

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CENTRAL REGION

1234 EAST SHAW AVENUE

FRESNO, CALIFORNIA 93710



AMENDMENT NO. 15

(A Major Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2013-025-04

California High-Speed Train Project Merced to Fresno Section Permitting Phase 1

INTRODUCTION

On March 12, 2014, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2013-025-04 (ITP) to the California High Speed Rail Authority (Permittee) authorizing take of California tiger salamander (*Ambystoma californiense*), Swainson's hawk (*Buteo swainsoni*), and San Joaquin kit fox (*Vulpus macrotis mutica*) (collectively, the Covered Species) associated with and incidental to the Permitting Phase 1 of the Merced to Fresno Section of the High-Speed Train (HST) Project (Project). The Project as described in the ITP originally issued by CDFW includes HST alignment beginning at the intersection of Avenue 17 and the Burlington Northern Santa Fe (BNSF) Railway, in the City of Madera, Madera County, California, and continuing south to an area on the southern side of State Route (SR) 41, adjacent to Los Angeles Street in the City of Fresno, Fresno County, California. The total length of the Project is 24.1 miles. The Project is the first of the nine California HST sections to be constructed; each section will function independently, but once joined together will create a statewide HST system. The HST will be an electrically powered, high-speed train with steel-wheel-on-steel-rail technology and state-of-the art safety, signaling, and automated train-control systems. The trains will be capable of operating at speeds of up to 220 miles per hour (mph) over a fully grade separated, dedicated track alignment. The Project will be built using a design/build (D/B) approach, a method of construction by which one D/B contractor works under a single contract with the Permittee to provide design and construction services. The Project as originally permitted in the ITP includes construction and installation of all Project components, including disturbance of up to 1,049.00 acres (hereafter, Construction Footprint). Construction may occur at any point along the Construction Footprint, and construction may occur at multiple locations simultaneously. The Project also includes operations, maintenance, and inspection activities within the Construction Footprint (O&M), and Mitigation Site activities.

In a letter dated July 23, 2014, the Permittee requested revisions to several ITP Conditions of Approval, specifically those that mentioned Designated Biologists, so that individuals with less species-specific training ("General Biological Monitors") could be used to perform less technical monitoring tasks. The Permittee also requested the

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deletion of Condition of Approval 8.48 (O&M Tree and Wood Shrub Removal), and minor modifications to several other measures, primarily for clarification purposes. In a follow up email on August 13, 2014, the Permittee also requested that a single Condition of Approval be modified (Condition of Approval 6.2) related to the Designated Biologist. This amendment did not change the Construction Footprint, nor did it change the habitat impacts or the compensatory mitigation. CDFW issued **Minor Amendment No. 1** on August 21, 2014, incorporating these changes.

In an email dated April 24, 2015, the Permittee requested a revision of the ITP's Project Description for the Fresno River crossing, to modify the design in this area from a viaduct design to one with a partial retained fill segment and add two new staging areas. The size of the Construction Footprint increased by 54.39 acres from 1,049.00 acres to a total of 1,103.39 acres. In addition, the Permittee asked to include the previously requested Designated Biologist changes not addressed in Minor Amendment No. 1. The Permittee also requested that Wildlife Crossing #5 be moved slightly to a new location (approximately 50 feet from the authorized location), and that changes to the land use and vegetation communities be updated, and the applicable land cover designation be substituted. Lastly, in addition to the increased mitigation that was required to offset the requested Construction Footprint increase, CDFW also required additional mitigation to address a non-compliance event that occurred in June 2014; 7.2 acres of fallow land and 2 acres of grassland habitat that were disturbed by the Permittee's contractor outside of the footprint permitted by the ITP. The amount of compensatory mitigation, Habitat Management (HM) lands, increased from 234 acres to 254 acres. CDFW issued **Major Amendment No. 2** on June 12, 2015, incorporating these changes.

In a set of emails dated September 25, 2015, May 2, 2015, and May 23, 2016, the Permittee requested a revision to the ITP to increase the size of the Construction Footprint by 707.87 acres and 9.2 acres for a total increase of 780.07 acres for a new grand total of 1,883.46 acres. The increase of the Construction Footprint accommodated: (1) four new road crossings; (2) additional impact areas for repaving of asphalt at the ends of planned overpasses; (3) utility relocations; (4) construction access; (5) road improvements and right-of-way (ROW) acquisitions; (6) a temporary 20-foot construction easement, north of the San Joaquin River, to install barrier fence around the HST ROW; and (7) a 2.7-mile extension of the northern boundary of the Construction Footprint. The Permittee also requested: (1) the removal of overcrossing and road improvements; (2) additional road alignments and locations; (3) modification of the design and/or placement of bridges and ROW crossings; and (4) the addition of a paralleling station, radio tower, and two new permanent access roads to be located in Madera County, California. Permittee also requested to extend the required timeframe to protect and transfer all HM lands and record any required conservation easements.

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Lastly, the State endangered hairy Orcutt grass (*Orcuttia pilosa*) was added to the list of Covered Species subject to take authorization. CDFW issued **Major Amendment No. 3** on September 20, 2016, incorporating these changes.

In an email dated October 24, 2016, the Permittee requested an amendment to the ITP to extend the dry season work window beyond October 31st to November 15th for ground-disturbing activities at the Lazy K Ranch Mitigation Site (Lazy K Ranch). In addition, the Permittee requested that exclusion fencing for California tiger salamander (CTS) be allowed for use during ground disturbance at the Lazy K Ranch, under the provision that the fencing would be removed when the proposed extended dry season work window expires. This amendment did not change the 1,883.46-acre Construction Footprint, nor did it change the habitat impacts or the compensatory mitigation. CDFW issued **Minor Amendment No. 4** on October 31, 2016, incorporating these changes.

In an email dated April 5, 2017, the Permittee requested an amendment of the ITP to increase the size of the Construction Footprint by 155.72 acres to a total of 2,039.18 acres, to accommodate the north extension of the Project including guideway, an at-grade bridge, a wildlife crossing, overcrossing, embankment, road design changes, geotechnical investigation, utility relocation, and potential access improvements between the BNSF and HST corridors. In addition to the major construction elements and design refinements listed above, the Covered Activities occurring within the increased Construction Footprint included the construction and improvement of private and public access ways, structure demolitions, utility relocation and protection, and fencing. CDFW issued **Major Amendment No. 5** on June 23, 2017, incorporating these changes.

In a letter dated September 19, 2017, the Permittee requested an amendment of the ITP to include an alternative option to fulfill their mitigation obligation that increased as a result of the increased Construction Footprint as issued in Major Amendment No. 5. To address this request the ITP was revised to: (1) provide an option to purchase 6.9 acres (6.43 acres of currently released vernal pool fairy shrimp credits that are also designated as "future release" CTS aquatic breeding habitat credits and 0.47 acres of currently released CTS upland habitat that has been identified to hold water with sufficient duration to support breeding) of Covered Species credits from CDFW-approved Dutchman Creek Conservation Bank; (2) provide a modified timeframe in which the remaining 10.39-acre mitigation obligation must be met; and (3) revised the Performance Security amount required in order to proceed with Covered Activities. There was no increase to Construction Footprint for this amendment. CDFW issued **Major Amendment No. 6** on August 3, 2018, incorporating these changes.

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In a letter dated September 24, 2018, the Permittee requested to revise the Project Description to allow for an increase in the Construction Footprint by 1.53 acres to a total of 2,040.71 acres. The Construction Footprint increase accommodated new Work Areas for improvements to Dry Creek Canal and the use of the roads adjacent to Dry Creek Canal for construction access. In a letter dated December 3, 2018, the Permittee requested, to accommodate construction of an intrusion protection barrier (IPB) within specific limits of the HST alignment in Fresno County to mitigate the risk of any potential derailed trains from the adjacent private rail lines from entering the path of the HST. The IPB would be a concrete wall and did not require additional Project Construction Footprint area beyond what was already permitted. IPB construction would occur in three locations totaling 4,060 linear feet, within downtown Fresno, along the “Fresno Trench.” CDFW issued **Major Amendment No. 7** on February 28, 2019.

In a letter dated May 1, 2019, the Permittee requested revision to the ITP, to increase the extent of take of hairy Orcutt grass (HaOrGr) by 0.91 acres; increase the HM lands requirements for HaOrGr by 5.46 acres; allow the take of HaOrGr to proceed with Security in place; change pre-construction botanical inventory requirements to require only focused surveys for HaOrGr; revise HaOrGr buffer and salvage requirements to reduce impacts to the species by eliminating the requirement to salvage all HaOrGr within 50 feet of the Construction Footprint, including outside of the right-of-way; and, because the impact/salvage areas had low HaOrGr seed abundance and high invasive plant seed abundance, eliminate the requirement to salvage plants in the Construction Footprint in lieu of CDFW’s acceptance of the required Habitat Enhancement Plan for HaOrGr. There was no increase to Construction Footprint for this amendment. CDFW issued **Major Amendment No. 8** on May 31, 2019.

In a letter dated February 15, 2019, the Permittee requested revision to the ITP to: (1) increase the size of the Construction Footprint by 89.78 acres from 2,040.71 to a total of 2,130.49 acres to accommodate 24 proposed design variations, (2) increase the length of IPB by 14 miles from 4,060 linear feet to 73,894 linear feet and (3) allow for wildlife crossing variations at three locations. CDFW issued **Major Amendment No. 9** on June 10, 2019.

In a letter dated February 25, 2019, the Permittee requested revision to the ITP to: (1) increase in the Construction Footprint by 10.07 acres from 2,130.49 acres to 2,140.56 acres; (2) add Horizontal Direction Drilling (HDD) and the “jack and bore” method of pipeline construction and relocation required for some of the additional utility work, as Covered Activities; and (3) add 11 design variations to the Project Description. CDFW issued **Major Amendment No. 10** on August 8, 2019.

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In a letter dated October 29, 2019, the Permittee requested revision to the ITP to: (1) adjust the number of compensatory habitat mitigation lands from a single site to multiple sites; (2) reduce the mitigation acreage required for HaOrGr to correspond to a reassessment of the impacts and a decreased amount of take of HaOrGr resulting from Project construction; and (3) an expeditious review time for approval of the two HaOrGr mitigation site properties so that the Permittee can meet the terms of the contracts with willing sellers. In an e-mail dated January 15, 2020, CDFW informed the Permittee that this Amendment would also include correction of the Lazy K Ranch Mitigation Site acres and identify what mitigation is owed beyond what was available at the Lazy K Ranch Mitigation Site. There was no request for a change to the Construction Footprint acreage. CDFW issued **Major Amendment No. 11** on February 18, 2020.

In a letter dated March 31, 2020, with acreage refinements on June 10, 2020, July 10, 2020, and August 19, 2020, the Permittee requested revision to the ITP to: increase the Construction Footprint by 45.39 acres; shift the HST alignment approximately 50 feet west; address changes to public roads and access roads in three Road Modifications, drainage facilities, access-restricted fencing, soundwalls, culverts, signage and utilities to the east and west of the permitted alignment as a result of the shift; make improvements to an existing BNSF access road and shift one Dedicated Wildlife Crossing (DWC) approximately 700 feet southwest. In an Addendum dated April 10, 2019, the Permittee requested an additional 0.07-acre expansion of the footprint beyond what was requested in the February 25, 2019, letter for Amendment No. 10. That combined with the current request will increase the Construction Footprint from 2,140.56 acres by 45.46 acres to a new total of 2,186.02 acres. CDFW issued **Major Amendment No. 12** on September 1, 2020.

In a letter dated September 12, 2019, and in supplemental information received on June 16, 2020, the Permittee requested revision of the ITP to increase the Construction Footprint by 41.64 acres to accommodate 109 utility relocation modifications to drainage, electrical, gas, water, sewer, and telecommunication utilities at 106 locations as well as three access roads, staging areas, and a box culvert at Lateral 6.2 canal. Via e-mail on September 24, 2020, the Permittee also provided supplemental information needed to make corrections for elements inadvertently left out for the Shift request in Amendment No. 12, which will increase the footprint by an additional 16.58 acres. These two changes will increase the Construction Footprint by 58.22 acres. The Construction Footprint will change from 2,186.02 acres to a new total of 2,244.24 acres. In an e-mail dated October 20, 2020, the Permittee requested the San Joaquin kit fox (SJKF) den excavation language be amended to allow for den entrance blocking as an alternative to den destruction under specific circumstances. CDFW issued **Major Amendment No. 13** on November 4, 2020.

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In a letter dated February 19, 2019, and with supplemental GIS information received on February 26, 2020, the Permittee requested a new revision of the ITP to increase the Construction Footprint by 14.95 acres to accommodate utility relocation at 20 sites and access road work at two sites, one of which is also a utility relocation site, for a total of 21 work locations in Madera County. An additional 0.33 acres was requested to be added on July 27, 2021, for a total addition of 15.28 acres. CDFW is also initiating a change to remove the 2.19-acre area that overlaps with the California High-Speed Train Project Fresno to Bakersfield ITP, updates Table 4, adds clarification for Condition of Approval 7.4, and revises Condition of Approval 8.13.2. The Construction Footprint will change from 2,244.24 acres to a new total of 2,257.33 acres. CDFW issued **Major Amendment No. 14** on September 1, 2021.

In issuing the ITP, Minor Amendment No. 1, Major Amendment No. 2, Major Amendment No. 3, Minor Amendment No. 4, Major Amendment No. 5, Major Amendment No. 6, Major Amendment No. 7, Major Amendment No. 8, Major Amendment No. 9, Major Amendment No. 10, Major Amendment No. 11, Major Amendment No. 12, Major Amendment No. 13, and Major Amendment No. 14 (collectively, the ITP, as amended), CDFW found, among other things, that Permittee's compliance with the Conditions of Approval would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

In a meeting on May 9, 2022, CDFW informed the Permittee of the intent to initiate an Amendment to this ITP for the purpose of providing clarification regarding several Conditions of Approval pertaining to the Pre-Construction Surveys required for Covered Species (CTS, SJKF, HaOrGr and Swainson's Hawk (SWHA)). In an e-mail on June 27, 2022, the Permittee requested changes to Condition of Approval 8.7 to allow for alternatives to current excavation coverings or ramping for animal escape. In an e-mail on July 18, 2022, the Permittee requested changes to Condition of Approval 7.4 to limit the area considered suitable for California tiger salamander.

This Major Amendment No. 15 (Amendment) makes the following changes to the ITP, as amended:

First, this Amendment updates the Principal Officer and Contact Person.

Second, this Amendment removes application of dust suppressants from the list of Covered Activities on page 45 because it is not a vegetation- or ground-disturbance activity that would preclude subsequent re-surveys prior to vegetation- or ground-disturbance Covered Activities in these work areas.

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Third, this Amendment corrects the header for Condition of Approval 6.2 changing it from Designated Biologist(s) to Biological Monitor(s) which applies to both Designated Biologist(s) and General Biological Monitor(s).

Fourth, this Amendment allows for alternatives to current boundary delineation methods in Condition of Approval 6.10.

Fifth, this Amendment clarifies what needs to be included in the 14-Day Notification and when a Work Area becomes inactive requiring new Pre-Construction Surveys and a new 14-Day Notification.

Sixth, this Amendment allows for a San Joaquin kit fox General Biological Monitor to serve as monitor for new subsequent vegetation and soil disturbing activities in Condition of Approval 7.3 and 8.11.

Seventh, this Amendment adds holes, sumps, trenches, pipes to the inspection list in Condition of Approval 7.3 and clarifies that the once a month inspection for inactive areas is not applicable if those areas have long term covered holes, sumps, trenches, or pipes which must still be checked daily.

Eighth, this Amendment clarifies how Exhibit 5 has been changed through the course of the amendment process and now indicates only the Construction Footprint and no longer shows all the Land Cover and Habitat Types from the original ITP Application and adds reference to Exhibit 10 for hairy Orcutt grass Conditions of Approval.

Ninth, this Amendment changes the timing for the requirement to provide Geographic Information System layers and the associated metadata to CDFW from 10 days to at least 14 calendar days to match Condition of Approval 7.1.

Tenth, this Amendment changes the geographic areas considered to have potential habitat for California tiger salamander, limiting the range to specifically north of the City of Fresno at Dakota Ave., west of southbound SR 99, and north of the San Joaquin River east of southbound SR 99 as depicted in the updated Exhibit 5 Map Book.

Eleventh this Amendment clarifies what needs to be included in the Monthly Compliance Report.

Twelfth, this Amendment changes the equipment fueling requirement to be 100 feet from aquatic habitat feature because avoidance of all suitable habitat, including Barren, is not feasible.

Thirteenth, this Amendment allows for alternatives to current excavation coverings or ramping for animal escape in Condition of Approval 8.7.

Fourteenth, this Amendment allows for mechanical assistance to be utilized according to the CDFW-approved California tiger salamander Salvage and Relocation Plan and clarifies that small mammal burrow excavation will extend into the 50-foot buffer zone except when the buffer zone is outside of the Construction Footprint.

Fifteenth, this Amendment allows for General Biological Monitors under the direct supervision of the Designated Biologist(s) to assist with the excavation of potential San Joaquin kit fox dens.

Sixteenth, this Amendment adds two new Specific Measures for San Joaquin kit fox, one for unblocking temporarily blocked San Joaquin kit fox dens and one for pile driving.

Seventeen, this Amendment returns the California tiger salamander aquatic feature buffer line inadvertently removed from Exhibit 5 when it changed from showing land cover types to just the Construction Footprint in Amendment 7 but reduces it from 1.3 miles to 0.7 miles to match the distance that triggers burrow excavation.

AMENDMENT

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

1. The first page of the ITP, as amended, shall be further amended to read as follows:

Permittee:	California High-Speed Rail Authority
Principal Officer:	Serge Stanich Mark A. McLoughlin Director Environmental Services
Contact Person:	Serge Stanich Mark A. McLoughlin (916) 718-6981 403-6934
Mailing Address:	770 L Street, Suite 800 Sacramento, California 95814

2. The first paragraph of the section entitled "Impacts of the Taking on Covered Species" on pages 43 and 44 of the ITP, as amended, shall be further amended to read as follows:

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This ITP covers all Project related activities that cumulatively disturb no more than 2,257.33 acres within the Construction Footprint, as well as 258.07 acres of Temporary Use Areas and 445.79 acres under Conservation Easement within the Lazy K Ranch Mitigation Site (the Construction Footprint and Lazy K Ranch Mitigation Site are collectively, the Project Area). Project activities include subsurface geotechnical drilling and boring; habitat grubbing, vegetation removal, clearing, and mass grading followed by the mobilization of equipment and materials; earthwork including construction of temporary and permanent excavation support structures; excavation of open cut slope and fill, at grade profile excavation and leveling, and retained fill cut, rail bed foundation soil compaction, and elevated profiles and elevated profile structure components including construction and installation of straddle bents, foundations, pile caps, substructures, and superstructures; trench digging and other subsurface utility installation, relocation, and protection; pad preparation and construction of a batch plant, materials storage, fabrication, casting areas, access roads, and staging areas; rotary drilled reinforced concrete cast in place pile and drive pile installation; excavation of drainage swales and fabrication and installation of underground drainage culverts and pipes; 43 roadway modifications including realignment and resurfacing, construction of new access roads, overcrossing, and undercrossing; construction of waterway crossing structures over the Fresno River, Cottonwood Creek, and the San Joaquin River including partial dewatering and diversion of water; construction and assembly of tie and ballast and slab track railway systems, and shoofly track; erecting mast poles; construction of electrical systems facilities including the OCS, TPSS, two switching stations, and six paralleling stations; construction of signal huts and bungalows including installation of cabling to the field hardware and track stations; traction electrification; excavation and construction of wildlife crossings, construction of the Downtown Fresno Station; installation of AD and AR fence; construction of temporary job site trailers and field offices including the development of building pads and preparation of parking areas; application of dust suppressants; operation and maintenance activities such as track, power, structure, signaling, train control, communications, intruder, and right-of way inspection and repair; and equipment staging, inoculum collection, land grading, and excavation of wetlands in the Wetland Restoration Area and mowing, hand tool or auger planting of trees and shrubs, and installation of irrigation systems in the Riparian Restoration Area within the Lazy K Ranch Mitigation Site and other activities within the Construction Footprint and Mitigation Site described in the Project Description section of this ITP (Covered Activities).

3. Condition of Approval 6.2 (Designated Biologist(s)) on page 52 of the ITP, as amended, shall be further amended to read as follows:

6.2 **Biological Monitor** ~~Designated Biologist(s)~~. Permittee shall submit to CDFW in writing the name(s), qualifications, business address(es), and contact information of each proposed Biological Monitor(s) [~~Designated Biologist(s)~~ and General Biological Monitor(s)] at least 30 days before starting Covered Activities. Permittee shall obtain CDFW approval of the Biological Monitor(s) in writing before starting Covered Activities and shall also obtain written approval in advance if any of the Biological Monitor(s) must be changed. CDFW may approve Biological Monitor(s) for specific areas of the Project, for specific Covered Species, or for specific timeframes as applicable. The Biological Monitor(s) shall monitor all ground and vegetation disturbing Covered Activities.

4. Condition of Approval 6.10 (Designated Biologist(s)) on pages 52-53 of the ITP, as amended, shall be further amended to read as follows:

6.10. **Delineation of Property Boundaries**. Before starting Covered Activities within the Project Area, Permittee shall clearly delineate the boundaries of the applicable Work Area with fencing, stakes, ~~or~~ flags, **rope, paint and/or cones or some other highly visible not easily degradable/erodible material (e.g., no chalk lines)**. Permittee shall restrict all Covered Activities to within the **delineated Work Area and** ~~fenced, staked, or flagged areas~~. Permittee shall maintain all **materials used to delineate the Work Area** ~~fencing, stakes, and flags~~ until the completion of Covered Activities in that Work Area. The Work Area is defined as the discrete zone(s) within the Project Area where Covered Activities will actively occur.

5. Condition of Approval 7.1 (Notification Before Commencement) on page 56 of the ITP, as amended, shall be further amended to read as follows:

7.1. **14-Day Notification Before Commencement**. The Designated Representative shall notify CDFW **at least** 14 calendar days before starting Covered Activities in each Work Area and shall document compliance with all pre-Project Conditions of Approval before starting such Covered Activities.

7.1.1 Target Start Date. The 14-Day Notification shall include a start date no more than 30 calendar days after the pre-construction survey(s). This shall be updated as needed with each resubmittal.

7.1.2 Work Areas. The 14-Day Notification shall include the locations of each proposed work area and Geographic Information System (GIS) data for the points either as a KMZ file or Shapefile that can be referenced to each Work Area location.

7.1.3 Covered Activities and Equipment. The 14-Day Notification shall include a list of all equipment to be used and all Covered Activities, as identified specifically in the ITP, that will take place at the Work Area.

7.1.4 Pre-Construction Surveys. The 14-Day Notification shall include all applicable pre-construction survey reports as defined in Conditions of Approval 8.13.2, 8.14.1, 8.15.1 and 8.57.2.3.

7.1.5 Lapse in Continuity of Work Activities. Should an unplanned or planned lapse of Covered Activities occur at any Work Area for more than 30 calendar days, a new 14-Day Notification and pre-construction survey shall be performed and submitted per the above. Activities including, but not limited to, dust suppression per Condition of Approval 6.8, delineation per Conditions of Approval 6.10 and 6.11, and monitoring per Condition of Approval 7.3 that do not involve vegetation- or ground-disturbance activity shall not preclude the requirement for subsequent re-surveys prior to resuming vegetation- or ground-disturbance Covered Activities in these Work Areas.

6. Condition of Approval 7.3 (Compliance Monitoring) on page 56 of the ITP, as amended, shall be further amended to read as follows:

7.3 Compliance Monitoring. The Designated Biologist(s) shall be on-site daily at each Work Area within the Project Area when ~~initial~~-vegetation and **initial** soil disturbance Covered Activities occur. **The applicable Designated Biologist(s) shall also be on site for new subsequent vegetation and initial soil disturbing activities with the exception that for SJKF, a SJKF General Biological Monitor may serve as monitor.** The Biological Monitor(s) shall conduct 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, **delineation** and fencing **types** are intact, **(6) check all open and covered holes, sumps, trenches, or pipes**, and that Covered Activities are only occurring in the Project Area. During initial vegetation and soil disturbance, the Designated Biologist(s) shall conduct compliance inspections continuously within each of the Work Area(s) where Covered Activities are occurring. After initial vegetation and soil disturbance, the Biological Monitor(s) shall conduct compliance inspections a minimum of once per day within each of the Work Area(s) where Covered Activities are occurring **and shall be present during all periods of ground and vegetation disturbing activities per Condition of Approval 6.2**. The Designated Representative or Designated Biologist(s) shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. The Biological Monitor(s) shall conduct compliance inspections a minimum of **once** monthly during periods of inactivity ~~and after clearing, grubbing, and grading are completed~~ **unless the inactive Work Area has holes, sumps, trenches, or pipes with long term covers or fencing which still must be checked daily per Condition of Approval 8.7. Monitoring does not make the site 'active'**.

7. The first section of Condition of Approval 7.4 (Tracking Suitable Habitat Feature Disturbances, Map Updating, and Reporting) on page 56-57 of the ITP, as amended, shall be amended to read as follows:

7.4 Tracking Suitable Habitat Feature Disturbances, Map Updating, and Reporting. **The original Baseline Map Book, Exhibit 5, indicated all the Land Cover and Habitat Types from the original ITP Application. As of Amendment 7, Exhibit 5 has only shown the Construction Footprint and not the Land Cover and Habitat Types which are tracked separately. Because Land Cover and Habitat Types have been changing over time,** Permittee shall maintain Geographic Information System (GIS) shapefile layers and associated maps depicting:

1) Permittee shall maintain mapped areas identified as habitat features suitable for Covered Species (see Condition of Approval 7.4.1 for habitat features) within the Construction Footprint (as depicted in the ~~Baseline Map Book, Exhibit 5, Baseline Maps 1 through 43 55 Exhibit 9~~ and generated from

the metadata provided by the Permittee). Within each Work Area of the Construction Footprint, Permittee shall track, in real time, acreage of identified habitat features suitable for Covered Species to be disturbed by Covered Activities. This tracking shall be maintained using a GIS format and include photo documentation of the habitat feature within a Work Area conducted no more than 30 days prior to initiation of Covered Activities. The photo documentation of each habitat feature shall include a minimum of four photos: one taken each from the North, South, East, and West and facing the habitat feature. There shall be separate photo documentation of each type of habitat feature suitable for Covered Species within a Work Area. Accordingly, if there are multiple habitat feature types in a Work Area, there will need to be multiple sets of photo documentation for that Work Area. Permittee shall maintain the GIS layers and metadata for those maps and shall update the GIS layers and maps if there are any new detections of Covered Species or changes to their habitat feature types. Permittee shall provide GIS layers and the associated metadata to CDFW at least **14 calendar** ~~ten business~~ days prior to initiation of Covered Activities at any Work Area.

8. Condition of Approval 7.4.1 (Suitable Habitat Features) on pages 57-58 of the ITP, as amended, shall be amended to read as follows:

7.4.1. Permittee shall track the following suitable habitat features for the Covered Species:

7.4.1.1. CTS Upland refugia (***north of the City of Fresno at Dakota Ave., west of southbound SR 99, and north of the San Joaquin River east of southbound SR 99 and within 0.7 miles of a potential breeding locations as depicted by the CTS breeding area buffer line in Exhibit 5)***)

- California annual grassland
- Pasture
- Barren
- Fallow field
- Inactive agriculture
- Ruderal

7.4.1.2 CTS Aquatic breeding (***north of the City of Fresno at Dakota Ave., west of southbound SR 99, and north of the San Joaquin River east of southbound SR 99 within 0.7 miles of the Construction Footprint as depicted by the CTS breeding area buffer line in Exhibit 5)***)

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- Vernal pool
- Open water (including ponding basins and stock ponds)
- Seasonal wetland

9. Condition of Approval 7.7 (Monthly Compliance Report) on page 59-60 of the ITP, as amended, shall be further amended to read as follows:

7.7 Monthly Compliance Report. For the duration of the Construction Footprint Activities and Lazy K Ranch Mitigation Site Activities, the Designated Representative or Designated Biologist(s) shall compile the observation and inspection records identified in Condition of Approval 7.3 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 **as supported by the Monitoring Logs to be included in a separate attachment**. Monthly Compliance Reports shall include:

- 1) **A table summarizing all pre-construction survey results.**
- 2) **A table summarizing all Covered Activities performed the previous month and current month, organized by Work Area and Covered Activity start date. Each Work Area shall include the original pre-construction survey report name and date performed, any updated surveys. If applicable, any LSAA subnotification number shall also be included to ensure compliance with Condition of Approval 3.**
- 3) **A summary and map of all burrow/den excavations showing:**
 - **When and where burrows/dens were excavated**
 - **Burrows/dens avoided by 50 feet**
 - **When and where dens were blocked and unblocked**
 - **New burrows/dens found since the pre-construction survey**
 - **Which CDFW-approved Biological Monitors excavated the dens in compliance with all Conditions of Approval**
- 4) **A table including the date Conditions of Approval compliance issues were observed, the date that these compliance issues were resolved, and an explanation if the compliance issues were not resolved the same day.**
- 5) ~~4)~~ **An accounting of the number of acres that have been disturbed within the Project area, both for the prior month and a total since ITP issuance.;**

- 6) ~~2)~~ Cumulatively disturbed acreage of identified habitat features for each of the Covered Species within the Project Area, both for preceding 30 days and a total since ITP issuance. ~~;~~ ~~and~~
- 7) ~~3)~~ The acreages of identified habitat features anticipated to be disturbed over the succeeding 30 days. ~~;~~ ~~and~~
- 8) ~~4)~~ The up-to-date GIS layers, associated metadata, and photo documentation used to track acreages disturbed during Covered Activities and as identified in Conditions of Approval 7.4 and 7.5.

Monthly Compliance Reports shall be submitted to CDFW's Regional Office no later than the 15th day of the month. The Monthly Compliance Report is due at the office listed in the Notices section of this ITP and via e-mail to RRR.R4@wildlife.ca.gov **and the appropriate** CDFW's Regional Representative. ~~At the time of this ITP's approval, the CDFW Regional Representative is Sarah Boogay (sarah.boogay@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.

10. Condition of Approval 8.2 (Habitat Management Land Acquisition) on page 62 of the ITP, as amended, shall be further amended to read as follows:

8.2 Equipment Fueling. Mobile equipment fueling and maintenance shall occur at least 100 feet from identified **aquatic** habitat features suitable for Covered Species, as defined by Condition of Approval ~~7.47.5~~; ~~the habitat features are subject to~~ **and as updated per Condition of Approval 7.5**. Fixed equipment fueling and maintenance areas, either permanently or temporarily fixed, shall be located at a distance of at least 100 feet from Covered Species **aquatic** habitat, and shall include fixed containment devices that will preclude fuel or other liquids from exiting the equipment fueling maintenance area in the event of a spill or leak. Sufficient spill containment and cleanup equipment shall be present at all mobile, temporary, and permanent equipment fueling locations.

11. Condition of Approval 8.7 (Habitat Management Land Acquisition) on page 63 of the ITP, as amended, shall be further amended to read as follows:

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8.7 Daily Entrapment Inspections. The Biological Monitor(s) shall inspect all open **and covered** holes, sumps, and trenches, **and pipes** within each Work Area at the beginning, middle, and end of each day for trapped Covered Species **excepting weekends and Holidays when no work is being done during the dry season, June 15 to October 31**.

- All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are **over** ~~between two and eight inches~~ feet deep shall be covered **or secured with a non-climbable barrier in a manner that ensures the Covered Species cannot breach the perimeter of the trench, hole, sump or other excavation** when workers or equipment are not actively working in the **trench, hole, sump or other excavation, and at the end of each workday**, which includes cessation of work overnight, or shall have **Alternatively**, an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope **may be used where feasible**.
- ~~All trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and greater than eight feet deep shall be covered when workers or equipment are not actively working in the excavation and at the end of each workday.~~
- To prevent inadvertent entrapment of Covered Species or any other animals, ~~the~~ **a Designated Biologist approved for CTS, in all areas with potential for CTS as described in Condition of Approval 7.4.1.1 and 7.4.1.2, and a Biological Monitor(s) (one person may fill both roles)** shall oversee the **initial installation of all coverings and barriers** of all excavated, trenches, holes, sumps, or other excavations with a greater than 1:1 (45 degree) slope of any depth with barrier material (such as hardware cloth) at the close of each working day such **to ensure** that Covered Species are unable to **breach the perimeter (e.g., dig or squeeze under the barrier and become entrapped)**.
- The outer two feet of excavation cover shall **either** conform to solid ground so that gaps do not occur between the cover and the ground and **be** secured with soil staples or ~~similar~~ **other** means to prevent gaps **if a pliable material is used (e.g. hardware cloth or visqueen), or have any gaps filled in, if a hard cover is used, in such a**

manner that it will be visually evident if the fill has been disturbed (e.g. coat with tracking medium).

- ~~Each morning, mid-day, the end of each day (including weekends and any other non-workdays), and immediately before~~ ***backfilling***, trenches, holes, sumps, or other excavations are backfilled, the Biological Monitor(s) shall ***be*** thoroughly inspected ~~them~~ for trapped Covered Species.
- Trenches, holes, sumps, or other excavations that are covered long term ***by materials that could be moved by wildlife due to the covering weight or size*** shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. ***Immovable coverings (e.g., metal plating or very large plywood) shall be inspected daily for breaches around the edges and only if such evidence is found shall the covers be removed by the work crews so that the Biological Monitor may inspect inside.***
- If any worker discovers that Covered Species have become trapped, ***regardless of who created the hole (e.g., utility manholes)***, Permittee ***work crews*** shall cease all Covered Activities in the vicinity and notify the Designated Biologist(s) immediately.
- ***All pipes over one inch in diameter laying on the ground or sticking up from the ground less than eight inches shall be capped to prevent CTS for entering and becoming trapped, in all areas with potential for CTS as described in Condition of Approval 7.4.1.1 and 7.4.1.2.***
- Permittee, ~~and~~ Biological Monitor(s), ***and Project workers*** shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue. ~~It~~ ***if*** the Covered Species is CTS, the Designated Biologist(s) shall capture and relocated the animal as per the ***CDFW-approved*** CTS Salvage and Relocation Plan described in Condition of Approval 8.13.1 ***including consultation with CDFW as warranted.***

12. Condition of Approval 8.11 (Vegetation Removal Methods) on page 64 of the ITP, as amended, shall be further amended to read as follows:

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8.11 Vegetation Removal Methods. Vegetative cover shall be removed prior to grading in Work Areas with identified habitat features suitable for Covered Species ***per Condition of Approval 7.4.1 as determined during pre-construction surveys*** (~~as depicted in the Baseline Map Book, Exhibit 5, Baseline Maps 1 through 54~~). Where possible, hand tools (e.g., trimmer, chain saw, etc.) shall be used to trim or remove shrub vegetation. All vegetation removal in areas with identified habitat features suitable for Covered Species shall be monitored directly (e.g., directly observed) by the Designated Biologist(s) to minimize impacts to Covered Species. ***The applicable Designated Biologist(s) shall also be on site for new subsequent vegetation and initial soil disturbing activities with the exception that for SJKF, a SJKF General Biological Monitor may serve as monitor. This includes areas that may have been disturbed previously and may or may not have been suitable habitat at the time of initial disturbance, but due to the passage of time have converted into suitable habitat.***

13. Condition of Approval 8.13.1 (CTS Salvage and Relocation Plan) on pages 65 of the ITP, as amended, shall be further amended to read as follows:

8.13.1 CTS Salvage and Relocation Plan. The Permittee shall prepare a CTS Salvage and Relocation Plan. The CTS Salvage and Relocation Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area which represents potential breeding and upland habitat (~~as depicted in the Baseline Map Book, Exhibit 5, Baseline Maps 1 through 54~~); those areas within 1.3 miles of known breeding habitat for the Covered Species ***as determined for pre-construction surveys per Condition of Approval 8.13.2***; an identification of the survey, hand excavation, capture handling, and relocation methods; identification of relocation area(s); and identification of a wildlife rehabilitation center or veterinary facility that routinely evaluates or treats amphibians. The CTS Salvage and Relocation Plan shall be submitted to CDFW for approval prior to the beginning of Covered Activities. Covered Activities within the Project Area may not proceed until the CTS Relocation Plan is approved in writing by CDFW. Only approved Designated Biologist(s) are authorized to capture and handle CTS.

14. Condition of Approval 8.13.2 (CTS Pre-construction Surveys) on page 65 of the ITP, as amended, shall be further amended to read as follows:

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8.13.2 CTS Pre-construction Surveys. No more than 30 days prior to starting Covered Activities, the Designated Biologist(s) with assistance (if such assistance is needed) from the General Biological Monitor(s) shall survey the Work Area(s) located within that portion of the Construction Footprint that has identified habitat features suitable for CTS **as determined per Condition of Approval 7.4.1.1 and 7.4.1.2 with reference to** ~~as depicted in the Baseline Maps submitted with all applications Book, Exhibit 5~~ **0.7-mile CTS breeding area buffer line, Baseline Maps 1 through 54) and Google Earth images of the Work Area during appropriate seasons**. These surveys shall provide 100 percent visual coverage of the Work Area(s) and a 50-foot buffer zone. If any CTS are found within the Work Area or 50-foot buffer zone(s), the Designated Biologist(s) shall relocate them from the Work Area or buffer zone(s) in accordance with the CDFW-approved CTS Salvage and Relocation Plan prepared in accordance with Condition of Approval 8.13.1 above. The Designated Biologist(s) shall submit a report documenting the results of the pre-construction surveys to CDFW ~~within five days after performing the surveys~~ **at least 14 days prior to commencement of Covered Activities within the Work Area. If no Covered Activities are initiated within the Work Area for over 30 days, or if Covered Activities were not initiated throughout the identified Work Area, or if new Covered Activities will be conducted, then a new pre-construction survey will need to be submitted.**

15. Condition of Approval 8.13.4 (Small Mammal Burrow Excavation) on page 66 of the ITP, as amended, shall be further amended to read as follows:

8.13.4 Small Mammal Burrow Excavation. In each Work Area to be disturbed that is within 0.7 mile of known or potential breeding habitat for CTS **as determined per Condition of Approval 8.13.2**~~(as depicted in the Baseline Map Book, Exhibit 5, Baseline Maps 1 through 54)~~, all small mammal burrows flagged per Condition of Approval 8.13.3 that cannot be fully avoided by at least 50 feet shall be fully **hand** excavated by ~~hand~~ **Designated Biologist(s) who may be assisted by General Biological Monitors approved for CTS under the direct supervision of the Designated Biologist(s). For large burrow complexes or burrows in heavily compacted soils, mechanical assistance may be utilized according to the CDFW-approved CTS**

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Salvage and Relocation Plan. This excavation requirement applies regardless of if the burrow is located within the Work Area or the Work Area's 50-foot buffer zone **except with written concurrence from CDFW or when the burrows are outside of the Construction Footprint.** The Designated Biologist(s) shall relocate any live CTS discovered during burrow excavation in accordance with the salvage and relocation plan required in Condition of Approval 8.13.1 above. Excavation **shall be completed** ~~occur~~ no more than 14 days after **CDFW issues concurrence with the 14-Day Notification** ~~completion~~ of the ~~CTS pre-construction surveys~~ **for the Work Area** as described in Condition of Approval 8.13.2 above. **The Designated Biologist(s) shall submit a report documenting the results of the burrow excavation to CDFW within five days after completing the excavation.**

16. Condition of Approval 8.13.9 (Dry Season Work) on page 67 of the ITP, as amended, shall be further amended to read as follows:

8.13.9 Dry Season Work. Fill, vegetation removal, or other ground-disturbing activities within or immediately adjacent to CTS potential breeding habitat **as determined per Condition of Approval 8.13.2** ~~(as depicted in the Baseline Maps Book, Exhibit 5, Baseline Maps 1 through 54),~~ shall be confined to the dry season from June 15th to October 31st.

17. Condition of Approval 8.13.11 (Night Work) on page 68 of the ITP, as amended, shall be further amended to read as follows:

8.13.11 Night Work. Permittee shall strictly prohibit all Covered Activities at night (the period between sunset and sunrise) in Work Areas within 1.3 miles of potential or known CTS breeding sites **as determined per Condition of Approval 8.13.2** ~~(as depicted in the Baseline Maps Book, Exhibit 5, Baseline Maps 1 through 54),~~ when a 70 percent or greater chance of rainfall is predicted within 72 hours of Covered Activities until zero percent chance of rain is forecast. This restriction is not applicable to Covered Activities at night in Work Areas within 1.3 miles of potential or known CTS breeding sites once they have been encircled with CTS exclusion fencing pursuant to Conditions of Approval 8.13.5 and 8.13.6. However, even after salamander exclusion fencing is installed, this condition still applies to construction-related traffic moving through areas within 1.3 miles of potential or known CTS

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breeding sites **as determined per Condition of Approval 8.13.2** (as depicted in the ~~Baseline Map Book, Exhibit 5, Baseline Maps 1 through 54~~) that are outside of the CTS exclusion fencing (e.g., on roads outside a fenced Work Area).

18. Condition of Approval 8.14.1 (Pre-construction SWHA Surveys) on page 69 of the ITP, as amended, shall be further amended to read as follows:

8.14.1 Pre-construction SWHA Surveys. The Designated Biologist(s) shall conduct pre-construction surveys during the SWHA nesting season (February 15th through September 15th), prior to conducting Covered Activities in each Work Area. Pre-construction surveys shall occur no more than 30 days prior to beginning Covered Activities and shall include a 0.5-mile buffer around each Work Area. The Designated Biologist(s) shall survey all suitable habitat/nest trees for nesting SWHA. The Designated Biologist(s) or Designated Representative shall provide the nesting season survey results to CDFW in a written report no more than five days prior to beginning Covered Activities. The Designated Biologist(s) shall submit a report documenting the results of the pre-construction surveys to CDFW in a written report ~~no more than five days prior to beginning Covered Activities~~ **at least 14 days prior to commencement of Covered Activities within the Work Area. If no Covered Activities are initiated within the Work Area for over 30 days, or if Covered Activities were not initiated throughout the identified Work Area, or if new Covered Activities will be conducted, then a new pre-construction survey will need to be submitted.**

19. Condition of Approval 8.15.1 (SJKF Survey) on page 69 of the ITP, as amended, shall be further amended to read as follows:

8.15.1 SJKF Survey. No more than 30 days prior to Permittee beginning Covered Activities in each Work Area, the Designated Biologist(s) with assistance (if such assistance is needed) from the General Biological Monitor(s) shall perform a pre-construction survey for SJKF dens (potential, known, active, atypical, and natal) in the particular **each** Work Area. The pre-construction survey shall cover the Work Area and a buffer zone of 500 feet in size beyond the Work Area's boundaries. **The Designated Biologist(s) shall submit a report documenting the results of the pre-construction survey to CDFW at least 14**

days prior to commencement of Covered Activities within the particular Work Area. If no Covered Activities are initiated within the Work Area for over 30 days, or if Covered Activities were not initiated throughout the identified Work Area, or if new Covered Activities will be conducted, then a new pre-construction survey will need to be submitted.

20. Condition of Approval 8.15.3 (SJKF Survey) on page 70 of the ITP, as amended, shall be further amended to read as follows:

8.15.3 SJKF Den Excavation and Den Entrance Blocking. For active dens and potential dens that exhibit signs of SJKF use or characteristics suggestive of SJKF dens (including dens in natural substrate and in/under man-made structures) that cannot be avoided as per Condition of Approval 8.15.2, and if, after four consecutive nights of monitoring with tracking medium or infrared camera, the Designated Biologist(s) has determined that SJKF is not currently present, the den may be excavated or blocked temporarily immediately following monitoring completion, the latter situation (blocking, as opposed to destruction) being required when the den will not be directly impacted by construction. Potential SJKF dens without any signs of SJKF use and demonstrated through monitoring to be unoccupied by SJKF may be excavated **by Designated Biologist(s) who may be assisted by General Biological Monitors** under the *direct* supervision of the Designated Biologist(s) without advance tracking or camera monitoring. Natal dens shall not be excavated until the pups and adults have vacated and then only after consultation with the USFWS and CDFW. If the excavation process reveals evidence of current use by SJKF then den excavation shall cease immediately, and tracking or camera monitoring as described above shall be conducted/resumed. Excavation of the den may be completed when, in the judgment of the Designated Biologist(s), the SJKF has escaped from the partially excavated den. SJKF dens shall be carefully excavated until it is certain no individuals of SJKF are inside. Dens to be destroyed shall be fully excavated, filled with dirt, and compacted to ensure that SJKF cannot reenter or use the den during Covered Activities. Dens to be blocked (e.g., not within the construction footprint but within the no disturbance buffer) shall be blocked with sandbags or other CDFW-approved material that ensures that SJKF cannot reenter or use the den during Covered Activities, but that can be easily removed at the

cessation of construction activities in a given **each** Work Area. ~~As soon as construction activities cease, the entrance blocking material shall be immediately removed.~~ If an individual SJKF does not vacate a den within the Work Area within a reasonable timeframe, Permittee shall contact USFWS and CDFW and get written guidance (e-mail will suffice) from both agencies prior to proceeding with den excavation.

21. Condition of Approval 8.15 (Specific Measures for SJKF) on page 71 of the ITP, as amended, shall be further amended to add the following:

8.15.5 Unblocking Temporarily Blocked SJKF Dens. SJKF dens blocked as per Condition of Approval 8.15.3 shall be unblocked (material at entrance removed) as soon as active construction ceases or no later than 30 calendar days after a lapse of Covered Activities per Condition of Approval 7.1.5. Dens shall not be blocked for more than 30 days unless active continuous construction is occurring, and written approval has been obtained from CDFW.

8.15.6 Pile Driving near known or potential SJKF Dens and/or SJKF known or potentially occupied habitat. The Designated Biologist will be present on-site during all pile driving activities within 500 feet of any known or potential SJKF den and/or SJKF known or potentially occupied habitat for the duration of the pile driving activity. In areas where all initial ground disturbance has been completed, a General Biological Monitor may over see this activity, provided a Designated Biologist is still available on call if needed.

22. Condition of Approval 8.57.2.1 (HaOrGr Enhancement Plan) on page 88 of the ITP, as amended, shall be further amended to read as follows:

8.57.2.1 HaOrGr Enhancement Plan. The Designated Biologist(s) shall prepare a HaOrGr Enhancement Plan (Enhancement Plan). The Enhancement Plan shall include, but not be limited to, a discussion (and map) of the proposed enhancement site or sites that shall encompass no less than 1.37 acres of intact, created, or restored vernal pool(s) that contain physical soils characteristics associated with claypan vernal pool habitat; a five year monitoring plan that shall include at least three monitoring events from April through

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July annually; quantifiable multi-year survival rates and other success criteria; pesticide free invasive species eradication methods and other adaptive management strategies. The Enhancement Plan shall be submitted to CDFW for approval. Prior to initiating vegetation- or ground-disturbing activities that would cause take of HaOrGr or affect its habitat (as depicted in **Exhibit 10** ~~the Baseline Map Book, Exhibit 5, Baseline Maps 55~~) the Permittee shall obtain CDFW's written acceptance of the Habitat Enhancement Plan for HaOrGr.

23. Condition of Approval 8.57.2.3 (HaOrGr Pre-construction Surveys) on page 89 of the ITP, as amended, shall be further amended to read as follows:

8.57.2.3 HaOrGr Pre-construction Surveys. Prior to starting vegetation- or ground-disturbance Covered Activities in all Work Areas depicted in **Exhibit 10** ~~the Baseline Map Book, Exhibit 5, Baseline Maps 55~~, the Designated Biologist shall conduct focused botanical surveys for HaOrGr. The botanical surveys shall be floristic in nature and **shall provide 100 percent visual coverage for all suitable habitat within the entire Work Area and a 50-foot buffer zone** and shall be timed appropriately to detect HaOrGr. ~~These surveys shall provide 100 percent visual coverage of the Work Area and a 50-foot buffer zone.~~ Permittee shall clearly mark all HaOrGr locations found within the right-of-way. The Permittee shall provide the survey results to CDFW in a written report **within five (5) days after performing the surveys** ~~no more than 30 days prior to the beginning of Covered Activities~~ within the Work Area.

24. Condition of Approval 8.57.3.1 (HaOrGr Pre-O&M Activities Surveys) on page 90 of the ITP, as amended, shall be further amended to read as follows:

8.57.3.1 HaOrGr Pre-O&M Activities Surveys. Prior to starting any O&M vegetation- or ground-disturbance Covered Activities in all O&M Work Areas depicted in **Exhibit 10** ~~the Baseline Map Book, Exhibit 5, Baseline Maps 55~~, the Designated Biologist shall conduct botanical surveys. The botanical surveys shall be floristic in nature and cover the entire O&M Work Area and shall be timed appropriately to detect HaOrGr. These surveys shall provide 100 percent visual coverage of the Work Area and a 50-foot buffer zone. The Permittee shall provide the survey results to CDFW in a

written report no more than 30 days prior to the beginning of O&M Covered Activities within the O&M Work Area.

25. The list of Attachments on pages 104 of the ITP, as amended, shall be further amended to read as follows:

Attachments:

EXHIBIT 1	Map of Project Location
EXHIBIT 2	Map of Alignment Construction Footprint
EXHIBIT 3	Map of Alignment Construction Footprint and Mitigation Site
EXHIBIT 4	Map of Areas at the Mitigation Site
EXHIBIT 5	Construction Footprint Baseline Map Book
EXHIBIT 6	June 2015 Design Refinements
EXHIBIT 7	Storey to Fresno Design Refinements
EXHIBIT 8	Land Conversion Map
EXHIBIT 9	PP1-North Extension Design Refinements
EXHIBIT 10	Pools Occupied by Hairy Orcutt Grass
EXHIBIT 11	Access Road Impacts to Vernal Pools
ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2	Declining Amphibian Populations Task Force Fieldwork Code of Practice
ATTACHMENT 3A, 3B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 4	Letter of Credit Form
ATTACHMENT 5	Mitigation Payment Transmittal Form

26. Exhibit 5 (“Construction Footprint Map Book”) in the list of attachments on page 104 of the ITP, as amended, is amended to return the California tiger salamander aquatic feature buffer line inadvertently removed from Exhibit 5 when it changed from showing land cover types to just the Construction Footprint in Amendment 7 but reduces it from 1.3 miles to 0.7 miles to match the distance that requires burrow excavation implementation.

The corresponding measures in the Mitigation Monitoring and Reporting Plan (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 the 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 amount of take of the Covered Species compared to the Project as originally approved; however, by implementing the avoidance, minimization, and mitigation measures contained in the ITP, as amended, and in this Amendment, this Amendment will not 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 makes seventeen specific changes to the ITP, as amended.

First, this Amendment updates the Principal Officer and Contact Person.

Second, this Amendment removes application of dust suppressants from the list of Covered Activities on page 45 because it is not a vegetation- or ground-disturbance activity that would preclude subsequent re-surveys prior to vegetation- or ground-disturbance Covered Activities in these work areas.

Third, this Amendment corrects the header for Condition of Approval 6.2 changing it from Designated Biologist(s) to Biological Monitor(s) which applies to both Designated Biologist(s) and General Biological Monitor(s).

Fourth, this Amendment allows for alternatives to current boundary delineation methods in Condition of Approval 6.10.

Fifth, this Amendment clarifies what needs to be included in the 14-Day Notification and when a Work Area becomes inactive requiring new Pre-Construction Surveys and a new 14-Day Notification.

Sixth, this Amendment allows for a San Joaquin kit fox General Biological Monitor to serve as monitor for new subsequent vegetation and soil disturbing activities in Condition of Approval 7.3 and 8.11.

Seventh, this Amendment adds holes, sumps, trenches, pipes to the inspection list in Condition of Approval 7.3 and clarifies that the once a month inspection for inactive areas is not applicable if those areas have long term covered holes, sumps, trenches, or pipes which must still be checked daily.

Eighth, this Amendment clarifies how Exhibit 5 has been changed through the course of the amendment process and now indicates only the Construction Footprint and no longer shows all the Land Cover and Habitat Types from the original ITP Application and adds reference to Exhibit 10 for hairy Orcutt grass Conditions of Approval.

Ninth, this Amendment changes the timing for the requirement to provide Geographic Information System layers and the associated metadata to CDFW from 10 days to at least 14 calendar days to match Condition of Approval 7.1.

Tenth, this Amendment changes the geographic areas considered to have potential habitat for California tiger salamander, limiting the range to specifically north of the City of Fresno at Dakota Ave, west of southbound SR 99, and north of the San Joaquin River east of southbound SR 99 as depicted in the updated Exhibit 5 Map Book.

Eleventh this Amendment clarifies what needs to be included in the Monthly Compliance Report.

Twelfth, this Amendment changes the equipment fueling requirement to be 100 feet from aquatic habitat feature because avoidance of all suitable habitat, including Barren, is not feasible.

Thirteenth, this Amendment allows for alternatives to current excavation coverings or ramping for animal escape in Condition of Approval 8.7.

Fourteenth, this Amendment allows for mechanical assistance to be utilized according to the CDFW-approved California tiger salamander Salvage and Relocation Plan and clarifies that small mammal burrow excavation will extend into the 50-foot buffer zone except when the buffer zone is outside of the Construction Footprint.

Fifteenth, this Amendment allows for General Biological Monitors under the direct supervision of the Designated Biologist(s) to assist with the excavation of potential San Joaquin kit fox dens.

Sixteenth, this Amendment adds two new Specific Measures for San Joaquin kit fox, one for unblocking temporarily blocked San Joaquin kit fox Dens and one for pile driving.

Seventeen, this Amendment returns the California tiger salamander aquatic feature buffer line inadvertently removed from Exhibit 5 when it changed from showing land

cover types to just the Construction Footprint in Amendment 7 but reduces it from 1.3 miles to 0.7 miles to match the distance that triggers burrow excavation.

CDFW has determined that this Amendment will not result in an increase in take of the Covered Species, any additional impacts of the taking that would arise will be minimized and fully mitigated through implementation of the Conditions of Approval. Accordingly, there will be no increase in Project impacts to the Covered Species with this Amendment.

Issuance of this Amendment 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 March 2014 that the Project as approved, met the standards for issuance of an ITP under CESA. CDFW determined in August 2014, in June 2015, in September 2016, in October 2016, in June 2017, in August 2018, in February 2109, in May 2019, in June 2019, in August 2019, in February 2020, in September 2020, and in October 2020 that Minor Amendment No. 1, Major Amendments No. 2 and No. 3, Minor Amendment No. 4, and Major Amendments No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, No. 13, and Major Amendment No. 14 respectively, to the ITP 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, will not result in increased impacts to the Covered Species or Covered Species habitat. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the Conditions of Approval of 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 this Amendment.

Discussion: CDFW issued the original ITP in March 2014, Minor Amendment No. 1 to the ITP in August 2014, Major Amendment No. 2 in June 2015, Major Amendment No. 3 in September 2016, Minor Amendment No. 4 in October 2016, Major Amendment No. 5 in June 2017, Major Amendment No. 6 in August 2018, Major Amendment No. 7 in February 2019, Major Amendment No. 8 in May 2019, Major Amendment No. 9 in

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June 2019, Major Amendment No. 10 in August 2019, Major Amendment No. 11 in February 2020, Major Amendment No. 12 in September 2020, Major Amendment No. 13 in October 2020 and Major Amendment No. 14 in September 2021 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the California High-Speed Train: Merced to Fresno Section Final Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) (SCH No. 2009091125) certified by the lead agency, California High-Speed Rail Authority, on May 3, 2012; Addendum 2013-1 to the Final Merced to Fresno Project Section EIR/EIS (October 2013); and Addendum 2013-2 to the Final Merced to Fresno Section Project EIR/EIS (November 2013). As explained in the findings below, CDFW finds for purposes of CESA that this Amendment represents a major change to the ITP, as amended. However, for the reasons explained above, CDFW concludes that approval of this 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 California High Speed Rail Authority 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 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 updates the Principal Officer and Contact Person, removes application of dust suppressants from the list of Covered Activities on page 45 because it is not a vegetation- or ground-disturbance activity that would preclude subsequent re-surveys prior to vegetation- or ground-disturbance Covered Activities in these work areas, corrects the header for Condition of Approval 6.2 changing it from Designated Biologist(s) to Biological Monitor(s) which applies to both Designated Biologist(s) and General Biological Monitor(s), allows for alternatives to current boundary delineation methods in Condition of Approval 6.10, clarifies what needs to be included in the 14-Day Notification and when a Work Area becomes inactive requiring new pre-construction surveys and a new 14-Day Notification, allows for a San Joaquin kit fox General Biological Monitor to serve as monitor for new subsequent vegetation and soil disturbing activities in Condition of Approval 7.3 and 8.11, adds holes, sumps, trenches, pipes to the inspection list in Condition of Approval 7.3 and clarifies that the once monthly inspection for inactive areas is not applicable if those areas have long term covered holes, sumps, trenches, or pipes which must still be checked daily, clarifies how Exhibit 5 has been changed through the course of the amendment process and now indicates only the Construction Footprint and no longer shows all the Land

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Cover and Habitat Types from the original ITP Application, adds reference to Exhibit 10 for hairy Orcutt grass Conditions of Approval, changes the timing for the requirement to provide Geographic Information System layers and the associated metadata to CDFW from 10 days to at least 14 calendar days to match Condition of Approval 7.1, changes the geographic areas considered to have potential habitat for California tiger salamander, limiting the range to specifically north of the City of Fresno at Dakota Ave west of southbound SR 99 and north of the San Joaquin River east of southbound SR 99 as depicted in the updated Exhibit 5 Map Book, clarifies what needs to be included in the Monthly Compliance Report, changes the equipment fueling requirement to be 100 feet from aquatic habitat feature because avoidance of all suitable habitat, including Barren, is not feasible, allows for alternatives to current excavation coverings or ramping for animal escape in Condition of Approval 8.7, allows for mechanical assistance to be utilized according to the CDFW-approved California tiger salamander Salvage and Relocation Plan and clarifies that small mammal burrow excavation will extend into the 50-foot buffer zone except when the buffer zone is outside of the Construction Footprint, allows for General Biological Monitors under the direct supervision of the Designated Biologist(s) to assist with the excavation of potential San Joaquin kit fox dens, adds two new Specific Measures for San Joaquin kit fox, one for unblocking temporarily blocked San Joaquin kit fox Dens and one for pile driving, and returns the California tiger salamander aquatic feature buffer line inadvertently removed from Exhibit 5 when it changed from showing land cover types to just the Construction Footprint in Amendment 7 but reduces it from 1.3 miles to 0.7 miles to match the distance that triggers burrow excavation.

As described above, these changes to the ITP, as amended, will substantially modify the minimization, mitigation, or monitoring measures in the ITP, as amended. CDFW has determined that the changes 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 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, California 94244-2090

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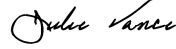
Alternatively, the Permittee shall email the digitally signed amendment to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.

Attachment:

ATTACHMENT A15-1 EXHIBIT 5 Construction Footprint Map Book pages 14-43

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 10/4/2022

DocuSigned by:

EA83E09EE08945A

Julie A. Vance
Regional Manager
Central Region

ACKNOWLEDGMENT

The undersigned: (1) warrants that they are 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: DocuSigned by:
Scott Smith
5A863040C9EE478...

Date: 10/10/2022

Printed Name: SCOTT SMITH

Title: NEPA Compliance Manager

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