

INSTRUCTIONS FOR THE NOTICE OF DETERMINATION FORM

A Notice of Determination (NOD) should be completed and filed with the Office of Planning and Research in Sacramento every time the Department of Fish and Wildlife (CDFW) carries out, funds or approves a project that is not exempt under the California Environmental Quality Act (CEQA). The following template was created to simplify the process of NOD completion.

Instructions:

- The project location and project description should be very short (2-4 lines) but should provide an accurate summary of the location and nature of the project. Ensure the completed form is not more than 2 pages in length.
- Change the default selections on the NOD form to match the document. The default selections on the form assume that: 1) CDFW is acting as a responsible agency, 2) the lead agency prepared a negative declaration, and 3) no significant effects were identified by CDFW. These default settings can easily be changed by double-clicking on the appropriate boxes and changing the “default value” from “checked” to “not checked” or vice-versa.
- Item 6 on the form should state that findings were made pursuant to Public Resources Code section 21081(a) only when CDFW is approving the ITP in reliance on an environmental impact report (EIR). In all other cases where CDFW is relying on a negative declaration or mitigated negative declaration to issue the permit, the form should indicate findings under Public Resources Code section 21081(a) were not made. Where CDFW is relying on a negative declaration or mitigated negative declaration to approve the permit and findings under Public Resources Code section 21081(a) were not made, the next sentence stating that other findings were adopted by CDFW to document compliance with CEQA should be included. Where CDFW is relying on an EIR and findings were made under Public Resources Code section 21081(a), the sentence regarding the adoption of other findings to document compliance with CEQA should be deleted.
- Remember to attach the project proponent’s receipt showing payment of environmental filing fees to the Department. If fees have not yet been paid and CDFW has not issued a no effect determination for the project, payment in the appropriate amount must be provided before the NOD can be filed.

If you have questions regarding completion of the form, feel free to contact the Office of General Counsel (OGC) at (916) 654-3821. OGC can also assist you with filing of a NOD at the Office of Planning and Research’s State Clearinghouse. The notice must be filed within five working days of when CDFW decides to carry out or fund a project, or of when it issues a permit or otherwise approves the project.

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 (if different than CDFW)
California Department of Water Resources
3464 El Camino Avenue, Suite 200, 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 (California Endangered Species Act
Incidental Take Permit No. 2081-2019-063-02 (ITP)).

Project Location (include county): 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 (USGS) maps Sacramento West, Taylor Monument, and Gray's Bend, Mt. Diablo Meridian.

Project Description: This proposed 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 Project would also implement several ecosystem elements that have been designed to offset effects to biological resources resulting from LEBLS project activities, through the enhancement of features for sensitive species.

The Project will result in permanent impacts to 11.86 acres, conversion of 3.82 acres from canal to rice, and temporary impacts to 306 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. 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 _____ 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.

Notice of Determination

- 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 _____ Date: 5/19/2020
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 Kevin Thomas, *Regional Manager*

Date Received for filing at OPR: _____

Governor's Office of Planning & Research

MAY 19 2020

STATE CLEARINGHOUSE