



State of California –The 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



October 31, 2022

Samuel Menco

Wright Solar Park, LLC

Post Office Box 2576

Boise, Idaho 83701

**Subject: Incidental Take Permit Amendment No. 3 for the Wright Solar Park Project
(2081-2018-014-04)**

Dear Mr. Menco

Enclosed you will find an electronic copy Amendment No. 3 of 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 permit carefully, sign the acknowledgement, and submit **no later than 30 days from CDFW signature**, and prior to initiation of ground-disturbing activities. You may return a hard copy of the permit via mail to:

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

Alternatively, you may return an electronic copy of the permit with digital signature to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.

You are advised to keep the permit 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 must be maintained at the project work site and made available for inspection by CDW 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 Carrie Swanberg, Senior Environmental Scientist (Specialist), at carrie.swanberg@wildlife.ca.gov or (559) 538-4110.

Sincerely,

DocuSigned by:
A handwritten signature in black ink, appearing to read "Julie Vance".

FA83F09FE08945A
Julie 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. 3
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2018-014-04
Wright Solar Park LLC
Wright Solar Park in Merced County

INTRODUCTION

On September 14, 2018, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2018-014-04 (ITP) to Wright Solar Park LLC (Permittee), authorizing take of San Joaquin kit fox (*Vulpes macrotis mutica*) and Swainson's hawk (*Buteo swainsoni*) (collectively, the Covered Species) associated with and incidental to the Wright Solar Park Project in Merced County, California (Project). The Project as described in the ITP as originally issued by CDFW includes the construction, operation and maintenance (O&M), and decommissioning of a 200-megawatt (MW) solar power generating facility on approximately 2,731 acres of agricultural land consisting of grazing and dry-farmed land. The Project is comprised of two main components: the 1,250-acre solar facility, which includes access roads, and off-site road improvements; and approximately 1,076 acres of existing utility corridors and grazing land outside the construction footprint identified as temporary wildlife corridors that will be impacted in limited areas for vehicle access. 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 6, 2020, CDFW received a request and corresponding fee payment for a minor amendment to the ITP to extend the date in which the compensatory mitigation obligations are to be completed from March 21, 2020, to March 21, 2021, to accommodate continued review of the Habitat Management lands package for the Project and negotiations on the conservation easement language, contents of the habitat management plans, and corresponding long- and short-term habitat management funding time. CDFW issued Minor Amendment No. 1 on March 16, 2020.

On October 29, 2020, CDFW received a request and corresponding fee payment for a minor amendment to the ITP, as amended, to extend the date in which the compensatory mitigation obligations are to be completed from March 21, 2021, to March 21, 2023, to accommodate continued review of the Habitat Management lands package for the Project and negotiations of conservation easement language, contents

of the habitat management plans, and corresponding long- and short-term habitat management funding. CDFW issued Minor Amendment No. 2 on March 5, 2021.

In issuing the ITP and Minor Amendments No. 1 and No. 2 (collectively, the ITP, as amended), CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP, as amended, would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

On June 30, 2022 CDFW received a request and corresponding fee payment for a minor amendment to the ITP, as amended, to extend the date in which the compensatory mitigation obligations are to be completed from March 21, 2023, to March 21, 2024, to accommodate continued review and negotiation of contents of the habitat management plans and corresponding long- and short-term habitat management funding which are still on-going.

This Minor Amendment No. 3 (Amendment No. 3) makes the following changes to the ITP, as amended:

Amendment No. 3 extends the deadline in which to complete the HM lands mitigation obligations from March 21, 2023 to March 21, 2024.

AMENDMENT

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

1. The second paragraph in Condition of Approval 9, pages 29 and 30 of the ITP, as amended shall be further amended to read:

To meet this requirement, the Permittee shall provide for both the permanent protection and management of 2,854.89 acres of Habitat Management (HM) lands, including 404.81 acres to facilitate SJKF movement between north and south core populations. The mitigation sites proposed by the Permittee to be used as HM lands for the Project are depicted in Figure 2. CDFW has conceptually agreed to the appropriateness of the 2,854.89 acres of HM lands as they appear to be comprised of high-quality grassland habitat and are known occupied foraging, denning, and nesting habitat for the Covered Species. Prior to CDFW final approval of the 2,450.08 acres of off-site lands and the 404.81 acres of onsite movement corridor lands as suitable to meet the HM land mitigation requirement, CDFW shall conduct a site visit and review and approve in writing the information submitted pursuant to Condition of Approval 9.2 and the

calculation and deposit of the management funds pursuant to Condition of Approval 9.4 below. Permanent protection and funding for perpetual management of compensatory habitat must be complete before starting Covered Activities or by March 21, ~~2023~~, **2024**, if Security is provided pursuant to Condition of Approval 10 below for all uncompleted obligations. Permittee shall also restore on-site 1,000 acres of temporarily impacted Covered Species habitat pursuant to Condition of Approval 8.8 above for the benefit of Covered Species.

2. MMRP:

The corresponding MMRP Measure 9, page 2, shall be amended to read the same as above.

3. The last paragraph in Condition of Approval 10, page 36 of the ITP, as amended shall be further amended to read:

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 March 21, ~~2023~~ **2024**. 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.

4. MMRP:

The corresponding MMRP Measure 17, page 8, shall be amended to read the same as above.

All terms and conditions of the ITP, as amended, and the MMRP that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittee.

FINDINGS

Issuance of Amendment No. 3 will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will Amendment No. 3 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. 3 makes one (1) specific change to the ITP, as amended. It extends the timeline in which to complete the compensatory mitigation obligations to March 21, 2024. The resulting impacts to the Covered Species, however, including the

timing, number of acres of habitat that will be lost, etc., as a result of the Project, will remain the same.

CDFW has determined that extending the timeline in which to complete the compensatory mitigation obligations 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 timeline to complete the compensatory mitigation obligations described in Amendment No. 3 will not increase impacts to the Covered Species.

Issuance of Amendment No. 3 does not affect CDFW's previous determination that issuance of the ITP, as amended, 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 2018 upon approval of the ITP, in March 2020 upon approval of Minor Amendment No. 1, and in March 2021 upon approval of Minor Amendment No. 2 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. 3 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. 3 acknowledges the need for additional time to complete the review and negotiations associated with the permanent protection and funding for perpetual management of the HM lands. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the Conditions of Approval of the ITP as amended and the 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. 3.

Discussion: CDFW issued the ITP in September 2018, Minor Amendment No. 1 to the ITP in March 2020, and Minor Amendment No. 2 to the ITP in March 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 on March 13, 2015, by Merced County as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of

CESA that Amendment No. 3 is a minor change to the ITP, as amended. CDFW finds for the same reasons under CEQA that approval of Amendment No. 3 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 Merced County 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. 3.

CDFW finds that Amendment No. 3 is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

Discussion: Amendment No. 3 increases the timeline in which to complete the compensatory mitigation obligations. These changes to the ITP, as amended, will not: (1) increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, as amended, (2) affect Permittee's substantive mitigation obligations under the ITP, as amended, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. Therefore, Amendment No. 3 will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP, as amended. CDFW has determined that the change to the ITP, as amended, 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. 3 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:


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 email the digitally signed amendment to CESA@wildlife.ca.gov. Digital signatures shall comply with Government Code section 16.5.

Minor Amendment No. 3
Incidental Take Permit 2081-2018-014-04
WRIGHT SOLAR PARK LLC
Wright Solar Park Project

APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 10/31/2022

DocuSigned by:

FA83F09FE08945A...

Julie A. Vance
Regional Manager
Central Region

ACKNOWLEDGMENT

The undersigned: (1) warrants that they are acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of the ITP, as amended, and Amendment No. 3, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP, as amended.

By:  Date: 11/14/2022

Printed Name: Samuel Mencoff Title: Authorized Signatory

Minor Amendment No. 3
Incidental Take Permit 2081-2018-014-04
WRIGHT SOLAR PARK LLC
Wright Solar Park Project