

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CENTRAL REGION

1234 EAST SHAW AVENUE

FRESNO, CALIFORNIA 93710



AMENDMENT NO. 2

(A Major Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2019-034-04

Chevron North America Exploration and Production Company,

a Division of Chevron U.S.A., Inc

Cymric Surface Expression Emergency Cleanup Project in Kern County

INTRODUCTION

On August 14, 2019, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2019-034-04 (ITP) to Chevron North America Exploration and Production Company, a Division of Chevron U.S.A., Inc (Permittee), authorizing take of giant kangaroo rat (*Dipodomys ingens*), San Joaquin antelope squirrel (*Ammospermophilus nelsoni*) and San Joaquin kit fox (*Vulpes macrotis mutica*) (collectively, the Covered Species) associated with and incidental to the Cymric Surface Expression Emergency Cleanup Project in Kern County, California (Project). The Project as described in the ITP as originally issued by CDFW includes activities associated with the cleanup, source identification, well abandonments, facility construction, and other well work and activities related to identifying and stopping flow of the surface expressions that released crude oil and produced water into a dry streambed, as well as wildlife exclusion and hazing activities, and site access and travel by vehicles and equipment, including the increased use of existing roads, pads, facilities, etc., for personnel, security staff, and visitors associated with the Project.

In an email dated August 23, 2019, the Permittee requested a change to the Project location and description to add another Work Area to the Project Area, the 31X Portable Tank Storage Area, located in Township 29 South, Range 22 East, Section 31, approximately 0.70 miles northeast of the cleanup Work Area. This request also added activities related to storage of oil and produced water fluids and wet solids in 15 portable storage tanks located in the new Work Area to the Project Description and Covered Activities. This addition increased the total Project footprint by 0.89 acre and impacts to the Covered Species habitat by 0.25 acre. Major Amendment No. 1 was issued on August 30, 2019.

In issuing the ITP and Major Amendment No. 1 (collectively, the ITP as amended), CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP as amended would fully mitigate Project impacts of the taking on the

Covered Species and that issuance of the ITP as amended would not jeopardize the continued existence of the Covered Species.

The Permittee inquired by email about the necessary steps to request an amendment to extend the ITP, as amended, beyond March 1, 2020, on February 11, 2020. On February 21, 2020, Chevron sent a formal amendment request by email that included an extension to the expiration date and modified the project description which affected the overall temporary disturbance to Covered Species habitat. Additional time is needed to complete clean-up efforts. Clean-up efforts have been occasionally delayed for final agency sign-off or to ensure worker safety during clean-up and sampling actions. These delays included:

- The Unified Command implemented a “no entry/access” per the California Geologic Energy Management Division (CalGEM) to ensure worker safety. This resulted in delays to fluid solidification and clean-up activities in the streambed.
- Central Valley Regional Water Quality Control Board review period for the Technical Work Plan, Site Assessment Activities, Cymric 1Y Site, Cymric Oil Field, Kern County, California.
- Due to the complex nature of subsurface activity, Unified Command implemented a “no entry/access” policy in the streambed after fluid clean-up was completed to protect workers. This resulted in delays in completing biological surveys and for hand sampling in the streambed.
- An ongoing CalGEM required subsurface testing and well work activities after oil was cleaned up that has resulted in off and on “no entry/access” to ensure worker safety within the streambed.
- Due to steep side slopes that have resulted from clean-up activities in the southern portion of impacted streambed that was included in the original sampling plan, an Amendment to the original plan was submitted on January 30, 2020, with alternative sampling areas that allow data to be collected from safe sampling locations until earthwork activities allow for safe entry. This plan is currently under review by the Central Valley Regional Water Quality Control Board.

In addition to the delays, ancillary actions are needed for Incident sign-off by the Central Valley Regional Quality Control Board that include soil sampling, soil and laboratory analysis evaluation of risk to surface water or groundwater from the material remaining in the dry intermittent streambed, and any future removal/remediation deemed necessary to meet Central Valley Regional Water Quality Control Board standards for final sign off. These actions are likely to include:

- Hand sampling in the streambed at the Incident site;
- Drill sampling;
- Construction of an access road for drill sampling equipment;

- Cut and fill to create safe access;
- Removal of berms and temporary features constructed in the streambed to contain Incident fluids;
- Interim erosion control measures to reduce/prevent erosion and sedimentation downstream; and
- Soil removal/remediation if needed.

These actions are already part of the Covered Activities for the ITP, as amended, although the overall Project Area is expected to increase. In addition, a new access road is needed to complete these actions.

This Major Amendment No. 2 (Amendment No. 2) makes the following changes to the existing ITP, as amended:

First, Amendment No. 2 extends the expiration date from March 1, 2020 to October 1, 2020.

Second, Amendment No. 2 changes the Project Description to increase the Project footprint from 29.53 acres to 30.8 acres and adds a new access road.

Third, Amendment No. 2 increases the total impacts to the Covered Species from 8.43 acres to 8.64 acres.

Fourth, Amendment No. 2 requires the permanent protection of additional compensatory habitat management lands (HM lands) and accompanying management costs to mitigate for increased Covered Species habitat impacts associated with the change in Project Area.

Fifth, Amendment No. 2 increases the Performance Security amount required in order to proceed with Covered Activities.

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 section entitled "Effective Date and Expiration Date of this ITP" on page 1 of the ITP, as amended, shall be further amended to read:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at

Major Amendment No. 2
Incidental Take Permit 2081-2019-034-04
CHEVRON NORTH AMERICA EXPLORATION & PRODUCTION CO.
Cymric Surface Expression Emergency Cleanup Project

the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on ~~March 1, 2020~~**October 1, 2020**.

2. The third paragraph of the section entitled "Project Description" on page 2 of the ITP, as amended, shall be further amended to read as follows:

Once Division 1 is inspected to determine if the cleanup endpoints have been met, cleanup of the southern division (Division 2) will be delayed until an additional engineered earthen berm is constructed to further contain and secure the oil/water mixture within that stream segment and until the cause of the surface expression leak has been determined and corrected to ensure it no longer leaks. ***A new access road will be constructed as part of the cleanup activities for Division 2. Access road installation will consist of cutting a road into the streambed from an existing large well pad along the eastern side of the streambed (Attachment 1 of Amendment No. 2) and will result in the removal of a portion of the pad. The road and associated grading will expand the overall Project footprint onto the existing well pad to the east.***

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

The total footprint of the proposed Project is approximately ~~29.53~~**30.8** acres. Within this ~~29.53~~**30.8** acres, the Project footprint will include the Project Work Areas (defined as discrete areas where covered activities will occur within the Project footprint), excavation areas, staging areas, stockpiling areas, access roadways, portable tank storage areas, and exclusion fencing areas (Figures 4, 5, ~~and 6~~, **and Attachment 2 of Amendment No. 2**). This includes the ~~8.43~~**8.64** acres of Covered Species habitat that will be temporarily impacted by the excavation, site access, and staging of excavated material and equipment. The remaining ~~24.10~~**22.16** acres of previously disturbed areas (prior to when the surface expression began) and dirt roadways that will be utilized for Project Area access, ingress and egress, storage, and staging of materials and equipment. The disturbed areas and dirt roadways are existing and consist of hard, compacted soils devoid of vegetation.

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

The Project is expected to cause the temporary loss of ~~8.43~~**8.64** acres of habitat for the Covered Species. There may be Work Areas, such as created access roadways, within this ~~8.43~~**8.64** acres that are unable to be fully restored. Impacts of

the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from noise and vibrations from excavation, stress and exposure due to capture and relocation, short-term loss of denning and burrowing habitat used for shelter, and long-term effects due to displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

5. The second paragraph of Condition of Approval 6 (Habitat Management Land Acquisition) on page 18 of the ITP, as amended, shall be further amended to read as follows:

To meet this requirement, the Permittee shall either purchase ~~12.65~~ **12.96** acres of Covered Species credit from a CDFW-approved mitigation or conservation bank with habitat credits for the Covered Species (Condition of Approval 6.2) OR provide for both the permanent protection and management of ~~12.65~~ **12.96** acres of Habitat Management (HM) lands with occupied Covered Species habitat pursuant to Condition of Approval 6.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 6.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 7.

6. Condition of Approval 6.1 (Cost Estimates) on pages 18 and 19 of the ITP, as amended, shall be further amended to read as follows:

- 6.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands as follows:

- 6.1.1. Land acquisition costs for HM lands identified in Condition of Approval 6.3 below, estimated at \$6,250.00/acre for ~~12.65~~ **12.96** acres: ~~\$79,062.50~~ **\$81,000.00**. Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements and associated real estate broker and escrow fees;
- 6.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 6.3.5 below, estimated at \$38,276.57;

- 6.1.3. Interim management period funding as described in Condition of Approval 6.3.6 below, estimated at \$22,009.50;
- 6.1.4. Long-term management funding as described in Condition of Approval 6.4 below, estimated at ~~\$33,022.08~~ **\$32,232.20**/acre (approximately) for ~~42.65~~ **12.96** acres: \$417,729.31 Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management;
- 6.1.5. 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 6.5, estimated at \$12,000.00.
7. Condition of Approval 6.2 (Covered Species Credits) on page 19 of the ITP, as amended, shall be further amended to read as follows:
- 6.2. Covered Species Credits. Permittee shall purchase ~~42.65~~ **12.96** acres of Covered Species credits from a CDFW-approved mitigation or conservation bank no later than 18 months from the issuance of this ITP since Security will be provided pursuant to Condition of Approval 7 below.
8. Condition of Approval 7.1 (Security Amount) on page 23 of the ITP, as amended, shall be further amended to read as follows:
- 7.1. Security Amount. The Security shall be in the amount of ~~\$565,426.92~~ ~~\$569,077.88~~ **\$571,015.38**. This amount is based on the cost estimates identified in Condition of Approval 6.1 above.
10. The section entitled "Attachments" on page 27 of the ITP, as amended, shall delete Figure 4, which shall be replaced by Attachment 2 of Amendment No. 2:

FIGURE 1	Project Vicinity Map
FIGURE 2a	Project Area Map
FIGURE 3	Project Surface Expression Locations Map
FIGURE 4	Project Impacts Map
FIGURE 5	Project 1Y Staging Area Map
FIGURE 6	Project 31X Portable Tank Storage Area Map
ATTACHMENT 1	Mitigation Monitoring and Reporting Program

ATTACHMENT 2A, 2B

Proposed Lands for Acquisition Form; Habitat
Management Lands Checklist

ATTACHMENT 3

Letter of Credit Form

ATTACHMENT 4

Mitigation Payment Transmittal Form

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

FINDINGS

Issuance of Amendment No. 2 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 Amendment No. 2 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: Amendment No. 2 makes five specific changes to the ITP, as amended. Amendment No. 2 extends the expiration date of the ITP, as amended, from March 1, 2020 to October 1, 2020; adds a new access road to the Project Description which increases the overall Project footprint from 29.53 acres to 30.8 acres; increases the total impact to Covered Species from 8.43 acres to 8.64 acres; increases the amount of required HM Lands from 12.65 to 12.96 acres; and increases the Performance Security to adequately fund the increased HM Lands requirement. CDFW has determined that although Amendment No. 2 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 Amendment No. 2.

Issuance of Amendment No. 2 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 August 2019 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 Amendment No. 2 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 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 Amendment No. 2.

Discussion: CDFW issued the ITP in August 2019 and Major Amendment No. 1 in August 2019 as the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). CDFW has determined that this Project is exempt from CEQA because it is an action "necessary to prevent or mitigate an emergency." (Pub. Resources Code, §21080, subd. (b)(4).). As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of Amendment No. 2.

CDFW finds that Amendment No. 2 is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

Discussion: Amendment No. 2 adds a new access road to the Project Description, increases the total footprint of the proposed Project by 1.27 acres, increases the Covered Species habitat impacts by 0.21 acre, and commensurately increases the Habitat Management (HM) Lands protection requirements, estimated management costs, and Performance Security requirements.

As described above, these changes to the ITP, as amended, will increase the Project Area and footprint and modify the Permittee's mitigation obligations. Therefore, Amendment No. 2 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 constitutes a Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

The authorization provided by Amendment No. 2 is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of Amendment No. 2 by registered first class mail to CDFW at:

Major Amendment No. 2
Incidental Take Permit 2081-2019-034-04
CHEVRON NORTH AMERICA EXPLORATION & PRODUCTION CO.
Cymric Surface Expression Emergency Cleanup Project

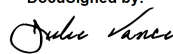
California Department of Fish and Wildlife
Habitat Conservation Planning Branch
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, California 94244-2090

Attachments:

ATTACHMENT 1 Cymric 1Y 5-10 Amendment Sampling Access Road
Construction Map
ATTACHMENT 2 Cymric 1Y 5-10 Amendment Updated Disturbance Map


APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 3/18/2020

DocuSigned by:

FA83F09FE08945A...
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, Major Amendment No.1, and Amendment No. 2, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

By:  Date: 3/26/2020
780596C1FD144E1...

Printed Name: Robert Fragione Title: Operations Manager

Major Amendment No. 2
Incidental Take Permit 2081-2019-034-04
CHEVRON NORTH AMERICA EXPLORATION & PRODUCTION CO.
Cymric Surface Expression Emergency Cleanup Project

Cymric 1Y 5-10 Amendment Sampling Access Road Construction Map



Attachment 2

Cymric 1Y 5-10 Minor Amendment Updated Disturbance Map

