

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

NORTH CENTRAL REGION
1701 NIMBUS ROAD
RANCHO CORDOVA, CA 95670



AMENDMENT NO. 4
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2019-024-04
Biggs-West Gridley Water District
Gray Lodge Water Supply Project in Butte County

INTRODUCTION

On August 1, 2019, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2019-024-02 (ITP) to Biggs-West Gridley Water District (Permittee), authorizing take of giant garter snake (*Thamnophis gigas*) (Covered Species) associated with and incidental to the Gray Lodge Water Supply Project in Butte County, California (Project). The Project as described in the ITP as originally issued by CDFW includes the structural modification of portions of the Biggs-West Gridley Water District's (Water District) water conveyance facilities. The Project includes approximately 5.64 linear miles of canals, plus a 200-foot buffer on each side of the canal centerline. The Project includes the construction of 31 minor modifications. The minor modifications consist primarily of concrete structure work including water control structures (in-canal check structures, turnouts, and headgates), county road crossings, farm road crossings, a railroad under-crossing, and drain crossings. Major modifications consist primarily of canal work involving raising, reshaping, or widening the canal banks, compacting embankment soils, and placing erosion control rock on side slopes. 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 15, 2020, the CDFW issued Minor Amendment No. 1 for this ITP. Amendment 1 made three specific changes to the ITP as originally issued: (1) the construction sequencing and methodology were changed resulting in a substantial reduction of the temporary impacts; (2) required notification of observations of Covered Species to be provided to CNDDDB concurrently with submission of the Quarterly Compliance Report or Annual Status Report; and (3) updated the Project impacts to Covered Species pursuant to an impact assessment prepared on July 31, 2020.

On October 28, 2021, the CDFW issued Updated Major Amendment No. 2 for this ITP. Updated Amendment No. 2 made the following changes to the existing ITP and Mitigation Monitoring and Reporting Program (MMRP): (1) increased the total linear miles of canals within the Project from 5.64 miles to 6.36 miles; (2) updated Figure 2 of the ITP; and (3) updated the Project impacts to Covered Species habitat. Updated

impacts were mitigated through the purchase of 3.308 credits of GGS habitat from the Sutter Basin Conservation Bank.

On August 26, 2022, the CDFW issued Minor Amendment No. 3 for this ITP. Minor Amendment No. 3 made the following changes to the existing ITP and Mitigation Monitoring and Reporting Program (MMRP): (1) Amendment updated the Principal Officer and Contact Person from Eugene Massa Jr. to Danny Robinson, General Manager of the Biggs-West Gridley Water District; (2) added new areas of construction and staging including 3 new minor modification projects; and (3) updated Figure 2 of the ITP which depicts the proposed timing of the work associated with Lower Belding and Schwind Laterals. In addition, Figure 3A was added to the ITP and shows the location of a new staging area located on Farris Road 0.1 miles south of the Lower Belding Lateral.

On August 11, 2023, the CDFW received a request from the Permittee for Amendment No. 4, a Minor Amendment. This Minor Amendment No. 4 makes the following changes to the existing ITP: (1) adds 2 minor construction modifications, with those being 2 traveling debris screens located where the Traynor and Schwind Laterals enter the Gray Lodge Wildlife Area; (2) updates Figure 2 of the ITP; and (3) updates the Project impacts to Covered Species habitat, identifying an addition of 0.07 acre of GGS habitat impacts. Based on the results of the Project's most recent (November 2022) GGS habitat Impacts Verification analysis (conducted for compliance with ITP Condition 8.11), a credit balance of +0.763 GGS habitat credits was calculated for the Project; impacts associated with the new construction work in Minor Amendment No. 4 will be mitigated by claiming 0.21 credits of the available +0.763 GGS habitat credits.

AMENDMENT

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

1. The first paragraph of the "Project Description" section on page 4 is updated as follows:

The Project includes the structural modification of portions of the Biggs-West Gridley Water District's (Water District) water conveyance facilities. The Project includes approximately 6.36 linear miles of canals, plus a 200-foot buffer on each side of the canal centerline. The Project includes the construction of ~~34~~ **36** minor modifications. The minor modifications consist primarily of concrete structure work including water control structures (in-canal check structures, turnouts, and headgates), county road crossings, farm road crossings, a railroad under-crossing, ~~and~~ drain crossings, **and traveling**

debris screens. The major modifications consist primarily of canal work involving raising, reshaping, or widening the canal banks, compacting embankment soils, and placing erosion control rock on side slopes. The main canal, undersized and in poor condition, needs to be widened and, in some reaches, deepened to increase flow capacity to meet water supply requirements. The levee embankments will be compacted to minimize seepage losses and water control structures will be replaced to accommodate adjusted locations and hydraulic capacity.

2. The last paragraph in the ITP under the heading “Impacts of the taking on Covered Species” on page 6 shall be amended to read: The Project is expected to cause the permanent loss of ~~2.787~~ **2.825** acres of upland habitat for the Covered Species, and temporary loss of ~~24.272~~ **21.287** acres of habitat for the Covered Species (4.22 acres of aquatic habitat and ~~17.052~~ **17.067** acres of upland habitat). The Project is expected to result in the expansion of Covered Species habitat of ~~5.276~~ **5.259** acres. Impacts of the authorized taking also include adverse impacts to the Covered Species related to temporal losses, increased habitat fragmentation and edge effects, and the Project’s incremental contribution to cumulative impacts (indirect impacts).
3. Condition 4. of the ITP shall be amended to read:

ESA Compliance: Permittee shall implement and adhere to the terms and conditions related to the Covered Species in the Formal Consultation on the Gray Lodge Wildlife Area Water Supply Infrastructure Improvement Project Phase 2 (~~08ESMF00-2019-F-1312-R004-1~~ **2022-0000608-S7-001**) for the Project pursuant to the Federal Endangered Species Act (ESA). For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.
4. Figure 2 Project Phasing of the ITP shall be replaced by the figure attached to this document.
5. Figure 3B is added to the ITP and shows the locations of and site plans for the 2 traveling screens located where the Traynor and Schwind Laterals enter Gray Lodge.
6. Condition 9.1 of the ITP and MMRP shall be amended to read:

9.1 Covered Species Credits. In compliance with the originally issued ITP, Permittee purchased 10.8 acres of Covered Species credits from a CDFW-approved mitigation bank on August 2, 2019. On August 18, 2021, Permittee purchased an additional 3.22 acres of Covered Species credits from the Sutter Basin Conservation Bank to mitigate impacts associated with Amendment No. 2. In both cases, proof of payment was submitted to CDFW prior to starting any covered activities. A habitat “Impacts Verification” was conducted in November 2021 in compliance with ITP Condition 8.11, which confirmed the Project has a +0.39 acre/credit balance. **Another habitat Impacts Verification was conducted in November 2022 for Phases 4, 5B, and 5C covering construction work that had been completed by that time. This analysis noted several new/unanticipated impacts along with several anticipated impacts that did not occur. The net result was that the +0.39 acre/credit balance was increased by +0.373 credits, for a current credit balance of +0.763 acre/credits.** Proposed work along the Lower Belding ~~located at the Traynor Lateral and Schwind Laterals~~ **Lateral entry points onto Gray Lodge** added by Amendment No. ~~3-4~~ will result in permanent impacts of ~~0.046-0.055~~ **0.038** acre (0.029 **0.038** acre of upland habitat and 0.017 of aquatic habitat) and temporary impacts of ~~0.038~~ **0.015** acres **acre** of upland habitat. ~~Permittee shall mitigate these impacts by purchasing 0.25 credits of GGS habitat from a CDFW-approved conservation bank.~~ **These impacts will be mitigated by deducting 0.21 GGS habitat acre/credit from the Project’s existing +0.763 GGS habitat acre/credit balance, reducing it to 0.553 acre/credits.** The new total mitigation for this project is 14.358 acres of Covered Species Credits. ~~Proof of Covered Species credit purchase shall be provided to CDFW prior to the start of work authorized by Amendment #3.~~

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 increase the amount of impacts to Covered Species’ habitat, however, by continuing to implement the Conditions of Approval from the ITP including biological monitoring and habitat Impacts Verifications, the most recent such verification which identified a GGS habitat acre/credit balance of 0.763 GGS habitat acre/credits, and the deduction of 0.21 GGS habitat acre/credits from this balance, it is not expected that this Amendment will substantially increase Project impacts as a whole on these species (i.e., “impacts of taking” as used in Fish and Game Code Section 2081, subd. (b)(2)).

Discussion: This Amendment makes three specific changes to the ITP as originally issued. Changes include new Project construction phasing, impacts update, and addition of two new areas of construction in addition to those added in Amendment No. 3. These changes will result in permanent and temporary impacts to GGS habitat which will be fully mitigated for through the deduction of 0.21 GGS habitat acre/credits from the +0.763 GGS habitat acre/credit balance the Project sustains following purchase of 14.36 GGS habitat credits from a CDFW-approved conservation bank. CDFW has determined that although these Project changes will result in additional impacts to Covered Species habitat, this Amendment will not substantially increase other Project impacts on these species because, in all other respects, the types of remediation activities authorized by the ITP remain unchanged.

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 August 2019, and reaffirmed in October 2020, August 2021, October 2021, August 2022, and September 2023 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) will not significantly increase 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 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 August 2019, amended it in October 2020, October 2021, August 2022, and is issuing Amendment No. 4 in September 2023, as a lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), after, among other things, considering the mitigated negative declaration and subsequent addenda adopted June 17, 2019, by CDFW as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of

CESA that this Amendment represents a minor change in the Project as originally approved. However, for the reasons explained above, CDFW concludes this Amendment is not a change in the Project that has the potential to create a new significant effect not previously analyzed, a substantial change in the circumstances under which the Project is being undertaken requiring major revisions to previous CEQA documents, or new information of substantial importance. 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 adds two construction areas and quantifies impacts resulting from the new project footprint and activities. These changes to the ITP will increase temporal and permanent habitat impacts on the Covered Species. To date, the Permittee has purchased 14.36 GGS habitat credits from a CDFW-approved conservation bank. As part of the habitat Impacts Verification conducted for the Project to satisfy ITP Condition 8.11, the Project has been determined to be less impactful to GGS habitat, with a +0.763 GGS habitat acre/credit balance identified. A total of 0.21 GGS habitat acre/credit from the credit balance will be used to offset impacts associated with new work authorized by Amendment No. 4. Therefore, this Amendment will not significantly modify the scope 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, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

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

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

Minor Amendment No. 4
Incidental Take Permit 2081-2019-024-02
BIGGS-WEST GRIDLEY WATER DISTRICT
Gray Lodge Water Supply Project

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 9/13/2023

DocuSigned by:
Billie Wilson
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Billie Wilson
Acting Regional Manager
North Central 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.

DocuSigned by:
Danny Robinson
5B56188B7628474...
By: _____

Date: 9/14/2023

Printed Name: Danny Robinson

Title: General Manager