

Certification of Consistency

C20217

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: State Agency
Government Agency: City of Fairfield
Primary Contact: Ms. Amy Kreimeier, Senior Planner, Community Devel
Address: 1000 Webster Street
City, State, Zip: Fairfield, CA 94533
Telephone/Fax: (707) 428-7450
E-mail Address: dwickens@dudek.com

B. GOVERNMENT AGENCY ROLE IN COVERED ACTION: Will Approve

Step 2 - Covered Action Profile

A. COVERED ACTION PROFILE: Project

Title: Pacific Flyway Center Project

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

Proponent Name: Pacific Flyway Fund
Address: P.O. Box 907
City, State, Zip: Concord , CA 94522

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.) Yes

Please attach any supporting evidence of the public review and comment period by clicking the upload button. Such evidence could include but is not limited to: a meeting agenda and attachment demonstrating that this certification was made publicly

available, a screenshot with date and link to a website where the materials were posted, or other similar documentation.

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

[ANX2017-1 signed NOD and Receipt.pdf](#)

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

To establish an open space preserve, wildlife and habitat conservation area and construct a 125,000 SF interpretative nature center and educational facility, site improvements and utilities, the creation of ponds, wetlands, restored wetlands, boardwalks, overlooks, previous pathways, and habitat enhancement on two vacant parcels totaling 280 acres. [ANX2017-1 MND signed \(002\).pdf](#), [I.S.FlywayProjectDescription-Final \(002\).pdf](#)

E. STATUS IN THE CEQA PROCESS: Final Certified Document

F. STATE CLEARINGHOUSE NUMBER:(if applicable) 2018072043

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 08/02/2021

ANTICIPATED END DATE: (If available) 12/29/2023

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$4,500,000

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

J. Supporting Documents:

[PacFlywayCtr_DSC_FINAL30APR2021.pdf](#)

Step 3 - Consistency with the Delta Plan

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: The Project will have a substantial positive impact upon the coequal goals of restoring and enhancing the Delta ecosystem in a manner that protects and enhances the unique recreational and natural resource values of the Delta.

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: The Project was subject to CEQA review and a Mitigated Negative Declaration (MND) was prepared. [PacFlywayCtr_DSC_FINAL30APR2021.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?

Yes

Answer Justification: The Project design development is based on best available science and developed by an experienced technical team. Design input was received from federal and state regulatory and wildlife agencies the design team applied thoughtful consideration to Project design elements.

[PacFlywayCtr_DSC_FINAL30APR2021.pdf](#)

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: The Project would create 18.67 acres of managed wetlands and enhance 6.04 acres of managed wetlands. Adaptive management of the created and restored managed wetlands would be consistent with and reviewed and authorized under the U.S. Army Corps of Engineers Regional General Permit 3 (RGP 3). [PacFlywayCtr_DSC_FINAL30APR2021.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: The Project does not propose to act as a water supplier or to export water from, transfer water through, or use water in the Delta.

[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: This section of policy is not applicable to the Project. The Project does not need water from the State Water Project or the Central Valley 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?

No

Is a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available? N/A

Answer Justification: The Project does not propose to include a conservation measure implemented pursuant to a natural community conservation plan or a habitat conservation plan.

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

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

Yes

Answer Justification: The project is not engaging or entering into or amending any water contract with the Central Valley Project or the State of California.

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[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: The Project is consistent with habitat restoration policy. Habitat restoration proposed by the Project is consistent with Appendix 3, which is Section II of the Draft conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone of the SacramentoSan Joaquin Valley Regions (California Department of Fish and Wildlife 2011) and based on the Project area's elevation. [PacFlywayCtr_DSC_FINAL30APR2021.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?

Yes

Answer Justification: The Project is consistent with policy on opportunities to restore habitat as outlined in subsections a through d of Section 5007 and Appendix B-Other Efforts Related to the Conservation Strategy.

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[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: This section is not applicable to the Project. The Project is not a levee project and does not propose use of setback levees, to increase floodplains and riparian habitats.

[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?

Yes

Answer Justification: The Project is consistent with Ecosystem Restoration Policy 5 and will avoid introductions of and habitat improvements for invasive nonnative species as outlined in subsections a and b of Section 5009.

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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: This section of policy is not applicable to the Project. The Project is consistent with the land uses designated in county general plans as of May 16, 2013, and is otherwise consistent with this Chapter.

[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?

Yes

Answer Justification:

The Project has been designed to complement and enhance the existing visual character of the site and its surroundings. The project will not significantly change the natural, rural or agricultural character of its site and will function as an open space land preserve with an ancillary educational facility and interpretive nature center, retaining and enhancing the natural character of the site. The Project is not in conflict with existing uses described in the City of Fairfield and Solano County general plans.

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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:

This section of policy identifies a prioritization strategy for State investments in Delta Levees and flood risk reduction. The Project is not a levee project. Thus, this is not applicable to the Project.

[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:

This section of policy discusses flood risk protection for residential development in rural areas. The Project does not propose residential development. Thus, this is not applicable to the Project.

[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:

This section of policy discusses protection of floodways. The Project does not propose work in a floodway. Thus, this is not applicable to the Project.

[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:

The Project proposes no encroachment into the following floodplains and will not have a significant adverse impact on floodplain values and functions of the: Yolo Bypass within the Delta; the Cosumnes River-Mokelumne River Confluence, as defined by the North Delta Flood Control and Ecosystem Restoration Project (McCormack-Williamson), or as modified in the future by the Department of Water Resources or the Corps; and, the Lower San Joaquin River Floodplain Bypass area, located on the Lower San Joaquin River upstream of Stockton immediately southwest of Paradise Cut on lands both upstream and downstream of the Interstate 5 crossing.