

Certification of Consistency

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: Local Agency
Government Agency: California Department of Water Resources
Primary Contact: Ibraheem Alsufi
Address: 1516 9th Street
City, State, Zip: Sacramento, CA 95814
Telephone/Fax: (916) 296-5465
E-mail Address: ibraheem.alsufi@water.ca.gov

B. GOVERNMENT AGENCY ROLE IN COVERED ACTION: Will Carry Out / Will Fund

Step 2 - Covered Action Profile

A. COVERED ACTION PROFILE: Project

Title: West False River Drought Salinity Barrier

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

Proponent Name: California Department of Water Resources
Address: 1516 9th 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.](#)])?

(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.) No

If your agency is 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.](#)]) **did your agency, at least 10 days prior to the submission of a certification of consistency to the Delta Stewardship Council, post the draft certification on your website and in the office for public review and comment, and mail the draft certification to all persons requesting notice?** Yes

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.

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

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

The primary objectives of the West False River Drought Salinity Barrier are to:

- Install a drought salinity barrier to protect water quality in the Central Delta, based on need demonstrated by drought conditions and low upstream reservoir storage.
- Install a drought salinity barrier in the Central Delta up to two times over 10 years, with each installation remaining in place up to 20 months, should a drought occur during the period from 2026 to 2035.
- Minimize the impacts of salinity intrusion on the beneficial uses of Central Delta water during persistent drought conditions through the installation of a drought salinity barrier in the Central Delta. During severe drought conditions, there are increased needs and challenges with preserving impounded water for health, safety, and regulatory uses, and protecting water quality in the central Delta. Based on data from previous installations, installing a drought salinity barrier in West False River has proven to be an effective tool for reducing saltwater intrusion into the Central Delta. Given the current scientific understanding of the cyclical nature of drought in California, DWR anticipates needing to install a drought salinity barrier in West False River two times over the next ten years (2026-2035) with each installation in place up to 20 months. The West False River is a main channel to the west that connects to Franks Tract, the central hub of the Delta. By hydraulically blocking the West False River corridor, the barrier protects against the intrusion of saltwater from San Francisco Bay into Franks Tract. This prevents the fresh water from other channels (including the Mokelumne River and Old River flowing into Franks Tract from other directions) from mixing with the more saline water that otherwise would flow through West False River during flood tides. Without the barrier in place at this critical location, the saltier water carried through West False River would gradually contaminate the water in Franks Tract and the interior Delta with salts, a condition that cannot be reversed during drought conditions, and thus would affect the beneficial uses of Central Delta water. Supporting documents: Final Environmental Impact Report for the West False River Drought Salinity Barrier Project [Final EIR - West False River Drought Salinity Barrier.pdf](#)

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

F. STATE CLEARINGHOUSE NUMBER:(if applicable) 2022020528

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 01/01/2026

ANTICIPATED END DATE: (If available) 12/31/2035

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$40,000,000

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:

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?

N/A

Answer Justification:

As documented in this certification of consistency, DWR has determined that the covered action is consistent with all applicable Delta Plan regulatory policies.

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:

DWR has determined that this covered action is consistent with this Delta Plan regulatory policy. A Final environmental impact report (FEIR) was prepared for the proposed project which identifies applicable environmental commitments and mitigation measures that would be incorporated by DWR. DWR has determined that each of its mitigation measures is as effective or more effective than

the relevant mitigation measure identified in the Delta Plan's Mitigation and Monitoring Reporting Program (MMRP). A crosswalk between the environmental commitments, mitigation measures, and proposed project design for the WFRSDB and the Delta Plan MMRP is included in the attached MMRP Crosswalk. Additional measures may be imposed over the course of obtaining environmental permits from regulatory agencies such as the California Department of Fish and Wildlife and the U.S. Army Corps of Engineers. DWR would be required to also implement those additional measures as part of the conditions of approval for implementing the proposed project. Supporting Documents: West False River Drought Salinity Barrier_MMRP Crosswalk West False River Drought Salinity Barrier_GP1_MM, BAS, AM [West False River Drought Salinity Barrier_GP1_MM,BAS,AM.pdf](#), [West False River Drought Salinity Barrier_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:

DWR has determined that this covered action is consistent with this Delta Plan regulatory policy. Please see supporting documents listed below for more details. Supporting Documents: West False River Drought Salinity Barrier_GP1_MM, BAS, AM West False River Drought Salinity Barrier_GP1_Adaptive Management and Monitoring Plan [West False River Drought Salinity Barrier_GP1_MM,BAS,AM.pdf](#), [West False River Drought Salinity Barrier_GP1_Adaptive Management and 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?

Yes

Answer Justification:

DWR has determined that this covered action is consistent with this Delta Plan regulatory policy. Please see supporting documents listed below for more details. Supporting Documents: West False River Drought Salinity Barrier_GP1_MM, BAS, AM West False River

Drought Salinity Barrier_GP1_Adaptive Management and Monitoring Plan [West False River Drought Salinity Barrier_GP1_MM,BAS,AM.pdf](#), [West False River Drought Salinity Barrier_GP1_Adaptive Management and Monitoring Plan.pdf](#)

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:

DWR has determined that Policy WR P1 is not applicable as the project would not export water from or transfer water through the Delta. The project would 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:

DWR has determined that Policy WR P2 is not applicable. Delta Plan Policy WR P2 calls for the contracting process for water from the State Water Project and/or the Central Valley Water Project to be done in a publicly transparent manner. The project 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:

DWR has determined that this provision is not applicable as the project 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:

Policy ER P1 requires a certifying agency to determine that its Covered Action is consistent with the “flow objectives” set forth in the State Water Resources Control Board’s Bay Delta Water Quality Control Plan (“Bay Delta Plan”). As the Delta Stewardship Council has explained, the Bay Delta Plan’s “flow objectives” are “specific, numerical flow requirements . . . expressed in cubic feet per

second” which “regulate the volume of water that flows out of the Delta's rivers and into San Francisco Bay.” (Delta Stewardship Council Cases (2018) 2018 WL 3521655, pp. 71-72; see also Delta Plan 2013, Glossary, pg. 310 [flow objectives “require[] specific flow volumes at certain times”]; see also State Water Resources Control Board Cases (2006) 136 Cal.App.4th 674, 701-702 [a Bay Delta Water Quality Control Plan “flow objective sets the amount of water that must be flowing in a watercourse at a given time”].) The Bay Delta Plan’s flow objectives are set forth in Table 3 of Revised Water Rights Decision D-1641. These flow objectives include the following: 1) Delta Outflow (Net Delta Outflow Index) 2) River Flows at either Sacramento River at Rio Vista or San Joaquin River at Airport Way Bridge, Vernalis. Because the Department has determined that the proposed Project will not affect flow as measured in terms of Delta Outflow or river flows, as measured at Sacramento River at Rio Vista or San Joaquin River at Airport Way Bridge, Vernalis, Delta Plan Policy ER P1 does not apply.

[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?

N/A

Answer Justification:

DWR has determined that this provision is not applicable as this project is not an ecosystem restoration covered action.

[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:

DWR has determined that Policy ER PR is not applicable as this project is not an ecosystem restoration covered action. Policy ER P2, aimed at directing implementation of restoration actions at appropriate elevations, is not applicable.

[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?

N/A

Answer Justification:

DWR has determined that this project is not located within a Priority Habitat Restoration Area as designated by Appendix 5 of the Delta Plan. Therefore, Policy ER P3 is not applicable.

[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?

N/A

Answer Justification:

DWR has determined that ER P4 is not applicable as this project would not involve construction of a new levee or substantial rehabilitation to an existing levee. Therefore, Policy ER P4 to consider expansion of floodplains and riparian habitat is not applicable.

[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:

DWR has determined that the proposed project is consistent with Delta Plan Policy ER P5. The proposed project would not introduce non-native invasive species and is unlikely to improve habitat conditions for non-native invasive species because it has been designed and planned to limit the establishment of non-native and invasive species on site. Measures have been included in the construction best management practices and adaptive management plan to reduce the potential for detrimental invasions. See supporting documents listed below for more details. Supporting Documents: West False River Drought Salinity Barrier_ER P5 Nonnative Species West False River Drought Salinity Barrier_GP1_Adaptive Management and Monitoring Plan [West False River Drought Salinity Barrier_ER P5 Nonnative Species.pdf](#), [West False River Drought Salinity Barrier_GP1_Adaptive Management and Monitoring Plan.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:

DWR has determined that Policy DP P1 is not applicable as this project 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:

DWR has determined that the proposed project is consistent with Delta Plan Policy DP P2. Please see supporting document(s) listed below for more details. Supporting Documents: West False River Drought Salinity Barrier_DP P2_Local Land Use [West False River Drought Salinity Barrier_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?

N/A

Answer Justification:

DWR has determined that Policy RR P1 is not applicable. Delta Plan Policy RR P1 guides State discretionary funding in Delta flood risk management. The policy calls for such funding to be limited to those projects that support specific goals regarding the priorities of localized flood protection, the Delta levee network, and ecosystem conservation. The project does not involve any State investments in Delta levees.

[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:

DRW has determined that Policy RR P2 is not applicable. The project 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?

Yes

Answer Justification:

DWR has determined that the proposed project is consistent with this policy as it would merely redistribute tidal flows (and velocities) in West False River to adjacent channels (e.g., Fisherman’s Cut, Dutch Slough, and the mouth of Old River). The supporting document summarizes the detailed analysis that was conducted to determine that the presence of the drought salinity barrier would not jeopardize public safety. Supporting Documents: West False River Drought Salinity Barrier_RR P3_Protect Floodways [West False River Drought Salinity Barrier_RR P3_Protect Floodways.pdf](#)

[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:

DWR has determined that Policy RR P4 is not applicable. The project would not involve any encroachment on the Yolo Bypass, Cosumnes River–Mokelumne River Confluence, or Lower San Joaquin River Floodplain Bypass.
