

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



AMENDMENT NO. 1
(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, 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as described in the ITP originally issued by CDFW included repowering the existing wind energy facility to replace outdated wind turbine generators (WTG) with fewer and more efficient WTGs.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 site 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.

In a letter dated April 1, 2019, the Permittee requested to amend the original ITP to extend the timeframe in Condition of Approval required for providing Habitat Mitigation (HM) lands. In addition, the Permittee requested to reduce the amount of HM lands required under Condition of Approval 9. The Project was expected to result in 46.51 acres of permanent habitat loss (45.94 acres of upland habitat and 0.57 acre of aquatic habitat); and 152.35 acres of temporary upland habitat loss.

The Amendment request dated May 15, 2019 described the resulting final as-built habitat impact acreages based on an engineering-level land survey which totaled 31.84 acres of permanent habitat loss (31.57 acres of upland habitat and 0.27 acre of aquatic habitat); and 182.16 acres of temporary upland habitat loss.

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.

In an email dated November 22, 2019, the Permittee explained the small “slivers” of temporary impacts along roads and turbine pads had been re-calculated and increased the temporary impacts to 185.44 acres.

A site visit was conducted by CDFW staff on January 28, 2020 to confirm the undisturbed areas and the previously-disturbed areas that were restored. The staging areas within the Project area were considered permanent.

To meet the compensatory mitigation requirements of the original ITP, a total of 290.74 acres of HM lands, including at least 0.57 acre of aquatic habitat are required. The Permittee is requesting to reduce the HM lands required to 280.42 acres of upland habitat including at least 0.27 acre of aquatic habitat.

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

First, this Amendment corrects the name of the Permittee and Contact Person.

Second, this Amendment extends the timeframe for the Permittee to acquire HM lands.

Third, this Amendment changes the amount of temporary and permanent impacts authorized.

Fourth, this Amendment reduces the amount of compensatory mitigation due to a decrease in permanent impacts.

Fifth, this Amendment reduces the amount of required Security.

AMENDMENT

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

1. Page 1 shall be amended to read:

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Incidental Take Permit 2081-2015-043-03
GOLDEN HILLS NORTH, LLC
GOLDEN HILLS NORTH ENERGY CENTER REPOWERING PROJECT

Permittee: Golden Hills North, LLC

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

Contact Person: ~~Mike Pappalardo~~, **Renee Culver** (~~541~~) 302-1345
(925) 245-5522

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

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

The Project is expected to cause the permanent loss of a total of ~~46.54~~ **31.84** acres of habitat for the Covered Species; permanent impacts include ~~45.94~~ **31.57** acres of upland habitat (direct impacts) for the Covered Species and ~~0.57~~ **0.27** acres of aquatic habitat (indirect impacts) for the California tiger salamander. The Project is also expected to result in the temporary disturbance of ~~152.35~~ **185.44** acres of upland habitat for the Covered Species.

3. Paragraph 2 of Condition of Approval 9.0 shall be amended to read:

To meet this requirement, the Permittee shall either purchase a total of ~~290.74~~ **280.42** 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~~ **280.42** 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~~ **280.42** acres of high-quality habitat including at least ~~0.57~~ **0.27** acres of high quality aquatic habitat as described below.

4. Paragraph 6 of Condition of Approval 9.0 shall be amended to read:

Permittee shall also restore on-site ~~152.35~~ **185.44** acres of 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

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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).

5. Paragraph 7 of Condition of Approval 9.0 shall be amended to read:

No take beyond the permanent loss of ~~46.51~~ **31.84** acres of habitat for the Covered Species and temporary loss of ~~152.35~~ **185.44** 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.

6. Condition of Approval 9.1 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~~ **280.42** acres: ~~\$4,651,840.00~~ **4,486,720.00** 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~~ **280.42** acres: ~~\$872,220.00~~ **841,260.00**. 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

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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~~ **185.44** acres: ~~\$533,225.00~~ **649,040.00**.

7. Condition of Approval 9.1 shall be amended to read:

9.2. Covered Species Credits. Permittee shall purchase ~~290.74~~ **280.42** 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.

8. Condition of Approval 10.1 shall be amended as follows:

10.1. Security Amount. The Security shall be in the amount of ~~\$6,234,615.00~~ **6,154,350.00**. This amount is based on the cost estimates identified in Condition of Approval 9.1 above.

9. Paragraph 2 of Condition of Approval 10.7 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, 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 five 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 timeframe for the Permittee to

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acquire the compensatory mitigation. Third, this Amendment changes the amount of temporary and permanent impacts authorized. Fourth, this Amendment reduces the amount of compensatory mitigation due to a decrease in permanent impacts. Fifth, this Amendment reduces the total amount of required Security. 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 impacts, and reducing 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 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

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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, and reduces 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).

The authorization provided by this Amendment is not valid until signed by all parties and returned to CDFW. Digital signatures facilitated by CDFW will be automatically returned and shall comply with Government Code section 16.5. Wet signatures on duplicate original paper copies shall be returned by the Permittee via registered first-class mail or overnight delivery to the following address:

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

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APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 9/28/2021 _____.

DocuSigned by:
Stephanie Fong
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Stephanie Fong, Acting Regional Manager
Bay Delta 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: _____ Date: _____

Printed Name: Matt Handel Title: _____

VOID

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