

# Certification of Consistency

C20202

## Step 1 - Agency Profile

**A. GOVERNMENT AGENCY:** **Local Agency**  
Government Agency: California Department of Water Resources  
Primary Contact: Bryan Brock  
Address: 901 P Street, Suite 411  
City, State, Zip: Sacramento, CA 95814  
Telephone/Fax: (916) 698-5550  
E-mail Address: youchen.chao@water.ca.gov

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

## Step 2 - Covered Action Profile

**A. COVERED ACTION PROFILE:** **Project**

Title: Sherman Island Belly Wetland Restoration

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

Proponent Name: Bryan Brock  
Address: 901 P Street, Suite 411  
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.)

No

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**

Yes

**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.

[10 Day Notice of Intent.pdf](#)

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

The proposed project is located on the south-central portion of Sherman Island, in Sacramento County, California. The ultimate purpose of the project is to restore approximately 1000 acres of permanent palustrine emergent wetlands and upland habitat within a 1936-acre project boundary through a combination of reestablishment and rehabilitation. The intent of the project is to stop or reverse subsidence, provide native habitat for a diversity of wildlife, and sequester atmospheric carbon. By maintaining permanent and adequate water levels, the growth and subsequent decomposition of emergent vegetation is expected to grow peat which will raise surface elevations on the property. The project is expected to provide year-round wetland and upland habitat for waterfowl and other wildlife. The project will provide climate benefits by sequestering atmospheric carbon dioxide (CO2) that will help provide a net reduction in greenhouse gases (GHGs). Pending the availability of funding, the project site will provide an opportunity for researchers to use on-site monitoring and data from applied research sites on Sherman and Twitchell Islands to quantify climate benefits. GHG reductions quantified for the site's permanent water management regime have the potential to be extrapolated to other similar sites throughout the Delta. Restoration of wetlands will be accomplished by upgrading existing water management infrastructure and installing new infrastructure such as water control structures and water conveyance channels. In addition, the project may create habitat loafing islands. When the project is completed, water will be maintained on the project site year-round, effectively creating a permanent wetland. Restoring permanent wetlands on Delta islands has been shown to halt and reverse subsidence. This project will combine the wildlife benefits of wetland restoration with the importance of reversing Delta island subsidence. Upland vegetation may be planted at higher elevation areas adjacent to the wetlands. Please see the attached Sherman Island Belly Wetland Restoration Project Initial Study/Mitigated Negative Declaration and the Notice of Determination for additional information. [Belly Wetland IS and MND incl all exhibits 2-20-2019 plus NOI, NOC\\_reduced.pdf](#), [NOD.pdf](#)

**E. STATUS IN THE CEQA PROCESS:** NOD has been filed

**F. STATE CLEARINGHOUSE NUMBER:(if applicable)** 2019029126

**G. COVERED ACTION ESTIMATED TIME LINE:**

ANTICIPATED START DATE: (If available) 05/08/2020

ANTICIPATED END DATE: (If available) 10/15/2021

**H. COVERED ACTION TOTAL ESTIMATED PROJECT COST:** \$8,000,000

**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:**

[Belly Wetland IS and MND incl all exhibits 2-20-2019 plus NOI, NOC\\_reduced.pdf](#), [NOD.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?

N/A

Answer Justification: Not applicable. Please see the rest of the certification package for additional details.

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##### 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: Mitigation measures associated with the project are explicitly described in the attached Sherman Island Belly Wetland Restoration Project Initial Study/Mitigated Negative Declaration. Additionally,

the Sherman Island Belly Wetland Restoration Project has identified mitigation measures that are consistent with those in the Delta Plan, please see attached document (GP1b3 - Delta Plan Mitigation Measures) for additional information. [GP1b3 - Delta Plan MM\\_1-27-2020.pdf](#), [GP1b3 - Delta Plan MM\\_1-27-2020.pdf](#), [Belly Wetland IS and MND incl all exhibits 2-20-2019 plus NOI, NOC\\_reduced.pdf](#)

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

**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

Development of the Sherman Island Belly Wetland Restoration Project utilized a wide range of relevant data, literature, modeling tools, and scientific experts. DWR used the best available scientific information to develop project design and analyze the effects of the project, drawing on a number of scientific and engineering-related disciplines that include hydrology, ecology, and civil engineering. The impact analysis produced for the Project were subject to review and comment by the general public under the California Environmental Quality Act (CEQA) process and experts in relevant scientific disciplines (Science Panels). A detailed list of references of the use of best available science practices as relevant to the purpose and nature of the Project is described in the attached document (GP1b3-BAS Reference List). Based on these findings, the Project is consistent with this policy. [GP1b3 - BAS Reference List \(1\).pdf](#), [GP1b3 - BAS Reference List \(1\).pdf](#)

Answer Justification:

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**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:

Refer to attached Adaptive Management Plan developed for the Sherman Island Belly Wetland Restoration Project. [Sherman Belly Wetland AMMP\\_2-10-2020\\_Final.pdf](#), [Sherman Belly Wetland AMMP\\_2-10-2020\\_Final.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 covered action does not export water from or transfer through the Delta. The covered action will not affect whether or not water suppliers receive water from the Delta.

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[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:

The covered action does not involve contracting for water from the State Water Project and/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?

N/A

Answer Justification:

The covered action is not pursuant to implementation of existing natural community conservation plan or a habitat conservation plan.

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[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:

The covered action does not significantly affect flow in the Delta. The proposed work will be done on the landside, the interior of Sherman Island, and will not impact water flows along or in the San Joaquin River. See the attached document for additional details. [Belly Wetland IS and MND incl all exhibits 2-20-2019 plus NOI, NOC\\_reduced.pdf](#)

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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:

Figure 4 of Appendix 3 of the Delta Plan presents a map showing

which natural habitat types could be restored in the Delta based solely on current land elevation. The project site has subsided land elevations. The proposed project is a semi-permanent wetland, which is appropriate for subsided delta islands as they have been shown to stop and, in some cases, reverse subsidence. The Sherman Island Belly Wetland Restoration Project is consistent with Delta Plan ER P2 since restoration designs were informed in large part by existing elevations. According to Appendix 3 of the Delta Plan, flooding and managing the project as a wetland reduces exposure to oxygen, so there is less decomposition of organic matter, which stabilizes land elevations. Wetland vegetation cycles lead to biomass accumulation, which sequesters carbon and helps stop and reverse subsidence. The project is designed to re-establish wetland ecosystem processes, thereby creating habitat conditions presumably more conducive for native species than for non-native vegetation and wildlife species. A more detailed explanation regarding the consistency of the Project with Delta Plan Policy ER P2 are included in the attached document, ER P2 - Restore Habitats at Appropriate Elevations. [ER P2 - Restore Habitats at Appropriate Elevations\\_Final.pdf](#), [ER P2 - Restore Habitats at Appropriate Elevations\\_Final.pdf](#)

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[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:

The Sherman Island Belly Wetland Restoration Project will restore habitat at appropriate elevations per Appendix 4 Figure 4-1 of the Delta Plan. The proposed project does not adversely impact the opportunity to restore habitat as the project is not located within the Priority Habitat Restoration Area per Appendix 5 Figure 5-1 of the Delta Plan. The project was designed in consideration with future potential restoration project and existing surround land uses.

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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:

The project does not involve rehabilitation or construction of Project or non-Project levees in the Delta that provide flood protection for Delta islands.

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[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 proposed project is on the interior of Sherman Island. Water intakes for the proposed project are screened to eliminate fish species including non-native species such as striped bass from entering the project site. The project area vegetation is composed of ruderal upland areas, pasture and crop fields, irrigation canals and ditches, ponds, Himalayan blackberry (*Rubus armeniacus*)

brambles, and dredge spoils. The desired habitat conditions include a restored wetland with permanently flooded emergent vegetation dominated by hard stem bulrush and cattails with a diverse mosaic of associated upland habitat types. Berms will attain a cover of grasses with shrubs and trees which may be planted on the berm slopes, which will be maintained for site access. Habitat areas will be designed to maximize habitat value while minimizing the maintenance required to manage for invasive weeds. Overall, the project is anticipated to be a large net reduction of invasive species both from a non-native invasive species diversity and aerial coverall standpoint as demonstrated by the habitat conditions on Sherman Island Whale's Mouth Project (~600 acres) and Twitchell Island East End Project (~740 acres). Please see appended documents for additional information. Additionally, the attached Adaptive Management Plan for the Sherman Belly Wetland Project includes monitoring metrics, management triggers, and potential management responses regarding invasive plants. [ER P5 - Avoid Intro and improvements to Nonnatives\\_Final.pdf](#), [Belly Wetland IS and MND incl all exhibits 2-20-2019 plus NOI, NOC\\_reduced.pdf](#), [ER P5 - Avoid Intro and improvements to Nonnatives\\_Final.pdf](#), [Sherman Belly Wetland AMMP\\_2-10-2020\\_Final.pdf](#)

## 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:

The covered action does not involve new residential, commercial, or industrial development.

[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 restoration effort occurs on public land currently owned by DWR. Several outreach meetings were conducted in close proximity to the site to engaged with neighboring landowners to inform them about the Sherman Belly Wetland Project and address their concerns to the extent possible. Additional detailed information is located in the attached documents (DP P2 - Local Communication and Sherman Island Belly Wetland Restoration Project Initial Study/Mitigated Negative Declaration). Additionally, no issues were raised during outreach meetings nor the public CEQA review process. [DP P2 - Local Communication\\_Final.pdf](#), [Belly Wetland IS and MND incl all exhibits 2-20-2019 plus NOI, NOC\\_reduced.pdf](#), [DP P2 - Local Communication\\_Final.pdf](#)

## 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:

The proposed project utilizes grant funding from the California

Department of Fish and Wildlife Cap-N-Trade program. No state funds earmarked for levee improvements are associated with the proposed project. Delta Plan Policy RR P1 provides a table of priorities for state investment in Delta Integrated Regional Flood Management, which contains three general themes: 1) localized flood protection, 2) levee network and 3) ecosystem conservation. Additionally, three separate goals are identified for each of those categories. As such, state funding for Delta flood management should fall into one of nine different priorities. Goal 3 of the Ecosystem Conservation category states to protect existing and provide for net enhancement of wetlands. The proposed project supports this section as it restores and enhances approximately 1,000 acres of wetland habitat.

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[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: The covered action does not include any residential development.

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[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: The Sherman Island Belly Wetland Project is located on a subsided delta island and does not encroach on a floodway.

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[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 Sherman Island Belly Wetland Project is located on a subsided delta island and does not encroach onto a floodplain.

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**04/07/2020**