



State of California – Natural Resources Agency  
DEPARTMENT OF FISH AND WILDLIFE  
Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
(559) 243-4005  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

*GAVIN NEWSOM, Governor*  
*CHARLTON H. BONHAM, Director*



September 2, 2021

Christopher Boyle, Development Services Director  
City of Bakersfield  
1715 Chester Avenue  
Bakersfield, California 93301  
[cboyle@bakersfieldcity.us](mailto:cboyle@bakersfieldcity.us)

Lorelei Oviatt, Planning and Natural Resources Department Director  
County of Kern  
2700 M Street, Suite 100  
Bakersfield, California 93301  
[Loreleio@kerncounty.com](mailto:Loreleio@kerncounty.com)

**Subject: Incidental Take Permit Amendment No. 4 for the Metropolitan  
Bakersfield Urban Development (2081-2013-058-04)**

Dear Mr. Boyle and Ms. Oviatt:

Enclosed you will find an electronic copy of Amendment No. 4 for the incidental take permit for the above referenced Project, which has been digitally signed by the California Department of Fish and Wildlife (Department). Please read the amendment 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 amendment via mail to:

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

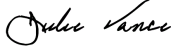
Alternatively, you may return an electronic copy of the amendment with digital signature to [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). Digital signatures shall comply with Government Code section 16.5.

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 Department staff when requested.

Christopher Boyle, City of Bakersfield  
Lorelei Oviatt, County of Kern  
September 2, 2021  
Page 2 of 2

The amendment 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 Craig Bailey, Senior Environmental Scientist (Supervisory), at [craig.bailey@wildlife.ca.gov](mailto:craig.bailey@wildlife.ca.gov).

Sincerely,

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

Enclosure

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

CENTRAL REGION

1234 EAST SHAW AVENUE

FRESNO, CALIFORNIA 93710



**AMENDMENT NO. 4**

(A Minor Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2013-058-04

City of Bakersfield and County of Kern

Metropolitan Bakersfield Urban Development in Kern County

**INTRODUCTION**

On August 24, 2014, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2013-058-04 (ITP) to the City of Bakersfield and County of Kern (Permittees) authorizing take of Tipton kangaroo rat (*Dipodomys nitratooides nitratooides*), San Joaquin kit fox (*Vulpes macrotis mutica*), San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), and Bakersfield cactus (*Opuntia basilaris* var. *treleasei*) (collectively, the Covered Species) associated with and incidental to Urban Development (as defined in the ITP) in the Metropolitan Bakersfield 2010 General Plan Area in Kern County, California (Project). The Project as described in the ITP originally issued by CDFW includes the urban development of up to 14,200 acres of Natural Lands or 33,400 acres of Open Lands within the 261,120-acre Metropolitan Bakersfield Habitat Conservation Plan (MBHCP) area, as defined in Figure 2 of the MBHCP, dated April 1994. The Project as defined in the ITP is specifically conditioned by the MBHCP, associated Implementation/Management Agreement dated August 15, 1994, and a federal incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act issued by the United States Fish and Wildlife Service on August 24, 1994. The 14,200 acres of Natural Lands or 33,400 acres of Open Lands that can be developed includes all MBHCP authorized development since 1994; as a result, only a portion of the development acreage contemplated in the 1994 MBHCP remains; as of December 31, 2012, there were 3,116.67 acres converted from Natural Lands to Urban Development, and 18,405.5 acres converted from Open Land to Urban Development. The ITP specifically authorizes development as contemplated in the MBHCP from the time of issuance of the ITP to ITP expiration in 2019.

On April 1, 2015, CDFW issued Major Amendment No. 1 to the ITP to require annual San Joaquin kit fox surveys for Covered Activities that will occur over a duration of greater than one year and to authorize reductions to San Joaquin kit fox avoidance buffers with written approval from CDFW.

On June 2, 2016, CDFW issued Minor Amendment No. 2 to the ITP to explicitly state that CDFW-approved Qualified Biologists, Tipton kangaroo rat Qualified Biologists, and Bakersfield Cactus Qualified Biologists have the authority to immediately stop any activity that is not in compliance and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.

On August 22, 2019, CDFW issued Minor Amendment No. 3 to extend the expiration date to February 28, 2022; require all new urban development projects request Permittee Authorization and pay their Habitat Mitigation Fee (HMF) no later than August 31, 2021; and establish a timeline for completion of ground-disturbing activities for new urban development projects requesting Covered Species take authorization to end by the extended ITP expiration date.

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

On June 7, 2021, the Permittees requested a revision to the ITP, as amended, to extend the expiration date to provide take authorization for new urban development projects while a new Incidental Take Permit and Habitat Conservation Plan were completed. Specifically, Permittees requested the expiration date of the ITP be extended from February 28, 2022, to June 1, 2023, the timeline for paying HMFs be extended from August 31, 2021, to January 1, 2023, and the timeline for completion of ground-disturbing activities for new urban development projects be extended from February 28, 2022, to June 1, 2023.

This Minor Amendment No. 4 (Amendment No. 4) makes the following changes to the existing ITP, as amended:

First, Amendment No. 4 extends the expiration date of the ITP, as amended, from February 28, 2022, to June 1, 2023.

Second, Amendment No. 4 extends the timeline for paying HMFs from August 31, 2021, to January 1, 2023.

Third, Amendment No. 4 extends the timeline for completion of ground-disturbing activities for new urban development projects from February 28, 2022, to June 1, 2023.

## AMENDMENT

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

1. The paragraph entitled "Effective Date and Expiration Date of this ITP" on page 1 of the ITP, as amended, shall be further amended to read as follows:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittees on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on ~~February 28, 2022~~ **June 1, 2023**.

2. Condition of Approval 5.6 (Habitat Mitigation Fee (HMF)) on page 12 of the ITP, as amended, shall be further amended to read as follows:

5.6 Habitat Mitigation Fee (HMF). During the ITP term, both Permittees shall collect a Habitat Mitigation Fee (HMF), as described in Condition of Approval 8 prior to the issuance or approval of any Permittee Authorization in the Project Area. To ensure take of the Covered Species does not occur after the expiration date of this ITP, the HMF must be paid no later than ~~August 31, 2021~~, **January 1, 2023**, and all Covered Activities shall be completed by the ITP expiration date on ~~February 28, 2022~~ **June 1, 2023**. Permittee Authorization terminates on the expiration date of this ITP; therefore, any take that occurs within the Project Area as a result of the continuation of activities past the expiration date will not be covered under this ITP. If no Permittee Authorization is required for a Covered Activity (such as for Permittees' projects), the HMF shall be paid prior to initiation of vegetation- or ground-disturbing activities for said project. The current HMF is \$2,145 per acre (\$1,198.25 per acre for HM land acquisition costs, \$159.99 per acre for HM land fencing and improvement, \$477.72 per acre for HM land endowment, and \$309.81 per acre for Permittee MBHCP implementation costs.)

The corresponding measures in the Mitigation Monitoring and Reporting Program (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 MMRP that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittee.

## FINDINGS

*Issuance of Amendment No. 4 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Amendment No. 4 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: Amendment No. 4 makes three specific changes to the ITP, as amended. Amendment No. 4 extends the ITP, as amended, expiration date from February 28, 2022, to June 1, 2023, extends the time, extends the timeline for paying HMFs from August 31, 2021, to January 1, 2023, and extends the timeline for completion of ground-disturbing activities for new urban development projects from February 28, 2022, to June 1, 2023. No additional impacts or habitat disturbance acres are authorized. The resulting impacts to the Covered Species, however, including the number of acres of habitat that will be lost as a result of the Project, will remain the same.

CDFW has determined that extending the existing permit expiration date and deadlines for HMF payment and completion of Covered Activities 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, as amended, described in Amendment No. 4, will not increase impacts to the Covered Species.

*Issuance of Amendment No. 4 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 August 2014, April 2015, June 2016, and August 2019 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 Amendment No. 4 because the Project and ITP as amended, because Amendment No. 4 only extends the expiration date and deadline for paying HMF fees and completion of Covered Activities. Permittee’s continued adherence to and implementation of the avoidance and minimization measures set forth Conditions of Approval in the ITP, as amended, 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 Amendment No 4.*

Discussion: CDFW issued the ITP in August 2014, Amendment No. 1 in April 2015, Amendment 2 in June 2016, and Amendment No. 3 in August 2019 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the in the MBHCP Section IV Final Environmental Impact Report (State Clearinghouse No. 1989020264) dated July 1993 certified by the City of Bakersfield as the lead agency for the Project in August 1993. As explained in the findings below, CDFW finds for purposes of CESA that Amendment No. 4 is a minor change to the ITP, as amended. CDFW finds for the same reasons under CEQA that approval of Amendment No. 4 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 the City of Bakersfield during its lead agency review of the Project, particularly with respect to the impacts authorized by CDFW pursuant to the ITP, as amended, and further amended in this Amendment No. 4. As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of Amendment No. 4.

*CDFW finds that Amendment No. 4 is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).*

Discussion: Amendment No. 4 extends the ITP, as amended, expiration date from February 28, 2022, to June 1, 2023, extends the time, extends the timeline for paying HMFs from August 31, 2021, to January 1, 2023, and extends the timeline for completion of ground-disturbing activities for new urban development projects from February 28, 2022, to June 1, 2023. No additional impacts or habitat disturbance acres are authorized. These changes to the ITP, as amended, will not: (1) increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, as amended, (2) affect Permittee's substantive mitigation obligations under the ITP, as amended, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, Amendment No. 4 will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP, as amended. CDFW has determined that the change to the ITP, as amended, constitutes a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

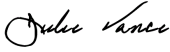
The authorization provided by Amendment No. 4 is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

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.

**APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

on 9/2/2021

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.

**City of Bakersfield**

By: Christopher Boyle  
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Date: 9/3/2021

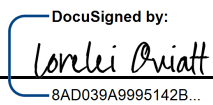
Printed Name: Christopher Boyle

Title: Development Services Director

Minor Amendment No. 4  
Incidental Take Permit 2081-2013-058-04  
CITY OF BAKERSFIELD AND COUNTY OF KERN  
METROPOLITAN BAKERSFIELD URBAN DEVELOPMENT IN KERN COUNTY



**County of Kern**

By:  \_\_\_\_\_ Date: 9/22/2021 \_\_\_\_\_  
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Printed Name: Lorelei Oviatt \_\_\_\_\_ Title: Kern County Planning Director \_\_\_\_\_

Minor Amendment No. 4  
Incidental Take Permit 2081-2013-058-04  
CITY OF BAKERSFIELD AND COUNTY OF KERN  
METROPOLITAN BAKERSFIELD URBAN DEVELOPMENT IN KERN COUNTY