



State of California – Natural Resources Agency

DEPARTMENT OF FISH AND WILDLIFE

Bay Delta Region

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Fairfield, CA 94534

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**GAVIN NEWSOM, Governor**

**CHARLTON H. BONHAM, Director**



December 27, 2023

Maureen Martin

Contra Costa Water District

[MMartin@ccwater.com](mailto:MMartin@ccwater.com)

Subject: Incidental Take Permit for 2081-2009-013-03 Maintenance and Operation of the Los Vaqueros Project and Alternative Intake Project, Contra Costa and San Joaquin County, Amendment No. 4

Dear Maureen Martin:

Enclosed you will find an electronic copy of the Incidental Take Permit Amendment (Amendment) for the above referenced Project, which has been digitally signed by the California Department of Fish and Wildlife (CDFW). Please read the Amendment carefully and sign the acknowledgement **no later than 30 days from CDFW signature** and prior to continuation of ground-disturbing activities. You may return an electronic copy of the Amendment with digital signature to [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). Digital signatures shall comply with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned. Alternatively, you may return a hard copy of the permit via mail to:

California Department of Fish and Wildlife  
Habitat Conservation Planning Branch, CESA Permitting  
Post Office Box 944209  
Sacramento, CA 94244-2090

You are advised to keep the permit and Amendment in a secure location and distribute copies to appropriate project staff responsible for ensuring compliance with the conditions of approval of the permit. Note that you are required to comply with certain conditions of approval prior to continuation of ground-disturbing activities. Additionally, a copy of the Amendment must be maintained at the project work site and made available for inspection by CDFW staff when requested.

The Amendment will not take effect until the signed acknowledgement is received by CDFW. If you wish to discuss these instructions or have questions regarding the permit, please contact Sanjay Das, Senior Environmental Scientist (Specialist), at (707) 815-5059 or [Sanjay.Das@wildlife.ca.gov](mailto:Sanjay.Das@wildlife.ca.gov); or Michelle Battaglia, Senior Environmental Scientist (Supervisory), at [Michelle.Battaglia@wildlife.ca.gov](mailto:Michelle.Battaglia@wildlife.ca.gov).

Sincerely,

DocuSigned by:

*Erin Chappell*

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Erin Chappell

Regional Manager

Bay Delta Region

*Conserving California's Wildlife Since 1870*

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**  
BAY DELTA REGION  
2825 CORDELIA ROAD, SUITE 100  
FAIRFIELD, CA 94534



**AMENDMENT NO. 4  
(A Minor Amendment)  
California Endangered Species Act  
Incidental Take Permit No. 2081-2009-013-03  
Contra Costa Water District**

**Maintenance and Operation of the Los Vaqueros Project and Alternative Intake  
Project in Contra Costa County and San Joaquin County**

**INTRODUCTION**

On November 5, 2009, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2009-013-03 (ITP) to Contra Costa Water District (Permittee) authorizing take of Sacramento River Winter-run Chinook Salmon (*Oncorhynchus tshawytscha*), Central Valley Spring-run Chinook Salmon (*O. tshawytscha*), Delta Smelt (*Hypomesus transpacificus*), and Longfin Smelt (*Spirinchus thaleichthys*) (collectively, the Covered Species) associated with and incidental to the construction of the Alternative Intake Project (AIP), the operation and maintenance of the AIP, and the operation and maintenance of the Los Vaqueros Project.

In issuing the ITP, CDFW found, among other things, that Permittee's compliance with the Conditions of Approval of the ITP would fully mitigate Project impacts of the taking on the Covered Species and that issuance of the ITP would not jeopardize the continued existence of the Covered Species.

Amendment No. 1 was a Minor Amendment that would accommodate the operations of the Los Vaqueros Reservoir in conjunction with the expansion of the reservoir to 160,000-acre-feet of storage capacity, and to make other minor changes to the ITP. The Permittee submitted this ITP amendment request on December 23, 2011.

Amendment No. 2 was a Minor Amendment that updated the ITP by adding information on design and operation of the intake and fish screen at the AIP (now referred to as the CCWD Middle River Intake). The amendment also clarified several design and operation details for the CCWD Old River Intake. The Permittee submitted this ITP amendment request on September 23, 2013.

Amendment No. 3 was a Major Amendment that updated the ITP by extending the time from December 31, 2018 to December 31, 2023. The Amendment also eliminated the requirement for fish monitoring at CCWD's intakes and modified the no-fill period to require CCWD to refrain from filling Los Vaqueros Reservoir for 75 to 90 days between

January 1 and June 30 of each year and eliminated the 30-day no-diversion period. The Permittee submitted this ITP amendment request on December 11, 2018.

CDFW is currently processing a request from Permittee to issue ITP No. 2081-2023-036-03 to authorize incidental take of Winter-Run Chinook Salmon, Spring-Run Chinook Salmon, Delta Smelt, and Longfin Smelt associated with water diversions and operations of the Phase 2 Los Vaqueros Reservoir Expansion Project. ITP No. 2081-2023-036-03 will address impacts of the ongoing operation and maintenance of the Los Vaqueros Project in addition to changes to future operations and construction of capital improvements to the reservoir and associated facilities not currently covered under ITP No. 2081-2009-013-03. Permittee has requested that issuance of ITP No. 2081-2023-036-03 be delayed allowing for time for Permittee to schedule and attend one final meeting with CDFW. CDFW has therefore initiated this Minor Amendment to temporarily provide a one-time 60-day extension to ITP No. 2081-2009-013-03 until February 29, 2024, before CDFW issues ITP No. 2081-2023-036-03.

This Minor Amendment No. 4 (Amendment) makes the following changes to the existing ITP:

This Amendment extends the time from December 31, 2023 to February 29, 2024.

## AMENDMENT

The ITP is amended as follows (amended language in ***bold italics***; deleted language in ~~strike through~~):

1. The section titled Effective Date and Expiration Date of the ITP shall be amended to read:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittee on the last page of the ITP and returned to ~~DFG's~~ CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by ~~DFG~~ CDFW, this ITP's authorization to take the Covered Species shall expire on ~~December 31, 2023~~ **February 29, 2024**.

All terms and conditions of the ITP and MMRP that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittee.

## FINDINGS

*Issuance of this Amendment will increase the amount of take of the Covered Species compared to the Project as originally approved; however, by implementing measures*

Minor Amendment No. 4  
Incidental Take Permit 2081-2009-013-03  
CONTRA COSTA WATER DISTRICT  
Maintenance and Operations of the Los Vaqueros Project

*undertaken to reduce take and the short time period that the ITP will be extended, it is not expected that this Amendment will increase Project impacts on these species (i.e., “impacts of taking” as used in Fish and Game Code Section 2081, subd. (b)(2)).*

Discussion: This Amendment extends the ITP by two months, from December 31, 2023 to February 29, 2024. CDFW has determined that extension of time for the months of December and February will not substantively increase the amount of take or the severity of other impacts of the taking on the Covered Species. This Amendment will not substantially increase the Project impacts on the Covered Species because, in all other respects, the types of avoidance, minimization and mitigation Conditions of Approval required by the ITP remain unchanged.

*Issuance of this Amendment does not affect CDFW’s previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).*

Discussion: CDFW determined in November 2009 that the Project, as approved, met the standards for issuance of an ITP under CESA. This determination included findings that, among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP as amended will not result in a substantive increase on the amount or severity of Project impacts on the Covered Species, as discussed above. Permittee’s continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP’s Conditions of Approval and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species.

*None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.*

Discussion: CDFW issued the ITP in November 2009 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the Environmental Impact Report and CEQA Addendum No. 4 adopted by the Contra Costa Water District as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment is a minor change to the original ITP. CDFW finds for the same reasons under CEQA that approval of the Amendment will not result in and does not have the potential to create any new significant or substantially more severe environmental effects than previously analyzed and disclosed by Contra Costa Water District during its lead agency review of the Project, particularly with respect to the impacts authorized by CDFW pursuant to the ITP as amended. As a result, CDFW finds

that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of this Amendment.

*CDFW finds that this Amendment is a Minor Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).*

Discussion: This Amendment extends the time from December 31, 2023 to February 29, 2024, all existing measures in the ITP are in effect and can be feasibly carried out as required by the ITP. These changes to the ITP will not: (1) significantly increase the level of take or other Project impacts on Covered Species previously analyzed and authorized by the ITP, (2) affect Permittee's substantive mitigation obligations under the ITP, (3) require further environmental review under CEQA, or (4) substantively increase temporal impacts on the Covered Species. Therefore, this Amendment will not significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. CDFW has determined that the change to the ITP constitutes a Minor Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(4).

The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

California Department of Fish and Wildlife  
Habitat Conservation Planning Branch  
Attention: CESA Permitting Program  
Post Office Box 944209  
Sacramento, CA 94244-2090

Alternatively, the Permittee shall email the digitally signed ITP to [CESA@wildlife.ca.gov](mailto:CESA@wildlife.ca.gov). Digital signatures shall comply with Government Code section 16.5. Digital signatures facilitated by CDFW will be automatically returned.

**APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**

on 12/27/2023.

DocuSigned by:

*Erin Chappell*

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Erin Chappell, Regional Manager  
Bay Delta Region

**ACKNOWLEDGMENT**

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of the original ITP and this Amendment, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

DocuSigned by:

*Maureen Martin*

By:

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Date: 12/28/2023

Printed Name: Maureen Martin

Title: Special Projects Manager

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Incidental Take Permit 2081-2009-013-03  
CONTRA COSTA WATER DISTRICT  
Maintenance and Operations of the Los Vaqueros Project