

Certification of Consistency

C20242

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: **Local Agency**
Government Agency: Department of Water Resources
Primary Contact: Katherine Marquez
Address: 1516 9th Street, 2nd floor
City, State, Zip: Sacramento, CA 95814
Telephone/Fax: (866) 924-9955
E-mail Address: 2024_2026_geotechcert@water.ca.gov

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

Step 2 - Covered Action Profile

A. COVERED ACTION PROFILE: **Project**

Title: 2024-2026 Proposed Geotechnical Activities

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

Proponent Name: Department of Water Resources
Address: 1516 9th Street, 2nd floor
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.](#)])? **No**
(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.)

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.](#)]) **Yes**
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?

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.

[DCP.X2.1.00023.pdf](#), [DCP.X2.1.00024.pdf](#), [DCP.X2.1.00025.pdf](#)

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

The 2024–2026 Proposed Geotechnical Activities will not include all of the geotechnical activities described in the Final EIR, Chapter 3, Description of the Proposed Project and Alternatives. In particular, the 2024-2026 Proposed Geotechnical Activities will not include the following: work on levees, overwater activities, activities that involve trenching (e.g., “test trenches”), activities within the West Tracy Fault or Bethany Fault, pile driving, vibratory testing of dynamic properties, potholing, monument installation, test fills for settlement studies, 800-foot inclined boreholes, or ground improvement test zones. The 2024-2026 Proposed Geotechnical Activities include subsurface exploration and testing consisting of one or more of the following: 1) Borings with small diameter (less than 8-inch diameter) auger and/or mud rotary drill and soil and rock sampling; 2) CPTs utilizing a truck mounted rig equipped with one-to-two-inch diameter cone; and 3) Installation and removal of a temporary slotted polyvinyl chloride (PVC) pipe with a small submersible pump and water level transducer inside for water quality testing. DWR’s footprint at each site will be limited. Workspace at each site, not including staging areas, is expected to be approximately 0.022 acres, or 10 feet by 100 feet. The 2024-2026 Proposed Geotechnical Activities include up to 261 soil borings (including 31 soil borings with water quality tests), and up to 15 CPTs. The information obtained from the 2024-2026 Proposed Geotechnical Activities will inform the continued planning and design of the Delta Conveyance Project, including by informing subsequent investigation programs to support that planning and design. The 2024-2026 Proposed Geotechnical Activities are to be completed on properties with landowner approval or, if necessary, through court ordered entry. Wherever possible, DWR seeks landowners’ approval for entry, via voluntary temporary entry agreements. Under these agreements, work will be conducted consistent with on-going landowner operations; landowners will be compensated as appropriate. Alternatively, where it is not possible to reach an agreement and it is necessary for DWR to enter onto a landowner’s property, DWR files petitions for court-ordered entry. If the court grants the petitions (which would occur after each person who claimed an interest was given a due process opportunity to be heard on all issues), field investigations would occur in a manner consistent with the court’s order. [DCP.X2.1.00020.pdf](#)

E. STATUS IN THE CEQA PROCESS: Final Certified Document

F. STATE CLEARINGHOUSE NUMBER:(if applicable) 2020010227

G. COVERED ACTION ESTIMATED TIME LINE:

ANTICIPATED START DATE: (If available) 10/08/2024

ANTICIPATED END DATE: (If available) 12/31/2026

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$45,000,000

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:

[DCP.A.1.00001.pdf](#), [DCP.B.1.00001.pdf](#), [DCP.C.1.00001.pdf](#), [DCP.C.1.00002.pdf](#), [DCP.D1.1.00001.pdf](#), [DCP.D1.1.00002.pdf](#),

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: DWR has not identified areas where consistency with relevant regulatory policies is not feasible therefore this subdivision of G P1 is not applicable. However, a discussion of the relationship between the proposed action and the coequal goals is provided. [DCP.X2.1.00020.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?

N/A

Answer Justification: The 2024-2026 Proposed Geotechnical Activities will have no impact on the achievement of the coequal goals or the implementation of a government-sponsored flood control program and is not covered by one or more of the regulatory

policies in Article 3 and therefore, DWR does not believe the 2024-2026 Proposed Geotechnical Activities are required to include an assessment of consistency with G P1 (or its sub policies). Nevertheless, for the sake of thoroughness and to err on the side of facilitating the DSC's informed decision-making, the certification of consistency considers the G P1 sub policies. [DCP.X2.1.00020.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?

N/A

Answer Justification:

The 2024-2026 Proposed Geotechnical Activities will have no impact on the achievement of the coequal goals or the implementation of a government-sponsored flood control program and is not covered by one or more of the regulatory policies in Article 3 and therefore, DWR does not believe the 2024-2026 Proposed Geotechnical Activities are required to include an assessment of consistency with G P1 (or its sub policies). Nevertheless, for the sake of thoroughness and to err on the side of facilitating the DSC's informed decision-making, the certification of consistency considers the G P1 sub policies. [DCP.X2.1.00020.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 2024-2026 Proposed Geotechnical Activities will have no impact on the achievement of the coequal goals or the implementation of a government-sponsored flood control program and is not covered by one or more of the regulatory policies in Article 3 and therefore, DWR does not believe the 2024-2026 Proposed Geotechnical Activities are required to include an assessment of consistency with G P1 (or its sub policies). Nevertheless, for the sake of thoroughness and to err on the side of facilitating the DSC's informed decision-making, the certification of consistency considers the G P1 sub policies. As described in Delta Plan Policy G P1 (b)(4), Incorporation of Adaptive

Management, this policy covers ecosystem restoration and water management covered actions. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here is not an ecosystem restoration or water management project. The 2024–2026 Proposed Geotechnical Activities are temporary data collection activities that would inform planning and design of the Delta Conveyance Project. [DCP.X2.1.00020.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:

As described in Delta Plan Policy WR P1, Reduce Reliance on the Delta through Improved Regional Water Self-Reliance, this policy covers a proposed action to export water from, transfer water through, or use water in the Delta. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities, which do not include exporting water from, transferring water through, or using water in the Delta. [DCP.X2.1.00020.pdf](#)

[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:

As described in Delta Plan Policy WR P2, Transparency in Water Contracting, this policy covers a proposed action to enter into or amend a water supply or water transfer contract subject to California Department of Water Resources Guidelines 03-09 and/or 03-10 or a proposed action to enter into or amend a water supply or water transfer contract subject to Section 226 of Public Law 97-293, as amended, or to Section 3405(a)(2)(B) of the Central Valley Project Improvement Act, Title XXXIV of Public Law 102-575, as amended. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here does not include entering into or amending a water supply or water transfer contract. [DCP.X2.1.00020.pdf](#)

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 2024-2026 Proposed Geotechnical Activities will have no impact on the achievement of the coequal goals or the

implementation of a government-sponsored flood control program and is not covered by one or more of the regulatory policies in Article 3 and therefore, DWR does not believe the 2024-2026 Proposed Geotechnical Activities are required to include an assessment of consistency with G P1 (or its sub policies). Nevertheless, for the sake of thoroughness and to err on the side of facilitating the DSC's informed decision-making, the certification of consistency considers the G P1 sub policies. As described in Delta Plan Policy G P1 (c), Conservation Measure, this policy covers a conservation measure proposed to be implemented pursuant to a state natural community conservation plan (NCCP) or a federal habitat conservation plan (HCP). This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here does not include a conservation measure proposed to be implemented pursuant to an NCCP or HCP.

[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:

As described in Delta Plan Policy ER P1, Delta Flow Objectives, this policy covers a proposed action that could significantly affect flow in the Delta. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here would not include in-water work and would not affect flow in the Delta. [DCP.X2.1.00020.pdf](#)

[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:

As described in Delta Plan Policy ER P2, Restore Habitats at Appropriate Elevations, this policy covers a proposed action that includes habitat restoration. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here does not include habitat restoration. [DCP.X2.1.00020.pdf](#)

[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:

As described in Delta Plan Policy ER P3, Protect Opportunities to Restore Habitat, this policy covers proposed actions in the priority habitat restoration areas depicted in Appendix 5 of the Delta Plan. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here does not include proposed actions in the priority habitat restoration areas depicted in Appendix 5 (Figure 4). [DCP.X2.1.00020.pdf](#)

[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?

N/A

Answer Justification:

As described in Delta Plan Policy ER P4, Expand Floodplains and Riparian Habitats in Levee Projects, this policy covers a proposed action to construct new levees or substantially rehabilitate or reconstruct existing levees. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here does not include constructing new levees or substantially rehabilitating or reconstructing existing levees.

[DCP.X2.1.00020.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?

N/A

Answer Justification:

As described in Delta Plan Policy ER P5, Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species, this policy covers a proposed action that has the reasonable probability of introducing or improving habitat conditions for nonnative invasive species. The 2024–2026 Proposed Geotechnical Activities may consist of mowing, removing a limited number of tree limbs, or trimming bushes for site access, along with driving to and from the activity location and boring into the soil. These activities would result in temporary impacts on agricultural lands and natural habitat; there would be minimal land disturbance occurring primarily in already disturbed areas (such as agricultural roads and staging areas). Consistent with the environmental commitments and best management practices (BMPs) set forth in Final EIR Appendix 3B, Environmental Commitments and Best Management Practices, and specifically the requirements in EC-14: Construction Best Management Practices for Biological Resources, DWR will restore disturbed areas to as close to pre-project conditions as possible directly following the completion of the field investigation activity. Since the level of disturbance associated with the proposed action would be minor and the proposed action includes immediately restoring the temporarily disturbed areas, the proposed action would not have a reasonable probability of improving habitat conditions for nonnative invasive species. Additionally, pursuant to EC-14, a biological monitor will be present during all geotechnical activities. During geotechnical activities, measures that will be implemented for the protection of special-status fish, wildlife, and plant species and their habitats include the requirement that all equipment used during field investigations be cleaned and inspected by the qualified biologist for terrestrial invasive plant and animal species prior to entering the work areas and before moving between work areas (California Department of Water Resources 2023a:3B-29). Consistent with California Invasive Plant Council (Cal-IPC) recommendations, tools used for equipment cleaning would include brushes, brooms, a scraper, an air compressor, a vacuum, or other hand tools. Prior to entering a new site, equipment will be washed at an off-site commercial facility or returned to the company yard for cleaning if the qualified biologist determines that equipment washing is

warranted after the on-site cleaning (California Invasive Plant Council 2012). By following Cal-IPC guidance to inspect and clean equipment before entering new areas, the 2024–2026 Proposed Geotechnical Activities would prevent the spread of invasive species and would not have a reasonable probability to introduce nonnative invasive species. As such, this policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because, in consideration of the scope of and procedures applicable to the 2024–2026 Proposed Geotechnical Activities, the proposed action here does not have a reasonable probability of introducing or improving habitat conditions for nonnative invasive species. [DCP.X2.1.00020.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:

As described in Delta Plan Policy DP P1, Locate New Urban Development Wisely, this policy covers proposed actions that involve new residential, commercial, and industrial development that is not located within the areas described in California Code of Regulations, Title 23, Section 5010(a). This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here does not include new residential, commercial, or industrial development. [DCP.X2.1.00020.pdf](#)

[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?

N/A

Answer Justification:

As described in Delta Plan Policy DP P2, Respect Local Use When Siting Water or Flood Facilities or Restoring Habitats, this policy covers proposed actions that involve the siting of water management facilities, ecosystem restoration, and flood management infrastructure. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here would only include temporary information collection activities and does not involve the physical placing (siting) of water management facilities, ecosystem restoration, and flood management infrastructure. The 2024–2026 Proposed Geotechnical Activities will inform the alignment and design of the Delta Conveyance Project, but the preliminary data collection does not commit DWR to site Delta Conveyance Project facilities in the specific investigation locations proposed in the 2024–2026 Proposed Geotechnical Activities. [DCP.X2.1.00020.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:

As described in Delta Plan Policy RR P1, Prioritization of State

Investments in Delta Levees and Risk Reduction, this policy covers a proposed action that involves discretionary State investments in Delta flood risk management, including levee operations, maintenance, and improvements. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here involves no investment in Delta levees or flood risk reduction. In addition, the activities would be funded through contributions from public water agencies that may participate in the Delta Conveyance Project and that have contributed or will contribute funds for the environmental review, planning, permitting and certain preconstruction activities related to design and engineering. The 2024–2026 Proposed Geotechnical Activities do not involve discretionary State investments in Delta flood risk management, including levee operations, maintenance, and improvements. [DCP.X2.1.00020.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:

As described in Delta Plan Policy RR P2, Require Flood Protection for Residential Development in Rural Areas, this policy covers a proposed action that involves new residential development of five or more parcels that is not located within the areas described in California Code of Regulations, Title 23, Section 5013(a). This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here does not involve new residential development of five or more parcels. [DCP.X2.1.00020.pdf](#)

[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:

As described in Delta Plan Policy RR P3, Protect Floodways, this policy covers a proposed action that would encroach in a floodway that is not either a designated floodway or regulated stream. This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action here would not include any in-water work and would not encroach in a floodway that is not either a designated floodway or regulated stream (Figure 5). [DCP.X2.1.00020.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:

As described in Delta Plan Policy RR P4, Floodplain Protection, this policy covers a proposed action that would encroach in any of the floodplain areas described in California Code of Regulations, Title 23, Section 5015(a). This policy is not applicable to the 2024–2026 Proposed Geotechnical Activities because the proposed action

here would not encroach in any of the floodplain areas described in California Code of Regulations, Title 23, Section 5015(a) (Figure 6). [DCP.X2.1.00020.pdf](#)

10/08/2024