

Certification of Consistency

C20241

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: Local Agency
Government Agency: California Department of Water Resources
Primary Contact: Emma Mendonsa
Address: 3500 Industrial Blvd
City, State, Zip: West Sacramento, CA 95691
Telephone/Fax: (279) 228-9015
E-mail Address: emma.mendonsa@water.ca.gov

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

Step 2 - Covered Action Profile

A. COVERED ACTION PROFILE: Project

Title: Chipps Island Tidal Habitat Restoration Project

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

Proponent Name: California Department of Water Resources
Address: 3500 Industrial Blvd
City, State, Zip: West Sacramento, CA 95691

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** Yes

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.

[Attachment 10. DWR NOI Posting.pdf](#)

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

The Covered Action is a tidal-habitat-restoration project located on Chipps Island, historically managed wetlands for seasonal duck hunting in the southeastern edge of the Suisun Marsh. The Delta Plan designates the Suisun Marsh (including Chipps Island) as a Priority Habitat Restoration Area in which tidal-habitat restoration is necessary to achieve the Delta Stewardship Council's "vision of a restored Delta ecosystem." (See Delta Plan, Chapter 4, at pp. 4-45, 4.47 - 4-50.) Chipps Island is a 910-acre property located in Solano County, in the southeastern part of the Suisun Marsh. Chipps Island is composed of three separate parcels, historically managed as individual duck clubs: the north parcel (#915 – Chipps Island Shoot and Social Club) with approximately 362-acres of diked waterfowl hunting area with seasonal and permanent non-tidal wetlands; the east parcel (#910 – Dante Farms) with approximately 303-acres of tidal marsh with some tidal connectivity through culverts and openings in the levees; and the west parcel (#914, formerly owned by Metropolitan Water District) with approximately 243-acres of tidal marsh with tidal connectivity through eroded levees. All parts of the island have been used historically for waterfowl hunting and contain permanent sloughs, ponds, and ditches. A full description of the Project location, historic and current land uses, and existing conditions is provided in the Chipps Island Tidal Habitat Restoration Project Addendum to the Suisun Marsh Habitat Management, Preservation, and Restoration Plan Environmental Impact Statement/Environmental Impact Report (SMP EIS/EIR). Located in the southeastern edge of Suisun Marsh, Chipps Island is within the southeastern portion (Region 4) of the Suisun Marsh Plan (SMP). The Restoration Project is bordered by Honker Bay to the west, the Sacramento River to the south, and Spoonbill Creek to the northeast. The nearest public boat ramp is located at the Pittsburg Marina to the south, and the nearest land to Chipps Island is Van Sickle Island across Spoonbill Creek. As described in the Delta Plan (Delta Stewardship Council 2013, as amended), the Suisun Marsh is one of six priority habitat restoration areas having the most promising restoration opportunities. Within the Suisun Marsh, Chipps Island possesses several characteristics suitable for tidal wetland restoration. The hydrodynamic variability and habitat variability have the potential to support a range of native species. (See Delta Plan, Chapter 4, at p. 4-47.) Chipps Island is also located in a critical location that can provide seasonal migration, spawning, and rearing habitats for adult and juvenile native anadromous fish. As detailed in the discussion of Best Available Science (G P1(b)(3)), the Covered Action includes several elements that will reestablish tidal connections to Chipps Island, as well as improve existing tidal habitat on the site. The main design features under the Covered Action include: • The fill of existing agricultural drainage ditches • The excavation of new meandering channels to increase channel edge habitat while mimicking natural tidal channels • Connecting remaining existing agricultural channels to new channels • Three breaches in the western levee along Honker Bay • Three breaches in the eastern levee along Spoonbill Slough • One breach connecting the north and east parcel • One breach connecting the north parcel to the Sacramento River • The removal of two remaining water control structures (WCS) in the eastern parcel and the plugging of a third • The removal of remnant structures and other debris. The Covered Action will consist of a suite of activities, including levee repair work, dewatering, invasive vegetation control, construction of internal features, levee breaching, and post-construction adaptive management and monitoring. Between existing and future conditions there would be an overall gain of approximately 23 ac of aquatic habitat and tidal wetlands would increase by approximately 277 ac. Supporting Documents: [Attachment 1. SectionD CoveredAction Summary.pdf](#), [Attachment 9. CEQA ChippsIsland.pdf](#)

E. STATUS IN THE CEQA PROCESS: Final Certified Document

F. STATE CLEARINGHOUSE NUMBER:(if applicable) 2013112039

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 07/01/2024
ANTICIPATED END DATE: (If available) 11/30/2025

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$8,300,000

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

J. Supporting Documents:

[Attachment 1. SectionD_CoveredAction_Summary.pdf](#), [Attachment 2. Mitigation_Science_Management.pdf](#), [Attachment 3a. GP1_Mitigation_Consistency.pdf](#), [Attachment 3b. GP1_MitigationMonitoringReporting.pdf](#), [Attachment 4. GP1C_AdaptiveManagementPlan.pdf](#), [Attachment 5. ERP2_Restoration_Elevations.pdf](#), [Attachment 6. ERP3_Protect_Restoration_Opportunities.pdf](#), [Attachment 7. DPP2_Local_Land_Use.pdf](#), [Attachment 8. Material that Constitutes The Record.pdf](#), [Attachment 9. CEQA_ChippsIsland.pdf](#), [Attachment 10. DWR_NOI_Posting.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:

DWR has determined that the Covered Action is consistent with all relevant Delta Plan policies. DWR also has determined that the Covered Action is consistent with both coequal goals: it is consistent with the restored-ecosystem goal because the project is consistent with the Delta Plan's Coequal Goals through restoration of native ecosystem habitats and functions, protects approximately 836 acres of tidal marsh associated subtidal habitat, and supports ecosystem health. The second of the Delta Plan's Coequal Goals, water supply reliability, is not significantly changed by the Proposed Project. Following completion of construction, the Proposed Project area would consist of native ecosystem which would not require application of water and would be resilient to changes in precipitation. The tidal marsh plain would be constructed at elevations which would facilitate regular inundation by tidal waters, and the proposed tidal channel system would naturally convey water throughout the site. Therefore, after the Proposed Project's construction, onsite Suisun Marsh waters would be sufficient for the designed habitat functions. Furthermore, DWR has determined that the Proposed Project would have minimal, if any, impact on water availability or water quality for nearby development. Supporting Documents: Attachment 2 and Attachment 9, specifically Section 3.4-3.5. /// [Attachment 2. Mitigation Science Management.pdf](#), [Attachment 9. CEQA ChippsIsland.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:

DWR has determined that the Covered Action is consistent with this policy because the Covered Action's mitigation measures are the same as all applicable mitigation measures in the Delta Plan or include substitute mitigation measures that are equally or more effective. Supporting Documents: Attachment 3a and Attachment 9 /// [Attachment 3a. GP1 Mitigation Consistency.pdf](#), [Attachment 9. CEQA ChippsIsland.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:

DWR has determined that the Covered Action's design, environmental impact analysis, and Adaptive Management Monitoring Plan (AMMP) (Attachment 2) are based on the best available science (23 CCR Appendix 1A Best Available Science). The Covered Action's design is based on the best scientific and other information that is reasonably available, including consideration of special status species' capability to survive and reproduce, and any adverse impacts of the permitted take. This includes consideration of the life history and habitat requirements of special-status species, as well as an understanding of Suisun Marsh ecosystem functions such as the role tidal wetlands play in Delta-wide productivity. Using the best available science, the projects are designed to provide habitat features that will likely benefit Delta Smelt, Chinook Salmon, Longfin Smelt, and their food resources, while minimizing potential negative effects. Together, science and adaptive management increase the likelihood that a project will be successful. As set forth in the Delta Plan (see Chapter 2, page 35), specific criteria for identifying use of the Best Available Science include relevance, inclusiveness, objectivity, transparency and openness, timeliness, and peer review as discussed in Attachment 1. In addition, the FAST review team comprised of technical level representatives from each Fishery Agencies (USFWS, NMFS, and CDFW) and USBR, was consulted about the project and included representatives with specialties in the following areas: • Terrestrial Marsh Species (SMHM) – USFWS • Section 7 ESA – NMFS • Section 7 ESA – USFWS • Long-Term Marsh Sustainability – CDFW • Suisun Marsh Ecology – USFWS • Fisheries Ecology – DWR The outcome of consultation with FAST and the Technical Review Panel was incorporated into the project design. Supporting Documents: Attachment 2, Attachment 8, and Attachment 9, especially CEQA Sections 2.3, 3.4, 3.5 /// [Attachment 2. Mitigation Science Management.pdf](#), [Attachment 9. CEQA ChippsIsland.pdf](#), [Attachment 8. Material that Constitutes The Record.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:

DWR has determined that the project Covered Action is consistent with Delta Plan Policy G P1(b)(4)'s requirements. Project Adaptive Management will primarily be achieved through DWR's implementation of the Adaptive Management and Monitoring Plan (AMMP) (Attachment 2). In addition to the AMMP, the Covered Action includes a Mitigation Monitoring and Reporting Program (MMRP) . The Covered Action also is included within

the existing Tidal Wetland Monitoring Framework for the Upper San Francisco Estuary (IEP TWM PWT 2017), which is prepared by the Interagency Ecological Program (IEP) to facilitate the development of site-specific monitoring plans to assess the effectiveness of tidal wetland restoration projects in the Upper San Francisco Estuary. DWR has determined that it has adequate resources and delineated authority to implement these adaptive-management processes. Supporting Documents: Attachment 4 and Attachment 9, especially CEQA Section 2.6 and 3.15 /// [Attachment 4. GP1C_AdaptiveManagementPlan.pdf](#), [Attachment 9. CEQA_ChippsIsland.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 Applicable.

[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 Applicable.

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: Not Applicable.

[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: Not Applicable.

[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: DWR has determined that the Covered Action is consistent with Appendix 3 and Appendix 4. The Project Site is in the Suisun Marsh, which the Council expressly has identified as a Priority Habitat Restoration Area because it is at an "appropriate elevation for the protection, restoration, and enhancement of different classes of natural communities, as well as

other activities that support native species recovery and the recovery of critical ecosystem processes.” (See Delta Plan, Chapter 4, 2022 Update, pp. 4-43 through 4-50.) Supporting Documents: Attachment 5 and Attachment 9, especially CEQA Sections 2.0, 2.5, 3.5, 3.15 /// [Attachment 5. ERP2_Restoration_Elevations.pdf](#), [Attachment 9. CEQA_ChippsIsland.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:

DWR has determined that the Covered Action is consistent with this policy because its purpose is the conversion of managed wetlands to tidal wetlands and protecting and enhancing existing tidal wetlands under the Proposed Project would be consistent with the Delta Plan. Supporting Documents: Attachment 6 and Attachment 9, especially Sections 3.5, 3.14, 3.15 /// [Attachment 6. ERP3_Protect_Restoration_Opportunities.pdf](#), [Attachment 9. CEQA_ChippsIsland.pdf](#)

[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.

[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.

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.

[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:

DWR has determined that the Covered Action is consistent with Delta Plan Policy DP P2. Consistent with Delta Plan Policy DP P2, subdivision (a), Chipps Island was a privately owned site when it was acquired by DWR. Wetlands at Chipps Island were historically managed as waterfowl habitat; the wetlands were flooded during fall and drained in spring and kept dry to allow for land management activities during the summer. Since DWR acquired the three parcels comprising Chipps Island, remnant water control infrastructure has remained in place, muting tidal flow. The proposed project will not change land use designations within the Project Site and will primarily convert managed wetland to tidal wetland, and all marsh designation is expected to remain as such. There are no agricultural lands within the Proposed Project vicinity and the Project Site has not been

used for agriculture in recent years. As such, there will be no impact on agricultural resources due to implementation of the Proposed Project. Supporting Documents: Attachment 7 and Attachment 9, especially CEQA Sections 3.4, 3.5, 3.9, 3.10, 3.14, 3.16, 3.21, 3.23 /// [Attachment 7. DPP2_Local_Land_Use.pdf](#), [Attachment 9. CEQA_ChippsIsland.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: Not Applicable.

[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.

[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.

[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.

02/09/2024