

**Notice of Determination****- 1 -****To:**

Office of Planning and Research  
 For U.S. Mail:  
 P.O. Box 3044  
 Sacramento, CA 95812-3044

*Street Address:*

1400 Tenth Street  
 Sacramento, CA 95814

**From:**

California Department of Fish and Wildlife (CDFW)  
 Bay Delta Region]  
 2825 Cordelia Road, Suite 100, Fairfield, CA 95434  
 Contact: Melissa Farinha  
 Phone: (707) 944-5579

## Lead Agency

San Joaquin Area Flood Control Agency  
 22 East Weber Avenue, Room 301, Stockton, CA 95202  
 Contact: Chris Elias  
 Phone: (209) 937-8866

**SUBJECT: Filing of Notice of Determination pursuant to Public Resources Code § 21108**

State Clearinghouse Number: 2014062079

Project Title: Smith Canal Gate Project [California Endangered Species Act (CESA) Incidental Take Permit No. 2081-2018-077-03 (ITP)]

Project Location: The project is located at the mouth of Atherton Cove upstream to Smith Canal, a Perennial drainage and tributary to the San Joaquin River, City of Stockton, San Joaquin County, State of California; Latitude of 37.9579, Longitude: -121.3527; County Assessor's Parcel Numbers: 109-02-006, 133-06-001, and 121-040-27.

Project Description: The project consists of construction, operation, and maintenance of a fixed wall with a gate structure near the mouth of Atherton Cove. The wall and gate structure will be built to isolate the adjacent neighborhoods from the 100-year floodplain and meet the Federal Emergency Management Agency's minimum acceptable level of performance of withstanding a 100-year flood, which is the regulatory standard specified by the National Flood Insurance Program.

The Project will result in impacts on a total of 41.66 acres of Covered Species [Delta Smelt (*Hypomesus transpacificus*), Longfin Smelt (*Spirinchus thaleichthys*), and Chinook Salmon - Central Valley spring-run (*Oncorhynchus tshawytscha*)] habitat; the project will permanently remove 1.66 acres of Covered Species habitat. The project is expected to result in incidental take of Covered Species, which are designated as a threatened or endangered species under CESA. The ITP referenced above as issued by CDFW authorizes incidental take of species listed under CESA that may occur as a result of Project implementation.

This is to advise that CDFW, acting as [ the lead agency /  a responsible agency] approved the above-described project on 5/1/2020 and made the following determinations regarding the above described project:

1. The project [ will /  will not] have a significant effect on the environment (This determination is limited to effects within CDFW's permitting jurisdiction as a responsible agency).
  2. [ An environmental impact report /  A negative declaration] was prepared by the lead agency for the original project.
  3. Additional mitigation measures [ were /  were not] made a condition of CDFW's approval of the project.
  4. A mitigation reporting or monitoring plan [ was /  was not] adopted by CDFW for this project.
  5. A Statement of Overriding Considerations [ was /  was not] adopted by CDFW for this project.
  6. Findings [ were /  were not] made by CDFW pursuant to Public Resources Code § 21081(a).
  7. Compliance with the environmental filing fee requirement at Fish and Game Code § 711.4 (check one):
    - Payment is submitted with this notice.
    - A copy of a receipt showing prior payment was submitted to CDFW.
- Responsible Agency statement: The EIR prepared by the lead agency for the Project is available to the general public at the office location listed above for the lead agency. CDFW's administrative record of proceedings related to the incidental take permit is available to the public for review at CDFW's regional office.

DocuSigned by:  
  
 Signature \_\_\_\_\_  
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Date: 5/1/2020

Gregg Erickson, Regional Manager

Governor's Office of Planning &amp; Research

Date Received for filing at OPR: **MAY 04 2020****STATE CLEARINGHOUSE**

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