

Certification of Consistency

C20221

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: State Agency

Government Agency: West Sacramento Area Flood Control Agency

Primary Contact: Greg Fabun

Address: 1110 West Capitol Avenue

City, State, Zip: West Sacramento, CA 95691

Telephone/Fax: (916) 574-0251

E-mail Address: pauld@cityofwestsacramento.org

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: Yolo Bypass East Levee Project

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

Proponent Name: West Sacramento Area Flood Control Agency

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.

[Delta Plan Certification of Consistency -YBEL Detailed Findings.pdf](#), [WSAFCA Agenda Minutes.pdf](#)

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

The Yolo Bypass East Levee (YBEL) was originally constructed prior to the formation of Reclamation District (RD) 900 in 1911. As such, portions of the levee predate contemporary guidance for levee construction. Levee improvements and repairs are necessary to maintain structural integrity of the YBEL and to meet current performance guidelines and requirements. The YBEL has undergone several structural improvements in the last forty years, the most recent in 1999 and 1998; however, other segments of the YBEL received structural improvement and repair in the mid-1990s and back to 1983. As a continuation of these efforts, the USACE, along with the West Sacramento Area Flood Control Agency and Department of Water Resources, as the non-federal sponsors,, propose to reduce the overall flood risk to the City of West Sacramento by making structural modifications to Segments AA and AD of the YBEL (Project). The USACE proposes to install stability berms, replenish waterside revetment, reconstruct maintenance roads, and improve the levee drainage system. The Project is the first increment of the larger federal West Sacramento Project that will improve the West Sacramento Levee System and conducted under the USACE Civil Works Program. Structural modifications are proposed on approximately 2,475 linear feet (station 22+00 to station 53+00) of Segment AA. Primary improvements include installation of a stability berm adjacent to the existing levee, replenishment of existing waterside revetment extending north from the Navigation Levee to the Interstate 80 (I 80) Causeway, reconstruction of the existing maintenance road adjacent to the levee, and installation of piping in the drainage ditch. Structural modifications are proposed along 825 linear feet (station 114+00 to station 124+00) of Segment AD. Primary improvements include landside embankment grading and extending a subgrade levee drainage system. The extension consists of approximately 800-feet of 30-inch diameter perforated pipe to alleviate ongoing seepage. A new pump station would be constructed as part of the levee drainage system with capacity to discharge seepage away from the levee prism into the Yolo Bypass. The new pump station would be sited at station 122+00, adjacent to RD 900's existing pump station (Racetrack pump station) and would be sized to pump and discharge up to 33.6 cfs during a 100-yr flood event into the Yolo Bypass in years when the Yolo Bypass is flooded and the drainage system is active and collecting drainage water that would be discharged back to the Yolo Bypass. Additionally, the landside levee slope would be constructed at 3.5:1 with a drainage blanket along the base of the reconstructed levee.

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

F. STATE CLEARINGHOUSE NUMBER:(if applicable) 2021110114

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 06/01/2022

ANTICIPATED END DATE: (If available) 11/30/2022

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$35,000,000

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:

[APPENDIX C hydraulics.pdf](#), [CEQA Final MND_complete.pdf](#), [Final WestSac EIS-EIR Jan2016.pdf](#), [05 Complete Supplemental EA IS Final 508 PRINT VERSION.pdf](#), [APPENDIX B geotech.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:

West Sacramento Area Flood Control Agency evaluated all of the Delta Plan regulatory policies and identified which regulatory policies were relevant to the Yolo Bypass East Levee Project. Please refer to the attached Detailed Findings document for more details. The covered action is on the whole consistent with the coequal goals. [Delta Plan Certification of Consistency -YBEL Detailed Findings.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:

During the CEQA analysis, West Sacramento Area Flood Control Agency identified mitigation measures which meet, exceed, or are functionally equivalent to those identified in the Delta Plan MMRP. Please see attached crosswalk. [DSC_YBEL-MMRP Crosswalk.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:

Blackburn Consulting performed the geotechnical analysis to address the geotechnical engineering aspects of the proposed action and to provide requirements and recommendations to inform the structural modifications and provide seismic design criteria. Adherence to the seismic design requirements and other recommendations are included in the Geotechnical Data Report (GDR). The GDR includes information along the alignment including site topography, geology, geomorphology, ground water, and previous evaluations and remedial measures. The GDR presents documentation and data from Blackburn's 2019 and 2020 subsurface exploration program as well as documentation and data from previous subsurface exploration and laboratory testing programs performed by others along the North Basin YBEL alignment. For the GDR, Blackburn completed steady-state underseepage, steady-state slope stability, and rapid drawdown slope stability evaluations for the three cross-sections determined through the process outlined in the GDR. To determine the cross-section locations, Blackburn considered the evaluations presented in the USACE GRR, the subsurface soil conditions presented in the GDR, the Geotechnical Plan and Profiles, and previous mitigation measures performed along the alignment. ESA conducted a biological resource survey and an aquatic resources delineation of the Project area on October 15, 2020. The USACE was preparing construction plans and specifications for the levee repairs authorized in the WRDA of 1992, when the 1997 New Year's Day Flood occurred. It was one of the largest experienced in northern California since beginning of record keeping and exceeded the 1906 event. In the wake of the 1997 flood, the USACE identified underseepage as an area of greater concern in the design and repair of levees. This resulted in a number of design revisions to the levee repairs recommended in the West Sacramento Project Design Memorandum. These design revisions and the associated increase to the total estimated Project cost were captured in a supplemental authorization through the Energy and Water Development Appropriation Act of 1999 (PL 105 245). For more details regarding how the Project utilized best available science in its design, please refer to the attached Detailed Findings for Certification of Consistency narrative. [Delta Plan Certification of Consistency -YBEL Detailed Findings.pdf](#), [CEQA Final MND_complete.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 does not involve water management facility or ecosystem restoration. As such it is not subject to G P1 regarding need to implement an adaptive management plan.

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 export water from or transfer through the Delta. The covered action will not affect whether or not water suppliers receive water from the Delta.

[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 contracting for water from the State Water Project and/or the Central Valley Project.

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 covered action is not pursuant to implementation of existing 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 covered action does not significantly affect flow in the Delta.

[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 the amended policy is April 1, 2027.

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

N/A

Answer Justification: This Project does not involve restoration of habitat.

[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 the amended policy is April 1, 2027.

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

Yes

Answer Justification: The Project would not preclude the implementation of habitat restoration within the Yolo Bypass PHRA. For more details, please refer to the attached Detailed Findings for Certification of Consistency narrative. [Delta Plan Certification of Consistency -YBEL Detailed Findings.pdf](#)

[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 the amended policy is April 1, 2027.

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

Yes

Answer Justification: Considerations of alternatives to increase the extent of floodplains and riparian habitats, including consideration of setback levee, was made at a programmatic level in the West Sacramento Project General Revaluation Report (GRR) EIR/EIS. For more details, please refer to the attached Detailed Findings for Certification of Consistency narrative. [Delta Plan Certification of Consistency -YBEL Detailed Findings.pdf](#), [Final_WestSac_EIS-EIR_Jan2016.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 staging areas would also be reseeded and planted with native grasses and forbs and would be returned to pre-Project conditions. For more details, please refer to the attached Detailed Findings for Certification of Consistency narrative [Delta Plan Certification of Consistency -YBEL Detailed Findings.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 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:

The Project would not have any conflicts with existing land uses. For more details, please refer to the attached Detailed Findings for Certification of Consistency narrative. [Delta Plan Certification of Consistency -YBEL Detailed Findings.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 is consistent with one of the nine different priorities for state investment in Delta levees. For more details, please refer to the attached Detailed Findings for Certification of Consistency narrative. [Delta Plan Certification of Consistency -YBEL Detailed Findings.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 covered action does not include any residential development.

[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:

This Project does not involve any encroachments on floodway not under the jurisdiction of the Central Valley Flood Protection Board.

[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 Yolo Bypass East levee is located within what the Delta Plan designates as the Yolo Bypass floodplain but the project will not affect

its flood conveyance capacity. For more details, please refer to the attached Detailed Findings for Certification of Consistency narrative.
[Delta Plan Certification of Consistency -YBEL Detailed Findings.pdf](#)

01/27/2022