



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
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Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



May 24, 2023

Michael G. Elliott, Federal Project Coordinator
Department of Energy
Office of Reserve Lands Management (FE-47)
1000 Independence Avenue, SW
Washington, DC 20585

Subject: Incidental Take Permit Amendment No. 2 for the Former Naval Petroleum Reserve No. 1 Closure Project (2081-2013-029-04)

Dear Michael Elliott:

Enclosed you will find an electronic copy of Amendment No. 2 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 amendment with digital signature to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned.

You are advised to keep the amendment in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of approval of the permit. Note that you are required to comply with certain conditions of approval prior to initiation of ground-disturbing activities. Additionally, a copy of the permit and amendments must be maintained at the project work site and made available for inspection by CDFW staff when requested.

The amendment will not take effect until the signed acknowledgement is received by CDFW. If you wish to discuss these instructions or have questions regarding the amendment, please contact Shaelyn Latronica, Environmental Scientist, at shaelyn.latronica@wildlife.ca.gov.

Sincerely,
DocuSigned by:

Handwritten signature of Krista Tomlinson in black ink.
12950B95267A4F5...

for Julie A. Vance
Regional Manager

Enclosure

Conserving California's Wildlife Since 1870

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CENTRAL REGION OFFICE
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA, 93710

**AMENDMENT NO. 2**

(A Minor Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2013-029-04

United States Department of Energy

Former Naval Petroleum Reserve No. 1 Closure Project in Kern County

INTRODUCTION

On August 20, 2013, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2013-029-04 (ITP) to the United States Department of Energy (Permittee), authorizing take of giant kangaroo rat (*Dipodomys ingens*), San Joaquin kit fox (*Vulpes macrotis mutica*), and San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), (collectively, the Covered Species) associated with and incidental to the Former Naval Petroleum Reserve No. 1 (NPR-1) Closure Project (Project) in Kern County, California. The Project as described in the ITP as originally issued by CDFW includes environmental remedial actions pursuant to Section 120(h)(3) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. Section 9620(h)(3)v in designated Areas of Concern (AOCs) identified by the Department of Toxic Substances Control (DTSC). Initially, 131 AOCs were identified for further site investigations at the NPR-1. Following further investigation additional AOCs have been identified and their associated acreages were implemented into the project ITP through a major amendment in January 2017. The DOE will conduct minor and major ground disturbing activities in the form of soil investigations, soil treatment, capping of contaminated soil, or a removal action, along with ground disturbing remedial actions effecting the amended 66 acres of land interspersed within 216 acres of oil field land. The goal of the Project is to achieve No Further Action status on each AOC.

On August 10, 2016, CDFW received a written request to amend the ITP to increase the total acreage of temporary impact from 3.2 acres to 66 acres. The Project will have a temporary impact to the existing habitat that supports or has the potential to support listed species. On January 4, 2017, CDFW issued Major Amendment No. 1 (Amendment No. 1). In issuing the ITP and Amendment No. 1 (collectively, ITP, as amended), CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP would not jeopardize the continued existence of the Covered Species.

On February 14, 2023, CDFW received a Minor Amendment request from the Permittee to extend the ITP, as amended, expiration date from May 31, 2023, to May 31, 2033, to accommodate the remediation of additional AOCs on the project site. On May 4, 2023, CDFW received the minor amendment application fee.

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

Amendment No. 2 extends the expiration date for the ITP, as amended, from May 31, 2023, to May 31, 2033.

AMENDMENT

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

1. On page 1 under the section title “**Effective Date and Expiration Date of this ITP:**”, the last sentence of the orphaned paragraph below shall be amended to read as follows:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW’s Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP’s authorization to take the Covered Species shall expire on ~~May 31, 2023.~~ ***May 31, 2033.***

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

FINDINGS

Issuance of Amendment No.2 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Amendment No. 2 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: Amendment No. 2 makes one specific change to the ITP, as amended:

1) extends the expiration date of the ITP from May 31, 2023, to May 31, 2033. The impacts to the Covered Species, however, including the temporary loss of 66 acres of habitat for the covered species, as a result of the Project, will remain the same.

CDFW has determined that Amendment No. 2 will not increase the amount of take or the severity of other impacts of the taking on the Covered Species. Given the circumstances of this Project, CDFW believes that the changes to the Project or Conditions of the ITP, as amended, described in Amendment No. 2 will not increase impacts to the Covered Species.

Issuance of Amendment No. 2 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 August 2013 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 Amendment No. 2 because it: (1) will have no effect on the amount or severity of Project impacts on the Covered Species, as discussed above, and (2) does not substantively alter the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the Conditions of Approval in the ITP, as amended, and MMRP which will minimize and fully mitigate impacts of the taking on the Covered Species.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of Amendment No. 2.

Discussion: CDFW issued the ITP in August 2013 and Amendment No. 1 in January 2017 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.). After, among other things, considering the Final Supplemental Environmental Impact Statement/Program Environmental Impact Report by the United States Department of Energy and Kern County respectively as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment is a minor change to the original ITP, as amended. 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 Kern County during its lead agency review of the Project, particularly with respect to the impacts authorized by CDFW pursuant to the ITP, as amended. As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of Amendment No. 2.

CDFW finds that Amendment No. 2 is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Discussion: Amendment No. 2 extends the expiration date of the ITP, as amended, from May 31, 2023, to May 31, 2033. These changes to the ITP, as amended, will not: (1) Increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, as amended, (2) affect Permittee's substantive mitigation obligations under the ITP, as amended, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, Amendment No. 2 will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP, as amended. CDFW has determined that the change to the ITP, as amended, constitutes a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

The authorization provided by Amendment No. 2 is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of Amendment No. 2 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. Digital signatures facilitated by CDFW will be automatically returned.

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 5/24/2023

DocuSigned by:

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for Julie A. Vance, Regional Manager
Central Region

Minor Amendment No. 2
Incidental Take Permit 2081-2013-029-04
DEPARTMENT OF ENERGY
Naval Petroleum Reserve No.1

ACKNOWLEDGMENT

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

By:  A50665C0BAF244A... Date: 5/25/2023

Printed Name: Michael G. Elliott Title: Federal Project Coordinator

Minor Amendment No. 2
Incidental Take Permit 2081-2013-029-04
DEPARTMENT OF ENERGY
Naval Petroleum Reserve No.1