

# Certification of Consistency

C20192

## Step 1 - Agency Profile

**A. GOVERNMENT AGENCY:** State Agency  
Government Agency: Bethel Island Municipal Improvement District  
Primary Contact: Regina Espinoza  
Address: 3085 Stone Road  
City, State, Zip: Bethel Island , CA 94511-0244  
Telephone/Fax: (925) 684-2210 / (925) 684-0724  
E-mail Address: bimid@sbcglobal.net

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

## Step 2 - Covered Action Profile

**A. COVERED ACTION PROFILE:** Project  
Title: Northwest Levee Improvement Project And Stone Road Seepage Reduction Project

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

Proponent Name: Bethel Island Municipal Improvement District  
Address: 3085 Stone Road  
City, State, Zip: Bethel Island , CA 94511-0244

**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 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.

[BIMID NWLSR\\_MMRP\\_20181004.pdf](#), [Bethel Island IS\\_MND\\_20181004.pdf](#), [Delta Plan Consistency Submittal.04-09-19.pdf](#)

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

BIMID intends to provide higher flood protection by improving the existing levee from Station 0+00 to 130+00, consistent with California Department of Water Resources (DWR) Bulletin 192-82 standards. The proposed levee reach for this project is located on the northwestern side on Bethel Island, a total project length of approximately 2.5 miles (see Figures 1 and 2). DWR Bulletin 192-82 criteria for urbanized communities in the Sacramento – San Joaquin Delta (Delta) include design for the 300-year flood with a minimum freeboard of 3 feet, a minimum 16-foot wide crest, a waterside slope of 2:1, and a land side slope varying between 5H:1V and 7H:1V (depending on the depth of peat soil in the project area). The proposed multi-benefit levee improvement project was generated with the objectives of minimizing the impacts to riparian forest, making the project more cost effective, and providing a stable levee system meeting the requirements of the Bulletin 192-82 and includes geotechnical measures to assure structural integrity of the facility. This project, once completed, will provide up to about 4500 linear feet of waterside bench for fish friendly habitat.

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

**F. STATE CLEARINGHOUSE NUMBER:(if applicable)** 2018072062

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

ANTICIPATED START DATE: (If available) 01/01/0001

ANTICIPATED END DATE: (If available) 01/01/0001

**H. COVERED ACTION TOTAL ESTIMATED PROJECT COST:** 0

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

[BIMID NWLSR\\_MMRP\\_20181004.pdf](#), [Bethel Island IS\\_MND\\_20181004.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 12 Revised: July 2019 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?**

Answer Justification:

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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?**

Answer Justification:

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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?**

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?**

Answer Justification:

**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:

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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:

**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?**

Answer Justification:

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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?**

Answer Justification:

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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?**

Answer Justification:

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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?

Answer Justification:

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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?

Answer Justification:

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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?

Answer Justification:

#### 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?

Answer Justification:

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[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?

Answer Justification:

#### 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?

Answer Justification:

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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?

Answer Justification:

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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?

Answer Justification:

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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?

Answer Justification:

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04/18/2019