

CALIFORNIA DEPARTMENT OF FISH AND GAME
SOUTH COAST REGION
3883 RUFFIN ROAD
SAN DIEGO, CA 92193



AMENDMENT NO. 1
(A Minor Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2010-022-05
San Diego Gas & Electric Company
Sunrise Powerlink Project in San Diego County

INTRODUCTION

On December 15, 2010, the California Department of Fish and Game (DFG) issued Incidental Take Permit No. 2081-2010-022-05 (ITP) to San Diego Gas & Electric Company (Permittee) authorizing take as defined by state law of Barefoot-banded gecko (*Coleonyx switaki*) (Covered Species), associated with and incidental to the Sunrise Powerlink Project (Project) in Imperial County, California. The Project as described in the ITP issued by DFG includes construction of 117 miles of new 500 kilovolt (kV) and 230kV transmission line that the Permittee will operate and maintain in San Diego and Imperial Counties. In issuing the ITP, DFG found, among other things, that the 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.

The Permittee, on August 4, 2011, submitted a request to DFG for a minor amendment to the existing ITP for the Project.

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

First, the Amendment adds two temporary guard structures and associated access roads to the Covered Activities subject to the ITP. The Amendment also authorizes an additional 1.42 acres of temporary impacts expected to occur with related vehicle and equipment use within these work areas.

Second, the Amendment modifies Conditions of Approval 5.2, 6.3, 7.4, 7.5, 7.6, 7.9, and 7.12 in the ITP as originally issued by DFG. The modification authorizes General Biological Monitors to conduct various activities previously the responsibility of a Designated Biologist. Specifically, the Amendment authorizes General Biological Monitors to begin monitoring activities after completing Covered Species training and working in close coordination with a DFG-approved Designated Biologist. This modification is necessary because the Permittee, working in coordination with DFG, was only able to identify six Designated Biologists qualified to handle the Covered

Species. Use of trained General Biological Monitors as authorized by the Amendment in areas where the probability of encountering Covered Species is low will allow Covered Activities to occur simultaneously at multiple Project work sites consistent with the standard of protection for the Covered Species authorized in the ITP as originally issued by DFG.

Third, the Amendment clarifies Conditions of Approval 7.2 and 7.9, authorizing the elimination of silt fencing in rocky/boulder habitat to avoid additional disturbance to Covered Species habitat and to reduce related risk of harm to Covered Species.

As set forth below, these changes will not significantly modify the scope or nature of the Project or the minimization, mitigation, or monitoring measures previously authorized by DFG in the ITP. (Cal. Code Regs., tit. 14, § 783.6, subd. (c)(4).)

AMENDMENT

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

1. ITP Paragraph 1 on Page 3 (Impacts of the Taking on Covered Species) shall be amended to read:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above that are expected to result in incidental take of individuals of the Covered Species include; construction activities such as tower-site preparations, new-road construction and other ground-disturbing activities; restoration activities; operation and maintenance activities; collapsing and excavating of refugia sites; and relocation activities (Covered Activities). Incidental take of individuals of the Covered Species may occur in the form of mortality ("kill") from construction activities and Project-caused habitat losses. Incidental take of individuals of the Covered Species may also occur from the Covered Activities in the form of catch or capture of the Covered Species during relocation as described in condition 7.10 of this ITP. Take of the Covered Species could occur along a five mile segment of the Project between Mileposts 23 and 28 (***between Guard Structure Work Area GS-NF-39 and Structures EP-290 to EP836B-2 Structure EP265-2***) which contains suitable habitat for the Covered Species (Project Area). Within the five-mile segment, 3,357.33 acres of Covered-Species habitat has been identified. The Project will result in 7.21 acres of permanent impacts and 4.44 ~~2.83~~ acres of temporary impacts to Covered-Species habitat within the Project Area.

2. ITP Condition of Approval 5.2, Page 4, shall be amended to read:

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Designated Biologist(s). Permittee shall submit to DFG in writing the name, qualifications, business address, and contact information of at least one biological monitor (Designated Biologist(s)) at least 30 days before starting Covered Activities. Permittee shall ensure that the Designated Biologist(s) are knowledgeable and experienced in the biology and natural history of the Covered Species. The Designated Biologist(s) shall be responsible for monitoring Covered Activities to help minimize and fully mitigate or avoid the incidental take of individual Covered Species and to minimize disturbance of Covered Species' habitat. Permittee shall obtain DFG approval of the Designated Biologist(s) before starting Covered Activities. ***The Designated Biologist(s) for Covered Species are in addition to other biological monitors that are required at Project Areas.***

3. ITP Condition of Approval 6.3, Page 7, shall be amended to read:

Daily Construction Monitoring. ***Covered Activities shall be monitored daily by The the Designated Biologist(s). shall be on-site daily when Covered Activities occur. The Designated Biologist(s) shall conduct compliance inspections to: (1) minimize incidental take of the Covered Species; (2) check for compliance with all mitigation and avoidance measures; (3) check all exclusion zones; and (4) ensure that signs, stakes, and fencing are intact, and that Covered Activities are only occurring in the Project Area. The Designated Biologist(s) shall be the Covered Species biologist of first preference for monitoring Covered Activities. The Designated Biologist(s) shall be on-site during all construction hours at each construction location (i.e. each tower, TSAP, guard-structure, and pull-site) within the Project Area. If additional monitors are required, General Biological Monitors may be used, but only if such monitors have completed Covered Species training approved by DFG and conducted by a lead Designated Biologist. The training shall be documented by a sign-in sheet which states that the General Biological Monitor has completed a lecture and training course, has prior experience with reptiles, and is qualified to survey for the Covered Species. Only Designated Biologist(s) can handle Covered Species. Therefore, a Designated Biologist must always be within radio contact and no more than one-hour of travel distance away from the General Biological Monitor(s).*** The Designated Representative or Designated Biologist(s) shall prepare daily written observation and inspection records summarizing: oversight activities and compliance inspections, observations of Covered Species and their sign, survey results, and monitoring activities required by this ITP. If any worker or ***General Biological Monitor*** discovers a Covered Species within the Project area, the ***General Biological Monitor shall stop work***, and the Designated Biologist(s) shall be notified immediately.

4. ITP Condition of Approval 7.2, Page 9, shall be amended to read:

Secure all Stored Equipment and Material. Permittee shall fence all stored material, parked vehicles left overnight, equipment, and storage sites for the duration of Covered Activities. Stored-material will be fenced using silt fencing keyed into the ground to avoid the possibility of Covered Species seeking cover within the stored material, **except where it would damage any Covered Species habitat or increase risk of harm to Covered Species. The Designated Biologist(s) shall make the determination as to whether silt fencing is appropriate on a case-by-case basis and shall notify the DFG Representative and DFG of the determination not to use fencing at a specific site at least 48 hours prior to the commencement of Covered Activities at the location.**

5. ITP Condition of Approval 7.4, Page 9, shall be amended to read:

Daily Trench Inspections. The Designated Biologist(s) **or a General Biological Monitor(s) in radio contact and no more than one-hour of travel distance away from a Designated Biologist in the Project Area** shall inspect all trenches and excavation sites each morning before Covered Activities begin. A Designated Biologist shall be present during the creation of all excavation and trench sites.

6. ITP Condition of Approval 7.5, Page 10, shall be amended to read:

Daily Inspections of Equipment. A Designated Biologist **or a General Biological Monitor in radio contact and no more than one-hour of travel distance away from a Designated Biologist in the Project Area** shall inspect all stored vehicles, materials, and equipment for Covered Species each day before Covered Activities begin.

7. ITP Condition of Approval 7.6, Page 10, shall be amended to read:

Discovery of Covered Species. All workers shall immediately inform a **the Designated Biologist or General Biological Monitor** if a Covered Species is seen within or near the Project Area. All Covered Activities in the vicinity of the Covered Species shall cease until appropriate action has been taken by the Designated Biologist(s). **The General Biological Monitor shall contact the Designated Biologist immediately, who will then report to the Project Area. All Covered Activities in the vicinity of the Covered Species shall cease until appropriate action has been taken by the Designated Biologist(s). All Covered Species observations shall be reported in writing to DFG Regional Representative within 24 hours.**

8. ITP Condition of Approval 7.9, Page 10, shall be amended to read:

Pre-activity Surveys and Exclusion Fencing. Prior to beginning Covered Activities, the Designated Biologist(s) shall survey the Project Area for Covered Species to minimize the potential for take at each location where Covered Activities will occur. Once a location where Covered Activities will occur has been surveyed and cleared, the Permittee shall install temporary silt fence (exclusion fence) around the perimeter of the location, **except where installation would significantly damage Covered Species habitat and increase risk of harm to Covered Species from Covered Activities.** **The Designated Biologist(s) shall make the determination if silt fencing is appropriate at each site and shall notify the DFG Representative in writing at least 48 hours prior to the commencement of Covered Activities at the site.** Temporary fencing shall not be installed until after the pre-activity survey is complete at each location, and the fencing shall be removed immediately upon completion of Covered Activities at that location. ~~Permittee shall propose specific exceptions to DFG in writing. With prior written approval from DFG the Permittee may conduct some limited duration Covered Activities without installing temporary exclusion fencing if a Designated Biologist is present at all times to monitor activities and ensure impacts to Covered Species are minimized.~~

FINDINGS

Issuance of this Minor Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment significantly increase other Project impacts on the Covered Species (i.e., "impacts of taking" as defined by Fish and Game Code section 2081, subdivision (b)(2)).

Discussion: This Amendment makes three specific changes to the ITP as originally issued: authorizing an additional 1.42 acres of temporary impacts at guard-structure work sites; authorizing General Biological Monitors to perform limited Covered Species monitoring duties under supervision of a Designated Biologist; and authorizing for the exclusion of silt fencing in rocky/boulder habitat areas in order to avoid additional disturbance to Covered Species habitat and to reduce risk of harm to Covered Species.

The first change to the ITP subject to this Amendment involves the addition of guard-structure work sites to accommodate temporary equipment access and construction activities at the guard structures. The guard-structure work sites are located in marginal Covered Species habitat at the Interstate 8 crossing and related work will result in 1.42 acres of temporary impacts to Covered Species habitat. DFG finds the additional 1.42 acres of temporary impacts are and will be fully mitigated by Conditions of Approval in the original ITP.

The second change to the ITP authorizes General Biological Monitors with appropriate DFG-approved training to perform limited Covered Species monitoring if they are in radio contact with a DFG-approved Designated Biologist no more than one-hour travel distance away from a Designated Biologist. Only Designated Biologists are authorized under the ITP to handle or otherwise move Covered Species.

The third change to the ITP authorizes the Designated Biologist(s) to determine on a case-by-case basis if installation of exclusion fencing is appropriate. Exclusion fencing shall be used under the ITP except where installation would damage Covered-Species habitat and increase risk of harm to Covered Species. The Permittee or Designated Biologist shall notify the designated DFG Representative at least 48 hours prior to the commencement of Covered Activities of any determination not to use fencing at a specific location.

Issuance of this Minor Amendment does not affect DFG'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. DFG issued the Project ITP in December 2010 based on findings that issuance of the ITP was consistent with the relevant permitting criteria set forth in the Fish and Game Code. DFG found, among other things, that the impacts of the authorized 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 Minor because the ITP, as amended: (1) will not significantly increase the amount of take or the severity of other impacts of the taking on the Covered Species, (2) will not substantively alter the measures as set forth in the ITP as originally issued that will be undertaken to minimize previously authorized impacts of the taking on the Covered Species, and (3) no additional mitigation above and beyond what was already agreed to in the existing ITP is required. Permittee's continued adherence to and implementation of the avoidance, minimization and mitigation measures set forth in the ITP, as amended, and the MMRP will, among other things, minimize and fully mitigate the authorized 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: DFG issued the ITP in December 2010 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 (EIR) (SCH No.

2006091071) certified by the California Public Utilities Commission (CPUC) as the lead agency for the Project. DFG finds for purposes of the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) that this Amendment is a minor amendment to the original ITP. (Cal. Code Regs., tit. 14, § 783.6, subd. (c)(4).) DFG 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 CPUC during its lead agency review of the Project, particularly with respect to the impacts authorized by DFG pursuant to the ITP as amended. As a result, DFG finds that additional subsequent or supplemental environmental review is not required by CEQA as part of DFG's approval of this Minor Amendment. (*Id.*, § 15164.) Likewise, consistent with its earlier finding at the time of issuance of the ITP, DFG finds that the impacts of the taking authorized by the ITP as modified by this Minor Amendment are and will be mitigated to below a level of significance for purposes of CEQA by and through the Conditions of Approval required by the ITP as amended. (Pub. Resources Code, § 21081, subd. (a)(1).)

DFG 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 Minor Amendment authorizes 1.42 acres of additional temporary impacts to Covered Species habitat as a result of Project vehicle access and related Covered Activities. The additional acreage is small compared to the large Project area covered by the ITP as originally issued and the additional impacts as authorized by this Minor Amendment are fully mitigated by existing mitigation required by the original ITP. As previously approved, Covered Activities are occurring simultaneously at multiple work sites throughout the large, linear Project Area by construction crews that access those sites via helicopter. With multiple construction crews operating simultaneously at various work sites only a limited number of available Covered-Species experts qualified to handle Covered Species could be identified. This Minor Amendment provides flexibility to ensure Covered Species monitoring requirements set forth in the original ITP are met. The General Biological Monitors can provide monitoring under the supervision of the experts at relatively low-risk sites where encounters with Covered Species are not likely. In addition, the Amendment reduces additional harmful impacts to the Covered Species and its habitat where silt fence installation would require significant excavation. 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 obligations under the ITP, (3) require further environmental review under CEQA, or (4) increase temporal impacts on the Covered Species. DFG finds, as a result, that this Amendment will not significantly modify the scope or nature of the permitted Project, or the minimization, mitigation, or monitoring measures in the ITP as previously issued.

All terms and conditions of the ITP and MMRP as previously issued by DFG that are not expressly amended herein shall remain in effect, and the Permittee shall implement and adhere to all such terms and conditions.

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 DFG at:

Department of Fish and Game
Renewable Energy Program
Attention: CESA Permitting
1416 Ninth Street, Suite 1341-B
Sacramento, California 95814

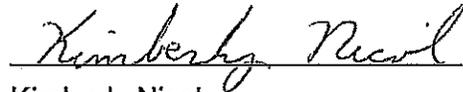
APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME

on 8/25/11



Edmund Pert
Regional Manager
Region 5

on 8/24/11



Kimberly Nicol
Regional Manager
Region 5/6

Approved as to form:



John H. Mattox
Staff Counsel IV

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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: Donald E. Haines Date: Aug. 25, 2011

Printed Name: Donald E. Haines Title: Aug. 25, 2011