

**Notice of Exemption**

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**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:**

Department of Fish and Wildlife  
Ecosystem Conservation Division  
P.O. Box 944209  
Sacramento, CA 94244-2090

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

State Clearinghouse Number: 2019049121

**Project Title: Minor Amendment to Incidental Take Permit for Long-Term Operation of the State Water Project in the Sacramento-San Joaquin Delta (2081-2019-066-00)**

**Project Location:** Sacramento River downstream of the confluence with the Feather River, the Sacramento-San Joaquin Delta and Suisun Marsh in Solano, Sacramento, Yolo, San Joaquin, and Contra Costa Counties.

**Project Description:** The discretionary approval by the California Department of Fish and Wildlife (CDFW) is the issuance of the incidental take permit (ITP) amendment identified above to the California Department of Water Resources (Permittee). The ongoing operations of the State Water Project in the Sacramento-San Joaquin Delta and Suisun Marsh is expected to result in incidental take and impacts to habitat of Longfin Smelt (*Spirinchus thaleichthys*), Delta Smelt (*Hypomesus transpacificus*), Winter-run Chinook Salmon (*Oncorhynchus tshawytscha*), and Spring-run Chinook Salmon (*Oncorhynchus tshawytscha*). Longfin Smelt and Spring-run Chinook Salmon are designated as threatened species under the California Endangered Species Act. Delta Smelt and Winter-run Chinook Salmon are designated as endangered species under the California Endangered Species Act.

The Emergency Proclamation issued by Governor Newsom on May 10, 2021 and expanded on July 8 and October 19, 2021, based on drought conditions in the Delta and other watersheds, is still in effect. Executive Order N-3-23, issued on February 13, 2023, directed the State Water Resources Control Board (SWRCB) to “consider modifying requirements for reservoir releases or diversion limitations in Central Valley Project or State Water Project facilities to: (i) conserve water upstream later in the year in order to protect cold water pools for salmon and steelhead, (ii) enhance instream conditions for fish and wildlife, (iii) improve water quality, (iv) protect carry-over storage, (v) ensure minimum health and safety water supplies, or (vi) provide opportunities to maintain or to expand water supplies north and south of the Delta.” Permittee and the U.S. Bureau of Reclamation submitted a Temporary Urgency Change Petition (TUCP) to the SWRCB on February 13, 2023 requesting to change D-1641 Delta outflow requirements and salinity compliance points from February through March 2023. This request was subsequently conditionally approved by the SWRCB on February 21, 2023. On February 15, 2023 Permittee submitted an application for a minor amendment to change the description of Project operations for the February through March 2023 time period to incorporate modifications to D-1641 included in the TUCP. This amendment to the ITP adds Section 2.2.3 to the Project Description, Temporary Urgency Change Petition, February through March 2023. Section 2.2.3 reflects changes to the requirements of D-1641 from February 21, 2023 through March 2023, requirements to conduct monitoring and reporting to facilitate improved understanding of the effects of the TUCP on native resident and migratory species, and requirements to identify opportunities to use a portion of the water supplies resulting from the TUCP to improve water supplies for wildlife refuges and to provide for pulse flows to benefit native fish and wildlife, as included in the approval of the TUCP by the SWRCB. This amendment to the ITP also adds Condition of Approval 9.2.3, Mitigation for Impacts Associated with WY 2023 TUCP, which requires up to two pulse flows in the March and April 2023 time period to improve rearing habitat and juvenile survival of Spring-run Chinook Salmon and Winter-run Chinook Salmon. Condition of Approval 9.2.3 is also anticipated to benefit Delta Smelt and Longfin Smelt through improved habitat conditions in the Delta.

The ITP referenced above as issued and amended by CDFW authorizes incidental take of Longfin smelt, Delta Smelt, Winter-run Chinook Salmon, and Spring-run Chinook Salmon that may occur as a result of ongoing operations of the State Water Project facilities, as is more specifically described in the ITP.

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**Public Agency Approving Project:** CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

**Person or Public Agency Carrying Out Project:** California Department of Water Resources

**Exempt Status:**

Statutory Exemption. California Code of Regulations, title 14, section 21080(b)(3) and 15269(a), Governor's Proclamation of State of Emergency, May 10, 2021 and Executive Order N-3-23, February 13, 2023

Categorical Exemption.

**Reasons why project is exempt:** Paragraph 3 of the February 13, 2023 Executive Order suspended CEQA for purposes of carrying out the directive addressed by the TUCP, stating specifically that this suspension applies to any approvals granted in furtherance of the directive.

**CDFW Contact Person:** Brooke Jacobs, Water Branch Chief; (916) 903-6426

DocuSigned by:  
*Josh Grover*  
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**Signature:** \_\_\_\_\_ **Date:** 2/23/2023

Date received for filing at OPR: \_\_\_\_\_