

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534



AMENDMENT NO. 8

(A Minor Amendment)

California Endangered Species Act
Incidental Take Permit No. 2081-2010-009-07
Mare Island Ship Yard, LLC
Reuse of the Mare Island Drydocks in Solano County

INTRODUCTION

On April 21, 2010, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2010-009-07 (ITP) to Allied Defense Recycling, LLC. (Permittee) for take of Delta smelt (*Hypomesus transpacificus*), longfin smelt (*Spirinchus thaleichthys*), winter-run Chinook salmon (*Oncorhynchus tshawytscha*) and spring-run Chinook salmon (collectively, the Covered Species) associated with the Reuse of the Mare Island Drydocks Project in Solano County, California (Project). The Project as described in the ITP, includes operation of a ship repair and dismantling facility at the existing dry dock site at Mare Island Ship Yard located at Dry Docks 1-4, Nimitz Avenue, Mare Island, Vallejo, California 94592. As part of the Project, the Permittee will conduct dredging activities approximately every other year to remove sediment from Dry Docks 1-4, and Berths 11-14. The Permittee will then use Dry Docks 2, 3, and 4 for ship repair and dismantling. 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.

On July 29, 2010, CDFW issued Minor Amendment No. 1 to the ITP. Minor Amendment No. 1 contained the following changes:

1. Changed the dredge operation work window to 24 hours per day, 7 days per week.
2. Expanded the work period to conduct dredge operations from August 1 to December 15, inclusive.

On November 25, 2013, CDFW issued Major Amendment No. 2 to the ITP. Major Amendment No. 2 contained the following changes:

1. Extended the expiration date of the ITP from April 30, 2013 to April 30, 2017.
2. Changed the name of the Permittee to Mare Island Dry Dock, LLC.

3. Changed the contact person from Jay Anast, Director, to Suzanne Castleman with Stephen DiLeo as the secondary contact.
4. Changed the definition of evolution within the project description.
5. Updated the CDFW contact information.
6. Extended the Final Mitigation report due date to June 15, 2017.
7. Increased the number of authorized evolutions from 16 to 104 per year total for Dry Docks 2 through 4 and it removed the limitation on the amount of water a dry dock can hold.
8. Added installation of the bubble curtain deterrence system as a required minimization measure.
9. Modified Condition 6.7 to only require rescue of native species and revised the fish rescue plan to limit salvage operations during times that Covered Species are not likely to be entrained.
10. Modified Condition 7.1 to remove the Napa River fish migration barrier as appropriate mitigation for state listed Chinook salmon.
11. Addressed the reduced take of Covered Species by installation of the bubble curtain deterrence system as a required under Condition 6.4 and recalculated mitigation under Condition 7.2 based upon reduced take estimates. Revised the mitigation to the purchase of Covered Species credits from a CDFW-approved mitigation or conservation bank and acknowledged that completion of mitigation must occur by December 31, 2013.
12. Removed Conditions 7.2.1 through 7.2.4 based upon the use of Covered Species credits from a CDFW-approved mitigation or conservation bank identified in Amended Condition 7.2.
13. Revised the amount of the Letter of Credit needed to address mitigation under Condition 7.2 based upon reduced take estimates and acknowledged that completion of mitigation must occur by December 31, 2013.

Mare Island Dry Dock, LLC has the opportunity to service two large Navy vessels. The deep draft of the vessels necessitates clam shell dredging at Berth 12.

On December 15, 2014, CDFW issued Minor Amendment No. 3 to the ITP. Minor Amendment No. 3 contained the following changes:

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1. Changed the dredging method to clamshell.
2. Expanded the work period to conduct dredge operations from August 1 to December 31, inclusive.

On December 31, 2014, CDFW issued Minor Amendment No. 4 to the ITP. Minor Amendment No. 4 contained the following change:

1. Expanded the work period to conduct dredge operations from August 1 to January 5, inclusive.

On April 3, 2015, CDFW issued Minor Amendment No. 5 to the ITP. Minor Amendment No. 5 contained the following change:

1. Allowed the Permittee to conduct clamshell dredge operations in Mare Island Strait from April 6 to April 15, inclusive and August 1 to January 5, inclusive.

On May 3, 2017, CDFW issued Minor Amendment No. 6 to the ITP. Minor Amendment No. 6 contained the following changes:

1. Extended the date of the ITP one year, to April 30, 2018.
2. Extended documentation of the final mitigation report to June 15, 2018.
3. Changed the primary contact person from Suzanne Castleman, principal officer, to Marcus Zuidema.

On March 23, 2018, CDFW issued Major Amendment No. 7 to the ITP. Major Amendment No. 7 contained the following changes:

1. Extended the expiration date of the ITP date to April 30, 2021.
2. Extended documentation of the final mitigation report to June 15, 2021.
3. Included the use of Dry Dock 1 for normal docking and repair operations.
4. Modified the final dredge depths at Dry Dock 1 and 4 and Berths 11-16.
5. Modified the dredging work window in Condition of Approval 6.2.
6. Added Condition of Approval 6.9, requiring salinity testing for all dredge events that occur between December 1 and July 31 each year.
7. Reduced the total number of evolutions allowed under this ITP from 416 to 230.

In a letter dated March 26, 2021, the Permittee requested the following changes to the ITP:

1. To extend the expiration date of the ITP to November 30, 2021.
2. To extend the due date of the Final Mitigation Report to December 31, 2021.
3. To increase the final dredge depths at Berths 11-16.

This Minor Amendment No. 8 (Amendment) makes the following changes to the existing ITP:

1. Extends the expiration date of the ITP to November 30, 2021.
2. Increases the final dredge depths of Berths 11-16.
3. Corrects the total number of evolutions allowed under this ITP from 230 to 278.
4. Extends the due date of the Final Mitigation Report to December 31, 2021.

AMENDMENT

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

1. The last sentence of the first paragraph in ITP Effective Date and Expiration Date of the ITP, Page 1 shall be amended to read:

Unless renewed by ~~DFG~~ **CDFW**, this ITP's authorization to take the Covered Species shall expire on ~~April~~ **November** 30, 2021.

2. The second sentence of the Project Description, Page 2 shall be amended to read:

As part of the Project, the Permittee will conduct dredging activities approximately every other year to remove the bottom sediments of Mare Island Strait from in front of Dry Docks 1-4 to a depth of -32 feet Mean Lower Low Water (MLLW) plus 2-foot overdepth, **and** Berths 11-~~13~~ **16** to **-26 feet MLLW at the quay wall transitioning at a 3:1 slope to -32 feet MLLW + 2-foot overdepth**-30 feet MLLW plus 2-foot overdepth, and Berths 14-16 to -32 feet MLLW plus 2-foot overdepth.

3. The sixteenth sentence of the Project Description, Page 2 shall be amended to read:

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Mare Island Shipyard shall conduct no more than ~~278~~²³⁰ evolutions in total for Dry Docks 1-4. An evolution consists of a Pump Cycle—When the caisson is removed, allowing open access to the waterways. When the caisson is re-installed and the dry dock is pumped out, it necessitates the need for fish rescue.

4. The first sentence of ITP Condition 5.7, Page 8 (Notification and Reporting Provisions) shall be amended to read:

Final Mitigation Report: No later than ~~June 15~~, 2021, Permittee shall provide CDFW with a Final Mitigation Report.

5. The first sentence of ITP Condition 6.4, Page 9 (Take Minimization Measures) shall be amended to read:

The Permittee shall not exceed ~~278~~²³⁰ evolutions in total for Dry Docks 1-4 under this ITP.

6. Mitigation Monitoring and Reporting Program (MMRP), ITP Attachment 1 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 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: 1) extends the ITP expiration date for seven months, to November 30, 2021; 2) extends the due date of the Final Mitigation Report to December 31, 2021; 3) increases the final dredge depths at Berths 11-16 to -26 feet MLLW at the quay wall transitioning at a 3:1 slope to -32 feet MLLW + 2-foot overdepth; and 4) corrects the total number of evolutions allowed under this ITP from 230 to 278. The resulting impacts to the Covered Species, however, including the number and timing of dredging events and evolutions as a result of the Project, will remain the same.

CDFW has determined that extending the ITP term, correcting the number of allowed evolutions, and increasing the dredging depths 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, including extending the expiration date of this ITP, 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 April 2010, 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 not increase the amount or severity of Project impacts on Covered Species, and (2) will not significantly 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 April 2010 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 the City of Vallejo 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 City of Vallejo 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 extends the ITP expiration date seven months to November 30, 2021, extends the due date of the Final Mitigation Report to December 31, 2021, increases the dredge depths at Berths 11-16, and corrects the total

number of authorized evolutions from 230 to 278. These changes to the ITP will not: (1) significantly 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 the Permittee delivers a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

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

Alternatively, the Permittee shall email the digitally signed ITP to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 4/14/2021

DocuSigned by:
Gregg Erickson
BE7AD4C93C604EA
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: *Thomas C. Hengel* Date: 4/14/2021
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Printed Name: Thomas C. Hengel Title: Thomas C. Hengel Dockmaster

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