



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
Central Region
1234 East Shaw Avenue
Fresno, California 93710
(559) 243-4005
www.wildlife.ca.gov

GAVIN NEWSOM, Governor
CHARLTON H. BONHAM, Director



July 14, 2022

Dan Ray
Table Mountain Rancheria
8184 Table Mountain Road
Friant, California 93626

Subject: Incidental Take Permit Amendment No. 1 for the Millerton Road Improvement Project: Winchell Cove Road to Sky Harbor Road (2081-2019-060-04)

Dear Mr. Ray:

Enclosed you will find an electronic copy of Amendment No. 1 for the incidental take permit for the above referenced Project, which has been digitally signed by the California Department of Fish and Wildlife (CDFW). Please read the amendment carefully, sign the acknowledgement, and return the original **no later than 30 days from CDFW signature**, and prior to initiation of ground-disturbing activities. You may return a hard copy of the amendment via mail to:

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

Alternatively, you may return an electronic copy of the amendment with digital signature to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned.

You are advised to keep the amendment in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of approval of the permit. Note that you are required to comply with certain conditions of approval prior to initiation of ground-disturbing activities. Additionally, a copy of the permit and amendment must be maintained at the project work site and made available for inspection by CDFW staff when requested.

The amendment will not take effect until the signed acknowledgement is received by CDFW. If you wish to discuss these instructions or have questions regarding the amendment, please contact Crystal Sinclair, Environmental Scientist, at crystal.sinclair@wildlife.ca.gov.

Sincerely,
DocuSigned by:

A handwritten signature in black ink, appearing to read 'Julie Vance', enclosed in a blue DocuSign signature box.

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Julie A. Vance, Regional Manager
Central Region
California Department of Fish and Wildlife

Enclosure

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

CENTRAL REGION

1234 EAST SHAW AVENUE

FRESNO, CALIFORNIA 93710



AMENDMENT NO. 1

(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*) (collectively, the Covered Species) associated with and incidental to the Millerton Road Improvement Project 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 existing six 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 and the corresponding fee payment on May 3, 2022. The request included updating the phone number for Permittee's Contact Person, extending the expiration date of the ITP from October 1, 2022 to December 31, 2023 in order to purchase Covered Species credits from a CDFW-approved mitigation or conservation bank. This request also included an extension of the date in which the compensatory mitigation obligations are to be completed from within 18 months of the effective date of this ITP to before December 31, 2023 to match the expiration date on the Escrow Agreement funded as the form of Security for this ITP.

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

First, Amendment No. 1 updates the phone number for the Permittee's Contact Person on the ITP.

Second, Amendment No. 1 extends the expiration date for the ITP from October 1, 2022 to December 31, 2023.

Third, Amendment No. 1 extends the deadline in which to complete the purchase of Covered Species Credits from within 18 months of the effective date of the ITP to by December 31, 2023.

AMENDMENT

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

1. The phone number of the Contact Person on page 1 of the ITP, shall be amended as follows:

Contact Person: Ryan Sawyer, (916) ~~447-3479~~***235-8224***

2. The paragraph entitled "Effective Date and Expiration Date of this ITP", on page 1 of the ITP, shall be 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 ~~October 1, 2022~~***December 31, 2023.***

3. The second paragraph in the section entitled "Habitat Management Land Acquisition", on page 18 of the ITP, shall be 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 ~~within 18 months of the effective date of this ITP~~ ***by December 31, 2023,*** 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.

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4. The last paragraph in the section entitled "Performance Security", on page 20 of the ITP, shall be amended to read 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 ***purchase of Covered Species credits from a CDFW-approved mitigation or conservation bank*** no later than 18 months from the effective date of this ITP ***December 31, 2023***. 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 permittee.

FINDINGS

Issuance of Amendment No. 1 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Amendment No. 1 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. 1 makes three specific changes to the ITP: 1) updates the phone number of the Contact Person; 2) extends the expiration date of the ITP from October 1, 2022, to December 31, 2023; and 3) extends the deadline in which to complete the purchase of Covered Species Credits from 18 months to December 31, 2023. 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. 1 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. 1 will not increase impacts to the Covered Species.

Issuance of Amendment No. 1 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 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 Amendment No. 1 because it: (1) will have no effect 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. Amendment No. 1 acknowledges the need for additional time to complete the purchase of Covered Species credits at a CDFW-approved conservation bank. 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. 1.

Discussion: CDFW issued the ITP in September 2020 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 pursuant to CEQA. As explained in the findings below, CDFW finds for purposes of CESA that Amendment No. 1 is a minor change to the ITP. CDFW finds for the same reasons under CEQA that approval of Amendment No. 1 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 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. 1.

CDFW finds that Amendment No. 1 is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Discussion: Amendment No. 1 updates the phone number of the Contact Person, extends the expiration date of the ITP from October 1, 2022, to December 31, 2023, and extends the deadline in which to complete the purchase of Covered Species Credits from 18 months to December 31, 2023. 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

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obligations under the ITP, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, Amendment No. 1 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 Amendment No. 1 is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of Amendment No. 1 by registered first class mail to CDFW at:

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

Alternatively, the Permittee shall e-mail the digitally signed Amendment No. 1 to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned.

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 7/14/2022

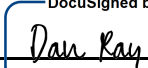
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Julie A. Vance, Regional Manager
CENTRAL REGION

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: 
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Date: 7/18/2022

Printed Name: Dan Ray

Title: Director of Construction and Design

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