

## 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:** Department of Fish and Game  
Bay-Delta Region  
7329 Silverado Trail  
Napa, CA 94558  
Contact: Kathy Geary  
Phone: (707) 944-5517

**LEAD AGENCY:**

California Department of Water Resources  
P.O. Box 942836  
Sacramento, CA 94236  
Contact: Heidi Rooks  
Phone: (916) 376-9704

**SUBJECT:** *Filing of Notice of Determination in compliance with § 21108 of the Public Resources Code*

State Clearinghouse Number (if submitted to State Clearinghouse): 2009012022

Project Title: Ongoing California State Water Project Operations in the Sacramento-San Joaquin Delta for the Protection of Longfin Smelt

Project Location: Sacramento-San Joaquin Delta (Contra Costa, Sacramento, San Joaquin, Solano and Yuba Counties)

Project Description: California Endangered Species Act (CESA) Incidental Take Permit (ITP or Permit) (No. 2081-2009-001-03), pursuant to Fish and Game Code sections 2081(b) and 2081(c), and California Code of Regulations, Title 14 (CEQA Guidelines), section 783.4, to authorize take of the longfin smelt (*Spirinchus thaleichthys*) by Permittee California Department of Water Resources (DWR) in its on-going operation of the State Water Project (SWP) existing facilities in the Sacramento-San Joaquin Delta. The SWP is operated to provide flood control and water for agricultural, municipal, industrial, recreational, and environmental purposes. The ITP, which was issued by the California Department of Fish and Game (DFG) on February 23, 2009, covers the longfin smelt (hereafter sometimes referred to as Covered Species) during the remainder of its candidacy period and continuing after the effective date of the Fish and Game Commission's decision to list the longfin smelt as threatened.

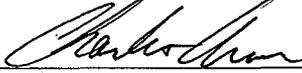
The various SWP facilities are within the range of the longfin smelt. Operation of the SWP will result in take of individuals of the Covered Species as well as temporary and permanent impacts to the Covered Species and its habitat as described in detail in the ITP. The Permit authorizes DWR to take Covered Species incidentally in operating the SWP, subject to the Conditions of Approval set forth in the ITP and within the scope of the operations described in the ITP.

On February 17, 2009, DWR adopted a Negative Declaration (ND) for the Ongoing California State Water Project Operations in the Sacramento-San Joaquin Delta for the Protection of the Longfin Smelt. DFG, in issuing the ITP, adopted an Addendum to the ND, pursuant to CEQA Guidelines sections 15096(f) and 15164, because it found that the Project Description in DWR's ND did not include all of the required protective measures for SWP impacts to longfin smelt. These additional measures, described in the Addendum, are changes or additions that, pursuant to CEQA Guidelines section 15162, do not require preparation of either a subsequent environmental impact report or a negative declaration. DFG considered the ND adopted by DWR and the environmental effects described therein, in conjunction with the Addendum, prior to making a decision on issuance of the ITP [CEQA Guidelines § 15050(b)].

**Notice of Determination**

This is to advise that the Department of Fish and Game (DFG), acting as  the lead agency /  a responsible agency approved the above-described project on 02 / 23 / 09 and has 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 DFG's jurisdiction when DFG acts as a responsible agency.)
- 2.  An environmental impact report /  A negative declaration was prepared for this project pursuant to CEQA.
- 3. Mitigation measures  were /  were not made a condition of DFG's approval of the project.1
- 4. A mitigation reporting or monitoring plan  was /  was not adopted by DFG for this project.2
- 5. A Statement of Overriding Considerations  was /  was not adopted by DFG for this project.
- 6. Findings were made by DFG 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 is attached to this notice.
  - A copy of the Lead Agency's Certificate of Fee Exemption and De Minimis Impact Finding is attached to this notice.
- Responsible Agency statement: The final Negative Declaration that was prepared by the Lead Agency for this project is available to the General Public at the office location listed above for the Lead Agency. DFG's Addendum and record of decision is available at the DFG office identified above.

Signature  Date: 3/23/09  
 Charles Armor, Regional Manager

Date Received for filing at OPR:

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1 Mitigation measures were required as part of the Department's CESA approval pursuant to CESA section 2081(b)(2).  
 2 A mitigation monitoring and reporting plan was adopted by the Department as part of its CESA approval.