

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



AMENDMENT NO. 1
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2018-014-04
Wright Solar Park LLC
Wright Solar Park in Merced County

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HABITAT CONSERVATION
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INTRODUCTION

On September 14, 2018, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2018-014-04 (ITP) to Wright Solar Park LLC (Permittee), authorizing take of San Joaquin kit fox (*Vulpes macrotis mutica*) and Swainson's hawk (*Buteo swainsoni*) (collectively, the Covered Species) associated with and incidental to the Wright Solar Park Project in Merced County, California (Project). The Project as described in the ITP as originally issued by CDFW includes the construction, operation and maintenance (O&M), and decommissioning of a 200-megawatt (MW) solar power generating facility on approximately 2,731 acres of agricultural land consisting of grazing and dry-farmed land. The Project is comprised of two main components: the 1,250-acre solar facility, which includes access roads, and off-site road improvements; and approximately 1,076 acres of existing utility corridors and grazing land outside the construction footprint identified as temporary wildlife corridors that will be impacted in limited areas for vehicle access. 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.

The Permittee and CDFW are currently in the process of reviewing the Habitat Management lands package for the Project. Negotiations on the conservation easement language, contents of the habitat management plans, and corresponding long- and short-term habitat management funding are on-going. On February 6, 2020, CDFW received a request and corresponding fee payment for a minor amendment to the ITP to extend the date in which the compensatory mitigation obligations are to be completed from March 21, 2020, to March 21, 2021, to accommodate continued review and negotiation time.

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

This Amendment No. 1 extends the deadline in which to complete the HM lands mitigation obligations from March 21, 2020 to March 20, 2021.

AMENDMENT

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

1. The second paragraph in Condition of Approval 9, pages 29 and 30 of the ITP, shall be amended to read:

To meet this requirement, the Permittee shall provide for both the permanent protection and management of 2,854.89 acres of Habitat Management (HM) lands, including 404.81 acres to facilitate SJKF movement between north and south core populations. The mitigation sites proposed by the Permittee to be used as HM lands for the Project are depicted in Figure 2. CDFW has conceptually agreed to the appropriateness of the 2,854.89 acres of HM lands as they appear to be comprised of high quality grassland habitat and are known occupied foraging, denning, and nesting habitat for the Covered Species. Prior to CDFW final approval of the 2,450.08 acres of off-site lands and the 404.81 acres of onsite movement corridor lands as suitable to meet the HM land mitigation requirement, CDFW shall conduct a site visit and review and approve in writing the information submitted pursuant to Condition of Approval 9.2 and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 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~~ ***by March 21, 2021***, if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. Permittee shall also restore on-site 1,000 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.8 above for the benefit of Covered Species.

2. MMRP:

The corresponding MMRP Measure 9, page 2, shall be amended to read the same as above.

3. The last paragraph in Condition of Approval 10, page 36 of the ITP, shall be amended to read:

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required

conservation easements no later than ~~18 months from the effective date of this ITP~~ **March 21, 2021**. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

4. MMRP:

The corresponding MMRP Measure 17, page 8, 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 No. 1 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment No. 1 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 No. 1 makes one (1) specific change to the ITP as originally issued. It extends the timeline in which to complete the compensatory mitigation obligations to March 21, 2021. The resulting impacts to the Covered Species, however, including the timing, number of acres of habitat that will be lost, etc., as a result of the Project, will remain the same.

CDFW has determined that extending the timeline in which to complete the compensatory mitigation obligations 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 timeline to complete the compensatory mitigation obligations described in this Amendment No. 1 will not increase impacts to the Covered Species.

Issuance of this Amendment No. 1 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 September 2018 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 No. 1

because it (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. This Amendment No. 1 acknowledges the need for additional time to complete the review and negotiations associated with the HM lands package. 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 No. 1.

Discussion: CDFW issued the ITP in September, 2018 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 on March 13, 2015, by Merced County as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment No. 1 is a minor change to the original ITP. CDFW finds for the same reasons under CEQA that approval of this Amendment No. 1 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 Merced County 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 No. 1.

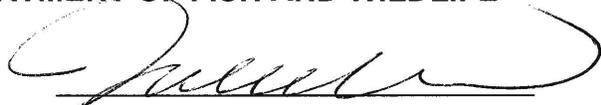
CDFW finds that this Amendment No. 1 is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Discussion: This Amendment No. 1 increases the timeline in which to complete the compensatory mitigation obligations. 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 No. 1 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 No. 1 is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment No. 1 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 3/10/2020 
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 No. 1, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

By: 
Printed Name: Jason Ellsworth

Date: 3/27/2020
Title: Manager of Cleenera, LLC,
authorized agent of
Wright Solar Park, LLC