

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

INLAND DESERTS REGION
3602 INLAND EMPIRE BLVD. SUITE C-220
ONTARIO, CA 91764



AMENDMENT NO. 2
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2017-052-06
Palen Solar Holdings, LLC
Palen Solar Photovoltaic Project in Riverside County

INTRODUCTION

On December 18, 2018, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2017-052-06 (ITP) and on April 21, 2021, CDFW issued A Minor Amendment No. 1 to Palen Solar Holdings, LLC (Permittee), authorizing take of Desert tortoise (*Gopherus agassizii*) (the Covered Species) associated with and incidental to the Palen Solar Photovoltaic Project in Riverside County, California (Project). The Project as described in the ITP as originally issued by CDFW includes construction of a 500-megawatt (MW) nominal capacity, AC solar photovoltaic (PV) energy-generating facility that will cover approximately 3,140 acres. They will use a single-axis tracking system (rotating east to west) and may use a variety of PV technologies, including, but not limited to Crystalline Silicon panels or copper Indium Gallium Selenide panels. Alternative 1 will have its solar arrays configured into two separate fields to avoid the desert wash woodland located in the center of the ROW with each solar field fenced separately. Minor Amendment No. 1 changed the impact acreage from 3,140 acres to 3,000 acres, the mitigation acreage from 3,300 acres to 3,012.4 acres, and the timeline to secure mitigation was increased from 18 months to 33 months.

Development of the Project site will result in the permanent loss of 3,000 acres of habitat for the Covered Species. In issuing the ITP and Minor Amendment No. 1, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP would not jeopardize the continued existence of the Covered Species.

The Permittee has been working on securing Habitat Management (HM) lands since the permit was issued and through the Amendment No. 1 time period and have identified the lands for conservation and begun preparing the lands package, however they will not be able to finish this requirement prior to the end of the additional 15 months specified in section 9.2.

In the amendment request dated October 20, 2021, Palen Solar Holdings, LLC has requested to change the completion date for compensatory mitigation to April 12, 2022

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

This Amendment will change the mitigation completion date by allowing an additional 5 months making the date of completion now April 12, 2022.

AMENDMENT

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

1. The second paragraph in ITP Condition 9, page 23 (Habitat Management Land Acquisition) shall be amended to read:

To meet this requirement, the Permittee shall either purchase ~~3,300~~ ***3012.4*** acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of ~~3,300~~ ***3012.4*** acres of 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. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or within ~~18 months~~ ~~33 months~~ ***38 months*** of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

All terms and conditions of the ITP and MMRP that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittee.

FINDINGS

Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other Project impacts on the Covered Species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

Discussion: This Amendment makes 1 specific change to the ITP as originally issued. The timeline for completion of compensatory mitigation has been extended from 33 months to 38 months. The resulting impacts to the Covered Species, however, will not increase.

CDFW has determined that changes to timing of compensatory mitigation completion, will not increase the amount of take or the severity of other impacts of the taking on the Covered Species. Given the circumstances of this Project, CDFW believes that the changes to the Project or Conditions of the ITP described in this Amendment, will not increase impacts to the Covered Species.

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

Discussion: CDFW determined in December 2018 that the Project, as approved, met the standards for issuance of an ITP under CESA. This determination included findings that, among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP as amended: (1) will have no effect on the amount or severity of Project impacts on the Covered Species, as discussed above, and (2) does not substantively alter the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP's Conditions of Approval and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the ITP in December 2018 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) After, among other things, considering the environmental impact report certified by Riverside County as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment is a minor change to the original ITP. CDFW finds for the same reasons under CEQA that approval of the Amendment will not result in and does not have the potential to create any new significant or substantially more severe environmental effects than previously analyzed and disclosed by Riverside County during its lead agency review of the Project, particularly with respect to the impacts authorized by CDFW pursuant to the ITP as amended. As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of this Amendment.

CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Discussion: This Amendment modifies the timing of mitigation required by the original ITP. This change to the ITP will not: (1) increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, (2) affect Permittee’s substantive mitigation obligations under the ITP, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, this Amendment will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. CDFW has determined that the change to the ITP constitutes a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

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

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 11/15/2021

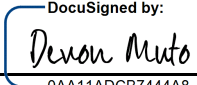
DocuSigned by:
Leslie MacNair
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Leslie MacNair
Regional Manager

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PALEN SOLAR HOLDINGS, LLC
Palen Solar Photovoltaic Project

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:  0AA11ADCB7444A8... Date: 11/18/2021
Printed Name: Devon Muto Title: Sr. Director

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