
Central Valley Regional Water Quality Control Board

29 August 2016

Bridget Fithian
Sierra Foothill Conservancy
PO Box 691
Mariposa, CA 95338

CERTIFIED MAIL
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CLEAN WATER ACT SECTION 401 TECHNICALLY CONDITIONED WATER QUALITY CERTIFICATION; SIERRA Foothill CONSERVANCY; BEAN CREEK MEADOW RESTORATION PROJECT (WDID #5B22CR00029), MARIPOSA COUNTY

This Order responds to the 30 July 2015 application submitted by Sierra Foothill Conservancy (Applicant) for the Water Quality Certification of the Bean Creek Meadow Restoration Project (Project), permanently impacting 9.37 acres/7,067 linear feet of waters of the United States.

This Order serves as certification of the subject Project permitted by the United States Army Corps of Engineers' Nationwide Permit #27 (SPK-2012-00830) under Section 401 of the Clean Water Act, and a Waste Discharge Requirement under the Porter-Cologne Water Quality Control Act and State Water Board Order 2003-0017-DWQ.

WATER QUALITY CERTIFICATION STANDARD CONDITIONS:

1. This Order serves as a Water Quality Certification (Certification) action that is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and Section 3867 of the California Code of Regulations.
2. This Certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to Section 3855(b) of the California Code of Regulations, and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
3. The validity of any non-denial Certification action shall be conditioned upon total payment of the full fee required under Section 3860(c) of the California Code of Regulations.
4. This Certification is no longer valid if the Project (as described) is modified, or coverage under Section 404 of the Clean Water Act has expired.

5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) shall be signed by a person described below or by a duly authorized representative of that person.
 - (a) For a corporation: by a responsible corporate officer such as: 1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; 2) any other person who performs similar policy or decision-making functions for the corporation; or 3) the manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (b) For a partnership or sole proprietorship: by a general partner or the proprietor.
 - (c) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.
6. Any person signing a document under Standard Condition number 5 shall make the following certification:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

TECHNICAL CERTIFICATION CONDITIONS:

In addition to the above standard conditions, the Applicant shall satisfy the following:

1. The Applicant shall notify the Central Valley Water Board in writing seven (7) days in advance of the start of any work within waters of the United States.
2. Except for activities permitted by the United States Army Corps of Engineers under Section 404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. The Applicant shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed Project shall be adequately informed and trained regarding the conditions of this Certification.

4. The Applicant shall perform surface water sampling¹:
 - a) when performing any in-water work;
 - b) in the event that Project activities result in any materials reaching surface waters; or
 - c) when any activities result in the creation of a visible plume in surface waters.

The sampling requirements in Table 1 shall be conducted upstream out of the influence of the Project, and approximately 300 feet downstream of the work area. The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff.

Table 1:

Parameter	Unit	Type of Sample	Minimum Sampling Frequency	Required Analytical Test Method
Turbidity	NTU	Grab	Every 4 hours during in-water work	(1, 2)
Settleable Material	mL/L	Grab	Every 4 hours during in-water work	(1)

⁽¹⁾ Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, the method shall be approved by Central Valley Water Board staff.

⁽²⁾ A hand-held field meter may be used, provided the meter utilizes a USEPA-approved algorithm/method and is calibrated and maintained in accordance with the manufacturer's instructions. A calibration and maintenance log for each meter used for monitoring shall be maintained onsite.

A surface water monitoring report shall be submitted within two weeks of initiation of in-water construction, and every two weeks thereafter. In reporting the sampling data, the Applicant shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the Project complies with Certification requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria below.

If no sampling is required, the Applicant shall submit a written statement stating, "No sampling was required" within two weeks of initiation of in-water construction, and every two weeks thereafter.

5. The Central Valley Water Board adopted a *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised April 2016 (Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. Turbidity and settleable matter limits are based on water quality objectives contained in the Basin Plan and are part of this Certification as follows:

¹ Sampling is not required in wetlands, where the entire wetland is being permanently filled; provided there is no outflow connecting the wetland to surface waters.

- a) Activities shall not cause turbidity increases in surface water to exceed:
 - i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTUs;
 - ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
 - iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
 - iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs; and
 - v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Appropriate averaging periods may be applied, provided that beneficial uses will be fully protected. Averaging periods may only be used with prior permission of the Central Valley Water Board Executive Officer.

- b) Activities shall not cause settleable matter to exceed 0.1 mL/L in surface waters as measured in surface waters within 300 feet downstream of the Project.
6. The Applicant shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, or other water quality objectives are exceeded.
 7. In-water work shall occur during periods of low flow and no precipitation.
 8. Activities shall not cause visible oil, grease, or foam in the receiving water.
 9. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. The Applicant must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.
 10. The Applicant shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the Project. The Plan must detail the Project elements, construction equipment types and location, access and staging and construction sequence.
 11. The discharge of petroleum products, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete, asphalt, paint, coating material, drilling fluids, or other construction-related potentially hazardous substances to surface water and/or soil is prohibited. In the event of a prohibited discharge, the Applicant shall notify the Central Valley Water Board Contact within 24-hours of the discharge.

12. Silt fencing, straw wattles, or other effective management practices must be used along the construction zone to minimize soil or sediment along the embankments from migrating into the waters of the United States through the entire duration of the Project.
13. The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the Project area.
14. All areas disturbed by Project activities shall be protected from washout and erosion.
15. All temporarily affected areas shall be restored to pre-construction contours and conditions upon completion of construction activities.
16. All materials resulting from the Project shall be removed from the site and disposed of properly.
17. If the Project will involve land disturbance activities of one or more acres, or where the Project disturbs less than one acre but is part of a larger common plan of development that in total disturbs one or more acres, the Applicant shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ for discharges to surface waters comprised of storm water associated with construction activity.
18. The Conditions in this Certification are based on the information in the attached "Project Information Sheet" and the application package. If the actual project, as described in the attached Project Information Sheet and application package, is modified or changed, this Certification is no longer valid until amended by the Central Valley Water Board.
19. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process, or sanctions as provided for under state and federal law. The applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with this Certification.
 - (a) If the Applicant or a duly authorized representative of the Project fails or refuses to furnish technical or monitoring reports, as required under this Certification, or falsifies any information provided in the monitoring reports, the applicant is subject to civil liability, for each day of violation, and/or criminal liability.
 - (b) In response to a suspected violation of any condition of this Certification, the Central Valley Water Board may require the Applicant to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

- (c) The Applicant shall allow the staff of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the Project premises for inspection, including taking photographs and securing copies of project-related records, for the purpose of assuring compliance with this Certification and determining the ecological success of the Project.

NOTIFICATIONS AND REPORTS:

20. The Applicant shall provide a Notice of Completion (NOC) no later than 30 days after the Project completion. The NOC shall demonstrate that the Project has been carried out in accordance with the Project description in the Certification and in any approved amendments. The NOC shall include a map of the Project location(s), including final boundaries of any on-site restoration area(s), if appropriate, and representative pre and post construction photographs. Each photograph shall include a descriptive title, date taken, photographic site, and photographic orientation.
21. The Applicant shall conduct monitoring and provide an annual report, as described in the *Bean Meadow Restoration Monitoring and Reporting Plan for the RWQCB 401*, dated August 2016, documenting the ongoing condition of the meadow restoration project.
22. The Applicant shall submit all notifications, submissions, materials, data, correspondence, and reports in a searchable Portable Document Format (PDF). Documents less than 50 MB must be emailed to: centralvalleyfresno@waterboards.ca.gov. In the subject line of the email, include the Central Valley Water Board Contact, Project name, and WDID number as shown in the subject line above. Documents that are 50 MB or larger must be transferred to a disk and mailed to the Central Valley Water Board Contact.

CENTRAL VALLEY WATER BOARD CONTACT:

Debra Mahnke, Water Resource Control Engineer
Central Valley Regional Water Quality Control Board
1685 E Street
Fresno, CA 93706
debra.mahnke@waterboards.ca.gov
(559) 445-6281

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA):

Status of CEQA Compliance: The Central Valley Water Board, acting as Lead Agency, approved a Mitigated Negative Declaration on 19 August 2016 and issued a Notice of Determination (State Clearinghouse Number SCH 2016071002).

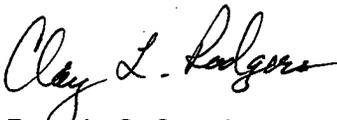
WATER QUALITY CERTIFICATION:

I hereby issue an Order certifying that the proposed discharge from the Sierra Foothill Conservancy, Bean Creek Meadow Restoration Project (WDID #5B22CR00029) will comply

with the applicable provisions of Section 301 ("Effluent Limitations"), Section 302 ("Water Quality Related Effluent Limitations"), Section 303 ("Water Quality Standards and Implementation Plans"), Section 306 ("National Standards of Performance"), and Section 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. Through this Order, this discharge is also regulated under State Water Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in compliance with the conditions of this Certification, Sierra Foothill Conservancy's application package, and the attached Project Information Sheet; and b) compliance with all applicable requirements of the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised April 2016.

Any person aggrieved by this action may petition the State Water Resources Control Board to review the action in accordance with California Water Code § 13320 and California Code of Regulations, title 23, § 2050 and following. The State Water Resources Control Board must receive the petition by 5:00 p.m., 30 days after the date of this action, except that if the thirtieth day following the date of this action falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Resources Control Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.



for Pamela C. Creedon
Executive Officer

Enclosure: Project Information Sheet

Attachment: Figure 1 – Project Map

cc: Distribution List, see Page 8

DISTRIBUTION LIST

Marc Fugler (SPK-2012-00830)
United States Army Corps of Engineers
Sacramento District Headquarters
1325 J Street, Room 1350
Sacramento, CA 95814-2922

Chris Nagano
United States Fish & Wildlife Service
2800 Cottage Way, Rm. W-2605
Sacramento, CA 95825-1846

Julie Vance, Regional Manager (Electronic Copy Only)
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Stateboard401@waterboards.ca.gov

Joe Morgan (Electronic Copy Only)
United States Environmental Protection Agency
R9-WTR8-Mailbox@epa.gov

Jim Wilcox (Electronic Copy Only)
Plumas Corporation
jim@plumascorporation.org

PROJECT INFORMATION SHEET

Application Date: 30 July 2015

Applicant: Bridget Fithian
Sierra Foothill Conservancy
P.O. Box 691
Mariposa, CA 95338

Applicant Representative: Jim Wilcox
Plumas Corporation
P.O. Box 3880
Quincy, CA 95971

Project Name: Bean Creek Meadow Restoration Project

Application Number: WDID #5B22CR00029

Date on Public Notice: 21 August 2015

Date Application Deemed Complete: 21 August 2015

Type of Project: Ecological Aquatic/Stream/Habitat Restoration

Project Location: Section 19, Township 2 South, Range 17 East, Mt. Diablo Base and Meridian. Latitude: 37° 45' 12.02", Longitude: -120° 8' 33.12"

County: Mariposa

Receiving Water(s) (hydrologic unit): Bean Creek, San Joaquin Hydrologic Basin, Merced River Hydrologic Unit #537.30, North Fork Merced HA

Water Body Type: Creek, Wetlands

Designated Beneficial Uses: The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised April 2016 (Basin Plan) has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include, but are not limited to: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND); Hydropower Generation (POW); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Biological Habitats of Special Significance (BIOL); Rare, Threatened, or Endangered Species (RARE); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); and Wildlife Habitat (WILD). A comprehensive and specific list of the beneficial uses applicable for the project area can be found at http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml.

Project Description: Restoration will consist of excavating eight borrow areas (ponds) to construct 12 plugs within a gully that is approximately 3500 feet long, over approximately 9.6 acres. It will also eliminate seven active headcuts on the mainstream, tributaries, and remnant channels. Erosion of the main channel and those reaches of the tributaries within the project area has removed approximately 80,600 cubic yards of soil. It will require excavation and placement of approximately 40,000 cubic yards in the 12 plugs, including tributaries, to eliminate the existing gullies as a conduit for flow. This will prevent the existing channel from acting as a drain to the meadow hydrology. Streamflow will then be returned to one or more remnant channels on the historic meadow surface. The restoration is anticipated to take 30 days to complete.

Proposed Mitigation to Address Concerns: The Applicant will implement Best Management Practices to control sedimentation and erosion. This Certification requires all work to be conducted during periods of low flow. In the event that project activities result in any materials reaching surface waters or unanticipated in-water work occurs, the Applicant will conduct turbidity and settleable matter testing.

Excavation/Fill Area: Approximately 40,000 cubic yards of native material will be excavated from eight borrow areas within the meadow wetlands (waters of the United States) and be used to create twelve plugs within a gully approximately 3,500 feet long, over approximately 9.6 acres.

Dredge Volume: None

California Integrated Water Quality System Impact Data: The Project will permanently impact 9.37 acres/7,067 linear feet of waters from fill and excavation activities.

Table 2: Impacts from Fill and/or Excavation Activities

Aquatic Resource Type	Temporary			Permanent					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet	Acres	Cubic-yards	Linear-feet
Wetland				3.59		2498			
Un-vegetated streambed				5.50		3500			
Intermittent drainages				0.28		1069			

United States Army Corps of Engineers File Number: SPK 2012-00830

United States Army Corps of Engineers Permit Type: Nationwide Permit #27

California Department of Fish and Wildlife Lake or Streambed Alteration Agreement:
 The California Department of Fish and Wildlife issued Streambed Alteration Agreement No. 1600-2014-0180-R4 on 28 June 2015.

Possible Listed Species: Yellow-lip Pansy Monkeyflower (*Mimulus pulchellus*), Brownish Beaked-Rush (*Rhynchospora capitellata*), Bald Eagle (*Haliaeetus leucocephalus*), Great gray owl (*Strix nebulosa*), Willow Flycatcher (*Empidonax traillii ssp. brewsteri*), Western Pond Turtle (*Emys marmorata*), Northern Goshawk (*Accipiter gentilis*), Golden Eagle (*Aquila chrysaetos*), California Spotted Owl (*Strix occidentalis occidentalis*), Yellow Warbler (*Dendroica petechia brewsteri*), Fringed Myotis (*Myotis thysanodes*), Spotted Bat (*Euderma maculatum*), Townsend’s Big-eared Bat (*Corynorhinus townsendii ssp. townsendii*), Western Red Bat (*Lasiurus blossevillii*), Western Mastiff Bat (*Eumops perotis ssp. californicus*), Pallid Bat (*Antrozous pallidus*).

Status of CEQA Compliance: The Central Valley Water Board, acting as Lead Agency, approved a Mitigated Negative Declaration on 19 August 2016 and issued a Notice of Determination (State Clearinghouse Number SCH 2016071002).

Mitigation for impacts to water quality is discussed in the “Proposed Mitigation to Address Concerns” section above and the “Compensatory Mitigation” section below.

Compensatory Mitigation:

Table 3: Compensatory Mitigation for Permanent Physical Loss of Area

Aquatic Resource Type	Comp Mitigation Type			Units		Established	Re-established	Rehabilitated	Enhanced	Preserved	Unknown
	In-Lieu	Mit. Bank	Permittee Responsible	AC (Acres)	LF (Linear Feet)						
Wetland	--	--	X	33.3	2498	--	X	--	--		
Ponds			X	5.7	4569	X					

Application Fee Provided: Total fees of \$200 have been submitted to the Central Valley Water Board as required by Section 3833(b)(3)(A) and Section 2200(a)(3) of the California Code of Regulations.

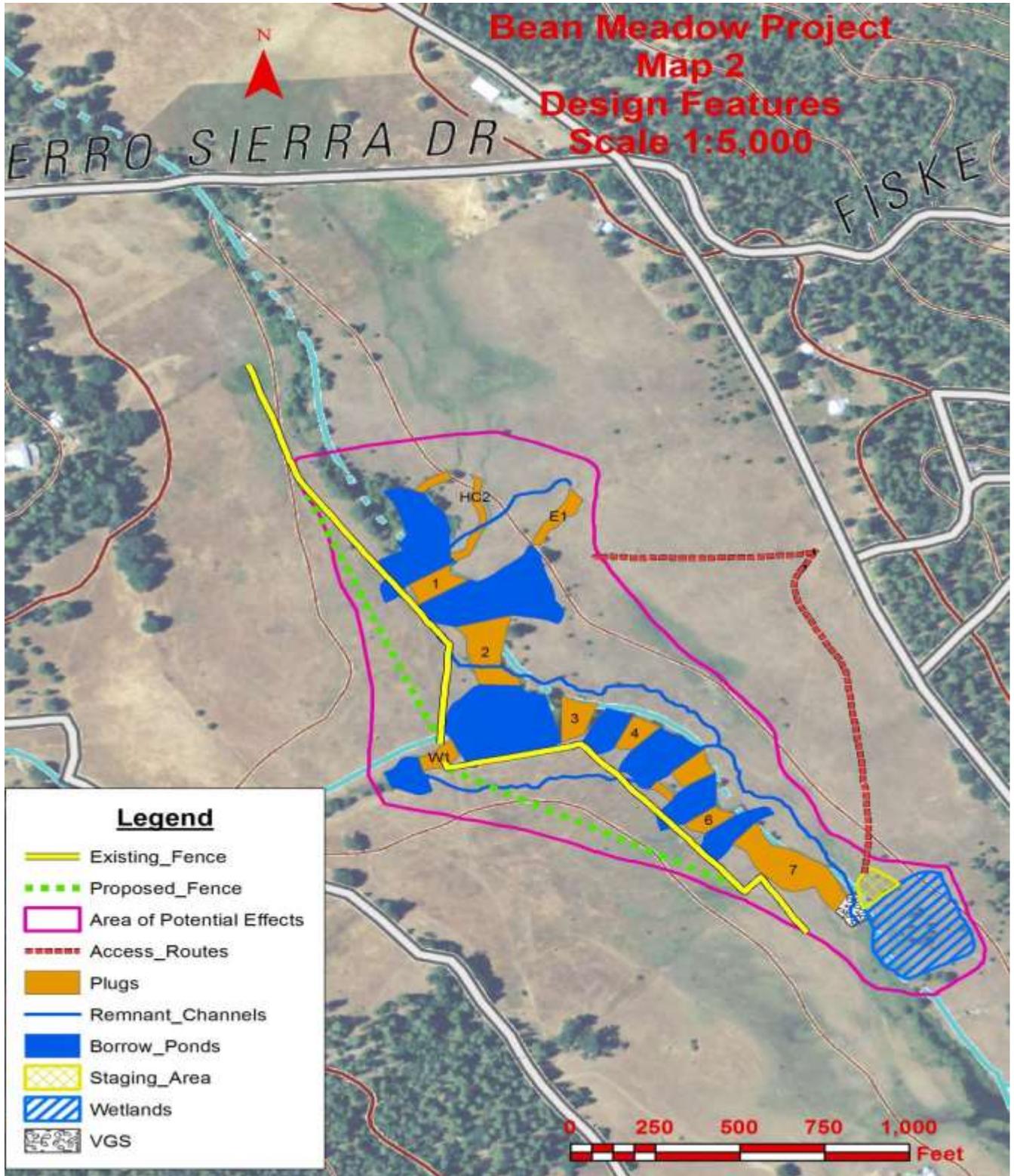


Figure 1