

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534



AMENDMENT NO. 1
(A Major Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2017-040-03
California Department of Transportation (Caltrans), District 4
Gleason Beach Roadway Alignment Project, Sonoma County

INTRODUCTION

On July 27, 2018, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2017-040-03 (ITP) to the California Department of Transportation (Permittee) for take of Coho Salmon – South of Punta Gorda (*Oncorhynchus kisutch*), the Covered Species associated with the Gleason Beach Roadway Alignment Project in Sonoma County, California. 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.

Caltrans did not submit the Habitat Management (HM) lands package required prior to the initiation of construction, or within 18 months of the effective date of the ITP pursuant to Condition of Approval 10.3. This amendment seeks to extend the date from which the HM lands package is due to CDFW for review and approval from within 18 months of the effective date of the ITP to within 18 months of the start of Covered Activities, update the security submission due date and update administrative errors within the CEQA Findings section of the ITP.

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

First, to change Condition of Approval 9 as it pertains to the Habitat Mitigation Land Acquisition and Restoration timeframes; Second, to change Condition of Approval 9.2 as it pertains to Habitat Mitigation Land Acquisition and Restoration timeframes; Third, Condition of Approval 9.6 as it pertains to On-Site Restoration and Enhancement; Fourth, Condition of Approval 10.3; Fifth, Condition of Approval 10.7 as it pertains to Habitat Land Acquisition and Restoration timeframes and Sixth; Findings Pursuant to CESA.

AMENDMENT

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

1. Condition of Approval 9; Habitat Management Land Acquisition and Restoration; Paragraph 2, Line 8.

To meet this requirement, the Permittee shall provide for both the permanent protection and management of a minimum of 0.152 acres of Habitat Management (HM) lands (assuming the HM lands supports the Covered Species) pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Compensatory habitat shall include in-water and riparian habitat that is the same or better quality as the habitat that will be impacted. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities, or within 18 months of ~~the effective date of this ITP~~ **the initiation of Covered Activities**, if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations.

2. Condition of Approval 9.2; Covered Species Credits; Paragraph 1, Line 4 and Line 5.

Permittee shall purchase 0.152 acres of Covered Species in stream credits from a CDFW-approved mitigation or conservation bank with known Covered Species occurrences prior to initiating Covered Activities, or no later than 18 months from the ~~issuance of this ITP~~ **start of Covered Activities**, if Security is provided pursuant to Condition of Approval 9 **10** below.

3. Condition of Approval 9.6; On-Site Restoration/Habitat Enhancement Plan/Fish Passage Improvement Plan; Paragraph 1, Line 4.

If the Permittee selects the option to acquire HM Lands within the Scotty Creek System an On-Site Restoration/Habitat Enhancement Plan/Fish Passage Improvement Plan (Plan) shall be required to submit for CDFW review, comment and/or final written acceptance ~~60 days~~ prior to the initiation of construction or within 18 months of Project initiation if a Security is provided as noted in Condition of Approval 10.

4. Condition of Approval 10.3; Security Timeline; Line 2.

The Security shall be provided to CDFW before Covered Activities begin or within 30 days ~~after the effective date of this ITP~~ **of initiation of Covered Activities**, whichever occurs first.

5. Condition of Approval 10.7; Security Release; Paragraph 2, Line 3.

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the ~~effective date of this ITP~~ **initiation of**

Covered Activities. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

6. Findings Pursuant to CESA; Paragraph 2, Item 2, Line 8.

(2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection; (2) seasonal restrictions; (3) worker education; (4) monitoring and (5) compliance reporting. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation. Based on this evaluation, CDFW determined that the protection and management in perpetuity of ~~0.08~~ **0.152** acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project.

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; the amendment proposes to change the date the HM lands package is due to CDFW from within 18 months of the effective date of the ITP to within 18 months of the initiation of Covered Activities. It is not expected that this Amendment will increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

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 July 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 requests only to change the date from which the HM lands package is due to CDFW from within 18 months of issuance of the ITP to within 18 months of the

initiation of Covered Activities. 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 July 2018 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the Negative Declaration certified by the California Department of Transportation, as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment represents a major change in the Project as originally approved. However, for the reasons explained above, CDFW concludes this Amendment is not a change in the Project that has the potential to create a new significant effect not previously analyzed, a substantial change in the circumstances under which the Project is being undertaken requiring major revisions to previous CEQA documents, or new information of substantial importance. 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 Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

Discussion: This Amendment authorizes the change to submit the HM lands package from within 18 months of issuance of the ITP to within 18 months of the initiation of Covered Activities, if security is provided as specified in Condition of Approval 10 of the ITP. As described above, these changes have significantly changed the scope of the mitigation (including funding) by extending the timeframe in which the appropriate HM lands submissions were to be provided to CDFW. This change does not result in additional take of the Covered Species but does, in effect prolong the timeframe that habitat mitigation lands were required to have been recorded under conservation easement, restored and managed in perpetuity for the permanent protection of the Covered Species and the habitat that supports them. This represents a significant change in scope because the land surrounding the Project remains in an unrestored state with a barrier to Covered Species migration in place. Therefore, this Amendment will 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 Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

The authorization provided by this Amendment is not valid until signed by all parties and returned to CDFW. Digital signatures facilitated by CDFW will be automatically returned and shall comply with Government Code section 16.5. Wet signatures on duplicate original paper copies shall be returned by the Permittee via registered first-class mail or overnight delivery to the following address:

California 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 8/5/2021

DocuSigned by:
Stacy Sherman
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Stacy Sherman, Acting 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: *Cristin Hallissy* Date: 8/9/2021
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Printed Name: Cristin Hallissy Title: Chief, Office of Biological Science and Permits