

**COST ANALYSIS FOR
PROPOSED DELTA PLAN REGULATIONS
in Support of Economic and
Fiscal Impact Statement**

**Prepared for Delta Stewardship Council
Sacramento, CA
November, 2012**

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Introduction

The Delta Stewardship Council (Council) was established as an independent State of California (State) agency by the Sacramento–San Joaquin Delta Reform Act of 2009 (Delta Reform Act) and is directed to develop, adopt, and implement a legally enforceable, comprehensive, long-term management plan for the Sacramento–San Joaquin Delta and the Suisun Marsh. The Delta Plan’s primary and fundamental purpose is to achieve the coequal goals “of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem. The coequal goals shall 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” (Water Code section 85054).

Additionally, the Delta Reform Act states (in Water Code section 85020 et. seq.) that the policy of the State is “to achieve the following objectives as inherent in the coequal goals for the management of the Delta:

- (a) Manage the Delta’s water and environmental resources and the water resources of the state over the long term.
- (b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.
- (c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.
- (d) Promote statewide water conservation, water use efficiency, and sustainable water use.
- (e) Improve water quality to protect human health and the environment consistent with achieving 22 water quality objectives in the Delta.
- (f) Improve the water conveyance system and expand statewide water storage.
- (g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.
- (h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.”

The set of policies and implementing procedures embodied in the Delta Plan is being submitted as regulations to be reviewed and adopted according to the State’s Administrative Procedures Act (APA). State law requires a rulemaking agency (the Council in this case) to provide an assessment of the fiscal impacts its regulation would have on State and local governments (Government Code section 11346.5) and to “assess the potential for adverse economic impact on California business enterprises and individuals” (Government Code section 11346.3). The economic and fiscal impacts of the regulations must be estimated and disclosed using Standard Form (STD.) 399, Economic and Fiscal Impact Statement.

This report provides the basis for information provided in the accompanying STD. 399. The cost analysis addresses draft regulation proposed under California Code of Regulations Title 23, Waters; Division 6, Delta Stewardship Council; Chapter 2, Consistency with regulatory policies contained in the Delta Plan (referred to throughout this cost analysis as Draft Regulation).

Summary of Delta Plan Requirements, Processes, and Outcomes Potentially Resulting in Economic and Fiscal Impacts

The draft Delta Plan contains a number of policies and recommendations to advance the coequal goals. The Delta Reform Act created the Council and provided it with authority to serve two primary governance roles: “1) set a comprehensive, legally-enforceable direction for how the State manages important water and environmental resources in the Delta through the adoption of a Delta Plan, and 2) ensure coherent and integrated implementation of that direction through coordination and oversight of state and local agencies proposing to fund, carry out and approve Delta-related activities.” These activities are defined as “covered actions” under section 5003 of the Draft Regulation.

Draft Regulation section 5004 requiring certifications of consistency furthers the intent of the Delta Reform Act by requiring state or local agencies that propose to undertake covered actions certify with the Council, before acting, that their proposed plans, programs, or projects are consistent with the regulatory policies contained in the Delta Plan, as described in Article 3, sections 5005 through 5020 of the Draft Regulations. The following kinds of economic and fiscal impacts are addressed in this cost analysis:

- ◆ Cumulative benefit of Delta Plan policies implementation as well as benefits resulting from any modifications to covered actions to make them consistent with the Delta Plan policies.
- ◆ Costs potentially resulting from Delta Plan policies, including:
 - Costs to local and state agencies required to prepare information to demonstrate consistency of a covered action.
 - Costs to local and state agencies to respond to appeals regarding Council certification.
 - Costs to the Council and its staff to review and certify consistency of covered actions.
 - Delta Plan policies may cause a State or local agency proposing a covered action to modify its existing plans, imposing costs in undertaking or modifying a covered action to comply with Delta Plan policies, and/or changing the level of benefits that might be received from the covered action.
 - Delta Plan policies may result in costs to some private individuals and businesses through assessments, taxes, user fees, rates, or other mechanisms the agencies use to fund activities impacted by Delta Plan policies and/or changes to the level of benefits that private entities might receive from the covered action.
 - Indirect costs that could result from State or local agencies not pursuing actions because the actions could not be made consistent with Delta Plan policies.

Benefits of Delta Plan Policies

The Delta Reform Act was part of a comprehensive bill on Delta governance that contains the legislative goals and anticipated benefits of implementing the Delta Plan and the Draft Regulation. Amendments to Public Resources Code section 29702 summarize the expected benefits:

- ◆ Achieve the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall 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.
- ◆ Protect, maintain, and, where possible, enhance and restore the overall quality of the Delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities.

- ◆ Ensure orderly, balanced conservation and development of Delta land resources.
- ◆ Improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety.

Additional statements of legislative goals and expected benefits are in sections 85001(c) and 85020 of the Water Code enumerating the Delta Reform Act.

Implementation of Delta Plan policies would provide the best means to achieve the coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. Achieving the coequal goals is expected to result in benefits to State and local agencies or private individuals and businesses in the state resulting from changes in water supply reliability, ecosystem restoration, flood risk, or land use policies, regardless of whether or not that particular agency, private individual, or business has proposed any covered actions.

The Delta Plan establishes regulatory policies that address current and future ecological, flood management, water quality, and water supply reliability challenges. Fundamentally, the Delta Plan seeks to arrest (and ultimately improve) declining water supply reliability and environmental conditions related to the Delta ecosystem, reduce flood risk, improve water quality, as well as increase recreation opportunities in the Delta and protect Delta legacy culture. Generally speaking, these are long-term goals to reduce or reverse long-term environmental impacts due to legacy issues from past centuries as well as current conflicts.

The Delta Plan's planning horizon envisions that by 2100, California's water use will be considerably more efficient, local and regional projects such as recycled water and desalination will be online to increase supplies and meet the demands of a growing population, and storage will have increased to meet the challenge of climate change and the needs of water transfer systems. Regions reliant on receiving some portion of their water from the Delta watershed will have reduced their reliance and improved regional self-reliance through increased conservation and diversification of their local and regional sources of supply. Delta conveyance will be managed in an adaptive manner that successfully balances ecosystem restoration and protection with more reliable water deliveries. Water quality in the Delta will support a healthy ecosystem and the multiple beneficial uses of water, including municipal supply and recreational uses such as fishing and swimming.

The Delta and Suisun Marsh ecosystem will have the capacity to provide the environmental and societal benefits the public demands (viable populations of desired species, wild habitats for migratory and resident species, recreation and solace, land for agriculture, and the conveyance of reliable and high-quality fresh water). Large areas of the Delta will be restored in support of a healthy estuary. A diverse mosaic of interconnected habitats will be reestablished in the Delta and its watershed. Migratory corridors for fish, birds, and terrestrial wildlife will be largely protected and restored. Actions will have been taken to ensure that sufficient freshwater flows following a more natural, functional hydrograph are dedicated to support a healthy ecosystem. Actions will have reduced the impacts caused by stressors such as invasive species, poor water quality, loss of habitat, and urban development, resulting in improved conditions for native species of fish, birds, and wildlife that depend on the Delta and its watershed.

The Delta itself will be a safe, nationally recognized and vibrant place, with well-defined cities and towns, a strong agricultural sector, and a well-deserved reputation as a recreational destination. Despite an increase in sea levels and altered runoff patterns, risks will be reduced and residents and agencies will be prepared to respond when floods threaten. In 2100, the Delta will retain its rural heritage and be a place where agricultural, recreational, and environmental uses are uniquely integrated and continue to contribute in important ways to the regional economy.

Restoring the Delta ecosystem and providing a more reliable water supply to California will be accomplished through policies that include:

- ◆ Increasing California’s water supply reliability by setting a deadline for successful completion of the Bay Delta Conservation Plan (BDCP), which is intended to improve water conveyance through the Delta and improve habitat for threatened and endangered species. Also, linking continued use of Delta water to existing requirements that local agencies implement local plans to diversify water supplies and improve efficiency, thus reducing their reliance on the Delta.
- ◆ Protecting and enhancing the Delta ecosystem by protecting six high-priority restoration areas from development and setting a deadline for the State Water Resources Control Board to develop flow criteria already required by State law for the major rivers and tributaries of the Delta. Also, reducing Delta ecosystem stressors through a suite of specific recommendations to address such problems as toxics, nutrients, invasive species, and prioritizing State and regional actions to deal with high priority Delta-specific water quality problems.
- ◆ Protecting and enhancing the Delta by recognizing that all actions must be achieved in a manner that protects and enhances the values and unique but “evolving” characteristics of the Delta. The Plan also encourages designation as a national heritage area, continued emphasis on agriculture, and increased recreational opportunities.
- ◆ Reducing risk by reinforcing requirements that new developments in and around the Delta have adequate flood protection, prioritizing state investments in levee programs, protecting and preserving floodplains, and encouraging setback levees to increase habitat and reduce flood damage.

Description of Costs of Delta Plan Policies

Draft Regulation section 5003 defines covered actions as:

(a) “Covered action” shall mean a plan, program, or project that meets all of the following criteria (which are collectively referred to as covered action screening criteria):

- (1) Is a “project,” as defined pursuant to Section 21065 of the Public Resources Code.*
- (2) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh.*
- (3) Will be carried out, approved, or funded by the state or a local public agency.*
- (4) Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta.*
- (5) Is covered by one or more provisions of the Delta Plan, which for these purposes, means one or more of the regulatory policies contained in Article 3.*

Section 5003 (b) lists exclusions to “covered actions.” For purposes of this cost analysis, covered actions are assumed to comply with these conditions and not be specifically excluded.

Section 5003 (c) specifies that:

A state or local public agency that proposes to carry out, approve or fund a plan, program, or project that may be subject to this chapter must determine whether that proposed plan, program, or project is a covered action. That determination, which is subject to judicial review, must be reasonable, made in good faith, and consistent with the Delta Reform Act and this chapter.

Section 5004 specifies what must be addressed in a certification of consistency filed by a state or local public agency with regard to a covered action.

Costs will be incurred in compliance with sections 5003 and 5004 as detailed in the following discussion.

Costs to Local and State Agencies to Prepare Information to Demonstrate Consistency of Covered Actions

State and local agencies proposing to implement a covered action (lead agencies) must obtain certification from the Council that the action is consistent with the Delta Plan. Lead agencies will submit a Certification of Consistency Form (Exhibit A) to the Council. Council staff has developed a checklist that lead agencies can follow to determine if their project is a covered action and, if so, the process to follow and information to provide for certification.

Costs to Local and State Agencies to Prepare or Revise and Implement an Adaptive Management Plan

Certification of consistency for covered actions dealing with ecosystem restoration or water management requires the lead agency to demonstrate an adaptive management plan that is consistent with the framework in Appendix A to the Delta Plan and to document the authority and resources necessary to implement the plan. Adaptive management concepts are not new and are already being incorporated into plans. The California Department of Fish and Game (DFG) has incorporated adaptive management principles in the Delta Regional Ecosystem Restoration Implementation Plan. The BDCP is incorporating adaptive management into its fundamental planning principles (see the BDCP program's working draft "Adaptive Management for Water Operations" dated February 16, 2012).¹ Mitigation monitoring and reporting (MMR) plans are required for projects under the California Environmental Quality Act (CEQA) (Public Resources Code section 21081.6); MMR plans do not generally include comprehensive adaptive management, but they contain at least important building blocks for an adaptive management plan.

Two examples illustrate how MMR plans incorporate adaptive management principles:

- ◆ The North Delta Flood Control and Ecosystem Restoration Project (DWR 2010) contains some mitigation measures in its MMR plan that embody adaptive management principles. For example, Mitigation Measure Fish-3 states: "If monitoring indicates that fish stranding has occurred, DWR will use appropriate methods..." (See page 22 of Exhibit D to the Final EIR.)
- ◆ The Proposed Lower Yuba River Accord includes long-term water transfers through the Delta. The MMR in its Final EIR/EIS (Yuba County Water Agency 2007; see Chapter 6) incorporates adaptive management. For example, on page 6-17: "The [management team] will conduct regular meetings to review monitoring data...and to advise YCWA to make additional instream flows depending on water availability for the purposes of meeting fisheries resources needs."

Therefore, projects for ecosystem restoration and water management actions in the Delta that comply with CEQA will already contain key elements of an adaptive management plan. The lead agency may need to explain the functional equivalence of its adaptive management or MMR plan to the adaptive management principles of the Delta Plan, or it may need to reformulate its plan to conform to the Delta Plan principles.

Costs to Local and State Agencies to Respond to Appeals Regarding Council Certification

Other agencies or individuals may appeal the Council decision. If so, the lead agency must submit information and analysis to support the information in the form. Following submission of this information, the Council will hold an appeal hearing and provide written findings. If the appeal is rejected, the Council has determined that the covered action is consistent. If the appeal is upheld, the lead agency may revise the action and resubmit.

¹ Available at <http://baydeltaconservationplan.com/BDCPPlanningProcess/DocumentsAndDrafts.aspx>

In summary, a lead agency must undertake the following actions and incur associated costs for a covered action:

1. Prepare a certification of consistency.
2. Prepare a covered action record of the process, including analysis and other information that the lead agency used to make its certification of consistency.
3. Make and submit formal findings by the lead agency's governing board or management.

In addition, a lead agency may incur costs associated with the following actions:

4. Consult with the Council prior to submitting a certification of consistency.
5. Submit the covered action record, including additional analysis needed to address the concerns raised in the appeal.
6. Attend and provide testimony at the appeal hearing.
7. If the Council upholds the appeal, modify and refile the Certificate of Consistency. (Costs to modify the design or operation of the covered action itself are described separately.)

Costs to the Council and its Staff to Review and Certify Consistency of Covered Actions

The Council's duties include providing a process for lead agencies to certify covered actions and hearing appeals of the certification. Costs for administering the certification process, including development of the certification form and checklist and management of the certification web site, are already included as part of the Council's administrative budget. Additional costs from the Draft Regulation would potentially result from appeals. The Council would incur costs to review the lead agency's covered action record, hold the appeals hearing, and issue written findings.

Other Costs for Local and State Agencies to Comply with Delta Plan Policies

Implementation of Delta Plan policies may result in costs to state and local agencies resulting from one or more of the following: modifications to an agency's existing plans for covered actions to make them consistent; development of covered actions that are different than what the agency would have done in absence of the Delta Plan; changes in water supply reliability, ecosystem restoration, flood risk, or land use policies that affect an agency whether or not it has proposals for covered actions; and administrative costs to monitor Council activities, attend meetings, and review documents and findings.

Indirect Economic Impacts on Private Businesses and Individuals

Delta Plan policies and administrative requirements apply to State and local agencies. Private businesses and individuals are not directly affected by costs of Delta Plan policies or administrative requirements. They could be affected indirectly in two ways: costs or benefits passed through to them by a lead agency of a covered action, or costs or benefits that accrue to them as a result of the changes in water supply reliability, ecosystem restoration, flood risk, or land use policies attributed in whole or in part to the Delta Plan.

Indirect Costs that Could Result from State or Local Agencies not Pursuing Actions Because the Actions Could Not Be Made Consistent with Delta Plan Policies

A covered action might be abandoned by the applicant or lead public agency because it cannot be made consistent with one or more Delta Plan policies. This could result in foregone benefits to the applicant and, indirectly, businesses or individuals. Examples of foregone benefits may include more expensive

water treatment or water supply alternatives to the proposed action, or the foregone economic benefit of real-estate development in the Delta.

Local Agency Authority to Recover Costs

Government Code section 17556 provides that no mandate exists where “(d) The local agency or school district has the authority to levy assessments, rates, fees, or other charges sufficient to pay for the mandated program or increased level of service.”

The following discussion provides general information on the authority and mechanisms by which local agencies in the Delta can recover any costs potentially resulting from the proposed Draft Regulation. The discussion is not a legal opinion on the ability of specific agencies to recover costs through one or more means. Some of the cost recovery mechanisms may require a local vote to implement. The list of special districts (see Appendix B) was developed for the Council’s public outreach and notification process. It is hoped and intended to provide a complete list of local agencies operating in the Delta.

The appearance of an agency on the list does not necessarily imply that the agency might bear costs from the Draft Regulation. Only agencies that would provide consistency certification or implement covered actions would be affected (and even then only to the extent that such costs would not have been incurred without the Draft Regulation). The conditions under which proposed actions would be considered covered actions are likely to exclude a large proportion of local agency activity. For example, section 85057.5 (b)(5) of the Act exempts “routine maintenance and operation of any facility located, in whole or in part, in the Delta, that is owned or operated by a local public agency.” Even new facilities are exempt unless they “have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs.” (See section 5003 of the Draft Regulation for the full definition of a covered action, including exemptions.)

Cities and Counties

Cities and counties have power to impose fees to cover the costs associated with specific activities, including planning and permitting.

Under the police power granted by the Constitution, counties and cities have plenary authority to govern, subject only to the limitation that they exercise this power within their territorial limits and subordinate to state law. (California Constitution, article XI, section 7.) Apart from this limitation, the “police power [of a county or city] under this provision ... is as broad as the police power exercisable by the Legislature itself.” (Birkenfeld v. City of Berkeley (1976) 17 Cal.3d 129, 140 [130 Cal. Rptr. 465, 550 P.2d 1001].)

Candid Enterprises, Inc. v. Grossmont Union High Sch. Dist., 39 Cal. 3d 878, 885, 705 P.2d 876 (1985).

The Mitigation Fee Act (Government Code section 66000 et seq.) restricts a local agency’s right to impose fees, but excludes charges to comply with regulations:

“Fee” . . . does not include . . . fees for processing applications for governmental regulatory actions or approvals” Government Code section 66000(b).

The ability to impose or increase fees to cover costs imposed by a regulation was stated in a recent decision:

A regulatory fee may be imposed under the police power when the fee constitutes an amount necessary to carry out the purposes and provisions of the regulation.’ [Citation.] ‘Such costs ... include all those incident to the issuance of the license or permit,

investigation, inspection, administration, maintenance of a system of supervision and enforcement.

California Farm Bureau Federation v. State Water Resources Control Board., 51 Cal. 4th 421, 438, 247 P.3d 112, 123 (2011), as modified (Apr. 20, 2011), rehearing denied (Apr. 20, 2011).

School Districts

School districts are authorized to impose fees or charges on construction within its boundaries for purposes of building or improving school facilities (Education Code section 17620). Districts also have authority to issue voter-approved bonds to cover construction costs (Education Code section 15100). If the Draft Regulation increases planning, design, or construction costs of such facilities, the school districts may include those costs in its calculation of fees or charges or in its calculation of required bond proceeds.

Special Districts

Special districts provide a wide variety of government services such as water supply, sewer collection and treatment, reclamation and drainage, parks, transportation, and other utility infrastructure. Some special districts provide a single government function, such as land reclamation or irrigation water supply, while others provide a variety of services. Special districts are formed and operate under dozens of different legislative authorities. The authorizing legislation defines the mechanisms that a particular special district may use to finance capital costs and to recover operating costs from constituents and customers.

Costs potentially created by the Delta Plan Draft Regulation could fall on some of these special districts, especially those within the Delta. Appendix Table B-1 summarizes the sections of the California Code that define the authority of special districts within the Delta to recover any imposed costs by increasing assessments, rates, fees, or other charges.

Special districts outside the Delta that would potentially be affected are those receiving water from proposed projects within the Delta. Such districts are virtually certain to be water suppliers with existing authority to increase assessments, fees, rates, or other charges. These authorities would be provided by general authorizing legislation such as for County Water Districts (Water Code section 30000 et seq.), California Water Districts (Water Code section 34000 et seq.), or Irrigation Districts (Water Code section 20500 et seq.), or agency-specific legislation.

Private Water Utilities

Private water companies recover costs through water rates, connection fees, and other charges reviewed and approved by the State's Public Utilities Commission (Public Utilities Code section 727.5).

Estimation of Costs of Delta Plan Policies

Assumptions for Estimating Cost of Certification of Covered Actions

The overall approach to estimating the costs to State and local agencies of the certification and appeals process involves two steps:

1. Estimate the components of cost for one covered action, and
2. Calculate the total annual cost based on a range of the number of covered actions coming before the Council each year.

Costs of certification will vary according to the amount of analysis and documentation needed to demonstrate consistency with Delta Plan policies. This will depend on the details of each covered action, and these cannot be known in advance. For purposes of this report, the range of effort required to file a certification will depend on the nature of the covered action and on the range of other Delta Plan policies that could impose incremental consistency costs on the proposing State or local agency. No Delta county

has, as of yet, undertaken a formal analysis of the costs imposed by the Delta Plan's policies.² In the absence of such estimates, Council staff developed its own estimate of costs based on its understanding of the policies and its expectations of the likely level of effort required.

Costs are attributed to Delta Plan policies, including certification of a covered action, if they would not be incurred in absence of the proposed regulatory policy. In other words, covered action features, analysis, documentation, and approval procedures that would already have been required by existing laws, regulations, or standard planning and engineering practices are not considered new costs imposed by the proposed regulation. It is recognized that distinctions between existing and new requirements are not always clear. A large number of existing State and local requirements may apply, and these vary depending on the nature of the covered action.

Estimated Costs Associated with Certification of Covered Actions

Estimated Costs to the Delta Stewardship Council (State)

State and local agencies proposing to undertake a project covered by the Delta Plan must prepare and file a consistency determination with the Council. The Council's staff, in turn, will meet with the agency's staff to review the consistency of the proposed action and to make recommendations, as appropriate. Subsequent to the filing of a consistency determination with the Council, the Council is responsible for administering the appeal process, including a hearing on the appeal and issuing written findings that either deny the appeal or remand the matter to the State or local agency for reconsideration of the proposed project based on the finding that the consistency determination is not supported by substantial evidence in the record before the agency.

For budgeting purposes, based on the number of CEQA filings at the State Clearinghouse that represented covered actions in the legal Delta or Suisun Marsh since mid-Sept 2011, the Council anticipates 10 to 25 certification of consistency applications filed with the Council annually. Table 1 provides the Council staff time and cost associated with the certification of consistency process for fiscal year 2013–2014, including coordination with lead agency representatives and administration of appeal processes, consisting of a hearing and issuing written findings. The total annual Council cost for fiscal year 2013–2014 is \$438,068.

Table 1

**Council 2012–2014 Budget for Certification of Covered Actions
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement**

Staff Classification	Percent Time Allocated to Covered Actions	Total Costs
Principal Engineer	25	\$43,203
Executive (CEA)	25	\$35,921
Staff Council IV	100	\$148,974
Program Manager III, CBDA	25	\$35,150
Senior Engineer (3)	25	\$107,061
Senior Planner	25	\$25,679
Executive Assistant	25	\$15,907
Staff Environmental Scientist	25	\$26,173

² Personal Communication. October 23, 2012. Doug Brown. Delta Counties Coalition Coordinator. Principal. Douglas Environmental.

Estimated Costs to Lead Agencies (State and Local)

A State or local public agency that proposes to carry out, approve, or fund a plan, program, or project must first determine whether that proposed action is a covered action. If the agency determines that the proposed action is a covered action, the agency shall prepare a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and shall submit that certification to the Council (Exhibit A) prior to initiating implementation of that covered action. Those detailed findings must address consistency with each policy in the Delta Plan that is implicated by the covered action.

Any State or local public agency proposing to undertake a covered action, as defined in Water Code section 85057.5, is encouraged to consult with the Council at the earliest possible opportunity to ensure that the project will be consistent with the Delta Plan. The Council's staff will meet with the agency's staff to review the consistency of the proposed action and to make recommendations, as appropriate.

Any person may challenge a consistency determination by bringing an appeal to the Council (Exhibit B). The Council, in turn, must hold a hearing on the appeal and issue written findings, either denying the appeal or remanding the matter to the State or local agency for reconsideration of the proposed project based on the finding that the consistency determination is not supported by substantial evidence in the record before the agency.

The State or local agency cost of completing a certification of consistency will vary significantly by the types of covered action and available analysis and documentation. The total cost depends on the policies in the Delta Plan implicated by the covered action and the effort required during the prospective appeals process. Council staff is unable to identify another existing process that it can use as a comparable example for estimating costs to prepare consistency certification. Based on staff's view of the intent of the proposed policy, it has developed a range of the level of effort likely required. Staff recognizes that specific covered actions may fall outside this range of effort but believes the following estimates are reasonable and representative.

Preparing the covered action profile, government approvals, and consistency with Delta Plan sections of the certification of consistency form would require the following:

- ◆ Section 1: Agency Profile. Minimal cost (1 hour).
- ◆ Section 2: Covered Action Profile. Description of covered action and collection of approved CEQA documentation and covered action information would require 10 hours.
- ◆ Section 3: Government Approvals. Review and collection of government approvals information would require 10 hours and up to 40 hours if a covered action requires consistency with several Delta Plan policies.
- ◆ Section 4: Consistency with Delta Plan. Review of each Delta Plan policy and collection of appropriate covered action information would require 20 hours plus 10 to 20 hours per applicable policy.

Costs to prepare the covered action's certification record are estimated using standardized assumptions about additional staff hours and costs. All staff costs are calculated using an average \$70 per hour.³ The agency staff mix would be similar to the percent of time Council staff has allocated to the certification process (Table 1).

At \$70 per hour for lead agency staff, a representative range of cost for certification of consistency would be \$4,270 to 16,170. The lower end of the range, \$4,270, would include consultation with the Council

³ California State Personnel Board. 2012. Job Descriptions and Statistical Information. <http://jobs.spb.ca.gov/wvpos/jobspecs.cfm>

and demonstration of consistency with two policies in the Delta Plan, requiring a total of 20 hours of staff time. If, instead, the lead agency is required to demonstrate consistency with as many as eight policies in the Delta Plan and an additional 20 hours of preparation per policy addressed is needed, the cost to file a certification of consistency form would be \$16,170. Additional cost may be incurred if the lead agency requires technical or legal assistance in completing the certification and/or the proposed project requires additional analysis or documentation to complete the certification.

The lead agency of a covered action may also need to explain the functional equivalence of its adaptive management or MMR plan to the adaptive management principles of the Delta Plan, or it may need to reformulate its plan to conform to the Delta Plan principles. The Council has estimated the following effort for a lead agency to conform to the adaptive management principles:

- ◆ For covered actions that have a well-developed plan that generally follows the Delta Plan principles, the cost of describing functional equivalence is expected to be minor, requiring 6 hours of staff time.
- ◆ Revising and potentially expanding an MMR into a compliant or functionally equivalent adaptive management plan is a more substantial effort, requiring 20 hours for a small project and up to 80 hours for a large, complex project.
- ◆ Ecosystem restoration and water management covered actions that have complied with CEQA would already have at minimum an MMR plan. Therefore, no covered actions are anticipated that would require development of an entirely new adaptive management plan.

Therefore, example costs to conform to the adaptive management principles range from \$420 to \$5,600. Adequate resources to carry out the covered action’s MMR plan should be part of the project budget.

Additional costs would likely be required for adaptive management activities that were added for compliance with Delta Plan principles. The cost of adaptive management activities specific to Delta Plan principles could vary significantly by covered action. However, a range of adaptive management costs, including monitoring related costs, are provided in Table 2.

Table 2
Project and Adaptive Management Costs (\$Millions)
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

Project	Total Project Cost	Adaptive Management Cost	Percentage of Total Project Costs
Bay Delta Conservation Plan	\$21,617	\$831	3.8
East Contra Costa County HCP/NCCP	\$297	\$19	6.4
South Bay Salt Pond Restoration Project	\$82	\$9	11.0

Source: Administrative Draft Bay Delta Conservation Plan, February 2012; Jones & Stokes. 2006. East Contra Costa County HCP/NCCP. October. San Jose, CA.; John Bourgeois. 2012. Personal Communication. CA Costal Conservancy. Executive Project Manager.

Water management actions in the Delta such as large scale supply projects (e.g., BDCP) already include adaptive management programs, so Delta Plan policies would impose no additional cost.⁴ Water transfer projects that qualify as covered actions would likely coordinate with ongoing adaptive management associated with SWP and CVP operations. Again, this process would occur in absence of the Delta Plan policy on adaptive management.

⁴ Administrative Draft Bay Delta Conservation Program, February 2012; California Department of Fish and Game. 2011. Draft Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions. Ecosystem Restoration Program. July. Sacramento, CA.

Flood management projects in the Delta constitute the largest category of potential water management covered actions that might not include compliant adaptive management in the absence of Delta Plan policies. Potential levee improvements in the Delta total \$2 billion in the long-term.⁵ The range of adaptive management costs in Table 2 is representative of large ecosystem restoration and water management projects. A weighted average was used to determine a representative percentage of total project costs attributable to adaptive management, approximately 4 percent. If the \$2 billion cost were spread over a 20-year period, and an additional 4 percent of that project cost were allocated to adaptive management, the additional costs associated with flood projects in the Delta would be \$4 million annually. However, the level of adaptive management necessary for levee improvements is uncertain and 4 percent of total project costs may overestimate total adaptive management costs.

These cost estimates do not include the effort required to reconsider the proposed project in the prospective appeal process. The effort would require preparation or augmentation of materials in response to appeal of certification, and testimony at an appeals hearing. The cost to a lead agency in an appeals process, 10 to 40 hours for augmentation of the certification of consistency form and 8 to 16 hours for testimony at an appeals hearing, would cost \$1,260 to \$3,920.

Estimated Costs of Delta Plan Policies

Delta Plan policies may impose costs on many State and local agencies, regardless of whether they are proposing a covered action as a lead agency. No Delta county has, as of yet, undertaken a formal analysis of the costs imposed by the Delta Plan's policies.⁶ In the absence of such estimates, Council staff developed its own estimate of costs based on its understanding of the policies and its expectations of the likely level of effort required.

The Council has no direct mechanism to enforce its policies except through the process of certifying consistency of covered actions. Nevertheless, the Delta Plan policies will become regulations that all State and local agencies, as they are identified within each policy, must observe. Therefore, the following estimates and description assume that all agencies potentially affected by the policy will comply.

Policy §5004: Contents of Certifications of Consistency

Costs associated with this policy are addressed above.

Policy §5005: Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Section 5005 (c) states:

Water shall not be exported from, transferred through or used in the Delta if all of the following apply:

- (1) one or more water suppliers that would receive water as a result of the export, transfer or use have failed to adequately contribute to reduced reliance on the Delta and improved regional self-reliance consistent with all of the requirements stated in paragraph (1) of subsection (e);*
- (2) that failure has significantly caused the need for the export, transfer or use; and*
- (3) the export, transfer or use would have a significant adverse environmental impact in the Delta.*

⁵ Personal Communication. November 11, 2012. Eric Nichol. Delta Stewardship Council

⁶ Personal Communication. October 23, 2012. Doug Brown. Delta Counties Coalition Coordinator. Principal. Douglas Environmental.

Section 5005 (e)(1) states:

Water suppliers that have done all of the following are contributing to reduced reliance on the Delta and improved regional self-reliance and are therefore consistent with this policy:

A) Completed a current Urban or Agricultural Water Management Plan which has been reviewed by the Department of Water Resources for compliance with the applicable requirements of Water Code Division 6, Parts 2.55, 2.6, and 2.8

B) Identified, evaluated and commenced implementation, consistent with the implementation schedule set forth in the management plan, of all programs and projects that are locally cost effective and technically feasible which reduce reliance on the Delta and,

C) Included in the plan, commencing in 2015, the expected outcome for measurable reduction in Delta reliance and improvement in regional self reliance.

Section 5005 (e)(2) states:

Programs and projects that reduce reliance could include, but are not limited to, improvements in water use efficiency, water recycling, storm water capture and use, advanced water technologies, conjunctive use projects, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.

Existing water code sections cited in section 5005 (e)(1) define water management requirements, including conservation programs and projects, that suppliers must implement or evaluate to comply. These include demand management measures (DMMs) for urban suppliers and efficient water management practices (EWMPs) for agricultural suppliers. Section 5005 of the Draft Regulation applies to water suppliers that are already subject to the water management planning and implementation of existing law, and so does not mandate substantial new costs on water suppliers. Even those completing and implementing water management plans are not required to implement many of the DMMs or EWMPs unless they are locally cost-effective (Water Code 10631(g) for urban suppliers and Water Code 10825(b) for agricultural suppliers).

Therefore, section 5005 (e)(1)(A) and (B) impose no additional costs on any water suppliers that are subject to existing water management requirements and that have complied with those requirements. Section 5005 (e)(1)(C) would cost \$1,400, or 20 hours of staff time, for water suppliers to document the expected outcome on Delta reliance, beginning with their 2015 water management plan.

Under existing water management planning laws, the defined consequence of non-compliance is restriction on access to State grants and loans (e.g., Water Code section 10631.5 et seq. for urban suppliers). The Draft Regulation adds an additional consequence, namely that a covered action would be inconsistent with the Delta Plan. There may be water suppliers that have not complied with existing water management planning law, yet might propose a covered action. Such suppliers would need to prepare and implement a water management plan as specified in section 5005 (e)(1). The cost of preparing a water management plan is included in Appendix A: Example Cost Analysis.

These costs are provided for information only; Council staff does not believe they should be attributed to the Draft Regulation because they are examples of costs that agencies should already have incurred under existing water law.

Policy §5006: Improved Transparency in Water Contracting

Section 5006(a) states:

The contracting process for water from the State Water Project (SWP) and/or the Central Valley Project (CVP) must be done in a publicly transparent manner consistent with applicable policies of the Department of Water Resources and the Bureau of Reclamation referenced in subsequent sections.

The policy enumerates that existing and future state and federal project water contracts will follow established procedures, including the publicly transparent contracting process.

Therefore, this requirement imposes no new costs to state or local agencies or on private entities.

Policy §5007: Update Delta Flow Objectives

This policy suggests deadlines for the State Water Resources Control Board to update the Bay-Delta Water Quality Control Plan objectives. Section 5007 (c) states:

Prior to the establishment of revised flow objectives as described in subsections (a) and (b), the existing Bay Delta Water Quality Control Plan flow objectives shall be used to determine consistency with the Delta Plan. After the flow objectives are revised, the revised flow objectives shall be used to determine consistency with the Delta Plan.

The State Water Resources Control Board (SWRCB) will update the flow objectives regardless of section 5007. While section 5007 suggests deadlines for the SWRCB to adopt and implement flow objectives for the Delta and for high-priority tributaries in the Delta watershed, and recommends mechanisms for implementation, no mandates are made. SWRCB flow objectives for the Delta would preclude any covered action that is determined to be inconsistent with the objectives.

Therefore, this policy does not mandate additional costs on the SWRCB or other state and local agencies or on private entities.

Policy §5008: Restore Habitats at Appropriate Elevations

This policy requires habitat restoration to be

carried out consistent with the text of Appendix H of the Delta Plan, which is based on the Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions (DFG 2011), with minor alterations.⁷

CEQA requires adoption of feasible mitigation measures to reduce the severity and magnitude of potentially significant environmental impacts. Therefore, while this policy may require restoration actions to be consistent with the Conservation Strategy, the policy does not mandate additional habitat restoration actions nor is it likely to significantly alter future restoration plans. Mitigation ratios are dictated by federal and State regulation, and in-kind mitigation is likely to occur on site or near the project area.⁸

Therefore, this requirement imposes no new costs to state or local agencies or on private entities.

Policy §5009: Protect Opportunities to Restore Habitat

Section 5009(a) states:

Significant impacts to the opportunity to restore habitat at the elevations shown in Figure 4-5 of the Delta Plan must be avoided or mitigated.

⁷ DFG (California Department of Fish and Game). 2011. Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions. Draft. July.

⁸ DWR (California Department of Water Resources). 2010. North Delta Flood Control and Ecosystem Restoration Project Final EIR. October.

Section 5009 (b)(1) states:

Mitigation shall be determined, in consultation with the Department of Fish and Game, considering the size of the area impacted by the covered action and the type and value of habitat that could be restored on that area, taking into account existing and proposed restoration plans, landscape attributes, the elevation map shown in Figure 4-5 of the Delta Plan and other relevant information about habitat restoration opportunities of the area.

Section 5009 (c) states:

...This policy covers proposed actions in the priority habitat restoration areas depicted in Figure 4-6 of the Delta Plan...

Although mitigating for project impacts is a required State and federal component of project implementation, additional mitigation costs might be incurred by project proponents because of the special status and habitat value designated in the six priority restoration areas, unless the project area is already within a restricted area from prior designations and regulations.

All six priority restoration areas are either completely regulated or contain sub-areas that are already designated with special status prior to the Delta Plan as habitat for endangered or threatened species, agricultural or other preserves, or prime areas for preservation and restoration.⁹ The Lower San Joaquin River Floodplain is the only priority restoration area subject to development pressures.

Therefore, this policy would only impose additional mitigation requirements for projects and actions outside of these previously designated areas. Although the total cost imposed on State and local agencies to meet the mitigation requirements is uncertain, altering project design and/or plans with little to no additional project cost would likely address the opportunity to restore habitat.

Policy §5010: Expand Floodplains and Riparian Habitats in Levee Projects

Section 5010(a) states, in part:

Levee projects must evaluate and where feasible incorporate alternatives, including the use of setback levees, to increase floodplains and riparian habitats.

Section 5010(b) states, in part:

this policy covers a proposed action to construct new levees or substantially rehabilitate or reconstruct existing levees.

The policy only requires consideration and incorporation of alternatives such as setback levees to increase floodplains and riparian habitats where feasible. This policy alone would not result in additional levees because it addresses the use of alternative levee designs only for new levees or levees that require substantial rehabilitation or reconstruction for other reasons, and there is no requirement for the agencies to implement setback levees. However, agencies may incur additional planning costs to evaluate the feasibility of alternatives to provide expanded floodplains and riparian habitats.

⁹ Suisun Marsh is a highly regulated wildlife habitat area completely within the Suisun Marsh Protection Plan. Most of the Cache Slough priority restoration area is within a priority resource conservation area in the Solano County General Plan. Yolo Bypass is a designated flood bypass in the State Plan of Flood Control. Parts of the Cosumnes-Mokelumne Confluence are within the North Delta Flood Control and Ecosystem Restoration Project area. Pockets of the Lower San Joaquin River Floodplain are designated as Significant Natural Resource Areas or Resource Conservation areas in the San Joaquin County General Plan and subject to development restrictions. The Western Delta priority restoration areas are either within the Suisun Marsh Protection Plan or within the Delta Primary Zone where development is restricted.

If found feasible and identified as a preferred alternative, use of setback levees or other methods that widen the floodplain and expand the riparian habitat would require additional land or easement acquisition, impacting the tax base, to provide for floodplain expansion or to accommodate the construction of a wider levee with flatter slopes on the water side (or both) than traditional levees. While the location and number of setback levees are not known, this policy requires the consideration and implementation only where feasible. Furthermore, the 2012 Central Valley Flood Protection Plan (CVFPP), adopted in June 2012, and the Suisun Marsh Preservation Plan implemented similar policies to expand floodplains and riparian habitats including the use of setback levees.

Therefore, this policy is not anticipated to impose additional costs on State and local agencies, except for areas of the Delta outside of the jurisdiction of the Central Valley Flood Protection Board and Suisun Marsh Preservation Plan. Appendix A, Example Cost Analysis, provides estimates for levee project planning and construction costs.

Policy §5011: Avoid Introductions of and Habitat Improvements for Nonnative Species

Section 5011(a) states:

The potential for new introductions of, or improved habitat conditions for, nonnative invasive species must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem.

This policy would cover project design criteria for proposed actions that reduce the potential for new introductions or improved habitat conditions for nonnative invasive species, such as methods to reduce areas with shallow quiescent water near structures constructed within water bodies.

Measures to mitigate the potential for new introductions of, or improved habitat conditions for, nonnative invasive species would be included as part of a proposed project's CEQA mitigation, monitoring, and reporting program.¹⁰ It is unlikely that a project with significant impacts related to the introductions of, or improved habitat conditions for, nonnative species in the Delta would be granted an exemption.

Therefore, this policy imposes no new costs to State or local agencies or on private entities.

Policy §5012: Locate New Development Wisely

Section 5012(a) states:

New urban development, including residential, commercial, and industrial uses, must be limited to the following areas, as shown in Figure 5-1 or Appendix K of the Delta Plan (each of which is hereby incorporated by reference):

- (1) areas that city or county general plans as of the date of the Delta Plan's adoption, designate for development in cities or their spheres of influence;*
- (2) areas within Contra Costa County's 2006 voter-approved urban limit line, except Bethel Island;*
- (3) areas within the Mountain House General Plan Community Boundary in San Joaquin County; or*
- (4) the unincorporated Delta towns of Clarksburg, Courtland, Hood, Locke, Ryde, and Walnut Grove.*

¹⁰ North Delta Flood Control and Ecosystem Restoration Project Final EIR.

Section 5012(b) states, in part:

In addition, this policy covers any such action on Bethel Island, where development shall occur only if consistent with the Contra Costa County general plan effective as of the date of the Delta Plan's adoption. This policy does not cover commercial recreational visitor-serving uses or facilities for processing of local crops or that provide essential services to local farms and are otherwise consistent with this chapter.

The limit on new urban development could have indirect costs or other effects on individuals and businesses in the Delta. For example, by restricting an individual's ability to develop property in the Delta, that person is potentially made worse off. However, the policy does not impose direct costs that would result from actions undertaken as a result of regulatory requirements.

Therefore, no additional costs are imposed on State and local agencies or on private entities.

Policy §5013: Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats

Section 5013 (a) states:

Water management facilities, ecosystem restoration, and flood management infrastructure must be sited to avoid or reduce conflicts with existing or planned uses when feasible, considering comments from local agencies and the Delta Protection Commission. Plans for ecosystem restoration must consider sites on existing public lands, when feasible and consistent with a project's purpose, before privately owned sites are purchased. Measures to mitigate conflicts with adjacent uses may include, but are not limited to, buffers to prevent adverse effects on adjacent farmland.

This policy does not differ significantly from existing conditions. In addition, it does not impose strict requirements, directing only that infrastructure and habitat be sited to avoid or reduce conflicts with existing or planned uses when feasible. Additional cost to a lead agency would be incurred to document the approach used to: (1) avoid or reduce conflicts with existing or planned uses, including the consideration of comments from local agencies and the Delta Protection Commission, (2) consider existing public lands for project siting before privately owned sites are purchased, and (3) mitigate conflicts with adjacent uses. The effort required to conduct and document the elements required by section 5013 (a) would vary widely by project type and location. However, 40 hours of local or state agency staff time would be required to address this element.

Therefore, this policy would impose additional costs of \$8,400 on state and local agencies or on private entities for each certification of consistency. With an estimated 10 to 25 certifications of consistency filed with the Council annually, total costs range from \$84,000 to \$210,000 per year. However, considerable additional cost to a lead agency could be incurred if significant steps were taken during project implementation to avoid, reduce, or mitigate conflicts with existing or planned land use.

Policy §5014: Prioritization of State Investments in Delta Levees and Risk Reduction

Section 5014(a) states:

The Delta Stewardship Council, in consultation with the Department of Water Resources, the Central Valley Flood Protection Board, the Delta Protection Commission, local agencies, and the California Water Commission, shall develop funding priorities for State investments in Delta levees by January 1, 2015. The priorities shall be consistent with the provisions of the Delta Reform Act in promoting effective, prioritized strategic State investments in levee operations, maintenance, and improvements in the Delta for both levees that are a part of the State Plan of Flood Control and non-project levees.

Upon completion, these priorities shall be considered for incorporation into the Delta Plan and these regulations.

The prioritization shall be supported by actions listed in section 5014(b) “to be conducted by the Department of Water Resources, consistent with available funding.”

Section 5014(c) requires public reporting of the methodology used as basis for the prioritization, including:

- (1) *Tiered ranking of Delta islands based on economics-based risk analysis values.*
- (2) *Delta levee conditions status report, including a levee conditions map.*
- (3) *Inventory of Delta infrastructure assets.*

To develop priorities for State investments in Delta levees by January 1, 2015, in coordination with other cooperating agencies, the Council proposes the following tasks be conducted during the fiscal year 2013–2014 and the first six months of fiscal year 2014–2015:

- ◆ Conduct economics-based flood risk analysis for each island and the tract in the Delta, estimate the value of assets protected by Delta levees, and forecast federal disaster aid and recovery assistance available under different improvement scenarios.
- ◆ Establish a tiered ranking list for prioritizing State investment in Delta levee improvement projects that will minimize the economic impacts of flooding events to the State while optimizing the availability of federal disaster assistance.
- ◆ Develop a basis for cost allocation to apportion levee maintenance and improvement costs to all entities that benefit from Delta levees.
- ◆ Coordinate a panel of experts to conduct an independent peer review of the work products and conclusions developed in initial tasks, to ensure the work products and conclusions are acceptable to the State and stakeholders.
- ◆ Amend the Delta Plan to incorporate recommended priorities, including CEQA compliance.

The Council would carry out these tasks using contracted services. Council staff would convene the expert panel and would incur costs to pay the panel members and defray their travel expenses. To complete these tasks the Council has requested an increase in its Reimbursement Authority by \$4.2 million, allowing the Council to accept Proposition 84 funds.

DWR’s FloodSAFE Environmental Stewardship and Statewide Resources Office (FESSRO) plans to conduct Delta levee condition assessment and economic exposure analysis in order to improve information on Delta levees and islands.¹¹ This effort is in support of a draft document that describes its framework for prioritizing State investment and outlines an investment strategy in Delta levees.¹² FESSRO is currently assessing existing information and data gaps, and is developing work plans to implement the assessments and analyses. It intends to complete the assessments and analyses over the next 12 to 18 months, contingent on adequate funding. Section 5014 is consistent with this framework and plan, and only directs the Council to consult with local and state agencies.

Therefore, this policy imposes no additional cost on State or local agencies or on private entities.

¹¹ Personal Communication. June 18, 2012. Mike Mirmazaheri. Department of Water Resources. Division of Flood Management. FloodSAFE Environmental Stewardship and Statewide Resources Office.

¹² FESSRO. 2011. A Framework for Department of Water Resources Investments in Delta Integrated Flood Management. Draft. California Department of Water Resources. Feb. 14, 2011.

Policy §5015: Require Flood Protection for Residential Development in Rural Areas

This policy requires “new residential development of five or more parcels” outside of defined urban and urbanizing areas and unincorporated Delta towns to “provide for a minimum of 200-year flood protection, such as through the use of adequate levees or flood proofing.”

The Central Valley Flood Protection Act of 2008 mandates that within 36 months of the adoption of the CVFPP, cities and counties shall require 200-year level of flood protection be provided in urban and urbanizing areas. New developments in non-urbanized areas shall meet national Federal Emergency Management Agency (FEMA) standard of flood protection, equivalent to a 100-year level of flood protection for participation in the National Flood Insurance Program. This Delta Plan policy of requiring 200-year level of flood protection outside of urban and urbanizing areas and unincorporated Delta towns constitutes an incremental requirement above and beyond those in the absence of the Delta Plan.

Costs of compliance in the form of fees, assessments, or taxes could be imposed on property owners within the area that would benefit from levees or other structural or nonstructural improvements to provide a 200-year level of flood protection. Alternatively, costs to comply with this policy could be incurred directly by individuals or businesses proposing the new rural residential development in the form of additional flood proofing costs. These costs may be partially alleviated if the new development is within an area that would benefit from facilities improvements implemented through the State System-wide Investment Approach on the State Plan of Flood Control. While the number of additional developments of five or more parcels outside of defined urban and urbanizing areas and unincorporated Delta towns is unknown, Appendix A, Example Cost Analysis, provides estimates of flood protection costs. However, it is anticipated that increasing flood proofing from 100-year to 200-year level of protection would impose minor additional costs to a proposed covered action. The exception would be if levee improvement or construction is required to provide adequate flood protection to residential development in rural areas of the Delta.

Policy §5016: Floodway Protection

This policy stipulates that “no encroachment shall be permitted in a floodway unless it can be demonstrated by appropriate analysis that the encroachment will not unduly impede the free flow of water in the floodway or jeopardize public safety.”

This policy complements federal regulatory authority and responsibilities in the Delta. FEMA provides minimum requirements for the management of floodplain areas. The minimum federal regulatory requirement pertaining to encroachments in a designated regulatory floodway or base floodplain is defined in the Code of Federal Regulations by Title 44, Chapter 1, Parts 60.3(d)(3):

Prohibit encroachments, ... within the adopted regulatory floodway unless it has been demonstrated through ... standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

This policy also reinforces the authority and jurisdiction of the State Lands Commission and expands the geographic scope of floodway protection beyond the jurisdiction of the Central Valley Flood Protection Board.

The State Lands Commission has exclusive jurisdiction over all un-granted tidelands and submerged lands owned by the State, and of the beds of navigable rivers, streams, lakes, bays, estuaries, inlets, and straits, including tidelands and submerged lands, to hold these lands in trust for the benefit of the people of California (Public Resources Code sections 6001–6314). The Legislature may grant lands to local entities or other grantees, but granted tidelands and submerged lands remain subject to the public trust and oversight authority of the State Lands Commission. (The exception to this public trust requirement

applies to swamp and overflowed lands conveyed by the State into private ownership pursuant to the 1861 State legislation furthering the intent of the 1850 Arkansas Swamp Lands Act.) The State Lands Commission may issue permits for the construction, maintenance, or alteration of structures upon submerged lands in its jurisdiction so long as these structures do not unreasonably interfere with the uses and purposes reserved to the people of California. In the case of floodway protection, providing for the free flow of water in floodways to ensure public safety is one of the public trust purposes.

Therefore, section 5016 reinforces existing authorities in protecting floodways from unauthorized encroachments and trespasses.

The Central Valley Flood Protection Board (CVFPB) is authorized by the Water Code (sections 8590–8613) to regulate encroachments through issuance of permits for proposed projects within the State Plan of Flood Control, on designated floodways, or regulated streams. Although the CVFPB has jurisdiction over the entire Central Valley, most of the waterways in the Delta are not facilities of the State Plan of Flood Control and are not designated floodways or regulated streams. Protection of floodways from unpermitted encroachments is currently subject to widely varying local land use policies in these areas. Section 5016 would therefore impose a consistent policy of floodway protection throughout the Delta.

This regulation applies to a proposed action that would encroach upon a floodway within the Delta. When there is such an encroachment, the project proponent or lead agency would need to perform appropriate assessments to evaluate the impacts and develop mitigation options for the encroachment. These assessments and mitigation measures to comply with the regulation would increase the project cost. The magnitude of cost increase could range from nominal to substantial, depending on the nature and scope of the proposed encroachment and site conditions. If 20 hours of additional engineering analysis is required for a minor encroachment, the project cost increase would be \$1,400, using an estimate of \$70/hour. The project cost would increase further if project mitigation requires acquisition of land to provide flood passage. Appendix A provides example costs for acquisition of land.

This regulatory policy would be above and beyond existing federal or State regulations in areas of the Delta outside the regulatory floodways that are regulated by federal, State, or local requirements to provide for the discharge of the base flood. Lead agencies proposing encroachments in these areas would incur increased project costs as well as the cost of certification of consistency.

Policy §5017: Floodplain Protection

This policy stipulates that “no encroachment shall be permitted in any of the” listed floodplain areas in the Yolo Bypass, Cosumnes River–Mokelumne River Confluence, and Lower San Joaquin River Floodplain Bypass areas, “unless it can be demonstrated by appropriate analysis that the encroachment will not have a significant impact on floodplain values and functions.”

This policy complements federal agency regulatory authority and responsibilities in the Delta. Under Executive Order 11988, all federal agencies are charged with floodplain management responsibilities when planning or designing federally funded projects or when considering any permit applications for which a federal agency has review and approval authority. Federal agencies are charged with the responsibility of restoring the natural and beneficial values of floodplains. In addition, FEMA requirements to minimize harm to and within floodplains, in the Code of Federal Regulations, Title 44, Chapter 1, section 9.11 (4), specify that:

There shall be no encroachments, ... within a designated regulatory floodway ... Until a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within the base floodplain unless it is demonstrated that the cumulative effect ... will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section 5017 restricts encroachments in three floodplains in the Yolo Bypass, Cosumnes River–Mokelumne River Confluence (as defined by the North Delta Flood Control and Ecosystem Restoration Project), and the Lower San Joaquin River Floodplain Bypass area (as described in the Lower San Joaquin River Floodplain Bypass Proposal). The floodplains as defined encompass broader areas than the designated floodways defined in the State Plan of Flood Control, by including the McCormack-Williamson Tract and Staten Island in the Cosumnes-Mokelumne Confluence, and areas upstream of and around Paradise Cut in the Lower San Joaquin River Floodplain Bypass. This policy is therefore broader in geographic scope than existing State regulations exercised by the Central Valley Flood Protection Board. However, potential encroachments in both of the expanded floodplain areas are unlikely, or subject to existing restrictions. Both McCormack-Williamson Tract and Staten Island are currently owned by The Nature Conservancy, an active participant in the North Delta Flood Control and Ecosystem Restoration Project which seeks to integrate flood control and ecosystem restoration in this flood bypass area. The floodplain around Paradise Cut in the Lower San Joaquin River Floodplain Bypass area is within the 1% flood base floodplain and therefore subject to the FEMA encroachment restrictions, as well as development restrictions imposed by the San Joaquin County General Plan.

Therefore, this policy does not impose additional costs to state or local agencies or on private entities.

Policy §5018: Just Compensation

The provisions in this Chapter [of the Draft Regulation] are not intended and shall not be construed as authorizing the Delta Stewardship Council or any entity to exercise its power in a manner that will take or damage private property for public use without the payment of just compensation.

This policy represents no change from existing conditions. Therefore, it does not impose additional costs on State or local agencies or on private entities.

Policy §5019: Property Owner Rights

The provisions in this Chapter [of the Draft Regulation] are not intended to affect the rights of any owner of property under the Constitution of the State of California or the United States.

This policy represents no change from existing conditions. Therefore, it does not impose additional costs on State or local agencies or on private entities.

Policy §5020: No Increase in State's Flood Liability

The provisions in this Chapter [of the Draft Regulation] shall not increase the State's flood liability.

This policy represents no change from existing conditions. Therefore, it does not impose additional costs on State or local agencies or on private entities.

Effects on Jobs

The number of jobs created or eliminated by Delta Plan policies is uncertain. Potential impacts on jobs can be both positive and negative, and could result through several direct and indirect paths.

Potential positive impacts on jobs include:

- ◆ Achievement of the coequal goals is expected to provide long-term stability and economic benefits to all California regions dependent on the water supply reliability from the Delta. These benefits will be spread across all sectors of the economy.

- ◆ Additional spending on flood management, ecosystem protection, and adaptive management will be encouraged or required for consistency with the Delta Plan. Spending for these activities will result in both short-term and long-term jobs in related sectors such as construction and professional services.
- ◆ Improved flood management and respecting existing local land uses will provide long-term protection of jobs in agricultural and recreation-related businesses in the Delta.

Potential negative impacts on jobs include:

- ◆ The additional spending on flood management, ecosystem protection, and adaptive management will divert spending from other activity in the economy. Government agencies are expected to recover the costs of these activities from the private sector, and in most cases from businesses or individuals directly involved in covered actions. The redirection of spending toward activities that address Delta Plan goals can result in some job losses in sectors that would have received the spending otherwise.
- ◆ There is some potential for projects or actions that may have occurred without the Delta Plan to be scaled back or even abandoned because they cannot be made consistent. However, in many or most cases, such projects would have conflicted with existing land use plans or policies. As a result, it is impossible to assess whether any future projects would be abandoned only because of the Delta Plan policies.

Examples of recent studies that have assessed these kinds of complex and counteracting effects on jobs include: the socioeconomic analysis in the administrative draft EIR/EIS being prepared for the Bay Delta Conservation Plan (DWR, 2012); and an analysis of the effect of Klamath River restoration activity on the local economy (Reclamation, 2011). Both studies have assessed both the positive effects on jobs from restoration and water management activities and the negative effects from impacts on existing land uses. Neither study attempted to quantify the regional or national impact on jobs from achieving the broader restoration goals set by the respective plans.

In summary, Delta Plan policies are expected to provide long term benefits in restoring the Delta ecosystem, improving water supply reliability, maintaining and enhancing settings for outdoor recreation and tourism in the Delta, and improving flood protection. These benefits will be spread through much of the state and will improve the state's long term outlook for business and jobs, improving its ability to maintain and attract business and a skilled workforce.

Some potential losses in jobs could occur due to the diversion of spending toward activities required by Delta Plan policies. Other losses are possible if a potential project would have occurred without the Delta Plan but cannot be made consistent with the Delta Plan policies.

On balance, the increased jobs resulting from specific Delta Plan policies such as adaptive management planning and flood protection for new rural developments may more than offset any negative effects on jobs in the Delta. Further, achievement of the coequal goals of water supply reliability and ecosystem restoration are expected to improve the state's prospects for jobs by providing more long-term economic benefits and stability.

Effects on Small Businesses

The direct cost of the proposed regulatory policies falls on State and local public agencies, not on businesses. Businesses in general are affected by (1) costs passed on by a local agency through assessments, rates, fees, or other charges; and (2) benefits foregone or additional costs if a covered action must be modified to comply with Delta Plan policies. Costs passed on by a local agency would fall broadly on all customers or would be charged as fees or assessments to identified businesses that would

benefit from the covered action. For example, a municipal water supplier's proposed water transfer through the Delta would benefit all ratepayers, including small businesses. Any incremental costs incurred to achieve and demonstrate consistency with the Delta Plan would be spread among those benefiting. There is no evidence that small businesses would be disproportionately affected or overly burdened by the proposed regulation.

Several policies either explicitly exclude cities, their area of influence, and unincorporated towns or incorporated alternative approaches to avoid or minimize impacts on small businesses in the Delta. For example, limitations on construction or development in the Delta (section 5012) specifically exempt "commercial recreational visitor-serving uses or facilities for processing of local crops or that provide essential services to local farms." Also, to further limit effects on business, agricultural production is not considered a covered action and section 5013 directs covered actions to avoid conflicts with existing land uses, including farming.

Effects on Housing Costs

The Draft Regulation implementing Delta Plan policies is unlikely to have any significant direct effect on housing costs. Within the Delta, housing developments greater than five to ten units are expected to occur in existing urban or urbanizing areas designated for development. The local agency is unlikely to determine that such a development is a covered action, either because it is not covered by any of the Delta Plan policies or it would not have a significant impact on meeting the coequal goals or reducing risks from flooding (see proposed regulation section 5003(a)). Specifically, the policy addressing the location of new development, section 5012 of the proposed regulation, exempts developments such as in areas that county or city general plans designate for development, and within identified unincorporated Delta towns. Few if any housing development projects outside of these exempted areas are expected to qualify as covered actions.

Some costs associated with consistency filings could potentially be passed on as property-related fees or assessments, but these costs would be very small if spread among a relatively large number of housing units. Moreover, many of the policies will provide benefits to housing, such as improved flood protection and improved water supply reliability that will increase the value of housing.

The certification of consistency filings and appeals process will result in additional costs to local agencies. These costs are likely to be recovered through county, city, special district, or developer planning and development fees. For housing affected by a covered action, a portion of the fees will likely be passed on to existing owners, purchasers, or renters of the housing.

For example, consider the consistency-related costs for a covered action to implement a permanent or long-term water transfer through the Delta, serving a new or existing urban community of 10,000 housing units. Excluding the cost of a potential consistency appeal, the additional cost imposed would be \$4,700 to \$21,800 (see Table 3). Assuming this cost was fully passed through to the developers or owners of the housing¹³, the annual cost would be much less than one dollar per year per housing unit. If the cost were paid as a one-time assessment, some portion of it might affect the value and price of an affected property. Costs recovered through, say, water rates may have no discernible effect on property value or price.

Housing costs can also be affected indirectly in a number of other ways. First, some proposed projects may be modified in size, location, or design in order to comply with Delta Plan policies. This could result in higher costs or reduced supply of housing, though it is unlikely to affect many housing units for

¹³A survey done for the Department of Housing and Community Development showed nearly universal use of development fees among California local agencies with land use planning responsibilities. In order to provide a conservative estimate (i.e., to avoid underestimation), staff assumed that all of the cost would be recovered through an impact fee, assessment, or rate increase. See California Department of Housing and Community Development, August, 2001. "Pay to Play, Residential Development Fees in California Cities and Counties, 1999," prepared by John Landis, Michael Larice, Deva Dawson, and Lan Deng, Institute of Urban and Regional Development, University of California, Berkeley.

reasons explained above. Second, to the extent local agencies incur additional costs for water management, such as for diversification of water supplies or improved flood management, to comply with Delta Plan policies, these costs can also be passed on to owners and renters of housing. The indirect effect on housing cost and the number of affected units is unknown. As emphasized in other sections of this cost analysis, only costs or impacts that are newly imposed by Delta Plan policies are relevant. Costs or impacts that would have been incurred due to other existing laws or regulations should not be attributed to this proposed Regulation.

Finally, housing costs can be affected by the benefits of Delta Plan policies. Depending on the circumstance, the benefits could act to increase or decrease housing prices. For example, improved flood protection would be expected to reduce the cost of flood insurance and ecosystem amenities within the Delta and so would be expected to increase the desirability of housing. Both of these benefits could increase the demand for the housing that reaps these benefits and therefore increase its value. On the other hand, if, say, flood protection improvements from Delta Plan policies eliminated or reduced the need for flood control features specific to a proposed housing project (regardless of whether the project was a covered action), that could reduce the total cost of the project. Depending on the nature of the local housing market, some of that savings could be passed on to buyers as lower sale prices of the houses.

In summary, no significant direct impacts on housing costs are likely to occur from implementation of Delta Plan policies. Some small rural developments (less than five to ten units) could incur costs that the developer would try to pass onto buyers of the housing. In the context of the overall housing market in California or the Delta region, such costs would be restricted to a very small number of housing units. Beyond any direct effects on housing costs, the benefits and indirect costs of Delta Plan policies can have complex and counteracting effects on housing prices. Some costs of Delta Plan policies not related to housing development per se may be passed on, at least in part, to property owners and buyers. The benefits of improved flood protection and ecosystem amenities could increase property value of housing in and around the Delta, thereby increasing housing costs (note that this is fully offset by the benefit to existing owners of affected housing). Importantly, the Delta Plan policies are expected to provide substantial statewide and regional benefits to housing by increasing value due to improved flood protection, water supply reliability, and environmental amenities.

Summary of Delta Plan Policy Costs

Economic Impact

Delta Plan policies and administrative requirements apply to State and local agencies. Private businesses and individuals are not directly affected by costs of Delta Plan policies or administrative requirements. However, private businesses and individuals could be affected indirectly in two ways. First, State and local agency costs could be passed directly to private businesses and individuals by a lead agency of a covered action. Second, cost could be recovered by a lead agency of a covered action through assessments, rates, user fees, or other mechanisms the agencies use to fund activities. While the total indirect cost of Delta Plan policies to private business or individuals is uncertain, the Fiscal Impact section describes the direct state and local agency costs associated with Delta Plan policies.

Fiscal Impact

Fiscal Effect on State and Local Government

The fiscal effects of Delta Plan policies and administrative requirements to State and local agencies occur in two forms.

First, administrative requirements on State and local agencies undertaking a covered action to prepare and file a certification of consistency require the preparation of a covered action record of the process, including analysis and other information, that the lead agency used to make its certification of consistency and submitting formal findings by the lead agency's governing board or management. The lead agency

may also incur the costs of consulting with the Council prior to submitting a certification of consistency, submitting the covered action record, including additional analysis needed to address the concerns raised in the appeal, attend and provide testimony at the appeal hearing, and, if the Council upholds the appeal, modify and re-file the Certificate of Consistency. In addition, the Council and its staff will incur administrative costs to manage the certification process and to conduct appeal hearings.

Second, implementation of Delta Plan policies may result in the following costs to State and local agencies: costs required to modify an agency's plans for covered actions to make them consistent; development of covered actions that are different than what the agency would have done in absence of the Delta Plan; and changes in water management plans and processes whether or not it has proposals for covered actions. State and local agencies may also incur administrative costs to monitor Council activities, attend meetings, and review documents and findings, but these costs are not strictly required in order to comply with the Draft Regulation.

It is anticipated that State and local agency costs would be recovered by a lead agency of a covered action through existing or new taxes, assessments, user fees, rates, or other mechanisms the agency uses to fund activities. While in some cases State or local agencies would be able to absorb the additional costs within their existing budgets and resources, most circumstances may require the aforementioned funding mechanisms. Table 3 provides a summary of potential costs by policy based on the estimates or examples provided above.

Table 3
Example Costs of Delta Plan Policies
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

Provision or Policy	Incremental Costs^a	Example Total Annual Costs^b
§5004: Contents of Certifications of Consistency ^c	State and local agency filing costs of \$4,270 to \$16,170; adaptive management reporting and implementation costs of \$420 to \$5,600 and 4 percent of total project costs, respectively; and \$1,260 to \$3,920 for the appeals process	State and local agency costs range from \$4.1 to \$4.4 million; Council cost of \$438,068/year
§5005: Reduce Reliance on the Delta through Improved Regional Water Self-Reliance ^d	\$1,400 to document expected outcome on Delta reliance	State and local agency costs range from \$7,000 to \$17,500
§5006: Improved Transparency in Water Contracting	No additional State and local agency costs	No additional State and local agency costs
§5007: Flow Objectives for Purposes of Consistency with the Delta Plan	No additional State and local agency costs	No additional State and local agency costs
§5008: Restore Habitats at Appropriate Elevations	No additional State and local agency costs	No additional State and local agency costs
§5009: Protect Opportunities to Restore Habitat	No additional State and local agency costs	No additional State and local agency costs
§5010: Expand Floodplains and Riparian Habitat in Levee Projects ^e	20 percent increase in planning costs	State and local agency costs range from \$3 million to \$7.5 million
§5011: Avoid Introductions of and Habitat Improvements for Nonnative Species	No additional State and local agency costs	No additional State and local agency costs

Table 3
Example Costs of Delta Plan Policies
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

Provision or Policy	Incremental Costs^a	Example Total Annual Costs^b
§5012: Locate New Development Wisely	No additional State and local agency costs	No additional State and local agency costs
§5013: Respect Local Land Use When Siting Water or Flood Facilities or Restoring Habitats	\$8,400/covered action to address conflict and mitigation of adjacent land use	State and local agency costs range from \$84,000 to \$210,00
§5014: Prioritization of State Investments in Delta Levees and Risk Reduction	No additional State and local agency costs	Council costs of \$4,200,000
§5015: Require Flood Protection for Residential Development in Rural Areas	Minor additional cost to increase flood proofing protection; potential significant cost if levee improvements required	Minor State and local agency costs
§5016: Floodway Protection	State and local agency costs in areas outside of regulated floodways to evaluate impacts of encroachments and develop mitigation. Twenty hours engineering analysis or \$1,400 per encroachment.	State and local agency costs ranges from \$14,000 to \$35,000.
§5017: Floodplain Protection	No additional State and local agency costs	No additional State and local agency costs
§5018: Just Compensation	No additional State and local agency costs	No additional State and local agency costs
§5019: Property Owner Rights	No additional State and local agency costs	No additional State and local agency costs

Table 3
Example Costs of Delta Plan Policies
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

Provision or Policy	Incremental Costs ^a	Example Total Annual Costs ^b
§5020: No Increase in State's Flood Liability	No additional State and local agency costs	No additional State and local agency costs
Costs to Agencies Implementing Covered Actions	N/A	Example State and local agency costs range from \$7.2 to \$12.1 million
Total Policy Costs (including Council costs)	N/A	Example state and local agency costs range from \$11.9 to \$16.8 million
Total Policy Benefits	The cumulative benefits of Delta Plan policies include providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem while protecting and enhancing the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. The Delta Plan policies also improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety.	

Note: Example costs requiring staff time are calculated using an average \$70 per hour.¹⁴ This average hourly cost is based on the staff Council has allocated to the certification process (See Table 1 of this document).

^a Estimates represent the direct costs a State or local agency might incur if actions are considered necessary to comply with a Delta Plan policy and the covered action is in the State or local agency's best interest. If a State or local agency has already taken or plans to take actions that place a covered action in compliance with Delta Plan policies, then no additional costs would be imposed. A State or local agency may also choose not to undertake a covered action to avoid required measures needed to comply with Delta Plan policies, incurring no direct costs.

^b While Delta Plan policies aim to limit the regulatory costs associated with covered actions in the Delta, an example range of total State and local agency costs is provided. This example is based on assumptions concerning the type, location, and number of projects anticipated to be considered covered actions in the Delta. Example total annual costs represent the total regulatory costs associated with covered actions filled in a single year.

^c Based on the number of CEQA filings at the State Clearinghouse that represented covered actions in the legal Delta or Suisun Marsh since mid-Sept 2011, the Council anticipates 10 to 25 certification of consistency applications filed with the Council annually. The estimated average cost of certification of consistency is \$13,245. Of the certification of consistency filings, 30 percent are anticipated to be subject to the appeals process with an average cost of \$2,590 per appeal.

^d A water supplier will incur a cost of \$1,400 to document the expected outcome on Delta reliance in a water management plan. While the number of certification of consistency applications filed with the Council that include water suppliers is uncertain, for the purpose of estimating local and State agency costs, it is anticipated that half of the certification of consistency applications filed annually involve water supply agencies.

^e Section 5010 to expand floodplains and riparian habitat in levee projects would increase planning costs 20 percent and double construction costs. However, only a portion of Delta levees located beyond the jurisdiction of the CVFPP and Suisun Marsh Preservation Plan and are rural levees appropriate for setback consideration. Therefore, for the purpose of estimating local and State agency costs it is anticipated that 10 percent of certification of consistency applications filed with the Council would include setback levee components. While the characteristics of every covered action is unique, to demonstrate the potential total costs of section 5010, covered actions that address section 5010 include 10 miles of setback levee at an average increased planning cost of \$300,000/mile. Because section 5010 only requires setback levee consideration when feasible, the construction costs of a setback levee is not considered in the total State and local agency costs.

¹⁴ California State Personnel Board. 2012. Job Descriptions and Statistical Information. <http://jobs.spb.ca.gov/wvpos/jobspecs.cfm>

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Appendix A: Example Cost Analysis

Appendix A: Example Cost Analysis

Some example costs are not necessarily a result of Delta Plan policies. Estimates in this Appendix represent the direct costs that a State or local agency might incur if actions are considered necessary to comply with a Delta Plan policy and the agency has not already incurred the costs in compliance with existing local, State, or federal requirements. If a State or local agency has already taken actions that place a covered action in compliance with Delta Plan policies, or planned to take such actions even in absence of the Delta Plan policies, then no additional costs would be imposed. A State or local agency may also choose not to undertake a covered action to avoid required measures needed to comply with Delta Plan policies, incurring no direct costs.

Policy §5005: Reduce Reliance on the Delta through Improved Regional Water Self-Reliance

Section 5005 requires that, under certain conditions, any water supplier that would receive water from a proposed action to export water from, transfer water through, or use water in the Delta must demonstrate reduced reliance on the Delta. The demonstration must include completion of an urban or agricultural water management plan and approval by DWR. Completion of such plans is already part of California law, so the cost of preparing a plan is not legitimately a cost imposed by section 5005. If however, if for some reason a water supplier has not completed a plan, it must incur that cost in order for the covered action to be consistent.

Both the number of applicable water supply covered actions and the number of non-compliant water suppliers is unknown. Also, the cost to prepare a water management plan varies widely depending on the water supplier's size, complexity, and other factors. DWR personnel having expertise and responsibility to review water management plans estimate that typical costs to prepare a new water management plan can range from \$20,000 to \$100,000 per plan.¹⁵¹⁶

Policy §5010: Expand Floodplains and Riparian Habitat in Levee Projects

This policy requires levee projects to evaluate and where feasible incorporate alternatives, including use of setback levees, to increase floodplains and riparian habitats. A similar policy was adopted by the Central Valley Flood Protection Board through its adoption of the 2012 CVFPP and the Suisun Marsh Preservation Plan. Therefore, section 5010 will only be a new requirement on a subset of entities undertaking levee improvement projects outside of the State Plan of Flood Control and Suisun Marsh Preservation Plan. An upper estimate of this subset is less than half of the 1,000 miles of permanently maintained levees within the Legal Delta, or 470 miles of non-project lowland levees that the State or local reclamation districts may need to evaluate for the feasibility of alternatives to increase floodplains and riparian habitats.

The location and number of potential setback levees are not known. Categories of additional costs include the planning needed to evaluate the feasibility of setback levees, land acquisition, design and construction, and establishment of habitat.

As an example for the Sacramento River east levee, the difference in planning, engineering, and design costs between improving an existing levee and re-design to an adjacent levee (setback) is an additional \$1.5 million per mile of levee.¹⁷ Assuming that planning costs are 20 percent of the combined cost of planning, engineering, and design, the additional planning costs would be \$300,000 per mile of levee.

¹⁵ Personal Communication. October 10, 2012. Peter Brostrom. Water Use and Efficiency Branch. California Department of Water Resources.

¹⁶ Personal Communication. October 15, 2012. David Todd. Water Use and Efficiency Branch. California Department of Water Resources.

¹⁷ See reference 6-B: Natomas Levee Improvement Program, 200-Year project Cost Estimate and Comparison to USACE NED Plan Cost Estimate, Jan 2010.

Other “soft costs” of dealing with land acquisition could amount to half of the construction cost. Programs directly administered by DWR or USACE would double or triple the costs compared to programs executed by local reclamation districts.¹⁸ This is an estimate of the cost incurred by the entity to evaluate the feasibility of setback levees when contemplating levee improvements within the Delta and outside of the implementation area of the CVFPP and Suisun Marsh Preservation Plan.

The total project cost of setback levees ranges from \$31 to \$68 million per mile, depending on local site conditions and costs of land acquisition. In contrast, the cost of levee rehabilitation in-place ranges from \$4 to \$15 million per mile. The cost of setback levees could therefore be two to eight times the cost to improve an existing levee in-place. However, some of the cost difference could be attributed to the higher 200-year level of flood protection afforded by the newer setback levees compared to rehabilitating an existing levee to restore a lower 100-year level of protection. Table A-3 illustrates the ranges of levee improvement costs.

¹⁸ Delta Protection Commission, Public Draft: Economic Sustainability Plan for the Sacramento-San Joaquin Delta, January 2012.

Table A-3**Levee Improvement Costs****Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement**

Levee Project	Type of Levee Improvements	Cost/Mile
Sacramento River east levee ^a	Adjacent levee, 200-yr protection	\$27M
Sacramento River east levee	Raise and strengthen levee in-place	\$15M
Setback levee at Star Bend on Lower Feather River right bank ^b	Setback levee, 200-yr protection	\$31M
Bear River setback levee project ^c	Setback levee, 200-yr protection	\$34M
Feather River setback levee ^d	Setback levee, 200-yr protection	\$68M
Feather River west levee preliminary design alternatives ^e	Setback levee, 200-yr protection	\$36–58M
Feather River west levee preliminary design alternatives	Rehabilitate levees in-place, 200-yr	\$7–13M
Bear River north levee rehabilitation ^f	Rehabilitate levees in-place	\$4M
Natomas levee improvement program ^g	Reconstruct levees in-place	\$12M

Notes:

^a Comparison of Cost Estimates, Natomas Levee Improvement Program, 2007 CCAD Engineer's Report and Updated SAFCA 200-year Project Cost Estimate, January 14, 2011.

^b Levee District No. 1 of Sutter County, Setback Levee at Star Bend on the Lower Feather River Right Bank (RM 18.0)

^c Three Rivers Levee Improvement Authority, Bear River Setback Levee Project, at confluence of Bear and Feather rivers

^d Three Rivers Levee Improvement Authority, Feather River Setback Levee, South Yuba County

^e Sutter-Butte Flood Control Agency, Preliminary Design Report for the Feather River West Levee Early Implementation Project, from Yuba City north to the Thermalito Afterbay.

^f Reclamation District 2103, Bear River North Levee Rehabilitation Project, at Bear River near Highway 65.

^g Sacramento Area Flood Control Agency, Natomas Levee Improvement Program Early Start Program, Sacramento River East Levee, Natomas Cross Canal South Levee, Pleasant Grove Creek Canal Levee

Other examples indicate that the cost of setback levees could be double that of widening existing levees with berms. Addition of water-side berms in setback levees to provide habitat would increase the cost by another 50 to 100 percent.¹⁹ The Administrative Draft Bay Delta Conservation Plan estimates the addition of setback levees, including riparian habitat provision, would increase costs by 93 to 150 percent.²⁰

Policy §5015: Require Flood Protection for Residential Development in Rural Areas

Examples to illustrate the incremental cost of 200-year protection versus 100-year protection, the assumed “no-policy” condition for residential development in non-urban areas includes (1) the incremental cost of levee improvement to provide 200-year protection from 100-year, and (2) the incremental cost of flood proofing to 200-year protection versus 100-year protection.

The cost of levee improvement to provide 200-year flood protection varies widely depending on existing condition of the levee, the incremental level of improvement, engineering designs, site conditions, availability of fill, real estate costs, and other factors. An example cost of 200-year flood protection was obtained from the Natomas Levee Improvement Program.²¹ The costs of levee improvement to provide 200-year level of flood protection ranges from \$5.4M/mile to \$25M/mile, with an average cost of about \$15M/mile. An example of 100-year flood protection was obtained from the Morrison Creek at Union

¹⁹ Pages 96- 97, Public Draft: Economic Sustainability Plan for the Sacramento-San Joaquin Delta, October 10, 2011.

²⁰ Chapter 8, Administrative Draft Bay Delta Conservation Plan, February 2012.

²¹ Natomas Levee Improvement Program, Sacramento Area Flood Control Agency, 200-year Project Cost Estimate and Comparison to US Army Corps of Engineers National Economic Development Plan Cost Estimate, January 14, 2010.

Pacific Railroad project, which estimated the cost of a new floodwall to be approximately \$9.4M/mile.²² Based on these estimates, the incremental cost incurred by a local or state agency required to provide 200-year levee protection rather than 100-year protection would be about \$6M/mile.

Flood proofing is another action local or State agencies can take to provide 200-year flood protection. An excerpt from the CVFPP describes the cost for protecting small communities in the SPFC Planning Area from a 100-year (1% annual chance) flood: “For planning purposes for the SSIA, DWR used a preliminary cost threshold of \$100,000 per house protected, an approximate value for elevating or flood proofing a house.”²³

To estimate 200-year flood proofing, a comparison was made of SAFCA’s average single-family residential assessments and level of flood proofing.²⁴ Assessments provide the local share of costs for projects that provide 100-year or 200-year flood protection. Planned projects will provide 200-year flood protection in the Sacramento River, Natomas, and North Sacramento Streams regions. Planned projects in South Sacramento Streams will provide 100-year flood protection. The average assessment per parcel for flood protection projects within benefit zones providing 200-year flood protection (NB, NB-NALP, NS-NALP, AR-SR) is \$67.5 per year. The average assessment per parcel for flood protection projects within benefit zones providing 100-year flood protection (AR-SSSG) is \$35. The difference in assessment between 100-year and 200-year flood protection assessments is therefore \$32.5 per parcel per year. The total additional cost for a covered action would depend on the number of parcels affected.

²² USACE 5/4/2012 news release no. 2012-P-011, *Corps begins floodwall work at Morrison Creek in south Sacramento*.

²³ Page 3-10, 2012 Central Valley Flood Protection Plan, public draft, DWR, December 2011.

²⁴ Table 5-7, Final Engineer’s Report, SAFCA Consolidated Capital Assessment District, April 19, 2007.

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**Appendix B: Special District Authority to
Recover Costs through Assessments, Rates,
and Fees**

Appendix B: Special District Authority to Recover Costs through Assessments, Rates, and Fees

Table B-1 provides a list of special districts having service areas within the Delta. The table includes general information on the authority and mechanisms by which the districts can recover costs potentially resulting from Delta Plan policies embodied in the Draft Regulation. The appearance of a district on this list does not imply that the district would necessarily be implementing one or more covered actions. The information provided does not constitute a legal opinion on the ability of specific districts to recover costs through one or more means. Some of the cost recovery mechanisms could require a local vote to implement.

Table B-1
Cost Recovery Authority of Special Districts in the Delta
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

District	California Code	Initial Section of Authority	Authority for Assessments	Authority for Rates and Fees
Alameda County Flood Control and Water Conservation District Zone 7	Water	55-1	55-12	55-12.1
Alameda County Mosquito Abatement District	Health and Safety	2000	2080	
Alameda County Resource Conservation District	Public Resources	9151	9403.5; 9501; 9513	
Alameda County Waste Management Authority and Source Reduction Recycling Board	Government	6500	6557	6557
Avena Drainage District	Water	5-1	5-9 - 5-11	
Banta-Carbona Irrigation District	Water	20500	25653	22280
Bethel Island Municipal Improvement District	Uncodified	Ch22		
Boggs Tract Fire Protection District	Health and Safety	13800	13910	
Brannan-Andrus Levee Maintenance	Water	106-1	**	**
Byron Sanitary District	Health and Safety	6400	6540; 6550.13	6520.2; 6520.5
Byron-Bethany Irrigation District	Water	20500	25653	22280
Central Delta Water Agency	Water	115-1	115-5	
Central San Joaquin Water Conservation District	Water	74000	74507	74527
Clarksburg Fire Protection District	Health and Safety	13800	13910	
Contra Costa Fire Protection District	Health and Safety	13800	13910	
Contra Costa Mosquito Abatement District	Health and Safety	2000	2080	
Contra Costa Resource Conservation District	Public Resources	9151	9403.5; 9501; 9513	
Contra Costa Water District	Water	30000	31577	31007; 31025

Table B-1
Cost Recovery Authority of Special Districts in the Delta
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

District	California Code	Initial Section of Authority	Authority for Assessments	Authority for Rates and Fees
Cordelia Fire Protection District	Health and Safety	13800	13910	
Cosumnes Community Services District	Government	61000	61120	61115; 61120
Country Club Sanitary District	Health and Safety	6400	6540; 6550.13	6520.2; 6520.5
Courtland Fire Protection District	Health and Safety	13800	13910	
Delta Diablo Sanitation District	Health and Safety	4700	4810; 4850	5471
Delta Fire Protection District	Health and Safety	13800	13910	
Diablo Water District	Water	30000	31577	31007; 31025
Discovery Bay Reclamation and Drainage Maintenance District	Government	50575	50760	50760
East Bay Municipal Utility District	Public Utilities	11501		12809
East Bay Regional Park District	Public Resources	5500	5539.3; 5539.5; 5566; 5569	5562
East Contra Costa Fire Protection District	Health and Safety	13800	13910	
East Contra Costa Irrigation District	Water	20500	25653	22280
Fairfield-Suisun Sewer District	Uncodified	Ch303		
Florin County Water District	Water	30000	31577	31007; 31025
Florin Resource Conservation District	Public Resources	9151	9403.5; 9501; 9513	
Freeport Regional Water Authority	Government	6500	6557	6557
French Camp-McKinley Fire Protection District	Health and Safety	13800	13910	
Ironhouse Sanitary District	Health and Safety	6400	6540; 6550.13	6520.2; 6520.5
Knightsen Town Community Services District	Government	61000	61120	61115; 61120
Lathrop Irrigation District	Water	20500	25653	22280
Lathrop-Manteca Fire Protection District	Health and Safety	13800	13910	
Maine Prairie Water District	Water	34000	36552	35470
Montezuma Fire Protection District	Health and Safety	13800	13910	
Montezuma Fire Protection District	Health and Safety	13800	13910	
Mountain House Community Services District	Government	61000	61120	61115; 61120

Table B-1
Cost Recovery Authority of Special Districts in the Delta
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

District	California Code	Initial Section of Authority	Authority for Assessments	Authority for Rates and Fees
Naglee Burk Irrigation District	Water	20500	25653	22280
New Del Puerto Water District	Water	34000	36552	35470
New Jerusalem Drainage District	Water	8-1	8-30	8-42
No Man's Land Fire Protection District	Health and Safety	13800	13910	
North Delta Water Agency	Water	115-1	115-5	
North San Joaquin Water Conservation District	Water	74000	74507	74527
Oakwood Lake Water District	Water	34000	36552	35470
Reclamation District No. 1	Water	50000	51300; 51320	50911
Reclamation District No. 1002	Water	50000	51300; 51320	50911
Reclamation District No. 1007	Water	50000	51300; 51320	50911
Reclamation District No. 150	Water	50000	51300; 51320	50911
Reclamation District No. 1601	Water	50000	51300; 51320	50911
Reclamation District No. 1607	Water	50000	51300; 51320	50911
Reclamation District No. 1608	Water	50000	51300; 51320	50911
Reclamation District No. 1614	Water	50000	51300; 51320	50911
Reclamation District No. 17	Water	50000	51300; 51320	50911
Reclamation District No. 2	Water	50000	51300; 51320	50911
Reclamation District No. 2021	Water	50000	51300; 51320	50911
Reclamation District No. 2023	Water	50000	51300; 51320	50911
Reclamation District No. 2024	Water	50000	51300; 51320	50911
Reclamation District No. 2025	Water	50000	51300; 51320	50911
Reclamation District No. 2026	Water	50000	51300; 51320	50911
Reclamation District No. 2027	Water	50000	51300; 51320	50911
Reclamation District No. 2028	Water	50000	51300; 51320	50911
Reclamation District No. 2029	Water	50000	51300; 51320	50911
Reclamation District No. 2030	Water	50000	51300; 51320	50911
Reclamation District No. 2033	Water	50000	51300; 51320	50911
Reclamation District No. 2037	Water	50000	51300; 51320	50911
Reclamation District No. 2038	Water	50000	51300; 51320	50911
Reclamation District No. 2039	Water	50000	51300; 51320	50911
Reclamation District No. 2040	Water	50000	51300; 51320	50911
Reclamation District No. 2041	Water	50000	51300; 51320	50911
Reclamation District No. 2042	Water	50000	51300; 51320	50911
Reclamation District No. 2044	Water	50000	51300; 51320	50911
Reclamation District No. 2058	Water	50000	51300; 51320	50911

Table B-1
Cost Recovery Authority of Special Districts in the Delta
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

District	California Code	Initial Section of Authority	Authority for Assessments	Authority for Rates and Fees
Reclamation District No. 2059	Water	50000	51300; 51320	50911
Reclamation District No. 2060	Water	50000	51300; 51320	50911
Reclamation District No. 2062	Water	50000	51300; 51320	50911
Reclamation District No. 2064	Water	50000	51300; 51320	50911
Reclamation District No. 2065	Water	50000	51300; 51320	50911
Reclamation District No. 2067	Water	50000	51300; 51320	50911
Reclamation District No. 2068	Water	50000	51300; 51320	50911
Reclamation District No. 2072	Water	50000	51300; 51320	50911
Reclamation District No. 2074	Water	50000	51300; 51320	50911
Reclamation District No. 2075	Water	50000	51300; 51320	50911
Reclamation District No. 2085	Water	50000	51300; 51320	50911
Reclamation District No. 2086	Water	50000	51300; 51320	50911
Reclamation District No. 2089	Water	50000	51300; 51320	50911
Reclamation District No. 2090	Water	50000	51300; 51320	50911
Reclamation District No. 2093	Water	50000	51300; 51320	50911
Reclamation District No. 2095	Water	50000	51300; 51320	50911
Reclamation District No. 2096	Water	50000	51300; 51320	50911
Reclamation District No. 2098	Water	50000	51300; 51320	50911
Reclamation District No. 2107	Water	50000	51300; 51320	50911
Reclamation District No. 2110	Water	50000	51300; 51320	50911
Reclamation District No. 2111	Water	50000	51300; 51320	50911
Reclamation District No. 2112	Water	50000	51300; 51320	50911
Reclamation District No. 2113	Water	50000	51300; 51320	50911
Reclamation District No. 2115	Water	50000	51300; 51320	50911
Reclamation District No. 2116	Water	50000	51300; 51320	50911
Reclamation District No. 2117	Water	50000	51300; 51320	50911
Reclamation District No. 2119	Water	50000	51300; 51320	50911
Reclamation District No. 2122	Water	50000	51300; 51320	50911
Reclamation District No. 2126	Water	50000	51300; 51320	50911
Reclamation District No. 2134	Water	50000	51300; 51320	50911
Reclamation District No. 2136	Water	50000	51300; 51320	50911
Reclamation District No. 2137	Water	50000	51300; 51320	50911
Reclamation District No. 3	Water	50000	51300; 51320	50911
Reclamation District No. 307	Water	50000	51300; 51320	50911
Reclamation District No. 317	Water	3-1	**	**
Reclamation District No. 341	Water	50000	51300; 51320	50911

Table B-1
Cost Recovery Authority of Special Districts in the Delta
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

District	California Code	Initial Section of Authority	Authority for Assessments	Authority for Rates and Fees
Reclamation District No. 348	Water	50000	51300; 51320	50911
Reclamation District No. 349	Water	50000	51300; 51320	50911
Reclamation District No. 38	Water	50000	51300; 51320	50911
Reclamation District No. 404	Water	50000	51300; 51320	50911
Reclamation District No. 407	Water	50000	51300; 51320	50911
Reclamation District No. 501	Water	50000	51300; 51320	50911
Reclamation District No. 524	Water	50000	51300; 51320	50911
Reclamation District No. 536	Water	50000	51300; 51320	50911
Reclamation District No. 537	Water	50000	51300; 51320	50911
Reclamation District No. 544	Water	50000	51300; 51320	50911
Reclamation District No. 548	Water	50000	51300; 51320	50911
Reclamation District No. 551	Water	50000	51300; 51320	50911
Reclamation District No. 554	Water	50000	51300; 51320	50911
Reclamation District No. 556	Water	50000	51300; 51320	50911
Reclamation District No. 563	Water	50000	51300; 51320	50911
Reclamation District No. 684	Water	50000	51300; 51320	50911
Reclamation District No. 744	Water	50000	51300; 51320	50911
Reclamation District No. 755	Water	50000	51300; 51320	50911
Reclamation District No. 756	Water	50000	51300; 51320	50911
Reclamation District No. 765	Water	50000	51300; 51320	50911
Reclamation District No. 773	Water	50000	51300; 51320	50911
Reclamation District No. 785	Water	50000	51300; 51320	50911
Reclamation District No. 799	Water	50000	51300; 51320	50911
Reclamation District No. 800 - Byron Tract	Water	12-1	**	**
Reclamation District No. 811	Water	50000	51300; 51320	50911
Reclamation District No. 828	Water	50000	51300; 51320	50911
Reclamation District No. 830	Water	15-1	**	**
Reclamation District No. 900	Water	14-1	**	**
Reclamation District No. 999	Water	23-1	**	**
River Delta Fire District	Health and Safety	13800	13910	
Sacramento Area Flood Control Agency	Government	6500	6557	6557
Sacramento County Water Agency	Water	66-1	66-4.4, 66-12	66-4.4, 66-35
Sacramento Metropolitan Fire District	Health and Safety	13800	13910	
Sacramento Municipal Utility District	Public Utilities	11501		12809

Table B-1
Cost Recovery Authority of Special Districts in the Delta
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

District	California Code	Initial Section of Authority	Authority for Assessments	Authority for Rates and Fees
Sacramento Regional County Sanitation District	Health and Safety	4700	4810; 4850	5471
Sacramento-Yolo Mosquito and Vector Control District	Health and Safety	2000	2080	
Sacramento-Yolo Port District	Harbors and Navigation	6800	6944	6905
San Joaquin Area Flood Control Agency	Government	6500	6557	6557
San Joaquin County Mosquito and Vector Control	Health and Safety	2000	2080	
San Joaquin County Resource Conservation District	Public Resources	9151	9403.5; 9501; 9513	
Solano County Mosquito Abatement District No. 1	Health and Safety	2000	2080	
Solano County Water Agency	Water	64-1	64-600, 64-700	64-431
Solano Irrigation District	Water	20500	25653	22280
Solano Resource Conservation District	Public Resources	9151	9403.5; 9501; 9513	
South Delta Water Agency	Water	116-1	116-5	
South San Joaquin Irrigation District	Water	20500	25653	22280
Stockton Port District	Harbors and Navigation	6200	6365	6305
Stockton-East Water District	Water	74000	74507	74527
Suisun Fire Protection District	Health and Safety	13800	13910	
Suisun Resources Conservation District	Public Resources	9151	9403.5; 9501; 9513	
Suisun/Solano Water Authority	Government	6500	6557	6557
Thornton Fire Protection District	Health and Safety	13800	13910	
Town of Discovery Bay Community Services District	Government	61000	61120	61115; 61120
Tracy Fire Protection District	Health and Safety	13800	13910	
Walnut Grove Fire Protection District	Health and Safety	13800	13910	
West Side Irrigation District	Water	20500	25653	22280
West Stanislaus Irrigation District	Water	20500	25653	22280
Woodbridge Irrigation District	Water	20500	25653	22280

Table B-1
Cost Recovery Authority of Special Districts in the Delta
Cost Analysis for Proposed Delta Plan Regulation in Support of Economic and Fiscal Impact Statement

District	California Code	Initial Section of Authority	Authority for Assessments	Authority for Rates and Fees
Yolo County Flood Control and Water Conservation District	Water	65-1		65-4, 65-27.5
Yolo County Resource Conservation District	Public Resources	9151	9403.5; 9501; 9513	

Source: West's Annotated California Codes. 2010. Thomson Reuters.

* All code citations indicate the initial section number, but may include the sections following in sequence.

** Indicates that the special legislation provides same assessment authority as Water Code section 50000

DRAFT

Exhibit A



DELTA STEWARDSHIP COUNCIL

980 NINTH STREET, 15TH FLOOR
SACRAMENTO, CALIFORNIA 95814
WWW.DELTACOUNCIL.CA.GOV
(916) 445-5511

Certification of Consistency Form

Use this form to:

Certify with the Council that a
Covered Action (plan, program, or
project) is consistent with the Delta Plan

(Draft 11/1/2012)

Note: *This draft form has not been reviewed or approved by the Delta Stewardship Council*

Section 1

Profile of Agency Filing Certification of Consistency

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

Government Agency: _____
Contact Name: _____
Address: _____
City, State, Zip: _____
Telephone: _____ / _____ Fax: _____ / _____
E-mail Address: _____ @ _____

B. **GOVERNMENT AGENCY**

ROLE IN COVERED ACTION: (Check all that apply) Will Carry Out Will Approve Will Fund

Section 2

Covered Action Profile

A. **COVERED ACTION PROFILE:** Plan Program Project

Program, Plan, or
Project Title: _____
(Not to exceed 50 characters)

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

Proponent Name: _____
Proponent Address: _____
City State Zip

C. **DID YOU ENGAGE IN EARLY CONSULTATION WITH DSC STAFF OR COMPLETE THE [COVERED ACTION CHECKLIST](#) TO DETERMINE IF THE PLAN, PROGRAM OR PROJECT IS CONSIDERED A COVERED ACTION?** YES NO

D. **AT LEAST 10 DAYS PRIOR TO THE SUBMISSION OF A CERTIFICATION OF CONSISTENCY TO THE COUNCIL**, 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 for public review and comment, their draft certification on their website and in their office, mail to all persons requesting notice, and include any public comments received in the record submitted to the council in the case of an appeal.

Any state or local public agency that is subject to open meeting laws with regard to its certification is encouraged to take those actions.

WAS THIS REQUIREMENT COMPLETED? YES NO N/A

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

F. **STATUS IN THE CEQA PROCESS:** [Select from Menu.](#)

G. **STATE CLEARINGHOUSE NUMBER:** (If applicable) _____

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

ANTICIPATED START DATE: (If available) _____ ANTICIPATED COMPLETION DATE: (If applicable) _____

I. **COVERED ACTION TOTAL ESTIMATED PROJECTED COST:** \$ _____

Please list all sources of funding used for developing the cost estimates: _____

[\(CLICK HERE TO ATTACH ADDITIONAL DOCUMENTS TO SECTION 2\)](#)

Section 3	Consistency with Delta Plan Covered Action Requirements to be submitted as Certificate of Consistency
------------------	---

CHAPTER 2 The Delta Plan

Policy No.:	IS THE COVERED ACTION CONSISTENT WITH THE FOLLOWING POLICY?
--------------------	--

G P1	<p>A. The covered action is consistent with the coequal goals.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> YES</td> <td style="width: 33%;"></td> <td style="width: 33%;"></td> </tr> </table>	<input type="radio"/> YES		
<input type="radio"/> YES				
	<p>B. The covered action, is not exempt from CEQA, and includes applicable feasible mitigation measures identified in the Delta Plan’s EIR, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the proposing agency), or substitute mitigation measures that the proposing agency finds are equally or more effective.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> YES</td> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> NO</td> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> N/A</td> </tr> </table>	<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A		
	<p>C. The covered action documents use of best available science as relevant to its purpose and nature. (as described in Appendix A of the Delta Plan).</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> YES</td> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> NO</td> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> N/A</td> </tr> </table>	<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A		
	<p>D. The covered action, involves ecosystem restoration or water management, and includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> YES</td> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> NO</td> <td style="width: 33%; text-align: center; padding: 2px;"><input type="radio"/> N/A</td> </tr> </table>	<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A		
	<p>If yes, this requirement must be satisfied through:</p> <ul style="list-style-type: none"> An adaptive management plan that describes the approach to be taken consistent with the Adaptive Management Framework in Appendix A of the Delta Plan, and Documentation of access to adequate resources and delineated authority by the entity responsible for the implementation of the proposed adaptive management process. 			
<input type="checkbox"/>	<p>E. If the filing agency will carry out the covered action, you must certify by checking the box at the left, that this covered action complies with all applicable laws.</p>			
<input type="checkbox"/>	<p>F. If the filing agency will not carry out the covered action (but will approve or fund the action), you must certify by checking the box at the left, that this covered action complies with all applicable laws of the type listed above over which that agency has enforcement authority or with which that agency can require compliance.</p>			

CHAPTER 3 A More Reliable Water Supply For California

Policy No.:	IS THE COVERED ACTION CONSISTENT WITH THE FOLLOWING POLICIES?
--------------------	--

WR P1	<p>A. The covered action would export water from, transfer water through, or use water in the Delta, and one or more of the following is true:</p> <ol style="list-style-type: none"> 1. Water suppliers that would receive water as a result of the covered action have reduced their reliance on the Delta and adequately contributed to improved regional self-reliance. 2. Even though one or more water suppliers have failed to reduce their reliance on the Delta and adequately contribute to improved regional self-reliance, that failure has not significantly caused the need for the covered action. 3. The covered action would not have a significant adverse environmental impact in the Delta.
-----------------------	--

<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
<p>If yes, water suppliers that have done all of the following are contributing to reduced reliance on the Delta and improved regional self-reliance and are therefore consistent with WRP1:</p> <ol style="list-style-type: none"> 1) Completed a current urban or agricultural water management plan which has been reviewed by DWR for compliance with the applicable requirements of Water Code Division 6, Parts 2.55, 2.6, and 2.8 2) Identified, evaluated and commenced implementation, consistent with the implementation schedule set forth in the management plan, of all programs and projects that are locally cost effective and technically feasible which reduce reliance on the Delta and, 3) Included in the plan, commencing in 2015, the expected outcome for measurable reduction in Delta reliance and improvement in regional self-reliance. <p>Programs and projects that reduce reliance could include, but are not limited to, improvements in water use efficiency, water recycling, stormwater capture and use, advanced water technologies, conjunctive use projects, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.</p>		

<u>WR P2</u>	A. The covered action involves a contract for water from the State Water Project (SWP) and/or the Central Valley Project (CVP) and the contracting process was developed in a publicly transparent manner consistent with applicable policies of Department of Water Resources and the U.S. Bureau of Reclamation. Water Code section 85057.5(a)(3)	
<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
<p>If yes, for purposes of Water Code section 85057.5(a)(3), select either State Water Project (SWP) or Central Valley Project (CVP) for the appropriate policy reference:</p> <p><input type="checkbox"/> SWP With regard to water from the SWP, a proposed action to enter into or amend a water supply or water transfer contract subject to DWR Guidelines 03-09 and/or 03-10 (each dated July 3, 2003), which are included in Part 1 of Appendix F.</p> <p><input type="checkbox"/> CVP With regard to water from the CVP, a proposed action to enter into or amend a water supply or water transfer contract subject to Section 226 of P.L. 97-293 or Section 3504(a)(2)(B) of the Central Valley Project Improvement Act, which are included in Part 2 of Appendix F.</p>		

CHAPTER 4
Protect, Restore, and Enhance The Delta Ecosystem

Policy No.:	IS THE COVERED ACTION CONSISTENT WITH THE FOLLOWING POLICIES?
--------------------	--

<u>ER P1</u>	A. The covered action could affect flow in the Delta, and is consistent with the existing flow objectives contained in the Bay-Delta Water Quality Control Plan.	
<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A

<u>ER P2</u>	A. The covered action includes habitat restoration, and is consistent with the text of Appendix H , which is based on the Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions (DFG 2011), with minor alterations. Figure 4-5 has been used as a guide for determining appropriate habitat restoration actions based on an area's elevation.	
<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
<p>If no, the habitat restoration would not be consistent with the text of Appendix H, sufficient scientific rationale is provided.</p>		

<u>ER P3</u>	A. The covered action will take place in one or more of the priority habitat restoration areas depicted in Figure 4-6 and all of the following are true: <ol style="list-style-type: none"> 1. Avoids or mitigates impacts to the opportunity to restore habitat at the elevations shown in Figure 4-5. 2. All required mitigation was determined in consultation with the Department of Fish and Game considering the size of the area impacted by the covered action and the type and value of habitat that could be restored on that
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area, taking into account existing and proposed restoration plans, landscape attributes, the elevation map shown in [Figure 4-5](#) and other relevant information about habitat restoration opportunities of the area.

3. Mitigation may include restoration and/or permanent protection of other areas to provide habitats that could have been restored at the site.

<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
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[ER P4](#) A. The [covered action](#) would construct new levees or substantially rehabilitate or reconstruct existing levees, and alternatives (including use of setback levees) have been evaluated, and where feasible, incorporated to enhance floodplains and riparian habitats.

<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
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[ER P5](#) A. The [covered action](#) has the reasonable probability of introducing, or improving habitat conditions for nonnative invasive species, and the proponent has fully considered and avoided or mitigated the potential for new introductions of, or improved habitat conditions for, nonnative species in a way that appropriately protects the ecosystem.

<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
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CHAPTER 5
Protect and Enhance the Unique Cultural, Recreational, and Agricultural Values of the California Delta as an Evolving Place

Policy No.: **IS THE COVERED ACTION CONSISTENT WITH THE FOLLOWING POLICIES?**

[DP P1](#) A. The [covered action](#) involves new urban development, including residential, commercial, or industrial uses, that **is not** located in any of the following areas (as shown in [Figure 5-1](#) or [Appendix K](#)):

1. Areas that city or county general plans, as of the date of the Delta Plan’s adoption, designate for development in cities or their spheres of influence or;
2. Areas within Contra Costa County's 2006 voter-approved urban limit line, **except** Bethel Island where any development shall only occur if consistent with the Contra Costa County general plan in place as of the date of the Delta Plan’s adoption.;
3. Areas within the Mountain House General Plan Community Boundary in San Joaquin County; or
4. The unincorporated Delta towns of Clarksburg, Courtland, Hood, Locke, Ryde, and Walnut Grove.

B. The [covered action](#) **does not** involve commercial recreational visitor serving uses, or facilities for processing local crops or that provide essential services to local farms, and is otherwise consistent with the Delta Plan.

<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
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If yes, this policy is not intended in any way to alter the concurrent authority of the Delta Protection Commission to separately regulate development in the Delta’s Primary Zone.

[DP P2](#) A. The [covered action](#) involves the siting of water management facilities, ecosystem restoration, or flood management infrastructure, and will be or has been done in a manner that avoids or reduces conflicts with existing or planned uses when feasible, considering comments from local agencies and the Delta Protection Commission.

<input type="radio"/> YES	<input type="radio"/> NO	<input type="radio"/> N/A
---------------------------	--------------------------	---------------------------

If yes, does the covered action involve:

ECOSYSTEM RESTORATION
The covered action must be located on public land or sites were considered on existing public lands, when feasible and consistent with the project’s purpose, before any privately owned sites were purchased or identified for purchase.

Describe measures taken to mitigate conflicts with adjacent uses, which may include, but are not limited to, buffers to prevent adverse effects on adjacent farmland.

CHAPTER 7

Reduce Risk to People, Property, and State Interests in the Delta

Policy No.:	IS THE COVERED ACTION CONSISTENT WITH THE FOLLOWING POLICIES?			
RR P1	<p>A. The covered action involves discretionary state investments in Delta flood risk management, including levee operations, maintenance, and improvements, and where applicable and the extent permitted by law – is consistent with either:</p> <p>(1) The attached interim priorities; or</p> <p>(2) The long-term priorities for state investments in Delta levees, where those long-term priorities are incorporated into the Delta Plan and supersede the interim priorities.</p>			
<input type="radio"/> YES			<input type="radio"/> NO	<input type="radio"/> N/A
RR P2	<p>A. The covered action involves new residential development of five or more parcels and provides a minimum 200-year flood protection, such as through the use of adequate levees or flood proofing located outside of:</p> <ol style="list-style-type: none"> 1. Areas that city or county general plans, as of the date of the Delta Plan’s adoption, designate for development in cities or their spheres of influence; 2. Areas within Contra Costa County's 2006 voter-approved urban limit line, except Bethel Island; 3. Areas within the Mountain House General Plan Community Boundary in San Joaquin County; 4. The unincorporated Delta towns of Clarksburg, Courtland, Hood, Locke, Ryde, and Walnut Grove, as shown in Appendix K. 			
<input type="radio"/> YES			<input type="radio"/> NO	<input type="radio"/> N/A
RR P3	<p>A. The covered action would encroach upon or diminish a floodway; however, it demonstrates by appropriate analysis that the encroachment will not unduly impede the free flow of water in the floodway or jeopardize public safety.</p>			
<input type="radio"/> YES			<input type="radio"/> NO	<input type="radio"/> N/A
RR P4	<p>A. The covered action would encroach upon critical floodplains located in the Yolo Bypass, Cosumnes River-Mokelumne River Confluence, or the Lower San Joaquin River Floodplain Bypass areas, as further described in Chapter 7, Policy 4; however, it demonstrates by appropriate analysis that the encroachment will not have a significant effect on floodplain values and functions, as defined in 33CFR 320.4(l)(1).</p>			
<input type="radio"/> YES			<input type="radio"/> NO	<input type="radio"/> N/A
<p>If yes, this policy does not exempt these potential encroachments from the regulations and requirements of the Central Valley Flood Protection Board.</p>				
<p>THANK YOU FOR COMPLETING THE ON-LINE CERTIFICATION OF CONSISTENCY FORM. THE INFORMATION SUBMITTED WILL BE POSTED ON-LINE AND AVAILABLE FOR PUBLIC REVIEW.</p> <p> <input type="button" value="Print"/> <input type="button" value="Save"/> <input type="button" value="Submit"/> </p>				

Exhibit B



980 NINTH STREET, 15TH FLOOR
SACRAMENTO, CALIFORNIA 95814
WWW.DELTACOUNCIL.CA.GOV
(916) 445-5511

DELTA STEWARDSHIP COUNCIL

Certification of Consistency Appeal Form

Use this form to:

Appeal to the Council, that a proposed Covered Action (plan, program, or project) is not consistent with the Delta Plan

For DSC Use Only

Appeal Form ID number: _____

Date Appeal Received: _____

Date Appeal Posted: _____

Note: *This draft form has not been reviewed or approved by the Delta Stewardship Council*

Section 1

Terms and Conditions

[Administrative Procedures Governing Appeals](#)

- I certify that I have read the terms and conditions and understand the requirements for submitting an Appeal as well as the Appeal process.
- I understand that the Council's standard of review is based on substantial evidence in the record filed with the Certification of Consistency.
- I have determined that documents submitted with this form will provide substantial evidence to support my Appeal.

If you have additional questions or would like to discuss your Appeal further before officially filing on-line, please contact _____ (XXX) XXX-XXXX to schedule an appointment.

Section 2	Appellant(s) Information
------------------	---------------------------------

A. APPELLANT(S):

Appellant Representing: _____

Appellant Contact Name: _____

Appellant Address: _____

City _____ State _____ Zip: _____

Telephone: _____ / _____ Fax: _____ / _____

Appellant Contact E-mail: _____ @ _____

Section 3	Covered Action Being Appealed
------------------	--------------------------------------

A. COVERED ACTION:

Covered Action Certification ID#: _____

Covered Action Title: _____

Agency Subject to Appeal: _____

Contact Person Subject to Appeal: _____

Address of Agency Subject to Appeal: _____

City _____ State _____ Zip: _____

Covered Action Description: _____

Section 4

Reasons Supporting Appeal

CHAPTER 2 The Delta Plan

Policy No.:	IS THE COVERED ACTION INCONSISTENT WITH THE FOLLOWING POLICY?	
<u>G P1</u>	A. The covered action is consistent with the coequal goals .	
	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
	B. The covered action , if not exempt from CEQA, includes applicable feasible mitigation measures identified in the Delta Plan's EIR, (unless the measure(s) are within the exclusive jurisdiction of an agency other than the proposing agency), or substitute mitigation measures that the proposing agency finds are equally or more effective.	
	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
	C. The covered action documents use of best available science as relevant to its purpose and nature (as described in Appendix A of the Delta Plan).	
	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
	D. The covered action , if it involves ecosystem restoration or water management , includes adequate provisions, appropriate to its scope, to assure continued implementation of adaptive management.	
	<p>This requirement must be satisfied through:</p> <ul style="list-style-type: none"> An adaptive management plan that describes the approach to be taken consistent with the Adaptive Management Framework in Appendix A of the Delta Plan, and Documentation of access to adequate resources and delineated authority by the entity responsible for the implementation of the proposed adaptive management process. 	
<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent	

CHAPTER 3

A More Reliable Water Supply For California

Policy No.:	IS THE COVERED ACTION INCONSISTENT WITH THE FOLLOWING POLICY?	
<u>WR P1</u>	<p>The covered action would export water from, transfer water through, or use water in the Delta, and one or more of the following is true:</p> <p>A. Water suppliers that would receive water as a result of the covered action have "reduced their reliance on the Delta and adequately contributed to improved regional self-reliance".</p> <p>B. Even though one or more water suppliers have failed to reduce their reliance on the Delta and adequately contribute to improved regional self-reliance, that failure has not significantly caused the need for the covered action.</p> <p>C. The covered action would not have a significant adverse environmental impact in the Delta.</p> <p>Water suppliers that have done all of the following are contributing to reduced reliance on the Delta and improved regional self-reliance and are therefore consistent with WRP1:</p> <ol style="list-style-type: none"> Completed a current urban or agricultural water management plan which has been reviewed by DWR for compliance with the applicable requirements of Water Code Division 6, Parts 2.55, 2.6, and 2.8 	

	<p>2) Identified, evaluated and commenced implementation, consistent with the implementation schedule set forth in the management plan, of all programs and projects that are locally cost effective and technically feasible which reduce reliance on the Delta and,</p> <p>3) Included in the plan, commencing in 2015, the expected outcome for measurable reduction in Delta reliance and improvement in regional self-reliance. Programs and projects that reduce reliance could include, but are not limited to, improvements in water use efficiency, water recycling, stormwater capture and use, advanced water technologies, conjunctive use projects, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.</p>	
	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
<u>WR P2</u>	<p>The covered action involves a contract for water from the State Water Project (SWP) and/or the Central Valley Project (CVP) and the contracting process was developed in a publicly transparent manner consistent with applicable policies of Department of Water Resources the U.S. Bureau of Reclamation.</p> <p>For purposes of Water Code section 85057.5(a)(3), this policy “covers” the following:</p> <p>a. With regard to water from the SWP, a proposed action to enter into or amend a water supply or water transfer contract subject to DWR Guidelines 03-09 and/or 03-10 (each dated July 3, 2003), which are included in Part 1 of Appendix F.</p> <p>b. With regard to water from the CVP, a proposed action to enter into or amend a water supply or water transfer contract subject to Section 226 of P.L. 97-293 or Section 3504(a)(2)(B) of the Central Valley Project Improvement Act, which are included in Part 2 of Appendix F.</p>	
	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent

CHAPTER 4

Protect, Restore, and Enhance The Delta Ecosystem

Policy No.:	IS THE COVERED ACTION INCONSISTENT WITH THE FOLLOWING POLICY?	
<u>ER P1</u>	A. The covered action could affect flow in the Delta, and is consistent with the existing flow objectives contained in the Bay-Delta Water Quality Control Plan.	
	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
<u>ER P2</u>	<p>A. The covered action includes habitat restoration, and is consistent with the text of Appendix H, which is based on the Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions (DFG 2011), with minor alterations. Figure 4-5 should be used as a guide for determining appropriate habitat restoration actions based on an area’s elevation.</p> <p>B. If the habitat restoration would not be consistent with the text of Appendix H, sufficient scientific rationale is provided.</p>	
	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
<u>ER P3</u>	A. The covered action includes actions in the priority habitat restoration areas depicted in Figure 4-6 . It does not cover actions outside of those areas and avoids or mitigates impacts to the opportunity to restore habitat at the elevations shown in Figure 4-5 . Mitigation was determined in consultation with Department of Fish and Game considering the size of the area impacted by the covered action and the type and value of habitat that could be restored on that area, taking into account existing and proposed restoration plans, landscape attributes, the elevation map shown in Figure 4-5 and other relevant information about habitat restoration opportunities of the area. Mitigation may include restoration and /or permanent protection of other areas to provide habitats that could have been restored at the site.	
	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
<u>ER P4</u>	A. The covered action would construct new levees or substantially rehabilitate or reconstruct existing levees, and alternatives (including use of setback levees) have been evaluated, and where feasible, incorporated to enhance floodplains and riparian habitats.	

	B. Criteria developed under RR R7 (when available) have been used to determine appropriate locations for setback levees.
	<input type="radio"/> YES, Inconsistent <input type="radio"/> NO, Consistent
ER P5	A. The covered action has the reasonable probability of introducing, or improving habitat conditions for nonnative invasive species, and therefore has fully considered and avoided or mitigated the potential for new introductions of, or improved habitat conditions for, nonnative species in a way that appropriately protects the ecosystem.
	<input type="radio"/> YES, Inconsistent <input type="radio"/> NO, Consistent
CHAPTER 5	
Protect and Enhance the Unique Cultural, Recreational, and Agricultural Values of the California Delta as an Evolving Place	
Policy No.:	IS THE COVERED ACTION INCONSISTENT WITH THE FOLLOWING POLICY?
DP P1	<p>A. The covered action involves new urban development, including residential, commercial, and industrial uses, that is not located in the following areas (as shown in Figure 5-1 or Appendix K):</p> <ol style="list-style-type: none"> 1. Areas that city or county general plans, as of the date of the Delta Plan's adoption, designate for development in cities or their spheres of influence or; 2. Areas within Contra Costa County's 2006 voter-approved urban limit line, except Bethel Island; 3. Areas within the Mountain House General Plan Community Boundary in San Joaquin County; or 4. The unincorporated Delta towns of Clarksburg, Courtland, Hood, Locke, Ryde, and Walnut Grove. <p>Or</p> <p>B. The covered action is located on Bethel Island, where development shall occur only if consistent with the County Costa County general plan in place as of the date of the Delta Plan's adoption.</p> <p>And</p> <p>C. The covered action does not involve commercial recreational visitor serving uses, or facilities for processing local crops or that provide essential services to local farms, and are otherwise consistent with the Delta Plan.</p> <p>This policy is not intended in any way to alter the concurrent authority of the Delta Protection Commission to separately regulate development in the Delta's Primary Zone.</p>
	<input type="radio"/> YES, Inconsistent <input type="radio"/> NO, Consistent
DP P2	<p>A. The covered action involves the siting of water management facilities, ecosystem restoration, or flood management infrastructure, which will be done in a manner that avoids or reduces conflicts with existing or planned uses when feasible, considering comments from local agencies and the Delta Protection Commission. Measures to mitigate conflicts with adjacent uses may include, but are not limited to, buffers to prevent adverse effects on adjacent farmland.</p> <p>B. If the covered action involves ecosystem restoration, sites were considered on existing public lands, when feasible, and consistent with the project's purpose, before purchasing any privately owned sites.</p>
	<input type="radio"/> YES, Inconsistent <input type="radio"/> NO, Consistent
CHAPTER 7	
Reduce Risk to People, Property, and State Interests in the Delta	
Policy No.:	IS THE COVERED ACTION INCONSISTENT WITH THE FOLLOWING POLICY?
RR P1	A. The covered action involves discretionary state investments in Delta flood risk management, including levee operations, maintenance, and improvements, and where applicable and the extent permitted by law – is consistent with either:

	<p>(1) The attached interim priorities; or</p> <p>(2) The long-term priorities for state investments in Delta levees, where those long-term priorities are incorporated into the Delta Plan and supersede the interim priorities.</p>		
	<table border="1"> <tr> <td><input type="radio"/> YES, Inconsistent</td> <td><input type="radio"/> NO, Consistent</td> </tr> </table>	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent		
RR P2	<p>A. The covered action involves new residential development of 5 or more parcels outside of:</p> <ol style="list-style-type: none"> 1. Areas that city or county general plans, as of the date of the Delta Plan’s adoption, designate for development in cities or their spheres of influence; 2. Areas within Contra Costa County’s 2006 voter-approved urban limit line, except Bethel Island; 3. Areas within the Mountain House General Plan Community Boundary in San Joaquin County; 4. The unincorporated Delta towns of Clarksburg, Courtland, Hood, Locke, Ryde, and Walnut Grove, as shown in Appendix K. <p>And</p> <p>B. Provides a minimum 200-year flood protection, such as through the use of adequate levees or flood proofing.</p>		
	<table border="1"> <tr> <td><input type="radio"/> YES, Inconsistent</td> <td><input type="radio"/> NO, Consistent</td> </tr> </table>	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent		
RR P3	<p>A. The covered action would encroach upon or diminish a floodway, however it demonstrates by appropriate analysis that the encroachment will not unduly impede the free flow of water in the floodway or jeopardize public safety.</p>		
	<table border="1"> <tr> <td><input type="radio"/> YES, Inconsistent</td> <td><input type="radio"/> NO, Consistent</td> </tr> </table>	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent		
RR P4	<p>A. The covered action would encroach upon critical floodplains located in the Yolo Bypass, Cosumnes River- Mokelumne River Confluence, or the Lower San Joaquin River Floodplain Bypass areas, as further described in Chapter 7, Policy 4, however it demonstrates by appropriate analysis that the encroachment will not have a significant effect on floodplain values and functions, as defined in 33CFR 320.4(l)(1).</p> <p>This does not exempt these potential encroachments from the regulations and requirements of the Central Valley Flood Protection Board.</p>		
	<table border="1"> <tr> <td><input type="radio"/> YES, Inconsistent</td> <td><input type="radio"/> NO, Consistent</td> </tr> </table>	<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent
<input type="radio"/> YES, Inconsistent	<input type="radio"/> NO, Consistent		

Section 5

Appellant Certifications and Authorizations

- I certify that all of the information submitted with this Appeal is complete and accurate to the best of my knowledge and that all attached exhibits are full, complete and correct.
- I certify that I understand that omitted or insufficient information can delay consideration of this appeal.
- I certify that this appeal is not complete until accepted by the Council at a regularly scheduled meeting. I authorize the Council, its staff or other authorized personnel to share this information publicly and authorize their collection of other additional information relevant to this appeal.

Signature of Appellant or Appellant's representative

Date

Printed Name

Title

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