

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

INLAND DESERTS REGION

3602 INLAND EMPIRE BOULEVARD, SUITE C-220

ONTARIO, CA 91764



AMENDMENT NO. 1

(A Major Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2017-073-06

Los Angeles Department of Water and Power

North Haiwee Dam No. 2 in Inyo County

INTRODUCTION

On April 2, 2019, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2017-073-06 (ITP) to the Los Angeles Department of Water and Power (LADWP; Permittee) authorizing take of Mohave ground squirrel (*Xerospermophilus mohavensis*) and desert tortoise (*Gopherus agassizii*) (collectively, the Covered Species) associated with and incidental to the North Haiwee Dam No. 2 Project (Project) in Inyo County, California. The Project as described in the ITP originally issued by CDFW includes improving the seismic reliability of the existing North Haiwee Dam (NHD) by constructing North Haiwee Dam No. 2 (NHD2). The Project consists of the following components: 1) Construction of NHD2; 2) Realignment of Cactus Flats Road; 3) Realignment of the Los Angeles Aqueduct (LAA), construction of the diversion structure and temporary bridge, and excavation of materials; and 4) Construction of the diversion channel and NHD modifications. In issuing the ITP, CDFW found, among other things, that the 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 October 9, 2020, the California Fish and Game Commission determined that listing of the western Joshua tree (*Yucca brevifolia*) as threatened or endangered under the California Endangered Species Act (CESA) may be warranted. This commences a one-year status review of the species, and the Commission will make a final decision at a future meeting. During the status review, western Joshua tree is protected under CESA as a candidate species pursuant to Fish and Game Code 2085.

On September 16, 2021, CDFW received a request from the Permittee for a major amendment to the ITP and corresponding fee payment on November 12, 2021. The request included adding western Joshua tree as a Covered Species under the ITP and extending the expiration date of the ITP from December 31, 2026, to December 31, 2028.

On February 2, 2022, CDFW received additional information from the Permittee describing additional impact areas for (1) the placement of temporary power poles, (2) realignment of the Los Angeles aqueduct service road, (3) addition of one area south of the staging area, and (4) placement of permanent chain link fencing around the Project area. Impacts to the covered species are depicted in Figure 1.

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

1. This Amendment includes the addition of the western Joshua tree (*Yucca brevifolia*) as a Covered Species.
2. This Amendment will add the impact of 108.13 acres of western Joshua tree habitat.
3. This Amendment specifies additional take minimization measures to reduce Project impacts to western Joshua tree.
4. This Amendment requires 356.39 acres of compensatory mitigation for impacts to western Joshua tree.
5. This Amendment requires a security for the compensation of permanent protection and funding for perpetual management if compensatory habitat cannot be completed before starting Covered Activities that will impact western Joshua tree.
6. This Amendment extends the expiration date of the ITP to December 31, 2028.

AMENDMENT

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

The Project Description shall be amended to read:

1. **Project Description:**
LADWP proposes to replace or to improve the seismic reliability of the existing North Haiwee Dam (existing dam or NHD). The Project consists of the following components:
 1. **Construction of North Haiwee Dam No. 2 (NHD2) components, including construction of NHD2 and east and west berms, and grading the area between NHD and NHD2 for the basin,**

2. Realignment of Cactus Flats Road,
3. Realignment of the Los Angeles Aqueduct (LAA), construction of the diversion structure and temporary bridge, and excavation of materials (gravel and sand) for construction of NHD2, and
4. Construction of the diversion channel and NHD modifications,
5. Installation of 19 power poles,
6. Permanent road closures and their revegetation,
7. Installation of permanent chain link fencing, and
8. Installation of security cameras.

Temporary Power for Project

Temporary power will be provided for the Project. For this work, power poles will be installed 230' apart, using a 24" auger. Poles will be installed with minimal disturbance by driving a vehicle to the pole location, drilling the 24" diameter hole, and returning to the roadway. Power will be brought in from both the north and the south of the Project. Disturbance to western Joshua trees will be avoided and no western Joshua tree will be within 40' of a pole location.

North Leg: A total of 15 temporary power poles will be installed to bring power to Area A. Three of these power poles will be installed on private property. Six power poles will be installed along a disturbed dirt road. The remaining six poles will be installed along Cactus Flats Road.

South Leg: Four poles will be installed along existing dirt roads (all in disturbed locations) to bring power from the Aqueduct and Reservoir Keeper's residence area near area G to construction water pumps at the northwest corner of North Haiwee Reservoir.

Road Closures and Revegetation

The proposed road closures will be performed to abandon the redundant or unauthorized dirt roads by ripping the compacted road area with a bulldozer to facilitate plant recruitment. Seeding with approved seed mixes will follow to hasten revegetation. In order to disguise the disturbed road surface, vertical mulching will be applied with vegetative material salvaged from previous clear and grubbing activities.

Permanent Fencing

Permanent chain link fencing will be installed around the perimeter of the Project area. A 15' wide disturbance path will be cleared to install the fencing.

Camera Locations

Poles will be installed at two locations with minimal disturbance by driving a vehicle to the pole location, drilling a 24" diameter hole, and returning to the

roadway for the purpose of mounting cameras at the Project site for security and progress monitoring purposes.

The Covered Species Subject to Take Authorization Provided by this ITP shall be amended to read:

2. This ITP covers the following species:

Name	CESA Status ³
1. Mohave ground squirrel (<i>Xerospermophilus mohavensis</i>)	Threatened ^{3a}
2. Desert tortoise (<i>Gopherus agassizii</i>)	Threatened ^{3b}
3. Western Joshua tree (<i>Yucca brevifolia</i>)	Candidate⁴

3. 'Impacts of the Taking on Covered Species' section shall be amended to include impacts to western Joshua tree: ***Project activities and their resulting impacts are expected to result in the incidental take of individuals and suitable habitat of western Joshua tree. The activities described above are expected to result in incidental take of individuals and associated seedbank of western Joshua tree including removal of individuals and roots; clearing vegetation, general operation of vehicles and heavy equipment; grading of the site; staging equipment; compacting dirt; paving and constructing infrastructure; temporary fencing and construction (Covered Activities).***

Incidental take of individuals of western Joshua tree in the form of mortality ("kill") may occur as a result of Covered Activities such as removing mature and emergent individuals; eliminating and modifying habitat; removing seedbank and crushing and/or burying living seeds in the soil, rendering living seeds inviable and/or causing them to be killed.

The Project is expected to cause the permanent loss of 108.13 acres of suitable habitat for western Joshua tree including the permanent removal of 610 individual western Joshua trees, up to 69 individual western Joshua trees will be translocated to suitable habitat.

3 Under CESA, a species may be on the list of endangered species, the list of threatened species, or the list of candidate species.

3^a See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(A).

3^b See *Id.*, (b)(4)(A)

4 See 2020 Cal. Reg. Notice Register, No. 44-Z, pp. 1445-1446 (October 30, 2020).

The species status may change following the decision of the Fish and Game Commission to designate the species as threatened or endangered but if there is such a designation, the species will remain a Covered Species.

Impacts of the authorized taking also include adverse impacts to western Joshua tree related to temporal losses, increased habitat fragmentation, reduction in seed bank, edge effects, and the Project's incremental contribution to cumulative and indirect impacts. These impacts include increased competition from non-native invasive plants; increased fire risk; increased vulnerability to disease; and stress or damage to individuals of western Joshua tree due to changes to habitat.

Impacts to western Joshua tree's obligate pollinating moth (*Tegeticula synthetica*) may also occur while it is dormant in the soil, or while it is in its flight phase, which would impact the ability of remaining western Joshua tree to sexually recruit new individuals. Destruction or modification of habitat may disrupt the seed dispersal behavior of rodents, which is the primary way that western Joshua tree seeds are buried at a soil depth required for successful germination. Destruction or modification of habitat may eliminate nurse plants that are critical for western Joshua tree seedling survival.

4. Section 7, Monitoring, Notification and Reporting Provisions:

7.3 Compliance Monitoring. The Designated Biologist shall be on-site daily during all ~~initial ground-disturbing activities~~ **Project activities**. ~~After initial ground-disturbing activities, the Designated Biologist shall conduct weekly site visits, and will be on-call to resolve any biological resource issues that arise during construction.~~ The Designated Biologist shall conduct **daily** compliance inspections to (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area **as indicated in the ITP application**. ~~During initial ground-disturbing activities,~~ The Designated Representative or Designated Biologist shall prepare daily written observations and inspection records **submitted to CDFW every Friday**, summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, **number of western Joshua trees removed and overview photographs**, survey results, **project photographs from established photo points**, and monitoring activities required by this ITP. The Designated Biologist shall conduct compliance inspections a minimum of once a week during periods of inactivity, ~~and after area disturbances are completed.~~

5. Section 8, Take Minimization Measures, shall be amended to include new minimization measures for western Joshua tree:

Western Joshua Tree

8.16 Worker Environmental Awareness Training (WEAT). Prior to ground-disturbing activities, Permittee shall conduct a mandatory WEAT for all construction personnel about western Joshua tree identification, status, protection, consequences of violation, and protective measures of western Joshua tree on the Project. Upon completion of the WEAT, employees shall sign a form stating they attended and understand all protection measures.

8.17 Environmentally Sensitive Area (ESA), Permanent Chain Link Fencing or staking. Prior to ground-disturbing activities, and for the duration of the construction, Permittee shall fence a maximum 25-foot buffer around the perimeter of the active section of the Project area with temporary, high-visibility Environmentally Sensitive Area (ESA) fencing or permanent chain link fencing and mark the ESA with signage to prevent unintended take of western Joshua trees outside of the Project area. Alternate exclusion methods such as staking may be used in lieu of the above fencing types in consultation with and after approval by CDFW. Fencing of area G (Figure 2) and the portion of the Project adjacent to the face of the existing North Haiwee Dam is not required. Permittee shall protect the area facing the existing North Haiwee Dam by installing staking and high visibility flagging spaced every 50 feet. No access to the ESA is permitted except as indicated in Figure 1 to close/rehabilitate existing dirt roads, to install cameras and to install temporary power poles. During compliance monitoring the Designated Biologist shall ensure that the ESA fencing or staking is intact and ensure any repairs to the ESA fencing or staking are made immediately.

6. Section 9, Habitat Management Land Acquisition shall be amended to include additional habitat compensation for western Joshua tree:

9. Habitat Management Land Acquisition:

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 of western Joshua tree 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.

To meet this requirement, the Permittee shall either purchase 356.39 acres of western Joshua tree credits from a CDFW-approved conservation bank pursuant to section 9.5 below OR shall provide for both the permanent protection and

management of 356.39 acres of Habitat Management (HM) land that is within the range of the western Joshua tree and has western Joshua tree present on site, pursuant to Condition of Approval 9.6 and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. 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 if Security is provided pursuant to Condition of Approval 10.1 below.

9.4 Cost Estimates. For the purposes of determining the Security amount, CDFW has estimated the cost sufficient for CDFW or its contractors to complete acquisition, protection, and perpetual management of the HM lands as follows:

9.4.1 Land acquisition costs for HM lands identified in Condition of Approval 9.6, estimated at \$4,200/acre for 356.39 acres: \$1,496,838.00. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements.

9.4.2 All other costs necessary to review and acquire the land in fee title and record a conservation easement as described in Condition of Approval 9.6.1 and 9.6.2 below: \$3,400.

9.4.3 Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.6.5, estimated at \$1,500.00/acre for 356.39 acres: \$534,585.00.

9.4.4 Interim management period funding as described in Condition of Approval 9.6.6, estimated at \$1,500/acre for 356.39 acres: \$534,585.00

9.4.5 Long-term management funding as described in Condition of Approval 9.7, estimated at \$3,500/acre for 356.39 acres: \$1,247,365.00. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

9.4.6 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 9.6, estimated at \$6,000.

9.4.7 All costs associated with CDFW engaging an outside contractor to complete the mitigation tasks, including but not limited to acquisition, protection, and perpetual funding and management of the HM lands and restoration of

temporarily disturbed habitat. These costs include but are not limited to the cost of issuing a request for proposals, transaction costs, contract administration costs, and costs associated with monitoring the contractor's work: \$75,000.

9.5 Covered Species Credits Permittee shall purchase 356.39 acres of western Joshua tree credits form a CDFW-approved conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations.

OR:

9.6 Habitat Acquisition and Protection To provide for the acquisition and perpetual protection and management of the HM lands, the Permittee shall:

9.6.1. Fee Title. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended.

9.6.2 Conservation Easement. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW elects not to be named as the grantee for the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. The Permittee shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Civil Code sections 815-816, as amended, and Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966(j) and 65967(e). Because the "doctrine of merger" could invalidate the conservation interest, under no circumstances can the fee title owner of the HM lands serve as grantee for the conservation easement.

9.6.3 HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, documentation

identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species.

- 9.6.4 HM Lands Documentation. Provide a recent preliminary title report, Phase I Environmental Site Assessment, and other necessary documents (please contact CDFW for document list). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services.***
- 9.6.5 Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified. The grantee for the conservation easement cannot serve as the interim or long-term manager without the express written authorization of CDFW in its sole discretion.***
- 9.6.6 Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) preparing a final management plan for CDFW approval (see <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=137386&inline>) (2) conducting a baseline biological assessment and land survey report within four months of recording or transfer; (3) developing and transferring Geographic Information Systems (GIS) data if applicable; (4) establishing initial fencing; (5) conducting litter removal; (6) conducting initial habitat restoration or enhancement, if applicable; and (7) installing signage.***
- 9.6.7 Interim Management (Initial and Capital). Provide for the interim management of the HM lands. The Permittee shall ensure that the interim land manager implements the interim management of the HM lands as described in the final management plan and conservation easement approved by CDFW. The interim management period shall be a minimum of three years from the date of HM land acquisition and protection and full funding of the Endowment and includes expected management following start-up activities. Interim management period activities described in the final management plan shall include fence repair, continuing trash removal, site monitoring, and vegetation and invasive species management.***

9.7 Endowment Fund. If the Permittee will permanently protect and perpetually manage compensatory habitat as described in Condition of Approval 9.6, the Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, the conservation easement, and the final management plan approved by CDFW. After obtaining CDFW approval of the HM lands, Permittee shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that is permanently restricted to paying the costs of long-term management and stewardship of the mitigation property for which the funds were set aside, which costs include the perpetual management, maintenance, monitoring, and other activities on the HM lands consistent with this ITP, the conservation easement, and the management plan required by Condition of Approval 9.6.5. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

After the interim management period, Permittee shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands according to the final management plan. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, the conservation easement, and the final management plan. Such activities shall be funded through the Endowment.

9.7.1. Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended.

Permittee shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed

Endowment Manager's certification pursuant to Government Code section 65968(e).

Within thirty days of CDFW's receipt of Permittee's written proposal, CDFW shall inform Permittee in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(3) and, if so, shall provide Permittee with a written explanation of the reasons for its determination. If CDFW does not provide Permittee with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(3).

9.7.2. Calculate the Endowment Funds Deposit. After obtaining CDFW written approval of the HM lands, long-term management plan, and Endowment Manager, Permittee shall prepare an endowment assessment (equivalent to a Property Analysis Record (PAR)) to calculate the amount of funding necessary to ensure the long-term management of the HM lands (Endowment Deposit Amount). Note that the endowment for the easement holder should not be included in this calculation. The Permittee shall submit to CDFW for review and approval the results of the endowment assessment before transferring funds to the Endowment Manager.

9.7.2.1. Capitalization Rate and Fees. Permittee shall obtain the capitalization rate from the selected Endowment Manager for use in calculating the endowment assessment and adjust for any additional administrative, periodic, or annual fees.

9.7.2.2 Endowment Buffers/Assumptions. Permittee shall include in the endowment assessment assumptions the following buffers for endowment establishment and use that will substantially ensure long-term viability and security of the Endowment:

9.7.2.2.1 10 Percent Contingency. A 10 percent contingency shall be added to each endowment calculation to hedge against underestimation of the fund, unanticipated expenditures, inflation, or catastrophic events.

9.7.2.2.2 Three Years Delayed Spending. The endowment shall be established assuming spending will not occur for the first three years after full funding.

9.7.2.2.3 Non-annualized Expenses. For all large capital expenses to occur periodically but not annually such as fence replacement or well replacement, payments shall be withheld from the annual

disbursement until the year of anticipated need or upon request to Endowment Manager and CDFW.

9.7.3. Transfer Long-term Endowment Funds. Permittee shall transfer the long-term endowment funds to the Endowment Manager upon CDFW approval of the Endowment Deposit Amount identified above.

9.7.4 Management of the Endowment.

The approved Endowment Manager may pool the Endowment with other endowments for the operation, management, and protection of HM lands for local populations of the Covered Species but shall maintain separate accounting for each Endowment. The Endowment Manager shall, at all times, hold and manage the Endowment in compliance with this ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

Notwithstanding Probate Code sections 18501-18510, the Endowment Manager shall not make any disbursement from the Endowment that will result in expenditure of any portion of the principal of the endowment without the prior written approval of CDFW in its sole discretion. Permittee shall ensure that this requirement is included in any agreement of any kind governing the holding, investment, management, and/or disbursement of the Endowment funds.

Notwithstanding Probate Code sections 18501-18510, if CDFW determines in its sole discretion that an expenditure needs to be made from the Endowment to preserve the conservation values of the HM lands, the Endowment Manager shall process that expenditure in accordance with directions from CDFW. The Endowment Manager shall not be liable for any shortfall in the Endowment resulting from CDFW's decision to make such an expenditure.

9.8 Reimburse CDFW. Permittee shall reimburse CDFW for all reasonable costs incurred by CDFW related to issuance and monitoring of this ITP, including, but not limited to transaction fees, account set-up fees, administrative fees, title and documentation review and related title transactions, costs incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW.

7. Section 10 Performance Security shall be amended to include a security for impacts to western Joshua tree:

10.1 Security Amount. The Security for western Joshua tree shall be in the amount of \$3,897,773.00. This amount is based on the cost estimates identified in

Condition of Approval 9.4 above, sufficient for CDFW or its contractors to complete land acquisition, property enhancement, startup costs, initial management, long-term management, and monitoring.

8. Effective Date and Expiration date of this ITP shall be amended to read:

Unless renewed by CDFW, this ITP authorization to take the Covered Species shall expire on ~~December 31, 2026~~ **December 31, 2028.**

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 increase the number of species covered for take compared to the Project as originally approved; however, by implementing the additional take minimization (i.e., avoidance) and mitigation measures (i.e., habitat compensation for the loss of 108.13 acres of western Joshua tree habitat), it is not expected that this Amendment will 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 reflects a change in the addition of a candidate species which will be impacted by Project activities, though the area of disturbance remains the same. This change in take assessment is based on (1) surveys conducted in 2017 and 2018 cataloging all western Joshua trees within the Project area which documented a total of 608 western Joshua tree individuals are within the Permanent Impact Area of the Project; (2) western Joshua tree became a candidate species October 9, 2020 thereby requiring the applicant to request take of these 608 trees; (3) habitat compensation for the direct impacts to the Covered Species in the form of 356.39 acres. This Amendment will not increase other Project impacts on the Covered Species because, in all other respects, the types of remediation activities authorized by the ITP remain unchanged.

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

Discussion: CDFW determined in April 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 this Amendment because the Project and ITP as amended: (1) will have no effect on the amount or severity of Project impacts on

the Covered Species, as discussed above, and (2) does not substantively alter the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP's Conditions of Approval and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species.

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

Discussion: CDFW issued the ITP in April 2019 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 LADWP 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 take of an additional Covered Species. As described above, this change constitutes an increase in take, as well as an increase in take minimization, monitoring, and mitigation measures in the ITP. 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 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:

Major Amendment No. 1
Incidental Take Permit 2081-2017-073-06
LOS ANGELES DEPARTMENT OF WATER AND POWER
North Haiwee Dam No. 2 Project

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

Attachments:

FIGURE 1	Project Area
FIGURE 2	Project Map Depicting Area G
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Desert Tortoise Salvage Protocol
ATTACHMENT 3	Letter of Credit Form
ATTACHMENT 4	Mitigation Payment Transmittal Form

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

3/15/2022

on

DocuSigned by:

Richard Burg

6D63DA991A5245F...

Richard Burg
Acting Regional Manager

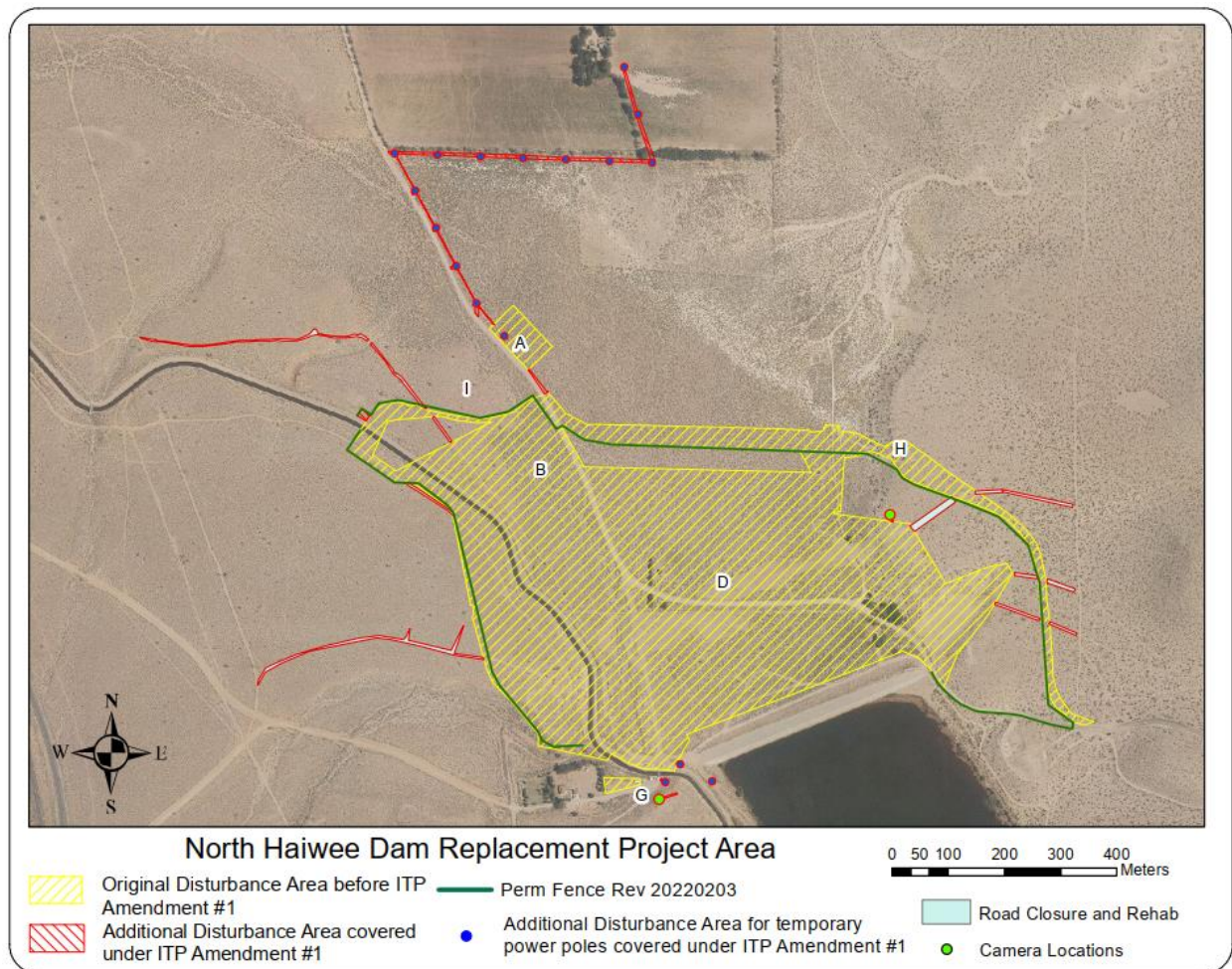
ACKNOWLEDGMENT

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: _____ Date: _____

Printed Name: _____ Title: _____

Major Amendment No. 1
Incidental Take Permit 2081-2017-073-06
LOS ANGELES DEPARTMENT OF WATER AND POWER
North Haiwee Dam No. 2 Project

FIGURE 1: Project Area

Major Amendment No. 1
 Incidental Take Permit 2081-2017-073-06
 LOS ANGELES DEPARTMENT OF WATER AND POWER
 North Haiwee Dam No. 2 Project

FIGURE 2: Project Map Depicting Area G