

Certification of Consistency

C20238

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: State Agency
Government Agency: Sacramento County
Primary Contact: Joelle Inman
Address: 827 7th Street
City, State, Zip: Sacramento, CA 95814
Telephone/Fax: (916) 874-7575
E-mail Address: awill@ducks.org

B. GOVERNMENT AGENCY ROLE IN COVERED ACTION: Will Approve

Step 2 - Covered Action Profile

A. COVERED ACTION PROFILE: Project

Title: Stone Lakes Restoration Project

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

Proponent Name: Stone Lakes National Wildlife Refuge
Address: 1624 Hood Franklin Road
City, State, Zip: Elk Grove, CA 95757

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.)

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.

[PLNP2019-00135 CEQA Memo - Delta Plan Consistency and Response Package.pdf](#)

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

Please see page 5, Section 4 Project Description of the attached Stone Lakes Restoration Project, Delta Consistency Determination Detailed Findings. [PLNP2019-00135 CEQA Memo - Delta Plan Consistency and Response Package.pdf](#)

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

F. STATE CLEARINGHOUSE NUMBER:(if applicable) 2022040090

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 05/01/2024

ANTICIPATED END DATE: (If available) 09/30/2027

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

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:

[PLNP2019-00135 CEQA Memo - Delta Plan Consistency and Response Package.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 purpose of the Project is to restore and create wetland habitat vital to the long-term success of several listed and endangered species as well as non-listed wetland dependent species. These actions would enhance wetland habitat on the landscape while improving water conveyance and management throughout the Project Area. The Project is aligned with the coequal goals of the Delta Plan to conserve and restore wetland habitat at appropriate elevations, to avoid introduction of invasive plants, and to respect local land use when siting water and flood facilities for restoring habitat. [PLNP2019-00135 CEQA Memo - Delta Plan Consistency and Response Package.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:

A comprehensive table (Appendix A) was uploaded which demonstrates consistency with Delta Plan Mitigation Measures by cross-walking with the Stone Lakes IS/MND, MMRP and Project-specific environmental commitments. See Section 5.1 GP 1 (23 CCR § 5002) of the attached Stone Lakes Restoration Project Delta Consistency Determination Detailed Findings. [PLNP2019-00135 CEQA Memo - Delta Plan Consistency and Response Package.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 property owners are committed to utilizing the best available science to design and construct the project. The property owners are committed to manage and monitor the site. Adaptive management of the Project will be based on the utilization of input from monitoring data in conjunction with adaptive review of whether restoration goals and objectives are being achieved. See Section 5.1 GP 1 (23 CCR § 5002) of the attached Stone Lakes Restoration Project Delta Consistency Determination Detailed Findings. [PLNP2019-00135 CEQA Memo - Delta Plan Consistency and Response Package.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:

BMPs and management programs described in the Stone Lakes Restoration Project Adaptive Management Plan Serra Property (Serra Property AMP) (DU, 2020) and Stone Lakes National Wildlife Refuge Comprehensive Conservation Plan (CCP) (USFWS, 2007) would be incorporated once proposed project is completed. See Serra Property AMP and Stone Lakes Nation Wildlife Refuge CCP. [575-1 Stone Lakes Serra Property AMP.pdf](#), [CCP_508 StoneLakes_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 Project does not involve the export, transfer, or use of water in the Delta by a water supplier that has failed to contribute to reduced reliance on the Delta and improved regional self-reliance. As such, Policy WR P1 is 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:

The Project is not part of the State Water Project and/or Central Valley Project and would not affect the contracting process for water from the State Water Project and/or Central Valley Project. As such, Policy WR P2 is 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: The property owners are not currently implementing conservation measures pursuant to a natural community conservation plan or a habitat conservation plan. As such, this policy is 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: The Project is not part of the State Water Resources Control Board's Bay Delta Water Quality Control Plan flow objectives. The project would not affect flows. As such, Policy ER P1 is 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: According to the Delta Plan Policy ER P2, the location of the restoration site is appropriate for the type of restoration proposed. The proposed Project is the restoration and enhancement of managed seasonal wetland and riparian wetland. The project is located in an area that is identified as having Transitional Habitat, Seasonal Floodplain and Sea Level Rise Accommodation. See Section 5.2 ER P2 (23 CCR § 5006) Restore Habitats at Appropriate Elevations of the attached Stone Lakes Restoration Project Delta Consistency Determination Detailed Findings. [PLNP2019-00135 CEQA Memo - Delta Plan Consistency and Response Package.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?

N/A

Answer Justification: The Project is not located in a priority habitat restoration area. As such, Policy ER P3 is not applicable.

[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 is not a levee project and would not affect levees along the Sacramento River, San Joaquin River, North or South Forks of the Mokelumne River, or involve any urban levee improvement project in

West Sacramento or Sacramento. As such, Policy ER P4 is 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?

Yes

Answer Justification:

The proposed Project includes design principles and construction measures to avoid introductions of habitat improvements for invasive nonnative species. The water level will be managed to encourage the establishment and maintenance of annual, perennial, emergent, and submerged aquatic vegetation. Subsequently, these vegetation communities will provide habitat for a variety of wetland dependent wildlife. Water management provides the means to vary water levels within this unit to distribute nutrients, decrease stagnant conditions, provide quality habitat, and minimize vector production. See Section 5.3 ER P5 (23 CCR § 5009) Avoid Introduction of and Habitat Improvements for Invasive Nonnative Species of the attached Stone Lakes Restoration Project Delta Consistency Determination Detailed Findings. [PLNP2019-00135 CEQA Memo - Delta Plan Consistency and Response Package.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:

This Project is a wetland restoration project and does not involve any residential, commercial, or industrial development. As such, Policy DP P1 is 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:

The Project is consistent with relevant policies of all jurisdictions as applicable to the privately owned and federally owned portions of the Project Area. See Section DP P2 (23 CCR § 5011) Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitat of the attached Stone Lakes Restoration Project Delta Consistency Determination Detailed Findings. [PLNP2019-00135 CEQA Memo - Delta Plan Consistency and Response Package.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:

This Project is grant funded through Delta Conservancy. The Project does not involve discretionary State investment in Delta flood risk management. As such, Policy RR P1 is 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:

The Project is located within the Stone Lakes National Wildlife Refuge and an adjacent private parcel and does not propose new residential development. As such, Policy RR P2 is not applicable.

[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 Project would not unduly impede the free flow of water or jeopardize public safety. As such, the project is consistent with Policy RR P3.

[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 is adjacent to South Stone Lake and would not involve any encroachment in the Yolo Bypass, Cosumnes River-Mokelumne River Confluence, or Lower San Joaquin River Floodplain Bypass. As such, Policy RR P4 is not applicable.

12/01/2023