

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. 2081-2021-003-03
California Department of Transportation, District 5
Soquel Creek Bridge Scour Project (EA 05-1H480)

INTRODUCTION

On September 28, 2021, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2021-003-03 (ITP) to California Department of Transportation, District 5 (Permittee) authorizing take of Coho salmon (*Oncorhynchus kisutch*) and foothill yellow-legged frog (*Rana boylei*) (collectively, the Covered Species) associated with and incidental to the Soquel Creek Bridge Scour Project (EA 05-1H480) (Project) located in Santa Cruz County, California. The Project as described in the ITP originally issued by CDFW consisted of removal of existing sacked concrete at Bent 12 of Soquel Bridge and installation of 1,470 cubic yards of rock slope protection (RSP) to an area 148 feet long, 5.5 feet deep and varying widths from 26 to 66 feet at Bent 12 of Soquel Bridge.

The Project began construction in July 2023 and was completed in November 2023, and included hydroseeding and willow pole plantings. Revegetation of disturbed areas is planned for fall 2024.

Project construction included a stream diversion system (SDS) to dewater the Project site to allow for replacement of existing sacked concrete covering the creek banks with RSP to better protect the slope and repair existing scour, followed by revegetation of areas impacted by the Project. Project site access and staging occurred via an existing Caltrans Right-of-Way on Porter Street in previously disturbed areas or in areas under temporary construction easement. The SDS directed flows through the site utilizing sufficiently sized pipes (minimum 36-inch diameter) to accommodate stream flows and temporary berms on the upstream inlet and downstream inlet consisting of gravel and a visqueen (non-permeable plastic sheeting) layer under the berms. Dewatering occurred after the SDS had been installed by utilizing low-horsepower pumps with protective screens at intake ends to prevent entrainment. Upon completion of instream work all SDS and dewatering equipment was removed from Soquel Creek.

After dewatering, existing sacked concrete (burlap sacks of hardened concrete) were removed from an area of 2,459 square feet over 109 linear feet that surrounded arch columns 3 and 4. Once the sacked concrete was removed, RSP was installed at a 1.5 to 1 slope with a flat bench section at the top of the bank over an area of 148 feet long,

5.5 feet deep and 26 to 66 feet wide. The RSP consisted of 873 cubic yards of ½ ton RSP, 597 cubic yards of 1-ton RSP, 138 cubic yards of gravel filter and 130 cubic yards of native streambed material. RSP fabric was installed above the ordinary high-water mark of the creek flow line and plant tubes placed in the RSP layers below the ordinary high-water mark of the creek flow line. The toe of the RSP was backfilled and compacted with native soil.

For temporary impacts associated with access, staging, excavation and fill operations that were adjacent to and within the bed, bank and channel, and upland riparian areas, native vegetation will be replaced and the bed, bank and channel was recontour to match pre-project upstream and downstream contours.

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 October 23, 2023, the Permittee requested to amend the original ITP to remove the installation of root-wad structure as a part of the off-site mitigation requirement (Condition of Approval 9). In the letter, the Permittee explained that funding and conceptual plans were developed to meet the requirement of the original ITP, however severe winter storms in 2023 caused many large trees to fall into the creek, making the installation of root-wad structure no longer necessary.

Summary

In the original ITP, the Project was expected to cause permanent impacts to 0.035 acres and temporary impact to 0.143 acres over 140 linear feet of habitat for the Covered Species. Impacts of the authorized taking also included adverse impacts to the Covered Species habitat related to temporal losses, increased habitat fragmentation and edge effects, and the Project's contribution to cumulative impacts (indirect impacts).

CDFW determined that habitat creation, restoration and long-term management of compensatory habitat was necessary and required pursuant to CESA to fully mitigate the impacts of Project activities. To meet this requirement, the Permittee was responsible for the restoration and enhancement of the temporarily impacted 0.143-acre area of on-site Covered Species habitat. In addition, the Permittee was also responsible for Covered Species habitat creation, restoration and long-term management of 0.105 acres of compensatory habitat at an off-site location.

The original off-site habitat enhancement included the creation and management of a minimum of four (4) in-stream root-wad structures. However, because 2023 winter storms caused many large trees to fall in the creek the need for large woody debris is no longer necessary. In place of the in-stream root-was structures, Caltrans shall partner with CalFire and the Santa Cruz County Resource Conservation District to

develop a new mitigation project within the Soquel Demonstration Forest that will restore 0.25 acres by removing non-native plant species, primarily Italian thistle, vinca, and French broom, and replant with native species such as ferns, willows, redwoods, and creek dogwood. Caltrans shall develop a planting plan, conduct 10 years of monitoring after implementation to ensure a 75% success criteria for plant survival.

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

1. This Amendment 1 removes the requirement for root wads to be included in the off-site habitat mitigation plan as described in Condition of Approval 9.0.
2. This Amendment 1 replaces the cost estimates for including root wads in conditions 9.1.1 and 9.1.2, with 0.25 acres of invasive species management within the Soquel Demonstration Forest.
3. This Amendment 1 removes the requirement for root wads to be included in the off-site habitat mitigation plan as described in Condition of Approval 9.3, 9.3.2, 9.3.3, 9.3.4, and 9.4.4.

AMENDMENT

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

1. The second paragraph in ITP Condition of Approval 9, page 17 (Habitat Management Land Acquisition and Restoration) shall be amended to read:

To meet this requirement, the Permittee shall be responsible for Covered Species habitat creation, restoration and long-term management of 0.105 acres of compensatory habitat at an off-site location to be selected in coordination with CDFW. ~~The off-site habitat enhancement plan shall include the creation and management of a minimum of four (4) in-stream root-wad structures as well as monitoring and management of restored areas to meet Conditions of Approval 9.1, 9.2, 9.3 and 9.4 below.~~ Restored, created and managed habitats are collectively referred to as the Habitat Management Lands (HM lands). Long term funding, for monitoring and management of created Covered Species habitat and vegetation management, must be secured before starting Covered Activities or within 18 months of the effective date of this ITP if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. The Permittee shall also be responsible for the restoration and enhancement of the temporarily impacted 0.143-acre area of on-site Covered Species habitat as specified in Condition of Approval 9.4.

2. Condition of Approval 9.1(Cost Estimates) subcondition 9.1.1 and 9.1.2 shall be amended to read:

9.1.1. ~~Habitat creation costs for four (4) root-wad log structures, estimated at \$15,000.00.~~ **Habitat restoration costs for 0.25 acres of off-site non-native removal in the Soquel Demonstration Forest, estimated at \$15,000.00.**

9.1.2. Habitat enhancement costs for 0.105 acres of off-site stream habitat ~~and root-wad log structures~~ estimated at \$15,000.00.

3. Condition of Approval 9.3 (Off-Site Habitat Enhancement Plan), subcondition 9.3.2, 9.3.3 and 9.3.4 shall be amended to read:

9.3.2. Off-Site Stream Analysis. The Permittee shall obtain and submit photos from ten designated photo stations; ~~five upstream and five downstream of the root-wad installation location.~~ The photos shall be submitted once in year zero as a baseline and once annually for a period of ten years and shall provide a detailed description of the stream system over the course of the photo stations.

9.3.3. Off-Site Covered Species Monitoring. The Permittee shall be responsible for submission of an Off-Site Covered Species Monitoring Plan a minimum of thirty days prior to the initiation of construction. The plan shall focus on the determination of presence/absence of Covered salmonid species ~~and the utilization of the proposed root-wad structures~~ through the detection of redds, or salmonid egg deposition features within Soquel Creek. Covered Species monitoring shall occur for a period of ten years.

9.3.4. Off-Site FYLF Monitoring. Permittee shall provide a FYLF survey methodology to CDFW for acceptance 30 days prior to the initiation of construction. Surveys within the Off-Site Area should correspond to the photo monitoring stations noted in Condition of Approval 9.3.2. The plan shall focus on the determination of presence/absence of Covered Amphibian Species. The Methodology shall include searching; cavities under rocks, within vegetation such as sedges and other clumped vegetation, and under undercut banks. Surveys shall also be conducted at different times of day and under variable weather conditions if possible. The surveys shall focus on the ~~root-wad log~~ Off-Site area and the upland habitat within and adjacent to the area. Survey results shall be provided to CDFW once annually over a ten-year period by December 31 of each year. If FYLF or evidence of their presence are found the occurrences shall be submitted to CNDDDB as specified in Condition of Approval 7.6.

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 one change to the ITP as originally issued by removing the requirement to include four (4) root wad structures in the habitat creation mitigation requirement.

CDFW has determined that removal of the four (4) root wad structures will not reduce the value of the off-site habitat creation required or the severity of other impacts associated with the taking on 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 originally 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. The 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 September 2021 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 California Department of Transportation (Caltrans) 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 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 Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

Discussion: This Amendment significantly modifies the compensatory mitigation requirements of the ITP. 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) require further environmental review under CEQA, or (3) 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 6/24/2024.

DocuSigned by:
Erin Chappell
B77E0A6244EF486...
Erin Chappell, Regional Manager
Bay Delta Region

Notice of Determination**- 1 -****To:**

Office of Planning and Research
 For U.S. Mail:
 P.O. Box 3044
 Sacramento, CA 95812-3044

Street Address:

1400 Tenth Street
 Sacramento, CA 95814

From:

California Department of Fish and Wildlife (CDFW)
 Bay Delta Region
 2825 Cordelia Road Unit 100, Fairfield, CA 94534
 Contact: Jason Faridi
 Phone: 707-339-1332

Lead Agency

California Department of Transportation, District 5
 50 Higuera Street, San Luis Obispo, CA 93401
 Contact: Alexandra Thiel
 Email: Alexandra.Thiel@dot.ca.gov

SUBJECT: Filing of Notice of Determination pursuant to Public Resources Code § 21108

State Clearinghouse Number: 2019059101

Project Title: Soquel Creek Bridge Scour Project (EA-1H480) (California Endangered Species Act (CESA) Incidental Take Permit (ITP) No. 2081-2021-003-03), Major Amendment 1

Project Location: The Soquel Creek Bridge Scour Project (Project) is located at the Soquel Creek Bridge (Bridge No.38-0013) on State Route 1 (SR-1) at Post-Mile (PM) 13.31, in the County of Santa Cruz, State of California. Latitude, 36.98304, -121.95951.

Project Description: This major amendment to the Project is to update the off-site mitigation requirement outlined in Condition #9 of the ITP. The language of this condition is the ITP calls out the installation of root-wad structures at an off-site location to enhance Covered Species habitat. Caltrans established the funding and conceptual plan to achieve this condition, however due to severe winter storms of 2023, the root-wads are no longer needed. Caltrans is proposing an alternative off-site restoration project to comply with the mitigation requirement to enhance Covered Species habitat at an off-site location. Therefore, an amendment to the language of this condition is required.

This amendment to the Project will result in no permanent impacts to Coho salmon (*Oncorhynchus kisutch*) and foothill yellow-legged frog (*Rana boylei*) habitat. The Project is not expected to result in additional incidental take of Coho salmon or foothill yellow-legged frog, which is designated as an endangered species under CESA. The ITP referenced above as issued by CDFW authorizes incidental take of species listed under CESA that may occur as a result of Project implementation.

This is to advise that CDFW, acting as the lead agency / a responsible agency] approved the above-described Project Major Amendment on 6/24/2024 and made the following determinations regarding the above-described project:

- The Project will / will not] have a significant effect on the environment (This determination is limited to effects within CDFW's permitting jurisdiction as a responsible agency).
- An environmental impact report / A negative declaration] was prepared by the lead agency for the original Project.
- Additional mitigation measures were / were not] made a condition of CDFW's approval of the Project.
- A mitigation reporting or monitoring plan was / was not] adopted by CDFW for this Project.
- A Statement of Overriding Considerations was / was not] adopted by CDFW for this Project.
- Findings were / were not] made by CDFW pursuant to Public Resources Code § 21081(a). CDFW did, however, adopt findings to document its compliance with CEQA.
- Compliance with the environmental filing fee requirement at Fish and Game Code § 711.4 (check one):
 - Payment is submitted with this notice.
 - A copy of a receipt showing prior payment was submitted to CDFW.

Responsible Agency statement: The EIR prepared by the lead agency for the Project is available to the general public at the office location listed above for the lead agency. CDFW's administrative record of proceedings related to the incidental take permit is available to the public for review at CDFW's regional office.

DocuSigned by:

Erin Chappell

Signature

B77E9A0211EF486...

Date: 6/24/2024

Erin Chappell, Regional Manager

Date Received for filing at OPR: _____