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**FINAL ENVIRONMENTAL ASSESSMENT (EA/IS-09-080)**

*BUENA VISTA WASTER STORAGE DISTRICT*

*BV8 STATE WATER PROJECT TURNOUT*

**Appendix E**

**State Historic Preservation Officer Concurrence Letter**

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December 2011

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**FINAL ENVIRONMENTAL ASSESSMENT (EA/IS-09-080)**

*BUENA VISTA WASTER STORAGE DISTRICT*

*BV8 STATE WATER PROJECT TURNOUT*

**Appendix F**

**Environmental Determinations (Cultural, ITA, ESA)**

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December 2011

## Healer, Rain L

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**From:** Lewis, Jennifer  
**Sent:** Thursday, December 29, 2011 9:50 AM  
**To:** Healer, Rain L  
**Subject:** BV8 State Water Project Turnout - ESA Determination

Greetings, Rain,

I had a chance to review EA-09-080 for potential impacts to biological resources and consult with Fish and Wildlife Service. In their biological opinion, the project is not likely to jeopardize the continued existence of the San Joaquin kit fox, Tipton kangaroo rat and Blunt-nosed leopard lizard.

Best Regards,

*Jennifer L. Lewis*

Jennifer L. Lewis  
Wildlife Biologist  
Bureau of Reclamation  
South-Central California Area Office  
work: 559-487-5197  
1243 "N" Street  
Fresno, CA 93721-1831

## Healer, Rain L

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**From:** Barnes, Amy J  
**Sent:** Monday, June 14, 2010 8:39 AM  
**To:** Healer, Rain L  
**Cc:** MPR Cultural Resources Section  
**Subject:** BVWSD Outlet Canal Reoperation Project (10-SCAO-013)  
**Attachments:** 10-SCAO-013 BVWD Canal SHPO reply 06-01-10.pdf

Tracking #10-SCAO-013

Project: Buena Vista Water Storage District Outlet Canal Reoperation Project

Location: Kern County; East Elk Hills 7.5' USGS topographic quadrangle maps.  
sec. 9 and 16, T. 30 S., R. 24 E., Mount Diablo Meridian

The activities associated with Reclamation awarding a Water for America Challenge Grant to the Buena Vista Water Storage District (BVWSD) for their Outlet Canal Reoperation Project will result in no adverse effects to historic properties. BVWSD proposes to construct a 1,510-foot-long pipeline that will provide direct delivery from the Aqueduct to the Westside Canal, bypassing the existing turnouts and reducing water loss in the earthen Outlet Canal. Pipeline construction will involve installing a 78-inch-diameter underground reinforced concrete pipe; constructing a new reinforced concrete turnout on the Aqueduct; constructing a new outlet structure in the Westside Canal; constructing a 10 foot by 12 foot concrete electrical building within 100 to 200 feet of the eastern side of the Aqueduct inlet structure; installing a 9-foot-tall, 36-inch-diameter concrete standpipe between the electrical building and the Aqueduct turnout structure. The trench for the pipeline will range from 13 feet deep up to 22 feet deep with a bottom width of about 10 feet and a top width measuring about 30 feet. The pipeline will include a 78-inch magnetic flow meter within a concrete vault and a pitot tube near the Aqueduct, and a 66-inch butterfly valve near the Westside Canal. The new Aqueduct turnout will be approximately 20 feet tall, 19 feet wide, and 54 feet long. The turnout will include a 78-inch cast iron sluice gate with automatic actuator, trash racks, and galvanized steel handrails measuring approximately 4 feet tall by 12 feet wide. The discharge bay of the new Westside Canal outlet structure will be approximately 17 feet wide, 25 feet long, and 14 feet tall. The discharge area around the outlet structure will be reinforced with about 167 cubic yards of 12-inch-thick rock rip-rap above a 6-inch-deep gravel bed to reduce erosion. The outlet structure will also have 5-foot-tall by 18-foot-wide galvanized steel handrails. A temporary cofferdam will be installed to facilitate work within the Aqueduct and Westside Canal.

Construction equipment would include 120- to 135-horsepower excavators, concrete breakers, compaction wheels, cranes, loader backhoes, graders, dump trucks, dewatering pumps, and shoring and bracing equipment. Existing paved and gravel roads, primarily Stockdale Highway, Dairy Road, Adohr Road, Tupman Road, and existing farm and canal roads, will be used to access the project area. No improvements will be made to the access roads. Staging will occur on the existing Westside Canal and Aqueduct service roads and along the new pipeline alignment on either side of the river channel. Excavated materials will be used to backfill the trench if they meet engineering and construction standards. Additional fill material will be obtained from a commercial source, if necessary. Excess fill material will be removed from the project site. Once installation of the pipeline is complete, the Westside Canal, Aqueduct, and river channel will be returned to their original condition and grade.

BVWSD contracted Three Girls and A Shovel, LLC to conduct a cultural resources survey of four alternative routes, Alternative 4 being chosen for the pipeline (the APE). The only cultural resources located within the APE are a 100-foot-long portion of the Westside Canal and a 100-foot-long portion of the California Aqueduct. Reclamation consulted with SHPO regarding this undertaking and a finding of no adverse effects to historic properties pursuant to 36 CFR Part 800.5(b) on May 20, 2010. SHPO concurred with Reclamations' determination and findings on June 1, 2010.

As the proposed action will not affect historic properties, and SHPO has concurred, Reclamations' responsibilities under Section 106 of the National Historic Preservation Act are fulfilled.

Thank you for the opportunity to review the proposed action. Please place a copy of this concurrence and attached correspondence with the EA administrative record.

Amy J. Barnes  
Archaeologist  
U.S. Bureau of Reclamation  
Mid-Pacific Region, MP-153  
2800 Cottage Way  
Sacramento, CA 95825  
916-978-5047  
[abarnes@usbr.gov](mailto:abarnes@usbr.gov)

## Healer, Rain L

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**From:** Rivera, Patricia L  
**Sent:** Thursday, October 08, 2009 1:53 PM  
**To:** Healer, Rain L  
**Subject:** RE: CEC-09-80 Buena Vista WSD Outlet Canal Reoperation Project

Rain,

I reviewed the proposed action to award a Water for America Challenge Grant to Buena Vista Water Storage District for their Outlet Canal Reoperation Project. The project would require work between the California Aqueduct and the Westside Canal including:

- Construction of a 1,510-foot long 78-inch diameter underground reinforced concrete pipeline (RCP) between the Aqueduct and Westside Canal (Figures 3 and 4). The pipeline would include: a 78-inch magnetic flow meter (Alt. 1) or Venturi tube (Alt 2) within a reinforced concrete vault near the Aqueduct, a pitot tube near the Aqueduct, and a 66-inch butterfly valve near the Westside Canal.

Construction of a new reinforced concrete turnout on the Aqueduct. The new turnout would be approximately 20-foot tall, 19-foot wide, and 54-foot long. The turnout would include a 78-inch cast iron sluice gate with automatic actuator, trash racks, and approximately four-foot tall by 12-foot wide galvanized steel handrails. Work within the Aqueduct would require the placement of a cofferdam to restrict flow. The cofferdam would be left in place for three months reducing maximum flow by approximately 50 percent over the three month time period.

- Construction of a new outlet structure in the Westside Canal. The discharge bay of the outlet structure would be approximately 17-foot wide, 25-foot long, and 14-foot tall. The discharged area around the outlet structure would be reinforced with approximately 167 cubic yards of 12-inch thick rock rip-rap above a six inch gravel bed to reduce erosion. The outlet structure would also have five-foot tall by 18-foot wide galvanized steel handrails
- Construction of a 10-foot by 12-foot concrete electrical building on the eastern side of the RCP within 100-200 feet of the Aqueduct inlet structure.
- Installation of a 36-inch diameter concrete standpipe adjacent to the electrical building within 50-75 feet of the Aqueduct inlet structure. Standpipe would be approximately nine feet tall above ground.

RCP excavation would be 13-feet deep on average, 10-foot wide at the bottom and up to 30-foot wide at the top. There would be a 2:1 slope where there is no shoring or bracing in the excavations. In the right-of-way (ROW) of the Aqueduct, excavation would be approximately 22-feet deep. In the ROW of the Westside Canal, excavation would be approximately 18-feet deep. Temporary trenching would occur across the Kern River flood channel. Once installation of the RCP is complete, the river channel would be returned to its original condition and grade.

Ground disturbance for the whole project would be approximately three acres (9,000 cubic yards). Removed material would be used to backfill excavations if they fulfill engineering and construction standards. If necessary, additional fill that meets engineering and construction standards would be brought in to the project site to fill in excavations. Any excavated materials not used would be removed from the project site.

Construction equipment would include: 120-135 horsepower excavators, concrete breakers, compaction wheels, cranes, loader backhoes, graders, dump trucks, dewatering pumps (possibly), and shoring and bracing equipment. Construction would take approximately eight months to complete.

Prior to construction within the Kern River Flood Channel, BVWSD would submit all appropriate applications for working within a waterway including:

- California Department of Fish and Game Streambed Alteration Agreement
- California Department of Water Resources
- U.S. Army Corps of Engineers Section 404
- California Regional Water Quality Control Board Section 401

The proposed action does not affect Indian Trust Assets. The nearest ITA is Tule River Reservation approximately 55 miles NE of the project location.

Patricia

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*BUENA VISTA WASTER STORAGE DISTRICT*

*BV8 STATE WATER PROJECT TURNOUT*

**Appendix G**

**U.S. Fish and Wildlife Service Biological Opinion**

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December 2011





## 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




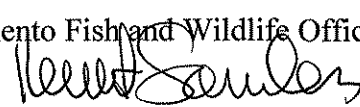
In Reply Refer To:

08ESMF00-2011-F-0040

DEC 23 2011

#### Memorandum

To: David Hyatt, Supervisory Wildlife Biologist, Bureau of Reclamation,  
South-Central California Area, Fresno, California

From:  Field Supervisor, Sacramento Fish and Wildlife Office,  
Sacramento, California 

Subject: Formal Consultation on the Buena Vista Water Storage District BV8 State Water  
Project Turnout, Kern County, California

This document transmits the U.S. Fish and Wildlife Service's (Service) biological opinion based on your August 31, 2010, memorandum requesting formal consultation on the U.S. Bureau of Reclamation's (BOR) proposed action of granting a Water for America Challenge Grant to Buena Vista Water Storage District (District) for their California Aqueduct Turnout #8 (BV8) State Water Canal Project, which includes the construction of a new water turnout on the California Aqueduct (Aqueduct) and construction of about 1,500 feet of underground pipeline connecting the Aqueduct to the West Side Canal in Kern County, California (project). This biological opinion evaluates the proposed project's effects on the endangered San Joaquin kit fox (*Vulpes macrotis mutica*), blunt-nosed leopard lizard (*Gambelia sila*), and Tipton kangaroo rat (*Dipodomys nitratoide nitratoide*) pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). After review, it was determined that your memorandum did not contain all the information necessary to initiate formal consultation. We received complete information to initiate consultation for the proposed project with your memorandum dated January 13, 2011.

The Service concurs with BOR's assessment that the proposed project may adversely affect the San Joaquin kit fox, blunt-nosed leopard lizard, and Tipton kangaroo rat.

This biological opinion is based on: (1) *Biological Assessment for the Buena Vista Water Storage District Water Project Turnout, Kern County, California*, prepared by BOR in August 2010 (biological assessment); (2) The BOR January 11, 2011 response memorandum received in our office January 13, 2011; (3) electronic mail (email) and telephone conversations between BOR and the Service; (4) the draft environmental assessment and draft Finding of No Significant Impact for the Buena Vista Water Storage District BV8 State Water Project Turnout dated August 2010; (5) the California Department of Fish and Game (CDFG) Incidental Take Permit No. 2081-2011-56-04 dated October 12, 2011; (6) and other information available to the Service. A complete administrative record of this consultation is on file in the Sacramento Fish and Wildlife

Office. Please refer to file number 08ESMF00-2011-F-0040 when requesting information concerning this consultation.

### **Consultation History**

October 23, 2009	The Service received an e-mail from BOR regarding the award of a <i>Water for America Challenge Grant</i> to Buena Vista Water Storage District for their Canal Reoperation Project and potential for the need to consult pursuant to the Act.
March 19, 2010	The Service provided a species list for the Buena Vista Water Storage District BV8 State Water Project Turnout, Kern County, California. Service Document No. 100319100618.
August 20, 2010	The Service provided an updated species list for the Buena Vista Water Storage District BV8 State Water Project Turnout, Kern County, California. Service Document No. 100820034619.
August 23, 2010	The Service received an e-mail from BOR providing a link to a press release and the draft Environmental Assessment for the Buena Vista Water Storage District BV8 State Water Project Turnout.
August 31, 2010	The BOR provided to the Service a memorandum with an attached Biological Assessment dated August 2010, requesting concurrence and formal consultation pursuant to the Act.
October 21, 2010	The Service supplied comments and questions via e-mail to BOR regarding the Buena Vista Water Storage District BV8 State Water Project.
January 11, 2011	The Service received from BOR a memorandum providing responses to questions and comments identified by Service's October 21, 2010, e-mail.
March 10, 2011	The Service received a letter from the U.S. Army Corps of Engineers, Sacramento District, that the Corps had designated BOR as the lead Federal agency for purposes of section 7 consultation under the Act for the Buena Vista Water Storage District BV8 State Water Project.
June 13, 2011	In a telephone conversation with Mark Littlefield, Jennifer Lewis at BOR confirmed their determination for blunt-nosed leopard lizard is "may affect, likely to adversely affect."
October 12, 2011	The Service received a copy of an Incidental Take Permit (No. 2081-2011-056-04), issued by California Department of Fish and Game.

December 1, 2011

The Service received a copy of a 2011 report titled Blunt-nosed Leopard Lizard Protocol Survey, San Joaquin Antelope Squirrel, and Burrowing Owl Report of Findings for the Buena Vista Water Storage District California Aqueduct Turnout Project

## **BIOLOGICAL OPINION**

### **Description of the Proposed Action**

#### *Project Location*

The proposed project is located about 18 miles west of the City of Bakersfield between the California Aqueduct and the West Side Canal near the town of Buttonwillow, Kern County (See Figures 1 and 2). The project is located at about 350 19' 41.40" latitude, 1190 24' 36.05" longitude. The project site is in Section 9, Township 30 South, and Range 24 East, Mount Diablo Meridian.

The proposed project includes the construction and operation of a new water turnout on the east bank of the Department of Water Resources' California Aqueduct to deliver water into the District's West Side Canal via a new underground pipeline and outlet structure. The turnout will be about 20 feet tall, 19 feet wide, and 54 feet long; constructed of reinforced concrete; and will include a 78-inch by 78-inch cast iron sluice gate with automatic actuator, trash racks, and galvanized steel handrails.

Water will be transported from the California Aqueduct to the West Side Canal through the construction of a belowground reinforced concrete pipe (RCP) of about 1,510 feet in length and 78-inches in diameter. Installation of the pipe will run underground across the Kern River flood channel and will require construction of a trench about 30 feet wide by 13 feet deep within a temporary 100-foot wide easement for the length of the pipeline. The RCP will include a pitot tube with a flow meter within a reinforced concrete vault near the California Aqueduct and a 66-inch butterfly valve near the West Side Canal.

An outlet structure will be constructed in the West Side Canal, upstream of the Arizona Canal. The discharge bay of the outlet structure is about 14 feet tall, 17 feet wide, and 25 feet long. To reduce erosion, the discharge area around the outlet structure will be reinforced with about 167 cubic yards of 12-inch thick rock rip-rap above a 6-inch gravel bed. The outlet structure will have galvanized steel handrails. Finally, a 10 foot by 12 foot electrical building will be constructed about 200 feet from the California Aqueduct inlet structure. The building will include a 0.18 acre elevated graded pad for access from the existing Aqueduct road.

RCP excavation would be 10 feet deep on average, 10 feet wide at the bottom and up to 30 feet wide at the top, with a four-foot minimum cover above the pipeline once installed. There would be a 1:1 slope where there is no shoring or bracing in the excavations. In the right-of-way of the Aqueduct, excavation would be about 22 feet deep. Within the right-of way on the West Side Canal, excavation would be about 18 feet deep. Temporary trenching would occur across the Kern River Flood Channel. Once installation of the RCP is complete, the river channel would be

returned as closely as possible to its original condition and grade. Temporary ground disturbance for the whole project would be about 3 acres (9,000 cubic yards), with a permanent footprint of about 0.3 acres.

#### *General Operation Activities*

The proposed project's facilities may be operated at any time as deemed necessary by the District and pursuant to the District's contracted State Water Project's water agreements; however, the proposed facilities are expected to operate primarily during the District's water year, which extends from late May through mid-August. During operational days, the District plans to send personnel to the site twice daily to adjust the valves and read the meter. The District would manage resultant conserved water supplies through programs with in-district, out-of-district, or a combination of in-district and out-of-district entities.

#### *Proposed Avoidance, Minimization and Conservation Measures*

At least thirty (30) calendar days prior to ground breaking, the District shall (a) purchase five acres of compensation land, place a Service approved conservation easement on that land, and arrange for Service approved management and endowment, or (b) purchase and endow five acres of compensation land with a Service approved conservation bank.

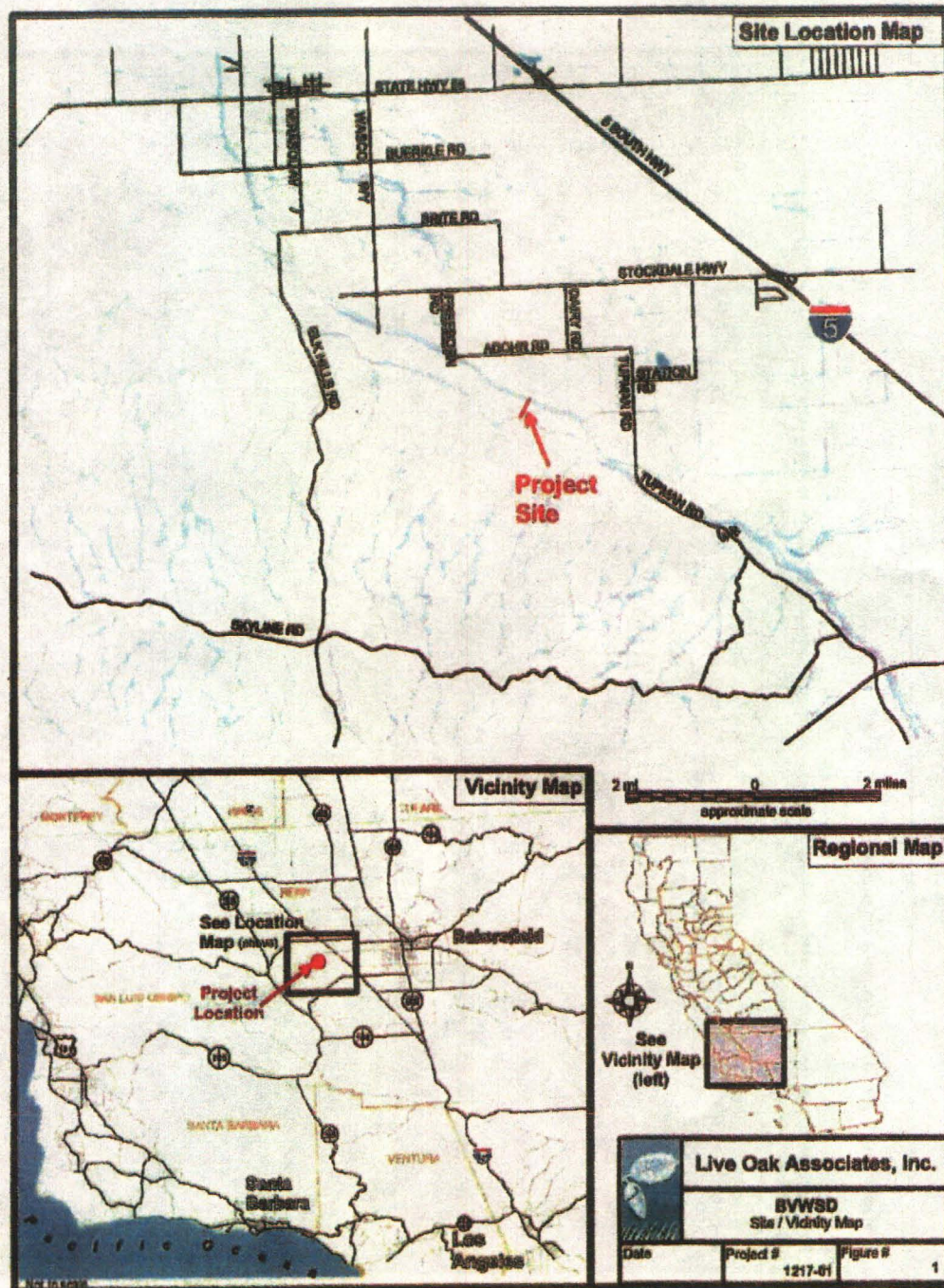
Biological monitor(s) shall be present during all ground disturbing activities. In addition to conducting pre-activity surveys for the project, the biological monitors shall aid crews in satisfying take avoidance criteria and implementing project Avoidance and Minimization measures, documenting all pertinent information concerning project effects on sensitive species, and shall assist in minimizing adverse effects of project activities on sensitive species.

Preconstruction surveys and implementation of avoidance and minimization measures for San Joaquin kit fox: The 1999 U.S. Fish and Wildlife Service *Standard Recommendations for Protection of the San Joaquin Kit Fox to or During Ground Disturbance* (USFWS 1999) will be utilized. Preconstruction protocol level surveys for San Joaquin kit fox shall be completed no fewer than 14 days and no more than 30 days prior to the onset of any ground-disturbing activity. Standard San Joaquin kit fox avoidance measures must be implemented during the proposed work.

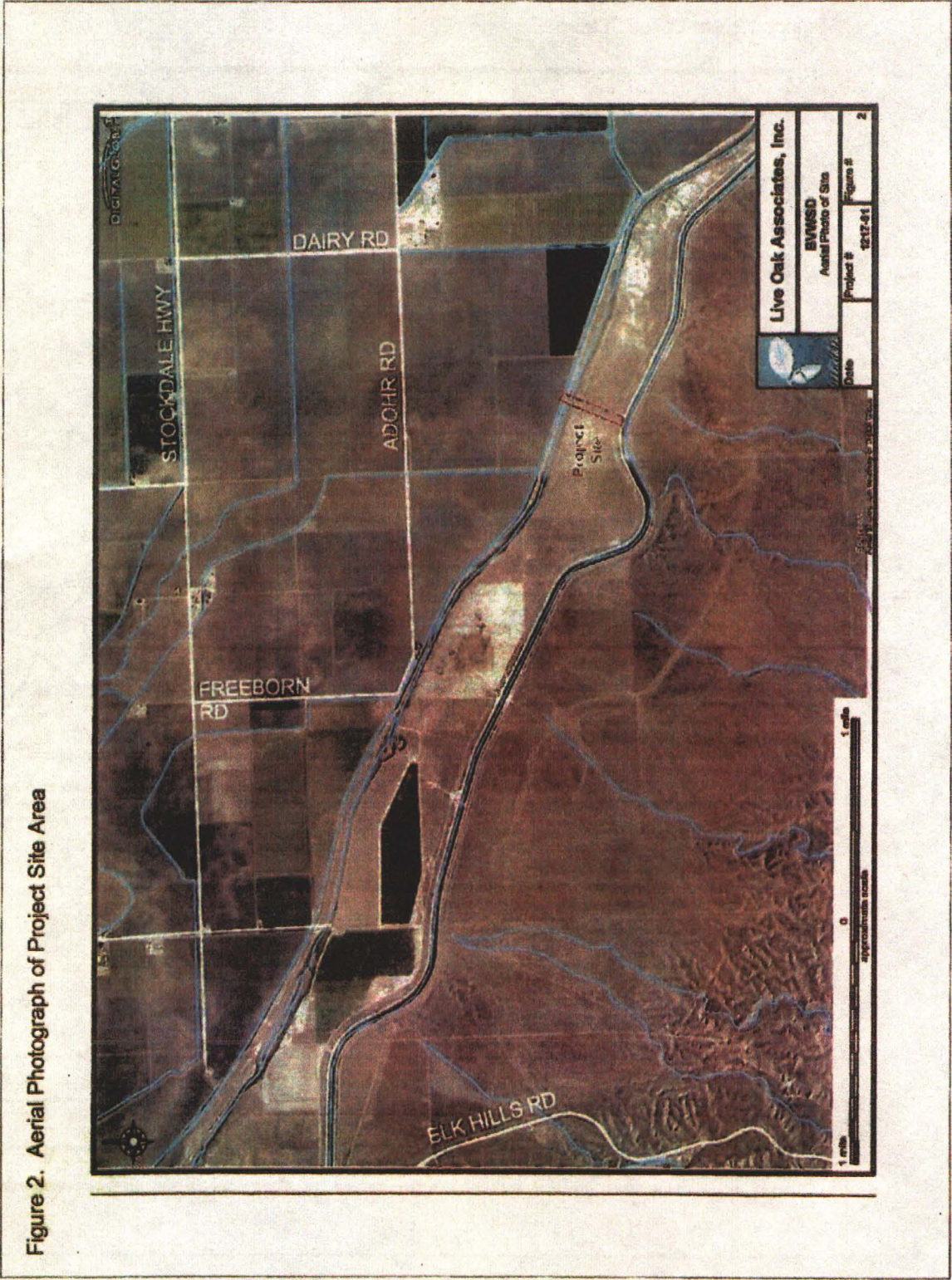
Preconstruction surveys will be completed for kangaroo rats (all species) to identify small mammal burrows. In addition, all small mammal burrows within the proposed construction zone will be identified during this pre-activity survey and flagged with pin flags and their location recorded using a Global Positioning System (GPS). The GPS coordinates will be provided to the project engineer to be incorporated as a layer within the pipeline plans. The project engineer will, to the greatest extent practical, design the alignment of the pipeline to avoid small mammal burrows. Pipes and culverts shall be searched for kangaroo rats prior to being moved or sealed to ensure that an animal has not been trapped. Construction activities would be done outside of Tipton kangaroo rat breeding period (February through April). Work areas, including staging areas, will be clearly defined with flagging or other highly visible marking and the smallest possible area will be disturbed. Movement of heavy equipment to and from the project sites,



Figure 1. Site Location Map









staging areas, or borrow sites will be confined, to the extent possible, to existing roadways to minimize habitat disturbance.

The project description was modified as a result of the Conditions of Approval for DFG's Incidental Take Permit (ITP) #2081-2011-056-04 issued for the project (Attachment). The Conditions of Approval include General Provisions; Monitoring, Notification and Reporting Requirements; Take Minimization Measures; Take Mitigation Measures; and Habitat Management Land Acquisition which are considered as avoidance, minimization and conservation measures for the proposed project.

Biological monitors are empowered to order cessation of construction activities if take, avoidance and/or environmental protective measures are violated and will notify the District's representative.

To prevent inadvertent entrapment of species, any excavation for pipeline and back fill will be limited to the amount which can be completed in a workday. If this is not possible, all open holes and trenches shall be covered at the close of each working day by plywood or similar material or provided with one or more escape ramps constructed of earth fill or wooden planks (wooden planks will be no less than 10 inches in width and will reach the bottom of the hole/trench). Before any hole or trench is filled, they will be thoroughly inspected for trapped animals.

All construction activities will be restricted to daylight hours only.

### **Action Area**

The action area of this proposed project comprises all areas to be affected directly or indirectly by the Federal action, not merely the immediate area involved in the action. The action area for the proposed project is generally located between the California Aqueduct and the Westside Canal and extends beyond the project's temporary easement for 200 feet in all directions. The proposed project area is about 3 acres of ruderal grassland and desert shrub.

### **Analytical Framework for the Jeopardy Determination**

In accordance with policy and regulation, the jeopardy analysis in this Biological Opinion relies on four components: (1) the Status of the Species, which evaluates the San Joaquin fit fox, Tipton kangaroo rat, and blunt-nosed leopard lizard's range-wide conditions, the factors responsible for that condition, and their survival and recovery needs; (2) the Environmental Baseline, which evaluates the condition of the San Joaquin fit fox, Tipton kangaroo rat, and blunt-nosed leopard lizard in the action area, the factors responsible for that condition, and the relationship of the action area to the survival and recovery of the San Joaquin fit fox, Tipton kangaroo rat, and blunt-nosed leopard lizard; (3) the Effects of the Action which determines the direct and indirect impacts of the proposed Federal action and the effects of any interrelated or interdependent activities on the San Joaquin fit fox, Tipton kangaroo rat, and blunt-nosed leopard lizard; and (4) Cumulative Effects, which evaluates the effects of future, non-Federal activities in the action area on the San Joaquin fit fox, Tipton kangaroo rat, and blunt-nosed leopard lizard.

In accordance with policy and regulation, the jeopardy determination is made by evaluating the effects of the proposed Federal action in the context of the San Joaquin kit fox, Tipton kangaroo rat, and blunt-nosed leopard lizard's current status, taking into account any cumulative effects, to determine if implementation of the proposed action is likely to cause an appreciable reduction in the likelihood of both the survival and recovery of the San Joaquin kit fox, Tipton kangaroo rat, or blunt-nosed leopard lizard in the wild.

The jeopardy analysis in this Biological Opinion places an emphasis on consideration of the range-wide survival and recovery needs of the San Joaquin kit fox, Tipton kangaroo rat, and blunt-nosed leopard lizard and the role of the action area in the survival and recovery of the San Joaquin kit fox, Tipton kangaroo rat, and blunt-nosed leopard lizard as the context for evaluating the significance of the effects of the proposed Federal action, taken together with cumulative effects, for purposes of making the jeopardy determination.

### **Status of the Species**

#### *San Joaquin Kit Fox*

Please see San Joaquin Kit Fox 5-Year review, dated February 16, 2010 for a complete discussion of the status of this species.

#### *Tipton Kangaroo Rat*

Please see Tipton Kangaroo Rat 5-Year review, dated February 16, 2010 for a complete discussion of the status of this species.

#### *Blunt-Nosed Leopard Lizard*

Please see blunt-nosed leopard lizard 5-Year review, dated February 16, 2010 for a complete discussion of the status of this species.

### **Environmental Baseline**

*Status of the San Joaquin Kit Fox within the Action Area:* The San Joaquin kit fox has declined in the vicinity of the action area as a result of several factors including, but not limited to habitat loss, vehicle strikes, poisoning, and predation. The project site comprises suitable habitat for the San Joaquin kit fox; however, survey results (conducted in 2008 and 2009) did not report evidence (dens, scat or tracks) of individuals at the project site (BOR 2010). The Service concurs with the determination in the Biological Assessment for this project, that this species can be reasonably expected to use the project site for foraging and movement purposes and the action area is suitable to support denning, foraging and movement. These behaviors are reasonably certain because: the site contains suitable habitat to support feeding, breeding, or sheltering behaviors by the San Joaquin kit fox; there are at least four records of San Joaquin kit fox within two miles of the action area; and, the San Joaquin kit fox is a highly mobile species, moving up to 1-12 miles per night.

*Status of the Tipton Kangaroo Rat within the Action Area:* The Tipton kangaroo rat has declined in the vicinity of the action area primarily as a result of habitat destruction, disturbance, and



fragmentation. The action area supports valley saltbush scrub, a habitat type which is preferred by the Tipton kangaroo rat. Tipton kangaroo rat is known to occur approximately two miles southeast of the action area. Kangaroo rat burrows and tail drags, dust baths, droppings and tracks near a few burrows were located and indicate that the area is occupied by kangaroo rats. For these reasons, and lacking any survey evidence to the contrary, the Service considers the action area occupied by Tipton kangaroo rat.

*Status of the Blunt-nosed Leopard Lizard within the Action Area:* The blunt-nosed leopard lizard has declined in the vicinity of the action area primarily as a result of habitat destruction, disturbance, and fragmentation. Although the project site comprises suitable habitat for the blunt-nosed leopard lizard, no individuals have been documented at the project site. The most recent protocol level blunt-nosed leopard lizard surveys in the action area, conducted in 2011, did not detect the presence of this species. However the blunt-nosed leopard lizards have been recorded in the Elk Hills Oil Field and along Elk Hills Road and the California Department of Water Resources has reported observations of the species at both Mileposts 230.25 and 227 of the Aqueduct. The proposed project would be constructed at about Milepost 232. For these reasons, the Service considers the action area to be suitable habitat for blunt-nosed leopard lizard, but not currently occupied by the species.

### **Effects of the Proposed Action**

#### *San Joaquin Kit Fox*

San Joaquin kit fox may be harassed and disturbed or killed or injured as a result of the proposed action. Impacts to the species in the form of disturbance or harassment is reasonably likely to occur during construction of the turnout facility and the pipeline, as San Joaquin kit fox may avoid or change their use within the project site or the action area due to human presence, noise, or temporary barriers to passage. The use of vehicles and construction equipment on or adjacent to the project site would result in an increased risk of accidental death and injury to the San Joaquin kit fox during the construction period and to a somewhat lesser degree during operation and maintenance of the facility.

#### *Tipton Kangaroo Rat*

Tipton kangaroo rats may be harassed, disturbed, injured or killed as a result of the proposed action. The species would be harmed by the loss of 3.0 acres of habitat, including 0.3 acres of permanent loss, which would occur from development of the project site; this loss would impair behavioral patterns including breeding, feeding, or sheltering, and would consequently lead to reduced reproduction and survival through the period required for the area to be restored. Tipton kangaroo rat would be harassed or harmed during implementation of the translocation plan that is proposed under CDFG's ITP Take Minimization Measure 7.9 (Attachment).

#### *Blunt-Nosed Leopard Lizard*

Blunt-nosed leopard lizards may be harassed, disturbed injured or killed as a result of the proposed action, if they enter the action area before or during construction. Loss of 3.0 acres of blunt-nosed leopard lizard habitat, including 0.3 acres of permanent loss, would occur from development of the project site. This loss would impair behavioral patterns including breeding, feeding, or sheltering, and would consequently lead to reduced reproduction and survival through the period required for the area to be restored.

### **Cumulative Effects**

Cumulative effects are those effects of future State, Tribal, local or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to Section 7 of the Act. The Service is unaware of any other future actions that are reasonably certain to occur in the action area.

### **Conclusion**

After assessing the current status of the San Joaquin kit fox, Tipton kangaroo rat, and blunt-nosed leopard lizard, the environmental baseline for the action area, effects of the proposed action, and cumulative effects, it is the Service's biological opinion that the proposed action is not likely to jeopardize the continued existence of the San Joaquin kit fox, Tipton kangaroo rat, or blunt-nosed leopard lizard.

### **INCIDENTAL TAKE STATEMENT**

Section 9(a)(1) of the Act and Federal regulations pursuant to Section 4(d) of the Act prohibit the take of endangered and threatened fish and wildlife species without special exemption. Take is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. Harass is defined by the Service as an intentional or negligent act or omission which creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. Harm is further defined by the Service to include significant habitat modification or degradation that results in death or injury to listed species by impairing behavioral patterns including 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), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited under the Act provided that such taking is in compliance with this Incidental Take Statement.

The measures described below are non-discretionary, and must be implemented by BOR so that they become binding conditions of any action related to this project, in order for the exemption in section 7(o)(2) to apply. The BOR has a continuing duty to regulate activities covered by this incidental take statement. If BOR: (1) fails to adhere to the terms and conditions of the incidental take statement through enforceable terms; 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**

*San Joaquin kit fox.* The Service anticipates that incidental take of the San Joaquin kit fox cannot be quantified for the following reasons: when not foraging, mating, or otherwise being active on the surface, the San Joaquin kit fox inhabits dens, making detection problematic; it may range

over a large territory; it is primarily active at night; and it is an intelligent but shy animal likely to avoid human presence. The Service therefore cannot quantify an exact number of San Joaquin kit foxes that will be taken as a result of the proposed action; in instances when specific take calculations cannot be produced, the Service may estimate take in regards to the number of acres of permanently lost or degraded habitat as a result of the project action, since this is a quantifiable number that can be monitored to determine if the level of take has been exceeded. Therefore, the Service anticipates take incidental to this project as all San Joaquin kit foxes inhabiting, using, or moving through 3.0 ac of suitable habitat that will be permanently lost and temporarily disturbed. Upon implementation of the *Reasonable and Prudent Measures, Terms and Conditions*, and the *Proposed Avoidance and Minimization Measures* considered herein, incidental take within this acreage, in the forms of harm and harassment due to project construction activities leading to habitat loss and disturbance, and in the forms of injury and mortality (an indeterminable, but likely small level) will become exempt from the prohibitions described under section 9 of the Act.

*Tipton kangaroo rat.* The Service anticipates that incidental take of the Tipton kangaroo rat cannot be quantified due to the animal's small size, its tendency to escape underground into burrows, its response to the effects of specific seasonal and weather conditions, and its nocturnal activity patterns; these all serve to preclude the discovery of injured or dead individuals, and to make the observation of live individuals unlikely. The Service therefore cannot quantify an exact number of Tipton kangaroo rats that will be taken as a result of the proposed action; in instances when specific take calculations cannot be produced, the Service may estimate take in regards to the number of acres of permanently lost or degraded habitat as a result of the project action, since this is a quantifiable number that can be monitored to determine if the level of take has been exceeded. Therefore, the Service anticipates take incidental to this project as all Tipton kangaroo rats inhabiting, using, or moving through 3.0 ac of suitable habitat that will be permanently lost and temporarily disturbed. Upon implementation of the *Reasonable and Prudent Measures, Terms and Conditions*, and the *Proposed Avoidance and Minimization Measures* considered herein, incidental take within this acreage in the forms of harm and harassment due to project construction activities leading to habitat loss and disturbance, and in the forms of injury and mortality (an indeterminable, but likely small level), will become exempt from the prohibitions described under section 9 of the Act.

*Blunt-nosed leopard lizard.* The Service anticipates that incidental take of the blunt-nosed leopard lizard cannot be quantified due to the animal's small size, its tendency to escape underground into burrows, its response to the effects of specific seasonal and weather conditions, and its activity patterns; these all serve to preclude the discovery of injured or dead individuals, and to make the observation of live individuals unlikely. The Service therefore cannot quantify an exact number of blunt-nosed leopard lizards that will be taken as a result of the proposed action, so in instances when specific take calculations cannot be produced, the Service may estimate take in regards to the number of acres of permanently lost or degraded habitat as a result of the project action, since the habitat loss results in a significant adverse biological effect to the species. Therefore, the Service anticipates take incidental to this project as all blunt-nosed leopard lizards inhabiting, using, or moving through 3.0 ac of suitable habitat that will be permanently lost and temporarily disturbed. Upon implementation of the *Reasonable and Prudent Measures, Terms and Conditions*, and the *Proposed Avoidance and Minimization*

Measures considered herein, incidental take within this acreage in the forms of harm and harassment, as well as injury and mortality (an indeterminable but likely very small level), due to project construction activities leading to habitat loss and disturbance will become exempt from the prohibitions described under section 9 of the Act.

### **Effect of the Take**

The Service has determined that the level of anticipated take is not likely to result in jeopardy to the San Joaquin kit fox, Tipton kangaroo rat, or blunt-nosed leopard lizard.

### **Reasonable and Prudent Measures**

The following reasonable and prudent measure is necessary and appropriate to minimize the effects of the proposed action on the San Joaquin kit fox, blunt-nosed leopard lizard and Tipton kangaroo rat:

1. All of the conservation measures proposed in the BA, the Draft SHP Plan, the *Project Description*, and as supplemented and modified below, must be fully implemented.

### **Terms and Conditions**

In order to be exempt from the prohibitions of section 9 of the Act, BOR shall implement all conservation measures described in the biological assessment and comply with all other conditions of the biological opinion. These terms and conditions are nondiscretionary.

The following Terms and Conditions implement Reasonable and Prudent Measure one:

1. BOR shall be responsible for implementing all measures described in this biological opinion. Term and condition 2b, which applies to contractor activities shall be conditioned in contracts for the work.
2. In order to monitor whether the amount or extent of incidental take anticipated from implementation of the project is approached or exceeded, BOR shall adhere to the following reporting requirements. Should this anticipated amount or extent of incidental take be exceeded, BOR must immediately reinstitute formal consultation as per 50 CFR 402.16.
  - a. For those components of the action that will result in habitat degradation or modification whereby incidental take in the form of harm is anticipated, BOR will provide weekly updates to the Service with a precise accounting of the total acreage of habitat impacted. Updates shall also include any information about changes in project implementation that result in habitat disturbance not described in the Project Description and not analyzed in this Biological Opinion.
  - b. For those components of the action that may result in direct encounters between listed species and project workers and their equipment whereby

incidental take in the form of harassment, harm, injury, or death is anticipated, BOR shall immediately contact the Service's Sacramento Fish and Wildlife Office (SFWO) at (916) 414-6600 to report the encounter. If encounter occurs after normal working hours, BOR shall contact the SFWO at the earliest possible opportunity the next working day. When injured or killed individuals of the listed species are found, BOR shall follow the steps outlined in the Salvage and Disposition of Individuals section below.

- c. Before construction starts on this project, the Service shall be provided with the final documents demonstrating completion of the Habitat Management Land purchase (DFG ITP Condition 9.1, see Attachment).
  - d. A post-construction report detailing compliance with the project design criteria and proposed conservation measures described under the Description of the Proposed Action section of this biological opinion shall be provided to the Service within 30 calendar days of completion of the project. The report shall include: (1) dates of project groundbreaking and completion; (2) pertinent information concerning the success of the project in meeting compensation and other conservation measures; (3) an explanation of failure to meet such measures, if any; (4) known project effects on the San Joaquin kit fox, blunt-nosed leopard lizard and Tipton kangaroo rat, if any; (5) occurrences of incidental take of the San Joaquin kit fox, blunt-nosed leopard lizard and Tipton kangaroo rat; and, (6) any other pertinent information.
  - e. New sightings of the San Joaquin kit fox, blunt-nosed leopard lizard and Tipton kangaroo rat or any other sensitive animal species shall be reported to the California Natural Diversity Database. A copy of the reporting form and a topographic map clearly marked with the location in which the animals were observed also should be provided to the Service.
3. The proposed Tipton kangaroo rat relocation plan (DFG ITP Condition 7.10, see Attachment) must be approved by the Service prior to implementation, and must be implemented by a Service-approved biologist.

### **Disposition of Individuals Taken**

In the case of injured and/or dead San Joaquin kit fox, blunt-nosed leopard lizard and Tipton kangaroo rat, the Service shall be notified of events within one day and the animals shall only be handled by a Service-approved biologist. Injured San Joaquin kit foxes, blunt-nosed leopard lizards and Tipton kangaroo rats shall be cared for by a licensed veterinarian or other qualified person. In the case of a dead animal, the individual animal shall be preserved, as appropriate, and held in a secure location until instructions are received from the Service regarding the disposition of the specimen or until the Service takes custody of the specimen. BOR must report to the Service within one calendar day any information about take or suspected take of federally-listed species not exempted in this opinion. Notification must include the date, time, and location of the incident or of the finding of a dead or injured animal. The Service contacts are Mr. Daniel Russell, Deputy Assistant Field Supervisor, Endangered Species Program, Sacramento, at (916) 414-6600 and Mr. Daniel Crum, the Resident Agent-in-Charge of the Service's Law Enforcement Division at (916) 414-6660.

### CONSERVATION RECOMMENDATIONS

Conservation recommendations are suggestions of the Service regarding discretionary measures to minimize or avoid further adverse effects of a proposed action on listed, proposed, or candidate species or on designated critical habitat, or regarding the development of new information. They may also serve as suggestions on how action agencies can assist species conservation in furtherance of their responsibilities under section 7(a)(1) of the Act, or recommend studies improving an understanding of a species' biology or ecology. Wherever possible, conservation recommendations should be tied to tasks identified in recovery plans. The Service is providing you with the following conservation recommendation:

1. It is recommended that BOR continue to assist the Service in the implementation of recovery efforts for the San Joaquin kit fox, blunt-nosed leopard lizard and Tipton kangaroo rat.

In order for the Service to be kept informed of actions minimizing or avoiding adverse effects or benefitting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

### REINITIATION—CLOSING STATEMENT

This concludes formal consultation on the proposed Buena Vista Water Storage District BV8 State Water Project Turnout, Kern County, California. 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.

If you have questions regarding this biological opinion, please contact, Thomas Leeman, San Joaquin Valley Branch Chief at (916) 414-6600.

cc:

Lisa Gymer, CDFG, Fresno, California

## **LITERATURE CITED**

California Department of Fish and Game (CDFG). 2011. BV8 State Water Project Turnout California Endangered Species Act Incidental Take Permit No. 2091-2011-056-04. October 2011.

U.S. Bureau of Reclamation (BOR). 2010. Buena Vista Water Storage District BV8 State Water Project Turnout, Kern County California, August 2010.

USFWS (U.S. Fish and Wildlife Service). 1998. Recovery plan for upland species of the San Joaquin Valley, California. Region 1, Portland, OR. 319 pp.

USFWS. 1999. Standardized Recommendations for Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance. Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, June 1999.





ATTACHMENT





California Department of Fish and Game  
Central Region  
1234 EAST SHAW AVENUE  
FRESNO, CALIFORNIA 93710

California Endangered Species Act  
Incidental Take Permit No. 2081-2011-056-04

**BV8 STATE WATER PROJECT TURNOUT**

**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 take<sup>1</sup> of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.<sup>2</sup> 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.)

<b>Permittee:</b>	<b>Buena Vista Water Storage District</b>
<b>Principal Officer:</b>	<b>Dan Bartel, District Manager</b>
<b>Contact Person:</b>	<b>David Hampton, 661-324-1101</b>
<b>Mailing Address:</b>	<b>Post Office Box 756 Buttonwillow, California 93206</b>

**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 **April 1, 2013**.

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 6.7 of this ITP.

<sup>1</sup>Pursuant to Fish and Game Code section 86, "'Take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill."

<sup>2</sup>"Candidate species" are species of wildlife that have not yet been placed on the list of endangered species or the list of threatened species, but which are under formal consideration for listing pursuant to Fish and Game Code section 2074.2.

**Project Location:**

The BV8 State Water Project Turnout (Project) is located approximately 18 miles west of the City of Bakersfield between the California Aqueduct and the West Side Canal near the town of Buttonwillow, Kern County (See Figures 1 and 2). The Project is located at approximately 35° 19' 41.40" latitude, 119° 24' 36.05" longitude. The Project site is in Section 9, Township 30 South, and Range 24 East, Mount Diablo Meridian.

**Project Description:**

The proposed Project includes the construction and operation of a new water turnout on the east bank of the Department of Water Resources' (DWR) California Aqueduct to deliver water into Buena Vista Water Storage District's (BVWSD) West Side Canal via a new underground pipeline and outlet structure. The turnout will be approximately 20 feet tall, 19 feet wide, and 54 feet long; constructed of reinforced concrete; and will include a 78-inch by 78-inch cast iron sluice gate with automatic actuator, trash racks, and galvanized steel handrails. Water will be transported from the California Aqueduct to the West Side Canal through the construction of a belowground reinforced concrete pipe (RCP) of approximately 1,510 feet in length and 78-inches in diameter. Installation of the pipe will run underground across the Kern River flood channel and will require construction of a trench approximately 30 feet wide by 13 feet deep within a temporary 100-foot wide easement for the length of the pipeline. The RCP will include a pitot tube with a flow meter within a reinforced concrete vault near the California Aqueduct and a 66-inch butterfly valve near the West Side Canal. An outlet structure will be constructed in the West Side Canal, upstream of the Arizona Canal. The discharge bay of the outlet structures is approximately 14 feet tall, 17 feet wide, and 25 feet long. To reduce the erosion, the discharge area around the outlet structure will be reinforced with approximately 167 cubic yards of 12-inch thick rock rip-rap above a 6-inch gravel bed. The outlet structure will have galvanized steel handrails. Finally, a 10 foot by 12 foot electrical building will be constructed approximately 200 feet from the California Aqueduct inlet structure. The building will include a 0.18 acre elevated graded pad for access from the existing Aqueduct road.

**Covered Species Subject to Take Authorization Provided by this ITP:**

This ITP covers the following species:

Name	CESA Status <sup>3</sup>
1. San Joaquin kit fox ( <i>Vulpes macrotis mutica</i> )	Threatened <sup>4</sup>
2. San Joaquin antelope squirrel ( <i>Ammospermophilus nelsoni</i> )	Threatened <sup>5</sup>
3. Tipton kangaroo rat ( <i>Dipodomys nitratoides nitratoides</i> )	Endangered <sup>6</sup>

<sup>3</sup>Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species. All other species are "unlisted."

<sup>4</sup>See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(E).

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

<sup>6</sup>See Cal. Code Regs. tit. 14 § 670.5, subd. (a)(6)(D).

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These species and only these species are hereinafter referred to as "Covered Species."

**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. BVWSD conducted a number of biological resource surveys in 2008 on the Project site to establish the environmental baseline. Since those initial surveys were conducted, the BVWSD conducted additional surveys in 2011 to determine the density and distribution of the proposed Covered Species. The combined survey effort provided an intensive analysis that informed the calculation of occupied habitat acreages and number of known occurrences of species within the Project footprint. The activities described above that are expected to result in incidental take of individuals of the Covered Species include the construction of the BV8 State Water Project turnout and appurtenances which includes habitat clearing, grading, compaction, and fencing related to structure site preparation; heavy equipment operations; construction of forms and pouring concrete; installation of turnout equipment; excavation of a trench to contain pipeline; installation of pipeline, back-fill, and compaction of the trench; construction of an outlet structure including the deposition of gravel and rip rap; and increased traffic along the unpaved access corridors as well as along existing access roads (Covered Activities).

The Project will result in permanent and temporary impacts to habitat, which provides foraging and burrowing habitat for Tipton kangaroo rat (TKR) and San Joaquin antelope squirrel (SJAS) and foraging and denning habitat for San Joaquin kit fox (SJKF), and Covered Species individuals may be incidentally taken over the two-year term of the ITP.

Incidental take of individuals of the Covered Species may occur from the Covered Activities in the form of mortality ("kill") from den or burrow collapse associated with site preparation and excavation resulting in crushing or suffocation of underground individuals; capture in on-site pipeline trench; crushing by heavy equipment on the Project Area; and vehicle strike on access roads due to increased Project-related traffic. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of pursue, catch, capture, or attempt to do so of the Covered Species via entrapment in equipment or in holes or trenches, uncovering Covered Species through the excavation of dens and burrow systems, by corralling Covered Species into a confined area when barrier fencing is constructed around the Project Area, and Covered Species are relocated out of harms way.

Take could occur at any location within the Project footprint or along access roads (Project Area). The Project will also cause the permanent loss of 0.3 acres of habitat and the temporary loss of 3.0 acres of habitat for the Covered Species. Impacts of the proposed taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations resulting from ground disturbance, long-term effects due to displacement from

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occupied and preferred habitat, increased competition for food and space, and increased vulnerability to predation.

**Incidental Take Authorization of Covered Species:**

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

**Fully Protected Species:**

This ITP does not authorize the take of any fully protected species as defined by State law. (See Fish & G. Code, §§ 3511, 4700, 5050, and 5515.) DFG has advised the Permittee that take as defined by State law of any species designated as fully protected under the Fish and Game Code is prohibited. DFG recognizes that the State-listed endangered blunt-nosed leopard lizard (*Gambelia sila*) is a fully protected reptile that has some potential to occur on or in the vicinity of the Project Area due to the presence of suitable habitat.

The Permittee believes it can implement the Project as described in this ITP in a manner consistent with the Fish and Game Code. This determination is based on Permittee's implementation of general operational procedures identified in the BV8 State Water Project Turnout Mitigated Negative Declaration (SCH No. 2010081076) dated October 12, 2010 (MND), and the Permittee's Mitigation Monitoring and Reporting Program for the Project which includes the following species' specific measures:

- Permittee will perform a protocol-level blunt nosed leopard lizard survey within the Project Area before altering any habitat (e.g., non-native grassland, saltbush scrub, or ruderal habitats). Permittee intends for the survey to be consistent with the methodology in DFG's Approved Survey Methodology for the Blunt-Nosed Leopard Lizard, dated May 2004.
- Qualified biologists will be present during all Project activities to ensure that the Project does not result in adverse impacts to blunt-nosed leopard lizard.
- If the results of any protocol-level survey detect the presence of blunt-nosed leopard lizard within the construction boundary of the Project, Permittee will notify and consult with DFG prior to any activity that could result in take of blunt-nosed leopard lizard, in

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order to develop and implement measures that will avoid take of individuals of the species.

**Conditions of Approval:**

Unless specified otherwise, the following measures shall pertain to all Covered Activities within the Project Area, including areas used for vehicular ingress and egress, staging and parking and noise and vibration generating activities that may/will cause take. 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 Number: 2010081076) adopted by the lead agency, Buena Vista Water Storage District, for the Project pursuant to the California Environmental Quality Act (CEQA) on October 12, 2010.
3. **Lake and Streambed Alteration (LSA) Agreement Compliance:** Permittee shall implement and adhere to the mitigation measures and conditions related to the Covered Species in the LSA agreement (notification number 1600-2010-0176-R4) for the Project pursuant to Fish and Game Code section 1602 et seq.
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 biological monitor (Designated Biologist) at least 14 days before starting Covered Activities.

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Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history 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 is not in compliance with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species, or a species not covered by this ITP.
- 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 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.
- 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 closed (animal-proof) containers and removed regularly (at least once a week) to avoid attracting opportunistic predators or Covered Species.

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- 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 Property Boundaries. Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities.
- 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.
- 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. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact DFG for written approval before carrying out such an activity. DFG may require an amendment to this ITP if additional take of Covered Species may result from 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.

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- 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 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 14 calendar days 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. SJAS Relocation Plan. The Permittee shall submit a SJAS relocation plan to DFG prior to initiating ground-disturbing activities in any areas occupied by SJAS. Relocation activities shall not proceed until the relocation plan has been approved in writing by DFG's Regional Representative.
- 6.4. TKR 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.
- 6.5. Compliance Monitoring. The Designated Biologist shall be on-site daily when Covered Activities occur. The Designated Biologist shall conduct compliance

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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 Project activities are limited to those defined as Covered Activities and that they 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.

- 6.6. Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition 7 into a Monthly Compliance Report and submit it to DFG along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. 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 Brandon Sanderson (bsanderson@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.
- 6.7. 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; (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.
- 6.8. California Natural Diversity Database (CNDDDB) Observations. The Designated Biologist shall submit all observations of Covered Species to DFG's CNDDDB and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report.

- 6.9. Notification of Take. 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 shall be conducted with extra caution to minimize impacts to nocturnal Covered Species such as SJKF and TKR.
- 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. Inspection for Trapped Animals. Workers 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 less than

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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) Sacramento Fish and Wildlife Office and DFG's Regional Representative within one (1) working day of the incident.

- 7.5. Inspection of Structures. 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 one of these animals is discovered inside a pipe, workers shall allow the animal to safely escape that section of pipe before moving and utilizing the pipe.
- 7.6. Inspection Under Vehicles and Equipment. 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. Alternatively, especially if the animal is inside a fenced area, the Designated Biologist shall be contacted to move the animal out of harm's way outside of the Project Area.
- 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 50 feet of the Project footprint to alert biological and work crews to their presence. An avoidance buffer of 50 feet or greater around active small mammal burrows shall be maintained where possible (see ITP conditions 7.9 and 7.10). Permittee shall limit actions outside of the buffer zone to vehicle and equipment operation on existing roads.
- 7.9. SJAS Relocation. Any potential SJAS burrows detected by the Designated Biologist that cannot be avoided by the 50-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

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SJAS to the DFG-approved release site identified in the SJAS Relocation Plan (described in Condition 6.3).

- 7.10. TKR Relocation. Any potential TKR burrows detected by the Designated Biologist that cannot be avoided by the 50-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 TKR Relocation Plan (described in Condition 6.4).
- 7.11. Burrow Excavation. Following live trapping activities as described in Conditions 7.9 and 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 50-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 SJAS and/or TKR Relocation Plan.
- 7.12. Record of Handling. The Designated Biologist shall maintain a record of all SJAS and TKR handled, and all documented observations of SJKF. 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. A Relocation Summary shall be prepared by the Designated Biologist and included in the Monthly Report described in Condition 6.6 of this ITP. The Relocation Summary in the Final Mitigation Report shall include cumulative results, and analysis of data collected, and conclusions.
- 7.13. SJKF Pre-construction Surveys. No more than thirty (30) days prior to ground-disturbing activities, the Designated Biologist shall perform a pre-construction survey for SJKF fox dens (potential, known, active, atypical, and natal), that covers the Project area and a buffer zone of 200 feet in size beyond the Project area.
- 7.14. Den Avoidance. If a potential Covered Species den (one that shows evidence of current use or was used in the past) is discovered or a Covered Species is found is found in an "atypical" den such as a pipe or culvert, a minimum 50-foot buffer shall be established using flagging. If a known Covered Species den is discovered, Permittee shall establish a minimum buffer of at least 100 feet using

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fencing. If a natal den is discovered, Permittee shall establish a minimum buffer of at least 200 feet using fencing. Natal dens with pups shall be avoided by at least 500 feet. Buffer zones shall be considered Environmentally Sensitive Areas, and entry shall be restricted. The Permittee shall notify the USFWS and DFG's Regional Representative immediately via telephone or e-mail if any Covered Species dens, natal dens, or atypical dens are discovered.

- 7.15. Den Excavation. For active dens, dens known to be active, and potential dens that exhibit signs of Covered Species use or characteristics suggestive of Covered Species dens (including dens in natural substrate and in/under man-made structures) within the portion of the Project Site to be disturbed and that cannot be avoided as per ITP Condition 7.14. If, after four consecutive days of monitoring with tracking medium or infrared camera the Designated Biologist(s) has determined that the Covered Species is not currently present, the den may be destroyed. Any hole three inches or larger and exhibiting no signs of Covered Species use or characteristics suggesting it is a Covered Species den may be excavated under the supervision of the Designated Biologist(s) without advance tracking or camera monitoring. Natal dens shall not be excavated until the pups and adults have vacated and then only after consultation with the USFWS and DFG. If the excavation process reveals evidence of current use by the Covered Species then den destruction shall cease immediately and tracking or camera monitoring as described above shall be conducted/resumed. Destruction of the den may be completed when, in the judgment of the Designated Biologist(s), the animal has escaped from the partially destroyed den. Destruction of all types of Covered Species dens shall be accomplished by careful excavation until it is certain no individuals of the Covered Species are inside. Dens to be destroyed shall be fully excavated, filled with dirt and compacted to ensure that SJKF cannot reenter or use the den during the construction period. If an individual of the Covered Species does not vacate a den within the construction footprint within a reasonable timeframe, DFG and the USFWS shall be contacted and the Permittee shall get written guidance (e-mail will suffice) from both agencies prior to proceeding with den destruction.

**8. Take Mitigation Measures:**

The following requirements are intended to ensure the mitigation of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to mitigate take of Covered Species:

- 8.1. Artificial Dens. Permittee shall replace each kit fox den that must be destroyed with an artificial den, to compensate for the loss of important shelter used by kit foxes for protection, reproduction, and escape from predators. For existing known dens, artificial den placement shall occur prior to den destruction. For

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dens determined through monitoring to be actively used by kit fox, artificial den placement shall occur within 72 hours following den destruction. The Designated Biologist shall determine the appropriate design and placement through consultation with USFWS and DFG on a site-specific basis.

- 8.2. Injured Covered Species. 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. Permittee shall notify DFG of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report. Notification shall include the date, time, location and circumstances of the incident, and the name of the facility where the animal was taken.

**9. Habitat Management Land Acquisition:**

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 for adequate compensation. It should be noted that during surveys conducted of the Project footprint for BNLL in May, June, July, and August of 2008 and 2011, no individual SJAS were observed or their vocalizations heard. However, SJAS is known to occur adjacent to the Project area and there is potential habitat for this species within the Project site. In light of the extensive surveys of the Project site and that it appears to be unoccupied by SJAS, DFG has determined that compensation in the amount of five (5) acres is adequate and that compensation through the purchase of habitat credits at the Kern Water Bank Authority's (KWBA) Conservation Bank will be sufficient to fully offset the impacts of the taking.

- 9.1 To meet this requirement, the Permittee shall purchase five (5) acres (five (5) credits) of Covered Species habitat from the KWBA Conservation Bank. This DFG-approved conservation bank is located in western Kern County and is known to provide habitat for Covered Species. DFG holds a conservation easement on the conservation lands and funds for long-term management of the conservation lands (non-wasting endowment) are also held by DFG in the Special Deposit Fund. Endowment costs are included in the sale price of conservation credits at this bank. Purchase of five (5) credits from the KWBA must be completed prior to initiating Covered Activities. A copy of the conservation credit certificate issued by Kern Water Bank must be provided to DFG prior to initiating

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ground-disturbing activities and a copy should be kept at the Project site while conducting Covered Activities at all times.

**Amendment:**

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

**Stop-Work Order:**

DFG may issue Permittee a written stop-work order to suspend any activity covered by this ITP for an initial period of up to 25 days to prevent or remedy a violation of any ITP condition(s) (including but not limited to failure to comply with reporting, monitoring, or habitat acquisition obligations) or to prevent the illegal take of an endangered, threatened, or candidate species. Permittee shall comply with the stop-work order immediately upon receipt thereof. DFG may extend a stop-work order under this provision for a period not to exceed 25 additional days, upon written notice to the Permittee. DFG may commence the formal suspension process pursuant to California Code of Regulations, Title 14, section 783.7 within five working days of issuing a stop-work order. 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 contains DFG's requirements for 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 State, federal, 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

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reference the Project name, Permittee, and ITP Number 2081-2011-056-04 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  
1234 East Shaw Avenue  
Fresno, California 93710  
Telephone (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:

Brandon Sanderson  
California Department of Fish and Game  
3196 South Higuera Street, Suite A  
San Luis Obispo, California 93401  
Telephone (805) 594-6141  
Fax (805) 542-4609

**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, Buena Vista Water Storage District. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the BV8 State Water Project Turnout, (State Clearinghouse Number 2010081076) dated October 12, 2010, that the lead agency adopted for the BV8 State Water Project Turnout on October 12, 2010. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also adopted all mitigation measures described in the Mitigated Negative Declaration as conditions of Project approval.

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In fulfilling its obligations as a responsible agency, DFG's obligations pursuant to CEQA are more limited than those of the lead agency. DFG, in particular, is responsible for considering only the effects of those Project activities that it is required by law to carry out or approve, and mitigating or avoiding only the direct or indirect environmental effects of those parts of the Project that it decides to carry out, finance, or approve (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).)<sup>7</sup> Accordingly, because DFG's exercise of discretion is limited to issuance of this ITP, DFG is responsible for considering only the environmental effects that fall within its permitting authority pursuant to CESA.

This ITP, along with DFG's CEQA findings for this ITP and Project, which are available as a separate document, provide evidence of DFG's consideration of the lead agency's Mitigated Negative Declaration for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). 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, as well as 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, subds. (a)-(b), 783.5, subd. (c)(2).)

DFG finds based on substantial evidence in the ITP application, BV8 State Water Project Turnout Mitigated Negative Declaration, Biological Evaluation for the Buena Vista Water Storage District Aqueduct Turnout Project, Streambed Alteration Agreement No. 1600-2010-0176-R4, the results of consultations, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the

<sup>7</sup>The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

MMRP. Measures include: (1) permanent habitat protection; (2) establishment of avoidance zones; (3) worker education; and (4) 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 five (5) acres of compensatory habitat at Kern Water Bank Authority's Conservation Bank, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittee's objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittee has ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, 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.

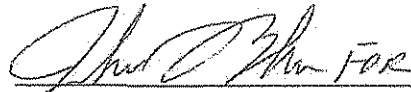
**Attachments:**

FIGURE 1	Site Location Map of Project
FIGURE 2	Aerial Photograph of Project Site Area
ATTACHMENT 1	Mitigation Monitoring and Reporting Program

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ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME

on OCTOBER 12, 2011



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

**ACKNOWLEDGMENT**

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

By: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

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Figure 1. Site Location Map

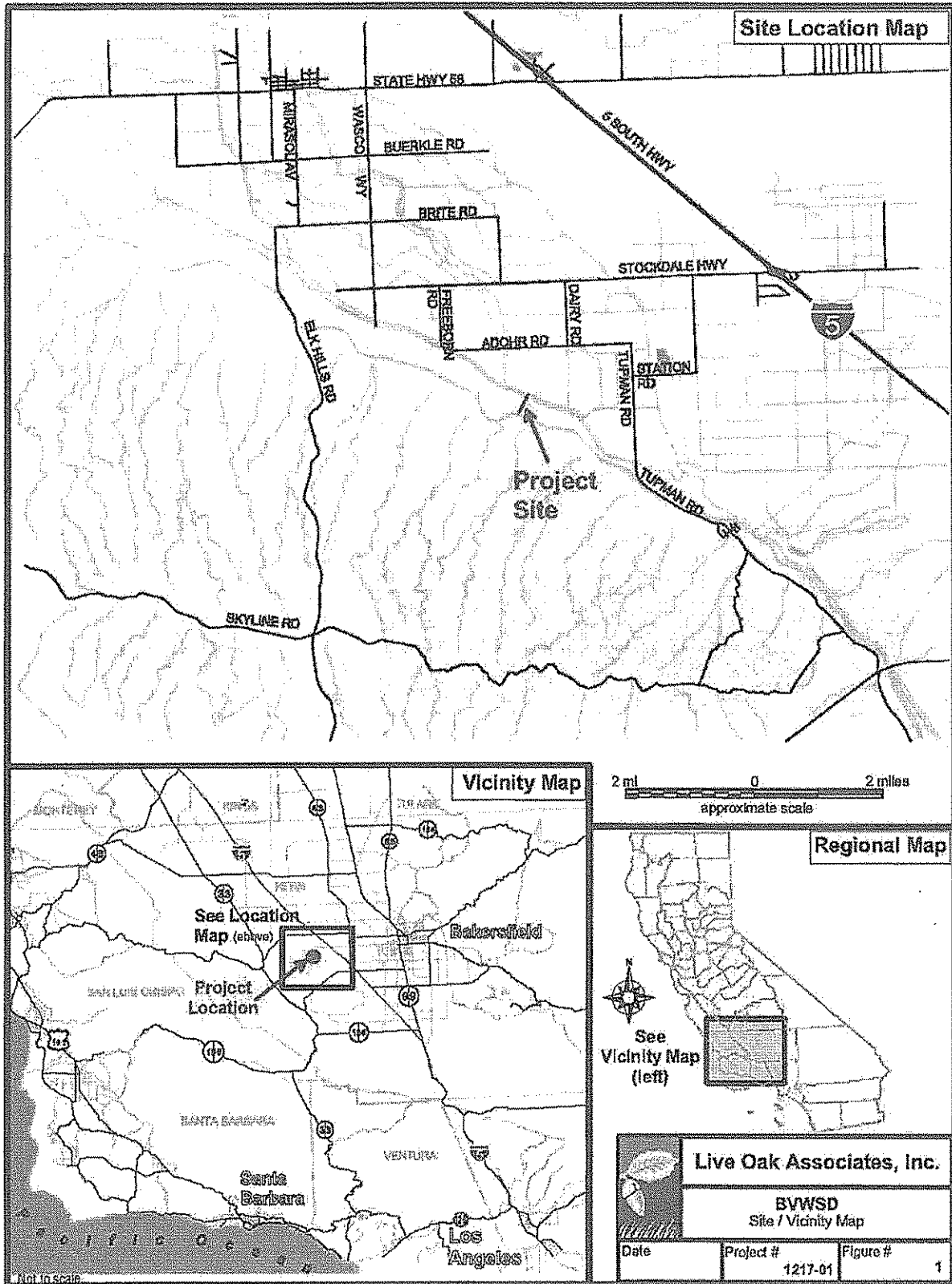
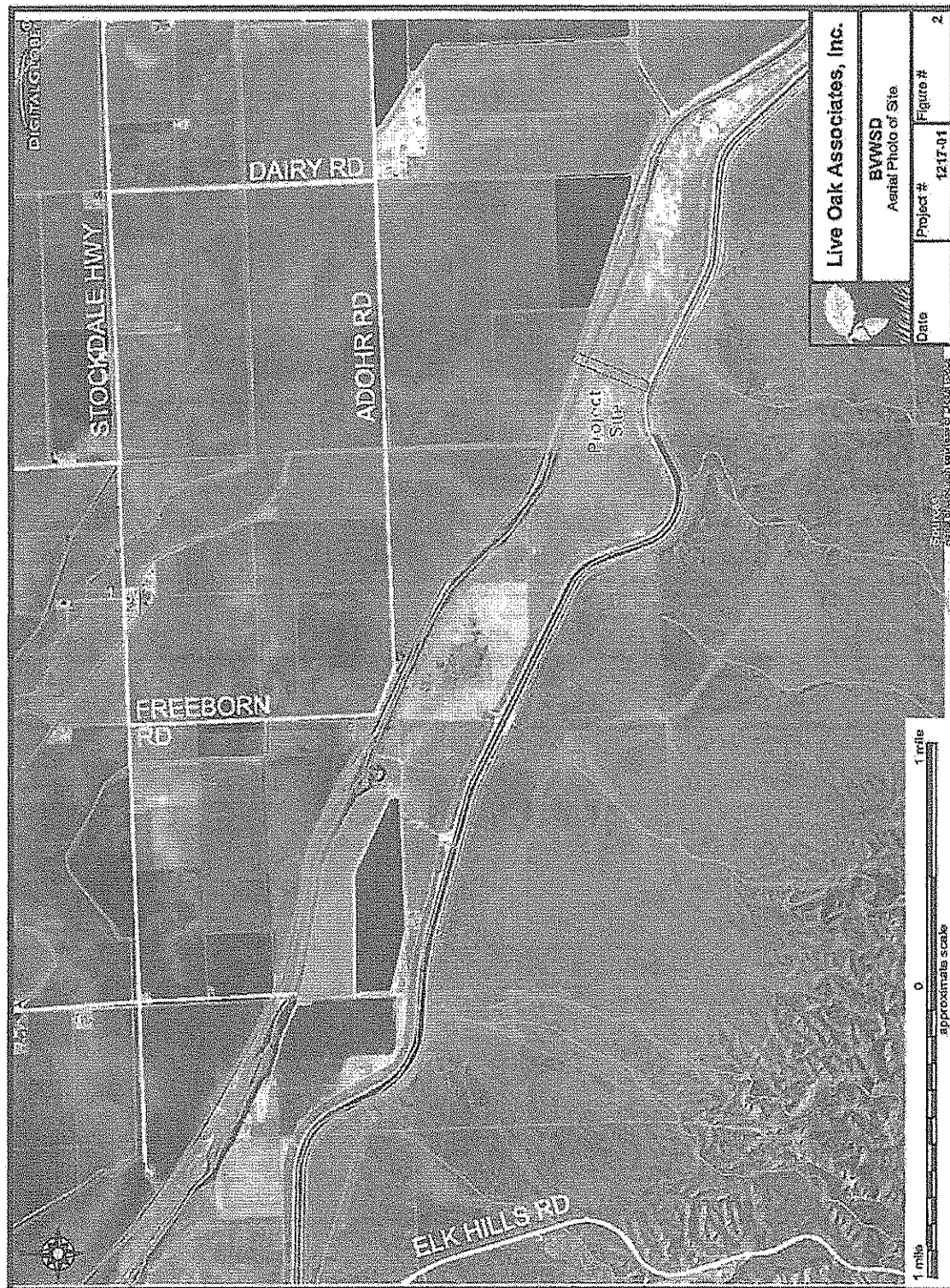






Figure 2. Aerial Photograph of Project Site Area





Attachment 1

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

**INCIDENTAL TAKE PERMIT NO. 2081-2011-056-04**

**PERMITTEE: Buena Vista Water Storage District**

**PROJECT: BV8 State Water Project Turnout**

**PURPOSE OF THIS MMRP**

The purpose of this 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
<b>General Provisions</b>					
1	<u>Designated Representative.</u> 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.	ITP Condition # 5.1	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
2	<u>Designated Biologist.</u> Permittee shall submit to DFG in writing the name, qualifications, business address, and contact information of a biological monitor (Designated Biologist) at least 14 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist is knowledgeable and experienced in the biology, natural history 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.	ITP Condition # 5.2	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
3	<u>Designated Biologist Authority.</u> 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, or a species not covered by the ITP.	ITP Condition # 5.3	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
4	<u>Education Program.</u> Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from the Designated Biologist that includes a discussion of the biology and general behavior of the Covered Species, information about the distribution and habitat needs of the Covered Species, sensitivity of the Covered Species to human activities, its status pursuant to CESA including legal protection, recovery efforts, penalties for violations and Project-specific protective measures described in 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.	ITP Condition # 5.4	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
5	<u>Construction Monitoring Notebook.</u> 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
6	<u>Trash Abatement.</u> Permittee shall initiate a trash abatement program before starting Covered Activities and shall continue the program for the duration of the Project. Permittee shall ensure that trash and food items are contained in closed (animal-proof) containers and removed regularly (at least once a week) to avoid attracting opportunistic predators or Covered Species.	ITP Condition # 5.6	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
7	<u>Dust Control.</u> Permittee shall implement dust control measures during Covered Activities to facilitate visibility for monitoring of the Covered Species by the Designated Biologist. Permittee shall keep the amount of water used to the minimum amount needed, and shall not allow water to form puddles.	ITP Condition # 5.7	Entire Project	Permittee	
8	<u>Erosion Control Materials.</u> 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	Entire Project	Permittee	
9	<u>Firearms and Dogs.</u> 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	Entire Project	Permittee	
10	<u>Delineation of Property Boundaries.</u> Before starting Covered Activities, Permittee shall clearly delineate the boundaries of the Project Area with fencing, stakes or flags. Permittee shall restrict all Covered Activities to within the fenced, staked or flagged areas. Permittee shall maintain all fencing, stakes and flags until the completion of Covered Activities.	ITP Condition # 5.10	Before commencing ground- or vegetation-disturbing activities	Permittee	
11	<u>Delineation of Habitat.</u> Permittee shall clearly delineate habitat of the Covered Species within the Project Area with posted signs, posting stakes, flags, and/or rope or cord, and place fencing as necessary to minimize the disturbance of Covered Species' habitat.	ITP Condition # 5.11	Before commencing ground- or vegetation-disturbing activities	Permittee	
12	<u>Project Access.</u> 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. Permittee shall ensure that vehicle speeds do not exceed 20 miles per hour to avoid Covered Species on or traversing the roads. If Permittee determines construction of routes for travel are necessary outside of the Project Area, the Designated Representative shall contact 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 Conditions # 5.12	Entire Project	Permittee	
13	<u>Staging Areas.</u> 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.	ITP Conditions # 5.13	Entire Project	Permittee	
14	<u>Hazardous Waste.</u> 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 Conditions # 5.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
15	<u>DFG Access.</u> Permittee shall provide DFG staff with reasonable access to the Project, 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	
16	<u>Refuse Removal.</u> 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.	ITP Condition # 5.16	Entire Project	Permittee	
<b>Monitoring, Notification and Reporting Provisions</b>					
17	<u>Notification Before Commencement.</u> 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	Entire Project	Permittee	
18	<u>Notification of Non-compliance.</u> 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	
19	<u>SJAS Relocation Plan.</u> The Permittee shall submit a San Joaquin Antelope Squirrel (SJAS) relocation plan to DFG prior to initiating ground-disturbing activities in any areas occupied by SJAS. Relocation activities shall not proceed until the relocation plan has been approved in writing by DFG's Regional Representative.	ITP Condition # 6.3	Before commencing ground- or vegetation-disturbing activities	Permittee	
20	<u>TKR Relocation Plan.</u> The Permittee shall submit a Tipton kangaroo rat (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.	ITP Condition # 6.4	Before commencing ground- or vegetation-disturbing activities	Permittee	
21	<u>Compliance Monitoring.</u> 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 Project activities are limited to those defined as Covered Activities and that they 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.	ITP Condition # 6.5	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
22	<b>Monthly Compliance Report.</b> The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition 7 into a Monthly Compliance Report and submit it to DFG along with a copy of this MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to DFG's Regional Office at the office listed in the Notices section of the ITP and via e-mail to DFG's Regional Representative. At the time of the ITP's approval, the DFG Regional Representative is Brandon Sanderson (bsanderson@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 # 6.6	Entire Project	Permittee	
23	<b>Final Mitigation Report.</b> 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; (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.	ITP Condition # 6.7	No later than 45 days after completion of all mitigation measures.	Permittee	
24	<b>California Natural Diversity Database (CNDDDB) Observations.</b> The Designated Biologist shall submit all observations of Covered Species to DFG's CNDDDB and the Designated Biologist shall include copies of the submitted forms with the next Monthly Compliance Report.	ITP Condition # 6.8	Entire Project	Permittee	
25	<b>Notification of Take.</b> 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.	ITP Condition # 6.9	Entire Project	Permittee	
<b>Take Minimization Measures</b>					
26	<b>Designated Biologist On-site.</b> 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.	ITP Condition # 7.1	Entire Project	Permittee	
27	<b>Work Hours.</b> 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 shall be conducted with extra caution to minimize impacts to nocturnal Covered Species such as San Joaquin kit fox (SJKF) and TKR.	ITP Condition # 7.2	Entire Project	Permittee	



	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
28	<u>Covered Species Observations.</u> 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	
29	<u>Inspection for Trapped Animals.</u> Workers 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 less 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) Sacramento Fish and Wildlife Office and DFG's Regional Representative within one (1) working day of the incident.	ITP Condition # 7.4	Entire Project	Permittee	
30	<u>Inspection of Structures.</u> 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 one of these animals is discovered inside a pipe, workers shall allow the animal to safely escape that section of pipe before moving and utilizing the pipe.	ITP Condition # 7.5	Entire Project	Permittee	
31	<u>Inspection Under Vehicles and Equipment.</u> 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. Alternatively, especially if the animal is inside a fenced area, the Designated Biologist shall be contacted to move the animal out of harm's way outside of the Project Area.	ITP Condition # 7.6	Entire Project	Permittee	
32	<u>Delineation of Ingress and Egress Routes.</u> 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.	ITP Condition # 7.7	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	
33	<u>Flag Burrows.</u> The Designated Biologist shall flag all potential small mammal burrows within 50 feet of the Project footprint to alert biological and work crews to their presence. An avoidance buffer of 50 feet or greater around active small mammal burrows shall be maintained where possible (see ITP conditions 7.9 and 7.10). Permittee shall limit actions outside of the buffer zone to vehicle and equipment operation on existing roads.	ITP Condition # 7.8	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
34	<u>SJAS Relocation.</u> Any potential SJAS burrows detected by the Designated Biologist that cannot be avoided by the 50-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 SJAS to the DFG-approved release site identified in the SJAS Relocation Plan (described in Condition 6.3).	ITP Condition # 7.9	Before commencing ground- or vegetation-disturbing activities in the occupied location / Entire Project	Permittee	
35	<u>TKR Relocation.</u> Any potential TKR burrows detected by the Designated Biologist that cannot be avoided by the 50-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 TKR Relocation Plan (described in Condition 6.4).	ITP Condition # 7.10	Before commencing ground- or vegetation-disturbing activities in the occupied location / Entire Project	Permittee	
36	<u>Burrow Excavation.</u> Following live-trapping activities as described in Conditions 7.9 and 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 50-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 SJAS and/or TKR Relocation Plan.	ITP Condition # 7.11	Before commencing ground- or vegetation-disturbing activities in the occupied location / Entire Project	Permittee	
37	<u>Record of Handling.</u> The Designated Biologist shall maintain a record of all SJAS and TKR handled, and all documented observations of SJKF. 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. A Relocation Summary shall be prepared by the Designated Biologist and included in the Monthly Report described in Condition 6.6 of the ITP. The Relocation Summary in the Final Mitigation Report shall include cumulative results, and analysis of data collected, and conclusions.	ITP Condition # 7.12	Entire Project	Permittee	
38	<u>SJKF Pre construction Surveys.</u> No more than thirty (30) days prior to ground-disturbing activities, the Designated Biologist shall perform a pre construction survey for SJKF fox dens (potential, known, active, atypical, and natal), that covers the Project area and a buffer zone of 200 feet in size beyond the Project area.	ITP Condition # 7.13	Before commencing ground- or vegetation-disturbing activities in the occupied location / Entire Project	Permittee	
39	<u>Den Avoidance.</u> If a potential Covered Species den (one that shows evidence of current use or was used in the past) is discovered or a Covered Species is found in an "atypical" den such as a pipe or culvert, a minimum 50 foot buffer shall be established using flagging. If a known Covered Species den is discovered, Permittee shall establish a minimum buffer of at least 100 feet using fencing. If a natal den is discovered, Permittee shall establish a minimum buffer of at least 200 feet using fencing. Natal dens with pups shall be avoided by at least 500 feet. Buffer zones shall be considered Environmentally Sensitive Areas, and entry shall be restricted. The Permittee shall notify the USFWS and DFG's Regional Representative immediately via telephone or e-mail if any Covered Species dens, natal dens, or atypical dens are discovered.	ITP Condition # 7.14	Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
40	<u>Den Excavation.</u> For active dens, dens known to be active, and potential dens that exhibit signs of Covered Species use or characteristics suggestive of Covered Species dens (including dens in natural substrate and in/under man made structures) within the portion of the Project Site to be disturbed and that cannot be avoided as per ITP Condition 7.14. If, after four consecutive days of monitoring with tracking medium or infrared camera the Designated Biologist(s) has determined that the Covered Species is not currently present, the den may be destroyed. Any hole three inches or larger and exhibiting no signs of Covered Species use or characteristics suggesting it is a Covered Species den may be excavated under the supervision of the Designated Biologist(s) without advance tracking or camera monitoring. Natal dens shall not be excavated until the pups and adults have vacated and then only after consultation with the USFWS and DFG. If the excavation process reveals evidence of current use by the Covered Species then den destruction shall cease immediately and tracking or camera monitoring as described above shall be conducted/resumed. Destruction of the den may be completed when, in the judgment of the Designated Biologist(s), the animal has escaped from the partially destroyed den. Destruction of all types of Covered Species dens shall be accomplished by careful excavation until it is certain no individuals of the Covered Species are inside. Dens to be destroyed shall be fully excavated, filled with dirt and compacted to ensure that SJKF cannot reenter or use the den during the construction period. If an individual of the Covered Species does not vacate a den within the construction footprint within a reasonable timeframe, DFG and the USFWS shall be contacted and the Permittee shall get written guidance (e mail will suffice) from both agencies prior to proceeding with den destruction.	ITP Condition # 7.15	Entire Project	Permittee	
<b>Take Mitigation Measures</b>					
41	<u>Artificial Dens.</u> Permittee shall replace each kit fox den that must be destroyed with an artificial den, to compensate for the loss of important shelter used by kit foxes for protection, reproduction, and escape from predators. For existing known dens, artificial den placement shall occur prior to den destruction. For dens determined through monitoring to be actively used by kit fox, artificial den placement shall occur within 72 hours following den destruction. The Designated Biologist shall determine the appropriate design and placement through consultation with USFWS and DFG on a site-specific basis.	ITP Condition # 8.1	Entire Project	Permittee	
42	<u>Injured Covered Species.</u> 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. Permittee shall notify DFG of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report. Notification shall include the date, time, location and circumstances of the incident, and the name of the facility where the animal was taken.	ITP Condition # 8.2	Before commencing ground- or vegetation-disturbing activities / Entire Project	Permittee	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<b>Habitat Management Land Acquisition</b>					
43	The Permittee shall purchase five (5) acres (five (5) credits) of Covered Species habitat from the Kern Water Bank Authority (KWBA) Conservation Bank. This DFG-approved conservation bank is located in western Kern County and is known to provide habitat for Covered Species. DFG holds a conservation easement on the conservation lands and funds for long-term management of the conservation lands (non wasting endowment) are also held by DFG in the Special Deposit Fund. Endowment costs are included in the sale price of conservation credits at this bank. Purchase of five (5) credits from the KWBA must be completed prior to initiating Covered Activities. A copy of the conservation credit certificate issued by Kern Water Bank must be provided to DFG prior to initiating ground-disturbing activities and a copy should be kept at the Project site while conducting Covered Activities at all times.	ITP Condition # 9.1	Before commencing ground- or vegetation-disturbing activities	Permittee	

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**FINAL ENVIRONMENTAL ASSESSMENT (EA/IS-09-080)**

*BUENA VISTA WASTER STORAGE DISTRICT*

*BV8 STATE WATER PROJECT TURNOUT*

**Appendix H**

**Notice of Intent and Notice of Completion submitted to the State  
Clearinghouse**

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December 2011

NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

AUG 24 2010

Notice is hereby given that the public agency named below has completed an Environmental Assessment/Initial Study of the following project at the following location:		
Public Agency:	Buena Vista Water Storage District	
Project Name:	BV8 State Water Project Turnout	
Project Description:	The Project consists of constructing and operating new turnout facilities between the California Aqueduct and the West Side Canal.	
Project Location – Identify street address and cross streets or attach a map showing project site (preferably a USGS 15' or 7 1/2' topographical map identified by quadrangle name):	The Project is located between the Buena Vista Water Storage District and the California Aqueduct in southwestern Kern County, Section 9, Township 30 South, Range 24 East, Mount Diablo Base and Meridian.	
This Environmental Assessment/Initial Study (EA/IS) was completed in accordance with the National Environmental Policy Act and with the State's Guidelines for Implementation of the California Environmental Quality Act. The EA/IS was undertaken for the purpose of deciding whether the project may have a significant effect on the environment. On the basis of such EA/IS, Buena Vista Water Storage District Staff has concluded that the project will not have a significant effect on the environment, and has therefore prepared a Draft Mitigated Negative Declaration. The EA/IS reflects the independent judgment of the Buena Vista Water Storage District.		
<input type="checkbox"/> The Project site IS on a list compiled pursuant to Government Code section 65962.5.		
<input checked="" type="checkbox"/> The Project site IS NOT on a list compiled pursuant to Government Code section 65962.5.		
<input checked="" type="checkbox"/> The proposed project IS considered a project of statewide, regional, or areawide significance.		
<input type="checkbox"/> The proposed project IS NOT considered a project of statewide, regional, or areawide significance.		
<input type="checkbox"/> The proposed project WILL affect highways or other facilities under the jurisdiction of the State Department of Transportation.		
<input checked="" type="checkbox"/> The proposed project WILL NOT affect highways or other facilities under the jurisdiction of the State Department of Transportation.		
<input type="checkbox"/> A scoping meeting WILL be held by the lead agency.		
<input checked="" type="checkbox"/> A scoping meeting WILL NOT be held by the lead agency.		
If the project meets the criteria requiring the scoping meeting, or if the agency voluntarily elects to hold such a meeting, the date, time and location of the scoping meeting are as follows: No scoping meeting will be held.		
Date: --	Time: --	Location: --
Copies of the EA/IS and Draft Mitigated Negative Declaration are on file and are available for public review at the Buena Vista Water Storage District office, located at: 525 North Main Street, Buttonwillow, CA 93206		
Agency address: 525 North Main Street, Buttonwillow, CA 93206		
Comments will be received until the following date: September 24, 2010		
Any person wishing to comment on this matter must submit such comments, in writing, to Buena Vista Water Storage District prior to this date. Comments of all Responsible Agencies are also requested.		
The Board of Directors will consider the project and the Draft Mitigated Negative Declaration at its meeting on:		
Date: October 12, 2010	Time: 9:00 a.m.	Location: McMurtrey, Hartsock & Worth 2001 22nd Street, Suite 100, Bakersfield, CA 93301
If the Board of Directors finds that the project will not have a significant effect on the environment, it may adopt the Negative Declaration/Mitigated Negative Declaration. This means that the Board of Directors may proceed to consider the project without the preparation of an Environmental Impact Report.		

Date Received  
for Filing: \_\_\_\_\_

  
David F. Scriven  
KRIEGER & STEWART  
District Consulting Engineer  
BUENA VISTA WATER STORAGE DISTRICT

(Clerk Stamp Here)

Notice of Environmental Document  
Posted by County Clerk on 8/24/10  
and for 30 days thereafter, Pursuant to  
Section 21152(C), Public Resources Code

Buena Vista Water Storage District  
BV8 State Water Project Turnout  
Notice of Intent to Adopt a Mitigated Negative Declaration

Page 1 of 1

#1175



**NOTICE OF COMPLETION & ENVIRONMENTAL DOCUMENT TRANSMITTAL****SCH No.: 2010081076**

For U.S. Mail: State Clearinghouse, PO Box 3044, Sacramento, CA 95812-3044

For Hand Delivery and Overnight Delivery/Street Address: 1400 Tenth Street, Room 222, Sacramento, CA 95812  
(916) 445-0613

<b>PROJECT TITLE</b>				BV8 State Water Project Turnout			
<b>LEAD AGENCY</b>				<b>CONTACT PERSON</b>			
Buena Vista Water Storage District				Dan Bartel, Engineer-Manager			
<b>STREET ADDRESS</b>				<b>TELEPHONE</b>			
525 North Main Street				(661) 324-1101			
<b>CITY</b>		<b>ZIP CODE</b>		<b>COUNTY</b>			
Buttonwillow		93206		Kern			
<b>PROJECT LOCATION</b>							
<b>COUNTY</b>		<b>CITY/NEAREST COMMUNITY</b>					
Kern		Buttonwillow					
<b>CROSS STREETS</b>		<b>ZIP CODE</b>		<b>TOTAL ACRES</b>		<b>LATITUDE / LONGITUDE</b>	
N/A		93206		N/A		35°19' 41.40" N 119° 24' 36.05" W	
<b>ASSESSOR'S PARCEL NO(S).</b>		<b>SECTION, TOWNSHIP, RANGE</b>				<b>BASE</b>	
159-140-09 159-130-03		Section 9, Township 30 South, Range 24 East				MDM	
<b>WITHIN 2 MILES: STATE HIGHWAY NO.</b>				<b>WITHIN 2 MILES: WATERWAYS</b>			
None				California Aqueduct, Kern River Flood Channel, West Side Canal, Short Main Canal, Arizona Canal, Florida Drain, Freeborn Ditch, Main Drain, Section 3-4 Drain			
<b>WITHIN 2 MILES: AIRPORTS</b>		<b>WITHIN 2 MILES: RAILWAYS</b>		<b>WITHIN 2 MILES: SCHOOLS</b>			
None		None		None			
<b>DOCUMENT TYPE</b>							
<b>CEQA</b>				<b>NEPA</b>		<b>OTHER</b>	
<input type="checkbox"/>	NOP	<input type="checkbox"/>	Supplement to EIR	<input type="checkbox"/>	NOI	<input type="checkbox"/>	Joint Document (Environmental Assessment/Initial Study)
<input type="checkbox"/>	Early Cons	<input type="checkbox"/>	Subsequent EIR	<input type="checkbox"/>	EA	<input type="checkbox"/>	Final Document
<input type="checkbox"/>	Draft Neg Dec	<input type="checkbox"/>	(Prior SCH No.):	<input type="checkbox"/>	Draft EIS	<input type="checkbox"/>	Other:
<input checked="" type="checkbox"/>	Mit Neg Dec	<input checked="" type="checkbox"/>	Other: Notice of Determination	<input type="checkbox"/>	FONSI		
<input type="checkbox"/>	Final EIR						

**LOCAL ACTION TYPE**

<input type="checkbox"/>	General Plan Update	<input type="checkbox"/>	Specific Plan	<input type="checkbox"/>	Rezone	<input type="checkbox"/>	Annexation
<input type="checkbox"/>	General Plan Amendment	<input type="checkbox"/>	Master Plan	<input type="checkbox"/>	Prezone	<input type="checkbox"/>	Redevelopment
<input type="checkbox"/>	General Plan Element	<input type="checkbox"/>	Planned Unit Development	<input type="checkbox"/>	Use Permit	<input type="checkbox"/>	Coastal Permit
<input type="checkbox"/>	Community Plan	<input type="checkbox"/>	Site Plan	<input type="checkbox"/>	Land Division (Subdivision, etc.)	<input checked="" type="checkbox"/>	Other: New water system facilities

**DEVELOPMENT TYPE**

<input type="checkbox"/>	Residential:	Units:	Acres:	<input checked="" type="checkbox"/>	Water Facilities:	Type: Aqueduct Turnout	GPM:
<input type="checkbox"/>	Office:	Sq. ft.	Acres:	Employees:	<input type="checkbox"/>	Transportation:	Type:
<input type="checkbox"/>	Commercial:	Sq. ft.	Acres:	Employees:	<input type="checkbox"/>	Mining:	Mineral:
<input type="checkbox"/>	Industrial:	Sq. ft.	Acres:	Employees:	<input type="checkbox"/>	Power:	Type: MW:
<input type="checkbox"/>	Educational:				<input type="checkbox"/>	Waste Treatment:	Type:
<input type="checkbox"/>	Recreational:				<input type="checkbox"/>	Hazardous Waste:	Type:
					<input type="checkbox"/>	Other:	

**PROJECT ISSUES THAT MAY HAVE A SIGNIFICANT OR POTENTIALLY SIGNIFICANT IMPACT**

<input type="checkbox"/>	Aesthetic/Visual	<input type="checkbox"/>	Geologic/Seismic	<input type="checkbox"/>	Toxic/Hazardous
<input type="checkbox"/>	Agricultural Land	<input type="checkbox"/>	Minerals	<input type="checkbox"/>	Traffic/Circulation
<input type="checkbox"/>	Air Quality	<input type="checkbox"/>	Noise	<input type="checkbox"/>	Vegetation
<input checked="" type="checkbox"/>	Archaeological/Historical	<input type="checkbox"/>	Population/Housing Balance	<input type="checkbox"/>	Water Quality
<input checked="" type="checkbox"/>	Biological Resources	<input type="checkbox"/>	Public Services/Facilities	<input type="checkbox"/>	Water Supply/Groundwater
<input type="checkbox"/>	Coastal Zone	<input type="checkbox"/>	Recreation/Parks	<input type="checkbox"/>	Wetland/Riparian
<input type="checkbox"/>	Drainage/Absorption	<input type="checkbox"/>	Schools/Universities	<input type="checkbox"/>	Wildlife
<input type="checkbox"/>	Economic/Jobs	<input type="checkbox"/>	Septic Systems	<input type="checkbox"/>	Growth Inducement
<input type="checkbox"/>	Fiscal	<input type="checkbox"/>	Sewer Capacity	<input type="checkbox"/>	Land Use
<input type="checkbox"/>	Flood Plain/Flooding	<input type="checkbox"/>	Soil Erosion/Compaction/Grading	<input checked="" type="checkbox"/>	Cumulative Effects
<input type="checkbox"/>	Forest Land/Fire Hazard	<input type="checkbox"/>	Solid Waste	<input checked="" type="checkbox"/>	Other: Paleontological Resources

#### **PRESENT LAND USE/ZONING/GENERAL PLAN USE DESIGNATION**

The present land use and zoning designations, pursuant to the Kern County General Plan (Kern County 2007), are "Intensive Agriculture" and "Flood Hazard".

#### **PROJECT DESCRIPTION** *(please use a separate page if necessary)*

The Project includes the following:

- Construction of an approximately 1,510-foot long, 78-inch diameter, underground reinforced concrete pipeline (RCP) between the Aqueduct and West Side Canal. The pipeline includes: either a 78-inch magnetic flow meter or Venturi tube within a reinforced concrete vault near the Aqueduct, a pitot tube near the Aqueduct, and a 66-inch butterfly valve near the West Side Canal.
- Construction of a new reinforced concrete turnout on the Aqueduct. The new turnout will be approximately 20 feet tall, 19 feet wide, and 54 feet long. The turnout includes a 78-inch cast iron sluice gate with automatic actuator, trash racks, and approximately four-foot tall by 12-foot wide galvanized steel handrails. Work within the Aqueduct requires the placement of a cofferdam to allow water flow to continue in the Aqueduct during construction of the turnout. The cofferdam will be left in place for roughly three months, reducing maximum flow by approximately 50 percent over the three month time period.
- Construction of a new outlet structure in the West Side Canal upstream of the Arizona Canal. The discharge bay of the outlet structure will be approximately 17 feet wide, 25 feet long, and 14 feet tall. The discharged area around the outlet structure will be reinforced with approximately 167 cubic yards of 12-inch thick rock rip-rap above a six-inch gravel bed to reduce erosion. The outlet structure will also have 5-foot tall by 18-foot wide galvanized steel handrails
- Construction of a 10-foot by 12-foot concrete electrical building on the eastern side of the RCP within 100-200 feet of the Aqueduct inlet structure. The new building will also include a 0.18 acre elevated grade pad for access from the existing Aqueduct road.
- Installation of an 8-inch diameter vent riser adjacent to the electrical building within 100-200 feet of the Aqueduct inlet structure. Standpipe will be approximately nine feet tall above ground.

Temporary trenching will occur across the Kern River Flood Channel. Once installation of the RCP is complete, the river channel will be returned as closely as possible to its original condition and grade. Ground disturbance for the entire project will be approximately three acres.

The BV8 facilities may be operated at any time as deemed necessary by BVWSD and pursuant to the District's contracted SWP water agreements; however, the BV8 facilities are expected to operate primarily during the BVWSD's water year, which typically extends from late May through mid-August. During operational days, BVWSD plans to send personnel to the site twice daily to adjust the valves and read the meter. BVWSD would manage resultant conserved water supplies through programs with in-District entities, out-of-District entities, or a combination thereof.

<b>Reviewing Agencies Checklist</b> <b>KEY:</b> S = Document sent by lead agency X = Document sent by SCH T = Suggested distribution		<i>Appendix C</i>
<u>Lead Agencies may recommend State Clearinghouse distribution by marking agencies below:</u>		
Air Resources Board		Native American Heritage Commission
Boating & Waterways, Department of		Office of Emergency Services
California Highway Patrol		Office of Historic Preservation
Caltrans District # _____		Parks & Recreation
Caltrans Division of Aeronautics		Pesticide Regulation, Department of
Caltrans Planning		Public Utilities Commission
Coachella Valley Mountains Conservancy		Reclamation Board
Coastal Commission		Regional Water Quality Board No.: _____ Resources Agency
Colorado River Board		S.F. Bay Conservation & Development Commission
Conservation, Department of		San Gabriel & Lower Los Angeles Rivers & Mountains Conservancy
Corrections, Department of		San Joaquin River Conservancy
Delta Protection Commission		Santa Monica Mountains Conservancy



	Education, Department of		State Lands Commission
	Office of Public School Construction		SWRCB: Clean Water Grants
	Energy Commission		SWRCB: Water Quality
	Fish & Game Region #		SWRCB: Water Rights
	Food & Agriculture, Department of		Tahoe Regional Planning Agency
	Forestry & Fire Protection		Toxic Substances Control, Department of
	General Services, Department of		Water Resources, Department of
	Health Services, Department of		Other: United States Fish and Wildlife Service
	Housing & Community Development		Other:
	Integrated Waste Management Board		

**Local Public Review Period** (to be filled in by lead agency):

Starting Date: August 25, 2010 Ending Date: September 23, 2010

**Lead Agency** (Complete if applicable):

Consulting Firm: Krieger & Stewart

Address: 3602 University Avenue

City/State/Zip: Riverside, CA 92501

Contact: David F. Scriven

Phone: (951) 684-6900

**Applicant:** Buena Vista Water Storage District

Address: 525 North Main Street

City/State/Zip: Buttonwillow, California 93206

Phone: (661) 324-1101

Signature of Lead Agency Representative:



Date: October 18, 2010

### For SCH Use Only:

Date Received at SCH \_\_\_\_\_

Date Review Starts \_\_\_\_\_

Date to Agencies \_\_\_\_\_

Date to SCH \_\_\_\_\_

Clearance Date \_\_\_\_\_

Notes: \_\_\_\_\_