



**Delta
Stewardship
Council**

A CALIFORNIA STATE AGENCY

September 4, 2026

Dan Tibbitts
Sacramento Area Flood Control Agency
1325 J Street, Suite 1700
Sacramento, CA 95814

Delivered via email: SAFCAReview@saccounty.gov

715 P Street, 15-300
Sacramento, CA 95814

916.445.5511
DELTACOUNCIL.CA.GOV

CHAIR
Julie Lee

VICE CHAIR
Gayle Miller

MEMBERS
Diane Burgis
Susan Talamantes Eggman
Maria Mehranian
Ann Patterson
Daniel Zingale

EXECUTIVE OFFICER
Jessica R. Pearson

**RE: Comments on the Draft Initial Study/Mitigated Negative Declaration
for the Morrison Creek and Beach Lake Levee Project, SCH#
2026080214**

Dear Dan Tibbitts:

Thank you for the opportunity to review and comment on the Morrison Creek and Beach Lake Levee Project (levee project) Draft Initial Study/Mitigated Negative Declaration (Draft IS/MND). The Delta Stewardship Council (Council) recognizes the objectives of the Sacramento Area Flood Control Agency (SAFCA) to minimize flooding impacts on communities through planning and implementation of capital flood control improvements in the Sacramento region. SAFCA issued a notice of intent to approve the Draft IS/MND on August 6, 2026. The majority of the proposed levee project is located in unincorporated Sacramento County and along the southern edge of the Meadowview neighborhood in the City of Sacramento. The levee project is described as providing a 200-year level of flood protection to an urban area to reduce flood risk and improve public safety. The levee project includes, among other items:

- Landslide slope flattening of existing levee and removal of trees,
- Levee raise of up to 1.5 feet,

- Removal and/or demolition of existing utilities and irrigation well,
- Repair of an existing Union Pacific Railroad structure,
- Construction of a new levee turnaround,
- A nature-based solution to enhance ecology and extend a woodland wind-wave buffer, including:
 - Extending an existing woodland wind-wave buffer by adding an additional 2.0-acre woodland,
 - Enhancing 2.3 acres of native grassland,
 - Enhancing 0.70-acre seasonal wetland

The Council is an independent state agency established by the Sacramento-San Joaquin Delta Reform Act of 2009. (Wat. Code, § 85000 et seq.; Delta Reform Act). The Delta Reform Act charges the Council with furthering California's coequal goals of providing a more reliable water supply and protecting, restoring, and enhancing the Sacramento-San Joaquin River Delta and Suisun Marsh (Delta) ecosystem. (Wat. Code, § 85054.) The Delta Reform Act further states that the coequal goals are 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.) The Council is charged with furthering California's coequal goals for the Delta through the adoption and implementation of the Delta Plan. (Wat. Code, § 85300.)

The Delta Plan contains regulatory policies, which are set forth in California Code of Regulations, title 23, sections 5001 et seq. Through the Delta Reform Act, the Council was granted specific regulatory and appellate authority over certain actions of state or local public agencies that take place in whole or in part in the Delta. (Wat. Code, §§ 85210, 85225, 85225.10.) A state or local agency that proposes to undertake a covered action is required to prepare a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and submit that certification to the Council prior to initiation of the implementation of the action. (Wat. Code, § 85225.)

COVERED ACTION DETERMINATION AND CERTIFICATION OF CONSISTENCY WITH THE DELTA PLAN

Based on the project location and description in the Draft IS/MND, the levee project may meet the definition of a covered action. Water Code section 85057.5, subdivision (a), states that a covered action is a plan, program, or project as defined pursuant to the California Environmental Quality Act (Pub. Resources Code, § 21000

et seq.; CEQA) in Public Resources Code section 21065, that meets all of the following conditions:

- (1) Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh*
- (2) Will be carried out, approved, or funded by a state or local public agency*
- (3) Is covered by one of the provisions of the Delta Plan*
- (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 Delta¹*

As the public agency approving, funding, or carrying out the levee project, SAFCA must determine if the project is a covered action (Cal. Code Regs., tit. 23, § 5001, subd. (o)(3).) and, if so, file a certification of consistency with the Council prior to implementation. (Wat. Code, § 85225.)

Delta Plan Policies that May Cover the Levee Project

The following section describes regulatory Delta Plan policies that may cover the levee project based on materials provided in the Draft IS/MND. (Wat. Code, § 85057.5, subd. (a)(3).) Should SAFCA determine that the levee project is a covered action, this information could be used to support a certification of consistency with the Delta Plan.

Ecosystem Restoration Policy 2: Restore Habitats at Appropriate Elevations

Delta Plan Policy **ER P2** (Cal. Code Regs., tit. 23, § 5006.) requires the disclosure of specified information to demonstrate how planned restoration projects account for anticipated changes in tidal activity in the Delta due to sea level rise and how these changes affect restored habitats' ability to provide maximum benefits in the future. The levee project proposes to enhance 2.3 acres of native grassland and 0.70 acres of seasonal wetland. The levee project would also extend an existing woodland

¹ For purposes of Water Code section 85057.5, subdivision (a)(4), "significant impact" means "a substantial positive or negative impact on the achievement of one or both of the coequal goals or the implementation of a government-sponsored flood control program to reduce risks to people, property, and State interests in the Delta, that is directly or indirectly caused by a project on its own or when the project's incremental effect is considered together with the impacts of other closely related past, present, or reasonably foreseeable future projects." (Cal. Code Regs., tit. 23, § 5001, subd. (ss).)

wind-wave buffer by establishing an additional 2.0-acre buffer area. (Draft IS/MND, p. 2-2.) The objectives of these nature-based solutions are to reduce wind-wave impacts and improve habitat connectivity supporting native species. The woodland wind-wave buffer area elevation ranges from approximately 8 to 10 feet above sea level (Draft IS/MND, p. 2-12). While the Draft IS/MND does not specify the elevation range of the planned grassland and wetland areas, the location of these areas identified in the Draft IS/MND appears to be at intertidal and subtidal elevations depicted in the elevation band map provided in Delta Plan Figure 4-5.²

If SAFCA determines that the levee project is a covered action, a certification of consistency should describe how proposed habitat elevations relate to current water levels and projected sea level rise, and describe how the selected plantings match those identified in ER P2 for the sea level rise accommodation band(s) SAFCA determines apply to the proposed habitat areas (Cal. Code Regs., tit. 23, § 5006.).

Ecosystem Restoration Policy 5: Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species

Delta Plan Policy **ER P5** (Cal. Code Regs., tit. 23, § 5009.) requires that covered actions fully consider and avoid or mitigate the potential for new introductions of, or improved habitat conditions for, nonnative invasive species, striped bass, or bass in a way that appropriately protects the ecosystem.

If SAFCA determines that the levee project is a covered action, a certification of consistency should describe efforts undertaken to fully consider and avoid introducing, or improving habitat conditions for, nonnative invasive species during and after construction. This evaluation should include, but not be limited to, emerging species of concern, such as nutria and golden mussel. If mitigation is warranted, mitigation and minimization measures should include Delta Plan Mitigation Measure 4-1(e) (available in Delta Plan Appendix O)

<https://deltacouncil.ca.gov/pdf/delta-plan/2025-06-19-appendix-o-mitigation-monitoring-and-reporting-program.pdf>) or equally or more effective measures.

² <https://deltacouncil.ca.gov/pdf/delta-plan/figure-4-5-elevation-bands.pdf>; GIS data available online: <https://gis.data.cnra.ca.gov/datasets/DSC::restore-habitats-at-appropriate-elevations-er-p2/about>

Ecosystem Restoration Policy A: Disclose Contributions to Restoring Ecosystem Function and Providing Social Benefits

Delta Plan Policy **ER PA** (Cal. Code Regs., tit. 23, § 5005.1.) applies to a covered action that includes the protection, enhancement, or restoration of the ecosystem and requires the submission of a completed Appendix 3A (Cal. Code Regs., tit. 23, app. 3A.) identifying contributions to restoring ecosystem function and social benefits associated with the covered action. The Draft IS/MND describes nature-based solutions, including ecosystem enhancement, which are potential contributions to restoring ecosystem function.

If SAFCA determines that the levee project is a covered action, a certification of consistency should review ER PA and complete Delta Plan Appendix 3A.

Delta as Place Policy 2: Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats

Delta Plan Policy DP P2 (Cal. Code Regs., tit. 23, § 5011.) was designed to achieve one of the Delta Plan's charges to protect the Delta as an evolving place by requiring the siting of water management facilities, ecosystem restoration, and flood management infrastructure to avoid or reduce conflicts with existing uses, or those uses described or depicted in city and county general plans for their jurisdictions or spheres of influence, when feasible, considering comments from local agencies and the Delta Protection Commission.

If SAFCA determines that the levee project is a covered action, a certification of consistency should acknowledge the applicable existing and planned land uses and describe how they were considered in the siting process for the levee project.

The following policies also apply in the event one or more of the preceding policies covers the levee project.

General Policy 1: Detailed Findings to Establish Consistency with the Delta Plan

Delta Plan Policy **G P1** (Cal. Code Regs., tit. 23, § 5002.) specifies what is required to be addressed in a certification of consistency for a covered action. The following is a subset of policy requirements that a covered action is required to fulfill to be considered consistent with the Delta Plan.

Mitigation Measures

Delta Plan Policy **G P1(b)(2)** (Cal. Code Regs., tit. 23, § 5002, subd. (b)(2).) requires covered actions not exempt from CEQA to include all applicable feasible mitigation measures adopted and incorporated into the Delta Plan as amended June 23, 2022, unless the measures are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency, or substitute mitigation measures that the agency finds are equally or more effective. These mitigation measures are identified in Delta Plan regulations as Appendix O (<https://deltacouncil.ca.gov/pdf/delta-plan/2025-06-19-appendix-o-mitigation-monitoring-and-reporting-program.pdf>).

As described in the Draft IS/MND, mitigation measures have been added to the levee project to reduce potentially significant impacts to biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, and tribal and cultural resources to a less-than-significant level. Based on this policy's requirements, if SAFCA determines that the levee project is a covered action, a certification of consistency should identify which Delta Plan Appendix O mitigation measures apply and document how the proposed levee project mitigation meets or exceeds the effectiveness of the Appendix O mitigation measures, or explain why implementation is not feasible and include that analysis in the record supporting the certification of consistency. If SAFCA identifies a less-than-significant impact under CEQA, and no mitigation measure is required, Delta Plan Policy G P1(b)(2) does not require a mitigation measure to be included in a certification of consistency.³

Best Available Science

Delta Plan Policy **G P1(b)(3)** (Cal. Code Regs., tit. 23, § 5002, subd. (b)(3).) states that actions subject to Delta Plan regulations are required to document the use of best available science as relevant to the purpose and nature of the project. The Delta Plan defines best available science as "the best scientific information and data for informing management and policy decisions." (Cal. Code Regs., tit. 23, § 5001, subd. (g).) Best available science for covered actions must be consistent with the guidelines and criteria found in Appendix 1A (<https://deltacouncil.ca.gov/pdf/delta-plan/2025-11-12->

³ Please note specific mitigation requirements related to nonnative invasive species described under Ecosystem Restoration Policy 5 (ER P5, Cal. Code Regs., tit. 23, § 5009.) above.

[appendix-1a.pdf](#)). (Cal. Code Regs., tit. 23, div. 6, ch. 2, app. 1A.), which lists six criteria for best available science: relevance, inclusiveness, objectivity, transparency and openness, timeliness, and peer review.

If SAFCA determines that the levee project is a covered action, a certification of consistency should identify how the levee project addresses each Appendix 1A criterion.

Adaptive Management

Delta Plan Policy **G P1(b)(4)** (Cal. Code Regs., tit. 23, § 5002, subd. (b)(4).) requires that ecosystem restoration and water management covered actions include adequate provisions, appropriate to the scope of the covered action, to ensure continued implementation of adaptive management. This requirement is satisfied through both of the following:

- a) the development of an adaptive management plan that is consistent with the framework described in Delta Plan Appendix 1B (Cal. Code Regs, tit. 23, div. 6, ch. 2, app. 1B.) (<https://deltacouncil.ca.gov/pdf/delta-plan/2015-appendix-1b.pdf>), and
- b) documentation of access to adequate resources and delineated authority to implement the proposed adaptive management plan

If SAFCA determines that the levee project is a covered action, a certification of consistency should include an adaptive management plan appropriate to the scope of the proposed habitat enhancements and woodland wave-buffer expansion described in the Draft IS/MND (pp. 2-11-2-12).⁴

CLOSING COMMENTS

The Council invites SAFCA to engage Council staff in early consultation prior to the submittal of a certification of consistency to promote consistency with the Delta Plan. More information on covered actions, early consultation, and the certification process can be found on the Council website <https://deltacouncil.ca.gov/covered-actions/>

⁴ For this project, a habitat enhancement planting, maintenance, and monitoring plan approved by the California Department of Fish and Wildlife that addresses the requirements of Cal. Code Regs., tit. 23, § 5002, subd. (b)(4) may serve this purpose.

Morrison Creek and Beach Lake Levee Project IS/MND

Dan Tibbitts

September 4, 2026

Council staff are available to discuss issues outlined in this letter as SAFCA proceeds in the next stages of the levee project and approval processes. Please contact Daniel Constable at daniel.constable@deltacouncil.ca.gov with any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeff Henderson", with a long horizontal flourish extending to the right.

Jeff Henderson

Deputy Executive Officer