

Consistency Determination Form Fields

Step 1 Agency Profile

A. GOVERNMENT AGENCY: State Agency

Government Agency: California Department of Water Resources

Primary Contact: Anitra Pawley

Address: 715 P Street

City, State, Zip: Sacramento, CA 95814

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B. GOVERNMENT AGENCY ROLE IN COVERED ACTION: The California Department of Water Resources is responsible for project planning and funding.

Step 2 Covered Action Profile

A. COVERED ACTION PROFILE: Project

Title: McCormack-Williamson Tract Levee Modification and Habitat Restoration Project – Phase B

B. PROPONENT CARRYING OUT COVERED ACTION

Proponent Name: California Department of Water Resources

Address: 715 P 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.]? (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 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.

D. COVERED ACTION SUMMARY:

In 2018, the California Department of Water Resources (DWR) submitted Certification of Consistency C20186¹, which included DWR's determination that Phase B of the McCormack-Williamson Tract (MWT) Levee Modification and Habitat Restoration Project (project or proposed project) is consistent with the Delta Plan. That Certification was not appealed, and the DWR determinations which are included in that Certification are final. (See Cal. Water Code § 85225.15.)

In February, 2022, DWR issued a Supplemental EIR which focused on certain changes to Phase B of the MWT project. The MWT project remains located at MWT and the proposed objectives and project concept remains the same – to degrade existing levees surrounding MWT at three locations, allowing regular freshwater and tidal inundation of MWT that results in restoration of habitat within the MWT interior and significant flood protection downstream during large flood events. Phase B changes are related to the design of flood protection and habitat restoration components, and include decommissioning and relocating utilities on MWT. This Certification of Consistency is limited to those Phase B changes.

Specifically, DWR certifies that it has determined that the following Phase B changes are consistent with the Delta Plan:

- Updated design of the MWT East Levee degrade
- Updated design of the Mokelumne River Levee degrade
- Updated design of the MWT Southwest Levee degrade
- Added a small repair along the MWT West Levee

¹ Department of Water Resources (DWR). 2018b. *Certification of Consistency: Detailed Findings, North Delta Projects: McCormack-Williamson Tract Project and Grizzly Slough Project*. Available: [file:///C:/Users/crusso/Downloads/Delta%20Plan%20Certification%20of%20Consistency%20-%20Detailed%20Findings%20\(1\).pdf](file:///C:/Users/crusso/Downloads/Delta%20Plan%20Certification%20of%20Consistency%20-%20Detailed%20Findings%20(1).pdf) Accessed: August 8, 2022.

- Added new areas to enhance the landside levee slope and associated habitat
- Modified design of MWT interior landform grading to support high-quality habitat, including excavating a tidal channel network, excavating borrow material from a large subtidal area, and using excavated material to construct marsh plains, riparian berms, and riparian floodplains
- Incorporated a small turnaround area at one location on the existing levee crest road for use during future maintenance activities
- Identified existing inactive gas wells and pipelines on the MWT interior that require removal or additional activities for safe (re) abandonment
- Identified relocation of Sacramento Metropolitan Utility District distribution lines on the MWT interior, including removing existing power poles and conductor from the MWT interior and constructing new distribution line segments to maintain existing service at three offsite locations

With the design updates identified above, anticipated natural habitat establishment on MWT after construction of the MWT Phase B project is as follows:

- Subtidal Open Water/Shallow Subtidal (approximately 400 to 600 acres)
- Tidal Marsh (approximately 600 to 900 acres)
- Riparian Scrub/Mixed Riparian Woodland/Valley Oak Woodland (approximately 190 to 280 acres)

Background

DWR is pursuing the MWT project to implement flood control improvements in a manner that enhances physical and ecological processes and creates subtidal, tidal and riparian habitats that benefit aquatic and terrestrial species. The project will also incorporate landscape scale restoration of Delta habitat. With support and funding from DWR's Division of Multibenefit Initiative's Delta Levees Program, the MWT project will be implemented by Reclamation District (RD) 2110. The MWT project was originally evaluated as part of the North Delta Flood Control and Ecosystem Restoration Project (North Delta) Environmental Impact Report (EIR). The North Delta Draft EIR was prepared in 2007 (DWR 2007) and the Final EIR was prepared and certified in 2010 (DWR 2010). Since certifying the North Delta EIR in 2010, DWR has separated the MWT Project into Phases A and B. RD2110 constructed Phase A in 2018 and 2019. The MWT Phase B project consists of implementing the remaining MWT project components of the larger MWT project, including the changes outlined above.

In 2017, a small levee breach occurred naturally on the MWT Southwest Levee after the intentional notching of the MWT West Levee. This breach resulted in a minor flooding event. After the 2017 flood event, the failed sections of the Mokelumne River Levee, MWT West Levee, and MWT Southwest Levee were repaired by RD 2110 to a lower crest height than existed before the event. Extensive hydraulic modeling was performed using an updated regional model and new flood information from 2017, resulting in changes to the design of the MWT Phase B project as outlined above. The MWT project is proposed to optimize the design to best meet MWT's objectives under the changed conditions and minimize environmental impacts.

In February 2022, DWR prepared a Draft Supplemental EIR focused on Phase B. The Supplemental EIR provides supplemental information and analyzes project-specific impacts not previously analyzed in the

North Delta EIR. The focus of the Supplemental EIR was to evaluate impacts that have changed since the North Delta EIR was certified in 2010 considering recent changes, refinements, and additions to the MWT Phase B project; changes to the physical environment at MWT from flooding in 2017 and subsequent abandonment of agricultural production; and construction of the Phase A MWT project components in 2018 and 2019. Alternatives were not revisited in the Supplemental EIR, because alternatives were evaluated at a sufficient level in the North Delta EIR.

The 2010 North Delta EIR analyzed Alternative 1-A, which included two elements, the MWT Project and the Grizzly Slough Project. The Grizzly Slough Project was not subject of the 2022 Supplemental EIR. CEQA compliance for the Grizzly Slough Project is provided solely by the North Delta EIR. Furthermore, in 2018, DWR obtained Certification of Consistency C20186 for both the MWT and Grizzly Slough Projects, as described in the North Delta EIR. The covered action described for this consistency determination is limited to changes in Phase B of the MWT project, as described in the Supplemental EIR and summarized above. The Grizzly Slough Project is not addressed in the Supplemental EIR and is not part of the covered action described in this consistency determination.

Supporting Documentation

The following documents are included as attachments and referenced in responses to Step 3 where relevant:

- The MWT Phase B project Final Supplemental EIR which is provided as **Attachment A**.
- Comparison of MWT Phase B project to the Delta Plan Mitigation Monitoring and Reporting Program (MMRP) which is provided as **Attachment B**.
- The Adaptive Management Plan for the MWT Phase B project which is provided as **Attachment C**.

E. STATUS IN THE CEQA PROCESS: The Draft Supplemental EIR was completed in February 2022. The public comment period extended from February 11 to March 18, 2022. The Final Supplemental EIR was certified by DWR on September 2, 2022, and the Notice of Determination was filed on September 7, 2022.

F. STATE CLEARINGHOUSE NUMBER: (if applicable) 2003012112

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: 2023 (for Phase B)

ANTICIPATED END DATE: 2048

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST \$32.2 million for Phase B

Step 3 – Consistency with the Delta Plan

Delta Plan Chapter 2, “The Delta Plan”

1. Coequal Goals

G P1 b1 (23 CCR Section 5002): Coequal Goals

Policy Overview

This policy states that covered actions must be consistent with all of the Delta Plan’s regulatory policies to be deemed consistent with the Delta Plan. When covered actions are not consistent with all 18 regulatory policies, the agency filing for certification of consistency may still determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals of (1) protecting and enhancing the Delta ecosystem, and (2) providing for a more reliable water supply for California.

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, are consistent with the coequal goals.

Response and Justification

Consistent. The MWT Phase B project is consistent with all regulatory policies of the Delta Plan, as described in more detail in the following sections.

The MWT Phase B project also is consistent with the Delta Plan’s coequal goals. The MWT project is consistent with the Delta Plan’s first coequal goal to protect and enhance the Delta ecosystem. The MWT Phase B project will continue implementation of the Delta Plan by creating tidal, subtidal, and floodplain habitat at the Cosumnes River-Mokelumne River confluence, one of the six Priority Habitat Restoration Areas identified in the Delta Plan’s Chapter 4. The project’s flood-control and habitat-restoration improvements will enhance physical and ecological processes and create subtidal, tidal and riparian habitats. The project will also incorporate landscape-scale restoration of Delta habitat. Water would continue to be conveyed downstream through the Delta with the MWT Phase B project, but instead of being confined to the Mokelumne River, Lost Slough, and other channels, water would pass through the MWT interior to reduce downstream flood risk while restoring shallow subtidal, tidal marsh, and riparian habitats and benefits to species in the area that use these habitat types.

The MWT Phase B project also is consistent with the second coequal goal to provide for a more reliable water supply for California. The MWT Phase B project is a flood risk reduction and ecosystem restoration project and would not impact water supplies, as discussed in Impact WSM-1 of the Supplemental EIR.

Refer to:

- The MWT Phase B project Final Supplemental EIR which is provided as **Attachment A**.

2. Mitigation Measures

[G P1 b2 \(23 CCR Section 5002\): Mitigation Measures](#)

[Policy Overview](#)

This policy states that covered actions not exempt from the California Environmental Quality Act (CEQA) must include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018 (unless the measures 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 files for the consistency certification are equally or more effective. Covered actions are required to implement the mitigation measures, or equally effective measures, laid out in Tables 1 and 2 of [Delta Plan Appendix O, "Mitigation Monitoring and Reporting Program](#) (DSC 2019a).

[Response and Justification](#)

Consistent. For Certification of Consistency C20186, DWR demonstrated that mitigation measures in the North Delta EIR applicable to the MWT project were consistent with, and at least as effective as, relevant mitigation measures included in the Delta Plan. Many of these same measures were adapted/updated and used in the Supplemental EIR. Additionally, based on the updated analysis in the Supplemental EIR, some mitigation measures applicable to the MWT in the North Delta EIR were deemed no longer necessary or not applicable to the Phase B project, while some additional mitigation measures were added. Mitigation measures required for each significant MWT Phase B project impact in the Supplemental EIR are consistent with and at least as effective as, relevant mitigation measures included in the Mitigation, Monitoring, and Reporting Program (MMRP) for the Delta Plan (Delta Stewardship Council 2019).

Refer to:

- Mitigation Measure Comparison for MWT Phase B project which is provided as **Attachment B**.

3. Best Available Science

[G P1 b3 \(23 CCR Section 5002\): Best Available Science](#)

[Policy Overview](#)

This policy states that covered actions must document use of best available science. Best available science is specific to the decision being made and the time frame available for making that decision. Best available science is developed and presented in a transparent manner consistent with the scientific process, including clear statements of assumptions, the use of conceptual models, description of methods used, and presentation of summary conclusions. Data sources are cited and analytical tools used in analyses and syntheses are identified. Best available science changes over time, and decisions may need to be revisited as new scientific information becomes available. Ultimately, best available science requires scientists to use the best information and data to assist management and policy decisions. The processes and information used should be clearly documented and effectively communicated to foster improved understanding and decision making. Additional details on best available science can be found in [Delta Plan Appendix 1A](#).

Response and Justification

Consistent. The MWT Phase B project design and adaptive management plan continue to be based on best available science. Refer to Certification of Consistency C20186 which remains applicable. Certification of Consistency C20186 included an Adaptive Management Framework which has been updated and refined as planning and design for Phase B have progressed. The Adaptive Management Plan for Phase B includes some new components, as indicated by highlighted information in Attachment C.

Refer to:

- The Adaptive Management Plan for the MWT Phase B project which is provided as **Attachment C**.

4. Adaptive Management

G P1 b4 (23 CCR Section 5002): Adaptive Management

Policy Overview

This policy states that covered actions involving ecosystem restoration and water management must include adequate provisions, appropriate to the scope of the covered action, to assure continued implementation of adaptive management. This requirement shall 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. More information on adaptive management can be found in [Delta Plan Appendix 1B \(PDF Page 24-31 of 100\)](#).

Response and Justification

Consistent. Certification of Consistency C20186 included an Adaptive Management Framework which has been updated and refined as planning and design for Phase B have progressed. The Adaptive Management Plan for the Phase B project includes some new components to reflect best available science, as indicated by highlighted information in Attachment C. Therefore, the updated Phase B project adaptive management plan remains consistent with this policy as discussed in Certification of Consistency C20186.

Refer to:

- The Adaptive Management Plan for the MWT Phase B project which is provided as **Attachment C**.

Delta Plan Chapter 3 - A More Reliable Water Supply for California

5. Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

WR P1 (23 CCR Section 5003): Reduce Reliance on the Delta Through Improved Regional Water Self-Reliance

Policy Overview

This policy applies to a proposed action to export water from, transfer water through, or use water in the Delta, but does not cover any such action unless one or more water suppliers would receive water as a result of the proposed action.

This policy specifies that water shall not be exported from, transferred through, or used in the Delta if all of the following apply: (1) One or more water suppliers that would receive water as a result of the export, transfer, or use have failed to adequately contribute to reduced reliance on the Delta and improved regional self-reliance; (2) that failure has significantly caused the need for the export, transfer, or use; and (3) the export, transfer, or use would have a significant adverse environmental impact in the Delta.

[Response and Justification](#)

Not Applicable. Refer to Certification of Consistency C20186 which remains applicable.

6. Transparency in Water Contracting

[WR P2 \(23 CCR Section 5004\): Transparency in Water Contracting](#)

[Policy Overview](#)

This policy applies to proposed actions that enter or amend water supply or water transfer contracts with the State Water Project (SWP) or the Central Valley Project (CVP). This policy specifies that the contracting process for water from the SWP and/or the CVP must be done in a publicly transparent manner consistent with applicable DWR and U.S Bureau of Reclamation policies.

[Response and Justification](#)

Not Applicable. Refer to Certification of Consistency C20186 which remains applicable.

Delta Plan Chapter 4 - Protect, Restore, and Enhance the Delta Ecosystem

7. Conservation Measure

[Policy Number N/A \(23 CCR Section 5002c\): Conservation Measure](#)

[Policy Overview](#)

This policy states 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 sections 5005 through 5009 of this Chapter 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.

[Response and Justification](#)

Not Applicable. The MWT Phase B project does not include implementing conservation measures pursuant to habitat conservation plans or natural community conservation plans.

8. Delta Flow Objectives

[ER P1 \(23 CCR Section 5005\): Delta Flow Objectives](#)

[Policy Overview](#)

This policy applies to a proposed action that could significantly affect flow in the Delta. This policy specifies that the State Water Resources Control Board's Bay Delta Water Quality Control Plan flow objectives shall be used to determine consistency with the Delta Plan.

Strategy for Proving Consistency

Not Applicable. Refer to Certification of Consistency C20186 which remains applicable.

Restore Habitats at Appropriate Elevations

ER P2 (23 CCR Section 5006): Restore Habitats at Appropriate Elevations

This policy applies to a proposed action that includes habitat restoration. This policy specifies that habitat restoration must be carried out consistent with [Delta Plan Appendix 3 \(PDF page 50-66 of 100\)](#). The elevation map in [Delta Plan Appendix 4](#), shown in Figure 2, should be used as a guide for determining appropriate habitat restoration actions based on an area's elevation. If a proposed habitat restoration action is not consistent with the elevation map, the proposal shall provide rationale for the deviation based on best available science.

Response and Justification

Consistent. DWR and the Council agree that, because the MWT site elevation has experienced only minimal subsidence, the project site is highly suitable for tidal marsh restoration. Indeed, the project site falls within one of only six Priority Habitat Restoration Areas which the Council identified in its Council's June 2022 Update of the Delta Plan's Chapter 4. The restoration design was updated for the MWT Phase B project. Through a balanced cut and fill design, the MWT Phase B Project is expected to restore approximately 400 to 600 acres of subtidal open water/shallow subtidal, 600 to 900 acres of tidal marsh, and a 190 to 280 acres of supratidal habitats including riparian scrub, riparian forest, valley oak woodland, and seasonal wetlands. The MWT Phase B project would continue to create tidal and subtidal habitat, be consistent with Delta Plan Appendix 3, and includes properly designed habitat restoration actions based on the area's elevation as shown in Delta Plan Appendix 4. Therefore, the updated Phase B project remains consistent with this policy as discussed in Certification of Consistency C20186.

9. Protect Opportunities to Restore Habitat

ER P3 (23 CCR Section 5007): Protect Opportunities to Restore Habitat

This policy applies to proposed actions in the "priority habitat restoration areas" depicted in the [map of recommended areas for prioritization and implementation of habitat restoration projects](#), shown in Figure 3. It does not cover proposed actions outside those areas.

This policy specifies that within the priority habitat restoration areas depicted, significant adverse impacts to the opportunity to restore habitat must be avoided or mitigated. Impacts will be deemed to be avoided or mitigated if the project is designed and implemented so that it will not preclude or otherwise interfere with the ability to restore habitat. Impacts referenced shall be mitigated to a point where the impacts have no significant effect on the opportunity to restore habitat. Mitigation shall be determined, in consultation with the California Department of Fish and Wildlife, considering the size of the area impacted by the covered action and the type and value of habitat that could be restored on that area, taking into account existing and proposed restoration plans, landscape attributes, the elevation map shown in Figure 2, and other relevant information about habitat restoration opportunities of the area.

Response and Justification

Consistent. The updated Phase B project remains consistent with this policy as discussed in Certification of Consistency C20186. The area proposed for restoration has not changed, is within the Cosumnes

Mokelumne Confluence “Priority Habitat Restoration Area” which the Council identified in its 2022 update to the Delta Plan’s Chapter 4, and is designed to ensure that the restoration habitat opportunity is realized by restoring the habitat to appropriate riparian and tidal elevations to the maximum extent feasible. The restoration design has been updated for the MWT Phase B project, because detailed modelling revealed that without grading and placement of fill, areas on the landside of MWT were too deeply subsided to ensure tidal restoration. Through a balanced cut and fill design, the MWT Phase B Project is expected to restore approximately 400 to 600 acres of subtidal open water/shallow subtidal, 600 to 900 acres of tidal marsh, and a 190 to 280 acres of supratidal habitats including riparian scrub, riparian forest, valley oak woodland, and seasonal wetlands. The MWT Phase B project would also result in a temporal loss of valley/foothill riparian cover types removed during construction activities . Supplemental EIR Mitigation Measure VEG-1 requires achieving no net loss of riparian habitat functions or values including determining appropriate mitigation ratios and requirements for replacement of riparian cover, including plantings, in consultation with CDFW.

Refer to:

- The MWT Phase B project Final Supplemental EIR which is provided as **Attachment A**.

10. Expand Floodplains and Riparian Habitats in Levee Projects

ER P4 ([23 CCR Section 5008](#)): Expand Floodplains and Riparian Habitats in Levee Projects

This policy applies to a proposed action to construct new levees or substantially rehabilitate or reconstruct existing levees. This policy specifies that levee projects must evaluate and where feasible incorporate alternatives, including the use of setback levees, to increase floodplain and riparian habitat acreages. Evaluation of setback levees in the Delta shall be required only in two specific categories: (1) The Sacramento River between Freeport and Walnut Grove; the San Joaquin River from the Delta boundary to Mossdale, Paradise Cut, Steamboat Slough, and Sutter Slough; and the North and South Forks of the Mokelumne River; and (2) Urban levee improvement projects in the cities of West Sacramento and Sacramento, as shown in Figure 4.

Response and Justification

Not Applicable. Refer to Certification of Consistency C20186 which remains applicable.

11. Avoid Introductions of and Habitat for Invasive Nonnative Species

ER P5 ([23 CCR Section 5009](#)): Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species

Policy Overview

This policy applies to a proposed action that has the reasonable probability of introducing or improving habitat conditions for nonnative invasive species. This policy specifies that the potential for new introductions of or improved habitat conditions for nonnative invasive species, such as striped bass and other bass species, must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem.

Response and Justification

Consistent. The updated Phase B project remains consistent with this policy as discussed in Certification of Consistency C20186. Certification of Consistency C20186 included an Adaptive Management Framework which has been updated and refined as planning and design for Phase B have progressed. The Adaptive Management Plan for Phase B includes some new components, as indicated by highlighted information in Attachment C.

Refer to:

- The Adaptive Management Plan for the MWT Phase B project which is provided as **Attachment C**.

Delta Plan Chapter 5 - Protect and Enhance the Unique Cultural, Recreational, Natural Resource, and Agricultural Values of the California Delta as an Evolving Place

12. Locate New Urban Development Wisely

DP P1 ([23 CCR Section 5010](#)): Locate New Urban Development Wisely

Policy Overview

This policy applies to proposed actions that involve new residential, commercial, and industrial development that is not located within specific areas and limits development to those areas.

Response and Justification

Not Applicable. Refer to Certification of Consistency C20186 which remains applicable.

13. Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

DP P2 ([23 CCR Section 5011](#)): Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats

Policy Overview

This policy applies to a proposed action that involves the siting of water management facilities, ecosystem restoration, and flood management infrastructure. This policy states that water management facilities, ecosystem restoration, and flood management infrastructure must be sited to avoid or reduce conflicts with existing uses or those uses described or depicted in city and county general plans for their jurisdictions or spheres of influence when feasible, considering comments from local agencies and the Delta Protection Commission. Plans for ecosystem restoration must consider sites on existing public lands, when feasible and consistent with a project's purpose, before privately owned sites are

purchased. Measures to mitigate conflicts with adjacent uses may include, but are not limited to, buffers to prevent adverse effects on adjacent farmland.

Response and Justification

Consistent. The updated Phase B project remains consistent with this policy as discussed in Certification of Consistency C20186. Ecosystem restoration and flood protection improvements would continue to be implemented on MWT with the MWT Phase B project.

Delta Plan Chapter 6 – Improve Water Quality to Protect Human Health and the Environment

No policies relative to consistency with the Delta Plan are included in the Delta Plan’s Chapter 6; and therefore, this chapter is not applicable to the MWT Phase B project and its Delta Plan consistency determination.

Delta Plan Chapter 7 – Reduce Risk to People, Property, and State Interests in the Delta

14. Prioritization of State Investments in Delta Levees and Risk Reduction

RR P1 ([23 CCR Section 5012](#)): Prioritization of State Investments in Delta Levees and Risk Reduction

Policy Overview

This policy applies to a proposed action that involves discretionary state investments in Delta flood risk management, including levee operations, maintenance, and improvements. This policy specifies two key priorities to guide discretionary State investments in Delta flood risk management: (1) Delta emergency preparedness, response, and recovery; and (2) Delta levees funding. Within the priority of Delta levees funding, there are nine goals meant to guide budget and funding allocation strategies for levee improvements. The goals for funding priorities are all important, and it is expected that, over time, DWR must balance achievement of those goals. The nine goals are organized in three benefit categories and are as follows:

Localized flood protection:

- Protect existing urban and adjacent urbanizing areas by providing 200-year flood protection.
- Protect small communities and critical infrastructure of statewide importance (located outside of urban areas).
- Protect agriculture and local working landscapes.

Levee Network

- Protect water quality and water supply conveyance in the Delta, especially levees that protect freshwater aqueducts and the primary channels that carry fresh water through the Delta.
- Protect flood water conveyance in and through the Delta to a level consistent with the SPFC for project levees.
- Protect cultural, historic, aesthetic, and recreational resources (Delta as Place).

Ecosystem Conservation

- Protect existing and provide for a net increase in channel-margin habitat.

- Protect existing and provide for net enhancement of floodplain habitat.
- Protect existing and provide for net enhancement of wetlands.

Response and Justification

Consistent. The MWT Phase B project remains consistent with this policy as discussed in Certification of Consistency C20186.

15. Require Flood Protection for Residential Development in Rural Areas

RR P2 ([23 CCR Section 5013](#)): Require Flood Protection for Residential Development in Rural Areas

Policy Overview

This policy applies to a proposed action that involves new residential development of five or more parcels that is not located within specific areas detailed in 23 CCR Section 5013 and specifies floodproofing and elevation requirements that must be met.

Response and Justification

Not Applicable. Refer to Certification of Consistency C20186 which remains applicable.

16. Protect Floodways

RR P3 ([23 CCR Section 5014](#)): Protect Floodways

Policy Overview

This policy applies to a proposed action that would encroach in a floodway that is neither a designated floodway or regulated stream. This policy specifies that no encroachment shall be allowed or constructed in a floodway, unless it can be demonstrated by appropriate analysis that the encroachment will not unduly impede the free flow of water in the floodway or jeopardize public safety.

Response and Justification

Consistent. Consistent. DWR has determined that: (i) this policy applies because MWT is a floodway that is not a designated floodway or a regulated stream, but (ii) the project will not unduly impede the free flow of water in the floodway or jeopardize public safety. The analysis of flood risk related to changes in water surface elevations was updated for the MWT Phase B project using a new hydraulic model and changes in design of flood protection components. Supplemental EIR Impact FC-1 provides a comprehensive discussion concluding that impacts related to flooding from the MWT Phase B project would be less than significant, and in fact the MWT Phase B project is designed to reduce regional flood risk. Based on both previous and updated analyses, the MWT Phase B project would not unduly impede the free flow of water in the floodway or jeopardize public safety. Therefore, the MWT Phase B project remains consistent with this policy as discussed in Certification of Consistency C20186.

Refer to:

- The MWT Phase B project Final Supplemental EIR which is provided as **Attachment A**.

17. Floodplain Protection

RR P4 (23 CCR Section 5015): Floodplain Protection

Policy Overview

This policy applies to a proposed action that would encroach in any of these floodplain areas: (1) the Yolo Bypass within the Delta, (2) the Cosumnes River-Mokelumne River Confluence, and (3) the Lower San Joaquin River Floodplain Bypass area. This policy states that no encroachment shall be allowed or constructed in any of the floodplains listed above unless it can be demonstrated by appropriate analysis that the encroachment will not have a significant adverse impact on floodplain values and functions.

Response and Justification

Consistent. The MWT Phase B project remains consistent with this policy as discussed in Certification of Consistency C20186. The Phase B MWT project would not result in significant impacts to floodplain values and functions as discussed in Section 3.1, “Hydrology and Water Quality” and Section 3.6, “Biological Resources” in the Supplemental EIR.

Refer to:

- The MWT Phase B project Final Supplemental EIR which is provided as **Attachment A**.

Delta Plan Chapter 8 – Funding Principles to Support the Coequal Goals

No policies relative to consistency with the Delta Plan are included in the Delta Plan’s Chapter 8; therefore, this chapter is not applicable to the MWT Phase B project and its Delta Plan consistency determination.

Referenced Documents:

- California Department of Water Resources (DWR) 2007. *North Delta Flood Control and Ecosystem Restoration Project Draft Environmental Impact Report. Volume 1–EIR Analysis*. November 2007
- _____. 2010. *North Delta Flood Control and Ecosystem Restoration Project Final Environmental Impact Report*. October 2010.
- _____. 2018b. *Certification of Consistency: Detailed Findings, North Delta Projects: McCormack-Williamson Tract Project and Grizzly Slough Project*. Available: [file:///C:/Users/crusso/Downloads/Delta%20Plan%20Certification%20of%20Consistency%20-%20Detailed%20Findings%20\(1\).pdf](file:///C:/Users/crusso/Downloads/Delta%20Plan%20Certification%20of%20Consistency%20-%20Detailed%20Findings%20(1).pdf) Accessed: August 8, 2022.
- _____. 2022. *Draft Supplemental Environmental Impact Report – McCormack-Williamson Tract Levee Modification and Habitat Restoration Project - Phase B*. State Clearinghouse Number 2003012112. Prepared by GEI Consultants, Inc. for DWR. February 2022.