

Certification of Consistency

C20239

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: State Agency
Government Agency: City of West Sacramento
Primary Contact: Paul Dirksen
Address: 1110 West Capitol Avenue
City, State, Zip: West Sacramento, CA 95691
Telephone/Fax: (916) 617-4560
E-mail Address: doug@douglasenv.onmicrosoft.com

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: Bees Lakes Habitat Restoration Project

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

Proponent Name: City of West Sacramento
Address: 1110 West Capitol Avenue
City, State, Zip: West Sacramento, CA 95691

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.) Yes

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.

[Bees Lakes MMRP.docx](#), [Bees Lakes Initial Study 11-30-2020.pdf](#), [City Council - Bees Lakes Staff Report - January 20 2021 DSC.pdf](#)

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

The proposed project includes implementing ecosystem, water quality and recreational improvements at the Bees Lakes site along the west bank of the Sacramento River in the City of West Sacramento, Yolo County, California. Project site restoration includes focused removal and control of invasive species at the project site and planting with native species to enhance ecosystem function on the site. Water quality component includes installing submerged aeration diffusion devices to improve pond clarity and increase dissolved oxygen levels with the two ponds on the site. The water quality component also includes installing an artificial floating streambed and artificial floating wetland islands within the larger pond to encourage plant uptake of pond constituents. The plants installed on the floating streambed and islands would be regularly harvested to encourage new growth and to maintain the constituent uptake process over time. Recreational amenities include marked foot trails, elevated boardwalks, Americans with Disabilities Act (ADA) access ramps, an equestrian trail, a ten-stall parking area, portable bathrooms, two large viewing platforms, multi-purpose picnic/recreational areas, way-finding signage and information kiosks.

[Bees Lakes Initial Study 11-30-2020.pdf](#)

E. STATUS IN THE CEQA PROCESS: Final Certified Document

F. STATE CLEARINGHOUSE NUMBER:(if applicable) 2020120220

G. COVERED ACTION ESTIMATED TIME LINE:

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

ANTICIPATED END DATE: (If available) 12/31/2027

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$3,400,000

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

J. Supporting Documents:

[City Council - Bees Lakes Staff Report - January 20 2021 DSC.pdf](#), [Bees Lakes Delta Plan Consistency Findings.pdf](#), [Bees Lakes Initial Study 11-30-2020.pdf](#), [Bees Lakes MMRP.docx](#), [BEES LAKES 90 PERCENT SUBMITTAL - PLANS_2023-1213.pdf](#), [Bees Lake Tech Specs_90_design_Dec_2023.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 City of West Sacramento has determined that the proposed project is consistent with all relevant Delta Plan policies. The Covered Action is consistent with both coequal goals: it is consistent with the restored-ecosystem goal because it includes the restoration of native ecosystem habitats and functions and it is consistent the water supply reliability goal because it will not affect water supply within the Delta. [Bees Lakes Initial Study 11-30-2020.pdf](#)

b. [G P1\(b\)\(2\)/Cal. Code Regs., tit. 23, § 5002, subd. \(b\)\(2\)](#) - Mitigation Measures

G P1(b)(2)/Cal. Code Regs., tit. 23, § 5002, subd. (b)(2) provides that covered actions not exempt from CEQA, must include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended April 26, 2018, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute [mitigation measures](#) that the agency that files the certification of consistency finds are equally or more effective. For more information, see Cal. Code Regs., tit. 23, § 5002, and Delta Plan Appendix O, Mitigation Monitoring and Reporting Program, which are referenced in this regulatory policy.

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

Yes

Answer Justification:

The City of West Sacramento has determined that the Covered Action is consistent with this policy because the mitigation measures adopted by the City are equal to or more effective than the applicable mitigation measures in the Delta Plan. This determination is based on a detailed review of the mitigation measures in the Delta Plan. The mitigation

measures adopted by the City are included in the attached Initial Study and Mitigation Monitoring and Reporting Program. [Bees Lakes Initial Study 11-30-2020.pdf](#), [Bees Lakes MMRP.docx](#)

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 City of West Sacramento has determined that the Covered Action's design, environmental impact analysis, and Adaptive Management Monitoring Plan are based on the best available science. In developing the Restoration Plan, the City relied heavily on the historical data, conceptual models and landscape tools included in the three reports prepared by the San Francisco Estuary Institute including: "Sacramento-San Joaquin Delta Historical Ecological Investigation: Exploring Pattern and Process", "A Delta Transformed: Ecological Functions, Spatial Metrics, and Landscape Change in the Sacramento-San Joaquin Delta," and "A Delta Renewed: A Guide to Science-Based Ecological Restoration in the Sacramento-San Joaquin Delta." These documents clearly articulate the ecological harm done to the Delta through the introduction of invasive species and the need to restore native vegetation to provide the habitats to which native species are adapted. In addition, the Conservation Strategy of the Central Valley Flood Protection Plan references invasive species as a stressor on the Delta ecosystem and recommends reducing these stressors to help listed species recovery. Finally, the Delta Stewardship Council identifies Delta Plan policies that prioritize actions to control nonnative invasive species and restore habitat. These documents support the scientific merit of removing nonnative invasive species and revegetating with native plant species when trying to recovery ecosystem function. [Bees Lakes MMRP.docx](#), [Bees Lakes Initial Study 11-30-2020.pdf](#), [Bees Lakes Delta Plan Consistency Findings 8-1-23.docx](#)

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 City of West Sacramento has determined that the Covered Action is consistent with this policy because the proposed restoration includes the implementation of an Adaptive Management Plan and a Performance Monitoring Plan, consistent with established guidelines within 23 CCR Appendix 1B Adaptive Management. The City has also determined that they have adequate resources and authority to implement these adaptive-management and performance monitoring processes over the life of the Covered Action. These resources include funding through the Parks Department's budget for the ongoing operations and maintenance of City parks. [Bees Lakes MMRP.docx](#), [Bees Lakes Initial Study 11-30-2020.pdf](#), [Bees Lakes Delta Plan Consistency Findings 8-1-23.docx](#)

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 City of West Sacramento has determined that this policy is not applicable because the Covered Action would not include any changes to regional water supplies and would have no effect on suppliers reliant on the Delta as a source of water.

[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 City of West Sacramento has determined that this policy is not applicable because the Covered Action does not involve any water supply or water transfer contracts.

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 City of West Sacramento has determined that this policy is not applicable because the Covered Action does not include a conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan.

[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 City of West Sacramento has determined that this policy is not

applicable because the Covered Action will have no effect on the State Water Resources Control Board's Bay Delta Water Quality Control Plan flow objectives. The project site is physically isolated from the adjacent Sacramento River and all stormwater discharge is contained within the area of the site proposed to be restored. No offsite discharge currently exits the proposed restoration area and no discharge will exit the site following restoration.

[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 City of West Sacramento has determined that the Covered Action is consistent with this policy. The Covered Action is consistent with Strategy 3.2 included in Appendix 3, which focuses on establishing migratory corridors for fish, birds, and other animals along selected Delta river channels. The Covered Action will increase native vegetation cover and contribute to the recovery of special-status species along the Sacramento River, as documented in the Bees Lakes Initial Study. The planned habitat restoration will improve habitat conditions for migratory birds and other animals within this river corridor. In addition, the elevation map included in Appendix 4 identifies the site as a developed area, which is consistent with the site's location within the boundaries of the City of West Sacramento. Locating the proposed restoration within this developed area would be consistent with the Appendix 4 elevation map. [Bees Lakes MMRP.docx](#), [Bees Lakes Initial Study 11-30-2020.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 City of West Sacramento has determined that this policy is not applicable because the Covered Action is not located within a priority habitat restoration area, as depicted in Appendix 5, Figure 5-1: Recommended Areas for Prioritization and Implementation of Habitat Restoration Projects and in Delta Plan Chapter 4, Figure 4-7: Priority Habitat Restoration Areas.

[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 City of West Sacramento has determined that this policy is not applicable because the Covered Action does not include the construction of new levees or the substantial rehabilitation or reconstruction of existing levees. In addition, the project area is located within the boundaries of a recently implemented large-scale levee setback project (i.e., the Southport Levee Improvement Project).

[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?

N/A

Answer Justification:

The City of West Sacramento has determined this policy is not applicable because the Covered Action does not have a reasonable probability of introducing or improving habitat conditions for nonnative invasive species. The Covered Action includes focused removal and control of target invasive species at the project site. The goal of the invasive plant removal is to significantly decrease abundance of target invasive species and increase abundance of native understory species to improve and sustain native plant community health and diversity. The most prevalent target invasive species are: Himalayan blackberry, which occurs in large patches in portions of the riparian forest understory and in some monoculture patches; and edible fig (*Ficus carica*), which is scattered throughout the site, primarily on the riverside portion. Control of target invasive herbaceous species will be achieved either via mechanical methods, including targeted hand pulling or timed mowing/string trimming of invasive plants before seedset, and/or spot spraying target invasive plants with a backpack sprayer using an appropriate herbicide and marker dye. See the Initial Study for plant, fish, and wildlife species that have the potential to occur within the proposed restoration area. Because the proposed restoration activities will occur on the land side of the remnant levee adjacent to the Sacramento River, the Covered Action would have no effect on bass species within the river. [Bees Lakes Initial Study 11-30-2020.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 City of West Sacramento has determined that this policy is not applicable because the Covered Action does not include any 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 City of West Sacramento has determined that the Covered Action is consistent with this policy. The Covered Action is being proposed by the City of West Sacramento consistent with the City's desire to improve public access, reduce illegal dumping, and enhance ecosystem function within an underutilized area of the City. The proposed restoration is consistent with the City's Open Space (OS) land use designation and Public Open Space (POS) zoning designation. The restoration is also consistent with the City's Parks, Recreation, and Open Space Master Plan and is proposed on public lands. The Covered Action is consistent with policies in the City of West Sacramento General Plan 2035 (City of West Sacramento 2016) that support habitat conservation and preservation. The Covered Action includes an existing topographic setback between sensitive habitats and adjacent development due to its location within a levee setback area that ensures adverse land use conflicts do not occur. The project has also received significant local

agency support, as represented by the attached support letters. [Prop 1-1712 WSAFCA Support - Letter 2.pdf](#), [WSAFCA - Landowner Support Letter.pdf](#), [Yolo Conservancy Support Letter.pdf](#), [Yolo County Board Resolution - Support Letter.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 City of West Sacramento has determined that this policy is not applicable because the Covered Action does not include any State investment in Delta flood risk management, inclusive of levee operations, maintenance, or 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 City of West Sacramento has determined that this policy is not applicable because the Covered Action does not include any residential development and would not contribute to the need for flood protection for residential development in rural areas.

[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 City of West Sacramento has determined that this policy is not applicable to the Covered Action. This policy applies to actions that encroach in a floodway that is not either a designated floodway or regulated stream. Because the Covered Action is located within the State Plan of Flood Control and is within the designated floodway of the Sacramento River, the policy is not applicable.

[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 City of West Sacramento has determined that this policy is not applicable because the Covered Action is not located within any of the floodplains designated in this policy.

12/22/2023