



California Department of Fish and Wildlife
NORTH CENTRAL REGION
1701 Nimbus Road, Suite A
Rancho Cordova, CA 95670

California Endangered Species Act
Incidental Take Permit No. 2081-2023-014-02

Dog Bar Road Bridge Replacement 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:	Nevada County Department of Public Works
Principal Officer:	Patrick Perkins, Principal Civil Engineer
Contact Person:	Hanna Sheldon, (916) 858-0642
Mailing Address:	950 Maidu Avenue, Suite 170 Nevada City, CA 95959

II. Effective Date and Expiration Date of this ITP:

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species (defined below) shall expire on **July 1, 2029**.

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 6.7 of this ITP.

¹ 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".])

² 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.

III. Project Location:

The Dog Bar Road Bridge Replacement Project (Project) is located on Dog Bar Road as it crosses the Bear River, connecting Nevada County to Placer County (See Figure 1). The Project is located approximately 1.8 miles west of Interstate 80 at latitude 39.06211° and longitude -121.002935°. The Bear River is a tributary to the Feather River that carries snow melt from the Sierra Nevada Mountain range.

IV. Project Description:

The Project includes the replacement of an existing bridge with a new bridge with a broadened curve radius and wider lanes on a new roadway alignment. Project activities include grubbing and grading of the new roadway alignment, temporary dewatering of portions of Bear River, falsework and temporary trestles along the existing and new bridges, large scale concrete molds, road construction, the removal of trees, rocks, boulders, and other woody debris, as well as 100 square feet of rock slope protection will be permanently placed within the foothill riparian habitat. Construction will primarily occur over the summer and winter and take approximately 14 months to complete.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ³
1. Foothill Yellow-legged Frog (<i>Rana boylei</i>)	Threatened ⁴

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 installation of exclusion fencing, staging and access areas, initial clearing and grubbing, seasonal water exclusions and temporary trestles, new bridge construction and roadway realignment, bridge demolition, Covered Species breeding and upland habitat enhancements, and foothill riparian revegetation (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 initial vegetation clearing and grubbing, installation of a temporary bladder dam and gravel berm along the western bank of the Bear River, and demolition of the existing bridge. Incidental take of individuals of the Covered Species may

³ Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

⁴ See Cal. Code Regs. tit. 14 § 670.5, subd.

also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from moving the Covered Species away from active construction areas within the project area. The areas where authorized take of the Covered Species is expected to occur include: The streambed of Bear River, the adjacent foothill riparian habitat, and the upland foothill habitat surrounding Dog Bar Road along Bear River (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.12 acres of habitat for the Covered Species, and temporary loss of 0.98 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 clearing and grubbing, capture and relocation, and long-term effects due to increased pollution from traffic and human activity.

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 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.: 2021030520) adopted by Nevada County on June 22, 2021, 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) (EPIMS Notification No. EPIMS-NEV-30780-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(s) and Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 3) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist and Biological Monitor are knowledgeable and experienced in the biology, natural history, and handling of the Covered Species. The Designated Biologist and Biological Monitor 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 and Biological Monitor in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist or Biological Monitor must be changed.

5.3. 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 unrestricted 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.

- 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 prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. 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 at least once annually for employees that will be conducting work in the Project Area.
- 5.5. Construction Monitoring Documentation.** The Designated Biologist and Biological Monitor 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.
- 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, ideally at daily intervals but 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 along Dog Bar Road, bridge approaches, and staging areas, 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 within the Project area.
- 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. Project Access.** Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or enroute 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.
- 5.12. 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 5.11 of this ITP.
- 5.13. 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.
- 5.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project site, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 5.15. 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.

- 5.16. Decontamination of Project Equipment.** Permittee shall decontaminate all tools, waders and boots, and other equipment that will enter the water prior to entering and exiting the project site to avoid the introduction and transfer of organisms. Permittee shall decontaminate project gear and equipment that will enter the water by utilizing one of three methods: drying, using a hot water soak, or freezing, as appropriate to the type of gear or equipment. For all methods, Permittee shall begin the decontamination process by thoroughly scrubbing personal equipment, paying close attention to small crevices such as boot laces, seams, net corners, etc., with a stiff-bristled brush to remove all organisms. To decontaminate by drying, Permittee shall allow larger equipment to dry thoroughly (i.e., until there is a complete absence of water), preferably in the sun, for a minimum of 48 hours. To decontaminate using a hot water soak, Permittee shall immerse equipment in 140 degrees Fahrenheit or hotter water and soak for a minimum of five minutes. To decontaminate by freezing, Permittee shall place equipment in a freezer 32 degrees Fahrenheit or colder for a minimum of eight hours. Repeat decontamination is required only if the equipment/clothing is removed from the site, used within a different waterbody, and returned to the project site.
- 5.17. Decontamination Sites.** Permittee shall perform decontamination of vehicles, watercraft, and other project gear and equipment in a designated location where runoff can be contained and not allowed to pass into waters of the state (Fish & G. Code § 89.1), the stream bed, bank, channel (including but not limited to dry, ponded, flowing, or wetland areas), drainages, lakes, or other sensitive habitat.
- 5.18. Stationary Equipment Leaks.** Stationary equipment such as motors, pumps, generators, and welders shall be positioned over drip pans and secondary containment, as necessary. Stationary equipment shall have suitable containment to handle any spill/leak. Equipment shall be stored in areas that any possible contamination from the equipment would not pass into waters of the state (Fish & G. Code § 89.1), the stream bed, bank, channel (including but not limited to dry, ponded, flowing, or wetland areas), drainages, lakes, or other sensitive habitat.

6. Monitoring, 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 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 recommended measures to remedy the situation.

6.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum: after clearing, grubbing, and grading are completed, and weekly during periods of inactivity (daily, if ambient daily temperatures exceed 75 degrees). 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 both CDFW's Regional and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional email is (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. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR

shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.4; (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; and (7) information about other Project impacts on the Covered Species.

6.6. 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 Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.

6.7. Final Mitigation Report. No later than 60 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 Monthly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

6.8. 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 (916) 358-2900. 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.

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. Work Period.** Work within Covered Species habitat shall be confined to the period March 15 to December 31.
- 7.2. Designated Biologist.** The Designated Biologist will be onsite daily within the Project Area when dewatering and diverting of the Bear River occurs. If the Designated Biologist encounters any Covered Species adults or tadpoles, the biologist shall allow it to move away unharmed or be relocated within the project area where no work will occur (per Condition of Approval 7.7).
- 7.3. Pre-Construction Surveys.** Permittee is responsible for surveying for Covered Species (including egg masses, tadpoles, sub-adults, and adults). The purpose of the survey shall be to determine if and where the Covered Species are located in the Project Area. The Designated Biologist shall prepare and submit to the CDFW for review a written report of the survey results 10 days before beginning work. If Covered Species egg masses are found, Permittee shall alter or redesign Covered Activities to avoid negative impacts to breeding areas or relocate the egg masses in accordance with the Relocation Plan (Condition of Approval 7.6.).
- 7.4. 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.
- 7.5. Avoid Covered Species Entrapment.** Permittee shall ensure all excavated locations, steep-walled holes, or trenches more than six 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 Covered Species, or other wildlife, has not 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.
- 7.6. Covered Species Relocation Plan.** Permittee shall ensure the Designated Biologist prepares a Relocation Plan (Relocation Plan) for all life stages of the Covered Species. The Relocation Plan shall include the name(s) of the Designated Biologist who will relocate the Covered Species; pre-construction habitat assessment methodology; identification of refuge areas, capture, handling, and relocation methods; a map and description of the relocation area(s) for captured Covered Species, including relative location, quality of habitat, distance to aquatic habitat, and

potential barriers for movement; written permission from the landowner to use their land as a relocation site, if applicable; and identification of a CDFW-approved wildlife rehabilitation center or veterinary facility that routinely evaluates or treats Covered Species. Permittee shall submit the Relocation Plan to CDFW at least three days prior to the beginning of any Covered Activities.

- 7.7. Relocation.** If Covered Species are found during Covered Activities, they shall be relocated to suitable habitat outside of the Project limits. The procedure for relocating species shall be consistent with the following protocol: (1) leave the non-injured Covered Species alone or (2) move the Covered Species to a nearby location. These options are described in detail as follows:
- 7.7.1. Leave Covered Species Alone.** When a Covered Species is encountered in the Project Area, the first priority will be to temporally stop activities in the immediate surrounding area that may result in injury or death of the individual as determined by the Designated Biologist. The Designated Biologist will then assess the situation to select a course of action that will minimize adverse effects to the Covered Species. The Designated Biologist will determine if the appropriate course of action is to avoid contact with the Covered Species and allow it to move out of the hazardous situation on its own volition to a safe location. The Covered Species shall not be moved solely because it is not moving fast enough, or it is inconvenient for the Project schedule. This protocol only applies to situations where a Covered Species is encountered on the move to a location that contains habitat that will not be damaged or destroyed by the Project.
- 7.7.2. Relocation Methodology.** The Designated Biologist will ensure the Relocation Plan includes all the necessary components of this Condition of Approval. If the Designated Biologist determines the appropriate course of action to prevent the immediate injury or death of a Covered Species is to move it, it will be captured and moved to a location with suitable habitat that is not proposed for construction, tree or vegetation removal, timber harvest, borrow excavation, or other activities. The relocation shall be along the same waterbody that the individual was captured and outside the Project Area. The Designated Biologist will monitor the Covered Species for an appropriate period of time to ensure it does not re-enter a work area. If secure suitable habitat is located immediately adjacent to, or close to, where the Covered Species was captured, the preferred action is relocation to that location. A general guidance is the Covered Species shall not be moved outside of the area it would have traveled on its own. The Covered Species shall only be relocated to a property with the landowner's written permission. Only the Designated Biologist may capture and handle Covered Species. Nets or bare hands may be used to capture the Covered Species. Soaps, oils, creams, lotions, repellents, or solvents of any sort shall not be used on hands within two hours before and during periods

when the Designated Biologist is capturing and relocating a Covered Species. To avoid transferring disease or pathogens between sites when handling the Covered Species, the Designated Biologist will follow the appropriate recommendations in the Declining Amphibian Population Task Force Fieldwork Code of Practice (<https://www.fws.gov/sites/default/files/documents/declining-amphibian-task-force-fieldwork-code-of-practice.PDF>).

- 7.8. 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 6.8. Notification shall include the name of the facility where the animal was taken.
- 7.9. Fencing Environmentally Sensitive Areas (ESAs).** Permittee shall establish ESAs in the Project Area, by installing orange construction barrier fencing, to prevent encroachment of construction personnel and equipment into areas of Covered Species habitat that are outside of or adjacent to the Project footprint no more than five days prior to the commencement of Covered Activities. All potential Covered Species habitat that can be reasonably avoided during construction activities shall be identified as ESAs. All construction personnel shall avoid ESAs. Permittee shall avoid ESAs when siting all Staging Areas, spoils disposal areas, and construction equipment access routes. The ESAs shall be identified on all engineering plans or construction specifications. A Designated Biologist shall inspect the fencing before the start of each workday and Permittee shall maintain the fencing until the completion of the Project. Fencing shall be removed upon completion of Covered Activities.
- 7.10. Exclusion Fencing.** Permittee shall install exclusionary fencing linearly, where feasible and safe to do so, along the Bear River to help prevent the Covered Species from traveling toward the Project Area. The exclusionary fencing shall consist of 3-foot-tall silt fencing buried 6-inches below ground level. Permittee shall install the fencing at least 10 feet from aquatic habitat to reduce the hazard of trenching to the Covered Species. When trenching is not feasible, Permittee shall fold the fencing and place contiguous sandbags on the fence in order to anchor it to the ground. The Designated Biologist shall check the fencing each morning to ensure no Covered Species have moved into the Project Area.
- 7.11. Invasive Species.** Permittee shall conduct Covered Activities in a manner that prevents the introduction, transfer and spread of aquatic, riparian, and terrestrial invasive species from one work site and/or water body to another. Prevention Best Management Practices and guidelines for invasive plants can be found on the California Invasive Plant Council's website at: <https://www.cal-ipc.org/> and for invasive

mussels and aquatic species can be found at the Stop Aquatic Hitchhikers website: <https://stopaquaticitchhikers.org/>. Permittee shall notify the Department immediately if an invasive species not previously known to occur within the work site is discovered during work activities by contacting the Department's Invasive Species Program by email at Invasives@wildlife.ca.gov.

- 8. Habitat Management 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 from 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 protected acreage required to provide for adequate compensation.

To meet this requirement, Permittee shall restore 0.98 acres of Covered Species habitat temporarily impacted (0.41 acre Bear River aquatic habitat, 0.01 acre enhancement of Covered Species Breeding habitat, 0.46 acre riparian re-vegetation and hydroseeding, and 0.10 acre enhancement of Covered Species upland habitat). To compensate for 0.12 acre of permanent impacts to Covered Species habitat, Permittee shall enhance 0.36 acre with native species that occur within the Project vicinity. A total of 100 native trees and 190 native shrubs/herbs will be installed onsite along with a native hydroseed mix to enhance the native seed bank and aid in erosion control. Additionally, Permittee shall implement all restoration and enhancement activities pursuant to Condition of Approval 8.2 below.

- 8.1. Cost Estimates.** Restoration and enhancement of Covered Species habitat as described in Condition of Approval 8.2 is estimated at **\$109,760.00** which includes **\$34,360** for the habitat restoration and enhancement and **\$75,400** for five years of Covered Species Monitoring and Reporting.

- 8.2. Habitat Restoration and Enhancement.** CDFW has reviewed the Habitat Mitigation and Monitoring Plan (HMMP, Attachment 2), submitted September 2023. The HMMP includes detailed specifications for restoring all temporarily disturbed and enhancement areas mentioned above, such as seed mixes and application methods. The plan also indicates the best time of year for seeding to occur. Plantings undertaken between October and February shall include regular watering to ensure adequate growth. No later than 30 days prior to the onset of Covered Activities, Permittee shall provide CDFW any changes or additions to their HMMP for final review and approval.

- 9. Security:** Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

Incidental Take Permit
No. 2081-2023-014-02
NEVADA COUNTY
DOG BAR ROAD BRIDGE REPLACEMENT

9.1. Security Amount. The total Security shall be in the amount of **\$109,760.00** or in the amount identified in Condition of Approval 8.1 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 8.1 above, sufficient for CDFW or its contractors to complete restoration, enhancement, and monitoring.

9.2. Security Form. The Security shall be in the form of:

(a) a bond for **\$79,600.00** (\$34,360 for restoration and enhancement and \$45,240 for three (3) years of monitoring). If CDFW is a third-party beneficiary instead of the primary beneficiary of this bond, the bond shall state that CDFW may draw from the bond as needed pursuant to this ITP without the requirement of permission or concurrence by the primary beneficiary.

and

(b) an irrevocable letter of credit (LOC) for **\$30,160.00** for two years of monitoring (see Attachment 4). This figure is not intended to cover a transfer of monitoring responsibilities for all or a portion of the required monitoring period, but instead represents the estimated cost of CDFW conducting or contracting for sufficient monitoring to return Permittee to a condition of compliance in the event of a default.

Any form of Security shall be approved in advance and in writing by CDFW's Office of the General Counsel.

9.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 60 days after the effective date of this ITP, whichever occurs first.

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

9.5. Security Transmittal. Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (see Attachment 5).

9.6. 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. If a portion of the Security is provided via a bond to which CDFW is a third-party beneficiary, the bond language shall state that CDFW can unilaterally draw from the bond funds as needed pursuant to the terms of this ITP.

9.7. Security Release. The respective 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 respective requirements have been

satisfied, as evidenced by:

- Completion of all restoration and enhancement activities;
- Success criteria are met;
- Completion of monitoring;
- Timely submission of all required reports.

Even if Security is provided, the Permittee must implement the HMMP required in Condition 8.2 and finish implementation of the HMMP within one (1) year of completing Covered Activities. CDFW may require the Permittee to provide additional mitigation and/or additional funding after the restoration and enhancement activities have commenced if success criteria is not met, 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:

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 Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2023-014-02) in a cover letter and on any other associated documents. Email submittal is preferred.

Original cover with attachment(s) to:

Morgan Kilgour, Regional Manager
California Department of Fish and Wildlife
North Central Region Address
1701 Nimbus Road
Rancho Cordova, CA 95670
Telephone (916) 358-2900
R2CESA@wildlife.ca.gov

and a copy to:

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:

Region 2, CESA Desk
North Central Region
1701 Nimbus Road
Rancho Cordova, CA 95670
Telephone (916) 358-4315
R2CESA@wildlife.ca.gov

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XIV. Compliance with the 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, Nevada County Department of Public Works. (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/ Initial Study (SCH No.: 2021030520) dated June 23, 2021 that the Nevada County Department of Public Works adopted for Dog Bar Road Bridge Replacement Project on June 23, 2021. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

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, subds, (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, Mitigated Negative Declaration, the results of 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) 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 and the extent to which the Covered Activities will impact the habitat. Based on this evaluation, CDFW determined that restoration and enhancement of habitat, along with the minimization, monitoring,

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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	Habitat Mitigation and Monitoring Plan
ATTACHMENT 3	Biologist Resume Form
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 06/05/2024

DocuSigned by:
Morgan Kilgour
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Morgan Kilgour, Regional Manager
North Central Region

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