CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE CENTRAL REGION 1234 EAST SHAW AVENUE FRESNO, CALIFORNIA 93710

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AMENDMENT NO. 9 (A Major Amendment) California Endangered Species Act Incidental Take Permit No. 2081-2015-024-04 California High-Speed Train Project Fresno to Bakersfield Section Permitting Phase 1

INTRODUCTION

On June 15, 2015, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2015-024-04 (ITP) to the California High-Speed Rail Authority (Permittee) authorizing take of California tiger salamander (*Ambystoma californiense*), Swainson's hawk (*Buteo swainsoni*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), and San Joaquin kit fox (*Vulpes macrotis mutica*) (collectively, the Covered Species) associated with and incidental to the Permitting Phase 1 of the Fresno to Bakersfield Section of the High-Speed Train (HST) Project (Project). The Project as described in the ITP originally issued by CDFW includes HST alignment beginning on the south side of the G Street and San Benito Street intersection, north of Highway 41, in the City of Fresno, Fresno County, California. From this intersection, the Fresno to Bakersfield HST alignment extends south either along or adjacent to the Burlington Northern Santa Fe Railway (BNSF) for approximately 99 miles before reaching the section endpoint, at the intersection of 7th Standard Road, and Santa Fe Way, within the city limits of Shafter, in Kern County, California.

The total length of the Project is 99 miles. The Project is the second of the nine California HST sections to be constructed; each section will function independently, but once joined together will create a statewide HST system. The HST will be an electrically powered with steel-wheel-on-steel-rail technology and state-of-the-art safety, signaling, and automated train-control systems. The trains will be capable of operating at speeds of up to 220 miles per hour (mph) over a fully-graded, separated, dedicated track alignment. The Project will be built using a design/build (D/B) approach, a method of construction by which one D/B contractor works under a single contract with the Permittee to provide design and construction services. The Project as originally permitted in the ITP included construction and installation of all Project components, including disturbance of up to 5,868.00 acres (hereafter, Construction Footprint). Construction may occur at any point along the Construction Footprint, and construction may occur at multiple locations simultaneously. The Project also includes operations,

Rev. 2013.1.1

maintenance, inspection activities within the Construction Footprint (O&M), and Mitigation Activities.

In an email dated June 24, 2016, the Permittee requested a revision of the ITP Project Description to include an increase in the Construction Footprint to 5,970.58 acres, and in a subsequent email dated July 25, 2016, the Permittee requested the addition of a third designation of approvable project biologists to carry out small mammal habitat assessment and trapping activities. On March 7, 2017, CDFW issued Major Amendment No. 1 to the ITP incorporating these requested revisions along with corrections to the impacts acreage, changes to the required Habitat Management lands acreage, and clarifications to the reporting requirement language.

On July 5, 2018 and September 19, 2018, CDFW initiated, issued, and re-issued respectively, Major Amendment No. 2 to the ITP incorporating a Baseline Map Book as Exhibit 6 and added references to the map book throughout the ITP; further revising the Tracking Suitable Habitat Feature Disturbances, Map Updating, and Reporting requirements; added a specific Covered Activity (pile driving) and a species-specific Take Avoidance Measure for that Covered Activity; adding the third category of Biological Monitor, Designated Small Mammal Trapper, to Condition of Approval 6.2; clarified the Construction Monitoring Notebook requirement; added Condition of Approval 7.13 requiring survey and reporting requirements in advance of initiating Covered Activities; revising Conditions of Approval 8.13.2, 8.14.1, 8.15.1, 8.16.1, 8.16.2, 8.16.3, 8.17.2; and adding Condition of Approval 8.15.6.

In a letter dated June 25, 2018, the Permittee requested a revision of the ITP to change the Mitigation Site Construction Elements from the Fagundes Compensatory Mitigation Site to a new location, now recognized as Cottonwood Creek. Because the Permittee would no longer be conducting riparian and wetland restoration at the Fagundes Compensatory Mitigation Site, all references to riparian and wetland restoration at the Fagundes site was removed and replaced with the Cottonwood Creek mitigation site. Due to the varying conditions at the Cottonwood Creek site, some Construction Elements also changed with the changes in mitigation site location. Further, on September 25, 2018, the Permittee requested a 7-day extension provision be added for San Joaquin antelope squirrel relocation. On October 2, 2018, CDFW issued Major Amendment No. 3 to the ITP incorporating these changes.

In an email dated October 4, 2018, the Permittee requested a revision of the ITP to extend the dry season work window beyond October 31st for ground-disturbing activities at the Mitigation Site. On October 22, 2018, CDFW originally issued Minor Amendment No. 4 to the ITP incorporating these changes.

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In an email dated November 27, 2018, the Permittee requested a revision to the ITP to allow for San Joaquin antelope squirrel (SJAS) relocation to occur prior to April 1 and to allow SJAS relocation to occur after November 15 on a case-by-case basis. On November 29, 2018, CDFW issued Major Amendment No. 5 to the ITP incorporating these changes.

In a letter dated September 10, 2018, the Permittee requested to revise the Project Description to allow for an increase in the Construction Footprint to accommodate new Work Areas for the water pipeline irrigation casing installation and level 3 fiber optic line relocation. Additionally, CDFW initiated amending the Project Description to include installation of water pipeline irrigation casings, dry jack and bore, and horizontal directional drilling as Covered Activities as well as adding Condition of Approval 7.12. On January 17, 2019, CDFW issued Major Amendment No. 6 to the ITP incorporating these changes.

In a letter dated October 19, 2018, the Permittee requested further revision to the ITP, as amended, to revise the Project Description to increase the Construction Footprint by 2.01 acres for road improvements to Wasco Avenue to function as an access road for agricultural operations north of Kimberlina Road in Kern County. Additionally, the Permittee requested a design change to the HST/Kimberlina Road location that will be contained within the current ITP Construction Footprint at that location. On February 1, 2019, CDFW issued Major Amendment No. 7 to the ITP incorporating these changes.

In a letter dated August 22, 2018, the Permittee requested further revision to the ITP, as amended, to revise the Project Description to decrease the Construction Footprint by a total of 1.96 acres to accommodate advanced design changes requiring roadway modifications, utility relocations, access road alterations, and canal realignments along and adjacent to the HST alignment for Construction Package (CP) 2-3 at South Avenue, Conejo Avenue, and Peach Avenue in Fresno County; Flint Avenue and Kent Avenue in Kings County; and Avenue 88 in Tulare County. In a subsequent email dated January 25, 2019, the Permittee requested an additional further revision of the ITP, as amended, to include the use of jack and bore and horizontal directional drilling as Covered Activities throughout the entire Construction Footprint. The Permittee also requested Condition of Approval 7.12, the notification and submission of a Horizontal Directional Drilling and Dry Jack and Bore Level 3 Fiber Optic Line Relocation Plan, be revised to serve as a notification and plan for all horizontal directional drilling and jack and bore activities occurring within the entire Construction Footprint. On February 13, 2019, CDFW issued Major Amendment No. 8 to the ITP incorporating these changes.

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In issuing the ITP, Major Amendment No. 1, Major Amendment No. 2, Major Amendment No. 3, Minor Amendment No. 4, Major Amendment No. 5, Major Amendment No. 6, Major Amendment No. 7, and Major Amendment No. 8 (collectively the ITP, as amended), CDFW found, among other things, that Permittee's compliance with the Conditions of Approval would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

In a letter dated December 6, 2018, Permittee requested amending the ITP to accommodate construction of an intrusion protection barrier (IPB) within specific limits of the HST alignment to mitigate the risk of derailed trains from the adjacent BNSF rail line entering the path of the HST. The IPB will be a berm or wall, depending on the grade separation between the two rail lines, and will require an additional 0.75 acre of Project Construction Footprint. IPB construction will occur in various locations along the California HST route from the vicinity of State Route 43 and Whisler Road to the vicinity of Madera and Poplar Avenues near the City of Shafter in Kern County. IPB construction in this vicinity requires re-siting of two wildlife crossing structures. In an email dated January 23, 2019, Permittee further requested modifying the approval process for siting and constructing wildlife crossings.

This Amendment No. 9 (Amendment), a Major Amendment, makes the following changes to the ITP, as amended:

First, this Amendment increases the size of the entire Project Construction Footprint by 0.75 acre to a total of 5,978.29 acres of cumulative disturbance. This increase in the Construction Footprint is necessary to accommodate the extra width required to incorporate the IPB within the vicinity of State Route 43 and Whisler Road extending to State Route 43 and Poplar Avenue.

Second, this Amendment adds as a Covered Activity the construction of IPB within the vicinity of State Route 43 and Whisler Road extending to State Route 43 and Poplar Avenue in Kern County.

Third, this Amendment changes the location of two wildlife crossings to accommodate the IPB.

Fourth, this Amendment increases the Covered Species habitat impacts for Tipton kangaroo rat, San Joaquin antelope squirrel, and San Joaquin kit fox by 0.58 acre, as a result of the Project Construction Footprint increase.

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Fifth, this Amendment increases the Habitat Management (HM) Lands protection requirements and estimated management costs, commensurate with the increased Covered Species habitat impacts.

Sixth, this Amendment allows construction of wildlife crossings to proceed, with CDFW's case-by-case approval, prior to CDFW approving the required San Joaquin kit fox corridor monitoring plan.

Seventh, this Amendment requires the permanent protection of additional compensatory HM lands and accompanying management costs to mitigate for Covered Species impacts resulting from the increased Project Construction Footprint.

Eighth, this Amendment increases the Performance Security amount required for Permittee to proceed with Covered Activities.

Ninth, this Amendment modifies Exhibit 3, "Project Profile, Drainage Facilities, and Dedicated Wildlife Movement Structures," by replacing sheet 7 to reflect the revised locations of two wildlife crossings.

Tenth, this Amendment modifies Exhibit 6, the "Baseline Map Book," by replacing Map Book Pages 45 and 47 to reflect the increased Project Construction Footprint.

AMENDMENT

The ITP, as amended, is further amended as follows (amended language in **bold** *italics*; deleted language in strikethrough):

1. The section entitled "Project Description" on page 3 of the ITP, as amended, paragraph one shall be further amended to read as follows:

The Project is approximately 99 miles in length and includes construction and installation of all Project components (Exhibits 1 and 2). Construction and installation of all Project components will disturb up to 5977.54 5,978.29 acres (hereafter, Construction Footprint). Construction may occur at any point along the Construction Footprint, and construction may occur at multiple locations simultaneously.

2. The following paragraphs are added to the ITP, as amended, in the "Project Description" section between the subsections titled "Poso Creek" and "Constructed or Modified Watercourses (Canals and Ditches)":

Intrusion Protection Barrier:

An Intrusion Protection Barrier (IPB) will be constructed within specific limits of the HST alignment in Kern County to mitigate the risk of any potential derailed trains from the adjacent BNSF rail line from entering the path of the HST. The IPB will be constructed between the HST rail line and the BNSF rail line from approximately 1/3 mile north of the Whisler Road and State Route 43 intersection to approximately 0.7 mile north of Kimberlina Road, and from just south of the Jack Avenue and State Route 43 intersection to just north of the Poplar Avenue and State Route 43 intersection. The IPB will consist of an earthen berm, a concrete wall, or a concrete retaining wall, depending on topography and grade separation between rail lines.

A 12-foot-high stand-alone earthen berm, measured from the adjacent finished grade at the railroad ROW, when the HST guideway is at-grade, may be used as intrusion protection. The earthen berm would be composed of a mound or sand in a mounted service. Earthen berms can extend to a maximum of 12 feet tall measured from the adjacent finished grade at the railroad ROW. A 15-foot-wide HST maintenance access between the toe of berm and the HST trackway may be reduced on one side of the HST guideway if ROW is insufficient.

When there is insufficient space to construct a stand-alone earthen berm, a modified earthen berm may be constructed directly adjacent to or in contact with the HST embankment. This condition is applicable only when the HST alignment is on a tangent. The side slope of the modified earthen berm on the railroad side will be 1.5 (H):1 (V) or flatter with slope stabilization as required and will have a minimum 2-foot top bench width. The side slope of the modified earthen berm on the HST side will be 1 (H):1 (V) or flatter. In areas of constrained ROW, where the 1 (H):1 (V) side slope of the modified earthen berm does not intersect the HST trackway embankment side slope, and would intrude into the cable trough area, the modified earthen berm will be retained by a cast-in-place reinforced concrete retaining wall. Side slopes of the HST embankment, in contact with the modified earthen berm, will be 2 (H):1 (V) or flatter and will be evaluated for slope stability. A 10-foot-wide opening would be provided at intervals between 2,000 and 2,500 feet to allow maintenance access.

The top of both types of earthen berms would be at least 18 inches above the HST top of rail, which would define the height of the adjacent earthen berm. Earthen berms in floodplains will be designed for scour protection. Earthen berms will be designed per the California Department of

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Transportation (Caltrans) Embankment Standard Specifications within 80 to 85 percent relative compaction and will not contain materials larger than 8 inches in greatest dimension.

A minimum 10-foot-high reinforced concrete barrier wall will be used as an intrusion protection measure when (1) the HST guideway is below grade and/or (2) when the closest HST track centerline is less than 102 feet from the railroad ROW. The height of the reinforced concrete barrier wall will be measured from the finished grade at the railroad side of the ROW or 7.5 feet from the railroad top of rail (TOR), provided that the TOR is 2.5 feet or less from the ground below the ballast.

An isolated concrete wall is a standalone wall between BNSF railway and HST track that is at least 10 feet high, 3 feet wide, and 30 feet deep embedded in piles (below an approximately 6-foot-wide by 8-foot-deep trench for the wall footing/foundation, for a total of 38 feet below grade excavated to support the wall). A 5-foot separation will be placed between the BNSF AR fence and the isolated concrete barrier.

A 3.5-foot-wide by 7-foot-high opening will be provided in the reinforced concrete barrier at wall intervals of no greater than 2,500 feet but no less than 2,000 feet to allow for maintenance access behind the wall. The difference between the adjacent grades will not be greater than 1 foot. Exceptions will be subject to review and approval by the Authority and the applicable local jurisdiction on a case-by-case basis.

A gap of 25 feet in the reinforced concrete barrier wall limits is acceptable to avoid conflicts between pile foundations and underground high-risk utilities. For low-risk utilities, 2.5 feet of minimum horizontal separation from reinforced concrete barrier wall pile foundations will be maintained. Utilities will be centered in the gap or pile foundations. The minimum length of contiguous reinforced concrete barrier wall will not be less than 100 feet.

When HST crosses a river, stream, or open channel, intrusion protection measures will be stopped at the same limit of the front face of the HST bridge abutment wall. Skewed crossings will be subject to review and approval on a case-by-case basis.

A minimum of 5 feet separation (unless otherwise approved by the railroad) between intrusion protection and the HST ROW or property line will be provided to allow maintenance of intrusion protection.

When the HST guideway, on retained fill, is supported by retaining walls within lateral separation of 102 feet between the closest HST

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track centerline (TCL) to conventional railroad ROW, the retaining walls will be designed for train collision loads on IPB. Otherwise, a reinforced concrete barrier wall as intrusion protection, equivalent to HST at-grade requirements, is required to protect HST retaining walls.

Retaining concrete masonry walls supporting the HST guideway acting as IPBs will be designed per the collision loads specified by the California High Speed Rail Authority. IPB will be designed to resist train equivalent static collision forces of 900 kips parallel and 650 kips perpendicular to the adjacent track centerline, for loads applied individually to a strip 6 feet in width at a height 6 feet above adjacent grade.

Unprotected HST elevated guideway structures supporting HST tracks within a lateral separation of 102 feet between the closest HST TCL to conventional railroad ROW will be designed for train collision loads on unprotected Primary Type I structures such as piers, columns, abutments, and wing walls.

When intrusion protection is required for elevated guideway supports, there will be a minimum of 5 feet of separation between the pier protection wall or unprotected HST structure supports and the HST ROW or property line for inspection/maintenance of the pier or the pier protection walls, unless otherwise approved by the railroad.

Protection of grade separation structures (i.e., piers, columns, abutments, wing walls, etc.), where the lateral separation from the closest conventional rail TCL, or future TCL, to the face of structure is less than 25 feet, will meet the requirements of UPRR/BNSF Guidelines for Grade Separations and the American Railway Engineering and Maintenance-of-Way Association (AREMA) requirements for Pier Protection.

No less than 5 feet of separation will be provided between the pier protection wall or the pier with heavy construction and the HST ROW or property line for inspection/maintenance of the pier or pier protection wall. If the pier does not require protection, the adjacent IPB will be extended to approximately 5 feet from the edge of the grade separation foundation.

Adjacent to BNSF tracks only, unprotected Primary Type I structures will be designed to resist train equivalent static collision forces (CL) of 2,262 kips acting in any horizontal direction. Retaining walls supporting the HST guideway acting as IPB will be designed per the collision loads specified by the High-Speed Rail Authority.

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3. The last two rows of Table 5, "Location of Dedicated Wildlife Crossings," are amended as follows:

Wildlife Crossing		35.64438049530	-119.33166221200
/Drainage Facility	Kern County	35.6443804953	-119.331662212
Wildlife Crossing		35.63665466670	-119.33171633300
/Drainage Facility	Kern County	35.6366546667	-119.331716333

4. The section entitled "Impacts of the Taking on Covered Species" on page 59, of the ITP, as amended, shall be further amended to read as follows:

This ITP covers all Project related activities that cumulatively disturb no more than 5977.54 5.978.29 acres within the Construction Footprint (as depicted in the Baseline Map Book, Exhibit 6, Baseline Maps 1 through 53 and generated from the metadata provided by the Permittee) and no more than 17.32 acres at the Mitigation Site (collectively, the Project Area). Project activities are more fully described in the Project Description of this ITP and include subsurface geotechnical drilling and boring; habitat grubbing, vegetation removal, clearing, demolition, construction of a geotechnical test embankment and associated borrow site excavation and mass grading followed by the mobilization of equipment and materials; earthwork including construction of temporary and permanent excavation support structures; pile driving, excavation of open cut slope and fill, at grade profile excavation and leveling, and retained fill cut, rail bed foundation soil compaction, and elevated profiles and elevated profile structure components including construction and installation of straddle bents, foundations, pile caps, substructures, and superstructures; trench digging and other subsurface utility installation, relocation, and protection; pad preparation and construction of a batch plant, materials storage, fabrication, casting areas, access roads, and staging areas; rotary drilled reinforced concrete cast in place pile and drive pile installation; excavation of drainage swales and fabrication and installation of underground drainage culverts and pipes; 95 roadway modifications including realignment and resurfacing, construction of new access roads, overcrossing, and undercrossing; construction of waterway crossing structures over the Kings River Complex, Cross Creek, Tule River, Deer Creek, Poso Creek, and other watercourse crossings. partial dewatering and diversion of water; construction and assembly of tie and ballast and slab track railway systems, and shoofly track; erecting mast poles; construction of electrical systems facilities including the OCS, nine TPSS, up to nine switching stations, and up to 27 paralleling stations; construction of signal huts and bungalows including installation of cabling to the field hardware and track stations; traction electrification; excavation and construction of wildlife crossings, construction of the Kings/Tulare Regional Station; construction of a maintenance-

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of-infrastructure facility; installation of AD and AR fence; construction of temporary job site trailers and field offices including the development of building pads and preparation of parking areas; application of dust suppressants; operation and maintenance activities such as track, power, structure, signaling, train control, communications, intruder, and right-of way inspection and repair; equipment staging, mowing, inoculum collection, land grading, and excavation of wetlands at the Mitigation Site; and hand tool or auger planting of trees and shrubs, and other activities within the Construction Footprint and Mitigation Site described in the Project Description section of this ITP. All these Project activities are collectively referred to as the Covered Activities.

5. Table 9 on page 61 of the ITP, as amended, shall be further amended to read as follows:

Covered Species	Habitat Type	Impact Type	Impact Acres
	Upland refugia (annual grassland, pasture, barren, fallow field, inactive agriculture, and ruderal) Aquatic breeding (vernal pool, open water, seasonal wetland)	Permanent	18.70
California tiger			
salamander	Upland refugia (annual grassland at Mitigation Site)	Temporary	16.56
	Presiding hebitat (vernal neels at	Temporary	0.76
	Mitigation Site)	Total	17.32
Tipton kangaroo rat	Annual grassland, Alkali desert scrub, barren, pasture, fallow field, inactive agriculture, and ruderal	Permanent	361.82 362.40
San Joaquin antelope squirrel	Annual grassland, Alkali desert scrub, barren, pasture, fallow field, inactive agriculture, and ruderal	Permanent	361.82 362.40

Table 9. Covered Species Habitat Impacts

Covered Species	Habitat Type	Impact Type	Impact Acres
Swainson's hawk	Foraging (California annual grassland, pasture, barren, fallow field, inactive agriculture, ruderal, field crops, row crops, and irrigated hay crops)	Permanent	2,124.17
	Foraging (annual grassland at Mitigation Site)	Temporary	17.32
	Nesting (riparian and eucalyptus woodland and individual trees)	Permanent	5 nesting tree(s)
San Joaquin kit fox	Alkali desert scrub, annual grassland, barren, pasture, fallow field, inactive agriculture, ruderal, field crops, row crops, and irrigated hay crops	Permanent	3,520.25 3,520.83
	Foraging and denning (annual grassland at Mitigation Site)	Temporary	17.32

6. The first paragraph of the section entitled "Tipton kangaroo rat" on page 62 of the ITP, as amended, shall be further amended to read as follows:

The extent of the impacts of the taking of Tipton kangaroo rat (TKR) is based on the amount of vegetation cover types that could function as TKR foraging, burrowing, and breeding habitat within the Construction Footprint, the assumption that all potentially suitable habitat in the Construction Footprint would be permanently destroyed, and an evaluation of Project indirect impacts. The Covered Activities are expected to result in the permanent loss of up to <u>361.82</u> **362.40** acres of potential habitat (Table 9).

7. The first paragraph of the section entitled "San Joaquin Antelope Squirrel" on page 62 of the ITP, as amended, shall be further amended to read as follows:

The extent of the impacts of the taking of San Joaquin antelope squirrel (SJAS) is based on the amount of vegetation cover types that could function as SJAS foraging, burrowing, and breeding habitat within the Construction Footprint, the assumption that all potentially suitable habitat in the Construction Footprint would be permanently destroyed, and an evaluation of Project indirect impacts. The Covered Activities are expected to result in the permanent loss of up to 361.82 **362.40** acres of potential habitat (Table 9).

8. The first paragraph of the section titled "San Joaquin Kit Fox", on page 64 of the ITP, as amended, shall be further amended to read as follows:

The extent of the impacts of the taking of San Joaquin kit fox (SJKF) is based on the amount of vegetation cover types that could function as SJKF foraging, denning, and breeding habitat within the Construction Footprint, the assumption that all potentially suitable habitat in the Construction Footprint would be permanently destroyed, and an evaluation of Project indirect impacts. The Covered Activities are expected to result in the permanent loss of up to 3,520.25 3,520.83 acres of potential habitat (Table 9). Grading and excavation at the Mitigation Site would also result in up to 17.32 acres of temporary impacts to SJKF habitat.

9. Table 11 on page 105 of the ITP, as amended, shall be further amended to read as follows:

Covered Species Name (Common Name/Scientific Name)	Habitat Type	Project Impacts	Required Mitigation Acreage
California tiger salamander	Upland	9.06	27.18
(Ambystoma californiense)	Aquatic	9.64	0.96
Surginger /a hande	Foraging habitat 0-1 miles	442.29	442.29
(<i>Buteo swainsoni</i>) (active trees within 0.5 mile of the	Foraging habitat 1-5 miles	1065.13	798.85
	Foraging habitat 5-10 miles	616.73	308.37
San Joaquin antelope squirrel (Ammospermophilus nelsoni)	Natural	361.82362.40	1,085.471,087.21
Tipton kangaroo rat (<i>Dipodomys nitratoides nitratoides</i>)	Natural	361.82362.40	1,085.471,087.21
San Joaquin kit fox (<i>Vulpes macrotis mutica</i>)	Natural and agriculture	3,520.25 3,520.83	1,635.321,637.06
	5,383.935,389.13		

Table 11. Required Mitigation for Project-Related Impacts to Covered Species

10. Condition of Approval 7.6, "SJKF Corridor Monitoring," is amended as follows:

Permittee shall implement a SJKF Corridor Monitoring Program to assess the use of dedicated wildlife crossings by SJKF. The Permittee shall submit to CDFW for

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approval a SJKF Corridor Monitoring Program Plan prior to initiating construction of the dedicated wildlife crossings *unless otherwise approved in writing by CDFW on a case-by-case basis*. The SJKF Corridor Monitoring Program Plan shall include no less than five years of monitoring efforts to assist in assessing the use of dedicated wildlife Page 73crossings and other potential crossing structures by SJKF. Implementation of the SJKF Corridor Monitoring Program Plan shall commence as soon as the construction of the wildlife crossings is complete. The monitoring methodology may include use of trail cameras, track plates, or other methods to determine SJKF movement. *Unless otherwise approved in writing by CDFW, w*Wildlife crossing construction activities shall not proceed until the SJKF Corridor Monitoring Program Plan has been approved in writing by CDFW's Regional Representative

- 11. Condition of Approval 9.1 (Cost Estimates) on pages 106 and 107 of the ITP, as amended, shall be further amended to read as follows:
 - 9.1. <u>Cost Estimates.</u> CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:
 - 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.2 below, estimated at an average of \$11,413.90/acre for up to 5,383.935 5,389.13 acres: \$61,451,695.70 \$61,510,990.91. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
 - 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.2.5 below, estimated at \$2,862,322.93 \$2,865,084.80;
 - 9.1.3. Interim management period funding as described in Condition of Approval 9.2.6 below, estimated at \$1,264,785.88 \$1,266,006.28;
 - 9.1.4. Long-term management funding as described in Condition of Approval 9.3 below, estimated at \$3,570.26/acre for up to 5,383.935 5,389.13 acres: \$19,222,047.77 \$19,240,595.27. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.
 - 9.1.5 Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and

related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.4, estimated at \$12,000.

- 12. Condition of Approval 10.1 (Performance Security) on page 112 of the ITP, is amended to read as follows:
 - 10.1. <u>Security Amount</u>. The Security shall be in the amount of \$84,812,852.28 \$84,894,677.27. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.
- 13. Exhibit 3 ("Project Profile, Drainage Facilities, and Dedicated Wildlife Movement Structures") in the list of attachments on page 115 of the ITP, as amended, is amended by replacing sheet 7 of 8 with the corresponding page included as Attachment 1 to this Amendment to show the two revised wildlife crossing locations, which are also described in No. 3 above.
- 14. Exhibit 6 ("Baseline Map Book") in the list of attachments on page 115 of the ITP, as amended, is amended to include the replacement of Map Book pages 45 and 47 with the corresponding page included in Attachment 2 of this Amendment, to reflect the increased Project Footprint.

The corresponding measures in the Mitigation Monitoring and Reporting Program (MMRP) (Attachment 1 of the ITP, as amended) shall be further amended to read the same as above. All terms and conditions of the ITP, as amended, and the MMRP that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittee.

FINDINGS

Issuance of this Amendment will increase the amount of take of the Covered Species compared to the Project as originally approved; however, because the HM lands protection and management funding requirements will be commensurately increased, it is not expected that this Amendment will increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

<u>Discussion</u>: This Amendment makes ten specific changes to the ITP, as amended. First, this Amendment increases the size of the entire Project Construction Footprint by 0.75 acre to a total of 5,978.29 acres of cumulative impact disturbance. This increase in the

Construction Footprint is necessary to accommodate extra width required to incorporate the IPB.

Second, this Amendment adds construction of the IPB within specific limits of the HST alignment as a Covered Activity.

Third, this Amendment changes the location of two wildlife crossings to accommodate the IPB.

Fourth, this Amendment increases the Covered Species habitat impacts for Tipton kangaroo rat, San Joaquin antelope squirrel, and San Joaquin kit fox by 0.58 acre as a result of an increase in the Construction Footprint.

Fifth, this Amendment increases the estimated Habitat Management Lands requirements commensurate with the increased Covered Species habitat impacts.

Sixth, this Amendment allows construction of wildlife crossings to proceed, with CDFW's case-by-case approval, prior to CDFW approving the required kit fox corridor monitoring plan.

Seventh, this Amendment requires the permanent protection of additional compensatory HM lands and accompanying management costs to mitigate for Covered Species impacts resulting from the increase in Construction Footprint.

Eighth, this Amendment increases the Performance Security amount required for Permittee to proceed with Covered Activities.

Ninth, this Amendment modifies Exhibit 3, "Project Profile, Drainage Facilities, and Dedicated Wildlife Movement Structures," by replacing sheet 7 to reflect the revised locations of two wildlife crossings.

Tenth, this Amendment modifies Exhibit 6, the "Baseline Map Book," to include the replacement of Map Book Pages 45 and 47 to reflect this increase in the Construction Footprint.

CDFW has determined that although this Amendment may result in an increase in take of the Covered Species, and increased Covered Species Habitat impacts, the additional impacts of the taking will be minimized and fully mitigated through implementation of the Conditions of Approval. Because the impacts will be minimized and fully mitigated, there will be no increase in Project impacts to the Covered Species with this Amendment.

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP, as amended meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

Discussion: CDFW determined in June 2015 that the Project as approved, met the standards for issuance of an ITP under CESA. CDFW determined in March 2017, in September 2018, in October 2018, again in October 2018, in November 2018, in January 2019, in February 2019, and again in February 2019 that Amendments No. 1. No. 2, No. 3, No. 4, No. 5, No. 6, No.7, and No. 8, respectively, to the ITP met the standards for issuance of an ITP under CESA. This determination included findings that. among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP, as amended: (1) will increase the habitat compensation in proportion to the increase in impacts so that the fully mitigate standard is still met. (2) does not alter the Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the Conditions of Approval in the ITP, as amended, and MMRP which will minimize and fully mitigate impacts of the taking on the Covered Species. None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the original ITP in June 2015, Major Amendment No. 1 to the ITP in March 2017, Major Amendment No. 2 in September 2018, Major Amendment No. 3 in October 2018, Minor Amendment No. 4 in October 2018, Major Amendment No. 5 in November 2018, Major Amendment No. 6 in January 2019, and Major Amendments 7 and 8 in February 2019 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the California High-Speed Train: Fresno to Bakersfield Section Final Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) (SCH No. 2009091126) certified by the lead agency, California High-Speed Rail Authority, on May 7, 2014. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment represents a major change to the ITP, as amended. However, for the reasons explained above, CDFW concludes that approval of this Amendment will not result in and does not have the potential to create any new significant or substantially more severe environmental effects than previously analyzed and disclosed by California High Speed Rail Authority during its lead agency review of the Project, particularly with respect to the impacts authorized by CDFW pursuant to the ITP, as amended. As a result, CDFW finds that no subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of this Amendment.

CDFW finds that this Amendment is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

Discussion: This Amendment adds constructing the IPB as a Covered Activity within specific limits of the HST alignment in Kern County, increasing the size of the entire Project Construction Footprint by 0.75 acre to a total of 5,978.29 acres of cumulative impact disturbance. This increase in the Construction Footprint is necessary to accommodate extra width required to incorporate the IPB. This Amendment changes the location of two wildlife crossings to accommodate the IPB. The increased Construction Footprint increases the Covered Species habitat impacts for Tipton kangaroo rat, San Joaquin antelope squirrel, and San Joaquin kit fox by 0.58 acre, and accordingly requires permanently protecting additional compensatory HM lands and providing associated management costs to mitigate for Covered Species impacts. This Amendment allows construction of wildlife crossings to proceed, with CDFW's case-by-case approval, prior to CDFW approving the required kit fox corridor monitoring plan. Lastly, this Amendment modifies exhibits to the ITP to reflect the physical changes to the Project.

As described above, these changes to the ITP, as amended, will increase the Project Construction Footprint, add Covered Activities, change the locations of Covered Activities, and modify the Permittee's mitigation obligations. Therefore, this Amendment will substantially increase the scope or nature of the permitted Project or activity, or significantly modify the minimization, mitigation, or monitoring measures in the ITP, as amended. CDFW has determined that the changes to the ITP, as amended constitutes a Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

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

Attachment:

ATTACHMENT 1

A. A. A. A.

ATTACHMENT 2

EXHIBIT 3 Project Profile, Drainage Facilities, and Dedicated Wildlife Movement Structures sheet 7 EXHIBIT 6 Baseline Map Book pages 45 and 47

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE			
on Muelia	Chula		
	Julie A. Vance, 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 the original ITP and this Amendment, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP, as amended.			
ву:	Date: February 27, 2019		
Printed Name: Mark A. Mc Longhlin	Title: Pivector of Environmental Services		

Major Amendment No. 9 Incidental Take Permit 2081-2015-024-04 CALIFORNIA HIGH – SPEED RAIL AUTHORITY CALIFORNIA HIGH-SPEED TRAIN PROJECT Fresno to Bakersfield Section Permitting Phase 1 ;

ATTACHMENT 1

Exhibit 3. Project Profile, Drainage Facilities, and Dedicated Wildlife Movement Structures sheet 7





Kilometers

ATTACHMENT 2

Exhibit 6. Baseline Map Book Pages 45 and 47

High-Speed Train Fresno to Bakersfield Construction Footprint CP 4











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