

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

BAY DELTA REGION

2825 CORDELIA ROAD, SUITE 100

FAIRFIELD, CA 94534



AMENDMENT NO. 1

(A Minor Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2016-020-03

One Lake Holding, LLC

Canon Station Project in Solano County

INTRODUCTION

On May 21, 2018 the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2016-020-03 (ITP) to One Lake Holding, LLC (Permittee), authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the Canon Station Project in Solano County, California (Project). The Project as described in the ITP as originally issued by CDFW includes: 1) the development of 605.80 acres of undeveloped land into a mixed use residential and commercial development, including new housing, roads, parks, utility infrastructure, and storm water systems, over an approximately 10-year period; and 2) the enhancement of 648.06 acres of mitigation land including 92.40 acres of ground disturbance for creating, enhancing, and restoring Covered Species breeding and upland habitat, and other wetland habitat. 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.

California is currently experiencing drought conditions throughout most of the state. For the current rain year through late-April 2021, the Project area is estimated to have received less than 42% of its average annual rainfall based on National Oceanic and Atmospheric Administration's Climate Station Precipitation Summary data for surrounding areas. Due to the low amount of precipitation and dry conditions, the Project Area has entered the Dry Season earlier than normal. The ITP limits initial ground disturbing activities to the Dry Season, defined as June 15 to October 15.

CDFW received from the Permittee: 1) on April 28, 2021 a request that Project activities be allowed to begin in late April or May 2021 and, 2) subsequent information specifying that the requested activities would be limited to the Mixed-Use Development Area Phase III, as revised. The Permittee identified that wetlands including CTS breeding habitat within the Project area were previously removed or are currently dry.

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

First, this Amendment changes the Dry Season beginning date for the year 2021 from June 15 to May 1.

Second, this Amendment removes the ability to extend the Dry Season ending date on a week-by-week basis.

AMENDMENT

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

The ITP Condition of Approval 8.1, page 9, is amended to read:

Dry Season Work Restriction. This condition applies to initial ground disturbing Covered Activities in the Mixed-Use Development Area and all ground disturbing Covered Activities in the Mitigation Land Enhancement Area. Permittee shall ensure that ground disturbing activities involving construction and heavy equipment use within Covered Species habitat (such as excavation, grading and contouring) are limited to the period from June 15 to October 15 (Dry Season), ***except for the year 2021, during which Mixed-Use Development Area Phase III activities are limited to the period from May 1 to October 15 (2021 Dry Season)***. The following Phase 1 activities within the Mixed-Use Development Area shall be limited to the period from April 15 to October 15: 1) installation of the temporary barrier fencing (see Condition of Approval 8.4), 2) ground disturbing activities that are outside of the watersheds for on-site Covered Species breeding ponds 3, 4, 5, and 6, and 3) up to 10 potholes for geotechnical soils testing (Figure 3). Best Management Practices shall be employed to ensure no sediment from temporary barrier fencing installation and potholing activities impact the aforementioned breeding ponds.

~~If more time is needed to complete ground disturbing activities, the work period may be modified in writing on a week-by-week basis by a CDFW representative. Requests for a work period extension shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; 4) provide photographs of both the current work completed and the proposed site for continued work; and 5) include an assessment of additional biological impacts as a result of the work extension. An extension of the period may require an Amendment if additional impacts to Covered Species will occur.~~

The corresponding MMRP shall be amended to read the same as the 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 two specific changes to the ITP as originally issued. These changes revise the Dry Season for the year 2021, allowing work to begin on May 1 instead of June 15, and remove the ability to extend the Dry Season ending date on a week-by-week basis. The resulting impacts to the Covered Species, however, including the number of acres of habitat that will be lost as a result of the Project, will remain the same.

CDFW has determined that changes to 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, including a Dry Season start date of May 1 limited to 2021, 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 May 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 because the Project and ITP as amended: (1) will have no effect on the total 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 May 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 adopted by City of Fairfield 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 Fairfield 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 revises the Dry Season for the year 2021 based on low winter precipitation and Project Area conditions, thereby allowing work to begin on May 1, 2021 rather than June 15, 2021; in addition, this Amendment removes the ability to extend the Dry Season ending date on a week-by-week basis. 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, CA 94244-2090

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

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ONE LAKE HOLDING, LLC
CANON STATION PROJECT

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 5/11/2021

DocuSigned by:
Gregg Erickson
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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.

DocuSigned by:
Dan Aguilar
By: _____ Date: 5/11/2021
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Printed Name: Dan Aguilar Title: Co-President

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