



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Bay Delta Region
2825 Cordelia Road, Suite 100
Fairfield, CA 94534
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



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OCT 16 2019

HABITAT CONSERVATION
PLANNING BRANCH

October 14, 2019

Mr. Jay Ryder
Ryder Homes of California, Inc.
1425 Treat Boulevard, Suite B
Walnut Creek, CA 94597

Subject: Incidental Take Permit for the Southwest Estates Project, Sonoma County,
2081-2015-030-03, Amendment No. 3

Dear Mr. Ryder:

Enclosed you will find two originals of the Incidental Take Permit Amendment for the above referenced project, which have been signed by the California Department of Fish and Wildlife (CDFW). Please read the permit carefully, sign the acknowledgement on both copies of the permit, and return one original no later than 30 days from CDFW signature and prior to continuation of ground-disturbing activities to:

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

You are advised to keep the other original signature permit in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of the permit. Note that you are required to comply with certain conditions of approval prior to continuation of ground-disturbing activities. Additionally, a copy of the permit must be maintained at the project work site and made available for inspection by CDFW staff when requested.

The permit amendment will not take effect until the signed acknowledgment is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit amendment, please contact Ms. Melanie Day, Senior Environmental Scientist (Specialist), at (707) 428-2092 or Melanie.Day@wildlife.ca.gov; or Ms. Karen Weiss, Senior Environmental Scientist (Supervisory), at Karen.Weiss@wildlife.ca.gov.

Sincerely,

Gregg Erickson
Regional Manager
Bay Delta Region

Enclosures

cc: Cathie Vouchilas – CDFW Habitat Conservation Planning Branch
Melanie Day – CDFW Bay Delta Region
Karen Weiss – CDFW Bay Delta Region
Craig Weightman – CDFW Bay Delta Region

Conserving California's Wildlife Since 1870

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BAY DELTA REGION

2825 CORDELIA ROAD, SUITE 100

FAIRFIELD, CA 94534



AMENDMENT NO. 3
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2015-030-03
Ryder Homes of California, Inc.
Southwest Estates in Sonoma County

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INTRODUCTION

On July 31, 2016, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2015-030-03 (ITP) to Ryder Homes of California, Inc. (Permittee), authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the Southwest Estates in Sonoma County, California (Project). The Project as described in the ITP as originally issued by CDFW includes the development of 10.88 acres of undeveloped land into a single-family residential development with associated infrastructure such as public streets, sanitary sewer lines, utility lines, and storm drains. Project activities include grading of the entire Project site, road construction, filling of wetlands, excavation, and other activities. In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP would not jeopardize the continued existence of the Covered Species.

On May 26, 2017, CDFW received from the Permittee a request to correct and decrease the acreages of development, permanent loss of Covered Species habitat, and Covered Species credits the Permittee is required to purchase.

On August 17, 2017, CDFW issued Minor Amendment No. 1 to the ITP. Minor Amendment No. 1 contained the following changes:

1. Decreased the impacts of taking on the Covered Species by decreasing the acreage of undeveloped land the Project will develop from 10.88 acres to 10.18 acres.
2. Decreased the impacts of taking on the Covered Species by decreasing the acreage of permanent loss of Covered Species habitat from 10.18 acres to 9.48 acres.
3. Decreased the acreage of Covered Species credits the Permittee is required to purchase from 21.76 acres to 20.36 acres.
4. Decreased the estimated Habitat Management Land Acquisition cost from \$3,264,000 to \$3,054,000.
5. Decreased the Performance Security amount from \$3,267,105 to \$3,057,105.

On April 3, 2018, CDFW received from the Permittee a request to extend the ITP expiration date and correct and decrease the acreages of development, permanent loss of Covered Species habitat, and Covered Species credits the Permittee is required to purchase.

On May 31, 2018, CDFW issued Minor Amendment No. 2 to the ITP. Minor Amendment No.2 contained the following changes:

1. Changed the expiration date from December 31, 2018 to December 31, 2019.
2. Decreased the impacts of taking on the Covered Species by decreasing the acreage of undeveloped land the Project will develop from 10.18 acres to 9.89 acres.
3. Decreased the impacts of taking on the Covered Species by decreasing the acreage of permanent and temporary loss of Covered Species habitat from 9.48 acres to 9.36 acres and from 0.70 acres to 0.53 acres, respectively.
4. Decreased the acreage of Covered Species credits the Permittee is required to purchase from 20.36 acres to 19.78 acres.
5. Decreased the estimated Habitat Management Land Acquisition cost from \$3,054,000 to \$2,967,000.
6. Decreased the estimated Habitat Restoration for on-site temporary effects cost from \$3,105 to \$2,351.
7. Decreased the Performance Security amount from \$3,057,105 to \$2,969,351.

On August 22, 2019, CDFW received from the Permittee a request to: 1) extend the ITP expiration date and grading and clearing work period, and 2) modify the Temporary Barrier requirements.

This Minor Amendment No. 3 (Amendment) makes the following changes to the existing ITP:

1. This Amendment changes the expiration date from December 31, 2019 to December 31, 2022.
2. This Amendment extends the initial grading and clearing work period beyond October 15 on a week-by-week basis if approved in writing by a CDFW representative. It also allows additional grading and clearing to occur at any time of year and adds a wet weather restriction.
3. This Amendment requires the Temporary Barrier to remain in place during Covered Activities and CDFW approval of the Temporary Barrier Plan.

AMENDMENT

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

1. The last sentence of the first paragraph in ITP Effective Date and Expiration Date of this ITP, Page 1 shall be amended to read:

Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on December 31, ~~2019~~ ***2022***.

2. ITP Condition 7.2, Page 8 (Take Minimization Measures) shall be amended to read:

~~Grading and Clearing. Grading and clearing shall be conducted between April 15 and October 15 during daylight hours and during periods of dry weather.~~

Permittee shall ensure that initial grading, clearing, and other ground disturbing activities involving construction and heavy equipment use within Covered Species habitat are limited to the period from April 15 to October 15 during daylight hours and periods of dry weather.

If more time is needed to complete initial ground disturbing activities, the work period may be modified in writing on a week-by-week basis by a CDFW representative.

Requests for a work period extension shall: (1) describe the extent of work already completed; (2) detail the activities that remain to be completed; (3) detail the time required to complete each of the remaining activities; (4) provide photographs of both the current work completed and the proposed site for continued work; and (5) include an assessment of additional biological impacts as a result of the work extension. An extension of the period may require an Amendment if additional impacts to Covered Species will occur.

Once initial ground disturbing activities have been completed in an area, additional ground disturbing activities such as excavation may occur in the same area at any time of year.

7.2.1 Wet Weather Work Restriction. Permittee or the Designated Biologist shall consult the 72-hour weather forecast from the National Weather Service (NWS) prior to the start of ground disturbing activities. Ground disturbing activities shall not begin unless a no precipitation forecast is obtained covering the entire Project Area and necessary erosion control measures are implemented. The Designated Biologist shall keep precipitation records on-site, and these records shall be subject to CDFW inspection.

- ***If a 40 percent or greater chance of rain is forecasted, then ground disturbing activities shall cease 24 hours prior to the forecasted rain, unless otherwise approved in writing by CDFW.***

- *If ground-disturbing activities are approved by CDFW as described above, the Designated Biologist shall survey the work area before construction begins each day rain is forecast. If rain exceeds 0.25 inches during a 24-hour period, ground-disturbing activities shall cease.*
- *Twenty-four hours after the rain ceases and once there is no precipitation in the 24-hour forecast, ground disturbing activities may continue.*

3. ITP Condition 7.6, Page 8 (Take Minimization Measures) shall be amended to read:

Temporary Barrier. ~~Permittee shall install and maintain temporary barriers to prevent Covered Species from moving into the Project Area. The barriers shall extend from the ground surface to a height of at least 24 inches. The surface of the barriers should not be covered in monofilament netting or other materials that could trap or harm the Covered Species. An example of an appropriate barrier is a straw waddle wrapped in tightly woven geotechnical fabric. The barrier may be removed during daily construction activities and shall be replaced every night. The barrier shall remain in place every evening until all Covered Activities have been completed. The Designated Biologist shall inspect the barrier daily and the Permittee shall maintain and repair as necessary to ensure that the barriers are functional.~~ ***Permittee shall provide a Covered Species Temporary Barrier Plan a minimum of 14 days prior to commencing Covered Activities for approval in writing by CDFW. Prior to any ground disturbing Covered Activities and under the direct supervision of the Designated Biologist, Permittee shall install the CDFW-approved temporary barrier to prevent the Covered Species from dispersing into the Project Area, unless otherwise approved in writing by CDFW. The barrier shall be designed to allow Covered Species to leave the Project Area using a one-way funnel at 100-foot intervals along the barrier or other method approved in writing by CDFW. The barrier shall remain in place until all on-site Covered Activities are completed, including during periods of inactivity. The Permittee shall maintain and repair the barrier immediately to ensure that it is functional and without defects. Permittee shall provide refuge opportunities, such as coverboards (4-foot x 4-foot plywood), along both sides at 100-foot intervals on each side. An alternative barrier design may be used if approved in writing by CDFW. The Designated Biologist shall check temporary Covered Species barriers and refuge areas daily during Covered Activities and before, during, and following storm events or periods of 70 percent or greater humidity, and weekly, during periods of inactivity. Animals found within the interior of the barrier shall be relocated outside of the barrier as described in Condition 7.7 (Covered Species Relocation).***

4. The corresponding MMRP shall be amended to read the same as above.

All terms and conditions of the ITP and 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 not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other Project impacts on the Covered Species [i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)].

Discussion: This Amendment makes three specific changes to the ITP as originally issued. Changes include extension of the original ITP expiration date, an approval process for extending the grading and clearing work period, including a wet weather restriction, and modification of the Temporary Barrier requirements. The resulting impacts to the Covered Species as a result of the Project, will remain the same or decrease.

CDFW has determined that changes to the project description and conditions of approval will not increase the amount of take or the severity of other impacts of the taking on the Covered Species. Given the circumstances of this Project, CDFW believes that the changes to the Project or Conditions of the ITP described in this Amendment will not increase impacts to the Covered Species.

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP 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 July 2016 that the Project, as approved, 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 do not change the amount of habitat that will be impacted by Project activities and, as a result of retaining the Temporary Barrier for the duration of Covered Activities, may reduce the amount of Covered Species injury or mortality. 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 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 ITP in July 2016 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the Negative Declaration adopted by the City of Santa Rosa as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment is a minor change to the original ITP. CDFW finds for the same reasons under CEQA that approval of the 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 the City of Santa Rosa 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 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 Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Discussion: This Amendment extends the original ITP expiration date, extends the grading and clearing work period and adds a wet weather restriction, and modifies the Temporary Barrier requirements. These changes to the ITP will not: (1) increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, (2) affect Permittee's substantive mitigation obligations under the ITP, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, this Amendment will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. CDFW has determined that the change to the ITP constitutes a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

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:

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

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 10-14-19



Gregg Erickson
Regional Manager
Bay Delta 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: 

Printed Name: NED JAY RYDER
RYDER HOMES OF CALIF., INC.

Date: 10/16/19

Title: 10:00 AM

Minor Amendment No. 3
Incidental Take Permit 2081-2015-030-03
RYDER HOMES OF CALIFORNIA, INC.
Southwest Estates