

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
SOUTH COAST REGION
3883 RUFFIN ROAD
SAN DIEGO, CA 92123



AMENDMENT NO. 1
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2007-029-05
City of Oceanside
San Luis Rey Flood Control Project in San Diego County

INTRODUCTION

On February 1, 2008, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2007-029-05 (ITP) to City of Oceanside (Permittee) authorizing take of least Bell's vireo (*Vireo bellii pusillus*; "vireo") and southwestern willow flycatcher (*Empidonax traillii extimus*; "flycatcher") (collectively, the Covered Species) associated with and incidental to the San Luis Rey Flood Control Project in San Diego County, California (Project). The Project as described in the ITP originally issued by CDFW includes the mowing/chipping/shredding and/or removal of riparian vegetation from the Project Area in order to accommodate an estimated 175-year flood event, including Operation and Maintenance (O&M). In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

The Project is divided into three phases, as described in the ITP on pages two and three. All vegetation management phases were implemented by 2015, and subsequent vegetation management thereafter continued in accordance with ongoing O&M for the Project. Mitigation requirements are the on-site preservation of 63.4 acres of vireo-occupied habitat, restoration of 63.4 acres of vireo-occupied habitat, and the restoration of 2.11 acres of flycatcher-occupied or potential habitat.

In a letter dated December 22, 2021, the City of Oceanside requested a two-year extension to the ITP to continue ongoing O&M activities already described in the ITP.

This Minor Amendment No. 1 (Amendment) makes the following changes to the existing ITP:

First, this Amendment changes the contact information for the Permittee.

Second, this Amendment renews and extends the expiration date of the ITP to December 31, 2023.

AMENDMENT

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

1. The Permittee contact information on page one of the ITP shall be amended to read:

~~Name and title of principal officer: Mr. Jerry Hittleman, City Planner
Contact person: Mr. Jerry Hittleman, City Planner; (7.60) 435-3520
Mailing address: 300 North Coast Highway
Oceanside, CA 92054~~

**Name and title of principal officer: Mr. Nathan Mertz, Public Works Division
Manager
Contact person: Mr. Nathan Mertz; (760) 435-5619
Mailing address: 300 North Coast Highway
Oceanside, CA 92054**

2. The Expiration Date of the Permit on page one of the ITP shall be amended to read:

This Permit shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of the Permit and returned to the Department's Office of General Counsel. Unless renewed by the Department, this Permit's authorization to take the Covered Species shall expire on December 31, 2021. **2023.**

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

FINDINGS

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

Discussion: This Amendment makes two specific changes to the ITP as originally issued: 1) it modifies the Permittee contact information; and 2) it allows the Permittee to continue Covered Activities until December 31, 2023. The resulting impacts to the Covered Species, including the mowing/chipping/shredding and/or removal of riparian vegetation and the removal of sediment as a result of the Project, will remain the same.

CDFW has determined that a change the expiration date will not increase the amount of take or the severity of other impacts of the taking on the Covered Species. Given the circumstances of this Project, CDFW believes that the two-year extension will not increase impacts to the Covered Species.

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

Discussion: CDFW determined in February 2008 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 have no effect on the amount or severity of Project impacts on the Covered Species, as discussed above; and (2) does not substantively alter the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the 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 February 2008 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the environmental impact report certified by the City of Oceanside as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment is a minor change to the original ITP. CDFW finds for the same reasons under CEQA that approval of the Amendment will not result in and does not have the potential to create any new significant or substantially more severe environmental effects than previously analyzed and disclosed by the City of Oceanside during its lead agency review of the Project, particularly with respect to the impacts authorized by CDFW pursuant to the ITP as amended. As a result, CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of this Amendment.

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

Discussion: This Amendment modifies the Permittee contact information and allows the Permittee to continue Covered Activities until December 31, 2023. This change to the ITP will not: (1) increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP; (2) affect Permittee's substantive mitigation obligations under the ITP; (3) require further environmental review under CEQA; or (4) increase temporal impacts on the Covered Species. Therefore, this Amendment will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. CDFW has determined that the change to the ITP constitutes a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

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

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 5/3/2022

DocuSigned by:
Ed Pert
A87CE992DB57479

Edmund Pert
Regional Manager
South Coast Region

ACKNOWLEDGMENT

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

By: *Nathan Mertz*

Date: 5/10/22

Printed Name: NATHAN MERTZ

Title: PUBLIC WORKS DIVISION MANAGER

Minor Amendment No. 1
Incidental Take Permit 2081-2007-029-05
CITY OF OCEANSIDE
SAN LUIS REY FLOOD CONTROL PROJECT