

Certification of Consistency

C202058

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: Local Agency

Government Agency: DWR
Primary Contact: First Name Last Name
Address: 123 Street
City, State, Zip: Sacramento, CA 95814
Telephone/Fax: (123) 456-8901
E-mail Address: daniel.constable@deltacouncil.ca.gov

B. GOVERNMENT AGENCY ROLE IN COVERED ACTION: Will Carry Out / Will Fund

Step 2 - Covered Action Profile

A. COVERED ACTION PROFILE: Project

Title: Test - 2020-11-13

B. PROPONENT CARRYING OUT COVERED ACTION (If different than State or Local Agency):

Proponent Name: DWR
Address: 123 Street
City, State, Zip: Sacramento, CA 95814

C. OPEN MEETING LAWS

Agencies whose actions are not subject to open meeting laws (Bagley-Keene Open Meeting Act [[Gov. Code sec 11120 et seq.](#)] or the Brown Act [[Gov. Code sec 54950 et seq.](#)]) must post their draft certification on their website and in their office for public review and comment, and mail to all persons requesting notice (Administrative Procedures Governing Appeals, Rule 3). A state or local public agency that is subject to open meeting laws is encouraged to post the draft certification on their website and in the office for public review and comment and to mail to all persons requesting notice.

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions. It is encouraged to upload any evidence that the project, plan or program went through for public review and comment as part of a Bagley-Keene or Brown Act meeting.

Is your agency subject to open meeting laws (Bagley-Keene Open Meeting Act [[Gov. Code sec 11120 et seq.](#)] or the Brown Act [[Gov. Code sec 54950 et seq.](#)])? No
(Note: Select "Yes" if your agency or organization is subject to open meeting laws.
Select "No" if your agency or organization is not subject to open meeting laws.)

If your agency is not subject to open meeting laws (Bagley-Keene Open Meeting Act [[Gov. Code sec 11120 et seq.](#)] or the Brown Act [[Gov. Code sec 54950 et seq.](#)])
did your agency, at least 10 days prior to the submission of a certification of consistency to the Delta Stewardship Council, post the draft certification on your website and in the office for public review and comment, and mail the draft Yes

certification to all persons requesting notice?

Any state or local public agency that is subject to open meeting laws with regard to its certification is also encouraged to take those actions. It is encouraged to upload any evidence that the project, plan or program went through for public review and comment as part of a Bagley-Keene or Brown Act meeting.

Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.

[AMMP.pdf](#)

D. COVERED ACTION SUMMARY: (Project Description from approved CEQA document may be used here)

About this project... [LOS.4.00001.pdf](#), [LOS.4.00002.pdf](#), [LOS.4.00003.pdf](#), [LOS.4.00004.pdf](#), [LOS.4.00005.pdf](#), [LOS.4.00006.pdf](#), [LOS.4.00007.pdf](#), [LOS.4.00008.pdf](#), [LOS.4.00009.pdf](#), [LOS.4.00010.pdf](#), [LOS.4.00011.pdf](#), [LOS.4.00012.pdf](#), [LOS.4.00013.pdf](#), [LOS.4.00014.pdf](#), [LOS.4.00015.pdf](#), [LOS.4.00016.pdf](#), [LOS.4.00017.pdf](#), [LOS.4.00018.pdf](#), [LOS.4.00019.pdf](#), [LOS.4.00020.pdf](#), [LOS.4.00021.pdf](#), [LOS.4.00022.pdf](#), [LOS.4.00023.pdf](#), [LOS.4.00024.pdf](#), [LOS.4.00025.pdf](#), [LOS.4.00026.pdf](#), [LOS.4.00027.pdf](#), [LOS.4.00028.pdf](#), [LOS.4.00029.pdf](#), [LOS.4.00030.pdf](#), [LOS.4.00031.pdf](#), [LOS.4.00032.pdf](#), [LOS.4.00033.pdf](#), [LOS.4.00034.pdf](#), [LOS.4.00035.pdf](#), [LOS.4.00036.pdf](#), [LOS.4.00037.pdf](#), [LOS.4.00038.pdf](#), [LOS.4.00039.pdf](#), [LOS.4.00040.pdf](#), [LOS.4.00041.pdf](#), [LOS.4.00042.pdf](#), [LOS.4.00044.zip](#), [LOS.4.00001.pdf](#), [LOS.4.00002.pdf](#), [LOS.4.00003.pdf](#), [LOS.4.00004.pdf](#), [LOS.4.00005.pdf](#), [LOS.4.00006.pdf](#), [LOS.4.00007.pdf](#), [LOS.4.00008.pdf](#), [LOS.4.00009.pdf](#), [LOS.4.00010.pdf](#), [LOS.4.00011.pdf](#), [LOS.4.00012.pdf](#), [LOS.4.00013.pdf](#), [LOS.4.00014.pdf](#), [LOS.4.00015.pdf](#), [LOS.4.00016.pdf](#), [LOS.4.00017.pdf](#), [LOS.4.00018.pdf](#), [LOS.4.00019.pdf](#), [LOS.4.00020.pdf](#), [LOS.4.00021.pdf](#), [LOS.4.00022.pdf](#), [LOS.4.00023.pdf](#), [LOS.4.00024.pdf](#), [LOS.4.00025.pdf](#), [LOS.4.00026.pdf](#), [LOS.4.00027.pdf](#), [LOS.4.00028.pdf](#), [LOS.4.00029.pdf](#), [LOS.4.00030.pdf](#), [LOS.4.00031.pdf](#), [LOS.4.00032.pdf](#), [LOS.4.00033.pdf](#), [LOS.4.00034.pdf](#), [LOS.4.00035.pdf](#), [LOS.4.00036.pdf](#), [LOS.4.00037.pdf](#), [LOS.4.00038.pdf](#), [LOS.4.00039.pdf](#), [LOS.4.00040.pdf](#), [LOS.4.00041.pdf](#), [LOS.4.00042.pdf](#), [LOS.4.00044.zip](#), [LOS.4.00001.pdf](#), [LOS.4.00002.pdf](#), [LOS.4.00003.pdf](#), [LOS.4.00004.pdf](#), [LOS.4.00005.pdf](#), [LOS.4.00006.pdf](#), [LOS.4.00007.pdf](#), [LOS.4.00008.pdf](#), [LOS.4.00009.pdf](#), [LOS.4.00010.pdf](#), [LOS.4.00011.pdf](#), [LOS.4.00012.pdf](#), [LOS.4.00013.pdf](#), [LOS.4.00014.pdf](#), [LOS.4.00015.pdf](#), [LOS.4.00016.pdf](#), [LOS.4.00017.pdf](#), [LOS.4.00018.pdf](#), [LOS.4.00019.pdf](#), [LOS.4.00020.pdf](#), [LOS.4.00021.pdf](#), [LOS.4.00022.pdf](#), [LOS.4.00023.pdf](#), [LOS.4.00024.pdf](#), [LOS.4.00025.pdf](#), [LOS.4.00026.pdf](#), [LOS.4.00027.pdf](#), [LOS.4.00028.pdf](#), [LOS.4.00029.pdf](#), [LOS.4.00030.pdf](#), [LOS.4.00031.pdf](#), [LOS.4.00032.pdf](#), [LOS.4.00033.pdf](#), [LOS.4.00034.pdf](#), [LOS.4.00035.pdf](#), [LOS.4.00036.pdf](#), [LOS.4.00037.pdf](#), [LOS.4.00038.pdf](#), [LOS.4.00039.pdf](#), [LOS.4.00040.pdf](#), [LOS.4.00041.pdf](#), [LOS.4.00042.pdf](#), [LOS.4.00044.zip](#), [PDFTesting.pdf](#)

E. STATUS IN THE CEQA PROCESS: Final Certified Document

F. STATE CLEARINGHOUSE NUMBER:(if applicable) N/A

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 12/01/2020

ANTICIPATED END DATE: (If available) 01/01/2025

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$1,000,000

I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM: NA

J. Supporting Documents:

[DP_P2_LOS_Earth_Team.pdf](#), [G_P1_MMRP_Comparison_to_Delta_Plan.pdf](#)

DELTA PLAN CHAPTER 2

[G P1/Cal. Code Regs., tit. 23, § 5002](#) - Detailed Findings to Establish Consistency with the Delta Plan.

G P1/Cal. Code Regs., tit. 23, § 5002 identifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action and only applies after a "proposed action" has been determined by a State or local public agency to be a covered action because it is covered by one or more of the regulatory policies listed under Delta Plan Chapters 3, 4, 5, and 7 of this form. Inconsistency with this policy may be the basis for an appeal.

A certification of consistency must include detailed findings that address each of the regulatory policies identified in Cal. Code Regs., tit. 23, §§ 5002-5013 and listed on this Form that is implicated by the covered action.

As outlined in Cal. Code Regs., tit. 23, § 5002 (b)(1), the Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal.

Specific requirements of this regulatory policy:

a. [G P1\(b\)\(1\)/Cal. Code Regs., tit. 23, § 5002, subd. \(b\)\(1\)](#) - Coequal Goals

As outlined in **Cal. Code Regs., tit. 23, § 5002 (b)(1)**, the Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal.

Is the covered action consistent with this portion of the regulatory policy?

Yes

Answer Justification:

This project is consistent with the coequal goals... [G_P1_MMRP Comparison to Delta Plan.pdf](#)

b. [G P1\(b\)\(2\)/Cal. Code Regs., tit. 23, § 5002, subd. \(b\)\(2\)](#) - Mitigation Measures

G P1(b)(2)/Cal. Code Regs., tit. 23, § 5002, subd. (b)(2) provides that covered actions not exempt from CEQA, must include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute [mitigation measures](#) that the agency that files the certification of consistency finds are equally or more effective. For more information, see Cal. Code Regs., tit. 23, § 5002, and Delta Plan Appendix O, Mitigation Monitoring and Reporting Program, which are referenced in this regulatory policy.

Is the covered action consistent with this portion of the regulatory policy?

Yes

Answer Justification:

Please see attached [G_P1_MMRP Comparison to Delta Plan.pdf](#)

c. [G P1\(b\)\(3\)/Cal. Code Regs., tit. 23, § 5002, subd. \(b\)\(3\)](#) - Best Available Science

G P1(b)(3)/Cal. Code Regs., tit. 23, § 5002, subd. (b)(3) provides that, relevant to the purpose and nature of the project, all covered actions must document use of best available science. For more information, see [Appendix 1A](#), which is referenced in this regulatory policy.

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not applicable -- this project does not rely on science.

d. [G P1\(b\)\(4\)/Cal. Code Regs., tit. 23, § 5002, subd. \(b\)\(4\)](#) - Adaptive Management

G P1(b)(4)/Cal. Code Regs., tit. 23, § 5002, subd. (b)(4) provides that an ecosystem restoration or water management covered action must include adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management. For more information, see [Appendix 1B](#), which is referenced in this regulatory policy. Note that this requirement may be satisfied through both of the following:

(A) An adaptive management plan that describes the approach to be taken consistent with the adaptive management framework in Appendix 1B; and

(B) Documentation of access to adequate resources and delineated authority by the entity responsible for the implementation of the proposed adaptive management process.

Is the covered action consistent with this portion of the regulatory policy?

Yes

Answer Justification: Please see attached [AMMP.pdf](#)

DELTA PLAN CHAPTER 3

[WR P1 / Cal. Code Regs., tit. 23, § 5003](#) - Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not a water supply project

[WR P2 / Cal. Code Regs., tit. 23, § 5004](#) - Transparency in Water Contracting

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not a water supply project

DELTA PLAN CHAPTER 4

[Cal. Code Regs., tit. 23, § 5002, subd. \(c\)](#) - Conservation Measure

Cal. Code Regs., tit. 23, § 5002, subd. (c) provides that a conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was: (1) Developed by a local government in the Delta; and (2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013 is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this Form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: No HCP/NCCP

[ER P1 / Cal. Code Regs., tit. 23, § 5005](#) - Delta Flow Objectives

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Does not affect flow objectives.

[ER P2 / Cal. Code Regs., tit. 23, § 5006](#) - Restore Habitats at Appropriate Elevations

Is the covered action consistent with this portion of the regulatory policy?

Yes

Answer Justification: See attached [ER P2 Policy.pdf](#)

[ER P3 / Cal. Code Regs., tit. 23, § 5007](#) - Protect Opportunities to Restore Habitat

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not applicable for the following reasons: ...

[ER P4 / Cal. Code Regs., tit. 23, § 5008](#) - Expand Floodplains and Riparian Habitats in Levee Projects

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not applicable for the following reasons: ...

[ER P5 / Cal. Code Regs., tit. 23, § 5009](#) - Avoid Introductions of and Habitat for Invasive Nonnative Species

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not applicable for the following reasons: ...

DELTA PLAN CHAPTER 5

[DP P1 / Cal. Code Regs., tit. 23, § 5010](#) - Locate New Urban Development Wisely

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not applicable for the following reasons: ...

[DP P2 / Cal. Code Regs., tit. 23, § 5011](#) - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not applicable for the following reasons: ...

DELTA PLAN CHAPTER 7

[RR P1 / Cal. Code Regs., tit. 23, § 5012](#) - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not applicable for the following reasons: ...

[RR P2 / Cal. Code Regs., tit. 23, § 5013](#) - Require Flood Protection for Residential Development in Rural Areas

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification: Not applicable for the following reasons: ...

[RR P3 / Cal. Code Regs., tit. 23, § 5014](#) - Protect Floodways

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification:

Not applicable for the following reasons: ...

[RR P4 / Cal. Code Regs., tit. 23, § 5015](#) - Floodplain Protection

Is the covered action consistent with this portion of the regulatory policy?

N/A

Answer Justification:

Not applicable for the following reasons: ...

11/13/2020