrier until the Designated Biologist relocates the Covered Species out of the Project Area and in accordance with Condition 7.9 below.
- 7.6. Covered Species Exclusion Fencing. Since Covered Activities must be implemented during the breeding and dispersal season (after October 15 and before July 31), Permittee shall install exclusion fencing around the Project footprint prior to commencing Covered Activities within a Phase. Temporary high-visibility construction fencing will be installed along the edge of work areas, and exclusion fencing will be installed immediately outside of the temporary high-visibility construction fencing to exclude the Covered Species from entering the construction area or becoming entangled in the construction fencing. Exclusion fencing will be at least 3-feet tall and be buried at least 6 inches below the ground to prevent the Covered Species from going under the fencing. Refuge opportunities shall be provided at various locations along the fence, as outlined in Condition of Approval 7.9. Fencing will remain in place until all Covered Activities within the area are complete. No Covered Activities will occur outside the delineated Project footprint. The Designated Biologist must inspect the exclusion fencing and Project site every morning before 7:00 a.m. for integrity and for any entrapped Covered Species. If a Covered Species is encountered, the Permittee shall adhere to Condition of Approval 7.8.

- 7.7. Covered Species Checks. Before the start of work each morning, the Designated Biologist shall check for the Covered Species individuals under all vehicles, equipment, materials, or otherwise suitable locations for the Covered Species to hide. Workers shall inspect under vehicles and equipment for the Covered Species before the vehicles and equipment are moved. If the Covered Species is present, the worker shall notify the Designated Biologist. All ruts and holes near root structures, foundations, abutments, etc., shall be inspected for the Covered Species prior to and during excavation or removal. If the Covered Species is discovered by the Designated Biologist or anyone else, the Capture Biologist shall move the individual as required by Condition of Approval 7.9.
- 7.8. Covered Species Encounter Protocol. If a Covered Species is encountered Covered Activities will be suspended within a 100-foot radius of the animal until the animal is relocated (as described in the Condition of Approval 7.9) by the Capture Biologist. If the animal is handled, a report will be submitted, including date(s), location(s), habitat description, and any corrective measures taken to protect the Covered Species, within two (2) calendar days to CDFW. The Designated Biologist will report any take of the Covered Species to CDFW as required by Condition of Approval 6.7. Any worker who inadvertently injures or kills a Covered Species or who finds dead, injured, or entrapped Covered Species shall immediately report the incident to the Designated Biologist.
- 7.9. Covered Species Relocation Plan. Permittee shall ensure the Capture Biologist prepares a Covered Species Relocation Plan (Relocation Plan) for Covered Activities. The Relocation Plan shall include the name(s) of the Capture Biologist who will relocate the Covered Species; pre-construction habitat assessment methodology; identification of refuge areas along the exclusion fencing, capture, handling, and relocation methods; a map and description of the relocation area(s) for captured Covered Species, including relative location, quality of habitat, non-native species or the potential for Covered Species-barred tiger salamander hybrids to be present, identified upland burrows determined to be suitable for Covered Species placement, distance to aquatic habitat, and potential barriers for movement; written permission from the landowner to use their land as a relocation site; and identification of a wildlife rehabilitation center or veterinary facility that routinely evaluates or treats Covered Species. Permittee shall submit the Relocation Plan to CDFW at least 30 days prior to the beginning of any Covered Activities.
- 7.9.1. Covered Species Relocation. If Covered Species is encountered within a construction site, it is directly threatened by Covered Activities, and it is unable to move to a safe area on its own, the Capture Biologist shall relocate Covered Species to a safe area in accordance with the Relocation Plan. Otherwise, Covered Species may only be captured and handled by the Capture Biologist. The Permittee or Designated Representative shall notify CDFW within 24 hours of each time Covered Species is relocated. Notification to CDFW shall be via

telephone or email, followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident.

- 7.10. Avoid Covered Species Entrapment. Permittee shall ensure all excavated locations, steep-walled holes, or trenches more than six (6) inches deep are completely covered or one or more escape ramps of earth fill or wooden planks are installed at the end of each workday or 30 minutes prior to sunset, whichever occurs first. All steep-walled holes or trenches will be inspected by the Designated Biologist each morning to ensure that no wildlife has become entrapped. All construction pipes, culverts, similar structures, construction equipment, and construction debris left overnight will be inspected for Covered Species by the Designated Biologist prior to being moved. If a Covered Species is encountered, refer to Condition of Approval 7.8.
- 7.11. Erosion Control Materials. If erosion control is implemented within, non-entangling erosion control material will be used to reduce the potential for entrapment. Tightly woven fiber netting (mesh size less than 0.25 inch) or similar material will be used to ensure the Covered Species is not trapped (no monofilament). Coconut coir matting and fiber rolls with burlap are examples of acceptable erosion control materials.
- 7.12. Inspection of Refuge Habitat. All potential refuge features (e.g. debris piles), created as a result of the Project shall be inspected by the Designated Biologist for the Covered Species prior to removal. The Designated Biologist shall inspect the debris piles for the Covered Species as the debris is being loaded onto trucks.
- 7.13. Soil Stockpiles. Permittee shall place soil stockpiles where soil will not pass into potential Covered Species breeding ponds; nor shall it pass into any other "Waters of the State," in accordance with Fish and Game Code section 5650 *et seq.* Permittee shall use appropriate best management practices to protect stockpiles and prevent soil erosion.
- 7.14. Rodent Control. At no time during the life of the Project shall rodenticides or other poisons used in the control of burrowing animals be used by Permittee in the Project Area.

## **8. Habitat Management Land Acquisition:**

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

To cover permanent and temporary impacts and financial amount needed to implement the Conditions of Approval within this ITP, the Permittee shall purchase 0.31 acres of Covered Species aquatic credits and 15.84 acres of Covered Species upland credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) prior to initiating Covered Activities.

8.1. Cost Estimates. CDFW has estimated the cost of purchasing credits from a CDFW-approved mitigation or conservation bank and implementing avoidance measures as follows:

8.1.1. Purchase of 0.31 acres of Covered Species aquatic credits and 8.95 acres of Covered Species upland credits, for permanent and temporary impacts, at a CDFW-approved mitigation or conservation bank is estimated at \$225,500;

8.1.2. Reporting and implementation of Conditions of Approval within this ITP are estimated at \$137,800. In place of providing a Security for this amount, the Permittee shall purchase an additional 6.89 acres of Covered Species upland habitat. Permittee shall implement all Conditions of Approval, to ensure the mitigation proposed is sufficient to offset the impacts to the Covered Species.

8.1.3. Purchase total for 0.31 acres of Covered Species aquatic and 15.84 acres of upland Covered Species habitat described above is estimated at \$363,300.

8.2. Covered Species Credits. Permittee shall purchase 0.31 acres of Covered Species aquatic credits and 15.84 acres of Covered Species upland habitat (8.95 acres for permanent and temporary upland impacts and an additional 6.89 acres to cover the \$137,800 needed to implement the Conditions of Approval) from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities.

**Amendment:**

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

**Stop-Work Order:**

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by CDFW upon receipt of any

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

**Compliance with Other Laws:**

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

**Notices:**

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

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2019-042-02) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

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

and a copy to:

Habitat Conservation Planning Branch  
California Department of Fish and Wildlife  
Attention: CESA Permitting Program  
Post Office Box 944209

Sacramento, CA 94244-2090

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

Region 2, CESA Desk  
 California Department of Fish and Wildlife  
 1701 Nimbus Road  
 Rancho Cordova, CA 95670  
 Telephone (916) 358-2930  
 Fax (916) 358-2912

**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 (SCH No.: 2018052029) that the California Department of Transportation certified for the Liberty Road/SR-88 Safety Improvements on July 31, 2018. At the time the lead agency certified the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

**Findings Pursuant to CESA:**

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

CDFW finds based on substantial evidence in the ITP application, the Mitigated Negative Declaration, 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:

Incidental Take Permit  
 No. 2081-2019-042-02  
 CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 10  
 LIBERTY ROAD/SR-88 SAFETY IMPROVEMENTS

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Monthly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined the purchase of 0.31 acres of Covered Species aquatic credits and 15.84 acres of Covered Species upland credits from a CDFW-approved mitigation or conservation bank, along with minimization, and reporting requirements in this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

**Attachments:**

FIGURE 1

Map of Project Location

FIGURE 2  
FIGURE 3  
ATTACHMENT 1

Project Plans  
Project Impact Map  
Mitigation Monitoring and Reporting Program

**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

on 5/19/2020

DocuSigned by:  
*Kevin Thomas*

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Kevin Thomas, Regional Manager  
NORTH CENTRAL REGION

**ACKNOWLEDGMENT**

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

By: DocuSigned by: Parisa Rasouli Lodge Date: 5/21/2020  
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Printed Name: DocuSigned by: Parisa Rasouli Lodge Title: Project Manager  
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