



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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GAVIN NEWSOM, Governor
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April 11, 2023

Scott Rothenberg
California High Speed Rail Authority
770 L Street, Suite 620
Sacramento, California 95814
Scott.Rothenberg@hsr.ca.gov

Subject: Incidental Take Permit Amendment No. 16 for the California High-Speed Train Project, Merced to Fresno Section Permitting Phase 1 (2081-2013-025-04)

Dear Mr. Rothenberg:

Enclosed you will find an electronic copy of Amendment No. 16 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. Digital signatures shall comply with Government Code section 16.5.

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 Laura Peterson-Diaz, Senior Environmental Scientist (Specialist), at laura.peterson-diaz@wildlife.ca.gov.

Sincerely,

DocuSigned by:
A handwritten signature in black ink, appearing to read "Julie A. Vance".

FA83F09FE08945A
Julie A. Vance, Regional Manager
Central Region
California Department of Fish and Wildlife

Enclosure

Conserving California's Wildlife Since 1870

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CENTRAL REGION

1234 EAST SHAW AVENUE

FRESNO, CALIFORNIA 93710

**AMENDMENT NO. 16**

(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 (*Vulpes 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

Rev. 2013.1.1

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.

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, update Table 4, adds clarification for Condition of Approval 7.4, and revise 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 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. CDFW issued **Major Amendment No. 15** on October 10, 2022.

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, Major Amendment No. 14, and Major Amendment No. 15 (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 letter dated September 20, 2022, and received on October 3, 2022, and with supplemental GIS information received on January 17, 2023, the Permittee requested a new revision of the ITP, as amended to increase the Construction Footprint by 82.60 acres to accommodate design variations including Madera County, Herndon Avenue, South of San Joaquin River, Roeding Park, Ninth Utility Work, Tenth Utility Work, Third Civil Work, Third Utility and Civil Work, Staging and Laydown, Fourth Utility and Civil Work, Sands Motel Restaurant Demolition, Avenue 9, and the Fifth Utility and Civil Work. Due to the increase in documented Swainson's hawk nests within and adjacent to

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the Construction Footprint, Tables 5A and 5B are being added as well as Conditions of Approval 8.14.4 and 8.14.5. CDFW is also initiating changes to Conditions of Approval 8.7, 9 and 9.2. The Construction Footprint will change from 2,257.33 acres to a new total of 2,339.93 acres.

This Major Amendment No. 16 (Amendment) makes the following changes to the ITP, as amended:

- 1) This Amendment increases the size of the entire Project Construction Footprint by 82.60 acres, creating a total of 2,339.93 acres of cumulative impact disturbance. The increase in the Construction Footprint acreage is necessary to accommodate utility relocations and access road work.
- 2) This Amendment removes Table 7 and the utility modification work added in Amendment 3.
- 3) This Amendment updates Table 3 by adding the utility work described in Table 7 (17 locations in Madera County and 6 locations in Fresno County) and removes all acres impacted because those are not available from Table 7 and adds 11 locations in Madera County and 24 locations in Fresno County.
- 4) This Amendment adds “subsurface soil investigations/exploration” (e.g. potholing) to the list of Covered Activities.
- 5) This Amendment increases the direct impacts for California tiger salamander (CTS) breeding (aquatic) habitat by 0.63 acre; increases the impacts to potential CTS upland habitat by 49.94 acres, and increases both San Joaquin kit fox and Swainson’s hawk upland habitat impacts by 52.81 acres. Swainson’s hawk upland habitat is also increased by an additional 306.10 acres due to an increase in the number of known Swainson’s hawk nests within half a mile of the Construction Footprint and therefore the amount of foraging habitat within the 10-mile buffer distance. In addition, Table 5 is updated accordingly.
- 6) This Amendment adds Table 5A to include all the known Swainson’s hawk nest trees up through the 2022 nesting season.
- 7) This Amendment adds Table 5B listing all active Swainson’s hawk nest trees *within* the Construction Footprint that may need to be removed.

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- 8) This Amendment changes Condition of Approval 7.9 to allow for Swainson's hawk information to CNDDDB to be submitted in a combined Report.
- 9) This Amendment changes Condition of Approval 8.7 to clarify when entrapment inspections are required.
- 10) This Amendment adds Condition of Approval 8.14.4 regarding the annual survey for Swainson's hawk and Condition of Approval 8.14.5 regarding Swainson's hawk restrictions for nightwork.
- 11) This Amendment makes corrections to Condition of Approval 9 so that it accurately states what Mitigation has been completed and updates this section to reference Table 6A for Mitigation requirements yet to be completed so that only one section in the ITP needs to be updated with future changes due to increases in the Construction Footprint.
- 12) This Amendment updates Table 6A and requires either the purchase of additional Covered Species credits or the permanent protection of additional HM lands and accompanying management costs to compensate for Covered Species impacts associated with the increase in the Construction Footprint as described in Condition of Approval 9.
- 13) This Amendment updates Condition of Approval 9.2 so that it references Table 6A for Mitigation requirements yet to be completed and references Condition of Approval 10.3 for the time frame in which the Mitigation requirements must be met.
- 14) This Amendment increases the Performance Security amount required for the Permittee to proceed with Covered Activities commensurate with the increased impacts.
- 15) This Amendment revises Exhibit 5, Construction Footprint Map Book pages 1-10, 14-19, 23-24, 28, 30-32, 35-37, and 41-42 to reflect the increased Project Footprint.

AMENDMENT

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

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1. The third paragraph of the section entitled "Project Description" on pages 6 of the ITP, as amended, shall be further amended to read as follows:

The Project is 26.92 miles in length and includes construction and installation of all Project components (Exhibit 1). Construction and installation of all Project components will disturb up to **2,339.93** ~~2,257.33~~ acres (hereafter, Construction Footprint). Construction may occur at any point along the Construction Footprint, and construction may occur at multiple locations simultaneously.

2. The information from Table 7 added by Amendment 3 and starting on page 8 is being moved to Table 3 in this Amendment, and Table 7 is being deleted as follows:

Table 7 Summary of Utility Relocations for the Storey to Fresno Design Refinements

Location	Location Label	Corresponding Figure	Purpose	Description
Raymond Road	3a	Figure 2 of Exhibit 6	Utility Relocation	Located immediately to the northwest of the Fresno River and will cross underneath the elevated HST alignment. A 1000 foot long and approximately 60-foot wide area will be utilized to allow for these utilities to be relocated and tied back into existing lines on either side of the HST alignment
SR 145	3b	Figure 2 of Exhibit 6	Utility Relocation	A two-lane regional artery located between the Fresno River and Main Canal. A 175 foot by 450-foot area (36.98287, -120.02650) will allow for the relocated utilities to tie back into existing lines
Near Harper Boulevard	3c	Figure 2 of Exhibit 6	Utility Relocation & Overhead Electrical	Several utilities, including overhead electric, will be realigned. A small area, 0.05 acres (36.98877, -120.03415) to the east of the adjacent BNSF railroad and a 30-foot wide and 1,950-foot long access will be utilized for this work.

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Location	Location Label	Corresponding Figure	Purpose	Description
Corridor-wide	NA	All Figures	TCE	Establishes a wider work corridor; additional TCE of varying widths along both sides of the existing environmental footprint for most of variation alignment
Storey, north of Avenue 15½, between BNSF and extending across Santa Fe Dr.	A	Figure 1-1	Utility Relocation	AT&T and PG&E telecommunications over a distance of about 1,500 feet.
Avenue 15, east of Road 29	B	Figure 1-1	Acquire ROW for HST access	Additional ROW on both sides of road needed
Santa Fe Drive north of Avenue 15	C	Figure 1-1	Road closure	Santa Fe Drive to be closed and cul-de-sac created
On Avenue 15 east of BNSF	D	Figure 1-2	Utility Relocation	About 580 feet of electrical and telecommunications utilities involved
Santa Fe Drive extending from Cottonwood Creek about 4,400 ft. north to residential drive	E	Figure 1-2	Construction Access	Santa Fe Drive is an existing access way
West side of alignment, south of Avenue 15	F	Figure 1-2	HST Access	Access road extending approximately 4,850 feet to new HST radio tower site
West side of alignment, between Avenue 15 and Cottonwood Creek	G	Figure 1-2	TCE	Additional construction area needed to build radio tower
Cottonwood Creek	H	Figure 1-3	Construction Access	Access across the creek, and under BNSF Bridge in two locations from Santa Fe Drive

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Location	Location Label	Corresponding Figure	Purpose	Description
Cottonwood Creek, both sides of BNSF	I	Figure 1-3	Utility Relocation	Remove 736 ft. of 12 kV OH powerlines; Relocate 353 feet of 12 kV OH powerlines located west of creek in vineyard, extending north across BNSF rail to Santa Fe Drive
Avenue 12 from Road 30½ east	J	Figure 1-4	Utility Relocation	Telecommunications work within road ROW for about 800 feet length
Avenue 12 east of HST alignment, on both sides of BNSF	K	Figure 1-5	ROW Acquisition	Sliver acquisitions on both sides of new overcrossing site needed for drainage and fencing purposes
Avenue 12, both sides of Road 32	L	Figure 1-5	Utility Relocation	Telecommunications work within road ROW for about 850 feet length
South of Mercantile Way cul-de-sac	M	Figure 1-4	Utility Relocation (possible)	Reroute 230 kV Wilson-Gregg transmission line within a 900 foot segment (note: to avoid relocation, a design variation is being pursued to allow a skewed crossing angle that exceeds HST design criteria)
Avenue 11 on both north and south sides	N	Figure 1-6	HST facilities and access roads	Permanent ROW needed for access to HST systems site, including an Interlocking House
North of Avenue 10, both sides of HST alignment	O	Figure 1-6	Utility Relocation	Work extends along parcel boundaries for about 2,600 feet; cross culvert at canal; irrigation system modifications; also acquire remnant parcel
North of Avenue 10, west of HST alignment	P	Figure 1-6	Utility Relocation; Acquire ROW for Access	Irrigation system modification along 2,500 feet of ditch, and permanent access around overcrossing

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Location	Location Label	Corresponding Figure	Purpose	Description
North of Avenue 9 along Road 32, then west along canal	Q	Figure 1-7	Utility Relocation; Acquire ROW for Access	Telecommunications and electrical work at canal with tie-in at Road 32; grading for systems site and access road at Road 32; relocate OH power lines in Road 32 to underground; 3,404 feet total conflict
North of Avenue 8	R	Figure 1-8	TCE	Easement required for telecommunication relocation work along farm path
South of Avenue 8	S	Figure 1-8	Utility Relocation	200 feet OH Power to UG and 1400 feet UG Telecomm to UG

3. The section entitled “Roadway and Utility Modifications” on page 25 of the ITP, as amended, shall be further amended to read as follows:

Roadway and Utility Modifications: Changes to existing roads along or crossing the HST ROW will be needed because the HST requires a fully dedicated grade-separated track alignment for public safety and to achieve the desired speeds. In addition to the roadway modifications many locations also require utility work for installations, relocations and/or additional protection. The Project will require **100** ~~43~~ roadway and utility modifications, **at 56 general locations** ~~29~~ in Madera County and **at 44 general locations** ~~14~~ in Fresno County. Roadway and utility modifications will impact 974.41 total acres of the Construction Footprint (Table 3). ~~At some locations, there will be an option to perform the modification as either an undercrossing or an overcrossing of the HST ROW. In these instances, the more conservative impact in terms of acreage (e.g., higher acreage) has been included in this ITP. Handrails, fences, and walkways will be provided for the safety of pedestrians and bicyclists during roadway modification.~~

4. Table 3 entitled “Location and Size of Project Roadway Modifications” starting on page 26 of the ITP, as amended, shall be further amended to read as follows:

Table 3. Location and Size of Project Roadway and Utility Modifications

Location (relative to the alignment)	County	Activity	Latitude	Longitude	Aeres
Avenue 19 (east)	Madera	Utility Relocation and Protection	37.025421 37.025317	-120.074378 -120.078481	1.02
Avenue 19 (west)	Madera	Utility Relocation and Protection	37.025392 37.025368	-120.09879 -120.080082	0.77
Hanover Drive	Madera	Realign Hanover Drive; improve three intersections and restore streets at Ave 19, Pickfair Way, Ridgedale Drive, and Zelkova Drive; Utility Relocation and Protection, and Utility Modification.	37.023948 37.025317 37.022482	-120.078155 -120.078481 -120.076269	5.52
Wayside Dr	Madera	Utility Relocation and Protection, and Staging and Laydown Area	37.022138 37.020421	-120.073425 -120.071906	1.25
Road 26 (south)(north)	Madera	Construct new overcrossing	37.021243 37.014557	-120.074342 -120.074327	26.96
El Paso Rd/ El Paso Pl	Madera	Utility Modification	37.019396	-120.072965	-
Ave 18½ (east)	Madera	Utility Relocation and Protection, and Waterline Relocation	37.018138 37.018033	-120.069538 -120.068448	0.14
Old Mill Drive	Madera	Construct cul-de-sac	37.014520	-120.066933	2.38
Varden Drive	Madera	Utility Relocation and Protection	37.014564	-120.066185	3.3
Road 26 (south)	Madera	Utility Modification	37.012247 37.009953	-120.074283 -120.074302	-
Avenue 18 (east)	Madera	Utility Relocation and Protection	37.010821 37.010802	-120.056184 -120.061550	0.01
Tremaine Ave (west)	Madera	Utility Relocation and Protection	37.009115 37.009164	-120.059411 -120.055985	1.05
Road 27 (north)	Madera	Utility Relocation and Protection	37.008023	-120.056185	0.49
Road 27 (south)	Madera	Construct new overcrossing	37.000867	-120.056174	26.81
Avenue 17 (west)	Madera	Extending west from new overcrossing to Alonzo Ct; Utility Relocation and Protection	36.996172	-120.050837	1.58
Avenue 17 (east)	Madera	Extend east from new overcrossing to Road 28 ½; Construct new overcrossing; Access road	36.996102	-120.025110	32.58

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Road 28 ½	Madera	Access road being connected; Utility Relocation and Protection	36.998963 36.993109	-120.028587 -120.028681	3.26
Arizona Ave	Madera	Access Road	36.991680	-120.037872	-
Near Harper Boulevard	Madera	Utility Relocation & Overhead Electrical	36.989102 36.984978	-120.034058 -120.026500 -120.029527	-
Ellis Street	Madera	Access road being connected	36.986500	-120.032172	0.41
Raymond Rd	Madera	Utility Relocation northwest of the Fresno River and will cross underneath the elevated HST alignment and tied back into existing lines on either side of the HST alignment.	36.982447 36.985576	-120.033772 -120.028678	-
SR 145	Madera	Utility Relocation between the Fresno River and Main Canal.	36.981867 36.98287 36.983188	-120.028665 -120.026500 -120.026017	-
Watson Street	Madera	Access road being connected	36.980117	-120.026404	0.41
North of Avenue 15½	Madera	Utility Relocation of AT&T and PG&E telecommunications	36.977462 36.974404	-120.020141 -120.024051	-
Avenue 15 ½	Madera	Construct new overcrossing	36.974425 36.974256	-120.026820 -120.012553	31.93
Santa Fe Drive north of Ave 15	Madera	Santa Fe Drive to be closed and cul-de-sac created	36.967972	-120.013056	-
Avenue 15, (west)	Madera	Additional ROW on both sides of road needed, Staging and Laydown Area.	36.974646 36.967009 36.967019	-120.023536 -120.019646 -120.012660	-
Avenue 15	Madera	Construct new access road to residence south of Avenue 15 and east of Santa Fe Drive; Construct new overcrossing	36.967009 36.966936	-120.019646 -120.004880	37.74
Avenue 15 (east)	Madera	Utility Relocation electrical and telecommunications	36.967019 36.966936	-120.012660 -120.004880	-
South of Avenue 15	Madera	Access road extending to new HST radio tower site, Additional construction area needed to build radio tower	36.96614 36.955283	-120.012458 -120.003215	-

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<i>Santa Fe Drive extending from Cottonwood Creek north to residential drive</i>	<i>Madera</i>	<i>Construction Access and Utility Relocation</i>	<i>36.955907 36.947018 36.946830</i>	<i>-120.002490 -119.994571 -119.994337</i>	<i>-</i>
BNSF	Madera	Construct new access road from Main Canal to Cottonwood Creek	36.946485	-119.994365	9.06
<i>Just north of Cottonwood Creek, west of alignment to east of BNSF</i>	<i>Madera</i>	<i>Utility Relocation overhead powerlines; from west in vineyard, extending northeast across BNSF rail to Santa Fe Drive</i>	<i>36.945385 36.947278</i>	<i>-119.995269 -119.994304</i>	<i>-</i>
<i>Cottonwood Creek</i>	<i>Madera</i>	<i>Construction access across the creek, and under BNSF Bridge in two locations from Santa Fe Drive</i>	<i>36.946491 36.946110</i>	<i>-119.994335 -119.993987</i>	<i>-</i>
<i>North of Avenue 13 (west of BNSF)</i>	<i>Madera</i>	<i>Staging and Laydown Area</i>	<i>36.941246</i>	<i>-119.990089</i>	<i>-</i>
<i>North of Avenue 13 (east of BNSF)</i>	Madera	Construct new temporary access road to Cottonwood Creek.	36.937920	-119.987058	4.95
<i>Avenue 13</i>	<i>Madera</i>	<i>Utility Modifications, Staging and Laydown Areas.</i>	<i>36.937969 36.937886 36.937865 36.937860</i>	<i>-119.992289 -119.990693 -119.987893 -119.986340</i>	<i>-</i>
<i>South of Avenue 13</i>	<i>Madera</i>	<i>Staging and Laydown Areas</i>	<i>36.935659</i>	<i>-119.985833</i>	<i>-</i>
<i>North of Avenue 12 (west of BNSF)</i>	<i>Madera</i>	<i>Construction of Access Road</i>	<i>36.929397°</i>	<i>-119.979342</i>	<i>-</i>
<i>Avenue 12 (west)</i>	<i>Madera</i>	<i>Utility Relocation Telecommunications work within road ROW</i>	<i>36.923498 36.923388</i>	<i>-119.992278 -119.989413</i>	<i>-</i>

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Location (relative to the alignment)	County	Activity	Latitude	Longitude	Acres
Avenue 12	Madera	Construct new overcrossing	36.923388 36.923130	-119.989413 -119.964535	45.42
Avenue 12 (east of HST alignment, on both sides of BNSF)	Madera	ROW Acquisition on both sides of new BNSF overcrossing site needed for drainage and fencing purposes	36.923388 36.923217	-119.989413 -119.967511	-
Avenue 12 (east)	Madera	Utility Relocation Telecommunications work within road ROW	36.923217 36.923155	-119.967511 -119.964520	-
South of Mercantile Way cul-de- sac	Madera	Utility Relocation of transmission line	36.919399 36.919236 36.917701	-119.980299 -119.979006 -119.978757	-
Avenue 11	Madera	Construct new overcrossing, permanent ROW needed for access roads, Utility Modification and Staging and Laydown Area	36.914393 36.909231 36.909232 36.914393	-119.978888 -119.982762 -119.972030 -119.976356	22.28
North of Avenue 10, both sides of the HST alignment	Madera	Utility Relocation; irrigation system modifications; ROW Acquisition and Utility Modification	36.902259 36.902147 36.897794	-119.975575 -119.976006 -119.974505	-
Avenue 10	Madera	Construct new overcrossing; Utility Relocation; Irrigation system modification; Acquire ROW for Access around overcrossing	36.897794 36.894671 36.894769 36.893925	-119.974505 -119.979650 -119.964810 -119.97449	32.69
North of Avenue 9 along Road 32, and along canal	Madera	Utility Relocation, telecommunications, and electrical work, relocate overhead power lines to underground; access road.	36.887338 36.887372 36.880395	-119.969491 -119.965171 -119.965194	-
Avenue 9	Madera	Construct new overcrossing, permanent ROW needed for access roads, Utility Modification and Staging and Laydown Area, Utility Relocation/Modification	36.880681 36.880206	-119.975438 -119.954891	27.61

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Location (relative to the alignment)	County	Activity	Latitude	Longitude	Acres
Avenue 9 east of Road 36	Madera	Utility Modification (Install Shut-off Valve)	36.880424	-119.885289	-
North of Avenue 8, west of Road 33	Madera	Underpass will be constructed on a farm road at Parichan Farms	36.870171 36.870155	-119.959749 -119.956944	-
North of Avenue 8	Madera	Easement required for telecommunication relocation work along farm path	36.867571 36.867611	-119.957521 -119.955671	-
Avenue 8	Madera	Construct new overcrossing	36.865795 36.865713	-119.967032 -119.947300	38.40
South of Avenue 8	Madera	Utility Relocation Telecomm and overhead Power to underground	36.863863 36.863799	-119.958074 -119.953160	-
Parichan Farms aka Road 33	Madera	Construct new overcrossing	36.864021	-119.947039	3.20
Avenue 7	Madera	Replace overcrossing	36.851316 36.851272	-119.946274 -119.933636	32.04
Road 30 ½	Madera	Shift Road			7.06
N Thiele Ave	Fresno	Utility Relocation/Modification	36.838376	-119.915197	-
N Weber Ave (north of Herndon)	Fresno	Utility Relocation/Modification	36.836512	-119.917861	-
W Kathryn Ave	Fresno	Utility Relocation/Modification, Staging and Laydown Area	36.834049 36.833960	-119.918044 -119.918143	-
W Herndon Ave (west)	Fresno	Utility Relocation/Modification	36.836882 36.836810 36.833845	-119.910283 -119.910687 -119.915868	-
N Weber Ave (south of Herndon)	Fresno	Utility Relocation/Modification and Protection	36.834387	-119.914172	-
W Herndon Ave (east)	Fresno	Lower grade of road	36.833845 36.830874	-119.915868 -119.910283	45.4
W Palo Alto Ave	Fresno	Utility Relocation/Modification (storm drain)	36.831113	-119.909776	-

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Location (relative to the alignment)	County	Activity	Latitude	Longitude	Acres
Veterans Blvd	Fresno	Construct new overcrossing including North Golden State Boulevard	36.822053 36.829155	-119.904279 -119.899983	-
North of N Carnegie Ave, west of N Golden State Blvd	Fresno	Utility Relocation/Modification, Staging and Laydown Area	36.821340 36.820739	-119.897852 -119.899488	-
North Golden State Boulevard N Carnegie Ave	Fresno	Construct new Veterans Blvd and W Shaw Ave overcrossings; close road N Carnegie Ave. Close and shift between W Olive Ave and W Belmont Ave.	36.821108	-119.895405	204.85
South of N Carnegie Ave, west of N Golden State Blvd	Fresno	Staging and Laydown Area	36.817380	-119.892217	-
W Barstow Ave	Fresno	Utility Relocation/Modification	36.815268	-119.891103	-
Under Herndon Canal	Fresno	Utility Relocation/Modification	36.814214°	-119.887194	-
W Shaw Ave	Fresno	Construct new overcrossing including North Golden State Boulevard, Utility Relocation/Modification	36.808184 36.808138 36.808181	-119.882965 -119.883854 -119.870187	-
South of W Shaw Ave, east of Cornelia Ave	Fresno	Utility Relocation/Modification, Staging and Laydown Area	36.807266 36.807265	-119.878982 -119.878320	-
W Santa Ana Ave	Fresno	Utility Relocation/Modification, and storm drain and Protection	36.804351 36.804547	-119.880190 -119.874306	-
South of W Gettysburg Ave, (west)	Fresno	Roadway Modification (Driveway Realignment)	36.800203	-119.869966	-

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Location (relative to the alignment)	County	Activity	Latitude	Longitude	Acres
SR 99 and W Ashland Ave	Fresno	Shift freeway, 2.3 miles; replace West Ashlan Avenue overcrossing at SR 99 ; replace West Clinton Avenue overcrossing; construct new West McKinley Avenue overcrossing or undercrossing; shift northbound SR 99 on-ramp	36.798956 36.787732	-119.873665 -119.855787	243.33
W Ashlan Ave	Fresno	Construct new overcrossing, Utility Modification/Relocation	36.764674 36.793828 36.764652	-119.832994 -119.863586 -119.823834	-
SR 99 and W Dakota Ave	Fresno	Remove southbound SR 99 offramp	36.787732 36.782814	-119.855787 -119.850396	-
SR 99 and W Shields Ave	Fresno	Remove southbound SR 99 offramp and onramp	36.782814 36.798956	-119.850396 -119.873665	-
SR 99 and W Clinton Ave	Fresno	Shift freeway, replace West Clinton Ave overcrossing at SR 99	36.798956 36.758352	-119.873665 -119.830715	-
SR 99 and W McKinley Ave	Fresno	Shift freeway, construct new West McKinley Avenue overcrossing; shift northbound SR 99 on-ramp	36.798956 36.758352	-119.873665 -119.830715	-
W McKinley Ave	Fresno	Construct new overcrossing, Utility Modification/Relocation	36.764664 36.764751 36.764335 36.764665	-119.833006 -119.828717 -119.825578 -119.823847	-
W Pine Ave	Fresno	Temporary Construction Easement, Site Preparation and Building Demolition	36.761608 36.761517	-119.827029 -119.827027	-
SR 99 and W Olive Ave	Fresno	Roadway Modification (Offramp Widening), Utility Relocation and Temporary Construction Easement	36.757691 36.757458 36.754908 36.757452	-119.829350 -119.831738 -119.827899 -119.826731	-
W Olive Ave	Fresno	Roadway Modification, Traffic Signal Modification, and Roadway Resurfacing Utility Relocation/ Modification, and Temporary Construction Easement	36.761022 36.757452 36.753791 36.757541	-119.825234 -119.826731 -119.817126 -119.816989	-
North Golden State Blvd.	Fresno	Close and shift between W Olive Ave and W Belmont Ave.	36.757414 36.750419	-119.820870 -119.813255	-

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Location (relative to the alignment)	County	Activity	Latitude	Longitude	Acres
SR 99 and W Belmont Ave	Fresno	Roadway Modification (Resurfacing)	36.754914 36.750243 36.748891 36.750243	-119.828020 -119.832466 -119.824490 -119.819901	-
West Belmont Ave	Fresno	Construct new overcrossing and parallel frontage road, Utility Relocation/Modification, Temporary Construction Easement, Roadway Modification (Sidewalk Relocation and Resurfacing)	36.753791 36.750243 36.747613 36.750389	-119.817126 -119.819901 -119.810808 -119.806495	41.37
W Napa Ave and N Thorne Ave and W Nielsen Ave	Fresno	Utility Relocation/Modification	36.747561 36.743090 36.742774 36.744415	-119.813044 -119.812913 -119.817697 -119.810392	-
North of SR 180	Fresno	Connect to North Thorne Avenue Utility Relocation/Modification	36.747613 36.740946 36.745124 36.747494	-119.810808 -119.814690 -119.806710 -119.802882	6.05
South of SR 180 to San Joaquin St	Fresno	Close Divisadero Street, Utility Relocation/Modification	36.745124 36.742965 36.739338 36.742631	-119.806710 -119.807210 -119.799824 -119.802843	2.00
Stanislaus Street	Fresno	Close road, Utility Relocation/Modification, Roadway Modification (Resurfacing)	36.739338 36.731846 36.736004 36.743411	-119.799824 -119.805460 -119.798364 -119.789281	11.24
Tuolumne Street	Fresno	Replace overcrossing with new two-way overcrossing, Roadway Modification (Driveway Realignment and Resurfacing), Traffic Signal Modification	36.736004 36.742548 36.734942 36.732713	-119.798364 -119.801789 -119.797207 -119.787794	8.37
Fresno Street	Fresno	Extend existing undercrossing	36.734083 36.731189 36.733002 36.735901	-119.796264 -119.798575 -119.794907 -119.792272	11.06

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Location (relative to the alignment)	County	Activity	Latitude	Longitude	Acres
Mariposa Street	Fresno	Utility Relocation, Gate Sign Relocation	36.733002 36.730408 36.732054 36.734200	-119.794907 -119.797690 -119.794019 -119.792338	-
Tulare Street	Fresno	Construct new under- or overcrossing	36.732054 36.729701 36.730824 36.734283	-119.794019 -119.795981 -119.793080 -119.789667	4.94
Kern Street	Fresno	Close road, Utility Relocation/Modification	36.730824 36.729359 36.729935 36.731505	-119.793080 -119.793982 -119.791766 -119.791024	3.32
Inyo Street	Fresno	Utility Relocation/Modification (storm drain)	36.729935 36.728402 36.729014 36.731264	-119.791766 -119.792817 -119.790993 -119.788919	-
Mono Street	Fresno	Close road, Acres are included with the Downtown Fresno Station	36.729014 36.727449 36.727962 36.730570	-119.790993 -119.791831 -119.789792 -119.787410	0
Ventura Street	Fresno	Construct new under- or overcrossing	36.727962 36.725735 36.727020 36.729532	-119.789792 -119.791734 -119.788607 -119.786311	7.67
Santa Clara Street	Fresno	Utility Relocation/Modification	36.727020 36.725451 36.726120 36.727861	-119.788607 -119.789618 -119.787667 -119.786163	7.67
North of SR 41	Fresno	Utility Relocation/Modification	36.726120 36.723928 36.724623 36.727192	-119.787667 -119.787028 -119.785498 -119.784257	-
		Total			964.23

5. 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 **2,339.93** ~~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 **soil investigations/exploration (e.g. Potholing and** 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; **Potholing**, 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; 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).

6. The first paragraph of the section entitled “California tiger salamander” on page 45 of the ITP, as amended, shall be further amended to read as follows:

The Covered Activities are expected to result in the permanent loss of up to **246.07** ~~196.13~~ acres of upland refugia habitat, direct permanent loss of **8.22** ~~7.59~~ acres of aquatic breeding habitat, and indirect permanent loss of 6.75 acres of aquatic breeding habitat for California tiger salamander (CTS) (Table 5). This determination was made based on an identification of baseline vegetation cover types within the Construction Footprint. Vegetation cover type acreage that could function as CTS upland refugia and breeding habitat were quantified and subsequently used as a habitat based proxy to estimate the extent of incidental take in the form of mortality and indirect impacts that will occur as a result of Project build out.

7. The section entitled “Swainson’s Hawk” on page 46 of the ITP, as amended, shall be further amended to read as follows:

Up to **830.77** ~~471.86~~ acres of foraging habitat and one nest tree for Swainson’s hawk (SWHA) could be permanently impacted as a result of Covered Activities (Table 5) and it is expected that all potentially suitable habitat would be permanently destroyed. Based on the results of baseline surveys conducted within the Construction Footprint in spring 2013, there ~~was~~ **is** one known location of a SWHA nest tree within 0.5-mile of the Construction Footprint, on the west side of SR 99 south of the San Joaquin River. The foraging habitat impact acres ~~are~~ **were** determined based on ***the locations of all known nest trees within 0.5-mile of the Construction Footprint (Table 5A)*** and the guidelines set forth in the Staff Report Regarding Mitigation for Impacts to Swainson’s Hawks (*Buteo swainsoni*) in the Central Valley of California (California Department of Fish and Game, 1994). ***There are currently two nests within the Construction Footprint of this ITP which may be removed if necessary; they are listed in Table 5B.***

Covered Activities may result in incidental take of individuals in the form of mortality (“kill”) as a result of vehicle strikes due to increased Project-related traffic; as a result of the loss of young, fledglings, or eggs due to destruction of nests or abandonment of nests if construction or grading activities occurred in close proximity to nests during the nesting season of the species. Direct impacts to foraging habitat could also affect migrating individuals and the fitness of SWHA young raised in close proximity to the Project, due to reduced foraging opportunities and because forage acquired further away from the nest is more energetically expensive for parents acquiring food for their dependent young. In

addition, the removal of habitat during the nonbreeding season could result in a loss of reproductive productivity in subsequent years.

Potential indirect impacts to SWHA and their habitat include effects of construction activities associated with implementation of Covered Activities. These include: construction-related noise; ground vibration; fugitive dust; habitat loss and modification; introduction or spread of invasive species; and increased human activity which could result in a reduction in prey abundance and/or availability. Noise and vibration could cause physiological and/or behavioral disruptions that may interfere with breeding, result in nest abandonment, and a loss of fitness in dependent young resulting from interruptions to brooding and/or feeding schedules.

Potential long-term direct impacts to SWHA include train strike during operation of the HST and potential electrocution by the overhead contact system that powers the train. The system will be designed to minimize the possibility of two body parts triggering a high voltage shock, by keeping the elements that could produce such a shock farther apart than the typical female SWHA “wrist-to-wrist” distance of 23 inches. However, there is still a remote possibility that wet feathers could conduct a fatal shock due to the wingspan of up to 56 inches.

Potential long-term indirect impacts associated with Covered Activities include nesting and foraging habitat fragmentation; nesting and foraging habitat degradation including that caused by the introduction or spread of invasive species; increased light; and increased noise and vibration. Operation and maintenance of the Project could indirectly affect nesting SWHA through noise and increased human activity. Nesting and migrating SWHA could be affected by pesticides used during Covered Activities, most likely through ingestion of contaminated prey. The Project could increase predation potential by providing perching sites for avian predators (e.g., crows and other raptors), which can be predators of SHWA eggs and young.

8. The first paragraph of the section entitled “San Joaquin Kit Fox” on page 47 of the ITP, as amended, shall be further amended to read as follows:

Up to **636.21** ~~583.40~~ total acres of habitat for San Joaquin kit fox (SJKF) could be permanently impacted as a result of Covered Activities (Table 5). This determination was based on an identification of baseline vegetation cover types and that all potentially suitable habitat would be permanently destroyed within the

Construction Footprint. Vegetation cover type acres that could function as SJKF foraging, denning, and breeding habitat were quantified and subsequently used as a habitat -based surrogate to estimate the extent of incidental take in the form of mortality and indirect impacts that will occur as a result of Project build out.

9. Table 5 on page 49 of the ITP, as amended, shall be further amended to read as follows:

Table 5. Covered Species Habitat Impacts

Covered Species	Habitat Type	Impact Type	Impact Acres
California tiger salamander	Aquatic breeding (vernal pool, open water, seasonal wetland)	Direct	8.22 7.59
		Indirect	6.75
	Upland refugia (California annual grassland, pasture, barren, fallow field, inactive agriculture, and ruderal)	Direct	246.07 196.13
Swainson's hawk	Foraging (California annual grassland, pasture, barren, fallow field, inactive agriculture, ruderal, field crops, row, crops, and irrigated hay crops)	Direct	830.77 471.86
	<i>SWHA Nest Trees (regardless of tree species)</i> (riparian and eucalyptus woodland)	Direct	<i>Remove up to 2 ± nest tree(s)</i>
San Joaquin kit fox	Preferred (California annual grassland, pasture, and barren)	Direct	151.18 110.24
San Joaquin kit fox	Marginal (ruderal, fallow field, inactive agriculture, field crops, row crops, and irrigated hay crops)	Direct	485.03 473.16
Hairy Orcutt grass	vernal pool, seasonal wetland	Direct	1.85
		Indirect	3.35

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10. Table 5A on page 50 of the ITP, as amended, is added to read as follows:

M-F Table 5A Known Swainson's Hawk Nest Trees Near* Construction Footprint

County	SWHA Nest ID	Latitude	Longitude	Location **
Madera	2021-05, 2022-7	36.998835	-120.047189	in
Madera	2021-01	36.985451	-120.024516	outside
Madera	2021-04	36.982754	-120.025181	outside
Madera	2022-06	36.948791	-119.992280	outside
Madera	2022-02	36.947454	-119.993187	outside
Madera	2017-02	36.945559	-119.994805	edge
Madera	2016-01, 2019-01, 2022-01	36.944640	-119.994610	outside
Madera	2016-04, 2020-2, 2021-03	36.943630	-119.995860	outside
Madera	2017-03	36.941230	-119.996690	outside
Madera	2016-2	36.941030	-119.996636	outside
Madera	2022-05	36.920575	-119.987476	outside
Fresno	2019-03, 2020-01	36.838880	-119.926470	outside
Fresno	2021-02, 2022-03	36.838385	-119.924699	in
Fresno	2018-02, 2019-04	36.836930	-119.937150	outside
Fresno	Caltrans SWHA-2014	36.834523	-119.919917	outside
Fresno	Caltrans SWHA-2012	36.831182	-119.916922	outside

**** Near shall mean within 0.5 miles of the Construction Footprint***

***** Relative to the Construction Footprint boundary***

11. Table 5B is added immediately following Table 5A in the ITP, as amended, to read as follows:

County	Nest ID	Latitude	Longitude
Madera	2021-05, 2022-7	36.998835	-120.047189
Madera	2021-02, 2022-03	36.838385	-119.924699

12. Condition of Approval 7.9 (CNDDDB Observations) on page 62 of the ITP, as amended, shall be amended to read as follows:

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- 7.9 CNDDDB Observations. The Designated Biologist(s) shall submit all observations (within the Construction Footprint or adjacent areas) of Covered Species **except for SWHA** to CDFW's California Natural Diversity Database (CNDDDB) within 60 calendar days of the observation and the Designated Biologist(s) shall include copies of the submitted forms with the next Monthly Compliance Report or ASR, whichever is submitted first relative to the observation. ***Because of the high numbers of SWHA found during surveys each year, all the SWHA observations and information may be submitted in a combined Report to the CNDDDB and to CDFW's Regional Representative after the end of the nesting season, but no later than October 31 following each nesting season for each year.***

13. Condition of Approval 8.7 (Habitat Management Land Acquisition) on page 65 of the ITP, as amended, shall be further amended to read as follows:

- 8.7 Daily Entrapment Inspections. The Biological Monitor(s) shall inspect all open and covered holes, sumps, trenches, and pipes within each Work Area at the beginning and end of each **workday**, **and at least once on non-workdays**, for trapped Covered Species excepting weekends and Holidays when no work is being done **between** ~~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 eight inches 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. 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.
- To prevent inadvertent entrapment of Covered Species or any other animals, 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 (one person may fill both roles) shall oversee the initial installation of all coverings and barriers 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 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).

- Immediately before backfilling, trenches, holes, sumps, or other excavations shall be thoroughly inspected 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), 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, Biological Monitor(s), and Project workers shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue. 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.

14. Condition of Approval 8.14.4 (SWHA Annual Survey) is added on page 73 of the ITP, as amended, shall read as follows:

8.14.4 SWHA Annual Survey. Each year during the nesting season, SWHA Designated Biologist(s) shall survey the entire alignment for any arriving SWHA pairs and new nests. Permittee shall prepare a SWHA Survey Plan and submit to CDFW for written

approval prior to commencing with SWHA surveys. Surveys shall be conducted annually in accordance with the approved SWHA Survey Plan, and the results submitted to CDFW no later than 30 days after surveys have been completed.

15. Condition of Approval 8.14.5 (SWHA Annual Survey) is added on page 73 of the ITP, as amended, shall read as follows:

8.14.5 SWHA Restrictions for Nightwork. Permittee shall ensure that any nightwork done in the vicinity of an occupied SWHA is over 1,000 feet from the nest tree and that any lighting utilized is directed away from the nest tree.

16. Condition of Approval 9 starting on page 95 of the ITP, as amended, shall be further amended to read as follows:

To meet this ***the initial*** requirement for all ~~Covered Species other than hairy Orcutt grass, the Permittee has purchased 6.9 acres~~ CTS Breeding acres, ***the Permittee purchased 6.9 CTS breeding*** credits from the CDFW approved Dutchman Creek Mitigation Bank. ***Any outstanding mitigation obligations as shown in Table 6A will need to be met following*** (Condition of Approval 9.2 and/or Condition of Approval 9.3); ~~5.78 acres have demonstrated successful breeding, however, 1.12 credits are still pending demonstration of success to be applied toward the CTS breeding acres required.~~ The Permittee has also provided for the permanent protection and management of 418.92 acres of Habitat Management (HM) lands within the Mitigation Area under Conservation Easement at Lazy K Ranch pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Of the 445.79-mitigation acres ***at Lazy K Ranch***, 418.92 acres includes the following to meet requirements of the ITP:

- 8.18 acres of preserved CTS breeding habitat,
- 355.25 acres of preserved upland for CTS, SWHA, and SJKF,
- 51.4 acres of restored upland for CTS, SWHA, and SJKF,
- 4.09 acres of riparian habitat for SWHA foraging.

The 445.79-acre Mitigation Area at Lazy K also includes 8.19 acres of restored CTS breeding habitat, which is pending demonstration of success to be applied toward the required CTS breeding acres.

The Permittee shall also either purchase ***credits for the an*** additional ~~15.56~~

acres **of CTS breeding habitat required by Table 6A** (less up to 1.12 acres if CTS breeding is successful at Dutchman Creek Mitigation Bank and/or less 8.19 acres if CTS breeding habitat restoration at Lazy K is successful) ~~of Covered Species credit for CTS breeding habitat, the an additional 60.84 acres of Covered Species credit for SWHA foraging habitat~~ **required by Table 6A** and ~~an the additional 50.25 acres of Covered Species credit for SJKF upland habitat~~ **required by Table 6A** from a CDFW approved mitigation or conservation bank with a service area that encompasses the Project Area pursuant to Condition of Approval 9.2 below OR shall provide for the permanent protection and management of all the additional ~~126.62 acres~~ **required by Table 6A** ~~(15.56 CTS breeding and 111.06 upland) above~~ as Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below.

~~Furthermore, prior to commencement of vegetation or ground-disturbing activities or any other Covered Activities, Permittee shall permanently preserve and fund the perpetual management of an additional 10.68 acres of California tiger salamander breeding (0.29 acre of which may be potential breeding habitat demonstrated to hold water sufficient for CTS reproduction) and 7.46 acres of California tiger salamander upland Habitat Management lands.~~

~~The proof of purchase of the 6.9 acres of CTS aquatic breeding habitat credits must be provided to CDFW within 30 days of issuance of this Amendment pursuant to Condition of Approval 9.2 below. The proof of purchase of the 0.64 acre of Covered Species credits for additional SWHA foraging habitat and SJKF upland habitat must be provided to CDFW within 18 months of issuance of this Amendment. Permanent protection and funding for perpetual management of compensatory habitat described in this and the preceding paragraph must be complete by **the time frame specified in Condition of Approval 10.3** December 31, 2019. Permittee shall obtain CDFW written approval of any acquisition and perpetual protection and management of the Habitat Management lands in accordance with Conditions of Approval 9.3 and 9.4 below. If Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations, it shall be provided to CDFW prior to commencement of vegetation- or ground-disturbing activities or any other Covered Activities.~~

17. Table 6A on page 90 of the ITP, as amended, shall be further amended to read as follows:

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Table 6A. Compensatory Mitigation Acres for Covered Species other than hairy Orcutt grass

Covered Species Type of Habitat Impacted	Project Impacts	Total Mitigation Required	Mitigation Completed	Pending Documented Breeding	Mitigation Requires Security
California Tiger Salamander					
Direct Breeding Habitat	8.22 7.59	24.66 22.77			
Indirect Breeding Habitat	6.75 6.75	6.75 6.75			
CTS Breeding Total	14.97 14.34	31.41 29.52	13.96 8.18	9.31 15.09	17.45 15.56
Direct Upland Refugia/ Foraging Habitat	246.07 196.13	492.13 392.26	406.65 406.65		85.48 -14.39
CTS Total	210.47	421.78	Not additive: Mitigation for Upland Habitat cannot count for Breeding		
Swainson's hawk					
Direct Nesting Habitat	1 nest 1 nest	-	-	- -	0
Direct Foraging Habitat	830.77 471.86	830.77 471.86	410.74 410.74		420.03 61.12
San Joaquin kit fox					
Direct Preferred Foraging/ Dispersal Habitat	151.18 110.24	302.36 220.48			
Direct Marginal Dispersal Habitat	485.03 473.16	242.52 236.58			
SJKF Total	636.21 583.40	544.88 457.06	406.65 406.65		138.23 50.41
Total acres for which Security funding is still required					661.19 112.70

18. Condition of Approval 9.1 (Cost Estimates) on pages 90-91 of the ITP, as amended, shall be further amended to read as follows:

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9.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands for all Covered Species other than hairy Orcutt grass as follows:

- 9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$5,025.93/acre for ~~643.74~~ 441.53 acres upland: ~~\$3,235,377.10~~ \$560,524.38; Land acquisition costs are estimated at \$20,135.06/acre for the additional ~~17.45~~ 45.56 acres of CTS aquatic breeding habitat: ~~\$351,356.80~~ \$343,241.13. Land acquisition costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements.
- 9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at ~~\$1,031,474.13~~ \$198,254.57 for ~~661.19~~ 427.08 acres.
- 9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at ~~\$158,291.67~~ \$30,424.46 for ~~661.19~~ 427.08 acres.
- 9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$5,806.00/acre for ~~661.19~~ 427.08 acres: ~~\$3,838,851.72~~ \$737,846.80.
- 9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at \$36,000.00.

19. Condition of Approval 9.2 on pages 99 of the ITP, as amended, shall be further amended to read as follows:

Covered Species Credits. Permittee shall purchase ~~6.9~~ **the number of** acres (~~6.43 acres of currently released vernal pool fairy shrimp credits that are also designated as "future release" CTS aquatic breeding habitat 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, **required by Table 6A** other than hairy Orcutt grass, from ~~a~~ the CDFW-approved **mitigation or Dutchman**

~~Creek Conservation Bank within 30 days of issuance of the Amendment~~ **the time frame specified in Condition of Approval 10.3.**

AND/OR:

20. Condition of Approval 10.1 (Performance Security) on page 104 of the ITP, as amended, shall be further amended to read as follows:

Security Amount. The Security shall be in the amount of **\$8,651,351.42** ~~\$1,876,291.34~~ for **643.74** ~~441.53~~ acres of additional uplands and for 17.45 ~~15.56~~ acres of additional CTS aquatic breeding habitat. These amounts are based on the cost estimates identified in Condition of Approval 9.1 above and are Security only for the additional HM lands for Covered Species mitigation not already completed other than hairy Orcutt grass.

21. Exhibit 5 ("Construction Footprint Map Book") in the list of attachments on page 108 of the ITP, as amended, is amended to include the replacement of Map Book pages 1-10, 14-19, 23-24, 28, 30-32, 35-37, and 41-42 with the corresponding pages included in Attachment 1 of this Amendment, to reflect the increased Project Footprint.

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 fifteen specific changes to the ITP, as amended.

- 1) This Amendment increases the size of the entire Project Construction Footprint by 82.60 acres, creating a total of 2,339.93 acres of cumulative impact

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disturbance. The increase in the Construction Footprint acres is necessary to accommodate utility relocations and access road work.

- 2) This Amendment removes Table 7 and the utility modification work added in Amendment 3.
- 3) This Amendment updates Table 3 by adding the utility work described in Table 7 (17 locations in Madera County and 6 locations in Fresno County) and removes all acres impacted, since that information is not available from Table 7. Table 3 also adds 11 additional locations in Madera County and 24 additional locations in Fresno County.
- 4) This Amendment adds subsurface soil investigations/exploration (e.g. Potholing) to the list of Covered Activities.
- 5) This Amendment increases the direct impacts for California tiger salamander breeding (aquatic) habitat by 0.63 acre; increases the Covered Species impacts to potential California tiger salamander upland habitat by 49.94 acres, and to both San Joaquin kit fox and Swainson's hawk upland habitat by 52.81 acres. Swainson's hawk upland habitat is also increased by an additional 306.10 acres due to an increase in the number of known Swainson's hawk nests within half a mile of the Construction Footprint and therefore the amount of foraging habitat within the 10-mile buffer distance. In addition, Table 5 is updated accordingly.
- 6) This Amendment adds Table 5A to include all the known Swainson's hawk nest trees up through the 2022 nesting season.
- 7) This Amendment adds Table 5B listing all active Swainson's hawk nest trees within the Construction Footprint that may need to be removed.
- 8) This Amendment changes Condition of Approval 7.9 to allow for Swainson's hawk information to CNDDDB to be submitted in a combined Report.
- 9) This Amendment changes Condition of Approval 8.7 to clarify when entrapment inspections are required.
- 10) This Amendment adds Condition of Approval 8.14.4 regarding the annual survey for Swainson's hawk and Condition of Approval 8.14.5 regarding Swainson's hawk restrictions for nightwork.

- 11) This Amendment makes corrections to Condition of Approval 9 so that it accurately states what Mitigation has been completed and updates this section to reference Table 6A for Mitigation requirements yet to be completed so that only one section in the ITP needs to be updated with future changes due to increases in the Construction Footprint.
- 12) This Amendment updates Table 6A and requires either the purchase of additional Covered Species credits or the permanent protection of additional HM lands and accompanying management costs to compensate for Covered Species impacts associated with the increase in the Construction Footprint as described in Condition of Approval 9.
- 13) This Amendment updates Condition of Approval 9.2 so that it references Table 6A for Mitigation requirements yet to be completed and references Condition of Approval 10.3 for the time frame in which the Mitigation requirements must be met.
- 14) This Amendment increases the Performance Security amount required for the Permittee to proceed with Covered Activities commensurate with the increased impacts.
- 15) This Amendment updates Exhibit 5, Construction Footprint Map Book pages 1-10, 14-19, 23-24, 28, 30-32, 35-37, and 41-42 to reflect the increased Project Footprint.

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, October 2020, September 2021, and October 2022 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, No. 14, and Major Amendment No. 15 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 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, Major Amendment No. 14 in September 2021 and Major Amendment No. 15 in October 2022 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

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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 increases the size of the entire Project Construction Footprint by 82.60 acres, creating a total of 2,339.93 acres of cumulative impact disturbance. The Amendment also: increases the Construction Footprint acres, which is necessary to accommodate utility relocations and access road work; removes Table 7 and the utility modification work added in Amendment 3; updates Table 3 by adding the utility work described in Table 7 (17 locations in Madera County and 6 locations in Fresno County) and removes all acres impacted because those are not available from Table 7, and adds 11 additional locations in Madera County and 24 additional locations in Fresno County; adds subsurface soil investigations/exploration, (e.g. Potholing) to the list of Covered Activities; increases the direct impacts for California tiger salamander breeding (aquatic) habitat by 0.63 acre; increases the Covered Species impacts to potential California tiger salamander upland habitat by 49.94 acres, and to both San Joaquin kit fox and Swainson's hawk upland habitat by 52.81 acres; and increases Swainson's hawk upland habitat by 306.10 acres due to an increase in the number of known Swainson's hawk nests within half a mile of the Construction Footprint and therefore the amount of foraging habitat within the 10-mile buffer distance. This Amendment also updates Table 5 accordingly; adds Table 5A to include all the known Swainson's hawk nest trees up through the 2022 nesting season; adds Table 5B listing all active Swainson's hawk nest trees *within* the Construction Footprint that may need to be removed; changes Condition of Approval 7.9 to allow for Swainson's hawk information to CNDDDB to be submitted in a combined Report; changes Condition of Approval 8.7 to clarify when entrapment inspections are required; adds Condition of Approval 8.14.4 regarding the annual survey for Swainson's hawk and Condition of Approval 8.14.5 regarding Swainson's hawk restrictions for nightwork; makes corrections to Condition of Approval 9 so that it accurately states what Mitigation has been completed and updates this section to reference Table 6A for Mitigation requirements yet to be completed so that only one section in the ITP needs to be updated with future changes in the Construction Footprint; updates Table 6A and requires either the purchase of additional Covered Species credits or the permanent protection of additional HM lands and accompanying management costs to compensate for increased Covered Species impacts as described in Condition of Approval 9; updates Condition of Approval 9.2 so that it references Table 6A for Mitigation requirements yet to be completed and references Condition of Approval 10.3 for the time frame in which the Mitigation requirements must be met; increases the

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Performance Security amount required for the Permittee to proceed with Covered Activities commensurate with the increased impacts; and updates Exhibit 5, Construction Footprint Map Book pages 1-10, 14-19, 23-24, 28, 30-32, 35-37, and 41-42 to reflect the increased Project Footprint.

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

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 1-10, 14-19, 23-24, 28, 30-32, 35-37, and 41-42
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APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 4/11/2023

DocuSigned by:

FA83F09FE08945A

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:  Date: 4/13/2023
26182A84223D4F0...

Printed Name: Scott Rothenberg Title: Acting Dir Environmental Services

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