

# Certification of Consistency

C20181

## Step 1 - Agency Profile

**A. GOVERNMENT AGENCY:** Local Agency  
Government Agency: Department of Water Resources  
Primary Contact: Bonnie Irving  
Address: 3500 Industrial Blvd #131  
City, State, Zip: West Sacramento, CA 95691  
Telephone/Fax: 916-376-9748  
E-mail Address: allegra.bukojemsky@icf.com

**B. GOVERNMENT AGENCY ROLE IN COVERED ACTION:** Will Approve

## Step 2 - Covered Action Profile

**A. COVERED ACTION PROFILE:** Project

Title: Yolo Flyway Farms Restoration

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

Proponent Name: Reynier Fund, LLC  
Address: 34284 Concoran Hill Lane  
City, State, Zip: Davis, CA 95616

### 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.

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

The Yolo Flyway Farms Restoration Project is located in the Sacramento River Delta at the extreme southern end of the Yolo Bypass near Cache Slough. The project site includes a 359-acre parcel and an 80-acre parcel along the historic wetland-upland edge of the Yolo Basin on the western edge of the Sacramento–San Joaquin Delta. The site often receives significant flood flows during the winter-spring rainy season (roughly November–April) that can submerge the property up to 15 feet or more. Prior to the introduction of agricultural practices in the early 1900s, the site likely contained a matrix of grasslands, seasonal wetlands, perennial open water, and tidal marsh. The topography of the site is primarily flat, with an almost imperceptible slope descending from the northwest to the southeast. Approximately one quarter of the site is at elevations above modern high tide (+6.5 feet NAVD88 ), with elevations ranging between +6.5 and +9 feet NAVD88. Approximately three-quarters of the site topography is within intertidal elevation ranges of +2 to +6.5 ft. NAVD88. Many areas within the site are currently pastures that have been graded to drain to agricultural drainage ditches. There is limited infrastructure on the property to support cattle ranching and water management operations and consists largely of unpaved roads, culverts and cattle fencing. Low internal berms for managing irrigation water are located throughout the site. Irrigation water is supplied to the site via a pump located in the northwest corner of the site. All irrigation water drains to the southeast corner of the site through a network of the aforementioned culverts. The project site is comprised entirely of agricultural lands and is designated in the Yolo County General Plan as Agricultural Preserve. The project site serves as a flood bypass, with winter and spring floods occurring on average in 2 of every 3 years. The restoration design in its entirety would include modifications, either physical or hydrologic, to approximately 381 acres of the 439-acre site. Areas adjacent to the site that are outside of the project footprint would remain in their current condition and would continue to support agricultural operations following project implementation. Project components include the following activities. 1. Tidal Marsh Restoration: Restoring 278 acres of intertidal and associated subtidal marsh habitat, including approximately 11.5 acres of new tidal channels and swales. 2. Habitat Enhancement: Enhancing approximately 3 acres of existing riparian habitat and 20 acres of existing open water habitat (Toe Drain). 3. Transitional Uplands: Enhancing approximately 136 acres of farmed uplands, including an 80 acre soil stockpile located on agricultural land located northwest of the project site. 4. Water quality enhancement and minimizing the introduction of agricultural contaminants: Improving irrigation and drainage on the project site by relocating, modifying, or completely removing several water control structures and irrigation and drainage ditches. The project design seeks to maximize residency time diversity, and associated foodweb production, by capturing and slowly draining water on the existing landscape. This water will come from daily tidal exchange or from seasonal inundation during flood events in the Yolo Bypass. Water will be partially impounded behind existing berms that are part of the irrigated pasture landscape that now exists on the project site. Existing berms would be graded in certain spots to allow for water and biota to flow out into surrounding tidal marsh plain and channels, and will help reduce the potential for fish stranding. In order to facilitate outflow from the site, swales will be cut to drain the deepest portions of the site. Depth of the swales will vary in order to vary the hydrology within the restoration area.

**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) 05/01/2018

ANTICIPATED END DATE: (If available) 09/30/2018

**H. COVERED ACTION TOTAL ESTIMATED**  
**PROJECT COST:** 521000

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

[Yolo County Recorder Invoices NOD Filing & Processing.pdf](#), [Yolo Notice of Determination.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?

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?**

Yes

Answer Justification: Attached are the mitigation measures from the Lower Yolo CEQA document prepared by Metropolitan Water District in 2011. The Lower Yolo CEQA analysis also covered the Yolo Flyway Farms project area. [YFF mitigation measures.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

Answer Justification: [YFF design.pdf](#)

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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: The Yolo Flyway adaptive management plan is attached. [Yolo Flyway Farms 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 covered action does not involve water that is exported from, transferred through, or used in 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 entering into or amending water supply or water transfer contracts subject to DWR Guideline 03-09 and/or 03-10 (each dated July 3, 2003), (Appendix 2A).

**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?**

N/A

Answer Justification: The covered action does not significantly affect flow in the Delta.

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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: The existing elevations at the site are largely intertidal and require little to no grading. [YFF design.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?**

Yes

Answer Justification: The project is a restoration project within the priority areas shown in Appendix 5.

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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 covered action does not construct new levees or substantially rehabilitate or reconstruct existing levees.

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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 project contains monitoring and maintenance objective to minimize colonization by invasive species.

#### 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:

An open space agreement was developed in conjunction with Yolo County and approved by the Yolo County Board of Supervisors to address the conversion of agricultural land to natural habitat. [Williamson Act Open Space Agr..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 covered action 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 covered action does not involve new residential development of five or more parcels.

[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 document demonstrates the effect the project is anticipated to have on flood conveyance in the Yolo Bypass, a designated floodway. A CVFPB Title 23 encroachment permit has been applied for and approval will be scheduled for a board meeting subsequent to issuance of the USACE 404 permit, which is anticipated to occur in February 2018. [C. 14-1009\\_Yolo\\_Flyway\\_Farms\\_Flood\\_TM\\_102014.pdf](#)

[RR P4 / Cal. Code Regs., tit. 23, § 5015](#) - **Floodplain Protection**

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

Yes

Answer Justification:

The project does not affect the floodplain capacity of the Yolo Bypass.

