



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. 2081-2004-014-06
(Amendment No. 1)
CJR PARTNERSHIP
ORO GRANDE NORTH PIT EXPANSION

I. Authority:

This California Endangered Species Act ("CESA") incidental take permit ("ITP") is issued by the 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 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 species². 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:	CJR Partnership
Principal officer:	Jaime Hove
Contact person:	Jaime Hove (760) 244-9325
Mailing address:	17671 Bear Valley Road Hesperia, CA 92345 lclifton@robar.com

II. Amended ITP³ Background:

On April 2, 2004, CJR Partnership submitted a CESA ITP application to CDFW pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California

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."

²"Candidate species" are species of wildlife that have not yet been placed on the list of endangered species or the list of threatened species, but which are under formal consideration for listing pursuant to Fish and Game Code section 2074.2.

³When this incidental take permit and attachments refer to the "ITP", it means the "Amended ITP" unless the context dictates otherwise.

Code of Regulations Title 14, section 783.0 et. seq. CJR Partnership sought take coverage authorization for CESA listed species associated with Project-related impacts from the Oro Grande North Pit Expansion (Project) in San Bernardino County.

On July 31, 2006, CDFW issued ITP No. 2081-2004-014-06 to CJR Partnership (Permittee), authorizing take of Agassiz's desert tortoise (*Gopherus agassizii*) and Mohave ground squirrel (*Xerospermophilus mohavensis*) (collectively, the Covered Species) associated with and incidental to the Oro Grande North Pit Expansion in San Bernardino County, California (Project). The Project as described in the ITP as originally issued by CDFW includes sand and gravel mining operations in which approximately 350,000 to 500,000 of material would be extracted each year for 50 years. In issuing the ITP, CDFW found, among other things, that the Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP would not jeopardize the continued existence of the Covered Species.

In an application submitted April 17, 2024, the Permittee requested to amend Condition of Approval 4.b.iii of the original ITP to delegate weekly compliance inspection duties to a designated site personnel instead of a designated biologist and remove the monthly compliance reporting requirement of the condition. Ongoing mining operations have reduced the need for designated biologist monitoring because of the reduced Covered Species occurrence and habitat within the highly disturbed, fenced mining site. The designated site personnel will be given training material that has been developed and used by the designated biologist to train new personnel, while the designated biologist will continue to periodically train new personnel.

CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

CDFW now reissues this ITP including the revised provisions in this Minor Amendment (Collectively, the Amended ITP). The Amended ITP includes all of the operative

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provisions as of the effective date of this Amended ITP. Attachment 5 to this Amended ITP shows the specific redline changes made to the ITP as a result of this Minor Amendment.

To conform with updated policy and template language, the following edits have been made throughout this amended ITP but are not identified in the redline changes in Attachment 5:

- The abbreviation for California Department of Fish and Wildlife has been updated from 'Department' to 'CDFW'
- The abbreviation for Incidental Take Permit has been updated from 'Permit' to 'ITP'
- The format and regulatory language have been updated to align with the current template
- The amended Condition of Approval in the original ITP was 4.b.iii and is now 5.3

III. Effective Date and Expiration Date of this ITP:

The original ITP was executed in duplicate original form and became effective when it was acknowledged by signature of the Permittee on the last page of the original ITP and returned to CDFW Office of the General Counsel. The original ITP's effective date was **July 31, 2006**. This remains the effective date for the original take authorization. The Amended ITP shall become effective when signed by CDFW. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **July 1, 2056**.

IV. Project Location:

The project is located north of Bryman Road directly east of National Trails Highway in San Bernardino County, California. Section 19, Township 7 North, Range 4 West.

V. Project Description:

Permittee proposes to expand an existing mining claim which will encompass 120 acres. The project to be approved consists of a 120-acre sand and gravel mine that would operate for 50 years during which time approximately 350,000 to 500,000 tons of material will be extracted each year. The mine will be operated seven days per week, depending upon construction schedules. Approximately 46 to 65 truck trips per day will be required based on the current extraction rate. About 25 employees currently work at the site, and this number is expected to remain constant during the proposed mining activities in the north pit expansion area.

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

This ITP covers the following species:

Name	Status⁴
1. Mohave ground squirrel (<i>Xerospermophilus mohavensis</i>)	Threatened ⁵
2. Agassiz’s Desert tortoise (<i>Gopherus agassizii</i>)	Threatened ⁶ /proposed
Endangered ⁷	

These species and only these species are hereinafter referred to as “Covered Species.”

VII. Impacts of the Taking on Covered Species:

The Project will result in impacts to 120 acres of habitat for the Covered species, which will be lost over a 50-year time period. Individuals of the Covered Species may be incidentally taken as a result of removing them from the project site prior to mining activities, mortality during construction; being crushed in burrows; project-caused habitat losses; and project-caused changes in the habitat that make the species more vulnerable to competition, disease or predation.

VIII. 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.

IX. Conditions of Approval:

⁴Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

⁵ See Cal. Code Regs. Tit. 14 § 670.5., subd. (b)(6)(A)

⁶ See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(4)(A)

⁷ See 2020 Cal. Reg. Notice Register, No. 44-Z, pp. 1445-1446 (October 30, 2020)

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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 state, federal, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to conditions of this ITP within the time frames set forth in Attachment 1, the Mitigation Monitoring and Reporting Program (MMRP) and shall comply with any requirements of the MMRP that are not otherwise set forth in this ITP.
- 3. CEQA Compliance:** Permittee shall implement and adhere to the conditions and mitigation measures for biological resources set forth in the Mitigated Negative Declaration for Oro Grande North Pit Expansion Area, SCH #2003021106, adopted by San Bernardino County on August 5, 2003.
- 4. General Provisions:** Permittee shall fully implement and adhere to the following conditions:
 - 4.1. Designated Representative. At least thirty (30) days before initiating ground-disturbing activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and for overseeing compliance with this ITP. CDFW shall be notified in writing of the representative's name, business address, and telephone number, and shall be notified in writing if a substitute representative is designated.
 - 4.2. Designated Biologist(s). At least thirty (30) days before initiating ground-disturbing activities, Permittee shall designate a biologist (Designated Biologist) knowledgeable and experienced in the biology and natural history of the Covered Species to monitor construction activities in areas of Covered Species habitat to help avoid the take of individual animals and to minimize habitat disturbance. CDFW shall be notified in writing prior to commencement of ground-disturbing activities of the proposed Designated Biologist's name, business address, and telephone number. The Designated Biologist(s) shall be approved by CDFW and the U.S. Fish and Wildlife Service (USFWS). The Designated Biologist(s) shall have an MOU with CDFW for handling tortoises.

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Only Designated Biologist(s) shall be allowed to handle tortoises.

- 4.3. Worker Education Awareness Program. Permittee shall conduct an orientation program for all persons who will work on-site during construction. The program shall consist of a presentation from the Designated Biologist. The education program shall include a discussion of the biology of the Covered Species, the habitat needs of these species, their status under CESA, and the management measures provided in this ITP. A fact sheet containing this information shall also be prepared and distributed. Upon completion of the orientation, employees shall sign a form stating that they attended the program and understand all protection measures. These forms shall be filed at the County's offices and shall be made available to CDFW upon request.
- 4.4. Firearms and Dogs. Firearms and domestic dogs shall be prohibited from the Project site and site access routes.
- 4.5. Compliance Monitoring. All observations of Covered Species and their sign during project activities shall be conveyed to the Permittee's Designated Representative or Designated Biologist. This information shall be included in the next monthly compliance report to CDFW.
- 4.6. Designated Biologist(s) Authority. The Designated Biologist shall have authority to immediately stop any activity that is not in compliance with this ITP, and to order any reasonable measure to avoid the take of an individual of a Covered Species. In addition, the Designated Biologist shall approve a disposal site for materials (spoils or excess soils, etc.) prior to the materials leaving the proposed project site. Alternatively, materials need to be placed in an authorized dumpsite or landfill.
- 4.7. Trash Abatement. A trash abatement program shall be initiated during pre-construction phases of the Project and shall continue through the duration of the Project. Trash and food items shall be contained in closed (raven-proof) containers and removed daily to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 4.8. Project Access. Personnel shall access the Project site using existing routes and shall not cross Covered Species' habitat outside of the Project site. To the extent possible, previously disturbed areas within the Project sites shall be used for temporary storage areas, laydown sites, and any other surface-disturbing activities. If construction of offsite routes of travel will be required, CDFW shall

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be contacted prior to carrying out such an activity. This ITP may require amendment if additional take of Covered Species may result from project modification.

- 4.9. Refuse Removal. Upon Project completion, 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 shall be removed from the site and disposed of properly.
- 4.10. Hazardous Waste. Any fuel or hazardous waste leaks or spills shall be stopped/repared immediately and cleaned up at the time of occurrence in accordance with the County's Spill Plan. The storage and handling of hazardous materials shall be excluded from the construction zone and any unused or leftover hazardous products shall be properly disposed of offsite.
- 4.11. Expiration Date of Permit. Notwithstanding any expiration date on this ITP's take authorization, Permittee's obligations under this ITP do not end until CDFW accepts the Final Mitigation Report as complete.
- 4.12. U.S. Fish and Wildlife Service Consultation. CDFW's Regional Representative shall be requested to attend any consultation with USFWS with respect to Covered Species.
- 4.13. Revegetation. Proposed seed mixes to be used for revegetation shall be submitted to CDFW for review and approval prior to ordering the seed mixes.
- 4.14. Inspection of Construction Equipment. Construction equipment shall be cleaned of mud or other debris that may contain invasive plants and/or seeds and inspected to reduce the potential of spreading noxious weeds before mobilizing to arrive at the site and before leaving the site.

5. Monitoring, Notification, and Reporting Provisions:

Notification Requirements

- 5.1. Notification Before Commencement. Permittee shall notify CDFW and shall document compliance with all pre-construction Conditions of Approval before initiating ground-disturbing activities.
- 5.2. Notification of Non-Compliance. Permittee shall immediately notify CDFW in

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writing if it determines that it is not in compliance with any condition of approval of this ITP, including but not limited to any actual or anticipated failure to implement mitigation measures within the time periods indicated in this ITP and/or Attachment 1, the Mitigation Monitoring and Reporting Program (MMRP).

Monitoring Requirements

5.3. Compliance Monitoring. Compliance inspections shall be conducted a minimum of once per week by the Designated Representative, and an annual compliance report will be provided to CDFW's Regional Representative. The Designated Representative shall check for compliance with all of the mitigation/avoidance measures, and the exclusion zones shall be checked to ensure that the signs, stakes, and fencing are still intact and that human activities have been restricted in these protective zones. Unless otherwise determined, CDFW's Regional Representative shall be Mr. Bryant Luu, Environmental Scientist, 3602 Inland Empire Blvd, Suite C-220, Ontario, CA 91764.

Reporting Requirements

5.4. Annual Status Report. Beginning with issuance of the ITP and continuing for the life of the Project, Permittee shall provide CDFW an annual Status Report no later than **March 30** of every year. Each Status Report shall include, at a minimum: 1) a general description of the status of the Project site and construction activities, including actual or projected completion dates, if known; 2) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; and 3) an assessment of the effectiveness of each completed or partially completed mitigation measure in minimizing and compensating for Project impacts.

5.5. Final Mitigation Report. No later than 45 days after completion of the Project, including completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Final Mitigation Report shall be prepared by a knowledgeable, experienced Biologist and shall include, at a minimum: 1) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; 2) all available information about Project-related incidental take of species covered in this ITP; 3) information about other Project impacts on the species covered in this ITP; 4) construction dates; 5) an assessment of the effectiveness of the ITP's conditions of approval in minimizing and compensating for Project impacts; 6) recommendations on how mitigation measures might be changed to more effectively minimize and mitigate

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the impacts of future projects on the species; and 7) any other pertinent information, including the level of take associated with the Project.

- 5.6. If a Mohave ground squirrel is killed by project-related activities during construction, or if a Mohave ground squirrel is otherwise found dead, a written report will be sent to CDFW within two (2) calendar days. The report will include the date, time of the finding or incident, location of the carcass, and the circumstances.

6. 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:

Mohave Ground Squirrel

- 6.1. Staging and Parking Areas. All Project-related parking and equipment storage shall be confined to the Project site. Off-site Covered Species habitat shall not be used for parking or equipment storage. Project-related vehicle traffic shall be restricted to established roads, staging, and parking areas. Permittee shall post signs; place posting stakes, flags, and/or rope or cord; and place fencing as necessary to minimize the disturbance of Covered Species habitat. Vehicle speeds shall not exceed 20 mph in order to avoid Mohave ground squirrels on or traversing the roads.
- 6.2. Mohave Ground Squirrel Burrow Excavation. If a Mohave ground squirrel is found in a burrow during Project-related activities on the Project site, it shall be immediately relocated to a burrow at a protected off-site location approved by CDFW's Regional Representative. The Mohave ground squirrel may only be relocated by a qualified biologist. The relocation burrow shall be prepared in the following manner: Dig a hole at least two (2) feet deep, place a nine (9) inch diameter plastic container (with thick enough walls that it will not collapse when buried) in the hole, place cotton bedding material in the container, connect the container to a three (3) inch diameter flexible plastic pipe (with thick enough walls that it will not collapse when buried) running to the surface at a 45 degree angle, cover the artificial burrow with dirt leaving the surface end of the 3 inch pipe open, and place the Mohave ground squirrel in the artificial burrow and lightly plug the burrow mouth with soil (in a manner similar to what Mohave ground squirrel do in natural burrows). The Designated Representative shall immediately notify CDFW of the incident unless the incident occurs outside of

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normal business hours. In that event, CDFW shall be notified no later than noon on the next business day. Notification to CDFW shall be via telephone or email, followed by a written incident report. Notification shall include the date, time, location and circumstances of the incident, the name of the party that actually relocated the animal, and the location (including GPS coordinates) to which the animal was moved.

- 6.3. Notification of Take or Injury. If a Mohave ground squirrel is injured as a result of project related activities, it shall be immediately taken to a CDFW-approved wildlife rehabilitation facility. Any costs associated with the care or treatment of such injured Mohave ground squirrels shall be borne by Permittee. CDFW shall be notified immediately unless the incident occurs outside of normal business hours. In that event CDFW shall be notified no later than noon on the next business day. Notification to CDFW shall be via telephone or email, followed by a written incident report. Notification shall include the date, time, location and circumstances of the incident, and the name of the facility to which the animal was taken.

Desert Tortoise

- 6.4. Project Biologists. Project Biologists (in addition to the Designated Biologists) shall have appropriate qualifications and shall be approved by CDFW and USFWS at least 14 days prior to any ground disturbing activities. The Biologists shall ensure compliance with the management measures provided in this ITP.
- 6.5. Desert Tortoise Exclusion Fencing. Prior to the start of construction, tortoise-proof fencing shall be installed around the 120-acre mine site to prevent tortoises from entering the site once operations begin. The fence shall be initially installed around Phase I. Once the minerals in Phase I have been exhausted, the Phase II area will be fenced. The fences will be maintained and checked on a daily basis to ensure the integrity of the fence is maintained. The fence shall be constructed under the direction of the Designated Biologist. The fence shall be constructed of one-half inch mesh hardware cloth or other suitable material. The top of the fence shall be at least 18 inches above the ground and the bottom of the fence shall be buried at least 12 inches below ground. Where burial of the fence is not possible, the lower 12 inches shall be folded outward against the ground and fastened to the ground to prevent entry by desert tortoises. If applicable, gate(s) shall be tortoise-proof and shall remain closed except for the immediate passage of vehicles.

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- 6.6. Pre-Construction Clearance Surveys for Desert Tortoise. The Designated Biologist(s) and/or other biologists approved by CDFW and USFWS (collectively, "Biologists") shall perform pre-construction surveys as follows: The entire project area shall be surveyed using belt transects 10 yards or 30 feet wide (100 percent coverage). The survey shall be conducted seven days prior to the start of construction, and again within 24 hours prior to start of construction. Surveys shall be conducted according to Department-approved methodologies.
- 6.7. Desert Tortoise Translocation out of Harm's Way. All tortoises found above ground on the project site shall be moved 300 to 1,000 feet outside of the construction zone in undisturbed habitat by the Designated Biologist. Tortoises shall be placed in the shade of a large, marked shrub.
- 6.8. Desert Tortoise Burrow Avoidance. Any desert tortoise burrows that may be affected (within 30 feet of activities or in the opinion of the Designated Biologist) shall be flagged with a different color of flagging from that used to mark operational area boundaries, and shall be carefully monitored to ensure that the desert tortoise and its burrow are not harmed. Avoidance flagging shall be designed to be easily distinguished from access route or other flagging and shall be designed in consultation with experienced construction personnel and authorized biologists. No stakes or flagging shall be placed on the berm or in the mouth of a desert tortoise burrow. Desert tortoise burrows shall not be marked in a manner that facilitates poaching. If the Designated Biologist determines that this monitoring effort is insufficient to protect the desert tortoise, temporary fencing shall be placed between the burrow and the construction area in a manner that will direct the desert tortoise away from construction activities. The fence shall be installed and removed either by, or under the direction of, the Designated Biologist.
- 6.9. Desert Tortoise Burrow Excavation. Those burrows within the project area which cannot be avoided shall be excavated by hand prior to the start of construction. All excavation of tortoise burrows shall be in accordance with United States Fish and Wildlife Service (USFWS) Desert Tortoise (Mojave Population) Field Manual (hereinafter referred to as USFWS Field Manual). Burrows shall be excavated, and tortoises and eggs handled only by the Designated Biologist(s). To prevent re-entry by a tortoise, all burrows in the construction zone that do not contain tortoises shall be collapsed.
- 6.10. Translocation and Artificial Burrow Creation. Desert Tortoises excavated from unavoidable burrows shall be relocated to unoccupied natural or artificially

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constructed burrows immediately following excavation. The artificial or unoccupied natural burrows shall be constructed within suitable, undisturbed habitat, approximately 150 to 300 feet from the original burrow. The artificial burrow shall be similar in size, shape, and orientation to the original burrow. Relocated tortoises shall not be placed in existing occupied burrows. Procedures for handling tortoises shall follow the most current guidelines provided by USFWS and CDFW. Where guidance differs between USFWS and CDFW, verbal and/or written direction provided by CDFW always controls.

- 6.11. Desert Tortoise Handling. Tortoises removed from occupied burrows and relocated to newly constructed burrows shall be handled using disposable surgical gloves. The gloves shall be disposed of after handling each tortoise. Other equipment shall be sterilized or changed between uses. Tortoises shall be kept upright at all times and handled in a secure but gentle manner to minimize stress including the possibility of voiding the bladder.
- 6.12. Monitoring Relocated Desert Tortoise. Desert tortoises moved during less active periods shall be monitored for at least 2 days after placement in the new burrows to ensure their safety. The Designated Biologist shall be allowed some judgment and discretion in taking protective measures in order to ensure that survival of the desert tortoise is likely.
- 6.13. Pre-Construction Full-time Monitoring. Pre-construction activities which could harm desert tortoises in any manner (e.g. driving off an established road, clearing vegetation, etc.) shall occur in the presence of the Designated Biologist(s). The biologist(s) shall travel with each work crew to ensure that all desert tortoises and their burrows are avoided during these activities. Any hazards to desert tortoises that may be created by this activity shall be eliminated prior to the work crew leaving the site.
- 6.14. Vehicle Inspection. Anytime a vehicle or construction equipment is parked for more than two minutes, the ground around and under the vehicle or equipment shall be inspected for desert tortoises before the vehicle or equipment is moved. If a desert tortoise is observed, it shall be left to move on its own. If this does not occur within 15 minutes, the Designated Biologist shall remove and relocate the tortoise.
- 6.15. Trench Inspection. Open trenches, auger holes or other excavations that may act as pitfall traps shall be inspected three times a day, prior to working in or around the excavation and prior to backfilling. Other excavations that remain

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open overnight shall be covered to prevent from becoming pitfall traps. Any animals found within the excavations shall be relocated. Tortoises shall be relocated as described above.

- 6.16. Injured Desert Tortoise. If, in any event, a desert tortoise is injured as a result of project related activities during construction, it will be immediately taken to a Department approved veterinarian clinic. Any veterinarian bills for such injured tortoises will be paid by Permittee CDFW and USFWS shall be notified so they can determine the final disposition of the animal, if the injured tortoise recovers. Notification to CDFW and USFWS shall occur in writing, within 2 calendar days of the incident. Notification shall include the date, time, location, and circumstances of the incident.
- 6.17. Fatally Injured or Killed Desert Tortoise. If a tortoise is killed by project related activities during construction, or if a tortoise is otherwise found dead, a written report will be sent to CDFW and USFWS within two (2) calendar days. These tortoises shall be salvaged according to the paper entitled Salvaging Injured, Recently Dead, Ill, And Dying Wild, Free-Roaming Desert Tortoise (*Gopherus agassizii*) prepared by Kristin Berry, June 2001. Permittee shall pay to have these tortoises necropsied. The report will include the date, time of the finding or incident, location of the carcass and the circumstances.

7. Habitat Management Land Acquisition: Permittee shall acquire and permanently preserve 120 acres of Habitat Management Lands ("HM Lands") for the Covered Species prior to initiating ground-disturbing Project activities, or no later than 18 months from the effective date of this ITP if Security is provided pursuant to Condition 8 below. The required acreage is based upon CDFW's estimate of the acreage required to provide for adequate biological carrying capacity at a replacement location as a means of fully mitigating the Project's impacts on the Covered Species. As part of this condition, Permittee shall:

- 7.1. Transfer fee title to the HM Lands or a conservation easement over the HM Lands to CDFW under terms approved by CDFW. Alternatively, the transfer may be to another public entity or non-profit corporation approved by CDFW under terms approved by CDFW.
- 7.2. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (Attachment 2). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, the Department of General Services and, if applicable, the Fish and

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Game Commission.

- 7.3. Provide for the initial protection and enhancement of the HM Lands as determined by CDFW once Permittee identifies the HM Lands. CDFW estimates that initial protection and enhancement will be approximately \$95.00/acre. Alternatively, Permittee may fund CDFW's initial protection and enhancement of the lands by providing the funds required for the initial protection and enhancement to CDFW.
- 7.4. Provide to CDFW a check in the amount of \$ 24,000.00 for use as principal for a permanent capital endowment. Interest from this amount shall be available for the operation, management and protection of the HM lands, including reasonable administrative overhead, biological monitoring, improvements to carrying capacity, law enforcement measures, and any other action designed to protect or improve the habitat values of the HM lands. The endowment principal shall not be drawn upon unless such withdrawal is deemed necessary by CDFW to ensure the continued viability of the species on the HM lands. Monies received by CDFW pursuant to this provision shall be deposited in a special deposit account established pursuant to Fish and Game Code §13014. CDFW may pool the endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species.
- 7.5. Reimburse CDFW for reasonable expenses incurred during title and documentation review, expenses incurred from other state agency reviews and overhead related to transfer of HM Lands to CDFW. CDFW estimates that this Project will create an additional cost to CDFW of no more than \$3,000 for every fee title deed or easement processed.
8. **Security:** Permittee may proceed with ground-disturbing Project activities before completing all of the required mitigation (including acquisition of HM Lands), monitoring, and reporting activities only if Permittee ensures funding to complete those activities by providing to CDFW prior to commencing ground-disturbing activities or within 30 days after the effective date of this ITP, whichever occurs first: (1) the endowment of \$24,000.00 as described in Condition 5, and (2) an irrevocable letter of credit (Attachment 3), a trust account, or another form of security (Attachment 4) ("Security") approved by the Office of the General Counsel. The Security shall allow CDFW to draw on the security if CDFW, at its sole discretion, determines that Permittee has failed to comply with the Conditions of Approval of this ITP. The Security shall be in the amount of **\$107,400.00**, based on the following estimated costs of implementing this ITP's mitigation, monitoring, and reporting

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requirements.

8.1. Land acquisition costs for impacts to habitat, calculated at \$800.00/acre for 120 acres: \$96,000.00.

8.2. Costs of enhancing HM lands, calculated at \$95.00/acre for 120 acres: \$11,400.00.

X. 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.

XI. 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 Biological Monitor(s), and/or Authorized Biologist(s) nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

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

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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 first class mail at the following addresses, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications should reference the Project name, Permittee, and ITP Number (2081-2004-014-06) in a cover letter and on any other associated documents.

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Original cover with attachment(s) to:

Heidi Calvert, Regional Manager
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
(909) 484-0167
R6CESA@wildlife.ca.gov

Copy of cover without attachment(s) 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 the Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of permit conditions is:

Bryant Luu, Environmental Scientist
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764
(760) 923-8666
Bryant.Luu@wildlife.ca.gov

XIV. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is a "project" subject to the California Environmental Quality Act, Public Resources Code, section 21000, et seq. ("CEQA"). A Negative Declaration was prepared for the Oro Grande North Pit Expansion Area. The Lead Agency for review of the Project, the County of San Bernardino, adopted the CEQA document on August 5, 2003. During certification of the environmental document, all mitigation measures (including the measures outlined below) were adopted as "Conditions of Project Approval".

CDFW is fulfilling its CEQA obligations with respect to the Permit as a responsible agency. In that capacity, CDFW's obligations are "more limited" than those of the lead agency. (CEQA Guidelines, § 15096, subd. (g)(1).)⁸ CDFW, in particular, is "responsible

⁸ The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

for considering only the effects of those activities involved in [the] project which it is required by law to carry out or approve.” (Pub. Resources Code, §21002.1, subd. (d).) Thus, while CDFW must “consider the environmental effects” of the Project as identified in the Neg Dec adopted by the lead agency, CDFW “has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve.” (CEQA Guidelines, § 15096, subds. (f). (g)(1).) Accordingly, because CDFW’s exercise of discretion is limited to issuance of the Permit, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under CESA. Indeed, with respect to all other effects associated with implementation of the Project, CDFW is bound by the legal presumption that the Neg Dec certified by the County of San Bernardino fully complies with CEQA and the CEQA Guidelines. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, §21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1130.)

Even with its more limited obligations as a responsible agency, CDFW must still consider, and hereby documents its considerations of, the lead agency’s prior Neg Dec and the environmental effects related to issuance of the Permit. (CEQA Guidelines, § 15096, subd. (f).) In so doing, CDFW finds that issuance of the Permit 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, and CDFW does not believe that is the case, CDFW finds that adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, as well as adherence to and implementation of the conditions of approval imposed by CDFW through the issuance of the Permit, will avoid or reduce to below a level of significance any such potential effects.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, Title 14, section 15162 and 15163, exist as a result of this Amendment.

XV. CESA Findings:

With respect to CESA, CDFW finds that all of the following conditions have been met:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;

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(2) The impacts of the take will be minimized and fully mitigated through the implementation of measures required by this ITP and described in the Mitigation Monitoring and Reporting Program (MMRP). Measures include: 1) Biological monitors to remove species from work area; 2) Weekly compliance inspections; 3) Land compensation for species where habitat is impacted, and 4) an education program for all persons working on-site.

(3) The conservation and mitigation measures required pursuant to the conditions of this permit and its attachments are roughly proportional in extent to the impact of Permittee's take.

(4) Where various measures are available to meet the mitigation requirement under CESA, the measures required will 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 Sections 2112 and 2114 of the Fish and Game Code;

(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 that is reasonably available, and includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (a) known population trends; (b) known threats to the species; and (c) reasonably foreseeable impacts on the species from other related projects and activities. CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of ITP as necessary to avoid jeopardy and as required by law.

XVI. Attachments:

ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Habitat Management Lands Checklist
ATTACHMENT 3	Letter of Credit and Conservation Easement Forms
ATTACHMENT 4	Mitigation Payment Transmittal Form

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ATTACHMENT 5

Minor Amendment No. 1 with Track Changes

**ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON
07/05/2024.**

DocuSigned by:

Heidi Calvert

CALF4779B63E4A3
HEIDI CALVERT, Regional Manager
INLAND DESERTS REGION

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Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2004-014-06

PERMITTEE: CJR Partnership

PROJECT: Oro Grande North Pit Expansion

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	At least thirty (30) days before initiating ground-disturbing activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and for overseeing compliance with this permit. CDFW shall be notified in writing of the representative's name, business address, and telephone number, and shall be notified in writing if a substitute representative is designated.	ITP Condition # 4.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	At least thirty (30) days before initiating ground-disturbing activities, Permittee shall designate a biologist (Designated Biologist) knowledgeable and experienced in the biology and natural history of the Covered Species to monitor construction activities in areas of Covered Species habitat to help avoid the take of individual animals and to minimize habitat disturbance. CDFW shall be notified in writing prior to commencement of ground-disturbing activities of the proposed Designated Biologist's name, business address, and telephone number. The Designated Biologist(s) shall be approved by CDFW and the U.S. Fish and Wildlife Service (Service). The Designated Biologist(s) shall have an MOU with CDFW for handling tortoises. Only Designated Biologist(s) shall be allowed to handle tortoises.	ITP Condition # 4.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Permittee shall conduct an orientation program for all persons who will work on-site during construction. The program shall consist of a presentation from the Designated Biologist. The education program shall include a discussion of the biology of the Covered Species, the habitat needs of these species, their status under CESA, and the management measures provided in this permit. A fact sheet containing this information shall also be prepared and distributed. Upon completion of the orientation, employees shall sign a form stating that they attended the program and understand all protection measures. These forms shall be filed at the County's offices and shall be made available to CDFW upon request.	ITP Condition # 4.3	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	A trash abatement program shall be initiated during pre-construction phases of the Project and shall continue through the duration of the Project. Trash and food items shall be contained in closed (raven proof) containers and removed daily to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 4.7	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	Permittee shall notify CDFW and shall document compliance with all pre-construction Conditions of Approval before initiating ground-disturbing activities.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
6	Permittee shall acquire and permanently preserve 120 acres of Habitat Management Lands ("HM Lands") for the Covered Species prior to initiating ground-disturbing Project activities, or no later than 18 months from the effective date of this permit if Security is provided pursuant to Condition 8 below. The required acreage is based upon CDFW's estimate of the acreage required to provide for adequate biological carrying capacity at a replacement location as a means of fully mitigating the Project's impacts on the Covered Species. HM lands shall be transferred to CDFW in accordance with Condition of Approval No. 5 of this permit.	ITP Condition # 7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	<p>Permittee may proceed with ground-disturbing Project activities before completing all of the required mitigation (including acquisition of HM Lands), monitoring, and reporting activities only if Permittee ensures funding to complete those activities by providing to CDFW prior to commencing ground-disturbing activities or within 30 days after the effective date of this permit, whichever occurs first: (1) the endowment of \$24,000.00 as described in Condition 5, and (2) an irrevocable letter of credit, a pledged savings account, or another form of security ("Security") approved by the Office of the General Counsel. The Security shall allow CDFW to draw on the principal sum if CDFW, at its sole discretion, determines that Permittee has failed to comply with the Conditions of Approval of this permit. The Security shall be in the amount of \$107,400.00, based on the following estimated costs of implementing this permit's mitigation, monitoring, and reporting requirements.</p> <p>8.1. Land acquisition costs for impacts to habitat, calculated at \$800.00/acre for 120 acres: \$96,000.00.</p> <p>8.2. Costs of enhancing HM lands, calculated at \$95.00/acre for 120 acres: \$11,400.00.</p>	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
8	Project Biologists (in addition to the Designated Biologists) shall have appropriate qualifications and shall be approved by CDFW and the Service at least 14 days prior to any ground disturbing activities. The Biologists shall ensure compliance with the management measures provided in this permit.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
9	Prior to the start of construction, tortoise-proof fencing shall be installed around the 120-acre mine site to prevent tortoises from entering the site once operations begin. The fence shall be initially installed around Phase I. Once the minerals in Phase I have been exhausted, the Phase II area will be fenced. The fences will be maintained and checked on a daily basis to ensure the integrity of the fence is maintained. The fence shall be constructed under the direction of the Designated Biologist. The fence shall be constructed of one-half inch mesh hardware cloth or other suitable material. The top of the fence shall be at least 18 inches above the ground and the bottom of the fence shall be buried at least 12 inches below ground. Where burial of the fence is not possible, the lower 12 inches shall be folded outward against the ground and fastened to the ground to prevent entry by desert tortoises. If applicable, gate(s) shall be tortoise-proof and shall remain closed except for the immediate passage of vehicles.	ITP Condition # 6.5	Before commencing ground- or vegetation-disturbing activities	Permittee	
10	The Designated Biologist(s) and/or other biologists approved by CDFW and the Service (collectively, "Biologists") shall perform pre-construction surveys as follows: The entire project area shall be surveyed using belt transects 10 yards or 30 feet wide (100 percent coverage). The survey shall be conducted seven days prior to the start of construction, and again within 24 hours prior to start of construction. Surveys shall be conducted according to Department-approved methodologies.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	All tortoises found above ground on the project site shall be moved 300 to 1,000 feet outside of the construction zone in undisturbed habitat by the Designated Biologist. Tortoises shall be placed in the shade of a large, marked shrub.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	Any desert tortoise burrows that may be affected (within 30 feet of activities or in the opinion of the Designated Biologist) shall be flagged with a different color of flagging from that used to mark operational area boundaries, and shall be carefully monitored to ensure that the desert tortoise and its burrow are not harmed. Avoidance flagging shall be designed to be easily distinguished from access route or other flagging and shall be designed in consultation with experienced construction personnel and authorized biologists. No stakes or flagging shall be placed on the berm or in the mouth of a desert tortoise burrow. Desert tortoise burrows shall not be marked in a manner that facilitates poaching. If the Designated Biologist determines that this monitoring effort is insufficient to protect the desert tortoise, temporary fencing shall be placed between the burrow and the construction area in a manner that will direct the desert tortoise away from construction activities. The fence shall be installed and removed either by, or under the direction of, the Designated Biologist.	ITP Condition # 6.8	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	Those burrows within the project area which cannot be avoided shall be excavated by hand prior to the start of construction. All excavation of tortoise burrows shall be in accordance with Service and Department-approved guidelines and handling procedures (Desert Tortoise Council, 1994, revised 1999). Burrows shall be excavated, and tortoises and eggs handled only by the Designated Biologist(s). Excavations shall be permitted prior to 12:00 noon only. To prevent re-entry by a tortoise, all burrows in the construction zone that do not contain tortoises shall be collapsed.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities	Permittee	
14	Desert Tortoises excavated from unavoidable burrows shall be relocated to unoccupied natural or artificially constructed burrows immediately following excavation. The artificial or unoccupied natural burrows shall be constructed within suitable, undisturbed habitat, approximately 150 to 300 feet from the original burrow. The artificial burrow shall be similar in size, shape, and orientation to the original burrow. Relocated tortoises shall not be placed in existing occupied burrows. Procedures for handling tortoises shall follow those described in Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council, 1994, revised 1999).	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities	Permittee	
15	Tortoises removed from occupied burrows and relocated to newly constructed burrows shall be handled using disposable surgical gloves. The gloves shall be disposed of after handling each tortoise. Other equipment shall be sterilized or changed between uses. Tortoises shall be kept upright at all times and handled in a secure but gentle manner to minimize stress including the possibility of voiding the bladder.	ITP Condition # 6.11	Before commencing ground- or vegetation-disturbing activities	Permittee	
16	Desert tortoises moved during less active periods shall be monitored for at least 2 days after placement in the new burrows to ensure their safety. The Designated Biologist shall be allowed some judgment and discretion in taking protective measures in order to ensure that survival of the desert tortoise is likely.	ITP Condition # 6.12	Before commencing ground- or vegetation-disturbing activities	Permittee	
17	Pre-construction activities which could harm desert tortoises in any manner (e.g. driving off an established road, clearing vegetation, etc.) shall occur in the presence of the Designated Biologist(s). The biologist(s) shall travel with each work crew to ensure that all desert tortoises and their burrows are avoided during these activities. Any hazards to desert tortoises that may be created by this activity shall be eliminated prior to the work crew leaving the site.	ITP Condition # 6.13	Before commencing ground- or vegetation-disturbing activities	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
18	Proposed seed mixes to be used for revegetation shall be submitted to CDFW for review and approval prior to ordering the seed mixes.	ITP Condition # 4.13	Before commencing ground- or vegetation-disturbing activities	Permittee	
19	Construction equipment shall be cleaned of mud or other debris that may contain invasive plants and/or seeds and inspected to reduce the potential of spreading noxious weeds before mobilizing to arrive at the site and before leaving the site.	ITP Condition # 4.14	Before commencing ground- or vegetation-disturbing activities	Permittee	
DURING CONSTRUCTION					
20	Firearms and domestic dogs shall be prohibited from the Project site and site access routes.	ITP Condition # 4.4	Entire Project	Permittee	
21	CDFW's Regional Representative shall be requested to attend any consultation with the Service with respect to Covered Species.	ITP Condition # 4.12	Entire Project	Permittee	
22	For the duration of construction activities, Permittee shall conduct compliance inspections at least once a week to assess compliance with all of the mitigation/avoidance measures, and the exclusion zones shall be checked to ensure that the signs, stakes, and fencing are still intact and that human activities have been restricted in these protective zones.	ITP Condition # 5.3	Entire Project	Permittee	
23	Every year for the duration of construction activities, Permittee shall provide CDFW with a written Compliance Report to communicate observations made during compliance monitoring, as well as other information obtained by Permittee.	ITP Condition # 5.3	Entire Project	Permittee	
24	Beginning with issuance of this permit and continuing for the life of the Project, Permittee shall provide CDFW an annual Status Report no later than March 30 of every year. Each Status Report shall include, at a minimum: 1) a general description of the status of the Project site and construction activities, including actual or projected completion dates, if known; 2) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; and 3) an assessment of the effectiveness of each completed or partially completed mitigation measure in minimizing and compensating for Project impacts.	ITP Condition # 5.4	Entire Project	Permittee	
25	Permittee shall immediately notify CDFW in writing if it determines that any of the mitigation measures were not implemented during the period indicated here or in this permit, or if the Permittee anticipates for any reason that measures may not be implemented within the time period indicated.	ITP Condition # 5.2	Entire Project	Permittee	
26	All observations of Covered Species and their sign during project activities shall be conveyed to the Permittee's Designated Representative or Designated Biologist. This information shall be included in the next monthly compliance report to CDFW.	ITP Condition # 4.5	Entire Project	Permittee	
27	Personnel shall access the Project site using existing routes and shall not cross Covered Species' habitat outside of the Project site. To the extent possible, previously disturbed areas within the Project sites shall be used for temporary storage areas, laydown sites, and any other surface-disturbing activities. If construction of offsite routes of travel will be required, CDFW shall be contacted prior to carrying out such an activity. This Incidental Take Permit may require amendment if additional take of Covered Species may result from project modification.	ITP Condition # 4.8	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	Any fuel or hazardous waste leaks or spills shall be stopped/repared immediately and cleaned up at the time of occurrence. The storage and handling of hazardous materials shall be excluded from the construction zone and any unused or leftover hazardous products shall be properly disposed of offsite.	ITP Condition # 4.10	Entire Project	Permittee	
29	All Project-related parking and equipment storage shall be confined to the Project site. Off-site Covered Species habitat shall not be used for parking or equipment storage. Project-related vehicle traffic shall be restricted to established roads, staging, and parking areas. Permittee shall post signs; place posting stakes, flags, and/or rope or cord; and place fencing as necessary to minimize the disturbance of Covered Species habitat. Vehicle speeds shall not exceed 20 mph in order to avoid Mohave ground squirrels on or traversing the roads.	ITP Condition # 6.1	Entire Project	Permittee	
30	If a Mohave ground squirrel is found in a burrow during Project-related activities on the Project site, it shall be immediately relocated to a burrow at a protected off-site location approved by CDFW's Regional Representative. The Mohave ground squirrel may only be relocated by a qualified biologist. The relocation burrow shall be prepared as described in Condition of Approval 6.2 of this permit.	ITP Condition # 6.2	Entire Project	Permittee	
31	If a Mohave ground squirrel is injured as a result of project related activities, it shall be immediately taken to a Department-approved wildlife rehabilitation facility. Any costs associated with the care or treatment of such injured Mohave ground squirrels shall be borne by Permittee. CDFW shall be notified immediately unless the incident occurs outside of normal business hours. In that event CDFW shall be notified no later than noon on the next business day. Notification to CDFW shall be via telephone or email, followed by a written incident report. Notification shall include the date, time, location and circumstances of the incident, and the name of the facility to which the animal was taken.	ITP Condition # 6.3	Entire Project	Permittee	
32	CDFW may issue Permittee a written stop-work order to suspend any activity covered by this permit for an initial period of up to 25 days to prevent or remedy a violation of Permit conditions (including but not limited to failure to comply with reporting, monitoring, or habitat acquisition obligations) or to prevent the illegal take of an endangered, threatened, or candidate species. Permittee shall comply with the stop-work order immediately upon receipt thereof. CDFW may extend a stop-work order under this provision for a period not to exceed 25 additional days, upon written notice to the Permittee. CDFW shall commence the formal suspension process pursuant to California Code of Regulations, title 14, section 783.7 within five working days of issuing a stop-work order.	ITP Section XI	Entire Project	CDFW	
33	The Designated Biologist shall have authority to immediately stop any activity that is not in compliance with this permit, and to order any reasonable measure to avoid the take of an individual of a Covered Species. In addition, the Designated Biologist shall approve a disposal site for materials (spoils or excess soils, etc.) prior to the materials leaving the proposed project site. Alternatively, materials need to be placed in an authorized dumpsite or landfill.	ITP Condition # 4.6	Entire Project	Permittee	
34	Tortoises removed from occupied burrows and relocated to newly constructed burrows shall be handled using disposable surgical gloves. The gloves shall be disposed of after handling each tortoise. Other equipment shall be sterilized or changed between uses. Tortoises shall be kept upright at all times and handled in a secure but gentle manner to minimize stress including the possibility of voiding the bladder.	ITP Condition # 6.11	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35	Anytime a vehicle or construction equipment is parked for more than two minutes, the ground around and under the vehicle or equipment shall be inspected for desert tortoises before the vehicle or equipment is moved. If a desert tortoise is observed, it shall be left to move on its own. If this does not occur within 15 minutes, the Designated Biologist shall remove and relocate the tortoise.	ITP Condition # 6.14	Entire Project	Permittee	
36	Open trenches, auger holes or other excavations that may act as pitfall traps shall be inspected three times a day, prior to working in or around the excavation and prior to backfilling. Other excavations that remain open overnight shall be covered to prevent from becoming pitfall traps. Any animals found within the excavations shall be relocated. Tortoises shall be relocated as described above.	ITP Condition # 6.15	Entire Project	Permittee	
37	If, in any event, a desert tortoise is injured as a result of project related activities during construction, it will be immediately taken to a Department approved veterinarian clinic. Any veterinarian bills for such injured tortoises will be paid by CJR Partnership. CDFW and the Service shall be notified so they can determine the final disposition of the animal, if the injured tortoise recovers. Notification to CDFW and the Service shall occur in writing, within 2 calendar days of the incident. Notification shall include the date, time, location, and circumstances of the incident.	ITP Condition # 6.16	Entire Project	Permittee	
38	If a tortoise is killed by project related activities during construction, or if a tortoise is otherwise found dead, a written report will be sent to CDFW and the Service within five (2) calendar days. These tortoises shall be salvaged according to the paper entitled Salvaging Injured, Recently Dead, Ill, and Dying Wild, Free-Roaming Desert Tortoise (<i>Gopherus agassizii</i>) prepared by Kristin Berry, June 2001. CJR Partnership shall pay to have these tortoises necropsied. The report will include the date, time of the finding or incident, location of the carcass and the circumstances.	ITP Condition # 6.17	Entire Project	Permittee	
POST-CONSTRUCTION					
39	Upon Project completion, 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 shall be removed from the site and disposed of properly.	ITP Condition # 4.9	Post-construction	Permittee	
40	No later than 45 days after completion of the Project, including completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Final Mitigation Report shall be prepared by a knowledgeable, experienced Biologist and shall include, at a minimum: 1) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; 2) all available information about Project-related incidental take of species covered in this permit; 3) information about other Project impacts on the species covered in this permit; 4) construction dates; 5) an assessment of the effectiveness of this permit's conditions of approval in minimizing and compensating for Project impacts; 6) recommendations on how mitigation measures might be changed to more effectively minimize and mitigate the impacts of future projects on the species; and 7) any other pertinent information. Permittee's monitoring and reporting obligations under this MMRP will end only after CDFW accepts the Final Mitigation Report as complete.	ITP Condition # 5.5	Post-construction and after completion of mitigation	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
41	CDFW accepts the Final Mitigation Report as complete.	ITP Condition # 4.11	Post-construction	CDFW	

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

**PERMITTEE CHECKLIST OF DOCUMENTS FOR HABITAT
MANAGEMENT LAND PROPERTY REVIEW AND PROTECTION**

The California Department of Fish and Wildlife (CDFW) requests documents to help evaluate property proposed by Permittees as Habitat Management Land Acquisitions (HMLA) to comply with CDFW permits and approvals (e.g., incidental take permits, lake or streambed alteration agreements, etc.). CDFW Regional staff, as well as a CDFW Land Agent and Land Surveyor, will review the documents provided before the property is protected by conveying fee title or a conservation easement over the property. ***Early consultation with CDFW is encouraged.***

In Stage 1 (Property Eligibility), CDFW Regional staff conduct a site visit and review property-related documents to determine if the proposed property is eligible to meet permit mitigation requirements, including acreage and biological suitability. If CDFW determines the property is eligible, the Region will notify the Permittee that they may proceed to Stage 2.

Stage 2 (Property Acceptance) begins after CDFW determines the proposed property is eligible to meet permit mitigation requirements. Updates and additional documents will be requested at this time to evaluate the full HMLA package. CDFW Regional staff, Land Agent, and Land Surveyor review the documents and provide recommendations to the Regional Manager who will accept or reject the property as mitigation. If the property is accepted, the Region will notify the Permittee they may proceed with Stage 3.

Stage 3 (Property Protection and Closing Documentation) takes place after the property has been accepted as mitigation by CDFW. During this stage, the property will be protected by recording documents transferring fee title or a conservation easement and closing the real estate transaction. This stage ensures that CDFW has a copy of all closing documentation for permit compliance.

Submit all documents electronically, with file names following the document names in this checklist, to the [CDFW Regional Office](#) that serves the project area. Within the document, reference the project name and CDFW permit number. Use of an FTP site is encouraged for efficient electronic transfer of files.

PROCESS SUMMARY. Items below may not be applicable in all cases. Subsequent pages provide details for each item.

STAGE 1: Property Eligibility

1. **Biological Report**
2. **Habitat Management Land Title Information**
3. **Preliminary Title Report**
4. **Keyhole Markup Zip compressed (KMZ) Placement File of Assessor's Parcel(s)**
5. **Phase I Environmental Site Assessment Report**
6. **Mineral Risk Assessment Report**
7. **Items Completed by CDFW**

STAGE 2: Property Acceptance

8. **Boundary/Improvements/Encumbrances Map**
9. **UPDATED Phase I Environmental Site Assessment Report**
- 10 (A). **DRAFT Grant Deed with Exhibit(s)**
OR
- 10 (B). **DRAFT Conservation Easement Deed with Exhibit(s)**
11. **Checklist for Entities being Considered to Hold Conservation Easements or Manage and Steward Mitigation Land (Due Diligence)**
12. **Traverse Closure Report**
13. **Draft Subordination Agreement(s)**
14. **Access Easement or Documented Evidence of Existing Legal Access**
15. **Draft Management Plan(s) (e.g., Interim & Long-Term Management Plan)**
16. **Updated Preliminary Title Report**
17. **Grantor's Authority and Signatory Authorization**
18. **Pro Forma Title Insurance Policy**
19. **Escrow Instructions**

STAGE 3: Property Protection and Closing Documentation

20. **Digital Closing Package**
21. **Final Long-Term Management Plan**

Permittee Checklist: Habitat Management Land Property Review and Protection

PROCESS DETAILS.

STAGE 1: Property Eligibility Review

- 1. Biological Report:** Describe the baseline conditions of biological resources on the proposed property, such as historical and current land use, vegetation communities, invasive plant or animal species, soil types, presence of water features such as streams or wetlands, habitats of special status and common species, observations of special status species, any species survey results, and any development on the property or other threats to biological resources. Specifically provide details regarding baseline conditions of the habitat and population of the target species (e.g., Covered Species in the incidental take permit) or other target resource (e.g., riparian habitat) and how the property would benefit the conservation of the target species or other resource.
- 2. Habitat Management Land Title Information:** Complete the [form provided](#) by CDFW. Return the information to the CDFW Regional Office that serves the project area. Include a copy of all unrecorded documents and/or interests affecting title (e.g., contract, lease, license, prescriptive easement, etc.).
- 3. Preliminary Title Report:** Dated within 90 days of submission. Include hyperlinks to, and digital copies of, assessor's parcel map, vesting deed, and all exceptions affecting title.
- 4. Keyhole Markup Zip compressed (KMZ) Placement File of Assessor's Parcel(s):** Data associated with the spatial features should include assessor parcel number(s) (APN) and project name. Identify layer as either property boundary/parcel or, if a portion of the property, the easement area.
- 5. Phase I Environmental Site Assessment Report:** Refer to the CDFW [Phase I Reference](#) for important information on expired and stale reports.
- 6. Mineral Risk Assessment Report:** Applicable when requested by CDFW Region. May apply when the property is within a sedimentary basin mapped for oil, gas or geothermal production by California Department of Conservation's Division of Oil, Gas, and Geothermic Resources and/or mineral rights have been severed from the property. Report must provide a *mineral remoteness opinion* stamped and signed by a California Licensed Geologist.

7. Items Completed by CDFW:

- a) Site Visit. CDFW Regional staff will conduct a site visit to evaluate property eligibility, including acreage and biological suitability. Items 1-6 are used to inform the site visit. CDFW Regional staff will submit documentation of the site visit to the Land Agent.
- b) Appendix D. Completed with input from the Mineral Risk Assessment Report.

If CDFW determines the property is eligible, Regional staff will notify the Permittee that it may proceed to Stage 2.

STAGE 2: Property Acceptance

- 8. Boundary/Improvements/Encumbrances Map:** Digital Map (24-in x 36-in PDF); must be stamped by a Licensed Land Surveyor per [BPC § 8726 \(a\) and 8761](#). Detail should show:

Permittee Checklist: Habitat Management Land Property Review and Protection

- a) Resolved Boundaries Based on Field Surveys. Record boundaries (i.e., a desktop survey) may be sufficient if record deeds and maps exist to demonstrate the boundaries shown are without discrepancy and locatable. If the desktop survey method is accepted by the CDFW Land Surveyor, it must be accurately geolocated for digital submittal.
- b) Property Boundary. Even if a conservation easement will only restrict part of a property, provide the boundaries of the entire property with all encumbrances (e.g., easements, encroachments, etc.) affecting title re-traced.
- c) Conservation Easement Boundary. All conservation easement boundaries and encumbrances (e.g., easements, encroachments, etc.) affecting title re-traced.
- d) Improvements. All improvements (e.g., buildings, roads, fences, etc.) located in relation to the boundaries and encumbrances.
- e) Access. Legal access to the property and conservation easement area from a public right of way. If the property, conservation easement, or portions of the conservation easement area, are not accessible from a public right of way, show record references for access rights legally sufficient to provide access to grantee and all third-party beneficiaries. May be shown on a separate exhibit and does not have to be survey grade.

9. UPDATED Phase I Environmental Site Assessment Report: Refer to the CDFW [Phase I Reference](#) for important information on expired and stale reports. If requested by CDFW, provide either a new or updated Phase 1 Environmental Site Assessment Report.

10 (A). DRAFT Grant Deed with Exhibit(s): Applies when fee title will be granted to CDFW/the State. Contact CDFW for grant deed sample (MS Word).

- a) Exhibit A – Legal Description and Plat Map of Subject Property: Include all reference maps and deeds used to establish the boundary(ies) and create the legal description(s) and plat map(s).
 - i) Legal description for subject property (PDF).
 - (1) Should match the legal description in the preliminary title report. If legal description does not match the preliminary title report, it must be prepared, stamped, and signed by a Licensed Land Surveyor.
 - ii) Plat map (8.5x11 inches, legible black and white PDF).
 - (1) Show all existing encroachments and encumbrances
 - (2) Show bearings and distances, references, and calls from the legal description, adjoiners, etc.
 - (3) Must be prepared, stamped, and signed by a Licensed Land Surveyor.
 - (4) If the legal description for Exhibit A refers to a record map (record of survey, parcel map, or subdivision map) or deed, include those references with the calculated acreage in the plat map.

OR

10 (B). DRAFT Conservation Easement Deed with Exhibit(s): Applies when a conservation easement will be granted. Contact CDFW for conservation easement sample; use MS Word track changes (redline) to show any changes to the sample. If the DRAFT conservation easement deviates from the sample, CDFW legal counsel will need to review it. Provide CDFW digital copies of all documents referenced in the draft conservation easement deed (e.g., Long-Term Management Plan).

- a) Exhibit A – Legal Description and Plat Map of Entire Property: Include all reference maps and deeds used to establish the boundary(ies) and create the legal description(s) and plat map(s).
- i) Legal description for entire property (PDF). Should match the legal description in the preliminary title report. If legal description does not match the preliminary title report, it must be prepared, stamped, and signed by a Licensed Land Surveyor.
 - iii) Plat map (8.5x11 inches, legible black and white PDF).
 - (1) Show all existing plottable encroachments and encumbrances.
 - (2) Show bearings and distances, references and calls from the legal description, adjoining, etc.
 - (3) Must be prepared, stamped, and signed by a Licensed Land Surveyor.
 - (4) If the legal description for Exhibit A refers to a record map (record of survey, parcel map, or subdivision map) or deed, include those references with the calculated acreage in the plat map.
- b) Exhibit B – Legal Description and Maps of Conservation Easement Area: Include Exhibit B, in addition to Exhibit A, if the conservation easement does not cover the entire property (i.e., partial property conservation easement). Include all reference maps and deeds used to establish the boundary(ies) and create the legal description(s) and plat map(s).
- i) Legal description for the conservation easement area(s) (PDF).
 - (1) Must be prepared, stamped, and signed by a Licensed Land Surveyor.
 - (2) Should be described by metes and bounds with adjoiner and controlling calls, including calculated acreage.
 - ii) Plat map (8.5x11 inches, legible black and white PDF).
 - (1) Show all existing plottable encroachments and encumbrances affecting the conservation easement.
 - (2) Show bearings and distances, references and calls from the legal description, adjoining, etc.
 - (3) Must be prepared, stamped, and signed by a Licensed Land Surveyor.
 - (4) If the legal description is not described by metes and bounds, then the plat map should show those resulting courses that will match the closure report of the conservation easement boundary.
 - ii) CAD (computer aided design) file of the conservation easement area, preferably on the California State Plane Coordinate System.

11. [Checklist](#) for Entities being Considered to Hold Conservation Easements or Manage and Steward Mitigation Land (Due Diligence): Government Code § 65967(c) requires a state or local agency to exercise due diligence when approving governmental entities, special districts, and non-profit organizations proposed to hold conservation easements or manage and steward mitigation lands. CDFW Regional staff will review the qualifications of the entity(ies) proposed on a project-by-project basis. Because this determination is made on a project-by-project basis, CDFW may provide a [checklist](#) to entities proposed to hold conservation easements or manage and steward mitigation lands requesting a list of documents to review the entity's qualifications. Document requests are based on (among other things) the entity type, previous submittals, and property specific information. For more information, see CDFW's [Endowments and Mitigation Land Management website](#).

12. Traverse Closure Report: Prepared by, or under the direction of, a Licensed Land Surveyor. Applies when a Licensed Land Surveyor has prepared a legal description and plat map with their stamp and signature. Demonstrate the mathematical closure of the legal description and show acceptable closure error (e.g., gaps). Include all net parcels of the conservation easement area with precision and acreages stated.

13. Draft Subordination Agreement(s): May be applicable when there is a lien, mortgage, encumbrance, or other interest affecting title that may conflict or otherwise be inconsistent with the conservation easement. Draft subordination agreements may need to be reviewed by CDFW legal counsel.

14. Access Easement: May be applicable for some properties.

15. Draft Management Plan (e.g., Interim & Long-Term Management Plan): Include applicable restoration, interim, and long-term management plans required by the permit that follow example(s) or other guidance provided by CDFW. Interim and long-term management plans must include monitoring and management actions of the target species and its habitat or other resources to ensure continued existence on the property in perpetuity. The long-term management plan must include an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the funding necessary to ensure the long-term management of the lands. When CDFW will be the grantee of a conservation easement, the Permittee must provide a monitoring endowment assessment calculating the funding necessary to ensure in-perpetuity monitoring of the conservation easement. This monitoring endowment will be for CDFW's benefit. See permit for more details.

16. Updated Preliminary Title Report: CDFW may request updates throughout Stage 2.

17. Grantor's Authority and Signatory Authorization: Applies when fee title or a conservation easement will be granted to CDFW/the State by a governmental entity or business. Written documentation (e.g., consent or resolution) verifying the grantor's authority to convey the property interest and designating the authorized signatory(ies). If the grantor is an individual person or trust, authorization will be verified by the title and escrow company.

18. Pro Forma Title Insurance Policy: Pro forma (draft) title insurance policy with legal description(s) of the property interest to be insured and the name(s) of the grantee to be the insured. Legal descriptions in the pro forma should be consistent with the CDFW approved exhibit(s).

19. Escrow Instructions: To be reviewed by CDFW Land Agent before the close of escrow. Instructions should direct the title and escrow officer to email the closing package, including digital copies of all recorded documents and closing statement, to the CDFW Regional staff and CDFW Land Agent. When CDFW is grantee, contact CDFW Land Agent regarding escrow instructions.

If the property is accepted, the Region will notify the Permittee that it may proceed with Stage 3.

STAGE 3: Property Protection and Closing Documentation

20. Digital Closing Package: Include copy of title insurance policy, settlement/closing statement, recorded grant deed or conservation easement deed, and all other documents recorded at closing.

21. Final Long-Term Management Plan: Submit to CDFW Regional office.

[Financial institution letterhead]

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

Issue Date: **[date]**

Beneficiary:

California Department of Fish and Wildlife
Habitat Conservation Planning Branch
960 Riverside Parkway, Suite 90
West Sacramento, CA 95605
Attn: HCPB Mitigation Funds

Amount: U.S. \$**[dollar number]** **[(dollar amount)]**

Expiry: **[Date]** at our counters

Dear Sirs:

1. At the request and on the instruction of our customer, **[name of applicant]** ("Applicant"), we, **[name of financial institution]** ("Issuer"), hereby establish in favor of the beneficiary, the California Department of Fish and Wildlife ("CDFW"), this irrevocable standby letter of credit ("Credit") in the principal sum of U.S. \$**[dollar number]** **[(dollar amount)]** ("Principal Sum").
2. We are informed this Credit is and has been established for the benefit of CDFW pursuant to the terms of the incidental take permit for the **[name of project]** issued by CDFW to the Applicant on **[date]** (No. **[number]**) ("Permit").
3. We are further informed that pursuant to the Permit, the Applicant has agreed to complete certain mitigation requirements in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. CDFW shall be entitled to draw upon this Credit only by presentation of a duly executed Certificate for Drawing ("Certificate") in the same form as Attachment A,

which is attached hereto, at our office located at [***name and address of financial institution***].

6. The Certificate shall be completed and signed by an Authorized Representative of CDFW as defined in paragraph 12 below. Presentation by CDFW of a completed Certificate may be made in person or by registered mail, return receipt requested, or by overnight courier.
7. Upon presentation of a duly executed Certificate as above provided, payment shall be made to CDFW, or to the account of CDFW, in immediately available funds, as CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give CDFW prompt notice that the demand for payment was not effected in accordance with the terms and conditions of this Credit, state the reasons therefore, and await further instruction.
9. Upon being notified that the demand for payment was not effected in conformity with the Credit, CDFW may correct any such non-conforming demand for payment under the terms and conditions stated herein.
10. All drawings under this Credit shall be paid with our funds. Each drawing honored by us hereunder shall reduce, *pro tanto*, the Principal Sum. By paying to CDFW an amount demanded in accordance herewith, we make no representations as to the correctness of the amount demanded.
11. This Credit will be cancelled upon receipt by us of Certificate of Cancellation, which: (i) shall be in the form of Attachment B, which is attached hereto, and (ii) shall be completed and signed by an Authorized Representative of CDFW, as defined in paragraph 12 below.
12. An Authorized Representative shall mean the Director of CDFW; the General Counsel of CDFW; a Regional Manager of CDFW; or the Branch Manager of CDFW's Habitat Conservation Planning Branch.
13. This Credit shall be automatically extended without amendment for additional periods of one year from the present or any future expiration date hereof, unless at least sixty (60) days prior to any such date, we notify CDFW in writing by registered mail, return receipt requested, or by overnight courier that we elect not to consider this Credit extended for any such period.
14. Communications with respect to this Credit shall be in writing and addressed to us at [***name and address of financial institution***], specifically referring upon such writing to this credit by number. The address for notices with respect to this Credit shall be: (i) for CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 960 Riverside Parkway, Suite 90, West

Sacramento, CA 95605, Attn: HCPB Mitigation Funds; and (ii) for the Applicant:
[name and address of applicant].

15. This Credit may not be transferred.
16. This Credit is subject to the International Standby Practices 1998 ("ISP 98"). As to matters not covered by the ISP 98 and to the extent not inconsistent with the ISP 98, this credit shall be governed by and construed in accordance with the Uniform Commercial Code, Article 5 of the State of California.
17. This Credit shall, if not canceled, expire on **[expiration date]**, or any extended expiration date.
18. We hereby agree with CDFW that documents presented in compliance with the terms of this Credit will be duly honored upon presentation, as specified herein.
19. This Credit sets forth in full the terms of our undertaking. Such undertaking shall not in any way be modified, amended or amplified by reference to any document or instrument referred to herein or in which this Credit is referred to or to which this Credit relates and any such reference shall not be deemed to incorporate herein by reference any document or instrument.

[Name of financial institution]

By: _____
Name: _____
Title: _____
Telephone: _____

ATTACHMENT A

CERTIFICATE FOR DRAWING

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

Re: Irrevocable Standby Letter of Credit No. **[number issued by financial institution]**

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in paragraph 12 in the above-referenced standby letter of credit ("Credit"), hereby certifies to the Issuer that:

1. **[Insert one of the following statements:** "In the opinion of CDFW, the Applicant has failed to complete the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "As set forth in paragraph 13, the Issuer has informed CDFW that the Credit will not be extended and the Applicant has not provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. The undersigned is authorized under the terms of the Credit to present this Certificate as the sole means of demanding payment on the Credit.
3. CDFW is therefore making a drawing under the Credit in amount of U.S. \$_____.
4. The amount demanded does not exceed the Principal Sum of the Credit.

Therefore, CDFW has executed and delivered this Certificate as of this ___ day of **[month]**, **[year]**.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

[Insert one of the following: "Director" **or** "General Counsel" **or** "Regional Manager, [Name of Regional Office]" **or** "Branch Manager, Habitat Conservation Planning Branch"]

ATTACHMENT B

CERTIFICATE FOR CANCELLATION

[CDFW Letterhead]

[Date]

[Name and address of financial institution]

Re: Irrevocable Standby Letter of Credit No. [**number issued by financial institution**]

The undersigned, a duly Authorized Representative of the California Department of Fish and Wildlife ("CDFW"), as defined in the paragraph 12 in the above-referenced Irrevocable Standby Letter of Credit ("Credit"), hereby certifies to the Issuer that:

1. [**Insert one of the following statements:** "The Applicant has presented documentary evidence of full compliance with the Mitigation Requirements referenced in paragraph 3 of the Credit." **or** "The Applicant has provided CDFW with an equivalent security approved by CDFW to replace the Credit."]
2. CDFW therefore requests the cancellation of the Credit.

Therefore, CDFW has executed and delivered this Certificate for Cancellation as of this ____ day of [**month**], [**year**].

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

[Insert one of the following: "Director" **or** "General Counsel" **or** "Regional Manager, [**Name of Regional Office**]" **or** "Branch Manager, Habitat Conservation Planning Branch"]

State of California - Department of Fish and Wildlife
MITIGATION PAYMENT TRANSMITTAL FORM
 DFW 1057 (REV.05/18/21)

Project Applicant Instructions: Please fill out and attach this form to payment. For conservation banks, also attach the Bill(s) of Sale for credits sold. One form may be used for multiple transactions, **BUT YOU MUST USE A SEPARATE FORM FOR EACH CHECK YOU TRANSMIT.** Make sure to include Project Name, Project Tracking Number, and ASB Mitigation Tracking Number (if available) on the attached payment type.

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

4. AGREEMENT/ACCOUNT INFORMATION: (check the applicable type)

2081 Permit
 Conservation Bank
 2835 NCCP
 1802 Agreement
 1600 Agreement
 Other _____

Project Tracking Number

5. PAYMENT TYPE (One check per form only): The following funds are being remitted in connection with the above referenced project:

Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

- a. Endowment: for Long-Term Management Subtotal \$ _____
- b. Habitat Enhancement Subtotal \$ _____
- c. Security:
 - 1. Cash Refundable Security Deposit Subtotal \$ _____
 - 2. Letter of Credit Subtotal \$ _____
 - 1. Financial Institution: _____
 - 2. Letter of Credit Number: _____
 - 3. Date of Expiration: _____

ACCOUNTING OFFICE USE ONLY	
Description	FI\$Cal Coding
Speedchart (Project, Program, Reference, Fund)	
Reporting Structure	
Category	
Date Established: _____ By: _____	

Please send this form to asbmitigation@wildlife.ca.gov

Attachment 5

Minor Amendment No. 1 with Track Changes

Amended Incidental Take Permit No. 2081-2004-014-06
Oro Grande North Pit Expansion

1. The Authority Section has been amended as follows:

This California Endangered Species Act ("CESA") ~~Incidental Take Permit~~ ("Permit") ~~incidental take permit ("ITP")~~ is issued by the Department of Fish and Game ~~("Department Wildlife~~ ("CDFW") pursuant to Fish and Game Code section 2081, ~~subdivisions~~ (b) and ~~section 2081~~(c), and California Code of Regulations, title 14, ~~subdivision 3, chapter 6, article 1, commencing with~~ section 783- ~~et seq.~~ CESA prohibits the take¹ of any species of wildlife ~~that is included in designated by~~ the ~~list of California Fish and Game Commission as an~~ endangered ~~species, the list of~~ threatened ~~species~~, or ~~the list of~~ candidate species². -However, ~~the Department~~ CDFW may authorize, ~~by permit~~, the take of any such species ~~if by permit pursuant to the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and section 2081(c) are met.~~). (See Cal. Code Regs., tit. 14, § 783.4).

Permittee: CJR Partnership

Principal officer: ~~Mr. Jonathan Hove (760)244-9325~~ Jaime Hove

Contact person: Jaime Hove (760) 244-9325

Mailing address: 17671 Bear Valley Road
Hesperia, CA 92345
lclifton@robar.com

2. The Amended ITP Background section has been inserted preceding the Effective Date and Expiration section and describes Amendment No. 1 as follows:

On April 2, 2004, CJR Partnership submitted a CESA ITP application to CDFW

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."

²"Candidate species" are species of wildlife that have not yet been placed on the list of endangered species or the list of threatened species, but which are under formal consideration for listing pursuant to Fish and Game Code section 2074.2.

pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations Title 14, section 783.0 et. seq. CJR Partnership sought take coverage authorization for CESA listed species associated with Project-related impacts from the Oro Grande North Pit Expansion (Project) in San Bernardino County.

On July 31, 2006, CDFW issued ITP No. 2081-2004-014-06 to CJR Partnership (Permittee), authorizing take of Agassiz's desert tortoise (*Gopherus agassizii*) and Mohave ground squirrel (*Xerospermophilus mohavensis*) (collectively, the Covered Species) associated with and incidental to the Oro Grande North Pit Expansion in San Bernardino County, California (Project). The Project as described in the ITP as originally issued by CDFW includes sand and gravel mining operations in which approximately 350,000 to 500,000 of material would be extracted each year for 50 years. In issuing the ITP, CDFW found, among other things, that the Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP would not jeopardize the continued existence of the Covered Species.

In an application submitted April 17, 2024, the Permittee requested to amend Condition of Approval 4.b.iii of the original ITP to delegate weekly compliance inspection duties to a designated site personnel instead of a designated biologist and remove the monthly compliance reporting requirement of the condition. Ongoing mining operations have reduced the need for designated biologist monitoring because of the reduced Covered Species occurrence and habitat within the highly disturbed, fenced mining site. The designated site personnel will be given training material that has been developed and used by the designated biologist to train new personnel, while the designated biologist will continue to periodically train new personnel.

CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

CDFW now reissues this ITP including the revised provisions in this Minor Amendment (Collectively, the Amended ITP). The Amended ITP includes all of the operative provisions as of the effective date of this Amended ITP. Attachment 5 to this Amended

ITP shows the specific redline changes made to the ITP as a result of this Minor Amendment.

To conform with updated policy and template language, the following edits have been made throughout this amended ITP but are not identified in the redline changes in Attachment 5:

- The abbreviation for California Department of Fish and Wildlife has been updated from 'Department' to 'CDFW'
- The abbreviation for Incidental Take Permit has been updated from 'Permit' to 'ITP'
- The format and regulatory language have been updated to align with the current template
- The amended Condition of Approval in the original ITP was 4.b.iii and is now 5.3

3. The Effective Date and Expiration Date of this ITP section has been amended as follows:

The original ITP was executed in duplicate original form and became effective when it was acknowledged by signature of the Permittee on the last page of the original ITP and returned to CDFW Office of the General Counsel. The original ITP's effective date was **July 31, 2006**. This remains the effective date for the original take authorization. The Amended ITP shall become effective when signed by CDFW. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **July 1, 2056**.

* * *

4. The Covered Species Subject to Take Authorization Provided by this ITP section has been amended as follows:

This ~~Permit~~ITP covers the following species:

Name	Status ³

~~³Refers to status under CESA.~~ ³Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species. ~~All other species are "unlisted."~~

Mammals

1. Mohave ground squirrel (~~Spermophilus~~Xerospermophilus mohavensis)
Threatened⁴

Reptiles and amphibians

~~1-2.~~ Agassiz's Desert tortoise (Gopherus agassizii)
Threatened⁵/Candidateproposed Endangered⁶

* * *

5. The Incidental Take Authorization of the Covered Species section has been amended as follows:

~~The Department~~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 ~~Project~~Covered Activities, subject to the limitations described in this section and the ~~conditions~~Conditions of ~~approval~~Approval identified below. ~~This Permit~~ITP does not authorize ~~any intentional take of Covered Species,~~ take of Covered Species from activities outside the scope of the ~~Project as described above, or~~ Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from a permit-violation, of this ITP, or intentional take of Covered Species except for capture and relocation of Covered Species as authorized by this ITP.

6. The Conditions of Approval section has been amended as follows:

~~The Department's issuance of this Permit~~ 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.

* * *

7. Condition of Approval 5. Monitoring, Notification and Reporting Provisions has been amended as follows:

⁴ See Cal. Code Regs. Tit. 14 § 670.5., subd. (b)(6)(A)

⁵ See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(4)(A)

⁶ See 2020 Cal. Reg. Notice Register, No. 44-Z, pp. 1445-1446 (October 30, 2020)

5.3. Compliance Monitoring. Compliance inspections shall be conducted a minimum of once per week by the ~~Designated Biologist~~ Designated Representative, and ~~an~~ annual compliance report will be provided to ~~the Department's CDFW's~~ Regional Representative. ~~The Designated Biologist~~ Representative shall check for compliance with all of the mitigation/avoidance measures, and the exclusion zones shall be checked to ensure that the signs, stakes, and fencing are still intact and that human activities have been restricted in these protective zones. ~~Unless otherwise determined, the Department's CDFW's~~ Regional Representative shall be Ms Rebecca Jones Mr. Bryant Luu, Environmental Scientist, 36431 41st Street East, Palmdale 3602 Inland Empire Blvd, Suite C-220, Ontario, CA 93552, (661) 285-5867 91764.

* * *

8. Condition of Approval 6. Take Minimization Measures has been amended as follows: 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:

* * *

6.9. Desert Tortoise Burrow Excavation. Those burrows within the project area which cannot be avoided shall be excavated by hand prior to the start of construction. All excavation of tortoise burrows shall be in accordance with United States Fish and Wildlife Service and Department-approved guidelines and handling procedures ((USFWS) Desert Tortoise Council, 1994, revised 1999). Burrows (Mojave Population) Field Manual (hereinafter referred to as USFWS Field Manual). Burrows shall be excavated, and tortoises and eggs handled only by the Designated Biologist(s). ~~Excavations shall be permitted prior to 12:00 noon only.~~ To prevent re-entry by a tortoise, all burrows in the construction zone that do not contain tortoises shall be collapsed.

6.10. Translocation and Artificial Burrow Creation. Desert Tortoises excavated from unavoidable burrows- shall be relocated to unoccupied natural or artificially constructed burrows immediately following excavation. ~~The artificial or unoccupied natural burrows shall be constructed within suitable, undisturbed habitat, approximately 150 to 300 feet from the original burrow. The artificial burrow shall be similar in size, shape, and orientation to the original burrow. Relocated tortoises shall not be placed in existing occupied burrows. Procedures for handling tortoises shall follow those described in Guidelines for Handling Desert Tortoise During Construction Projects (Desert Tortoise Council,~~

1994, revised 1999)-the most current guidelines provided by USFWS and CDFW. Where guidance differs between USFWS and CDFW, verbal and/or written direction provided by CDFW always controls.

* * *

9. The Amendment section has been amended as follows:

This ~~permit~~ 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 the ~~Department~~CDFW determines that continued implementation of the Project as authorized under ~~existing permit conditions~~ 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.~~

10. The Stop-Work Order section has been amended as follows:

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 ~~activity covered by this permit~~Covered Activity for an initial period of up to ~~2530~~ days ~~or risk suspension or revocation of this ITP.~~ CDFW can issue a stop-work order to prevent or remedy a violation of ~~Permit conditions (this ITP, including but not limited to the failure to comply with reporting, or monitoring, or habitat acquisition obligations),~~ or to prevent the ~~illegal~~unauthorized take of ~~any~~ CESA endangered, threatened, or candidate species. ~~, regardless of whether that species is a Covered Species under this ITP.~~ Permittee shall ~~comply with the stop-work order~~ immediately as directed by CDFW upon receipt thereof. ~~The Department of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order under this provision issued to Permittee for a period not to exceed 2530 additional days, upon written notice to the Permittee. The Department shall commence the formal suspension process pursuant to California Code of Regulations, title 14, section 783.7 within five working days of issuing.~~

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 Biological Monitor(s), and/or Authorized Biologist(s) nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

* * *

11. The Notices section has been amended as follows:

Written notices, reports and other communications relating to this ~~permit~~ITP shall be delivered to ~~the Department~~CDFW by first class mail at the following addresses, or at addresses ~~the Department~~CDFW may subsequently provide the Permittee. -Notices, reports, and other communications should reference the Project name, Permittee, and ~~Permit~~ITP Number (2081--2004-014-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

~~Curt Taucher~~

Heidi Calvert, Regional Manager
~~4665 Lampson Avenue~~ 3602 Inland Empire Boulevard, Suite JC-220
~~Los Alamitos~~Ontario, CA 9072091764
~~(562) 431-1295 phone~~(909) 484-0167
~~(562) 799-3629 fax~~
R6CESA@wildlife.ca.gov

Copy of cover without attachment(s) to:

~~General Counsel, Department of Fish and Game~~
~~1416 Ninth Street, 12th Floor~~
~~Sacramento, CA 95814~~

And:

Habitat Conservation Planning Branch
~~1416 Ninth Street, suite 1260~~
California Department of Fish and Wildlife
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, CA -9581494244-2090
CESA@wildlife.ca.gov

Unless the County~~Permittee~~ is notified otherwise, ~~the Department's~~CDFW's Regional Representative for purposes of addressing issues that arise during implementation of permit conditions is ~~Rebecca Jones, Environmental Scientist~~:

~~36431 41st Street East,~~
~~Palmdale, CA 93552~~
~~(661) 285-5867 phone~~
~~(661) 285-5867 fax~~

Bryant Luu, Environmental Scientist
3602 Inland Empire Boulevard, Suite C-220

Ontario, CA 91764
(760) 923-8666
Bryant.Luu@wildlife.ca.gov

12. The Compliance with the California Environmental Quality Act section has been amended as follows:

* * *

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, Title 14, section 15162 and 15163, exist as a result of this Amendment.

* * *

13. The Attachments section has been amended as follows:

- ATTACHMENT 1 Mitigation Monitoring and Reporting Program
- ATTACHMENT 2A Habitat Management Lands Checklist
- ~~ATTACHMENT 2B~~ ~~Proposed Lands for Acquisition Form~~
- ATTACHMENT 3 Letter of Credit and Conservation Easement Forms
- ATTACHMENT 4 Mitigation Payment Transmittal Form
- ~~ATTACHMENT 5~~ Minor Amendment No. 1 with Track Changes

ACKNOWLEDGMENT

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

By: _____ Date: _____

Printed Name: _____ Title: _____