

**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 Operations 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 California Department of Fish and Wildlife (CDFW) is the issuance of the incidental take permit (ITP) amendment identified above. 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.

On May 10, 2021, Governor Gavin Newsom issued an Emergency Proclamation as a result of the lack of precipitation within California, warm temperatures, and extremely dry soils depleting the expected runoff water from the Sierra-Cascade snowpack in water years 2020 and 2021. On October 19, 2021, in an additional Emergency Proclamation, Governor Newsom stated that as 2021 continued, "sustained and extreme high temperatures have increased water loss from reservoirs and streams, increased demands from communities and agriculture, and further depleted California's water supplies," expanded the scope of the Emergency Proclamation statewide, and maintained his earlier orders and their provisions in full force and effect. The October 2021 Emergency Proclamation directs the Department of Water Resources (DWR), State Water Resources Control Board, Office of Emergency Services, and the Office of Planning and Research to assist local agencies in identifying acute drinking water shortages in domestic water supplies, and work with those local agencies to implement solutions to those water shortages to proactively prevent situations where a community runs out of drinking water. On March 28, 2022, Governor Newsom issued an additional Emergency Proclamation maintaining the May and October 2021 proclamations in full force and effect.

On March 18, 2022, DWR submitted an application for a minor amendment to the ITP for Long-term Operations of the State Water Project ITP (ITP No. 2081-2019-066-00, SWP ITP) requesting changes to Condition of Approval 8.12. DWR's requested changes would establish a meet and confer process if larval Delta Smelt are detected at Station 716 from April 1 – June 30, 2022. If larval Delta Smelt are observed at Station 716 between April 1 – June 30, 2022, DWR and CDFW would establish a maximum diversion rate at the Barker Slough Pumping Plant (BSPP) that would allow customers of the North Bay Aqueduct to maintain basic human health and safety standards and drinking water supplies. On April 1, 2022 CDFW issued an amendment to the SWP ITP that 1) modifies Condition of Approval 8.12 as requested by DWR, 2) modifies Condition of Approval 9.1.1 to require DWR to restore an additional 4.95 acres of Delta Smelt tidal wetland habitat to offset impacts associated with increases in BSPP exports in Water Year 2022, and 3) modifies portions of ITP Attachment 1, the Mitigation Monitoring and Reporting Program, to be consistent with amendments to Conditions of Approval 8.12 and 9.1.1.

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

Categorical Exemption.

**Reasons why project is exempt:** The October 19, 2021, Emergency Proclamation suspended CEQA for purposes of carrying out the directive to DWR to proactively prevent situations where a community runs out of drinking water by assisting local agencies with identifying acute drinking water shortages in domestic water supplies and working with local agencies in implementing solutions to those water shortages.

**CDFW Contact Person:** Brooke Jacobs, Environmental Program Manager; (916) 903-6426

DocuSigned by:  
*Signature:* Chad Dibble *Date:* 3/31/2022  
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Date received for filing at OPR: \_\_\_\_\_