

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)
 P.O. Box 944209
 Sacramento, CA 94244-2090
 Contact: Joshua Grover
 Phone: 916-653-6956

Lead Agency

Department of Water Resources
 3500 Industrial Blvd
 West Sacramento, CA 95691
 Contact: Carolyn Buckman
 Phone: 916-699-8406

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

State Clearinghouse Number: 2020010227

Project Title: Major Amendment to California Endangered Species Act Incidental Take Permit No. 2081-2024-018-00 (ITP)

Project Location (include county): Sacramento-San Joaquin Delta (Delta) and Suisun Marsh and a portion of Alameda County.

Project Description: The discretionary approval by CDFW is the issuance of the ITP amendment identified above. The construction and operations of the Delta Conveyance Project in the Sacramento-San Joaquin Delta, Suisun Marsh, and a portion of Alameda County as approved by the lead agency is expected to result in incidental take and impacts to habitat of Delta smelt (*Hypomesus transpacificus*), Longfin smelt (*Spirinchus thaleichthys*), Winter-run Chinook salmon ESU (*Oncorhynchus tshawytscha*), Spring-run Chinook salmon ESU (*Oncorhynchus tshawytscha*), White sturgeon (*Acipenser transmontanus*), California tiger salamander (*Ambystoma californiense*), Giant garter snake (*Thamnophis gigas*), Swainson's hawk (*Buteo swainsoni*), Tricolored blackbird (*Agelaius tricolor*), Crotch bumble bee (*Bombus crotchii*), and Mason's lilaeopsis (*Lilaeopsis masonii*). Crotch bumble bee and White sturgeon are designated as candidate species under the California Endangered Species Act. Longfin Smelt, Spring-run Chinook Salmon, California tiger salamander, Giant garter snake, Swainson's hawk, and Tricolored blackbird 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 California Fish and Game Commission designated Western burrowing owl (*Athene cunicularia hypugaea*) as a candidate species under CESA on October 25, 2024. This amendment to the ITP 1) adds Western burrowing owl as a Covered Species subject to the take authorization provided by the ITP, 2) excludes small diameter (less than 8-inch diameter) land-based soil borings and land-based soil borings with water quality testing using auger and/or mud rotary drill and soil and rock sampling, and land-based cone penetration tests (CPTs) using a truck-mounted rig equipped with a one-to-two-inch diameter cone, conducted prior to and inclusive of December 31, 2029 from coverage under the ITP, 3) amends the Project Description to reflect Project refinements resulting in engineering modifications to select project facilities, and 4) corrects a prior typographical oversight in the Tricolored blackbird compensatory mitigation nesting acres. The amendment makes the following changes to the existing ITP: (1) inserted an Amended ITP Background section, (2) revises the Effective Date and Expiration Date of the ITP section, (3) updates select sections of the Project Description to reflect Project refinements, (4) adds installation of small diameter land-based soil boring and land-based CPTs conducted before and inclusive of December 31, 2029 to the list of Components Not Included as Covered Activities, (5) adds Western burrowing owl as a Covered Species, (6) revises the impacts of the Taking on Covered Species to include Western burrowing owl, (7) revises Conditions of Approval 6.1, 6.2, 10.4, 10.8, 10.17, 11.3, 11.5, 11.11, 11.20, 11.38, and 12.4 to include Western Burrowing owl, (8) amends take Minimization measures to include Western Burrowing Owl measures including 11.109, 11.10, 11.111, 11.111.1, 11.111.2, 11.112, 11.113, 11.114, 11.114.1, 11.115, 11.116, 11.116.1, 11.117, 11.117.1, 11.117.2, 11.117.3, 11.117.4, 11.117.5, 11.118, and 11.119, (9) amends Condition of Approval numerals to accommodate Western burrowing owl conditions, (10) revises Table 12-1 to include Permanent and Temporary project Construction Impacts and Associated Compensatory Mitigation Acres for Western Burrowing Owl, (11) amends Compliance with the California Environmental Quality Act section to add findings for the addition of Western burrowing owl as a Covered Species through the amendment, (12) increases compensatory mitigation for Tricolored blackbird nesting habitat, and (13) amends attachments 2, 4, 5, 6 to include

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Western Burrowing owl as well as adds attachment 7 *Amendments*. The ITP referenced above as issued and amended by CDFW authorizes incidental take of Delta smelt, Longfin smelt, Winter-run Chinook salmon, Spring-run Chinook salmon, White sturgeon, California tiger salamander, Giant garter snake, Swainson's hawk, Tricolored blackbird, Crotch bumble bee, Mason's lilaeopsis and Western burrowing owl that may occur as a result of preconstruction activities, construction, maintenance, and operational activities of the Delta Conveyance Project, as is more specifically described in the ITP.

This is to advise that CDFW, acting as the responsible agency, approved the above-described project on March 24, 2026, 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 ITP and this minor amendment is available to the public for review at CDFW's Water Branch office.

DocuSigned by:

 Signature _____ Date: 3/24/2026
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 Joshua Grover, Deputy Director

Date Received for filing at OPR: _____