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April 9, 2024

Alecia Van Atta  
Assistant Regional Administrator  
California Coastal Office  
NOAA Fisheries West Coast Region  
777 Sonoma Avenue, Room 325  
Santa Rosa, California 95404-4731

Sent via email: [PR.ESA.incidentaltakepermits@noaa.gov](mailto:PR.ESA.incidentaltakepermits@noaa.gov)

**Subject: Application for an Individual Incidental Take Permit under the Endangered Species Act of 1973 for Proposed Renovation, Operations, and Maintenance Activities at the Freeman Diversion, Saticoy, Ventura County, California**

Dear Ms. Van Atta:

United Water Conservation District (United) submits this application for an Individual Incidental Take Permit under the Endangered Species Act of 1973 for renovation (demolition and construction of new facility and associated upgrades), operations, and maintenance activities at the Freeman Diversion in Ventura County, California. The basis for this application is a Multiple Species Habitat Conservation Plan (MSHCP) submitted to the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service, which includes information required by NMFS to evaluate the proposed project which is to be undertaken within and around the Santa Clara River channel.

The information provided in this application is intended to fulfill the application requirements contained in the Application Instructions for Permits for the Incidental Take of Endangered or Threatened Species Under the Endangered Species Act (OMB control number 0648-0230):

**Applicant:**

United Water Conservation District  
1701 N. Lombard St. Suite 200  
Oxnard, CA 93030  
Office – (805) 525-4431  
Fax – (805) 525-2661  
Contact: Randall McInvale, Principal Environmental Scientist



## **Application for an Individual Incidental Take Permit under the Endangered Species Act of 1973 for Proposed Renovation, Operations, and Maintenance Activities at the Freeman Diversion**

### **A description of the endangered or threatened species, by common and scientific name, and a description of the status, distribution, seasonal distribution, habitat needs, feeding habits and other biological requirements of the affected species:**

Chapter 4 (Covered Species) of the attached MSHCP includes all relevant information requested. Covered species include southern California steelhead (*Oncorhynchus mykiss*), Pacific lamprey (*Entosphenus tridentatus*), tidewater goby (*Eucyclogobius newberryi*), southwestern pond turtle (*Actemys pallida*), least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), and yellow-billed cuckoo (*Coccyzus americanus*).

### **A detailed description of the proposed activity:**

Chapter 3 (Covered Activities) and Chapter 5 (Conservation Program) of the attached MSHCP includes all relevant information requested. Briefly, United currently operates a Denil fish ladder at the Freeman Diversion and a prototype lamprey passage system. As part of the process to improve steelhead and lamprey passage at the diversion, the existing diversion facility would be renovated. Facility renovation would include replacing the existing off-channel Denil fish ladder with an in-channel hardened ramp, resurfacing the downstream face of the diversion structure, constructing a new diversion intake and headworks, replacing and adding to the sediment management systems, replacing the fish screen system, replacing the fish bypass and evaluation system, and updating the flow operations at the diversion. In addition to providing improved fish passage for covered fish species, the renovation would improve the water delivery and recharge operations of the diversion.

### **The anticipated dates, duration and the specific location of the activity. Please include latitude/longitude coordinates if possible:**

Per an existing court order, United is required to construct the proposed project two years following the acquisition of all required permits and approvals. The project is located on the Santa Clara River, near the unincorporated community of Saticoy, in Ventura County, California. The approximate coordinates of the project are 34.299246 -119.108582. Chapter 1 (Introduction and Background) and Chapter 2 (Existing Environment) of the attached MSHCP include additional relevant information.

### **The application must include a conservation plan based on the best scientific and commercial data, which specifies:**

#### **The anticipated impact of the proposed activity on the listed species:**

Chapter 7 (Effects Analysis) of the attached MSHCP includes all relevant information requested. Briefly, effects are analyzed and take of covered species related to the implementation of covered activities, conservation activities, and monitoring activities in sections 7.1-7.8.

#### **The anticipated impact of the proposed activity on the habitat of the species and the likelihood of restoration of the affected habitat:**



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Chapter 7 (Effects Analysis) of the attached MSHCP includes all relevant information requested. In addition to the effects to individual covered species, section 7.1-7.8 of the MSHCP also provides a quantification of the impacts to habitat associated with each species. Chapter 5 (Conservation Program) includes several conservation program components intended to improve conditions for covered species, and Conservation Measure 2.3.1 is included specifically related to restoration of affected habitat.

### **The steps that will be taken to avoid, minimize, mitigate, and monitor such impacts:**

The overall goal of the project is to renovate the Freeman Diversion to significantly improve fish passage at the facility, enhance the operational flexibility of the diversion for future water resource management, and enable greater sediment management capability through the facility while minimizing and mitigating potential take of threatened and endangered species. To that end, United worked extensively with NMFS and California Department of Fish and Wildlife fish passage engineers and scientists to avoid and minimize effects associated with the design of new fish passage facility. Further, United has developed an effects analysis (Chapter 7) and alternatives and practicability analysis (Chapter 10) demonstrating the impact offset requirements associated with the project. Future monitoring is included in Chapter 6 (Monitoring and Adaptive Management) of the MSHCP.

### **The alternative actions to such taking that were considered and the reasons why those alternatives are not being used:**

Chapter 10 (Alternatives) of the attached MSHCP includes all relevant information requested. Briefly, over a number of years, United has conducted extensive analysis of many alternatives for the new fish passage facility, primarily to address the migration and passage needs for southern California steelhead (*Oncorhynchus mykiss*). Past alternatives that have been previously evaluated and rejected are not included in the current version of the MSHCP. The alternatives analyzed in the attached MSHCP focus on an up-to-date suite of options including physical and operational alternatives.

### **A list of all sources of data used in preparation of the plan, including reference reports, environmental assessments and impact statements, and personal communications with recognized experts on the species or activity who may have access to data not published in current literature:**

The analysis completed in the MSHCP included an extensive literature review and the attached MSHCP includes a list of all literature referenced in the document by chapter. Please refer to the Literature Cited section of each chapter for the requested information.



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Should you have any questions about this application, or the additional engineering design work, please do not hesitate to contact us.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Anthony Emmert'.

Anthony Emmert  
Assistant General Manager  
United Water Conservation District

**Cc:** Marissa Caringella, United Water Conservation District  
[MarissaC@unitedwater.org](mailto:MarissaC@unitedwater.org)

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