



**California Department of Fish and Wildlife
Inland Deserts Region
3602 INLAND EMPIRE BLVD, SUITE C-220
ONTARIO, CALIFORNIA 91764**

California Endangered Species Act
Incidental Take Permit No. 2081-2025-065-06

I-40 COLORADO RIVER BRIDGE REPLACEMENT (08-0R380)

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), Fish and Game Code section 2081.15, 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.)

CDFW issued this ITP pursuant to Fish and Game Code section 2081.15 with respect to Yuma Ridgway's rail (*Rallus obsoletus yumanensis*), California black rail (*Laterallus jamaicensis coturniculus*), and razorback sucker (*Xyrauchen texanus*). Section 3511 of the Fish and Game Code prohibits the take of fully protected birds specified in Fish and Game Code section 3511, subdivision (b). Section 5515 of the Fish and Game Code prohibits the take of fully protected fish specified in Fish and Game Code section 5515, subdivision (b). However, for qualifying projects, CDFW may authorize the take of any such species by permit pursuant to the conditions set forth in Fish and Game Code section 2081.15, subdivisions (a), (b), (c), and (d).

Permittee:	California Department of Transportation, District 8
Principal Officer:	Adam Compton, Branch Chief
Contact Person:	Adam Compton, 909-501-5352
Mailing Address:	464 West 4th Street, 8th Floor, MS 833 San Bernardino, CA 92401-1400

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 **February 24, 2031**.

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

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

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee’s obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee’s Final Mitigation Report required by Condition of Approval 7.7 of this ITP.

III. Project Location:

The I-40 Colorado River Bridge Replacement (Project) is located along Interstate 40 (I-40) from Post Mile (PM) 153.9 to PM 154.7 in San Bernardino County, California (see Figure 1). The Project is located near Topock, Arizona, approximately 13.9 miles south of Needles, California, and 29.7 miles north of Lake Havasu City, Arizona. The Project spans the California-Arizona state line at the Colorado River, at Latitude 34.717202, Longitude -114.487611.

IV. Project Description:

The Project consists of the replacement of the I-40 Colorado River Bridge. Project activities include vegetation removal, construction of temporary access roads, installation of temporary formwork, installation of temporary pile supports and caisson systems, work within the wetted channel of the Colorado River, pile driving, new bridge construction, demolition of existing bridge, installation of navigational lighting, and other activities. The Project partially overlaps an area that is being restored by Pacific Gas & Electric (PG&E), as part of PG&E’s Topock Compressor Station project. Project-related vegetation removal may impact approximately 1.5 acres of an active restoration area for PG&E’s Topock Compressor Station project, including dozens of trees planted in the past few years. Impacted trees are likely to include blue palo verde, honey mesquite, screwbean mesquite, desert smoke tree, and catclaw acacia. Impact areas also include common reed marsh (*Phragmites australis* alliance), tamarisk thicket (*Tamarix* spp. alliance), and creosote bush desert scrub (*Larrea tridentata* alliance). Project construction is anticipated to begin in September 2026 and conclude in July 2029.

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

This ITP covers the following species:

<u>Name</u>	<u>Status</u> ³
1. Yuma Ridgway’s rail (<i>Rallus obsoletus yumanensis</i>)	Threatened ⁴ , Fully-Protected ⁵
2. California black rail (<i>Laterallus jamaicensis coturniculus</i>)	Threatened ⁶ , Fully-Protected
3. Razorback sucker (<i>Xyrauchen texanus</i>)	Endangered ⁷ , Fully-Protected ⁸
4. Bonytail chub (<i>Gila elegans</i>)	Endangered ⁹

These species and only these species are the “Covered Species” for the purposes of this ITP.

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

⁴ Formerly called Yuma clapper rail (*Rallus longirostris yumanensis*). See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(5)(C).

⁵ See Fish & G. Code § 3511, subdivision (b)(11). Unlike species listed under CESA, the Legislature designated fully protected species through legislation.

⁶ See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(5)(B).

⁷ See Cal. Code Regs. tit. 14 § 670.5, subd. (a)(2)(I).

⁸ Formerly called Humpback sucker (*Xyrauchen texanus*). See Fish & G. Code § 5515, subdivision (b)(6).

⁹ See Cal. Code Regs. tit. 14 § 670.5, subd. (a)(2)(D).

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 tree and vegetation removal; demolition and removal of the existing bridge; the construction and dismantling of falsework, formwork, and temporary supports; pile driving; the use of artificial lighting; welding; concrete cutting; the stockpiling of materials and materials laydown; bridge construction; and the staging and operation of heavy equipment (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 from noise, vibration, and percussive impacts from demolition and construction activities; sedimentation from soil disturbance; nesting and spawning disruption from the removal of vegetation; and striking or crushing by Project equipment. Construction activities could cause sedimentation, alter flow patterns, degrade critical spawning and nursery habitats, and introduce construction-related pollutants. These impacts may disrupt spawning activity, reduce juvenile survival, and contribute to habitat fragmentation. During demolition and construction of the bridge in this Project, there is likely to be disturbance of riverbanks and bed sediments which can raise turbidity and sediment deposition downstream. The increased turbidity can reduce juvenile fish foraging success, increase predation risk, clog gills, and smother eggs or gravel spawning substrate. Noise, vibration, and physical disturbance from machinery in or near the river may disrupt fish behavior during critical periods like spawning. If construction alters flow patterns or removes riparian vegetation, it can degrade or eliminate important shallow, slow-moving nursery habitats that young fish rely on. Additionally, pollutants from construction runoff such as concrete wash, oil, or fuel, can harm water quality and aquatic life.

The removal of near-shore willow, rushes, and cattail vegetation could impact Covered Species birds (California black rails) that depend on dense, low-lying wetland vegetation for cover, nesting, and foraging. Vegetation removal could lead to direct habitat loss, increased exposure to predators, and elevated heat stress. Construction activities also risk altering wetland hydrology through changes to flow patterns, surface water retention, or sedimentation, which may degrade the shallow marsh conditions required by Covered Species birds (Yuma Ridgway's rail). Noise, vibration, and human disturbance could also disrupt breeding behavior, potentially leading to nest abandonment or reproductive failure during the nesting season. Beyond direct habitat disturbance, bridge construction can alter hydrologic patterns by changing surface water flows, groundwater recharge, or marsh edge stability, all of which are essential to maintaining the moist, vegetated environments Covered Species birds (California black rails) require. If vegetation is cleared without prompt native revegetation, habitat quality may degrade further over time.

Impacts to these species include removal of nesting and foraging habitat, abandonment of nests, abandonment of fledglings and fledgling mortality, injury or mortality from striking or crushing, disruption to breeding grounds, and physiological responses that could lead to health issues and

Incidental Take Permit
No. 2081-2025-065-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8
I-40 COLORADO RIVER BRIDGE REPLACEMENT (08-0R380)

mortality. Sound pressure from pile-driving trestle support poles into the bed of the Colorado River can affect habitat for Razorback Sucker and Bonytail Chub, including potential loss of spawning and foraging habitat, crushing of eggs and hatchlings, stress, and the potential for injury or mortality from percussive sounds or direct impact with the poles.

In-water construction activities, including cofferdam installation, pile driving, and pier construction, could elevate turbidity, reduce light penetration, and smother localized benthic habitat. These effects may temporarily displace individual fish or interfere with foraging, migration, or spawning. Underwater noise and vibration from pile driving and demolition may cause avoidance behavior.

Vegetation clearing in wetlands for equipment access or staging may temporarily disturb or displace individuals if they are present.

The areas where authorized take of the Covered Species is expected to occur include the area identified in Figure 2, of approximately 2.38 acres of riverbank and a portion of the Colorado River underneath the I-40 bridge on the California side of the California-Arizona border (collectively, the Project Area).

The Project is expected to cause the permanent loss of 0.005 acres of habitat for the Covered Species, and temporary loss of 2.38 acres of habitat for the Covered Species (detailed in Table 1). Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from demolition and construction, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

Table 1: Impact Areas

Impact Type	Impact Area (acres)	Covered Species Habitat
Permanent, riparian vegetation	0.005	Yuma Ridgway's rail and California black rail
Temporary, riparian vegetation	1.96	Yuma Ridgway's rail and California black rail
Temporary, shoreline	0.15	Yuma Ridgway's rail, California black rail, Razorback sucker, and Bonytail chub
Temporary, open water	0.27	Razorback sucker and Bonytail chub
Temporary, total	2.38	

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,

Incidental Take Permit
No. 2081-2025-065-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8
I-40 COLORADO RIVER BRIDGE REPLACEMENT (08-0R380)

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.

VIII. Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Environmental Impact Report (SCH No.: 2020110050) certified by the California Department of Transportation on January 5, 2024 as lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).
- 3. LSA Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the Lake and Streambed Alteration Agreement (LSAA) (Notification No. EPIMS-SBR-61914-R6) for the Project executed by CDFW pursuant to Fish and Game Code section 1600 et seq.
- 4. ESA Compliance:** Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Biological Opinion for the I-40 Colorado River Bridge Replacement Project, San Bernardino County, California and Mohave County, Arizona (Tracking No. 2022-0066851-S7-002) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
- 5. ITP Time Frame Compliance:** Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

6. General Provisions:

- 6.1. Designated Representative.** Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with CDFW

Incidental Take Permit
No. 2081-2025-065-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8
I-40 COLORADO RIVER BRIDGE REPLACEMENT (08-0R380)

and overseeing compliance with this ITP. Permittee shall notify CDFW in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify CDFW in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

- 6.2. Designated Biologist(s), Biological Monitor(s), and/or Veterinarian(s).** Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.
- 6.3. Designated Biologist Authority.** To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with the ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.
- 6.4. Education Program.** Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall 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 or permanent employees that will be conducting work in the Project Area.

- 6.5. Construction Monitoring Documentation.** The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.
- 6.6. Trash Abatement.** Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.7. Dust Control.** Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.
- 6.8. Erosion Control Materials.** Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.
- 6.9. Delineation of Property Boundaries.** Before starting Covered Activities, 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.
- 6.10. Delineation of Habitat.** Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.
- 6.11. Project Access.** Project-related personnel shall access the Project Area using existing routes, 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. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.

6.12. Staging Areas. Permittee shall confine all Project-related parking, storage areas, laydown sites, equipment storage, and any other surface-disturbing activities to the Project Area using, to the extent possible, previously disturbed areas. Additionally, Permittee shall not use or cross Covered Species' habitat outside of the marked Project Area unless provided for as described in Condition of Approval 6.11 of this ITP.

6.13. Hazardous Waste. Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.

6.14. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

6.15. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

7. Monitoring, Notification, and Reporting Provisions:

7.1. Notification Before Commencement. The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.

7.2. Notification of Non-compliance. The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative shall follow up within 24 hours with a written report to CDFW describing, in detail, any non-compliance with this ITP and suggested measures to remedy the situation.

7.3. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum

of weekly during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to:

- (1) minimize incidental take of the Covered Species;
- (2) prevent unlawful take of species;
- (3) check for compliance with all measures of this ITP;
- (4) check all exclusion zones; and
- (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area.

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

7.4. Quarterly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Quarterly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Representative is Chris Briggs (Christopher.Briggs@wildlife.ca.gov) and the Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

7.5. Annual Status Report. Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in the MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; and (6) information about other Project impacts on the Covered Species.

7.6. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.

7.7. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (8) any other pertinent information.

7.8. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at 909-484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible, provide a photograph, explanation as to cause of take or injury, and any other pertinent information.

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

8.1. Minimization of Vegetation Removal. Permittee shall minimize vegetation removal associated with construction activities to the fullest extent possible. The Designated Biologist shall review and approve or deny any grubbing or clearing of vegetation.

8.2. Fish Spawning Season Avoidance. Permittee shall avoid impacts to fish habitat (water, riverbed, riverbanks, and aquatic vegetation) during the spawning season for bonytail chub or razorback sucker (typically January through June). If Covered Activities will impact fish

habitat during the spawning season, a Designated Biologist experienced in fish biology and ecology shall conduct pre-construction surveys no more than two hours prior to the initiation of Project activities within fish habitat. The pre-construction survey shall encompass all areas of suitable habitat, focusing on areas that could provide refugia, and may utilize underwater cameras. Results of the survey shall be shared with CDFW within one week of the survey.

8.3. Fish Exclusion Barriers. Appropriate fish exclusion barriers shall be installed to prevent fish from entering work areas within the wetted channel of the Colorado River. A Designated Biologist shall ensure that all fish are removed from inside exclusion barriers once installed, and shall monitor barriers to ensure that they are functioning as intended.

8.4. Moving Fish out of Harm's Way. Permittee shall avoid moving razorback sucker or bonytail chub into areas inhabited by non-native predatory fish species. Therefore, if razorback sucker or bonytail chub are detected inside an exclusion barrier or within an enclosed work area, a Designated Biologist shall move the fish out of harm's way, but no further than necessary.

8.5. Aquatic Noise Mitigation Plan. At least 30 days prior to the production of noise or vibration in aquatic habitat (pile-driving and the installation of temporary pile supports and caisson systems), Permittee shall submit a site-specific aquatic noise mitigation plan to CDFW for approval. The plan shall include the following:

8.5.1. Bubble Curtain Designs. Permittee shall include bubble curtain system designs in the aquatic noise mitigation plan. The bubble curtain system shall fully encompass the work area from which impact noise will be generated, ensuring no line-of-sight path exists between the sound source and sensitive aquatic areas within the Project site. The system shall consist of multiple perforated hose rings, designed to release a dense and continuous wall of air bubbles from the substrate to the water surface. The system's design shall account for water depth, currents, and flow, ensuring constant and effective noise attenuation for the full duration of impact activities. The bubble curtain system shall achieve a minimum underwater noise reduction of 10 decibels (dB) across sensitive frequencies at a distance determined by the Designated Biologist.

8.5.2. Acoustic Monitoring Plan. An acoustic monitoring plan shall be implemented during the initial setup and at regular intervals throughout the impact-generating activities. Monitoring shall verify the bubble curtain's performance meets the required noise reduction standards. Monitoring reports detailing the noise reduction measurements shall be submitted to CDFW within 10 business days of each monitoring event.

- 8.5.3. Operational Procedures. The Designated Biologist shall confirm proper bubble curtain deployment and operation before work begins and during active use. Bubble curtain operation shall begin at least 30 minutes before any impact-generating activity and remain active for the full duration of the activity. Should any malfunction or system failure occur, all impact-generating activities shall cease immediately. Activities shall not resume until the system is fully operational and has been re-verified.
- 8.5.4. Qualifications. Permittee shall provide CDFW with the names and qualifications of those who prepared the aquatic noise mitigation plan.
- 8.6. Impact protection. During Covered Activities with the potential for materials to fall into the water and impact fish (such as falling debris during demolition, or loose construction materials), nets or other barriers shall be hung or placed to prevent those items from impacting the water.
- 8.7. Bird Surveys. A Designated Biologist shall conduct surveys for Yuma Ridgway's rail and California black rail in the Project Area and within an appropriate buffer, prior to the commencement of Covered Activities, regardless of the time of year those activities are scheduled to begin. The surveys shall be conducted in accordance with the Standardized North American Marsh Bird Monitoring Protocol.¹⁰ Survey results shall be reported to CDFW prior to commencement of Covered Activities.
- 8.8. Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.8. Notification shall include the name of the facility where the animal was taken.
- 8.9. Nest Monitoring. The Designated Biologist shall monitor the behavior of Yuma Ridgway's rails and California black rails (rails) within disturbance distance of the Covered Activities. Even within species, disturbance distances can vary according to time of year or geographical location. The Designated Biologist shall observe from a location where the Designated Biologist determines there is no impact to rail adults or offspring. The Designated Biologist shall have authority to order the cessation of all Project activities within disturbance distance of a rail nest if the birds exhibit abnormal nesting behavior

¹⁰ Conway, C.J. 2011. Standardized North American Marsh Bird Monitoring Protocol. Waterbirds 34(3): 319-346.
<https://doi.org/10.1675/063.034.0307>

which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Abnormal nesting behaviors which may cause reproductive harm include running into vegetative cover, diving underwater and holding onto submerged vegetation to stay down, interrupted feeding patterns, and flying away from the nest¹¹. Covered Activities within line of sight of the nest shall not resume until the Designated Biologist has consulted with CDFW and USFWS and there is concurrence that the bird's behavior has normalized, or the young have left the nest. Results of monitoring shall be included in the Monthly and Annual Reports (Conditions of Approval 6.5 and 6.6).

8.10. Adaptive Management. Adaptive Management shall include take minimization measures for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. As provided for in Fish and Game Code section 2081.15, subdivisions (a)(3) and (d), this ITP's conditions of approval may be amended when necessary to minimize and fully mitigate the impacts of the authorized take of Covered Species. The Designated Biologist may also propose updates as a result of new information gathered through compliance monitoring.

8.11. Covered Species Handling, Care, and Rehabilitation Plan. The Designated Biologist shall prepare a Covered Species Handling, Care, and Rehabilitation Plan (Care Plan). The Care Plan shall include steps to capture and handle an injured Covered Species or abandoned rail eggs or nestlings, the identification of a CDFW-approved wildlife rehabilitation center or veterinary facility, how the Covered Species will be transported, and funding for the rehabilitation, recovery, and hacking (controlled release of rails) of Covered Species. The Care Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Care Plan is approved in writing by CDFW. Only the approved Designated Biologists are authorized to capture and handle the Covered Species. Once the Care Plan is approved in writing by CDFW, it shall be used as applicable for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the CDFW-approved Care Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed Care Plan modifications.

9. Compensatory Mitigation: CDFW has determined that habitat restoration and enhancement are necessary and required pursuant to CESA, including Fish and Game Code section 2081.15, 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 restoration activities required to

¹¹ U.S. Fish and Wildlife Service. 2009. Yuma Clapper Rail (*Rallus longirostris yumanensis*) Recovery Plan. Draft First Revision. U.S. Fish and Wildlife Service, Southwest Region, Albuquerque, New Mexico.

provide for adequate compensation. In addition, due to the fully-protected status of three of the Covered Species, FGC 2081.15 requires that CESA ITP measures for these species satisfy the "conservation standards" as defined in FGC 2805(d).¹² To meet these requirements, the Permittee shall do all of the following:

- 9.1 On-site Restoration:** Restore approximately **2.11 acres** of temporary riparian vegetation impact areas underneath the I-40 bridge on the California side of the California-Arizona border to pre-impact conditions (as required by the LSA Agreement EPIMS-SBR-61914-R6). This area is depicted in yellow in the attached Figure 3.
- 9.2 Adjacent Site Restoration:** Conduct at least **1.476 acres** of habitat restoration and enhancement activities beyond the Project Area within the Caltrans right-of-way (within the area depicted in green in the attached Figure 3), to include at least 1.289 acres in California. Restoration and enhancement activities shall include the removal of non-native plant species, planting appropriate native plant species, and monitoring and maintenance for at least five years to ensure successful plant establishment. Enhancement activities may also include the modification of riverbanks to better support quality habitat for Covered Species.
 - 9.2.1 Within six months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate restoration and enhancement of the 1.289 acres, and shall ensure that the Plan is successfully implemented. The Plan shall include detailed specifications for restoration and enhancement, such as planting palettes, seed mixes, application methods, schedules, irrigation as appropriate, weed control, and monitoring.

Although the restoration and enhancement of habitat along with compliance with this ITP's conditions of approval would be sufficient to fully mitigate Project-related impacts of the taking on Covered Species, CDFW determined that additional measures are required to satisfy the conditions in subdivisions (a)(1) and (a)(2) of Fish and Game Code section 2081.15 related to the conservation standard of subdivision (d) of Fish and Game Code section 2805 with respect to Yuma Ridgway's rail, California black rail, and razorback sucker. To that end, CDFW determined that off-site mitigation described in Condition of Approval 9.3 below would satisfy the aforementioned conditions.

- 9.3 Off-site Mitigation:** Conduct or fund mitigation via a combination of one or both of the following activities, to be approved in advance by CDFW:

¹² FGC 2805(d) provides this definition: "Conserve," "conserving," and "conservation" mean to use, and the use of, methods and procedures within the plan area that are necessary to bring any covered species to the point at which the measures provided pursuant to Chapter 1.5 (commencing with Section 2050) are not necessary, and for covered species that are not listed pursuant to Chapter 1.5 (commencing with Section 2050), to maintain or enhance the condition of a species so that listing pursuant to Chapter 1.5 (commencing with Section 2050) will not become necessary.

- 9.3.1 Permittee shall conduct or fund the creation, restoration, or enhancement of **three acres** of habitat for razorback sucker and bonytail chub on the Colorado River, to include habitat elements for Yuma Ridgway's rail and California black rail (dense vegetation in wetlands or marshes), within 30 miles of the I-40 Colorado River Bridge on a site to be approved in writing by CDFW. Such work may include projects such as creating grow-out coves to protect from fish from predation, and establishing backwaters for fish spawning, as long as these projects also include habitat elements for the Covered Species birds.
- 9.3.2 Via a total financial commitment of at least \$500,000.00, Permittee shall conduct or fund recovery actions to benefit Covered Species, such as rearing and stocking of Covered Species fish in the Colorado River, or research on Covered Species birds to support conservation of those species.
- 9.4 Cost Estimates.** For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete the required habitat work as follows:
- 9.4.1 All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks in Condition of Approval 9.2. These costs include invasive species control, soil amendments, plants, plant establishment work, and temporary irrigation systems: **\$832,548.00.**
- 9.4.2 All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks in Condition of Approval 9.3. These costs include the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work: **\$575,000.00.**
- 9.5 Mitigation Timing.** The Permittee shall fund the activities described in Condition of Approval 9.3 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 10 below. Prior to fund transfer, Permittee shall obtain CDFW approval to ensure the recipient entities are appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Payment Receipts prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.
- 9.6 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.

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

10.1. Security Amount. The Security shall be in the amount of **\$1,407,548.00** or in the amount identified in 9.4 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.4 above, sufficient for CDFW or its contractors to complete to complete the required habitat work.

10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (see Attachment 3) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.

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

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

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

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

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

- Completion of on-site restoration as required by Condition of Approval 9.1;
- Completion of adjacent site restoration as required by Condition of Approval 9.2;
- Completion of off-site mitigation as required by Condition of Approval 9.3; and
- Timely submission of all required reports.

Even if Security is provided, the Permittee must complete the required mitigation as required by Condition of Approval 9.3 no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide 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), Fish and Game Code section 2081.15, subdivisions (a)(3) and (d), and other applicable law. This ITP may be amended without the concurrence of the Permittee as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

X. Stop-Work Order:

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

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

XI. 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.

XII. 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 (2081-2025-065-06) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Heidi Calvert, Regional Manager

Incidental Take Permit
No. 2081-2025-065-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8
I-40 COLORADO RIVER BRIDGE REPLACEMENT (08-0R380)

California Department of Fish and Wildlife
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
R6CESA@wildlife.ca.gov

and a copy to:

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

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

Chris Briggs, Senior Environmental Scientist (Specialist)
California Department of Fish and Wildlife
Inland Deserts Region
3602 Inland Empire Blvd, Suite C-220
Ontario, CA 91764
909-758-6774
Christopher.Briggs@wildlife.ca.gov

XIII. Compliance with the California Environmental Quality Act (CEQA):

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, the California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the I-40 Colorado River Bridge Replacement Project Final Environmental Impact Report (SCH No.: 2020110050) dated December 2023 that the California Department of Transportation certified for the I-40 Colorado River Bridge Replacement Project on January 5, 2024. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's EIR for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant

Incidental Take Permit
No. 2081-2025-065-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8
I-40 COLORADO RIVER BRIDGE REPLACEMENT (08-0R380)

environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

XIV. Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations (Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2); and Fish & G. Code § 2081.15, subds (a) – (d)).

CDFW finds based on substantial evidence in the ITP application, Environmental Impact Report (SCH No.: 2020110050), the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA, including Fish and Game Code section 2081.15:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) restoration and enhancement of habitat; (2) establishment of avoidance zones; (3) worker education; (4) Quarterly Compliance Reports; and (5) monitoring and adaptive management. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the restoration of **2.11 acres** of impacted habitat, plus the enhancement of **1.289 acres** of adjacent habitat in California, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the

Incidental Take Permit
No. 2081-2025-065-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8
I-40 COLORADO RIVER BRIDGE REPLACEMENT (08-0R380)

Project;

- (7) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law; and
- (8) As stated in findings (1) – (7) above, the requirements of subdivisions (b) and (c) of Section 2081 are satisfied as to the Covered Species;
- (9) As stated in finding (2) above, the impacts of the taking on the Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP such as the restoration and enhancement of compensatory habitat. Nevertheless, CDFW determined that additional measures are required to satisfy the conservation standard of subdivision (d) of Fish and Game Code section 2805 with respect to Fully Protected species Yuma Ridgway's rail, California black rail, and razorback sucker. To that end, CDFW determined that off-site mitigation in the form of either (1) creation, restoration, or enhancement of **three acres** of habitat, or (2) the conduct or funding of rearing and stocking Covered Species fish plus research to support conservation of Covered Species birds not only ensures that the impacts of the taking on Fully Protected species caused by the Project will be fully mitigated, but in combination with the other measures required by this ITP, satisfies the conservation standard of subdivision (d) of Fish and Game Code section 2805.
- (10) This ITP provides for the development and implementation of a monitoring program and adaptive management plan for monitoring the effectiveness of, and amending, as necessary, the measures to minimize and fully mitigate the impacts of the authorized take of Covered Species. The take monitoring programs and adaptive management plans are in the forms of Conditions of Approval regarding Nest Monitoring, Adaptive Management, and the Covered Species Handling, Care, and Rehabilitation Plan, as required by the measures in this ITP; and
- (11) The Project that is the subject of this ITP's authorization to take Covered Species incidentally in carrying out Covered Activities is a transportation project, undertaken by a state, regional, or local agency, that does not increase highway or street capacity for automobile or truck travel.

XV. Attachments:

FIGURE 1 Regional Map of Project

Incidental Take Permit
No. 2081-2025-065-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8
I-40 COLORADO RIVER BRIDGE REPLACEMENT (08-0R380)

FIGURE 2

Local Map of Project

FIGURE 3

Map of Restoration Areas

ATTACHMENT 1

Mitigation Monitoring and Reporting Program

ATTACHMENT 2

Biologist Resume Form

ATTACHMENT 3

Letter of Credit Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE ON 6/12/2026

DocuSigned by:

Heidi Calvert

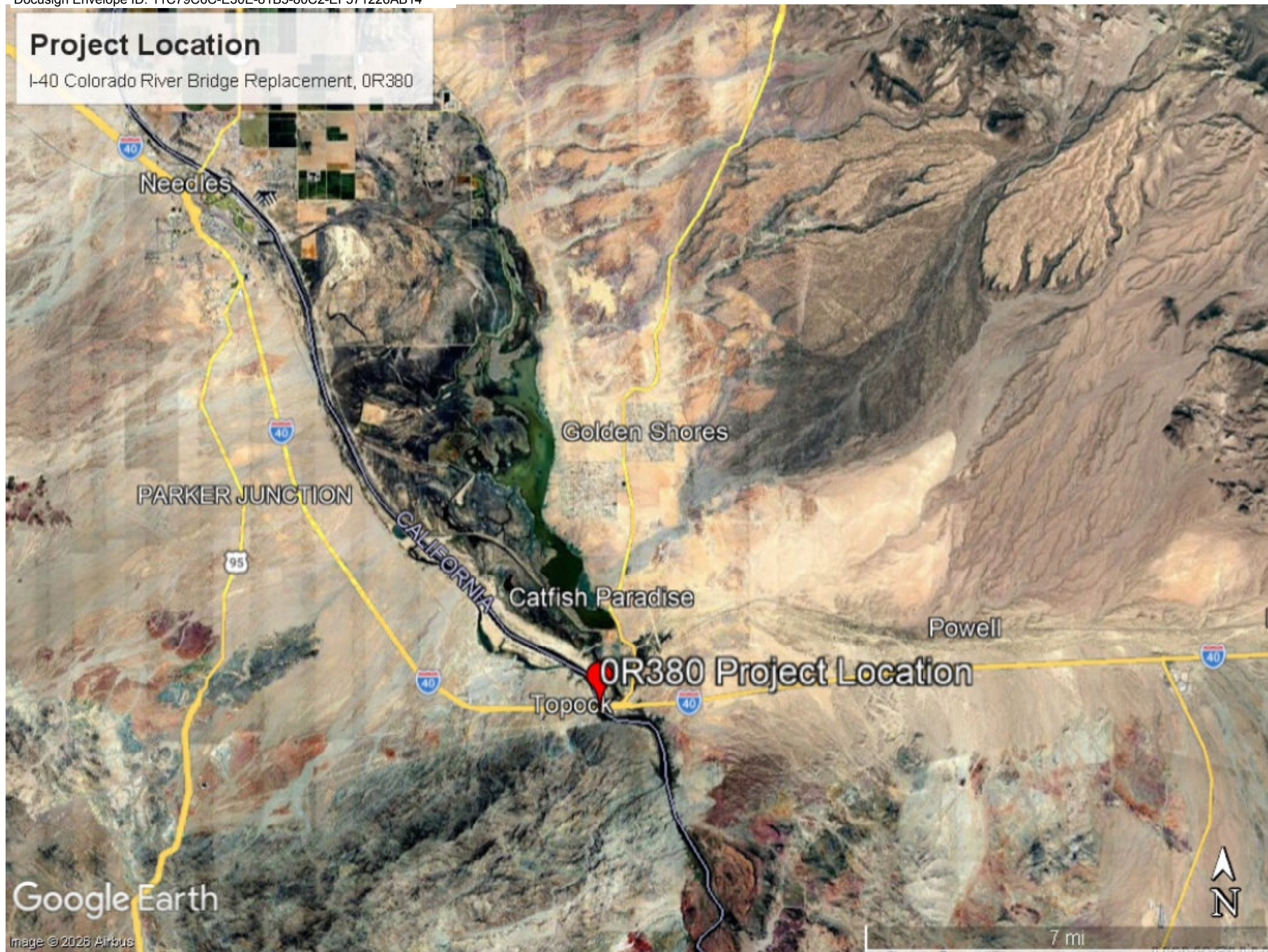
CACE4779B03E4A3...

Heidi Calvert, Regional Manager
Inland Deserts Region

Incidental Take Permit
No. 2081-2025-065-06
CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 8
I-40 COLORADO RIVER BRIDGE REPLACEMENT (08-0R380)

Project Location

I-40 Colorado River Bridge Replacement, OR380



Google Earth

Image © 2023 Airbus



OR380 Project Location

I-40 Colorado River Bridge Replacement

OR380 Project Location

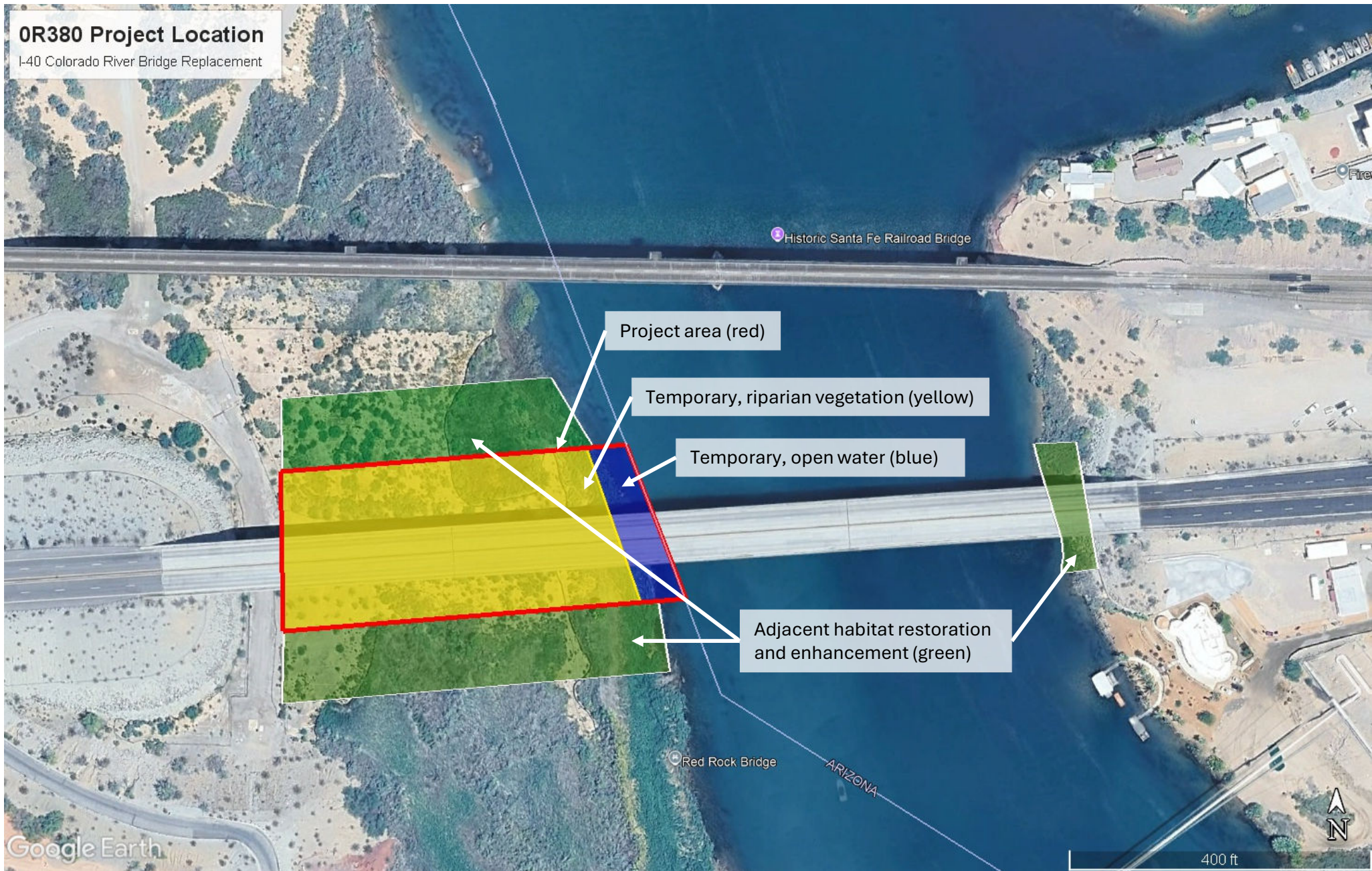
National Trails Hwy

ARIZONA

Google Earth

400 ft





Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2025-065-06

PERMITTEE: California Department of Transportation, District 8

PROJECT: I-40 Colorado River Bridge Replacement (08-0R380)

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	<u>Designated Representative</u> . 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 # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist(s), Biological Monitor(s), and/or Veterinarian(s)</u> . Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	<u>Designated Biologist Authority</u> . To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with this ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.	ITP Condition # 6.3	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
4	<u>Education Program</u> . Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	<u>Construction Monitoring Documentation</u> . The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
6	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Delineation of Property Boundaries</u> . Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	<u>Delineation of Habitat</u> . Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
9	<u>Aquatic Noise Mitigation Plan.</u> At least 30 days prior to the production of noise or vibration in aquatic habitat (pile-driving and the installation of temporary pile supports and caisson systems), Permittee shall submit a site-specific aquatic noise mitigation plan to CDFW for approval. The plan shall include the following: <u>Bubble Curtain Designs.</u> Permittee shall include bubble curtain system designs in the aquatic noise mitigation plan. The bubble curtain system shall fully encompass the work area from which impact noise will be generated, ensuring no line-of-sight path exists between the sound source and sensitive aquatic areas within the Project site. The system shall consist of multiple perforated hose rings, designed to release a dense and continuous wall of air bubbles from the substrate to the water surface. The system's design shall account for water depth, currents, and flow, ensuring constant and effective noise attenuation for the full duration of impact activities. The bubble curtain system shall achieve a minimum underwater noise reduction of 10 decibels (dB) across sensitive frequencies at a distance determined by the Designated Biologist. <u>Acoustic Monitoring Plan.</u> An acoustic monitoring plan shall be implemented during the initial setup and at regular intervals throughout the impact-generating activities. Monitoring shall verify the bubble curtain's performance meets the required noise reduction standards. Monitoring reports detailing the noise reduction measurements shall be submitted to CDFW within 10 business days of each monitoring event. <u>Operational Procedures.</u> The Designated Biologist shall confirm proper bubble curtain deployment and operation before work begins and during active use. Bubble curtain operation shall begin at least 30 minutes before any impact-generating activity and remain active for the full duration of the activity. Should any malfunction or system failure occur, all impact-generating activities shall cease immediately. Activities shall not resume until the system is fully operational and has been re-verified. <u>Qualifications.</u> Permittee shall provide CDFW with the names and qualifications of those who prepared the aquatic noise mitigation plan.	ITP Condition # 8.5	At least 30 days prior to the production of noise or vibration in aquatic habitat.	Permittee	
10	<u>Notification Before Commencement.</u> 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 # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	<u>Bird Surveys.</u> A Designated Biologist shall conduct surveys for Yuma Ridgway's rail and California black rail in the Project Area and within an appropriate buffer, prior to the commencement of Covered Activities, regardless of the time of year those activities are scheduled to begin. The surveys shall be conducted in accordance with the Standardized North American Marsh Bird Monitoring Protocol. Survey results shall be reported to CDFW prior to commencement of Covered Activities.	ITP Condition # 8.7	Before commencing ground- or vegetation-disturbing activities	Permittee	

Attachment 1 – MMRP

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	<u>Covered Species Handling, Care, and Rehabilitation Plan</u> . The Designated Biologist shall prepare a Covered Species Handling, Care, and Rehabilitation Plan (Care Plan). The Care Plan shall include steps to capture and handle an injured Covered Species or abandoned rail eggs or nestlings, the identification of a CDFW-approved wildlife rehabilitation center or veterinary facility, how the Covered Species will be transported, and funding for the rehabilitation, recovery, and hacking (controlled release of rails) of Covered Species. The Care Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Care Plan is approved in writing by CDFW. Only the approved Designated Biologists are authorized to capture and handle the Covered Species. Once the Care Plan is approved in writing by CDFW, it shall be used as applicable for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the CDFW-approved Care Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed Care Plan modifications.	ITP Condition # 8.11	Before commencing ground- or vegetation-disturbing activities	Permittee	

Attachment 1 – MMRP

13	<u>Compensatory Mitigation:</u> CDFW has determined that habitat restoration and enhancement are necessary and required pursuant to CESA, including Fish and Game Code section 2081.15, 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 restoration activities required to provide for adequate compensation. In addition, due to the fully-protected status of three of the Covered Species, FGC 2081.15 requires that CESA ITP measures for these species satisfy the "conservation standards" as defined in FGC 2805(d). To meet these requirements, the Permittee shall do all of the following: <u>On-site Restoration:</u> Restore approximately 2.11 acres of temporary riparian vegetation impact areas underneath the I-40 bridge on the California side of the California-Arizona border to pre-impact conditions (as required by the LSA Agreement EPIMS-SBR-61914-R6). <u>Adjacent Site Restoration:</u> Conduct at least 1.476 acres of habitat restoration and enhancement activities beyond the Project Area within the Caltrans right-of-way (within the area depicted in green in the attached Figure 3), to include at least 1.289 acres in California. Restoration and enhancement activities shall include the removal of non-native plant species, planting appropriate native plant species, and monitoring and maintenance for at least five years to ensure successful plant establishment. Enhancement activities may also include the modification of riverbanks to better support quality habitat for Covered Species. Within six months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate restoration and enhancement of the 1.289 acres, and shall ensure that the Plan is successfully implemented. The Plan shall include detailed specifications for restoration and enhancement, such as planting palettes, seed mixes, application methods, schedules, irrigation as appropriate, weed control, and monitoring. Although the restoration and enhancement of habitat along with compliance with this ITP's conditions of approval would be sufficient to fully mitigate Project-related impacts of the taking on Covered Species, CDFW determined that additional measures are required to satisfy the conditions in subdivisions (a)(1) and (a)(2) of Fish and Game Code section 2081.15 related to the conservation standard of subdivision (d) of Fish and Game Code section 2805 with respect to Yuma Ridgway's rail, California black rail, and razorback sucker. To that end, CDFW determined that off-site mitigation described in Condition of Approval 9.3 below would satisfy the aforementioned conditions. 9.3 <u>Off-site Mitigation:</u> Conduct or fund mitigation via a combination of one or both of the following activities, to be approved in advance by CDFW: 9.3.1 Permittee shall conduct or fund the creation, restoration, or enhancement of three acres of habitat for razorback sucker and bonytail chub on the Colorado River, to include habitat elements for Yuma Ridgway's rail and California black rail (dense vegetation in wetlands or marshes), within 30 miles of the I-40 Colorado River Bridge on a site to be approved in writing	ITP Condition # 9	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
	by CDFW. Such work may include projects such as creating grow-out coves to protect from fish from predation, and establishing backwaters for fish spawning, as long as these projects also include habitat elements for the Covered Species birds. 9.3.2 Via a total financial commitment of at least \$500,000.00, Permittee shall conduct or fund recovery actions to benefit Covered Species, such as rearing and stocking of Covered Species fish in the Colorado River, or research on Covered Species birds to support conservation of those species.				
14	<u>Cost Estimates.</u> For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete the required habitat work as follows: All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks in Condition of Approval 9.2. These costs include invasive species control, soil amendments, plants, plant establishment work, and temporary irrigation systems: \$832,548.00. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks in Condition of Approval 9.3. These costs include the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work: \$575,000.00.	ITP Condition # 9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
15	<u>Mitigation Timing.</u> The Permittee shall fund the activities described in Condition of Approval 9.3 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 10 below. Prior to fund transfer, Permittee shall obtain CDFW approval to ensure the recipient entities are appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Payment Receipts prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.	ITP Condition # 9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
16	<u>Reimburse CDFW.</u> 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 # 9.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

Attachment 1 – MMRP

17	<u>Security</u>: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows: <u>Security Amount</u>. The Security shall be in the amount of \$1,407,548.00 or in the amount identified in 9.4 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.4 above, sufficient for CDFW or its contractors to complete to complete the required habitat work. <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. <u>Security Timeline</u>. 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. <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW. <u>Security Transmittal</u>. Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other. <u>Security Drawing</u>. 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. Even if Security is provided, the Permittee must complete the required mitigation as required by Condition of Approval 9.3 no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide 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.	ITP Condition # 10	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
DURING CONSTRUCTION					
18	<u>Designated Biologist Authority</u> . To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with this ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.	ITP Condition # 6.3	Entire Project	Permittee	
19	<u>Construction Monitoring Documentation</u> . The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
20	<u>Dust Control</u> . Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
21	<u>Notification of Non-compliance</u> . The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or this 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 # 7.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
22	<u>Compliance Monitoring.</u> The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of weekly during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to: (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.	ITP Condition # 7.3	Entire Project	Permittee	
23	<u>Quarterly Compliance Report.</u> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of this 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 Chris Briggs (Christopher.Briggs@wildlife.ca.gov) and the 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 # 7.4	Entire Project	Permittee	
24	<u>Annual Status Report.</u> Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; and (6) information about other Project impacts on the Covered Species.	ITP Condition # 7.5	Entire Project	Permittee	
25	<u>CNDDDB Observations.</u> The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
26	<u>Notification of Take or Injury.</u> Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at 909-484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and this 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 # 7.8	Entire Project	Permittee	
27	<u>Minimization of Vegetation Removal.</u> Permittee shall minimize vegetation removal associated with construction activities to the fullest extent possible. The Designated Biologist shall review and approve or deny any grubbing or clearing of vegetation.	ITP Condition # 8.1	Entire Project	Permittee	
28	<u>Fish Spawning Season Avoidance.</u> Permittee shall avoid impacts to fish habitat (water, riverbed, riverbanks, and aquatic vegetation) during the spawning season for bonytail chub or razorback sucker (typically January through June). If Covered Activities will impact fish habitat during the spawning season, a Designated Biologist experienced in fish biology and ecology shall conduct pre-construction surveys no more than two hours prior to the initiation of Project activities within fish habitat. The pre-construction survey shall encompass all areas of suitable habitat, focusing on areas that could provide refugia, and may utilize underwater cameras. Results of the survey shall be shared with CDFW within one week of the survey.	ITP Condition # 8.2	Entire Project	Permittee	
29	<u>Fish Exclusion Barriers.</u> Appropriate fish exclusion barriers shall be installed to prevent fish from entering work areas within the wetted channel of the Colorado River. A Designated Biologist shall ensure that all fish are removed from inside exclusion barriers once installed, and shall monitor barriers to ensure that they are functioning as intended.	ITP Condition # 8.3	Entire Project	Permittee	
30	<u>Moving Fish out of Harm's Way.</u> Permittee shall avoid moving razorback sucker or bonytail chub into areas inhabited by non-native predatory fish species. Therefore, if razorback sucker or bonytail chub are detected inside an exclusion barrier or within an enclosed work area, a Designated Biologist shall move the fish out of harm's way, but no further than necessary.	ITP Condition # 8.4	Entire Project	Permittee	
31	<u>Impact Protection.</u> During Covered Activities with the potential for materials to fall into the water and impact fish (such as falling debris during demolition, or loose construction materials), nets or other barriers shall be hung or placed to prevent those items from impacting the water.	ITP Condition # 8.6	Entire Project	Permittee	
32	<u>Covered Species Injury.</u> If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.8. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 8.8	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	<u>Nest Monitoring</u> . The Designated Biologist shall monitor the behavior of Yuma Ridgway's rails and California black rails (rails) within disturbance distance of the Covered Activities. Even within species, disturbance distances can vary according to time of year or geographical location. The Designated Biologist shall observe from a location where the Designated Biologist determines there is no impact to rail adults or offspring. The Designated Biologist shall have authority to order the cessation of all Project activities within disturbance distance of a rail nest if the birds exhibit abnormal nesting behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Abnormal nesting behaviors which may cause reproductive harm include running into vegetative cover, diving underwater and holding onto submerged vegetation to stay down, interrupted feeding patterns, and flying away from the nest. Covered Activities within line of sight of the nest shall not resume until the Designated Biologist has consulted with CDFW and USFWS and there is concurrence that the bird's behavior has normalized, or the young have left the nest. Results of monitoring shall be included in the Monthly and Annual Reports (Conditions of Approval 6.5 and 6.6).	ITP Condition # 8.9	Entire Project	Permittee	
34	<u>Adaptive Management</u> . Adaptive Management shall include take minimization measures for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. As provided for in Fish and Game Code section 2081.15, subdivisions (a)(3) and (d), this ITP's conditions of approval may be amended when necessary to minimize and fully mitigate the impacts of the authorized take of Covered Species. The Designated Biologist may also propose updates as a result of new information gathered through compliance monitoring.	ITP Condition # 8.10	Entire Project	Permittee	
35	<u>On-site Restoration</u> : Restore approximately 2.11 acres of temporary riparian vegetation impact areas underneath the I-40 bridge on the California side of the California-Arizona border to pre-impact conditions (as required by the LSA Agreement EPIMS-SBR-61914-R6). This area is depicted in yellow in the attached Figure 3.	ITP Condition # 9.1	Entire Project	Permittee	
36	<u>Adjacent Site Restoration</u> : Conduct at least 1.476 acres of habitat restoration and enhancement activities beyond the Project Area within the Caltrans right-of-way (within the area depicted in green in the attached Figure 3), to include at least 1.289 acres in California. Restoration and enhancement activities shall include the removal of non-native plant species, planting appropriate native plant species, and monitoring and maintenance for at least five years to ensure successful plant establishment. Enhancement activities may also include the modification of riverbanks to better support quality habitat for Covered Species.	ITP Condition # 9.2	Entire Project	Permittee	
POST-CONSTRUCTION					
37	<u>Refuse Removal</u> . Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.15	Post-construction	Permittee	

Attachment 1 – MMRP

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
38	<u>Final Mitigation Report</u> . No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this 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 # 7.7	Post-construction and after completion of mitigation	Permittee	
39	<u>Security Release</u> . The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted on-site inspections and received confirmation that all secured requirements have been satisfied, as evidenced by: • Completion of on-site restoration as required by Condition of Approval 9.1; • Completion of adjacent site restoration as required by Condition of Approval 9.2; • Completion of off-site mitigation as required by Condition of Approval 9.3; and • Timely submission of all required reports.	ITP Condition # 10.7	Post-construction and after completion of mitigation		
40	CDFW accepts the Final Mitigation Report as complete.		Post-construction	CDFW	

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2025-065-06

PERMITTEE: California Department of Transportation, District 8

PROJECT: I-40 Colorado River Bridge Replacement (08-0R380)

PURPOSE OF THE MMRP

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

OBLIGATIONS OF PERMITTEE

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

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

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

TABLE OF MITIGATION MEASURES

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

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	<u>Designated Representative</u> . 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 # 6.1	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
2	<u>Designated Biologist(s), Biological Monitor(s), and/or Veterinarian(s)</u> . Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of the Designated Biologist(s) and Biological Monitor(s) using the Biologist Resume Form (Attachment 2) or another format containing the same information at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) and Biological Monitor(s) are knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist(s) and Biological Monitor(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain CDFW approval of the Designated Biologist(s) and Biological Monitor(s) in writing before starting Covered Activities and shall also obtain approval in advance, in writing, if the Designated Biologist(s) or Biological Monitor(s) must be changed.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	<u>Designated Biologist Authority</u> . To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with this ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.	ITP Condition # 6.3	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
4	<u>Education Program</u> . Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures. This training shall be repeated at least once annually for long-term or permanent employees that will be conducting work in the Project Area.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	<u>Construction Monitoring Documentation</u> . The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
6	<u>Trash Abatement</u> . Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed, ideally at daily intervals but at least once a week, to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Delineation of Property Boundaries</u> . Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked, or flagged areas. Permittee shall maintain all fencing, stakes, and flags until the completion of Covered Activities.	ITP Condition # 6.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	<u>Delineation of Habitat</u> . Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 6.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
9	<u>Aquatic Noise Mitigation Plan.</u> At least 30 days prior to the production of noise or vibration in aquatic habitat (pile-driving and the installation of temporary pile supports and caisson systems), Permittee shall submit a site-specific aquatic noise mitigation plan to CDFW for approval. The plan shall include the following: <u>Bubble Curtain Designs.</u> Permittee shall include bubble curtain system designs in the aquatic noise mitigation plan. The bubble curtain system shall fully encompass the work area from which impact noise will be generated, ensuring no line-of-sight path exists between the sound source and sensitive aquatic areas within the Project site. The system shall consist of multiple perforated hose rings, designed to release a dense and continuous wall of air bubbles from the substrate to the water surface. The system's design shall account for water depth, currents, and flow, ensuring constant and effective noise attenuation for the full duration of impact activities. The bubble curtain system shall achieve a minimum underwater noise reduction of 10 decibels (dB) across sensitive frequencies at a distance determined by the Designated Biologist. <u>Acoustic Monitoring Plan.</u> An acoustic monitoring plan shall be implemented during the initial setup and at regular intervals throughout the impact-generating activities. Monitoring shall verify the bubble curtain's performance meets the required noise reduction standards. Monitoring reports detailing the noise reduction measurements shall be submitted to CDFW within 10 business days of each monitoring event. <u>Operational Procedures.</u> The Designated Biologist shall confirm proper bubble curtain deployment and operation before work begins and during active use. Bubble curtain operation shall begin at least 30 minutes before any impact-generating activity and remain active for the full duration of the activity. Should any malfunction or system failure occur, all impact-generating activities shall cease immediately. Activities shall not resume until the system is fully operational and has been re-verified. <u>Qualifications.</u> Permittee shall provide CDFW with the names and qualifications of those who prepared the aquatic noise mitigation plan.	ITP Condition # 8.5	At least 30 days prior to the production of noise or vibration in aquatic habitat.	Permittee	
10	<u>Notification Before Commencement.</u> 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 # 7.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	<u>Bird Surveys.</u> A Designated Biologist shall conduct surveys for Yuma Ridgway's rail and California black rail in the Project Area and within an appropriate buffer, prior to the commencement of Covered Activities, regardless of the time of year those activities are scheduled to begin. The surveys shall be conducted in accordance with the Standardized North American Marsh Bird Monitoring Protocol. Survey results shall be reported to CDFW prior to commencement of Covered Activities.	ITP Condition # 8.7	Before commencing ground- or vegetation-disturbing activities	Permittee	

Attachment 1 – MMRP

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
12	<u>Covered Species Handling, Care, and Rehabilitation Plan</u> . The Designated Biologist shall prepare a Covered Species Handling, Care, and Rehabilitation Plan (Care Plan). The Care Plan shall include steps to capture and handle an injured Covered Species or abandoned rail eggs or nestlings, the identification of a CDFW-approved wildlife rehabilitation center or veterinary facility, how the Covered Species will be transported, and funding for the rehabilitation, recovery, and hacking (controlled release of rails) of Covered Species. The Care Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities anywhere within the Project Area may not proceed until the Care Plan is approved in writing by CDFW. Only the approved Designated Biologists are authorized to capture and handle the Covered Species. Once the Care Plan is approved in writing by CDFW, it shall be used as applicable for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. Any proposed changes to the CDFW-approved Care Plan shall be submitted in writing to CDFW and approved by CDFW in writing prior to implementation of any proposed Care Plan modifications.	ITP Condition # 8.11	Before commencing ground- or vegetation-disturbing activities	Permittee	

Attachment 1 – MMRP

13	<u>Compensatory Mitigation:</u> CDFW has determined that habitat restoration and enhancement are necessary and required pursuant to CESA, including Fish and Game Code section 2081.15, 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 restoration activities required to provide for adequate compensation. In addition, due to the fully-protected status of three of the Covered Species, FGC 2081.15 requires that CESA ITP measures for these species satisfy the "conservation standards" as defined in FGC 2805(d). To meet these requirements, the Permittee shall do all of the following: <u>On-site Restoration:</u> Restore approximately 2.11 acres of temporary riparian vegetation impact areas underneath the I-40 bridge on the California side of the California-Arizona border to pre-impact conditions (as required by the LSA Agreement EPIMS-SBR-61914-R6). <u>Adjacent Site Restoration:</u> Conduct at least 1.476 acres of habitat restoration and enhancement activities beyond the Project Area within the Caltrans right-of-way (within the area depicted in green in the attached Figure 3), to include at least 1.289 acres in California. Restoration and enhancement activities shall include the removal of non-native plant species, planting appropriate native plant species, and monitoring and maintenance for at least five years to ensure successful plant establishment. Enhancement activities may also include the modification of riverbanks to better support quality habitat for Covered Species. Within six months of issuance of this ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate restoration and enhancement of the 1.289 acres, and shall ensure that the Plan is successfully implemented. The Plan shall include detailed specifications for restoration and enhancement, such as planting palettes, seed mixes, application methods, schedules, irrigation as appropriate, weed control, and monitoring. Although the restoration and enhancement of habitat along with compliance with this ITP's conditions of approval would be sufficient to fully mitigate Project-related impacts of the taking on Covered Species, CDFW determined that additional measures are required to satisfy the conditions in subdivisions (a)(1) and (a)(2) of Fish and Game Code section 2081.15 related to the conservation standard of subdivision (d) of Fish and Game Code section 2805 with respect to Yuma Ridgway's rail, California black rail, and razorback sucker. To that end, CDFW determined that off-site mitigation described in Condition of Approval 9.3 below would satisfy the aforementioned conditions. 9.3 <u>Off-site Mitigation:</u> Conduct or fund mitigation via a combination of one or both of the following activities, to be approved in advance by CDFW: 9.3.1 Permittee shall conduct or fund the creation, restoration, or enhancement of three acres of habitat for razorback sucker and bonytail chub on the Colorado River, to include habitat elements for Yuma Ridgway's rail and California black rail (dense vegetation in wetlands or marshes), within 30 miles of the I-40 Colorado River Bridge on a site to be approved in writing	ITP Condition # 9	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
	by CDFW. Such work may include projects such as creating grow-out coves to protect from fish from predation, and establishing backwaters for fish spawning, as long as these projects also include habitat elements for the Covered Species birds. 9.3.2 Via a total financial commitment of at least \$500,000.00, Permittee shall conduct or fund recovery actions to benefit Covered Species, such as rearing and stocking of Covered Species fish in the Colorado River, or research on Covered Species birds to support conservation of those species.				
14	<u>Cost Estimates.</u> For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete the required habitat work as follows: All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks in Condition of Approval 9.2. These costs include invasive species control, soil amendments, plants, plant establishment work, and temporary irrigation systems: \$832,548.00. All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks in Condition of Approval 9.3. These costs include the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work: \$575,000.00.	ITP Condition # 9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
15	<u>Mitigation Timing.</u> The Permittee shall fund the activities described in Condition of Approval 9.3 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 10 below. Prior to fund transfer, Permittee shall obtain CDFW approval to ensure the recipient entities are appropriate to compensate for the impacts of the Project. Permittee shall submit to CDFW a copy of the Payment Receipts prior to initiating Covered Activities or within 18 months from issuance of this ITP if Security is provided.	ITP Condition # 9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	
16	<u>Reimburse CDFW.</u> 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 # 9.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of this ITP if Security is provided)	Permittee	

Attachment 1 – MMRP

17	<u>Security</u>: The Permittee may proceed with Covered Activities only after the Permittee has ensured funding (Security) to complete any activity required by Condition of Approval 9 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows: <u>Security Amount</u>. The Security shall be in the amount of \$1,407,548.00 or in the amount identified in 9.4 specific to the obligation that has not been completed. This amount is determined by CDFW based on the cost estimates identified in Condition of Approval 9.4 above, sufficient for CDFW or its contractors to complete to complete the required habitat work. <u>Security Form</u>. The Security shall be in the form of an irrevocable letter of credit or another form of Security approved in advance in writing by CDFW's Office of the General Counsel. <u>Security Timeline</u>. 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. <u>Security Holder</u>. The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW. <u>Security Transmittal</u>. Permittee shall transmit security to CDFW by way of an approved instrument such as an escrow agreement, irrevocable letter of credit, or other. <u>Security Drawing</u>. 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. Even if Security is provided, the Permittee must complete the required mitigation as required by Condition of Approval 9.3 no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide 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.	ITP Condition # 10	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
DURING CONSTRUCTION					
18	<u>Designated Biologist Authority.</u> To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall immediately stop any activity that does not comply with this ITP and/or order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species. Permittee shall provide unfettered access to the Project Site and otherwise facilitate the Designated Biologist in the performance of his/her duties. If the Designated Biologist is unable to comply with this ITP, then the Designated Biologist shall notify the CDFW Representative immediately. Permittee shall not enter into any agreement or contract of any kind, including but not limited to non-disclosure agreements and confidentiality agreements, with its contractors and/or the Designated Biologist that prohibit or impede open communication with CDFW, including but not limited to providing CDFW staff with the results of any surveys, reports, or studies or notifying CDFW of any non-compliance or take. Failure to notify CDFW of any non-compliance or take or injury of a Covered Species as a result of such agreement or contract may result in CDFW taking actions to prevent or remedy a violation of this ITP.	ITP Condition # 6.3	Entire Project	Permittee	
19	<u>Construction Monitoring Documentation.</u> The Designated Biologist(s) and Biological Monitor(s) shall maintain construction-monitoring documentation on-site in either hard copy or digital format throughout the construction period, which shall include a copy of this ITP with attachments and a list of signatures of all personnel who have successfully completed the education program. Permittee shall ensure a copy of the construction-monitoring documentation is available for review at the Project site upon request by CDFW.	ITP Condition # 6.5	Entire Project	Permittee	
20	<u>Dust Control.</u> Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed and shall not allow water to form puddles.	ITP Condition # 6.7	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
21	<u>Notification of Non-compliance.</u> The Designated Representative shall immediately notify CDFW if the Permittee is not in compliance with any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or this 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 # 7.2	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
22	<u>Compliance Monitoring.</u> The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections a minimum of weekly during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist shall conduct compliance inspections to: (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP.	ITP Condition # 7.3	Entire Project	Permittee	
23	<u>Quarterly Compliance Report.</u> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Quarterly Compliance Report and submit it to CDFW along with a copy of this 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 Chris Briggs (Christopher.Briggs@wildlife.ca.gov) and the 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 # 7.4	Entire Project	Permittee	
24	<u>Annual Status Report.</u> Permittee shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 7.4; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; and (6) information about other Project impacts on the Covered Species.	ITP Condition # 7.5	Entire Project	Permittee	
25	<u>CNDDDB Observations.</u> The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 7.6	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
26	<u>Notification of Take or Injury.</u> Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at 909-484-0167. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and this 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 # 7.8	Entire Project	Permittee	
27	<u>Minimization of Vegetation Removal.</u> Permittee shall minimize vegetation removal associated with construction activities to the fullest extent possible. The Designated Biologist shall review and approve or deny any grubbing or clearing of vegetation.	ITP Condition # 8.1	Entire Project	Permittee	
28	<u>Fish Spawning Season Avoidance.</u> Permittee shall avoid impacts to fish habitat (water, riverbed, riverbanks, and aquatic vegetation) during the spawning season for bonytail chub or razorback sucker (typically January through June). If Covered Activities will impact fish habitat during the spawning season, a Designated Biologist experienced in fish biology and ecology shall conduct pre-construction surveys no more than two hours prior to the initiation of Project activities within fish habitat. The pre-construction survey shall encompass all areas of suitable habitat, focusing on areas that could provide refugia, and may utilize underwater cameras. Results of the survey shall be shared with CDFW within one week of the survey.	ITP Condition # 8.2	Entire Project	Permittee	
29	<u>Fish Exclusion Barriers.</u> Appropriate fish exclusion barriers shall be installed to prevent fish from entering work areas within the wetted channel of the Colorado River. A Designated Biologist shall ensure that all fish are removed from inside exclusion barriers once installed, and shall monitor barriers to ensure that they are functioning as intended.	ITP Condition # 8.3	Entire Project	Permittee	
30	<u>Moving Fish out of Harm's Way.</u> Permittee shall avoid moving razorback sucker or bonytail chub into areas inhabited by non-native predatory fish species. Therefore, if razorback sucker or bonytail chub are detected inside an exclusion barrier or within an enclosed work area, a Designated Biologist shall move the fish out of harm's way, but no further than necessary.	ITP Condition # 8.4	Entire Project	Permittee	
31	<u>Impact Protection.</u> During Covered Activities with the potential for materials to fall into the water and impact fish (such as falling debris during demolition, or loose construction materials), nets or other barriers shall be hung or placed to prevent those items from impacting the water.	ITP Condition # 8.6	Entire Project	Permittee	
32	<u>Covered Species Injury.</u> If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition 7.8. Notification shall include the name of the facility where the animal was taken.	ITP Condition # 8.8	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
33	<u>Nest Monitoring</u> . The Designated Biologist shall monitor the behavior of Yuma Ridgway's rails and California black rails (rails) within disturbance distance of the Covered Activities. Even within species, disturbance distances can vary according to time of year or geographical location. The Designated Biologist shall observe from a location where the Designated Biologist determines there is no impact to rail adults or offspring. The Designated Biologist shall have authority to order the cessation of all Project activities within disturbance distance of a rail nest if the birds exhibit abnormal nesting behavior which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Abnormal nesting behaviors which may cause reproductive harm include running into vegetative cover, diving underwater and holding onto submerged vegetation to stay down, interrupted feeding patterns, and flying away from the nest. Covered Activities within line of sight of the nest shall not resume until the Designated Biologist has consulted with CDFW and USFWS and there is concurrence that the bird's behavior has normalized, or the young have left the nest. Results of monitoring shall be included in the Monthly and Annual Reports (Conditions of Approval 6.5 and 6.6).	ITP Condition # 8.9	Entire Project	Permittee	
34	<u>Adaptive Management</u> . Adaptive Management shall include take minimization measures for the duration of this ITP unless updated by CDFW to reflect best available science, in which case CDFW will contact the Permittee to discuss needed updates. As provided for in Fish and Game Code section 2081.15, subdivisions (a)(3) and (d), this ITP's conditions of approval may be amended when necessary to minimize and fully mitigate the impacts of the authorized take of Covered Species. The Designated Biologist may also propose updates as a result of new information gathered through compliance monitoring.	ITP Condition # 8.10	Entire Project	Permittee	
35	<u>On-site Restoration</u> : Restore approximately 2.11 acres of temporary riparian vegetation impact areas underneath the I-40 bridge on the California side of the California-Arizona border to pre-impact conditions (as required by the LSA Agreement EPIMS-SBR-61914-R6). This area is depicted in yellow in the attached Figure 3.	ITP Condition # 9.1	Entire Project	Permittee	
36	<u>Adjacent Site Restoration</u> : Conduct at least 1.476 acres of habitat restoration and enhancement activities beyond the Project Area within the Caltrans right-of-way (within the area depicted in green in the attached Figure 3), to include at least 1.289 acres in California. Restoration and enhancement activities shall include the removal of non-native plant species, planting appropriate native plant species, and monitoring and maintenance for at least five years to ensure successful plant establishment. Enhancement activities may also include the modification of riverbanks to better support quality habitat for Covered Species.	ITP Condition # 9.2	Entire Project	Permittee	
POST-CONSTRUCTION					
37	<u>Refuse Removal</u> . Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.	ITP Condition # 6.15	Post-construction	Permittee	

Attachment 1 – MMRP

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
38	<u>Final Mitigation Report</u> . No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in this 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 # 7.7	Post-construction and after completion of mitigation	Permittee	
39	<u>Security Release</u> . The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted on-site inspections and received confirmation that all secured requirements have been satisfied, as evidenced by: • Completion of on-site restoration as required by Condition of Approval 9.1; • Completion of adjacent site restoration as required by Condition of Approval 9.2; • Completion of off-site mitigation as required by Condition of Approval 9.3; and • Timely submission of all required reports.	ITP Condition # 10.7	Post-construction and after completion of mitigation		
40	CDFW accepts the Final Mitigation Report as complete.		Post-construction	CDFW	

**BIOLOGIST RESUME**

Project Name: I-40 Colorado River Bridge Replacement (08-0R380)

ITP Number: 2081-2025-065-06

COVER SHEET

SUBMIT EACH RESUME AS A SEPARATE DOCUMENT

Name	Requested Role(s) ¹	Species/Resource(s)

This form requests information about the qualifications of the Qualified Biologist, Designated 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). **Completing this form will ensure the receipt of adequate information and expedite CDFW review of qualifications.**

¹ Requested roles correspond to the biological staffing requirements indicated in the Lake and Streambed Alteration (LSA) Agreement or California Endangered Species Act Incidental Take Permit (ITP). Roles may include a "Qualified Biologist" or "Designated Biologist" with the necessary experience to survey for special status species, or a "Biological Monitor" with the necessary experience to monitor construction activities for special status species. An individual may request more than one role.

**BIOLOGIST RESUME**

Project Name: I-40 Colorado River Bridge Replacement (08-0R380)

ITP Number: 2081-2025-065-06

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 Conditions²:

SECTION IV. SPECIES AND RESOURCE EXPERIENCE – SUMMARY

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.

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: I-40 Colorado River Bridge Replacement (08-0R380)

ITP Number: 2081-2025-065-06

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 CNDDB is the abbreviation for California Natural Diversity Database.



BIOLOGIST RESUME

Project Name: I-40 Colorado River Bridge Replacement (08-0R380)

ITP Number: 2081-2025-065-06

If <u>not</u> reported to CNDDDB, 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 CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDDB, 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 CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDDB, why:	
CDFW and Other Agency Email:	

**BIOLOGIST RESUME**

Project Name: I-40 Colorado River Bridge Replacement (08-0R380)

ITP Number: 2081-2025-065-06

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: I-40 Colorado River Bridge Replacement (08-0R380)

ITP Number: 2081-2025-065-06

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 CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDDB, 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 CNDDDB (Y/N):	Company Name, Professional Reference Name, Phone, Email:
If <u>not</u> reported to CNDDDB, 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

DFW 820 (NEW 07/21/22) Page 7 of 7

Project Name: I-40 Colorado River Bridge Replacement (08-0R380)

ITP Number: 2081-2025-065-06

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"]