

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

NORTHERN REGION

601 LOCUST STREET

REDDING, CALIFORNIA, 96001

AMENDMENT NO. 2

(A Minor Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2004-004-01

CalPortland Company

Gray Rocks Quarry in Shasta County

INTRODUCTION

On May 12, 2011, the California Department of Fish and Wildlife (formerly California Department of Fish and Game) (CDFW) issued Incidental Take Permit No. 2081-2004-004-01 (ITP) to Lehigh Southwest Cement Company (Permittee) authorizing take of Shasta Salamander (*Hydromantes shastae*) (Covered Species) associated with and incidental to operation of the Gray Rocks Quarry in Shasta County, California (Project). The Project as described in the ITP includes a limestone mining operation to produce portland cement and the implementation of the amended reclamation plan. In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

Minor amendment No. 1 was completed in December 2011 at the request of Permittee Lehigh Southwest Cement Company. Stop-Work Order language was modified to more accurately describe the formal suspension process pursuant to California Code of Regulations, Title 14, section 783.7 and language pertaining to issuance of a stop work order by CDFW was removed.

In November 2021 a change of ownership occurred, and the ITP was transferred to Lehigh Cement West, Inc.

In October 2022 a change of ownership occurred, and the ITP was transferred to CalPortland Company.

In July 2022, CalPortland Company and CDFW discussed the Permittee's difficulty meeting certain environmental constraints of the pre-disturbance Covered Species survey protocol being used. After consultation with subject matter experts, CDFW determined that minor modifications to the protocol would result in enhanced protection for the Covered Species in addition to greater ability of the Permittee to remain in compliance with the ITP. Upon review of the ITP language, CDFW discovered that no modification mechanism exists, no specific survey protocol is referenced, the number of surveys required by the survey protocol being used is inconsistent with the number

required by the ITP, and administrative review processes associated with pre-disturbance surveys required establishment or clarification.

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

The Amendment revises the language of Measure 5.2 as follows:

- I. A protocol for pre-disturbance Covered Species surveys is specified.
- II. The minimum number of required pre-disturbance surveys is made consistent with the specified protocol.
- III. A process for protocol modification request, review, and approval is established and the process for relocation methods and relocation site review and approval is clarified.

AMENDMENT

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

1. Measure 5.2 on page 4 of the ITP (Pre-disturbance surveys) shall be amended to read:

Permittee shall minimize the potential direct take of Covered Species by having ~~two~~ ***three*** site surveys conducted for Covered Species by Department approved biologists during the October 15 to May 15 period immediately prior to initial site disturbance in the microhabitats most likely to support the Covered Species. ***Surveys shall be conducted according to the methodologies described in "Survey Protocol for the Shasta Salamander" Version 3.0, October 1999 ("Protocol"), or latest version thereof.*** Covered Species discovered shall be relocated where there is no potential for take. ***Proposed modifications to the Protocol***, relocation methods, and the relocation site(s) shall be ***submitted in writing and*** approved by CDFW ***prior to implementation.***

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

FINDINGS

Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment

increase other Project impacts on the Covered Species (i.e., “impacts of taking” as used in Fish and Game Code Section 2081, subd. (b)(2)).

Discussion: This Amendment makes three specific changes to the ITP as originally issued. This Amendment increases the number of required pre-disturbance surveys from two to three, specifies use of a specific survey protocol, and describes the required process for proposing modifications to the Protocol and obtaining CDFW approval for relocation methods and relocation sites.

CDFW has determined that the revisions should result in a net benefit to the Covered Species by reducing the potential for take due to additional survey and relocation efforts and require use of standardized survey methodology. Given the circumstances of this Project, CDFW believes that the changes to the Conditions of the ITP described in this Amendment will not increase impacts to the Covered Species.

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

Discussion: CDFW determined in May 2011 that the Project, as approved, met the standards for issuance of an ITP under CESA. This determination included findings that, among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP as amended: (1) is intended to reduce the amount or severity of Project impacts on the Covered Species, as discussed above, and (2) updates the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species to reflect the best-available science. 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 4, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the ITP in May 2011 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 declarations and initial studies adopted by Shasta County, the lead agency for the Project. The revisions are anticipated to result in enhanced protection to the Covered Species by reducing the

potential for take. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment is a minor change to the original ITP. CDFW finds for the same reasons under CEQA that approval of the Amendment will not result in and does not have the potential to create any new significant or substantially more severe environmental effects than previously analyzed and disclosed by the lead agency review of the Project, particularly with respect to the impacts authorized by CDFW pursuant to the ITP as amended. As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of this Amendment.

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

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

The Permittee shall sign and return this ITP Amendment to CDFW. A manual or digital signature is acceptable, provided a digital signature complies with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned. Manual (wet) signatures on duplicate original paper copies shall be returned by the Permittee via registered first-class mail or overnight delivery to the following address:

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

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CALPORTLAND COMPANY
Gray Rocks Quarry

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 12/23/2022

DocuSigned by:
Tina Bartlett
1D82ADE7303A474

Tina Bartlett, Regional Manager
Northern Region

ACKNOWLEDGMENT

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

By: *Desiree Haggard* Date: 01/11/2023

Printed Name: Desiree Haggard Title: Director of Environmental Affairs

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