

Certification of Consistency

Certification ID:

Step 1 - Agency Profile

A. GOVERNMENT AGENCY: **State Agency** **Local Agency**

Government Agency: California Department of Water Resources

Primary Contact: Bryan Brock

Address: 901 P Street, Suite 411

City, State, Zip: Sacramento, CA 95814

Telephone/Fax: 916-651-0836 /

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

Step 2 - Covered Action Profile

IT IS RECOMMENDED THAT YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF AND/OR COMPLETE THE COVERED ACTION CHECKLIST TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION AND TO IDENTIFY RELEVANT REGULATORY POLICIES

A. COVERED ACTION PROFILE: Plan Program Project

Title: Sherman Island Belly Wetland Restoration

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

Proponent Name: Bryan Brock
Address: 901 P Street, Suite 411
City, State, Zip: Sacramento, CA 95814

C. **At least 10 Days Prior to the Submission of a Certification of Consistency to the Delta Stewardship Council**, Administrative Procedures Governing Appeals section 3 states: 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.]) with regard to its certification, must post their draft certification on their website and in their office for public review and comment, and mail to all persons requesting notice. A state or local public agency that is subject to open meeting laws with regard to its certification is encouraged to take those actions.

If applicable, did you comply with this requirement? YES NO

[10 Day Notice of Intent.pdf](#)

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

The proposed project is located on the south-central portion of Sherman Island, in Sacramento County, California. The ultimate purpose of the Project is to restore approximately 1000 acres of permanent palustrine emergent wetlands and upland habitat within a 1936-acre Project boundary through a combination of reestablishment and rehabilitation. The intent of the Project is to stop or reverse subsidence, provide native habitat for a diversity of wildlife, and sequester atmospheric carbon. By maintaining permanent and adequate water levels, the growth and subsequent decomposition of emergent vegetation is expected to grow peat which will raise surface elevations on the property. The Project is expected to provide year-round wetland and upland habitat for waterfowl and other wildlife.

The Project will provide climate benefits by sequestering atmospheric carbon dioxide (CO₂) that will help provide a net reduction in greenhouse gases (GHGs). Pending the availability of funding, the Project Site will provide an opportunity for researchers to use on-site monitoring and data from applied research sites on Sherman and Twitchell Islands to quantify climate benefits. GHG reductions quantified for the site's permanent water management regime have the potential to be extrapolated to other similar sites throughout the Delta.

Restoration of wetlands will be accomplished by upgrading existing water management infrastructure and installing new infrastructure such as water control structures and water conveyance channels. In addition, the Project may create habitat loafing islands. When the Project is completed, water will be maintained on the Project Site year-round, effectively creating a permanent wetland. Restoring permanent wetlands on Delta islands has been shown to halt and reverse subsidence. This Project will combine the wildlife benefits of wetland restoration with the importance of reversing Delta island subsidence. Upland vegetation may be planted at higher elevation areas adjacent to the wetlands.

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

F. **STATE CLEARINGHOUSE NUMBER:** 2019029126
(if applicable)

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

ANTICIPATED START DATE: (If available) 5/1/2020

ANTICIPATED END DATE: (If available) 10/1/2021

H. COVERED ACTION TOTAL ESTIMATED PROJECT COST: \$8,000,000.00

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: [Belly Wetland IS and MND incl all exhibits 2-20-2019 plus NOI, NOC reduced.pdf](#), [NOD.pdf](#)

Step 3 - Consistency with the Delta Plan

DELTA PLAN CHAPTER 2

G P1 / 23 CCR SECTION 5002 – Detailed Findings to Establish Consistency with the Delta Plan.

In General: (23 CCR SECTION 5002 (a), (b), (1)) This regulatory policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to any covered action.

This regulatory policy 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.

Covered actions, in order to be consistent with the Delta Plan, must be consistent with this regulatory policy and with each of the regulatory policies listed under Delta Plan Chapters 3, 4, 5 and 7 of this form implicated by the covered action. 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:

Mitigation Measures (23 CCR SECTION 5002 (b), (2))

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.

a.

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

YES NO N/A

Answer Justification: Mitigation measures associated with the Project are explicitly described in the Final Sherman Island Belly Wetland Restoration Project Initial Study/Mitigated Negative Declaration Appendix E, Mitigation Measures and attached to this certification application (MM - Appendix E). Additionally, the Sherman Island Belly Wetland Restoration Project has identified measures that are consistent with those in the Delta Plan, see attached document (GP1b3 - Delta Plan MM) [GP1b3 - Delta Plan MM 1-27-2020.pdf](#)

Best Available Science (23 CCR SECTION 5002 (b), (3))

The covered action documents use of best available science as relevant to the purpose and nature of the project.

b.

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1A](#) is referenced in this regulatory policy.

YES NO N/A

Answer Justification: Development of the Sherman Island Belly Wetland Restoration Project utilized a wide range of relevant data, literature, modeling tools, and scientific experts. DWR used the best available scientific information to develop project design and analyze the effects of the project, drawing on a number of scientific and engineering-related disciplines that include hydrology, ecology, and civil engineering. The impact analysis produced for the Project were subject to review and comment by the general public under the California Environmental Quality Act (CEQA) process and experts in relevant scientific disciplines (Science Panels). A detailed list of references of the use of best available science practices as relevant to the purpose and nature of the Project is described in the attached (BAS Reference List). Based on these findings, the Project is consistent with this policy. [GP1b3 - BAS Reference List \(1\).pdf](#)

Adaptive Management (23 CCR SECTION 5002 (b), (4))

The covered action involves ecosystem restoration or water management, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management

c.

Is the covered action consistent with this portion of the regulatory policy? [Appendix 1B](#) is referenced in this regulatory policy.

YES NO N/A

Answer Justification: Refer to attached Adaptive Management Plan developed for the Sherman Island Belly Wetland Restoration Project. [Sherman Belly Wetland AMMP_2-10-2020_Final.pdf](#)

DELTA PLAN CHAPTER 3

[WR P1 / 23 CCR SECTION 5003](#) - Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Is the covered action consistent with this regulatory policy?

YES NO 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.

[WR P2 / 23 CCR SECTION 5004](#) - Transparency in Water Contracting

Is the covered action consistent with this regulatory policy? [Appendix 2A](#) and [Appendix 2B](#) are referenced in this regulatory policy.

YES NO N/A

Answer Justification: The covered action does not involve contracting for water from the State Water Project and/or the Central Valley Project.

DELTA PLAN CHAPTER 4

Conservation Measure: (23 CCR SECTION 5002 (c))

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 a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife available?

YES NO N/A

Answer Justification: The covered action is not pursuant to implementation of existing natural community conservation plan or a habitat conservation plan.

[ER P1 / 23 CCR SECTION 5005](#) - Delta Flow Objectives

Is the covered action consistent with this regulatory policy?

YES NO N/A

Answer Justification: The covered action does not significantly affect flow in the Delta. The proposed work will be done on the landside, the interior of Sherman Island, and will not impact water flows along or in the San Joaquin River. See the Project Description and Section 9 of the attached CEQA document. [Belly Wetland IS and MND incl all exhibits 2-20-2019 plus NOI, NOC_reduced.pdf](#)

[ER P2 / 23 CCR SECTION 5006](#) - Restore Habitats at Appropriate Elevations

Is the covered action consistent with this regulatory policy? [Appendix 3](#) and [Appendix 4](#) are referenced in this regulatory policy.

YES NO N/A

Answer Justification: Figure 4 of Appendix 3 of the Delta Plan presents a map showing which natural habitat types could be restored in the Delta based solely on current land elevation. The project site has subsided land elevations. The proposed project is a semi-permanent wetland, which is appropriate for subsided delta islands as they have been shown to stop and, in some cases, reverse subsidence. The Sherman Island Belly Wetland Restoration Project is consistent with Delta Plan ER P2 since restoration designs were informed in large part by existing elevations. According to Appendix 3 on Page 42 and 43, flooding and managing the project as a wetland reduces exposure to oxygen, so there is less decomposition of organic matter, which stabilizes land elevations. Wetland vegetation cycles lead to biomass accumulation, which sequesters carbon and helps stop and reverse subsidence. The project is designed to re-establish wetland ecosystem processes, thereby creating habitat conditions presumably more conducive for native species than for non-native vegetation and wildlife species. A more detailed explanation regarding the consistency of the Project with Delta Plan Policy ER P2 are included in the attached document, ERP2 - Restore Habitats at Appropriate Elevations. [ERP2 - Restore Habitats at Appropriate Elevations_Final.pdf](#)

[ER P3 / 23 CCR SECTION 5007](#) - Protect Opportunities to Restore Habitat

Is the covered action consistent with this regulatory policy? [Appendix 4](#) and [Appendix 5](#) are referenced in this regulatory policy.

YES NO N/A

Answer Justification: The Sherman Island Belly Wetland Restoration Project will restore habitat at appropriate elevations per Appendix 4 Figure 4-1 of the Delta Plan. The proposed project does not adversely impact the opportunity to restore habitat as the project is not located within the Priority Habitat Restoration Area per Appendix 5 Figure 5-1 of the Delta Plan. The project was designed in consideration with future potential restoration project and existing surround land uses.

[ER P4 / 23 CCR SECTION 5008](#) - Expand Floodplains and Riparian Habitats in Levee Projects

Is the covered action consistent with this regulatory policy? [Appendix 8](#) is referenced in this regulatory policy.

YES NO N/A

Answer Justification: The Project does not involve rehabilitation or construction of Project or non-Project levees in the Delta that provide flood protection for Delta islands.

[ER P5 / 23 CCR SECTION 5009](#) - Avoid Introductions of and Habitat for Invasive Nonnative Species

Is the covered action consistent with this regulatory policy?

YES NO N/A

Answer Justification: The proposed project is on the interior of Sherman Island. Water intakes for the proposed project are screened to eliminate fish species including non-native species such as striped bass from entering the project site. The Project Area vegetation is composed of ruderal upland areas, pasture and crop fields, irrigation canals and ditches, ponds, Himalayan blackberry (*Rubus armeniacus*) brambles, and dredge spoils. The desired habitat conditions include a restored wetland with permanently flooded emergent vegetation dominated by hard stem bulrush and cattails with a diverse mosaic of associated upland habitat types. Berms will attain a cover of grasses with shrubs and trees which may be planted on the berm slopes, which will be maintained for site access. Habitat areas will be designed to maximize habitat value while minimizing the maintenance required to manage for invasive weeds. Overall, the project is anticipated to be a large net reduction of invasive species both from a non-native invasive species diversity and aerial coverall standpoint as demonstrated by the habitat conditions on Sherman Island Whale's Mouth Project (~600 acres) and Twitchell Island East End Project (~740 acres). See CEQA project description and appended Habitat and Water Management Plan (Appendix F). Additionally, the attached adaptive management plan for the Sherman Belly Wetland Project includes monitoring metrics, management triggers, and potential management responses regarding invasive plants. [ER P5 - Avoid Intro and improvements to Nonnatives_Final.pdf](#)

DELTA PLAN CHAPTER 5

[DP P1 / 23 CCR SECTION 5010](#) - Locate New Urban Development Wisely

Is the covered action consistent with this regulatory policy? [Appendix 6](#) and [Appendix 7](#) are referenced in this regulatory policy.

YES NO N/A

Answer Justification: The covered action does not involve new residential, commercial, or industrial development.

[DP P2 / 23 CCR SECTION 5011](#) - Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Is the covered action consistent with this regulatory policy?

YES NO N/A

Answer Justification: The restoration effort occurs on public land currently owned by DWR. Several outreach meetings were conducted in close proximity to the site to engaged with neighboring landowners to inform them about the Sherman Belly Wetland Project and address their concerns to the extent possible. Additional detailed information is located in the attached document DPP2 - Local Communication. Land use is discussed in many locations throughout the attached CEQA document, see also CEQA document Section 10 for additional information on Land Use and Planning. Additionally, no issues were raised during outreach meetings nor the public CEQA review process. [DPP2 - Local Communication_Final.pdf](#)

DELTA PLAN CHAPTER 7

[RR P1](#) - Prioritization of State Investments in Delta Levees and Risk Reduction

Is the covered action consistent with this regulatory policy?

YES NO N/A

Answer Justification: The proposed project utilizes grant funding from the California Department of Fish and Wildlife Cap-N-Trade program. No state funds earmarked for levee improvements are associated with the proposed project. Delta Plan Policy RR P1 provides a table of priorities for state investment in Delta Integrated Regional Flood Management, which contains three general themes: 1) localized flood protection, 2) levee network and 3) ecosystem conservation. Additionally, three separate goals are identified for each of those categories. As such, state funding for Delta flood management should fall into one of nine different priorities. Goal 3 of the Ecosystem Conservation category state to Protect existing and provide for net enhancement of wetlands. The proposed project supports this section as it restores and enhances approximately 1,000 acres of wetland habitat.

[RR P2](#) - Require Flood Protection for Residential Development in Rural Areas.

Is the covered action consistent with this regulatory policy? [Appendix 7](#) is referenced in this regulatory policy.

YES NO N/A

Answer Justification: The covered action does not include any residential development.

[RR P3](#) - Protect Floodways

Is the covered action consistent with this regulatory policy?

YES NO N/A

Answer Justification: The Sherman Island Belly Wetland Project is located on a subsided delta island and does not encroach on a floodway.

[RR P4](#) - Floodplain Protection

Is the covered action consistent with this regulatory policy?

YES NO N/A

Answer Justification: The Sherman Island Belly Wetland Project is located on a subsided delta island and does not encroach onto a floodplain.