

INFORMATION HANDOUT

PERMITS

1. STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
2081 Individual Take Permit #2081-2011-079-04

AGREEMENTS

2. UNITED STATES FISH AND WILDLIFE SERVICE (Biological Opinion#81420-2009-F-1104-1)
3. UNITED STATES FISH AND WILDLIFE SERVICE (Biological Opinion Amendment # 81420-2009-F-0974-1)

ENCROACHMENT PERMITS

4. County of Kings-Department of Public Works
Encroachment Permit Application

1. STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
2081 Individual Take Permit #2081-2011-079-04



California Department of Fish and Game
Central Region
1234 East Shaw Avenue
Fresno, California 93710

California Endangered Species Act
Incidental Take Permit No. 2081-2011-079-04

JACKSON AVENUE CHANNELIZATION

Authority: This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the Department of Fish and Game (DFG) 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 DFG, however, 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 also Cal. Code Regs., tit. 14, § 783.4).

Permittee: California Department of Transportation (Caltrans)
Principal Officer: Virginia Strohl, Interim Biology Branch Chief
Contact Person: Virginia Strohl, (559) 445-6456
Mailing Address: 855 M Street, Suite 200
Fresno, California 93721

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 DFG's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by DFG, this ITP's authorization to take the Covered Species shall expire on **November 1, 2015**.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until DFG accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.7 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 definitions of 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 Jackson Avenue Channelization (Project) is located at the intersection of State Route (SR) 41 and Jackson Avenue at Post Mile R37.5 to R38.1 south of the City of Lemoore and east of the Lemoore Naval Air Station within unincorporated Kings County (See Figure 1).

Project Description:

The Project involves constructing left-turn lanes for northbound and southbound directions on SR 41 with associated pavement widening to the east of the existing alignment from 1 to 12 feet, and realigning Jackson Avenue to meet the Caltrans advisory standard 75 degree (minimum) intersection skew angle. The design will incorporate variable width ranging from 12 feet to 24 feet in and around the intersection to accommodate truck turning movements and 8-foot shoulders. The widening would begin at PM R37.5 and end at PM R38.1. The realignment of Jackson Avenue will begin about 1,000 feet west of SR 41 and end about 1,200 feet east of SR 41. The realignment will move Jackson Avenue approximately 45 feet (maximum) south of the existing Jackson Avenue alignment. This maximum offset of Jackson Avenue will occur at about 350 feet east of SR 41. The Project also includes the relocation of several utility poles and upgrading the existing safety lighting at the northeast and southwest corners of this intersection to current standards. The Project will occur on a total of 6.65 acres.

Project activities include grubbing and grading the entire Project site, storing equipment, creating staging and laydown areas, excavating or adding fill to change ground elevation in some areas, compacting ground, placing and compacting sub grade base layer, road paving, relocating utilities, extending culvert, and other activities to accomplish the work describe above.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
<i>Tipton kangaroo rat (Dipodomys nitritoides nitratoides)</i> (TKR)	Endangered ³

This species and only this species is 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. Take as defined by state law of individuals of the Covered Species could occur as a result of Project construction activities, including grubbing, grading, excavation, fill, ground compaction, relocation of utilities, culvert extension (Covered Activities). Incidental take of individuals of the Covered Species in the form of mortality ("kill")

³See Cal. Code Regs. tit. 14 § 670.5, subd. (a)(6)(D).

may occur as a result of Covered Activities involving vehicles or construction equipment, or from collapsing or excavating occupied burrows. Take as defined by state law could occur within the temporary impact area, permanent impact area, restoration area, or the staging area (see Figure 1) (collectively, the Project Area).

The Project will cause the permanent loss of 2.08 acres of habitat for the Covered Species and temporary loss of 4.16 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 to the Covered Species include: stress resulting from noise and vibrations from soil disturbance, equipment operation, and traffic; temporary displacement; stress resulting from capture and relocation; increased competition for food and space, and increased vulnerability to predation. Incidental take of the Covered Species may also occur from the Covered Activities in the form of pursuit, catch, and capture of the Covered Species if it is relocated.

Covered Species Incidental Take Authorization:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, DFG 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. DFG's issuance of this ITP and Permittee's authorization to take the Covered Species are subject to Permittee's compliance with and implementation of the following Conditions of Approval:

- 1. Legal Compliance:** Permittee shall comply with all applicable state, federal, and local laws in existence on the effective date of this ITP or adopted thereafter.
- 2. CEQA Compliance:** Permittee shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Mitigated Negative Declaration and Initial Study (SCH No. 2010041016) adopted by Caltrans on August 25, 2010, as the lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.).

3. ESA Compliance: Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Programmatic Biological Opinion on the Effects of Minor Transportation Projects on San Joaquin Kit Fox, Giant Kangaroo Rat, Tipton Kangaroo Rat, Blunt-nosed Leopard Lizard, California Jewelflower, San Joaquin Woolly-threads, Bakersfield Cactus, and Recommendations for San Joaquin Antelope Squirrel (official Biological Opinion No. 1-1-01-F-003 and amended No. 81420-2009-F0974-1) prepared and issued for the Project pursuant to the Federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.). Where measures for the Covered Species in the federal Section 7 Consultation are less protective or in conflict with this ITP, the terms and conditions of this ITP shall control for purposes of CESA and this ITP.

4. ITP Time Frame Compliance: Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

5. General Provisions:

5.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with DFG and overseeing compliance with this ITP. Permittee shall notify DFG in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify DFG in writing if a substitute Designated Representative is selected or identified at any time during the term of this ITP.

5.2. Designated Biologist. Permittee shall submit to DFG in writing the name, qualifications, business address, and contact information of a Designated Biologist before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain DFG approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed.

5.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of this ITP, the Designated Biologist shall have authority to immediately

stop any activity that does not comply with this ITP and order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.

- 5.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in this ITP. Permittee shall 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.
- 5.5. Construction Monitoring Notebook. The Designated Biologist 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 DFG.
- 5.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.
- 5.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.
- 5.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.

- 5.9. 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.
- 5.10. Delineation of Project Area. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes, or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities.
- 5.11. Delineation of Habitat. Prior to starting Covered Activities, 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.
- 5.12. Project Access. Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact DFG for written approval before carrying out such an activity. DFG 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.
- 5.13. 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 except as provided in Condition of Approval 5.11 of this ITP.
- 5.14. Hazardous Waste. Permittee shall immediately stop and, following 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.
- 5.15. DFG Access. Permittee shall provide DFG staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully

cooperate with DFG efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

- 5.16. Refuse Removal. Upon completion of Covered Activities, Permittee shall remove from the Project Area and properly dispose of all construction refuse, including, but not limited to, broken equipment parts, wrapping material, cords, cables, wire, rope, strapping, twine, buckets, metal or plastic containers, and boxes.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. The Designated Representative shall notify DFG before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.
- 6.2. Notification of Non-compliance. The Designated Representative shall immediately notify DFG 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 DFG within 24 hours.
- 6.3. Tipton Kangaroo Rat Relocation Plan. The Permittee shall submit a TKR relocation plan to DFG prior to initiating ground-disturbing activities in any areas occupied by TKR. Relocation activities shall not proceed until the relocation plan has been approved in writing by DFG's Regional Representative. The Plan shall include a minimum of four consecutive trap-nights and trapping shall end with two consecutive nights without capture of TKR.
- 6.4. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once a week during periods of inactivity and after clearing, grubbing, and grading are completed.

- 6.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.4 into a Monthly Compliance Report and submit it to DFG along with notes showing the current implementation status of each mitigation measure in the MMRP table. Monthly Compliance Reports shall be submitted to DFG's Regional Office at the office listed in the Notices section of this ITP and via e-mail to DFG's Regional Representative. At the time of this ITP's approval, the DFG Regional Representative is Laura Peterson-Diaz (lpdiaz@dfg.ca.gov). DFG 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 DFG determines the reporting schedule must be changed, DFG will notify Permittee in writing of the new reporting schedule.
- 6.6. Annual Status Report. Permittee shall provide DFG with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until DFG accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 6.5; (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.
- 6.7. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to DFG's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.
- 6.8. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide DFG with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly 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.

- 6.9. Notification of Take or Injury. Permittee shall immediately notify the Designated Biologist if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of the Project. The Designated Biologist or Designated Representative shall provide initial notification to DFG by calling the Regional Office at (559) 243-4005. The initial notification to DFG shall include information regarding the location, species, number of animals taken or injured, and the ITP Number. Following initial notification, Permittee shall send DFG 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.

7. 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:

- 7.1. Designated Biologist On-site. The Designated Biologist shall be on-site during all activities that may result in the take of Covered Species. Workers shall convey all observations of listed species and their sign during construction activities to the Designated Biologist or Designated Representative.
- 7.2. Work Hours. Permittee shall confine all construction to daylight hours (sunrise to sunset). Permittee shall ensure that all vehicle traffic necessary during nighttime hours associated with emergency response or security shall be conducted with extra caution to minimize impacts to the nocturnal Covered Species.
- 7.3. Covered Species Observations. During all phases of Project construction, operation, and maintenance, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Site. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease until the Covered Species is moved by the Designated Biologist(s) or it moves from the construction area of its own accord.

- 7.4. Trench Inspection. The Designated Biologist 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 Designated Biologist 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 of 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 Designated Biologist 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 Designated Biologist immediately. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible, or the Designated Biologist shall move Covered Species out of harm's way before allowing work to continue. If at any time a trapped or injured Covered Species is discovered, Permittee shall contact the United States Fish and Wildlife Service (USFWS) Ventura Office and DFG's Regional Representative within one (1) working day of the incident.
- 7.5. Pipe Inspection. Workers shall thoroughly inspect for Covered Species in all construction pipe, culverts, or similar structures with a diameter of 7.6 centimeters (3 inches) or greater that are stored for one or more overnight periods before the pipe is subsequently moved, buried, or capped. If during inspection a Covered Species is present inside a pipe, workers shall allow the animal to safely escape that section of pipe before moving and utilizing the pipe.
- 7.6. 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 wait for the Covered Species to move unimpeded to a safe location.
- 7.7. Delineation of Ingress and Egress Routes. All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittee to these designated ingress and egress routes.
- 7.8. Flag Burrows. The Designated Biologist shall flag all potential small mammal burrows within 30 feet of the Project Area to alert biological and work crews to their presence. Where feasible, an avoidance buffer of 30 feet or greater around active small mammal burrows shall be maintained.

- 7.9. Exclusion Fencing. Prior to any surface disturbance and initiating the TKR Relocation and Monitoring Program, Permittee shall construct an exclusion fence between the project impact area (PIA) and the native habitat in the quadrants northeast (NE), southeast (SE), and southwest (SW) of the intersection to prevent movement of TKR back into the PIA once ground- or vegetation-disturbing activities commence. Permittee shall place exclusion fencing at the edge of the temporary impact area, and because the exclusion fencing cannot cross either SR 41 or Jackson Avenue, the fencing shall be extended at least 50 feet past the ends of the PIA and tapered back toward the roadway to the extent possible. The Designated Biologist shall supervise fence-line grubbing, trenching and fence construction to minimize potential impacts to Covered Species. The exclusion fencing shall be supported sufficiently to maintain its integrity under all conditions, such as wind and heavy rain, for the duration of the active construction period. TKR in the adjacent areas from digging under and entering the Project Site. The exclusion fencing shall be constructed of tightly woven material that prevents entrapment of any species.
- 7.10. TKR Relocation. Any potential TKR burrows detected by the Designated Biologist that cannot be avoided by the 30-foot avoidance buffer shall be live trapped by the Designated Biologist prior to the initiation of Covered Activities in the occupied location. The Designated Biologist shall relocate any captured TKR to the DFG-approved release site identified in the approved TKR Relocation Plan.
- 7.11. Burrow Excavation. Following live trapping activities as described in Condition of Approval 7.10, the Designated Biologist shall perform or oversee the excavation by hand of any small mammal burrows present within the Project Area that cannot be avoided by the 30-foot buffer, and that have the potential to be occupied by the Covered Species. The Designated Biologist shall ensure that any Covered Species encountered in the excavated burrows is relocated in accordance with the approved TKR Relocation Plan.
- 7.12. Record of Handling. The Designated Biologist shall maintain a record of all TKR handled, and all documented observations of TKR. This information shall include for each animal; (1) the locations (Global Positioning System (GPS) coordinates and maps) and time of capture and/or observation as well as release; (2) sex; (3) approximate age (adult / juvenile); (4) weight; (5) general condition and health, noting all visible conditions including gait and behavior, diarrhea, emaciation, salivation, hair loss, ectoparasites, and injuries; and (6) ambient temperature when handled and released. The Designated Biologist shall prepare a Relocation Summary and include it in the Monthly Report described in Condition 6.5 of this ITP. The Relocation Summary in the Final Mitigation Report shall include cumulative results, analysis of data collected, and conclusions.

7.13. **Injury.** If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a DFG-approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify DFG of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.9. Notification shall include the name of the facility where the animal was taken

8. Habitat Management Land Acquisition and Restoration:

DFG has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result 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 DFG's estimate of the acreage required to provide adequate compensation.

Table 1. Habitat Impacts and Compensation

Habitat Type	Amount of Impacts (in acres)	Impact Type	Compensation Ratio	Amount of Compensation (in acres)
Valley Sink Scrub	1.89	Permanent	3:1	5.67
	3.09	Temporary	1.1:1	3.40
Agricultural	0.00	Permanent	1.1:1	0.00
	0.43	Temporary	0.3:1	0.13
Ruderal	0.19	Permanent	1.1:1	0.21
	0.64	Temporary	0.3:1	0.19
Currently Pavement	0.41	Restore to Scrub Habitat	N/A	N/A
Total Acreage	6.65			9.60

To meet this requirement, the Permittee shall provide for the permanent protection and management of 9.6 acres of Habitat Management (HM) lands by completing the transfer of fee title to DFG or a DFG-approved entity or the recordation of a conservation easement pursuant to Government Code 65965, and calculation and deposit of the management funds (Condition of Approval 8.3). Permanent protection and perpetual

management of compensatory habitat, including the funding of the long-term management fund (Endowment Fund), 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 9 below. The Permittee shall also restore on-site 4.16 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.5 below.

- 8.1. Cost Estimates. DFG has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:
 - 8.1.1. Land acquisition costs for HM lands identified in Condition of Approval 8.2 below, estimated at \$15,000.00/acre for 9.6 acres: **\$144,000.00**. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
 - 8.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.2.5 below, estimated at **\$27,123.00**;
 - 8.1.3. Interim management period funding as described in Condition 8.2.6 below, estimated at **\$13,245.00**;
 - 8.1.4. Long-term management funding as described in Condition 8.3 below, estimated at \$14,850.00/acre for 9.6 acres: **\$142,560.00**. The long-term management endowment fund is estimated initially for the purpose of providing Security to ensure implementation of HM land management.
 - 8.1.5. 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 DFG as described in Condition of Approval 8.4, estimated at **\$3,000.00**.
 - 8.1.6. Restoration of on-site temporary effects to Covered Species habitat and currently paved area to be restored to scrub habitat as described in Condition of Approval 8.5, calculated at \$6,564.55/acre for 4.57 acres: **\$30,000.00**
- 8.2. Habitat Acquisition and Protection. To provide for the acquisition and protection of the HM lands, the Permittee shall:

- 8.2.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to DFG pursuant to terms approved by DFG. Alternatively, DFG, in its sole discretion, may authorize a special district, non-profit organization, for-profit entity, person, or other entity to hold title to the property provided that the district, organization, entity, or person meets the requirements of Government Code section 65965, et seq., as amended. If DFG does not hold fee title to the HM lands, DFG 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 DFG does not hold the conservation easement, DFG shall be named third-party beneficiary. The Permittee shall obtain DFG approval of any conservation easement before its recordation;
- 8.2.2. HM Lands Approval. Obtain DFG 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 (see Attachment 2) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 8.2.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3). All documents conveying the HM lands and all conditions of title are subject to the approval of DFG, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 8.2.4. Land Manager. Designate an interim and long-term land manager approved by DFG. The land manager may be the conservation easement grantee, land owner, or other party. Documents related to land management shall identify the land manager. Permittee shall notify DFG of any subsequent changes in the land manager within 30 days of the change. If DFG will hold fee title to the mitigation land, DFG will also act as long-term land manager unless otherwise specified.
- 8.2.5. 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 DFG. Start-up activities include, at a minimum: (1) preparing a final management plan for DFG 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;

8.2.6. 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 DFG. 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 DFG 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 DFG to pay the land manager annually in advance, (3) establish a short-term enhancement sub-account with the National Fish and Wildlife Foundation (NFWF) for annual payment to the land manager, or (4) establish a short-term enhancement account with DFG for annual payment to the land manager.

8.3. Endowment Fund. The Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the final management plan and conservation easement approved by DFG. After obtaining DFG approval of the HM lands, Permittee shall provide long-term management funding for the in-perpetuity management of the HM lands by establishing a long-term management fund (Endowment Fund). The Endowment Fund is a sum of money, held in a DFG-authorized 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 8.2.5. Endowment Fund, as used in this ITP, shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon.

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 Fund.

8.3.1. Identify an Endowment Fund Manager. The Endowment Fund shall be held by the Endowment Fund Manager, which shall be DFG or an entity qualified pursuant to Government Code Section 65965 et seq., as amended and designated in writing by DFG in its sole discretion. DFG shall designate the Endowment Fund Manager within 180 days of the effective date of this ITP. If Permittee seeks to transfer the funds for the Endowment Fund prior to DFG's designation of an Endowment Fund Manager, Permittee shall transfer the funds to an escrow account (Endowment Escrow Account) pursuant to written escrow instructions to be approved in advance in writing by DFG. All interest, dividends, and other earnings, additions, and appreciation on the Endowment Fund accrued while it is held in the Endowment Escrow Account shall be added to the Endowment Fund and transferred to the Endowment Fund Manager once designated by DFG.

8.3.2. Calculate the Endowment Funds Deposit. After obtaining DFG approval of the HM lands, long-term management plan, and Endowment Fund 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 DFG for review and approval the results of the PAR before transferring funds to the Endowment Escrow Account or the Endowment Fund Manager.

8.3.2.1. Capitalization Rate and Fees. 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. If the funds for the Endowment Fund will be placed in an Endowment Escrow Account, the capitalization rate and PAR shall be calculated to take account of the reasonably anticipated rate of return for the funds while held in escrow.

8.3.2.2. 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 Fund:

- 8.3.2.2.1. 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.
 - 8.3.2.2.2. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.
 - 8.3.2.2.3. 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 Fund Manager and DFG.
- 8.3.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Escrow Account or the Endowment Fund Manager upon DFG approval of the Endowment Deposit Amount identified above. The approved Endowment Fund Manager may pool the Endowment Fund 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 Fund.
- 8.4. Reimburse DFG. Permittee shall reimburse DFG for all reasonable expenses incurred by DFG 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 DFG.
- 8.5. Habitat Restoration. Permittee shall restore on-site the 4.16 acres of Covered Species habitat that will be temporarily disturbed during construction to pre-project or better conditions. In addition, the Permittee shall restore 0.41 acre where pavement will be removed for a total restoration area of 4.57 acres.

8.5.1. Vegetation Restoration Plan. Within six months of issuing this ITP, the Permittee shall prepare and submit to DFG for approval a Vegetation Restoration Plan to facilitate revegetation of the 4.57 acres to be restored on-site. At a minimum, the Plan shall include the following information for the Restoration Areas: (1) an aerial map that identifies the location of the areas relative to post-project road; (2) a description of the existing physical and biological conditions of the areas prior to commencement of any restoration or enhancement activities; (3) a plan for the initial removal of nonnative plant species, trash, and debris; (4) identification of native plant seed mixes; (5) a planting plan that includes the best time of year for the seeding to occur; (6) an irrigation plan, if irrigation is needed; (7) procedures to ensure that nonnative plants are not introduced or allowed to sustain within the areas and an annual nonnative removal plan; (8) monitoring and maintenance measures and a timeline; (9) any fencing and signage needed to restrict pedestrian and vehicle access into the Restoration Area; and (10) success standards and contingency measures. Monitoring and maintenance of the Restoration Areas shall be conducted annually for a minimum of 2 years, or until DFG determines that the restoration/enhancement effort is successful.

8.5.2. Annual Progress Report for Restoration/Enhancement Areas. Permittee shall submit a report to DFG annually to document the progress of the Restoration/Enhancement Areas for a minimum of 2 years following plant installation, or until DFG determines that the restoration effort is successful. At a minimum, the reports shall include the following information for the Restoration Areas: (1) a description of the initial restoration activities conducted, including: (a) restoring habitat within temporary Project impact areas to pre-impact or better conditions, (b) removal of nonnative plant species, trash, and debris, (c) installation of an irrigation system, (d) plant installation, including replanting of harvested Covered Species individual plants and broadcasting seeds, and (e) when these activities were conducted; (2) a description of the annual restoration conducted during the previous year, including: (a) nonnative plant, trash, and debris removal, (b) replacement planting, including the number by species of plants replaced or naturally recruited, (c) maintenance, repair, or replacement of the irrigation system, and (d) when the activities were conducted; (3) current site conditions, including: the percent survival, percent cover, and height of shrub species, and (b) methods used to assess these parameters; and (6) information regarding the nonnative plant prevention and removal effort, including: (a) methods used for removal, (b) the amount removed and/or treated, (c) the

frequency and timing of removal and treatment, (d) disposal specifics, and (e) a summary of the general successes and failures or failure of the nonnative prevention and removal effort. The first annual report for the Restoration/Enhancement Areas is due within 13 months of completion of Project activities.

- 8.5.3. For seeding and mulching exposed soils, the seed blend shall include native valley sink scrub species obtained from a local source. Seeding shall be completed as soon as possible, but no later than November 15 of the year construction ends.

9. 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 8 that has not been completed before Covered Activities begin. Permittee shall provide Security as follows:

- 9.1. Security Amount. The Security shall be in the amount of **\$359,928.00**. This amount is based on the cost estimates identified in Condition of Approval 8.1 above;
- 9.2. Security Form. The Security shall be in the form of a funding assurance letter signed by the District Deputy Directors of Project Management and Environmental Planning and Engineering, or another form of Security approved in advance in writing by DFG's Office of the General Counsel, or another mechanism approved in advance in writing by DFG's Office of the General Counsel.
- 9.3. Security Timeline. The Security shall be provided to DFG before Covered Activities begin or within 30 days after the effective date of this ITP, whichever occurs first;
- 9.4. Security Holder. The Security shall be held by DFG or in a manner approved in advance in writing by DFG.
- 9.5. Security Transmittal. If DFG holds the Security, Permittee shall transmit it to DFG with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other instrument.

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

9.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after all secured requirements have been met as evidenced by:

- Timely submission of all required reports;
- An on-site inspection by DFG; and
- Written approval from DFG.

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. DFG 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 DFG 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:

DFG 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 this ITP, including but not limited to the failure to comply with reporting, monitoring, or habitat acquisition obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittee shall stop work immediately as directed by DFG upon receipt of any such stop-work order. Upon written notice to Permittee, DFG 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 Designated Biologist nor DFG shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

This ITP sets forth DFG'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 laws.

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 Game
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1260
Sacramento, California 95814

Written notices, reports and other communications relating to this ITP shall be delivered to DFG by registered first class mail at the following addresses, or at addresses DFG may subsequently provide the Permittee. Notices, reports, and other communications shall reference the Project name, Permittee, and ITP Number (2081-2011-079-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Jeffrey R. Single, Ph.D., Regional Manager
California Department of Fish and Game
Region 4 - Central Region
1234 East Shaw Avenue
Fresno, California 93710
Phone: (559) 243-4005
Fax: (559) 243-4022

Copy of cover without attachment(s) to:

Office of the General Counsel
California Department of Fish and Game
1416 Ninth Street, 12th Floor
Sacramento, California 95814

And:

Habitat Conservation Planning Branch
California Department of Fish and Game
1416 Ninth Street, Suite 1260
Sacramento, California 95814

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

Incidental Take Permit
No. 2081-2011-079-04
CALIFORNIA DEPARTMENT OF TRANSPORTATION
JACKSON AVENUE CHANNELIZATION

Laura Peterson-Diaz
California Department of Fish and Game
Region 4 - Central Region
1234 East Shaw Avenue
Fresno, California 93710
Phone: (559) 243-4017, extension 225
Fax: (559) 243-4020
lpdiaz@dfg.ca.gov

Compliance with CEQA:

DFG's issuance of this ITP is subject to CEQA. DFG 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 Mitigated Negative Declaration and Initial Study (SCH No. 2010041016) adopted by the California Department of Transportation adopted for the Project on August 25, 2010. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project, it also adopted various mitigation measures for the Covered Species as conditions of Project approval.

This ITP, along with DFG's related CEQA findings, which are available as a separate document, provide evidence of DFG's consideration of the lead agency's Mitigated Negative Declaration for the Project (CEQA Guidelines, § 15096, subd. (f)). DFG 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, DFG 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 DFG through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. DFG consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Findings Pursuant to CESA:

These findings are intended to document DFG'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, subs. (a)-(b), 783.5, subd. (c)(2).)

DFG finds based on substantial evidence in the ITP application, Mitigated Negative Declaration, Biological Opinion # 1-1-01-F-003 and amended 81420-2009-F0974-1, the results of site visits and consultations, and the administrative record of proceedings, that

Incidental Take Permit
No. 2081-2011-079-04
CALIFORNIA DEPARTMENT OF TRANSPORTATION
JACKSON AVENUE CHANNELIZATION

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 protection of 9.6 acres of Covered Species habitat; (2) restoration of 4.57 acres of Covered Species habitat; (3) establishment of Covered Species avoidance zones; (4) worker education; and (5) Monthly Compliance Reports. DFG 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 DFG's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, DFG determined that the protection and management in perpetuity of 9.6 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

Incidental Take Permit
No. 2081-2011-079-04
CALIFORNIA DEPARTMENT OF TRANSPORTATION
JACKSON AVENUE CHANNELIZATION

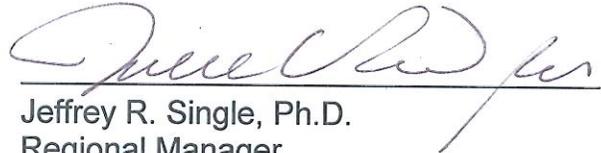
impacts on the species from other related projects and activities. Moreover, DFG's finding is based, in part, on DFG's express authority to amend the terms and conditions of this ITP without concurrence of the Permittee as necessary to avoid jeopardy and as required by law.

Attachments:

FIGURE 1	Map of Project
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Proposed Lands for Acquisition Form
ATTACHMENT 3	Habitat Management Lands Checklist
ATTACHMENT 4	Mitigation Payment Transmittal Form

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME

on May 24, 2012



Jeffrey R. Single, Ph.D.
Regional Manager
CENTRAL REGION

APPROVED AS TO FORM:



John H. Mattox
Senior Staff Counsel

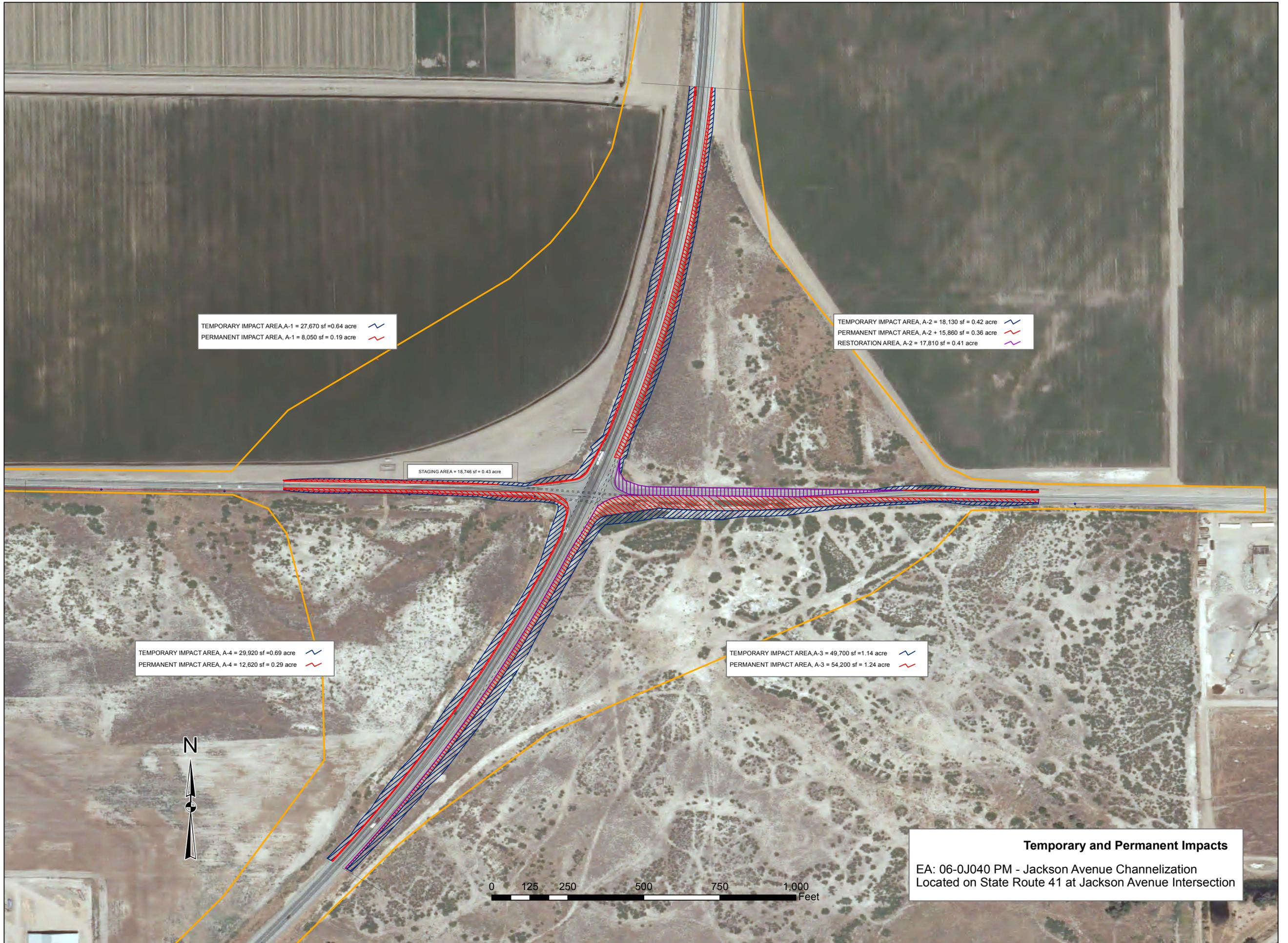
ACKNOWLEDGMENT

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: Carrie D. Swanberg Date: 5-29-12

Printed Name: Carrie Swanberg Title: Interim Biology Branch Chief

Incidental Take Permit
No. 2081-2011-079-04
CALIFORNIA DEPARTMENT OF TRANSPORTATION
JACKSON AVENUE CHANNELIZATION



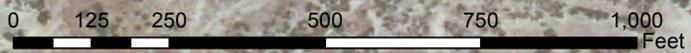
TEMPORARY IMPACT AREA, A-1 = 27,670 sf = 0.64 acre
PERMANENT IMPACT AREA, A-1 = 8,050 sf = 0.19 acre

TEMPORARY IMPACT AREA, A-2 = 18,130 sf = 0.42 acre
PERMANENT IMPACT AREA, A-2 + 15,860 sf = 0.36 acre
RESTORATION AREA, A-2 = 17,810 sf = 0.41 acre

STAGING AREA = 18,746 sf = 0.43 acre

TEMPORARY IMPACT AREA, A-4 = 29,920 sf = 0.69 acre
PERMANENT IMPACT AREA, A-4 = 12,620 sf = 0.29 acre

TEMPORARY IMPACT AREA, A-3 = 49,700 sf = 1.14 acre
PERMANENT IMPACT AREA, A-3 = 54,200 sf = 1.24 acre



Temporary and Permanent Impacts
EA: 06-0J040 PM - Jackson Avenue Channelization
Located on State Route 41 at Jackson Avenue Intersection

Attachment 1

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

INCIDENTAL TAKE PERMIT NO. 2081-2011-079-04

PERMITTEE: California Department of Transportation (Caltrans)

PROJECT: Jackson Avenue Channelization

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 Game (DFG) 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 DFG 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 of all mitigation measures and for reporting to DFG 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

DFG 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	<p>5.1. Designated Representative. Before starting Covered Activities, Permittee shall designate a representative (Designated Representative) responsible for communications with DFG and overseeing compliance with the ITP. Permittee shall notify DFG in writing before starting Covered Activities of the Designated Representative's name, business address, and contact information, and shall notify DFG in writing if a substitute Designated Representative is selected or identified at any time during the term of the ITP.</p>	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
2	<p>5.2. Designated Biologist. Permittee shall submit to DFG in writing the name, qualifications, business address, and contact information of a Designated Biologist before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history, collecting and handling of the Covered Species. The Designated Biologist must have a valid California Scientific Collecting Permit (SCP) that includes the Covered Species. The Designated Biologist shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain DFG approval of the Designated Biologist in writing before starting Covered Activities, and shall also obtain approval in advance in writing if the Designated Biologist must be changed. The Designated Biologist(s) may be assisted by approved biologists that do not have an SCP; these biologists shall be identified as Designated Monitors.</p>	ITP Condition # 5.2	Before commencing ground- or vegetation-disturbing activities	Permittee	
3	<p>5.4. Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in the ITP. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided for any new workers before their performing 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. This training shall be repeated at least once annually for long-term and/or permanent employees that will be conducting work in the Project Area.</p>	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
4	<p>5.6. Trash Abatement. Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in animal-proof containers and removed at least once a week to avoid attracting opportunistic predators such as ravens, coyotes, and feral dogs.</p>	ITP Condition # 5.6	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
5	<p>5.7. Dust Control. Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.</p>	ITP Condition # 5.7	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	5.8. Erosion Control Materials. Permittee shall prohibit use of erosion control materials potentially harmful to Covered Species and other species, such as mono-filament netting (erosion control matting) or similar material, in potential Covered Species' habitat.	ITP Condition # 5.8	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
7	5.9. 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.	ITP Condition # 5.9	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
8	5.10. Delineation of Property Area. Before starting Covered Activities Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
9	5.11. 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.	ITP Condition # 5.11	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
10	5.12. Project Access. Project-related personnel shall access the Project Area using existing routes, and shall not cross Covered Species' habitat outside of or en route to the Project Area. Permittee shall restrict Project-related vehicle traffic to established roads, staging, and parking areas. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact DFG for written approval before carrying out such an activity. DFG may require an amendment to the ITP if additional take of Covered Species may result from Project modification.	ITP Condition # 5.12	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
11	5.13. 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 6.12 of the ITP.	ITP Condition # 5.13	Before commencing ground- or vegetation-disturbing activities and Entire Project	Permittee	
12	6.1. Notification Before Commencement. The Designated Representative shall notify DFG 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.	ITP Condition # 6.1	Before commencing ground- or vegetation-disturbing activities	Permittee	
13	6.3. Tipton Kangaroo Rat Relocation Plan. The Permittee shall submit a TKR relocation plan to DFG prior to initiating ground-disturbing activities in any areas occupied by TKR. Relocation activities shall not proceed until the relocation plan has been approved in writing by DFG's Regional Representative. The Plan shall include a minimum of four consecutive trap-nights and trapping shall end with two consecutive nights without capture of TKR.	ITP Condition # 6.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
14	8. A mitigation ratio of 3:1 was used for permanent impacts and 1:1:1 for temporary impacts in Valley Sink Scrub. Compensatory mitigation for permanent impacts is 1.89 x 3 = 5.67 acres plus 3.09 x 1.1 = 3.40 acres for Valley Sink Scrub habitat. Ratios were less for Ag and ruderal with 1:1:1 for permanent impacts and 0.3:1 for temporary impacts. 0.43 x 0.3 = 0.13 for Ag temporary impacts, there were no Ag permanent impacts. 0.19 x 1.1 = 0.21 and 0.64 x 0.3 = 0.19 for ruderal permanent and temporary respectively. Totals = 5.67 + 3.40 + 0.13 + 0.21 + 0.19 = 9.60 acres Compensatory habitat.	ITP Condition # 8	Before commencing ground- or vegetation-disturbing activities		

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	<p>8.1. Cost Estimates. DFG has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:</p> <p>8.1.1. Conservation Easement acquisition estimated at \$144,000.00.</p> <p>8.1.2. Start-up costs for HM lands, including enhancement estimated at \$27,123.00;</p> <p>8.1.3. Interim management estimated at \$13,245.00;</p> <p>8.1.4. Long-term management estimated at \$142,560.00.</p> <p>8.1.5. Related transaction fees estimated at \$3,000.00.</p> <p>8.1.6. Restoration of on-site temporary effects estimated at \$30,000.00.</p>	ITP Condition # 8.1	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
16	<p>9. Performance Security</p> <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>9.1. Security Amount. The Security shall be in the amount of \$359,928.00. This amount is based on the cost estimates identified in Condition of Approval 9.1 above;</p> <p>9.2. Security Form. The Security shall be in the form of a funding assurance letter signed by the District Deputy Directors of Project Management and Environmental Planning and Engineering, or another form of Security approved in advance in writing by DFG's Office of the General Counsel, or another mechanism approved in advance in writing by DFG's Office of the General Counsel.</p> <p>9.3. Security Timeline. The Security shall be provided to DFG before Covered Activities begin or within 30 days after the effective date of the ITP, whichever occurs first;</p> <p>9.4. Security Holder. The Security shall be held by DFG or in a manner approved in advance in writing by DFG.</p> <p>9.5. Security Transmittal. If DFG holds the Security, Permittee shall transmit it to DFG with a completed Mitigation Payment Transmittal Form (see Attachment 4) or by way of an approved instrument such as escrow, irrevocable letter of credit, or other.</p> <p>9.6. Security Drawing. The Security shall allow DFG to draw on the principal sum if DFG in its sole discretion determines that the Permittee has failed to comply with the Conditions of Approval of the ITP.</p> <p>9.7. Security Release. The Security (or any portion of the Security then remaining) shall be released to the Permittee after all secured requirements have been met as evidenced by:</p> <ul style="list-style-type: none"> • Timely submission of all required reports; • An on-site inspection by DFG; and • Written approval from DFG. 	ITP Condition # 9	Before commencing ground- or vegetation-disturbing activities if Mitigation can not be completed before work is scheduled to begin	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
17	<p>8.2.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to DFG pursuant to terms approved by DFG. Alternatively, DFG, in its sole discretion, may authorize a special district, non-profit organization, for-profit entity, person, or other entity to hold title to the property provided that the district, organization, entity, or person meets the requirements of Government Code section 65965, et seq., as amended. If DFG does not hold fee title to the HM lands, DFG 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 DFG does not hold the conservation easement, DFG shall be named third-party beneficiary. The Permittee shall obtain DFG approval of any conservation easement before its recordation;</p> <p>8.2.2. HM Lands Approval. Obtain DFG 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 (see Attachment 2) 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 # 8.2.1	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
18	<p>8.2.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 3A). All documents conveying the HM lands and all conditions of title are subject to the approval of DFG, and if applicable, the Wildlife Conservation Board and the Department of General Services;</p>	ITP Condition # 8.2.2	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
19	<p>8.2.4. Land Manager. Designate an interim and long-term land manager approved by DFG. The land manager may be the conservation easement grantee, landowner, or other party. Documents related to land management shall identify the land manager. Permittee shall notify DFG of any subsequent changes in the land manager within 30 days of the change. If DFG will hold fee title to the mitigation land, DFG will also act as long-term land manager unless otherwise specified.</p>	ITP Conditions # 8.2.3	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
20	<p>8.2.5. 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 DFG. Start-up activities include, at a minimum: (1) preparing a final management plan for DFG 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 Conditions # 8.2.4	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
21		ITP Conditions # 8.2.5	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
22	<p>8.2.6. 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 DFG. 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 DFG 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 DFG to pay the land manager annually in advance, or (3) establish a short-term enhancement account with DFG for annual payment to the land manager.</p>	ITP Conditions # 8.2.6	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
23	<p>8.3. Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 8.2, Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the final management plan and conservation easement approved by DFG. After obtaining DFG approval of the HM lands, Permittee shall provide long-term management funding for the in perpetuity management of the HM lands by establishing a long term management fund (Endowment Fund) prior to permit expiration. The Endowment Fund is a sum of money, held in a DFG-authorized 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 8.2.5. Endowment Fund, as used in the ITP, shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon.</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 the ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment Fund.</p>	ITP Conditions # 8.3	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
24	<p>8.3.1. Identify an Endowment Fund Manager. The Endowment Fund shall be held by the Endowment Fund Manager, which shall be either DFG or an entity qualified pursuant to Government Code section 65965, et seq., as amended, and designated in writing by DFG in its sole discretion. DFG shall designate the Endowment Fund Manager within 180 days of the effective date of the ITP. If Permittee seeks to transfer the funds for the Endowment Fund prior to DFG's designation of an Endowment Fund Manager, Permittee shall transfer the funds to an escrow account (Endowment Escrow Account) pursuant to written escrow instructions to be approved in advance in writing by DFG. All interest, dividends, and other earnings, additions, and appreciation on the Endowment Fund accrued while it is held in the Endowment Escrow Account shall be added to the Endowment Fund and transferred to the Endowment Fund Manager once designated by DFG;</p>	ITP Conditions # 8.3.1	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
25	<p>8.3.2. Calculate the Endowment Funds Deposit. After obtaining DFG approval of the HM lands, long-term management plan, and Endowment Fund Manager, Permittee shall prepare a Property Analysis Record (PAR) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). The Permittee shall submit to DFG for review and approval the results of the PAR before transferring funds to the Endowment Escrow Account or the Endowment Fund Manager.</p>	ITP Conditions # 8.3.2	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
26	8.3.2.1. Capitalization Rate and Fees. 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. If the funds for the Endowment Fund will be placed in an Endowment Escrow Account, the capitalization rate and PAR shall be calculated to take account of the reasonably anticipated rate of return for the funds while held in escrow.	ITP Conditions # 8.3.2.1	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
27	8.3.2.2. 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 Fund: 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. Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding. 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 Fund Manager and DFG.	ITP Conditions # 8.3.2.2	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
28	8.3.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Escrow Account or the Endowment Fund Manager upon DFG approval of the Endowment Deposit Amount identified above. The approved Endowment Fund Manager may pool the Endowment Fund 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 Fund.	ITP Conditions # 8.3.3	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
29	8.4. Reimburse DFG. Permittee shall reimburse DFG for all reasonable expenses incurred by DFG 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 DFG.	ITP Conditions # 8.4	Before commencing ground- or vegetation-disturbing activities or within 18 months of issuance of the ITP if Security is provided	Permittee	
DURING CONSTRUCTION					
30	5.3. Designated Biologist Authority. To ensure compliance with the Conditions of Approval of the ITP, the Designated Biologist shall have authority to immediately stop any activity that is not in compliance with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.	ITP Condition # 5.3	Entire Project	Permittee	
31	5.5. Construction Monitoring Notebook. The Designated Biologist shall maintain a construction-monitoring notebook on-site throughout the construction period which shall include a copy of the 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 DFG.	ITP Condition # 5.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
32	6.2. Notification of Non-compliance. The Designated Representative shall immediately notify DFG in writing if it determines that the Permittee is not in compliance with any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative shall report any non-compliance with the ITP to DFG within 24 hours.	ITP Condition # 6.2	Entire Project	Permittee	
33	6.4. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of the ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Representative or Designated Biologist shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP. The Designated Biologist shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading are completed.	ITP Condition # 6.4	Entire Project	Permittee	
34	6.5. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 7.4 into a Monthly Compliance Report and submit it to DFG along with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted via e-mail to DFG's Regional Representative. At the time of the ITP's approval, the DFG Regional Representative is Laura Peterson-Diaz (lpdiaz@dfg.ca.gov). DFG 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 DFG determines the reporting schedule must be changed, DFG will notify Permittee in writing of the new reporting schedule.	ITP Condition # 6.5	Entire Project	Permittee	
35	6.6. Annual Status Report. Permittee shall provide DFG with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of the ITP and continuing until DFG accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Monthly Compliance Reports for that year identified in Condition of Approval 7.5; (2) a general description of the status of the Project Area and Covered Activities, including actual or projected completion dates, if known; (3) a copy of the table in this MMRP with notes showing the current implementation status of each mitigation measure; (4) an assessment of the effectiveness of each completed or partially completed mitigation measure in avoiding, minimizing and mitigating Project impacts; (5) all available information about Project-related incidental take of the Covered Species; (6) an accounting of the number of acres subject to both temporary and permanent disturbance, both for the prior calendar year, and a total since ITP issuance; and (7) information about other Project impacts on the Covered Species.	ITP Condition # 6.6	Entire Project	Permittee	
36	6.7. CNDDDB Observations. The Designated Biologist shall submit all observations of Covered Species to DFG's California Natural Diversity Database (CNDDDB) within 60 calendar days of the next observation and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation.	ITP Condition # 6.7	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
37	5.14. Hazardous Waste. Permittee shall immediately stop and following 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 # 5.14	Entire Project	Permittee	
38	5.15. DFG Access. Permittee shall provide DFG staff with reasonable access to the Project and mitigation lands under Permittee control, and shall otherwise fully cooperate with DFG efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.	ITP Condition #5.15	Entire Project	Permittee	
39	7.1. A Designated Biologist(s) shall be on-site daily during all initial surface-disturbing activities to minimize potential impacts to the Covered Species; to check for compliance with all required measures; to check all exclusion zones; and to ensure that signs, stakes, and fencing are intact, and that human activities are restricted to outside of these protective zones. The Designated Biologist(s) shall conduct compliance inspections a minimum of once per week during periods of inactivity and after clearing, grubbing, and grading are completed. The Designated Biologist(s) shall prepare written records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by the ITP.	ITP Condition # 7.1	Entire Project	Permittee	
40	7.2. Work Hours. Permittee shall confine all construction to daylight hours (sunrise to sunset). Permittee shall ensure that all vehicle traffic necessary during nighttime hours associated with emergency response or security shall be conducted with extra caution to minimize impacts to the nocturnal Covered Species.	ITP Condition # 7.2	Entire Project	Permittee	
41	7.3. Covered Species Observations. During all phases of Project construction, operation, and maintenance, all workers shall inform the Designated Biologist(s) if a Covered Species is seen within or near the Project Site. All work in the vicinity of the Covered Species, which could injure or kill the animal, shall cease until the Covered Species is moved by the Designated Biologist(s) or it moves from the construction area of its own accord.	ITP Condition # 7.3	Entire Project	Permittee	
42	7.4. Trench Inspection. The Designated Biologist 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 Designated Biologist 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 of 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 Designated Biologist 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 Designated Biologist immediately. Project workers and the Designated Biologist shall allow the Covered Species to escape unimpeded if possible, or the Designated Biologist shall move Covered Species out of harm's way before allowing work to continue. If at any time a trapped or injured Covered Species is discovered, Permittee shall contact the United States Fish and Wildlife Service (USFWS) Ventura Office and DFG's Regional Representative within one (1) working day of the incident.	ITP Condition # 7.4	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
43	<p>7.5. Pipe Inspection. Workers shall thoroughly inspect for Covered Species in all construction pipe, culverts, or similar structures with a diameter of 7.6 centimeters (3 inches) or greater that are stored for one or more overnight periods before the pipe is subsequently moved, buried, or capped. If during inspection a Covered Species is present inside a pipe, workers shall allow the animal to safely escape that section of pipe before moving and utilizing the pipe.</p>	ITP Condition # 7.5	Entire Project	Permittee	
44	<p>7.6. 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 wait for the Covered Species to move unimpeded to a safe location.</p>	ITP Condition # 7.6	Entire Project	Permittee	
45	<p>7.7. Delineation of Ingress and Egress Routes. All access roads shall be flagged in the field from the paved road and vehicle operation shall be limited by the Permittee to these designated ingress and egress routes.</p>	ITP Condition # 7.7	Entire Project	Permittee	
46	<p>7.8. Flag Burrows. The Designated Biologist shall flag all potential small mammal burrows within 30 feet of the Project Area to alert biological and work crews to their presence. Where feasible, an avoidance buffer of 30 feet or greater around active small mammal burrows shall be maintained.</p>	ITP Condition # 7.8	Entire Project	Permittee	
47	<p>7.9. Exclusion Fencing. Prior to any surface disturbance and initiating the TKR Relocation and Monitoring Program, Permittee shall construct an exclusion fence between the project impact area (PIA) and the native habitat in the quadrants northeast (NE), southeast (SE), and southwest (SW) of the intersection to prevent movement of TKR back into the PIA once ground- or vegetation-disturbing activities commence. Permittee shall place exclusion fencing at the edge of the temporary impact area, and because the exclusion fencing cannot cross either SR 41 or Jackson Avenue, the fencing shall be extended at least 50 feet past the ends of the PIA and tapered back toward the roadway to the extent possible. The Designated Biologist shall supervise fence-line grubbing, trenching and fence construction to minimize potential impacts to Covered Species. The exclusion fencing shall be supported sufficiently to maintain its integrity under all conditions, such as wind and heavy rain, for the duration of the active construction period. TKR exclusion fencing shall be set six to eight inches into the ground to deter TKR in the adjacent areas from digging under and entering the Project Site. The exclusion fencing shall be constructed of tightly woven material that prevents entrapment of any species.</p>	ITP Condition # 7.9	Entire Project	Permittee	
48	<p>7.10. TKR Relocation. Any potential TKR burrows detected by the Designated Biologist that cannot be avoided by the 30-foot avoidance buffer shall be live trapped by the Designated Biologist prior to the initiation of Covered Activities in the occupied location. The Designated Biologist shall relocate any captured TKR to the DFG-approved release site identified in the approved TKR Relocation Plan.</p>	ITP Condition # 7.10	Entire Project	Permittee	
49	<p>7.11. Burrow Excavation. Following live trapping activities as described in Condition of Approval 7.9, the Designated Biologist shall perform or oversee the excavation by hand of any small mammal burrows present within the Project Area that cannot be avoided by the 30-foot buffer, and that have the potential to be occupied by the Covered Species. The Designated Biologist shall ensure that any Covered Species encountered in the excavated burrows is relocated in accordance with the approved TKR Relocation Plan.</p>	ITP Condition # 7.11	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
50	<p>7.12. Record of Handling. The Designated Biologist shall maintain a record of all TKR handled, and all documented observations of TKR. This information shall include for each animal; (1) the locations (Global Positioning System (GPS) coordinates and maps) and time of capture and/or observation as well as release; (2) sex; (3) approximate age (adult / juvenile); (4) weight; (5) general condition and health, noting all visible conditions including gait and behavior, diarrhea, emaciation, salivation, hair loss, ectoparasites, and injuries; and (6) ambient temperature when handled and released. The Designated Biologist shall prepare a Relocation Summary and include it in the Monthly Report described in Condition 6.5 of the ITP. The Relocation Summary in the Final Mitigation Report shall include cumulative results, analysis of data collected, and conclusions.</p>	ITP Condition # 7.12	Entire Project	Permittee	
51	<p>7.13. Covered Species Injury. If a Covered Species is injured as a result of Project-related activities, the Designated Biologist shall immediately take it to a DFG approved wildlife rehabilitation or veterinary facility. Permittee shall identify the facility before starting Covered Activities. Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee shall notify DFG of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report as described in Condition of Approval 6.9. Notification shall include the name of the facility where the animal was taken.</p>	ITP Condition # 7.13	Entire Project	Permittee	
POST-CONSTRUCTION					
52	<p>5.16. 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.</p>	ITP Condition # 5.16	Post-construction	Permittee	
53	<p>8.5. Habitat Restoration. Permittee shall restore on-site the 4.16 acres of Covered Species habitat that will be temporarily disturbed during construction to pre project or better conditions. In addition, the Permittee shall restore 0.41 acre where pavement will be removed for a total restoration area of 4.57 acres. Within six months of issuing the ITP, the Permittee shall prepare a Vegetation Restoration Plan to facilitate revegetation of the 4.57 acres to be restored on site, and shall ensure that the Plan is successfully implemented by the contractor. The Plan shall include detailed specifications for restoring all temporarily disturbed areas, such as seed mixes, application methods, watering if needed, and monitoring. The plan shall also indicate the best time of year for seeding to occur. Described below are the minimum avoidance, minimization, restoration measures and success criteria that must be included in the Vegetation Restoration Plan.</p>	ITP Condition # 8.5	Post-construction	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
54	<p>8.5.1. Habitat Restoration Plan. Within six months of issuing the ITP, the Permittee shall prepare and submit to DFG for approval a Vegetation Restoration Plan to facilitate revegetation of the 4.57 acres to be restored on-site. At a minimum, the Plan shall include the following information for the Restoration Areas: (1) an aerial map that identifies the location of the areas relative to post-project road; (2) a description of the existing physical and biological conditions of the areas prior to commencement of any restoration or enhancement activities; (3) a plan for the initial removal of nonnative plant species, trash, and debris; (4) identification of native plant seed mixes; (5) a planting plan that includes the best time of year for the seeding to occur; (6) an irrigation plan, if irrigation is needed; (7) procedures to ensure that nonnative plants are not introduced or allowed to sustain within the areas and an annual nonnative removal plan; (8) monitoring and maintenance measures and a timeline; (9) any fencing and signage needed to restrict pedestrian and vehicle access into the Restoration Area; and (10) success standards and contingency measures. Monitoring and maintenance of the Restoration Areas shall be conducted annually for a minimum of 2 years, or until DFG determines that the Restoration Areas shall be restoration/enhancement effort is successful.</p>	ITP Condition # 8.5.1	Post-construction	Permittee	
55	<p>8.5.2. Annual Progress Report for Restoration/Enhancement Areas. Permittee shall submit a report to DFG annually to document the progress of the Restoration/Enhancement Areas for a minimum of 2 years following plant installation, or until DFG determines that the restoration effort is successful. At a minimum, the reports shall include the following information for the Restoration Areas: (1) a description of the initial restoration activities conducted, including: (a) restoring habitat within temporary Project impact areas to pre-impact or better conditions, (b) removal of nonnative replanting of harvested Covered Species individual plants and broadcasting seeds, and (e) when these activities were conducted; (2) a description of the annual restoration conducted during the previous year, including: (a) nonnative plant, trash, and debris removal, (b) replacement planting, including the number by species of plants replaced or naturally recruited, (c) maintenance, repair, or replacement of the irrigation system, and (d) when the activities were conducted; (3) current site conditions, including: the percent survival, percent cover, and height of shrub species, and (b) methods used to assess these parameters; and (6) information regarding the nonnative plant prevention and removal effort, including: (a) methods used for removal, (b) the amount removed and/or treated, (c) the frequency and timing of removal and treatment, (d) disposal specifics, and (e) a summary of the general successes and failures or failure of the nonnative prevention and removal effort. The first annual report for the Restoration/Enhancement Areas is due within 13 months of completion of Project activities.</p>	ITP Condition # 8.5.2	Post-construction	Permittee	
56	<p>6.8. Final Mitigation Report. No later than 45 days after completion of all mitigation measures, Permittee shall provide DFG with a Final Mitigation Report. The Designated Biologist shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Monthly Compliance Reports and all ASRs; (2) a copy of the table in this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) beginning and ending dates of Covered Activities; (6) an assessment of the effectiveness of the 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 # 6.8	Post-construction after completion of mitigation	Permittee	

Attachment 2

PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

Applicant proposes that the following parcel of land be considered for approval by the Department as suitable for purposes of habitat management lands to replace 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) including Assessor Parcel Number(s) (APN):

General Description of the location of the parcel(s):

Land Value: \$ _____

For Regional Use Only:

APPROVED ___ By: _____ DATE: _____

REJECTED ___ _____

Region

Explanation: _____

ATTACHMENT 3
DEPARTMENT OF FISH AND GAME

HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS

The following checklist is provided to inform you of what documents are necessary to expedite Department 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 #: _____
CDFG 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.

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 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)

2. UNITED STATES FISH AND WILDLIFE SERVICE (Biological Opinion#81420-2009-F-1104-1)



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846



IN REPLY REFER TO:
81420-2009-F-1104-1

Mr. Zachary Parker
Biology Branch Chief
California Department of Transportation, District 6
2015 East Shields Avenue, Suite A-100
Fresno, California 93726

FEB 18 2010

Subject: Appendage of the Jackson Avenue Channelization/State Route 41 Project, Kings County, California (Caltrans EA 06-0J040, 06-KIN-41-PM R37.5/38.1), to the *Programmatic Biological Opinion on the Effects of Minor Transportation Projects on the San Joaquin Kit Fox, Giant Kangaroo Rat, Tipton Kangaroo Rat, Blunt-nosed Leopard Lizard, California Jewelflower, San Joaquin Woolly-threads, Bakersfield Cactus, and Recommendations for the San Joaquin Antelope Squirrel* (Service File number 1-1-01-F-0003 and amended 81420-2009-F-0974-1)

Dear Mr. Parker:

The U.S. Fish and Wildlife Service (Service) is responding to the California Department of Transportation's (Caltrans) request for formal consultation on the proposed Jackson Avenue Channelization/State Route 41 Project (project) in Kings County, California. Your letter requesting consultation, dated December 30, 2009, was received in this office on January 4, 2010. Caltrans asked that this project be considered for inclusion with the Service's December 21, 2004, *Programmatic Biological Opinion on the Effects of Minor Transportation Projects on the San Joaquin Kit Fox, Giant Kangaroo Rat, Tipton Kangaroo Rat, Blunt-nosed Leopard Lizard, California Jewelflower, San Joaquin Woolly-threads, Bakersfield Cactus, and Recommendations for the San Joaquin Antelope Squirrel* (Programmatic), as amended September 22, 2009 (81420-2009-F-0974-1). At issue are the effects of this proposed project on the federally-endangered San Joaquin kit fox (*Vulpes macrotis mutica*; SJKF) and the Tipton kangaroo rat (*Dipodomys nitratooides nitratooides*; TKR). This response was prepared in accordance with section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

The findings and recommendations in this formal consultation are based on: (1) your letter, dated December 30, 2009, requesting initiation of section 7 consultation and appendage to the Programmatic; (2) the *Abbreviated Biological Assessment proposed for use with the Upland Species Programmatic Biological Opinion*, for the *Jackson Avenue Channelization Project*,

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located on State Route 41 at Jackson Avenue Intersection, dated December 2009 (abbreviated B.A.); (3) electronic-mail (e-mail) and telephone correspondence between the Service and Caltrans; and (4) other information available to the Service.

Caltrans has determined that the project is likely to adversely affect the SJKF and the TKR. The Service concurs with these determinations.

Consultation History

August 10, 2009. Zachary Parker (Caltrans) telephoned Jen Schofield (Service) to inquire whether the project could be appended to the Programmatic. He discussed the possible presence of the Fresno kangaroo rat (*Dipodomys nitratoides exilis*; FKR) in addition to the TKR in the project area, although trapping survey reports from the Endangered Species Recovery Program (ESRP) in 1999 conducted in the intersection found only TKR. Furthermore, an independent consultant (Morrison and Smallwood from Texas A&M University) conducted surveys at Lemoore Naval Station in November 2008, and also failed to trap any FKR. Mr. Parker asked for confirmation concerning whether Caltrans should account for FKR in its request for formal consultation. Ms. Schofield discussed the matter with Susan Jones (Service), who confirmed that according to Patrick Kelly (ESRP), the kangaroo rats in the project location would be TKR, and not FKR.

January 4, 2010. The Service received a letter from Caltrans requesting initiation of consultation and appendage of the project to the Programmatic for the SJKF and TKR. An abbreviated B.A. was enclosed in the initiation package.

January 27, 2010. Ms. Schofield e-mailed Virginia Strohl (Caltrans) with several questions and clarifications regarding the abbreviated B.A.

February 3, 2010. Heather Rodriguez (Caltrans) responded to Ms. Schofield's questions via e-mail.

February 4, 2010. Ms. Schofield emailed Ms. Rodriguez with a follow-up question regarding monitoring schedules, to which Ms. Rodriguez promptly replied.

Project Description

Caltrans proposes to improve safety at the intersection of State Route (SR) 41 and Jackson Avenue by reducing the number and severity of collisions, particularly left-turn accidents, at this site. The project is located south of the City of Lemoore in a rural area of Kings County, between postmiles (PM) 37.5 and 38.1 on SR 41. Caltrans proposes to construct left-turn lanes for the northbound and southbound directions of traffic at the intersection with Jackson Avenue.

Additionally, Caltrans proposes to upgrade existing safety lighting to current standards and to build intersection traffic signs.

The proposed project schedule anticipates construction contract approval in April 2012, with construction completion by February 2016.

According to the abbreviated B.A, equipment parking/storage, project access, supplies logistics, equipment maintenance, and other project-related activities will all take place in designated areas within the project footprint, as approved by the Service-approved biologist.

Total cut and fill areas are proposed to accommodate 4:1 slopes. The majority of the fill material will be imported. The borrow site from which fill material will be obtained is currently unknown at this stage, as the contractor will be responsible for the selection and environmental compliance of the selected site prior to construction activities.

The contractor will follow best management practices (BMPs) during construction and will implement dust control measures as part of the project. All work will occur with temporary lane closure and flagging, so no detour road will be required. Additionally, no night work will occur.

Action Area

The action area for the proposed project includes portions of the two roadways on which construction will take place, the 0.6 mile (mi) segment of SR 41 intersecting the 500 foot (ft) segment of Jackson Avenue (extension of construction activity 250 ft on each side of the intersection); the 2.18 acres (ac) of Valley Sink Scrub, ruderal, and agricultural habitat permanently and temporarily affected by construction activities; as well as the Caltrans right-of-way (ROW) included in each of the four quadrants of the Jackson Avenue/SR 41 intersection. The northwest quadrant is comprised of developed agricultural land, which is adjacent to ruderal habitat situated within the ROW; the northeast, southeast, and southwest quadrants consist of Valley Sink Scrub habitat adjacent to disturbed and maintained areas along the highway and within the ROW. The quadrants are defined as the areas that lie within the cut and fill perimeter to the northwest, northeast, southwest, and southeast, respectively, of the center-point of the Jackson Avenue and SR 41 intersection. The action area additionally includes the borrow site, which has not yet been identified. The action area is located within the Lemoore United States Geological Survey 7.5 - minute quadrangle. The UTM coordinates marking the intersection of the project site are 11S 247634.34m E and 4015879.84m N, WGS 84.

Appending to the Programmatic Biological Opinion

The Service has determined that this project is consistent with the criteria of the Programmatic. This letter is an agreement by the Service to append the project to the Programmatic and represents the Service's biological opinion on the effects of the proposed action. The Federal

Highway Administration and Caltrans originally anticipated that proposed and future transportation projects appended to the Programmatic would directly affect 880 ac over a period of two calendar years, with 440 ac permanently affected and 440 ac temporarily affected. Since December 2004, six projects have been appended to the Programmatic, with the project considered herein logged as number seven.

The Service is tracking losses of habitat within the range of the pertinent species permitted under the Programmatic, and compensation for those losses, in each County under the jurisdiction of the Sacramento Fish and Wildlife Office. The Service reevaluates the effectiveness of this Programmatic annually to ensure that continued implementation will not result in unacceptable effects to the listed species or to the habitats upon which they depend.

According to the abbreviated B.A., a total of 2.18 ac of habitat will be affected during the course of this project.

Conservation Measures

Conservation measures for projects appended to the Programmatic shall be in accordance with the Programmatic unless otherwise determined by the Service. The conservation measures include the following:

1. **Avoidance and Minimization.** Caltrans shall implement the Programmatic's *Conservation Measures, Reasonable and Prudent Measures and Terms and Conditions*, as well as the avoidance and minimization measures discussed in the abbreviated B.A. and as clarified through discussions between the Service and Caltrans, in order to minimize the adverse effects of the proposed intersection construction activities on the SJKF and the TKR.
 - a. Preconstruction surveys within the project boundaries and neighboring areas shall be conducted with Act §10(a)(1)(A) permit #TE-032713-0 and educational training sessions shall be provided to all construction personnel prior to the beginning of construction.
 - b. A Service-approved biologist shall be on call to monitor construction activities and an inspector shall be onsite to ensure all construction activities are confined within the project boundaries and to ensure compliance with all conservation measures.
 - c. The staging area for construction equipment shall be located on the northwest quadrant of the intersection so that disturbances are confined to the agricultural field and not to the Valley Sink Scrub habitat.

2. **Compensation.** Caltrans shall further minimize effects to the SJKF and TKR, and offset effects to suitable habitat by purchasing land of similar or better quality. The proposed compensation ratios for adverse effects to the SJKF and TKR are as follows (these ratios apply only outside of kit fox core and satellite population areas):
- a. 3 units of replacement habitat for every 1 unit of habitat permanently lost within grasslands and natural lands (i.e., scrub and alkali sink communities) (3:1)
 - b. 1.1 units of replacement habitat for every 1 unit of habitat temporarily lost within grasslands and natural lands (1.1:1)
 - c. 1.1 units of replacement habitat for every 1 unit of habitat permanently lost within agricultural and ruderal lands (1.1:1).
 - d. 0.3 units of replacement habitat for every 1 unit of habitat temporarily lost within agricultural and ruderal lands (0.3:1)

Caltrans proposes to compensate for 2.18 ac of affected habitat (0.79 ac of permanently lost Valley Sink Scrub habitat at 3:1; 0.89 ac of permanently lost ruderal habitat at 1.1:1, and 0.50 ac of temporarily disturbed agricultural land at 0.3:1), by purchasing 4 credits at the Kern Water Bank Authority Conservation Bank (KWBA) (the total credit value in fact comes to 3.499 credits but the KWBA does not sell partial credits).

Effects of the Proposed Action

According to the California Natural Diversity Database (CNDDDB), the SJKF is documented to occur within five miles of the action area and is expected to be present within and/or adjacent to the action area. The TKR was most recently trapped in November 2008 in the ROW adjacent to the project action area by Michael Morrison, Ph.D. and K. Shawn Smallwood of Texas A&M University. The TKR was also trapped in 1999 by the ESRP at the project location. Therefore, it is reasonable to conclude that the TKR likely could be present in and/or adjacent to the action area during construction. The modification of the existing intersection at Jackson Avenue and SR 41 to include left turn lanes in both traffic-bound directions will result in permanent disturbance to and loss of 0.79 ac of Valley Sink Scrub habitat and 0.89 ac of ruderal habitat, as well as temporary disturbance to 0.5 ac of agricultural land. These areas are suitable for both species and will result in the loss of habitat for purposes of foraging and sheltering; the Valley Sink Scrub in particular, will remove potential denning/burrowing habitat for the species. Entombment and crushing while situated in dens and burrows are the most likely permanent effects to the SJKF and TKR other than direct habitat loss. However, transect surveys for small mammal burrows and SJKF dens conducted in April, August, and November of 2009 discovered no evidence of active burrows within the action area. As an additional protective measure for the species, the Programmatic includes the implementation of preconstruction surveys, to be

conducted no more than 30 days prior to the commencement of construction. Both events together support the fact that injury and/or mortality to the two species will be unlikely.

Temporary effects to agricultural land in the northwest quadrant will occur due to equipment staging and storage. Some increased disturbance through personnel presence on-site and their movement into unpaved areas could lead to the harm and harassment of species present. All temporary grading activities beyond the permanent cut and fill effect areas will be considered permanent since this area will have all vegetation removed; however, it is possible this land could still be used as foraging habitat once it is re-vegetated.

No indirect effects are expected to occur because of the project's small scale and the lack of significant change in facility from the highway's current state.

INCIDENTAL TAKE STATEMENT

Section 9 of the Endangered Species Act and Federal regulations pursuant to section 4(d) of the Act, prohibit take of endangered and threatened species, respectively, without special exemption. Take is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or attempt to engage in any such conduct. The Service defines harassment as an intentional or negligent act or omission that creates the likelihood of injury to listed species by annoying it to such an extent as to significantly disrupt normal behavior patterns which include, but are not limited to, breeding, feeding, or sheltering. The Service defines harm to include significant habitat modification or degradation that results in death or injury to listed species by significantly impairing behavioral patterns such as breeding, feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and section 7(o)(2), take that is incidental to and not intended as part of the agency action is not considered to be prohibited, provided such taking is in compliance with this Incidental Take Statement.

The measures described in the Programmatic are non-discretionary, and must be implemented by Caltrans so that they become binding conditions of project authorization for the exemption in section 7(o)(2) to apply. Caltrans has a continuing duty to regulate the activity covered by this Incidental Take Statement. If Caltrans (1) fails to adhere to the terms and conditions of the Programmatic through enforceable terms that are added to the permit or grant document, and/or (2) fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of section 7(o)(2) may lapse.

Amount or Extent of Take

The Service anticipates that incidental take of the SJKF will be difficult to detect or quantify because when they are not foraging, mating, or otherwise being active on the surface, the kit fox inhabits dens, making detection difficult; it also ranges over a large territory and is primarily active at night. Furthermore, because it is an intelligent but shy animal, it is likely to avoid

human presence. It is expected that incidental take of the TKR will be equally difficult to detect because of its small body size, thus making the discovery of a dead individual unlikely. Additionally, it spends much of its time below ground in burrows and seasonal fluctuations in population numbers can also camouflage losses. Therefore, it is difficult to quantify an exact number of SJKF and TKR individuals that are anticipated to be taken as a result of the proposed action. In instances when take calculations are problematic to accurately calculate, the Service may estimate take in numbers of individuals per acre of permanently lost or degraded habitat as a result of the project action, as these effects reflect a significant biological effect to the species. Therefore, the Service anticipates take incidental to this project as all SJKF and TKR inhabiting, using, or moving through the 2.18 ac of suitable habitat within the action area. Upon implementation of the Programmatic's *Reasonable and Prudent Measures and Terms and Conditions*, and the *Conservation Measures* considered herein, incidental take for this project within this acreage in the forms of harm and/or harassment to the SJKF and TKR from habitat loss due to intersection modifications, the addition of new turn-lanes, and the presence of heavy construction equipment and vehicles, are hereby exempt from the prohibitions described under section 9 of the Act. Note that the Programmatic does not include the injury or mortality of the SJKF as exempted from section 9 prohibitions. Up to two TKR may be wounded or killed from projects appended to the Programmatic over its term.

Effect of Take

As the effects of this project fall within the parameters established within the Programmatic, the Service has determined that this level of anticipated take is not likely to jeopardize the continued existence of the SJKR or TKR. The proposed conservation measures will minimize the effect of the take on the species.

RE-INITIATION--CONCLUSION

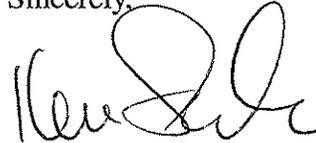
This concludes the Service's review of the Jackson Avenue Channelization/State Route 41 Project as submitted in your December 30, 2009 letter. As provided in 50 CFR § 402.16, re-initiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if (1) the amount or extent of incidental take is exceeded, (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or an extent not considered in this biological opinion, (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this biological opinion, or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

Mr. Zachary Parker

8

Please contact Jen Schofield or Susan P. Jones at the letterhead address or at (916) 414-6600 if you have any questions regarding this letter on the Jackson Avenue Channelization/State Route 41 Project. The Service wishes to thank you for your continued efforts and dedication to the conservation of America's wildlife resources.

Sincerely,



FOL Susan K. Moore
Field Supervisor

cc:

Mr. Walter C. Waidelich, Jr., Division Administrator, Federal Highway Administration,
Sacramento, California

Ms. Julie Vance, California Department of Fish and Game, Fresno, California

3. UNITED STATES FISH AND WILDLIFE SERVICE (Biological Opinion
Amendment # 81420-2009-F-0974-1)



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Sacramento Fish and Wildlife Office
2800 Cottage Way, Room W-2605
Sacramento, California 95825-1846

In Reply Refer To:
81420-2009-F-1104-R001-1

MAY 07 2012

Ms. Carrie Swanberg
Interim Branch Chief, Southern Central Region Biology
California Department of Transportation, District 6
855 M Street, Suite 200
Fresno, California 93721

Subject: Reinitiation of the Biological Opinion for the Jackson Avenue Channelization/
State Route 41 Project, Kings County, California (California Department of
Transportation EA 06-0J040, 06-KIN-41-PM R37.5/38.1), as appended to the
*Programmatic Biological Opinion on the Effects of Minor Transportation Projects
on the San Joaquin Kit Fox, Giant Kangaroo Rat, Tipton Kangaroo Rat, Blunt-
nosed Leopard Lizard, California Jewelflower, San Joaquin Woolly-threads,
Bakersfield Cactus, and Recommendations for the San Joaquin Antelope Squirrel*

Dear Ms. Swanberg:

This is the U.S. Fish and Wildlife Service's (Service) response to the California Department of Transportation's (Caltrans) request to reinitiate the biological opinion for the proposed Jackson Avenue Channelization/State Route 41 Project in Kings County, California (Service file number 81420-2009-F-1104; issued on February 18, 2010), as appended to the *Programmatic Biological Opinion on the Effects of Minor Transportation Projects on the San Joaquin Kit Fox, Giant Kangaroo Rat, Tipton Kangaroo Rat, Blunt-nosed Leopard Lizard, California Jewelflower, San Joaquin Woolly-threads, Bakersfield Cactus, and Recommendations for the San Joaquin Antelope Squirrel* (Programmatic) (Service File number 1-1-01-F-0003; amended 81420-2009-F-0974-1). Under the provisions of the July 1, 2007, Pilot Program Memorandum of Understanding between the Federal Highway Administration (FHWA) and Caltrans, FHWA assigned, and Caltrans assumed, FHWA's responsibilities under the National Environmental Policy Act as well as its responsibilities for environmental review, consultation, and coordination under other Federal environmental laws.

Your request, dated November 17, 2011, was received in this office on November 21, 2011. Under consideration is Caltrans' proposal to expand the scope of work to incorporate additional construction activities, most notably the realignment of Jackson Avenue. This will alter the project description, the action area, and will result in changes to the conservation measures, effects of the proposed action upon the federally-endangered San Joaquin kit fox (*Vulpes macrotis mutica*; referred to as the SJKF in the existing biological opinion text) and the

endangered Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*; referred to as the TKR in the existing biological opinion text), and the extent of take. This response was prepared in accordance with section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act).

In reviewing the request, the Service has relied upon: (1) the Service's February 18, 2010, appended biological opinion; (2) Caltrans' November 17, 2011, letter to the Service requesting reinitiation; and (3) other information available to the Service.

The following changes are made to the February 18, 2010, appended biological opinion. Segments of removed text are delineated by a strike-through line and new segments of text are highlighted by an underline.

Pages 2-3, first paragraph under the **Project Description**: Add the additional details of the proposed construction activities. This is now amended to read:

“Caltrans proposes to improve safety at the intersection of State Route (SR) 41 and Jackson Avenue by reducing the number and severity of collisions, particularly left-turn accidents, at this site. The project is located south of the City of Lemoore in a rural area of Kings County, between postmiles (PM) 37.5 and 38.1 on SR 41. Caltrans proposes to construct left-turn lanes for the northbound and southbound directions of traffic ~~at the intersection with Jackson Avenue.~~ Additionally, Caltrans proposes to upgrade on SR 41 with associated pavement widening to the east of the existing alignment from zero to 12 feet (ft.), and to realign Jackson Avenue to meet the Advisory Standard minimum 75 degree intersection skew angle. The design will incorporate eight ft. shoulders and variable width lanes ranging from 12 ft. to 24 ft. in and around the intersection in order to accommodate truck turning movements. The widening will extend over the entire 0.6 mile segment. The realignment of Jackson Avenue will begin approximately 1,000 ft. west of SR 41 and end approximately 1,200 ft. east of SR 41. The realignment will move Jackson Avenue a maximum of approximately 45 ft. south of the existing Jackson Avenue alignment. This maximum offset of Jackson Avenue will occur at approximately 350 ft. east of SR 41. The project also includes the construction of intersection traffic signs, the relocation of several utility poles, and the upgrading of existing safety lighting, at the northeast and southwest corners of this intersection, to current standards and to build intersection traffic signs.”

Page 3, fourth paragraph under the **Project Description**: Revise the slopes. This is now amended to read:

“Total cut and fill areas are proposed to accommodate 4:1 slopes except in a portion of the southeast quadrant in which the cut and fill areas will accommodate steeper 3:1 slopes in order to reduce the amount of habitat impacted and to avoid encroachment into the nearby wetland. The majority of the fill material will be imported. The borrow site from which fill material will be obtained is currently unknown at this stage, as the contractor will be responsible for the selection and environmental compliance of the selected site prior to construction activities.”

Page 3, under **Action Area**: Modify the extent of the action area. This is now amended to read:

“The action area for the proposed project includes portions of the two roadways on which construction will take place; the 0.6 mile (mi) segment of SR 41 intersecting the 500-foot (ft) segment of Jackson Avenue (extension of construction activity 250 ft on each side of the intersection) on which left-turn lane construction and lane widening will occur, and the approximately 0.42 mi segment of Jackson Avenue that will be realigned; the 2.18 6.24 acres (ac) of Valley Sink Scrub, ruderal, and agricultural habitat that will be permanently and temporarily affected by construction activities; the 0.41 ac of habitat that will be restored on-site following the realignment of Jackson Avenue; as well as land within the Caltrans right-of-way (ROW) included in each of the four quadrants of the Jackson Avenue/SR 41 intersection. The northwest quadrant is comprised of developed agricultural land, which is adjacent to ruderal habitat situated within the ROW; the northeast, southeast, and southwest quadrants consist of Valley Sink Scrub habitat adjacent to disturbed and maintained areas along the highway and within the ROW. The quadrants are defined as the areas that lie within the cut and fill perimeter to the northwest, northeast, southwest, and southeast, respectively, of the center-point of the Jackson Avenue and SR 41 intersection. The action area additionally includes the borrow site, which has not yet been identified. The action area is located within the Lemoore United States Geological Survey 7.5-minute quadrangle. The UTM coordinates marking the intersection of the project site are 11S 247634.34m E and 4015879.84m N, WGS 84.”

Page 4, last paragraph under **Appending to the Programmatic Biological Opinion**: Modify the acreage to reflect the increase in impacts and add the new acreage proposed for restoration efforts. This is now amended to read:

“According to the abbreviated B.A. reinitiation letter, following the redesign of the project, Caltrans determined that a total of 2.18 6.24 ac of habitat will be permanently and temporarily affected by construction activities during the course of this project. However, a portion of the paved roadway will be removed and a seed mix containing native Valley Sink Scrub species will be applied, restoring 0.41 ac of habitat.”

Page 4, #1 under **Conservation Measures**: Add two additional avoidance and minimization measures. This is now amended to read:

1. **Avoidance and Minimization.** Caltrans shall implement the Programmatic’s *Conservation Measures, Reasonable and Prudent Measures* and *Terms and Conditions*, as well as the avoidance and minimization measures discussed in the abbreviated B.A. and as clarified through discussions between the Service and Caltrans, in order to minimize the adverse effects of the proposed intersection construction activities on the SJKF and the TKR.
 - a. Preconstruction surveys within the project boundaries and neighboring areas shall be conducted with Act §10(a)(1)(A) permit #TE-032713-0 and educational

training sessions shall be provided to all construction personnel prior to the beginning of construction.

- b. A Service-approved biologist shall be on call to monitor construction activities and an inspector shall be onsite to ensure all construction activities are confined within the project boundaries and to ensure compliance with all conservation measures.
- c. The staging area for construction equipment shall be located on the northwest quadrant of the intersection so that disturbances are confined to the agricultural field and not to the Valley Sink Scrub habitat.
- d. Environmentally sensitive area (ESA) fencing shall be installed along the edge of the construction impact area to avoid unplanned, accidental, or construction-related impacts to the wetland, which is located in the southeast quadrant of the project site. Erosion control measures shall also be implemented on bare-ground.
- e. A 0.41 ac portion of the paved roadway will be removed; soil at this location will be de-compacted, and a seed mix containing native Valley Sink Scrub species will be applied, creating an additional 0.41 ac of restored habitat for the SJKF and TKR. The same native seed mix will be applied to all other areas of temporary disturbance. Once the native seed mix has been applied, Caltrans will monitor the re-seeded areas for a total of three consecutive years, once annually, to ensure that the restored areas do not develop a higher ratio of invasive species than is currently found within these areas.”

Page 5, last paragraph under #2 of the **Conservation Measures**: Revise the acreages of affected habitat and the total compensation credit amount. This is now amended to read:

- 2. **“Compensation.** Caltrans shall further minimize effects to the SJKF and TKR, and offset effects to suitable habitat by purchasing land of similar or better quality. The proposed compensation ratios for adverse effects to the SJKF and TKR are as follows (these ratios apply only outside of kit fox core and satellite population areas):
 - a. 3 units of replacement habitat for every 1 unit of habitat permanently lost within grasslands and natural lands (i.e., scrub and alkali sink communities) (3:1).
 - b. 1.1 units of replacement habitat for every 1 unit of habitat temporarily lost within grasslands and natural lands (1.1:1).
 - c. 1.1 units of replacement habitat for every 1 unit of habitat permanently lost within agricultural and ruderal lands (1.1:1).

- d. 0.3 units of replacement habitat for every 1 unit of habitat temporarily lost within agricultural and ruderal lands (0.3:1).

Caltrans proposes to compensate for ~~2.18~~ 6.24 ac of affected habitat (~~0.79~~ 1.89 ac of permanently lost Valley Sink Scrub habitat at 3:1; 3.09 ac of temporarily disturbed Valley Sink Scrub habitat at 1.1:1; ~~0.89~~ 0.19 ac of permanently lost ruderal habitat at 1.1:1; 0.64 ac of temporarily disturbed ruderal habitat at 0.3:1; and ~~0.50~~ 0.43 ac of temporarily disturbed agricultural land at 0.3:1), by purchasing ~~4~~ 10 credits at the Kern Water Bank Authority Conservation Bank (KWBA) (the total ~~credit value in fact comes to 3.499~~ proposed compensation is 9.60 credits but the KWBA does not sell partial credits)."

Pages 5-6, first paragraph under **Effects of the Proposed Action:** Revise the specific acreages that will be permanently and temporarily affected by the realignment and left-turn lane work; include the newly proposed acreage for restoration; and modify the last sentence referencing the likelihood of injury to and/or mortality of the species discussed herein. This is now amended to read:

"According to the California Natural Diversity Database (CNDDDB), the SJKF is documented to occur within five miles of the action area and is expected to be present within and/or adjacent to the action area. The TKR was most recently trapped in November 2008 in the ROW adjacent to the project action area by Michael Morrison, Ph.D. and K. Shawn Smallwood of Texas A&M University. The TKR was also trapped in 1999 by the ESRP at the project location. Therefore, it is reasonable to conclude that the TKR likely could be present in and/or adjacent to the action area during construction. The modification of the existing intersection at Jackson Avenue and SR 41 ~~to include, which will include the realignment of Jackson Avenue and the addition of left turn lanes in both traffic-bound directions will result in the permanent disturbance to and loss of~~ 0.79 1.89 ac of Valley Sink Scrub habitat and ~~0.89~~ 0.19 ac of ruderal habitat, as well as temporary disturbance to 3.09 ac of Valley Sink Scrub habitat, 0.64 ac of ruderal habitat, and ~~0.5~~ 0.43 ac of agricultural land. These areas are suitable for both species and will result in the loss of and disturbance to foraging and sheltering habitat for purposes of foraging and sheltering; the loss of Valley Sink Scrub in particular, will remove potential denning/burrowing habitat for the species. A 0.41 ac portion of the paved roadway will be removed and a seed mix containing native Valley Sink Scrub species will be applied, creating 0.41 ac of restored habitat for the SJKF and TKR. Entombment and crushing while situated in dens and burrows are the most likely permanent effects to the SJKF and TKR other than direct habitat loss. However, transect surveys for small mammal burrows and SJKF dens conducted in April, August, and November of 2009 discovered no evidence of active burrows within the action area. As an additional protective measure for the species, the Programmatic includes the implementation of preconstruction surveys, to be conducted no more than 30 days prior to the commencement of construction. ~~Both events together support the fact that injury and/or mortality to the two species will be unlikely. Given these events, it is unlikely that the SJKF will be injured or killed, particularly since there are no documented dens within the action area; however, since TKR individuals were trapped in 2008 in the ROW adjacent to the action area, it is likely that the TKR could be present and become injured or killed.~~"

Page 6, first complete paragraph under **Effects of the Proposed Action**: Remove the final sentence of the paragraph; the graded areas will be affected only temporarily since they will be re-vegetated. This is now amended to read:

~~“Temporary effects to agricultural land in the northwest quadrant will occur due to equipment staging and storage. Some increased disturbance through personnel presence on-site and their movement into unpaved areas could lead to the harm and harassment of species present. All temporary grading activities beyond the permanent cut and fill effect areas will be considered permanent since this area will have all vegetation removed; however, it is possible this land could still be used as foraging habitat once it is re-vegetated.”~~

Pages 6-7, under **Amount or Extent of Take**: Clarify how take estimates are made; modify the amount of take; and include additional effects to the species that will be exempted from section 9 prohibitions. This is now amended to read:

~~“The Service anticipates that incidental take of the SJKF will be difficult infeasible to detect or quantify because when they are not foraging, mating, or otherwise being active on the surface, the kit fox inhabits dens, making detection difficult; it also ranges over a large territory and is primarily active at night. Furthermore, because it is an intelligent but shy animal, it is likely to avoid human presence. It is expected that incidental take of the TKR will be equally difficult infeasible to detect because of its small body size, thus making the discovery of a dead individual unlikely. Additionally, it spends much of its time below ground in burrows and seasonal fluctuations in population numbers can also camouflage losses. Therefore, it is difficult infeasible to quantify an exact number of SJKF and TKR individuals that are anticipated to be taken as a result of the proposed action. In instances when take calculations are problematic to cannot be accurately calculated, the Service may estimate take in numbers of individuals per acre acres of permanently lost or degraded habitat; since take is expected to result from these impacts to habitat, the quantification of acreage becomes a direct surrogate for the species that will be taken as a result of the project action, as these effects reflect a significant biological effect to the species. Therefore, the Service anticipates take incidental to this project as all SJKF and TKR inhabiting, using, or moving through the ~~2.18~~ 6.24 ac of suitable habitat within the action area. Upon implementation of the Programmatic’s *Reasonable and Prudent Measures* and *Terms and Conditions*, and the *Conservation Measures* considered herein, incidental take for this project within this acreage in the forms of harm and/or harassment to the SJKF and TKR from habitat loss due to intersection modifications, the addition of new turn-lanes, and a roadway realignment, as well as in the forms of injury to or mortality of the TKR resulting from entombment or crushing by and the presence of heavy construction equipment and vehicles, are hereby exempt from the prohibitions described under section 9 of the Act. Note that the Programmatic does not include the injury or mortality of the SJKF as exempted from section 9 prohibitions; however, Up to two TKR may be wounded or killed injuries or mortalities are exempted from section 9 prohibitions ~~from~~ for those projects appended to the Programmatic over its term.”~~

The remainder of the February 18, 2010, appended biological opinion is unchanged. This concludes the reinitiation of formal consultation for the Jackson Avenue Channelization/SR 41

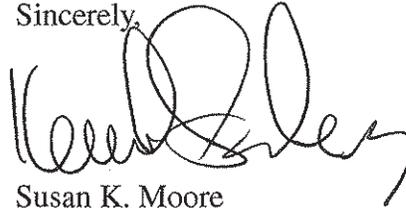
Ms. Carrie Swanberg

7

Project. As provided in 50 CFR § 402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been maintained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action.

Please contact Jen Schofield, Fish and Wildlife Biologist, or Thomas Leeman, San Joaquin Valley Division Chief, at the letterhead address or at (916) 414-6600 if you have any questions regarding this letter.

Sincerely,



for Susan K. Moore
Field Supervisor

cc:

Ms. Annee Ferranti, California Department of Fish and Game, Fresno, California

4. County of Kings-Department of Public Works
Encroachment Permit Application

COUNTY OF KINGS - DEPARTMENT OF PUBLIC WORKS
ENCROACHMENT PERMIT APPLICATION
(06/24/02)

Permit No _____

Permission is requested to encroach on the County Highway Right of Way as follows: (Complete all items: NA if not applicable)
 Application is not complete until all required attachments are included.

Location: Road Address	City
Cross Street (distance and direction from site)	

Work to be Performed By (See below for Workmen's Comp. Insurance requirements)	Est. Starting Date
<input type="checkbox"/> Own Forces <input type="checkbox"/> Contractor Lic. No. _____ Exp. Date: _____ Phone: _____	Est. Completion Date

Traffic Closure <input type="checkbox"/> Road <input type="checkbox"/> Lane <input type="checkbox"/> N/A	City Hookup Fees Receipt <input type="checkbox"/> Attached <input type="checkbox"/> N/A	Proposed Pavement Restoration <input type="checkbox"/> Attached <input type="checkbox"/> N/A
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EXCAVATION	Max. Depth	Ave. Depth	Ave. Width	Length	Ex. Surface Type	USA Verification Number
PIPES	Type		Diameter		Voltage/PSIG:	Usage (Gas/Water/etc):

FULLY DESCRIBE WORK WITHIN COUNTY RIGHT OF WAY:
 Attach complete plans (2 sets folded 8 1/2 x 11), specca, calce, mapa, etc. If applicable

IS ANY WORK BEING DONE ON APPLICANT'S PROPERTY? (If "Yes" briefly describe and attach site and grading plans.)
 Applicant's Property (Yes) Applicant's Property (No)

Check the category(s) below which describes the project:

<input type="checkbox"/> (E) ELECTRIC	<input type="checkbox"/> (CTV) CABLE TV	<input type="checkbox"/> (RA) MAINT, CONST, RECONST, RESURFACING OF A DRIVEWAY OR ROAD APPROACH	<input type="checkbox"/> (O) SURVEY
<input type="checkbox"/> (G) GAS	<input type="checkbox"/> (I) IRRIGATION PIPE	<input type="checkbox"/> (RA) REGULATORY, WARNING, INFORMATION SIGNS	<input type="checkbox"/> (O) PARADES, CELEBRATIONS
<input type="checkbox"/> (T) TELEPHONE	ROAD APPURTENANCE: <input type="checkbox"/> (RA) SIDEWALK/GUTTERS	<input type="checkbox"/> (RA) MODIFICATION OF TRAFFIC CONTROL SYSTEMS	<input type="checkbox"/> (O) BLOCK PARTY
<input type="checkbox"/> (W) WATER	<input type="checkbox"/> (RA) TRANSITION PAVING		<input type="checkbox"/> (O) MOVIE, TV FILMING
<input type="checkbox"/> (SS) SANITARY SEWER	<input type="checkbox"/> (RA) MAIL BOX		<input type="checkbox"/> (O) EROSION CONTROL
<input type="checkbox"/> (SD) STORM DRAIN	<input type="checkbox"/> (RA) MAINT EX LANDSCAPING		<input type="checkbox"/> (O) GEOPHYSICAL /MBROSEIS
			<input type="checkbox"/> (U) UNDESIREABLE

THE UNDERSIGNED AGREES THAT THE WORK WILL BE DONE IN ACCORDANCE WITH COUNTY RULES AND REGULATIONS AND SUBJECT TO INSPECTION AND APPROVAL

Organization or Applicant	Phone	Architect, Engineer, or Project Manager	Phone
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Address (Include city and zip code)

Authorized Signature	Date	Title
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WORKERS COMPENSATION DECLARATION

I hereby affirm under penalty of perjury one of the following declaration.

_____ I have and will maintain a certificate of consent to self-insure for worker's compensation, as provided for by Section 37000 of the Labor Code, or the performance of the work for which this permit is issued.

_____ I have and will maintain workers' compensation insurance, as required by Section 3700 of the Labor Code, for the performance of the work for which this permit is issued. My workers' compensation insurance carrier and policy number are:

Carrier _____ Policy Number _____

_____ I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the workers' compensation laws of California, and agree that if I should become subject to the workers' compensation provision of Section 3700 of the Labor Code, I shall forthwith comply with those provisions.

Date: _____ Applicant: _____

WARNING: FAILURE TO SECURE WORKERS' COMPENSATION COVERAGE IS UNLAWFUL, AND SHALL SUBJECT AN EMPLOYER TO CRIMINAL PENALTIES AND CIVIL FINES UP TO ONE HUNDRED THOUSAND DOLLARS (\$100,000), IN ADDITION TO THE COST OF COMPENSATIONS, DAMAGES AS PROVIDED FOR IN SECTION 3706 OF THE LABOR CODE, INTEREST, AND ATTORNEYS FEES.