

**NATIONAL ENVIRONMENTAL POLICY ACT
CATEGORICAL EXCLUSION COMPLIANCE CHECKLIST
U.S. Fish and Wildlife Service**



Project Name: Native Fish Passage in the San Joaquin River at Eastside Bypass Control Structure

Purpose and Need

The California Department of Water Resources (DWR) has proposed a native fish passage improvement project at the Eastside Bypass Control Structure (EBCS) as part of the greater Eastside Bypass Improvements Project. Improved passage at the EBCS, especially during drought conditions, will help rebuild native fish populations in the San Joaquin River and build on the larger on-going investment for volitional passage for native fish as part of the San Joaquin River Restoration Program's (SJRRP) Restoration Area. The Project is currently in 95% design and is planned to be bid in fall of 2023. Construction activities are anticipated to start in spring or summer of 2024. The U.S. Fish and Wildlife (USFWS) has secured California Fish Passage Forum (CFPF) funds of approximately \$50,000 towards the cost of the renewal of environmental permitting for the Project.

This proposal ☒ is (check (✓), if applicable) completely covered by categorical exclusions:

Subsection _____ in 43 § CFR 46.210 (DOI) or

Subsection E (1) _____ in 516 Department Manual (DM) 8.5(FWS) Ex E1

Insert text of Categorical Exclusion here and explain briefly how the proposed action fits in this category of actions:

E. Financial Assistance.

(1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.

The funding will enable the renewal of permits which will allow the continuation of the planning to complete the construction of the proposed fish passage project. No significant effect on the human environment will occur with the funds used from this financial assistance agreement. The funds will be used for the extension of existing permits that DWR had previously obtained for the project. Therefore, the USFWS does not deem it necessary to develop an Environmental Assessment (EA) or Environmental Impact Statement (EIS) for the action of transferring money to the State for this project.

The USFWS is an Implementing Agency of the SJRRP with a signed Memo of Understanding (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=145153&inline>). DWR and the Bureau of Reclamation have prepared publicly available NEPA and CEQA documents for the EBCS project as part of the Eastside Bypass Improvements Project (https://www.restoresjr.net/?wpfb_dl=2140).

Extraordinary Circumstances (43 § CFR 46.215):

Will This Proposal (check (✓) yes or no for each item below):

<u>Yes</u>	<u>No</u>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Have significant adverse effects on public health or safety.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Have significant adverse effects on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds (Executive Order 13186); and other ecologically significant or critical areas.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102(2)E].
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

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- | | | |
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| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Have significant impacts on properties listed or eligible for listing on the National Register of Historic Places as determined by either the bureau. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant adverse effects on designated Critical Habitat for these species. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007). |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112). |

If any of the above extraordinary circumstances receive a "Yes" check (✓), an EA must be prepared.

Additional Information. Additional information supporting the checklist/determination should be attached (as appropriate) including the project proposal, significance analysis, substantive updates, or other material.

Project Director Concurrence: Richard Montgomery, Regulatory Compliance and Permitting Coordinator, San Joaquin River Restoration Program, Region 8 Date: July 3, 2023
(NEPA documentation prepared by *insert contact name, title, Office Name.*)

Within the spirit and intent of the Council of Environmental Quality's regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect natural and cultural and historic resources, I have established the following administrative record and have determined that the proposed action:

☒ **is covered by a categorical exclusion as provided by 43 CFR 46.210 or 516 DM 8.5. No further NEPA documentation will therefore be made.**

Signature Approval:

Authorizing Signature: _____ Date: _____

Contact Person

For additional information concerning this decision, contact:

Heather D. Swinney
San Joaquin River Restoration Program Coordinator
U.S. Fish and Wildlife Service
Pacific Southwest Region
Fish and Aquatic Conservation
2800 Cottage Way, Room W-2606, Sacramento, CA 95825
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Project Name: Native Fish Passage in the San Joaquin River at Eastside Bypass Control Structure

Rocky Montgomery
Regulatory Compliance and Permitting Coordinator
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