



State of California –The Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Central Region

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GAVIN NEWSOM, Governor

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October 19, 2023

Stefan Galvez

California High-Speed Rail Authority

770 L Street, Suite 800

Sacramento, California 95814

stefan.galvez@hsr.ca.gov

Subject: Amendment 28 to Incidental Take Permit for California High-Speed Train Project Fresno to Bakersfield Section Permitting Phase 1 (2081-2015-024-04-A28)

Dear Stefan Galvez:

Attached you will find an electronic copy Amendment 28 of 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 permit 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 permit via mail to:

Department of Fish and Wildlife
Habitat Conservation Planning Branch, CESA Permitting
Post Office Box 944209
Sacramento, CA 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 permit 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 must be maintained at the project work site and made available for inspection by CDW staff when requested.

The permit will not take effect until the signed acknowledgement is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Laura Peterson-Diaz, Senior Environmental Scientist, at laura.peterson-diaz@wildlife.ca.gov.

Sincerely,

DocuSigned by:
A handwritten signature in black ink that reads "Julie A. Vance".

FA83F09FE08945A...
Julie A. Vance, Regional Manager

Central Region

California Department of Fish and Wildlife

Conserving California's Wildlife Since 1870

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CENTRAL REGION

1234 EAST SHAW AVENUE

FRESNO, CALIFORNIA 93710



AMENDMENT NO. 28

(A Major Amendment)

California Endangered Species Act

Incidental Take Permit No. 2081-2015-024-04

California High-Speed Train Project Fresno to Bakersfield Section Permitting Phase 1

INTRODUCTION

On June 15, 2015, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2015-024-04 (ITP) to the California High-Speed Rail Authority (Authority or Permittee) authorizing take of California tiger salamander (*Ambystoma californiense*)(CTS), Swainson's hawk (*Buteo swainsoni*)(SWHA), Tipton kangaroo rat (*Dipodomys nitratooides nitratooides*)(TKR), San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), and San Joaquin kit fox (*Vulpes macrotis mutica*)(SJKF) (collectively, the Covered Species) associated with and incidental to the Permitting Phase 1 of the Fresno to Bakersfield Section of the High-Speed Train (HST) Project (Project). The Project as described in the ITP originally issued by CDFW includes HST alignment beginning on the south side of the G Street and San Benito Street intersection, north of Highway 41, in the City of Fresno, Fresno County, California. From this intersection, the Fresno to Bakersfield HST alignment extends south either along or adjacent to the Burlington Northern Santa Fe Railway (BNSF) for approximately 99 miles before reaching the section endpoint, at the intersection of 7th Standard Road, and Santa Fe Way, within the city limits of Shafter, in Kern County, California.

The total length of the Project is 99 miles. The Project is the second 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 electrically powered 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 graded, 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 included construction and installation of all Project components, including disturbance of up to 5,868.00 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, inspection activities within the Construction Footprint (O&M), and Mitigation Activities.

In an email dated June 24, 2016, the Permittee requested a revision of the Project Description to include an increase in the Construction Footprint by 102.58 acres to 5,970.58 acres to accommodate eight additional Roadway Modifications, and in a subsequent email dated July 25, 2016, the Permittee requested the addition of a third designation of approvable project biologists to carry out small mammal habitat assessment and trapping activities. On March 7, 2017, CDFW issued **Major Amendment No. 1** to the ITP incorporating these requested revisions along with corrections to the acreage for the impacts, changes to the required Habitat Management lands acreage, and clarifications to the reporting requirement language.

On July 5, 2018 and September 19, 2018, CDFW initiated, issued, and re-issued respectively, **Major Amendment No. 2** to the ITP incorporating a Baseline Map Book as Exhibit 6 and added references to the map book throughout the ITP; further revising the Tracking Suitable Habitat Feature Disturbances, Map Updating, and Reporting requirements; added a specific Covered Activity (pile driving) and a species-specific Take Avoidance Measure for that Covered Activity; adding the third category of Biological Monitor, Designated Small Mammal Trapper, to Condition of Approval 6.2; clarified the Construction Monitoring Notebook requirement; added Condition of Approval 7.13 requiring survey and reporting requirements in advance of initiating Covered Activities; revising Conditions of Approval 8.13.2, 8.14.1, 8.15.1, 8.16.1, 8.16.2, 8.16.3, 8.17.2; and adding Condition of Approval 8.15.6. There was no change to the Construction Footprint acreage.

In a letter dated June 25, 2018, the Permittee requested a revision of the ITP to change the Mitigation Site Construction Elements from the Fagundes Compensatory Mitigation Site to a new location, now recognized as Cottonwood Creek. Because the Permittee would no longer be conducting riparian and wetland restoration at the Fagundes Compensatory Mitigation Site, all references to riparian and wetland restoration at the Fagundes site was removed and replaced with the Cottonwood Creek mitigation site. Due to the varying conditions at the Cottonwood Creek site, some Construction Elements also changed with the changes in mitigation site location. Further, on September 25, 2018, the Permittee requested a 7-day extension provision be added for SJAS relocation. There was no change to the Construction Footprint acreage. On October 2, 2018, CDFW issued **Major Amendment No. 3** to the ITP incorporating these changes.

In an email dated October 4, 2018, the Permittee requested a revision of the ITP to extend the dry season work window beyond October 31st for ground disturbing activities

at the Mitigation Site. There was no change to the Construction Footprint acreage. On November 15, 2018, CDFW reissued **Minor Amendment No. 4** to the ITP incorporating these changes.

In an email dated November 27, 2018, the Permittee requested a revision to the ITP to allow for SJAS relocation to occur prior to April 1 and to allow SJAS relocation to occur after November 15 on a case-by-case basis. There was no change to the Construction Footprint acreage. On November 29, 2018, CDFW issued **Major Amendment No. 5** to the ITP incorporating these changes.

In a letter dated September 10, 2018, the Permittee requested to revise the Project Description to allow for an increase in the Construction Footprint of 6.92 acres for a total of 5,977.50 acres to accommodate new Work Areas for the water pipeline irrigation casing installation and level 3 fiber optic line relocation. Additionally, CDFW initiated amending the Project Description to include installation of water pipeline irrigation casings, dry jack and bore, and horizontal directional drilling as Covered Activities as well as adding Condition of Approval 7.12. On January 17, 2019, CDFW issued **Major Amendment No. 6** to the ITP incorporating these changes.

In a letter dated October 19, 2018, the Permittee requested to revise the Project Description to increase the Construction Footprint by 2.01 acres to a total of 5,979.51 acres for road improvements to Wasco Avenue to function as an access road for agricultural operations north of Kimberlina Road in Kern County. Additionally, the Permittee requested a design change to the HST/Kimberlina Road location that will be contained within the current ITP Construction Footprint at that location. On February 1, 2019, CDFW issued **Major Amendment No. 7** to the ITP incorporating these changes.

In a letter dated August 22, 2018, the Permittee requested to revise the Project Description to accommodate advanced design changes requiring roadway modifications, utility relocations, access road alterations, and canal realignments along and adjacent to the HST alignment at South Avenue; two new locations in Fresno County at Conejo Avenue, and Peach Avenue; as well as changes for existing locations at Flint Avenue and Kent Avenue in Kings County; and Avenue 88 in Tulare County resulting in a net decrease of 1.96 acres changing the Construction Footprint to 5,977.55 acres. In a subsequent email dated January 25, 2019, the Permittee requested to include the use of jack and bore and horizontal directional drilling as Covered Activities throughout the entire Construction Footprint. The Permittee also requested Condition of Approval 7.12, the notification and submission of a Horizontal Directional Drilling and Dry Jack and Bore Level 3 Fiber Optic Line Relocation Plan, be revised to serve as a notification and plan for all horizontal directional drilling and jack and bore

activities occurring within the entire Construction Footprint. On February 13, 2019, CDFW issued **Major Amendment No. 8** to the ITP incorporating these changes.

In a letter dated December 6, 2018, the Permittee requested to revise the Project Description to add construction of an intrusion protection barrier (IPB) within specific limits of the HST alignment to mitigate the risk of potential derailed trains from the adjacent BNSF rail line entering the path of the HST and increase the Construction Footprint by 0.75 acre which brought the total acres to 5,978.30. The IPB construction specific limits occurred in various locations along the California HST route from the vicinity of State Route 43 and Whisler Road to the vicinity of Madera and Poplar Avenues near the City of Shafter in Kern County. IPB construction in this vicinity required re-siting of two wildlife crossing structures. In an email dated January 23, 2019, Permittee further requested modifying the approval process for siting and constructing wildlife crossings. On February 26, 2019, CDFW issued **Major Amendment No. 9** to the ITP incorporating these changes.

In a letter dated January 2, 2019, and a subsequent letter dated February 4, 2019, Permittee requested further revision to the ITP, as amended, to cover a 31.79-acre increase to the approved Project Construction Footprint and associated impacts to Covered Species to accommodate the “alternative technical concepts” (ATC) 11 and 13b (design variations). The changes were to employ “reverse stacking” over Garces Highway, Pond Road, and Peterson Road in Kern County; which means to place the railway over the surface roads instead of vice-versa; and a slight alignment revision to avoid a major agricultural water pumping facility known as the Semitropic Pump Station. In a letter dated February 12, 2019, Permittee requested amending the ITP to cover an 86.14-acre increase to the Project Construction Footprint to accommodate design variations including utility relocations, roadway modifications, temporary construction easements, and access roads at 23 locations. Altogether, this brought the Construction Footprint acreage total to 6,096.24. On March 28, 2019, CDFW issued **Major Amendment No. 10** to the ITP incorporating these changes.

In a letter dated March 11, 2019, the Permittee requested a 141.60-acre increase to the approved Project Construction Footprint and associated impacts to Covered Species to accommodate four segments of IPB between State Route 41 and approximately 1000 feet south of East American Avenue in Fresno County, and additional areas for construction access, fence and gate construction, utility relocations, and street and sidewalk modifications. In a letter dated March 12, 2019, the Permittee requested a 105.12-acre increase to the approved Project Construction Footprint and associated impacts to Covered Species to accommodate design variations at 20 locations, in Fresno County. The design variations include utility relocation and protection, roadway modifications, temporary construction easement for staging equipment and materials,

building demolition, additional earthwork, access roads, and/or waterway crossing structures. Altogether, this brought the Construction Footprint acreage total to 6,342.96. On April 25, 2019, CDFW issued **Major Amendment No. 11** to the ITP incorporating these changes.

In a letter dated January 8, 2019, Permittee requested that CDFW further amend the ITP, as amended, to cover increases in the Project Construction Footprint by 98.06 acres, for a total of 6,441.03 acres, to accommodate additional temporary access routes, staging areas, and utility relocation at several locations in Kern County referred to as "Wasco Utilities" and "North-South Utilities." Permittee provided supplemental information related to the requested activities dated January 29 and April 30, 2019. In a letter dated March 6, 2019, Permittee requested that CDFW further amend the ITP, as amended, to remove the required CDFW written approval of pre-construction survey reports. On May 20, 2019, CDFW issued **Major Amendment No. 12** to the ITP incorporating these changes.

In a letter dated April 5, 2019, Permittee requested to increase the Construction Footprint by 19.36 acres to accommodate design changes and refinements in the vicinity of State Route (SR) 46, including utility relocations, removal and construction of a Caltrans retention pond, construction of a retention pond for the Authority, building demolition, and other Covered Activities related to relocation of utilities within Kern County. In a letter dated June 21, 2019, Permittee requested to increase in the Construction Footprint by 150.46 acres to accommodate design variations including utility relocations, roadway modifications, temporary construction easements, access roads, and other Covered Activities at 19 locations within Fresno, Kings and Tulare counties. Together these design variations required an increase in the Construction Footprint of 169.82 acres, for a total of 6,610.85 acres. On August 8, 2019, CDFW issued **Major Amendment No. 13** to the ITP incorporating these changes.

In a letter dated May 3, 2019, Permittee requested a 50.89-acre expansion of the approved ITP Construction Footprint to address 68 utility conflicts involving PG&E overhead powerlines, AT&T telecommunication lines, SoCal Edison optical fiber, Semitropic irrigation lines, and North Kern Water Storage District relocation of Canal 9-22 and Canal P1030. Work to resolve the utility conflicts included bypass, civil work, protect in place, removal, relocation, and other Covered Activities within Kern County. This request also included three roadway modifications in Kern County, one of which was a new location which brought the Construction Footprint to 6,661.74 acres. On September 3, 2019, CDFW issued **Major Amendment No. 14** to the ITP incorporating these changes.

In a letter dated May 9, 2019, Permittee requested amending the ITP to increase the Construction Footprint by 146.77 acres to accommodate design variations to the Tule elevated structure as well as utility relocations, roadway modifications, access roads, and other covered activities at 11 locations. The request also proposed eliminating two Temporary Construction Easements (TCEs) and two overcrossings, resulting in a 368.58-acre reduction to the Construction Footprint, for a net decrease of 221.81 acres, which brought the total Construction Footprint to 6,439.93 acres. On September 9, 2019, CDFW issued **Major Amendment No. 15** to the ITP incorporating these changes.

In a letter dated August 27, 2019, Permittee requested increasing the Project Construction Footprint by 7.94 acres at Gromer Avenue in Wasco to cover utility relocation, TCEs, and permanent access road construction. In a letter dated September 5, 2019, Permittee requested increasing the Project Construction Footprint by 15.08 acres to accommodate design variations including utilities and an access road within Semitropic Water Storage District (Semitropic WSD) that would need to be relocated at two locations. In a letter dated September 20, 2019, Permittee requested the correction of Table 1 to include the reduction of 8.93 urban acres already accounted for in Amendment 15 as well as removal of the remaining 12.13 acres of orchard in Table 1 which eliminates both TCE impacts from Amendment 15. Together these brought the new construction footprint to 6,462.95 acres. In an e-mail sent on October 10, 2019, CDFW informed Permittee that there would be two additional changes: 1) Table 9 updated to show the current number of nests taken of the maximum five covered by the ITP and 2) Measures 7.1, 8.16.2 and 8.17.2 were further updated to include Designated Small Mammal Trapper(s), 8.16.2 and 8.17.2 were updated to clarify reporting, and 8.17.2 added conditional concurrence of daily trapping forms for the early resumption and/or extension relocation period for non-business days. On October 11, 2019, CDFW issued **Major Amendment No. 16** to the ITP incorporating these changes.

In a letter dated May 2, 2019, Permittee requested increasing the Project Construction Footprint by 57.32 acres to accommodate a variation in the profile design of the HST alignment construction from elevated viaduct to embankment at the sections of the HST mainline that are outside of streams and other waterways; changes to the bridge structures at Cole Slough, Dutch John Cut, and the Kings River channel; and a change from a bridge to two box culverts at Riverside Ditch. Design changes are also included for utility relocations, roadway modifications, TCEs, staging areas, site preparation, demolition, earthwork, and access roads, and other Covered Activities at seven locations as well as shifting the location of a switching station and addition of 20 new wildlife crossings. The request also proposed the reduction of two TCEs resulting in a 33.87-acre reduction to the Construction Footprint, for a net increase of 23.45 acres, bringing the new total Construction Footprint to 6,486.40 acres. On October 31, 2019, CDFW issued **Major Amendment No. 17** to the ITP incorporating these changes.

In a letter dated January 8, 2019, and supplemental information dated January 29, 2019, Permittee requested the “ATC 2 Variation” which included a design change in the City of Wasco from viaduct to an at-grade design. Permittee had originally submitted the ATC 2 Variation together with “Wasco Utilities” and “North-South Utilities” (Amendment 12) however, per discussion and request from CDFW, separate amendment requests were submitted. The Permittee provided additional supplemental information dated April 30, 2019, and September 20, 2019, for the ATC 2 Variation (Wasco at-grade). Permittee requested increasing the Project Construction Footprint by 12.58 acres, for a total of 6,498.98 acres to accommodate design change construction of Wasco at-grade and the addition of TCEs needed for access, staging, equipment storage, and other Covered Activities related to road modifications and building demolition. The request also proposed the addition of 13 dedicated wildlife crossings south of Wasco at-grade, SJKF escape refugia, and a minimum of 300 acres of additional habitat conservation lands to mitigate the reduction in wildlife permeability resulting from the Wasco viaduct design change. On November 22, 2019, CDFW issued **Major Amendment No. 18** to the ITP incorporating these changes.

In a letter dated May 14, 2019, Permittee requested design changes and refinements to accommodate several IPBs from just south of East American Ave (approximately 6.40 miles south of the City of Fresno), to just north of Ave 76, (approximately 4.95 miles north of Allensworth). The IPB Variations will not expand the ITP Construction Footprint or alter the general alignment described in the ITP. In a letter dated October 11, 2019, Permittee requested increasing the Project Construction Footprint by 12.15 acres, for a total of 6,511.13 acres, to accommodate design variations including utility relocations, roadway modifications, temporary construction easements, access roads, and other Covered Activities at McCombs Avenue and Merced Avenue. On December 12, 2019, CDFW issued **Major Amendment No. 19** to the ITP incorporating these changes.

In a letter received March 2, 2020, Permittee requested additional clarification regarding both trapping and burrow excavation for (TKR) and SJAS when occupied or potentially occupied burrows of either species are present in suitable habitat. There is no change to the Construction Footprint acreage. On March 27, 2020, April 10, 2020, and April 23, 2020, CDFW issued and twice reissued **Major Amendment No. 20** to the ITP incorporating these changes.

In a letter dated July 23, 2019, and supplemental information dated July 26, 2019, Permittee requested a net 94.46-acre expansion of the approved ITP Construction Footprint, for a total of 6,605.59 acres, to accommodate design variations of wildlife crossing structures at Cross Creek and Deer Creek as well as utility relocations, roadway modifications, temporary construction easements, access roads, and other Covered Activities at these two locations. In a letter dated November 8, 2019, Permittee

requested to update Table 5 for new dedicated wildlife crossing locations and adjusted locations for existing crossings as well as updating the corresponding Mapbook pages. In a letter dated March 5, 2020, Permittee provided additional culverts for wildlife crossings near Allensworth Ecological Reserve. In a second letter dated March 5, 2020, Permittee provided supplemental information regarding SJKF refugia and this information was updated in a follow-up letter dated March 17, 2020. On May 22, 2020, CDFW issued **Major Amendment No. 21** to the ITP incorporating these changes.

In a letter dated January 6, 2020, Permittee requested a 26.539-acre expansion of the approved ITP Construction Footprint, for a total of 6,632.13 acres, to accommodate design variations including (1) installation of a private access easement in the vicinity of Magnolia Avenue, (2) construction of a new BNSF access road along BNSF right-of-way (ROW) to ensure maintenance and access to BNSF signal equipment and facilities, (3) proposed improvements for Canal 9-22 north of the City of Wasco, (4) installation of drainage ponds and drainage connections within the City of Wasco under the ROW, and (5) installation of a new Pacific Gas and Electric (PG&E) access road to be constructed parallel to the BNSF ROW, and other Covered Activities within and in the vicinity of the City of Wasco. On July 8, 2020, CDFW issued **Major Amendment No. 22** to the ITP incorporating these changes.

In a letter dated May 4, 2021, and in supplemental information submitted to CDFW on June 4, June 22, July 28, and August 11, 2021, Permittee requested a 26.40-acre expansion of the approved ITP Construction Footprint, for a new total of 6,658.53 acres, to accommodate design variations including: (1) installation of improvements to facilitate access and egress for construction, operation, and maintenance of the HST; (2) design improvements for McCombs Avenue; (3) anticipated roadway improvements at SR 46 and associated roundabout and related drainage facilities; (4) design improvements for the Merced Overpass; (5) utility relocations, and (6) other Covered Activities within and in the vicinity of the City of Wasco. On October 12, 2021, CDFW issued **Major Amendment No. 23** to the ITP incorporating these changes.

In a letter dated April 13, 2022, Permittee requested (1) expansion of the ITP Construction Footprint by 34.05 acres to accommodate design variations, utility relocation and protection, roadway modifications, access roads, and temporary construction easements at 24 sites; and (2) update of impacts to foraging habitat and nest trees for SWHA and the associated compensatory mitigation based on the location and extent of nest observations in annual protocol surveys of the Construction Footprint during years 2017-2021 and pre-construction survey results of suitable habitat features. On August 24, 2022, CDFW issued **Major Amendment No. 24** to the ITP incorporating these changes.

In a letter dated September 14, 2022, the Permittee requested the remaining areas of Subzones 1-4, be exempt from further burrow excavation, as currently required by Condition of Approval 8.13.4, due to safety concerns. On October 6, 2022, and October 17, 2022, CDFW issued and reissued **Major Amendment No. 25** to the ITP incorporating these changes.

In a letter dated October 5, 2022, Permittee requested expansion of the ITP Construction Footprint by 7.63 acres to accommodate design variations including access road installation and to facilitate site preparation of the construction of the catenary switching station system site relocation within Kern County. In a letter dated December 23, 2022, Permittee requested expansion of the ITP Construction Footprint by 0.06 acres to accommodate utility relocation and protection at two locations to the north and south of Houston Avenue in Kings County. CDFW also initiated the update of Table 10 to include all the known SWHA nest trees utilized during the 2023 nesting season, updated the due date for the Swainson's Hawk Report and updated Conditions of Approval 7.7 and 8.7. On February 16, 2023, CDFW issued **Major Amendment No. 26** to the ITP incorporating these changes.

In a letter dated March 16, 2023, Permittee requested a 6.04-acre expansion of the approved ITP Construction Footprint, for a total of 6,706.31 acres, to accommodate the Avenue 88, Fresno Irrigation District Access Roads, and Alpaugh Irrigation District Basin Variations. On August 15, 2023, CDFW issued **Major Amendment No. 27** to the ITP incorporating these changes.

In issuing the ITP, Major 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, Major Amendment No. 15, Major Amendment No. 16, Major Amendment No. 17, Major Amendment No. 18, Major Amendment No. 19, Major Amendment No. 20, Major Amendment No. 21, Major Amendment No. 22, Major Amendment No. 23, Major Amendment No. 24, Major Amendment No. 25, Major Amendment No. 26, and Major Amendment No. 27 (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 July 27, 2023, the Permittee requested changes to the Conditions of Approval regarding SJKF specifically in the City of Fresno and changes to the Conditions of approval for SWHA to reduce levels of monitoring where there is relatively

low potential for the species to be impacted. In a letter dated August 7, 2023, the Permittee requested changes be made to the length and height of 20 dedicated wildlife crossings (DWCs), reflective in Table 5, for improving the Openness Factor for 16 DWCs. The Permittee also requested changes to Condition of Approval 8.14.5 regarding SWHA Restrictions for Nightwork allowing for requested variance.

This Amendment No. 28 (this Amendment), a Major Amendment, makes the following changes to the ITP, as amended:

- 1) This Amendment updates Table 5 including changes to 20 DWC dimensions, 18 of which will be lengthened, one will be shortened, and 13 will have the height increased, resulting in a greater Openness Factor for 16 DWCs and a lower Openness Factor for three DWCs. Openness Factor calculation errors were corrected for nine other locations.
- 2) This Amendment allows for ground and vegetation disturbing Covered Activities to occur without monitoring in specified areas within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502) provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area.
- 3) This Amendment adds “14-Day” preceding Notification Before Commencement in Condition of Approval 7.1 and changes ten business days to 14 calendar days in Condition of Approval 7.1.3 for clarity to match how it is being referenced.
- 4) This Amendment allows for six months of inactivity in specified areas within the City of Fresno which are outside the range of CTS provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area and there are no SWHA occupied nests within 0.5-mile.
- 5) This Amendment modifies Condition of Approval 7.3 regarding Compliance Monitoring to specifically include checking all open and covered holes, sumps, trenches, or pipes according to Condition of Approval 8.7.
- 6) This Amendment clarifies that SWHA monthly survey results are due with the monthly reports and that the report is to be submitted by October 31 each year along with a copy of the CNDDDB Report.
- 7) This Amendment removes Condition of Approval 7.12 due to redundancy.

Major Amendment No. 28
Incidental Take Permit 2081-2015-024-04
CALIFORNIA HIGH-SPEED RAIL AUTHORITY
CALIFORNIA HIGH-SPEED TRAIN PROJECT
Fresno to Bakersfield Section Permitting Phase 1

- 8) This Amendment allows for an exemption from Condition of Approval 7.13 (now COA 7.12) regarding submittal of HDD and jack and bore plans, in specified areas within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area and there are no SWHA occupied nests within 0.5-mile.
- 9) This Amendment allows for an exemption from entrapment inspections in specified areas, within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area.
- 10) This Amendment adds two subcategories for Condition of Approval 8.11, one for a Designated Biologist to monitor new subsequent vegetation and initial soil disturbing activities and one providing an exception within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502).
- 11) This Amendment clarifies that the Monthly Survey for SWHA may be submitted in lieu of the pre-construction survey, provided the Monthly Survey was done within the prior 30 days.
- 12) This Amendment clarifies the 100-foot no work nest buffer and consultation with CDFW if a SWHA pair begins nesting within 100 feet of an already active work area.
- 13) This Amendment allows for a reduction in monitoring of occupied SWHA nests when the nest is more than 1,000 feet from Project related disturbance and allows for modified monitoring to be requested after at least three full days of monitoring if there is a visual and sound barrier between the work area and the nest tree.
- 14) This Amendment adds two new Conditions of Approval for reporting SWHA nest failure and probable nest relocation.
- 15) This Amendment clarifies that the SWHA surveys are to be done monthly and that the results are due within 30 days of the survey.
- 16) This Amendment allows the Permittee to request a variance to the nighttime work restriction buffer for SWHA nests under Condition of Approval 8.14.5.

17) This Amendment adds a new Condition of Approval for SJKF surveys within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), which allows the Designated Biologist to make the determination that there is no sign of SJKF, and therefore that work can proceed absent implementation of Condition of Approval 8.15, provided Covered Activities do not lapse for more than six months.

AMENDMENT

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

1. Table 5 Location of Dedicated Wildlife Crossings starting on page 25 of the ITP, as amended, shall be further amended to read as follows:

Table 5. Location of Dedicated Wildlife Crossings

<i>Monitoring DWC Name</i>	<i>Wildlife Crossing Construction DWC Name</i>	<i>County</i>	<i>Latitude</i>	<i>Longitude</i>	<i>Number of Culverts</i>	<i>Width</i>	<i>Height</i>	<i>Length</i>	<i>Openness Factor</i>
Dedicated Wildlife Crossings Associated with the Kings River Complex (KRC)									
<i>KRC-1</i>	1a.r	Fresno	36.458066	-119.637172	3	7	6	100	0.42
<i>KRC-2</i>	2a.	Fresno	36.456291	-119.634818	3	7	6	100	0.42
<i>KRC-3</i>	2b.	Fresno	36.456016	-119.634434	3	7	6	100	0.42
<i>KRC-4</i>	2c.	Fresno	36.455353	-119.633298	3	7	6	100	0.42
<i>KRC-5</i>	3a.	Fresno	36.454368	-119.632092	3	7	6	100	0.42
<i>KRC-6</i>	4	Fresno	36.452917	-119.629946	3	7	6	100	0.42
<i>KRC-7</i>	5.r	Fresno	36.450892	-119.627381	3	7	6	100	0.42
<i>KRC-8</i>	6.r	Kings	36.448123	-119.624115	3	7	6	100	0.42
<i>KRC-9</i>	7a.r	Kings	36.44562	-119.621459	3	7	6	100	0.42
<i>KRC-10</i>	8	Kings	36.441479	-119.617548	3	7	6	100	0.42
<i>KRC-11</i>	9.r	Kings	36.437499	-119.613706	3	7	6	100	0.42
<i>KRC-12</i>	9b.	Kings	36.435158	119.611732	3	7	6	100	0.42
<i>KRC-13</i>	10.r	Kings	36.434414	-119.611086	3	7	6	95	0.44

KRC-14	13.r	Kings	36.432065	-119.609323	3	7	6	90	0.47
KRC-15	13b.	Kings	36.431526	-119.60897	3	7	6	89	0.47
KRC-16	14.r	Kings	36.43101	-119.608641	3	7	6	88	0.48
KRC-17	15.r	Kings	36.429748	-119.607706	3	7	6	86	0.49
KRC-18	16	Kings	36.426296	-119.605419	2	7	6	83	0.51
KRC-19	17	Kings	36.424769	-119.604751	2	10	5	80	0.63
KRC-20	18	Kings	36.422991	-119.60357	2	10	4	78	0.51
DWC Associated with the Kings River Complex					57				
Dedicated Wildlife Crossings Associated with Cross Creek and North of Corcoran (CC)									
CC-1	CP 2-3 CC1	Kings	36.181056	-119.60977	3	10	5	75	0.67
CC-2	CP 2-3 CC2	Kings	36.180225	-119.609536	3	10	5	75	0.67
CC-3	CP 2-3 CC3	Kings	36.179442	-119.60937	3	10	5	77	0.65
CC-4	CP 2-3 CC4	Kings	36.178468	-119.60907	3	10	5	77	0.65
CC-5	CP 2-3 CC5	Kings	36.168358	-119.605147	3	10	5	90	0.56
CC-6	CP 2-3 CC6	Kings	36.167401	-119.604621	3	10	5	90	0.56
CC-7	CP 2-3 CC7	Kings	36.166369	-119.604078	3	10	5	90	0.56
CC-8	CP 2-3 CC8	Kings	36.165199	-119.603569	3	10	5	90	0.56
CC-9	CP 2-3 CC9	Kings	36.163873	-119.602827	3	10	5	90	0.56
CC-10	CP 2-3 CC10	Kings	36.162239	-119.601952	3	10	5	86	0.58
CC-11	CP 2-3 DWC01	Kings	36.159747	-119.600409	1	10	5	89	0.56
CC-12	CP 2-3 DWC02	Kings	36.15597	-119.59779	1	10	3	63	0.48
CC-13	CP 2-3 DWC03	Kings	36.15221	-119.59504	1	10	3	63	0.48
CC-14	CP 2-3 DWC05	Kings	36.147104	-119.591364	1	10	4	87	0.46
CC-15	CP 2-3 DWC06	Kings	36.143961	-119.589162	1	10	4	87	0.46
CC-16	CP 2-3 DWC07	Kings	36.141637	-119.587366	1	10	4	85	0.47
CC-17	CP 2-3 DWC08	Kings	36.134338	-119.581531	1	10	5	77	0.65
CC-18	CP 2-3 DWC09	Kings	36.130962	-119.57843	1	10	5	76	0.66
CC-19	CP 2-3 DWC10	Kings	36.127552	-119.574952	1	10	5	72	0.69
CC-20	CP 2-3 DWC11	Kings	36.124285	-119.571297	1	10	4	74	0.54

CC-21	CP 2-3 DWC12	Kings	36.121197	-119.567498	1	10	4	73	0.55
CC-22	CP 2-3 DWC13	Kings	36.118172	-119.563658	1	10	4	70	0.57
CC-23	CP 2-3 DWC14	Kings	36.116173	-119.561132	1	10	4	67	0.6
CC-24	CP 2-3 DWC15	Kings	36.11288	-119.55699	1	10	3	65	0.46
DWC Associated with Cross Creek and N of Corcoran					44				
Dedicated Wildlife Crossings Associated with South of Corcoran and the Tule River (TR)									
TR-1	CP 2-3 DWC16	Kings	36.10626	-119.549991	1	10	3	65	0.46
TR-2	CP 2-3 DWC17	Kings	36.105198	-119.549027	1	10	3	64	0.47
TR-3	CP 2-3 DWC18	Kings	36.101098	-119.545421	1	10	3	64	0.47
TR-4	CP 2-3 DWC19	Kings	36.094191	-119.54026	1	10	3	67	0.45
TR-5	CP 2-3 DWC20	Kings	36.09033	-119.537806	1	10	4	66	0.61
TR-6	CP 2-3 DWC21	Tulare	36.086958	-119.535925	1	10	3	71	0.42
TR-7	CP 2-3 DWC22	Tulare	36.082315	-119.53365	1	10	4	70	0.57
TR-8	CP 2-3 DWC23	Tulare	36.07624	-119.531226	1	10	4	73	0.55
TR-9	CP 2-3 DWC24	Tulare	36.06909	-119.528862	1	10	4	73	0.55
TR-10	CP 2-3 DWC25	Tulare	36.067688	-119.528415	1	10	5	70	0.71
TR-11	CP 2-3 DWC26	Tulare	36.067293	-119.528275	1	10	5	70	0.71
TR-12	CP 2-3 DWC27	Tulare	36.066926	-119.528148	1	10	5	70	0.71
TR-13	CP 2-3 DWC28	Tulare	36.064842	-119.527463	1	10	4	78	0.51
TR-14	CP 2-3 DWC29	Tulare	36.060697	-119.525906	1	10	4	83	0.48
TR-15	CP 2-3 DWC30	Tulare	36.055771	-119.52378	1	10	5	102	0.6 0.49
TR-16	CP 2-3 DWC31	Tulare	36.052021	-119.521913	1	10	8	119	0.67
TR-17	CP 2-3 DWC32	Tulare	36.0385404	-119.513651	1	10	5	119	0.42
TR-18	CP 2-3 DWC33	Tulare	36.028333	-119.506169	1	10	3	63	0.47
TR-29	CP 2-3 DWC34	Tulare	36.025418	-119.504041	1	10	3	67	0.45
TR-20	CP 2-3 DWC35	Tulare	36.021935	-119.501466	1	10	3	64	0.47
TR-21	CP 2-3 DWC36	Tulare	36.018184	-119.498724	1	10	4	69	0.58
TR-22	CP 2-3 DWC37	Tulare	36.014589	-119.496167	1	10	4	71	0.56

TR-23	CP 2-3 DWC38	Tulare	36.010957	-119.493467	1	10	4	74	0.54
TR-24	CP 2-3 DWC39	Tulare	36.003466	-119.488334	1	10	4	74	0.54
TR-25	CP 2-3 DWC40	Tulare	36.000015	-119.486036	1	10	4	77	0.52
TR-26	CP 2-3 DWC41	Tulare	35.996306	-119.48352	1	10	4	78	0.51
TR-27	CP 2-3 DWC42	Tulare	35.992734	-119.48093	1	10	4	77	0.52
TR-28	CP 2-3 DWC43	Tulare	35.990231	-119.479094	1	10	4	82	0.49
TR-29	CP 2-3 DWC44	Tulare	35.985734	-119.47579	1	10	4	87	0.46
TR-30	CP 2-3 DWC45	Tulare	35.982746	-119.473618	1	10	4	89	0.45
TR-31	CP 2-3 DWC46	Tulare	35.979036	-119.470843	1	10	4	93	0.43
TR-32	CP 2-3 DWC47	Tulare	35.975313	-119.467912	1	10	4	71	0.56
TR-33	CP 2-3 DWC48	Tulare	35.970687	-119.465101	1	10	4	85	0.47
TR-34	CP 2-3 DWC49	Tulare	35.969055	-119.463025	1	10	4	89	0.45
TR-35	CP 2-3 DWC50	Tulare	35.963904	-119.459131	1	10	4	71	0.56
DWC Associated with S of Corcoran and the Tule River					35				
Dedicated Wildlife Crossings Associated with Deer Creek (DC)									
DC-1	CP 2-3 DWC51	Tulare	35.960578	-119.456675	1	10	4	78	0.51
DC-2	CP 2-3 DWC52	Tulare	35.956392	-119.45363	1	10	4	75	0.53
DC-3	CP 2-3 DWC53	Tulare	35.952549	-119.45086	1	10	4	74	0.54
DC-4	CP 2-3 DWC54	Tulare	35.949339	-119.448509	1	10	3	63	0.48
DC-5	CP 2-3 DWC55	Tulare	35.946465	-119.446369	1	10	3	64	0.47
DC-6	CP 2-3 DWC56	Tulare	35.941705	-119.443024	1	10	3	65	0.46
DC-7	CP 2-3 DWC57	Tulare	35.936807	-119.439376	1	10	3	64	0.47
DC-8	CP 2-3 DWC58	Tulare	35.934743	-119.437838	1	10	3	68	0.44
DC-9	CP 2-3 DWC59	Tulare	35.931888	-119.435741	1	10	3	70	0.43
DC-10	CP 2-3 DWC60	Tulare	35.926317	-119.432055	1	10	3	65	0.46
DC-11	CP 2-3 DWC61	Tulare	35.924600	-119.430872	1	10	3	70	0.43
DC-12	CP 2-3 DC1	Tulare	35.921745	-119.429241	3	10	5	120	0.71 0.42

DC-13	CP 2-3 DC2	Tulare	35.908035	-119.422299	3	10	5	120	0.79 0.42
DC-14	CP 2-3 DC3	Tulare	35.906885	-119.421746	3	10	5	120	0.79 0.42
DC-15	CP 2-3 DC4	Tulare	35.901207	-119.419461	1	10	5	100	0.48 0.50
DC-16	CP 2-3 DC5	Tulare	35.899461	-119.418907	1	10	4	80	0.48 0.50
DC-17	CP 2-3 DC6	Tulare	35.898358	-119.418512	1	10	5	95	0.44 0.53
DWC Associated with Deer Creek					23				
Dedicated Wildlife Crossings Associated with Allensworth Ecological Reserve (AER)									
AER-1	CP 2-3 DWC62	Tulare	35.88808	-119.415598	2	10	4	80	0.48
AER-2	CP 2-3 DWC63	Tulare	35.885421	-119.414992	2	10	4	80	0.5
AER-3	CP 2-3 DWC64	Tulare	35.882751	-119.414494	2	10	4	77	0.52
AER-4	CP 2-3 DWC65	Tulare	35.878389	-119.413786	2	10	4	74	0.54
AER-5	CP 2-3 DWC66	Tulare	35.874061	-119.413217	2	10	4	71 74	0.56 0.54
AER-6	CP 2-3 DWC67	Tulare	35.870117	-119.412818	2	10	4	71 72	0.56
AER-7	CP 2-3 DWC68	Tulare	35.868907	-119.412658	2	10	4	74 72	0.54 0.56
AER-8	CP 2-3 DWC69	Tulare	35.866026	-119.412378	2	10	4	98 72	0.41 0.56
AER-9	CP 2-3 DWC70	Tulare	35.862276	-119.412001	2	10	3-4 69	70 69	0.43 0.58
AER-10	CP 2-3 DWC71	Tulare	35.858647	-119.411619	2	10	3-4 62	73 62	0.41 0.65
AER-11	CP 2-3 DWC72	Tulare	35.855004	-119.411235	2	10	3-4 68	71 68	0.42 0.59

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AER-12	CP 2-3 DWC73	Tulare	35.852381	-119.410956	2	10	3-4	70 68	0.43 0.59
AER-13	CP 2-3 DWC74	Tulare	35.847713	-119.410481	2	10	3-4	73 67	0.41 0.60
AER-14	CP 2-3 DWC75	Tulare	35.8437	-119.410064	2	10	3-4	73 69	0.41 0.58
AER-15	CP 2-3 DWC76	Tulare	35.840271	-119.409712	2	10	3-4	70 73	0.43 0.55
AER-16	CP 2-3 DWC77	Tulare	35.835051	-119.409166	2	10	3-5	67 105	0.45 0.48
AER-17	CP 2-3 DWC79	Tulare	35.830712	-119.408727	2	10	3-5	64 92	0.47 0.54
AER-18	CP 2-3 DWC80	Tulare	35.826198	-119.408239	2	10	3-4	64 65	0.47 0.62
AER-19	CP 2-3 DWC81	Tulare	35.822028	-119.407829	2	10	3	65 63	0.46 0.47
AER-20	CP 2-3 DWC82	Tulare	35.818989	-119.407506	2	10	3-4	70 67	0.43 0.60
AER-21	CP 2-3 DWC83	Tulare	35.816422	-119.407246	2	10	3-4	67	0.45 0.60
AER-22	CP 2-3 DWC84	Tulare	35.813757	-119.406959	2	10	3-4	65 69	0.46 0.58
AER-23	CP 2-3 DWC85	Tulare	35.809021	-119.406492	2	10	3	63 65	0.48 0.46
AER-24	CP 2-3 DWC86	Tulare	35.80469	-119.40601	2	10	3	63 64	0.48 0.47
DWC Associated with Allensworth Ecological Reserve					48				
Dedicated Wildlife Crossings Optimized for CP 4 North of Wasco (NOW)									
NOW-1	DWC 01A	Tulare	35.802155	-119.405785	3	10	3	64	0.47
NOW-2	DWC 01	Tulare	35.800692	-119.40562	3	10	3	71	0.43

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NOW-3	DWC 02	Tulare	35.797644	-119.405308	3	10	3	63	0.48
NOW-4	DWC 03	Kern	35.79287	-119.404709	3	10	3	68	0.44
NOW-5	DWC 04	Kern	35.790163	-119.404288	3	10	3	67	0.45
NOW-6	DWC 05a	Kern	35.788392	-119.404082	3	10	3	64	0.47
NOW-7	DWC 05	Kern	35.78474	-119.403199	3	10	3	64	0.47
NOW-8	DWC 06	Kern	35.778786	-119.401657	3	10	3	69	0.43
NOW-9	DWC 07	Kern	35.775551	-119.40065	2	10	3	68	0.44
NOW-10	DWC 08	Kern	35.772084	-119.399448	2	10	3	62	0.48
NOW-11	DWC 09	Kern	35.767958	-119.397838	3	10	3	63	0.48
NOW-12	DWC 10	Kern	35.764786	-119.396471	1	10	5	82	0.61
NOW-13	DWC 11	Kern	35.756802	-119.392586	1	10	4	82	0.49
NOW-14	DWC 12	Kern	35.753127	-119.39037	1	10	3	63	0.48
NOW-15	DWC 13	Kern	35.749247	-119.387938	1	10	3	63	0.48
NOW-16	DWC 14	Kern	35.746347	-119.385974	1	10	4	68	0.59
NOW-17	DWC 15	Kern	35.741721	-119.382595	1	10	4	72	0.56
NOW-18	DWC 16	Kern	35.739151	-119.380775	3	10	3	68	0.44
NOW-19	DWC 17	Kern	35.734515	-119.37661	3	10	3	63	0.48
NOW-20	DWC 18	Kern	35.7317999	-119.3741027	1	10	3	70	0.43
NOW-21	DWC 19	Kern	35.727617	-119.370098	1	10	3	66	0.46
NOW-22	DWC 20	Kern	35.72479	-119.367366	1	10	3	65	0.46
NOW-23	DWC 21	Kern	35.7213811	-119.3640873	1	10	4	83	0.48
NOW-24	DWC 22	Kern	35.713192	-119.356838	1	10	5	73	0.55
NOW-25	DWC 23	Kern	35.710533	-119.354736	1	10	3	70	0.43
NOW-26	DWC 24	Kern	35.708442	-119.353169	1	10	3	72	0.41
NOW-27	DWC 25	Kern	35.7046728	-119.3505115	1	10	5	99	0.51
NOW-28	DWC 26	Kern	35.7008476	-119.3480323	1	10	5	94	0.53
NOW-29	DWC 27	Kern	35.6958143	-119.3450797	1	10	3	65	0.46
NOW-30	DWC 28	Kern	35.691319	-119.3427237	1	10	3	63	0.47

NOW-31	DWC 29	Kern	35.6883779	-119.3413188	1	10	3	64	0.47
NOW-32	DWC 30	Kern	35.6831582	-119.3390825	1	10	3	63	0.47
NOW-33	DWC 31	Kern	35.6789934	-119.337528	1	10	3	64	0.47
NOW-34	DWC 32	Kern	35.6747924	-119.3361495	2	10	3	65	0.46
NOW-35	DWC 33/34	Kern	35.6705597	-119.3349514	2	10	3	70	0.43
NOW-36	DWC 35/36	Kern	35.666966	-119.334091	2	10	4	73	0.55
NOW-37	DWC 37	Kern	35.663788	-119.333442	1	10	4	67	0.6
DWC Optimized for North of Wasco								64	
Dedicated Wildlife Crossings Optimized for CP 4 South of Wasco (SOW)									
SOW-1	1l.add-2l.add	Kern	35.552944	-119.326328	2	10	3	73	0.41
SOW-2	1b.r-1c.r	Kern	35.552395	-119.3261289	2	10	3	71	0.41 0.42
SOW-3	1d.a-2d.a	Kern	35.5507168	-119.3251983	2	10	3	65	0.46
SOW-4	1e.r-2e.r	Kern	35.5432602	-119.3200844	2	10	3	66	0.45
SOW-5	1f.a-1g.r	Kern	35.5396695	-119.3169658	2	10	3	65	0.46
SOW-6	2g.r-1h.r	Kern	35.5381581	-119.3155023	2	10	3	65	0.46
SOW-7	1i.r-2i.r	Kern	35.5288436	-119.3046569	2	10	3	65	0.46
SOW-8	1m.add-2m.add	Kern	35.528775	-119.3045758	2	10	4	93	0.46 0.43
SOW-9	1n.add-2n.add	Kern	35.5268469	-119.3022069	3	10	4	91	0.44
SOW-10	1j.r-2j.r	Kern	35.5267844	-119.3021354	2	10	3	65	0.46
SOW-11	1k.r	Kern	35.5246197	-119.2994843	1	10	3	73	0.41
SOW-12	1k.a - 2k.add	Kern	35.5238719	-119.2983084	3	10	4	89	0.45
SOW-13	2h.r- 2h.add	Kern	35.5222738	-119.2966128	2	10	3	67	0.45
DWC Optimized for CP 4 S of Wasco								27	

2. Condition of Approval 6.2. on page 82 of the ITP, as amended, shall be further amended to read as follows:

Biological Monitor (s). Permittee shall submit to CDFW in writing the name, qualifications, business address(es), and contact information of each proposed Biological Monitor(s) [Designated Biologist(s), Designated Small Mammal Trapper(s), and General Biological Monitor(s)] at least 30 days before starting Covered Activities. Permittee shall obtain CDFW approval of the Biological Monitor(s) in writing before starting Covered Activities and shall also obtain written approval in advance if any of the Biological Monitor(s) must be changed. CDFW may approve Biological Monitor(s) for specific areas of the Project, for specific Covered Species, or for specific timeframes as applicable. The Biological Monitor(s) shall monitor all ground and vegetation disturbing Covered Activities, ***in Work Areas with identified habitat features suitable for Covered Species per Condition of Approval 7.4.1 as determined during pre-construction surveys except for areas excluded according to Conditions of Approval 8.11.2.***

3. Condition of Approval 6.2.1 on page 82 of the ITP, as amended, shall be further amended to read as follows:

Designated Biologist(s). Permittee shall ensure that each Designated Biologists *is* knowledgeable and experienced in the biology, natural history, collecting, and handling of the applicable Covered Species. The Designated Biologist may be approved by CDFW on a species-specific basis, and in those cases will only be authorized to complete surveys and monitoring of the Covered Species for which they are specifically approved. The Designated Biologists shall be responsible for conducting all activities specific to a Covered Species including initial surveys and any handling or other actions necessary if individuals of Covered Species are found in the Project Area. The Designated Biologists shall be responsible for supervising the General Biological Monitors. At least one Designated Biologist for each Covered Species will be present within the Project Area during initial vegetation and soil disturbance monitoring required by Condition of Approval 7.3, and pile driving conducted within the SJKF avoidance buffer outlined in Condition of Approval 8.15.6, below, ***in Work Areas with identified habitat features suitable for Covered Species per Condition of Approval 7.4.1 as determined during pre-construction surveys excluded according to Conditions of Approval 8.11.2.***

4. Condition of Approval 6.2.3 on page 83 of the ITP, as amended, shall be further amended to read as follows:

Designated Small Mammal Trapper(s). Permittee shall ensure that each Designated Small Mammal Trapper is knowledgeable and experienced in the biology, natural history, collecting, and handling of the applicable Covered Species. The Designated Small Mammal Trapper shall be approved by CDFW on a species-specific basis for

TKR and/or SJAS, and in those cases will only be authorized to complete surveys and monitoring of the Covered Species for which they are specifically approved. The Designated Small Mammal Trapper shall be responsible for conducting all activities specific to TKR and/or SJAS including initial surveys and any handling or other actions necessary if individuals of Covered Species are found in the Project Area, with the exception of measures 8.16.3, 8.17.3, 8.52.2, and 8.52.3.1 that pertain to burrow excavation. Only a Designated Biologist approved by CDFW for TKR and/or SJAS may lead burrow excavation activities for these species. The Designated Small Mammal Trapper shall be responsible for supervising the General Biological Monitors during initial surveys, trapping, or handling activities. At least one Designated Biologist or Designated Small Mammal Trapper for each Covered Species will be present within the Project Area during initial vegetation and soil disturbance monitoring required by Condition of Approval 7.3 ***in Work Areas with identified habitat features suitable for Covered Species per Condition of Approval 7.4.1 as determined during pre-construction surveys excluded according to Conditions of Approval 8.11.2.***

5. Condition of Approval 7.1. on page 86 of the ITP, as amended, shall be further amended to read as follows:

14-Day Notification Before Commencement and Pre-Construction Survey. The Designated Representative shall notify CDFW before starting Covered Activities in each Work Area. The **14-Day** Notification shall include the Pre-Construction Survey and shall document compliance with all pre-Project Conditions of Approval before starting such Covered Activities, and shall include the following:

6. Condition of Approval 7.1.3 on page 87 of the ITP, as amended, shall be further amended to read as follows:

Pre-Construction Survey. No more than 30 calendar days prior to Permittee beginning or resuming Covered Activities in each Work Area, the Designated Biologist(s), or Designated Small Mammal Trapper(s), with assistance (if needed) from the General Biological Monitor(s), shall perform pre-construction surveys for Covered Species in the Work Area and appropriate buffer zones for each Covered Species (as defined in Conditions of Approval 8.13.2, 8.14.1, 8.15.1, 8.16.2, 8.17.2). A list of all equipment to be used and all Covered Activities, as identified specifically in the ITP, that will take place at the Work Area will be included in the pre-construction survey. The Designated Biologist(s) shall submit a report of the pre-construction survey(s) to CDFW at least ~~ten business~~ **14 calendar** days prior to commencement of Covered Activities within the particular Work Area. ~~Should an unplanned and/or planned lapse of Covered Activities occur at any Work Area of~~

~~more than 30 calendar days, a new Notification Before Commencement and Pre-Construction Survey shall be performed and submitted per the above.~~

7. Condition of Approval 7.1.4 on page 88 of the ITP, as amended, shall be further amended to read as follows:

Lapse in Continuity of Work Activities. Should an unplanned or planned lapse of Covered Activities occur at any Work Area for more than 30 calendar days, a new **14-Day** Notification Before Commencement and Pre-Construction Survey shall be performed and submitted per the above. ***For all areas within the City of Fresno to 1,000 feet south of East American (north of Latitude 36.6607 Longitude - 119.7502), the period of inactivity of Covered Activities may be extended to six months, provided that an approved SJKF Designated Biologist has determined there is no sign of SJKF per Conditions of Approval 8.15.1.1 and there is not an occupied SWHA nest within 0.5 a mile.***

8. Condition of Approval 7.3. on page 88 of the ITP, as amended, shall be further amended to read as follows:

Compliance Monitoring. The Designated Biologist(s) shall be on-site daily at each Work Area within the Project Area when initial vegetation and soil disturbance Covered Activities occur. The Biological Monitor(s) shall conduct compliance inspections to: (1) minimize incidental take of the Covered Species; (2) prevent unlawful take of species; (3) check for compliance with all ***applicable*** measures of this ITP; (4) check all exclusion zones; and (5) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area, ***and (6) check all open and covered holes, sumps, trenches, or pipes according to Condition of Approval 8.7.*** During initial vegetation and soil disturbance, the Designated Biologist(s) shall conduct compliance inspections continuously within each of the Work Area(s) where Covered Activities are occurring. After initial vegetation and soil disturbance, the Biological Monitor(s) shall conduct compliance inspections a minimum of once per day within each of the Work Area(s) where Covered Activities are occurring. Biological Monitor(s) shall prepare daily written observation and inspection records for each active Work Area, summarizing oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. Biological Monitor(s) shall conduct compliance inspections a minimum of monthly during periods of inactivity and after clearing, grubbing, and grading are completed.

9. The first requirement under Condition of Approval 7.7 on page 92 of the ITP, as amended, shall be further amended to read as follows:

Monthly Compliance Report. For the duration of the construction related Covered Activities within the Construction Footprint Activities and Mitigation Site Activities, the Designated Representative or Designated Biologist(s) shall compile the observation and inspection records identified in Condition of Approval 7.3 into a Monthly Compliance Report and submit it to CDFW along with a copy of the MMRP table with notes showing the current implementation status of each mitigation measure as supported by the Monitoring Logs to be included in a separate attachment. Monthly Compliance Reports shall also include:

- 1) A table summarizing all pre-construction survey results **and all Monthly SWHA survey results.**

10. Condition of Approval 7.12. on page 94 of the ITP, as amended, shall be removed due to redundancy of Condition of Approval 7.1.4. as follows:

~~Lapse in Covered Activities. If at any time there is a lapse of Covered Activities at any Work Area of more than 30 calendar days, a new Notification of Commencement (see Condition of Approval 7.1) shall be submitted prior to resuming Covered Activities within the Work Area. In addition, all required pre-construction surveys for Covered Species pursuant to Conditions of approval 8.13.2, 8.14.1, 8.15.1, 8.16.2, 8.17.2, 8.37.3, 8.38.1, 8.41, 8.45, 8.48, 8.52.1, and 8.52.3, shall be repeated.~~

11. Condition of Approval 7.13. on page 94 of the ITP, as amended, shall be renumbered as 7.12. and further amended to read as follows:

Notification and Submission of a HDD and Jack and Bore Plan. Designated Representative shall notify CDFW at least 14 calendar days before starting HDD and dry jack and bore activities in the Construction Footprint and shall document compliance with all pre-Project Conditions of Approval before starting such Covered Activities. Permittee shall also prepare an HDD and Jack and Bore Plan. The HDD and Jack and Bore Plan shall include, but not be limited to, a discussion (and map) of the portion of the Project Area where the activities will occur, a description of the activities that will be completed, "take" minimization and avoidance measures for Covered Species, and any other pertinent information. The HDD and Jack and Bore Plan shall be submitted to CDFW for written approval (email will suffice) prior to starting such Covered Activities. Such Covered Activities may not proceed until the HDD and Jack and Bore Plan approval is received. ***For all areas within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), this submission will not be required, provided that an***

approved SJKF Designated Biologist has determined there is no sign of SJKF per Conditions of Approval 8.15.1.1 and there is not an occupied SWHA nest within half a mile.

12. Condition of Approval 8.7. starting on page 96 of the ITP, as amended, shall be further amended to read as follows:

Entrapment Prevention. The following measures shall be implemented in all areas with the potential for either TKR, SJKF, CTS or SJKF as described in Condition of Approval 7.4.1, except where an approved SJKF Designated Biologist has determined there is no sign of SJKF within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502) according to Condition of Approval 8.15.1.1.

8.7.1. 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.

8.7.2. Prevent Entry or Provide Escape. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are over two feet 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.

8.7.3. Installation of Covers. To prevent inadvertent entrapment of Covered Species or any other animals, the Biological Monitor (s) 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.~~

8.7.4. Inspection of Long-Term Covers. 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 ***opened and*** 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.

8.7.5. Backfilling. Immediately before backfilling, trenches, holes, sumps, or other excavations shall be thoroughly inspected for trapped Covered Species.

8.7.6. Trapped Animal Found. 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 Biological Monitor(s) immediately. 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, ***that cannot independently escape***, the Designated Biologist(s) shall capture and relocate 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.
- ***If the Covered Species is a SJKF, and cannot escape on its own, the Biological Monitor(s) shall immediately contact CDFW, and work shall not resume until a solution specific to the circumstances has been agreed to and implemented.***
- If the Covered Species is SJAS or TKR, the Designated Biologist(s) shall capture and relocated the animal as per the CDFW-approved SJAS or TKR Salvage and Relocation Plan described in Condition of Approval 8.16.1, and Approval 8.17.1, respectively.

13. Condition of Approval 8.11. on page 98 of the ITP, as amended, shall be further amended to read as follows:

Vegetation Removal Methods. Vegetative cover shall be removed prior to grading in Work Areas with identified habitat features suitable for Covered Species. Where possible, hand tools (e.g., trimmer, chain saw, etc.) shall be used to trim or remove

shrub vegetation. All vegetation removal in areas with identified habitat features suitable for Covered Species shall be monitored directly (e.g., directly observed) by the Designated Biologist(s) to minimize impacts to Covered Species.

8.11.1 Vegetation Removal After Inactivity. The applicable Designated Biologist(s) shall also be on site for new subsequent vegetation and initial soil disturbing activities. This includes areas that may have been disturbed previously and may or may not have been suitable habitat at the time of initial disturbance, but due to the passage of time have converted into suitable habitat with potential for presence of Covered Species.

8.11.2 Vegetation Removal Conditional Monitoring Exemption. Provided an approved SJKF Designated Biologist has determined that there is no sign of SJKF presence in the area per Condition of Approval 8.15.1.1, then monitoring of vegetation removal may be forgone specifically in the areas within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502).

14. Condition of Approval 8.14.1 on page 103 of the ITP, as amended, shall be further amended to read as follows:

Pre-construction SWHA Surveys. No more than 30 calendar days prior to Permittee beginning Covered Activities in each Work Area, the Designated Biologist(s) shall conduct pre-construction surveys during the SWHA nesting season (February 15th through September 15th), prior to conducting Covered Activities in each Work Area. Pre-construction surveys shall occur no more than 30 days prior to beginning Covered Activities and shall include a 0.5-mile **survey** buffer around each Work Area. The Designated Biologist(s) shall survey all suitable habitat/nest trees for nesting SWHA. The Designated Biologist(s) or Designated Representative shall provide the nesting season survey results to CDFW in a written report at least ten days prior to beginning Covered Activities. ***If no SWHA occupied nest is observed within 0.5-mile of the Work Area during Monthly SWHA surveys (COA 8.14.4), those surveys will be referenced and provided with the pre-construction survey, then an additional SWHA pre-construction survey is not required. If the Monthly Survey is from more than 30 days prior, and covered activities are to begin within the nesting season, a supplemental survey will occur within 0.5-mile of the Work Area and those results will be included in the pre-construction survey.***

15. Condition of Approval 8.14.2 on page 103 of the ITP, as amended, shall be further amended to read as follows:

SWHA No Work Nest Buffer. The Permittee and Designated Biologist(s) shall ensure that no Covered Activities ~~occur~~ **are initiated** within 100 feet of an **occupied** SWHA nest during the nesting season (February 15th through September 15th). ***If a SWHA pair begins nesting inside or within 100 feet of an active Work Area, all work will stop immediately. CDFW shall be contacted and consulted regarding the current level of activity at the location and any further Covered Activities planned during the nesting season. Work shall not resume without written approval (email can suffice) from CDFW.***

16. Condition of Approval 8.14.3 starting on page 103 of the ITP, as amended, shall be further amended to read as follows:

SWHA Nest Buffer and Monitoring. If a nesting SWHA is found **at any time** ~~in a Work Area or the~~ **within 0.5-mile of an active Work Area** ~~buffer (see~~ **or during surveys per** Condition of Approval 8.14.1), the Designated Biologist(s) shall be present daily for **at least three full days** ~~the entire duration of any Covered Activities within the Work Area~~ to monitor the behavior of the potentially affected SWHA **to establish baseline behavior**. The Designated Biologist(s) shall have the authority to order the cessation of all Covered Activities if the bird(s) exhibits distress and/or abnormal nesting behavior (swooping/stooping, excessive vocalization [distress calls], agitation, failure to remain on nest, failure to deliver prey items for an extended time period, failure to maintain nest, etc.) which may cause reproductive failure (nest abandonment and loss of eggs and/or young). Permittee shall not resume Covered Activities until CDFW has been consulted by the Designated Biologist(s), and both the Designated Biologist(s) and CDFW confirm that the bird's behavior has normalized.

8.14.3.1. Monitoring within 100-1,000 feet of an active nest. ***If a nesting SWHA is found within 100-1,000 feet of an active Work Area, the Designated Biologist(s) shall be present daily for the entire duration of any Covered Activities within the Work Area to monitor the behavior of the potentially affected SWHA.***

8.14.3.2. Monitoring within 1,000 feet-0.5 mile of an active nest. ***If a nesting SWHA is found within 1,000-0.5 mile of an active Work Area, the Designated Biologist(s) shall be present for at least two 1-hour intervals at different times every day and for at least one hour any time a new Covered Activity is initiated.***

8.14.3.3. Modified Monitoring. If the Designated Biologist determines after the initial three days of nest observation, that Covered Activities are not likely to affect the nest due to objects or topography that might reduce potential noise disturbance and obstruct view of the Work Area from the nest, then a written request with documented observational data can be submitted to CDFW seeking a reduction of either the monitoring time and/or monitoring distance. CDFW will review the request and determine whether to grant the reduction, which if granted, would be provided in writing (email can suffice).

8.14.3.4. Nest Relocation. Any time a nest pair vacates one tree simultaneously with the start of a new nest nearby, indicating a high probability of nest relocation, CDFW shall be contacted immediately and all monitoring logs from the preceding seven days shall be provided to CDFW for review.

8.14.3.5. Nest Failure. Any time a nest becomes inactive prior to evidence of the young fledging and leaving the nest, CDFW shall be contacted immediately and all monitoring logs from the preceding 30 days shall be provided to CDFW for review.

17. Condition of Approval 8.14.4 on page 104 of the ITP, as amended, shall be further amended to read as follows:

SWHA Annual **Monthly** Surveys. Each year during the nesting season, SWHA Designated Biologist(s) shall survey the entire alignment **once a month** for any arriving SWHA pairs and new nests. Permittee shall prepare a SWHA Survey Plan **detailing the methodology to be followed** 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 **survey** results submitted to CDFW no later than 30 days after ~~each~~ surveys ~~have~~ **has** been completed **with the next Monthly Compliance Report, whichever comes first.**

18. Condition of Approval 8.14.5 on page 104 of the ITP, as amended, shall be further amended to read as follows:

SWHA Restrictions for Nightwork: Permittee shall ensure that any nightwork done in the vicinity of an occupied SWHA is over 1,000 feet away from the nest tree and that any lighting utilized is directed away from the nest tree. **The Permittee may request a variance from the 1,000-foot nest buffer during night work, which CDFW will**

consider on a case-by-case basis when there is a compelling biological reason to do so, such as when the Work Area would be concealed from a nest site by topography.

19. Condition of Approval 8.15.1 on page 104 of the ITP, as amended, shall be further amended to read as follows:

SJKF Survey. No more than 30 calendar days prior to Permittee beginning ~~Covered A-~~***initial vegetation and ground disturbing*** activities in each Work Area, the Designated Biologist(s) with assistance (if needed) from the General Biological Monitor(s) shall perform a pre-construction survey for SJKF dens (potential, known, active, atypical, and natal) in the particular Work Area. The pre-construction survey shall cover the Work Area and a buffer zone of 500 feet in size beyond the Work Area's boundaries. The Designated Biologist(s) shall submit a report of the pre-construction survey to CDFW at least ten business days prior to commencement of Covered Activities within the particular Work Area.

8.15.1.1 SJKF Surveys within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502). Within the City of Fresno to 1,000 feet south of East American Ave, all initial pre-construction surveys shall be conducted by a SJKF approved Designated Biologist and submitted to CDFW at least 7 days prior to commencement of Covered Activities within the particular Work Area. Any indication of potential SJKF scat, footprints, or burrows with either a classic 'keyhole shape' or vertical scratches above the entrance shall constitute potential presence and all other SJKF Conditions of Approval under 8.15. will need to be followed in that area. If the Designated Biologist determines there is no sign of SJKF presence in the area, then work can proceed absent implementation of the other SJKF specific Conditions of Approval provided Covered Activities do not lapse for more than six months.

FINDINGS

Issuance of this Amendment will not likely increase the amount of take of the Covered Species compared to the Project as originally approved and this Amendment will not likely 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 seventeen specific changes to the ITP, as amended.

- 1) This Amendment updates Table 5 including changes to 20 DWC dimensions, 18 of which will be lengthened, one will be shortened, and 13 will have the height increased, resulting in a greater Openness Factor for 16 DWCs and a lower Openness Factor for three DWCs. Openness Factor calculation errors were also corrected for nine other locations.
- 2) This Amendment allows for ground and vegetation disturbing Covered Activities to occur without monitoring in specified areas within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude - 119.7502) provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area.
- 3) This Amendment adds “14-Day” preceding Notification Before Commencement in Condition of Approval 7.1 and changes ten business days to 14 calendar days in Condition of Approval 7.1.3 for clarity to match how it is being referenced.
- 4) This Amendment allows for six months of inactivity in specified areas within the City of Fresno which are outside the range of CTS provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area and there are no SWHA occupied nests within 0.5-mile.
- 5) This Amendment modifies Condition of Approval 7.3 regarding Compliance Monitoring to specifically include checking all open and covered holes, sumps, trenches, or pipes according to Condition of Approval 8.7.
- 6) This Amendment clarifies that SWHA monthly survey results are due with the monthly reports and that the report is to be submitted by October 31 each year along with a copy of the CNDDDB Report.
- 7) This Amendment removes Condition of Approval 7.12 due to redundancy.
- 8) This Amendment allows for an exemption from Condition of Approval 7.13 (now COA 7.12) regarding submittal of HDD and jack and bore plans, in specified areas within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area and there are no SWHA occupied nests within 0.5-mile.

- 9) This Amendment allows for an exemption from entrapment inspections in specified areas, within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area.
- 10) This Amendment adds two subcategories for Condition of Approval 8.11, one for a Designated Biologist to monitor new subsequent vegetation and initial soil disturbing activities and one providing an exception within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude - 119.7502).
- 11) This Amendment clarifies that the Monthly Survey for SWHA may be submitted in lieu of the pre-construction survey, provided the Monthly Survey was done within the prior 30 days.
- 12) This Amendment clarifies the 100-foot no work nest buffer and consultation with CDFW if a SWHA pair begins nesting within 100 feet of an already active work area.
- 13) This Amendment allows for a reduction in monitoring of occupied SWHA nests when the nest is more than 1,000 feet from Project related disturbance and allows for modified monitoring to be requested after at least three full days of monitoring if there is a visual and sound barrier between the work area and the nest tree.
- 14) This Amendment adds two new Conditions of Approval for reporting SWHA nest failure and probable nest relocation.
- 15) This Amendment clarifies that the SWHA surveys are to be done monthly and that the results are due within 30 days of the survey.
- 16) This Amendment allows the Permittee to request a variance to the nighttime work restriction buffer for SWHA nests under Condition of Approval 8.14.5.
- 17) This Amendment adds a new Condition of Approval for SJKF surveys within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), which allows the Designated Biologist to make

the determination that there is no sign of SJKF, and therefore that work can proceed absent implementation of Condition of Approval 8.15, provided Covered Activities do not lapse for more than six months.

CDFW has determined that although this Amendment will not likely 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. Because the impacts will be minimized and fully mitigated, 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 June 2015 that the Project as approved, met the standards for issuance of an ITP under CESA. CDFW determined in March 2017, in September 2018, in October 2018, twice in November 2018, in January 2019, three times in February 2019, in March 2019, in April 2019, in May 2019, in August 2019, twice in September 2019, twice in October 2019, in November 2019, in December 2019, in April 2020, in May 2020, in July 2020, in October 2021, in August 2022, in October 2022, in February 2023, and in August 2023 that Amendments No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8, No. 9, No. 10, No. 11, No. 12, No. 13, No. 14, No. 15, No. 16, No. 17, No. 18, No. 19, No. 20, No. 21, No. 22, No. 23, No. 24, No. 25, No. 26, and No. 27 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: (1) will not result in increased impacts to the Covered Species or Covered Species habitat, and (2) does not alter the 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 this Amendment.

Discussion: CDFW issued the original ITP in June 2015, Major Amendment No. 1 to the ITP in March 2017, Major Amendment No. 2 in September 2018, Major Amendment No. 3 in October 2018, Minor Amendment No. 4 and Major Amendment No. 5 in November 2018, Major Amendment No. 6 in January 2019, Major Amendments 7, 8, and 9 in February 2019, Major Amendment No. 10 in March 2019, Major Amendment No. 11 in April 2019, Major Amendment No. 12 in May 2019, Major Amendment No. 13 in August 2019, Major Amendments No. 14 and 15 in September 2019, Major Amendment No. 16 and 17 in October 2019, Major Amendment No. 18 in November 2019, Major Amendment No. 19 in December 2019, Major Amendment No. 20 in April 2020, Major Amendment No. 21 in May 2020, Major Amendment No. 22 in July 2020, Major Amendment No. 23 in October 2021, Major Amendment No. 24 in August 2022, Major Amendment No. 25 in October 2022, Major Amendment No. 26 in February 2023, and Major Amendment No. 27 in August, 2023, 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: Fresno to Bakersfield Section Final Project Environmental Impact Report/Environmental Impact Statement (EIR/EIS) (SCH No. 2009091126) certified by the lead agency, California High-Speed Rail Authority, on May 7, 2014. 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 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 updates Table 5 including changes for 20 DWC dimensions, 18 of which will be lengthened, one will be shortened, and 13 will have the height increased, resulting in a greater Openness Factor for 16 DWCs and a lower Openness Factor for three DWCs. Openness Factor calculation errors were corrected for nine other DWC locations. In addition, this Amendment allows for ground and vegetation disturbing Covered Activities to occur without monitoring in specified areas within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502) provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area, adds "14-Day" preceding Notification Before Commencement in Condition of

Approval 7.1 and changes ten business days to 14 calendar days in Condition of Approval 7.1.3 for clarity to match how it is being referenced, allows for six months of inactivity in specified areas within the City of Fresno which are outside the range of CTS provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area and there are no SWHA occupied nests within 0.5-mile, modifies Condition of Approval 7.3 regarding Compliance Monitoring to specifically include checking all open and covered holes, sumps, trenches, or pipes according to Condition of Approval 8.7, clarifies that SWHA monthly survey results are due with the monthly reports and that the report is to be submitted by October 31 each year along with a copy of the CNDDDB Report, removes Condition of Approval 7.12 due to redundancy, allows for an exemption from Condition of Approval 7.13 (now COA 7.12) regarding submittal of HDD and jack and bore plans, in specified areas within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area and there are no SWHA occupied nests within 0.5-mile, allows for an exemption from entrapment inspections in specified areas, within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), provided a SJKF Designated Biologist has determined there is no sign of SJKF in the Work Area, adds two subcategories for Condition of Approval 8.11, one for a Designated Biologist to monitor new subsequent vegetation and initial soil disturbing activities and one providing an exception within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), clarifies that the Monthly Survey for SWHA may be submitted in lieu of the pre-construction survey, provided the Monthly Survey was done within the prior 30 days, clarifies the 100-foot no work nest buffer and consultation with CDFW if a SWHA pair begins nesting within 100 feet of an already active work area, allows for a reduction in monitoring of occupied SWHA nests when the nest is more than 1,000 feet from Project related disturbance and allows for modified monitoring to be requested after at least three full days of monitoring if there is a visual and sound barrier between the work area and the nest tree, adds two new Conditions of Approval for reporting SWHA nest failure and probable nest relocation, clarifies that the SWHA surveys are to be done monthly and that the results are due within 30 days of the survey, allows the Permittee to request a variance to the nighttime work restriction buffer for SWHA nests under Condition of Approval 8.14.5, and adds a new Condition of Approval for SJKF surveys within the City of Fresno to 1,000 feet south of East American Avenue (north of Latitude 36.6607 Longitude -119.7502), which allows the Designated Biologist to make the determination that there is no sign of SJKF, and therefore that work can proceed absent implementation of Condition of Approval 8.15, provided Covered Activities do not lapse for more than six months.

As described above, these changes to the ITP, as amended, will significantly 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).

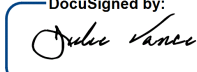
The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

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.

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 10/19/2023

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: 10/25/2023

Printed Name: Stefan Galvez-Abadia Title: Director Environmental Services

Major Amendment No. 28
Incidental Take Permit 2081-2015-024-04
CALIFORNIA HIGH-SPEED RAIL AUTHORITY
CALIFORNIA HIGH-SPEED TRAIN PROJECT
Fresno to Bakersfield Section Permitting Phase 1