

Certification of Consistency

C20203

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: Local Agency
Government Agency: Westlands Water District
Primary Contact: Jose Gutierrez
Address: 3130 North Fresno St
City, State, Zip: Fresno, CA 93703
Telephone/Fax: (559) 224-1523
E-mail Address: carl.jensen@icf.com

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

Step 2 - Covered Action Profile

A. COVERED ACTION PROFILE: Project

Title: Lower Yolo Ranch Restoration Project

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

Proponent Name: Jose Gutierrez
Address: 3130 North Fresno St
City, State, Zip: Fresno, CA 93703

C. OPEN MEETING LAWS

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

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

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

If your agency is not subject to open meeting laws (Bagley-Keene Open Meeting Act [[Gov. Code sec 11120 et seq.](#)] or the Brown Act [[Gov. Code sec 54950 et seq.](#)]) **did your agency, at least 10 days prior to the submission of a certification of consistency to the Delta Stewardship Council, post the draft certification on your website and in the office for public review and comment, and mail the** No

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: (Project Description from approved CEQA document may be used here)

The proposed Lower Yolo Restoration Project (proposed project) is being undertaken as partial fulfillment of the 8,000-acre tidal restoration targets contained within the Reasonable and Prudent Alternatives of the U.S. Fish and Wildlife Service (USFWS) Delta Smelt Biological Opinion (2008) and the National Marine Fisheries Service (NMFS) Salmonid Biological Opinion (2009) issued to the U.S. Bureau of Reclamation (Reclamation) and California Department of Water Resources (DWR) for impacts associated with coordinated operation of the Central Valley Project (CVP) and the State Water Project (SWP). The proposed project is also anticipated to serve as partial fulfillment of tidal restoration goals for DWR’s EcoRestore program. Westlands Water District (WWD) proposes to convert existing agricultural lands to approximately 1,671 acres of tidal perennial emergent marsh. The proposed project would include physical and hydrological modifications as well as land use changes, to approximately 2,286 acres (project footprint) within the 3,427-acre project site. Actions within the restoration footprint would include the following. 1. Restoring approximately 1,671 acres of tidal marsh, including 12 acres of tidal channels and swales; enhancing approximately 28 acres of tidal marsh; and enhancing approximately 49 acres of riparian habitat. Restoration and enhancement measures would involve eliminating or moving existing water control infrastructure elements, grading some lands to facilitate establishment of intertidal wetlands, removing irrigation and grazing, and excavating new tidal channels and swales to connect restored and enhanced wetland areas to adjacent tidal water bodies. 2. Enhancing approximately 384 acres of transitional uplands within a grazing buffer by removing agricultural irrigation. Limited grazing may be allowed in this buffer area for invasive plant management. 3. Relocating two existing tide gates, one to be the primary tide gate for irrigation supply off the Toe Drain, the second as a backup tide gate off of Liberty Cut, both of which can be adaptively managed in the winter to maximize action area benefits, and constructing additional drainage ditches along the periphery of the action area to ensure drainage needs for lands outside the action area are met. Installation of two water metering telemetry towers in upland areas will also take place during construction. One will be located adjacent to the existing southwestern tide gate on Shag Slough, and the other one will be installed adjacent to the reconstructed tide gate along the Toe Drain. 4. Removing approximately 214 ditch culverts and 344 irrigation spiles (small pipes connecting ditches to landside irrigated features). 5. Creating an approximately 102 acres permanent soil stockpile in the northwest corner of the site on existing agricultural fields 6. Creating approximately 16 acres of temporary haul roads that will be removed after construction is complete 7. Establishing one main staging area and five smaller staging area for equipment storage and refueling. Each staging area would be completed enclosed by exclusion fencing to prevent access by terrestrial wildlife and would contain containment measure for all construction liquids and materials such as diesel fuel, hydraulic oil, and diesel exhaust fluid (DEF). All staging area would be located

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

F. STATE CLEARINGHOUSE NUMBER:(if applicable) 2011032001

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 05/01/2020

ANTICIPATED END DATE: (If available) 10/31/2020

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$9,000,000

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:

[Lower-Yolo-Restoration-Project-DRAFT-EIR-Vol.-1.pdf](#), [Lower-Yolo-Restoration-Project-DEIR-Volume-2.pdf](#), [Final-EIR_Volume-3 \(1\).pdf](#), [Notice of Determination SFCWA 071813.pdf](#), [Final EIR Addendum September 2018.docx](#)

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: see attached [GP1b1 Coequal Goals.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:

The attached table indicates which Project-specific Environmental Commitments and/or Mitigation Measures are consistent with or equivalent to which Delta Plan Mitigation Measures. [GP1b2 MMRP Comparison Table.pdf](#)

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

Answer Justification:

The attached document provides details on the best available science, conceptual models, project objectives and hypotheses, and monitoring program design for the Lower Yolo Restoration Project. [GP1 b3 DSC Consistency Document.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 Lower Yolo Restoration Project adaptive management and monitoring plan is attached and includes details on how the adaptive management program is consistent with Appendix 1B of the Delta Plan. [GP1 b4 LYR AMMP.pdf](#)

DELTA PLAN CHAPTER 3

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

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

N/A

Answer Justification:

The Project does not 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: The Project does not utilize water from the SWP or CVP.

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 Project is not being implemented pursuant to a NCCP or HCP. The Yolo County HCP/NCCP was not utilized during Project permitting.

[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 Project does not divert, impound, or otherwise utilize water that would affect Bay Delta flow objectives.

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

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

Yes

Answer Justification: The Project is restoring tidal marsh at an appropriate intertidal elevation and is protecting supratidal upland habitat that can accommodate future sea level rise. [ERP2 Site Topography.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 restoring habitat within the Yolo Bypass and Cache Slough Complex, both of which are identified as high priority restoration areas in Appendix 5 of the Delta Plan. [ERP3 Restored Habitat.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: The Project does not directly or indirectly affect existing levees or

create new levees.

[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 seeks to minimize post-project conditions that could provide habitat for non-native species including striped bass. [ERPS Habitat Conditions.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 Project does not involve any 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:

An open space agreement is being developed in conjunction with Yolo County and the Yolo County Board of Supervisors to address the conversion of agricultural land to natural habitat. [DPP2 Local Land Use.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 Project does not involve discretionary State investments in Delta flood risk management, including levee operations, maintenance, and improvements.

[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 Project does not involve new residential development of five or more parcels that are not located within certain designated areas.

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

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

Yes

Answer Justification:

The attached study demonstrates that the Project will not have adverse impacts to floodway conveyance within the Yolo Bypass, a designated floodway. A CVFPB Title 23 encroachment permit is currently being processed in conjunction with the 408 Section of the U.S. Army Corps of Engineers Sacramento District. [RRP3 LYRP Flood Model 2019-08-30.pdf](#)

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

Yes

Answer Justification:

The Project would convert areas of irrigated pasture into tidal marsh but would not have significant adverse impacts to floodplain functions and value as these areas would still be accessible to migrating fish during flood events in the Yolo Bypass.

04/07/2020