

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. 2081-2019-028-04
California Department of Water Resources
B.F. Sisk Safety of Dams Geotechnical Investigations Project in Merced County

INTRODUCTION

On March 23, 2020, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2019-028-04 (ITP) to California Department of Water Resources (Permittee), authorizing take of California tiger salamander (*Ambystoma californiense*) (collectively, the Covered Species) associated with and incidental to the B.F. Sisk Safety of Dams Geotechnical Investigations Project in Merced County, California (Project). The Project as described in the ITP as originally issued by CDFW includes a variety of methods (e.g., geotechnical borings, cone penetration tests, in-situ pump out tests, test pits) used to explore and characterize embankment and foundation materials downstream of the dam axis to gather data for use in analysis and design for the proposed B.F. Sisk Safety of Dams Modification Project. 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. Since the time the ITP was issued, it has been determined that nine of the original test pit locations will need to be relocated.

In a letter dated May 5, 2020, Permittee requested a minor amendment to the ITP to move nine out of 19 previously authorized test pits from one borrow area (Borrow Area 6) and relocate them to the second borrow area (Borrow Area 12/14) where five test pits are authorized. The methods of excavation and equipment used for the nine relocated test pits would not deviate from the description previously provided in the ITP and the total test pit excavations will remain 24. The maximum ground disturbance will also remain the same.

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

This Amendment makes changes to the Project description to move nine test pits from one borrow area (Borrow Area 6), which previously proposed to conduct 19 test pits, to the second borrow area (Borrow Area 12/14), which previously proposed to conduct five test pits.

AMENDMENT

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

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

1. On page 1 in the ITP, the Project description shall be amended to read:

A total of 24 test pits will be excavated within the borrow area locations to evaluate in-situ conditions and obtain samples. Test pits will be excavated using a rubber-tired backhoe or track-mounted excavator. ~~Five test pits are proposed at one borrow area to be 20 feet deep, 30 feet long, and 30 feet wide, and 19 test pits are proposed at the other borrow area to be 25 feet deep, 50 feet long, and 50 feet wide.~~ ***Five test pits are proposed at one borrow area (Borrow Area 12/14) to be 20 feet deep, 30 feet long, and 30 feet wide; nine test pits, also within Borrow Area 12/14, will be 25 feet deep, 50 feet long, and 50 feet wide. 10 test pits are proposed at the other borrow area (Borrow Area 6) to be 25 feet deep, 50 feet long, and 50 feet wide.*** The top 6 inches of the ground surface at each test point location will be removed to retain organic matter and seed bank as topsoil for backfill to facilitate revegetation. Each test pit would be benched (3 feet wide by 3 feet deep) to stabilize sidewalls and allow workers to safely access the test pit to perform data collection. The test pits will be backfilled with the excavated material and the top 6 inches will be replaced upon completion. The material will be tamped with the backhoe bucket to achieve a level of compaction deemed acceptable for surrounding land use. The topsoil set aside at the beginning of the excavation will be replaced last. Each test pit will be completed in one day at each location. No test pits will be open overnight.

2. Attachment 1 of this Amendment (revised Figure 2) shall replace Figure 2 of the ITP.

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 two specific changes to the ITP as originally issued. This Amendment changes the Project description moving nine test pits from one borrow area (Borrow Area 6), which previously proposed to conduct 19 test pits, to the second borrow area (Borrow Area 12/14), which previously proposed to conduct five test pits; there is no change to the total number of test pits (24) as originally proposed. This Amendment also replaces Figure 2 with a revised Figure illustrating the new locations of the test pits. The resulting impacts to the Covered Species, however, including the total number of test pits proposed for the Project and maximum disturbance area, will remain the same.

CDFW has determined that changes to the Project description 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 description described in this Amendment, including relocating nine test pits from Borrow Area 6 to Borrow Area 12/14, 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 March 2020 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: (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'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 March 2020 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 by the California Department of Water Resources 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 California Department of Water Resources 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 relocates nine test pits from Borrow Area 6 to Borrow Area 12/14; the total number of test pits (24) and maximum disturbance area as previously proposed remains unchanged. 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:

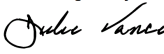
California Department of Fish and Wildlife
Habitat Conservation Planning Branch
Attention: CESA Permitting Program
Post Office Box 944209
Sacramento, California 94244-2090

Attachment:

ATTACHMENT 1 revised Figure 2 Project Location Map Showing
Geotechnical Exploration Features

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE


on 5/29/2020

DocuSigned by:

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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, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

DocuSigned by:

By: F32E0AE1462843A...

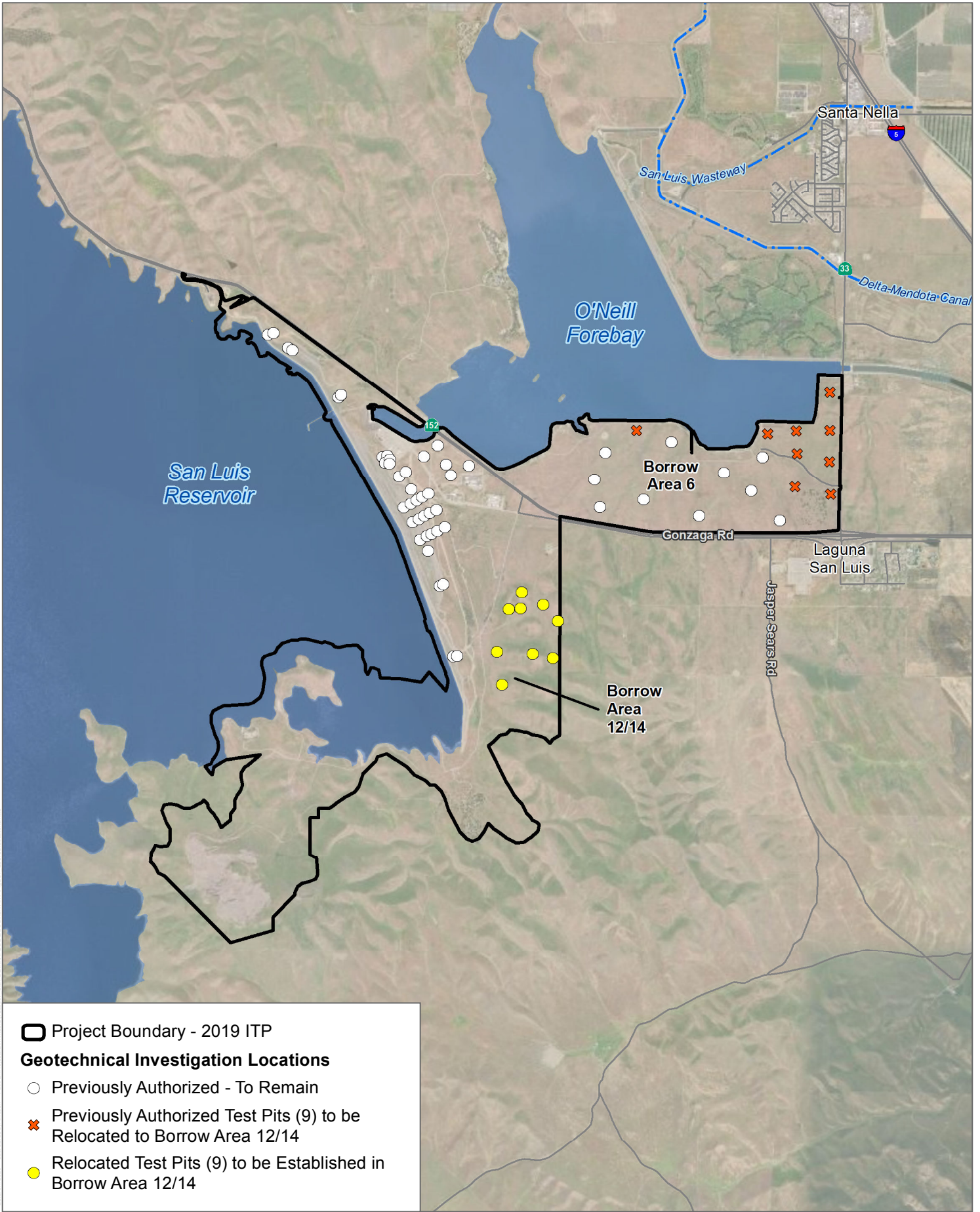
Date: 5/29/2020

Printed Name: Jerry Snow

Title: Chief, Env. Assessment Branch

ATTACHMENT 1

revised Figure 2. Project Location Map Showing Geotechnical
Exploration Features



SOURCE: Bing 2020, DWR 2020, USBR 2020



FIGURE 2
B.F. Sisk Safety of Dams Geotechnical Investigations Project
 Request for Minor Amendment to CDFW Incidental Take Permit
 (ITP No 2081-2019-028-04)