
Central Valley Regional Water Quality Control Board

27 May 2026

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NOTICE OF APPLICABILITY FOR COVERAGE UNDER ORDER NO. 2004-0004-DWQ, STATEWIDE GENERAL WASTE DISCHARGE REQUIREMENTS FOR DREDGED OR FILL DISCHARGES TO WATERS DEEMED BY THE U.S. ARMY CORPS OF ENGINEERS TO BE OUTSIDE OF FEDERAL JURISDICTION, VASCO ROAD SAFETY IMPROVEMENT PROJECT – PHASE 2 (WDID# 5B07CR00284), CONTRA COSTA COUNTY

On 19 March 2026, State Route 4 Bypass Authority submitted a Notice of Intent (NOI) to enroll under and comply with State Water Resources Control Board (State Water Board) Order No. 2004-0004-DWQ, Statewide General Waste Discharge Requirements for Dredged or Fill Discharges to Waters Deemed by the United States Army Corps of Engineers to be Outside of Federal Jurisdiction.

The Central Valley Water Quality Control Board (Central Valley Water Board) has reviewed your enrollment materials and finds the Vasco Road Safety Improvement Project – Phase 2 (Project) meets the requirements of, and is hereby enrolled under, Order No. 2004-0004-DWQ. You may proceed with your Project in accordance with the Order.

A copy of [Order 2004-0004-DWQ](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf) (https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2004/wqo/wqo2004-0004.pdf) can be found on the State Water Resources Control Board's Adopted Orders webpage and is enclosed.

Please familiarize yourself with the requirements of Order No. 2004-0004-DWQ. You are responsible for complying with all applicable Order requirements. Failure to comply with Order No. 2004-0004-DWQ constitutes a violation of the California Water Code and may result in enforcement action or termination of enrollment under the Order.

PROJECT DESCRIPTION:

The 42.965-acre Project consists of construction to improve the safety of an approximately 1.5 mile section (Stations 290+00 through 363+50) of Vasco Road between the cities of Brentwood and Livermore in Contra Costa County. The Project will

NICHOLAS AVDIS, CHAIR | PATRICK PULUPA, EXECUTIVE OFFICER

construct approximately 6,600 linear feet of concrete median barrier along with 30 to 35 feet widening of approximately 6,900 linear feet of roadway to allow the necessary stopping sight distance around curves in accordance with current Caltrans design standards. The Project will widen the existing single span bridge over Brushy Creek by 24 feet to accommodate the concrete median barrier and address the sight distance requirements. Other activities include rock slope protection (RSP), associated drainage improvements, storm water treatment and erosion control facilities, retaining walls (including Mechanically Stabilized Earth (MSE) walls), wildlife undercrossings, right of way and wildlife fencing, signing, striping, guardrail adjustments, and barrier end-treatments as necessary to accommodate the installation of the barrier and pavement widening.

Project elements that affect aquatic resources include the bridge abutments, road pavement, newly placed RSP, and replacement of existing RSP that will permanently impact below top of bank in Brushy Creek on the eastern side of the bridge. Temporary impacts to annual grassland located below top of bank at Brushy Creek include grading cut and fill slopes. Conversion of ephemeral stream and riparian area habitat to hardscape for road widening and underground storm drains will result in permanent impacts to three unnamed ephemeral stream crossings. The Project will temporarily impact 0.0165 acre of riparian area and permanently impact 0.037 acre of stream channel and 0.079 acre of riparian area.

PROJECT LOCATION:

The Project is located at Stations 290+00 through 363+50 of Vasco Road between the cities of Brentwood and Livermore. The approximate center of the Project area is located at latitude 37.810278°N and longitude 121.666944°W.

PROJECT SCHEDULE:

September 2026 through December 2030

APPLICATION FEE RECEIVED:

\$4,881.00 was received on 27 April 2026.

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.

MITIGATION AND MINIMIZATION MEASURES:

You must implement the mitigation and minimization measures proposed in your Mitigation Plan. According to the Notice of Intent submitted, the following measures will be in place during construction activities to avoid, reduce, and minimize impacts to waters of the state:

- **Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) Conservation Measure 1.7 – Establish Stream Setbacks**

A stream setback of 75 feet is required along Brushy Creek, and a stream setback of 25 feet is required along intermittent and ephemeral streams in the

Project area. The setback is measured from top of bank or the outer edge of the riparian corridor, whichever is greater. Roads and bridges are considered encroachments. Development within the setback is required to mitigate for the loss of stream buffer by restoring riparian vegetation off-site at a 0.5:1 ratio or to pay one half the riparian impact fee per acre of setback encroachment.

- **HCP/NCCP Conservation Measure 1.10 – Maintain Hydrologic Conditions and Minimize Erosion**

All new development covered by the HCP/NCCP and subject to the Contra Costa County Clean Water Program's current amended National Pollutant Discharge Elimination System permit are required to avoid or minimize direct and indirect impacts on local hydrological conditions and erosion by implementing applicable Provision C.3 Amendments in the permit, such as the following:

- Develop stormwater treatment controls such as detention basins sized, at a minimum, to treat runoff in accordance with the criteria provided in the Provisions.
- Implement a verification program for treatment controls to ensure that all installed controls are being appropriately operated and maintained.
- Control peak runoff flows and volumes by means of creation and implementation of a Hydrograph Modification Management Plan subject to Provision requirements.
- Provide compensatory mitigation to the appropriate jurisdiction (i.e., city or County) for projects where meeting Provision requirements are physically impractical.
- Limit the use of stormwater controls that function primarily as infiltration devices in order to protect groundwater quality and local stream hydrograph.

- **HCP/NCCP Conservation Measure 1.11 – Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Covered Migratory Birds**

As a covered activity under the HCP/NCCP, the Project will avoid all impacts on six extremely rare plant species, which are identified as no-take species by the HCP/NCCP: large-flowered fiddleneck (*Amsinckia grandiflora*), alkali milk-vetch (*Astragalus tener ssp. tener*), Mount Diablo buckwheat (*Eriogonum truncatum*), diamond-petaled poppy (*Eschscholzia rhombipetala*), Contra Costa goldfields, and caper-fruited tropidocarpum (*Tropidocarpum capparideum*). Planning surveys are required to identify no-take plant species with potential to occur on the Project site. If any no-take plant species are identified, all direct and indirect impacts on the individuals are required to be avoided.

The white-tailed kite and golden eagle can occur on the Project site, and these species are listed as fully protected under the California Fish and Game Code.

Project activities will avoid any take of these species as defined under the California Fish and Game Code by avoiding disturbance or destruction of nests.

Most native birds that occur on the project site, including all bird species covered under the HCP/NCCP (tricolored blackbird, burrowing owl, golden eagle, and Swainson's hawk) are protected under the Migratory Bird Treaty Act (MBTA). The Project will comply with the MBTA by avoiding killing or possessing individuals, their young, nests, feathers, or eggs.

- **HCP/NCCP Conservation Measure 1.14 – Design Requirements for Covered Roads outside of the Urban Development Area**

Conservation Measure 1.14 applies to any new road development projects or improvements covered by the HCP/NCCP. This conservation measure minimizes the impacts of these road development projects by following specific construction requirements and designs. These designs include the standardization of fencing, culverts, crossings and uses of bridges. All these designs and requirements are planned to keep wildlife unaffected. The proposed construction will also minimize the increases of peak discharge of stormwater and to reduce runoff of pollutants to protect water quality, including during project construction. These construction requirements include preconstruction, construction site, and post-construction actions. Preconstruction conditions are site design planning approaches that protect water quality by preventing and reducing the adverse impacts of stormwater pollutants and increases in peak runoff rate and volume. They include hydrologic source control measures that focus on the protection of natural resources. Construction site conditions include source and treatment control measures to prevent pollutants from leaving the construction site and minimizing site erosion and local stream sedimentation during construction. They also comply with the MBTA and provide barriers to keep wildlife out of construction sites. Post-construction conditions include measures for invasive control, revegetation of cut-and-filled slopes, and make sure that structures allow for wildlife movement.

- **HCP/NCCP Conservation Measure 2.12 – Wetland, Pond, and Stream Avoidance and Minimization**

In addition to obtaining applicable permits, all projects will implement a series of measures to avoid and minimize impacts on wetlands, ponds, streams, and riparian woodland/scrub, described in detail in Chapter 6.4.2 of the HCP/NCCP and include the following:

- All wetlands, ponds, streams, and riparian woodland/scrub to be avoided will be temporarily staked in the field by a qualified biologist.
- Fencing will be erected between the outer edge of the buffer zone and the Project area. The type of fencing will match the activity and impact types. For example, projects that have the potential to cause erosion will require erosion control barriers. The temporal requirements for fencing also

depend on the activity and impact type. For example, fencing for permanent impacts should be permanent, and fencing for short-term impacts should be removed after the activity is completed.

- Personnel conducting ground-disturbing activities within or adjacent to the buffer zone of wetlands, ponds, streams, or riparian woodland/scrub will be trained by a qualified biologist in these avoidance and minimization measures and the permit obligations of Project proponents working under this HCP/NCCP. Vehicles and equipment will be parked on pavement, existing roads, and previously disturbed areas.
 - Trash generated by covered activities will be promptly and properly removed from the site.
 - No construction or maintenance vehicles will be refueled within 200 feet of wetlands, ponds, streams, or riparian woodland/scrub unless a bermed and lined refueling area is constructed and hazardous material absorbent pads are available in the event of a spill.
 - Appropriate erosion-control measures (e.g., fiber rolls, filter fences, vegetative buffer strips) will be used on site to reduce siltation and runoff of contaminants into wetlands, ponds, streams, or riparian woodland/scrub.
 - Fiber rolls used for erosion control will be certified as free of noxious weed seed.
 - Seed mixtures applied for erosion control will not contain invasive nonnative species, and will be composed of native species or sterile nonnative species.
- **HCP/NCCP Conservation Measure 3.10 – Plant Salvage when Impacts are Unavoidable**

Where impacts on covered plant species cannot be avoided and plants will be removed by approved covered activities, the East Contra Costa Habitat Conservancy (Conservancy) has the option of salvaging the covered plants. All salvage operations will be conducted by the Conservancy. To ensure enough time to plan salvage operations, Project proponents will notify the Conservancy of their schedule for removing the covered plant population.

- **2.3.2 HCP/NCCP Species-Level Measures**

The HCP/NCCP requires species-level planning surveys, preconstruction surveys, and construction monitoring to avoid and minimize impacts on covered species. Measures applicable to special-status species that potentially occur on the project site are provided in detail in Section 6 of the HCP/NCCP, and summarized as follows:

- **Townsend’s Big-Eared Bat and Pallid Bat:** A California Department of Fish and Wildlife (CDFW)-approved biologist will

determine if roosting habitat on the site is occupied by the Townsend's big-eared bat and pallid bat. If an occupied roost is found, it will be avoided to the maximum extent practicable. If the Project does not fully avoid impacts, preconstruction survey will be conducted. If the species is present, hibernation sites will be sealed prior to the hibernation season (defined as November to March), and nursery sites will be sealed prior to the nursery season (defined as April to August). If the roost is occupied, work will occur either prior to or after the hibernation season (for hibernacula) and after August 15 (for nursery sites). Construction will not take place as long as the site is occupied.

- **San Joaquin Kit Fox:** A U.S. Fish and Wildlife Service (USFWS) and CDFW-approved biologist will identify potential breeding or denning habitat for kit fox. Within 30 days prior to ground disturbance, the biologist will conduct a preconstruction survey of the site and a 250-foot surrounding buffer for kit foxes and suitable dens. The status of all dens will be determined and mapped. If kit foxes and/or suitable dens are found:
 - Dens will be monitored for three days using a tracking medium or infrared camera to determine occupancy.
 - Unoccupied dens should be destroyed immediately to prevent use.
 - If a natal or pupping den is found, the USFWS and CDFW will be notified immediately.
 - If kit fox activity is observed at dens other than natal or pupping dens, the den will be monitored for an additional 5 consecutive days to allow any resident animals to move to another den while den use is actively discouraged (e.g., by partially plugging the entrance). Once the den is determined to be unoccupied, it may be excavated under the direction of the biologist.

If dens are identified outside the disturbance footprint, exclusion zones with a minimum radius of 50 feet will be demarcated within which no covered activities will occur.

- **Golden Eagle:** A USFWS and CDFW-approved biologist will conduct a preconstruction survey to identify potential active nests of golden eagles. Covered activities will be prohibited within 0.5 miles of active nests. If site-specific conditions indicate a smaller or larger buffer could be appropriate, the project will coordinate with the CDFW and USFWS to determine the appropriate buffer size. Construction monitoring will ensure no covered activities occur

within the buffer.

- **Burrowing Owl:** Within 30 days prior to any ground disturbance, a USFWS and CDFW-approved biologist will conduct a preconstruction survey in accordance with the latest CDFW guidelines. The survey area will include the project footprint and a surrounding radius of 500 feet.
 - If active nests are present, the project will maintain a non-disturbance buffer around the nest location unless the biologist determines the nest is no longer active.
 - During the nonbreeding season, the project will avoid owls and burrows by establishing a buffer zone. If burrows cannot be avoided, passive relocation will be implemented.
- **Swainson's Hawk:** No more than 1 month to ground disturbance during the nesting season (defined as March 15 to September 15), a qualified biologist will conduct a preconstruction survey to determine whether Swainson's hawks are nesting within 1,000 feet of the project site. Covered activities will be prohibited within 1,000 feet of an active nest, or a nest under construction, during the nesting season, unless the young are determined to fledge prior to September 15. If site-specific conditions suggest that a smaller buffer may be appropriate, the project will coordinate with USFWS and CDFW to determine an appropriate buffer. Mitigation for the loss of suitable nest trees would be required, if applicable.
- **California Tiger Salamander and California Red-Legged Frog:** At least 30 days prior to disturbance of suitable breeding habitat along Brushy Creek, written notification will be provided to USFWS and CDFW, to allow them to translocate individuals, if requested.
- **Covered Plants:** Where impacts on covered plants cannot be avoided and plants will be removed by covered activities, the Conservancy has the option to salvage covered plants.

Similarly, the project will apply the measures listed above from the HCP/NCCP (e.g., pre-activity surveys and exclusion areas) to avoid and minimize impacts on the monarch butterfly and Crotch's bumble bee.

- **Mitigation Measure BIO-01:** If impacts to spearscale cannot be avoided (to be determined via preconstruction survey), *Conservation Measure 3.10, Plant Salvage when Impacts are Unavoidable*, will be implemented. For annuals, such as San Joaquin spearscale, the measure requires that mature seeds be collected from all individuals for which impacts cannot be avoided. If storage is necessary, seed storage studies will be conducted to determine the best storage technique

for the species. If needed, studies will be conducted on seed germinated and plants grown to maturity in garden or greenhouse to propagate larger numbers of seeds. Seed propagation methods will ensure that genetic variation is not substantially affected by propagation. Where seeds are distributed to the field, they will be located in preserves in suitable habitat to establish new populations. If seed collection methods fail (e.g., due to excessive seed predation by insects), alternative propagation techniques will be necessary. The Conservancy will conduct all salvage and seed storage study operations. To ensure enough time to plan salvage operations, Contra Costa County will notify the Conservancy of their schedule for removing the covered plant population.

- **Mitigation Measures BIO-02 – Covered Species/Habitat Impacts:** The HCP/NCCP requires that a rural road development fee and wetland fee be paid to the Conservancy for total project footprint and wetland impacts, respectively. These fees will be used to purchase land or easements and enhance habitat within the core habitat areas under the jurisdiction of the HCP/NCCP as mitigation for project related effects. The rural road development fee for the project is greater than the standard development fee assigned by the HCP/NCCP. The HCP/NCCP explains the rationale behind the increased fee:

“The rural road fee will be charged for the acreage of land permanently disturbed by the rural road project. Rural roads pay a fee amount different than other types of development because these projects fragment habitat, create substantial barriers and hazards to wildlife movement, and generally have a greater per-acre impact than most other types of development projects.”
- **Mitigation Measure BIO-03 – Post-construction study:** Because the effectiveness of road crossings for wildlife is an active area of research, and frequent advances in design are expected over the 30-year life of the HCP/NCCP incidental take permit, the permeability component of the Project includes performance of a post-construction study to determine optimal crossing spacing. The study will be conducted in three consecutive breeding season in order to ensure a large enough data set. The results of the study are intended to inform adequate crossing spacing by species on future projects.

COMPENSATORY MITIGATION:

The Permittee is required to provide compensatory mitigation for the authorized impact to 0.037 acre of stream channel and 0.079 acre of riparian area by paying East Contra Costa County (ECCC) HCP/NCCP mitigation fees to the ECCC Habitat Conservancy for impacts to these features as part of receiving species take coverage under the ECCC HCP/NCCP. The Permittee shall provide a copy of the ECCC HCP/NCCP Certificate of Coverage to the Central Valley Water Board prior to the initiation of in water work.

TERMINATION OF COVERAGE:

Upon completion of the Project, you shall submit a complete Notice of Termination (NOT) requesting to be un-enrolled under Order No. 2004-0004-DWQ. Attachment 2 to the Order contains the NOT form.

If you have questions concerning this matter, please contact Jenna Yang by phone at (916) 464-4764 or by email at Jenna.Yang@waterboards.ca.gov.

Original Signed by Anne Walters
For Patrick Pulupa
Executive Officer

Enclosure: State Water Resources Control Board Water Quality Order No.
2004-0004-DWQ

Attachments: Figure 1 – Project Location Map
Figure 2 – Project Impacts Map

cc: [Via email only]

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SPKRegulatoryMailbox@usace.army.mil

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Figure 1: Project Location Map

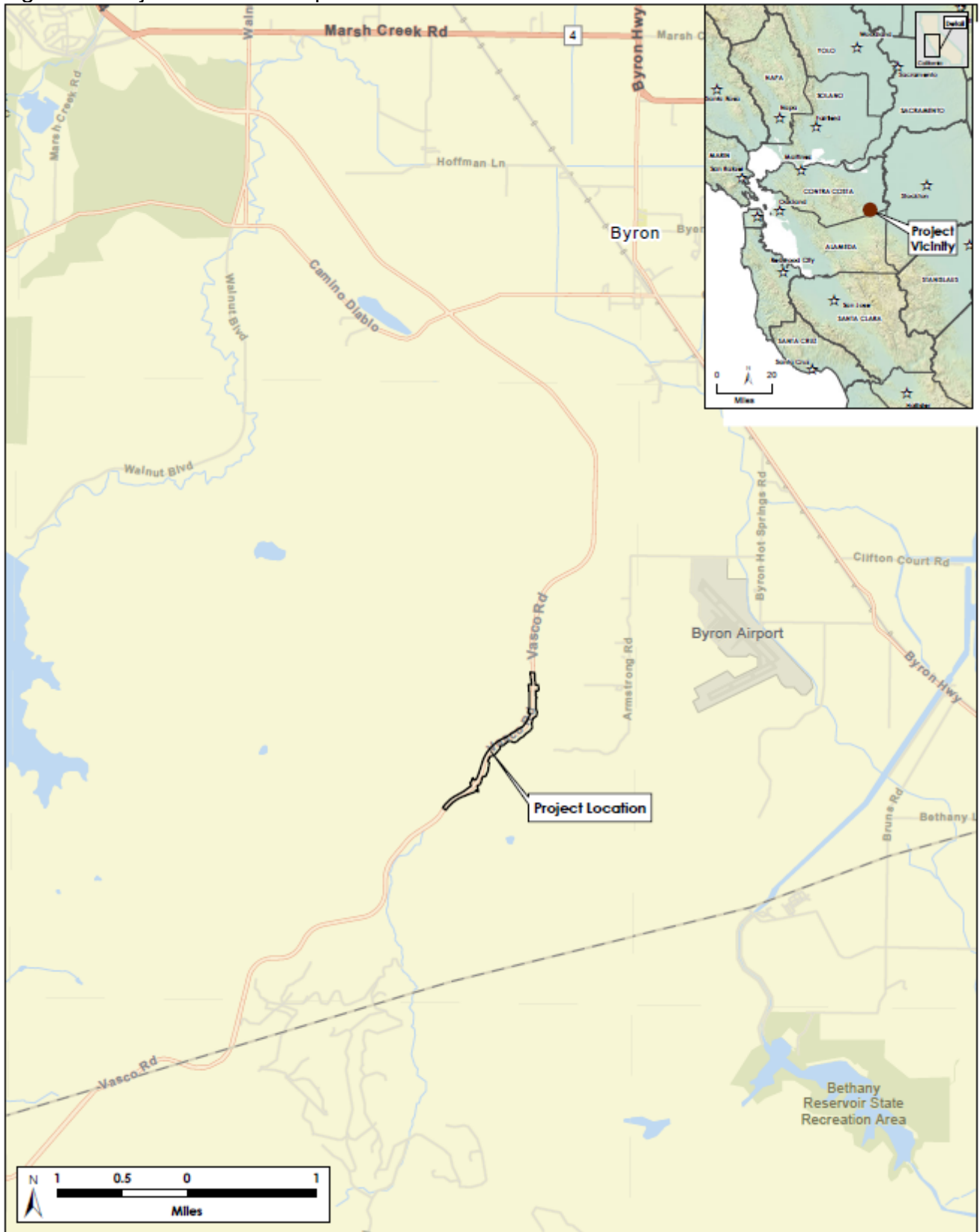


Figure 2: Project Impacts Map

