



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

California Endangered Species Act
Incidental Take Permit No. 2081-2016-004-R6

STATE ROUTE 58 (SR-58) KRAMER REALIGNMENT PROJECT

Authority: This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 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 CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081; subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

Permittee:	California Department of Transportation
Principal Officer:	Craig Wentworth, Senior Environmental Planner
Contact Person:	Josh Jaffery, Associate Environmental Planner
Mailing Address:	California Department of Transportation 464 West 4th Street, 6th Floor, MS 822 San Bernardino, CA 92401-1400

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **September 1, 2022**.

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 (7.6) of this ITP.

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

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

Project Location:

The project is located on SR-58 beginning at the Kern County Line to 7.5 mi (12.09 km) east of US-395 (Post Mile (PM) 0 to 12.9) in the northwestern portion of San Bernardino County, California. The boundaries of the project area extend through four USGS 7.5 minute quadrangles; "Boron, California;" "Saddleback Mountain, California;" "Kramer Junction, California" and "Kramer Hills, California. (Figure1. Project Location Map).

Project Description:

The project would improve this section of SR-58 to conform to the previously accomplished 4-lane sections. The upgrade of the existing two-lane section of SR58 will be accomplished by expanding it into a 4-lane expressway, from the Kern County Line to 7.5 mi (12.09 km) east of US395 KP 0 to 20.76 (PM 0 to 12.9). The improvements would add a second expressway travel lane to both directions of travel up to 12.9 mi (20.76 km) long. The work will also include the construction of an access controlled new northerly alignment, joining existing SR58 at KP 5.59 (PM 9.0), a railroad grade separation (overhead), and a spread diamond interchange (separation) at the intersection of SR58 and US395. This proposed diamond interchange with US395 would be located approximately one third of a mile north of the existing junction.

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- Area 2 will be located on APN 0498-232-47, the site will be excavated and soil will be removed to a depth of 15 feet, loaded into trucks for use on the proposed alignment. Area 2 will also include a 10-foot deep pond 3000 square foot pond to retain water for use on the project. The water will come from a constructed water well.
- Area 3 will be located on APNs 0492-192-12, 0492-192-18, and 0492-192-23, this site will be used for the construction yard containing the office, maintenance yard, batch plant and lay down yard. This site will also include staging and storage of equipment and materials required for construction of the project.
- Area 4 is within the right of way PM 13-14. This will be used for borrowing material within the existing cut north and south of the existing SR-58. Soils will be excavated and removed to a depth of 10 feet, loaded in trucks for use on the project site.

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- Area 6 will be located on APN 0491-171-10, the site will be excavated and soil will be removed to depth of 25 feet, loaded onto trucks for use of the proposed alignment.

Pacific Gas and Electric (PG&E) is required to relocate two of its pipelines because of the realignment of SR-58. PG&E will also have to install 3,100 feet of pipeline that extends east from the vicinity of Highway 395 and then turns directly south until it crosses the new right-of-way for SR-58.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. Desert tortoise (<i>Gopherus agassizii</i>)	Threatened ³
2. Mohave ground squirrel (<i>Xerospermophilus mohavensis</i>)	Threatened ⁴

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

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include clearing and grading, fence installation, and backfilling, cleanup, restoration, capture and relocation activities, and other activities described in the Project Description Section of this ITP (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 loss of burrows, increase in predators due to human activities, accidental crushing by construction equipment. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species from capture or entrapment in holes or trenches, uncovering Covered Species through the excavation of burrows, by corralling the Covered Species into a confined area when barrier fencing is constructed, and relocation of Covered Species when required by this ITP. The areas where authorized take of the Covered Species is expected to occur include: within the Caltrans right-of-way (collectively, the Project Area).

³ See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(4)(A).

⁴ See *Id.*, § 670.5, subd. (b)(6)(A).

The Project is expected to cause the temporary and permanent loss of 419.76 acres of habitat for the Covered Species. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations, capture and relocation, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, disturbance to burrows, removal and/or damage of vegetation comprising and increased vulnerability to predation.

Incidental Take Authorization of Covered Species:

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

Conditions of Approval:

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

- 1. Legal Compliance:** Permittee shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of Environmental Impact Report/Environmental Impact Study State Route 58 (SR-58) Kramer Junction Expressway Project (State Clearing House Number: 2007051051) certified by the lead agency California Department of Transportation, May 2013 as Lead Agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

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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. 1600-2016-0072-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 SR-58 Kramer Junction Expressway Project, (FWS-SB/KRN-12B0203-14F0423) 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 Attachment1 to this ITP.

6. General Provisions:

6.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a 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.

6.2. Biological Monitor(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Biological Monitor(s) at least 30 days before starting Covered Activities or with change of personnel. Permittee shall ensure that the Biological Monitor(s) is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The 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.

6.3. Authorized Biologist(s). Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information for biologists who, in addition to meeting the qualifications to be Biological Monitor(s) identified in Condition 6.2 above, possess a valid Memorandum of Understanding (MOU) with CDFW for handling the Covered Species. Only Authorized Biologist(s) shall be allowed to excavate burrows, handle, and relocate Covered Species.

- 6.4. Authorized Biologist(s) and Biological Monitor(s) Authority. Only an Authorized Biologist (s) with an MOU with CDFW is authorized to excavate burrows, handle, and relocate Covered Species. To ensure compliance with the Conditions of Approval of this ITP, the Biological Monitor(s) and/or Authorized Biologist(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 6.5. 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 Biological Monitor(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall 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. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.
- 6.6. Construction Monitoring Notebook. The Biological Monitor(s) shall maintain a construction-monitoring notebook on-site 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 notebook is available for review at the Project site upon request by CDFW.
- 6.7. 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 at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 6.8. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Biological Monitor(s). Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.

- 6.9. 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.
- 6.10. Delineation of Property Boundaries. Before starting Covered Activities along each part of the route in active construction, 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.
- 6.11. 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.
- 6.12. Project Access. Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.
- 6.13. 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.
- 6.14. 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.

- 6.15. Firearms and Dogs. Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials
- 6.16. CDFW Access. Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.
- 6.17. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all temporary fill and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

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 in writing if it determines that 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 report any non-compliance with this ITP to CDFW within 24 hours.
- 7.3. Compliance Monitoring. The Authorized Biologist(s) shall be on-site daily when Covered Activities occur. The Authorized Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Authorized Biologist(s) shall prepare daily written observation and inspection records summarizing: (1) oversight activities and compliance inspections; (2) observations of Covered Species and their sign; (3) survey results; and (4) monitoring activities required by this ITP. Once Covered Activities are completed the Biological Monitor(s) shall conduct compliance inspections a minimum of twice a day (once during the onset of the day's work and once at the conclusion of that day's work) during periods of inactivity and after clearing, grubbing, and grading are completed.

- 7.4. Quarterly Compliance Report. The Biological Monitor(s) or Authorized Biologist(s) 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 CDFW's Regional Office at the address listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Heather Elder (Heather.Elder@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; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.
- 7.6. CNDDDB Observations. The Biological Monitor(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Biological Monitor(s) shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 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 Biological Monitor(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on

the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future Projects on the Covered Species; and (8) any other pertinent information.

- 7.8. Notification of Take or Injury. Permittee shall immediately notify the Authorized Biologist(s) and/or the Biological Monitor(s) if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Biological Monitor(s) or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 466-8462 and by notifying the CDFW Regional Representative Heather Elder (Heather.Elder@wildlife.ca.gov). 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.

Desert Tortoise

- 8.1. Pre-Construction Surveys. No more than 30 days prior to Covered Activities, the Authorized Biologist(s) shall conduct pre-construction surveys for Covered Species. These surveys shall cover 100 percent of the Project Area with a 50-foot buffer zone. The Authorized Biologist(s) shall follow the survey methodology in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise Field Manual. The Authorized Biologist(s) shall flag all potential burrows within this area. Within 30 days of performing the pre-construction surveys, the Authorized Biologist(s) shall submit a report to CDFW documenting results (using the USFWS Protocol data sheet) and include a Translocation Plan (following the most current USFWS guidance document).
- 8.2. Handling Covered Species and Excavating Burrows. Only the Authorized Biologist(s) may excavate burrows and handle the Covered Species. During pre-construction

clearance surveys the Authorized Biologist(s) shall excavate all burrows by hand that cannot be avoided within the area to be impacted as a result of the Project, including burrows not recently used that are considered by the Authorized Biologist(s) to be potentially suitable for the Covered Species. Potentially suitable burrows shall be excavated and collapsed by the Authorized Biologist(s) at the time of survey to prevent re-entry by the Covered Species. The Authorized Biologist(s) shall excavate potentially suitable burrows in accordance with the handling protocol outlined in Chapter 7- Guidelines for Handling Desert Tortoises (US Fish and Wildlife Service 2009) (Attachment 3). If the Covered Species is active above-ground, a final survey for the Covered Species shall occur no more than 48 hours before the onset of surface-disturbing activities. Burrow excavation shall follow procedures established in the Handling Guidelines.

- 8.3. Desert Tortoise Fencing. Permittee shall install permanent desert tortoise exclusion fencing along the proposed Project length paralleling the Right of Way (ROW) prior to surface disturbance to prevent encounters with desert tortoise. Permittee shall tie the permanent desert tortoise fencing into the wildlife crossings, attach to the culverts, and then parallel the ROW again. The fence will allow wildlife to follow the fence line into the culvert for safe crossings and eliminates the possibility of desert tortoise entering the culverts that are not designed as wildlife crossings.
- 8.4. Temporary Desert Tortoise Fencing. Permittee shall install temporary desert tortoise fencing along areas that activities are only temporary. The temporary fencing shall be placed around all borrow sites especially the ponding sites, the fencing shall also be placed around all PG&E activities while excavating and rerouting the pipelines.
- 8.5. Desert Tortoise Fencing Maintenance. During the Covered Activities, the Authorized Biologist(s) shall inspect the fence at the end of each working day to ensure the Covered Species is prohibited from entering the site. If the fence is compromised, repairs shall be completed at that time. Once Covered Activities are finished, the Biological Monitor(s) shall inspect during and immediately after heavy rainfalls.
- 8.6. Pre-construction sweeps. The Authorized Biologist(s) shall conduct sweeps before construction, to ensure that desert tortoises are absent from the Project area. Additionally, the Authorized Biologist(s) shall be on site during construction of the desert tortoise exclusion fencing. Upon completion of construction of the desert tortoise exclusion fencing, a Biological Monitor(s) shall be on site for the remainder of the Cover Activities. If handling of a Covered Species is required the Biological Monitor(s) shall contact the on-call Authorized Biologist(s). Only an Authorized Biologist(s) shall be allowed to excavate burrows, handle, and relocate Covered Species.
- 8.7. Vehicle Inspection. Workers shall inspect for Covered Species under vehicles and

equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Biological Monitor(s) and wait for the Covered Species to move unimpeded to a safe location OR the Authorized Biologist(s) shall translocate the Covered Species as described in Condition of Approval 8.10 and 8.11 of this ITP before moving vehicles and equipment.

- 8.8. Minimization of Vegetation Removal. Permittee shall minimize vegetation removal associated with construction activities to the fullest extent possible. Biological Monitor(s) shall review and approve or deny any grubbing or clearing of vegetation.
- 8.9. Clearance Survey and Burrow Collapse. Immediately prior to start of ground disturbance activities, the Authorized Biologist(s) shall resurvey the Project Area and access route for Covered Species and their burrows. The Authorized Biologist(s) shall inspect all the burrows within the Project Area for habitation prior to collapsing them in accordance to this ITP.
- 8.10. Desert Tortoise Translocation Plan. Permittee shall submit a desert tortoise translocation plan to CDFW for review and approval prior to initiating construction. Permittee shall include in the Translocation Plan a description of the flora and fauna of the entire planned translocation parcel as well as an estimated number of tortoises that occupy the translocation site.
- 8.11. Relocation of Desert Tortoise. Using the methods described in the Chapter 7. Guidelines For Handling Desert Tortoises (US Fish and Wildlife Service 2009) (Attachment 2) and the approved translocation plan, the Authorized Biologist(s) shall capture, collect measurement and identification data, permanently mark, and relocate any desert tortoise found within the Project site to suitable, undisturbed CDFW-approved off-site habitat. The Authorized Biologist(s) shall relocate and/or move the desert tortoise far enough away from the proposed realignment so that toxins and other invasive species from vehicle pollution will not impact the tortoise. The Authorized Biologist(s) shall follow all excavation, capture, handling, and relocation procedures described in the Handling Guidelines to protect the health and well-being of desert tortoise. If a desert tortoise is found above ground, the Authorized Biologist(s) shall release it above ground in suitable habitat and conditions. If a desert tortoise is found during burrow excavation, the Authorized Biologist(s) shall relocate it to an unoccupied burrow of similar size. If no such burrow is available for relocating, the Authorized Biologist(s) shall construct an artificial burrow similar in size, depth, and orientation as the original burrow. The Authorized Biologist(s) shall follow all protocols for the construction of the artificial burrows found in the Chapter 7-Guidelines for Handling Desert Tortoises (US Fish and Wildlife Service 2009) (Attachment 3). The Authorized Biologist(s) shall record the location of all desert tortoise burrows, desert tortoises, and relocation sites using GPS technology. The Authorized Biologist(s) shall collapse all potential or actual desert tortoise burrows present within the work site after establishing that desert tortoise does not currently

occupy them.

- 8.12. Ambient Air Temperature. The Authorized Biologist(s) shall ensure that desert tortoises are not captured, moved, transported, released, or purposefully caused to leave their burrow for any reason when the ambient air temperature is above 95 degrees Fahrenheit (35 degrees Celsius). The Authorized Biologist(s) shall ensure that no desert tortoise is captured if the ambient air temperature is anticipated to exceed 95 degrees Fahrenheit before handling or processing can be completed. If the ambient air temperature exceeds 95 degrees Fahrenheit during handling or processing, the Authorized Biologist(s) shall ensure the desert tortoise is kept in a shaded environment with a temperature that does not exceed 95 degrees Fahrenheit, and that the individual is not released until ambient air temperature declines to below 95 degrees Fahrenheit. Desert tortoises moved during inactive periods shall be monitored by the Authorized Biologist(s) for at least 2 days after placement in the new burrows to ensure their safety. During relocation, the Authorized Biologist(s) may hold a captured desert tortoise overnight and move them the following morning within these temperature constraints.
- 8.13. Desert Tortoise Re-hydration. If a desert tortoise voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the individual(s). The Authorized Biologist(s) shall rehydrate the desert tortoise at the location where the individual(s) was or were captured, or the location where the individual(s) is or will be relocated. The Authorized Biologist(s) shall rehydrate the desert tortoise by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the desert tortoise. The Authorized Biologist(s) shall rehydrate each desert tortoise individually for a minimum of 10 to 20 minutes. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration. After each tortoise is rehydrated the water shall be emptied and a new plastic disposable liner placed in the tub.

Mohave Ground Squirrel

- 8.14. Mohave Ground Squirrel Burrow Excavation. The Authorized Biologist(s) shall fully excavate by hand all burrows OR scope each burrow within the Project Area that are suspected or known to be occupied by Mohave ground squirrels. The Authorized Biologist(s) shall allow Mohave ground squirrels encountered in the excavated burrows during their *active period* to escape out of harm's way. During the Mohave ground squirrel *dormant period*, the Authorized Biologist(s) shall collect and immediately relocate them to an artificial burrow at a protected off-site location approved in advance by CDFW's Regional Representative. The Mohave ground squirrel may only be relocated by the Authorized Biologist(s). The Authorized Biologist(s) shall prepare relocation burrows in the following manner: (1) A hole of at least two feet deep shall be dug; (2) install a nine-inch diameter non-collapsible plastic

container, which shall be connected to a three-inch diameter non-collapsible plastic pipe that runs to the ground surface at a 45-degree angle; (3) The Authorized Biologist(s) shall place the Mohave ground squirrel in the artificial burrow and lightly plug the burrow mouth with soil in a manner that is similar to a natural Mohave ground squirrel burrow.

Other Minimization Measure:

- 8.15. Trench Inspection. The Biological Monitor(s) shall inspect all open holes and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Biological Monitor(s) shall oversee the covering of all excavated, steep-walled holes or trenches more than two feet deep, or of any depth if they contain water or other material, at the close of each working day by plywood or other barrier materials such that animals are unable to enter and become entrapped. Permittee shall provide escape ramps in holes greater than two feet deep that do not hold water or other material, to allow animals to escape. Before holes or trenches are filled, the Biological Monitor(s) shall thoroughly inspect them for trapped animals. If any worker discovers that Covered Species have become trapped, they shall halt Project-related activities and notify the Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) shall allow the Covered Species to escape unimpeded if possible, or the Authorized Biologist(s) shall move the Covered Species out of harm's way before allowing work to continue. The use of temporary fencing, around the perimeter of trenches or holes is an acceptable minimization measure.
- 8.16. Decommissioning of Borrow Sites. Permittee shall submit for approval a Decommissioning Plan identifying specific measures for decommissioning the borrow pits. The Borrowing Decommission Plan shall include the ways in which the Permittee will avoid any species from becoming trapped within the pit and what they will do if a species does become trapped. The Plan shall be submitted and approved prior to finishing the project.
- 8.17. Care of Injured Covered Species. If a Covered Species is injured or killed as a result of Project-related activities or if a Covered Species is otherwise found dead within the Project Area, Permittee shall immediately notify the Authorized Biologist(s) as described in Conditions of Approval 7.8. The Authorized Biologist(s) shall immediately take injured individuals to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species.
- 8.18. Vehicular Traffic Restrictions. Permittee shall restrict Project-related vehicle traffic to established roads and the delineated Project Area; cross-country (off-road) vehicle travel is prohibited and signs shall be posted to this affect during maintenance

activities. If a Covered Species is encountered, drivers shall stop, wait for the Covered Species to move off the road, and immediately notify the Biological Monitor(s) of the Covered Species location. If handling of a Covered Species is required the Biological Monitor(s) shall notify the Authorized Biologist(s) and shall halt Project-related activities and immediately.

9. Habitat Management Land Acquisition:

CDFW has determined that acquisition, permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with 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 acreage required to provide for adequate compensation.

To meet this requirement, the Permittee shall either purchase acres 1599.94 acres (Table 1: Mitigation for Impacts to Desert Tortoise and Mohave Ground Squirrel Habitat) of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of 1599.94 acres of occupied Covered Species Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

Table 1: Mitigation for Impacts to Desert Tortoise and Mohave Ground Squirrel Habitat

Critical Habitat Acreage Impacted (Acres)	Mitigation Acreage Critical Habitat (Acres ratio 5:1)	Non Critical Habitat Acreage Impacted (Acres)	Mitigation Acreage Non Critical Habitat (Acres ratio 3:1)	Total Mitigation Acreage to be Purchased (Acres)
170.33	851.65	249.43	748.29	1599.94

9.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$1458.00/acre for 1599.94 acres: **\$2,332,712.52**. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at **\$463,982.60**;
- 9.1.3. Interim management period funding as described in [Condition of Approval 9.3.6] below, estimated at \$750,000.00;
- 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$1490.00/acre for 1599.94 acres: \$2,383,910.60. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management, plus the ten percent contingency fee as described in Condition 9.4.2.2.1 (\$238,391.06) for a total of **\$2,622,301.66**.
- 9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at **\$3000.00**.

- 9.2. Covered Species Credits. Permittee shall purchase 1599.94 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below.

OR:

- 9.3. Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:

- 9.3.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a

conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);

- 9.3.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (Attachment 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 9.3.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 9.3.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;
- 9.3.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see: <http://www.dfg.ca.gov/habcon/conplan/mitbank/>); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6)

conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage;

9.3.6. Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.

9.4. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

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

9.4.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within 30 days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4);

9.4.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.

9.4.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees;

9.4.2.2. Endowment Buffers/Assumptions. Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

9.4.2.2.1. 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

9.4.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.

9.4.2.2.3. Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

9.4.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

9.5. Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

10. Performance 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 **\$6,171,996.78**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 10.2. Security Form. The Security shall be in the form of an irrevocable letter of credit (Attachment 4) 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. If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (Attachment 5) or by way of an approved instrument such as escrow, 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 an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:
- Written documentation of the acquisition of the HM lands;
 - Copies of all executed and recorded conservation easements;
 - Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and
 - Timely submission of all required reports.

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

Amendment:

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

Stop-Work Order:

CDFW may issue Permittee a written stop-work order requiring Permittee to suspend any Covered Activity for an initial period of up to 25 days 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. 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 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Biological Monitor(s) nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

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.

Notices:

The Permittee shall deliver a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1260
Sacramento, CA 95814

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by 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 (2081-2016-004-R6) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Leslie MacNair Regional Manager
California Department of Fish and Wildlife
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
Telephone (909) 466-8462
FAX (909) 948-4358

Unless Permittee is notified otherwise, CDFW's Regional Representative for purposes of

Incidental Take Permit
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SR-58 KRAMER JUNCTION EXPRESSWAY PROJECT

addressing issues that arise during implementation of this ITP is:

Heather Elder, Environmental Scientist
California Department of Fish and Wildlife
3602 Inland Empire Blvd. Suite C220
Ontario, CA 91764
Telephone (909) 980-8607
Fax (909) 481-2945

Compliance with 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, 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 of EIR/EIS, (State Clearinghouse No. 2007051051) dated May 2013 that the California Department of Transportation certified for State Route 58 (SR-58) Kramer Junction Expressway Project. At the time the lead agency certified the EIR/EIS 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/IES for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Findings Pursuant to California Endangered Species Act (CESA):

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

CDFW finds based on substantial evidence in the ITP application, SR-58 Kramer Junction Expressway Project Final EIR/EIS, the results of site visits and consultations, and the

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administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat acquisition; (2) establishment of avoidance zones; (3) worker education; and (4) Quarterly Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of 1,599.94 acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 09/15/2017

for Leslie MacNair, EPM
Leslie MacNair, Regional Manager
Inland Deserts Region

ACKNOWLEDGMENT

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

By: Craig Westworth Date: 9/29/2017

Printed Name: Craig Westworth Title: Senior Env. Pla

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Figure 1.1
Regional Vicinity Map
State Route 58 Kramer Junction Expressway Project

Source: Ictubed Imagery (2007), California Inter-agency Watershed Map (2004)

State Route 58 Kramer Junction Expressway Project

06-Ker-58 PM R143.5/R143.9

08-SBd-58 PM R0.0/R12.9

EA 08-34770

Project Number 0800000616

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2016-004-R6

PERMITTEE: California Department of Transportation

PROJECT: State Route (SR-58) Kramer Junction Expressway
Project

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the Department of Fish and Wildlife (CDFW) for the above-referenced Project are properly implemented, and thereby to ensure compliance with section 2081(b) of the Fish and Game Code and section 21081.6 of the Public Resources Code. A table summarizing the mitigation measures required by CDFW is attached. This table is a tool for use in monitoring and reporting on implementation of mitigation measures, but the descriptions in the table do not supersede the mitigation measures set forth in 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	Before starting Covered Activities, Permittee shall designate a 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	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information of a Biological Monitor(s) at least 30 days before starting Covered Activities or with change of personnel. Permittee shall ensure that the Biological Monitor(s) is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The 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.	ITP Condition # 6.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information for biologists who, in addition to meeting the qualifications to be Biological Monitor(s) identified in Condition 6.2 above, possess a valid Memorandum of Understanding (MOU) with CDFW for handling the Covered Species. Only Authorized Biologist(s) shall be allowed to excavate burrows, handle, and relocate Covered Species.	ITP Condition # 6.3	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	Only an Authorized Biologist (s) with an MOU with CDFW is authorized to excavate burrows, handle, and relocate Covered Species. To ensure compliance with the Conditions of Approval of this ITP, the Biological Monitor(s) and/or Authorized Biologist(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	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 Biological Monitor(s) that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall 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. Permittee shall prepare and distribute wallet-sized cards or a fact sheet handout containing this information for workers to carry in the Project Area. Upon completion of the program, employees shall sign a form stating they attended the program and understand all protection measures.	ITP Condition # 6.5	Before commencing ground- or vegetation-disturbing activities/ Entire Project	Permittee	
6	The Biological Monitor(s) shall maintain a construction-monitoring notebook on-site 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 notebook is available for review at the Project site upon request by CDFW.	ITP Condition # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
7	Before starting Covered Activities along each part of the route in active construction, 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 # 6.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
8	Permittee shall install permanent desert tortoise exclusion fencing along the proposed Project length paralleling the Right of Way (ROW) prior to surface disturbance to prevent encounters with desert tortoise. Permittee shall tie the permanent desert tortoise fencing into the wildlife crossings, attach to the culverts, and then parallel the ROW again. The fence will allow wildlife to follow the fence line into the culvert for safe crossings and eliminates the possibility of desert tortoise entering the culverts that are not designed as wildlife crossings.	ITP Condition # 8.3	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
9	The Authorized Biologist(s) shall conduct sweeps before construction, to ensure that desert tortoises are absent from the Project area. Additionally, the Authorized Biologist(s) shall be on site during construction of the desert tortoise exclusion fencing. Upon completion of construction of the desert tortoise exclusion fencing, a Biological Monitor(s) shall be on site for the remainder of the Cover Activities. If handling of a Covered Species is required the Biological Monitor(s) shall contact the on-call Authorized Biologist(s). Only an Authorized Biologist(s) shall be allowed to excavate burrows, handle, and relocate Covered Species.	ITP Condition # 8.6	Before commencing ground- or vegetation-disturbing activities	Authorized Biologist	
10	Immediately prior to start of ground disturbance activities, the Authorized Biologist(s) shall resurvey the Project Area and access route for Covered Species and their burrows. The Authorized Biologist(s) shall inspect all the burrows within the Project Area for habitation prior to collapsing them in accordance to this ITP.	ITP Condition #8.9	Before commencing ground- or vegetation-disturbing activities / Entire Project	Authorized Biologist	
11	Permittee shall submit a desert tortoise translocation plan to CDFW for review and approval prior to initiating construction. Permittee shall include in the Translocation Plan a description of the flora and fauna of the entire planned translocation parcel as well as an estimated number of tortoises that occupy the translocation site.	ITP Condition #8.10	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
12	No more than 30 days prior to Covered Activities, the Authorized Biologist(s) shall conduct pre-construction surveys for Covered Species. These surveys shall cover 100 percent of the Project Area with a 50-foot buffer zone. The Authorized Biologist(s) shall follow the survey methodology in the most recent United States Fish and Wildlife Service (USFWS) Desert Tortoise Field Manual. The Authorized Biologist(s) shall flag all potential burrows within this area. Within 30 days of performing the pre-construction surveys, the Authorized Biologist(s) shall submit a report to CDFW documenting results (using the USFWS Protocol data sheet) and include a Translocation Plan (following the most current USFWS guidance document).	ITP Condition #8.1	30 days prior to commencing ground- or vegetation-disturbing activities / Entire Project	Authorized Biologist	
13	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	14 calendar days before starting Covered Activities	Designated Representative	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	The Biological Monitor(s) shall maintain a construction-monitoring notebook on-site 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 notebook is available for review at the Project site upon request by CDFW.	ITP Condition #6.6	Entire Project	Biological Monitor	
15	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 at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.	ITP Condition #6.7	Entire Project	Permittee	
16	Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Biological Monitor(s). Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition #6.8	Entire Project	Permittee	
17	Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as monofilament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition #6.9	Entire Project	Permittee	
18	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 #6.11	Entire Project	Permittee	
19	Project-related personnel shall access the Project Area using existing routes, or routes identified in the Project Description and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact CDFW for written approval before carrying out such an activity. CDFW may require an amendment to this ITP, among other reasons, if additional take of Covered Species will occur as a result of the Project modification.	ITP Condition #6.12	Entire Project	Permittee	
20	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.	ITP Condition #6.13	Entire Project	Permittee	
21	Permittee shall immediately stop and, pursuant to pertinent state and federal statutes and regulations, arrange for repair and clean up by qualified individuals of any fuel or hazardous waste leaks or spills at the time of occurrence, or as soon as it is safe to do so. Permittee shall exclude the storage and handling of hazardous materials from the Project Area and shall properly contain and dispose of any unused or leftover hazardous products off-site.	ITP Condition #6.14	Entire Project	Permittee	
22	Permittee shall prohibit firearms and domestic dogs from the Project Area and site access routes during Covered Activities, except those in the possession of authorized security personnel or local, State, or federal law enforcement officials	ITP Condition #6.15	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	Permittee shall provide CDFW staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.	ITP Condition #6.16	Entire Project	Permittee	
24	The Designated Representative shall immediately notify CDFW in writing if it determines that 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 report any non-compliance with this ITP to CDFW within 24 hours.	ITP Condition #7.2	Entire Project	Designated Representative	
25	The Authorized Biologist(s) shall be on-site daily when Covered Activities occur. The Authorized Biologist(s) shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Authorized Biologist(s) shall prepare daily written observation and inspection records summarizing: (1) oversight activities and compliance inspections; (2) observations of Covered Species and their sign; (3) survey results; and (4) monitoring activities required by this ITP. Once Covered Activities are completed the Biological Monitor(s) shall conduct compliance inspections a minimum of twice a day (once during the onset of the day's work and once at the conclusion of that day's work) during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition #7.3	Entire Project	Biological Monitor(s)/Authorized Biologist(s)	
26	The Biological Monitor(s) shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Biological Monitor(s) shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition #7.6	Entire Project	Biological Monitor(s)	
27	Permittee shall immediately notify the Authorized Biologist(s) and/or the Biological Monitor(s) if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Biological Monitor(s) or Designated Representative shall provide initial notification to CDFW by calling the Regional Office at (909) 466-8462 and by notifying the CDFW Regional Representative Heather Elder (Heather.Elder@wildlife.ca.gov). The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittee shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition #7.8	Entire Project	Permittee	
28	Only the Authorized Biologist(s) may excavate burrows and handle the Covered Species. During pre-construction clearance surveys the Authorized Biologist(s) shall excavate all burrows by hand that cannot be avoided within the area to be impacted as a result of the Project, including burrows not recently used that are considered by the Authorized Biologist(s) to be potentially suitable for the Covered Species. Potentially suitable burrows shall be excavated and collapsed by the Authorized Biologist(s) at the time of survey to prevent re-entry by the Covered Species. The Authorized Biologist(s) shall excavate potentially suitable burrows in accordance with the handling protocol outlined in Chapter 7 - Guidelines for Handling Desert Tortoises (US Fish and Wildlife Service 2009) (Attachment 3). If the Covered Species is active above-ground, a final survey for the Covered Species shall occur no more than 48 hours before the onset of surface-disturbing activities. Burrow excavation shall follow procedures established in the Handling Guidelines.	ITP Condition #8.2	Entire Project	Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
29	<p>Permittee shall install temporary desert tortoise fencing along areas that activities are only temporary. The temporary fencing shall be placed around all borrow sites especially the ponding sites, the fencing shall also be placed around all PG&E activities while excavating and rerouting the pipelines.</p>	ITP Condition #8.4	Entire Project	Permittee	
30	<p>During the Covered Activities, the Authorized Biologist(s) shall inspect the fence at the end of each working day to ensure the Covered Species is prohibited from entering the site. If the fence is compromised, repairs shall be completed at that time. Once Covered Activities are finished, the Biological Monitor(s) shall inspect during and immediately after heavy rainfalls.</p>	ITP Condition #8.5	Entire Project	Authorized Biologist(s)	
31	<p>Workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall contact the Biological Monitor(s) and wait for the Covered Species to move unimpeded to a safe location OR the Authorized Biologist(s) shall translocate the Covered Species as described in Condition of Approval 8.10 and 8.11 of this ITP before moving vehicles and equipment.</p>	ITP Condition #8.7	Entire Project	All Workers	
32	<p>Permittee shall minimize vegetation removal associated with construction activities to the fullest extent possible. Biological Monitor(s) shall review and approve or deny any grubbing or clearing of vegetation.</p>	ITP Condition #8.8	Entire Project	Permittee	
33	<p>Using the methods described in the Chapter 7. Guidelines For Handling Desert Tortoises (US Fish and Wildlife Service 2009) (Attachment 2) and the approved translocation plan, the Authorized Biologist(s) shall capture, collect measurement and identification data, permanently mark, and relocate any desert tortoise found within the Project site to suitable, undisturbed CDFW-approved off-site habitat. The Authorized Biologist(s) shall relocate and/or move the desert tortoise far enough away from the proposed realignment so that toxins and other invasive species from vehicle pollution will not impact the tortoise. The Authorized Biologist(s) shall follow all excavation, capture, handling, and relocation procedures described in the Handling Guidelines to protect the health and well-being of desert tortoise. If a desert tortoise is found above ground, the Authorized Biologist(s) shall release it above ground in suitable habitat and conditions. If a desert tortoise is found during burrow excavation, the Authorized Biologist(s) shall relocate it to an unoccupied burrow of similar size. If no such burrow is available for relocating, the Authorized Biologist(s) shall construct an artificial burrow similar in size, depth, and orientation as the original burrow. The Authorized Biologist(s) shall follow all protocols for the construction of the artificial burrows found in the Chapter 7- Guidelines for Handling Desert Tortoises (US Fish and Wildlife Service 2009) (Attachment 3). The Authorized Biologist(s) shall record the location of all desert tortoise burrows, desert tortoises, and relocation sites using GPS technology. The Authorized Biologist(s) shall collapse all potential or actual desert tortoise burrows present within the work site after establishing that desert tortoise does not currently occupy them.</p>	ITP Condition #8.11	Entire Project	Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
34	<p>The Authorized Biologist(s) shall ensure that desert tortoises are not captured, moved, transported, released, or purposefully caused to leave their burrow for any reason when the ambient air temperature is above 95 degrees Fahrenheit (35 degrees Celsius). The Authorized Biologist(s) shall ensure that no desert tortoise is captured if the ambient air temperature is anticipated to exceed 95 degrees Fahrenheit before handling or processing can be completed. If the ambient air temperature exceeds 95 degrees Fahrenheit during handling or processing, the Authorized Biologist(s) shall ensure the desert tortoise is kept in a shaded environment with a temperature that does not exceed 95 degrees Fahrenheit, and that the individual is not released until ambient air temperature declines to below 95 degrees Fahrenheit. Desert tortoises moved during inactive periods shall be monitored by the Authorized Biologist(s) for at least 2 days after placement in the new burrows to ensure their safety. During relocation, the Authorized Biologist(s) may hold a captured desert tortoise overnight and move them the following morning within these temperature constraints.</p> <p>If a desert tortoise voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the individual(s). The Authorized Biologist(s) shall rehydrate the desert tortoise at the location where the individual(s) was or were captured, or the location where the individual(s) is or will be relocated. The Authorized Biologist(s) shall rehydrate the desert tortoise by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the desert tortoise. The Authorized Biologist(s) shall rehydrate each desert tortoise individually for a minimum of 10 to 20 minutes. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration. After each tortoise is rehydrated the water shall be emptied and a new plastic disposable liner placed in the tub.</p> <p>The Authorized Biologist(s) shall fully excavate by hand all burrows OR scope each burrow within the Project Area that are suspected or known to be occupied by Mohave ground squirrels. The Authorized Biologist(s) shall allow Mohave ground squirrels encountered in the excavated burrows during their active period to escape out of harm's way. During the Mohave ground squirrel dormant period, the Authorized Biologist(s) shall collect and immediately relocate them to an artificial burrow at a protected off-site location approved in advance by CDFW's Regional Representative. The Mohave ground squirrel may only be relocated by the Authorized Biologist(s). The Authorized Biologist(s) shall prepare relocation burrows in the following manner: (1) A hole of at least two feet deep shall be dug; (2) install a nine-inch diameter non-collapsible plastic container, which shall be connected to a three-inch diameter non-collapsible plastic pipe that runs to the ground surface at a 45-degree angle; (3) The Authorized Biologist(s) shall place the Mohave ground squirrel in the artificial burrow and lightly plug the burrow mouth with soil in a manner that is similar to a natural Mohave ground squirrel burrow.</p>	ITP Condition #8.12	Entire Project	Authorized Biologist(s)	
35	<p>If a desert tortoise voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the individual(s). The Authorized Biologist(s) shall rehydrate the desert tortoise at the location where the individual(s) was or were captured, or the location where the individual(s) is or will be relocated. The Authorized Biologist(s) shall rehydrate the desert tortoise by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the desert tortoise. The Authorized Biologist(s) shall rehydrate each desert tortoise individually for a minimum of 10 to 20 minutes. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration. After each tortoise is rehydrated the water shall be emptied and a new plastic disposable liner placed in the tub.</p> <p>The Authorized Biologist(s) shall fully excavate by hand all burrows OR scope each burrow within the Project Area that are suspected or known to be occupied by Mohave ground squirrels. The Authorized Biologist(s) shall allow Mohave ground squirrels encountered in the excavated burrows during their active period to escape out of harm's way. During the Mohave ground squirrel dormant period, the Authorized Biologist(s) shall collect and immediately relocate them to an artificial burrow at a protected off-site location approved in advance by CDFW's Regional Representative. The Mohave ground squirrel may only be relocated by the Authorized Biologist(s). The Authorized Biologist(s) shall prepare relocation burrows in the following manner: (1) A hole of at least two feet deep shall be dug; (2) install a nine-inch diameter non-collapsible plastic container, which shall be connected to a three-inch diameter non-collapsible plastic pipe that runs to the ground surface at a 45-degree angle; (3) The Authorized Biologist(s) shall place the Mohave ground squirrel in the artificial burrow and lightly plug the burrow mouth with soil in a manner that is similar to a natural Mohave ground squirrel burrow.</p>	ITP Condition #8.13	Entire Project	Authorized Biologist(s)	
36	<p>If a desert tortoise voids its bladder as a result of being handled, the Authorized Biologist(s) shall rehydrate the individual(s). The Authorized Biologist(s) shall rehydrate the desert tortoise at the location where the individual(s) was or were captured, or the location where the individual(s) is or will be relocated. The Authorized Biologist(s) shall rehydrate the desert tortoise by placing it in a tub with a clean plastic disposable liner. The Authorized Biologist(s) shall add water to the lined tub while ensuring that the water level is not higher than the lower jaw of the desert tortoise. The Authorized Biologist(s) shall rehydrate each desert tortoise individually for a minimum of 10 to 20 minutes. The Authorized Biologist(s) shall place the lined tub in a quiet protected area during rehydration. After each tortoise is rehydrated the water shall be emptied and a new plastic disposable liner placed in the tub.</p> <p>The Authorized Biologist(s) shall fully excavate by hand all burrows OR scope each burrow within the Project Area that are suspected or known to be occupied by Mohave ground squirrels. The Authorized Biologist(s) shall allow Mohave ground squirrels encountered in the excavated burrows during their active period to escape out of harm's way. During the Mohave ground squirrel dormant period, the Authorized Biologist(s) shall collect and immediately relocate them to an artificial burrow at a protected off-site location approved in advance by CDFW's Regional Representative. The Mohave ground squirrel may only be relocated by the Authorized Biologist(s). The Authorized Biologist(s) shall prepare relocation burrows in the following manner: (1) A hole of at least two feet deep shall be dug; (2) install a nine-inch diameter non-collapsible plastic container, which shall be connected to a three-inch diameter non-collapsible plastic pipe that runs to the ground surface at a 45-degree angle; (3) The Authorized Biologist(s) shall place the Mohave ground squirrel in the artificial burrow and lightly plug the burrow mouth with soil in a manner that is similar to a natural Mohave ground squirrel burrow.</p>	ITP Condition #8.14	Entire Project	Authorized Biologist(s)	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
37	The Biological Monitor(s) shall inspect all open holes and trenches within the Project Area at the beginning, middle, and end of each day for trapped animals. To prevent inadvertent entrapment of Covered Species or any other animals, the Biological Monitor(s) shall oversee the covering of all excavated, steep-walled holes or trenches more than two feet deep, or of any depth if they contain water or other material, at the close of each working day by plywood or other barrier materials such that animals are unable to enter and become entrapped. Permittee shall provide escape ramps in holes greater than two feet deep that do not hold water or other material, to allow animals to escape. Before holes or trenches are filled, the Biological Monitor(s) shall thoroughly inspect them for trapped animals. If any worker discovers that Covered Species have become trapped, they shall halt Project-related activities and notify the Authorized Biologist(s) immediately. Project workers and the Biological Monitor(s) shall allow the Covered Species to escape unimpeded if possible, or the Authorized Biologist(s) shall move the Covered Species out of harm's way before allowing work to continue. The use of temporary fencing, around the perimeter of trenches or holes is an acceptable minimization measure.	ITP Condition #8.15	Entire Project	Biological Monitor(s)	
38	Permittee shall submit for approval a Decommissioning Plan identifying specific measures for decommissioning the borrow pits. The Borrowing Decommission Plan shall include the ways in which the Permittee will avoid any species from becoming trapped within the pit and what they will do if a species does become trapped. The Plan shall be submitted and approved prior to finishing the project.	ITP Condition #8.16	Entire Project	Permittee	
39	If a Covered Species is injured or killed as a result of Project-related activities or if a Covered Species is otherwise found dead within the Project Area, Permittee shall immediately notify the Authorized Biologist(s) as described in Conditions of Approval 7.8. The Authorized Biologist(s) shall immediately take injured individuals to a CDFW-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility prior to the start of Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species.	ITP Condition #8.17	Entire Project	Permittee	
40	Permittee shall restrict Project-related vehicle traffic to established roads and the delineated Project Area; cross-country (off-road) vehicle travel is prohibited and signs shall be posted to this effect during maintenance activities. If a Covered Species is encountered, drivers shall stop, wait for the Covered Species to move off the road, and immediately notify the Biological Monitor(s) of the Covered Species location. If handling of a Covered Species is required the Biological Monitor(s) shall notify the Authorized Biologist(s) and shall halt Project-related activities and immediately.	ITP Condition #8.18	Entire Project	Permittee	
42	To meet this requirement, the Permittee shall either purchase acres 1599.94 acres (Table 1: Mitigation for Impacts to Desert Tortoise and Mohave Ground Squirrel Habitat) of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of 1599.94 acres of occupied Covered Species Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43	<p>a) Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:</p> <ul style="list-style-type: none"> i) Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$1458.00/acre for 1599.94 acres: \$2,332,712.52. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements; ii) Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at \$463,982.60; iii) Interim management period funding as described in [Condition of Approval 9.3.6] below, estimated at \$750,000.00; iv) Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$1490.00/acre for 1599.94 acres: \$2,383,910.60. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management, plus the ten percent contingency fee as described in Condition 9.4.2.2.1 (\$238,391.06) for a total of \$2,622,301.66. v) Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at \$3000.00. vi) 	ITP Condition #9.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
44	<p>Permittee shall purchase 1599.94 acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below. OR:</p>	ITP Condition #9.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
45	<p>To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:</p> <p>Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e);</p> <p>Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (Attachment 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;</p>	ITP Condition #9.3.1	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
46	<p>Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (Attachment 3B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;</p>	ITP Condition #9.3.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
47	<p>Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;</p>	ITP Condition #9.3.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
48	<p>Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;</p>	ITP Condition #9.3.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
49	<p>Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see: http://www.dfg.ca.gov/habcon/complan/mitbank/); (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.</p>	ITP Condition #9.3.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
50	<p>Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management. Permittee shall either (1) provide a security to CDFW for the minimum of three years of interim management that the land owner, Permittee, or land manager agrees to manage and pay for at their own expense, (2) establish an escrow account with written instructions approved in advance in writing by CDFW to pay the land manager annually in advance, or (3) establish a short-term enhancement account with CDFW or a CDFW-approved entity for payment to the land manager.</p>	ITP Condition #9.3.6	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
50	<p>If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.3, The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with the management plan(s) required by Condition of Approval 9.3.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.</p>	ITP Condition #9.4	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
51	<p>The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within 30 days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).</p>	<p>ITP Conditions #9.4.1</p>	<p>Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)</p>	<p>Permittee</p>	
52	<p>After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare a Property Analysis Record (PAR) or PAR-equivalent analysis (hereinafter "PAR") to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to CDFW for review and approval the results of the PAR before transferring funds to the Endowment Manager.</p>	<p>ITP Conditions #9.4.2</p>	<p>Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)</p>	<p>Permittee</p>	
53	<p>Permittee shall obtain the capitalization rate from the selected Endowment Fund Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees.</p>	<p>ITP Conditions #9.4.2.1</p>	<p>Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)</p>	<p>Permittee</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	<p>Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the PAR and adjust for any additional administrative, periodic, or annual fees;</p> <ul style="list-style-type: none"> • <u>Endowment Buffers/Assumptions.</u> Permittee shall include in PAR assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment: • <u>10 Percent Contingency.</u> A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events. • <u>Three Years Delayed Spending.</u> The endowment shall be established assuming spending will not occur for the first three years after full funding. • <u>Non-annualized Expenses.</u> For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW. 	ITP Conditions #9.4.2.2	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
55	<p>Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above. The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HIM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p>	ITP Conditions #9.4.3	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	
56	<p>Permittee shall reimburse CDFW for all reasonable expenses incurred by CDFW such as transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HIM lands to CDFW.</p>	ITP Conditions #9.5	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
57	<p>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:</p> <p>b) <u>Security Amount.</u> The Security shall be in the amount of \$6,171,996.78. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.</p> <p>c) <u>Security Form.</u> The Security shall be in the form of an irrevocable letter of credit (Attachment 4) or another form of Security approved in advance in writing by CDFW's Office of the General Counsel.</p> <p>d) <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.</p> <p>e) <u>Security Holder.</u> The Security shall be held by CDFW or in a manner approved in advance in writing by CDFW.</p> <p>f) <u>Security Transmittal.</u> If CDFW holds the Security, Permittee shall transmit it to CDFW with a completed Mitigation Payment Transmittal Form (Attachment 5) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>g) <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.</p> <p>h) <u>Security Release.</u> The Security (or any portion of the Security then remaining) shall be released to the Permittee after CDFW has conducted an on-site inspection and received confirmation that all secured requirements have been satisfied, as evidenced by:</p> <ul style="list-style-type: none"> • Written documentation of the acquisition of the HM lands; • Copies of all executed and recorded conservation easements; • Written confirmation from the approved Endowment Manager of its receipt of the full Endowment; and • Timely submission of all required reports. <p>Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ITP. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.</p>	ITP Condition # 10	Before commencing ground- or vegetation-disturbing activities (or within 18 months of issuance of the ITP if Security is provided)	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
57	<p>The Biological Monitor(s) or Authorized Biologist(s) 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 CDFW's Regional Office at the address listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Heather Elder (Heather.Elder@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.</p>	ITP Condition # 7.4	Quarterly until completion	Biological Monitor(s)/Authorized Biologist(s)	
58	<p>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; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.</p>	ITP Condition #7.5	No Later Than January 31 of Every year	Permittee	
59	<p>Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all [temporary fill] and construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.</p>	ITP Condition # 6.17	Post-construction	Permittee	
60	<p>No later than 45 days after completion of all mitigation measures, Permittee shall provide CDFW with a Final Mitigation Report. The Biological Monitor(s) shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (7) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future Projects on the Covered Species; and (8) any other pertinent information.</p>	ITP Condition # 7.7	Post-construction and after completion of mitigation	Permittee	
61	<p>CDFW accepts the Final Mitigation Report as complete.</p>	ITP Condition # 6.16	Post-construction	CDFW	

ATTACHMENT 2A
DEPARTMENT OF FISH AND WILDLIFE
HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

The following checklist is provided to inform you of what documents are necessary to expedite the Department of Fish and Wildlife (CDFW) processing of your Habitat Management Land acquisition proposal. Any land acquisition processing requests which are incomplete when received, will be returned. The Region contact will review and approve the document package and forward it to the Habitat Conservation Planning Branch Senior Land Agent with a request to process the land acquisition for formal acceptance.

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

Enclosed is the complete package for the Conservation Easement OR Grant Deed

Documents in this package include:

- Fully executed, approved as to form Conservation Easement Deed or Grant Deed with legal description stamped by a licensed surveyor. Date executed: _____
- Proposed Lands for Acquisition Form (PLFAF)
- Phase I Environmental Site Assessment Report Date on report: _____
(An existing report may be used, but it must be less than two years old.)
- Preliminary Title Report(s) for subject property is enclosed and has been reviewed for Encumbrances, including severed mineral estates, and other easements. The title report must be less than six months old when final processing is conducted.
Included are additional documents:
 - document(s) to support title exceptions
 - document(s) to explain title encumbrances
 - a plot or map of easements/encumbrances on the property
- Policy of Title Insurance (an existing title policy is not acceptable)
- County Assessor Parcel Map(s) for subject property
- Site Location Map (Site location with property boundaries outline on a USGS 1:24,000 scale topo)
- Final Permit or Agreement (or other appropriate instrument)
Type of agreement: Bank Agreement Mitigation Agreement
 Permit _____ Other: _____
(write in type of permit)
- Final Management Plan (if required prior to finalizing permit or agreement or if this package is for a Grant Deed)
- Biological Resources Report
- Draft Summary of Transactions hard copy electronic copy (both are required)



CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

Applicant proposes that the following parcel(s) of land be considered for approval by the California Department of Fish and Wildlife as suitable for purposes of habitat management lands to compensate the adverse environmental impacts of the Project:

<u>Section(s)</u>	<u>Township</u>	<u>Range</u>	<u>County</u>	<u>Acres</u>
_____	_____	_____	_____	_____

Current Legal Owner(s), of the surface and mineral estates, include Assessor's Parcel Number(s):

General Description of Location of Parcel(s):

Land Value: \$

For Region Use Only

APPROVED ___ By: _____ DATE: _____
Regional Manager's Signature

REJECTED ___ Region: _____

Explanation: _____

CHAPTER 7. GUIDELINES FOR HANDLING DESERT TORTOISES- MOJAVE POPULATION AND THEIR EGGS

7.1. Objectives

- Provide the reader with the most current methods for handling desert tortoises based on research and experience implementing previous handling protocols.
- Provide guidance to ensure the health and well-being of desert tortoises while allowing collection of data and necessary handling of desert tortoises.
- Ensure that diseases and parasites are not transmitted among desert tortoises.

7.2. Specific Considerations before Handling Desert Tortoises

Depending on the circumstances, desert tortoises that are beneath machinery, in trenches or pipes, under pallets, or anywhere on the project site may be in danger and may need to be moved. Desert tortoises may be handled only by authorized personnel, but other project personnel may move a desert tortoise the shortest distance necessary to remove the desert tortoise from imminent danger if an Authorized Biologist is not present. The desert tortoise shall be monitored until an Authorized Biologist or USFWS is contacted for further instruction. If desert tortoises must be moved, a secure location must be available and the appropriate procedures in this Manual must be followed to ensure safe handling. If a secure location is not available, the tortoise must be held pending instruction from USFWS and the appropriate State wildlife agency. Before touching a desert tortoise, implement procedures described in Section 7.6.

7.3. Temperature Considerations

Desert tortoises, particularly small ones, have been observed to be active aboveground every month of the year. However, the preferred daytime body temperature of desert tortoises is 69 degrees F to 101 degrees F (20.5 degrees C to 38 degrees C) (McGinnis and Voigt 1971). The critical maximum body temperature is between 103 degrees F and 112 degrees F (39 degrees C to 44 degrees C) (Brattstrom 1965, Naegle 1976). Berry and Turner (1984) found that juvenile desert tortoises preferred air temperatures of 63 degrees F to 66 degrees F (17 degrees C to 19 degrees C) during March, and 77 degrees F to 83 degrees F (25 degrees C to 28 degrees C) during June. Consequently, more juvenile desert tortoises were located in the morning (76.1 percent) than in the afternoon (23.9 percent). Zimmerman et al. (1994) found that air temperatures were comparable between 2 and 10 inches (5 centimeters to 25.4 centimeters) aboveground, with maximum variance of less than 3.5 degrees F (1.2 degrees C). Current information on lower temperature limits for desert tortoise activity is not well known.

Walde et al. (2003) observed that desert tortoises retreated into burrows when the air temperature reached 91.0 degrees F \pm 3.5 degrees F (32.7 degrees C \pm 1.2 degrees) and ground temperatures reached 95 degrees F \pm 6 degrees F (35 degrees C \pm 2.4 degrees); 95 percent of the desert tortoise observations aboveground occurred at air temperatures less than 91.4 degrees F (33 degrees C). Ground temperatures shall be measured on the ground surface in an area near the desert tortoise in full sun, with the thermometer in the shadow of the observer. Ambient air temperature shall

be measured in the shade, protected from wind, at a height of 2 inches (5 centimeters) above the ground surface.

During extreme heat, desert tortoises that shelter in relatively shallow burrows will remain in the burrow as long as the burrow temperature is lower than the temperature outside of the burrow. At night the air and surface temperatures drop faster than the temperature in the burrow. When the air and surface temperature drop below the burrow temperature, the desert tortoise may exit the burrow in an effort to lower its body temperature. Desert tortoises have been observed moving from a few feet out of the burrow to 50 feet (15 meters) or more during the night (Steve Ferrand, 2009, Nevada Biological Consulting, *in litt.*). Tortoises shall not be blocked in burrows during extreme temperatures and construction sites shall be carefully inspected during these periods for tortoises aboveground.

7.4. Hot Temperatures

Desert tortoises shall be treated in a manner to ensure that they do not overheat or exhibit signs of overheating, which include aggressive struggling by the desert tortoise, hot to the touch, frothing at the mouth, excessive salivation, or voiding its bladder. Desert tortoises shall not be placed in a situation where they cannot maintain surface and core temperatures necessary to their well-being. Desert tortoises shall be kept shaded at all times until it is safe to release them. Ground temperatures are much hotter than air temperatures thus never place a desert tortoise on unshaded ground. Removal of the upper layer of hot substrate would expose a cooler layer below.

No desert tortoise shall be captured, moved, transported, released, or purposefully caused to leave its burrow for whatever reason when the ground temperature is above 95 degrees F (35 degrees C). Temperature must be measured in the shade and protected from the wind at a height of 2 inches (5 centimeters) above the ground. No desert tortoise shall be captured if ground temperature is anticipated to exceed 95 degrees F (35 degrees C) before handling and relocation can be completed. If the ground temperature exceeds 95 degrees F (35 degrees C) during handling or processing, desert tortoises shall be kept shaded in an environment where the ambient air temperatures do not exceed 91 degrees F (32.7 degrees C) and ground temperature does not exceed 95 degrees F (35 degrees C). The desert tortoise shall not be released until ground temperature at the release site declines to below 95 degrees F (35 degrees C).

If a desert tortoise is found aboveground when these upper temperatures are exceeded and the desert tortoise must be moved from harm's way, place the desert tortoise in a clean, unused cardboard box or disinfected open plastic container, and keep it in a climate-controlled environment (e.g., air conditioned vehicle or building) until the ambient air and ground temperatures are below upper limits.

Hyperthermic Desert Tortoises

Before touching a desert tortoise, implement procedures described in Section 7.6. If an animal begins frothing at the mouth, it is probably nearing an upper lethal body temperature and immediate action is required: a) capture, transport, and hold the desert tortoise in a climate-controlled environment, or b) if a nearby climate-controlled environment is unavailable, place the desert tortoise in an unused or open disinfected plastic container in the shade and pour cool water over the shell to a depth that ensures the nares remain above the water level. If no container is available, excavate a depression in a shaded area; place the desert tortoise in the depression and pour water over the shell. Heat-stressed desert tortoises shall not be released until they resume normal behavior. Monitor the desert tortoise after release until normal behavior resumes including sheltering.

7.5. Cold Temperatures

If a desert tortoise is found aboveground during cold temperatures (i.e., ambient temperature less than 55 degrees F or 12.8 degrees C) and its burrow cannot be located nearby or will be destroyed, then capture the animal and implement the appropriate actions in Table 7.1. Before touching a desert tortoise, implement procedures described in Section 7.6. If relocating the desert tortoise to a natural burrow, ensure that the burrow is unoccupied; both a natural or artificial burrow must be of appropriate size within the average home range for that size and sex animal. If the end of the burrow cannot be seen, the burrow must be examined with a fiber-optic scope to ensure that the burrow and all side channels are unoccupied by other desert tortoises. Placing a desert tortoise in a burrow occupied by another desert tortoise may promote disease transmission and aggressive behavior between the desert tortoises.

Table 7.1. Actions to implement for desert tortoises in harm's way or adjacent to project areas during cold temperatures.

CIRCUMSTANCE	ACTIONS		
	Find natural, unoccupied burrow; block tortoise inside	Construct artificial burrow; block tortoise inside	Construct pen around tortoise and burrow (Section 6.9)
Desert tortoise above ground:			
Desert tortoise in harm's way, not in burrow	X	X	
Desert tortoise and burrow in harm's way	X	X	
Desert tortoise in harm's way, nearby burrow not in harm's way			X
Desert tortoise adjacent to project, burrow in harm's way	X	X	
Desert tortoise adjacent to project, no burrow	X	X	
Desert tortoise and burrow adjacent to project, not in harm's way			X
Desert tortoise in burrow:			
Desert tortoise in harm's way	X	X	
Desert tortoise adjacent to project			X

7.6. Procedures to Avoid Transmission of Diseases or Parasites

At all times, handle a desert tortoise as if it has a contagious disease or parasites, and in such a way to avoid transmitting disease or parasites from one desert tortoise to another. Much of the following information was developed by Berry and Christopher 2001.

During handling each desert tortoise, wear a new pair of disposable latex or rubber gloves (i.e., one pair of gloves, per desert tortoise, per encounter). If a glove is torn while handling a desert tortoise, which is likely when its toenail scrapes the glove, put on a new glove over the old one. Used gloves and disposable supplies (e.g., surveyors tape or flagging, etc.) must be placed in a plastic trash bag and disposed of offsite.

All tools that contact desert tortoises shall be disinfected in accordance with procedures described in Section 7.6.2.

7.6.1. Disinfecting Clothing

Do not allow a desert tortoise to contact clothing. If it does, change clothes before handling another desert tortoise. Contaminated clothes must be washed before worn again while handling desert tortoises. Keep a change of clothes on-hand and change clothes, including shoes, before leaving the site for another geographical location (e.g., another valley or mountain range would

be considered a separate location). As an alternative, wear disposable jumpsuits or gowns and disposable paper or plastic shoe covers. Use disposable paper or plastic sheeting to place under the desert tortoise or on the lap of field workers; disposable baby changing sheets may prove useful.

7.6.2. Disinfecting Tools and Equipment

All equipment and work surfaces after contact with each desert tortoise, any equipment (e.g., scales, calipers, ruler, etc.) that comes in contact with a desert tortoise, including poles used to probe burrows or tap desert tortoises from burrows (Medica et al. 1986), must be disinfected. Disinfecting solutions shall be either 0.175 percent sodium hypochlorite (bleach) (Wendland et al. 2009) or *Nolvasan* (prepared according to the manufacturer's instructions). A 0.175 percent sodium hypochlorite bleach is a 1:10 dilution of 5 percent household bleach to water. Before disinfecting, first remove any organic debris (e.g., dirt, feces, etc.) by rinsing the area with water or brushing off the area with paper towels or a scrub brush. If using a bleach solution, the equipment and work surface shall be saturated with the solution and allowed to air dry. If using a *Nolvasan* solution, the equipment and work surface shall be submersed in the solution (bath) for a minimum of 10 minutes before being used on another animal. Equipment baths shall be changed regularly according to the label instructions. Measures should be taken to avoid transmission of pathogens between burrows when using a fiber-optic scope which may include covering the scope with a disposable plastic cover.

Between study sites, equipment, particularly buckets will be scrubbed using a dish soap and bleach solution. After rinsing, the bleach solution will be sprayed on the equipment and allowed to air dry. This will minimize the chance of cross-contamination between study sites.

Only metal or plastic rulers may be used; never use a wooden ruler, which is too porous and cannot be properly disinfected. If permitted to notch desert tortoises, files must be disinfected after each use.

Thoroughly clean field vehicles inside and out at a car wash before moving to another geographical location.

7.7. Capturing Desert Tortoises

When encountering a desert tortoise outside its burrow, approach the animal slowly (e.g., if the desert tortoise is 15 feet (4.5 meters) away, pace your approach with pauses to contact the desert tortoise in 30 seconds). Put on a clean, unused pair of latex or rubber gloves and grasp the desert tortoise at its bridge (connection between the carapace and plastron) with both hands, holding it firmly with its plastron parallel to, and facing the ground. Slowly lift the desert tortoise to your waist height and slowly and smoothly walk to where the desert tortoise will be placed (e.g., remove from harm's way).

If a desert tortoise is collected at or near sunset and intended to be released the same day, hold the desert tortoise overnight in a clean, unused cardboard box or open disinfected plastic container, and release it the next morning at or near the capture site. Monitor the desert tortoise until it resumes normal behavior.

7.8. Processing Desert Tortoises

Before touching a desert tortoise, implement procedures described in Section 7.6. A desert tortoise shall only be processed (i.e., weighed, measured, or sexed) if authorized in a biological opinion or permit. An experienced biologist should be able to process a desert tortoise in 5 to 10 minutes. **Do not process a desert tortoise if the ambient temperature exceeds 95 degrees F (35 degrees C)** (Section 6.3 or 7.4.) or if there is a chance that a second desert tortoise could be in harm's way and requires timely action while processing the first one.

Inspect a desert tortoise and record data on size, sex, distinctive features, indications of health and disease (e.g., ectoparasites, shell lesions, signs of osteoporosis or osteomalacia, injuries, evidence of URTD, etc.). Ensure that the desert tortoise is maintained in a horizontal position at all times.

7.8.1. Measuring and Sexing

If authorized and required, measure the midline carapace length (MCL) of the desert tortoise from the nuchal to pygal scutes using calipers, which provide the most accurate measurement. Measurements should be taken in millimeters (mm). Before touching a desert tortoise, implement procedures described in Section 7.6.

The sex of desert tortoises less than 180 mm MCL cannot be accurately determined based on external characteristics. Generally, the following male characteristics differentiate them from females: a) concave plastron; b) longer, more curved gulars; c) larger, well-developed chin glands; d) longer, broader, more conical tail; and e) shorter, thicker toenails. Pay particular attention to the gular projection and the shape of the plastron, which are the two best features for differentiating the sexes. For very large desert tortoises, feel the concave (male) or flattened (female) plastron or see it by holding the desert tortoise at eye level without turning the desert tortoise on its back. When in doubt, record all other information and mark "sex unknown" on the data sheet.

7.8.2. Weighing

Handle desert tortoises carefully. Mishandling may result in injury or cause the tortoise to void its bladder. Before touching a desert tortoise, implement procedures described in Section 7.6. If using a digital scale, immobilize the desert tortoise as described in Section 7.8.3. If using a spring scale, place the desert tortoise inside a harness made of clean, unused cord that will avoid the spread of pathogens. It will also minimize gross contamination to the desert tortoise and to field equipment from urination or defecation. The harness shall consist of a double loop with one loop crossing the plastron posterior to the forelimbs and the other anterior to the hind limbs. As the Authorized Biologist slowly begins to raise the tortoise, the tortoise shall remain positioned horizontally and care shall be taken to ensure that the tortoise does slip out of the harness or fall. Using the harness allows the Authorized Biologist to observe any stressful behavior exhibited by the desert tortoise (e.g., flailing of legs) and act quickly to correct this situation. Suspend the harness from the scale, ensuring the desert tortoise is securely and safely positioned, a few inches above sand or soil substrate. Keep weighing time to a minimum; and

take every precaution to prevent the desert tortoise from falling or voiding. Once the desert tortoise has been weighed, dispose of the harness.

The following spring scale sizes are recommended: a) 0 to 100 gram scale with a 1.0 gram precision for small desert tortoises; b) 1 kilogram scale with a 10 gram precision for moderate-sized desert tortoises; and c) 5 kilogram scale with a 50 gram precision for large desert tortoises. It is best to use the smallest scale that will accommodate the weight of a desert tortoise. Occasionally a desert tortoise will weigh more than 5 kilograms; in this case you may use two 5-kilogram scales simultaneously on the harness and add the weights. Keep scales clean and calibrated.

Experts recommend weighing a desert tortoise immediately after capture. This provides a true weight. Should the desert tortoise void its bladder, weigh it afterwards to determine how much fluid has been lost. Another reason for weighing a desert tortoise is to determine if it is underweight for its size. Low weight may be the result of disease, drought conditions, recent egg-laying, or other factors.

7.8.3. Restricting Mobility

Using cylinders - Before touching a desert tortoise, implement procedures described in Section 7.6. A desert tortoise may be placed on the top of a cylindrical holding stand such as a coffee can or other large can to facilitate processing. The stand should be large enough to support the desert tortoise and small enough to prevent any waving appendages from touching the stand, and tall enough to prevent desert tortoise from touching a solid surface below. Given that desert tortoises come in all sizes, a range of stand sizes will be needed. Note that coffee cans and other types of stands come in several sizes and can be "nested" in one another for ease of transport thereby accommodating different-sized desert tortoises. Freedom to move its appendages may encourage a desert tortoise to extend its head, which allows observation of the eyes, nares, chin glands, and beak where most signs of URTD are observed. The stand must be disinfected before using it with another desert tortoise, or place waterproof plastic on top of the stand prior to each use, then position the desert tortoise on top of the plastic, and discard the plastic afterwards.

7.8.4. Assessing Desert Tortoise Health

A section 7 biological opinion or section 10 permit may require a health assessment for encountered desert tortoises. Before initiating this assessment, contact the appropriate USFWS office to determine the information to be included in the health assessment. This will determine the qualifications needed by the person conducting the health assessment. You will need the approval of the person conducting the health assessment from the USFWS.

7.8.5. Marking Desert Tortoises

You must contact the DTRO and appropriate State wildlife agency before marking desert tortoises. Before touching a desert tortoise, implement procedures described in Section 7.6. If authorized, first restrict movement of the desert tortoise (Section 7.8.3.). Next, use a clean, disinfected toothbrush to remove dirt from the left fourth costal scute, where the desert tortoise will be marked. If this scute is damaged, use the right fourth costal scute. Next, place a small

dot (i.e., no larger than 1/4 inch (0.64 centimeter) in diameter) of correction fluid (i.e., white out) or acrylic paint on the scute. The number is likely to last longer if placed on a rough, off-centered surface where shell-wear is less common, which is one reason only the fourth costal scutes are used for marking. Once the spot is dry, write the identifying mark on the spot using a waterproof, permanent black ink pen. Some biologists recommend using a capillary type technical pen (e.g., fine-tip Sharpie).

Allow the number to dry before applying 5-minute epoxy. Mix the epoxy on a file card or piece of paper, then transfer the mixed epoxy to the dot on the shell using a toothpick, wooden coffee stirrer, or tongue depressor. Wait several seconds until the epoxy starts to thicken but is still liquid enough to spread over the numbered spot with ease. Cover the paint spot overlapping its edges just enough to seal the paint. **Never allow the epoxy to spill over onto the growth area, which occurs at the border between two scutes.** Anticipate this when applying the paint so there will be space for the epoxy to overlap the paint without entering the seams. It may be helpful to cover the margins of the scute with 1/2-inch wide masking tape before applying the epoxy, to ensure that the epoxy does not touch the growth area, especially on smaller desert tortoises. Record the identifying mark on the data sheet. Dispose of used materials appropriately after use on each desert tortoise.

7.8.6. Photographing Desert Tortoises

Before touching a desert tortoise for photographing, implement procedures described in Section 7.6. If permitted, photograph processed desert tortoises as follows: a) dorsal view of the carapace; b) the numbered scute; and c) frontal view of the desert tortoise's face and forelegs. Photograph any recent or previously healed injuries or unusual anomalies. Unless specifically required, do not photograph the plastron which would require unnecessary handling and risk to the tortoise. It is important that each object fills 80 to 90 percent of the frame and that the object be clearly focused. Digital photographs are preferred. Two types of labels are recommended: a) hold a small card adjacent to the desert tortoise so that the above information is clearly visible on the photograph without blocking the part of the desert tortoise being photographed; or, b) attach a 1/2 inch x 1/2 inch, adhesive label to the desert tortoise to allow for closer, more detailed photographs of the subject. Dispose of label appropriately following use on each desert tortoise.

Keep a log of the photographs in your field notes (e.g., "photo number 453, carapace of desert tortoise 4"). You must be familiar with the features of the camera. Label photographs with the following information: date, biologist's name, project name, desert tortoise number, UTM or lat/long, county, and state.

Supplies and equipment:

- 3 inch x 5 inch file cards (for identifying photographs)
- 1/2 inch x 1/2 inch labels or other stickers (to attach to desert tortoise to identify photograph)
- Camera

7.9. Desert Tortoise Urination and Hydration

Desert tortoises may void their bladder: 1) when first encountered, picked up, or carried; 2) the longer you handle them; and (3) during drought conditions, which is also when water availability is at its lowest. Since desert tortoises store water in their bladders, any loss of this fluid may result in death (Averill-Murray 2002). Discourage bladder voiding by gently and slowly moving the desert tortoise. If the tortoise does void, record on the data sheet the quantity, color, and viscosity of the urine. If the desert tortoise has already been weighed, weigh it again to estimate the amount of lost fluid. Avoid all unnecessary actions that may result in stress to the animal.

If the desert tortoise urinates, it should be rehydrated. To rehydrate, soak the desert tortoise at the release location in a tub with a clean unused plastic disposable liner for a minimum of 10 to 20 minutes in a quiet protected area. Water level shall not be higher than the lower jaw of the animal; the water temperature should be tepid. Desert tortoises must be soaked individually. Weigh the desert tortoise before and after placing in water. Even if desert tortoises do not drink, they can absorb water through their cloaca. Weighing the desert tortoise before and after placing it in water will determine if the tortoise took in water (James Jarchow, veterinarian, pers. comm.).

On warm days, transport the desert tortoise in the shade. Remember to roll up your sleeves and wear protective clothing to avoid transmitting disease or parasites to other desert tortoises that may come in contact with your clothing. When handling is complete, remove and properly dispose of your gloves and protective clothing.

7.10. Moving and Releasing Desert Tortoises

In this Manual, relocating desert tortoises is defined as moving them from harm's way but allowing them to remain within their home ranges. To relocate, move the desert tortoise the distance directed in the permit or biological opinion once the desert tortoise has been processed. The minimum distance from the edge of the project footprint that a desert tortoise can be relocated will be determined by its age and sex (different home range sizes), the presence or absence of desert tortoise-proof fencing around the perimeter of the project footprint, and the duration of the project activity. Desert tortoises may attempt to return to their point of capture. A desert tortoise should not be placed on private land without the written permission of the landowner.

In this Manual, translocating desert tortoises is defined as moving them from harm's way to a location outside their home range (e.g., more than 1,000 feet (305 meters)). Translocating tortoises should only occur when authorized by the permitting agencies and in accordance with an approved, project-specific translocation plan. Translocation not only affects the desert tortoise being moved but also may impact resident desert tortoises in the translocation area. The effectiveness of translocation of desert tortoises as a conservation or recovery tool has not been proven. Until its effectiveness is determined, it should be implemented only on an experimental basis and in close coordination with the USFWS and State wildlife agency.

For temperature considerations, refer to Section 7.3. To discourage urination or if the tortoise voided during handling, refer to Section 7.9.

After processing is completed, release the desert tortoise as soon as possible while considering its well-being. Desert tortoises shall be released individually and not in groups. The biological opinion or permit may require that desert tortoises be removed from the project site and placed in the shade of a shrub, in a natural unoccupied burrow, or in an artificial burrow. Desert tortoises shall be released at a safe location as near to the point of capture as possible. If a desert tortoise is found aboveground, release it aboveground if environmental conditions are suitable (Sections 7.4 and 7.5), or hold it until conditions are suitable, then release it. When releasing the desert tortoise, slowly lower the animal to the ground, release it, and slowly walk away. Following release, monitor the desert tortoise until it exhibits and maintains normal behavior. Further, we recommend that desert tortoises **not** be put into existing burrows to avoid exposing the desert tortoise to diseases.

If a desert tortoise and its burrow are not in harm's way but adjacent to project activities, as an alternative to moving, construct a temporary restraining pen around the desert tortoise and its burrow to protect it during project activities (See Section 6.9.).

7.10.1. Temporarily Holding Desert Tortoises

There may be a situation where a desert tortoise needs to be removed from the field, held overnight or longer, and then released at its point of capture. While held, each desert tortoise shall remain in a clean, unused or disinfected container that is covered or closed. Newspaper placed in the bottom will absorb any urine that is voided. The box shall be ventilated in such a way that a desert tortoise's leg or head cannot be caught in the ventilation hole. Never put more than one desert tortoise in a container, and avoid placing anything in a container occupied by a tortoise that previously came in contact with another tortoise without following disinfection procedures (Section 7.6.).

7.10.2. Transporting by Vehicle

Do not allow desert tortoises to roam freely in the vehicle. Do not transport desert tortoises in shopping or grocery bags or other containers less sturdy than a new cardboard box. Discard the box immediately after use to ensure that it is not used for another desert tortoise.

Never place desert tortoises over the catalytic converter or other area in a vehicle that becomes hot. Pad truck beds or floorboards and travel at speeds that minimize vibrations or shifting of the box. Never leave a desert tortoise unattended in a vehicle. During summer months, transport desert tortoises in an air-conditioned vehicle, placing them in a covered, unused cardboard box while maintaining the vehicle interior temperature between 75 degrees F and 80 degrees F (23.9 degrees C and 26.7 degrees C). If a desert tortoise is captured during the winter, maintain the desert tortoise at its current body temperature, which will be less stressful to it than much warmer temperatures, and may allow it to remain in a physiological state of brumation. When transporting an adult female desert tortoise, assume it may be gravid (i.e., April through July) and take special care to avoid jolting and jostling to ensure that the eggs are not ruptured which may result in her death from egg yolk peritonitis.

7.11. Injured or Dead Desert Tortoises

If an injured desert tortoise is encountered that may have been the result of project activities, follow the instructions of the biological opinion/permit, which typically requires immediate transport to a qualified veterinarian. Contact the USFWS and appropriate State wildlife agency. Document the injury with photographs and a written description of the injury; circumstances and probable cause; and recommendations to avoid future injuries. Submit this information to the USFWS and other appropriate agencies.

If a dying or dead desert tortoise is encountered, you may not salvage or collect it unless authorized to do so under a biological opinion, section 10 permit, or under 50 *Code of Federal Regulations* 17.31.

LITERATURE CITED

- Averill-Murray, R.C. 2002. Effects on survival of desert tortoises (*Gopherus agassizii*) urinating during handling. *Chelonian Conservation and Biology* 4(2): 430-435.
- Berry, K.H. and M. M. Christopher. 2001. Guidelines for the field evaluation of desert tortoise health and disease. *Journal of Wildlife Diseases* 37(3):427-450.
- Berry, K.H. and F.B. Turner. 1984. Notes on the behavior and habitat preferences of juvenile desert tortoises (*Gopherus agassizii*) in California. *Proceedings of the Desert Tortoise Council Symposium* 1984:111-130.
- Brattstrom, B.H. 1965. Body temperatures of reptiles. *American Midland Naturalist*. 73:376-422.
- McGinnis, S.M. and W.G. Voigt. 1971. Thermoregulation in the desert tortoise, *Gopherus agassizii*. *Comparative Biochemical Physiology* 40A:119-126.
- Medica, P.A., C.L. Lyons, and F.B. Turner. 1986. "Tapping:" A technique for capturing tortoises. *Herpetological Review* 17(1):15-16.
- Naegle, S. 1976. Physiological response of the desert tortoise, *Gopherus agassizii*. Master of Science thesis, University of Nevada, Las Vegas, Nevada.
- Walde, A.D., L. Bol, D.K. Delaney, and L.L. Pater. 2003. The desert tortoise: a preliminary analysis of operative and environmental temperatures. A Report by the Construction Engineering Research Laboratory to the U.S. Fish and Wildlife Service. 18 pp.
- Wendland, L., H. Balbach, M. Brown, J. D. Berish, R. Littell, and M. Clark. 2009. Handbook on gopher tortoise (*Gopherus polyphemus*). Health evaluation procedures for use by land managers and reseachers. U.S. Army Corps of Engineers, Engineer Research and Development. ERCD/CERL TR-09-1. January 2009.
- Zimmerman, L.C., M.P. O'Connor, S.J. Bulova, J.R. Spotila, S.J. Kemp, and C.J. Salice. 1994. Thermal ecology of desert tortoise in the Eastern Mojave Desert: seasonal patterns of operative and body temperatures, and microhabitat utilization. *Herpetological Monographs* 8:45-59.

Personal Communication

- Jarchow, J. 2005. Desert tortoise veterinarian, Orange Grove Animal Hospital, Tucson, Arizona.

ATTACHMENT A

IRREVOCABLE STANDBY LETTER OF CREDIT NO. [*Number issued by financial institution*]
CERTIFICATE FOR DRAWING

To:

[Name and address of financial institution]

Re: Incidental Take Permit No. [*permit number*]

The undersigned, a duly Authorized Representative of the Department of Fish and Wildlife ("CDFW"), as defined in 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:** "In the opinion of the 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 the CDFW that the Credit will not be extended and the Applicant has not provided the CDFW with an equivalent security approved by the 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. The 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, the CDFW has executed and delivered this Certificate as of the ___ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[Insert one of the following: "DIRECTOR" or "GENERAL COUNSEL" or "REGIONAL MANAGER, [NAME OF REGIONAL OFFICE]"]

ATTACHMENT B

IRREVOCABLE LETTER OF CREDIT NO. [**Number issued by financial institution**]
CERTIFICATE FOR CANCELLATION

To:

[**Name of financial institution and address**]

Re: Incidental Take Permit No. [**permit number**]

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 natural expiration of this Credit has occurred."]
2. The CDFW therefore requests the cancellation of the Credit.

Therefore, the CDFW has executed and delivered this Certificate for Cancellation as of the ____ day of _____, _____.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BY: _____

[**Insert one of the following:** "DIRECTOR" **or** "GENERAL COUNSEL" **or** "REGIONAL MANAGER, [**NAME OF REGIONAL OFFICE**"]

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

Issue Date: [**date**]

Beneficiary:

Department of Fish and Wildlife
1416 Ninth Street, 12th Floor
Sacramento, CA 95814
Attn: HCPB Mitigation Account 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 the CDFW pursuant to the terms of the incidental take permit for the [**name of project**] issued by the 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, as set forth in Conditions [**numbers**] in the Permit ("Mitigation Requirements").
4. We are finally informed that this Credit is intended by the CDFW and the Applicant to serve as a security device for the performance by the Applicant of the Mitigation Requirements.
5. The 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 the CDFW as defined in paragraph 12 below. Presentation by the 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 the CDFW, or to the account of the CDFW, in immediately available funds, as the CDFW shall specify.
8. If a demand for payment does not conform to the terms and conditions of this Credit, we shall give the 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, the 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 the 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 the CDFW, as defined in paragraph 12 below.
12. An "Authorized Representative" shall mean either the Director of the Department of Fish and Wildlife, the General Counsel of the Department of Fish and Wildlife, or a Regional Manager of the Department of Fish and Wildlife.
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 the 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 the CDFW: Department of Fish and Wildlife, Habitat Conservation Planning Branch, 1416 Ninth Street, 12th Floor, Sacramento, California 95814-2090 Attn: HCPB Mitigation Account 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 the 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: _____

California Department of Fish and Wildlife
Mitigation Payment Transmittal Form

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

(1) **DATE:** _____

TO: _____

[CDFW Regional Manager]

[CDFW Region Office Address]

(2) **FROM:** _____

Name

Mailing Address

City, State, Zip

Telephone Number/FAX Number

(3) **RE:** _____

[Project Name as appears on permit/agreement]

(4) **AGREEMENT/ACCOUNT INFORMATION:**

(Check the applicable type)

2081 Permit Conservation Bank 1802 Agreement

2835 NCCP Other _____

XXXX-XXXX-XXX-XX

[Project Tracking Number]

[FASB Mitigation Tracking Number (if available)]

Index _____ PCA _____

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

Check information:

Total \$ _____ Check No. _____

Account No. _____ Bank Routing No. _____

a. Endowment: for Long-Term Management Subtotal \$ _____

b. Habitat Enhancement Subtotal \$ _____

c. Security:

1. Cash Refundable Security Deposit Subtotal \$ _____

2. Letter of Credit Subtotal \$ _____

1. Financial Institution: _____

2. Letter of Credit Number: _____

3. Date of Expiration: _____