

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534

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HABITAT CONSERVATION
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AMENDMENT NO. 1
(A Major Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2015-039-03
California Department of Transportation, District 4
Interstate 580 Pavement Rehabilitation Project in Alameda and San Joaquin County

INTRODUCTION

On February 10, 2016, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2015-039-03 (ITP) to the California Department of Transportation (Permittee) for take of California tiger salamander (*Ambystoma californiense*) and Alameda whipsnake a.k.a. Alameda striped racer (*Masticophis lateralis euryxanthus*), the Covered Species) associated with the Interstate 580 Pavement Rehabilitation Project in Alameda and San Joaquin County, California. In issuing the ITP, 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.

This Major Amendment No. 1 (Amendment) makes the following changes to the existing ITP:

First, to extend the Permit Expiration Date.

Second, to the Project Location.

Third, to update the Project Description.

Fourth, to update the Project Impacts on the Taking of Covered Species.

Fifth, to update the Habitat Management Land Acquisition and Restoration.

Sixth, to update the Performance Security as well as the corresponding sections of the Mitigation Monitoring and Reporting Plan (MMRP) Attachment 1 and updated figures and maps that reflect the changes associated with Incidental Take Permit No. 2081-2015-039-03.

AMENDMENT

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

1. ITP Page 1, Effective Date and Expiration Date of this ITP shall be amended to read:

Effective Date and Expiration Date of this ITP:

Rev. 2013.1.1

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 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 December 31, 2019~~20~~.

2. ITP Page 1, Paragraph 1, Project Location shall be amended to read:

Project Location:

The Project is located along Interstate 580 and Interstate 205 in Alameda and San Joaquin Counties. The project includes an area of Interstate-580 between Patterson Pass Road Overcrossing in San Joaquin County (post mile 13.5) and Greenville Road **Westbound off-ramp Overhead** in Alameda County (post mile 8.50) and also includes a small section of Interstate 205, post mile 0.0 to 1.0 (combined these segments are referred to as the Altamont Pass segment). A second distinct location occurs on Interstate 580 between Eden Canyon Road Undercrossing (post mile 26.1) and Strobridge Avenue Undercrossing (post mile 30.3) in Alameda County (referred to as the Castro Valley segment).

3. ITP Page 2, Paragraph 1, Project Description shall be amended to read:

Caltrans proposes to rehabilitate the pavement of eastbound Interstate 580, from the San Joaquin County Line to one mile east of North Flynn Road and the mainline of Westbound Interstate-580/Interstate-205 from the San Joaquin County Line to Greenville **off-ramp road Overhead** in Alameda County. A second distinct location occurs on Interstate 580 between the Eden Canyon Road Undercrossing (post mile 26.1) and the Strobridge Avenue Undercrossing (post mile 30.3) in Alameda County. Rehabilitation of the pavement will include adding overhead safety signs, replacing dikes, concrete curbs, metal beam guardrails, and concrete barriers, placement of shoulder backing, embankment reconstruction, adjusting existing drainage inlets to grade, replacing bridge approach slabs, and adding polyester concrete overlay on Midway Road Undercrossing and California Aqueduct Bridge. The project will also meter and rehabilitate 12 existing on-ramps, two of which will be widened to provide for a High Occupancy Vehicle preferential lane or Mixed Flow lane, Maintenance Vehicle Pullouts and California Highway Patrol pullouts.

4. ITP Page 3, Paragraph 2, Impacts of the Take on Covered Species shall be amended to read:

Temporary impacts to Alameda whipsnake habitat will total 1.513 acres and permanent impacts to Alameda whipsnake habitat will total 0.276 acres. Temporary impacts to California tiger salamander habitat will total 31.287 acres and permanent impacts to California tiger salamander habitat will total 6.161 acres. Total impacts to All Covered Species habitat results in 32.8 acres of temporary impacts and 6.437 acres of permanent impacts. Temporary impacts will total 32.50 acres, and permanent impacts will total 6.25 acres. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal habitat loss, roadside degradation of habitat extending into higher quality habitat (edge effects), and the Project's incremental contribution to cumulative impacts (indirect impacts). These impacts include: stress resulting from construction noise and vibrations, temporary and permanent habitat loss, and capture and relocation.

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5. ITP Page 9, Paragraph 1, Habitat Management Land Acquisition and Restoration shall be amended to read:

To meet this requirement, the Permittee shall provide for both the permanent protection and management of ~~54.50~~ **55.391** acres of Covered Species habitat (Habitat Management (HM) lands), pursuant to Condition of Approval 8.2 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.3.10 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. The Permittee shall also restore on-site ~~32.50~~ **32.8** acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.5 below.

- 8.1 Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

- 8.1.1 Land acquisition costs for HM lands identified in Condition of Approval 8.2 below, estimated at \$35,000/acre for ~~54.50~~ **55.391** acres: ~~\$1,907,500.00.~~ **\$1,938,685.00.** Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;
- 8.1.2 Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 8.2.5 below, estimated at \$15,000.00;
- 8.1.3 Interim management period funding as described in Condition of Approval 8.2.6 below, estimated at \$17,000.00;
- 8.1.4 Long-term management funding as described in Condition of Approval 8.3.7 below, estimated at \$6000/acre for ~~54.50~~ **55.391** acres: ~~\$327,000.00~~ **\$335,460.00.** Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management;
- 8.1.5 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 8.2.1, estimated at \$3,000.00;
- 8.1.6 Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.4, calculated at \$20,000/acre for ~~32.50~~ **32.8** acres: ~~\$650,000~~ **\$656,000.00.**

- 8.2 Covered Species Credits. Permittee shall purchase ~~54.50~~ **55.391** acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 9 below.

6. ITP Page 13, Condition of Approval 9.1, Performance Security shall be amended to read:

- 9.1 Security Amount. The Security shall be in the amount of ~~\$2,919,500.00~~
\$2,962,145.00. This amount is based on the cost estimates identified in Condition of Approval 8.1 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 increase the amount of take of the Covered Species compared to the Project as originally approved; however, by implementing Conditions of Approval 7.1 to 7.6, 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: This Amendment reflects a change in the acreage of Covered Species habitat that will be impacted by Project activities. This change in take assessment is based on an updated Project Description. This Amendment will not increase other Project impacts on these species because, in all other respects, the types of remediation activities authorized by the ITP remain unchanged, or in some cases, specific allowable techniques have been dropped.

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the Permit 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 February 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 with the avoidance and minimization measures provided as conditions of approval under the ITP will continue to reduce and avoid impacts as feasible and ITP Conditions of Approval 8 and 9 shall reduce impacts below a level of significance as required by CEQA. 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 February 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 Caltrans 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,

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for the reasons explained above, 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 increases the impact to Covered Species habitat. As described above, the level of take has increased, the habitat impacted has increased and the mitigation has increased due to the increase in impacts to Covered Species habitat. CDFW finds as a result that this Amendment is a Major Amendment of the ITP under CESA pursuant to 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:

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 8-3-18.



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: Issa Bour

Date: 8/27/2018

Printed Name: ISSA BOURI

Title: PROJECT MANAGER

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