



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

2825 Cordelia Road, Suite 100

Fairfield, CA 94534

(707) 428-2002

www.wildlife.ca.gov**GAVIN NEWSOM, Governor****CHARLTON H. BONHAM, Director**

April 25, 2022

Mr. Jim Browne

Alameda County Public Works Agency

399 Elmhurst Street

Hayward, CA 94544-1395

jimb@acpwa.org

Subject: Incidental Take Permit for Castlewood Tanks Project,
ITP No. 2081-2018-081-03, Amendment No. 1

Dear Mr. Browne:

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

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

You are advised to keep the permit 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.** This includes but is not limited to habitat management land acquisition, as described in Condition of Approval 8, unless a performance security, as described in Condition of Approval 9, is provided to CDFW. Additionally, a copy of the permit must be maintained at the project work site and made available for inspection by CDFW staff when requested.

The permit 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 Ms. Marcia Grefsrud, Environmental Scientist, at marcia.grefsrud@wildlife.ca.gov; or Ms. Brenda Blinn, Senior Environmental Scientist (Supervisory), at brenda.blinn@wildlife.ca.gov.

Sincerely,

DocuSigned by:

Erin Chappell

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Erin Chappell

Regional Manager

Bay Delta Region

Conserving California's Wildlife Since 1870

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



AMENDMENT NO. 1
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2018-081-03
Alameda County Public Works Agency
Castlewood Tanks Project in Alameda County

INTRODUCTION

On June 18, 2019, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2018-081-03 (ITP) to Alameda County Public Works Agency (Permittee), authorizing take of California tiger salamander (*Ambystoma californiense*) and Alameda whipsnake (*Masticophis lateralis euryxanthus*) (collectively, the Covered Species) associated with and incidental to the Castlewood Tanks Project in Alameda County, California (Project). The Project as described in the ITP as originally issued by CDFW includes replacement of two deteriorating 100,000-gallon redwood water tanks that provide water for domestic consumption and emergency fire control. In issuing the ITP, 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.

In a letter dated January 24, 2022, the Permittee requested to extend the Project's temporary impacts beyond October 31 of the year in which they initially occurred as required by ITP Conditions of Approval 5.13 and 5.14. The Project's temporary impacts consist of a total of 0.28 acre of grassland for Staging Area 2. Staging Area 2 has remained in use beyond October 31 and is expected to remain in use until completion of construction in June 2022. As specified in ITP Conditions of Approval 5.13 and 5.14 these temporary impacts are therefore considered semi-permanent and are subject to a 2:1 mitigation ratio instead of the 1:1 ratio that was required in the original ITP. To meet this requirement the Permittee purchased an additional 0.28 acre of credit for the Covered Species at Ohlone West Conservation Bank.

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

First, this Amendment updates the contact information for the Permittee.

Second, this Amendment changes the amount of impacts authorized under the original ITP from “temporary” to “semi-permanent” impacts as described in Conditions of Approval 5.13 and 5.14.

Third, this Amendment increases the amount of compensatory mitigation required to fully mitigate the impacts of the taking.

Fourth, this Amendment increases the cost estimate of Covered Species credits.

This Amendment does not increase the amount of security to be provided because the Covered Species credits have already been purchased and the cost of restoration remains unchanged.

AMENDMENT

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

Page 1 shall be amended to read:

- Permittee:** Alameda County Public Works Agency
- Principal Officer:** ~~Kwablah Attiogbe~~ ***Jim Browne***
- Contact Person:** **Jim Browne, (510) 670-5796**
- Mailing Address:** **399 Elmhurst Street, Hayward, CA 94544-1395**

Page 4, paragraph 2 under Impacts of the Taking on Covered Species, shall be amended to read:

The Project is expected to cause the permanent loss of 11,000 square feet (0.25 acres) of habitat for the Covered Species, and ~~temporary~~ ***semi-permanent*** loss of 12,000 square feet (0.28 acres) of habitat for the Covered Species (Staging Area 2 only).

Page 16, Condition of Approval 8, paragraphs two and seven, shall be amended to read:

To meet this requirement, the Permittee shall purchase a total of ~~4.03~~ ***1.31*** acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.2) within the East Alameda County Conservation Strategy (EACCS) CTS South mitigation area (Chapter 3, Figure 3-10, dated October 2010) OR shall provide for both the permanent protection and management of ~~4.03~~ ***1.31*** acres of Habitat Management (HM) lands pursuant to

Condition of Approval 8.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 8.4 below.

No take beyond the permanent loss of 0.25 acre and temporary **semi-permanent** loss of 0.28 acre of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. This mitigation requirement will be identified by CDFW in writing and shall be subject to an amendment as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable regulations and law.

Page 22, Condition of Approval 8.1 and 8.2 shall be amended to read:

8.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

8.1.1. Purchase of ~~4.03~~ **1.31** acre of Covered Species credits from a CDFW-approved mitigation or conservation bank is estimated at ~~\$50,000.00~~ **\$69,300.00**.

8.1.2. Restoration, monitoring, and remediation of on-site temporary effects to Covered Species habitat as described in Condition of Approval 8.6, calculated at \$36,790 per acre for 0.28 acres: \$10,301.00.

8.2. Covered Species Credits. Permittee shall obtain CDFW's written approval and shall purchase ~~4.03~~ **1.31** acres of Covered Species credits from a CDFW-approved mitigation or 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.

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 changes to the ITP as originally issued. The Amendment changes the amount of temporary impacts authorized under the original ITP to semi-permanent impacts as described in Condition of Approval 8. The resulting impacts to the Covered Species, however, including the number of acres of habitat that will be lost, etc. as a result of the Project, will remain the same.

CDFW has determined that changes to the length of time before the habitat is restored 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, including the change from temporary to semi-permanent impacts, 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 June 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: the amount of compensatory mitigation will be increased; the total amount of impacted acreage will remain the same. 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 June 2018 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the Mitigated Negative Declaration certified by the Alameda County Public Works Agency 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 the Alameda County Public Works Agency 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 changes the amount of impacts authorized under the original ITP from “temporary” to “semi-permanent” impacts as described in Conditions of Approval 5.13 and 5.14. These changes 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:

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

Alternatively, the Permittee shall email the digitally signed ITP 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 4/26/2022

DocuSigned by:
Erin Chappell
B77E9A6211EF48C...
Erin Chappell, Regional Manager
Bay Delta Region

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of the original ITP and this Amendment, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

By: *Jim Browne* Date: 4/26/2022

Printed Name: Jim Browne Title: Acting Environmental Services Supervisor

Minor Amendment No. 1
Incidental Take Permit 2081-2018-081-03
ALAMEDA COUNTY PUBLIC WORKS AGENCY
Castlewood Tanks Project