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HABITAT CONSERVATION
PLANNING BRANCH

May 9, 2019

Julie A. Vance, Regional Manager
Central Region
California Dept of Fish and Wildlife

Subject: Incidental Take Permit Amendment No. 9 for the California Valley Solar Ranch
(2081-2011-044-04)

Dear Ms. Vance,

Enclosed is one original Mitch Samuelian signed document of Amendment No. 9 for the incidental take permit for CVSR. If possible please advise when the document is received by your Department via email to amelia.houser@clearwayenergy.com.

I have sent the project work site and our environmental offices an electronic copy and placed the other original signed copy in our corporate offices here in Scottsdale.

Sincerely,

Amelia Houser, Site Administrator
On behalf of Mitch Samuelian
Clearway Energy

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

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HABITAT CONSERVATION
PLANNING BRANCH



AMENDMENT NO. 9
(A Major Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2011-044-04
High Plains Ranch II, LLC
California Valley Solar Ranch in San Luis Obispo County

INTRODUCTION

On September 1, 2011, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2011-044-04 to High Plains Ranch II, LLC (Permittee) for take of San Joaquin kit fox (*Vulpes macrotis mutica*), giant kangaroo rat (*Dipodomys ingens*), and San Joaquin antelope squirrel (*Ammospermophilus nelsoni*) (collectively, the Covered Species) associated with the California Valley Solar Ranch project (Project) in San Luis Obispo County, California. The Project as described in the ITP originally issued by CDFW includes constructing, operating, and maintaining a 250-megawatt solar photovoltaic energy facility on a 1,782-acre site, including solar panel arrays, power lines, a substation, access roads, buildings, two evaporation ponds, and an approximately three-mile long generation tie-line to convey electricity to the existing Morro Bay-Midway transmission line.

CDFW has amended Incidental Take Permit No. 2081-2011-044-04 eight times:

On October 14, 2011, CDFW issued Minor Amendment No. 1, which extended by 45 days, to a total of 90 days from the effective date of the ITP, the time period for recording the Phase 1 Habitat Management (HM) Lands conservation easements.

On February 3, 2012, CDFW issued Minor Amendment No. 2, which modified the procedures for designating an endowment fund manager.

On March 29, 2012, CDFW issued Minor Amendment No. 3, which extended the deadline by which the endowment fund holder must be designated.

On October 1, 2012, CDFW issued Minor Amendment No. 4, which extended the timing for preserving certain mitigation lands, replaced figures, expanded the scope of covered activities, and allowed certain activities to occur at night.

On December 24, 2013, CDFW issued Minor Amendment No. 5, which extended the timing for preserving the final phase of HM lands, and also allowed execution of a land management easement to facilitate having a single entity manage all of the HM lands.

On June 27, 2014, CDFW issued Minor Amendment No. 6, which extended the timing of the final phase of HM lands preservation to December 31, 2014.

On December 15, 2014, CDFW issued Minor Amendment No. 7, which extended the timing of the final phase of HM lands preservation to June 30, 2015.

On June 29, 2015, CDFW issued Minor Amendment No. 8, which 1) updated the principal officer, contact person name, and contact information; 2) clarified what comprises Covered Activities during the long term of the ITP, the Project Description is amended to elaborate on the details of operations and maintenance (O&M) activities, including both planned and unplanned activities required to maintain the solar energy facility, and night-time activities; 3) changed the weekly trash removal requirement to a regular removal requirement and use of wildlife-friendly trash enclosures; 4) allowed on the Project Site the use of guns for security personnel and the use of herding dogs for moving livestock; 5) distinguished monitoring requirements between the initial construction phases and the planned and unplanned O&M Covered Activities (including emergency activities), allowing Covered Activities to proceed, without a Designated Biologist present, to address imminent threats to life or a significant property interest; 6) allowed night work for O&M activities that must occur when photovoltaic arrays are not energized, night-time emergency work, and/or night work in the interior of the O&M facility; 7) reduced, during the O&M period, the requirement to report all Covered Species observations to the California Natural Diversity Database to only observations of San Joaquin antelope squirrel in new areas of occurrence; 8) reduced the Covered Species den survey buffer for O&M activities to 50 feet during the non-pupping season; 9) reduced the non-pupping season construction buffer from Covered Species dens to 30 feet for potential and inactive dens, and 50 feet for known dens; 10) eliminated the requirement to establish shrubs in areas disturbed by construction activities (approximately 80 acres) but does not change the requirement to establish shrubs on HM Lands; and 11) extended the timeline for conserving and endowing the final batch of HM Lands to December 31, 2015.

Incidental Take Permit No. 2081-2011-044-04 and Amendments No. 1, 2, 3, 4, 5, 6, 7, and 8 are collectively referred to as the "ITP."

In issuing the ITP, Minor Amendment No. 1, Minor Amendment No. 2, Minor Amendment No. 3, Minor Amendment No. 4, Minor Amendment No. 5, Minor Amendment No. 7, Minor Amendment No. 7, and Minor Amendment No. 8, collectively the ITP, as amended, CDFW found, among other things, that Permittee's compliance

with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

Multiple grass fires have damaged Project infrastructure since construction was completed. A lack of fire breaks may have contributed to fires that originated outside of the solar panel arrays spreading into the arrays. Managing fuel loads within the solar panel arrays has also proven difficult. Reducing fuel loading in arrays through sheep grazing, which was the original plan, has not been achievable in every year. Reducing fuel loads through mechanical methods was not initially proposed and therefore not included as a Covered Activity in the ITP, as amended.

In a letter dated September 5, 2018, and a subsequent letter dated January 8, 2019, the Permittee requested adding two new Covered Activities: constructing and maintaining fire breaks and mowing within solar panel arrays to reduce vegetation height and fuel loading.

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

First, this Amendment adds constructing and maintaining up to 5.4 acres of gravel fire breaks as a Covered Activity.

Second, this Amendment adds mowing and crushing vegetation Project-wide to reduce vegetation height and fuel loading as a Covered Activity.

AMENDMENT

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

1. The first paragraph of the "Project Description" section is amended as follows:

High Plains Ranch II, LLC (Permittee), a wholly owned subsidiary of SunPower Corporation, Systems ("SunPower"), will construct and operate the Project, a 250-megawatt solar photovoltaic (PV) energy facility in eastern San Luis Obispo County, California. The Project includes construction and operations and maintenance (O&M) of the solar panel arrays, gathering power lines, a substation, access roads, ***gravel fire breaks***, buildings, two evaporation ponds, and approximately three miles of generation tie-line to convey electricity to the existing Morro Bay-Midway transmission line operated by Pacific Gas and Electric (PG&E). The generation tie-line will connect to the transmission line at

the Caliente Switching Station. Tables 1 and 2 summarize the temporary and permanent Project facilities and impacts, and Figures 3 and 4 indicate the permanent and temporary impacts.

2. The paragraph under the heading "Photovoltaic Arrays" within the "Project Description" section is amended to read as follows:

Photovoltaic solar panels will be mounted on SunPower T0 Tracker units. Typical tracker block configuration includes up to 18 units sharing a centralized tracker drive motor assembly that controls the angle of the tracker units in relationship to the sun throughout the day. The drive bar that connects the trackers rows is 2.5 feet above the ground. Tracker blocks are configured to create an array, with sufficient space between each row to avoid one row shading the next.

Photovoltaic solar panels mounted on up to the equivalent of 312 SunPower T0 Tracker blocks will be arranged in 10 distinct arrays. Tracker units are installed on screw or helical pile foundations. Each array contains perimeter fire access roads, internal access drives, and electrical utilities to support the array. ***Up to 2,000 linear feet of 12-foot wide, gravel fire breaks will be constructed and maintained within the fenced solar panel arrays, between the perimeter fence and the solar panels.***

3. The paragraph under the heading "Vegetation Management for Fires Suppression" within the "Project Description" section is amended to read as follows:

During every year until the Project is decommissioned and dismantled, Permittee will implement a controlled grazing plan and use livestock as the primary means to manage annual grassland fuel loading and heights on the Project Site, and to control vegetation for fire deterrence. Sheep and/or goats will be utilized for grazing in the array areas, reducing undesirable vegetation that may increase the likelihood of a grass fire. In the spring of each year, the areas under and around the solar arrays will be grazed, as necessary, to reduce vegetation heights to less than six inches prior to the start of the summer fire season. If, during years of above average biomass production, full implementation of the controlled grazing plan has not sufficiently reduced fuel loads or vegetation height for fire suppression requirements on the Project site, then crushing vegetation with vehicles or tractors, or mowing of vegetation with ride-on mowers, may occur.

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, by implementing the proposed fuels management activities and already-required minimization and avoidance measures, 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)).

Discussion: Issuance of this Amendment will increase the potential for take, and impacts of the taking, by allowing conversion of up to 5.4 acres of grassland within solar panel arrays to a gravel surface that will not produce vegetation to support Covered Species. Additionally, mowing or crushing vegetation Project-wide will increase the potential for take through crushing Covered Species burrows or directly striking Covered Species. The potential for increased take will be minimized by implementing den, precinct, and food cache avoidance measures that remain unchanged in the ITP, as amended.

Reducing biomass and vegetation height with mowing and crushing will offset the minimal increase in potential for take of Covered species. Biomass and vegetation height reduction optimizes the potential for Covered Species to use the Project site, and in fact is a requirement of the on-site habitat management plan. Utilizing mowing and crushing will further that goal in years when biomass conditions may otherwise be unfavorable for Covered Species. The reduced fire risk will also reduce the potential for and frequency of habitat disturbance from fires (e.g., loss of giant kangaroo rat forage and subsequently a reduction in San Joaquin kit fox prey abundance) and emergency firefighting activities.

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 September 2011 that the Project, as approved, met the standards for issuance of an ITP under CESA. CDFW determined in October 2011, February 2012, March 2012, October 2012, December 2013, June 2014, December 2014, and June 2015 that Amendments No. 1 through 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, retains its avoidance and minimization requirements (Conditions of Approval), unchanged, and allows additional fuels reduction tools that will improve Covered Species habitat management on the Project site and reduce the frequency and intensity of grass fires on the Project site, which destroy Covered Species forage and require firefighting activities that can disturb Covered Species habitat. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP's Conditions of Approval and MMRP 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 pursuant to Public Resources Code section 21166 or California Code of Regulations, Title 4, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the ITP in September 2011; Minor Amendment No. 1 in October 2011; Minor Amendment No. 2 in February 2012; Minor Amendment No. 3 in March 2012; Minor Amendment No. 4 in October 2012; Minor Amendment No. 5 in December 2013; Minor Amendment No. 6 in June 2014; Minor Amendment No. 7 in December 2014; and Minor Amendment No. 8 in June 2015 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the environmental impact report certified by San Luis Obispo County as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment represents a major change in the Project as originally approved. However, for the reasons explained above and as further described and considered in the Addendum to the EIR approved by CDFW acting as a Responsible Agency (as defined in the CEQA Guidelines section 15381) April 10, 2019 for the Project pursuant to CEQA (Pub. Resources Code, § 21000 et seq.), CDFW concludes this Amendment is not a change in the Project that has the potential to create a new significant effect not previously analyzed, a substantial change in the circumstances under which the Project is being undertaken requiring major revisions to previous CEQA documents, or new information of substantial importance. As a result, CDFW finds that no additional 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 makes two changes to the ITP, as amended. First, this Amendment adds constructing and maintaining up to 5.4 acres of gravel fire breaks as a

Covered Activity. Second, this Amendment adds mowing and crushing vegetation Project-wide to reduce vegetation height and fuel loading as a Covered Activity. As described above, these changes will increase the potential for take, and impacts of the taking, by allowing conversion of up to 5.4 acres of grassland within solar panel arrays to a gravel surface that will not produce vegetation to support Covered Species. Additionally, mowing or crushing vegetation Project-wide will increase the potential for take through crushing Covered Species burrows or directly striking Covered Species. Therefore, this Amendment will significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP, as amended. CDFW has determined that the change to the ITP as amended constitutes a Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

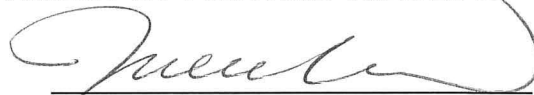
The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

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

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on

5/16/19



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.

By:



Date:

5/8/19

Printed Name:

Mitch Samuelian

Title:

VP of Operations

Major Amendment No. 9
Incidental Take Permit 2081-2011-044-04
HIGH PLAINS RANCH II, LLC
California Valley Solar Ranch