

**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. 2081-2019-060-04

Table Mountain Rancheria

Millerton Road Improvement Project: Winchell Cove Road to Sky Harbor Road in Fresno County

**INTRODUCTION**

On September 16, 2020, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2019-060-04 (ITP) to Table Mountain Rancheria (Permittee), authorizing take of California tiger salamander (*Ambystoma californiense*) (the Covered Species) associated with and incidental to the Millerton Road Improvement Project: Winchell Cove Road to Sky Harbor Road in Fresno County, California (Project). The Project as described in the ITP as originally issued by CDFW includes the construction of roadway improvements, expanding the approximately 1.0-mile segment of Millerton Road from Winchell Cove Road to Sky Harbor Road, to a four-lane arterial roadway with four 12-foot-wide travel lanes, two 6-foot-wide paved shoulders, and 4-foot-wide treated dirt shoulders for safety and to increase capacity. The modifications of the intersections at Winchell Cove Road, Brighton Crest Entrance Road, and Sky Harbor Road are included in Project activities along with the resizing of six existing culverts and the construction of five new culverts. 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 April 20, 2022, CDFW received a request from the Permittee for a minor amendment to the ITP (Minor Amendment No. 1) and the corresponding fee payment on May 3, 2022. The request included updating the phone number for Permittee's Contact Person and extending the expiration date of the ITP from October 1, 2022, to December 31, 2023, to allow more time to complete Condition of Approval 8.1, Covered Species Credits. This request also included an extension of the deadline in which to complete Condition of Approval 8.1 from within 18 months of the effective date of the ITP to before December 31, 2023, to match the expiration date of the ITP and the Escrow Agreement funded as the form of Security for the ITP. CDFW issued Amendment No. 1 on July 14, 2022.

In issuing the ITP and Minor 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 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 November 7, 2023, CDFW received a request from the Permittee for a minor amendment (Minor Amendment No. 2) to the ITP, as amended, and the corresponding fee payment on December 5, 2023. The request included extending the expiration date of the ITP from December 31, 2023, to December 31, 2028, to allow more time to complete Condition of Approval 8.1, Covered Species Credits. The request also included an extension of the deadline in which to complete Condition of Approval 8.1 from December 31, 2023, to before December 31, 2028, to match the expiration date of the ITP and the Escrow Agreement funded as the form of Security for the ITP. Additionally, Permittee requested that Condition of Approval 6.4, Monthly Compliance Report, be removed to reduce the frequency of ongoing reporting efforts following the completion of the Project in March 2021.

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

First, Amendment No. 2 extends the expiration date of the ITP from December 31, 2023, to December 31, 2028.

Second, Amendment No. 2 revises Condition of Approval 6.4, Monthly Compliance Report, to allow for adjustments to the timing and number of compliance reports required under this condition following the completion of the Project.

Third, Amendment No. 2 extends the deadline in which to complete Condition of Approval 8.1 from December 31, 2023, to before December 31, 2028.

## **AMENDMENT**

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

1. The paragraph entitled "Effective Date and Expiration Date of this ITP," on page 1 of the ITP, as amended, shall be further amended to read as follows:

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~~ ***December 31, 2028***.

Minor Amendment No. 2  
Incidental Take Permit 2081-2019-060-04  
TABLE MOUNTAIN RANCHERIA

Millerton Road Improvement Project: Winchell Road to Sky Harbor Road

2. Condition of Approval 6.4 on page 11 of the ITP, as amended, shall be further amended to read as follows:

Monthly Compliance Report. The Designated Representative or Designated Biologist shall compile the observation and inspection records identified in Condition of Approval 6.3 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. Monthly Compliance Reports shall be submitted to the CDFW offices listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative on the 15th of each month, to CDFW's Regional Office, and Headquarters CESA Program. At the time of this ITP's approval, the CDFW Regional Office email is R4CESA@wildlife.ca.gov and Headquarters CESA Program email is CESA@wildlife.ca.gov. CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify Permittee in writing of the new reporting schedule. ***Following the completion of the Project, CDFW may adjust the timing and number of compliance reports required under this provision. If any adjustments are made to the reporting schedule, CDFW will notify Permittee in writing of the new reporting schedule.***

3. The second paragraph in the section entitled "Habitat Management Land Acquisition," on page 18 of the ITP, as amended, shall be further amended to read as follows:

To meet this requirement, the Permittee shall purchase four (4) acres of Covered Species upland habitat credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 8.1). Purchase of Covered Species credits must be complete before starting Covered Activities, or by ~~December 31, 2023~~ **December 31, 2028**, if Security is provided pursuant to Condition of Approval 9 below for all uncompleted obligations. The Permittee shall also restore on-site 47.51 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.2 below.

4. The last paragraph in the section entitled "Performance Security," on page 20 of the ITP, as amended, shall be further amended to read as follows:

Even if Security is provided, the Permittee must complete the required purchase of Covered Species credits from a CDFW-approved mitigation or conservation bank no later than ~~December 31, 2023~~ **December 31, 2028**. CDFW may require the Permittee to provide additional HM lands and/or additional funding to ensure

the impacts of the taking are minimized and fully mitigated, as required by law, if the Permittee does not complete these requirements within the specified timeframe.

The corresponding measures in the Mitigation Monitoring and Reporting Program (MMRP) (Attachment 1 of the ITP) shall be amended to read the same as above. 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 Amendment No. 2 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Amendment No. 2 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: Amendment No. 2 makes three specific changes to the ITP, as amended: 1) extends the expiration date of the ITP from December 31, 2023, to December 31, 2028; 2) revises Condition of Approval 6.4 to allow for adjustments to the timing and number of compliance reports required under this condition following the completion of the Project; and 3) extends the deadline in which to complete Condition of Approval 8.1 from December 31, 2023, to before December 31, 2028. The resulting impacts to the Covered Species, however, including the permanent loss of 1.07 acres as a result of the Project, will remain the same.

CDFW has determined that 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 Amendment No. 2 will not increase impacts to the Covered Species.

*Issuance of Amendment No. 2 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 September 2020 and July 2022 that the Project, as approved, met the standards for issuance of an ITP and Amendment No. 1, respectively, 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 Amendment No. 2 because the Project and ITP, as amended: 1) will have no affect 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 Amendment No. 2.*

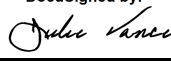
Discussion: CDFW issued the ITP in September 2020 and Amendment No.1 in July 2022 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the Mitigated Negative Declaration (State Clearinghouse No.: 2013101092) adopted by the County of Fresno on December 10, 2013, as lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that Amendment No. 2 is a minor change to the ITP. CDFW finds for the same reasons under CEQA that approval of 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 the County of Fresno 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 Amendment No. 2.

*CDFW finds that Amendment No. 2 is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).*

Discussion: Amendment No. 2 extends the expiration date of the ITP from December 31, 2023, to December 31, 2028, revises Condition of Approval 6.4 to allow for adjustments to the timing and number of compliance reports required under this condition following the completion of the Project, and extends the deadline in which to complete Condition of Approval 8.1 from December 31, 2023, to before December 31, 2028. 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).

**APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

on 4/19/2024

DocuSigned by:  
  
FA83F09FE08945A...

Julie A. Vance, Regional  
Manager  
Central Region

Minor Amendment No. 2  
Incidental Take Permit 2081-2019-060-04  
TABLE MOUNTAIN RANCHERIA  
Millerton Road Improvement Project: Winchell Road to Sky Harbor Road