

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. 2081-2018-087-03
California Department of Transportation, District 4
Huichica Creek Bridge Replacement and Fish
Passage Project, EA 04-4G210 in Napa County

INTRODUCTION

On September 29, 2020, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2018-087-03 (ITP) to the California Department of Transportation (Permittee) for take of California freshwater shrimp (*Synaris pacifica*) the Covered Species associated with the Huichica Creek Bridge Replacement and Fish Passage Project in Napa County, California. 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.

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

First, this Amendment updates the Principal Officer; Second this Amendment updates Condition of Approval 8.1 – Work Period is modified with additional conditions of approval; Third, this Amendment updates the ITP to include an additional condition of approval to avoid and minimize potential impacts to the Covered Species from the amendment of Condition of Approval 8.1 – Work Period; Fourth, Condition of Approval 8.5 –has been updated.

AMENDMENT

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

1. Principal Officer: ~~Ahmad Rahimi~~ ***Daniel Chang***
2. Condition of Approval 8.1 – Work Period has been amended as follows:

Condition of Approval 8.1 – Work Period. Work within the Project Area shall be confined to the period of ~~June 15 to October 31~~ ***May 16 to November 15***. Any extension of the work period will require an amendment to this ITP. The

amendment request for a work period extension shall: 1) describe the extent of work already completed; 2) detail the activities that remain to be completed; 3) detail the time required to complete each of the remaining activities; 4) provide photographs of both the current work completed and the proposed site for continued work; and 5) include an assessment of the impacts of the work extension of Covered Species.

For the work period occurring from May 16 to June 15 and October 31 to November 15, the Permittee shall provide detailed weather reports that shall be updated and submitted to CDFW every week. When ¼ inch or more of precipitation is forecasted to occur, the Permittee shall stop work before precipitation commences. No Project activities may be started if its associated erosion control measures cannot be completed prior to the onset of precipitation. After any storm event, the Permittee shall inspect all sites currently under construction and all sites scheduled to begin construction within the next 72 hours for erosion and sediment problems and take corrective action as needed. Seventy-two-hour weather forecasts from National Weather Service shall be consulted and work shall not start back up until runoff ceases and there is less than a 50% forecast for precipitation for the following 24-hour period.

3. Condition of Approval 8.5 – Concrete Minimization and Monitoring has been included in the Amendment as follows:

Condition of Approval 8.5 – Concrete Minimization and Monitoring. All concrete used shall be excluded from the wetted channel or areas where it may come into contact with water for a period of 30 days after it is poured/sprayed. No concrete shall be poured within 30 minutes of sunset to 30 minutes prior to sunrise. Commercial sealants may be applied to the poured concrete surface where difficulty in excluding flow for a long period may occur. If sealant is used the Permittee shall follow the instructions as noted on the product label. As an alternative, water quality testing and analysis may be conducted in coordination with CDFW. Results shall be submitted and accepted by CDFW prior to removal of the temporary diversion system that will re-introduce flows to new concrete. All sealants shall be approved in advance, in writing by CDFW prior to their use. A concrete monitor shall be designated and submitted to CDFW in advance. The monitor shall be on-site at all times when active pours occur.

A log shall be maintained of all concrete pours that includes the quantity, location and type of concrete used. The report shall be included as part of the Annual Monitoring and Final Construction Report.

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 increase the amount of take of the Covered Species compared to the Project as originally approved; however, by implementing additional habitat mitigation land acquisition and restoration for 0.356 acres of Covered Species habitat, 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)).

Discussion: This amendment reflects a change in the construction season authorized to occur at the Project Site from June 15 through October 30 to May 16 to November 15, impacts in the form of take of Covered Species may increase as a result of the extended work period. This change in the assessment of take to Covered Species habitat is based on (1) previously identified areas of impact submitted in the initial ITP application (2) extended work windows not previously discussed in the original ITP application. This amendment will not increase other Project impacts on the species, in all other respects, the types of restoration and mitigation activities remain unchanged.

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 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 this Amendment because the Project and the ITP as amended implements habitat mitigation land acquisition and restoration on-site of 0.356 acres of Covered Species habitat. 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 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 and

Initial Study (State Clearinghouse No. 2017092069) dated April 9, 2018 for the Huichica Creek Bridge Replacement and Fish Passage Project that the California Department of Transportation adopted on April 23, 2018, as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment represents a major change in the Project as originally approved. However, for the reasons explained above, CDFW concludes this Amendment is not a change in the Project that has the potential to create a new significant effect not previously analyzed, a substantial change in the circumstances under which the Project is being undertaken requiring major revisions to previous CEQA documents, or new information of substantial importance. 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 increases the work window to coincide with seasonal life cycles where the Covered Species habitat may be more prevalent at the site as a result increased mortality may occur. As described above, these changes have increased the work window from June 15 through October 30 to May 16 to November 15 and may result in additional take to the Covered Species by relocation of the species or potential take in water diversions in place for the extended timeframes, the scope and nature of the mitigation funding has not significantly changed. Therefore, 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

Major Amendment No. 1
Incidental Take Permit 2081-2018-087-03
CALIFORNIA DEPARTMENT OF TRANSPORTATION, DISTRICT 4
Huichica Creek Bridge Replacement and Fish Passage Project

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 9/29/2022

DocuSigned by:

Erin Chappell

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Erin Chappell, 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.

DocuSigned by:

By: *Daniel Chang*

Date: 9/30/2022

Printed Name: Daniel Chang

Title: Project Manager