



CESA MOU ID: 2081a-2019-002-R6
SALTON SEA SPECIES CONSERVATION HABITAT PROJECT
Expiration Date: December 31, 2026

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
CALIFORNIA DEPARTMENT OF WATER RESOURCES
AND
CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

Authority: This California Endangered Species Act (CESA) Memorandum of Understanding (MOU), is made and entered into by and between the California Department of Water Resources (Permittee), and the California Department of Fish and Wildlife (CDFW). The purpose of this CESA MOU is to authorize take by Permittee of desert pupfish (*Cyprinodon macularius*) resulting from the effects of the Species Conservation Habitat (SCH) project on up to 48.5 acres of desert pupfish habitat for management and scientific purposes pursuant to Fish and Game Code (FGC) Section 2081(a).

The California Fish and Game Commission has listed the desert pupfish (*Cyprinodon macularius*) as an endangered species pursuant to CESA. FGC Section 2080 prohibits the import, export, take, possession, purchase, or sale of any species, in whole or in part, that has been listed as threatened or endangered by the California Fish and Game Commission. Take is defined in FGC Section 86 as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” However, FGC Section 2081(a) allows CDFW to authorize take and other acts prohibited by FGC 2080 for scientific, educational, or management purposes.

The SCH project will be implemented for management and scientific purposes. Consisting of up to 3,770 acres of saline habitat ponds supported by associated infrastructure, the SCH project will be created and managed to support fish and piscivorous bird habitat through habitat conversion of currently exposed and dry playa to saline habitat ponds, which will provide in-kind replacement habitat for fish and wildlife dependent upon the Salton Sea as the Salton Sea recedes and becomes increasingly saline. The SCH will provide an opportunity to implement a robust science program to test and evaluate different project features, characteristics, and operations under an adaptive management

framework to allow managers to identify the management practices that best meet SCH project goals, while balancing competing constraints such as environmental limitations and compatibility with existing and future adjacent land uses. This information will be used to develop best available science to inform future habitat creation projects at the Salton Sea under the Salton Sea Management Program Phase I: 10-year Plan.

The MOU also includes general conditions that must be followed to avoid adverse impacts to other endangered, rare, sensitive and nesting species.

Permittee: California Department of Water Resources

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Project Location:

The Species Conservation Habitat (SCH) project at the Salton Sea is located in Imperial County towards the southern end of the Salton Sea at the mouth of the New River about 9 miles west of the City of Calipatria, in the County of Imperial, State of California; Sections 13 and 14, Township 12 South, Range 12 East, U.S. Geological Survey (USGS) Quad Map Westmoreland West and Sections 23, 24, 25, 26, 27, 28, and 29, Township 12 South, Range 12 East, U.S. Geological Survey (USGS) Quad Map Obsidian Butte (Figure 1. Species Conservation Habitat Project Location). The New River divides the SCH project into two parts, the smaller portion, consisting of approximately 1000 acres is located to the east of the New River, and the larger 2770 acres is located to the west of the New River. The Project Area consists of 3,770 acres at the approximate coordinates of: 33°06' N and 115°44' W, at an elevation of approximately -230 feet.

Project Description:

The project consists of the construction of a series of gravity-fed ponds with islands and areas of varying water depths that will serve as fish and avian habitat, the development of associated water delivery systems, and associated electrical power infrastructure development to provide power for the water pumps. These ponds will impound saline water at a shallow depth within the project site to create piscivorous bird habitat within an area of currently exposed and dry playa area. This will be done to offset the loss of habitat of this type that is occurring as the Salton Sea recedes and becomes increasingly saline.

The SCH project will involve the construction of ponds to the east and west of the New River. These ponds will cover 3,770 acres and will also be associated with water delivery and electrical power supply infrastructure.

Water from the Salton Sea will be referred to as Salton Sea Water in this Project Description to avoid confusion with the saline water in pond impoundments (which will be a blend of fresh water from the New River and Salton Sea Water). The water delivery infrastructure development consists of: 1) a pump station for the fresh water supply on the north bank of the New River; 2) a hypersaline water pump station that will pump Salton Sea Water from an excavated channel that supplies Salton Sea Water; and 3) a mixing/sedimentation basin that will allow mixing of the freshwater, Salton Sea Water, and sediment to settle from water from the New River prior to discharge into the constructed saline water pond. At least one mixing/sedimentation basin, on each side of the New River, may be constructed.

Water from the Salton Sea pump station will require the addition of river crossings of water pipelines to supply the water to the west side of the New River. Electrical power for the pumping stations may be supplied by extensions of power lines from the nearest Imperial Irrigation District (IID) three-phase power connection.

Ponds

Creation of the ponds will require construction of both exterior and interior berms. Exterior berms will form the boundary of the project site and may be located adjacent to the Salton Sea. Ponds will be supplied with water from the mixing/sedimentation basin and may be supplied with water from the agricultural drains operated by IID. Ponds will be managed to maintain a salinity level between 20 and 40 parts per thousand (ppt). Pond water will be discharged into the Salton Sea downstream of the ponds (North). Gated control structures in interior berms control flow between the ponds.

Berms

Berms will be built in a manner to prevent excessive erosion by wave action from strong winds and will be designed for optimal balance between the initial cost and overall life cycle cost and durability. Berms and other structures will be constructed to provide vehicular access and shall be designed to prevent climbing and other unauthorized access. Berm impoundments will be constructed to a standard designed to provide a substantial resistance to deformation or failure, which may require excavation and replacement of a large volume of the weak in-situ base soils.

Recreation Facilities

Public recreation shall be limited to passive recreation, such as wildlife viewing. The SCH project design will provide one vista point for public recreational access on the west side of the New River. The vista point will include a moderately-sized observation area with an interpretative sign and ADA compliant public restrooms. It will use existing public roads and contain 20 parking spots and adequate space for one bus turn-around. In no event will the public be allowed access beyond the designated vista point to features such as boat ramps, berms, or other SCH project facilities.

Bird Habitat Islands

There will be 1 to 5 acres of islands per 100 acres of pond. Excavated material will be used to create habitat islands for birds and will consist of substrate suitable for nesting and loafing/roosting. The islands will be capable of withstanding long-term wind and water erosion without the need for re-contouring. These islands will be used to provide nesting and roosting habitat. All islands will be surrounded by water at least one foot deep and will be constructed at a distance from shore suitable to minimize predation. Island acreage and purpose should be allocated as follows:

- i. 50% of island acreage will be large nesting islands sized 2 to 10 acres.
- ii. 25% of island acreage will be small nesting islands sized 0.3 acre to 1 acre.
- iii. 25% of island acreage will be loafing islands sized one-eighth to one-quarter of an acre.
- iv. Snags or bare structures above open water will also be provided as roosting and nesting opportunities for some bird species.

Constructed Aquatic Features

Each pond will also include aquatic features that provide habitat for fish, increase microhabitat diversity, and provide cover and attachment sites for a variety of invertebrate species. Aquatic features may include swales, channels, hard substrate on berms, bottom hard substrate, floating islands, and submerged aquatic vegetation. The ponds will be required to meet the depth and performance criteria set forth below:

- i. 50% of pond habitat will be shallower than three feet when filled to its designed capacity.
- ii. 50% of pond habitat will be deeper than three feet when filled to its designed capacity.

- iii. 10% to 25% of pond habitat will consist of excavated swales or channels with depths between six and ten feet deep.

Swales will be excavated through the middle of the ponds to the exterior berm approximately two to four feet below the surface of the pond bottom and range from 20 to 150 feet wide. To the extent possible, deeper areas should be connected by channels to facilitate fish movement between them.

Water Supply

Salton Sea Water is anticipated to be pumped out of an excavated channel from the Salton Sea by a pump station at the north end of the created habitat. The water will be pumped under pressure through a water main. The buried water main will continue south to the mixing/sedimentation basin.

The fresh water will be supplied from a pump station located on the north side of the New River. Both the Salton Sea Water and the fresh water from the New River are pumped into a mixing/sedimentation basin. The mixing/sedimentation basin will allow sediment suspended in the water to settle before entering the constructed ponds. In addition, ponds may be supplied with water from the agricultural drains operated by IID. Salinity in the mixing/sedimentation basin will be controlled by regulating the inflow of fresh and Salton Sea Water into the basin. Target salinity (20 – 40 ppt.) for the resulting blended saline water will be within the ranges of tolerance for currently resident fish species known to be used as prey by piscivorous bird species inhabiting the area. Saline water will flow from the mixing/sedimentation basin into the constructed ponds.

Boat Ramps

At least three boat ramps will be constructed throughout the created habitat. The boat ramps will be necessary to access various constructed structures to perform monitoring and maintenance as needed.

Mixing/Sedimentation Basins

A minimum of two sedimentation basins will be constructed with at least one basin located on either side of the New River. Each basin may be divided into two parts: the active basin and the maintenance basin. The active basin is where sediments will settle out of the water prior to inflowing into the ponds. The active basin will become the maintenance basin as sediments are left to dry and then removed. Sediments will be excavated and used to maintain project components and/or stockpiled for future use.

Basins will be constructed with steep slopes to prevent the establishment of emergent vegetation.

Pipeline River Crossings

Two temporary river crossings, at the middle and north part of the New River, may be used to suspend water supply lines across the New River.

If necessary, the pipes will be placed on a small platform which will be supported by foundations located on both sides of the river. The exact placement of the temporary crossings has not been identified, but one crossing will potentially be located at the north part of New River and the second about crossing halfway between the northern and southern boundaries of the Project Area. The foundation area is expected to be about 15 feet wide. An excavator or similar type of equipment will be used to excavate the foundations and lift the structure and pipeline is in place. Further construction will not be needed until pipeline infrastructure replacement and/or repair is needed. Pipelines will be in operation as long as water supply is required in ponds west of the New River.

Electrical Power

Electrical power for the pumping stations may be supplied by extensions of power lines from the nearest IID three-phase power connections that can support the anticipated electrical loads. These locations have been tentatively identified as the corner of Young Road and Kornbloom Road for the Salton Sea Water pumping station and near Vail Road for the New River freshwater pumping station.

Staging Areas

Although the final location of the staging areas has not been determined, a maximum of six staging areas are anticipated to be utilized during project implementation. Staging areas will be used for equipment storage and support activities within the 3,770-acre project footprint.

Interception Ditches

Implementation of the project will require the construction of interception ditches. These ditches will be constructed before any other features to facilitate drying of the project site, provide pupfish population connectivity, maintain pupfish habitat during construction, and minimize pupfish mortality during construction. The interception ditches will connect all existing agricultural drains operated by IID in the area adjacent to the project site and will

allow for the transport of water runoff from adjacent fields upgradient of the ponds out to the Salton Sea via a channel, or if needed, into the ponds. The interception ditches will be open, earthen, and unlined and will be designed to have a water velocity not to exceed 1.6 fps, which would provide suitable habitat for pupfish with the exception of floods, and will incorporate small backwater pools approximately every one-half (0.5) mile to provide refuge for pupfish during high flow events.

Operations and Maintenance

Ongoing maintenance will be an integral part of SCH operations, which include maintaining mixing/sedimentation basins, interior and exterior berms, protective riprap, pumping stations and associated project features. Maintenance of the mixing/sedimentation basins will include excavation of material to be used to maintain project components. Salton Sea Water pumping facilities will be maintained to reduce fouling caused by Salton Sea Water and all pumping facilities will be maintained to reduce biological fouling. These activities will be included in maintenance plans. However, if buildup in pipelines becomes excessive, pipe replacement may be required. Draining the ponds would not be a routine maintenance activity but may be required if a berm were damaged or another emergency action is required.

Coffer Dams and Dewatering

Construction will need to be performed in the wetted portion of the channel for the construction of the New River pump station and inlet. Cofferdams (sheet piles) will be used to isolate the work areas. The water will then be pumped from the interior of the sheet pile enclosure. Sumps will be created at low points within the dewatered areas and incidental seepage water will be pumped out to maintain the work area in a dry condition. Additionally, cofferdams will be used to construct boat ramps "in the dry" at the mixing/sedimentation basins. Construction of the Salton Sea Water pump station and associated boat ramp within the Salton Sea will also utilize cofferdams to isolate the work areas. Procedures followed will be similar to those described above for the New River pump station. All cofferdams will be temporary and will be removed after construction of the pump stations and associated infrastructure.

Project Management and Scientific Purpose

Deteriorating environmental conditions at the Salton Sea through water inflow reductions, playa exposure, increased salt content and temperature, and greater frequency of anoxic events are a few of the motivating factors to construct the SCH project. The purpose of the SCH project is to create a range of aquatic habitats as a conservation measure to support an array of fish and wildlife species that depend

on the Salton Sea for their habitat needs in accordance with Fish and Game Code Section 2932. The SCH project will support piscivorous birds, including several species of special concern. Creation of the SCH project will include ponds on either side of the New River to provide habitat for piscivorous birds, support fish production, and compensate for some of the fish and wildlife habitat that is being lost as the Salton Sea recedes.

Goals of the SCH project:

- 1) Provide protection for the fish and wildlife species dependent on the Salton Sea; and
- 2) Develop and refine information needed to successfully manage the SCH project habitat through an adaptive management process, as well as inform and guide development of future habitat projects.

An adaptive management approach will be used to manage the SCH project. Monitoring of fish, wildlife and environmental variables will inform management of the SCH project to evaluate progress towards the project goal of creating a functional habitat to support the fish and wildlife of the region. Adaptive management acknowledges that uncertainties exist in predicting how project implementation affects important resources and provides a scientific and institutional framework for adjusting future management decisions until the project arrives at the desired environmental conditions for fish and wildlife sustainability. The SCH project will follow the steps of the adaptive management cycle:

1. **Plan** – Identify goals and objectives, summarize expectations for project outcomes, and identify uncertainties and key questions for assessment;
2. **Design** – Summarize designs and operational scenarios for habitat ponds;
3. **Implementation** – Construct and operate the ponds according to initial operating scenarios;
4. **Monitor** – Describe monitoring methods for measuring indicators of desired outcomes and triggers of management actions;
5. **Evaluate** – Analyze, synthesize, and manage data to document project outcomes, assess progress toward objectives, detect any negative outcomes, and reduce uncertainty; and
6. **Adapt and Learn** – Communicate findings to decision-makers and managers to determine if and when to adjust management actions and/or monitoring to improve project performance and inform future actions.

Once the SCH project has been constructed, the adaptive management plan will be implemented. A monitoring framework included as part of the SCH project adaptive management plan will immediately be implemented. The monitoring plan is designed to provide an appropriate level of information for assessment and

decision-making: to guide operations of pumps to maintain target conditions of salinity, water volume and flow rates; track progress towards project objectives, evaluate effectiveness of management actions, and check monitoring results for triggers of management responses; track status of tasks required for permits issued by regulatory agencies; and document general site conditions and detect any issues that may trigger a standard management response (e.g., erosion control, weed control, disease vector control). Monitoring of key fish, wildlife, and environmental indicators will inform the adaptive management of the project. These habitat indicators include:

- Hydrological measurements (volume, flow rate);
- Fish composition and abundance by gill netting and fish trapping;
- Bird composition and abundance through observational surveys;
- Data collection of habitat use and measurement of physical and biological characteristics;
- Meteorological measurements such as air temperature, wind speed and direction;
- Limnological measurements such as water temperature, dissolved salts and oxygen as well as pH and redox potential;
- Algae as florescence measurements; and
- Early-warning indicators of potential threats, such as selenium concentrations or mosquito larvae in ponds.

The success of management actions at the Salton Sea to provide or create conditions suitable to support sustainable fish and bird populations will depend on current and reliable information. If monitoring reveals issues that require more in-depth study to reduce uncertainty for managers, then SCH project managers, with input from experts, will identify and prioritize key questions for further monitoring or study. Focused investigations would be developed and implemented separately, based on priority and availability of funding and expertise. The adaptive management approach used for the SCH project will serve as a test case and lessons learned from this project will inform and guide future Salton Sea Management Program 10-Year Plan habitat projects.

Take Authorization

This CESA MOU authorizes the Permittee, its employees, contractors, and agents to take desert pupfish for management and scientific purposes through the impact of up to 48.5 acres of desert pupfish habitat. The project may result in permanent impacts of up to 26.1 acres and temporary impacts of up to 22.3 acres of desert pupfish habitat (Table 1). CDFW is using a worst-case scenario to quantify impacted habitat acres because the Salton Sea elevation has declined and

designated shoreline habitat most likely consists of exposed playa that no longer supports habitat for desert pupfish. Should project activities impact more than 48.5 acres of habitat, authorized incidental take would be exceeded

Table 1. Permanent and Temporary Impacts to Desert Pupfish Habitat

| Pond Area/Pupfish Habitat Type | Permanent Impacts (acres) | Temporary Impacts (acres) | Total Impacts (acres) |
|---------------------------------------|----------------------------------|----------------------------------|------------------------------|
| East New | | | |
| Agriculture Drain | 0.0 | 0.1 | 0.2 |
| Shoreline | 9.2 | 6.0 | 15.2 |
| West New | | | |
| Agriculture Drain | 0.3 | 0.4 | 0.7 |
| Shoreline | 8.9 | 4.7 | 13.6 |
| Far West New | | | |
| Cattail Marsh | 0.5 | 0.7 | 1.2 |
| Shoreline | 7.2 | 10.3 | 17.5 |
| Total* | 26.1 | 22.3 | 48.5 |

Impacts to desert pupfish habitat will be offset by providing suitable habitat within the SCH ponds and interception ditches. Desert pupfish move between the irrigation drains and the Salton Sea and could be present anywhere within the edge of the Sea containing suitable habitat, marsh areas, and irrigation drains. Because of the variability in habitat use and movement patterns and changes in population size anticipated over time for the occupied and potentially occupied areas likely to be affected by SCH activities, it is not possible to specify a number of desert pupfish anticipated to be taken as a result of the SCH project.

PERMIT

SPECIAL CONDITIONS

1. Desert Pupfish

- a. The Permittee shall minimize to the greatest extent feasible construction within wetted areas.
- b. The Permittee shall prepare and implement a desert pupfish protection and relocation plan. This plan will be submitted to CDFW for review and approval prior to any ground disturbing activities. This plan will include: 1) Protocols for pre-construction or pre-maintenance surveys to assess species presence and spawning within or immediately adjacent to work areas (e.g., in the drains/drain channels, along the shoreline if construction is in the “wet,” and around the

- pond margins for maintenance; 2) Capture (e.g., trapping in the drains for construction and maintenance, or trapping, dip netting, and seining in the ponds if drained or if the water level is dropped) and transport methods to minimize handling and stress as well as exposure to heat, low DO, and crowding; 3) Identification of locations for release of captured desert pupfish; 4) Timing windows when construction or maintenance in shallow shoreline areas and in the drain mouths/channels may be conducted with minimal effects on desert pupfish spawning; 5) Maintenance protocol for the ¼-inch mesh screen on the Salton Sea Water intake, unless salinity is greater than 68 ppt; and 6) Adaptive management procedures that include assessment of conservation measure effectiveness, development of revised measures to improve effectiveness, and similar assessment of revised measures to verify effectiveness.
- c. The Permittee shall monitor the depth of water during maintenance of the Salton Sea Water pump station. If the water depth is 6 feet or less, the dredging footprint will be surrounded by netting, and desert pupfish will be trapped out of this enclosed space before suction dredging is performed. If salinity levels are beyond the tolerance of desert pupfish (approximately 68 ppt), avoidance and minimization measures would not be required as desert pupfish would not be present.
 - d. The Permittee shall prepare and implement a desert pupfish inoculation plan if desert pupfish do not naturally repopulate the ponds 1 year after ponds are filled with water. This plan will be submitted to CDFW for review and approval prior to any ground disturbing activities. This plan will include, at a minimum: 1) A list of criteria to evaluate whether ponds will support desert pupfish (e.g., water quality targets, food resources, habitat features, etc.); 2) Identification of possible desert pupfish source population(s) and quantity of fish to be collected from each source population; 3) Capture and transport methods to minimize handling and stress as well as exposure to heat, low dissolved oxygen (DO), and crowding; 4) Desert pupfish population assessment protocol to evaluate population trends in ponds over time; 5) Annual reporting requirements; and 6) Contingency plan should the ponds not support viable populations of desert pupfish.
 - e. The Permittee shall prepare and implement a monitoring and adaptive management plan to provide for the monitoring of desert pupfish relative abundance and distribution in the SCH ponds and desert pupfish connectivity from drains around the ponds. Triggers, performance measures, and threat indicators will be identified to provide recommendations to SCH managers for maintaining or adjusting operations to ensure desert pupfish persistence in the SCH ponds and drains around the ponds. This plan will be submitted to the CDFW for review and comment prior to the SCH ponds being filled with water.

2. If any desert pupfish injury or mortality is observed and/or may have been caused by management or research activities, Permittee shall contact CDFW immediately, using the following methods:
 - a. Immediately notify CDFW representative Nasseer Idrisi by telephone at (760) 200-9172. The Permittee must follow up such oral notification in writing, 5 business days. With the written notification, the Permittee must include a report of the circumstances that led to the injury or mortality. A description of the changes in activity protocols that will be implemented to reduce the likelihood of such injury or mortality happening again must be included, if appropriate. The incident shall also be discussed in the annual report.
 - b. The written report shall also be sent to:

California Department of Fish and Wildlife
Wildlife Programs Branch
1416 Ninth Street, Sacramento, California 95814
(Telephone Number: (916) 653-4875); and

California Department of Fish and Wildlife
Inland Deserts Region
3602 Inland Empire Blvd., Suite C-220
Ontario, CA 91764
(909) 484-0167

GENERAL CONDITIONS

1. This CESA MOU does not relieve the Permittee of the responsibility to obtain any other permits, or comply with any other federal, state, or local laws or regulations. It is the responsibility of the Permittee to know the boundaries and managing authority of specifically designated protected areas or sanctuaries. Nothing in this CESA MOU authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.
2. The Permittee is responsible for the actions of any individuals assisting them while conducting permitted activities under the authority of this CESA MOU.
3. This CESA MOU may be revoked if the Permittee fails to follow activities and conditions herein.
4. A CDFW-approved biologist (biological monitor) shall be onsite to monitor all activities that result in the clearing of sensitive habitat. CDFW will provide a map

of sensitive habitat areas. Permittee shall obtain CDFW approval of the biological monitor(s) 30 days prior to initiation of any project activities in jurisdictional areas. The biological monitor shall be responsible for monitoring activities addressed by this CESA MOU, including, but not limited to all activities that result in the clearing or grading of sensitive habitat, and performance of necessary surveys, as required by this CESA MOU. The biological monitor is required to halt construction activities if any threatened or endangered species are identified and notify the appropriate agencies immediately. If the species observed is desert pupfish, the procedures specified in this CESA MOU for this project will be followed. The biological monitor shall have proven knowledge of the general area and experience handling sensitive species present in the Project Area. Permittee shall obtain CDFW approval if the biological monitor must be changed.

5. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from a CDFW-approved biologist and/or CDFW personnel that includes a discussion of the biology and general behavior of sensitive species in the area, information about the distribution and habitat needs of these species, sensitivity of these species to human activities, sensitive species status pursuant to CESA including legal protection, and project-specific protective measures described in this CESA MOU. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form (signature sheet) stating they attended the program and understand all protection measures. A copy of the signature sheet for this training will be provided to CDFW upon request.
6. No less than 30 days prior to initiating project activities, including site preparation and staging, Permittee shall submit to CDFW for review and approval a Nesting Bird Plan (NBP) that includes project specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur and that the project complies with all applicable laws related to nesting birds and birds of prey. The NBP shall include, at a minimum: monitoring protocols: survey timing and duration; copies of survey and nest monitoring datasheets, and procedures for submittal to CDFW; and project specific avoidance and minimization measures including, but not limited to: project phasing and timing, monitoring of project-related noise, sound walls, and buffers, where appropriate.
7. The following measures will be implemented to avoid and minimize impacts to nesting birds. If the nesting season cannot be avoided and construction takes

place between March 1st to September 15th (January 1st to July 31st for Raptors), the Permittee will perform bird surveys as described below to avoid and minimize impacts to nesting birds. A CDFW-approved biological monitor shall survey the entirety of the project site, and within a recommended 500-foot buffer (where feasible) surrounding the project site for nesting birds, prior to commencing project activities (including construction and/or site preparation). Surveys shall be conducted by the approved biological monitor at the appropriate time(s) of day, no more than three days prior to commencement of project activities. Documentation of surveys and findings shall be submitted to CDFW for review prior to conducting project activities. If an active bird nest is located, the approved biological monitor shall implement and monitor specific avoidance and minimization measures as specified in the CDFW-approved Nesting Bird Plan.

8. Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the CESA MOU and may inspect the facilities or accompany the Permittee during any activity conducted pursuant to this CESA MOU.
9. Permittee shall make the CESA MOU, any extensions and amendments to the CESA MOU, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall present them to CDFW personnel, or personnel from another state, federal, or local agency upon request.
10. Permittee shall provide copies of the CESA MOU and any extensions and amendments to the CESA MOU to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
11. Permittee shall notify CDFW if Permittee determines or learns that a provision in the CESA MOU might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.
12. If any sensitive species are observed on or in proximity to the project site, or during project surveys, the Permittee shall submit California Natural Diversity Database (CNDDDB) forms and maps to the CNDDDB within five working days of the sightings, and provide the regional CDFW office with copies of the CNDDDB forms and survey maps. The CNDDDB form is available online at www.dfa.ca.aov/whdab/Ddfs/natSDec.Ddf. This information shall be mailed within five days to: California Department of Fish and Wildlife Natural Diversity Data Base, P.O. Box 944209, Sacramento, CA 94244-2090. Phone (916) 324-3812. A copy of this information will be mailed within five days to the CDFW

Region 6, 78078 Country Club Drive, Suite 109, Bermuda Dunes, CA 92203,
ATTN: Nasseer Idrisi.

13. The Permittee shall notify CDFW, in writing, at least five days prior to initiation of project activities and at least five days prior to completion of project activities. Notification shall be mailed to the CDFW Region 6, 78078 Country Club Drive, Suite 109, Bermuda Dunes, CA 92203, **ATTN: Nasseer Idrisi.**

REPORTING

1. An annual report shall be submitted to CDFW by February 15 of each year. A draft of the annual report shall be submitted to CDFW for review and comment at least two weeks prior.

The annual report shall be in the following format:

- A. An introduction section addressing reasons and objectives for taking the species.
 - B. A methodology section addressing data collection and analysis procedures.
 - C. A results section that provides the data collected.
2. Each annual report shall also include maps or other appropriate figures depicting the location of the project site; the numbers and location of desert pupfish that may have died each year; and other pertinent observations made during sampling efforts regarding the status or ecology of the species. These records must be submitted with the annual report.
 3. All reports or other documents that include information gathered under the authority of this CESA MOU (e.g., papers in peer-reviewed journals) shall reference this authority. Copies of such documents shall be provided to CDFW upon their completion. Draft documents, raw/field data and notes, and other information collected from work conducted under this CESA MOU shall be submitted to CDFW upon request.

LIABILITY

Permittee shall be solely liable for any violations of the CESA MOU, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the CESA MOU authorizes. This CESA MOU does not constitute CDFW's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

ENFORCEMENT

Nothing in the CESA MOU precludes CDFW from pursuing an enforcement action against Permittee for any violation of this CESA MOU instead of, or in addition to, suspending or revoking the CESA MOU. Nothing in the CESA MOU limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

SUSPENSION AND REVOCATION

CDFW may suspend or revoke in its entirety the CESA MOU if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the CESA MOU. Before CDFW suspends or revokes the CESA MOU or pursues any enforcement action against Permittee for violation of this CESA MOU, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke or pursue an enforcement action. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the CESA MOU, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

EFFECTIVE DATE AND TERMINATION

This CESA MOU shall commence on the date of execution and unless amended, will terminate on December 31, 2026.

If there are substantial changes and/or alterations to project infrastructure that may cause previously undisclosed or new impacts to fish and wildlife resources, CDFW may, at its discretion, amend or terminate this CESA MOU.

A 30-day written notification is required prior to early termination by either party.

AMENDMENTS

Amendments to this CESA MOU, including renewals, may be proposed by either party and shall become effective when both parties sign a written modification to this document.

Kristopher A. Tjernell, Principal Officer
California Department of Water Resources
CESA MOU ID: 2081a-2019-002-R6
June 28, 2019
Page 17

TRANSFER AND ASSIGNMENT

This CESA MOU may not be transferred or assigned to another entity, and any purported transfer or assignment of the CESA MOU to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, and thereafter CDFW approves the transfer or assignment in writing.

DISCLAIMER

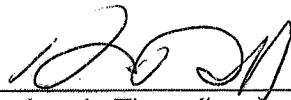
The CDFW shall incur no fiscal obligation under this CESA MOU.

THE PARTIES HAVE EXECUTED THIS CESA MOU TO BE IN EFFECT AS OF THE DATE LAST WRITTEN BELOW.



Date: 7/2/19

Leslie MacNair
Regional Manager
California Department of Fish and Wildlife
Inland Deserts Region (R6)
3602 Inland Empire Boulevard, Suite C-220
Ontario, CA 91764



Date: 7/5/19

Kristopher A. Tjernell
Deputy Director
Department of Water Resources
Integrated Watershed Management
1416 9th Street
Sacramento, CA 95814

Prepared by: James Sheridan, Environmental Scientist; Samantha Haynes, Environmental Scientist; Nasseer Idrisi, Senior Environmental Scientist

APPENDIX A

References and Literature Cited

U.S. Fish and Wildlife Service. 2013. Formal and Informal Section 7 Consultation for the Authorization to Discharge Fill Material into Waters of the United States in Association with the Salton Sea Species Conservation Habitat Project, Imperial County, California (FWS-IMP-12BOO18-13F0058). March 5, 2013

California Department of Fish and Wildlife 2016 Lake and Streambed Alteration Agreement for Salton Sea Species Conservation Habitat (SCH) Project (1600-2016-0141-R6). October 14, 2016

Final Salton Sea Species Conservation Habitat Project Environmental Impact Statement/Environmental Impact Report (EIS/EIR), dated July, 2013

FIGURE 1

Species Conservation Habitat Project Location

Legend

- Species Conservation Habitat (3774 Acres)
- New River
- Elev = -235 (NAVD 88, ft)

0 1 2 Miles

Elevation data source:
USGS 10254005 Salton Sea NR Westmorland, CA



Species Conservation Habitat
Salton Sea Management Program
California Dept of Water Resources
California Natural Resources Agency

Imagery: 09/10/2017 Map Created: 03/12/2019

