

April 2026

Consideration and Possible Adoption of a Determination on Appeals of Department of Water Resources Certification of Consistency Number C20257 for the Delta Conveyance Project



**Delta
Stewardship
Council**

A CALIFORNIA STATE AGENCY

Certification C20257 Appeal Process Summary

- Department of Water Resources (DWR) submitted Certification of Consistency (Certification) for Delta Conveyance Project (DCP)
- Certification appealed by 10 groups (Appellants) challenging DCP's consistency with 14 Delta Plan regulatory policies
- Appellants and DWR submitted arguments and Council held hearing
- Council published Draft Decision
 - Remands matter to DWR to reconsider golden mussel and Harvest Water
 - Denies all other appeals
 - Requests Annual Implementation Report
- Staff recommends Council adopt Draft Decision

Presentation Overview

- Covered action authority and process
- Delta Conveyance Project description
- Certification and appeals summary
- Draft Decision
 - Findings
 - Annual Implementation Report
- Staff recommendation



2009 Sacramento-San Joaquin Delta Reform Act (Delta Reform Act): The Council's Covered Action Authority

- Established the coequal goals
- Established the Council and authorized the Council to develop and implement the Delta Plan
- Granted Council appellate authority and oversight over covered actions
- Requires state and local public agencies to demonstrate consistency with Delta Plan policies for covered actions

Delta Reform Act: Certifications and Appeals

Certification of Consistency

- Covered actions must submit a written certification with detailed findings as to whether the covered action is consistent with the Delta Plan

Appeals

- Any person may file an appeal within 30 days claiming, in relevant part, that:
 - a covered action is inconsistent with the Delta Plan; and
 - as a result of that inconsistency, the covered action will have a significant adverse impact on the achievement of one or both of the coequal goals

Delta Reform Act: Appeal Decision

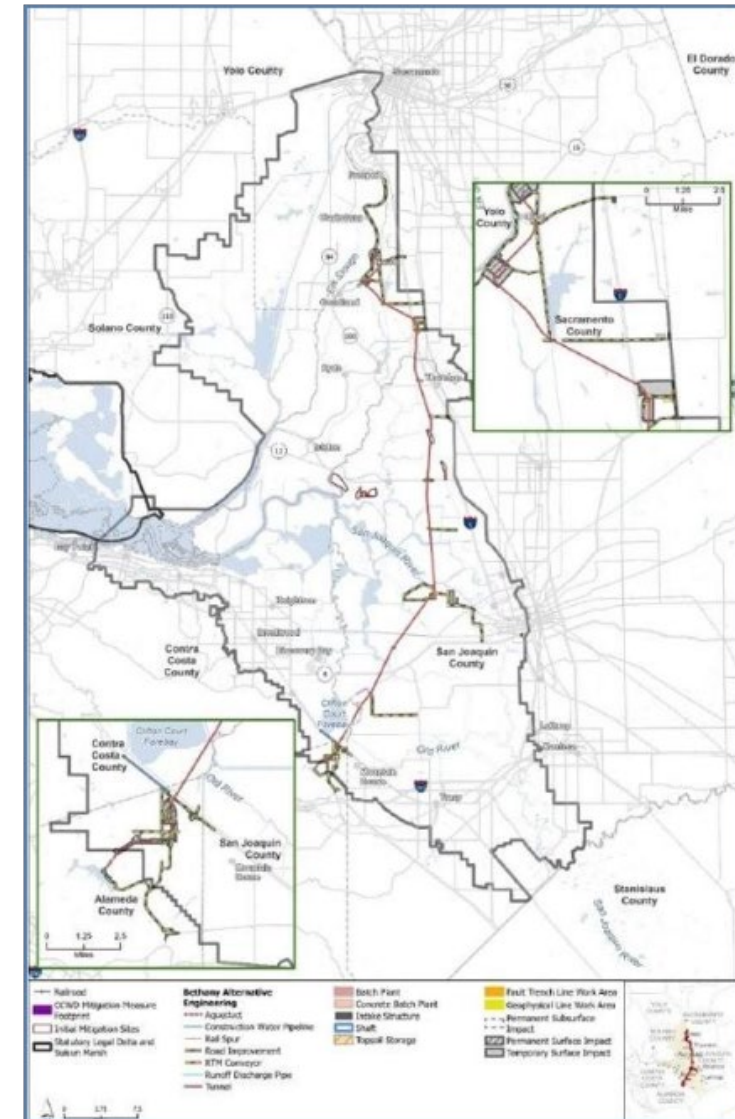
- Council must make a decision regarding appeals within 60 days of the hearing
- Decision options:
 - *Deny the appeals* – the certifying agency may proceed with implementation
 - *Remand the matter* – if the certifying agency decides to proceed with the action, as modified to respond to the findings of the Council, the agency shall file a revised Certification of Consistency addressing the Council's findings prior to proceeding with the action

Substantial Evidence Standard of Review

- Scope of Council's review is whether the Certification is supported by substantial evidence in the record before the certifying agency (Wat. Code, § 85225.25.)
- Council does not independently review the covered action to determine if it is consistent with Delta Plan
- Council does determine if substantial evidence in record supports the Department's Certification that the activity is consistent with Delta Plan, in light of appeals
- Substantial evidence is reasonable in nature, credible, of solid value
- Appellants carry the burden of demonstrating that the administrative record does not contain substantial evidence to support DWR's findings

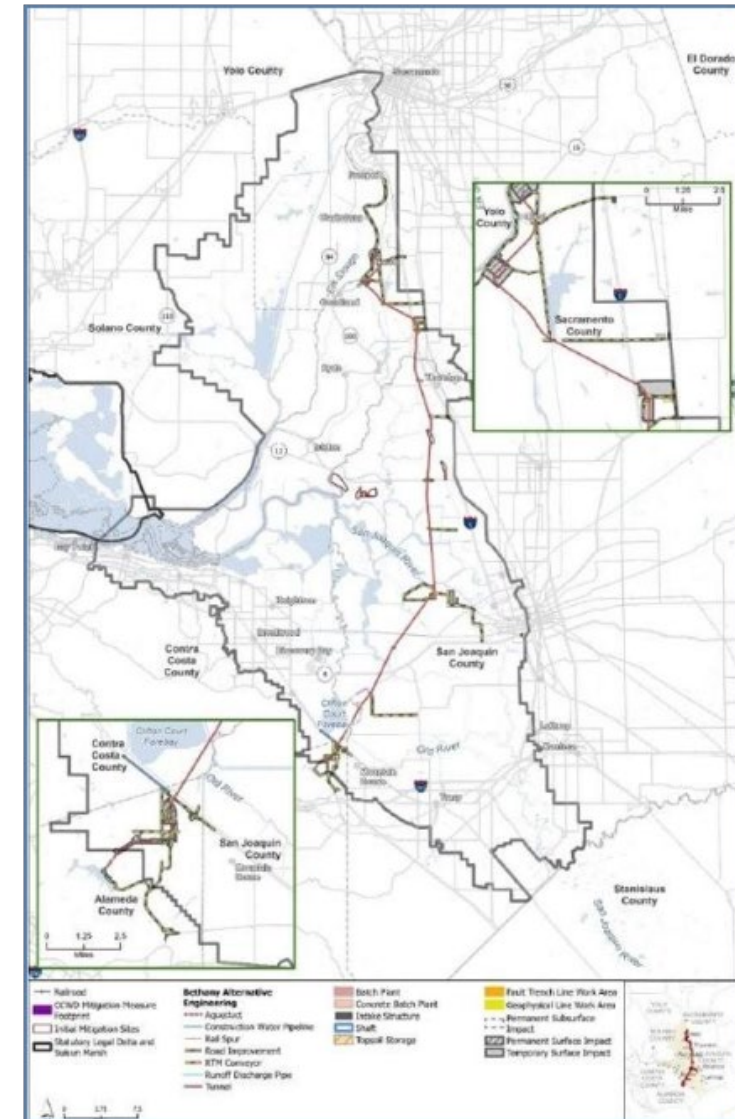
Delta Conveyance Project Overview

- Two new Sacramento River intake facilities near Hood, with state- and federal-approved fish screens
- A concrete-lined tunnel (appr. 45 miles) with vertical shafts to move water to the Bethany Reservoir Pumping Plant
- A new pumping plant at Bethany Reservoir to lift water into the Bethany Reservoir Aqueduct and discharge structure
- Ancillary facilities to support construction and operations (e.g., access roads, batch plants, fuel stations, power lines)



Delta Conveyance Project Overview

- Field investigations to inform final engineering design (e.g., geotechnical, hydrogeologic, agronomic)
- Actions and refinements described in the Final EIR and addendums
- Commitments in the Mitigation Monitoring and Reporting Program and the Compensatory Mitigation Plan



Certification C20257 Summary

Date Filed

October 17, 2025

Delta Plan Policies

G – Governance

WR – Water Resources

ER – Ecosystem Restoration

DP – Delta as Place

RR – Reduced (Flood) Risk

Meeting Date: April 23-24, 2026

Agenda Item: 3

Page 10 of 43

Delta Plan Policies	Consistent	N/A
G P1(b)(1) – Coequal Goals	X	
G P1(b)(2) – Mitigation Measures	X	
G P1(b)(3) – Best Available Science	X	
G P1(b)(4) – Adaptive Management	X	
WR P1 - Reduce Reliance	X	
WR P2 - Transparency in Water Contracting	X	
ER P1 - Delta Flow Objectives	X	
ER PA –Restore Ecosystem Function and Provide Social Benefits	X	
ER P2 - Restore Habitats at Appropriate Elevations	X	
ER P3 – Protect Opportunities to Restore Habitat	X	
ER P4 – Expand Floodplains and Riparian Habitat in Levee Projects	X	
ER P5 - Invasive Nonnative Species	X	
DP P1 – Locate New Urban Development Wisely		X
DP P2 - Respect Local Land Use	X	
RR P1 - Prioritization of Levee Investments		X
RR P2 – Require Flood Protection in Residential and Rural Areas		X
RR P3 – Protect Floodways		X
RR P4 – Floodplain Protection		X

Appeals

The Council received timely appeals on November 17, 2025, from 10 groups:

- C20257-A1 – Delta Protection Commission (Commission)
- C20257-A2 – Courtland Pear Fair (Pear Fair)
- C20257-A3 – County of Sacramento et al. (County of Sacramento)
- C20257-A4 – Steamboat Resort
- C20257-A5 – San Francisco Baykeeper et al. (SF Baykeeper)
- C20257-A6 – Sacramento Area Sewer District (Sac Sewer)
- C20257-A7 – City of Stockton
- C20257-A8 – South Delta Water Agency (SDWA)
- C20257-A9 – San Joaquin County et al. (San Joaquin County)
- C20257-A10 – DCC Engineering Co., Inc. (DCC Engineering)

Certification and appeals are available on Council's covered actions website and DCP project webpage

Appeals Summary

Date Filed

November 17, 2025

Delta Plan Policies

Appeals are summarized
in the table:

Delta Plan Policies	Appeals
G P1(b)(1) – Coequal Goals	(6)
G P1(b)(2) – Mitigation Measures	(6)
G P1(b)(3) – Best Available Science	(7)
G P1(b)(4) – Adaptive Management	(1)
WR P1 - Reduce Reliance	(6)
ER P1 - Delta Flow Objectives	(7)
ER P2 - Restore Habitats at Appropriate Elevations	(1)
ER P3 – Protect Opportunities to Restore Habitat	(1)
ER P4 – Expand Floodplains and Riparian Habitat in Levee Projects	(1)
ER P5 - Invasive Nonnative Species	(2)
DP P1 – Locate New Urban Development Wisely	(1)
DP P2 - Respect Local Land Use	(10)
RR P1 - Prioritization of Levee Investments	(1)
RR P3 – Protect Floodways	(1)

Types of Recommended Findings

- *Remand* the matter, in part, to the Department because Appellants showed that the Certification is not supported by substantial evidence in the record
- *Deny* appeals because policies do not apply
- *Deny* appeals because Appellants do not meet burden and Certification is supported by substantial evidence in the record

Findings Summary

Remand
in part:
ER P5 &
DP P2

Deny:
All other
appeals

Delta Plan Policies	<i>Remand</i>	<i>N/A</i>	<i>Deny</i>
G P1(b)(1) – Coequal Goals		X	
G P1(b)(2) – Mitigation Measures			X
G P1(b)(3) – Best Available Science			X
G P1(b)(4) – Adaptive Management			X
WR P1 - Reduce Reliance			X
ER P1 - Delta Flow Objectives			X
ER P2 - Restore Habitats at Appropriate Elevations			X
ER P3 – Protect Opportunities to Restore Habitat			X
ER P4 – Expand Floodplains and Riparian Habitat in Levee Projects			X
ER P5 - Invasive Nonnative Species	X		X
DP P1 – Locate New Urban Development Wisely		X	
DP P2 - Respect Local Land Use	X		X
RR P1 - Prioritization of Levee Investments		X	
RR P3 – Protect Floodways		X	

Meeting Date: April 23-24, 2026

Agenda Item: 3

Page 14 of 43

Staff's Recommendations for ER P5 and DP P2

- *Remand:*
 - **ER P5:** Invasive Nonnative Species, *regarding habitat improvements for golden mussel (San Joaquin County)*
 - **DP P2:** Respect Local Land Use, *regarding conflicts with Harvest Water (Sac Sewer)*
- *Deny* all other **ER P5** and **DP P2** appeals

ER P5

Cal. Code Regs., tit. 23, § 5009

Avoid Introduction of and Habitat Improvements for Invasive Nonnative Species

- Covers proposed actions that have a reasonable probability of introducing or enhancing habitat conditions for invasive nonnative species
- Requires covered actions to avoid or mitigate new introductions of nonnative species or habitat improvements in a way that appropriately protects the ecosystem

ER P5 – Avoid Introduction of and Habitat Improvements for Invasive Nonnative Species

- Fully considered and avoided or mitigated potential for improved habitat conditions for golden mussel: **Recommend remand to DWR**
 - San Joaquin County shows Certification not supported by substantial evidence
 - DCP may create new habitat for golden mussel
 - Certification lacks discussion of mussel habitat risk
 - Existing mussel management plans may not apply to golden mussel
- **Recommend Council deny all other ER P5 appeals**
- Decision pp. 102-107

DP P2

Cal. Code Regs., tit. 23, § 5011

Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats

- Covers proposed actions that involve the siting of water management, ecosystem restoration, and flood management projects
- Requires a covered action to avoid or reduce siting conflicts with existing uses or uses described or depicted in a local general plan when feasible
- Requires consideration of comments from local agencies and Delta Protection Commission

DP P2 – Respect Local Land Use

- Avoid or reduce conflicts with existing uses or uses described or depicted in a local general plan related to Sac Sewer's Harvest Water: **Recommend remand to DWR**
 - Twin Cities Complex (TCC) conflicts with Harvest Water, which relies on existing and future agricultural land use supporting recycled water irrigation, wildlife habitat, and groundwater recharge
 - Sac Sewer argues the site is actively used for agriculture and central to Harvest Water's infrastructure
 - TCC siting conflicts with current use and planned uses in the Sacramento County General Plan and South Sacramento Habitat Conservation Plan
 - Jeopardizes bond funding, as contracts require specific Sandhill Crane habitat mitigation tied to the site

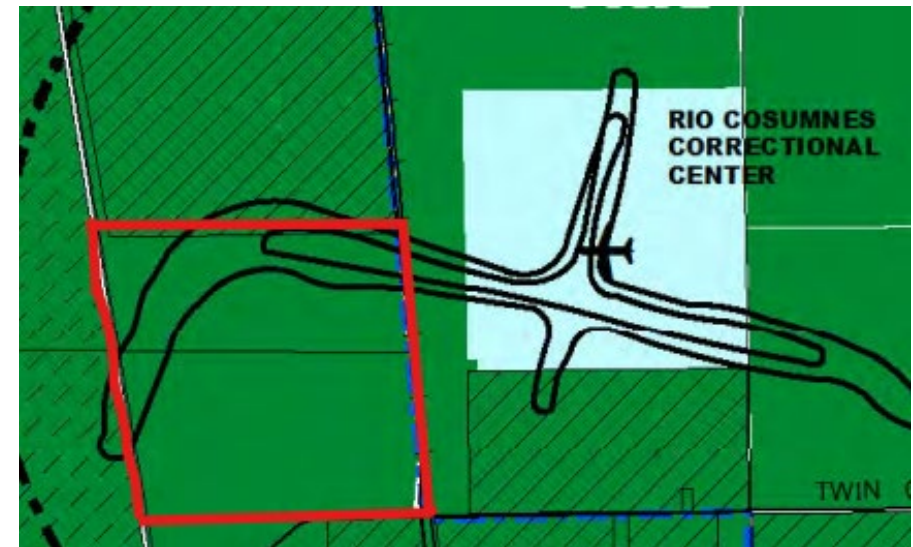
DP P2 – Respect Local Land Use

- Avoid or reduce conflicts with existing uses or uses described or depicted in a local general plan related to Sac Sewer's Harvest Water: **Recommend remand to DWR**
- DWR argues Harvest Water is still under construction so not considered existing land use, claims no binding commitments link Harvest Water to the TCC site, does not address general plan use
- DWR did not address how TCC would disrupt Harvest Water's irrigation area, groundwater recharge, and Sandhill Crane habitat
 - All rely on the site's existing agricultural use and are crucial for funding and compliance

Proposed TCC and Harvest Water



Map Book 14-1DCP.D1.1.00128



Sacramento County GP DCP.D3.1.03807

DP P2 – Respect Local Land Use

Recommend Council deny remaining DP P2 appeal:

- DP P2 requires a covered action to avoid or reduce siting conflicts with *both* existing uses and uses described or depicted in general plans
- No requirement to consider alternative sites or completely different project
- No requirement for specific response to comments
- Many issues are not “land uses” regulated by DP P2
- Appellants do not meet burden, and Certification is supported by substantial evidence
- Decision pp. 110-166

Meeting Date: April 23-24, 2026
Agenda Item: 3
Page 22 of 43

DP P2 Appeal Issues

Alternative sites

Sac Sewer’s EchoWater facility

Delta legacy communities

Lower-income, minority, & EJ communities

Delta National Heritage Area

Visual resources & aesthetics

Water quality

Comments from DPC & local agencies

Recreation

Agricultural land uses

Traffic, transportation, & RTM

Tribal consultation

Tribal cultural resources & uses

Community Benefits Program & Agreements

Levee maintenance

Noise

**Recommend
Council deny
appeals because
policies do not
apply**

- **G P1(b)(1):** Coequal Goals
- **DP P1:** Locate New Urban Development Wisely
- **RR P1:** Prioritization of Levee Investments
- **RR P3:** Protect Floodways

G P1 (b)(1)

Cal. Code Regs., tit. 23, § 5002

Coequal Goals

- DWR finds DCP consistent with G P1(b)(1)
- Six appellants challenge consistency
- Certification does not contain findings regarding policy inconsistencies or feasibility
- Not sufficient for G P1(b)(1) exception

Recommend Council deny appeals – does not apply

Draft Decision pp. 12-14

DP P1

Cal. Code Regs., tit. 23, § 5010

Locate New Urban Development Wisely

- DWR finds DP P1 does not apply
- State government facility, not residential, commercial, or industrial
- Two appellants argue DCP includes “industrial-type facilities”
- DCP is governmental public use, not subject to DP P1

Recommend Council deny appeals – does not apply

Draft Decision pp. 107-109

RR P1

Cal. Code Regs., tit. 23, § 5012

Prioritization of Levee Investments

- DWR finds RR P1 does not apply
- DCP involves no discretionary State investment
- One appellant argues RR P1 should apply, given DCP's reliance on existing levees, increased materials demand, and impacts on RDs
- Decision acknowledges resource concerns, but not appealable under RR P1
- RR P1 sets levee investment priorities and requires annual report from DWR

Recommend Council deny appeals – does not apply

Draft Decision pp. 166-168

RR P3

Cal. Code Regs., tit. 23, § 5014

Protect Floodways

- DWR finds RR P3 does not apply
- No floodway encroachments outside designated or regulated streams
- One appellant argues RR P3 applies due to potential floodway encroachments and flood risk, but does not specify locations
- RR P3 is limited to specific channel reaches in the Delta

Recommend Council deny appeals – does not apply

Draft Decision pp. 168-170

Recommend the Council deny appeals, because Appellants do not meet burden and substantial evidence supports Certification

- **G P1(b)(2):** Mitigation Measures
- **G P1(b)(3):** Best Available Science
- **G P1(b)(4):** Adaptive Management
- **WR P1:** Reduce Reliance
- **ER P1:** Delta Flow Objectives
- **ER P2:** Restore Habitats at Appropriate Elevations
- **ER P3:** Protect Opportunities to Restore Habitat
- **ER P4:** Expand Floodplains and Riparian Habitat in Levee Projects

GP1 (b)(2)

Cal. Code Regs., tit. 23, § 5002

Mitigation Measures

- Covered actions must include all applicable feasible mitigation measures adopted in the Delta Plan or substitute mitigation measures that the agency finds are equally or more effective

G P1(b)(2) – Mitigation Measures

Recommend Council deny all G P1(b)(2) appeals

- Mitigation measure crosswalk (MMs, ECs, design features)
- Some mitigation measures rely on future activities
- Binding conditions of project approval
- Measures *applicable* only when a CEQA environmental impact requires mitigation
- Council focuses on measure consistency, not adequacy or enforcement
- Mitigation measures are distinct from Community Benefits Program
- Appellants do not meet burden, and Certification is supported by substantial evidence
- Draft Decision pp. 14-53

G P1(b)(2) Appeal Issues

- MM 4-1(e): Invasive species management
- MM 4-2: Special status species
- MM 6-2: Conflict with plans
- MM 7-1: Agricultural land conversion
- MM 10-1 & 10-3: Tribal & cultural resources
- MM 18-1 & 18-2: Recreation facilities
- MM 20-1: Solid waste disposal

G P1 (b)(3)

Cal. Code Regs., tit. 23, § 5002

Best Available Science

- Best available science provides knowledge base for making sound decisions and is foundational for adaptive management
- Delta Plan is required to “integrate science and monitoring results into ongoing Delta water management”
- **G P1(b)(3)** requires covered actions to include detailed findings that **as relevant to the nature and purpose of the project**, the covered action documents the use of best available science

G P1(b)(3) – Best Available Science

Recommend Council deny all G P1(b)(3) appeals

- Certification cites record evidence related to Best Available Science criteria
- Appeals often challenge Final EIR, rather than Certification, and do not identify relevant criteria
- Appeals often do not address all record evidence
- Many issues unrelated to DCP *nature and purpose*
- Conflicts in evidence resolved in DWR's favor
- Council does not reweigh evidence or fact-find
- Appellants do not meet burden, and Certification is supported by substantial evidence
- Draft Decision pp. 53-78

G P1(b)(3) Appeal Issues

Golden mussel proliferation

Climate change modeling

Impacts on Sac Sewer's Harvest Water

Recreational use methodology

Traffic & transportation analysis

Noise analysis

Water supply & quality analysis

Groundwater analysis

Reverse flows

Residence time & CHAB proliferation

Seismicity

Tribal engagement & traditional knowledge

Delta Independent Science Board comments

G P1 (b)(4)

Cal. Code Regs., tit. 23, § 5002

Adaptive Management

- DWR finds DCP consistent with G P1(b)(4)
- Five management and monitoring plans
- DWR legally required to collect sufficient revenue to cover all SWP costs
- One appellant argues funding sources, contractor payment agreements, and cost estimates are unsupported and inadequate
- Legal obligations and long-term water supply contracts are evidence of adequate resources and authority

Recommend Council deny appeals

Draft Decision pp.78-81

WR P1

Cal. Code Regs., tit. 23, § 5003

Reduce Reliance on the Delta Through Improved Regional Water Self-Reliance

- California state policy requires regions that depend on water from the Delta to:
 - Improve regional self-reliance, and
 - Reduce their reliance on Delta Water
- The Delta Plan is required to “promote statewide water conservation, water use efficiency, and sustainable use of water”
- **WR P1** requires water suppliers that would receive water from the Delta because of a covered action to take steps to reduce reliance on the Delta and improve regional self-reliance

WR P1 – Reduce Reliance

- DWR analyzed water management plans from 257 suppliers, finding that 8 were unable to document reduced reliance or improved regional self-reliance
- DWR addresses how the water suppliers that failed to meet (a)(1) did not significantly cause the need for DCP
- Six appellants argue failure is understated
- Appellants do not identify record evidence that the (a)(1) failure by one or more specific suppliers significantly cause need for DCP
- WR P1 does not require absolute net reduction in Delta exports and reduced reliance can be shown as amount or percentage

WR P1 – Reduce Reliance

Recommend Council deny all WR P1 appeals

Condition (a)(1)/(c)(1) met? Yes, one or more supplier failed to reduce reliance and improve regional self-reliance. WR P1 (c)(1) states that reduced reliance can be expressed as a percentage of reduction of the total water supply

Condition (a)(2) met? No, DWR addresses how the water suppliers that failed to meet (a)(1) did not significantly cause the need for the export, transfer, or use. Appellants did not identify evidence that the (a)(1) failure by water suppliers caused this need

Condition (a)(3) met? Yes, appellants claim and DWR does not contest that the export, transfer, or use will result in environmental impacts to the Delta

Draft Decision pp. 81-90

ER P1

Cal. Code Regs., tit. 23, § 5005

Delta Flow Objectives

- Freshwater flow in the Delta affects both the reliability of water exports and the health of the Delta ecosystem
- Delta Plan is required to include a strategy for restoring Delta flows and channels “to support a healthy estuary and other ecosystems”
- Delta Plan calls for creating more natural, functional flows that are allocated and managed to resemble natural volume, timing, frequency, and duration

ER P1 – Delta Flow Objectives

Recommend Council deny all ER P1 appeals

- Flow objective sets amount of water (cfs) that must flow in a watercourse at a given time
- ER P1 *consistency* is distinct from D-1641 *compliance*
 - D-1641 establishes both flow and water quality objectives, such as salinity standards
 - Council determines ER P1 *consistency* with flow objectives, not other criteria in D-1641
 - Water Board sets flow criteria for DCP and must approve CPOD
- DWR finds DCP *consistent* with ER P1
 - Modeling and historic *compliance* record
 - CPOD Petition before Water Board asserts *compliance*
 - Water Code § 85088 requires CPOD approval prior to construction
- Draft Decision pp. 90-98

ER P1 Appeal Issues

- Inadequate flow modeling
- Temporary Urgency Change Orders
- Pending CPOD petition / D-1641 compliance
- Salinity-based objectives
- Navigability

ER P2

Cal. Code Regs., tit. 23, § 5006

Restore Habitats at Appropriate Elevations

ER P3

Cal. Code Regs., tit. 23, § 5007

Protect Opportunities to Restore Habitat

ER P4

Cal. Code Regs., tit. 23, § 5008

Expand Floodplains and Riparian Habitat in
Levee Projects

- One appellant challenges policies on premise that they require restoration rather than mitigation
- Appellant misinterprets policies
- Known mitigation sites are not in an ER P3 PHRA

Recommend Council deny appeals

Draft Decision pp. 98-102

Annual Implementation Report

- Council interested in several matters related to Delta Plan implementation
- Request annual report
 - Prepare by March 1
 - Beginning 2028
 - Present to Council within 90 days of submission
- Topics consider community concerns

Annual Implementation Report

Engagement with EJ communities, tribes, and local agencies

Cultural landscape surveys and treatment plans

Storage of RTM and disposal of hazardous materials

Construction activities and efforts to reduce noise and traffic

Community Benefits Program funding and expenditures

Accountability Action Plan, including Ombudsman Program

Summary of any modeled changes to DCP operations from climate change and SLR

Status of planning and construction funding

Resource needs and resources secured for adaptive management

CMP Implementation

Progress on CPOD petition at Water Board

Bay-Delta flow objectives and water quality

Staff Recommendation

Based on the analysis and findings in the Draft Decision, staff recommends that the Council approve Resolution 2026-03, which among other things, would:

- 1. Adopt the Draft Decision** and the findings contained therein; and
- 2. Remand the matter**, in part, to DWR for reconsideration of golden mussel and Harvest Water issues identified under Delta Plan policies **ER P5** and **DP P2** as set forth in the Draft Decision pursuant to Water Code Section 85225.25; and
- 3. Deny all remaining appeals**, as set forth in the Draft Decision pursuant to Water Code section 85225.25.

Thank you

Connect with us!



Subscribe to receive our email announcements by scanning the QR code



Deltacouncil.ca.gov



[@DeltaCouncil](https://twitter.com/DeltaCouncil)



[@delastewardshipcouncil](https://www.instagram.com/delastewardshipcouncil)



[Delta Stewardship Council](https://www.linkedin.com/company/Delta-Stewardship-Council)



[@delastewardshipcouncil](https://www.facebook.com/delastewardshipcouncil)