



State of California –The Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Northern Region
601 Locust Street
Redding, CA 96001
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 5, 2021

James N. Simon, Director
Tehama County Department of Public Works
9380 San Benito Avenue
Gerber, CA 96035

**SUBJECT: INCIDENTAL TAKE PERMIT FOR JELLY'S FERRY ROAD BRIDGE
REPLACEMENT PROJECT (2081-2016-002-01) MINOR AMENDMENT 2**

Dear Director Simon:

Enclosed you will find an electronic copy of the incidental take permit minor amendment for the above referenced Project which has been digitally signed by the Department. Please read the permit carefully, sign the acknowledgement, and return the original **no later than 30 days from Department signature**, and prior to initiation of ground-disturbing activities. You may return a hard copy of the permit via mail to:

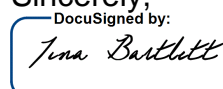
Department of Fish and Wildlife
Habitat Conservation Planning Branch, CESA Permitting
Post Office Box 944209
Sacramento, CA 94244-2090

Alternatively, you may return an electronic copy of the permit with digital signature to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.

You are advised to keep the permit in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of approval of the permit. Note that you are required to comply with certain conditions of approval prior to initiation of ground-disturbing activities. Additionally, a copy of the permit must be maintained at the project work site and made available for inspection by Department staff when requested.

The permit will not take effect until the signed acknowledgement is received by the Department. If you wish to discuss these instructions or have questions regarding the permit, please contact Adam McKannay, Senior Environmental Scientist - Supervisor, at (530) 225-2124 or adam.mckannay@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Tina Bartlett

Regional Manager
Northern Region

Director James N. Simon
May 5, 2021
Page 2 of 2

Enclosures (2)

ec: Adam McKannay
Department of Fish and Wildlife
adam.mckannay@wildlife.ca.gov

Jessica Pecha, Jon McClain
Tehama County Department of Public Works
jpecha@tcpw.ca.gov, jmcclain@tcpw.ca.gov

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

NORTHERN REGION
 601 LOCUST STREET
 REDDING, CA 96001
 (530) 225-2300



AMENDMENT NO. 2
 (A Minor Amendment)
 California Endangered Species Act
 Incidental Take Permit No. 2081-2016-002-01
 Tehama County Department of Public Works
 Jelly's Ferry Road Bridge Replacement Project in Tehama County

INTRODUCTION

On April 5, 2016, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2016-002-01 (ITP) to the Tehama County Department of Public Works (Permittee), authorizing take of Sacramento River Winter-Run Chinook Salmon (*Oncorhynchus tshawytscha*) and Central Valley Spring-Run Chinook Salmon (*Oncorhynchus tshawytscha*) (collectively, the Covered Species) associated with and incidental to the Jelly's Ferry Road Bridge Replacement Project in Tehama County, California (Project). The Project as described in the ITP as originally issued by CDFW includes replacement of the existing bridge, realignment of Jelly's Ferry Road, and relocation of a portion of the Bureau of Land Management (BLM) recreational facilities. 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.

In November 2020, the Permittee reinitiated consultation with the National Marine Fisheries Service (NMFS) for the Project. On April 1, 2021 NMFS issued a new Biological Opinion (NMFS Consultation Number: 2020-01879). In order to establish consistency between permits, the Permittee has requested the following modifications to the hydroacoustic analysis for the temporary trestle and falsework pile driving assumptions, minor modifications to the in-water work windows to be consistent in each year of construction, and removal of the use of anti-spawning mats as a requirement of the Project. The proposed changes include:

The temporary trestle and falsework pile driving modifications are as follows:

	2014 Biological Opinion	2020 Biological Opinion
Pile type:	H-pile	Pipe-pile
Pile size:	12-inch	24-inch
Number of piles:	230	120
Day of pile driving:	44-64	30-30

The revisions to the hydroacoustic analysis are as follows:

	206 dB Peak	187 dB Cumulative	SEL 183 dB Cumulative SEL	150 dB RMS
2014 Biological Opinion	<10m	26m	32m	178m
2020 Biological Opinion	<10m	18m	33m	398m

The modifications to the in-water work windows are due to the extended duration of the project and for consistency from the commencement of in-water construction in 2021 through the completion of in-water work in 2023. The changes are as follows:

	2014 Biological Opinion	2020 Biological Opinion
First Construction Season	May 15 to September 30	March 15 to August 30
Second Construction Season	Late March to September 15	March 15 to August 30
Third Construction Season	N/A	March 15 to August 30

Additionally, the Permittee has requested that the use of anti-spawning mats will be removed as a mitigation measure from the Project.

This Minor Amendment No. 2 (Amendment) makes the following changes to the existing ITP:

First, this Amendment updates the pile type, size, number of piles to be driven, and number of days pile driving will occur.

Second, this Amendment updates the hydroacoustic analysis on which the Project impacts were analyzed.

Third, this amendment modifies the in-water work window for the work seasons to March 15 to August 30 (Measure 8.1) for consistency with the Biological Opinion.

Fourth, this amendment removes the requirement to use anti-spawning mats as a mitigation measure (Measures 8.3-8.6) for consistency with the Biological Opinion.

AMENDMENT

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

1. ITP Condition of Approval 4 shall be amended to read:

ESA Compliance: Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the National Marine Fisheries Service (NMFS) Biological Opinion for the Jelly's Ferry Road Bridge Replacement Project (~~Biological Opinion No. 151422SWR2013SA00088 (T/N 2013/9541)~~) (***NMFS Consultation Number: 2020-01879***) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.

2. ITP Take Minimization Measure 8.1 shall be amended to read:

Instream Work Period. In-water work shall be limited to the period of ~~May 1 to August 15~~ ***March 15 through August 30*** during the first construction season, ~~and during the period of late March 15 to September 15~~ ***March 15 through August 30*** during the second construction season, ***and March 15 through August 30 during the third construction season.***

3. The corresponding MMRP Measure 28, Page 7 shall be amended to read the same as above.
4. ITP Take Minimization Measures 8.3 through 8.6 shall be struck from the ITP:

~~Anti-Spawning Mat Installation. Anti-spawning mats shall only be utilized during the first construction season. The mats shall be installed between March 1 and April 15. Installation shall be monitored by the Designated Biologist.~~

~~Anti-Spawning Mat Locations. Anti-spawning mats shall be limited to the 0.08-acre area identified during underwater surveys as providing potential spawning habitat for Covered Species.~~

~~Anti-Spawning Mat Removal. Anti-spawning mats shall be removed between November 1 and November 30 (of the first construction season). Removal shall be monitored by the Designated Biologist.~~

~~Anti-Spawning Mat Monitoring. Anti-spawning mats shall be monitored on a weekly basis, by the Designated Biologist, and maintained in proper functioning condition (i.e., secured to substrate without holes or establishment of spawning gravels on top of the mats). Should the anti-spawning mats not be functioning properly, all percussive construction work shall cease until the mats have been restored to proper functioning condition.~~

5. The corresponding MMRP Measures 30 through 34, Page 7 shall be struck from the MMRP.

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: updates the pile type, size, number of piles to be driven, and number of days pile driving will occur; updates the hydroacoustic analysis on which the Project impacts were analyzed; modifies the in-water work window for all proposed work seasons to March 15 to August 30 for consistency with the Biological Opinion; removes the requirement to use anti-spawning mats as a mitigation measure for consistency with the Biological Opinion. The resulting impacts to the Covered Species, however, including the construction methods and 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 pile size, type, number and duration, and resulting hydroacoustic analysis, change to seasonal work period, and removal of the use of anti-spawning mats 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 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 2016 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 April 2016 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 Tehama County 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 Tehama 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.

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 provides for minor adjustments to the type of pile used during construction and provides an analysis of the impact of that change, modifies the seasonal work window for project activities, and removes the need to use anti-spawning mats as a Project requirement. 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:

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 5/5/2021

DocuSigned by:
Tina Bartlett
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Tina Bartlett
Regional Manager
Northern 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: James N. Simon
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Date: 5/5/2021

Printed Name: James N. Simon

Title: Director of Public Works

Minor Amendment No. 2
Incidental Take Permit 2081-2016-002-01
TEHAMA COUNTY DEPARTMENT OF PUBLIC WORKS
Jelly's Ferry Road Bridge Replacement Project

Notice of Determination**- 1 -****To:**

Office of Planning and Research
 For U.S. Mail:
 P.O. Box 3044
 Sacramento, CA 95812-3044

Street Address:

1400 Tenth Street
 Sacramento, CA 95814

From:

California Department of Fish and Wildlife (CDFW)
 Northern Region
 601 Locust Street
 Redding, CA 96001
 Contact: Adam McKannay
 Phone: (530) 356-5099

Lead Agency (if different than CDFW)
 Tehama County Department of Public Works
 9380 San Benito Avenue
 Contact: Jon McClain
 Phone: (530) 385-1462

**SUBJECT: Filing of Notice of Determination pursuant to Public Resources Code § 21108
 State Clearinghouse Number: 2007082085**

Project Title: Jelly's Ferry Road Bridge Replacement Project (California Endangered Species Act Incidental Take Permit No. 2081-2016-002-01 (ITP) Minor Amendment #2)

Project Location (include county): Project is located Jellys Ferry Road over the Sacramento River, approximately 9 miles north of the City Red Bluff, Tehama County (See Figure 1). The Project is located approximately 7.5 miles east of Interstate 5 at approximate Latitude 40.3172N, Longitude 122.1897W

Project Description: The Project consists of three elements; replacement of the existing bridge, realignment of Jellys Ferry Road, and relocation of a portion of the Bureau of Land Management (BLM) recreational facilities. The purpose of the Project is to provide a safe vehicular crossing over the Sacramento River on Jellys Ferry Road by replacing the existing structurally and seismically deficient bridge with a new bridge that meets current design standards. As such, replacement of the bridge is needed to improve public safety.

The Project will result in impacts to 0.96 acres of Sacramento River Winter-Run Chinook Salmon (*Oncorhynchus tshawytscha*) and Central Valley Spring-Run Chinook Salmon (*Oncorhynchus tshawytscha*) habitat including temporary impacts to 0.95 acres; the Project will permanently remove 0.01 acres of Sacramento River Winter-Run Chinook and Central Valley Spring-Run Chinook habitat. The Project is expected to result in incidental take of Sacramento River Winter-Run Chinook and Central Valley Spring-Run Chinook, which are designated as endangered and threatened species, respectively, under the California Endangered Species Act (CESA). The ITP referenced above as issued by CDFW authorizes incidental take of species listed under CESA that may occur as a result of Project implementation. CDFW finds for purposes of CESA that this Amendment is a minor change to the original ITP. The ITP applicant, Tehama County, has proposed a minor amendment to the ITP that modifies the type of pile used in construction, timing of an avoidance and minimization measure, as well as removing the use of anti-spawning mats as a measure. 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 Tehama County during its lead agency review of the Project

This is to advise that CDFW, acting as [the lead agency / a responsible agency] approved the above-described project on April 5, 2016 and made the following determinations regarding the above-described project:

1. The project [will / will not] have a significant effect on the environment (This determination is limited to effects within CDFW's permitting jurisdiction as a responsible agency).
2. [An environmental impact report / A negative declaration] was prepared by the lead agency for the original project.
3. Additional mitigation measures [were / were not] made a condition of CDFW's approval of the project.
4. A mitigation reporting or monitoring plan [was / was not] adopted by CDFW for this project.
5. A Statement of Overriding Considerations [was / was not] adopted by CDFW for this project.
6. Findings [were / were not] made by CDFW pursuant to Public Resources Code § 21081(a). CDFW did, however, adopt findings to document its compliance with CEQA.

Notice of Determination

7. Compliance with the environmental filing fee requirement at Fish and Game Code § 711.4 (check one):

Payment is submitted with this notice.

A copy of a receipt showing prior payment was submitted to CDFW.

Responsible Agency statement: The Negative Declaration prepared by the lead agency for the Project is available to the general public at the office location listed above for the lead agency. CDFW's administrative record of proceedings related to the incidental take permit is available to the public for review at CDFW's Regional office.

DocuSigned by:
Tina Bartlett
Signature _____ Date: 5/5/2021
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Tina Bartlett, *Regional Manager*

Date Received for filing at OPR: _____