



Central Valley Regional Water Quality Control Board

5 April 2024

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NOTICE OF APPLICABILITY FOR COVERAGE UNDER ORDER WQ 2022-0048-DWQ, ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND WASTE DISCHARGE REQUIREMENTS FOR RESTORATION PROJECTS STATEWIDE, TWITCHELL ISLAND WETLAND ENHANCEMENT AND RESTORATION PROJECT (WDID#5A34CR00888), SACRAMENTO COUNTY

On 16 February 2024, the California Department of Water Resources submitted a Notice of Intent (NOI) to enroll under and comply with State Water Resources Control Board (State Water Board) Order No. WQ 2022-0048-DWQ, Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide (Order).

The Central Valley Water Quality Control Board (Central Valley Water Board) has reviewed your enrollment materials and finds the Twitchell Island Wetland Enhancement and Restoration Project (Project) meets the requirements of, and is hereby enrolled under, Order No. WQ 2022-0048-DWQ. You may proceed with your Project in accordance with the Order. This Notice of Applicability is being issued under the General Certification Order pursuant to Section 3838 of the California Code of Regulations.

A copy of [Order No. WQ 2022-0048-DWQ](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo2022-0048-dwq.pdf) (https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo2022-0048-dwq.pdf) can be found on the State Water Resources Control Board's General Orders webpage.

Please familiarize yourself with the requirements of Order No. WQ 2022-0048-DWQ. You are responsible for complying with all applicable Order requirements. Coverage under the Order is no longer valid if the Project (as described) is modified. Failure to comply with Order No. WQ 2022-0048-DWQ constitutes a violation of the California Water Code and may result in enforcement action or termination of enrollment under the Order.

MARK BRADFORD, CHAIR | PATRICK PULUPA, ESQ., EXECUTIVE OFFICER

PROJECT DESCRIPTION:

The Project will enhance and restore approximately 40 acres of wetland habitat and approximately 80 acres of riparian and scrub-shrub habitat within a 185-acre Project footprint on Twitchell Island. Native riparian trees and shrub species interspersed with native grasses will be planted onsite, and soils will be redistributed to create a mosaic of shallow open-water habitat, habitat islands, and emergent wetland communities. Additionally, the Project will construct shallow swales, incorporate water control structures for water delivery, and include management within the improved wetland units. Once complete, the Project will result in a net increase in wetland acreage, improving aquatic resource functions and services onsite.

The riparian habitat that will be created will serve as mitigation for projects that participate in the Delta Levees Special Flood Control Projects Program (DLP), which provides funding for levee maintenance and improvement work throughout the Delta. The wetland habitat that will be created will not be used to offset any future DLP levee maintenance project impacts.

Two wetland units will be created in the southwestern portion of the Project area. Water will be delivered to the wetland units from Sevenmile Slough through an existing siphon and a newly installed pipeline. Approximately 7,100 linear feet of swales will be constructed to provide water conveyance from the pipeline through the wetland units. Potholes and islands will be constructed to provide habitat complexity and foraging habitat for migratory birds and aquatic species. Perimeter berms will be constructed around the proposed wetland units with compacted fill from the spoil materials excavated to grade the wetlands and construct the potholes and swales. A new perimeter ditch will be constructed along the northern boundary of the wetland units to capture stormwater runoff and seepage from the wetland units. Four new water control structures will be installed that consist of high-density pipe with risers supported by timber piles. Two water control structures will convey water between the two wetland units along the proposed swale pathways, and the other two water control structures will allow for water to drain into the existing ditch on the southern boundary of the Project area. Trees and shrubs will be planted in the northern portion of the Project area to create riparian habitat.

Construction activities include excavating and relocating approximately 50,000 cubic yards of material within the Project area using heavy equipment. Prior to the start of ground-disturbance work, the siphon would be turned off to allow for the drawdown of any irrigation waters within the Project area. If any remaining ponded water is encountered, portable pumps could be used to discharge water to adjacent agricultural fields, drainage ditches, or wetland units where the water can percolate into the soil. After water has been removed from the Project area, existing herbaceous vegetation (mostly ruderal upland grasses and forbs) in areas that would be disturbed would be cleared and grubbed.

Project elements that affect aquatic resources include constructing new berms and a pipeline, which will result in permanent fill of up to 0.11 acre of wetlands. Excavation of swales, ditches, potholes, and wetland grading would permanently impact up to 0.03

acre of freshwater marsh and 0.47 acre of seasonal wetland. Riparian plantings in the northern portion of the Project Area would result in up to 1.74 acres of permanent disturbance of Irrigated and Seasonal Wetlands.

PROJECT LOCATION:

The Project is located on Twitchell Island, an approximately 3,500-acre island located in the western Sacramento-San Joaquin Delta, approximately 3.5 miles south of Isleton and approximately 3 miles southeast of Rio Vista in southwest Sacramento County. The Project Area encompasses approximately 185 acres on the northern portion of Twitchell Island, near Sevenmile Slough.

Latitude 38.114785°, longitude -121.657261°.

PROJECT SCHEDULE:

The Project is expected to commence in May 2024 and be completed in October 2024.

APPLICATION FEE RECEIVED:

\$62,529.00 was received on 26 February 2024. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

CALIFORNIA ENVIRONMENTAL QUALITY ACT:

A. Environmental Review

On 20 February 2024, the Reclamation District 1601, as lead agency, adopted an Initial Study/Mitigated Negative Declaration (IS/MND) (State Clearinghouse (SCH) No. 2023110643) for the Project and filed a Notice of Determination (NOD) at the SCH on 20 February 2024. The Central Valley Water Board is a responsible agency under CEQA (Public Resources Code, section 21069) and in making its determinations and findings, must presume that the Reclamation District 1601's adopted environmental document comports with the requirements of CEQA and is valid. (Public Resources Code, section 21167.3.) The Central Valley Water Board has reviewed and considered the environmental document and finds that the environmental document prepared by Reclamation District 1601 addresses the Project's water resource impacts. (California Code of Regulations, title 14, section 15096, subd. (f).) The environmental document includes the mitigation monitoring and reporting program (MMRP) developed by Reclamation District 1601 for all mitigation measures that have been adopted for the Project to reduce potential significant impacts. (Public Resources Code, section 21081.6, subd. (a)(1); California Code of Regulations, title 14, section 15074, subd. (d).)

B. Incorporation by Reference

Pursuant to CEQA, these Findings of Facts (Findings) support the issuance of this Order based on the Project IS/MND, the application for this Order, and other

supplemental documentation.

All CEQA project impacts, including those discussed in subsection C below, are analyzed in detail in the Project Final IS/MND which is incorporated herein by reference. The Project IS/MND is available at: 1112 I Street, Suite 240, Sacramento, CA 95814.

Requirements under the purview of the Central Valley Water Board in the MMRP are incorporated herein by reference.

The Permittee's application for this Order, including all supplemental information provided, are incorporated herein by reference.

C. Findings

The IS/MND states that there are no potentially significant environmental effects to water resources after the mitigation measures imposed by the lead agency.

Mitigation measures have been required in the Project which avoid or mitigate to a less than significant level the potentially significant environmental effect as described in the IS/MND.

a.i. Potential Significant Impact:

The Project may have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.

a.ii. Facts in Support of Finding:

Mitigation measure have been adopted that will reduce the potential effect to a less than significant level:

Mitigation Measure BIO-1: Environmental Awareness Training: All construction personnel shall participate in a Worker Environmental Awareness Training Program conducted by a qualified biologist or resource specialist prior to engaging in construction or invasive plant management activities. The program shall consist of a presentation made by a qualified biologist that includes information regarding the identification, potential presence, legal protections, avoidance and minimization measures, and applicable mitigation measures for all biological resources with the potential to occur within or immediately adjacent to the Project Area. Construction personnel shall be informed of the procedures to follow should a biological resource be disturbed during Project activities.

Mitigation Measure BIO-2: Special-Status Animal Species Observations and Encounters: If a special-status animal species is encountered during

Project construction or maintenance activities, all activities in the surrounding area that have the potential to result in the harm, injury, or death of the animal shall be suspended until otherwise approved to proceed by a qualified biologist. A qualified biologist shall monitor the animal until it leaves the work area on its own volition. The appropriate agencies (i.e., CDFW, USFWS, and/or NMFS) shall be notified of all observations of any special-status animal species in or adjacent to the Project Area within one week of the occurrence and a record submitted to the California Natural Diversity Database.

Mitigation Measure BIO-5: Special-status Reptile Species Protection

Measures: The following protection measures shall be implemented to avoid impacts to western pond turtle and giant garter snake during construction or invasive plant management activities.

- All activities proposed within giant garter snake habitat (i.e., aquatic and upland habitat within 200 feet of aquatic margins) shall be conducted during the species active period, (i.e., between May 1 and October 1) when snakes are expected to be able to actively move and avoid danger. If activities are anticipated to go beyond October 1, the Project proponents shall contact USFWS and CDFW as soon as possible, but not later than September 15 of the year in question to determine if additional measures are necessary to minimize impacts. Project activities within 200 feet of aquatic habitat shall be avoided during the snake's inactive season.
- Inundated areas proposed for ground disturbing activities shall be dewatered 15 days prior to the initiation of construction or plant management activities. If complete dewatering is not possible, potential prey (e.g., fish and tadpoles) shall be removed so that special-status reptile species are not attracted to the Project Area.
- A qualified biologist shall conduct preconstruction surveys for western pond turtle and giant garter snake within 72 hours prior to any initial ground disturbance within 200 feet of all suitable habitat, to identify locations where special-status reptiles may be present, evaluate current activity status in the Project Area, and protect the species and its habitat from avoidable construction-related disturbance. The Project Area shall be re-inspected by a qualified biologist whenever a lapse in construction activity of 5 days or greater has occurred.
- The Project proponent shall prohibit use of erosion control materials potentially harmful to western pond turtle, giant garter snake, and other species, such as mono-filament netting (erosion control matting) or similar material, in potential habitat. Tightly woven fiber

netting or similar material shall be used for erosion control to ensure that species do not get trapped and become entangled.

- Access routes and staging areas shall be located in previously disturbed areas, to the extent possible. The number and size of access routes and staging areas, and the total area of ground disturbance shall be limited to the minimum necessary. Routes and boundaries shall be clearly demarcated. Movement of heavy equipment to and from the Project Area shall be restricted to established roadways to minimize habitat disturbance. Project-related vehicles shall observe a 15-mile-per-hour speed limit within the Project Area.

Mitigation Measure BIO-6: Pre-construction Special-Status Plant Species Surveys: Pre-construction surveys for special-status plant species shall be performed by a qualified botanist familiar with plant species in the region during the appropriate blooming period(s).

If special-status plants are located in the Project Area, the botanist shall stake out consolidated populations (i.e., more than 10 plants in a grouping); annual plant species shall only be identified with flagging if work is proposed during their blooming period. If plant species cannot be avoided and are at risk of being adversely affected, a qualified botanist shall collect seeds, bulbs, and cuttings for propagation and planting in specific Project revegetation efforts.

D. Determination

The Central Valley Water Board has determined that the Project, when implemented in accordance with the MMRP and the conditions in this Order, will not result in any significant adverse water resource impacts. (California Code of Regulations, title 14, section 15096, subd (h).) The Central Valley Water Board will file a NOD with the SCH within five (5) working days from the issuance of this Order. (California Code of Regulations, title 14, section 15096, subd. (i).)

REPORTING AND NOTIFICATION REQUIREMENTS

The Permittee shall follow notification and reporting requirements described in this Notice of Applicability (NOA), and those found in Attachment D of the Order WQ 2022-0048-DWQ, unless specified as an optional requirement and excluded from this NOA.

1. Annual Reporting

The Permittee shall submit an Annual Report each year within one month of the anniversary of the effective date of this Notice of Applicability. Annual reporting shall continue until the active discharge period is complete and the project enters the post-construction monitoring phase where upon the Permittee shall annually

submit a Post-Construction Monitoring Report (Report Type 2) The Post-Construction Monitoring Report shall be submitted on the anniversary of the date that the project restoration activities were completed.

The Annual Report and Post Construction Monitoring Report shall include the information specified in Attachment D, Part A of Order No. WQ 2022-0048-DWQ. The Permittee shall submit the report in accordance with the report submittal instructions in Attachment D of Order No. WQ 2022-0048-DWQ and email it to centralvalleysacramento@waterboards.ca.gov and cc Nicholas Savino at Nicholas.Savino@waterboards.ca.gov.

2. Notification for In-Water Work and Diversions

The project proponent shall notify the Water Board at least forty-eight (48) hours prior to initiating work in flowing or standing water or stream diversions. Notification may be via e-mail, delivered written notice, or other verifiable means.

3. Environmental Monitoring

Per General Protection Measure 5 (GPM-5) of the Order, a resource specialist shall ensure that all applicable protective measures are implemented during project construction. The resource specialist shall have authority to stop any work if they determine that any permit requirement is not fully implemented. The resource specialist shall prepare and maintain a monitoring log of construction site conditions and observations, which will be kept on file.

ADDITIONAL CONDITION:

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, as amended for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavations, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.

NOTICE OF COMPLETION:

Upon completion of the Project, you shall submit a Notice of Completion (NOC) no later than 30 days after Project completion. The NOC shall demonstrate the Project was carried out in accordance with the Project description, include a map of the Project location with final boundaries of the restoration area, and include post-project photographs. More information on the NOC is listed in section B.6 of the Order.

If you have questions concerning this matter, please contact Nicholas Savino by phone at (916) 464-4920 or by email at Nicholas.Savino@waterboards.ca.gov.

Original Signed by Anne Walters for:
Patrick Pulupa
Executive Officer

Attachments: Figure 1 – Project Location Map
Figure 2 – Existing Aquatic Resources Map
Figure 3 – Post Construction Habitat Map

cc: [Via email only]

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CWA Section 401 WQC Program
State Water Resources Control Board
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Figure 1: Project Location

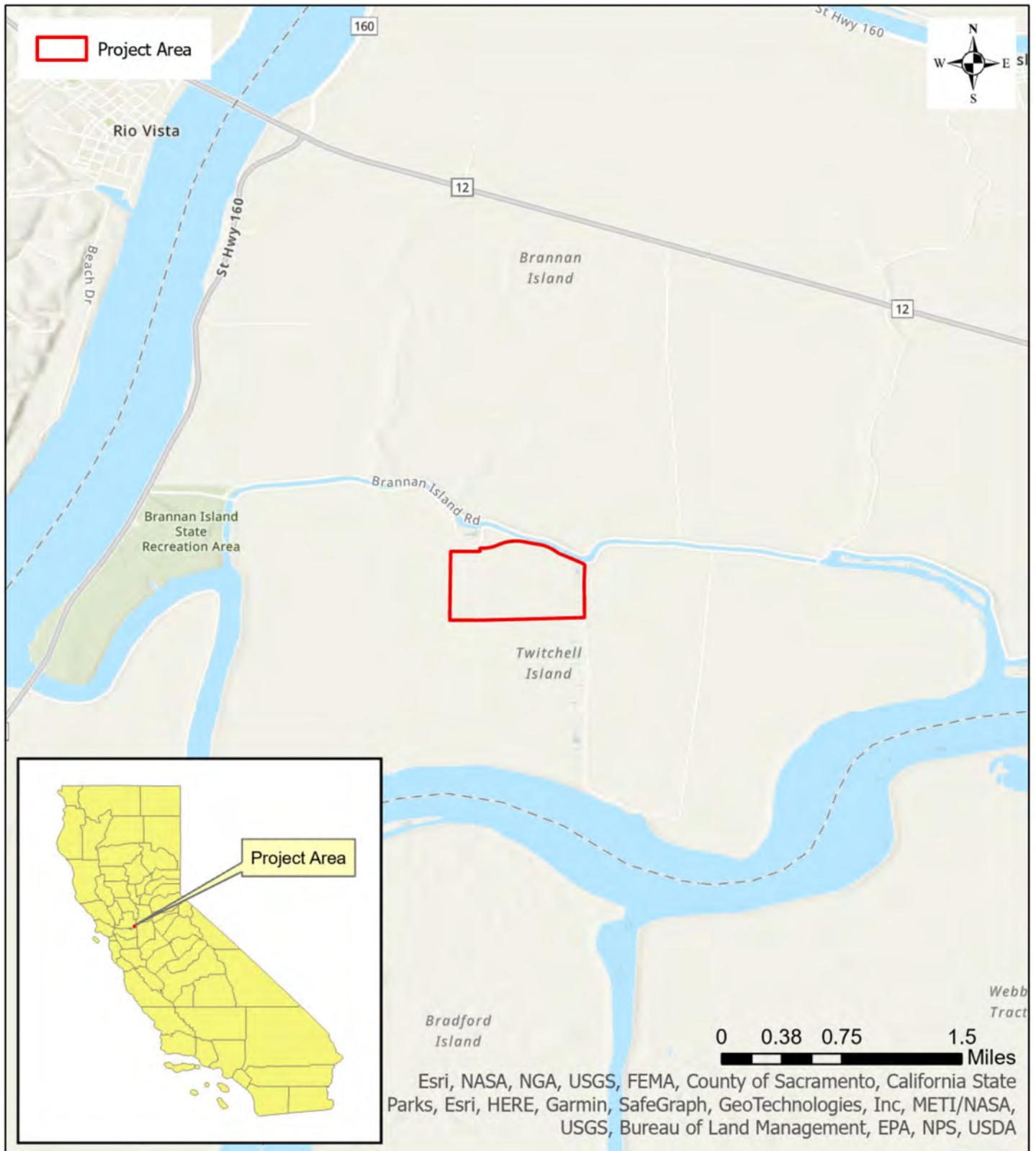


Figure 2: Existing Aquatic Resources

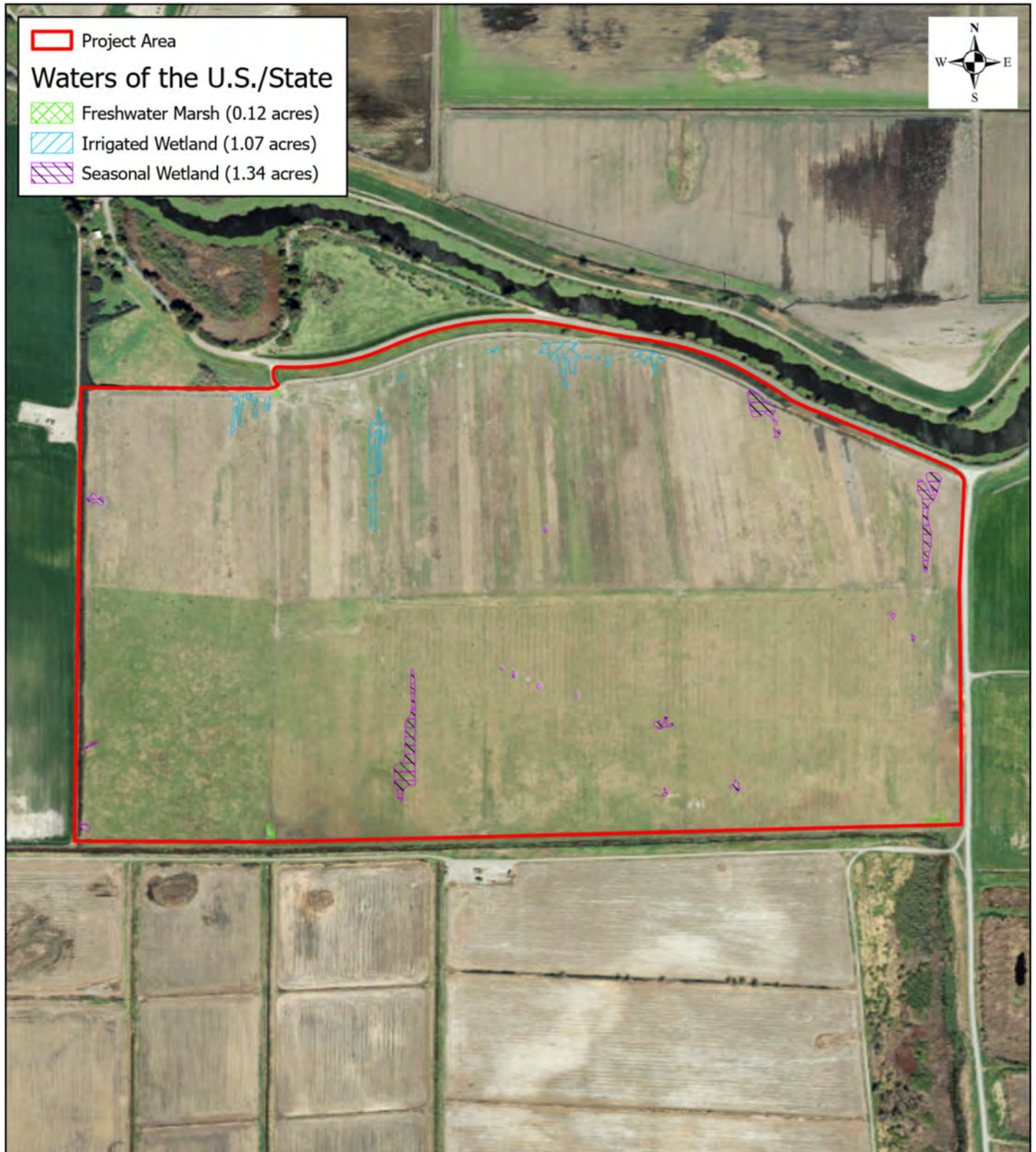


Figure 3: Post Construction Habitat

