



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*



June 7, 2022

Morgan Robertson, Senior Environmental Planner  
California Department of Transportation  
50 Higuera Street  
San Luis Obispo, California 93401-5415

**Subject: Incidental Take Permit Amendment No. 5 for the SBT-25 Curve Correction Project (2081-2014-010-04)**

Dear Morgan Robertson:

Enclosed you will find an electronic copy of Amendment No. 5 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](mailto:CESA@wildlife.ca.gov). Digital signatures shall comply with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned.

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 Javier Mendez, Environmental Scientist, at [javier.mendez@wildlife.ca.gov](mailto:javier.mendez@wildlife.ca.gov).

Sincerely,  
DocuSigned by:

*Valerie Cook*  
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Valerie Cook, Acting 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. 5  
(A Major Amendment)  
California Endangered Species Act  
Incidental Take Permit No. 2081-2014-010-04  
California Department of Transportation  
SBt-25 Curve Correction Project

## INTRODUCTION

On June 23, 2014, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2014-010-04 (ITP) to California Department of Transportation (Caltrans) District 5 (Permittee) authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the SBt-25 Curve Correction Project (Project) in San Benito County, California (Project).

The Project as described in the ITP originally issued by CDFW includes realigning a 0.4-mile section of State Route (SR) 25 to then-current design standards by replacing a nonstandard curve with a 2,000-foot radius curve. This realignment required cutting into a hillside a maximum depth of 44 feet. The new section of SR 25 was to be 900 feet long and 40 feet wide, with two 12-foot lanes, 2-foot paved shoulders, and 6 to 8 feet of unpaved shoulder backing on either side of the paved roadway, which includes a rock catchment area. The slopes on either side were to be 0.25:1 or flatter, and the width of these slopes was to be a maximum of 16 feet on each side. In addition to the road improvements, the old alignment was to be repaved to create a traffic detour, two new driveway exits for the landowners on either side of SR 25 were to be installed, and access to a stockpile area in the current turn-out was to be created. The remaining 24,790 square feet (0.569 acre) of the previous alignment was to be rehabilitated to allow for revegetation with oak trees. The Project was to result in the permanent development of 1.86 acres of upland habitat and temporary impacts to 0.87 acres of upland habitat for the Covered Species resulting in a total habitat disturbance of 2.73 acres.

On May 8, 2015, CDFW issued Minor Amendment No. 1 to the ITP, which changed Condition of Approval 7.5 regarding Burrow Excavation; on January 27, 2016, CDFW issued Minor Amendment No. 2 to the ITP, which changed the Project Description to include temporarily repaving of the original alignment; on October 12, 2016, CDFW issued Minor Amendment No. 3 to the ITP, which extended the Effective Date and Expiration Date of the ITP; and on November 19, 2018, CDFW issued Minor Amendment No. 4 to the ITP, which extended the Effective Date and Expiration Date of the ITP. In issuing the ITP, Amendment No. 1, Amendment No. 2, Amendment No. 3,

and Amendment No. 4 (collectively the ITP, as amended), CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP, as amended, would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

In a letter dated September 17, 2018, the Permittee requested an amendment to the ITP, as amended, to reflect changes to the Project Description and Impacts of the Taking on Covered Species. While the Project was completed, the through-cut slopes have failed and portions of the original Project will need to be redone, effectively representing a second phase of the Project.

This Major Amendment No. 5 (Amendment No. 5) makes the following changes to the existing ITP, as amended:

First, Amendment No. 5 revises the Project Description section of the ITP to address changes to the alignment of the roadway which are necessary to remedy the slope failure resulting from the original Project;

Second, Amendment No. 5 revises the Impacts of the Taking on Covered Species section of the ITP, as amended, to address the increased take resulting from the amended Project Description;

Third, Amendment No. 5 revises the CDFW Regional Representative for the Project;

Fourth, Amendment No. 5 revises the Habitat Management Land Acquisition section of the ITP, as amended, to reflect the increased mitigation obligation considering the revised Project Description and increased associated take of the Covered Species; and

Fifth, Amendment No. 5 revises the Notices section of the ITP, as amended, referencing updated contact information for the Project.

## **AMENDMENT**

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

1. The Project Description section, which begins on page 2 of the ITP, as amended, shall be amended to read:

The 0.4 mile section of SR 25 within the Project area is currently a rural two-lane conventional highway consisting of two approximately 10-foot wide lanes with no paved shoulder, with an existing Right-of-Way (ROW) of approximately 22 feet from the current centerline. To rectify higher than expected accident rates, the Project would improve safety by increasing the

curve radius on the horizontal aspect and would also improve the vertical stopping sight distance at this location. In order to realign the highway to current design standards, the nonstandard curve will be replaced with a ~~2,000~~ **1,440**-foot radius curve. This will require cutting into the hillside; approximately ~~41,000~~ **69,000** cubic yards of material would be excavated at a maximum depth of approximately ~~44~~ **52** feet. The new section of SR 25 would be 900 feet long and 40 feet wide. The Project would result in two 12-foot lanes with ~~2~~ **4**-foot paved shoulders and 6 to 8 feet of unpaved surface on either side, including a rock catchment area. The slopes on either side would be ~~0.25:1~~ **2:1** or flatter with a ~~1:1 slope near the top to round off where the cut joins the remaining hill slope.~~ The width of these slopes will be a maximum of 16 feet on each side. The maximum width of the entire cut is ~~76~~ **240** feet with an additional 10 feet of new proposed ROW along the outer edge. Approximately ~~2.9~~ **4.4** acres of land, currently used for cattle grazing, would need to be acquired as additional ROW to accommodate the improved roadway alignment and the wider roadbed. ***Additionally, the Project will involve the acquisition of 1.01 acres of drainage and slope easements, as well as permits to enter and construct.***

In addition to the new section of road improvements, a portion of the existing SR-25 roadbed would be removed. A new driveway totaling ~~7,550~~ **5,090** square feet (mostly within the previous alignment) would be constructed for the landowner on the north side of SR-25, connecting to the new section of SR-25. A new outlet to the driveway at the southwest end of the Project will require ~~1,370~~ **1,940** square feet of new pavement. A portion of the existing SR-25, measuring ~~4,540~~ **5,432** square feet, will be left intact as permanent access to a ~~4,540~~ **4,850** square feet stockpile area within the current turn-out area. The stockpile area would be used for some of the Project-related cut material (2 inches of topsoil). After construction of the Project, the stockpile area would be used periodically by Caltrans Maintenance. Due to a rockslide occurring on January 21, 2016, the newly realigned SR 25 must be closed for public safety. The portion of the previously existing SR-25 roadbed would be temporarily repaved to act as a detour. After the restoration of the new alignment the temporary paving would be removed. The remaining ~~24,790~~ **10,050** square feet (~~0.569~~ **0.231** acres) of the previous alignment will be rehabilitated to allow for revegetation with oak trees.

The Project will result in the permanent development of ~~1.86~~ **4.628** acres of upland habitat (which will also be used for staging until all permanent impacts are complete) as well as temporary impacts to ~~0.87~~ **0.542** acre of upland habitat, associated with temporary erosion controls along the new cut slopes, resulting in a total habitat disturbance of ~~2.73~~ **5.17** acres of upland habitat.

All of the above will require grubbing and grading of the entire Project site, equipment storage, staging and laydown within the Caltrans ROW, cut and fill of the embankment slopes, and ground compaction. ***The Project will also involve the relocation of a single existing utility pole and the installation of replacement plantings. The Project may occur in more than one phase.***

2. The third paragraph of Impacts of the Taking on Covered Species, which begins on page 4 of the ITP, as amended, shall be amended to read:

The Project is expected to cause the permanent loss of ~~1.86~~ **4.628** acres and the temporary loss of ~~0.87~~ **0.542** acre of Covered Species upland habitat. The 4,540 square foot stockpile area and associated permanent access will have reduced impacts because the area is already permanently impacted by SR-25 or devoid of burrows and not potential habitat. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project's incremental contribution to cumulative impacts (indirect impacts). These indirect impacts include: stress resulting from noise and vibrations from construction, burrow excavation and salvage, and long-term effects due to increased pollution, displacement from preferred habitat, increased competition for food and space, and increased vulnerability to predation.

3. Condition of Approval 6.6. Monthly Compliance Report of the ITP, as amended, **and** Mitigation Measure No. 22 of the attached Mitigation Monitoring and Reporting Program, shall be amended to read:

Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.5 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure. Monthly Compliance Reports shall be submitted to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is ~~Laura Peterson-Diaz~~ **Javier Mendez** (~~laura.peterson-diaz@wildlife.ca.gov~~ **javier.mendez@wildlife.ca.gov**). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule.

4. The second paragraph of Habitat Management Land Acquisition, which begins on page 13 of the ITP, as amended, shall be amended to read:

To meet this requirement, the Permittee shall purchase ~~6.54~~ **14.48** acres of Covered Species credits from a CDFW-approved mitigation or conservation bank. Purchase of Covered Species Credits 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 9 below for all uncompleted obligations. The Permittee shall also restore on-site ~~0.870.542~~ acre of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.2 below.

5. The regional CDFW contact information in the Notices section of the ITP, as amended, shall be amended to read:

Original cover with attachment(s) to:

~~Jeffrey R. Single, Ph.D.~~ **Julie A. Vance**, Regional Manager  
California Department of Fish and Wildlife  
Region 4 - Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
Phone: (559) 243-4005  
Fax: ~~(559) 243-4022~~ **R4CESA@wildlife.ca.gov**

Unless Permittee is notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of this ITP is:

~~Laura Peterson-Diaz~~ **Javier Mendez**  
California Department of Fish and Wildlife  
Region 4 - Central Region  
1234 East Shaw Avenue  
Fresno, California 93710  
Phone: (559) ~~243903-5026~~4017, extension 225  
Fax: ~~(559) 243-4020~~  
~~Laura.Peterson-Diaz@wildlife.ca.gov~~  
**javier.mendez@wildlife.ca.gov**

6. The third paragraph of Findings Pursuant to CESA section, which begins on page 17 of the ITP, as amended, shall be amended to read:

Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent protection of ~~6.54~~ **14.48** acres of upland Covered Species habitat at a CDFW-approved mitigation or conservation bank that supports high quality Covered Species habitat; (2) establishment of avoidance zones; (3) worker education; (4) restoration of ~~0.87~~ **0.542** acres of temporarily disturbed habitat; and (5) Monthly and Annual Compliance Reports. CDFW evaluated 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. Based on this evaluation, CDFW determined that the protection and management in perpetuity of ~~6.54~~ **14.48** acres of compensatory habitat that is contiguous with other protected Covered Species habitat and/or is of higher quality than the habitat being destroyed by the Project, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

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. 5 will increase the amount of take of the Covered Species compared to the Project as originally approved; however, by requiring a commensurate increase in the amount of compensatory mitigation, it is not expected that Amendment No. 5 will increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).*

Discussion: Amendment No. 5 makes 5 changes to the ITP as originally issued. It effectively increases the size of the Project area, revises the permanent and temporary impacts to Covered Species habitat, updates the CDFW Regional Representative, increases the amount of Habitat Management Lands required to fully mitigate Project impacts, and revises the Notices section of the ITP. CDFW has determined that this increase in the amount of take will be fully mitigated through the purchase of additional Covered Species credits at a State approved conservation bank.

*Issuance of Amendment No. 5 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 previously determined that the Project, as approved, met the standards for issuance of an ITP, as amended, 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, requires a commensurate increase in the compensatory mitigation. 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 Amendment No. 5.*

Discussion: CDFW issued the ITP in June 2014, Amendment No. 1 in May 2015, Amendment No. 2 in January 2016, Amendment No. 3 in October 2016, and Amendment No.4 in November 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 adopted by Caltrans as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that Amendment No. 5 represents a major change in the Project as originally approved. On September 30, 2020, Permittee acting as lead agency under CEQA, adopted a Mitigated Negative Declaration supported by an Initial Study wherein the major changes to the Project Description and increased amount of take of the Covered Species was analyzed. CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of Amendment No. 5.

*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: Amendment No. 5 modifies the "Project Description" increasing the amount of excavated material to Covered Species upland habitat, "Impacts of the Taking on Covered Species" increasing values to permanent and temporary impact areas, "Habitat Management Land Acquisition" increasing Covered Species credits to be acquired, and "Findings Pursuant to CESA" addressing the increase in Covered Species credit acquisition. As described above, these changes increase the level of expected take to increase from a total of 2.73 acres of Covered Species habitat to a total of 5.17 acres of Covered Species habitat. This change in impacts increases the number of credits purchased as Project mitigation from 6.54 acres of Covered Species credits to 14.48 acres of Covered Species credits. 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, as amended. CDFW has determined that the change to the ITP, as amended, constitutes a Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

The authorization provided by Amendment No. 5 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 e-mail the digitally signed Amendment to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned.

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

on 6/7/2022

DocuSigned by:  
*Valerie Cook*  
96D42C58E092466...

Valerie Cook  
Acting 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, Amendment No. 1, Amendment No. 2, Amendment No. 3, Amendment No. 4, and Amendment No. 5, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

By: *Morgan Robertson*  
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Date: 6/7/2022

Printed Name: Morgan Robertson

Title: Senior Environmental Planner

Major Amendment No. 5  
Incidental Take Permit 2081-2014-010-04  
CALIFORNIA DEPARTMENT OF TRANSPORTATION  
SBt-25 Curve Correction