



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



September 1, 2021

Serge Stanich, Director of Environmental Services
California High Speed Rail Authority
770 L Street, Suite 620
Sacramento, California 95814
Serge.Stanich@hsr.ca.gov

Subject: Incidental Take Permit Amendment No. 14 for the California High-Speed Train Project, Merced to Fresno Section Permitting Phase 1 (2081-2013-025-04)

Dear Mr. Stanich:

Enclosed you will find an electronic copy of Amendment No. 14 for the incidental take permit for the above referenced Project, which has been digitally signed by the California Department of Fish and Wildlife (CDFW). Please read the amendment carefully, sign the acknowledgement, and return the original **no later than 30 days from CDFW signature**, and prior to initiation of ground-disturbing activities. You may return a hard copy of the amendment via mail to:

California Department of Fish and Wildlife
Habitat Conservation Planning Branch, CESA Permitting
Post Office Box 944209
Sacramento, California 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 amendment 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 and amendments must be maintained at the project work site and made available for inspection by CDFW staff when requested.

The amendment will not take effect until the signed acknowledgement is received by CDFW. If you wish to discuss these instructions or have questions regarding the amendment, please contact Laura Peterson-Diaz, Senior Environmental Scientist (Specialist), at laura.peterson-diaz@wildlife.ca.gov.

Sincerely,

DocuSigned by:

A handwritten signature in black ink that reads "Julie A. Vance".

FA83F09FE08945A...

Julie A. Vance, Regional Manager
Central Region
California Department of Fish and Wildlife

Enclosure

Conserving California's Wildlife Since 1870

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CENTRAL REGION
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA, 93710



AMENDMENT NO. 14
(A Major Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2013-025-04
California High-Speed Train Project Merced to Fresno Section Permitting Phase 1

INTRODUCTION

On March 12, 2014, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2013-025-04 (ITP) to the California High Speed Rail Authority (Permittee) authorizing take of California tiger salamander (*Ambystoma californiense*), Swainson's hawk (*Buteo swainsoni*), and San Joaquin kit fox (*Vulpus macrotis mutica*) (collectively, the Covered Species) associated with and incidental to the Permitting Phase 1 of the Merced to Fresno Section of the High-Speed Train (HST) Project (Project). The Project as described in the ITP originally issued by CDFW includes HST alignment beginning at the intersection of Avenue 17 and the Burlington Northern Santa Fe (BNSF) Railway, in the City of Madera, Madera County, California, and continuing south to an area on the southern side of State Route (SR) 41, adjacent to Los Angeles Street in the City of Fresno, Fresno County, California. The total length of the Project is 24.1 miles. The Project is the first of the nine California HST sections to be constructed; each section will function independently, but once joined together will create a statewide HST system. The HST will be an electrically powered, high-speed train with steel-wheel-on-steel-rail technology and state-of-the art safety, signaling, and automated train-control systems. The trains will be capable of operating at speeds of up to 220 miles per hour (mph) over a fully grade separated, dedicated track alignment. The Project will be built using a design/build (D/B) approach, a method of construction by which one D/B contractor works under a single contract with the Permittee to provide design and construction services. The Project as originally permitted in the ITP includes construction and installation of all Project components, including disturbance of up to 1,049.00 acres (hereafter, Construction Footprint). Construction may occur at any point along the Construction Footprint, and construction may occur at multiple locations simultaneously. The Project also includes operations, maintenance, and inspection activities within the Construction Footprint (O&M), and Mitigation Site activities.

In a letter dated July 23, 2014, the Permittee requested revisions to several ITP Conditions of Approval, specifically those that mentioned Designated Biologists, so that individuals with less species-specific training ("General Biological Monitors") could be used to perform less technical monitoring tasks. The Permittee also requested the

deletion of Condition of Approval 8.48 (O&M Tree and Wood Shrub Removal), and minor modifications to several other measures, primarily for clarification purposes. In a follow up email on August 13, 2014, the Permittee also requested that a single Condition of Approval be modified (Condition of Approval 6.2) related to the Designated Biologist. This amendment did not change the Construction Footprint, nor did it change the habitat impacts or the compensatory mitigation. CDFW issued **Minor Amendment No. 1** on August 21, 2014, incorporating these changes.

In an email dated April 24, 2015, the Permittee requested a revision of the ITP's Project Description for the Fresno River crossing, to modify the design in this area from a viaduct design to one with a partial retained fill segment and add two new staging areas. The size of the Construction Footprint increased by 54.39 acres from 1,049.00 acres to a total of 1,103.39 acres. In addition, the Permittee asked to include the previously requested Designated Biologist changes not addressed in Minor Amendment No. 1. The Permittee also requested that Wildlife Crossing #5 be moved slightly to a new location (approximately 50 feet from the authorized location), and that changes to the land use and vegetation communities be updated, and the applicable land cover designation be substituted. Lastly, in addition to the increased mitigation that was required to offset the requested Construction Footprint increase, CDFW also required additional mitigation to address a non-compliance event that occurred in June 2014; 7.2 acres of fallow land and 2 acres of grassland habitat that were disturbed by the Permittee's contractor outside of the footprint permitted by the ITP. The amount of compensatory mitigation, Habitat Management (HM) lands, increased from 234 acres to 254 acres. CDFW issued **Major Amendment No. 2** on June 12, 2015, incorporating these changes.

In a set of emails dated September 25, 2015, May 2, 2015, and May 23, 2016, the Permittee requested a revision to the ITP to increase the size of the Construction Footprint by 707.87 acres and 9.2 acres for a total increase of 780.07 acres for a new grand total of 1,883.46 acres. The increase of the Construction Footprint accommodated: (1) four new road crossings; (2) additional impact areas for repaving of asphalt at the ends of planned overpasses; (3) utility relocations; (4) construction access; (5) road improvements and right-of-way (ROW) acquisitions; (6) a temporary 20-foot construction easement, north of the San Joaquin River, to install barrier fence around the HST ROW; and (7) a 2.7-mile extension of the northern boundary of the Construction Footprint. The Permittee also requested: (1) the removal of overcrossing and road improvements; (2) additional road alignments and locations; (3) modification of the design and/or placement of bridges and ROW crossings; and (4) the addition of a paralleling station, radio tower, and two new permanent access roads to be located in Madera County, California. Permittee also requested to extend the required timeframe to protect and transfer all HM lands and record any required conservation easements.

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Lastly, the State endangered hairy Orcutt grass (*Orcuttia pilosa*) was added to the list of Covered Species subject to take authorization. CDFW issued **Major Amendment No. 3** on September 20, 2016, incorporating these changes.

In an email dated October 24, 2016, the Permittee requested an amendment to the ITP to extend the dry season work window beyond October 31st to November 15th for ground-disturbing activities at the Lazy K Ranch Mitigation Site (Lazy K Ranch). In addition, the Permittee requested that exclusion fencing for California tiger salamander (CTS) be allowed for use during ground disturbance at the Lazy K Ranch, under the provision that the fencing would be removed when the proposed extended dry season work window expires. This amendment did not change the 1,883.46-acre Construction Footprint, nor did it change the habitat impacts or the compensatory mitigation. CDFW issued **Minor Amendment No. 4** on October 31, 2016, incorporating these changes.

In an email dated April 5, 2017, the Permittee requested an amendment of the ITP to increase the size of the Construction Footprint by 155.72 acres to a total of 2,039.18 acres, to accommodate the north extension of the Project including guideway, an at-grade bridge, a wildlife crossing, overcrossing, embankment, road design changes, geotechnical investigation, utility relocation, and potential access improvements between the BNSF and HST corridors. In addition to the major construction elements and design refinements listed above, the Covered Activities occurring within the increased Construction Footprint included the construction and improvement of private and public access ways, structure demolitions, utility relocation and protection, and fencing. CDFW issued **Major Amendment No. 5** on June 23, 2017, incorporating these changes.

In a letter dated September 19, 2017, the Permittee requested an amendment of the ITP to include an alternative option to fulfill their mitigation obligation that increased as a result of the increased Construction Footprint as issued in Major Amendment No. 5. To address this request the ITP was revised to: (1) provide an option to purchase 6.9 acres (6.43 acres of currently released vernal pool fairy shrimp credits that are also designated as "future release" CTS aquatic breeding habitat credits and 0.47 acres of currently released CTS upland habitat that has been identified to hold water with sufficient duration to support breeding) of Covered Species credits from CDFW-approved Dutchman Creek Conservation Bank; (2) provide a modified timeframe in which the remaining 10.39-acre mitigation obligation must be met; and (3) revised the Performance Security amount required in order to proceed with Covered Activities. There was no increase to Construction Footprint for this amendment. CDFW issued **Major Amendment No. 6** on August 3, 2018, incorporating these changes.

In a letter dated September 24, 2018, the Permittee requested to revise the Project Description to allow for an increase in the Construction Footprint by 1.53 acres to a total of 2,040.71 acres. The Construction Footprint increase accommodated new Work Areas for improvements to Dry Creek Canal and the use of the roads adjacent to Dry Creek Canal for construction access. In a letter dated December 3, 2018, the Permittee requested, to accommodate construction of an intrusion protection barrier (IPB) within specific limits of the HST alignment in Fresno County to mitigate the risk of any potential derailed trains from the adjacent private rail lines from entering the path of the HST. The IPB would be a concrete wall and did not require additional Project Construction Footprint area beyond what was already permitted. IPB construction would occur in three locations totaling 4,060 linear feet, within downtown Fresno, along the “Fresno Trench.” CDFW issued **Major Amendment No. 7** on February 28, 2019.

In a letter dated May 1, 2019, the Permittee requested revision to the ITP, to increase the extent of take of hairy Orcutt grass (HaOrGr) by 0.91 acres; increase the HM lands requirements for HaOrGr by 5.46 acres; allow the take of HaOrGr to proceed with Security in place; change pre-construction botanical inventory requirements to require only focused surveys for HaOrGr; revise HaOrGr buffer and salvage requirements to reduce impacts to the species by eliminating the requirement to salvage all HaOrGr within 50 feet of the Construction Footprint, including outside of the right-of-way; and, because the impact/salvage areas had low HaOrGr seed abundance and high invasive plant seed abundance, eliminate the requirement to salvage plants in the Construction Footprint in lieu of CDFW’s acceptance of the required Habitat Enhancement Plan for HaOrGr. There was no increase to Construction Footprint for this amendment. CDFW issued **Major Amendment No. 8** on May 31, 2019.

In a letter dated February 15, 2019, the Permittee requested revision to the ITP to: (1) increase the size of the Construction Footprint by 89.78 acres from 2,040.71 to a total of 2,130.49 acres to accommodate 24 proposed design variations, (2) increase the length of IPB by 14 miles from 4,060 linear feet to 73,894 linear feet and (3) allow for wildlife crossing variations at three locations. CDFW issued **Major Amendment No. 9** on June 10, 2019.

In a letter dated February 25, 2019, the Permittee requested revision to the ITP to: (1) increase in the Construction Footprint by 10.07 acres from 2,130.49 acres to 2,140.56 acres; (2) add Horizontal Direction Drilling (HDD) and the “jack and bore” method of pipeline construction and relocation required for some of the additional utility work, as Covered Activities; and (3) add 11 design variations to the Project Description. CDFW issued **Major Amendment No. 10** on August 8, 2019.

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In a letter dated October 29, 2019, the Permittee requested revision to the ITP to: (1) adjust the number of compensatory habitat mitigation lands from a single site to multiple sites; (2) reduce the mitigation acreage required for HaOrGr to correspond to a reassessment of the impacts and a decreased amount of take of HaOrGr resulting from Project construction; and (3) an expeditious review time for approval of the two HaOrGr mitigation site properties so that the Permittee can meet the terms of the contracts with willing sellers. In an e-mail dated January 15, 2020, CDFW informed the Permittee that this Amendment would also include correction of the Lazy K Ranch Mitigation Site acres and identify what mitigation is owed beyond what was available at the Lazy K Ranch Mitigation Site. There was no request for a change to the Construction Footprint acreage. CDFW issued **Major Amendment No. 11** on February 18, 2020.

In a letter dated March 31, 2020, with acreage refinements on June 10, 2020, July 10, 2020, and August 19, 2020, the Permittee requested revision to the ITP to: increase the Construction Footprint by 45.39 acres; shift the HST alignment approximately 50 feet west; address changes to public roads and access roads in three Road Modifications, drainage facilities, access-restricted fencing, soundwalls, culverts, signage and utilities to the east and west of the permitted alignment as a result of the shift; make improvements to an existing BNSF access road and shift one Dedicated Wildlife Crossing (DWC) approximately 700 feet southwest. In an Addendum dated April 10, 2019, the Permittee requested an additional 0.07-acre expansion of the footprint beyond what was requested in the February 25, 2019, letter for Amendment No. 10. That combined with the current request will increase the Construction Footprint from 2,140.56 acres by 45.46 acres to a new total of 2,186.02 acres. CDFW issued **Major Amendment No. 12** on September 1, 2020.

In a letter dated September 12, 2019, and in supplemental information received on June 16, 2020, the Permittee requested revision of the ITP to increase the Construction Footprint by 41.64 acres to accommodate 109 utility relocation modifications to drainage, electrical, gas, water, sewer, and telecommunication utilities at 106 locations as well as three access roads, staging areas, and a box culvert at Lateral 6.2 canal. Via e-mail on September 24, 2020, the Permittee also provided supplemental information needed to make corrections for elements inadvertently left out for the Shift request in Amendment No. 12, which will increase the footprint by an additional 16.58 acres. These two changes will increase the Construction Footprint by 58.22 acres. The Construction Footprint will change from 2,186.02 acres to a new total of 2,244.24 acres. In an e-mail dated October 20, 2020, the Permittee requested the SJKF den excavation language be amended to allow for den entrance blocking as an alternative to den destruction under specific circumstances. CDFW issued **Major Amendment No. 13** on November 4, 2020.

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In issuing the ITP, Minor Amendment No. 1, Major Amendment No. 2, Major Amendment No. 3, Minor Amendment No. 4, Major Amendment No. 5, Major Amendment No. 6, Major Amendment No. 7, Major Amendment No. 8, Major Amendment No. 9, Major Amendment No. 10, Major Amendment No. 11, Major Amendment No. 12, and Major Amendment No. 13 (collectively, the ITP, as amended), CDFW found, among other things, that Permittee's compliance with the Conditions of Approval would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

In a letter dated February 19, 2019, and with supplemental GIS information received on February 26, 2020, the Permittee requested a new revision of the ITP to increase the Construction Footprint by 14.95 acres to accommodate utility relocation at 20 sites and access road work at two sites, one of which is also a utility relocation site, for a total of 21 work locations in Madera County. An additional 0.33 acres was requested to be added on July 27, 2021, for a total addition of 15.28 acres. CDFW is also initiating a change to remove the 2.19-acre area that overlaps with the California High-Speed Train Project Fresno to Bakersfield ITP, updates Table 4, adds clarification for Condition of Approval 7.4, and revises Condition of Approval 8.13.2. The Construction Footprint will change from 2,244.24 acres to a new total of 2,257.33 acres.

This Major Amendment No. 14 (Amendment) makes the following changes to the ITP, as amended:

First, this Amendment removes a remnant overlap with the California High-Speed Train, Fresno-Bakersfield Section ITP (No. 2081-2015-024-04), at the southern end point reducing the total Merced-Fresno Project length by 0.09 miles from 27.01 miles to 26.92 miles, resulting in a reduction to the Project Construction Footprint by 2.19 acres. It also changes 'Degrees Minutes' to 'Latitude Longitude' for the end points.

Second, this Amendment increases the size of the entire Project Construction Footprint by 15.28 acres, for a net increase of 13.09 acres, creating a total of 2,257.33 acres of cumulative impact disturbance. The increase in the Construction Footprint acres is necessary to accommodate utility relocations and access road work.

Third, this Amendment updates Table 3 to include work on utilities as well as road modification, adds acreage to 12 work locations, adds 9 new work locations, and consolidates Project impact language.

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Fourth, this Amendment updates Table 4 to include County and separates the Latitude and Longitude into two columns.

Fifth, as a result of the modified Project Construction Footprint, this Amendment increases the Covered Species impacts to potential California tiger salamander upland habitat as well as for Swainson's hawk and San Joaquin kit fox, each by 8.29 acres; and increases direct impacts for California tiger salamander breeding (aquatic) habitat by 0.13 acre and updates Table 5 accordingly.

Sixth, this Amendment changes Condition of Approval 7.4 to clarify timing of tracking of Land Cover Types in GIS and the reporting of the metadata to CDFW with pre-construction surveys as well as the Monthly Report.

Seventh, this Amendment revises Condition of Approval 8.13.2 so that it does not conflict with Condition of Approval 7.4, Conditional of Approval 8.14.1 for Swainson's hawk and Condition of Approval 8.15.1 for San Joaquin kit fox all of which require pre-construction surveys be conducted no more than 30 days prior to starting Covered Activities.

Eighth, this Amendment updates Table 6 and requires either the purchase of additional Covered Species credits or the permanent protection of additional HM lands and accompanying management costs to compensate for Covered Species impacts associated with the increase in the Construction Footprint as described in Condition of Approval 9.

Ninth, this Amendment increases the Performance Security amount required for the Permittee to proceed with Covered Activities commensurate with the increased impacts.

Tenth, this Amendment revises the Baseline Map Book, Exhibit 5, Map Book pages 1, 37-43 to reflect the increased Project Footprint.

AMENDMENT

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

1. The first paragraph of the section entitled "Project Location" on page 2 of the ITP, as amended, shall be further amended to read as follows:

This ITP is for Permitting Phase 1 of the Merced to Fresno Section of the High-Speed Train (HST) Project (Project) which will begin at the intersection of Avenue 19 and the Burlington Northern Santa Fe (BNSF) Railway in the City of Madera, Madera County, California (Latitude ~~37.025455637° 1'31.64"N~~ Longitude - ~~120.0782889120° 4'41.84"W~~ Assessor's Parcel Number (APN) 032440009). It will continue south along the west side of the BNSF Railway until south of Avenue 15, where the alignment will transition westward toward the Union Pacific Railroad (UPRR). Near Avenue 9, the alignment will follow along the east side of the UPRR, before crossing the San Joaquin River and entering the City of Fresno. The Project will end south of **Monterey Street at** State Route (SR) 41, adjacent to ~~Los Angeles Street~~ in the City of Fresno, Fresno County, California (Latitude **36.7244778** ~~36°43'25.66"N~~, Longitude **-119.7857083** ~~119°47'3.50"W~~; APN 46702032U). The total length of the Project is **26.92** ~~27.04~~ miles and represents only a portion of the route (approximately the southern half) analyzed in the environmental impact report for the Merced to Fresno Section of the HST (Exhibit 1 and 2).

2. The third paragraph of the section entitled "Project Description" on pages 6 of the ITP, as amended, shall be further amended to read as follows:

The Project is **26.92** ~~27.04~~ miles in length and includes construction and installation of all Project components (Exhibit 1). Construction and installation of all Project components will disturb up to **2,257.33** ~~2,244.24~~ acres (hereafter, Construction Footprint). Construction may occur at any point along the Construction Footprint, and construction may occur at multiple locations simultaneously.

3. The section entitled "Right of Way" on pages 13 of the ITP, as amended, shall be amended to read as follows:

Right of Way: The HST will consist of a fully grade-separated and access-controlled track alignment to maintain local traffic and agricultural access. Unlike existing passenger and freight trains in the Project vicinity, there will be no at-grade road crossings, and the HST will not share its tracks with freight trains. The HST right-of-way (ROW) will be completely within the Construction Footprint and will typically be 100 feet wide in areas where the track is at-grade and 60 feet wide where the track is elevated. ~~The HST ROW will permanently disturb 271.7 acres and temporarily disturb 81.89 acres (353.59 total acres).~~ The Project will have four different vertical profiles (Table 1).

Table 1. Project Right-of-Way Vertical Profiles

Profile	Linear Miles
Retained fill	0.95
Elevated <i>Viaduct</i>	1.29
<i>Above-Grade</i>	2.24
At-grade	23.64 23.73
<i>Below-Grade</i> (Retained-cut)	1.04
Total	26.92 27.01

4. The section entitled “Roadway Modifications” on page 25 of the ITP, as amended, shall be further amended to read as follows:

Roadway **and Utility** Modifications: Changes to existing roads along or crossing the HST ROW will be needed because the HST requires a fully dedicated grade-separated track alignment for public safety and to achieve the desired speeds. ***In addition to the roadway modifications many locations also require utility work for installations, relocations and/or additional protection.*** The Project will require ~~43~~ **34** roadway **and utility** modifications, ~~29~~ **20** in Madera County and 14 in Fresno County. Roadway **and utility** modifications will **impact** ~~occupy~~ **930.29** acres and will also result in temporary disturbance to ~~29.22~~ **974.41** ~~945.05~~ total acres of the Construction Footprint (Table 3). At some locations, there will be an option to perform the modification as either an undercrossing or an overcrossing of the HST ROW. In these instances, the more conservative impact in terms of acreage (e.g., higher acreage) has been included in this ITP. Handrails, fences, and walkways will be provided for the safety of pedestrians and bicyclists during roadway modification.

5. Table 3 entitled “Location and Size of Project Roadway Modifications” starting on page 26 of the ITP, as amended, shall be further amended to read as follows:

Table 3. Location and Size of Project Roadway *and Utility* Modifications

# / Co.	Location (relative to the HST) Street Modification	County	Activity	Area (acres)		Impact Area (acres)
				Permanent	Temporary	
1	Ave 19 (west)	Madera	Utility Relocation and Protection			0.77

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# / Co.	Location (relative to the HST) Street Modification	County	Activity	Area (acres)		Impact Area (acres)
				Permanent	Temporary	
2	Ave 19 (east)	Madera	Utility Relocation and Protection			1.02
3	Hanover Drive	Madera	Realign Hanover Dr; improve three intersections and restore streets at Ave 19, Pickfair Way, Ridgedale Dr, and Zelkova Dr Utility Relocation and Protection	4.72	3.06	5.52
4	Road 26 (south)	Madera	Construct new overcrossing	26.96	0	26.96
5	Ave 18½ (east)	Madera	Utility Relocation and Protection			0.47
6	Wayside Dr	Madera	Utility Relocation and Protection			1.25
7	Varden Dr	Madera	Utility Relocation and Protection			3.30
9	Avenue 18 (east)	Madera	Utility Relocation and Protection			0.01
8	Old Mill Drive	Madera	Construct cul-de-sac	4.95	0.43	2.38
10	Road 27 (north)	Madera	Utility Relocation and Protection			0.49
11	Tremaine Ave (west)	Madera	Utility Relocation and Protection			1.05
12	Road 27 (south)	Madera	Construct new overcrossing	26.81	0	26.81
13	Avenue 17 (west)	Madera	Extending west from new overcrossing to Alonzo Ct; Utility Relocation and Protection			1.58
14	Avenue 17 (east)	Madera	Extend east from new overcrossing to Rd 28 ½; access road; Utility Relocation and Protection	29.74	4.14	32.58

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# / Co.	Location (relative to the HST) Street Modification	County	Activity	Area (acres)		Impact Area (acres)
				Permanent	Temporary	
15	Road 28 ½	Madera	Access road being connected; Utility Relocation and Protection	0	0.41	3.26
16	Ellis Street	Madera	Access road being connected	0	0.41	0.41
17	Watson Street	Madera	Access road being connected	0	0.41	0.41
18	Avenue 15 ½	Madera	Construct new overcrossing	30.59	1.34	31.93
19	Avenue 15	Madera	Construct new overcrossing; access road to residence south of Ave 15 and east of Santa Fe Dr.	37.74	0	37.74
20	BNSF	Madera	Construct new access road from Main Canal to Cottonwood Creek	9.06	0	9.06
21	Avenue 13	Madera	Construct new temporary access road to Cottonwood Creek	0	1.95	1.95
22	Avenue 12	Madera	Construct new overcrossing	45.42	0.00	45.42
23	Avenue 11	Madera	Construct new overcrossing; new access road	21.64	0.64	22.28
24	Avenue 10	Madera	Construct new overcrossing; temporary access road	30.86	1.83	32.69
25	Avenue 9	Madera	Construct new overcrossing	27.09	0.52	27.61
26	Avenue 8	Madera	Construct new overcrossing	37.7	0.70	38.40
27	Parichan Farms aka Road 33	Madera	Construct new overcrossing	3.2	0	3.20
28	Avenue 7	Madera	Replace overcrossing	31.15	0.89	32.04
29	Road 30 ½	Madera	Shift Road	7.06	0	7.06
1	W Herndon Avenue	Fresno	Lower grade of road	15.1	0	15.10

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# / Co.	Location (relative to the HST) Street Modification	County	Activity	Area (acres)		Impact Area (acres)
				Permanent	Temporary	
2	North Golden State Boulevard	Fresno	Close and shift road between W Olive Ave and W Belmont Ave; construct new Veterans Blvd and W Shaw Ave overcrossings; close N Carnegie Ave	199.50	5.35	204.85
3	SR 99	Fresno	Shift freeway 2.3 miles; construct new W McKinley Ave overcrossing or undercrossing; replace W Ashlan Ave and W Clinton Ave overcrossings; shift northbound SR 99 on-ramp	234.46	8.87	243.33
4	West Olive Avenue	Fresno	Construct new overcrossing	17.51	0.34	17.85
5	West Belmont Avenue	Fresno	Construct new overcrossing and parallel frontage road	41.37	0	41.37
6	North SR 180	Fresno	Connect to N Thorne Ave	6.05	0	6.05
7	South SR 180	Fresno	Close Divisadero St	2.0	0.00	2.00
8	Stanislaus Street	Fresno	Close Road	11.21	0	11.21
9	Tuolumne Street	Fresno	Replace overcrossing with new two-way overcrossing	8.37	0.00	8.37
10	Fresno Street	Fresno	Extend existing undercrossing	11.02	0.04	11.06
11	Tulare Street	Fresno	Construct new under or overcrossing	4.02	0.89	4.91
12	Kern Street	Fresno	Close road	3.32	0.00	3.32
13	Mono Street	Fresno	Close road. Acres are included with the Downtown Fresno Station	0	0	0.63
14	Ventura Street	Fresno	Construct new under or overcrossing	7.67	0	7.67
43			Total	930.29	29.22	974.41

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# / Co.	Location (relative to the HST) Street Modification	County	Activity	Area (acres)		Impact Area (acres)
				Permanent	Temporary	
34	Combined Total Locations		Combined Total	959.51		

6. Table 4 entitled “Location of Dedicated Wildlife Crossings” on page 33 of the ITP, as amended, shall be further amended to read as follows:

Table 4. Location of Dedicated Wildlife Crossings

Crossing	County	Latitude	Longitude	Number of Culverts	Dimensions W x H x L (feet)	Openness Factor
Dedicated Wildlife Crossings Associated with Madera (MAD)						
MAD-1	<i>Madera</i>	37.008977	-120.059533	1	10 x 3 x 54.5	0.5504587
MAD-2	<i>Madera</i>	36.959585	-120.006473	1	10 x 3 x 54.5	0.5504587
MAD-3	<i>Madera</i>	36.952295	-119.999939	1	10 x 3 x 43.0	0.6976744
MAD-4	<i>Madera</i>	36.946687	-119.994995	1	10 x 3 x 54.5	0.5504587
MAD-5	<i>Madera</i>	36.929815	-119.983848	1	10 x 3 x 43.0	0.6976744
MAD-6	<i>Madera</i>	36.873074	-119.960205	1	10 x 3 x 54.5	0.5504587

7. The first paragraph of the section entitled “Impacts of the Taking on Covered Species” on pages 43 and 44 of the ITP, as amended, shall be further amended to read as follows:

This ITP covers all Project related activities that cumulatively disturb no more than **2,257.33** ~~2,244.24~~ acres within the Construction Footprint, as well as 258.07 acres of Temporary Use Areas and 445.79 acres under Conservation Easement within the Lazy K Ranch Mitigation Site (the Construction Footprint and Lazy K Ranch Mitigation Site are collectively, the Project Area). Project activities include subsurface geotechnical drilling and boring; habitat grubbing, vegetation removal, clearing, and mass grading followed by the mobilization of equipment and materials; earthwork including construction of temporary and permanent excavation support structures; excavation of open cut slope and fill, at grade profile excavation and leveling, and retained fill cut, rail bed foundation soil compaction, and elevated profiles and elevated profile structure components including

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construction and installation of straddle bents, foundations, pile caps, substructures, and superstructures; trench digging and other subsurface utility installation, relocation, and protection; pad preparation and construction of a batch plant, materials storage, fabrication, casting areas, access roads, and staging areas; rotary drilled reinforced concrete cast in place pile and drive pile installation; excavation of drainage swales and fabrication and installation of underground drainage culverts and pipes; ~~43~~ ~~34~~ roadway modifications including realignment and resurfacing, construction of new access roads, overcrossing, and undercrossing; construction of waterway crossing structures over the Fresno River, Cottonwood Creek, and the San Joaquin River including partial dewatering and diversion of water; construction and assembly of tie and ballast and slab track railway systems, and shoofly track; erecting mast poles; construction of electrical systems facilities including the OCS, TPSS, two switching stations, and six paralleling stations; construction of signal huts and bungalows including installation of cabling to the field hardware and track stations; traction electrification; excavation and construction of wildlife crossings, construction of the Downtown Fresno Station; installation of AD and AR fence; construction of temporary job site trailers and field offices including the development of building pads and preparation of parking areas; application of dust suppressants; operation and maintenance activities such as track, power, structure, signaling, train control, communications, intruder, and right-of way inspection and repair; and equipment staging, inoculum collection, land grading, and excavation of wetlands in the Wetland Restoration Area and mowing, hand tool or auger planting of trees and shrubs, and installation of irrigation systems in the Riparian Restoration Area within the Lazy K Ranch Mitigation Site and other activities within the Construction Footprint and Mitigation Site described in the Project Description section of this ITP (Covered Activities).

8. The first paragraph of the section entitled "California tiger salamander" on page 44 of the ITP, as amended, shall be further amended to read as follows:

The Covered Activities are expected to result in the permanent loss of up to **196.13** ~~187.84~~ acres of upland refugia habitat, direct permanent loss of **7.59** ~~7.46~~ acres of aquatic breeding habitat, and indirect permanent loss of 6.75 acres of aquatic breeding habitat for California tiger salamander (CTS) (Table 5). This determination was made based on an identification of baseline vegetation cover types within the Construction Footprint. Vegetation cover type acreage that could function as CTS upland refugia and breeding habitat were quantified and subsequently used as a habitat-based proxy to estimate the extent of incidental take in the form of mortality and indirect impacts that will occur as a result of Project build out.

9. The first paragraph of the section entitled “Swainson’s Hawk” on page 45 of the ITP, as amended, shall be further amended to read as follows:

Up to ~~471.86~~ ~~463.57~~ acres of foraging habitat and one nest tree for Swainson’s hawk (SWHA) could be permanently impacted as a result of Covered Activities (Table 5) and it is expected that all potentially suitable habitat would be permanently destroyed. Based on the results of baseline surveys conducted within the Construction Footprint in spring 2013, there is one known location of a SWHA nest tree within 0.5-mile of the Construction Footprint, on the west side of SR 99 south of the San Joaquin River. The foraging habitat impact acres were determined based on this one nest tree and the guidelines set forth in the Staff Report Regarding Mitigation for Impacts to Swainson’s Hawks (*Buteo swainsoni*) in the Central Valley of California (California Department of Fish and Game, 1994).

10. The first paragraph of the section entitled “San Joaquin Kit Fox” on page 46 of the ITP, as amended, shall be further amended to read as follows:

Up to ~~583.40~~ ~~575.10~~ ~~total~~ acres of habitat for San Joaquin kit fox (SJKF) could be permanently impacted as a result of Covered Activities (Table 5). This determination was based on an identification of baseline vegetation cover types and that all potentially suitable habitat would be permanently destroyed within the Construction Footprint. Vegetation cover type acres that could function as SJKF foraging, denning, and breeding habitat were quantified and subsequently used as a habitat-based surrogate to estimate the extent of incidental take in the form of mortality and indirect impacts that will occur as a result of Project build out.

11. Table 5 on page 48 of the ITP, as amended, shall be further amended to read as follows:

Table 5. Covered Species Habitat Impacts

Covered Species	Habitat Type	Impact Type	Impact Acres
California tiger salamander	Upland refugia (California annual grassland, pasture, barren, fallow field, inactive agriculture, and ruderal)	Direct Permanent	196.13 187.84
	Aquatic breeding (vernal pool, open water, seasonal wetland)	Permanent (Direct)	7.59 7.46

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Covered Species	Habitat Type	Impact Type	Impact Acres
		Permanent (Indirect)	6.75
Swainson's hawk	Foraging (California annual grassland, pasture, barren, fallow field, inactive agriculture, ruderal, field crops, row, crops, and irrigated hay crops)	Direct Permanent	471.86 463.57
	Nesting (riparian and eucalyptus woodland)	Direct Permanent	1 nest tree(s)
San Joaquin kit fox	Preferred Upland (California annual grassland, pasture, and barren)	Direct Permanent (Preferred)	110.24 104.26
San Joaquin kit fox	Marginal (Ruderal, fallow field, inactive agriculture, field crops, row crops, and irrigated hay crops)	Direct Permanent (Marginal)	473.16 470.84
Hairy Orcutt grass	vernal pool, seasonal wetland	Permanent (Direct)	1.85
		Permanent (Indirect)	3.35

12. Condition of Approval 7.4 (Tracking Suitable Habitat Feature Disturbances, Map Updating, and Reporting) on page 55 of the ITP, as amended, shall be further amended to read as follows:

Permittee shall maintain Geographic Information System (GIS) shapefile layers and associated maps depicting:

~~1) mapped areas of all land disturbances within the Construction Footprint; and 2)~~
Permittee shall maintain mapped areas of ~~disturbed~~ identified **as** habitat features suitable for Covered Species (see Condition of Approval 7.4.1 for habitat features) within the Construction Footprint (as depicted in the Baseline Map Book, Exhibit 5, Baseline Maps 1 through 55, Exhibit 9 and generated from the metadata provided by the Permittee). ~~Permittee shall maintain the GIS layers and metadata for those~~

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~~maps and shall update the GIS layers and maps if there are any new detections of Covered Species or their habitat feature.~~ Within each Work Area of the Construction Footprint, Permittee shall track, in real time, acreages of identified habitat features suitable for Covered Species **to be** disturbed by Covered Activities. This tracking shall be maintained using a GIS format and include photo documentation of the habitat feature within a Work Area conducted no more than ~~30~~**14** days prior to initiation of Covered Activities. The photo documentation of each habitat feature shall include a minimum of four photos: one taken each from the North, South, East, and West and facing the habitat feature. There shall be separate photo documentation of each **type of** habitat feature suitable for Covered Species within a Work Area. Accordingly, if there are multiple habitat features **types** in a Work Area, there will **need to** be multiple sets of photo documentation for that Work Area. **Permittee shall maintain the GIS layers and metadata for those maps and shall update the GIS layers and maps if there are any new detections of Covered Species or changes to their habitat feature types. Permittee shall provide GIS layers and the associated metadata to CDFW at least ten business days prior to initiation of Covered Activities at any Work Area.**

~~2) The Permittee shall~~ **maintain mapped areas of all land disturbances within the Construction Footprint and shall** document the total disturbed acreage of habitat features for each Covered Species compiled from the real time tracking and compare the documented disturbance in each Work Area to the Baseline Maps. ~~Permittee shall provide GIS layers and the associated metadata to CDFW with the Monthly Compliance Report (see Condition of Approval 7.7). Permittee shall also maintain maps for each Covered Species separately and shall include updates to any of the maps in the next successive Annual Status Report (see Condition of Approval 7.8). Permittee shall also provide up-to-date GIS layers of the identified habitat features suitable for Covered Species with the Monthly Compliance Report (see Condition of Approval 7.7).~~

3) Permittee shall also maintain maps for each Covered Species separately and shall include updates of changes in habitat feature types to any of the maps and a summation of disturbance of identified habitat features in the next successive Annual Status Report (see Condition of Approval 7.8). ~~and a summation of disturbance of identified habitat features annually at the time of Annual Status Report submission.~~

See related Conditions of Approval 8.33.2, 8.33.3, 8.34.2, 8.34.3 concerning mapping of the Wetland Restoration Area and Riparian Restoration Area.

13. Condition of Approval 8.13.2 (Tracking Suitable Habitat Feature Disturbances, Map Updating, and Reporting) on page 63 of the ITP, as amended, shall be amended to read as follows:

CTS Pre-construction Surveys. No more than ~~30~~44 days prior to starting Covered Activities, the Designated Biologist(s) with assistance (if such assistance is needed) from the General Biological Monitor(s) shall survey the Work Area(s) located within that portion of the Construction Footprint that has identified habitat features suitable for CTS (as depicted in the Baseline Map Book, Exhibit 5, Baseline Maps 1 through 54). These surveys shall provide 100 percent visual coverage of the Work Area(s) and a 50-foot buffer zone. If any CTS are found within the Work Area or 50-foot buffer zone(s), the Designated Biologist(s) shall relocate them from the Work Area or buffer zone(s) in accordance with the CDFW-approved CTS Salvage and Relocation Plan prepared in accordance with Condition of Approval 8.13.1 above. The Designated Biologist(s) shall submit a report documenting the results of the pre-construction surveys to CDFW within five days after performing the surveys.

14. Condition of Approval 9 (Habitat Management Land Acquisition) on page 88 of the ITP, as amended, shall be further amended to read as follows:

CDFW has determined that permanent protection and perpetual management of compensatory habitat is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on 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. ***Because there is no proposed restoration of Project areas with temporary impacts, all direct impacts, both temporary and permanent, shall be treated as permanent impacts.***

To meet this requirement for all Covered Species other than hairy Orcutt grass, the Permittee has purchased 6.9 acres of CTS Breeding credits from the CDFW-approved Dutchman Creek Mitigation Bank (Condition of Approval 9.2); 5.78 acres have demonstrated successful breeding, however, 1.12 credits are still pending demonstration of success to be applied toward the CTS breeding acres required. The Permittee has also provided for the permanent protection and management of 445.79 acres of Habitat Management (HM) lands within the Mitigation Area under Conservation Easement at Lazy K Ranch 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. Of the 445.79 mitigation acres, 418.92 acres include the following which currently meet requirements of the ITP:

- 8.18 acres of preserved CTS breeding habitat,
- 355.25 acres of preserved upland for CTS, SWHA, and SJKF,
- 51.4 acres of restored upland for CTS, SWHA, and SJKF,
- 4.09 acres of riparian habitat for SWHA foraging.

The 445.79-acre Mitigation Area at Lazy K also includes 8.19 acres of restored CTS breeding habitat, which is pending demonstration of success to be applied toward the required CTS breeding acres.

The Permittee shall also either purchase an additional ~~15.56~~ **15.56** ~~45.17~~ acres (less up to 1.12 acres if CTS breeding is successful at Dutchman Creek Mitigation Bank and/or less 8.19 acres if CTS breeding habitat restoration at Lazy K is successful) of Covered Species credit for CTS breeding habitat, an additional ~~60.81~~ **60.81** ~~52.83~~ acres of Covered Species credit for SWHA foraging habitat, and an additional ~~50.25~~ **50.25** ~~37.29~~ acres of Covered Species credit for SJKF upland habitat if the SWHA foraging habitat is not simultaneously suitable for SJKF from a CDFW approved mitigation or conservation bank with a service area that encompasses the Project Area pursuant to Condition of Approval 9.2 below OR shall provide for the permanent protection and management of all the additional ~~126.62~~ **126.62** ~~105.29~~ acres (~~15.56~~ **15.56** ~~45.17~~ CTS breeding and ~~111.06~~ **111.06** ~~90.42~~ upland) above as Habitat Management (HM) lands 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.

15. Table 6A on page 90 of the ITP, as amended, shall be further amended to read as follows:

Table 6A. Compensatory Mitigation Acres for Covered Species other than hairy Orcutt grass

Covered Species Type of Habitat Impacted	Project Impacts	Total Mitigation Required	Mitigation Completed	Pending Documented Breeding	Mitigation Requires Security
California Tiger Salamander					
Direct Permanent Upland Refugia/ Foraging Habitat	196.13 187.84	392.26 375.68	406.65		0

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Covered Species Type of Habitat Impacted	Project Impacts	Total Mitigation Required	Mitigation Completed	Pending Documented Breeding	Mitigation Requires Security
Direct Permanent Breeding Habitat	7.59 7.46	22.77 22.38			
Indirect Permanent Breeding Habitat	6.75	6.75			
CTS Breeding Total	14.34 14.21	29.52 29.13	13.96 8.18	9.31 15.09	15.56 15.17
CTS Total	210.47 202.05	421.78 404.81	Not additive: Mitigation for Upland Habitat cannot count for Breeding		
Swainson's hawk					
Direct Permanent Nesting Habitat	1 nest -	- -	- -		0 none -
Direct Permanent Foraging Habitat	471.86 463.57	471.86 463.57	410.74 410.74		61.12 52.83
San Joaquin kit fox					
Direct Permanent Preferred Foraging/ Dispersal Habitat	110.24 104.26	220.48 208.52			
Direct Permanent Marginal Dispersal Habitat	473.15 470.84	236.57 235.42			
SJKF Total	583.39 575.10	457.06 443.94	406.65 406.65		50.41 37.29
Total acres for which Security funding is still required					127.08 105.29

16. Condition of Approval 9.1 (Cost Estimates) on pages 90-91 of the ITP, as amended, shall be further amended to read as follows:

9.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands for all Covered Species other than hairy Orcutt grass as follows:

9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$5,025.93/acre for **111.53** ~~90.12~~

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acres upland: ~~\$560,524.38~~ \$452,936.84; Land acquisition costs are estimated at \$20,135.06/acre for the additional ~~15.56~~ 15.17 acres of CTS aquatic breeding habitat: ~~\$313,241.13~~ \$305,448.86. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements.

- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at ~~\$198,254.57~~ \$164,255.97 for ~~127.08~~ 105.29 acres.
- 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at ~~\$30,424.46~~ \$25,206.98 for ~~127.08~~ 105.29 acres.
- 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$5,806.00/acre for ~~127.08~~ 105.29 acres: ~~\$737,846.80~~ \$611,313.74.
- 9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at \$36,000.00.
17. Condition of Approval 10.1 (Performance Security) on page 96 of the ITP, as amended, shall be further amended to read as follows:
- Security Amount. The Security shall be in the amount of ~~\$1,595,162.36~~ **\$1,876,291.34** for ~~111.53~~ 90.12 acres of additional uplands and ~~15.56~~ 15.17 acres of additional CTS aquatic breeding habitat. These amounts are based on the cost estimates identified in Condition of Approval 9.1 above and are Security only for the additional HM lands for Covered Species mitigation not already completed other than hairy Orcutt grass.
18. Exhibit 5 (“Baseline Map Book”) in the list of attachments on page 100 of the ITP, as amended, is amended to include the replacement of Map Book pages 1, 37-43 with the corresponding pages included in Attachment 1 of this Amendment, to reflect the increased Project Footprint.

The corresponding measures in the Mitigation Monitoring and Reporting Plan (MMRP) (Attachment 1 of the ITP, as amended) shall be further amended to read the same as above. All terms and conditions of the ITP, as amended, and the 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 increase the amount of take of the Covered Species compared to the Project as originally approved; however, by implementing the avoidance, minimization, and mitigation measures contained in the ITP, as amended, and in this Amendment, this Amendment will not increase 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 ten specific changes to the ITP, as amended.

First, this Amendment removes a remnant overlap with the California High-Speed Train Fresno-Bakersfield Section ITP (No. 2081-2015-024-04), at the southern end point reducing the total Merced-Fresno Project length by 0.09 miles from 27.01 miles to 26.92 miles, resulting in a reduction to the Project Construction Footprint by 2.19 acres. It also changes 'Degrees Minutes' to 'Latitude Longitude' for the end points.

Second, this Amendment increases the size of the entire Project Construction Footprint by 15.28 acres for a net increase of 13.09 acres, creating a total of 2,257.33 acres of cumulative impact disturbance. The increase in the Construction Footprint acres is necessary to accommodate utility relocations and access road work.

Third, this Amendment updates Table 3 to include work on utilities as well as road modification, adds acreage to 12 work locations, adds 9 new work locations, and consolidates Project impact language.

Fourth, this Amendment updates Table 4 to include County and separates the Latitude and Longitude into two columns.

Fifth, as a result of the modified Project Construction Footprint, this Amendment increases the Covered Species impacts to potential California tiger salamander upland habitat as well as for Swainson's hawk and San Joaquin kit fox, each by 8.29 acres; and increases direct impacts for California tiger salamander breeding (aquatic) habitat by 0.13 acre and updates Table 5 accordingly.

Sixth, this Amendment changes Condition of Approval 7.4 to clarify timing of tracking of Land Cover Types in GIS and the reporting of the metadata to CDFW with pre-construction surveys as well as the Monthly Report.

Seventh, this Amendment revises Condition of Approval 8.13.2 so that it does not conflict with Condition of Approval 7.4, Conditional of Approval 8.14.1 for Swainson's hawk and Condition of Approval 8.15.1 for San Joaquin kit fox all of which require pre-construction surveys be conducted no more than 30 days prior to starting Covered Activities.

Eighth, this Amendment updates Table 6 and requires either the purchase of additional Covered Species credits or the permanent protection of additional HM lands and accompanying management costs to compensate for Covered Species impacts associated with the increase in the Construction Footprint as described in Condition of Approval 9.

Ninth, this Amendment increases the Performance Security amount required for the Permittee to proceed with Covered Activities commensurate with the increased impacts.

Tenth, this Amendment revises the Baseline Map Book, Exhibit 5, Map Book pages 1, 37-43 to reflect the increased Project Footprint.

CDFW has determined that although the Amendment may result in an increase in take of the Covered Species, any additional impacts of the taking that would arise will be minimized and fully mitigated through implementation of the Conditions of Approval.

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP, as amended 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 March 2014 that the Project as approved, met the standards for issuance of an ITP under CESA. CDFW determined in August 2014, in June 2015, in September 2016, in October 2016, in June 2017, in August 2018, in February 2109, in May 2019, in June 2019, in August 2019, in February 2020, in September 2020, and in October 2020 that Minor Amendment No. 1, Major Amendments No. 2 and No. 3, Minor Amendment No. 4, and Major Amendments No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, and No. 13, respectively, to the ITP 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.

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Those findings are unchanged with respect to this Amendment because the Project and ITP, as amended: (1) will increase the habitat compensation in proportion to the increase in impact due to the increase in habitat impact so that the fully mitigate standard is still met, and (2) does not alter the Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the Conditions of Approval in the ITP, as amended, and MMRP which 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 original ITP in March 2014, Minor Amendment No. 1 to the ITP in August 2014, Major Amendment No. 2 in June 2015, Major Amendment No. 3 in September 2016, Minor Amendment No. 4 in October 2016, Major Amendment No. 5 in June 2017, Major Amendment No. 6 in August 2018, Major Amendment No. 7 in February 2019, Major Amendment No. 8 in May 2019, Major Amendment No. 9 in June 2019, Major Amendment No. 10 in August 2019, Major Amendment No. 11 in February 2020, Major Amendment No. 12 in September 2020 and Major Amendment No. 13 in October 2020 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the California High-Speed Train: Merced to Fresno Section Final Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) (SCH No. 2009091125) certified by the lead agency, California High-Speed Rail Authority, on May 3, 2012; Addendum 2013-1 to the Final Merced to Fresno Project Section EIR/EIS (October 2013); and Addendum 2013-2 to the Final Merced to Fresno Section Project EIR/EIS (November 2013). As explained in the findings below, CDFW finds for purposes of CESA that this Amendment represents a major change to the ITP, as amended. However, for the reasons explained above, CDFW concludes that approval of this 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 California High Speed Rail Authority 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 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).

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Discussion: This Amendment makes a Project area correction to the southern end point reducing the total length from 27.01 miles to 26.92 miles and reduces the Project Construction Footprint by 2.19 acres to remove a remnant overlap with the California High-Speed Train Fresno-Bakersfield Section ITP (No. 2081-2015-024-04), at the southern end point reducing the total Merced-Fresno Project length by 0.09 miles from 27.01 miles to 26.92 miles, resulting in a reduction to the Project Construction Footprint by 2.19 acres; increases the size of the entire Project Construction Footprint by 15.28 acres for a net increase of 13.09 acres creating a total of 2,257.33 acres of cumulative impact disturbance. The increase in the Construction Footprint acres is necessary to accommodate utility relocations and access road work; updates Table 3 to include work on utilities as well as road modification; and consolidates Project impact language. It also makes changes and adds acres to 12 work locations and adds 9 new work locations to Table 3; updates Table 4 to include County and separates the Latitude and Longitude into two columns; increases the Covered Species impacts to potential California tiger salamander upland habitat as well as for Swainson's hawk and San Joaquin kit fox, each by 8.29 acres; and also increases direct impacts for California tiger salamander breeding (aquatic) habitat by 0.13 acre as a result of the modified Project Construction Footprint, and updates Table 5 accordingly; changes Condition of Approval 7.4 to clarify timing of tracking of Land Cover Types in GIS and the reporting of the metadata to CDFW with pre-construction surveys as well as the Monthly Report; revises Condition of Approval 8.13.2 so that it does not conflict with Condition of Approval 7.4, Condition of Approval 8.14.1 for Swainson's hawk and Condition of Approval 8.15.1 for San Joaquin kit fox all of which require pre-construction surveys be completed no more than 30 days prior to starting Covered Activities; updates Table 6 and requires either the purchase of additional Covered Species credits or the permanent protection of additional HM lands and accompanying management costs to compensate for Covered Species impacts associated with the increase in the Construction Footprint as described in Condition of Approval 9; increases the Performance Security amount required for the Permittee to proceed with Covered Activities commensurate with the increased impacts; revises the Baseline Map Book, Exhibit 5, Map Book pages 1, 37-43 to reflect the increased Project Footprint.

As described above, these changes to the ITP, as amended, will increase the Project impacts on Covered Species previously analyzed and authorized by the ITP, as amended, and affect Permittees' substantive mitigation obligations under the ITP, as amended. Therefore, this Amendment will substantially increase the scope or nature of the permitted Project or activity, or significantly modify the minimization, mitigation, or monitoring measures in the ITP, as amended. CDFW has determined that the changes to the ITP, as amended, constitutes a Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

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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, California 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.

Attachment:

ATTACHMENT A14-1 EXHIBIT 5 Baseline Map Book pages 1, 37-43

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 9/1/2021

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager
Central 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: 
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Date: 9/14/2021

Printed Name: Serge Stanich

Title: Director of Environmental Services

Major Amendment No. 14
Incidental Take Permit 2081-2013-025-04
CALIFORNIA HIGH-SPEED RAIL AUTHORITY
CALIFORNIA HIGH-SPEED TRAIN PROJECT
Merced to Fresno Section Permitting Phase 1