



ACTION ITEM

Consideration and Possible Adoption of a Determination on Appeals of Department of Water Resources Certification of Consistency Number C20242 for the 2024-2026 Proposed Geotechnical Activities (Resolution 2025-01)

Summary

The Council will consider draft findings on appeals of Department of Water Resources' (DWR) Certification of Consistency Number C20242 for the 2024-2026 Proposed Geotechnical Activities and may approve Resolution 2025-01 (Attachment A to this staff report) adopting findings contained in a Draft Determination prepared by staff (Attachment 1 to Resolution 2025-01).

Requested Action

Staff recommends that the Council approve Resolution 2025-01 (Attachment A to this staff report) adopting findings contained in the Draft Determination (Attachment 1 to Resolution 2025-01) on appeals of DWR Certification of Consistency C20242 for the 2024-2026 Proposed Geotechnical Activities.

Background

Covered Actions and Appellate Authority

The Sacramento-San Joaquin Delta Reform Act of 2009 (Wat. Code, § 85000 et seq.) charges the Council with developing, adopting, and implementing the Delta Plan (Wat. Code, § 85300.) and gives the Council appellate authority over certain actions (covered actions) in the Sacramento-San Joaquin River Delta and Suisun Marsh (Delta). (Wat. Code, § 85225.10.) A state or local agency proposing to undertake a covered action must submit to the Council a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan. (Wat. Code, §§ 85057.5, 85225.) Any person may file an appeal to the Council claiming that a proposed covered action is inconsistent with the Delta Plan and, as a result of that inconsistency, the action will have a significant adverse impact on

the achievement of one or both of the coequal goals¹ or implementation of government-sponsored flood control programs to reduce risks to people and property in the Delta. (Wat. Code, § 85225.10.) An appeal must be filed no later than 30 days after the submission of a certification of consistency to the Council. (Wat. Code, § 85225.15.)

Certification of Consistency C20242 and Appeals

DWR submitted its Certification for the 2024-2026 Proposed Geotechnical Activities (referred to herein as Proposed Geotechnical Activities) to the Council on October 8, 2024.

The Council received timely² appeals from four parties (referred to collectively hereafter as Appellants), listed below:

- Appeal No. C20242-A1 – San Francisco Baykeeper, Winnemem Wintu, Shingle Springs Band of Miwok Indians, California Indian Environmental Alliance, Friends of the River, Center for Biological Diversity, Save California Salmon, California Sportfishing Protection Alliance, Golden State Salmon Association, and Restore the Delta. (San Francisco Baykeeper et al.)
- Appeal No. C20242-A2 – South Delta Water Agency
- Appeal No. C20242-A3 – County of Sacramento, Sacramento County Water Agency, Sacramento Area Sewer District, and City of Stockton (County of Sacramento et al.)
- Appeal No. C20242-A4 – County of San Joaquin, Central Delta Water Agency, and Local Agencies of the North Delta (SJC et al.)

¹ Coequal goals is defined in Water Code section 85054 as the “two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem.” The coequal goals are required to “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.” (Wat. Code § 85054.)

² The appeals were deemed timely filed on November 7, 2024, pursuant to California Code of Regulations, title 23, section 5022.

The Certification and appeals are available at:

[https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=456af51a-3643-48bf-8e0e-6007cbe609dc.](https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=456af51a-3643-48bf-8e0e-6007cbe609dc)

Role of the Delta Protection Commission

The Delta Protection Commission (Commission) may submit written comments on issues raised by an appellant in an appeal and whether the Certification is supported by substantial evidence in the record. The Council considers the Commission's comments and presentation as those of an expert in matters that may affect the unique cultural, recreational, and agricultural values of the Delta when preparing, considering, and adopting its findings. (Cal. Code Regs., tit. 23, § 5028.)

Appeal Process

DWR submitted a "full and complete" certified record for the Certification on November 13, 2024. (Cal. Code Regs., tit. 23, § 5022, subd. (e).) Each Appellant and the Commission were given the opportunity to submit a brief up to 15 pages concerning issues raised in its respective appeal. DWR was given an opportunity to submit a brief up to 60 pages. Any party and the DPC may include in their brief a request to supplement the record pursuant to the Council's regulations. (Cal. Code Regs., tit. 23, §5026, subd. (b).) The briefs and other documents related to this appeal are available at:

[https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=456af51a-3643-48bf-8e0e-6007cbe609dc.](https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=456af51a-3643-48bf-8e0e-6007cbe609dc)

The Council held a hearing on the appeals on December 19, 2024, within 60 calendar days of the effective date of the filing of the appeal. (Wat. Code, § 85225.20; 23 Cal. Code Regs § 5030.). At the hearing, the Department, Appellants and the Commission made presentations to the Council, and members of the public provided comments regarding the Certification and appeals. At the conclusion of the hearing, Council Chair and Presiding Officer Julie Lee directed Council staff to prepare draft findings regarding the appeals.

Today's Meeting

At today's meeting, Council staff will provide a brief overview of the findings described in the Draft Determination (Attachment 1 to Resolution 2025-01). Following the overview, the Council may discuss the matter and members of the public will have an opportunity to comment. The Council may vote to approve Resolution 2025-01 (Attachment A to this staff report) adopting the Draft Determination.

Staff recommends that the Council consider the Draft Determination (Attachment 1 to Resolution 2025-01), receive public comments, and approve Resolution 2025-01 (Attachment A to this staff report) adopting the Draft Determination and the findings therein.

Fiscal Information

Not applicable.

List of Attachments

Attachment A: Resolution 2025-01 and Attachment 1 to the Resolution (Draft Determination)

Contact

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