

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

INLAND DESERTS REGION
3602 INLAND EMPIRE BLVD SUITE C-220
ONTARIO, CA 91764



AMENDMENT NO. 2
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2018-055-06
California Department of Transportation, District 9
Olancha-Cartago Four Lane Project in Inyo County

INTRODUCTION

On November 9, 2018, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2018-055-06 (ITP) to the California Department of Transportation, District 9 (Permittee), authorizing take of Mohave ground squirrel (*Xerospermophilus mohavensis*) and desert tortoise (*Gopherus agassizii*) (collectively, the Covered Species) associated with and incidental to the Olancha-Cartago Four Lane Project in Inyo County, California (Project). The Project as described in the ITP as originally issued by CDFW includes widening U.S. Highway 395 from two lanes to four lanes near the communities of Olancha and Cartago, by constructing a controlled access, four-lane divided expressway. The Project is about 12.6 miles long, extending from the existing four-lane highway segment just south of the Los Angeles Aqueduct (LAA) at Post Mile (PM) 29.2, north to the four-lane segment at the Ash Creek bridge at PM 41.8. The Project would construct a controlled-access, four-lane divided expressway for the entire length 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 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 February 4, 2021, CDFW received a request from the Permittee to amend the ITP to include take of western Joshua tree (WJT) (*Yucca brevifolia*). The Project is expected to result in the permanent removal of 207 WJT in the permanent impact area and will result in permanent loss of approximately 68 acres of WJT habitat. On June 30, 2021, CDFW issued Major Amendment No. 1 to include impacts to WJT.

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

This Amendment removes the requirement for an Authorized Biologist to need a Memorandum of Understanding (MOU).

AMENDMENT

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

1. The Authorized Biologist, on page 6 shall be amended to read
- 6.3. Authorized Biologist. Permittee shall submit to CDFW in writing the name, qualifications, business address, and contact information for a biologist(s) who, in addition to meeting the qualifications to be Biological Monitor(s) identified in Condition 6.2 above, ~~possesses a valid Memorandum of Understanding (MOU) with CDFW for~~ **has experience** handling the Covered Species. Only Authorized Biologist(s) shall be allowed to excavate burrows, handle, and relocate Covered Species.

The corresponding Mitigation Monitoring and Reporting Program (MMRP) #3 on page 1, shall be amended to read the same as above and the Implementation Schedule column shall remain unchanged.

- 6.4. Designated Representative and Authorized Biologist/Biological Monitor Authority. Only an Authorized Biologist(s) **approved under Condition 6.3** ~~with an MOU with CDFW~~ is authorized to excavate burrows, handle, and relocate Covered Species. To ensure compliance with the Conditions of Approval of this ITP, the Designated Representative, Authorized Biologist(s), and/or Biological Monitor(s) shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.

The corresponding Mitigation Monitoring and Reporting Program (MMRP) #27 on page 8, shall be amended to read the same as above and the Implementation Schedule column shall remain unchanged.

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

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 on June 30, 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, District 9 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 this 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 California Department of Transportation, District 9 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 removes the requirement for an Authorized Biologist to need an MOU. This change to the ITP does 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, this Amendment 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:

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

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 7/11/2022

DocuSigned by:
Heidi Calvert
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Heidi Calvert
Regional Manager
Inland Deserts 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: *Katie Rodriguez*
ECB216A9DAE241E...

Date: 7/12/2022

Printed Name: Katie Rodriguez

Title: Biology Branch Chief