

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
BAY DELTA REGION
2825 CORDELIA ROAD, SUITE 100
FAIRFIELD, CA 94534



AMENDMENT NO. 2
(A Major Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2015-043-03
Golden Hills North, LLC

Golden Hills North Energy Center Repowering Project in Alameda County

INTRODUCTION

On May 8, 2017, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2015-043-03 (ITP) to Golden Hills North, LLC (Permittee) authorizing take of California tiger salamander (*Ambystoma californiense*) and San Joaquin kit fox (*Vulpes macrotis mutica*) (collectively, the Covered Species) associated with and incidental to the Golden Hills North Energy Center Repowering Project (Project) located in Alameda County, California. The Project as described in the ITP originally issued by CDFW included repowering the existing wind energy facility to replace outdated wind turbine generators (WTG) with fewer and more efficient WTGs. The Project involved decommissioning a maximum of 324 existing WTGs and repowering by installing up to 28 new WTGs at new pad sites. After repowering, the Project has up to 40.8 megawatts (MW) of installed capacity.

The Project included building new access roads, widening existing roads, constructing new laydown yards, installing underground electrical collector lines, installing culverts on stream crossings, conducting horizontal directional drilling, installing meteorological towers, and improving related infrastructure. An existing operations and maintenance (O&M) building is located within the Project Area and may be used for continued O&M activities and storage. The Project used the existing Midway Substation which is located approximately 1.9 miles southeast of the Project. 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. Project construction including site restoration was completed in December 2017.

In a letter dated April 1, 2019, the Permittee requested to amend the original ITP to extend the timeframe allowed for providing Habitat Mitigation (HM) lands which was required to be provided within 18 months of initiating Covered Activities (approximately December 2018). In addition, the Permittee requested to reduce the amount of HM lands required under Condition of Approval 9. CDFW issued a Major Amendment 1 (Amendment 1) on September 27, 2021, but the Permittee did not acknowledge by signature and did not return the Amendment within 30 days as required, so CDFW voided Amendment 1 in August 2022.

On May 10, 2023, the Permittee requested a second major amendment to include the additional impacts related to already completed horizontal directional drilling (HDD) activities at the East, West, and Patterson Substation locations, as well as rotor repair at wind turbines T54, T60, T61, and staging activities at T66.

On February 5, 2024, the Permittee revised the amendment request to include two additional Covered Activities: 1) future rotor repairs at 5 wind turbines (T59–T63); and 2) future maintenance activities for the remaining operational duration of the facility.

On March 18, 2024, the Permittee revised the amendment request to include a description of the previously issued, but voided, Amendment 1.

On April 16, 2024, the Permittee revised the amendment request to extend the permit term to December 31, 2045.

Summary

In the original ITP, the Project was expected to cause the permanent loss of 45.94 acres of Covered Species upland habitat, including permanent loss of 0.57 acre of Covered Species aquatic habitat from indirect impacts, and temporary loss of 52.35 acres of Covered Species upland habitat.

As-built Project impacts, as of December 2017 and described in voided Amendment 1, totaled 31.57 acres of permanent Covered Species upland habitat impacts, 0.27 acre of permanent impacts to Covered Species aquatic habitat and 185.44 acres of temporary Covered Species upland habitat. As described in the voided Amendment 1, the decrease in permanent impacts was due largely to roads and originally-proposed turbines that were not constructed. The increase in temporary impacts was due to additional cut/fill grading on steep slopes to provide larger work spaces for heavy machinery and maintain safe work conditions. After additional coordination with the Permittee, including a site visit, CDFW issued Amendment 1.

The Permittee conducted HDD and rotor repair activities between 2021 and 2023 within the Project Area. The HDD activities were described in the original ITP, but the work was not started before wind turbine construction activities were completed in December 2017. The rotor repair activities, however, were not covered under the original ITP or requested in Amendment 1. The combination of both activities resulted in 1.29 acres of additional temporary impacts, 3.76 acres of additional semi-permanent impacts and 3.25 acres of additional permanent impacts to Covered Species upland habitat. Impacts were the result of the establishment and use of work areas, access and staging areas, HDD boring and conduit installation, and rotor repair activities. Permittee is providing compensatory mitigation for unpermitted impacts resulting from the rotor repair activities.

Additional impacts to grassland habitat associated with future rotor repairs and maintenance activities are anticipated to result in a temporary loss of 8.0 acres of Covered Species upland habitat over the extended permit term.

As a result of the HDD and rotor repair activities and future maintenance activities, the Project is anticipated to result in a total of 233.58 acres of impact, including 194.73 acres of temporary loss of Covered Species upland habitat, 34.82 acres of permanent and 3.76 acres of semi-permanent loss of Covered Species upland habitat, and 0.27 acre of permanent loss of Covered Species aquatic habitat.

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

1. This Amendment 2 corrects the name of the Permittee and Contact Person.
2. This Amendment 2 extends the permit term.
3. This Amendment 2 includes additional Covered Activities to include future maintenance activities.
4. This Amendment 2 recalculates the amount of temporary and permanent impacts authorized due to additional maintenance activities.
5. This Amendment 2 adds additional notification and tracking requirements for Operations and Maintenance activities.
6. This Amendment 2 increases the amount of compensatory mitigation due to an increase in impacts.
7. This Amendment 2 extends the timeframe for the Permittee to acquire HM lands.
8. This Amendment 2 increases the amount of security as a result of the increase in Project impacts.

AMENDMENT

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

1. Page 1 shall be amended to read:

Permittee: Golden Hills North, LLC

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GOLDEN HILLS NORTH, LLC
Golden Hills North Energy Center Repowering Project

Principal Officer: ~~John DiDonato~~, **Mike Handel**, Vice President – Development

Contact Person: ~~Mike Pappalardo~~, (541) 302-1345
Craig Lawrence (510) 703-5680

Mailing Address: Golden Hills North, LLC
700 Universe Boulevard, FEW/JB
Juno Beach, FL 33408

2. **Effective Date and Expiration** shall be amended to read:

Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on December 31, ~~2025~~**2045**.

3. Page 6, under Project Description, shall be amended to read:

Operations and Maintenance (O & M)

Future unforeseen maintenance activities include rotor repair and repairs to any components of the facility (for example, WTG, cables, and transformers). The future rotor repair and maintenance activities are expected to result in 8.0 acres of temporary disturbance during the term of the ITP Amendment.

4. Page 7, third paragraph, under the heading Impacts of the Taking on Covered Species shall be amended to read:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include: transport of supplies and workers to and from the Project, storage of construction materials and equipment on site, grading, trenching, augering, and other earthmoving activities associated with construction, reclamation, re-contouring and restoration activities, vegetation management, pond monitoring, ***repairs and maintenance***, and/or relocation activities prescribed by this ITP (Covered Activities).

* * *

The Project is expected to cause the permanent loss of a total of ~~46.54~~ **35.09** acres of habitat for the Covered Species; permanent impacts include ~~45.94~~ **34.82** acres of upland habitat (direct impacts) for the Covered Species and ~~0.57~~ **0.27** acres of aquatic habitat (indirect impacts) for California tiger salamander. The

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Project is also expected to result in **3.76 acres of the semi-permanent impacts and** temporary disturbance of ~~152.35~~ **194.73** acres of upland habitat for the Covered Species.

The permanent impacts to upland habitat will result from construction of new roads, construction of main (three) laydown yards, installation of turbine pads, installation of culverts, and installation of meteorological towers **and rotor repair and other maintenance activities**. Permanent impacts resulting from road construction include the 32-foot-wide gravel surfaces on main access roads and 16-foot-wide gravel surfaces of interior (secondary) roads. The main laydown yards and shoulders of main access roads will be restored; however, these areas are considered permanent impacts due to the difficulty of completely restoring these highly-compacted areas.

The temporary impacts to upland habitat will result from the cut/fill of roads, construction of new turbine staging areas, installation of underground collection lines, and reclamation of existing turbine pads **and rotor repair and other maintenance activities**. The 8-foot-wide shoulders of interior roads are considered temporary impacts since these road segments are expected to be less traveled by construction-related traffic, landowners, and third parties, and therefore less compacted compared to main road shoulders. The decommissioning and subsequent reclamation of existing roads that will not be needed for purposes of WTG operations or ranching activities by landowners is not considered a "temporary impact".

5. Condition of Approval 7.1. Notification Before Commencement shall be amended to read: The Designated Representative shall notify CDFW 14 calendar days before starting Covered Activities and shall document compliance with all pre-Project Conditions of Approval before starting Covered Activities.

7.1.1. Operations and Maintenance Notifications. The Designated Representative shall submit an O & M notification on an as-needed basis, but at least 14 calendar days prior to start of O&M Covered Activities that will occur in a previously undisturbed or previously disturbed but restored area. The O&M notification shall include the type of Covered Activities required, estimated impact area and whether the impacts will be on previously disturbed areas and will be permanent, semi-permanent or temporary; estimated start and end dates, closest turbine number and distance from nearest pond(s); and a total of all O & M impacts to date. The notification shall also provide a list of ITP Conditions of Approval to be implemented that are appropriate for each Covered Activity. for CDFW review and approval. CDFW may determine that certain

Conditions of Approval apply to O&M Covered Activities such as Condition of Approval 8.13 Exclusion Fencing Near Aquatic Features.

6. Paragraph 2 of Condition of Approval 9.0 and the MMRP shall be amended to read:

To meet this requirement, the Permittee shall either purchase a total of ~~290.74~~ **301.67** acres of Covered Species credits from a CDFW-approved mitigation or conservation bank (Condition of Approval 9.2) OR shall provide for both the permanent protection and management of a total of ~~290.74~~ **301.67** acres of Habitat Management (HM) lands pursuant to Condition of Approval 9.3 below and the calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. The Covered Species credits or HM lands shall include ~~290.74~~ **301.67** acres of high-quality habitat including at least ~~0.57~~ **0.27** acres of high quality aquatic habitat as described below.

7. Paragraph 6 of Condition of Approval 9.0 and the MMRP shall be amended to read:

Permittee shall also restore on-site ~~152.35~~ **198.49** acres of **semi-permanently and** temporarily-impacted Covered Species habitat pursuant to Condition of Approval 9.6 below. If any temporary impacts do not meet the criteria identified in ITP Conditions of Approval 6.14 and 6.15, then CDFW shall require compensatory mitigation to offset the additional Project temporal impacts. If Permittee does not complete seeding of temporary impact areas by October 31 of the year of the impact, but restores impact areas within 2 years of the impact consistent with Conditions of Approval 6.14 and 6.15, then CDFW shall consider those disturbed areas as semi-permanent, and require compensatory mitigation at a 2:1 ratio (acres of mitigation: acres of impact). If Permittee does not restore areas considered temporarily-disturbed within 2 years, then CDFW shall consider those areas as permanent impacts, and require compensatory mitigation at a 3:1 ratio (acres of mitigation: acres of impact).

8. Paragraph 7 of Condition of Approval 9.0 and the MMRP shall be amended to read:

No take beyond the permanent loss of ~~46.54~~ **35.09** acres of habitat for the Covered Species, **semi-permanent loss of 3.76 acres** and temporary loss of ~~152.35~~ **194.73** acres of habitat for the Covered Species authorized in this ITP shall occur unless this ITP is amended by CDFW prior to additional impacts. This mitigation requirement will be identified by CDFW in writing and shall be subject

to an amendment as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable regulations and law.

9. Condition of Approval 9.1 and the MMRP shall be amended to read:

9.1. Cost Estimates. CDFW has estimated the cost of acquisition, protection, and perpetual management of the HM lands and restoration of temporarily disturbed habitat as follows:

9.1.1. Land acquisition costs for HM lands identified in Condition of Approval 9.3 below, estimated at \$16,000/acre for ~~290.74~~ **301.67** acres: ~~\$4,651,840.00~~ **4,826,720.00** Land acquisitions costs are estimated using local fair market current value for lands with habitat values meeting mitigation requirements;

9.1.2. Start-up costs for HM lands, including initial site protection and enhancement costs as described in Condition of Approval 9.3.5 below, estimated at \$102,650.00;

9.1.3. Interim management period funding as described in Condition of Approval 9.3.6 below, estimated at \$71,680.00;

9.1.4. Long-term management funding as described in Condition of Approval 9.4 below, estimated at \$3,000.00/acre for ~~290.74~~ **301.67** acres: ~~\$872,220.00~~ **905,010.00**. Long-term management funding is estimated initially for the purpose of providing Security to ensure implementation of HM lands management.

9.1.5. Related transaction fees including but not limited to account set-up fees, administrative fees, title and documentation review and related title transactions, expenses incurred from other state agency reviews, and overhead related to transfer of HM lands to CDFW as described in Condition of Approval 9.5, estimated at \$3,000.00.

9.1.6. Restoration of on-site temporary effects to Covered Species habitat as described in Condition of Approval 9.6, calculated at \$3,500.00/acre for ~~152.35~~ **198.49** acres: ~~\$533,225.00~~ **694,715.00**.

10. Condition of Approval 9.1 and the MMRP shall be amended to read:

9.2. Covered Species Credits. Permittee shall purchase ~~290.74~~ **301.67** acres of Covered Species credits from a CDFW-approved mitigation or conservation bank prior to initiating Covered Activities, or no later than 18 months from the issuance of this ITP **Amendment** if Security is provided pursuant to Condition of Approval 10 below.

11. Condition of Approval 10.1 and the MMRP shall be amended as follows:

10.1. Security Amount. The Security shall be in the amount of ~~\$6,234,615.00~~ **6,603,100.00**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.

12. Paragraph 2 of Condition of Approval 10.7 and the MMRP shall be amended as follows:

Even if Security is provided, the Permittee must complete the required acquisition, protection and transfer of all HM lands and record any required conservation easements no later than 18 months from the effective date of this ~~ITP~~ **Amendment**. 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.

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; and, by implementing the minimization measures restoration measures it is not expected that this Amendment will increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

This Amendment makes eight specific changes to the ITP as originally issued. First, this Amendment changes the names of the Principal Officer and the Contact Person. Second, this Amendment extends the ITP term. Third, this Amendment includes additional Covered Activities to include future maintenance activities. Fourth, this Amendment recalculates the amount of temporary and permanent impacts authorized due to additional maintenance activities. Fifth, this Amendment adds additional notification and tracking requirements for Operations and Maintenance activities. Sixth, this Amendment increases the amount of compensatory mitigation due to an increase in impacts. Seventh, this Amendment extends the timeframe for the Permittee to acquire HM lands. Eighth, this Amendment increases the amount of security as a result of the increase in Project impacts. The resulting impacts to the Covered Species; however, including the extent of take as a result of the Project, will remain the same.

CDFW has determined that changes to impact acreage and habitat acquisition 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 reducing permanent impacts, increasing temporary and semi-permanent impacts, and increasing total compensatory mitigation, along with extending the timeframe for acquiring the compensatory mitigation 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 May 2017 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 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 May 2017 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 County of Alameda as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment is a major 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 County of Alameda 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 Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

Discussion: This Amendment reduces the amount of permanent impacts, increases the amount of temporary impacts, increases the amount of semi-permanent impacts, and increases total compensatory mitigation required along with extending the timeframe for acquiring the compensatory mitigation. These changes to the ITP will not: (1) significantly 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. However, this Amendment will 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 Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 6/7/2024

DocuSigned by:

Erin Chappell

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Erin Chappell, Regional Manager
Bay Delta Region

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