



Bay-Delta Resources

11/17/2025 Joint One Water and Adaptation and Subcommittee on Imported Water

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Subject

Delta Conveyance Project Delta Plan Certification of Consistency

Executive Summary

The California Department of Water Resources (DWR) initiated planning for the proposed Delta Conveyance Project (DCP) in early 2020 and is pursuing numerous environmental compliance and permitting processes that must be completed prior to construction and operation of the project. One of those processes is the certification of consistency with the Delta Plan required under the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act). The Delta Reform Act established the coequal goals for the Delta of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. It also established the policy that the coequal goals be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. To further those policies, it created the Delta Stewardship Council (DSC) as an independent state agency and charged it with adopting an enforceable Delta Plan to further the coequal goals in a manner that protects the Delta as an evolving place. The Delta Reform Act requires any state or local agency proposing to undertake a qualifying action in the Delta defined as a “covered action” to submit to the DSC a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan before it may initiate implementation. The DCP meets the definition of a covered action, so DWR must certify consistency with the Delta Plan before it may initiate implementation.

In its certification of consistency, DWR certified that the following Delta Plan policies do not apply to the DCP:

- G P1 (c) – Conservation Measures
- DP P1 – Locate New Development Wisely
- RR P1 – Prioritization of State Investments in Delta Levees and Risk Reduction
- RR P2 – Require Flood Protection of Residential Development in Rural Areas
- RR P4 – Floodplain Protection

DWR determined that the following Delta Plan policies are applicable to DCP and that DCP is consistent with those policies based on substantial evidence provided in the certification of consistency record.

- G P1 (b)(2) – Mitigation Measures
- G P1 (b)(3) – Best Available Science
- G P1 (b)(4) – Adaptive Management
- WR P1 – Reduce Reliance on the Delta through Improved Regional Water Self-Reliance
- WR P2 – Transparency in Water Contracting
- ER P1 – Delta Flow Objectives

- ER PA – Disclose Contributions to Restoring Ecosystem Function & Providing Social Benefits
- ER P2 – Restore Habitats at Appropriate Elevations
- ER P3 – Protect Opportunities to Restore Habitat
- ER P4 – Expand Floodplains & Riparian Habitat in Levee Projects
- ER P5 – Avoid Introductions of & Habitat Improvements for Invasive Nonnative Species
- DP P2 – Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats
- RR P3 – Protect Floodways

On October 3, 2025, DWR posted the certification of consistency for DCP on its website for a required 10-day public review period. Following the initial review period, DWR officially submitted the DCP certification of consistency to the Delta Stewardship Council (DSC) on October 17, 2025. Any appeals to DWR's certification of consistency must be filed with the DSC by November 17, 2025.

Once the 30-day appeal period expires, the DSC must hold a hearing on the appeals within 60 days, after which it has 60 days to adopt a written determination granting or denying the appeals. The DSC will review the certification to determine if DWR's consistency findings are supported by substantial evidence in the administrative record. Appellants bear the burden of proving that there is no substantial evidence to support DWR's findings.

If the DSC denies all appeals, DWR would be permitted to initiate implementation, although it would not start construction until it secures other major permits and State Water Project contractors have agreed to participate in and fund the construction and operation of the project. However, if the DSC grants any appeals, it will remand the certification to DWR, and DWR would need to prepare and submit a revised certification of consistency addressing the DSC's remand, after which opponents would have another opportunity to appeal.

<https://www.deltaconveyanceproject.com/planning-processes/delta-plan-consistency/draft-certification-of-consistency-for-the-delta-conveyance-project>

https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=3952a97c-8d85-49d6-842a-8926ceec71a8

Attachment 1 – DCP Certification of Consistency Explainer Brochure

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Delta Conveyance Project Certification of Consistency Explainer

The Department of Water Resources (DWR) prepared a Certification of Consistency with the Delta Plan as part of the Delta Conveyance Project planning process and has submitted it to the Delta Stewardship Council. This explainer details how the certification process works and what DWR has provided to the Delta Stewardship Council to support its detailed findings of consistency.

DWR staff evaluated the criteria and certified that the Delta Conveyance Project is a "covered action" as defined by the 2009 Legislation and that the project is consistent with the Delta Plan.

The Case for Consistency with the Delta Plan

The Delta Conveyance Project is consistent with the Delta Plan. The project's purpose is to ensure water reliability for State Water Project supplies to communities in the Bay Area, Silicon Valley, San Joaquin Valley, Central Coast and Southern California to manage risks from climate change, sea level rise and seismic events in the Delta. This aligns with the state's coequal goal for the Delta to "provide a more reliable water supply for California." Water suppliers throughout the State Water Project's service area have been diligently pursuing regional self-reliance, but even with those efforts, reliable State Water Project supplies will still serve as a core source of clean, cost-effective supplies now and into the future.

Additionally, there is an enforceable, comprehensive Mitigation, Monitoring and Reporting Program for the project. DWR has also created an Accountability Action Plan, with many components, including the Community Benefits Program, which are designed to help maintain the Delta as an evolving place.

All of this and more is detailed in DWR's Certification of Consistency, which documents the project's consistency with each applicable Delta Plan policy. Each section of the Certification of Consistency follows a similar format.

- DWR cites the policy text addressed in the section and defines terms in the policy.
- DWR explains its approach to making the findings followed by the findings themselves.
- Finally, there is a concluding section that provides a summary of how DWR reached the determination of consistency with the Delta Plan.

Multiple appendices to the Certification of Consistency provide added detail and evidence to support DWR's findings.



The following table provides a brief summary of findings by Delta Plan policy for the Delta Conveyance Project.

Policy Number	Short Title	Summary of Findings
WR P1	Reduce Reliance on the Delta through Improved Regional Water Self-Reliance	Water suppliers accounting for ninety-nine percent of State Water Project allocated water supplies have documented reduced reliance on the Delta through improved regional self-reliance in the manner set forth in the policy. The project is consistent with this policy because the remaining 1% did not create the need for export related to the covered action.
WR P2	Transparency in Water Contracting	Consistent with this policy, the covered action has been transparent in water contracting because it followed the Guidelines and Principles Regarding Public Participation in SWP Contract Negotiations (DWR Guidelines 03-09, 03-10).
ER P1	Delta Flow Objectives	The project is consistent with ER P1 because modeling shows that the covered action will meet D-1641 flow objectives. In addition, the SWP has historically met D-1641 flow objectives 99.8% of the time.
ER PA	Disclose Contributions to Restoring Ecosystem Function and Providing Social Benefits	Although the covered action is not an ecosystem restoration project, it involves habitat creation as part of its Compensatory Mitigation Plan. Consistent with Delta Plan Policy ER PA, DWR has provided supporting documentation in the DCP Certification of Consistency regarding disclosure of contributions to restoring ecosystem function and providing social benefits.
ER P2	Restore Habitats at Appropriate Elevations	Although the covered action is not an ecosystem restoration project, the habitat creation as part of the Compensatory Mitigation Plan, will be consistent with the appropriate elevation requirements.
ER P3	Protect Opportunities to Restore Habitat	The project is consistent with ER P3 because the project has no significant adverse impacts on the potential for habitat restoration in the priority habitat restoration areas identified in the policy.
ER P4	Expand Floodplains and Riparian Habitats in Levee Projects	The project is an infrastructure project, not a levee project. However, the project is consistent with ER P4, because where levees, flood plains, or riparian areas are impacted, levee alternatives were evaluated. It was determined that no feasible levee alternatives would meet the overall project objectives or the necessary project levee work objectives while also increasing floodplains and riparian habitat. Additionally, the covered action includes measures that would fully mitigate the impacts on floodplain and riparian habitat.
ER P5	Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species	The project is consistent with ER P5 because the potential for new introductions of, or improved habitat conditions for, nonnative invasive species has been fully considered and has been avoided or mitigated in a way that appropriately protects the ecosystem through the design features, mitigation measures, environmental commitments, Compensatory Mitigation Plan, and Adaptive Management and Monitoring Program paired with permit requirements and DWR's Department-wide invasive species programs.



Policy Number	Short Title	Summary of Findings
DP P1	Locate New Urban Development Wisely	Does not apply because the project does not involve residential, commercial or industrial urban development.
DP P2	Respect Local Use When Siting Water or Flood Facilities or Restoring Habitats	The project is consistent with DP P2 because the covered action's facilities are situated in such a way to avoid or reduce conflicts with existing land uses when feasible and although not required, environmental commitments and mitigation are provided. The Community Benefits Program is one such commitment with a dedicated \$200 million fund that will seek to deliver tangible, lasting and measurable benefits to communities nearest to, and most affected by, project construction activities.
RR P1	Prioritization of State Investments in Delta Levees and Risk Reduction	Does not apply because the project involves no investment in levees or flood risk reductions.
RR P2	Require Flood Protection for Residential Development in Rural Areas	Does not apply because the project does not involve new residential development.
RR P3	Protect Floodways	Does not apply because none of the project infrastructure, or known mitigation sites, will encroach in a floodway that is not either a designated floodway or regulated stream.
RR P4	Floodplain Protection	Does not apply. None of the project infrastructure or known mitigation will encroach on any floodplains described in RR P4.
G P1 (b)(3)	Best Available Science	The project is consistent with the Best Available Science Policy because DWR used the best data, models and literature analyses, in addition to peer review of science and public comment to assess impacts of the covered action, which is consistent with the best available science criteria defined in Table 1A-1 of the Delta Plan.
G P1 (b)(4)	Adaptive Management	The project is consistent with the Adaptive Management policy because the project's adaptive management processes described in each Adaptive Management Plan (AMP) are consistent with the three phases and nine steps outlined in Appendix 1B of the Delta Plan. The programmatic level of detail in each AMP will be refined and expanded as design of the project and the permitting processes progress. DWR also has the resources and authority to meet the AMP requirements.
G P1 (c)	Conservation Measure	Does not apply. The project does not include a conservation measure to be implemented pursuant to San Joaquin County Multi-Species Habitat Conservation and Open Space Plan or East Contra Costa County Habitat Conservation Plan & Natural Community Conservation Plan.



Certification of Consistency Conclusion

The project is consistent with the Delta Plan because it is consistent with all applicable Delta Plan Policies. Additionally, the project is, on whole, consistent with the coequal goals. Substantial evidence demonstrates that DWR has followed the Delta Plan's recommendations to promote, evaluate, design, and implement new and improved facilities for water conveyance and water diversion in the Delta, and that the covered action will advance the state's coequal goal for the Delta of providing a more reliable water supply for California while not conflicting with the coequal goal of protecting, restoring, and enhancing the Delta ecosystem. **Detailed Findings with supporting documentation can be found [here](#).**

Appeal Process

Appeals must be submitted within the 30-day appeal period to the Delta Stewardship Council and must demonstrate that DWR's Certification of Consistency is not supported by substantial evidence in the record, and, as a result, would be inconsistent with the Delta Plan. The Delta Stewardship Council sets hearing dates and manages the process. Their staff will provide analysis to Councilmembers about the merits of appeals, and the Council itself will listen to arguments from DWR and appellants, as well as comments from the Delta Protection Commission and public as to the merits of the appeals. Written statements may also be submitted.

The Delta Stewardship Council does not approve/disapprove the project, but rather, it will decide whether there is substantial evidence in DWR's evidentiary record to support each consistency finding, meaning enough relevant information and reasonable references that a fair argument can be made to support the conclusions in the Certification of Consistency.

The Delta Stewardship Council designed the process to move expeditiously. When the Council issues a notice that an appeal has been filed, DWR will have 5 days to submit the final evidentiary record. Then a hearing will be scheduled within 60 days of the notice of appeal. The Delta Stewardship Council will adopt a decision within 60 days of the end of the hearing. It can remand all or part of the Certification of Consistency back to DWR to resubmit a revised certification addressing the remand, or it may dismiss or deny appeals, in which case DWR may proceed with implementation of the Delta Conveyance Project once DWR has obtained all necessary permits and approvals.

Background on the Delta Plan and Requirement of Consistency

The Sacramento-San Joaquin Delta Reform Act of 2009 established the Delta Stewardship Council and charged it with creating a Delta Plan to provide a blueprint for achieving the goals for the Delta of water supply reliability and ecosystem protection and restoration while maintaining the Delta as an evolving place. The legislation and regulations also require state and local agencies to self-certify that "covered actions" in the Delta are consistent with the Delta Plan's applicable policies and set up a process for other parties to appeal certifications to the Delta Stewardship Council. As part of this appeal process, the Delta Stewardship Council generally must hold a hearing to determine if an appeal has merit. The Delta Stewardship Council does not have the authority to approve, impose conditions of approval on, or veto a project. Instead, it determines whether there is substantial evidence in the certifying agency's record to support its consistency findings. Substantial evidence means enough relevant information and reasonable inferences so that a fair argument can be made to support the certifying agency's conclusions, even if other conclusions may also be reached.

The Delta Stewardship Council's process is explained on their [website](#) and in a staff [presentation](#) and [overview](#) from their July 2025 meeting.

