



January 8, 2024

Shelby Sanchez, Environmental Scientist
California Department of Transportation, District 5
Central Coast Environmental Management Branch
50 Higuera Street
San Luis Obispo, California 93401

Subject: Incidental Take Permit Amendment No. 2 for the San Benito Route 156 Improvement Project (2081-2015-057-04)

Dear Shelby Sanchez:

Enclosed you will find Amendment No. 2 for the incidental take permit for the above referenced Project, which have been signed by the California Department of Fish and Wildlife (CDFW). Please read the amendment carefully, sign the acknowledgement of the amendment, and return **no later than 30 days from CDFW signature**, and prior to initiation of ground-disturbing activities, to:

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

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

The amendment will not take effect until the signed acknowledgement is received by the CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Mindy Trask, Senior Environmental Scientist (Specialist), at (559) 939-0282.

Sincerely,

DocuSigned by:
A handwritten signature in black ink, appearing to read "Julie A. Vance".

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Julie A. Vance, Regional Manager
Central Region
California Department of Fish and Wildlife

Enclosure

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CENTRAL REGION
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA 93710



AMENDMENT NO. 2
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2015-057-04
California Department of Transportation
San Benito Route 156 Improvement Project in San Benito County

INTRODUCTION

On June 7, 2016, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2015-057-04 (ITP) to California Department of Transportation (Caltrans) District 5 (Permittee), authorizing take of California tiger salamander (*Ambystoma californiense*) (Covered Species) associated with and incidental to the San Benito Route 156 Improvement Project in San Benito County, California (Project).

The Project as described in the ITP originally issued by CDFW includes widening and realigning a five-mile segment of State Route (SR) 156 in San Benito County from two lanes to a four-lane expressway, correcting existing roadway deficiencies by elevating the roadway in sections prone to flooding, and realigning a compound curve at Union Road/Mitchell Road. The existing two-lane SR-156 was to be resurfaced and converted into a frontage road on the northern side and consolidated private driveways (access easements) were to be provided for the adjacent parcels on the south side of the expressway. The Project also included improvements to several surface streets where they intersect the five-mile segment of SR 156. The Project was to result in the permanent development of 8.36 acres of upland habitat and temporary impacts to 9.62 acres of upland habitat for Covered Species resulting in a total habitat disturbance of 17.98 acres. In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP would not jeopardize the continued existence of the Covered Species.

On May 16, 2019, CDFW issued Amendment No. 1 to the ITP, which extended the expiration date of the ITP to December 31, 2023, and changed the construction start and end dates to May 15, 2020 and November 1, 2023, respectively.

In issuing the ITP and Amendment No. 1 (collectively, the ITP as amended), CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP, as amended, would fully mitigate impacts of the taking on Covered Species and would not jeopardize the continued existence of the Covered Species.

In a letter dated August 30, 2023, Permittee requested a second amendment to the ITP, as amended, to extend the term another two years, and to amend the proposed construction end date.

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

First, this Amendment No. 2 extends the expiration date of the ITP.

Second, this Amendment No. 2 changes the proposed construction end date.

Third, this Amendment No. 2 adds a requirement for exclusionary fencing to be removed when adjacent construction activities are complete.

Fourth, this Amendment No. 2 adds a requirement for the Designated Biologist to accompany the exclusionary fence removal as well as installation.

AMENDMENT

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

1. The first paragraph of the Effective Date and Expiration Date of this ITP: on Page 1 of the ITP, as amended, shall be further amended to read as follow:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on December 31, ~~2023~~ ***2025***.

2. The fourth paragraph of the Project Description on Page 3 of the ITP, as amended, shall be further amended to read as follows:

Construction is scheduled to begin May 15, 2020 and end by ~~November 1, 2023~~ ***December 30, 2025***.

3. Condition of Approval 8.4 on page 14 shall be amended to read as follows:

Temporary Exclusion Fencing. Prior to the start of Covered Activities, the Permittee shall install Temporary Exclusion Fencing between Work Area(s) around any Work Area that is located between PM 7.1 and 8.1, and any area the

Designated Biologist determines has suitable upland habitat (e.g., non-native grasslands) to exclude Covered Species prior to the start of Covered Activities in the Work Area. Permittee shall provide CDFW with a description of Temporary Exclusion Fence design and materials for written approval prior to the start of Covered Activities. **Temporary Exclusion Fencing shall be removed within 30 days of completion of construction activities between PM 7.1 and 8.1, or other areas where exclusionary fencing has been installed.**

4. Condition of Approval 8.5 on page 14 shall be amended to read as follows:

Temporary Exclusion Fencing Installation. The Designated Biologist shall accompany the exclusion fence construction crew to ensure that Covered Species are not killed or injured during Temporary Exclusion Fence installation **and removal**. If any burrows are encountered during the installation process these burrows will be excavated as described in the Mortality Reduction and Relocation Plan required by Conditions of Approval 7.3. The Temporary Exclusion Fencing shall be supported sufficiently to maintain its integrity under all conditions such as wind and heavy rain for the duration of the Construction Activities associated with the Project. The Designated Biologist or Biological Monitor shall check the Temporary Exclusion Fence at least once weekly and inform Permittee of necessary maintenance or repairs.

All terms and conditions of the ITP and Mitigation Monitoring and Reporting Program (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 four specific changes to the ITP as originally issued and as amended. It extends the expiration date by another two years, modifies the construction end date, adds a requirement to remove exclusionary fencing when adjacent construction activities are complete, and adds a requirement for the Designated Biologist to accompany fence removal as well as installation. The resulting impacts to the Covered Species, however, including the duration of impacts and number of acres of Covered Species habitat that will be lost as a result of the Project, will remain the same. CDFW has determined that the originally proposed and amended construction schedule and the additions to the Conditions of Approval described in this

Amendment No. 2 will not increase the amount of take or the severity of other impacts of the taking on the Covered Species. Given the circumstances of this Project, CDFW believes that the changes to the Project or Conditions of the ITP described in this Amendment, including the change in construction schedule, 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 June 2016, that the Project, as approved, and as amended in May 2019, 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 No. 2 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, as amended, 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 June 2016 and Amendment No. 1 in May 2019 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 adopted by Caltrans as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment No. 2 is a minor change to the ITP as amended. CDFW finds for the same reasons under CEQA that approval of the Amendment No. 2 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 Caltrans 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 No. 2 extends the expiration date, modifies the construction end date, adds a requirement to remove exclusionary fencing when adjacent construction activities are complete, and adds a requirement for the Designated Biologist to accompany fence removal as well as installation. These changes to the ITP will not: (1) increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, (2) affect Permittee's substantive mitigation obligations under the ITP, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, Amendment No. 2 will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. 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).

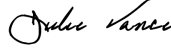
The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

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

Alternatively, 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 1/9/2024

DocuSigned by:

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Julie A. Vance
Regional Manager
Central Region

Minor Amendment No. 2
Incidental Take Permit 2081-2015-057-04
CALIFORNIA DEPARTMENT OF TRANSPORTATION
San Benito Route 156 Improvement Project

ACKNOWLEDGMENT

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

By:  _____ Date: 1/10/2024

Printed Name: Shelby Sanchez Title: Environmental Scientist