

DEC 04 2018

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CENTRAL REGION

1234 EAST SHAW AVENUE

FRESNO, CALIFORNIA 93710

**AMENDMENT NO. 4**

(A Minor Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2014-010-04

California Department of Transportation

SBt-25 Curve Correction Project in San Benito County

INTRODUCTION

On June 23, 2014, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2014-010-04 (ITP) to California Department of Transportation (Caltrans) District 5 (Permittee), authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the SBt-25 Curve Correction Project in San Benito County, California (Project).

The Project as described in the ITP originally issued by CDFW includes realigning a 0.4-mile section of State Route (SR) 25 to then-current design standards by replacing a nonstandard curve with a 2,000-foot radius curve. This realignment required cutting into the hillside to a maximum depth of 44 feet. The new section of SR 25 was to be 900 feet long and 40 feet wide, with two 12-foot lanes, 2-foot paved shoulders, and 6 to 8 feet of unpaved surface on either side which includes a rock catchment area. The slopes on either side were to be 0.25:1 or flatter, and the width of these slopes was to be a maximum of 16 feet on each side. In addition to the road improvements, the old alignment was to be repaved to create a traffic detour, two new driveway exits for the landowners on either side of SR 25 were to be installed, and access to a stockpile area in the current turn-out was to be created. The remaining 24,790 square feet (0.569 acre) of the previous alignment was to be rehabilitated to allow for revegetation with oak trees. The Project was to result in the permanent development of 1.86 acres of upland habitat and temporary impacts to 0.87 acres of upland habitat for Covered Species resulting in a total habitat disturbance of 2.73 acres.

On May 8, 2015, CDFW issued Minor Amendment No. 1 to the ITP, which changed Condition of Approval 7.5 regarding Burrow Excavation. On January 27, 2016, CDFW issued Minor Amendment No. 2 to the ITP, which changed the Project Description to include temporarily repaving the original alignment. On October 4, 2016, CDFW issued Minor Amendment No. 3 to the ITP, which extended the term of the ITP by 24 months. In issuing the ITP, Amendment No. 1, Amendment No. 2, and Amendment No. 3 (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 impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

In a letter dated September 17, 2018, the Permittee requested an amendment to the ITP, as amended, to further extend the term as the ITP was set to expire on October 31, 2018. While the Project was completed, the through-cut slopes have failed and portions of the original Project will need to be redone. Further, CDFW identified an error in the ITP, specifically the State Clearinghouse Number referenced in the ITP, as amended.

This Minor Amendment No. 4 (Amendment No. 4) makes the following changes to the existing ITP, as amended:

First, this Amendment No. 4 extends the expiration date of the ITP, as amended.

Second, this Amendment No. 4 corrects the State Clearinghouse Number reported in the ITP, as amended.

AMENDMENT

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

1. The first paragraph of the Effective Date and Expiration Date of this ITP section on Page 1 of the ITP, as amended, shall be further amended to read as follows:

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 October 31, 2018***2028***.

2. The first paragraph of the Compliance with CEQA section on Page 17 of the ITP, as amended, shall be amended to read as follows:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, California Department of Transportation. (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the Mitigated Negative Declaration and Initial Study (State Clearinghouse No.: ~~2012122051~~***2012071077***) dated March 19, 2013 that the California Department of Transportation adopted for SR 25 Curve Correction on June 25, 2013. At the time the lead agency adopted the Mitigated Negative Declaration and approved the Project it also

adopted various mitigation measures for the Covered Species as conditions of Project approval.

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 Amendment No. 4 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Amendment No. 4 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: Amendment No. 4 makes one specific change to the ITP as originally issued and amended on May 8, 2015, January 27, 2016, and October 24, 2016. It modifies the "Effective Date and Expiration Date of Permit" and extends the existing permit expiration date by ten-years. CDFW has determined that extending the existing permit expiration date for ten additional years 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, as amended, described in this Amendment No. 4 will not increase impacts to the Covered Species.

Issuance of Amendment No. 4 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 previously determined in June 2014 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. 4 because the Project and ITP, as amended: (1) will have no effect on the amount or severity of Project impacts on the Covered Species, as discussed above, and (2) does not substantively alter the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP, as amended, 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 Amendment No. 4.

Discussion: CDFW issued the original ITP in June 2014, Amendment No. 1 in May 2015, Amendment No. 2 in January 2016, and Amendment No. 3 in October 2016 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the Mitigated 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 Amendment No. 4 is a minor change to the original ITP, as amended. CDFW finds for the same reasons under CEQA that approval of Amendment No. 4 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 Caltrans 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 Amendment No. 4.

CDFW finds that this Amendment No. 4 is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Discussion: Amendment No. 4 modifies the "Effective Date and Expiration Date of Permit" in the original ITP and extends the existing permit expiration date by ten-years. This change to the ITP, as amended, will not: (1) increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP as amended, (2) affect Permittee's substantive mitigation obligations under the ITP, as amended, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, Amendment No. 4 will not 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 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:

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

Minor Amendment No. 4
Incidental Take Permit 2081-2014-0210-04
CALIFORNIA DEPARTMENT OF TRANSPORTATION
SBt-25 Curve Correction Project

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on

11/19/18

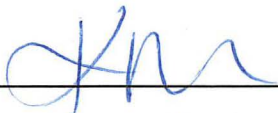


Julia A. Vance
Regional Manager
Central Region

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:

11/28/2018

Printed Name:

Karen Holmes

Title:

Senior Environmental Planner