

Appeal of Certification of Consistency

C20262-A1

Step 1 - Appellant(s) Information

Appellant Representing: Sacramento Area Sewer District
Primary Contact: Kelley M. Taber, ktaber@somachlaw.com
Address: Somach Simmons & Dunn, 500 Capitol Mall, Suite 100
City, State, Zip: Sacramento, CA 95814
Telephone/Fax: (916) 446-7979
E-mail Address: gloomis@somachlaw.com

Step 2 - Covered Action being Appealed

Covered Action ID: C20262
Covered Action Title: Delta Conveyance Project Revised Certification of Consistency with the Delta Plan on Remanded Items
Agency Subject to Appeal: California Department of Water Resources
Contact Person Subject to Appeal: Katherine Marquez
Address: 1600 9th Street Bateson, 2nd Floor
City, State, Zip: Sacramento, CA 95814
Telephone/Fax: (866) 924-9955
E-mail Address: dcp_consistency@water.ca.gov

Covered Action Description: The covered action consists of the construction, operation, and maintenance of new SWP water diversion and conveyance facilities in the Delta that will be part of the SWP and will be operated in coordination with the existing SWP south Delta water diversion facilities. The covered action includes the following five key components and actions: (1) Two intake facilities along the Sacramento River in the north Delta near the community of Hood with on-bank intake structures that will include state-of-the-art fish screens approved by state and federal fish and wildlife agencies; (2) A concrete-lined tunnel, and associated vertical tunnel shafts, to convey flow from the intakes about 45 miles to the south to the Bethany Reservoir Pumping Plant and Surge Basin at a location south of the existing SWP Clifton Court Forebay; (3) A Bethany Reservoir Pumping Plant to lift the water from inside the tunnel below ground into the Bethany Reservoir Aqueduct for conveyance to the Bethany Reservoir Discharge Structure and into the existing Bethany Reservoir; (4) Other ancillary facilities to support construction and operation of the conveyance facilities including access roads, concrete batch plants, fuel stations, and power transmission and distribution lines; (5) Efforts to identify geotechnical, hydrogeologic, agronomic, and other field conditions that will guide appropriate construction methods and monitoring programs for final engineering design and construction (including the 2024–2026 Proposed Geotechnical Activities). For the purposes of this Certification, the covered action includes the actions described in Final EIR 1 Volume 1, Chapter 3, Description of the Proposed Project and Alternatives (California Department of Water Resources 2023c), refinements to those actions as described in Addendum 1 and Addendum 2 to the Final EIR (California Department of Water Resources 2025a, 2025g),

and commitments included in the adopted MMRP (California Department of Water Resources 2023e) (including the Compensatory Mitigation Plan for Special-Status Species and Aquatic Resources [CMP], as described in Final EIR Volume 1, Appendix 3F). For details on the engineering design for the covered action see the Delta Conveyance Project Concept Engineering Report (Delta Conveyance Design and Construction Authority 2024a). For details on operations of the covered action see the Delta Conveyance Project Operations Plan (California Department of Water Resources 2025f). For information on SWP water supply contract amendments, negotiations of project-wide contract amendments, and the Agreement in Principle (AIP) among DWR and many SWP contractors that describes a conceptual approach to cost allocation and the related financial and water management matters, see Final EIR Chapter 3, Section 3.22, Contract Amendments. See the Delta Conveyance Project Certification of Consistency with the Delta Plan (DCP.AA1.2.00001) for additional details.

Step 3 - Consistency with the Delta Plan

DELTA PLAN CHAPTER 5

[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 inconsistent with this portion of the regulatory policy?

Yes, Inconsistent

Answer Justification:

As explained in the attached supporting document, the Revised Certification is inconsistent with Delta Plan Policy DP P2 because DWR fails to establish that it sited the Twin Cities Complex (TCC) to avoid or reduce conflicts with Harvest Water. See supporting document for additional authority, evidence, and argument. [08242026 Appeal of Revised Draft Certification.pdf](#)

08/24/2026