



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

California Endangered Species Act
Incidental Take Permit No. 2081-2023-058-02

2023 STORM DAMAGE EMERGENCY REHABILITATION PROJECT

I. Authority:

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

Permittee:	California Department of Water Resources Flood Maintenance and Operations Branch
Principal Officer:	Mitra Emami, Manager, Flood Maintenance and Operations Branch
Contact Person:	Gabrielle Tomblin Bohrer, Environmental Scientist
Mailing Address:	3310 El Camino Ave., Suite 140 Sacramento, CA 95821

II. Effective Date and Expiration Date of this ITP:

This ITP shall become effective when signed by all parties and received by CDFW as described in the Notices section of this ITP. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on December 31, 2024.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete Permittee's Final Mitigation Report required by Condition of Approval 5.5 of this ITP.

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

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

III. Project Location:

The 2023 Storm Damage Emergency Rehabilitation Project (Project) includes three locations. Site 23-030 is located on the landside left levee bank of Maintenance Area (MA) 12 along the Colusa Drain in the county of Colusa at approximately 39.126399, -122.022715. Site 23-031 is located on the landside left levee bank of MA 13 along Cherokee Creek in the county of Butte at approximately 39.357052, -121.877759. Site 23-032 is located on the landside left levee bank of MA 13 along Cherokee Creek in the county of Butte at approximately 39.465688, -121.743157 (See Figure 1).

IV. Project Description:

The Project includes landside levee erosion repair at Sites 23-030, 23-031, and 23-032. At all three sites, a staging area will be established on the levee crown or nearby existing disturbed area, temporary exclusion fencing will be installed around work areas, and vegetation will be cleared and grubbed.

At Site 23-030, existing plastic sheeting will be removed, a rock and soil mixture will be placed within the slump, and the levee will be reshaped to the original 1:2 slope. Approximately 120 cubic yards (cy) of rock revetment will be placed along the bottom third of the levee slope for stability. Erosion repair at this site will cause approximately 0.05-acre of impact to upland giant garter snake (GGS) habitat.

At Site 23-031, a rock and soil mixture will be placed within the slump and the levee will be reshaped to the original 1:1.5 slope. Approximately 500 cy of revetment will be placed on the bottom third of the levee slope. Erosion repair at this site will cause approximately 0.09-acre of impact to upland GGS habitat.

At Site 23-032, erosion-deposited sediment within an irrigation canal at the bottom of the levee slope will be excavated. If water is present in the canal during construction, a cofferdam or another similar structure will be installed to dewater the site. Existing plastic sheeting will be removed, a rock and soil mixture will be placed within the slump, and the levee will be reshaped to its original 1:1.5 slope. A 120-foot long, 36-inch diameter culvert will be installed into the open irrigation canal, creating a segment of canal that will be covered. Rock revetment will be placed on top of the newly installed culvert for added levee stability. Erosion repair at this site will cause approximately 0.075-acre of impact to upland GGS habitat and 0.025 to aquatic GGS habitat.

Project activities include: clearing and grubbing; grading; excavating; placement of revetment; materials stockpiling, laydown, and transport; heavy equipment staging and operations; levee stabilization; erosion control; surveying and monitoring activities; and hand crews and other activities.

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

This ITP covers the following species:

<u>Name</u>	<u>CESA Status</u> ³
1. Giant garter snake (<i>Thamnophis gigas</i>)	Threatened ⁴

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

VI. Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include: clearing and grubbing; moving; grading; excavating; capture and relocation; access route establishment; installation of erosion and exclusion fencing; cut and fill; sediment deposition; placement of revetment; materials stockpiling, laydown, and transport; culvert placement; culvert backfill; heavy equipment staging and operations; surveying and monitoring activities; hand crew operations; and site clean-up. (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as: being crushed by vehicles or equipment; becoming trapped or crushed within a burrow or other refugia; and mortality from fuel or oil spills from excavation equipment into aquatic habitat. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of catch, capture, or attempt to do so of the Covered Species from excavating; capture and relocation; material and vehicle transport. The areas where authorized take of the Covered Species is expected to occur include: the entirety of Project Sites 23-030, 23-031, and 23-032 (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.24-acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

VII. Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes 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

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

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

of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species, except for capture and relocation of Covered Species as authorized by this ITP.

VIII. Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of Environmental Impact Report (SCH No.: 2015052035) certified by Department of Water Resources (DWR) on January 5, 2018, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.
- 4. General Provisions:**
 - 4.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.
 - 4.2. Designated Biologist(s) and Biological Monitor(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (ATTACHMENT 2) or another format containing the same information at least 5 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered

Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.

- 4.2.1. Biological Monitor(s) Role.** For the purposes of this ITP, the approved Biological Monitor(s) do not need to have collection and handling experience; however, they shall not participate in Capture of Covered Species as outlined in Condition of Approval 6.4.
- 4.3. Designated Biologist(s) and Biological Monitor(s) Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist(s) and Biological Monitor(s) shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist(s) and Biological Monitor(s) in the performance of their duties. If the Designated Biologist(s) and Biological Monitor(s) is unable to comply with the ITP, then they shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist(s) and Biological Monitor(s) that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 4.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.
- 4.5. Construction Monitoring Documentation.** The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this

ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.

- 4.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 4.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 4.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 4.9. Delineation of Property Boundaries.** Before starting Covered Activities Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities.
- 4.10. Project Access.** Project-related personnel shall access the Project Area using existing routes and shall not cross Covered Species' habitat outside of or in route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 15 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 4.11. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area.
- 4.12. Inspect Equipment and Materials for Wildlife.** Permittee shall inspect under all vehicles and heavy equipment for the presence of wildlife before the start of each workday and when equipment is staged overnight. Additionally, Permittee shall look for wildlife in all pipes,

culverts, and similar structures that have been stored on-site for one or more nights before being buried, capped, or moved.

- 4.13. Hazardous Waste.** Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.
- 4.14. CDFW Access.** Permittee shall provide CDFW staff with reasonable access to the Project and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 4.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

5. Monitoring, Notification and Reporting Provisions:

- 5.1. Notification Before Commencement.** The Designated Representative shall notify CDFW 2 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 5.2. Notification of Non-compliance.** The Designated Representative shall immediately notify CDFW if Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.
- 5.3. Compliance Monitoring.** The Designated Biologist(s) or Biological Monitor(s) shall be on-site daily when Covered Activities occur. The Designated Biologist(s) or Biological Monitor(s) shall conduct compliance inspections a minimum of three times weekly during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist(s) shall conduct compliance inspections to:
- (1) minimize incidental take of the Covered Species;
 - (2) prevent unlawful take of species;
 - (3) check for compliance with all measures of this ITP;
 - (4) check all exclusion zones; and

- (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

The Designated Representative or Designated Biologist(s) shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.

- 5.4. CNDDDB Observations.** The Designated Representative or the Designated Biologist(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and shall include copies of the submitted forms with the Final Mitigation Compliance Report, whichever is submitted first relative to the observation.
- 5.5. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Representative or the Designated Biologist(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Daily and Weekly Compliance Reports; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 5.6. Notification of Take or Injury.** Permittee shall immediately notify the Designated Biologist(s) and/or Biological Monitor(s) if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. Permittee shall provide initial notification to CDFW by calling the Regional Office at 916-358-2900. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

- 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:

- 6.1. Delineation of Environmentally Sensitive Areas.** Permittee shall establish Environmentally Sensitive Areas (ESAs) in the Project Area to minimize the disturbance of Covered Species habitat as necessary from construction-related activities. At the discretion of the Designated Biologist(s) or Biological Monitor(s), all areas 200 feet or less from the edge of potential Covered Species aquatic habitat shall be avoided unless noted to be impacted by completion of the Project. All potential Covered Species habitat that can be reasonably avoided during construction activities shall be identified as ESAs and shall be marked by the Designated Biologist(s) or Biological Monitor(s). All construction personnel shall avoid ESAs during all phases of construction. Permittee shall avoid ESAs when siting all staging areas, spoils disposal areas, borrow pits, and construction equipment access routes. Permittee shall not use plastic mono-filament netting on the Project site for ESA fencing, erosion control, or any other purpose to avoid entanglement of the Covered Species. The Designated Biologist(s) or Biological Monitor(s) shall inspect the fencing before the start of each workday and Permittee shall maintain fencing until the completion of the Project. Permittee shall remove all ESA fencing material upon completion of the Project.
- 6.2. Pre-Construction Survey and Refugia Flagging.** No more than 24 hours prior to commencement of Covered Activities within 200 feet of Covered Species aquatic habitat, Designated Biologist(s) or Biological Monitor(s) shall conduct a Pre-Construction Survey for the Covered Species. The Designated Biologist(s) or Biological Monitor(s) shall survey all upland habitat within 200 feet of Covered Species aquatic habitat for burrows, soil cracks, and crevices that may be suitable for use by the animal. Any identified burrows, soil cracks, crevices, or other habitat features that are outside of the area planned for direct disturbance (e.g., grading, excavation, etc.) shall be flagged or marked by the Designated Biologist(s) or Biological Monitor(s). Permittee shall avoid flagged locations during Covered Activities to the maximum extent feasible. In areas planned for disturbance, a Designated Biologist(s) shall be on-site to monitor during ground disturbing activities. If Covered Activities stop for more than 14 calendar days, the Designated Biologist(s) or Biological Monitor(s) shall repeat surveys for burrows, soil cracks, and similar features as described above, prior to resuming the Covered Activities.
- 6.3. Capture and Handling.** Covered Species may only be captured and handled by the Designated Biologist(s). The Designated Biologist(s) shall determine whether the animal should be captured and handled. The Designated Biologist(s) shall minimize capture and handling to the extent feasible as most reptiles experience stress in response to capture and short-term confinement.
- 6.4. Covered Species Capture and Relocation Plan.** Permittee shall develop a Capture and Relocation Plan for the Covered Species and submit it to CDFW for approval no later than 40 days after initiating Covered Activities and before handling any individuals. CDFW will provide a written response within 3 business days of submittal. The Capture and Relocation Plan shall describe how and where the Covered Species will be captured and relocated if it

becomes necessary to move them to avoid injury or mortality. All capturing and handling shall be conducted by the Designated Biologist(s) with experience and expertise in handling the Covered Species. The Capture and Relocation Plan shall include the methods that will be used to capture and relocate individuals and a map of planned release locations. Permittee shall quantify the amount, relative location, and quality of suitable habitat (aquatic and terrestrial) for relocation areas, including invasive and non-native species present, available upland burrows, suitable prey items, and potential barriers for movement. Permittee shall also identify a wildlife rehabilitation or veterinary facility that will be used if any captured Covered Species are injured. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. Relocation areas should be within the same watershed as the Project Area. If a Covered Species is found on the Project site, the Designated Biologist(s) shall be notified immediately to determine if it needs to be captured and relocated. Covered Species encountered in active construction areas shall be allowed to leave on their own volition if possible. The Designated Biologist(s) shall only relocate the Covered Species if the animal is directly threatened by immediate Covered Activities and the animal is unable to move to a safe area on its own. The Designated Biologist(s) shall only relocate to areas identified in the Capture and Relocation Plan. Relocated animals shall be released as soon as possible. The Designated Representative shall notify CDFW of the incident immediately or no later than noon on the next business day if the incident occurs outside of normal business hours. 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.

- 6.5. Snake Encounters.** Uninjured Covered Species encountered during construction activities shall be allowed to move away from the area on their own volition. Capture and relocation of trapped or injured individuals shall be attempted only by the Designated Biologist(s) with CDFW approval to handle them. For each Covered Species encountered, the Designated Biologist(s) shall submit a completed CNDDDB field survey form (or equivalent) to CDFW within 60 calendar days of the observation.
- 6.6. Avoid Covered Species Entrapment.** Permittee shall ensure all excavated locations, steep-walled holes, or trenches more than six (6) inches deep are completely covered or one or more escape ramps of earth fill or wooden planks are installed at the end of each workday or 30 minutes prior to sunset, whichever occurs first. All steep-walled holes or trenches will be inspected by the Designated Biologist(s) or Biological Monitor(s) each morning to ensure that Covered Species, or other wildlife, has not become entrapped. All construction pipes, culverts, similar structures, construction equipment, and construction debris left overnight will be inspected for Covered Species by the Designated Biologist(s) or Biological Monitor(s) prior to being moved.
- 6.7. Erosion Control.** Permittee shall install erosion control materials concurrently with construction. Permittee shall construct these structures, so runoff is directed away from

ESAs. Permittee shall ensure that all fiber rolls and erosion control blankets or netting are made of loose-weave mesh that is not fused at the intersections of the weave, such as coconut (coir) fiber, or other products without welded weaves. Permittee shall not use products with plastic monofilament or jute netting or any material with cross joints in the netting that are bound/stitched (such as that found in straw wattles/fiber rolls and some erosion control blankets), which may cause Covered Species entrapment. Permittee shall cover the edges of erosion control blankets or netting with soil, sandbags, or similar materials to prevent Covered Species from crawling underneath the material and become entrapped.

6.8. Vegetation Removal. Vegetation clearing shall be limited to the minimum area necessary within 200 feet of any aquatic habitat. All vegetation removal shall be monitored by the Designated Biologist(s) or Biological Monitor(s).

6.9. Seeding. Permittee shall restore all temporarily impacted Covered Species upland habitat by seeding with a locally native seed mix, unless otherwise agreed upon with CDFW. Revegetation shall be completed as soon as possible after construction activities. Permittee shall provide a proposed seed list to CDFW for review and approval prior to applying seed.

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

To meet this requirement, Permittee shall purchase 0.48 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 7.1 below. Purchase of Covered Species credits occur within 30 days from the effective date of this ITP.

7.1. Covered Species Credits. Permittee shall initiate purchase 0.48 acres of giant garter snake credits from a CDFW-approved mitigation or conservation bank(s) prior to initiating Covered Activities and provide proof of purchase no later than 40 days from the effective date of this ITP. Prior to purchase of Covered Species credits, Permittee shall obtain CDFW approval to ensure the mitigation or conservation bank is appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Bill of Sale(s) and Payment Receipts within 30 days from the effective date of this ITP. The estimated cost for giant garter snake credits at **\$90,000/acre**, is **\$43,200** for **0.48 credits**.

IX. Amendment:

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

X. Stop-Work Order:

If CDFW determines 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 Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

If Permittee fails to remedy the violation or to comply with a stop-work order, CDFW may proceed with suspension and revocation of this ITP. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

XI. Compliance with Other Laws:

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

XII. Notices:

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

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

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2023-0058-002) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Morgan Kilgour, Regional Manager
California Department of Fish and Wildlife
1701 Nimbus Road
Rancho Cordova, CA 95670
(916) 358-2900
morgan.kilgour@wildlife.ca.gov

and a copy to:

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

Incidental Take Permit
No. 2081-2023-058-002
CALIFORNIA DEPARTMENT OF WATER RESOURCES
STORM DAMAGE EMERGENCY REHABILITATION PROJECT

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

Annalise Metzger, Environmental Scientist
 1701 Nimbus Road
 Rancho Cordova, CA 95670
 (916) 358-1097
annalise.metzger@wildlife.ca.gov

XIII. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, DWR. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Environmental Permitting for Operations and Maintenance EIR, (SCH No.: 2015052035) dated January 2018 that DWR certified for Routine Maintenance of Levees, Channels, and Flood Control Structures on January 5, 2018. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

XIV. Findings Pursuant to CESA:

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

CDFW finds based on substantial evidence in the ITP application, the Environmental Permitting for Operations and Maintenance EIR, the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

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

activities covered under this ITP;

- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) Weekly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 0.48 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of Permittee as necessary to avoid jeopardy and as required by law.

XV. Attachments:

FIGURE 1
ATTACHMENT 1
ATTACHMENT 2

Project Locations
Mitigation Monitoring and Reporting Program
Biologist Resume Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 12/18/2023

DocuSigned by:
Morgan Kilgour
C3A86764C0AD4F6...

Morgan Kilgour, Regional Manager
North Central Region

ACKNOWLEDGMENT

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

DocuSigned by:
Mitra Emami
F5D89D0FA3694EB...

By: _____ Date: 12/20/2023

Printed Name: Mitra Emami Title: FMO Manager/ Principal Engineer

Incidental Take Permit
No. 2081-2023-058-002
CALIFORNIA DEPARTMENT OF WATER RESOURCES
STORM DAMAGE EMERGENCY REHABILITATION PROJECT