

Appeal of Certification of Consistency

C20257-A4

Step 1 - Appellant(s) Information

Appellant Representing: Steamboat Resort
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Step 2 - Covered Action being Appealed

Covered Action ID: C20257
Covered Action Title: Delta Conveyance Project
Agency Subject to Appeal: California Department of Water Resources
Contact Person Subject to Appeal: Katherine Marquez
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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

Covered Action Description: 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 4

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

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

Yes, Inconsistent

Answer Justification:

Authority: Delta Plan Policy ER P1 requires covered actions to be consistent with applicable flow objectives and to avoid significant adverse impacts to downstream hydrodynamics, including water levels, tidal regimes, and flow patterns. Evidence and Argument: The Certification does not analyze potential hydrologic impacts of the intake construction or operations on nearby waterways, including: • Changes to river stage in the Sacramento River adjacent to Steamboat Slough; • Alterations to tidal patterns that may exacerbate low-water conditions; • Flow distribution shifts that could limit vessel passage or mooring at Steamboat Resort; • Construction-related impacts that may reduce water depth, increase turbidity, or affect existing circulation patterns. Steamboat Resort has issues with interior dock access at low tides, even modest changes in water levels, whether temporary during construction or long-term from structural components, could significantly impair access for recreation boats or create issues with mooring facilities. By omitting any hydrologic or tidal analysis and failing to identify avoidance or mitigation measures, the Certification is not supported by substantial evidence and is inconsistent with ER P1. Significant Adverse Impact on Coequal Goals or Flood Protection Programs: Changes to hydrodynamics that impair navigability, reduce water levels, or alter tidal flows will directly harm recreation access and local Delta communities, undermining the Delta as a Place under Water Code § 85054. Reduced access can cause economic strain to recreation-dependent businesses, and diminished recreational use can reduce local engagement in Delta stewardship. Hydrologic changes may also interfere with waterway safety and circulation, indirectly affecting emergency response and the effective functioning of local levee districts.

DELTA PLAN CHAPTER 5

[DP P1 / Cal. Code Regs., tit. 23, § 5010](#) - Locate New Urban Development Wisely

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

Yes, Inconsistent

Answer Justification:

Authority: Delta Plan Policy DP R1 requires covered actions to protect and enhance opportunities for water-based recreation, including boating, fishing, and water sports, and to avoid or minimize adverse impacts to existing recreation uses. Evidence and Argument: DWR's Certification of Consistency does not evaluate or disclose substantial recreation impacts to Steamboat Resort, a long-standing recreation business in the North Delta. The Certification omits analysis of: • Construction noise propagation across open water; • Disruption of boating, skiing/wakeboarding, fishing, kayaking, and paddling due to construction vessel traffic; • Potential use of barges or large craft, despite the fact that construction methods cannot be restricted at this stage of permitting; • Degradation of calm-water conditions essential for water sports; • Reductions in navigability or safe passage during construction. The reach of the Sacramento River adjacent to Steamboat Slough supports unique serene recreational conditions that Steamboat Resort relies upon. By failing to disclose, analyze, or mitigate impacts to these existing recreation uses, the Certification is not supported by substantial evidence and is inconsistent with DP R1. Significant Adverse Impact on Coequal Goals: Recreation is a core component of the Delta's economic and cultural sustainability. Impairing Steamboat Resort's operations will diminish local economic resilience, reduce community participation in Delta stewardship, and undermine the Delta Reform Act's mandate to protect and enhance Delta communities (Water Code § 85054). Because Steamboat Resort is a recreation-based business operating on narrow financial margins, these unmitigated impacts create significant adverse consequences to local sustainability, which in turn undermines the coequal goals by degrading Delta as a Place and reducing recreational boating opportunities that the Delta is known for.

[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:

Authority: Delta Plan Policy DP P2 requires that covered actions be sited, designed, and implemented to avoid or reduce conflicts with existing land uses, including recreation, agriculture, and water-dependent uses. This policy applies directly to facilities and construction activities located within or affecting the Delta Primary Zone and adjacent recreation corridors. Evidence and Argument: Steamboat Resort is a long-established, water-dependent recreational private boat club located approximately two miles from the proposed North Delta intake facilities. The Resort's operations rely on consistent water conditions, safe navigability, and a serene recreation environment. The Certification of Consistency does not analyze or disclose how siting, staging, or construction of the intake facilities will impact this existing recreational land use. Specifically: • Construction noise, originating from pile-driving, excavation, and multi-year heavy-equipment activity, will propagate across water and directly conflict with the quiet recreational environment visitors expect. • Construction vessel traffic, including the likely use of barges or large transport vessels, will create navigation hazards and unsafe conditions for small craft, directly conflicting with the existing

recreational use of Steamboat Slough and the Sacramento River corridor.

- Siting of in-water and near-water construction activities will alter wake conditions, turbidity, and water clarity, disrupting boating, skiing, wakeboarding, and paddling.
- Potential water-level changes from hydrologic disturbances during construction could further reduce navigability into Steamboat Slough, a known low-tide access challenge.
- No enforceable mitigation or restrictions on construction methods, including barge use, are included, even though construction methods cannot be controlled through bid documents at this stage of project approval. By failing to evaluate how the siting and construction of the proposed facilities will adversely affect an existing recreation-based land use, the Certification is not supported by substantial evidence and is inconsistent with DP P2. Significant Adverse Impact on Coequal Goals or Flood Protection Programs: Recreation-dependent land uses like marinas are a key part of the Delta's economic and cultural fabric, which the Delta Reform Act requires the State to protect and enhance as part of the coequal goals (Water Code §§ 85020(b), 85054). Conflicts created by the siting and construction of the intake project will:
 - Reduce access to the water,
 - Impair safe navigability during low tides,
 - Decrease recreational desirability,
 - Depress visitation and associated local economic activity,
 - Place financial strain on a recreation-based business operating on tight margins.These impacts significantly undermine the "Delta as a Place" mandate embedded within the coequal goals, directly contrary to the objectives of the Delta Reform Act. Because the Certification does not analyze or avoid these land-use conflicts, DP P2 is violated, and the inconsistency results in significant adverse effects on the coequal goals.

11/17/2025