

Notice of Determination

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)
North Central Region
1701 Nimbus Road, Rancho Cordova, CA 95670
Contact: Lauren Mulloy
Phone: (916) 358-2909

Lead Agency

California Department of Water Resources
3464 El Camino Avenue, Suite 210
Sacramento, CA 94236
Contact: Josh Brown
Phone: (916) 480-5346

SUBJECT: *Filing of Notice of Determination pursuant to Public Resources Code § 21108*
State Clearinghouse Number: 2016092015.

Project Title: Lower Elkhorn Basin Levee Setback (LEBLS) (Project) (California Endangered Species Act Amended Incidental Take Permit No. 2081-2019-063-03-A2 (ITP)).

Project Location: The Project is located within the Sacramento Bypass and East Levee of the Yolo Bypass, in the County of Yolo, State of California, located in portions of Townships 9 North and 10 North, Ranges 3 East and 4 East, U.S. Geological Survey maps Sacramento West, Taylor Monument, and Gray's Bend, Mt. Diablo Meridian.

Project Description: The Amended ITP (Amendment No. 2) amends the ITP executed on May 19, 2020, to include a small amount of the impacts associated with design refinements addressed in Amendment No.1 that were inadvertently excluded from the first amendment and revises the implementation schedule for conditions of approval. This Project involves the set back of levees protecting the Lower Elkhorn Basin, including the Sacramento Bypass North Levee and a portion of the Yolo Bypass East Levee, thereby increasing the capacity of the Yolo and Sacramento Bypasses and reducing flood risk on the upper Yolo Bypass and Sacramento River. The first amendment included design refinements that changed the Project description and slightly expanded the Project footprint. Most of the impacts associated with the design refinements were addressed in Amendment 1; however, a small amount of the impacts associated with these changes were inadvertently excluded from the first amendment. The second amendment accounts for the excluded impacts. Additionally, the project implementation schedule has been refined extending the project construction period by one year affecting the timeframe for compliance with ITP conditions of approval. This amendment updates the direct impacts of the Project based on the refined Project description, Project footprint, and assessment of Covered Species habitat impacts provided for the first amendment and revises the implementation schedule for conditions of approval. The Project will also implement several ecosystem elements that have been designed to offset effects to biological resources resulting from the LEBLS Project activities through the enhancement of features for sensitive species. The Amended ITP updates the direct impacts of the Project based on the refined Project description, Project footprint, and an updated assessment of Covered Species habitat impacts.

The Amended Project will result in permanent impacts to 12.82 acres, conversion of 4.17 acres from canal to rice, and temporary impacts to 325.56 acres of giant garter snake (*Thamnophis gigas*) habitat and may result in the abandonment of one Swainson's hawk (*Buteo swainsoni*) nest. The Project is expected to result in incidental take of giant garter snake and Swainson's hawk, which are designated as a threatened species under the California Endangered Species Act (CESA). The Amended ITP referenced above as issued by CDFW authorizes incidental take of species listed under CESA that may occur as a result of Project implementation.

Notice of Determination**2**

This is to advise that CDFW, acting as [the lead agency / a responsible agency] approved the above-described project on _____ 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. Mitigation measures were made a condition of CDFW's approval of the original project and ITP. Although no new mitigation measures were imposed as a result of Amendment No. 1, for which this NOD was prepared and submitted, some of the mitigation measures from the original ITP were updated and were made a condition of CDFW's approval of the Amendment.
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 Environmental Impact Report and subsequent addenda 1 - 4 prepared by the lead agency for the Amended Project are 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 _____

Date: 2/23/2023

Kevin Thomas, *Regional Manager*