

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

NORTH CENTRAL REGION

1701 NIMBUS ROAD

RANCHO CORDOVA, CA 95670



AMENDMENT NO. 1

(A Minor Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2019-024-02-A1

Biggs-West Gridley Water District

Gray Lodge Water Supply Project in Butte County

INTRODUCTION

On August 1, 2019, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2019-024-02 (ITP) to Biggs-West Gridley Water District (Permittee), authorizing take of giant garter snake (*Thamnophis gigas*) (collectively, the Covered Species) associated with and incidental to the Gray Lodge Water Supply Project in Butte County, California (Project). The Project as described in the ITP as originally issued by CDFW includes the structural modification of portions of the Biggs-West Gridley Water District's (Water District) water conveyance facilities. The Project includes approximately 5.64 linear miles of canals, plus a 200-foot buffer on each side of the canal centerline. The Project includes the construction of 31 minor modifications. The minor modifications consist primarily of concrete structure work including water control structures (in-canal check structures, turnouts, and headgates), county road crossings, farm road crossings, a railroad under-crossing, and drain crossings. Major modifications consist primarily of canal work involving raising, reshaping, or widening the canal banks, compacting embankment soils, and placing erosion control rock on side slopes. 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.

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

First, this Amendment will change the construction sequencing and methodology because the temporary bypass needed to construct the Lower Traynor and the Lower Schwind Canal has been deemed unfeasible due to issues with property owners not willing to allow construction. This change will result in a substantial reduction of the temporary impacts.

Second, this amendment changes notification of new observations of Covered Species to be provided to CNDDDB concurrently with submission of the Quarterly Compliance

Report or Annual Status Report, whichever report is submitted first relative to the observation.

Third, this amendment updates the Project impacts after an impact assessment prepared on July 31, 2020, detected changes in the Project impacts to Covered Activities.

AMENDMENT

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

1. The last paragraph in ITP page 5 shall be amended to read: The Project is expected to cause the permanent loss of ~~0.9~~ ***2.75*** acres of upland habitat for the Covered Species, and temporary loss of ~~34.12~~ ***19.41*** acres of habitat for the Covered Species (~~15.26~~ ***3.75*** acres of aquatic habitat and ~~48.86~~ ***15.66*** acres of upland habitat). The Project is expected to result in the expansion of Covered Species habitat of ~~4.24~~ ***5.42*** acres. 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).
2. ITP Condition 7.6, page 11 (CNDDDB Observations) shall be amended to read: The Designated Biologist shall submit all observations of Covered Species to CDFW's California Natural Diversity Database (CNDDDB) ~~within 60 calendar days of the observation~~ ***concurrent with submission of the Quarterly Compliance Reports and ASR*** and the Designated Biologist shall include copies of the submitted forms with the next Quarterly Compliance Report or ASR, ~~whichever is submitted first relative to the observation.~~
3. Figure 2 Project Phasing of the ITP shall be replaced by the figure attached to this document.
4. Condition 8.11, shall be added to the ITP and the MMRP:

8.11 Impact Verification: Permittee shall conduct impact verification exercises to ensure Project compliance. Reports shall be submitted after each construction season. First report shall be submitted no later than November 15, 2020, the last report shall be submitted no later than 60 days from the project completion.

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 four specific changes to the ITP as originally issued. Changes include a new Project construction phasing, impacts update, changes to the reporting requirements, and a new impact verification measure. The resulting total impacts to the Covered Species however, have been reduced as a result of the Project.

CDFW has determined that changes to circumstances, Project description, and/or conditions of approval 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 described in this Amendment will not increase the total 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 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 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 August 2019 as a lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) After, among other things, considering the negative declaration and subsequent addendums adopted by CDFW 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 CDFW 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).

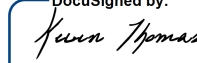
Discussion: This Amendment changes the methodology and timing of construction, reduces the temporary impacts, changes notification requirements, adds additional construction area and an Impact Assessment Measure. These changes to the ITP will not: (1) increase the level of take or other Project impacts 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, via DocuSign and/or returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

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

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 10/15/2020

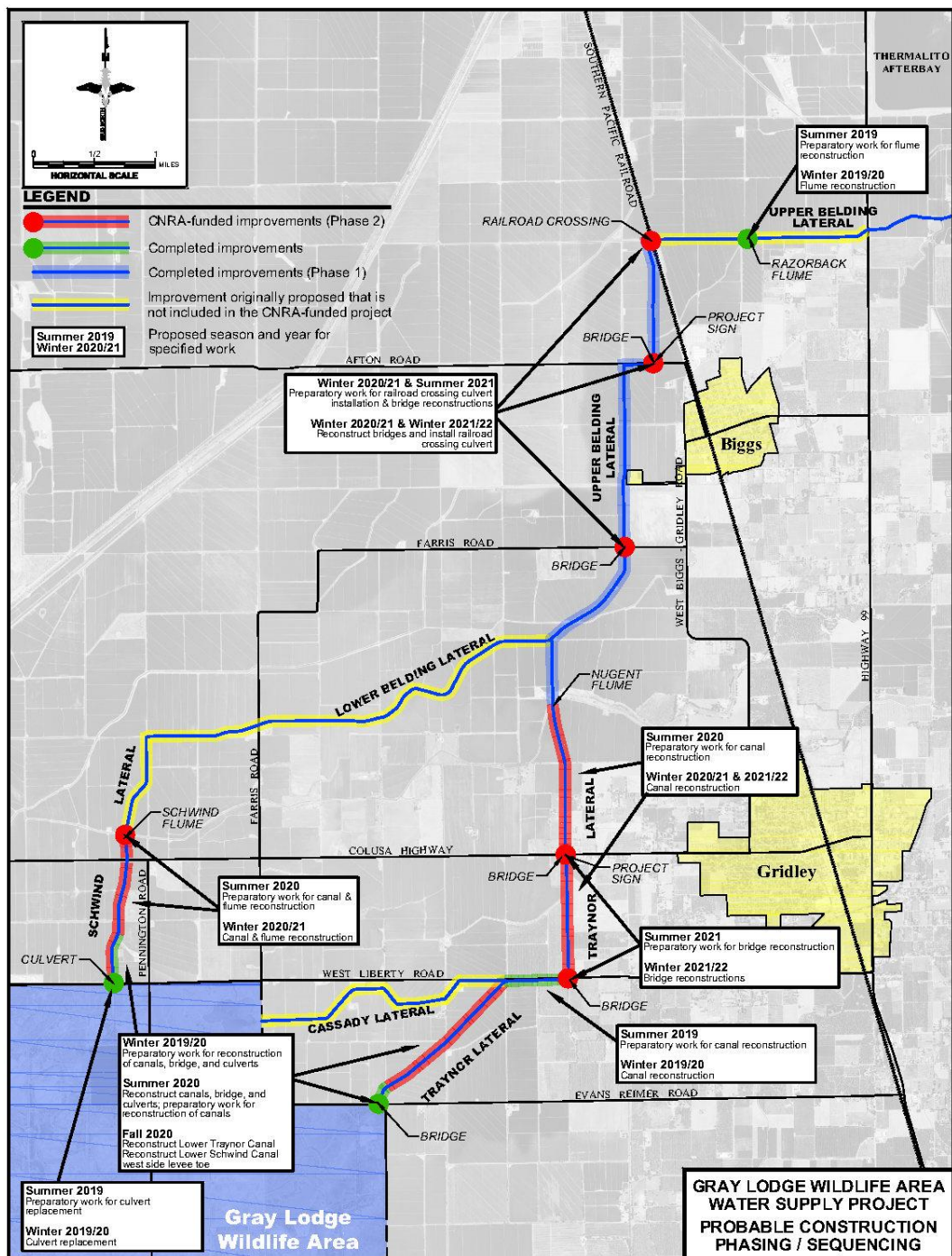
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A2A0A9C574C3445...
Kevin Thomas

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BIGGS WEST GRIDLEY IRRIGATION DISTRICT
Gray Lodge Water Delivery Project

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.

Printed Name: Eugene Massa Jr. Title: General Manager

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FIGURE 2. PROJECT PHASING

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