



NATIVE ENDANGERED & THREATENED SP.
HABITAT CONSERVATION PLAN

Permit Number: ESPER8656461

Version Number: 0

Effective: 2024-03-28 **Expires:** 2029-03-27

Issuing Office:

Department of the Interior

U.S. FISH AND WILDLIFE SERVICE

ES Sacramento Permit Office
2800 Cottage Way, Suite W-2606
Sacramento, California 95825-1846
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Digitally signed by

Permittee:

Monterey County Water Resources Agency
1441 Schilling Place, North Building Attn:
Jason Demers
Salinas, California 93901
U.S.A.

Name and Title of Principal Officer:

Ara Azhderian. General Manager

Name and Title of Principal Officer:

Authority: Statutes and Regulations: 16 U.S.C. 1539 (a), 16 U.S.C. 1533 (d) 50 CFR 17.22, 50 CFR 17.32, 50 CFR 13

Location where authorized activity may be conducted:

The permit area consists of 142 acres within Assessor Parcel Numbers 135-011-002, 135-011-005, 229-021-001, 229-021-009, 229-021-014, 229-041-003, 229-041-012, and 229-041-013 located within and adjacent to the Salinas River Lagoon at the mouth of the Salinas River in Monterey County, California.

Reporting requirements:



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The applicant will be required to send annual reports to the U.S. Fish and Wildlife Service (Service) for the duration of the five-year permit term following the requirements detailed in the applicant's Habitat Conservation Plan (HCP). In years when facilitated lagoon breaching is implemented the applicant will provide an after-action report that will serve as the annual report. In years when facilitated breaching is not conducted the applicant will submit an annual report no later than November 15 describing all activities undertaken during the reporting period to maintain compliance with the HCP and ITP. Annual reports will be submitted to the Service through the Permittee's ePermits account and by electronic mail to FW8VenturaITP@fws.gov.

Authorizations and Conditions:

A. General conditions set out in Subpart D of 50 CFR 13, and specific conditions contained in Federal regulations cited above, are hereby made a part of this permit. All activities authorized herein must be carried out in accordance with and for the purposes described in the application submitted. Continued validity, or renewal of this permit is subject to complete and timely compliance with all applicable conditions, including the filing of all required information and reports.

B. The validity of this permit is also conditioned upon strict observance of all applicable Foreign, State, Local, Tribal, or other Federal law.

C. Valid for use by permittee named above.

D. Acceptance of this Permit serves as evidence that the Permittee and its authorized agents understand and agree to abide by the terms of this Permit and all sections of Title 50 Code of Federal Regulations, Parts 13 and 17, pertinent to issued permits. Section 11 of the Endangered Species Act of 1973, as amended, provides for civil and criminal penalties for failure to comply with permit conditions.

E. The authorization granted by this permit is subject to compliance with, and implementation of the Salinas River Lagoon and Sandbar Management Low Effect Habitat Conservation Plan (ICF 2023; HCP). This permit is binding upon the permittees and/or any authorized officer, employee, contractor, or agent conducting permitted activities.

F. The Permittee is authorized under the Federal Endangered Species Act of 1973, as amended, to incidentally take (harm, injure, capture and/or kill) the federally endangered tidewater goby (*Eucyclogobius newberryi*) and federally threatened Pacific Coast distinct population segment (DPS) of the western snowy



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plover (*Charadrius nivosus nivosus*) within the approximately 142-acre permit area described in the HCP for activities associated with sandbar breaching to manage water levels in the Salinas River lagoon for flood control within Assessor Parcel Numbers 135-011-002, 135-011-005, 229-021-001, 229-021-009, 229-021-014, 229-041-003, 229-041-012, and 229-041-013 to the extent that the take of these species would otherwise be prohibited under section 9 of the Act and its implementing regulations or pursuant to a rule promulgated under section 4(d) of the Act. Take of tidewater goby is authorized in the form of capture of all individuals found stranded during breaching; injury or mortality of up to five percent of all individuals captured per year; and injury or mortality of up to 5 individuals from breaching activities per year. Take of a total of six western snowy plover eggs and/or chicks is authorized in the form of capture, injury, or mortality for the five-year permit term. All take must be incidental to otherwise lawful activities associated with the activities described in the HCP and conditioned herein.

G. The Permittee agrees to implement measures to ensure that take of the tidewater goby and western snowy plover is minimized and mitigated to the maximum extent practicable. These measures include:

1. A Service-approved biologist will be on site to oversee sandbar management activities. Prior to any work, the biologist will survey the work area during daylight hours to identify an access path for tidewater goby monitoring locations, an access path for construction equipment, and a proposed pilot channel location which are free of nesting western snowy plovers.
2. The biologist will conduct a worker environmental awareness training to notify work crews of covered species that may be on site during work activities, what to do if covered species are found, and review the applicable conservation measures to be implemented during sandbar management activities. The biologist will remain on site throughout work activities to ensure that all required measures are implemented. The biologist will have the authority to immediately stop work and correct any activity that does not comply with the required measures.
3. Work areas where fish may become stranded during sandbar management activities will be monitored. Stranded tidewater gobies and other native fish will be relocated to a safe location determined in advance of lagoon breaching.
4. Western snowy plover surveys will include adults, chicks, nests, adult nesting behavior, and potential nests. The Service-approved biologist will walk in front of construction equipment during beach access and scan the access path and lagoon breaching location.
5. Vehicles and heavy equipment driven off-road during sandbar management activities will not exceed a speed of 5 miles per hour.
6. If a covered species is encountered during project implementation, the biologist will stop work and coordinate with construction staff to determine if the work area can be adjusted to avoid the covered species. Adult or fledgling snowy plover within the work area will be allowed to leave on their own



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accord unharmed and they will not be handled or disturbed. Snowy plover nests will not be approached within 100 feet unless a closer approach is necessary due to access or safety constraints.

7. If a western snowy plover nest cannot be avoided and is determined to be at risk of injury during project activities, the Permittee may capture up to 2 nests (i.e., up to 6 eggs and/or nestlings) for captive rearing during the permit term. In all cases, a Service-approved biologist will first determine whether the nest or chicks and accompanying adults can be moved to a safe location on the beach. If this is deemed not possible, the need for captive rearing will be determined by the biologist and will be dependent on the feasibility and safety of temporarily suspending emergency operations to facilitate recovery of the nest and the availability of an approved facility such as International Bird Rescue or Monterey County SPCA to accept the eggs or nestlings.

8. To minimize the spread of invasive plant species on site, vehicles and heavy equipment driven off-road during sandbar management activities will be cleaned of visible soil and organic matter prior to use, and access routes will be planned to avoid areas infested with invasive species where feasible.

9. Equipment will be inspected for fluid leaks prior to staging and accessing the beach. Leaks will be repaired, or equipment will be replaced, before staging or entering the beach. Equipment will be staged on an existing access road in an area where an accidental spill of fluids would not reach surrounding waterways. Loading and fueling will take place in the staging area. Spill response materials will be kept on site for rapid containment in the event of an accidental release and all staff will be trained in their proper use.

10. To minimize the attraction of potential predators of western snowy plover such as corvids, all activity and food-related trash will be placed in a covered receptacle and removed from the work site daily.

11. If a covered species is taken, trapped, injured, or found dead within the vicinity of the project, the approved biologist will notify the Permittee immediately. The Permittee or approved biologist will notify the Service within 24 hours.

12. Avoidance and minimization measures and reporting obligations must be consistent with those identified in the HCP.

13. The Permittee will compensate for impacts to tidewater goby and its habitat by funding two applied research studies, including an analysis of tidewater reproductive patterns in the Salinas River Lagoon to determine peak reproductive periods and environmental DNA (eDNA) sampling to assess the broader tidewater goby distribution in the Salinas River and connected waterways.

14. The Permittee will compensate for impacts to western snowy plover and its habitat by contributing funding to California State Parks' ongoing breeding habitat management and public education and outreach programs at Salinas River State Beach which may include symbolic fencing



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and signage at nesting areas, interpretive signs at trailheads, animal-proof trash receptacles at trailheads and beach access points, and direct public outreach (e.g., docent program).

H. The Permittee and the U.S. Fish and Wildlife Service agree that modification and amendments to this Permit may occur through its effective term. The Permit is based upon the Permittee's expected compliance with the provisions and commitments established in the HCP and the Permit's stated terms and conditions identified herein. The following procedures shall govern the modification and amendment process:

1. Either the Permittee or the U.S. Fish and Wildlife Service may propose modifications and/or amendments to this permit by providing written notice. Such notice shall include a statement of the reason for the proposed modification and an analysis of its environmental effects, including its effects on operations on the covered species. This analysis shall be conducted jointly between the Permittee and the contact office of the U.S. Fish and Wildlife Service. The U.S. Fish and Wildlife Service or the Permittee will use best efforts to respond to a proposed modification or amendment within sixty (60) days of receipt of such notice. Absent any objection from the U.S. Fish and Wildlife Service or the Permittee, the proposed modification and/or amendment will be determined as minor and will become effective upon written approval by the U.S. Fish and Wildlife Service or the Permittee.
2. The U.S. Fish and Wildlife Service will not propose or approve minor modifications or amendments to this permit if the U.S. Fish and Wildlife Service determines that such modifications would result in operations under the permit that are significantly different from those analyzed in connection with the original HCP, adverse effects on the environment that are new or significantly different from those analyzed in connection with the HCP or additional take of the covered species not analyzed in connection with the HCP. If, for any reason, a receiving party determines that a proposed amendment or modification is not minor, it must be processed in accordance with the U.S. Fish and Wildlife Service's permit regulations at 50 C.F.R. § 13 and § 17.
3. Any amendment or modification must conform with all applicable legal requirements, including but not limited to the Endangered Species Act, the National Environmental Policy Act, and the U.S. Fish and Wildlife Service's permit regulations at 50 C.F.R. § 13 and § 17.

I. The Permittee and the U.S. Fish and Wildlife Service acknowledge that even with the above detailed provisions for mitigating and/or minimizing impacts to the tidewater goby and western snowy plover, changes in circumstances could arise which were not fully anticipated by this permit and which may result in substantial and adverse change in the status of the tidewater goby or western snowy plover. The U.S.



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Fish and Wildlife Service's policy regarding changed and unforeseen circumstances is contained in the final "No Surprises" rule published on February 23, 1998 (63 FR 8859) and codified at 50 C.F.R. §§ 17.22(b)(5), 17.32(b)(5), 222.22(g).

Unforeseen and/or changed circumstances may become apparent either to the Permittee, authorized agents or to personnel of the U.S. Fish and Wildlife Service. For the purposes of implementation of this condition, unforeseen circumstances are defined as changes in circumstances affecting a species or geographic area covered by the HCP that could not reasonably have been anticipated by the U.S. Fish and Wildlife Service at the time of development of the HCP, and that result in a substantial and adverse change in the status of the tidewater goby or western snowy plover. Changed circumstances are defined as changes in circumstances affecting a species or geographic area covered by the HCP that can reasonably be anticipated by the U.S. Fish and Wildlife Service, and that can be planned for. Should either unforeseen or changed circumstances arise, the Permittee and the Ventura Fish and Wildlife Office will meet within twenty (20) working days following notice. The U.S. Fish and Wildlife Service and Permittee will together agree upon appropriate and reasonable measures for addressing such circumstances, within the rule of applicable law, and the Permittee will implement appropriate and reasonable measures within an additional thirty (30) working days, unless a longer period of time is agreed to by the U.S. Fish and Wildlife Service.

J. A copy of this permit must be in the possession of the Permittee and/or their authorized officer, employee, contractor, or agent while conducting activities that could result in take of tidewater goby or western snowy plover. This permit number should be provided in all correspondence concerning permit activities. Any questions regarding this permit should be directed to the Field Supervisor, Ventura Fish and Wildlife Office.

K. For purposes of receiving reports, and monitoring compliance and administration of the terms and conditions of this permit, the contact office of the U.S. Fish and Wildlife Service is:

U.S. Fish and Wildlife Service
Ventura Fish and Wildlife Office
2493 Portola Road, Suite B
Ventura, California 93003
(805) 644-1766
FW8VenturaITP@fws.gov