



California Department of Fish and Wildlife
INLAND DESERTS REGION
3602 INLAND EMPIRE BLVD. SUITE C-220
ONTARIO, CA 91764

California Endangered Species Act
Incidental Take Permit No. 2081-2020-021-R6

TEN WEST LINK TRANSMISSION LINE PROJECT

I. 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 However, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c). (See Cal. Code Regs., tit. 14, § 783.4).

| | |
|---------------------------|---|
| Permittee: | DCR Transmission, LLC |
| Principal Officer: | Himanshu Saxena, Mr. |
| Contact Person: | Jason Crew, (713) 569-8995 |
| Mailing Address: | 5 Greenwich Office Park 2nd Floor Greenwich CT, 06831 |

II. Effective Date and Expiration Date of this ITP:

This ITP shall become effective when signed by all parties and received by CDFW as described in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **December 20, 2026**.

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.

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.

III. Project Location:

The Ten West Link Transmission Line Project (Project) is located in southeastern California, near the city of Blythe, in Riverside County (See Figure 1). The Project is located approximately 4.8 miles south of I-10. The Project site is bounded by the Mule Mountains to the West and Colorado River to the East.

Table 1. Ten West Transmission Line Structure Locations

| Structure ID | APNs | Section(s) | Township & Range | USGS Quad | Latitude* | Longitude |
|--------------|-----------|------------|------------------|-----------|-------------|--------------|
| 344 | N/A | 26 | T7SR23E | Blythe | 33.53847749 | -114.551187 |
| 345 | 875152003 | 27 | T7SR23E | Blythe | 33.53847433 | -114.5559764 |
| 346 | 875152002 | 27 | T7SR23E | Blythe | 33.53847112 | -114.5605902 |
| 347 | 875152002 | 27 | T7SR23E | Blythe | 33.53846725 | -114.5658488 |
| 348 | 875151016 | 28 | T7SR23E | Blythe | 33.53846313 | -114.5711329 |
| 349 | 875151014 | 28 | T7SR23E | Blythe | 33.53845851 | -114.5767525 |
| 350 | 875151005 | 28 | T7SR23E | Blythe | 33.53845392 | -114.5820481 |
| 351 | 875140011 | 29 | T7SR23E | Blythe | 33.53844955 | -114.5868708 |
| 352 | 875140006 | 29 | T7SR23E | Blythe | 33.53844478 | -114.5919071 |
| 353 | 875140004 | 29 | T7SR23E | Blythe | 33.53843962 | -114.5971382 |
| 354 | 875140016 | 29 | T7SR23E | Blythe | 33.53843479 | -114.6018301 |
| 355 | 875131008 | 30 | T7SR23E | Blythe | 33.53842971 | -114.6066047 |
| 356 | 875131007 | 30 | T7SR23E | Blythe | 33.53842372 | -114.6120172 |
| 357 | 875131006 | 30 | T7SR23E | Blythe | 33.53841875 | -114.6163516 |
| 358 | 875131005 | 30 | T7SR23E | Blythe | 33.53841342 | -114.6208619 |
| 359 | 872130001 | 25 | T7SR22E | Ripley | 33.538407 | -114.6261253 |
| 360 | 872130001 | 25 | T7SR22E | Ripley | 33.53840189 | -114.6301848 |
| 361 | 872130001 | 25 | T7SR22E | Ripley | 33.53839621 | -114.634582 |
| 362 | 872130001 | 25 | T7SR22E | Ripley | 33.53839098 | -114.6385293 |
| 363 | 872110003 | 26 | T7SR22E | Ripley | 33.53838472 | -114.6431325 |
| 364 | 872110001 | 26 | T7SR22E | Ripley | 33.53837808 | -114.6478894 |
| 365 | 872110001 | 26 | T7SR22E | Ripley | 33.53837223 | -114.6519723 |
| 366 | 872110001 | 26 | T7SR22E | Ripley | 33.53836617 | -114.6561015 |
| 367 | 872080006 | 27 | T7SR22E | Ripley | 33.53835898 | -114.6608896 |
| 368 | 872080004 | 27 | T7SR22E | Ripley | 33.53835891 | -114.6652936 |
| 369 | 872080012 | 27 | T7SR22E | Ripley | 33.53836686 | -114.669693 |
| 370 | 872062005 | 27 | T7SR22E | Ripley | 33.53837506 | -114.6743169 |
| 371 | 872062005 | 28 | T7SR22E | Ripley | 33.53838191 | -114.6782617 |
| 372 | 872062004 | 28 | T7SR22E | Ripley | 33.53838888 | -114.6823507 |
| 373 | 872061001 | 28 | T7SR22E | Ripley | 33.53839681 | -114.6871005 |
| 374 | 872061001 | 28 | T7SR22E | Ripley | 33.53840412 | -114.6915755 |
| 375 | 872040005 | 29 | T7SR22E | Ripley | 33.53841098 | -114.6958663 |
| 376 | 872040004 | 29 | T7SR22E | Ripley | 33.53841844 | -114.7006505 |
| 377 | 872040004 | 29 | T7SR22E | Ripley | 33.53842478 | -114.7048065 |
| 378 | 872040004 | 29 | T7SR22E | Ripley | 33.53843067 | -114.7087497 |
| 379 | 872020009 | 30 | T7SR22E | Ripley | 33.5384379 | -114.713716 |
| 380 | 872020009 | 30 | T7SR22E | Ripley | 33.5384439 | -114.7179381 |
| 381 | 872020001 | 30 | T7SR22E | Ripley | 33.53845031 | -114.7225661 |
| 382 | 879130010 | 25 | T7SR21E | Ripley | 33.53845676 | -114.7273563 |
| 383 | 879130018 | 25 | T7SR21E | Ripley | 33.53846405 | -114.732943 |

| | | | | | | |
|-----|-----------|----|---------|----------------|-------------|--------------|
| 384 | 879130033 | 25 | T7SR21E | Ripley | 33.53846949 | -114.7372434 |
| 385 | 879130033 | 25 | T7SR21E | Ripley | 33.5384761 | -114.7426334 |
| 386 | 879130029 | 26 | T7SR21E | Ripley | 33.54002212 | -114.7446029 |
| 387 | 879130006 | 25 | T7SR21E | Ripley | 33.5430306 | -114.7423134 |
| 388 | 879110011 | 24 | T7SR21E | Ripley | 33.54661886 | -114.7395823 |
| 389 | 879110011 | 24 | T7SR21E | Ripley | 33.55012675 | -114.7369122 |
| 390 | 879110011 | 24 | T7SR21E | Ripley | 33.55380849 | -114.7341094 |
| 391 | 879110011 | 24 | T7SR21E | Ripley | 33.55749091 | -114.7313058 |
| 392 | 879110008 | 13 | T7SR21E | Ripley | 33.56126582 | -114.7284315 |
| 393 | 863150003 | 18 | T7SR22E | Ripley | 33.56482256 | -114.7257231 |
| 394 | 863140003 | 18 | T7SR22E | Ripley | 33.56841321 | -114.7229886 |
| 395 | 863140003 | 18 | T7SR22E | Ripley | 33.57156029 | -114.7205916 |
| 396 | 863090002 | 7 | T7SR22E | Ripley | 33.57465416 | -114.7183743 |
| 397 | 863090002 | 7 | T7SR22E | Ripley | 33.57794592 | -114.716015 |
| 398 | 863080002 | 7 | T7SR22E | Ripley | 33.58118252 | -114.713695 |
| 399 | 863080002 | 7 | T7SR22E | Ripley | 33.58372064 | -114.7118755 |
| 400 | 863080002 | 7 | T7SR22E | Ripley | 33.58454147 | -114.7134851 |
| 401 | 863080002 | 7 | T7SR22E | Ripley | 33.58544481 | -114.7190229 |
| 402 | 863080002 | 7 | T7SR22E | Ripley | 33.58636432 | -114.7246615 |
| 403 | 879090049 | 12 | T7SR21E | Ripley | 33.58725942 | -114.730152 |
| 404 | 879090048 | 12 | T7SR21E | Ripley | 33.58814611 | -114.7355925 |
| 405 | 879090035 | 12 | T7SR21E | Ripley | 33.58797807 | -114.740686 |
| 406 | 879090034 | 11 | T7SR21E | Ripley | 33.58784159 | -114.7448191 |
| 407 | 879090034 | 11 | T7SR21E | Ripley | 33.58767828 | -114.7497586 |
| 408 | 879090034 | 11 | T7SR21E | Roosevelt Mine | 33.58753474 | -114.7540954 |
| 409 | 879090034 | 11 | T7SR21E | Roosevelt Mine | 33.58739201 | -114.7584029 |
| 410 | 879090033 | 10 | T7SR21E | Roosevelt Mine | 33.58748501 | -114.7639831 |
| 411 | 879090033 | 10 | T7SR21E | Roosevelt Mine | 33.5882366 | -114.7697249 |
| 412 | 879090033 | 10 | T7SR21E | Roosevelt Mine | 33.58825025 | -114.7750909 |
| 413 | 879080024 | 9 | T7SR21E | Roosevelt Mine | 33.58826339 | -114.7803484 |
| 414 | 879080024 | 9 | T7SR21E | Roosevelt Mine | 33.58827563 | -114.7853235 |
| 415 | 879080014 | 9 | T7SR21E | Roosevelt Mine | 33.58828766 | -114.7902985 |
| 416 | 879080013 | 9 | T7SR21E | Roosevelt Mine | 33.5882995 | -114.7952736 |
| 417 | 879080032 | 8 | T7SR21E | Roosevelt Mine | 33.58831114 | -114.8002486 |
| 418 | 879080027 | 8 | T7SR21E | Roosevelt Mine | 33.58832258 | -114.8052237 |
| 419 | 879080027 | 8 | T7SR21E | Roosevelt Mine | 33.58833231 | -114.8095253 |
| 420 | 879080027 | 8 | T7SR21E | Roosevelt Mine | 33.58516948 | -114.8106646 |
| 421 | 879080023 | 8 | T7SR21E | Roosevelt Mine | 33.58057581 | -114.8123191 |
| 422 | 879080023 | 8 | T7SR21E | Roosevelt Mine | 33.57722494 | -114.8135258 |

IV. Project Description:

The Project includes the development of 102.6 acres of undeveloped land. Project activities include the installation of a single-circuit, series-compensated, 500 kV transmission line between the Delaney Substation in Maricopa County, Arizona, and the Colorado River Substation (CRS) in Riverside County, California. Project activities include expanding and constructing roads, clearing, grading, excavating, installing foundations, erecting structures, stringing conductors and shield wires, installing counterpoise, post construction cleanup, and other activities.

V. Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

| <u>Name</u> | <u>CESA Status</u> |
|-------------|--------------------|
|-------------|--------------------|

- | | |
|---|--|
| 1. Agassiz's Desert Tortoise (<i>Gopherus agassizii</i>) Threatened ^{3a} | |
|---|--|

| | |
|--|------------------------------------|
| | Candidate Endangered ^{3b} |
|--|------------------------------------|

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

VI. 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 expanding and constructing roads, clearing, grading, excavating, installing foundations, erecting structures, stringing conductors and shield wires, installing counterpoise, and post construction cleanup (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality ("kill") may occur as a result of Covered Activities such as collision with, or crushing by, vehicles or heavy equipment, crushing or burial of individuals or eggs in burrows, destruction of burrows and refugia, and increased predation. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so, of the Covered Species, from capture and relocation activities. The areas where authorized take of the Covered Species is expected to occur include: expanded and constructed roads, cleared areas, graded areas, excavated areas, installation foundations, erecting of structures, conductors and shield wire areas, counterpoise areas, post construction cleanup areas, staging areas, and other activity areas (Collectively, the Project Area).

The Project is expected to cause the permanent loss of **14 acres** of habitat for the Covered Species, and temporary loss of **88.6 acres** of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from tunneling and capture and relocation, long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

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

^{3b}See 2020 Cal. Reg. Notice Register, No. 44-Z, pp. 1445-1446 (October 30, 2020).

VII. 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.

VIII. Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Final Environmental Impact Statement (SCH No.: 2018094003), adopted by California Public Utilities Commission on 09/24/2021, and certified as CEQA equivalent as co-lead agency with the Bureau of Land Management (Pub. Resources Code, § 15221, 15225, and 15226) 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.1600-2019-0285-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 Biological Opinion for Activities in the California Desert Conservation Area (FWS-KRN/SBD/INY/LA/IMP/RIV-17B0532-17F1029) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
- 5. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 6. General Provisions:**
 - 6.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated 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(s), Biological Monitor(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance in writing if the Designated Biologist or Biological Monitors(s) must be changed.
- 6.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 6.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. 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 Documentation.** The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format 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 documentation 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.
- 6.9. Delineation of Property Boundaries.** Before starting Covered Activities along each part of the route in active construction, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 6.10. 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, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. 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 mitigation lands under Permittee control and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

6.15. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project 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.

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 if 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 follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.

7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of three times a day (once during the onset of the day's work, once mid-day, and once at the conclusion of that day's work) during periods of inactivity and after clearing, grubbing, and grading are completed. 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 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 Alexander Funk, (Alexander.Funk@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 beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (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 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; (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 animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

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

- 8.1. Herbicides.** Permittee shall only use herbicides containing a harmless dye and registered with the California Department of Pesticide Regulation (DPR). All herbicides shall be applied in accordance with regulations set by DPR. All herbicides shall be used according to labeled instructions. Labeled instructions for the herbicide used shall be made available to CDFW upon request. No herbicide application when winds are greater than ten (10) miles per hour.
- 8.2. Rodenticides and Insecticides.** Permittee shall not use rodenticides and/or insecticides on the Project Area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project Area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project Area without prior written permission from CDFW.
- 8.3. Covered Species Injury.** If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.8. Notification shall include the name of the facility where the animal was taken.
- 8.4. Removal of Debris.** Permittee shall remove all hardened concrete and other loose debris in areas that need to be cleared by slowly removing stored material starting from the top and working down to ground level, rather than scooping from the ground up. This method will minimize the possibility of harming a Covered Species using the debris as shelter and will allow them to escape.
- 8.5. Entrapment Inspections.** Any pipes, culverts, or similar structures with a diameter greater than 3 inches and less than 8 inches aboveground shall be inspected by the Designated Biologist(s) or Biological Monitor(s) for Covered Species before the material is moved, buried, or capped. The Designated Biologist(s) or Biological Monitor(s) shall inspect all open holes and trenches within Covered Species habitat at a minimum of twice a day and just prior to back-filling. At the end of each workday, Permittee shall place an escape ramp at each end of trenches to allow any animals that may have become trapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed at an angle no greater than 30 degrees. If any worker discovers that Covered Species have become trapped, they shall halt Covered Activities and notify the Designated Biologist(s) immediately. Project workers and the Biological Monitor(s) or Designated Biologist(s) shall allow the Covered Species to escape unimpeded if possible, or a Designated Biologist(s) approved under Condition of Approval 6.2 of this ITP shall move the Covered Species out of harm's way before allowing work to continue.
- 8.6. Pre-Construction Surveys.** No more than 30 calendar days prior to start of Covered Activities, the Designated Biologist(s) and/or Biological Monitor(s) approved under this ITP shall conduct pre-construction surveys for desert tortoise, using the methods described in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise (Mojave Population) Field Manual

(hereinafter referred to as USFWS Field Manual). In addition to the guidance provided in the USFWS Field Manual, CDFW provides the following requirement(s):

- 8.6.1. These surveys shall cover 100 percent of the Project Area and a 50-foot buffer zone. The Biological Monitor(s) or Designated Biologist(s) shall record all potential Covered Species and burrows within the pre-construction survey area, using high-accuracy (< 1 meter) global positioning system (GPS) technology. The Biological Monitor(s) or Designated Biologist(s) shall provide the results of the pre-construction (using the USFWS Protocol data sheet) to CDFW within 10 Calendar days of completing the surveys. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.
- 8.6.2. Twenty-Four (24) hours prior to the start of Covered Activities, the Biological Monitor(s) and/or Designated Biologist(s) shall conduct a clearance survey of the immediate Project Area. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.

8.7. Construction Monitoring. Biological Monitor(s) and Designated Biologist(s) shall be present at all times during Covered Activities.

8.8. Desert Tortoise Observations. If a Desert Tortoise is observed during Covered Activities all work within 300 feet of the Desert Tortoise shall immediately stop and the observation shall be immediately reported to the Designated Biologist(s). Covered Activities shall not resume until the Designated Biologist(s) and/or Biological Monitor(s) has verified the Desert Tortoise has left the Project Area OR a Designated Biologist(s) approved under Condition of Approval 6.2 of this ITP relocates the desert tortoise as described in this ITP. The Designated Representative shall immediately notify CDFW of any Covered Species observations within the Project Area. Notification shall occur as described in Condition of Approval 7.8 within 24 hours. Notification and the written report shall include the date, location, and circumstances of the observation, the name of the Designated Biologist(s) that relocated the individual, pictures, map and shapefiles with the location (including GPS coordinates) where the individual was moved as specified in the Desert Tortoise Translocation Plan (DTTP).

8.9. Excavating Burrows. Only Designated Biologist(s) and Biological Monitor(s) approved by CDFW under Condition of Approval 6.2 of this ITP are authorized to conduct burrow excavation. Excavation of burrows shall follow the methods described the USFWS Field Manual.

8.10. Ambient Air Temperature. During all handling procedures, desert tortoises shall be treated in a manner to ensure that they do not overheat or exhibit signs of overheating (e.g., gaping, foaming at the mouth, etc.), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Desert Tortoises shall be kept shaded at all times until it is safe to release them. For the purposes of this permit, ambient air temperature shall be measured in the shade, protected from wind, at a height of 5 centimeters above the ground surface. For all Covered Activities no desert tortoise shall be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95° Fahrenheit (F) (35° Celsius (C)). No desert tortoise shall be captured if the ambient air temperature is anticipated to exceed 95° F (35° C) before handling or processing can be completed. If the ambient air temperature exceeds 95° F (35° C) during handling or processing, desert tortoises shall be kept shaded

in an environment that does not exceed 95° F (35° C), and not released until ambient air temperature declines to below 95°F (35°C). Desert Tortoises moved during periods of ambient air temperature of less than 95° F (35° C) shall be monitored by the Designated Biologist(s) for at least two days after placement in the new burrows to ensure their safety. During relocation, the Designated Biologist(s) may hold a captured desert tortoise overnight and move them the following morning within these temperature constraints.

- 8.11. Desert Tortoise Rehydration.** If a Covered Species voids its bladder as a result of being handled, the Designated Biologist(s) shall rehydrate the animal(s). The Designated Biologist(s) shall rehydrate the Covered Species at the location where the animal(s) was or were captured, or the location where the animal(s) is or will be released. The Designated Biologist(s) shall rehydrate the Covered Species by placing it in a tub with a clean plastic disposable liner. The Designated Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the Covered Species. The Designated Biologist(s) shall rehydrate each Covered Species individually for a minimum of 10 to 20 minutes. The Designated Biologist(s) shall place the lined tub in a quiet protected area during rehydration.
- 8.12. Desert Tortoise Handling Records.** The Designated Biologist(s) and/or Biological Monitor(s) shall maintain a record of all Desert Tortoises handled. This information shall include: (a) the locations (narrative and maps) and dates of observation, including whether the individual(s) was found above ground or in a burrow; (b) ambient temperature when handled and released; (c) general condition and health of the individual(s), including injuries, state of healing, and whether the individual(s) voided its bladders; (d) identified diagnostic markings (i.e., identification numbers or marked lateral scutes); (e) location moved from and location moved to (using GPS technology), including information on any burrow (natural or artificial) utilized; (f) whether any eggs were discovered and relocated; (g) digital photographs of any desert tortoises and eggs handled; and (h) results of ongoing monitoring. The Designated Representative(s) shall provide CDFW with the information listed above submitted in the quarterly reports.
- 8.13. Vehicle Inspection.** Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Designated Biologist(s), or Biological Monitor(s), and wait for the Covered Species to move unimpeded to a safe location or the Designated Biologist(s) shall relocate the Covered Species as described in Condition of Approval 8.10 before moving vehicles and equipment.
- 8.14. Covered Species Temporary Fencing.** If parking areas must occur outside desert tortoise fencing, then all parked vehicles outside of the Project Area shall be inspected prior to being moved. Temporary fencing may be placed along project roadways, adjacent to staging areas, and along the perimeter of the new TWL tower sites to avoid direct take of the Covered Species during construction. Prior to any work being performed within a temporary fence enclosure, clearance protocol level surveys shall be conducted as described in Condition of Approval 8.6. If temporary fencing is not constructed a Designated Biologist and/or Biological Monitor must be present at each location where covered activities are occurring as stated in Condition of Approval 7.3. The temporary fence shall be constructed according to USFWS Field Manual and inspected at the end of each workday, during major rainfall events, and within 24 hours to ensure Covered Species is prohibited from entering the Project Area. Once construction is complete all temporary fencing shall be removed. If a tortoise is found beneath a vehicle, the vehicle shall not be moved until the Covered Species leaves on its own

accord. If the tortoise does not move out from underneath the vehicle on its own within a minimum of 20 minutes, the Designated Biologist shall be contacted to move the animal out of harm's way.

8.15. Covered Species Fence Maintenance Inspection. The Biological Monitor(s) and/or Designated Biologist(s) shall inspect the Covered Species fencing during the Covered Activities, at the end of each workday, and during major rainfall events and within 24 hours to ensure Covered Species is prohibited from entering the Project Area. If the fence is compromised, repairs shall be completed immediately, and clearance protocol level surveys shall be conducted as described in Condition of Approval 8.6.

8.16. Raven Management. The Permittee shall prepare a Raven Management Plan to minimize the potential to attract common ravens to the site and submit it to CDFW for review and approval. In addition, the Permittee shall provide funds to the Renewable Energy Action Team (REAT) account established with the National Fish and Wildlife Foundation (NFWF) to contribute to a region-wide raven control plan to help address raven predation on the tortoise. This contribution shall be used to address raven predation on a regional basis and shall be calculated as a one-time payment of \$105 per acre of project disturbance. Based on this calculation the Permittee shall provide a one-time payment at \$105 for **102.6 acres** for a total of **\$10,773** to the REAT account established with NFWF's Raven Management Plan fund. A minimum of **30 days** prior to the start of Covered Activities these funds shall be provided to NFWF using appropriate deposit document (Attachment 4) and proof of paying this fee shall be provided to CDFW within **24 hours** after the funds have been provided to NFWF.

9. Habitat Management Land Acquisition and Restoration: 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 for both the permanent protection and management of **280.2 acres** of Habitat Management (HM) lands pursuant to Condition of Approval 9.2 below, and the calculation and deposit of the management funds pursuant to Condition of Approval 9.3 below. Permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall also restore on-site **88.6 acres** of temporarily impacted Covered Species habitat pursuant to Condition of Approval 9.5 below.

9.1. Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.2 below, estimated at \$1800/acre for **280.2 acres: \$504,360**. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 9.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 9.2.1 and 9.2.2 below: **\$17,440**.
- 9.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.6 below, estimated at **\$84,060**; including.

- 9.1.4. Interim management period funding as described in Condition of Approval 9.2.7 below, estimated at **\$84,060**;
- 9.1.5. Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$1450/acre for **280.2 acres: \$406,290**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
- 9.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.3, estimated at **\$3,000**.
- 9.1.7. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.5 calculated at \$1500/acre for **88.6 acres: \$132,900**.
- 9.1.8. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work: **\$209,280**.

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

- 9.2.1. Fee Title. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.
- 9.2.2. Conservation Easement. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended, and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
- 9.2.3. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;

9.2.4. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;

9.2.5. 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. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.

9.2.6. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://www.wildlife.ca.gov/Conservation/Planning/Banking/Templates>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;

9.2.7. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management.

Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement sub-account with the National Fish and Wildlife Foundation (NFWF) for annual payment to the land manager, or (4) establish a short-term enhancement account with CDFW for annual account with CDFW or a CDFW-approved entity for payment to the land manager.

9.3. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.2, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the

perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 9.2.7. 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.

9.3.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.

Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).

Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).

9.3.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.

9.3.2.1. 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.

9.3.2.2. 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:

9.3.2.2.1. 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.

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

9.3.2.2.3. 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.

9.3.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.

9.3.4. Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.

Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.

9.4. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

9.5. Habitat Restoration. Permittee shall restore on-site the **88.6 acres** of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. Within 6 months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate

revegetation of the **88.6 acres** of temporary construction disturbance on-site and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes and application methods. The plan shall also indicate the best time of year for seeding to occur. Plantings undertaken between February 15 and July 31 shall include regular watering to ensure adequate growth. The Plan shall include minimum avoidance, minimization, restoration measures and success criteria.

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

- 10.1. Security Amount.** The Security shall be in the amount of **\$1,441,390.00** or in the amount identified in 9.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.
- 10.2. Security Form.** The Security shall be in the form of an irrevocable letter of credit (see Attachment 2), or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.
- 10.3. Security Timeline.** The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.
- 10.4. Security Holder.** The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.
- 10.5. Security Transmittal.** If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 2) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.
- 10.6. Security Drawing.** The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.
- 10.7. Security Release.** The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
 - Written documentation of the acquisition of the HM lands;
 - Copies of all executed and recorded conservation easements;
 - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
 - Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

IX. 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.

X. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order 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, regardless of whether that species is a Covered Species under this ITP. 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 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. 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.

XI. Liability:

All terms and conditions of this ITP shall be binding upon each Permittee. Notwithstanding California Civil Code section 1431 or any other provision of law, each Permittee shall be jointly and severally liable for performance of all terms, conditions, and obligations of this ITP and shall be jointly and severally liable for any unauthorized take or other violations of this ITP, whether committed by Permittees or any person acting on behalf of one or more Permittees, including their officers, employees, representatives, agents or contractors and subcontractors. Any failure by one or more Permittees to comply with any term, condition, or obligation herein shall be deemed a failure to comply by all Permittees.

XII. 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.

XIII. Notices:

The Permittee shall sign and return this ITP to CDFW. A manual or digital signature is acceptable, provided a digital signature complies with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned. Manual (wet) signatures on duplicate original paper copies shall be returned by the Permittee via 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 email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the

Incidental Take Permit
No. 2081-2020-021-R6
DCR TRANSMISSION, LLC
TEN WEST TRANSMISSION LINE PROJECT

Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2020-021-R6) 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

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
CESA@wildlife.ca.gov

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

Alexander Funk
P.O. Box 2160
Blythe, CA 92225
(760) 922-6783
Alexander.Funk@wildlife.ca.gov

XIV. Compliance with California Environmental Quality Act:

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 Public Utilities Commission (CPUC). (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Final Environmental Impact Statement and Proposed Resource Management Plan Amendments for the Ten West Link Transmission Line Project, (SCH No.: 2018094003) dated September 20, 2019, that the California Public Utilities Commission certified for the Ten West Link Transmission Line Project on September 24, 2021. At the time the lead agency certified the Final Environmental Impact Statement and Proposed Resource Management Plan Amendments 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 Final Environmental Impact Statement and Proposed Resource Management Plan Amendments 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.

XV. 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, subs., (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, Final Environmental Impact Statement and Proposed Resource Management Plan Amendments for the Ten West Link Transmission Line Project, Record of Decision (BLM, 11/2019), Notice of Determination filed by CPUC, dated (11/09/2021), the results of site visits and consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project 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 **280.2 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 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.

XVI. Attachments:

| | |
|--------------|---|
| FIGURE 1 | Map of Project |
| ATTACHMENT 1 | Mitigation Monitoring and Reporting Program |
| ATTACHMENT 2 | Letter of Credit Form |
| ATTACHMENT 3 | Mitigation Payment Transmittal Form |
| ATTACHMENT 4 | Non-Renewable Energy Raven Form |

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 12/20/2021

DocuSigned by:

8091B1A9242F49C... 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


DocuSigned by:

974D573F6EB4456... Date 1/26/2022
By: _____
Printed Name: Himanshu Saxena Title: Managing Director

Figure 1. The Ten West Transmission Line Project Overview 1/2

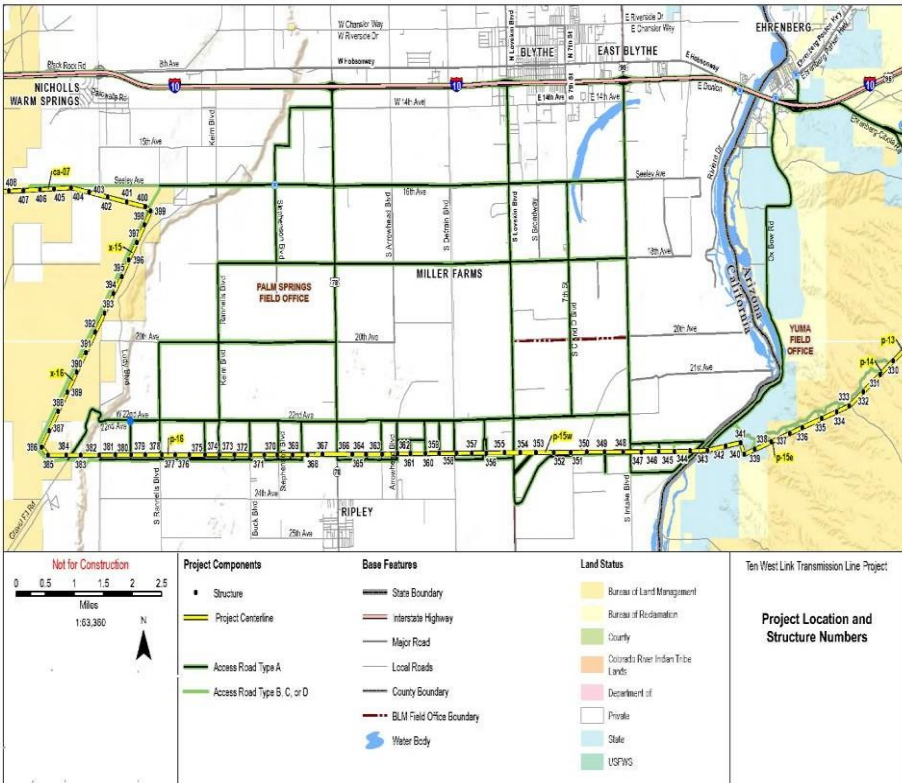


Figure 1. The Ten West Transmission Line Project Overview 2/2

