

Certification of Consistency

C20188

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: State Agency

Government Agency: San Joaquin Area Flood Control Agency

Primary Contact: Juan Neira

Address: 22 East Weber Avenue, Room 301

City, State, Zip: Stockton, CA 95202

Telephone/Fax: (209)937-8866

E-mail Address: juan.neira@stocktonca.gov

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: Smith Canal Gate Project

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

Proponent Name: San Joaquin Area Flood Control Agency

Address: 22 East Weber Avenue, Room 301

City, State, Zip: Stockton, CA 95202

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.

[OpenMeeting_explanation.pdf](#)

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

The San Joaquin Area Flood Control Agency (SJAFCA) is proposing the Smith Canal Gate Project (Project) to design and construct a fixed cellular sheet pile wall (fixed wall) and gate structure at the mouth of Smith Canal, adjacent to the San Joaquin River/Stockton Deep Water Ship Channel (DWSC), and in and adjacent to the city of Stockton, San Joaquin County, California (Figure 1; see "SmithCanal_Fig1_location.pdf"). The Project area, shown in Figure 2 (see "SmithCanal_Fig2_area.pdf"), encompasses the areas of construction of proposed risk-reduction measures along the DWSC corridor, abutting Stockton Golf and Country Club to the northwest; Smith Canal and Louis Park to the east; Atherton Cove to the north; and Dad's Point to the south. The Project is necessary for flood protection. The existing levees along Smith Canal are heavily encroached upon and cannot be certified as meeting Federal Emergency Management Agency (FEMA) standards or the State's Urban Levee Design Criteria (ULDC). FEMA accreditation was thus revoked in 2009 and a large portion of central Stockton was placed in the Special Flood Hazard Area (SFHA) designation. Approximately 5,000 properties and approximately 15,000 residents were identified by FEMA as being in the FEMA 100-year floodplain, an area identified by FEMA as having an increased risk of flooding. And, based on topographical data recently developed by the California Department of Water Resources (DWR), FEMA had proposed remapping the region to include an additional 3,000 parcels and 9,000 residents in the 100-year floodplain. In addition to the current necessity of providing 100-year flood protection consistent with federal law, the Project design must also contribute to the 200-year level of flood protection mandated by SB 5 and construct improvements in accordance with ULDC. The Project's purpose is to isolate the Smith Canal from the San Joaquin River, which would remove the affected area from the 100-year floodplain, thereby improving the FEMA rating, and would contribute to the 200-year level of performance mandated by State law. The proposed Project would accomplish this by closing off Smith Canal during high flow events to facilitate 100-year and ultimately 200-year performance (i.e., passage of high-flow events that have a 1% and 0.5% chance occurring in any given year, respectively), which would allow existing Smith Canal levees to function as a secondary risk-reduction measure. This system would conform to Federal and state flood protection criteria, and thereby reduce flood risk for approximately 8,000 properties behind the existing Smith Canal levees. The Project would close off Smith Canal during high flow events through a fixed wall structure filled with granular material that would extend approximately 800 feet from Dad's Point to the right bank of the San Joaquin River at the Stockton Golf and Country Club. The top elevation of the fixed wall would be 15.0 feet (North American Vertical Datum of 1988 [NAVD 88]). The wall would include a 50-foot-wide gate to maintain tidal circulation and boat access. Gate controls would be installed in a weatherproof enclosure on Dad's Point, adjacent to the fixed wall tie-in. The gate would be closed during high flow events forecast to exceed design operating water surface elevations (8.0 feet, North American Vertical Datum 88 [NAVD 88]), events that typically occur between November and April. When a high flow event is anticipated, the gate would be closed at the lowest tide prior to the forecasted high flow stage. The gate would remain closed until the water level in the San Joaquin River recedes to the water level in Smith Canal on low tide, at which point the gate would open, as described in the Smith Canal Gate Project Gate Operation and Interior Drainage Analysis Report (Peterson Brustad, Inc. 2016b [see "PBI_2016b_SC Gate Operation Interior Drainage.pdf"]). In the event that rainfall occurs while the gate is closed and causes the water level in Smith Canal to be higher than that in the Delta, the gate would open to release water from Smith Canal into the Delta. Gate closures are anticipated to typically last 6 to 8 hours. Other than as needed for flood control purposes, testing, inspection, and maintenance, the gate would remain open to allow for tidal movement, navigation, and recreation in Smith Canal. The fixed wall structure would be built with an additional 2.5 feet of elevation to account for both projected sea level rise through 2050 and hydraulic uncertainty, which would further reduce future flood risk for the properties behind the existing Smith Canal levees as well as for those on Atherton Island. Flood control improvements to Dad's Point

would also be implemented. Approximately 1,660 linear feet of continuous floodwall and seismic stability wall would be constructed of single sheet piles along the eastern portion of Dad's Point. The floodwall and seismic stability would be continuous and would be installed along the San Joaquin River side of the Dad's Point levee fill crown. The floodwall would predominately be underground; however, a concrete cap would be installed on top of the wall in areas where it would be exposed. The floodwall would be designed in accordance with the U.S. Army Corps of Engineers (USACE) Engineering and Construction Bulletin Number 2014-18 (Design and Evaluation of I-Walls Including Sheet Pile Walls) and USACE Engineering Circular Number 1110-2-6066 (Design of I-Walls). The top elevation of Dad's Point improvements would be 15.0 feet NAVD 88. An access road would be installed on top of Dad's Point. Fill material would be placed in some areas to raise the elevation of Dad's Point. Disturbed areas would be re-landscaped following the completion of construction activities. Recreation facilities would be installed on Dad's Point to replace amenities affected by project construction; the types of facilities would be selected based on current uses of the space including fishing, wildlife viewing, walking, biking, and running. Dredging may be necessary to remove material from the channel bottom along the entire alignment of the fixed wall to provide a level surface. Silt curtains would be used along the limits of dredging. All dredged material would be disposed of at the Lovelace Materials Recovery Facility in Manteca or at the North County Recycling Center and Sanitary Landfill in Lodi, which were specified as material disposal sites for the Project in the EIR. Alternatively, the dredge material could be disposed of at an upland site with no connectivity to waters of the United States. The Project is included in the Recommended Plan of the Lower San Joaquin River Feasibility Study; has an executed Memorandum of Understanding for credit under Section 221 of the Flood Control Act of 1970, as amended; and has an approved Independent Panel of Experts (IPE) and Safety Assurance Review (SAR) Plan. SJAFCA has also entered into two cost share agreements with DWR—one for design services and one for construction services. Project details are included in Chapter 2, Proposed Project and Alternatives, of the Smith Canal Gate Project Final Environmental Report (FEIR [see "SmithCanal_FEIR_2015.pdf"]), as well as in the two FEIR addenda, "Addendum to the Smith Canal Gate Project Final Environmental Impact Report" and "Addendum II to the Smith Canal Gate Project Final Environmental Impact Report" (see "Smith_Canal_Addendum_2017.pdf" and "Smith Canal Addendum 2018.pdf", respectively). Project construction details are also included in Chapter 2 of the FEIR. Project design details for the floodwall and Dad's Point are included in the engineering drawings (see "Smith_Canal_Engineering_Drawings.pdf"). [PBI_2016b_SC Gate Operation Interior Drainage.pdf](#), [Smith_Canal_Addendum_2017.pdf](#), [Smith_Canal_AddendumII_final_180907.pdf](#), [Smith_Canal_Engineering_Drawings.pdf](#), [SmithCanal_FEIR_2015.pdf](#), [SmithCanal_Fig1_location.pdf](#), [SmithCanal_Fig2_area.pdf](#)

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

F. STATE CLEARINGHOUSE NUMBER:(if applicable) 2014062079

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 03/14/2019

ANTICIPATED END DATE: (If available) 01/25/2021

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$44,281,000

I. IF A CERTIFICATION OF CONSISTENCY FOR THIS COVERED ACTION WAS PREVIOUSLY SUBMITTED, LIST DSC REFERENCE NUMBER ASSIGNED TO THAT CERTIFICATION FORM: C20187

J. Supporting Documents:

[Kleinfelder2010_geotech.pdf](#), [KleinfelderWest2008_geotech.pdf](#), [KSNInc_2010a_InteriorDrainage.pdf](#), [KSNInc_2010b_Storage.pdf](#), [PBI_2016a_InteriorDrainage.pdf](#), [PBI_2016b_SC Gate Operation Interior Drainage.pdf](#), [SCH Stamped NOD_andDFWfee.pdf](#), [Smith_Canal_Addendum_2017.pdf](#), [Smith_Canal_AddendumII_final_180907.pdf](#), [Smith_Canal_Engineering_Drawings.pdf](#), [Smith_Canal_Gate_MMRP.pdf](#), [Smith_Canal_NOD_FEIR_Addendum_2017.pdf](#), [Smith_Canal_NOD_FEIR_AddendumII_2018.pdf](#), [Smith_Canal_SJAFCA_Findings.pdf](#), [SmithCanal_FEIR_2015.pdf](#),

[SmithCanal_Fig1_location.pdf](#), [SmithCanal_Fig2_area.pdf](#), [SmithCanal_Fig3_200-Yr_Protection.pdf](#), [SmithCanal_mitigation_consistency.pdf](#), [Table_2_Project_Consistency.pdf](#), [SmithCanal_Fig4_100-year_Floodplain.pdf](#), [CEQA SUPPLEMENTAL ADMIN RECORD.zip](#), [SJAFCA CEQA.zip](#), [SJAFCA CEQA Addendum.zip](#), [SJAFCA DP.zip](#), [Administrative Record Table of Contents.PDF](#), [Brief Chronology.pdf](#), [Certification of Administrative Record.pdf](#), [Exhibit A to Certification of Administrative Record.pdf](#), [SJAFCA_Administrative_Record_CEQA_Supplement 12-01-2016-FINAL.xlsx](#), [SJA-CEQ-25956.pdf](#), [SJAFCA_Administrative_Record_CEQA.xlsx](#), [SJAFCA-Delta Plan Administrative Record.pdf](#), [Administrative Record Table of Contents.PDF](#), [SJAFCA Smith Control Gate CEQA Addendum.pdf](#), [SJA-CEQ-00540.PDF](#), [SJA-CEQ-00543.PDF](#), [SJA-CEQ-00607.PDF](#), [SJA-CEQ-00718.PDF](#), [SJA-CEQ-00793.PDF](#), [SJA-CEQ-00806.PDF](#), [SJA-CEQ-00815.PDF](#), 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[001711.pdf](#), [SJA-ADD-001720.pdf](#), [SJA-ADD-001795.pdf](#), [SJA-ADD-001809.pdf](#), [SJA-ADD-001818.pdf](#), [SJA-ADD-001822.pdf](#),
[SJA-ADD-001842.pdf](#), [SJA-ADD-001861.pdf](#), [SJA-ADD-001884.pdf](#), [SJA-ADD-001904.pdf](#), [SJA-ADD-001913.pdf](#), [SJA-ADD-](#)
[001928.pdf](#), [SJA-ADD-001939.pdf](#), [SJA-ADD-001964.pdf](#), [SJA-ADD-001970.pdf](#), [SJA-ADD-001975.pdf](#), [SJA-ADD-002021.pdf](#),

Step 3 - Consistency with the Delta Plan

[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?

N/A

Answer Justification:

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 FEIR, the Addendum, and the Addendum II include applicable feasible mitigation measures, which are equally as effective as or more effective than the applicable feasible mitigation measures identified in the Delta Plan's Program Environmental Impact Report, as described in Table 1, Smith Canal Gate Project Consistency with Delta Plan Mitigation Measures (see "SmithCanal_mitigation_consistency.pdf"). For reference, the MMRP for the

Project is also included with this determination of consistency (see “SmithCanal_MMRP.pdf”). [Smith_Canal_AddendumII_final_180907.pdf](#), [SmithCanal_FEIR_2015.pdf](#), [Smith_Canal_Addendum_2017.pdf](#), [Smith_Canal_Gate_MMRP.pdf](#), [SmithCanal_mitigation_consistency.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 environmental review, as well as the planning and design of the Project, are consistent with the six criteria for best available science listed in Table 1A-1 in Appendix 1A of the regulations (i.e., relevance, inclusiveness, objectivity, transparency and openness, timeliness, and peer review). The Project and its environmental impacts were reviewed in compliance with CEQA, and the agency adopted all feasible, effective mitigation to minimize the Project’s environmental impacts. This environmental review was conducted by an independent consulting team of technical resource experts with expertise in CEQA compliance for levee and flood-risk reduction projects, and underwent extensive public review. The Project was also planned in accordance with FEMA, USACE, and ULDC standards; Project facilities have been designed to meet current structural and geotechnical engineering requirements; and the engineering design has also undergone regular review by an Independent Panel of Experts (IPE) and been subject to public comment. Each of the six Criteria for Best Available Science listed in Table 1A-1 of the regulations are separately addressed below: 1) Relevance: As indicated throughout the FEIR, the environmental analysis utilized relevant data and information—which either evaluated the Delta ecosystem or its biological and physical components, or provided analogous information from an evaluation of a different region—from recent field surveys, including bathymetric, tree, and reconnaissance-level wildlife surveys, technical publications, and modeling, which have been incorporated into the Project. The reference materials including this data and information are listed by topic in Chapter 6 of the FEIR. The selection of Project location and design features incorporates data from site-specific geotechnical studies (Kleinfelder West, Inc. 2008; Kleinfelder 2010 [see “KleinfelderWest2008_geotech” and “Kleinfelder2010_geotech”, respectively]) and hydrologic analyses (Kjeldsen, Sinnock & Neudeck, Inc. 2010a and 2010b [see “KSNInc_2010a_InteriorDrainage.pdf” and “KSNInc_2010b_Storage.pdf”, respectively], and Peterson Brustad, Inc. 2016a and 2016b [see “PBI_2016a_InteriorDrainage.pdf” and “PBI_2016b_SC Gate Operation Interior Drainage.pdf”, respectively]). 2) Inclusiveness: As indicated by the extensive references listed in Chapter 6 of the FEIR, and discussion of those reference materials through the FEIR, the environmental analysis incorporated a thorough review of relevant information and analysis across relevant disciplines. Regarding the planning and design of the project, SJAFCA has coordinated with FEMA on the use of a gate structure as a method of providing flood risk–reduction for the Smith Canal area. SJAFCA prepared 30% engineering design plans of the Project, and submitted a

request to FEMA for a Conditional Letter of Map Revision (CLOMR). In 2011, FEMA concurred that the gate structure would meet FEMA standards for providing at least 100-year flood risk-reduction and would warrant a revision in the area Flood Insurance Rate Map. SJAFCA has refined the design of the Project through repeated collaboration with regulatory agencies in addition to FEMA, including USACE, California Department of Fish and Wildlife (CDFW), U.S. Fish and Wildlife Service, and National Marine Fisheries Service. Collaboration with these agencies as well as with scientists and engineers helped to identify operating constraints and parameters, and construction constraints and requirements, which have been considered and incorporated into the Project design.

3) Objectivity: The data collection and analyses meet the standards of the scientific method and were free from nonscientific influences and considerations. The environmental review, as well as the technical analysis underlying the Project's siting and design, were done by independent consulting teams with technical expertise in the relevant areas to ensure the objectivity of the analysis.

4) Transparency and Openness: The sources and methods for analyzing the environmental impacts, as well as the Project's siting and design, are clearly identified throughout the FEIR. For example, Chapter 6 of the FEIR identifies the reference materials relied upon for the environmental analysis and Chapter 2 provides an extensive analysis of potential alternatives to the Project that were considered. Where they exist, limitations on and uncertainties in the analysis are identified in the FEIR. For example, hydraulic uncertainty is addressed by adding an additional 2.4 feet of elevation to the gated fixed wall structure, as stated on page 2-7 of the FEIR; uncertainties related to the local effects of climate change are identified on pages 3.5-10 through 3.5-13 of the FEIR; the uncertain contribution of predation to mortality to fish mortality is identified on page 3.8-11 of the FEIR; and a limitation on the analysis of potential public health risks posed by exposure to toxic air contaminants is identified in footnote 3 on page 3.4-12 of the FEIR. In addition, the environmental analysis, as well as the technical analysis underlying the Project's siting and design, were subject both to extensive peer review and to public comment.

5) Timeliness: As required by CEQA, environmental data was collected in a manner that allowed for adequate analysis before SJAFCA approved the Project and, as indicated on page 3-1 of the FEIR and in Chapter 6 of the FEIR, the environmental analysis was based on scientific information that was applicable to environmental conditions at the Project site as they existed as of the date of the Notice of Preparation, June 19, 2014. Regarding the design of the Project, analysis has been provided that has allowed SJAFCA to make adjustments to the Project design before construction begins, as demonstrated in the Addendums, and Project facilities have been designed to meet current structural and geotechnical engineering requirements identified in geotechnical studies (Kleinfelder West, Inc. 2008; Kleinfelder 2010 [see "KleinfelderWest2008_geotech" and "Kleinfelder2010_geotech", respectively]) and hydrologic analyses (Kjeldsen, Sinnock & Neudeck, Inc. 2010a and 2010b [see "KSNInc_2010a_InteriorDrainage.pdf" and "KSNInc_2010b_Storage.pdf", respectively]; and Peterson Brustad, Inc. 2016a and 2016b [see "PBI_2016a_InteriorDrainage.pdf" and "PBI_2016b_SC Gate Operation Interior Drainage.pdf", respectively]). Where necessary, preliminary results from scientific studies and monitoring were brought to SJAFCA's attention before studies were complete and the uncertainties,

limitations, and risks associated with such preliminary results were clearly documented. For example, 30% engineering design plans for the Project were created in order for SJAFCA to obtain a CLOMR from FEMA in 2011. 6) Peer Review: The environmental analysis was informed by a thorough quality control review of all Project-related studies, relevant scientific information related to biological and physical resources in the Project area, and other pertinent information. The engineering design underwent regular review by an IPE. As part of this process, peer review of the engineering design was coordinated by an entity independent from the design team; was done by independent, external reviewers who had no conflicts of interest and reached objective, scientific conclusions; and was performed during multiple stages of the Project design. [PBI_2016b_SC Gate Operation Interior Drainage.pdf](#), [SmithCanal_FEIR_2015.pdf](#), [Kleinfelder2010_geotech.pdf](#), [KleinfelderWest2008_geotech.pdf](#), [KSNInc_2010a_InteriorDrainage.pdf](#), [KSNInc_2010b_Storage.pdf](#), [PBI_2016a_InteriorDrainage.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?

N/A

Answer Justification:

The Project purpose is to provide flood protection, as described in the Covered Action Summary. Therefore, the Project would not include water management or ecosystem restoration, and therefore the adaptive management of these environmental resources (i.e., water supply and ecosystems) is not applicable given the scope of this covered action. Regarding water management, the Project does not include water management related to the provision of a more reliable water supply for California. The Project does not involve ecosystem restoration. Consistent with the requirements of CEQA, SJAFCA would be required to take certain steps, and perform operations and maintenance, limited to mitigating the identified environmental impacts of the Project (i.e., only to return the ecosystem to the equivalent of the ecosystem as it existed before Project construction).

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's purpose is to provide flood protection, and it does not propose an action to export water from, transfer water through, or use water in the Delta as relevant to improving regional water self-reliance and 23 CCR

Section 5003. Furthermore, no water suppliers would receive water as a result of the proposed Project.

[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 involve entering into or amending a water-supply or water-transfer contract with the State Water Project or the Central Valley Project, or otherwise.

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:

[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 would not significantly affect flow in the Delta and, regardless, would not conflict with the State Water Resource Control Board's current Bay Delta Water Quality Control Plan flow objectives.

[ER PA/Cal. Code Regs., tit. 23, § 5005.1](#) - **Contributions to Restoring Ecosystem Function and Providing Social Benefits**

Effective Date April 1, 2025

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

Answer Justification:

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

For covered actions with a Notice of Preparation, Negative Declaration, or Mitigated Negative Declaration issued before April 1, 2025, the effective date of this policy is April 1, 2027. If this applies to you, please contact Council staff.

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

N/A

Answer Justification:

The Project is a flood control project and does not include a habitat restoration component, per se. To the extent that restoration would be implemented as part of the Project, it would be done to mitigate the identified environmental impacts of the Project. For example, compensating for Project impacts would involve replacing landscaping removed during construction. It would also involve removal of invasive plant species from

bank habitat and revegetation with native riparian plant species at Dad's Point. The extent of riparian revegetation would not be in excess of the identified environmental impacts of the Project, and the purpose of any revegetation would be to return Dad's Point to its pre-Project use as a public park. Areas where bank habitat would be replanted would have elevations similar to pre-Project conditions.

[ER P3 / Cal. Code Regs., tit. 23, § 5007](#) - **Protect Opportunities to Restore Habitat**

For covered actions with a Notice of Preparation, Negative Declaration, or Mitigated Negative Declaration issued before April 1, 2025, the effective date of this policy is April 1, 2027. If this applies to you, please contact Council staff.

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

N/A

Answer Justification:

The Project area is not within a priority habitat restoration area depicted in Appendix 5, Figure 5-1, Recommended Areas for Prioritization and Implementation of Habitat Restoration Projects, and 23 CCR Section 5007 is thus not applicable.

[ER P4 / Cal. Code Regs., tit. 23, § 5008](#) - **Expand Floodplains and Riparian Habitats in Levee Projects**

For covered actions with a Notice of Preparation, Negative Declaration, or Mitigated Negative Declaration issued before April 1, 2025, the effective date of this policy is April 1, 2027. If this applies to you, please contact Council staff.

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

N/A

Answer Justification:

: No new levees would be constructed as part of the Project and, although some improvements would be made to the Dad's Point levee, these improvements would not substantially rehabilitate or reconstruct the existing levee. Based on geotechnical and associated studies performed in 2010 to assess the existing condition and variations in subsurface profile along the Dad's Point levee, and to evaluate the performance of the levee during a design flood event, it was determined that the levee meets FEMA geotechnical requirements for freeboard, seepage, and slope stability (Kleinfelder 2010 [see "Kleinfelder2010_geotech.pdf"]). Accordingly, only approximately 1,660 linear feet of continuous single sheet pile floodwall would be constructed and almost all of the floodwall would be underground. Fill material would be placed to a limited extent with the sheet pile wall. The top elevation of Dad's Point improvements would be 15.0 feet NAVD 88. Furthermore, the Project is not within the area in which the Delta Plan requires evaluation of setback levees, and it is not feasible to incorporate alternatives to increase floodplains and riparian habitats because the urban and built-up surroundings preclude the expansion of floodplain and riparian habitats without extensive property acquisition and costs. [Kleinfelder2010_geotech.pdf](#)

[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 potential for new introductions of or improved habitat conditions for nonnative invasive species, striped bass, or bass due to Project

implementation were fully considered and either avoided or mitigated, as explained in the FEIR and Addendums. In the FEIR, potential Project impacts with respect to invasive plant species were determined to be less than significant after mitigation, as stated on page ES-24 of the FEIR. As described in Section 3.7, Vegetation and Wetlands, in the Project area most of the perennial drainages are open water with patches of invasive weeds, such as Brazilian waterweed (*Egeria densa*) and water-milfoil (*Myriophyllum* sp.), which are rooted in the drainage beds, and water hyacinth (*Eichhornia crassipes*), which floats on the water surface. Invasive riparian plants, including giant reed (*Arundo donax*), pampas grass (*Cortaderia selloana*), and black locust (*Robinia pseudoacacia*), are also present in the Project area. These six nonnative invasive plant species are the most common in the Project area, and of these, water hyacinth is the most prevalent. Although the Project would not cause the proliferation or spread of water hyacinth, water hyacinth could become trapped behind the gate and therefore accumulate in the Atherton Cove area. FEIR Appendix E, Vegetation and Wetlands Technical Appendix, identifies all nonnative, as well as native, plant species in the Project Area. Water hyacinth is widely present within the Project area and also enters the Project area from the San Joaquin River, and it accumulates at the end of Atherton Cove and at the Louis Park boat launch. While introduction of new plants from the San Joaquin River would decrease after Project construction, water hyacinth can easily spread seasonally from the existing population within the cove and canal, as well as by seed already present. However, presence of the fixed wall would substantially decrease the width of the area where water hyacinth washes in and back out to the San Joaquin River and downstream (i.e., only through the 50-foot wide gate). As part of Project operations and maintenance activities, water hyacinth and other debris that may accumulate behind the gate would be regularly removed. The removal would be funded through SJAFCA's operation and maintenance assessment. SJAFCA, as the CEQA lead agency, is legally obligated to carry out the project that is approved in the EIR, including the water hyacinth removal component, and would be subject to legal action if it did not conduct all activities set forth in the EIR. Therefore, water hyacinth removal is a legally enforceable part of the project, pursuant to the FEIR. As stated in the FEIR (Chapter 2, Proposed Project and Alternatives, at pages 2-17 through 2-18), water hyacinth would be removed, as needed, by hand and/or mechanical equipment in order to ensure that the cover of water hyacinth does not increase beyond existing conditions. During the growing season, mechanical harvesting would be conducted using an aquatic weed harvester whenever cover of water hyacinth reaches 20% in the most impacted areas behind the sheet pile wall. The percent cover would be visually estimated from the shoreline behind the sheet pile wall." Operation of the fixed wall and gate structure would have a negligible effect on tidal exchange, and the water hyacinth control program would actually reduce the total area amount of water hyacinth in Atherton Cove and Smith Canal relative to the existing conditions. As stated in the FEIR (Section 3.7, Vegetation and Wetlands) the water levels in Smith Canal would not be altered, and, therefore, no substantial change in the extent of Brazilian waterweed and water-milfoil would be expected. Construction of the Project would include removal of invasive plants in uplands, using appropriate removal methods, and within the riparian habitat on Dad's Point, in compliance with ULDC. To avoid and minimize the spread

or introduction of invasive plant species during construction, SJAFCA would coordinate with the San Joaquin County Agricultural Commissioner to ensure that appropriate Best Management Practices (BMPs), are implemented for the duration of construction. Mitigation Measure VEG-MM-7 of the FEIR and MMRP includes BMPs to be implemented to avoid the spread of invasive species. The FEIR also evaluated potential impacts from nonnative invasive species, striped bass, and bass, and determined that the Project would not favor such species (FEIR, pp. 3.8-11, 9-34). Water structures constructed as part of the Project could provide shelter to nonnative species and increase predation of native species, if any are present. However, Atherton Cove and Smith Canal have low quality native fish habitat (i.e., riprapped banks, poor water quality), and it is unknown if native fish species occur in these areas and what the rate of predation would be on those species. Furthermore, the fixed wall design has been revised to use a more rounded, cellular layout, as opposed to using notched z-piles. This design change reduces the areas where predator species may prey on listed native fish. In fact, regular removal of water hyacinth, as well as implementation of Mitigation Measure VEG-MM-7, would result in an overall decrease in predatory fish (e.g., black bass) habitat in the Project area. [Smith_Canal_AddendumII_final_180907.pdf](#), [SmithCanal_FEIR_2015.pdf](#), [Smith_Canal_Addendum_2017.pdf](#), [Smith_Canal_Gate_MMRP.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 include 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: The Project can be considered flood-management infrastructure, and it was sited to avoid or reduce conflicts with existing uses and uses depicted in city and county general plans, when feasible. As noted in FEIR Section 2.2, Alternatives Not Carried Forward, alternatives to the Project that were not carried forward for analysis in the FEIR would have required extensive property acquisition and would have thus conflicted with residential land use. In contrast, the completed Project would not change or conflict with existing land uses; the Project would not change or conflict with existing land use designations in the Project area, which consist of low density residential and parks/recreation; and the Project would not change or conflict with land use in adjacent areas, including the park areas of Louis Park and Dad's Point located on the south side of the Project area, as well as the residential areas and the Stockton Golf and Country Club located on the northern side of the Project area. Additionally, the San Joaquin 2010 County Wide General Plan (2010) and the 2035 Stockton General Plan (2007) are considered throughout the FEIR. As noted in FEIR Section 3.15, Minimally Impacted Resources, the completed Project, including operation and maintenance, would not conflict with an existing land use policy or program.

Accordingly, the Project did not require an amendment to either general plan. Any potential conflicts with designated the low density residential and parks/recreation land uses in the Project area would be limited to temporary interferences during construction of the Project. During Project construction, there would be temporary, interference with public access to Dad's Point, which would be closed for the duration of construction. Louis Park would remain open. However, measures incorporated in a construction Traffic Management Plan, would include advance public advisories to residents, construction-period signage and flag personnel, other special traffic-control actions, and closure plans to provide alternative access routes and maintain access to private residential driveway along roadways that would be impacted by project construction (See Mitigation Measure TRA-MM-3 in FEIR Section 3.3, Transportation and Navigation, and in the MMRP). In addition, Mitigation Measure REC-MM-1 would help ensure that interference with public access to Dad's Point would not substantially limit or disrupt the availability of existing recreational facilities or opportunities in the Project area (See FEIR Section 3.11, Recreation and the MMRP). The Smith Canal drainage area is approximately 3,420 acres. During storms, runoff from most of the drainage area is moved into Smith Canal at nine pump stations. As described in FEIR Section 3.1, Flood Risk, Hydrology, and Geomorphology, work by Kjeldsen, Sinnock & Neudeck (2010a and 2010b [see "KSNInc_2010a_InteriorDrainage.pdf" and "KSNInc_2010b_Storage.pdf", respectively]) indicates that if a 24-hour 100-year rainfall event were to co-occur with the 100-year flood event in the San Joaquin River, adherence to detailed operation and maintenance procedures would prevent local flooding as a result of local stormwater runoff accumulating behind the closed gate. Further, in 2016, FEMA requested that additional analyses be conducted regarding the interior drainage within the Smith Canal area, and in January of that year SJAFCA submitted a coincident-frequency analysis that concluded that a 25-year rainfall-runoff event represents the largest storm reasonably expected to occur concurrently with a 100-year tide event (Peterson Brustad, Inc. 2016b [see "PBI_2016b_SC Gate Operation Interior Drainage.pdf"]), and that during this 25-year rainfall-runoff event the water surface elevation behind the closed Smith Canal gate would range between 4.6 feet and 8.8 feet NAVD88 depending on the timing of the storm relative to required gate closure. In a follow-up study, per FEMA's request, a 100-year interior rainfall-runoff analysis was done to assess the residual flooding for the Smith Canal area (Peterson Brustad, Inc. 2016a [see PBI_2016a_InteriorDrainage.pdf]). Modeling results from this study indicated that during a 24-hour 100-year rainfall event total runoff would exceed peak pump or culvert discharge capacities in all subbasins for a short period during the peak storm event, but that there is available street storage to detain ponded water in all but two drainage sheds, only one of which was considered significant (Wisconsin subbasin). However, the pump station in the Wisconsin subbasin will be upsized by RD 1614 to increase pump capacity to meet current pumping requirements, which would decrease ponding, and thus all residual flooding beyond street detention would be eliminated (Peterson Brustad, Inc. 2016a [see PBI_2016a_InteriorDrainage.pdf]). In addition to partnering with Smith Canal levee owners, Reclamation District (RD) 1614 (north bank levee) and RD 828 (south bank levee) in the process of evaluation options for restoring

FEMA accreditation to the Smith Canal area, SJAFCA implemented an extensive public outreach program in order to communicate with the community about the project. SJAFCA has facilitated meetings to inform the public about the Project's purpose, need, and schedule, as well communicated with affected residents and property owners through publication of newsletters describing project progress milestones. SJAFCA has held several community meetings to provide updates on the status of efforts to reduce flood risk for properties protected by Smith Canal levees. Small group meetings were held adjacent to the project site with Atherton Cove and Atherton Island property owners in April and May, 2014, respectively. The intent was to brief property owners on draft project alternatives that may be incorporated into the environmental documentation process. Informally, property owners provided feedback on design concepts and shared questions and concerns about potential project impacts. A larger community meeting for property owners within the assessment district was held in April, 2014, to inform property owners of the design and environmental process and timeline, and provide an update on changes to the National Flood Insurance Program. In addition to general community outreach, SJAFCA has engaged the public through the CEQA noticing and environmental review process (See Chapter 1, Introduction, of the FEIR as well as the Findings of Fact and Statement of Overriding Considerations). In accordance with CEQA Guidelines Section 15082, SJAFCA, as lead agency, circulated a notice of preparation (NOP) for the DEIR on June 24, 2014. The 30-day comment period on the NOP began on June 25, 2014, and ended on July 25, 2014. During this 30-day review period, a public scoping meeting was held on July 16, 2014 from 6:00 p.m. to 8:00 p.m., at the Ambler's Club at 2000 Amblers Lane in Stockton to inform the public of the proposed project. The DEIR for the project was prepared and circulated for a 45-day public comment period (June 25, 2015 to August 10, 2015). During the 45-day review period of the DEIR, one public meeting was held to inform the public of, and receive public comment regarding, the project alternatives analyzed in the DEIR and the likely environmental effects of these alternatives. Twenty-three comment letters were received from the public and state and Federal agencies on the DEIR. There were no written comments received from local agencies on the DEIR, however, there was one comment from a regional agency—the San Joaquin Valley Air Pollution Control District. All comments received during the public comment period were addressed in Chapter 9, "Responses to Comments," of the FEIR. Consistent with CEQA, SJAFCA provided all commenting public agencies with an opportunity to review proposed responses to agency comments at least 10 days prior to certification of the FEIR. [PBI_2016b_SC Gate Operation Interior Drainage.pdf](#), [SmithCanal_FEIR_2015.pdf](#), [KSNInc_2010a_InteriorDrainage.pdf](#), [KSNInc_2010b_Storage.pdf](#), [PBI_2016a_InteriorDrainage.pdf](#), [Smith_Canal_Gate_MMRP.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?

Yes

Answer Justification:

The Project involves discretionary State investments in flood-risk management in the Delta area and, where applicable, the priorities described in 23 CCR Section 5012 have guided this State investment.

Regarding the first key funding priority, State funding of the Project furthers Delta emergency preparedness, response, and recovery. As stated in the Covered Action Summary, the purpose of the Project is to reacquire FEMA accreditation that was revoked in 2009, and to remove the SFHA designation from a large portion of central Stockton. Approximately 5,000 properties and approximately 15,000 residents were identified by FEMA as being in the FEMA 100-year floodplain, an area identified by FEMA as having an increased risk of flooding. In addition, based on topographical data developed by DWR, FEMA is proposing to remap the region to include an additional 3,000 properties and 9,000 residents in the 100-year floodplain. In furtherance of State law mandates, the Project would also contribute to minimum 200-year level of performance by 2025 for central Stockton (Figure 3 [see “SmithCanal_Fig3_200-Yr_Protection.pdf”]). In addition, the Project contributes to Delta-wide goals for flood-risk management. The Project is included in USACE’s and the Central Valley Flood Protection Board’s Lower San Joaquin River Feasibility Study as part of the National Economic Development Plan and the Recommended Plan. Isolation of Smith Canal from the San Joaquin River would remove the affected area from the 100-year floodplain (Figure 4 [see “SmithCanal_Fig4_100-year_Floodplain.pdf”])), thereby improving the FEMA rating, and would contribute to 200-year level of performance by 2025, as mandated by State law. The Project would reduce flood risk for the properties and residents behind the existing Smith Canal levees. The Project would close off Smith Canal during high flow events to provide 100-year and ultimately 200-year performance, which would allow existing Smith Canal levees to function as a secondary risk–reduction measure. This system would conform to Federal and State flood protection criteria. Further, the Project would provide protection of the portion of Interstate 5 (I-5) in the Project area; I-5 facilitates emergency response and evacuation. In the event of a 100-year flood event, large portions of the surrounding area could be inundated, with some areas west of I-5 being inundated to a depth of up to 12 feet. As stated in Chapter 9, Response to Comments, of the FEIR, operation of the Project would not result in flood risk transference upstream or downstream on the San Joaquin River, as Smith Canal is a dead end slough with a limited capacity that is negligible relative to the volume of the Delta. Specifically, based on calculations made by Peterson Brustad, Inc., Smith Canal is only 0.14% of the water surface area of the Delta; on a volume basis, excluding the Smith Canal “storage space” would raise the water elevation of the rest of the Delta less than approximately 0.06 inch. This approximation is based on a basic calculation assuming that the volume of Smith Canal (378 acre-feet) is added to the Delta (not including Suisun Bay, San Francisco Bay, or the Pacific Ocean). The water surface area of the Delta is approximately 61,000 acres. The Smith Canal volume divided by the surface area of the Delta waterways results in an increase in water surface elevation within the whole of the Delta of approximately one sixteenth of an inch, and the stage impact calculated by the approximate method is de minimis. Further, during a storm event, Smith Canal acts as a stormwater outflow to the San Joaquin River, resulting in little to no available inflow capacity during a high water event. Please see the justification discussion for Policy DP P2 regarding flood risk due to confining local stormwater runoff in the Smith Canal area. Regarding the second key funding priority, the funding of Delta levees is not directly applicable to the Project, but the Project is consistent with all

applicable priorities furthering the Delta Plan's ultimate goal of integrated flood management. As identified on the Draft Delta Levees Investment Priorities Map (Delta Plan amended Chapter 7), the area surrounding Smith Canal, both to the north and south (part of "Central Stockton", as identified on the map) is considered "Very High Priority" for State investment in improvement and major rehabilitation of Delta levees. Improvement and major rehabilitation of levees, however, would not have achieved the necessary flood-risk management. As explained on page 1-3 of the FEIR, in-place rehabilitation of the levees was economically infeasible and the Project was the most cost-effective alternative. Accordingly, in the Project area, investment in the Project, rather than levees, would be the most cost-effective way to reach the Delta Plan's ultimate goal of integrated flood management. As shown in Table 2, Project Consistency with Priorities for State Investment in Delta Integrated Flood Management (see "Table_2_Project_Consistency.pdf"), the Project is consistent with all applicable priorities meant to further the Delta Plan's ultimate goal of integrated flood management. [SmithCanal_FEIR_2015.pdf](#), [SmithCanal_Fig3_200-Yr_Protection.pdf](#), [Table_2_Project_Consistency.pdf](#), [SmithCanal_Fig4_100-year_Floodplain.pdf](#)

[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 and 23 CCR Section 5013 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?

N/A

Answer Justification:

The San Joaquin River and Atherton Cove are both considered regulated streams in the Project area, and the Project would encroach on both of these waterbodies. As such, 23 CCR Section 5014 is not applicable to the Project.

[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 area is not located near, and would not encroach upon, the Yolo Bypass within the Delta, the Cosumnes River-Mokelumne River confluence, or the Lower San Joaquin River Floodplain Bypass area, as identified in 23 CCR Section 5015. As such, 23 CCR Section 5015 is not applicable to the Project.

11/02/2018