

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MARINE REGION
1933 CLIFF DRIVE, SUITE 9
SANTA BARBARA, CA 93109



AMENDMENT NO. 2
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2013-047-03
Martin Marietta Marine Operations, LLC
San Francisco Bay-Delta Estuary Sand Mining Project in San Francisco, Marin, Solano,
Sacramento, and Contra Costa Counties

INTRODUCTION

On April 1, 2014, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2013-047-03 (ITP) to Hanson Marine Operations, now Martin Marietta Marine Operations, LLC, (Permittee), authorizing take of Central Valley spring-run Chinook salmon (*Oncorhynchus tshawytscha*), Sacramento River winter-run Chinook salmon (*O. tshawytscha*), Delta smelt (*Hypomesus transpacificus*), and Longfin smelt (*Spirinchus thaleichthys*) (collectively, the Covered Species) associated with and incidental to the San Francisco Bay-Delta Estuary Sand Mining Project in San Francisco, Marin, Solano, Sacramento, and Contra Costa Counties, California (Project). The Project as described in the ITP as originally issued by CDFW includes continuation of commercial hydraulic sand mining operations for the next 10 years to provide local marine aggregate for use in highway maintenance and construction, new residential complexes, and commercial and public buildings within the greater San Francisco Bay area. In issuing the ITP, 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 October 28, 2014, CDFW issued Major Amendment 1 to make two changes to the ITP. First, the amendment made changes to the smelt work period restrictions (Condition 7.1) to limit sand mining volume and mining depth during December 1 through June 30 of each year covered in the ITP in the Middle Ground Shoal and Suisun Bay areas. Second, the amendment added 0.207 acres of covered species credits (Condition 8) in order to mitigate for potential entrainment and mortality of larval Delta smelt and Longfin smelt due to mining activities upstream of the X2 location.

In a letter dated June 5, 2023, Martin Marietta Marine Operations, LLC requested to amend the applicant corporation name and to extend the ITP expiration date by 16 months to coincide with the expiration dates of other State and Federal approvals of the Project.

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

First, this Amendment changes the applicant corporation name from Hanson Marine Operations to Martin Marietta Marine Operations, LLC.

Second, this Amendment changes the ITP expiration date from December 31, 2023 to April 30, 2025.

AMENDMENT

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

1. Following the first paragraph on page 1 (Authority) the Permittee section shall be amended to read:

Permittee: ~~Hanson Marine Operations~~ ***Martin Marietta Marine Operations, LLC***

2. The corresponding MMRP Permittee section on page 1, shall be amended to read the same as above.
3. The section titled Effective Date and Expiration Date of this ITP shall be amended to read:

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 ~~December 31, 2023~~ ***April 30, 2025***.

4. The first sentence under Project Description shall be amended to read:

~~Hanson Marine Operations~~ ***Martin Marietta Marine Operations, LLC*** (Permittee) proposes to continue commercial hydraulic sand mining operations for the next 10 years in the central San Francisco Bay, Middle Ground Island shoal, and Suisun Channel.

All terms and conditions of the ITP and 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 not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment increase other Project impacts on the Covered Species (i.e., “impacts of taking” as used in Fish and Game Code Section 2081, subd. (b)(2)).

Discussion: This Amendment makes two specific changes to the ITP as originally issued. The Amendment updates the applicant corporation name. Hanson Marine Operations was purchased by Martin Marietta Marine Operations, LLC which now owns and operates the Project as previously described within the original ITP. The Amendment also extends the expiration date of the ITP from December 31, 2023 to April 30, 2025 to coincide with other State and Federal permits and approvals. The resulting impacts to the Covered Species, however, including the number of fish entrained or impinged or impacts to Covered Species habitat as a result of the Project, will remain the same.

CDFW has determined that extending the ITP expiration date 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 described in this Amendment, including extending the expiration date, will not increase impacts to the Covered Species.

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

Discussion: CDFW determined in April, 2014 that the Project, as approved, met the standards for issuance of an ITP under CESA. This determination included findings that, among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP as amended: (1) 16 months of mining under the existing ITP will not surpass the originally permitted amount of water to be entrained each year from the 3 mining locations given the lower average yearly amounts reported in the first 9 years of the permit 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 ITP’s Conditions of Approval and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the ITP in April, 2014 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) After, among other things, considering the environmental impact report certified by the California State Lands Commission 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. CDFW finds for the same reasons under CEQA that approval of the Amendment will not result in and does not have the potential to create any new significant or substantially more severe environmental effects than previously analyzed and disclosed by the California State Lands Commission 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 this Amendment.

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

Discussion: This Amendment updates the applicant corporation name and extends the permit expiration date two additional years. These changes to the ITP will not: (1) increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, (2) affect Permittee's substantive mitigation obligations under the ITP, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, this Amendment will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. CDFW has determined that the change to the ITP constitutes a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below.

Minor Amendment No. 2
Incidental Take Permit 2081-2013-047-03
MARTIN MARIETTA MARINE OPERATIONS, LLC
San Francisco Bay-Delta Estuary Sand Mining Project

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 8/8/2023



John Ugoretz for
Craig Shuman, D. Env.
Regional Manager
Marine Region

ACKNOWLEDGMENT

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

By:  Date: 8/14/2023

Printed Name: Erika Guerra Title: Environmental Director

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