



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. 2081-2024-035-06

AGGREGATE LOADING FACILITY AND RAIL LOOP 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:	Bryan Zatica, LCM Development, LLC
Principal Officer:	Bryan Zatica, President
Contact Person:	Joe Mathewson, 714-564-1130
Mailing Address:	841 E. Washington Ave., Suite B Santa Ana, CA 92701

II. Effective Date and Expiration Date of this ITP:

This ITP is effective as of the date signed by CDFW below. Unless renewed by CDFW, this ITP and its authorization to take the Covered Species shall expire on **January 28, 2031**.

III. Project Location:

The Aggregate Loading Facility and Rail Loop Project (Project) is located at 1880 Santa Fe Road within the City of Hinkley, San Bernardino County (See Figure 1). The Project is located approximately three miles west of the town of Hinkley in the southwest ¼ of Section 13, Township 10 North, Range 4 West, Assessor's Parcel Numbers 0496-011-07-000 and 496-14-101-0000. The Project site is bounded by the Burlington Northern and Santa Fe Railway (BNSF) main rail line to the south, intersects with Santa Fe Road, and is bounded by Lynx Cat Road to the north.

IV. Project Description:

The Project includes the development of 125.5 acres of undeveloped land into an aggregate loading facility and rail loop. Project activities include grubbing and grading of the entire Project site, trench

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

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

digging, excavation, loading and stockpiling, railway construction and alignment, road construction and maintenance, road relocation, fencing and other activities. The haul road to the main quarry will be used to transfer materials to and from the loading facility. A “Y”-track is also being developed to transport materials to the rail line (Figure 2).

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. Agassiz’s Desert tortoise (<i>Gopherus agassizii</i>)	Endangered ⁴
2. Mohave ground squirrel (<i>Xerospermophilus mohavensis</i>)	Threatened ⁵

These species and only these species are 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 vegetation clearing; grading and compaction; excavation; installation of fencing or barriers; general operation of vehicles and heavy equipment; noise, vibration, and dust generating activities; and capture and relocation activities (Covered Activities).

Incidental take of individuals of the Covered Species in the form of mortality (“kill”) may occur as a result of Covered Activities such as collision with, or crushing by, vehicles or heavy equipment; crushing or burial of individuals or eggs in burrows; destruction of burrows and refugia; and increased predation. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from entrapment in holes, trenches, or stockpiles, uncovering Covered Species through the excavation of burrows, and capture and relocation activities. More specifically, relocation of Covered Species to the translocation site may disrupt the behavior and social structure of resident individuals. Relocated adult Covered Species may continue to disperse and never establish a territory, resulting in no reproductive effort and the loss of offspring to maintain population viability. The areas where authorized take of the Covered Species is expected to occur include: the entire Project site, access roads, and CDFW-approved relocation recipient site (collectively, the Project Area).

The Project is expected to cause the permanent loss of 121.5 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 indirect impacts may include: stress resulting from noise and vibrations from tunneling and capture and relocation, and long-term effects

³Under 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. (a)(4)(E)

⁵ See. *Id.*, subd (b)(6)(A).

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

VIII. Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No.: 2025090950) adopted by San Bernardino Planning Department on November 20, 2025, as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), and as may be modified, amended, or otherwise changed by the CEQA lead agency.
- 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. Authorized Biologist(s), Biological Monitor(s), and/or Veterinarian(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Authorized Biologist(s) and Biological Monitor(s) using the Biologist Resume Form for desert tortoise (ATTACHMENT 2) and Mohave ground squirrel (ATTACHMENT 3) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Authorized Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Authorized 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 Authorized Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Authorized Biologist(s) or Biological Monitor(s) must be changed.
- 4.3. Authorized Biologist(s) and Biological Monitor(s) Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Authorized Biologist(s) and/or 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 Authorized Biologist(s) and/or Biological Monitor(s) in the performance of his/her duties. If the Authorized Biologist(s) and/or Biological Monitor(s) is unable to comply with the ITP, then the Authorized Biologist(s) and/or Biological Monitor(s) 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 Authorized Biologist(s) and/or 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 Authorized Biologist(s) and/or Biological Monitor(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same

instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.

- 4.5. Construction Monitoring Documentation.** The Authorized Biologist(s) and/or 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, food, and roadkill 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 Authorized Biologist(s) and/or Biological Monitor(s). 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 along each part of the route in active construction or during Project operation, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.
- 4.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area by placing exclusionary fencing around the boundary of the Project area to minimize the disturbance of Covered Species' habitat adjacent to the Project area.
- 4.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle

traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 25 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.

- 4.12. Staging Areas.** Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 4.11 of this ITP.
- 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 lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP. CDFW shall provide at least 24-hour notice to Permittee to allow for coordination of a field visit to the Project lands for safety reasons.
- 4.15. Refuse Removal.** Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

5. Monitoring, Notification, and Reporting Provisions:

- 5.1. Notification Before Commencement.** The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 5.2. Notification of Non-compliance.** The Designated Representative shall immediately (within 24 hours) notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated

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

5.3. Compliance Monitoring. The Authorized Biologist(s) and/or Biological Monitor(s) shall be on-site daily until all Covered Species surveys, translocation, installation of exclusionary fencing, and clearing, grubbing, and grading occurs. The Authorized Biologist(s) and/or Biological Monitor(s) shall then only be present monthly to conduct compliance inspections, including during periods of inactivity until Covered Activities are completed. The Authorized Biologist(s) and/or Biological Monitor(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 exclusionary fencing is intact, and that Covered Activities are only occurring in the Project Area.

The Designated Representative or Authorized Biologist(s) and/or Biological Monitor(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. Quarterly Compliance Report. The Designated Representative or Authorized Biologist(s) and/or Biological Monitor(s) shall compile the observation and inspection records identified in Condition of Approval 5.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Scott Jakubowski (Scott.Jakubowski@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

5.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 5.4; (2) a general description of the status of the Project

Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.

- 5.6. CNDDDB Observations.** The Authorized Biologist(s) and/or Biological Monitor(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Authorized Biologist(s) and/or Biological Monitor(s) shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 5.7. Final Mitigation Report.** No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Representative, Authorized Biologist(s), or Biological Monitor(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.
- 5.8. Notification of Take or Injury.** Permittee shall immediately notify the Authorized 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. The Authorized Biologist(s), Biological Monitor(s), or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

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. Herbicides.** Permittee shall only use herbicides containing a harmless dye and registered with the California Department of Pesticide Regulation (DPR). All herbicides shall be applied in accordance with regulations set by DPR. All herbicides shall be used according to labeled instructions. Labeled instructions for the herbicide used shall be made available to CDFW upon request. No herbicide application shall occur when winds are greater than 5 miles per hour.
- 6.2. Rodenticides and Insecticides.** Permittee shall not use rodenticides and/or insecticides on the Project area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project area without prior written permission from CDFW.
- 6.3. Entrapment Inspections.** Any pipes, culverts, or similar structures with a diameter greater than 3 inches and less than 8 inches aboveground shall be inspected by the Authorized Biologist(s) and/or Biological Monitor(s) for Covered Species' before the material is moved, buried, or capped. The Authorized Biologist(s) and/or Biological Monitor(s) shall inspect all open holes and trenches within Covered Species habitat at a minimum of twice a day and just prior to backfilling. At the end of each workday during construction, Permittee shall place an escape ramp at each end of trenches to allow any animals that may have become trapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed no greater than a 30° angle. If any worker discovers that Covered Species have become trapped, they shall halt Covered Activities and notify the Biological Monitor(s) and/or Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) and/or Authorized Biologist(s) shall allow the Covered Species to escape unimpeded if possible, or an Authorized Biologist(s) approved under Condition of Approval 4.2 of this ITP shall move the Covered Species out of harm's way before allowing work to continue.
- 6.4. Pre-Construction Surveys for Desert Tortoise.** No later than thirty [30] Calendar days prior to start of Covered Activities, the Authorized Biologist(s) and/or Biological Monitor(s) approved under this ITP shall conduct pre-construction clearance surveys for Covered Species, using the methods described in the most recent United States Fish and Wildlife

Service (USFWS) Desert Tortoise (Mojave Population) Field Manual⁶ (hereinafter referred to as USFWS Field Manual). In addition to the guidance provided in the USFWS Field Manual, CDFW provides the following requirement(s):

- 6.4.1. Pre-construction clearance surveys shall be completed using perpendicular survey routes within the Project area. Pre-construction clearance surveys cannot be combined with other clearance surveys conducted for other species while using the same personnel. Covered Activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for the Covered Species are documented. A negative result means no live desert tortoise is detected within the Project area during pre-construction surveys.
- 6.4.2. These surveys shall cover 100 percent of the Project area and a 50-foot buffer zone around the Project site. The Biological Monitor(s) and/or Authorized Biologist(s) shall record all potential Covered Species burrows, Covered Species sign, and live Covered Species within the pre-construction clearance survey area, using global positioning system (GPS) technology. The Biological Monitor(s) and/or Authorized Biologist(s) shall provide the results of the preconstruction clearance survey (including all information of the USFWS Protocol data sheet) to CDFW within thirty [30] Calendar days of completing the surveys. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.
- 6.4.3. Twenty-four [24] hours prior to the start of any Covered Activities, except for areas already cleared within installation of desert tortoise exclusion fencing, the Biological Monitor(s) and/or Authorized Biologist(s) shall conduct a final clearance survey of Project area. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.
- 6.5. Pre-Construction Surveys for Mohave Ground Squirrel.** No more than thirty [30] Calendar days prior to the start of ground disturbing activities the Authorized Biologist(s)/Biological Monitor(s) shall be present onsite to perform a pre-construction survey for Mohave ground squirrel. These surveys shall cover the Project area and a 50-foot buffer zone. All known or suspected Mohave ground squirrel burrows within the work areas shall be flagged to alert biological and work crews to their presence. A report documenting the results of the preconstruction surveys shall be submitted to CDFW within thirty [30] Calendar days of completing the surveys.
- 6.6. Covered Species Observations.** If a Covered Species is observed during Covered Activities, all work within 300 feet of the Covered Species shall immediately stop and the observation

⁶ U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). Region 8, Sacramento, California.

shall be immediately reported to the Authorized Biologist(s) and/or Biological Monitor(s). Covered Activities shall not resume until the Authorized Biologist(s) and/or Biological Monitor(s) has verified the Covered Species has left the Project area OR an Authorized Biologist(s) approved under Condition of Approval 4.2 of this ITP relocates the Covered Species as described in this ITP and Desert Tortoise Translocation Plan. The Designated Representative shall notify CDFW of any Covered Species observations within the Project area. Notification shall occur within twenty-four [24] hours. Notification and the written report shall include the date, location, and circumstances of the observation, the name of the Authorized Biologist(s) that relocated the individual, pictures, map and shapefiles with the location (including GPS coordinates) where the individual was moved as specified in the DTTP.

- 6.7. Desert Tortoise Burrow Excavation.** Only Authorized Biologist(s) and Biological Monitor(s) under Condition of Approval 4.2 are authorized to conduct burrow excavation. Excavation of burrows shall follow the methods described the USFWS Field Manual⁷.
- 6.8. Mohave Ground Squirrel Burrow Excavation.** The Authorized Biologist(s) and/or Biological Monitor(s) shall fully excavate by hand all burrows OR scope each burrow within the Project area that are suspected or known to be occupied by Mohave ground squirrels. The Authorized Biologist(s) and/or Biological Monitor(s) shall allow Mohave ground squirrels encountered in the burrows during their active period (generally March 15 – July 15) to escape out of harm’s way, ensuring all pups are mobile and able to vacate. During the Mohave ground squirrel dormant period (generally September 1 – January 31), the Authorized Biologist(s) shall collect and immediately relocate the individuals to an artificial burrow in the following preferential order: 1.) relocate to the nearest public lands with suitable habitat from where the squirrel was originally captured; 2.) relocate outside of right-of-way, on private property. Mohave ground squirrels may not be relocated to private property unless the Permittee obtains written permission from the property owner prior to Covered Activities. The Mohave ground squirrel may only be relocated by the Authorized Biologist(s). The Authorized Biologist(s) shall prepare relocation burrows in the following manner: (1) A hole of at least two feet deep shall be dug; (2) Install a nine-inch diameter non-collapsible plastic container, which shall be connected to a three-inch diameter non-collapsible plastic pipe that runs to the ground surface at a 45° angle; (3) The Authorized Biologist(s) shall place the Mohave ground squirrel in the artificial burrow and lightly plug the burrow mouth with soil in a manner that is similar to a natural Mohave ground squirrel burrow.
- 6.9. Desert Tortoise Translocation.** Regardless of the number of desert tortoise estimated to be moved out of harm’s way, the Permittee shall prepare a Desert Tortoise Translocation Plan (DTTP) fifteen [15] Calendar days prior to start of Covered Activities and submit it to CDFW for review and approval. Covered Activities are not authorized to start until the DTTP is approved in writing by CDFW. The DTTP shall follow the most current guidelines provided

by USFWS and CDFW regarding Covered Species translocation. Where guidance differs between USFWS and CDFW, verbal and/or written direction provided by CDFW always controls. The list of items below are the most common examples of the differences between CDFW and USFWS guidelines. These shall be included in the DTTP along with the most recent USFWS translocation guidelines:

- Translocated tortoise are tortoises removed from the Project area and/or have a radio transmitter attached.
- The Authorized Biologist(s) shall determine when the creation of artificial burrows is needed.
- Ambient air temperature guidelines shall be followed as specified in Condition of Approval 6.10 of this ITP.
- Tortoises <100 millimeters (mm) midline carapace length (MCL) shall be released immediately without being held, transmittered, or blood drawn for disease testing as long as the temperature requirements in Condition of Approval 6.10 of this ITP below are met.
- Linear Facilities: Tortoises >100 mm MCL that are moved due to their burrow being collapsed shall be transmittered (duration of monitoring shall be determined on an individual project basis and shall be included in the DTTP) and disease tested.
- CDFW does not authorize the release of tortoises that test positive for disease even if it does not show outward signs of the disease. If a tortoise tests positive for disease it is the responsibility of the Permittee to locate a CDFW approved facility to place the tortoise in. Any exception to this determination will need to be approved in writing by CDFW on a case-by-case basis.
- Disease testing shall not be done between November 1 and May 14. If a tortoise >100 mm MCL is found between November 1 and May 14 or earlier with written approval from CDFW the tortoise shall be held in quarantine facilities and shall remain in quarantine until tested twice (once in the spring and once in the fall). If the tortoise tests negative for disease it can be released in accordance with the approved DTTP. Blood draw samples for *Mycoplasma agassizii* and *Mycoplasma testudineum* shall determine if a tortoise is negative or positive for disease. A combination of results from blood testing and visual inspection will be used to determine the health of a tortoise. Blood draw samples will be sent to: Dr. Mary Brown, University of Florida, Department of Infectious Diseases and Immunology, 2015 SW 16th Ave., Room V2-234, Gainesville, Florida 32608, or other facility approved by CDFW. CDFW uses enzyme-linked immune assay (ELISA) test results to determine if a tortoise is positive for disease. The ELISA tests will be used to test for exposure to herpes virus (*Mycoplasma agassizii* and *Mycoplasma testudineum*). If a tortoise tests positive for

or is suspected of disease, then the tortoise will be tested twice for disease (once in the spring after May 15 to and once in the fall). To determine results of blood testing use the most current guidelines provided by the University of Florida Mycoplasma Laboratory Department of Infectious Diseases and Pathology. The University of Florida Mycoplasma Laboratory Department of Infectious Diseases & Pathology 2013 criteria for classifying *Mycoplasma agassizii* and *Mycoplasma testudineum* is: (1) a titer <32 is negative, (2) a titer > 64 is positive, and (3) a titer of 32 is suspect (retesting in 6 weeks) or most current guidelines. All sample forms shall come from the University of Florida's guidance.

- The DTTP shall include a requirement that all translocated tortoises regardless of size be included in the translocation numbers and all reports.
- The DTTP shall propose one recipient site. Recipient sites shall have the vegetative structure to support all life stages of desert tortoises. In addition to the USFWS Field Manual⁸ guidelines, the DTTP shall also include identifying the known threats or potential causes of population decline, how potential threats have been or would be addressed, complete physical examination and health assessments with sample collection, age-structure and sex ratios, protocol level surveys, vegetation classification and quality of habitat. The DTTP shall detail which characteristics are to be used to decide if a recipient site is similar enough to a Project area including burrow aspects, and recovery needs such as habitat restoration and/or predator control.
- All tortoises >100 mm MCL removed off the Project area shall be transmitterd and monitored for 5 years post translocation or at the expiration of this ITP, whichever occurs first.
- Recipient sites shall be a minimum of 4 miles (6.5 kilometers) away from highway/road right-of-way that does not include Covered Species fencing.
- All tortoise burrows within the Project area shall be excavated following procedures outlined in the USFWS Field Manual.
- Creation of artificial burrows, as well as translocation of tortoises and eggs shall only occur on land(s) (including Bureau of Land Management), when written authorization has been obtained from the landowner prior to the start of Covered Activities. The written permission from the landowner shall be included in the DTTP and the DTTP shall not be approved by CDFW until authorization is provided in writing. If creation of artificial burrows or translocation of tortoise or eggs is proposed to take place on private lands then in addition to written approval required above, some form of protection for the land such as a conservation easement shall be in place prior to translocation occurring.

- Cleaning and Disinfection Protocol. Trifectant and Rescue Ready to Use One Step Disinfectant Cleaner are the only products authorized under this ITP and its associated DTP to be used as a disinfectant. These products are not authorized to be applied using a spray bottle or other spray methods.

- Cleaning and Disinfection Protocol shall include the following:

- o Remove all grossly visible debris.

- o Wash the area or item with water and mild detergent.

- o Thoroughly rinse the cleaned area to remove any detergent residue.

- o Allow the area to dry completely.

- o Apply disinfectant mixture.

- o Allow the full disinfectant product recommended contact time.

- o Thoroughly rinse away any residual disinfectant and allow the area or item to air dry.

6.10. Ambient Air Temperature for Desert Tortoise. During all handling procedures, Covered Species shall be treated in a manner to ensure that they do not overheat or exhibit signs of overheating (e.g., gaping, foaming at the mouth, etc.), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Covered Species shall be kept shaded at all times until it is safe to release them. For the purposes of this permit, ambient air temperature shall be measured in the shade, protected from wind, at a height of 5 centimeters above the ground surface. For all Covered Activities no Covered Species shall be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95° Fahrenheit (F) (35° Celsius (C)). No Covered Species shall be captured if the ambient air temperature is anticipated to exceed 95° F (35° C) before handling or processing can be completed. If the ambient air temperature exceeds 95° F (35° C) during handling or processing, Covered Species shall be kept shaded in an environment that does not exceed 95° F (35° C), and not released until ambient air temperature declines to below 95°F (35°C). Covered Species moved during the less active season (June 1 to August 31 and November 1 to March 31) shall be monitored by the Authorized Biologist(s) for at least two days after placement in the new burrows to ensure their safety. During relocation, the Authorized Biologist(s) may hold a captured Covered Species overnight and move them the following morning within these temperature constraints.

- 6.11. Desert Tortoise Species Rehydration.** If a Covered Species voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the animal(s). The Authorized Biologist(s) shall rehydrate the Covered Species immediately at the location where the animal(s) was or were captured, or the location where the animal(s) is or will be released. The Authorized Biologist(s) shall rehydrate the Covered Species by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the Covered Species. The Authorized Biologist(s) shall rehydrate each Covered Species individually for a minimum of 10 to 20 minutes. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration.
- 6.12. Covered Species Handling Records.** The Authorized Biologist(s) shall maintain a record of all Covered Species handled. This information shall include: (a) the locations (narrative and maps) and dates of observation, including whether the individual(s) was found above ground or in a burrow; (b) ambient temperature when handled and released; (c) general condition and health of the individual(s), including injuries, state of healing, and whether the individual(s) voided its bladders; (d) identified diagnostic markings (i.e., identification numbers or marked marginal scutes); (e) location moved from and location moved to (using GPS technology), including information on any burrow (natural or artificial) utilized; (f) whether any eggs were discovered and relocated; (g) digital photographs of any Covered Species and eggs handled; and (h) results of ongoing monitoring. The Designated Representative(s) shall provide CDFW with the information listed above submitted in the reports following Condition of Approval 5.4, 5.5 and 5.7.
- 6.13. Covered Species Fencing and Escape Channels.** Temporary exclusionary fencing shall be used adjacent to open habitat (e.g. project limits; stockpile, water tank, and staging areas). The fence shall include the installation of shade structures along the outer fence perimeter placed at regular intervals. Permanent exclusionary fencing shall be installed along the haul road (See Figure 2). The temporary and permanent fence shall be constructed according to USFWS Field Manual. Tortoise escape channels shall also be installed on the rail lines allowing escape on the west side of the Project (See Figure 3 for example).
- 6.14. Covered Species Fence Maintenance Inspection.** The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect the Covered Species fencing monthly and during major rainfall events within 24 hours to ensure Covered Species is prohibited from entering the Project area. If the fence is compromised, repairs shall be completed immediately, and clearance protocol level surveys shall be conducted as described in Condition of Approval 6.4 and 6.5.
- 6.15. Vehicle Inspection.** Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present,

the worker shall contact the Biological Monitor(s) or Authorized Biologists(s) and wait for the Covered Species to move unimpeded to a safe location or the Authorized Biologist(s) shall relocate the Covered Species as described in Condition of Approval 6.9 before moving vehicles and equipment.

- 6.16. Staging Area and Parking Area.** The Permittee shall enclose all staging areas with Covered Species exclusion fencing. All parked vehicles and equipment shall be inspected prior to vehicles and equipment being moved. If a Covered Species is found within a staging or parking area the worker shall immediately contact the Authorized Biologist(s) and/or Biological Monitor(s) approved in Condition of Approval 4.2 of this ITP. An Authorized Biologist(s) approved in Condition of Approval 4.2 of this ITP shall relocate the Covered Species in accordance with Condition of Approval 6.9 of this ITP and the DTTP.
- 6.17. Raven Management.** The Permittee shall prepare a Raven Management Plan to minimize the potential to attract common ravens to the site. The Plan shall be submitted to CDFW for review and approval no later than sixty [60] days prior to the commencement of Covered Activities. In addition, the Permittee shall provide funds to the Renewable Energy Action Team (REAT) account established with the National Fish and Wildlife Foundation (NFWF) to contribute to a region-wide raven control plan to help address raven predation on desert tortoise. This contribution shall be used to address raven predation on a regional basis and shall be calculated as a one-time payment of \$105 per acre of Project disturbance. Based on this calculation the Permittee shall provide a one-time payment at \$105.00/acre for 121.5 acres at **\$12,757.50** to the REAT account established with NFWF's Raven Management Plan fund. A minimum of fifteen [15] days prior to the start of Covered Activities these funds shall be provided to NFWF using appropriate deposit document and proof of paying this fee shall be provided to CDFW within 1 business day after the funds have been provided to NFWF.
- 6.18. Invasive Plant Management Plan.** Permittee shall develop an Invasive Plant Management Plan focused on controlling or eradicating existing invasive plants within the Project site and preventing the introduction of new nonnative and invasive plants into the Project site. The Plan shall include a list of plant species targeted for control or eradication, a description of the methods that will be used for control or eradication, a list of Best Management Practices to prevent the introduction and spread of invasive plant species into and out of the Project site, monitoring requirement, success criteria, and a rapid response plan in the event that a new plant species invades the Project site. A list of common invasive plant species including guidelines for preventing the establishment of invasive plants can be found on the California Invasive Plant Council Invasive Plant Inventory (Cal IPC Inventory) website. The Plan shall be implemented during Covered Activities and monitored for the time specified in the Plan. The Plan shall be submitted to CDFW for review and approval no later than sixty [60] days prior to the commencement of Covered Activities.

- 6.19. General Habitat and Species Avoidance.** Permittee shall, to the greatest extent feasible, avoid impacts/disturbances to sensitive plants, plant communities, and animals within the Project area. In addition, Permittee shall avoid, to the maximum extent practicable, impacts/disturbance to perennial, native vegetation within the Project area.
- 6.20. Culvert Installation.** Install at least two culverts in the 'straight section' of the rail extension that runs from the main BNSF rail line to the rail loop. Culverts should be at least 36 inches diameter (per the Desert Renewable Energy Conservation Plan⁷).
- 6.21. Covered Species Injury.** If a Covered Species is injured as a result of Project-related activities, the Authorized Biologist(s) shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 6.8. Notification shall include the name of the facility where the animal was taken.

7. Habitat Management Land Acquisition: CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result 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, the Permittee shall either purchase 364.5 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 7.2 below OR shall provide for both the permanent protection and management of 364.5 acres of Habitat Management (HM) lands pursuant to Condition of Approval 7.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.4 below. Purchase of Covered Species credits OR permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 8 below for all uncompleted obligations.

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

⁷ U.S. Fish and Wildlife Service. 2009. Desert Tortoise (Mojave Population) Field Manual: (*Gopherus agassizii*). Region 8, Sacramento, California.

- 7.1.1. Land acquisition costs for HM lands identified in Condition of Approval 7.3 below, estimated at \$5,000.00/acre for 364.5 acres: **\$1,822,500.00**. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;
 - 7.1.2. All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 7.3.1 and 7.3.2 below: **\$17,440.00**;
 - 7.1.3. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 7.3.6 below, estimated at **\$729,000.00**;
 - 7.1.4. Interim management period funding as described in Condition of Approval 7.3.7 below, estimated at **\$218,700.00**;
 - 7.1.5. Long-term management funding as described in Condition of Approval 7.4 below, estimated at \$3000/acre for 364.5 acres: **\$1,093,500.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
 - 7.1.6. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 7.5, estimated at **\$6,000.00**.
 - 7.1.7. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work **\$75,000.00**.
- 7.2. Covered Species Credits.** If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 364.5 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 8 below. 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 Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.

7.3. Habitat Management Lands Acquisition and Protection. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:

- 7.3.1. **Fee Title.** Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.
- 7.3.2. **Conservation Easement.** If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the “doctrine of merger” could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.
- 7.3.3. **HM Lands Approval.** Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project’s impacts on Covered Species;
- 7.3.4. **HM Lands Documentation.** Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 7.3.5. **Land Manager.** Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term

land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.

- 7.3.6. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see optional management plan template at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.
- 7.3.7. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management.

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

- 7.4. Endowment Fund. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund

(Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 7.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

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

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

Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).

- 7.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of

the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.

- 7.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.
- 7.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:
 - 7.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.
 - 7.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
 - 7.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.
- 7.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.
- 7.4.4. Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.

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

7.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

8. Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 7 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

8.1. Security Amount. The Security shall be in the amount of **\$3,962,140.00** or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 7.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

8.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see ATTACHMENT 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.

8.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.

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

8.5. Security Transmittal. Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.

8.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.

8.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:

Credit Purchase

- Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits; and
- Timely submission of all required reports.

OR

Habitat Management Land Acquisition (HMLA)

- Written documentation of the acquisition of the HM lands;
- Copies of all executed and recorded conservation easements;
- Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
- Timely submission of all required reports.

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

IX. Amendment:

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

X. Stop-Work Order:

If CDFW determines the Permittee has violated any term or condition of this ITP or has engaged in unlawful take, CDFW may issue Permittee a written stop-work order instructing the Permittee to suspend any Covered Activity for an initial period of up to 30 days or risk suspension or revocation of this ITP. CDFW can issue a stop-work order to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species, regardless of whether

that species is a Covered Species under this ITP. Permittee shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittee, CDFW may extend any stop-work order issued to Permittee for a period not to exceed 30 additional days.

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

XI. Liability:

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

XII. Compliance with Other Laws:

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

XIII. Notices:

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by email or registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2024-035-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Heidi Calvert, Regional Manager
California Department of Fish and Wildlife
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Heidi.Calvert@wildlife.ca.gov

Incidental Take Permit
No. 2081-2024-035-06
BRYAN ZATICA, LCM DEVELOPMENT LLC
AGGREGATE LOADING FACILITY AND RAIL LOOP PROJECT

and a copy to:

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

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

Scott Jakubowski, Sr. Environmental Scientist (Specialist)
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Telephone (909) 354-0919
Scott.Jakubowski@wildlife.ca.gov

XIV. Compliance with the California Environmental Quality Act:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, San Bernardino County Planning Department. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the PROJ-2024-00080 LCM Railroad, (SCH No.: 2025090950) dated September 19, 2025, that the San Bernardino County Planning Department adopted for Aggregate Loading Facility and Rail Loop Project on November 20, 2025. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

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

Incidental Take Permit
No. 2081-2024-035-06
BRYAN ZATICA, LCM DEVELOPMENT LLC
AGGREGATE LOADING FACILITY AND RAIL LOOP PROJECT

FIGURE 2	Project Design
FIGURE 3	Tortoise Escape Channel
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Desert Tortoise Biologist Resume Form
ATTACHMENT 3	Mohave Ground Squirrel Biologist Resume Form
ATTACHMENT 4	Letter of Credit

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON February 11, 2026

DocuSigned by:

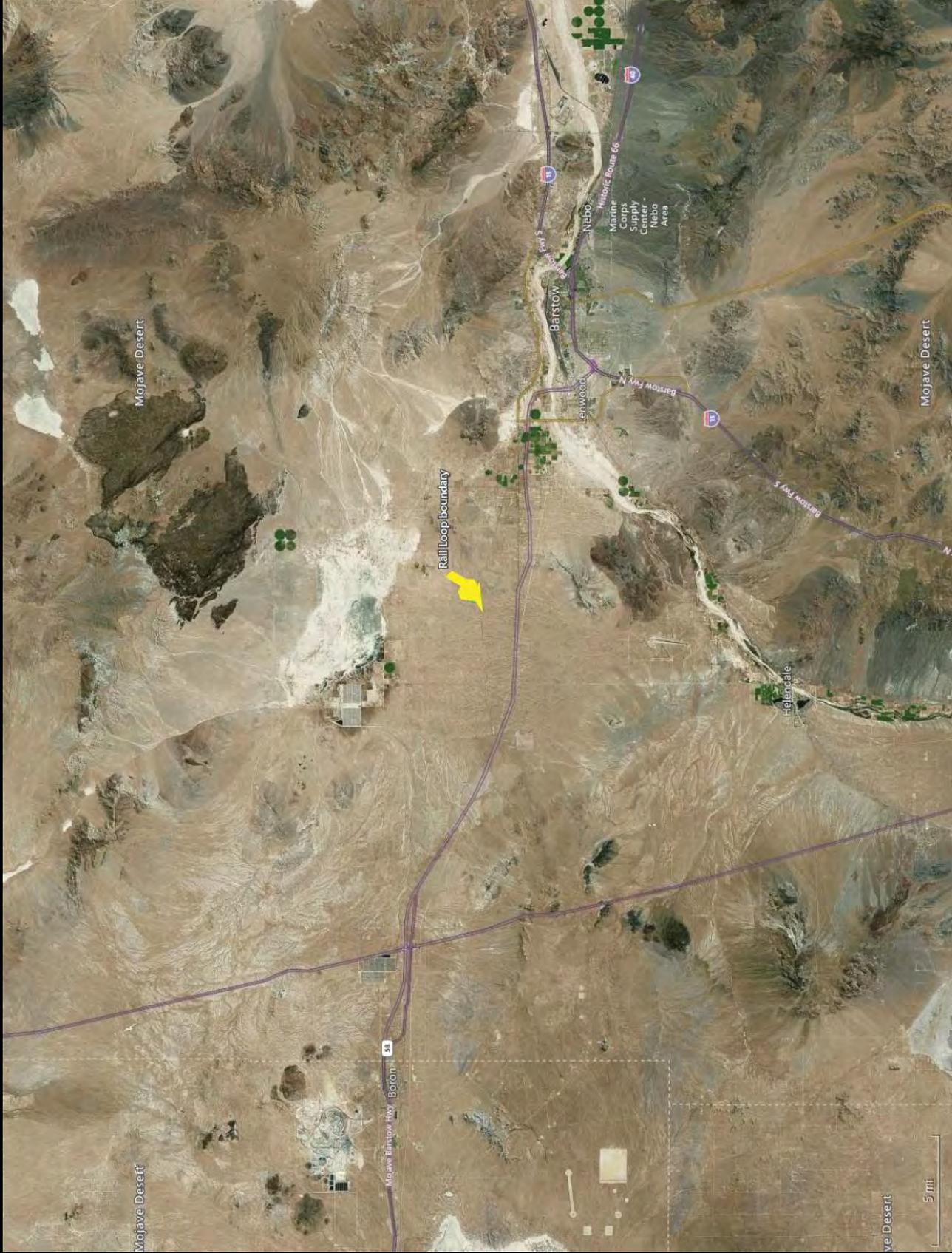
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Heidi Calvert, Regional Manager
Inland Deserts Region

Incidental Take Permit
No. 2081-2024-035-06
BRYAN ZATICA, LCM DEVELOPMENT LLC
AGGREGATE LOADING FACILITY AND RAIL LOOP PROJECT

Legend

 Project Boundary



Source: Ujinta Software

Acreage: 115-Acres (Approximately)

Project #: 2024-36 BA

NW of the Intersection of Hinkley Rd. and State Highway 58 in San Bernardino County, CA.

Figure 1: Regional Exhibit

Produced By: RCA Associates Inc.



SECTION 13 UNDEVELOPED RANGE LAND

**APPROXIMATE PROJECT
SITE BOUNDARY**

Planned Haul Road
6.5
Acres

4750 LF
6.5 acres

115 Acres
Aggregate Loading Facility

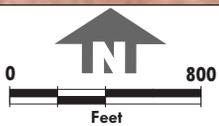
Santa Fe Road

4 Acres

BLM Property

BLM "Y" Connection
(approx.)

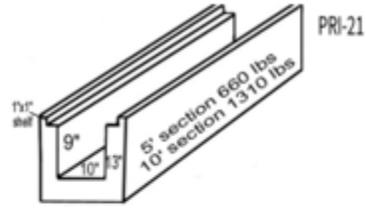
BNSF Railroad



PROJECT SITE
Rail Loop Aggregate Loading Facility
San Bernardino County, California

FIGURE 3

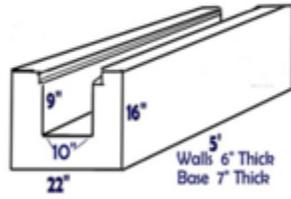
Figure 3. Tortoise Escape Channel



PRI-21

Deep Trench

PRODUCT	PRICE
10'-R Section (1310 lbs)	\$400.00
5'-R Section (660 lbs)	\$200.00
5'-R Section Trench Grate (40 lbs)	\$138.00
Solid Deep Trench End (45 lbs)	\$11.70
Deep Trench End with 4" Pipe Insert (45 lbs)	\$20.40



PRI-22

Heavy Trench

PRODUCT	PRICE
5'-R Section (1200 lbs)	\$357.00
5'-R Section Trench Grate (40 lbs)	\$138.00

<https://hamptonconcrete.com/protrench.html>

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2024-035-06

PERMITTEE: Bryan Zatica, LCM Development, LLC

PROJECT: Aggregate Loading Facility and Rail Loop Project

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 this California Incidental Take Permit (ITP) and in attachments to this 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 this 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 this 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	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.	ITP Condition # 4.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	Authorized Biologist(s), Biological Monitor(s), and/or Veterinarian(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Authorized Biologist(s) and Biological Monitor(s) using the Biologist Resume Form for desert tortoise (ATTACHMENT 2) and Mohave ground squirrel (ATTACHMENT 3) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Authorized Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Authorized 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 Authorized Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Authorized Biologist(s) or Biological Monitor(s) must be changed.	ITP Condition # 4.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	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 Authorized Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.	ITP Condition # 4.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
4	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, food, and roadkill 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.	ITP Condition # 4.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
5	Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction or during Project operation, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities in that area.	ITP Condition # 4.9	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
7	Entrapment Inspections. Any pipes, culverts, or similar structures with a diameter greater than 3 inches and less than 8 inches aboveground shall be inspected by the Authorized Biologist(s) and/or Biological Monitor(s) for Covered Species' before the material is moved, buried, or capped. The Authorized Biologist(s) and/or Biological Monitor(s) shall inspect all open holes and trenches within Covered Species habitat at a minimum of twice a day and just prior to backfilling. At the end of each workday during construction, Permittee shall place an escape ramp at each end of trenches to allow any animals that may have become trapped in the trench to climb out overnight. The ramp may be constructed of either dirt fill or wood planking or other suitable material that is placed no greater than a 30° angle. If any worker discovers that Covered Species have become trapped, they shall halt Covered Activities and notify the Biological Monitor(s) and/or Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) and/or Authorized Biologist(s) shall allow the Covered Species to escape unimpeded if possible, or an Authorized Biologist(s) approved under Condition of Approval 4.2 of this ITP shall move the Covered Species out of harm's way before allowing work to continue.	ITP Condition # 6.3	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
8	Pre-Construction Surveys for Desert Tortoise. No later than thirty [30] Calendar days prior to start of Covered Activities, the Authorized Biologist(s) and/or Biological Monitor(s) approved under this ITP shall conduct pre-construction clearance surveys for Covered Species, using the methods described in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise (Mojave Population) Field Manual (hereinafter referred to as USFWS Field Manual). In addition to the guidance provided in the USFWS Field Manual, CDFW provides the following requirement(s):	ITP Condition #6.4	Before commencing ground- or vegetation-disturbing activities	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
9	Pre-construction clearance surveys shall be completed using perpendicular survey routes within the Project area. Pre-construction clearance surveys cannot be combined with other clearance surveys conducted for other species while using the same personnel. Covered Activities cannot start until 2 negative results from consecutive surveys using perpendicular survey routes for the Covered Species are documented. A negative result means no live desert tortoise is detected within the Project area during pre-construction surveys.	ITP Condition # 6.4.1	Before commencing ground- or vegetation-disturbing activities	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
10	These surveys shall cover 100 percent of the Project area and a 50-foot buffer zone around the Project site. The Biological Monitor(s) and/or Authorized Biologist(s) shall record all potential Covered Species burrows, Covered Species sign, and live Covered Species within the pre-construction clearance survey area, using global positioning system (GPS) technology. The Biological Monitor(s) and/or Authorized Biologist(s) shall provide the results of the preconstruction clearance survey (including all information of the USFWS Protocol data sheet) to CDFW within thirty [30] Calendar days of completing the surveys. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.	ITP Condition # 6.4.2	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
11	Twenty-four [24] hours prior to the start of any Covered Activities, except for areas already cleared within installation of desert tortoise exclusion fencing, the Biological Monitor(s) and/or Authorized Biologist(s) shall conduct a final clearance survey of Project area. The use of specialized equipment (e.g., fiber optics) may be necessary to thoroughly inspect all burrows in preparation for collapsing them.	ITP Condition # 6.4.3	Before commencing ground- or vegetation-disturbing activities	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
12	Pre-Construction Surveys for Mohave Ground Squirrel. No more than thirty [30] Calendar days prior to the start of ground disturbing activities the Authorized Biologist(s)/Biological Monitor(s) shall be present onsite to perform a pre-construction survey for Mohave ground squirrel. These surveys shall cover the Project area and a 50-foot buffer zone. All known or suspected Mohave ground squirrel burrows within the work areas shall be flagged to alert biological and work crews to their presence. A report documenting the results of the preconstruction surveys shall be submitted to CDFW within thirty [30] Calendar days of completing the surveys.	ITP Condition # 6.5	Before commencing ground- or vegetation-disturbing activities	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
13	Habitat Management Land Acquisition: CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result 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, the Permittee shall either purchase 364.5 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank pursuant to Condition of Approval 7.2 below OR shall provide for both the permanent protection and management of 364.5 acres of Habitat Management (HM) lands pursuant to Condition of Approval 7.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 7.4 below. Purchase of Covered Species credits OR permanent protection and funding for perpetual management of HM lands must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 8 below for all uncompleted obligations.	ITP Condition # 7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:	ITP Condition # 7.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
15	Land acquisition costs for HM lands identified in Condition of Approval 7.3 below, estimated at \$5,000.00/acre for 364.5 acres: \$1,822,500.00. Land acquisitions costs are estimated using local fair market current value per acre for lands with habitat values meeting mitigation requirements;	ITP Condition # 7.1.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
16	All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 7.3.1 and 7.3.2 below: \$17,440.00;	ITP Condition # 7.1.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
17	Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 7.3.6 below, estimated at \$729,000.00;	ITP Condition # 7.1.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
18	Interim management period funding as described in Condition of Approval 7.3.7 below, estimated at \$218,700.00;	ITP Condition # 7.1.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
19	Long-term management funding as described in Condition of Approval 7.4 below, estimated at \$3000/acre for 364.5 acres: \$1,093,500.00. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.	ITP Condition # 7.1.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
20	Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 7.5, estimated at \$6,000.00.	ITP Condition # 7.1.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
21	All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work \$75,000.00.	ITP Condition # 7.1.7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
22	Covered Species Credits. If the Permittee elects to purchase Covered Species credits to complete compensatory mitigation obligations, then Permittee shall purchase 364.5 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 8 below. 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 Receipt prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.	ITP Condition # 7.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
23	Habitat Management Lands Acquisition and Protection. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall:	ITP Condition # 7.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
24	Fee Title. Transfer fee title of the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.	ITP Condition # 7.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
25	Conservation Easement. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.	ITP Condition # 7.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
26	HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;	ITP Condition # 7.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
27	HM Lands Documentation. Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;	ITP Condition # 7.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.	ITP Condition # 7.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
29	Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see optional management plan template at https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=227736) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.	ITP Condition # 7.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
30	Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide Security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.	ITP Condition # 7.3.7	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	<p>Endowment Fund. If the Permittee elects to provide for the acquisition, permanent protection, and perpetual management of HM lands to complete compensatory mitigation obligations, then the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 7.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
32	<p>Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.</p> <p>Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e).</p> <p>Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).</p>	ITP Condition # 7.4.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.	ITP Condition # 7.4.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
34	Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.	ITP Condition # 7.4.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
35	Endowment Buffers/Assumptions. Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:	ITP Condition # 7.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
36	10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.	ITP Condition # 7.4.2.2.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
37	Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.	ITP Condition # 7.4.2.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
38	Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.	ITP Condition # 7.4.2.2.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
39	Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.	ITP Condition # 7.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
40	<p>Management of the Endowment. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.</p> <p>Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.</p>	ITP Condition # 7.4.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
41	Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

<p>42</p>	<p>Security: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 7 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:</p> <p>8.1. Security Amount. The Security shall be in the amount of \$3,962,140.00 or in the amount identified in 8.1 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 7.1 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.</p> <p>8.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see ATTACHMENT 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>8.3. Security Timeline. The Security shall be provided to CDFW before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first.</p> <p>8.4. Security Holder. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>8.5. Security Transmittal. Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other.</p> <p>8.6. Security Drawing. The Security shall allow CDFW to draw on the principal sum if CDFW, in its sole discretion, determines that the Permittee has failed to comply with the Conditions of Approval of this ITP.</p> <p>8.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <p>Credit Purchase</p> <ul style="list-style-type: none"> • Copy of Bill of Sale(s) and Payment Receipt(s) or Credit Transfer Agreement for the purchase of Covered Species credits; and • Timely submission of all required reports. <p>OR</p> <p>Habitat Management Land Acquisition (HMLA)</p> <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	<p>ITP Condition # 8</p>	<p>Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)</p>	<p>Permittee</p>	
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	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
DURING CONSTRUCTION					
43	Authorized Biologist(s) and Biological Monitor(s) Authority. To ensure compliance with the Conditions of Approval of this ITP, the Authorized Biologist(s) and/or 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 Authorized Biologist(s) and/or Biological Monitor(s) in the performance of his/her duties. If the Authorized Biologist(s) and/or Biological Monitor(s) is unable to comply with the ITP, then the Authorized Biologist(s) and/or Biological Monitor(s) 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 Authorized Biologist(s) and/or 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.	ITP Condition # 4.3	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
44	Construction Monitoring Documentation. The Authorized Biologist(s) and/or 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.	ITP Condition # 4.5	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
45	Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Authorized Biologist(s) and/or Biological Monitor(s). Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 4.7	Entire Project	Permittee	
46	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.	ITP Condition # 4.8	Entire Project	Permittee	
47	Delineation of Habitat. Permittee shall clearly delineate habitat of the Covered Species within the Project Area by placing exclusionary fencing around the boundary of the Project area to minimize the disturbance of Covered Species' habitat adjacent to the Project area.	ITP Condition # 4.10	Entire Project	Permittee	
48	Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 25 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.	ITP Condition # 4.11	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
49	Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 4.11 of this ITP.	ITP Condition # 4.12	Entire Project	Permittee	
50	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.	ITP Condition # 4.13	Entire Project	Permittee	
51	CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP. CDFW shall provide at least 24-hour notice to Permittee to allow for coordination of a field visit to the Project lands for safety reasons.	ITP Condition # 4.14	Entire Project	Permittee	
52	Notification of Non-compliance. The Designated Representative shall immediately (within 24 hours) notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.	ITP Condition # 5.2	Entire Project	Permittee	
53	<p>Compliance Monitoring. The Authorized Biologist(s) and/or Biological Monitor(s) shall be on-site daily until all Covered Species surveys, translocation, installation of exclusionary fencing, and clearing, grubbing, and grading occurs. The Authorized Biologist(s) and/or Biological Monitor(s) shall then only be present monthly to conduct compliance inspections, including during periods of inactivity until Covered Activities are completed. The Authorized Biologist(s) and/or Biological Monitor(s) conduct compliance inspections to:</p> <ol style="list-style-type: none"> (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 exclusionary fencing is intact, and that Covered Activities are only occurring in the Project Area. <p>The Designated Representative or Authorized Biologist(s) and/or Biological Monitor(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.</p>	ITP Condition # 5.3	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	Quarterly Compliance Report. The Designated Representative or Authorized Biologist(s) and/or Biological Monitor(s) shall compile the observation and inspection records identified in Condition of Approval 5.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Scott Jakubowski (Scott.Jakubowski@wildlife.ca.gov) and Headquarters CESA Program email is CESA@wildlife.ca.gov . CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.	ITP Condition # 5.4	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
55	Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 5.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 5.5	Entire Project	Permittee	
56	CNDDDB Observations. The Authorized Biologist(s) and/or Biological Monitor(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Authorized Biologist(s) and/or Biological Monitor(s) shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 5.6	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
57	Notification of Take or Injury. Permittee shall immediately notify the Authorized 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. The Authorized Biologist(s), Biological Monitor(s), or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 5.8	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)/ Designated Representative	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
58	Herbicides. Permittee shall only use herbicides containing a harmless dye and registered with the California Department of Pesticide Regulation (DPR). All herbicides shall be applied in accordance with regulations set by DPR. All herbicides shall be used according to labeled instructions. Labeled instructions for the herbicide used shall be made available to CDFW upon request. No herbicide application shall occur when winds are greater than 5 miles per hour.	ITP Condition # 6.1	Entire Project	Permittee	
59	Rodenticides and Insecticides. Permittee shall not use rodenticides and/or insecticides on the Project area without prior written permission from CDFW. Permittee shall not use any second-generation anticoagulant rodenticide (brodifacoum, bromadiolone, difethialone, and difenacoum) on the Project area. Permittee shall not use any first-generation anticoagulant rodenticide (diphacinone, chlorophacinone, and warfarin) on the Project area without prior written permission from CDFW.	ITP Condition # 6.2	Entire Project	Permittee	
60	Covered Species Observations. If a Covered Species is observed during Covered Activities, all work within 300 feet of the Covered Species shall immediately stop and the observation shall be immediately reported to the Authorized Biologist(s) and/or Biological Monitor(s). Covered Activities shall not resume until the Authorized Biologist(s) and/or Biological Monitor(s) has verified the Covered Species has left the Project area OR an Authorized Biologist(s) approved under Condition of Approval 4.2 of this ITP relocates the Covered Species as described in this ITP and Desert Tortoise Translocation Plan. The Designated Representative shall notify CDFW of any Covered Species observations within the Project area. Notification shall occur within twenty-four [24] hours. Notification and the written report shall include the date, location, and circumstances of the observation, the name of the Authorized Biologist(s) that relocated the individual, pictures, map and shapefiles with the location (including GPS coordinates) where the individual was moved as specified in the DTTP.	ITP Condition # 6.6	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)/ Designated Representative	
61	Desert Tortoise Burrow Excavation. Only Authorized Biologist(s) and/or Biological Monitor(s) under Condition of Approval 4.2 are authorized to conduct burrow excavation. Excavation of burrows shall follow the methods described the USFWS Field Manual7.	ITP Condition # 6.7	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
62	<p>Mohave Ground Squirrel Burrow Excavation. The Authorized Biologist(s) and/or Biological Monitor(s) shall fully excavate by hand all burrows OR scope each burrow within the Project area that are suspected or known to be occupied by Mohave ground squirrels. The Authorized Biologist(s) and/or Biological Monitor(s) shall allow Mohave ground squirrels encountered in the burrows during their active period (generally March 15 – July 15) to escape out of harm’s way, ensuring all pups are mobile and able to vacate. During the Mohave ground squirrel dormant period (generally September 1 – January 31), the Authorized Biologist(s) shall collect and immediately relocate the individuals to an artificial burrow in the following preferential order: 1.) relocate to the nearest public lands with suitable habitat from where the squirrel was originally captured; 2.) relocate outside of right-of-way, on private property. Mohave ground squirrels may not be relocated to private property unless the Permittee obtains written permission from the property owner prior to Covered Activities. The Mohave ground squirrel may only be relocated by the Authorized Biologist(s). The Authorized Biologist(s) shall prepare relocation burrows in the following manner: (1) A hole of at least two feet deep shall be dug; (2) Install a nine-inch diameter non-collapsible plastic container, which shall be connected to a three-inch diameter non-collapsible plastic pipe that runs to the ground surface at a 45° angle; (3) The Authorized Biologist(s) shall place the Mohave ground squirrel in the artificial burrow and lightly plug the burrow mouth with soil in a manner that is similar to a natural Mohave ground squirrel burrow.</p>	ITP Condition # 6.8	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	

63	<p>Desert Tortoise Translocation. Regardless of the number of desert tortoise estimated to be moved out of harm's way, the Permittee shall prepare a Desert Tortoise Translocation Plan (DTTP) fifteen [15] Calendar days prior to start of Covered Activities and submit it to CDFW for review and approval. Covered Activities are not authorized to start until the DTTP is approved in writing by CDFW. The DTTP shall follow the most current guidelines provided by USFWS and CDFW regarding Covered Species translocation. Where guidance differs between USFWS and CDFW, verbal and/or written direction provided by CDFW always controls. The list of items below are the most common examples of the differences between CDFW and USFWS guidelines. These shall be included in the DTTP along with the most recent USFWS translocation guidelines:</p> <ul style="list-style-type: none"> • Translocated tortoise are tortoises removed from the Project area and/or have a radio transmitter attached. • The Authorized Biologist(s) shall determine when the creation of artificial burrows is needed. • Ambient air temperature guidelines shall be followed as specified in Condition of Approval 6.10 of this ITP. • Tortoises <100 millimeters (mm) midline carapace length (MCL) shall be released immediately without being held, transmittered, or blood drawn for disease testing as long as the temperature requirements in Condition of Approval 6.10 of this ITP below are met. • Linear Facilities: Tortoises >100 mm MCL that are moved due to their burrow being collapsed shall be transmittered (duration of monitoring shall be determined on an individual project basis and shall be included in the DTTP) and disease tested. • CDFW does not authorize the release of tortoises that test positive for disease even if it does not show outward signs of the disease. If a tortoise tests positive for disease it is the responsibility of the Permittee to locate a CDFW approved facility to place the tortoise in. Any exception to this determination will need to be approved in writing by CDFW on a case-by-case basis. • Disease testing shall not be done between November 1 and May 14. If a tortoise >100 mm MCL is found between November 1 and May 14 or earlier with written approval from CDFW the tortoise shall be held in quarantine facilities and shall remain in quarantine until tested twice (once in the spring and once in the fall). If the tortoise tests negative for disease it can be released in accordance with the approved DTTP. Blood draw samples for Mycoplasma agassizii and Mycoplasma testudineum shall determine if a tortoise is negative or positive for disease. A combination of results from blood testing and visual inspection will be used to determine the health of a tortoise. Blood draw samples will be sent to: Dr. Mary Brown, University of Florida, Department of Infectious Diseases and Immunology, 2015 SW 16th Ave., Room V2-234, Gainesville, Florida 32608, or other facility approved by CDFW. CDFW uses enzyme-linked immune assay (ELISA) test results to determine if a tortoise is positive for disease. The ELISA tests will be used to test for exposure to herpes virus (Mycoplasma agassizii and Mycoplasma testudineum). If a tortoise tests positive for or is suspected of disease, then the tortoise will be tested twice for disease (once in the spring after May 15 to and once in the fall). To determine results of blood testing use the most current guidelines provided by the University of Florida Mycoplasma Laboratory Department of Infectious Diseases and Pathology. The University of Florida Mycoplasma Laboratory Department of Infectious Diseases & Pathology 2013 criteria for classifying Mycoplasma agassizii and Mycoplasma testudineum is: (1) a titer <32 is negative, (2) a titer > 64 is positive, and (3) a titer of 32 is suspect (retesting in 6 weeks) or most current guidelines. All sample forms shall come from the University of Florida's guidance. 	ITP Condition # 6.9	Entire Project	Permittee	
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Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<ul style="list-style-type: none"> • The DTTP shall include a requirement that all translocated tortoises regardless of size be included in the translocation numbers and all reports. • The DTTP shall propose one recipient site. Recipient sites shall have the vegetative structure to support all life stages of desert tortoises. In addition to the USFWS Field Manual⁸ guidelines, the DTTP shall also include identifying the known threats or potential causes of population decline, how potential threats have been or would be addressed, complete physical examination and health assessments with sample collection, age-structure and sex ratios, protocol level surveys, vegetation classification and quality of habitat. The DTTP shall detail which characteristics are to be used to decide if a recipient site is similar enough to a Project area including burrow aspects, and recovery needs such as habitat restoration and/or predator control. • All tortoises >100 mm MCL removed off the Project area shall be transmitterd and monitored for 5 years post translocation or at the expiration of this ITP, whichever occurs first. • Recipient sites shall be a minimum of 4 miles (6.5 kilometers) away from highway/road right-of-way that does not include Covered Species fencing. • All tortoise burrows within the Project area shall be excavated following procedures outlined in the USFWS Field Manual. • Creation of artificial burrows, as well as translocation of tortoises and eggs shall only occur on land(s) (including Bureau of Land Management), when written authorization has been obtained from the landowner prior to the start of Covered Activities. The written permission from the landowner shall be included in the DTTP and the DTTP shall not be approved by CDFW until authorization is provided in writing. If creation of artificial burrows or translocation of tortoise or eggs is proposed to take place on private lands then in addition to written approval required above, some form of protection for the land such as a conservation easement shall be in place prior to translocation occurring. • Cleaning and Disinfection Protocol. Trifectant and Rescue Ready to Use One Step Disinfectant Cleaner are the only products authorized under this ITP and its associated DTTP to be used as a disinfectant. These products are not authorized to be applied using a spray bottle or other spray methods. • Cleaning and Disinfection Protocol shall include the following: <ul style="list-style-type: none"> o Remove all grossly visible debris. o Wash the area or item with water and mild detergent. o Thoroughly rinse the cleaned area to remove any detergent residue. o Allow the area to dry completely. o Apply disinfectant mixture. o Allow the full disinfectant product recommended contact time. o Thoroughly rinse away any residual disinfectant and allow the area or item to air dry. 				

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
64	Ambient Air Temperature for Desert Tortoise. During all handling procedures, Covered Species shall be treated in a manner to ensure that they do not overheat or exhibit signs of overheating (e.g., gaping, foaming at the mouth, etc.), or are placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Covered Species shall be kept shaded at all times until it is safe to release them. For the purposes of this permit, ambient air temperature shall be measured in the shade, protected from wind, at a height of 5 centimeters above the ground surface. For all Covered Activities no Covered Species shall be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ambient air temperature is above 95° Fahrenheit (F) (35° Celsius (C)). No Covered Species shall be captured if the ambient air temperature is anticipated to exceed 95° F (35° C) before handling or processing can be completed. If the ambient air temperature exceeds 95° F (35° C) during handling or processing, Covered Species shall be kept shaded in an environment that does not exceed 95° F (35° C), and not released until ambient air temperature declines to below 95°F (35°C). Covered Species moved during the less active season (June 1 to August 31 and November 1 to March 31) shall be monitored by the Authorized Biologist(s) for at least two days after placement in the new burrows to ensure their safety. During relocation, the Authorized Biologist(s) may hold a captured Covered Species overnight and move them the following morning within these temperature constraints.	ITP Condition # 6.10	Entire Project	Permittee/ Authorized Biologist(s)	
65	Desert Tortoise Species Rehydration. If a Covered Species voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the animal(s). The Authorized Biologist(s) shall rehydrate the Covered Species immediately at the location where the animal(s) was or were captured, or the location where the animal(s) is or will be released. The Authorized Biologist(s) shall rehydrate the Covered Species by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the Covered Species. The Authorized Biologist(s) shall rehydrate each Covered Species individually for a minimum of 10 to 20 minutes. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration.	ITP Condition # 6.11	Entire Project	Authorized Biologist(s)	
66	Covered Species Handling Records. The Authorized Biologist(s) shall maintain a record of all Covered Species handled. This information shall include: (a) the locations (narrative and maps) and dates of observation, including whether the individual(s) was found above ground or in a burrow; (b) ambient temperature when handled and released; (c) general condition and health of the individual(s), including injuries, state of healing, and whether the individual(s) voided its bladders; (d) identified diagnostic markings (i.e., identification numbers or marked marginal scutes); (e) location moved from and location moved to (using GPS technology), including information on any burrow (natural or artificial) utilized; (f) whether any eggs were discovered and relocated; (g) digital photographs of any Covered Species and eggs handled; and (h) results of ongoing monitoring. The Designated Representative(s) shall provide CDFW with the information listed above submitted in the reports following Condition of Approval 5.4, 5.5 and 5.7.	ITP Condition # 6.12	Entire Project	Permittee/ Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
67	Covered Species Fencing and Escape Channels. Temporary exclusionary fencing shall be used adjacent to open habitat (e.g. project limits; stockpile, water tank, and staging areas). The fence shall include the installation of shade structures along the outer fence perimeter placed at regular intervals. Permanent exclusionary fencing shall be installed along the haul road (See Figure 2). The temporary and permanent fence shall be constructed according to USFWS Field Manual. Tortoise escape channels shall also be installed on the rail lines allowing escape on the west side of the Project (See Figure 3 for example).	ITP Condition # 6.13	Entire Project	Permittee	
68	Covered Species Fence Maintenance Inspection. The Biological Monitor(s) and/or Authorized Biologist(s) shall inspect the Covered Species fencing monthly and during major rainfall events within 24 hours to ensure Covered Species is prohibited from entering the Project area. If the fence is compromised, repairs shall be completed immediately, and clearance protocol level surveys shall be conducted as described in Condition of Approval 6.4 and 6.5.	ITP Condition # 6.14	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
69	Vehicle Inspection. Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Biological Monitor(s) or Authorized Biologist(s) and wait for the Covered Species to move unimpeded to a safe location or the Authorized Biologist(s) shall relocate the Covered Species as described in Condition of Approval 6.9 before moving vehicles and equipment.	ITP Condition # 6.15	Entire Project	Permittee/ Authorized Biologist(s)	
70	Staging Area and Parking Area. The Permittee shall enclose all staging areas with Covered Species exclusion fencing. All parked vehicles and equipment shall be inspected prior to vehicles and equipment being moved. If a Covered Species is found within a staging or parking area the worker shall immediately contact the Authorized Biologist(s) and/or Biological Monitor(s) approved in Condition of Approval 4.2 of this ITP. An Authorized Biologist(s) approved in Condition of Approval 4.2 of this ITP shall relocate the Covered Species in accordance with Condition of Approval 6.9 of this ITP and the DTTTP.	ITP Condition # 6.16	Entire Project	Permittee/ Authorized Biologist(s)/ Biological Monitor(s)	
71	Raven Management. The Permittee shall prepare a Raven Management Plan to minimize the potential to attract common ravens to the site. The Plan shall be submitted to CDFW for review and approval no later than sixty [60] days prior to the commencement of Covered Activities. In addition, the Permittee shall provide funds to the Renewable Energy Action Team (REAT) account established with the National Fish and Wildlife Foundation (NFWF) to contribute to a region-wide raven control plan to help address raven predation on desert tortoise. This contribution shall be used to address raven predation on a regional basis and shall be calculated as a one-time payment of \$105 per acre of Project disturbance. Based on this calculation the Permittee shall provide a one-time payment at \$105.00/acre for 121.5 acres at \$12,757.50 to the REAT account established with NFWF's Raven Management Plan fund. A minimum of fifteen [15] days prior to the start of Covered Activities these funds shall be provided to NFWF using appropriate deposit document and proof of paying this fee shall be provided to CDFW within 1 business day after the funds have been provided to NFWF.	ITP Condition # 6.17	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
72	Invasive Plant Management Plan. Permittee shall develop an Invasive Plant Management Plan focused on controlling or eradicating existing invasive plants within the Project site and preventing the introduction of new nonnative and invasive plants into the Project site. The Plan shall include a list of plant species targeted for control or eradication, a description of the methods that will be used for control or eradication, a list of Best Management Practices to prevent the introduction and spread of invasive plant species into and out of the Project site, monitoring requirement, success criteria, and a rapid response plan in the event that a new plant species invades the Project site. A list of common invasive plant species including guidelines for preventing the establishment of invasive plants can be found on the California Invasive Plant Council Invasive Plant Inventory (Cal IPC Inventory) website. The Plan shall be implemented during Covered Activities and monitored for the time specified in the Plan. The Plan shall be submitted to CDFW for review and approval no later than sixty [60] days prior to the commencement of Covered Activities.	ITP Condition # 6.18	Entire Project	Permittee	
73	General Habitat and Species Avoidance. Permittee shall, to the greatest extent feasible, avoid impacts/disturbances to sensitive plants, plant communities, and animals within the Project area. In addition, Permittee shall avoid, to the maximum extent practicable, impacts/disturbance to perennial, native vegetation within the Project area.	ITP Condition # 6.19	Entire Project	Permittee	
74	Culvert Installation. Install at least two culverts in the 'straight section' of the rail extension that runs from the main BNSF rail line to the rail loop. Culverts should be at least 36 inches diameter (per the Desert Renewable Energy Conservation Plan).	ITP Condition # 6.20	Entire Project	Permittee	
75	Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Authorized Biologist(s) shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 6.8. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 6.21	Entire Project	Permittee/ Authorized Biologist(s)	
POST-CONSTRUCTION					
76	Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 4.15	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
77	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, Authorized Biologist(s), or Biological Monitor(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.	ITP Condition # 5.7	Post-construction	Permittee	

Project Name:
LSA Agreement/ITP Number(s):



Department of Fish and Wildlife

CDFW Region 6 Desert Tortoise Biologist Qualification Form

This form requests information about the qualifications of the Desert Tortoise Authorized Biologist and Biological Monitor specified in California Endangered Species Act Incidental Take Permits (ITP) and Lake or Streambed Alteration (LSA) Agreements issued by California Department of Fish and Wildlife (CDFW).

While use of this form is not mandatory, CDFW strongly recommends completing this form as it will ensure the receipt of adequate information and expedite CDFW review of qualifications.

Requesting Approval for: Authorized Biologist (AB) or Biological Monitor (BM) (skills needed are determined by the conditions in the ITP and measures in the LSA)

Date Submitted: _____

Requesting Approval as: Desert Tortoise AB Desert Tortoise BM

SECTION I. BIOLOGIST NAME AND CONTACT INFORMATION:

Name:		Title:	
Company Name & Address:		Phone:	
		Email:	

SECTION II. RELEVANT STATE OR FEDERAL WILDLIFE PERMITS CURRENTLY HOLD, OR HAVE PREVIOUSLY HELD OR WORKED UNDER (Attach A Copy of the Permit and Any Amendments):

Species	State Permit Number	Federal Permit Number	Dates From/To	Permit Holder

SECTION III. EDUCATION:

College/University & Degree Type Related to Natural Resources or Science/Graduation Date:	
College/University & Degree Type Related to Natural Resources or Science/Graduation Date:	
College/University & Degree Type Related to Natural Resources or Science/Graduation Date:	

Project Name:				
LSA Agreement/ITP Number(s):				
Name/Type of Training	Certification Received (Provide Copy)	Dates (From/To) and Hours	Location	Instructor/Sponsor

SECTION V. ITP/LSA REQUIREMENTS (Copy and paste measure(s) from LSA and/or ITP that describe the Authorized Biologist/Biological Monitors necessary qualifications that require CDFW review and approval)

Relevant LSA Agreement Measures or ITP Conditions:	
Relevant LSA Agreement Measures or ITP Conditions:	
Relevant LSA Agreement Measures or ITP Conditions:	
Relevant LSA Agreement Measures or ITP Conditions:	

SECTION VI. SPECIFIC DESERT TORTOISE FIELD EXPERIENCE

Number of <u>hours</u> conducting desert tortoise-related activities.	
How many worker education programs have you presented?	
How many projects/hours have you been on-site monitoring project activities for compliance and to prevent incidental take of desert tortoise?	
Number of <u>miles walked</u> conducting protocol level presence/absence surveys and clearance surveys.	Presence/Absence Surveys: Clearance Surveys:
Number of wild, free-ranging desert tortoises you encountered during <u>protocol level surveys</u> .	< 100 mm carapace length: ≥ 100 mm carapace length:
Check, one for each size, the number of wild, free-ranging desert tortoises you personally <u>handled under direct supervision of an AB</u> .	<100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> ≥100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>
Check, one for each size, the number of wild, free-ranging desert tortoises you have personally <u>handled, under no supervision of an AB</u> .	<100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> ≥100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>

Project Name:	
LSA Agreement/ITP Number(s):	
Check, one for each size, the number of transmitters or other devices (specify) you have personally <u>attached</u> to wild, free-ranging desert tortoises.	<100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> ≥100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>
Check, one for each size, the number of transmitters or other devices (specify) you personally <u>removed</u> from wild, free-ranging desert tortoises.	<100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> ≥100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>
Check, one for each size, the number of <u>blood samples</u> that you have personally collected from wild, free-ranging desert tortoises, under direct supervision of an AB.	<100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> ≥100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>
Check, one for each size, the number of <u>blood samples</u> that you have personally collected from wild, free-ranging desert tortoises, under no supervision.	<100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> ≥100 mm: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>
Check how many desert tortoise burrows you have excavated, under direct supervision of an AB.	Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>
Check how many desert tortoise burrows you have excavated, under no supervision.	Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>
Check how many desert tortoise burrows you have collected and reburied desert tortoise eggs, under direct supervision of an AB. What month(s) did you find and rebury the eggs?	Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> Month: _____
Check how many desert tortoise burrows you have collected and reburied desert tortoise eggs, under no supervision. What month(s) did you find and rebury the eggs?	Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> Month: _____
How many wild, free-ranging desert tortoises have you conducted health assessments on independently under the supervision of an AB and/or without supervision?	Disinfection/Sanitation Protocols: / Capture/Handling: / Physical Examination: / Biological Sample collection: / Hydration: / Other: /
Check, one for each category, how many biological samples have you prepared for shipment.	Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>

Project Name:	
LSA Agreement/ITP Number(s):	
Check, how many artificial burrow(s) for desert tortoise have you constructed and how many artificial burrow(s) have you supervised the construction?	Constructed: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> Supervised Construction: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>
How many temporary holding pens have you constructed? How many temporary holding pens have you supervised the construction?	Constructed: Supervised Construction:
Check how many translocation plans you have implemented as an AB? Check how many translocation plans you have implemented as a BM? Check how many desert tortoise you have personally translocated without supervision as an AB and BM?	Translocation Plans Implemented as Authorized Biologist: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> Translocation Plans Implemented as Biological Monitor: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> Desert tortoise translocated as Authorized Biological: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/> Desert tortoise translocated as Biological Monitor: Zero <input type="checkbox"/> <10 <input type="checkbox"/> 10-25 <input type="checkbox"/> 25-50 <input type="checkbox"/> 50-75 <input type="checkbox"/> 75-100 <input type="checkbox"/> 100-150 <input type="checkbox"/> >150 <input type="checkbox"/>
If you have trained an AB or BM please provide one contact for each. Include the person's name, project name, and ITP number.	Authorized Biologist Name/Project Name/ITP #: Biological Monitor Name/Project Name/ITP:

SECTION VII. REFERENCE INFORMATION

This section requests three references that can confirm your qualifications. Include co-workers/biologists that can verify your experience, but do not use supervisors¹ listed in Section VIII.

Name:	Employer/Position	Address/Location:	Phone:	Email:

¹ In order to provide a broader spectrum of references, supervisors both past and present should not be included.

SECTION VIII. DESERT TORTOISE FIELD EXPERIENCE

This section details desert tortoise experience from the most recent and relevant projects. If more space is needed, attach additional pages in the same table format (i.e., copy/paste format).

A. Project 1:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	

Project Name:			
LSA Agreement/ITP Number(s):			
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
B. Project 2:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
C. Project 3:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
D. Project 4:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
E. Project 5:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			

Project Name:			
LSA Agreement/ITP Number(s):			
Skills Used:			
F. Project 6:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
G. Project 7:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
H. Project 8:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			
I. Project 9:			
Project Name & Location (include County):		Worked on Project Start & End Dates:	
ITP or Other Agency Permit Number:		Role(s):	
Company Name, Project Supervisor Name, Phone, Email:			
Skills Acquired:			
Skills Used:			

Add Additional Pages for More Experience



BIOLOGIST RESUME

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

SECTION I. NAME AND CONTACT INFORMATION	
Name:	Title:
Company Name & Address:	
Phone:	Email:

SECTION II. EDUCATION
College/University, Degree Name and Type Related to Natural Resource Science (e.g., BS in ecology), and Dates of Attendance:
Other Relevant Workshops & Training:

SECTION III. ROLE(S) AND PERMIT REQUIREMENTS
Requested Role(s):
Relevant LSA Agreement Measures or ITP Conditions ² :

SECTION IV. SPECIES AND RESOURCE EXPERIENCE – <u>SUMMARY</u>			
<i>This section summarizes experience by special status species and other resource. Use one row for each species or other resource where surveys or special protections are required in the CESA ITP or LSA Agreement for which biologist approval is requested.³ If more space is needed, add rows to this table. Provide details in Section V.</i>			
Species or Resource	Number of Field Seasons & Hours, Life Stages Observed Provide project details in Section 5	Life History Knowledge Describe formal workshops & training with dates, or informal training details	CDFW SCP, MOU, & USFWS 10a1a Authorization Number & Authorized Activities This form does not fulfill SCP, MOU, & USFWS 10a1a reporting requirements
Insert Species or Resource 1	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:
Insert Species or Resource 2	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:
Insert Species or Resource 3	Field seasons: Hours: Life Stages:		Issued to: Expiration: Agency contact:

² List all measures and conditions from the LSA Agreement or ITP requiring biological staff (i.e., Qualified Biologist, Designated Biologist, or Biological Monitor).

³ Often LSA Agreements/ITPs require surveys and other protections for multiple species and other resources. Include only those for which the biologist has experience and is requesting approval.



BIOLOGIST RESUME

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

SECTION V. SPECIES AND RESOURCE EXPERIENCE – DETAILS

This section details experience from the three most recent and relevant projects for each species and resource identified in Section IV. If more space is needed, attach additional pages in the same table format (i.e., copy/paste format).

SPECIES OR RESOURCE 1:

Project 1 Name & Location:

Project Start Date:

Project End Date:

LSA Agreement, ITP, or Other Agency Permit Number:

Role(s)⁴:

Survey Type(s)⁵:

Construction Monitoring⁶

Days:

Activities:

Species Life Stages Observed & Handled, Number of Each

Company Name, Professional Reference Name, Phone, Email:

Life Stage:

Number Observed:

Number Handled:

Reported to

CNDDB⁷ (Y/N):

If not reported to CNDDB, why:

CDFW and Other Agency Email:

Project 2 Name & Location:

Project Start Date:

Project End Date:

LSA Agreement, ITP, or Other Agency Permit Number:

Role(s):

Survey Type(s):

Construction Monitoring:

Days:

Activities:

Species Life Stages Observed & Handled, Number of Each

Company Name, Professional Reference Name, Phone, Email:

Life Stage:

Number Observed:

Number Handled:

Reported to

CNDDB (Y/N):

⁴ Insert the role as described in the associated LSA Agreement, ITP or other agency permit. If these permits were not issued, describe the role based on the duties, e.g., "lead biologist with handling authorization" or "biological monitor."

⁵ For example, pre-construction survey or description of the protocol or guideline followed.

⁶ Include the number of days and describe the types of activities monitored (e.g., heavy equipment operation).

⁷ CNDDDB is the abbreviation for California Natural Diversity Database.



BIOLOGIST RESUME

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
Project 3 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
Additional Information:	
SPECIES OR RESOURCE 2:	
Project 1 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	



BIOLOGIST RESUME

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

Project 2 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
Project 3 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
SPECIES OR RESOURCE 3:	
Project 1 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	



BIOLOGIST RESUME

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
Project 2 Name & Location:	
Project Start Date:	End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDB, why:	
CDFW and Other Agency Email:	
Project 3 Name & Location:	
Project Start Date:	Project End Date:
LSA Agreement, ITP, or Other Agency Permit Number:	
Role(s):	
Survey Type(s):	
Construction Monitoring:	



BIOLOGIST RESUME

Project Name: Click or tap here to enter text.

LSA Agreement/ITP Number(s): Click or tap here to enter text.

Days: Activities:	
Species Life Stages Observed & Handled, Number of Each Life Stage: Number Observed: Number Handled: Reported to CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDDB, why:	
CDFW and Other Agency Email:	

[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
Post Office Box 944209
Sacramento, CA 94244-2090
Attn: HCPB Contract Coordinator

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 Chief 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, Post Office Box 944209, Sacramento, CA 94244-2090, Attn: HCPB Contract Coordinator; 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** "Chief, 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** "Chief, Habitat Conservation Planning Branch"]