

# Certification of Consistency

C20236

## Step 1 - Agency Profile

**A. GOVERNMENT AGENCY:** State Agency  
Government Agency: San Joaquin Area Flood Control Agency (SJAFCFA)  
Primary Contact: Omar Al-Hindi  
Address: 22 E Weber Ave. Suite 301  
City, State, Zip: Stockton, CA 95202  
Telephone/Fax: (209) 937-8525  
E-mail Address: dhuang@esassoc.com

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

## Step 2 - Covered Action Profile

**A. COVERED ACTION PROFILE:** Project  
Title: TS\_30\_L Levee Improvement Project

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

Proponent Name: U.S. Army Corps of Engineers  
Address: 1325 J Street  
City, State, Zip: Sacramento, CA 95814

### 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.](#)])? Yes  
(Note: Select "Yes" if your agency or organization is subject to open meeting laws.  
Select "No" if your agency or organization is not subject to open meeting laws.)

Please attach any supporting evidence of the public review and comment period by clicking the upload button. Such evidence could include but is not limited to: a meeting agenda and attachment demonstrating that this certification was made publicly available, a screenshot with date and link to a website where the materials were posted, or other similar documentation.

Note: Any public comments received during this process must be included in the record submitted to the Council in case of an appeal.

[Attachment\\_230929\\_SJAFCA Board AGENDA.pdf](#), [Attachment\\_Adopt a Resolution Certifying the SEIR\\_STAFF\\_REPORT.pdf](#)

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

The covered action considered in this certification of consistency includes the San Joaquin River Basin, Lower San Joaquin River Reach TS\_30\_L Levee Improvement Project (TS\_30\_L) and associated habitat establishment and enhancement at the San Joaquin River West Biological Mitigation Site (SJR West Site). The TS\_30\_L levee is a dry-land levee located on the northwestern side of Stockton, bordering North and Central Stockton. It extends just over 1 mile in length and separates the Brookside residential development on the east (landside) and the Wright Elmwood Tract, also known as the Sargent Barnhart Tract, on the west (waterside). The TS\_30\_L levee is bounded on the south by West March Lane and on the north by White Slough/Fourteenmile Slough. The covered action, TS\_30\_L, was analyzed as part of Alternative 7a of the 2018 San Joaquin River Basin, Lower San Joaquin River Integrated Interim Feasibility Report/Environmental Impact Statement/Environmental Impact Report (2018 LSJR FR/EIS/EIR). The purpose of the 2018 LSJR FR/EIS/EIR was to investigate the extent of federal interest in a range of alternative plans to reduce flood risk in the cities of Stockton, Lathrop, and Manteca, as well as surrounding urbanizing areas. Additional analysis and further details related to precise design have since been developed for the TS\_30\_L reach since the release 2018 LSJR FR/EIS/EIR. The Project includes improving approximately 1.1 miles of existing TS\_30\_L levee geometry to: (1) meet current levee design and operation standards (levee reshaping), (2) provide seepage mitigation measures (cutoff wall installation), and (3) add rock riprap and crushed rock slope protection (runoff erosion protection). In addition to the construction activities at the TS\_30\_L levee, the TS\_30\_L Project would require development of a borrow site, barge off-haul site, two staging/stockpile areas, haul routes, and restoration/enhancement of an off-site biological mitigation site (SJR West Site). [Attachment\\_TS30L\\_Final SEIR\\_ADA 508 Updated Final.pdf](#), [Attachment\\_TS30L\\_SEIR FOF SOC\\_ADA 508 Updated Final.pdf](#)

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

**F. STATE CLEARINGHOUSE NUMBER:(if applicable)** 2010012027

**G. COVERED ACTION ESTIMATED TIME LINE:**

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

ANTICIPATED END DATE: (If available) 03/31/2026

**H. COVERED ACTION TOTAL ESTIMATED PROJECT COST:** \$100,000,000

**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:**

[Attachment\\_TS30L\\_Notice of Determination.pdf](#)

## Step 3 - Consistency with the Delta Plan

### DELTA PLAN CHAPTER 2

[G P1/Cal. Code Regs., tit. 23, § 5002](#) - Detailed Findings to Establish Consistency with the Delta Plan.

G P1/Cal. Code Regs., tit. 23, § 5002 identifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action and only applies after a "proposed action" has been determined by a State or local public agency to be a covered action because it is covered by one or more of the regulatory policies listed under Delta Plan Chapters 3, 4, 5, and 7 of this form. Inconsistency with this policy may be the basis for an appeal.

A certification of consistency must include detailed findings that address each of the regulatory policies identified in Cal. Code Regs., tit. 23, §§ 5002-5013 and listed on this Form that is implicated by the covered action.

As outlined in Cal. Code Regs., tit. 23, § 5002 (b)(1), the Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal.

**Specific requirements of this regulatory policy:**

**a. [G P1\(b\)\(1\)/Cal. Code Regs., tit. 23, § 5002, subd. \(b\)\(1\)](#) - Coequal Goals**

As outlined in **Cal. Code Regs., tit. 23, § 5002 (b)(1)**, the Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal.

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

Yes

Answer Justification:

This certification of consistency contains detailed findings to establish that the project is consistent with the Delta Plan. Please refer to Attachment 2 - TS30L\_GP1\_MM+BAS.pdf and the rest of the documentation in this certification as evidence. [2 - TS30L\\_GP1\\_MM+BAS.pdf](#)

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

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

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

Yes

Answer Justification:

To support this Delta Plan Certification of Consistency, a comprehensive table is uploaded which crosswalks all mitigation measures included in the Delta Plan EIR Mitigation Monitoring and Reporting Program (MMRP) with Project specific environmental commitments and/or mitigation measures specifically identified in the project's MMRP included in the Final Supplemental EIR released in 2023. Please refer to Attachment\_MMRP Crosswalk\_TS30L [4 - MMRP Crosswalk\\_TS30L.pdf](#)

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c. [G P1\(b\)\(3\)/Cal. Code Regs., tit. 23, § 5002, subd. \(b\)\(3\)](#) - **Best Available Science**

**G P1(b)(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 project's SJR West Site Monitoring Plan is based on best available science, as described by the Delta Plan's Appendix 1A. These include the following elements: • Well-stated objectives • Conceptual understanding of life history requirements and ecological restoration trajectories • The best professional judgment of experts For more information regarding the scientific understanding used for development of the project, please refer to Attachment\_SJR West Site Monitoring Plan and the information cited in the Supplemental Environmental Impact Report prepared for TS\_30\_L. [2 - TS30L\\_GP1\\_MM+BAS.pdf](#), [Attachment\\_TS30L\\_Final SEIR\\_ADA 508 Updated Final.pdf](#), [3 - TS30L\\_GP1\\_SJR West Site Monitoring Plan.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 covered action is a Risk Reduction type project pursuant to government sponsored flood control. It is neither a water management nor an ecosystem restoration project.

**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. As such, Policy WR P1 is not applicable.

[WR P2 / Cal. Code Regs., tit. 23, § 5004](#) - **Transparency in Water Contracting**

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

N/A

Answer Justification: The covered action does not involve contracting for water from the State Water Project and/or the Central Valley Project. As such, Policy WR P2 is not applicable.

#### DELTA PLAN CHAPTER 4

##### [Cal. Code Regs., tit. 23, § 5002, subd. \(c\)](#) - Conservation Measure

**Cal. Code Regs., tit. 23, § 5002, subd. (c)** provides that a conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was: (1) Developed by a local government in the Delta; and (2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013 is deemed to be consistent with the regulatory policies listed under Delta Plan Chapter 4 of this Form (i.e. sections 5005 through 5009) if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

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

N/A

Answer Justification: The project does not include a conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan. As such, this provision is not applicable.

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##### [ER P1 / Cal. Code Regs., tit. 23, § 5005](#) - Delta Flow Objectives

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

N/A

Answer Justification: The covered action does not significantly affect flow in the Delta. As such, Policy ER P1 is not applicable.

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

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

N/A

Answer Justification: The covered action is a Risk Reduction type project pursuant to government sponsored flood control. It is not an ecosystem restoration covered action. The SJR West site is located close to sea level in elevation, making it much more resilient to flood events than much of the Delta. The mitigation site will be predominantly restored and enhanced to riparian communities, which are expected to perform well in the event of a climate-change induced flooding event.

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

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

N/A

Answer Justification: The project is not located within a Priority Habitat Restoration Area (PHRA) as designated by Appendix 5 of the Delta Plan. As such, Policy ER P3 is not applicable.

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

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

Yes

Answer Justification:

The TS\_30\_L levee is not within an area identified in Appendix 8 of the Delta Plan where setback levees need to be considered. Unlike most levees in the Delta which are located immediately adjacent to major flow conveyance channels (e.g., San Joaquin River), the TS\_30\_L levee is an interior levee (i.e., not located along a main Delta channel) on the Wright-Elmwood Tract located adjacent to an existing residential development. The final restoration plan for the San Joaquin River West Biological Mitigation Site (SJR West Site) is still in development by the U.S. Army Corps of Engineers (USACE) but is expected to result in a net increase of an estimated 2 acres of wetland habitat and 40 acres of riparian habitat (plus enhancement to 5.5 acre of existing riparian habitat) as a result of site re-grading and native vegetation planting. In conclusion, since the project will result in a net increase in the extent of riparian habitat and enhance the state of existing riparian habitat, it is concluded that the project is consistent with Delta Plan Policy RR P4. [5 - TS30L\\_ER P4\\_Expand Floodplains.pdf](#)

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[ER P5 / Cal. Code Regs., tit. 23, § 5009](#) - **Avoid Introductions of and Habitat for Invasive Nonnative Species**

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

Yes

Answer Justification:

The existing study area for the San Joaquin River Basin, Lower San Joaquin River Reach TS\_30\_L Levee Improvement Project (TS\_30\_L) already contains weeds and other introduced species. The San Joaquin River West Biological Mitigation Site (SJR West Site) will be cleared and grubbed, as necessary, to remove all non-native and invasive plant material within the limit of work. Given the above considerations, it is determined that the project will not contribute to new introductions of invasive species nor create improved habitat conditions for such species. The project is thus consistent with Delta Plan Policy ER P5. [6 - TS30L\\_ER P5\\_Nonnative Species.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?**

No

Answer Justification:

The covered action does not involve new residential, commercial, or industrial development. As such, Policy DP P1 is not applicable.

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[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:

Overall, as assessed and disclosed in the CEQA documents, the modest changes in land uses from implementation of the covered action would ultimately not conflict with land use plans, policies or regulations. The project would not result in any displacement of landowners and tenants. The various comment letters from local agencies did not specifically raise concerns regarding the project's

ability to conflict with existing uses or those uses described or depicted in city and county general plans. As such, the project is considered to be consistent with Delta Plan Policy DP P2. For more details, please refer to the Attachment 7 - TS30L\_DP P2\_Local Land Use.pdf [7 - TS30L\\_DP P2\\_Local Land Use.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 San Joaquin Area Flood Control Agency (SJAFC) would be given O&M responsibility for TS\_30\_L. These requirements will be transmitted to a local maintenance agency (LMA) which include Reclamation District (RD) 2074 and RD 2119 for TS\_30\_L. The San Joaquin River West Biological Mitigation Site does not include levee improvements. The State investment associated with the O&M responsibility for the project would be consistent with Goal 1 for Localized Flood Protection explicitly identified for Delta Plan Policy RR P1 in working towards a 200-year level of protection for urban and urbanizing areas in and around the City of Stockton. As such, the TS\_30\_L Project is considered to be fully consistent with Delta Plan Policy RR P1. [8 - TS30L\\_RR P1\\_Delta Levee Investment.pdf](#)

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### [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. As such, Policy RR P2 is not applicable.

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### [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 project does not involve any encroachments in floodways. As such, Policy RR P3 is not applicable.

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

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11/08/2023