

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

**ORDER R5-2015-0105
WASTE DISCHARGE REQUIREMENTS
FOR
PANOCH VALLEY SOLAR, LLC
PANOCH VALLEY SOLAR PROJECT
SAN BENITO COUNTY**

The California Regional Water Quality Control Board, Central Valley Region (hereinafter Central Valley Water Board), finds:

Discharger

1. On 4 November 2014, Panoche Valley Solar, LLC (herein Discharger) submitted a federal Clean Water Act (CWA) § 401 Water Quality Certification Application Form and on 30 January 2015, submitted a revised application form to the Central Valley Water Board. The Discharger's application identified its intent to dredge and fill waters of the State to construct and operate a utility-scale, approximate 247 megawatt (MW) alternating current (AC) solar photovoltaic (PV) energy generating facility, known as the Panoche Valley Solar Facility (Project), on private lands in San Benito County, California. Additional information for the revised application was submitted on 9 February and 5 March 2015. The § 401 Water Quality Certification Application Form, as prepared by the Discharger, and the supplemental information is sufficient to meet the requirements for submitting a Report of Waste Discharge (ROWD) for fill of non-jurisdictional waters of the State. The ROWD was deemed complete on 18 March 2015. As described in the findings that follow, this Order regulates discharges of dredge and fill materials to 8.588 acres of federally non-jurisdictional waters of the State.

Project Location and Description

2. The site is in the Panoche Valley of eastern San Benito County, approximately two miles north of the intersection of Panoche Road and Little Panoche Road. This location is approximately two miles southwest of the Fresno County Line and the Panoche Hills, and approximately 15 miles west of Interstate 5 and the San Joaquin Valley. The site is within Township 15 South, Range 10 East, Sections 3-4, 8-11, and 13-16 Mount Diablo Base Line and Meridian, in the United States Geologic Survey (USGS) Cerro Colorado, Llanada, Mercy Hot Springs, and Panoche 7.5-minute topographic quadrangle maps (see Attachment A, Figure 1 for a general location map).
3. In 2010, San Benito County (County) approved a conditional Use Permit 1023-09(CUP) to construct and operate a 399-megawatt (MW) solar facility on a 3,202 acre site. In 2014, the County approved an amendment to CUP 1023-09 modifying the 2010 solar facility to reflect a smaller 247-megawatt solar facility on 2,506 acres. The 2010 project would have been constructed in five phases over five years. The revised project (hereafter Project) will be constructed in one phase during approximately 18 months.

4. The Project also includes telecommunication upgrades required by Pacific Gas and Electric Company (PG&E) to serve the project. PG&E is requiring installation of new optical ground wire on its existing Moss Landing–Panoche 230 kilovolt transmission line to establish the primary telecommunication service between the Project switching station and PG&E’s existing Panoche Substation, which is located 17 miles east of the Panoche Valley in Fresno County. A figure showing the transmission line route can be found in Attachment A, Figure 2.
5. The Project footprint covers approximately 2,506 acres with 1,794 acres of permanent disturbance for the Project footprint containing the following components: solar arrays, an operations and maintenance building, project perimeter roads including emergency access and egress, electricity collection lines, electrical transformers, DC-AC inverters, an electrical substation and switchyard, and PG&E telecommunication upgrades. Additionally, the Project includes 24,176 acres of preservation lands adjacent to the solar facility, which will be managed through implementation of a Conservation Management Plan. Preserved lands include the Valley Floor Conservation Lands (2,514 acres), Valadeao Ranch Conservation Lands (10,772 acres), and Silver Creek Ranch Conservation Lands (10,890 acres) (see Attachment A, Figure 3 for Project and Conservation Areas).

Site Regulation

6. Generally, the CWA and regulations promulgated thereunder apply to discharges of dredged and fill materials and the discharges of pollutants to waters of the United States. Waters that do not fall under the regulatory umbrella of the federal CWA and its regulations are commonly called non-jurisdictional waters. Waters of the State, as defined by California Water Code (CWC) § 13050, include both waters of the United States and non-jurisdictional waters.
7. The Central Valley Water Board has largely relied upon its authority under CWA § 401 to regulate discharges of dredged or fill material to waters of the State. That section requires an applicant to obtain “water quality certification” from the Central Valley Water Board that the project will comply with State water quality standards before certain federal licenses or permits may be issued. The permits subject to § 401 include permits for the discharge of dredged or fill material (CWA § 404 permits) issued by the U. S. Army Corps of Engineers (Corps).
8. On 24 June 2015, the Corps approved a Preliminary Jurisdictional Determination of the Project footprint [originally submitted November 2009, and updated December 2014] that identified a total of 0.39 acres of waters of the United States present on the Project footprint.
9. Based on the Corps-approved determination, the Project will discharge dredged and fill material to 0.122 total acres determined to be waters of the United States that are subject to regulation under federal CWA §401 and § 404. The Central Valley Water Board will

consider separately a CWA § 401 Water Quality Certification for proposed discharges of dredge and fill materials at these locations.

- The Corps determined in the June 2015 Preliminary Jurisdictional Determination that approximately 14.767 acres of vernal pools, wetlands, and ephemeral drainages on the Project site are non-jurisdictional for purposes of CWA § 404, due to isolation or the nature of the waters not exhibiting ordinary high watermark features (see Table 1). The Central Valley Water Board considers the non-jurisdictional wetlands and drainage areas to be waters of the State subject to regulation under the CWC.

Table 1. Mapped Features within Project Footprint

Type of Feature	Linear feet within Project Footprint	Acreage within Project Footprint
Federal Stream Channel	6,801	0.39
State Stream Channel	29,996	14.609
Vernal and Ephemeral Pools	Not Applicable	0.158

- Construction of the Project will involve the proposed discharge of structural materials and/or earthen materials (fill) in 53 Project locations that are considered non-jurisdictional waters, as shown in Attachment A (Figures 4 and 6), and listed in Attachment B. This Order regulates only those proposed discharges of dredged and fill materials to these non-jurisdictional areas (see Table 2), which are associated with perimeter road crossings, grading, panel and infrastructure installation, and trenching for electrical utilities.

Table 2. Areas of Impact (Non-jurisdictional waters)

Type of Feature	Linear feet within Project Footprint	Acreage within Project Footprint
Stream Channels	21,357	8.43
Ephemeral Pools	Not Applicable	0.107
Vernal Pools	Not Applicable	0.051
TOTAL IMPACTS TO STATE WATERS		8.588

- This Order is necessary to adequately address potential and planned impacts to waters of the State from the Project, to require mitigation for these impacts to comply with the Water Quality Control Plan for the Tulare Lake Basin, Second Edition, revised January 2004 (Basin Plan), to fulfill the Central Valley Water Board's obligation to act on the Discharger's application, and to satisfy the objectives of the California Wetlands Conservation Policy (Executive Order W-59-93, signed 23 August 1993). The goals of

the California Wetlands Conservation Policy include ensuring “no overall loss” and achieving a “...long-term net gain in the quantity, quality, and permanence of wetland acreage and values in California in a manner that fosters creativity, stewardship, and respect for private property.”

13. This Order does not regulate storm water discharges that may result from the Project during construction, including storm water discharges from mitigation activities on the Conservation Lands. Discharges of pollutants associated with construction-related storm water runoff in the Tulare Lake Basin watershed are subject to National Pollutant Discharge Elimination System permitting under CWA § 402. The Discharger must file a Notice of Intent to comply with State Water Resources Control Board Order No. 2009-0009-DWQ (as amended by Orders 2010-0014-DWQ and 2012-0006-DWQ), National Pollutant Discharge Elimination System General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities (Construction General Permit) to cover discharges of construction related storm water. Discharge of any pollutants to waters of the State resulting from storm water during construction must also be conducted in accordance with the 2014 Supplemental Environmental Impact Report approved by San Benito County on 19 May 2015, and the corresponding mitigation monitoring program adopted by the County.

Site-Specific Conditions

14. The Project site is located in the northern part of Panoche Valley, a broad alluvial valley in eastern San Benito County. Panoche Valley is about 33 miles southeast of Hollister and 28 miles west of Mendota in Fresno County. The valley is bounded by the Panoche Hills to the east, Griswold Hills and Cerro Bonito to the south, and Las Aguilas Mountains to the northwest. Panoche Valley is drained by Panoche Creek that has cut through the uplifted Panoche and Tumey Hills before reaching the San Joaquin Valley near Interstate 5 and Panoche Road. The environmental setting for the PG&E upgrades includes the area surrounding the Moss Landing–Panoche 230 kV transmission line between the Project site and the Panoche Substation, the Call Mountains (west of the Panoche Valley), Panoche Mountain (east of the Panoche Valley), and the area surrounding the Helm Substation (approximately 13 miles southwest of the City of Fresno).
15. The elevation of Panoche Valley ranges from approximately 1,200 feet above mean sea level at the southeast point to 1,400 feet above mean sea level at the north end. The Project area is located on alluvial fan and fluvial deposits derived from the nearby hills to the northwest, northeast, and south. Soils beneath the Project area include Panhill loam and Panoche loam formed on the alluvial fan surfaces at the base of the Panoche Hills and Panoche sandy loam and Panoche loam in the central Panoche Valley.
16. The Project site has primarily been used for cattle grazing for the past 100 years; however, the site has also been altered by agricultural activities to support cultivation of

a variety of field crops. Aerial photographs show row crop production in the 1940s and 1950s. Cotton was grown extensively in the 1950s and 1960s, and irrigated crops including watermelons, potatoes, turnips, cucumbers, sugar beets, lettuce, and cotton were grown in the project area in the late 1960s and early 1970s. Farmland Mapping and Monitoring Program maps indicate irrigated crop production on 970 acres of the proposed project site until the early 1990s. Heavy livestock grazing and agricultural activity have resulted in alteration and degradation to the drainages within the Project footprint.

17. The Project site is surrounded primarily by grazing activities and some farming. There currently are very few intensive agricultural operations and no industrial operations within the Project region. The Project site is located on relatively flat terrain.
18. The San Benito County General Plan land use designation for all property within the Project footprint is, "Agricultural Rangeland with a zoning designation of Agricultural Rangeland, 40-acre minimum." The Agriculture Rangeland zoning designation includes the development of natural resources together with the necessary buildings, apparatus, or appurtenances incidental thereto as a conditional use (Title 25, Section 29.106 of the San Benito County Code). Adjacent parcels on all sides of the Project are also designated as Agricultural Rangeland.
19. Portions of the PG&E upgrades are within Fresno County and, therefore, subject to the Fresno County General Plan. The relevant Fresno General Plan components for the PG&E upgrades are the Agricultural and Land Use Element and the Open Space and Conservation Element. PG&E is regulated by the California Public Utilities Commission (CPUC). The CPUC has jurisdiction over the siting and design of the PG&E upgrades required for the Project. The PG&E upgrades are exempt from local land use and zoning regulations and permitting; however, pursuant to General Order 131D, Section III.C requirements state that the utility must communicate with and obtain the input of local authorities regarding land-use matters and obtain any nondiscretionary local permits.
20. The Transmission Line Survey Report submitted with the 401 Water Quality Certification Application in November 2014 indicates there are three small unnamed drainages located within the upgraded portion of the PG&E right-of-way; however, there will be no dredged or fill material discharged to waters of the State from the PG&E related work.

**Impacts and Mitigation and Monitoring Plan
For Discharges
Of Dredge and Fill to Waters of the State**

21. As described in Findings 9 and 11, the Project includes 53 water locations that will be subject to impacts. Total permanent impacts to the non-jurisdictional waters of the State include 8.43 acres of un-vegetated ephemeral streambed, 0.107 acres of ephemeral pools, and 0.051 acres of vernal pools, which are addressed by this Order, and permanent impacts to waters of the United States include 0.122 acres of ephemeral drainages which will be addressed by CWA §401 and § 404.
22. On 15 June 2015, the Discharger submitted a document entitled draft Wetlands Mitigation and Monitoring Plan (Mitigation Plan). The Mitigation Plan proposes to mitigate for impacts to the total 8.710 acres of both the waters of the United States and waters of the State through the creation, enhancement, and restoration of water features on designated Conservation Lands described below. As described in the Mitigation Plan and Findings 25 to 28 below, the Discharger will provide for the direct creation, enhancement, or restoration of 11.960 acres of drainages, vernal pools, and wetlands by implementing the Mitigation Plan.
23. Additionally, to mitigate for the loss of waters of the State and the United States, the Discharger will preserve a total of 24,176 acres, which will be managed through implementation of a Conservation Management Plan. Preserved lands include the Valley Floor Conservation Lands (2,514 acres), Valadeao Ranch Conservation Lands (10,772 acres), and Silver Creek Ranch Conservation Lands (10,890 acres). The three large parcels of Conservation Lands are contiguous with the Project site and with 86,000 acres of Bureau of Land Management lands. The Discharger will preserve in perpetuity under conservation easement 716,853 linear feet of streams, drainages, and creeks within the Conservation Lands, as shown in Table 3, below, and Attachment A, Figures 5A and 5B.

Table 3. Summary of Preserved Waters of the State

Total Linear Feet of Streams, Drainages, & Creeks	
Valley Floor Conservation Lands	81,957
Valadeao Ranch Conservation Lands	326,519
Silver Creek Ranch Conservation Lands	308,377
Total Linear Feet	716,853

24. The Conservation Lands associated with the Project are located within Township 15S, Range 10E, Sections 3-4, 8-10, 13-16, and 25; Township 15S, Range 11E, Section 19; Township 14S, Range 10E, Sections 21-27 and 32-36; Township 14S, Range 11E, Sections 19 and 29-32; Township 15S, Range 10E, Sections 1-8 and 10-14; Section 15S, Township 11E, Sections 6-7, 19-20, and 26-36; and Township 16S, Range 11E, Sections 1-6 and 8-12. The solar facility and all associated land will be located on property under control of the Discharger.
25. The Discharger will create three ponds to support California tiger salamander (CTS) viability on the Valadeao Ranch Conservation Lands northwest of the Project footprint. The total size of the ponds will be approximately 0.31 acres. Additional CTS ponds may be created determined by incidental take of CTS during construction.
26. The Discharger will install exclusionary fencing around a portion of Panoche Creek channel that has been degraded by overgrazing. The Project will restore 11.16 acres of waters of the State within the Panoche Creek channel, including 5.81 acres considered to be jurisdictional waters of the United States.
27. The Discharger will enhance approximately 0.050 acres of existing ephemeral pools on the Valley Floor Conservation Lands that have been degraded by overgrazing by seeding the pools with approved native seed mixes or inoculum from vernal pools within the Project footprint that will be impacted.
28. The Discharger will restore approximately 0.44 acres of stream channels in seven locations by removing debris and reseeding the channels.
29. The Mitigation Plan describes detailed activities and plans, performance criteria to measure success, initial monitoring and management actions, and long-term management activities to mitigate for unavoidable impacts to State and Federal waters resulting from construction of the Project. This Order requires the Discharger to proceed with the proposed Mitigation Plan and requires monitoring and adaptive management measures to ensure successful implementation.
30. This Order serves as the Central Valley Water Board approval of the Mitigation Plan.

Basin Plan, Beneficial Uses, and Water Quality Objectives

31. The Basin Plan designates beneficial uses, establishes narrative and numerical water quality objectives, contains implementation plans and policies to protect waters of the Basin, and incorporates, by reference, plans and policies of the State Water Resources Control Board (State Water Board). Pursuant to §13263(a) of the CWC, these requirements implement the Basin Plan.
32. The Project will affect drainages within the Tulare Lake Basin of the Central Valley Region. Surface waters on the Project site are classified as West Side Streams per the Water Quality Control Plan for the Tulare Lake Basin. The designated beneficial uses

of West Side Streams are Agricultural Supply; Groundwater Recharge; Industrial Service Supply; Industrial Process Supply; Rare, Threatened, or Endangered Species Habitat; Water Contact Recreation; Noncontact Water Recreation; Warm Freshwater Habitat; and Wildlife Habitat.

33. The Project site is situated atop the Panoche Valley Groundwater Basin. This groundwater basin's only designated beneficial use is "Municipal and Domestic Supply", or MUN. MUN-designated waters are managed for "...uses of water for community, military, or individual water supply systems, including but not limited to drinking water supply."

Antidegradation Analysis

34. The State Water Board established California's antidegradation policy in State Water Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California). Resolution No. 68-16 requires that existing quality of waters be maintained unless degradation is justified based on specific findings. Pursuant to this policy, a report of waste discharge must include information regarding the nature and extent of the discharge and the potential for the discharge to affect surface or groundwater quality in the region. In addition, the discharger must identify treatment or control measures to be taken to minimize or prevent water quality degradation.
35. As described below, the permitted discharges will be controlled through the requirements herein as well as the implementation of mitigation measures for the discharges of dredge and fill materials. The permitted discharges will not cause violations of water quality objectives within any surface waters or groundwater under the Basin Plan, will not unreasonably affect beneficial uses, and will be to the maximum benefit of the people of the State. More specifically, the permitted discharge is consistent with the antidegradation provisions of State Water Board Resolution No. 68-16 for the following reasons:

- a. *The degradation will not result in water quality less than that prescribed in the Basin Plan.*

This Order contains discharge prohibitions, discharge specifications, groundwater limits, and reporting provisions that require compliance with Basin Plan water quality objectives; thus, this Order does not authorize exceedences of Basin Plan water quality objectives.

- b. *The degradation will not unreasonably affect present and anticipated beneficial uses.*

While the permitted discharges will cause degradation (by and through fill and removal) with respect to the waters that are proposed to be filled, the filling of these waters will be mitigated by the creation, enhancement, restoration, and

preservation of waters on three large conservation lands. The Discharger will also be required to conduct monitoring and reporting to ensure success at the mitigation sites as described in Monitoring and Reporting Program R5-2015-0105. With respect to waters other than those proposed to be filled as part of the Project, this Order ensures that present and anticipated beneficial uses will not be affected. The Discharger is prohibited from undertaking any dredge and fill activities not specifically authorized herein, and shall not cause or threaten to cause a nuisance or pollution, as defined in CWC § 13050. The Discharger is further required to adhere to construction and post-construction measures that will apply best practicable treatment or control, discussed below, that will avoid impacts on any present and anticipated beneficial uses.

- c. *Dischargers must use the best practicable treatment or control (BPTC) to avoid pollution or nuisance and maintain the highest water quality consistent with maximum benefit to the people of the State.*

A total of six offsite alternatives and nine onsite alternative project designs were proposed for the Project. A CWA § 404(b)(1) alternatives analysis that examined the alternative project locations and onsite avoidance and minimization measures was prepared to document the Discharger's planning process. The analysis concluded the proposed Project is the least damaging practicable alternative.

The Discharger will implement an integrated mitigation plan to compensate for the impacts to drainages and associated threatened and endangered species habitats that would result from the Project. The mitigation plan incorporates enhancement and restoration of waters, preservation of existing habitats, and management of the preserved habitats to maximize wetland function and wetland restoration and prevent future degradation. The mitigation plan is designed to assure that there will be no net loss and an increase in function to waters of the State.

Implementation of these measures reflects BPTC.

- d. *Any change in water quality must be consistent with maximum benefit to the people of the State.*

Any degradation that will occur as a result of the dredge and fill activities authorized under this Order will comply with water quality objectives and protect designated beneficial uses, and is consistent with the maximum benefit to the people of the State. The Project implements and furthers plans and public policies adopted and endorsed by the County of San Benito. Specifically, the Project will:

- i. provide economic and tax basis benefits for an economically disadvantaged region and generate significant and needed economic output in the County, including positive fiscal impacts to the County's operating funds;
- ii. generate approximately 550 construction jobs over the construction period;
- iii. provide the State and County with renewable energy generation and reduction in the use of fossil fuels;
- iv. reduce energy costs to California ratepayers by approximately \$500,000,000 through qualification for the Federal Investment Tax Credit;
- v. through the sale of the power generated by the Project, help in meeting the statewide renewable generation goals; and
- vi. add approximately 24,176 acres of land into conservation located adjacent to Bureau of Land Management lands, resulting in approximately 110,000 acres of high value habitat with coordinated management.

36. Given finding 35 (a-d), the proposed discharges authorized herein comply with Resolution 68-16.

CEQA

37. The County of San Benito, acting as the California Environmental Quality Act (CEQA, Public Resources Code § 21000, et seq.) Lead Agency, certified the Final Environmental Impact Report (FEIR) on 10 November 2010. A Notice of Determination was filed with the State Clearinghouse on 22 November 2010. Subsequently, on 19 May 2015, the County of San Benito certified a Supplemental EIR (SEIR) to reflect changes to the previously certified project. A Notice of Determination was filed with the County of San Benito on 20 May 2015, with Fresno County on 22 May 2015, and the State Clearinghouse on 11 June 2015.
38. Following certification of the SEIR, the County of San Benito adopted a Statement of Overriding Considerations for significant impacts considered unavoidable and not reduced to a level of Less Than Significant by mitigation. The unavoidable significant impacts not expected to be reduced by mitigation listed in the SEIR were related to aesthetics and construction noise.
39. The SEIR concludes that the Project is not expected to cause or contribute to any violation of applicable water quality standards or substantially degrade existing water quality, and that the implementation of specific mitigation measures will further reduce potential impacts to water quality to a less than significant level.
40. The Central Valley Water Board, acting as a CEQA Responsible Agency in compliance with California Code of Regulations (CCR), title 14 § 15096, reviewed both the Notice of

Preparation of the FEIR and SEIR, and the FEIR and SEIR for the Project, and submitted comments to the County of San Benito accordingly. The Central Valley Water Board also evaluated the potentially significant impacts resulting from the fill of drainages and related mitigation measures identified in the FEIR and SEIR. Mitigation measures imposed on the Project in the FEIR and SEIR to ensure that impacts resulting from the fill of drainages are less than significant are summarized in Attachment C. The mitigation measures identified in the FEIR and SEIR, supplemented with the provisions in this Order, are adequate to reduce potentially significant impacts resulting from the dredge and fill of waters to less than significant levels.

General Findings

41. Pursuant to CWC § 13263(g), discharge is a privilege, not a right, and adoption of this Order does not create a vested right to continue the discharge.
42. The Central Valley Water Board will review this Order periodically and will revise requirements when necessary.
43. California Water Code § 13267(b) states that:

In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including the costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.
44. The technical reports required by this Order and the attached Monitoring and Reporting Program R5-2015-0105 are necessary to assure compliance with these waste discharge requirements. The Discharger operates the Project that discharges the waste subject to this Order.

Public Notice

45. All the above and the supplemental information and details in the attached Information Sheet, which is incorporated by reference herein, were considered in establishing the following conditions of discharge.
46. The Discharger and interested agencies and persons have been notified of the intent to prescribe waste discharge requirements for this discharge, and have been provided an opportunity for a public hearing and an opportunity to submit their written views and recommendations. A Notice of Public Hearing was distributed to interested parties on 20 May 2015.
47. All comments pertaining to the discharge were heard and considered in a public meeting.

IT IS HEREBY ORDERED that, pursuant to § 13263 and § 13267 of the California Water Code (CWC), Panoche Valley Solar, a Limited Liability Company and its agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the CWC and regulations adopted thereunder, shall comply with the following:

A. Discharge Prohibitions

1. Discharge of dredge and fill materials not described in the ROWD submitted by the Discharger or identified in Attachment B are prohibited.
2. Discharge shall not violate any discharge prohibitions contained in the Basin Plan.
3. Discharge causing or threatening to cause pollution, contamination, or nuisance as defined in CWC § 13050 is prohibited.
4. Discharge of waste classified as "hazardous", as defined in § 2521(a) of Title 23, CCR, § 2510 et seq., is prohibited. Discharge of waste classified as "designated", as defined in CWC § 13173, in a manner that causes violation of groundwater limitations, is prohibited.
5. Operation of equipment in areas of flowing water is prohibited.
6. Fueling, cleaning, or maintenance of vehicles or equipment; and storage of construction materials and heavy equipment within any areas where an accidental discharge to waters of the State may occur, is prohibited.

B. Discharge Specifications

1. Dredge and fill activities will be conducted when water bodies are dry to the maximum extent practicable.
2. Except for specific dredge and fill activities described in the ROWD, Attachment B, or the 401 water quality certification for the Panoche Valley Solar Project, no debris, soil, silt, sand, cement, concrete, or washings thereof, other construction related materials or wastes, oil or petroleum products or other organic or earthen material shall be allowed to enter into or be placed into waters of the State. Upon completion of construction, all construction-related materials shall be removed from the work area and any areas adjacent to the work area.
3. The Discharger shall comply with all California Department of Fish and Game Code § 1600 requirements for the Project.
4. The Discharger shall implement the mitigation measures specified in the Final and Supplemental Environmental Impact Report for the Project as they pertain to biology, hydrology, and water quality impacts.
5. All areas disturbed by Project activities shall be protected from washout or erosion.
6. Disturbance or removal of vegetation in the Project area shall be minimized. Native species shall be used for re-vegetation of disturbed areas.

C. Groundwater Limitations

The discharges authorized herein shall not cause groundwater to contain waste constituents in concentrations greater than the ambient quality.

D. Provisions

1. The Discharger shall comply with the Standard Provisions and Reporting Requirements for Waste Discharge Requirements, dated 1 March 1991, which is made part of this Order.
2. The Discharger shall comply with Monitoring and Reporting Program R5-2015-0105, which is made a part of this Order, and future revisions thereto as specified by the Executive Officer.
3. The Discharger shall maintain a copy of this Order and supporting documentation (Attachments) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work

on the Project shall be adequately informed and trained regarding the conditions of this Order.

4. This Order hereby approves the Wetlands Mitigation and Monitoring Plan (WMMP), dated June 2015, as final for the purposes of this Order. Any proposed modifications to the plan must be **submitted to the Executive Officer for approval 30 days** prior to implementation. The Discharger shall not implement the proposed changes until it obtains written approval from the Executive Officer.
5. The Discharger must implement the measures described in the WMMP as summarized in Findings 23, and 25 to 28. Initial construction of the compensatory mitigation for discharge of fill to waters of the State must be completed **within 1 year of initial impacts** to waters of the State. **Within 30 days** of initial completion of the compensatory mitigation sites, the Discharger shall submit complete sets of as-built plans for the sites to the Executive Officer for review.
6. All areas used to mitigate for permanent impacts to waters of the State must be protected in perpetuity from land-use and maintenance activities that would threaten water quality or beneficial uses within the preservation area. **Prior to initiating grading within waters of the State**, the Discharger shall submit a draft conservation easement for the Valley Floor, Valadeao Ranch, and Silver Creek Ranch Conservation Lands to the Central Valley Water Board's Executive Officer for review and acceptance as consistent with the provisions within the WMMP that relate to Central Valley Water Board requirements. The language of the conservation easement must follow the California Department of Fish and Wildlife and/or U.S. Fish and Wildlife Service templates and guidelines for conservation easements and shall identify the third-party nonprofit entity qualified to hold a conservation easement under California Civil Code, § 815.3, to whom the conservation easement would be granted. The conservation easement shall include provisions and responsibilities of the Discharger and the designated land trust organization, including any future transfers of the easement or fee interest that may be anticipated, and must grant access rights to State Water Resources Control Board and Central Valley Water Board staff. The conservation easement must also specify the purposes for which it is established and include a list of prohibited activities that are inconsistent with the maintenance of the preservation areas, such as development, dredging, mowing, and/or other nonemergency activities that would result in permanent or temporary disturbance of the preservation area.
7. **Prior to initiating grading within waters of the State**, the Discharger shall provide to the Central Valley Water Board's Executive Officer evidence that funding for monitoring and perpetual management and maintenance of the mitigation features and habitat in the conserved preservation areas has been provided for in perpetuity. The principal in the endowment should generate sufficient revenue to cover the costs described in the Monitoring and Reporting Program R5-2015-0105 including funding for any extended monitoring and maintenance activities, as well as contingency measures, that the

Central Valley Water Board's Executive Officer may determine are necessary to meet the mitigation requirements for the Project.

8. **No less than 14 days** prior to initiating grading in waters of the State, the Discharger shall provide to the Central Valley Water Board's Executive Officer a performance bond for 120% of the amount required to complete the compensatory mitigation creation, enhancement and restoration activities.
9. The mitigation areas on the Conservation Lands must fully meet the established functional success criteria of the WMMP by **no later than 5 years** from the date that the as-built plans for the mitigation areas are submitted to the Central Valley Water Board. If the mitigation areas fail to meet the criteria, the Discharger must provide by this date a technical report proposing remedial measures, for acceptance by the Central Valley Water Board's Executive Officer, to be implemented within 1 year following the determination that success criteria were not met.
10. The Discharger shall provide the name and contact information of any third party accepting responsibility (liability) for implementing the mitigation requirements of this Order. Written notification shall be submitted to the Central Valley Water Board within 60 days of the proposed transfer of responsibility. The notification shall include a signed statement from the new party demonstrating acceptance and understanding of the responsibility to meet the mitigation conditions and applicable requirements of this Order, or the liability will remain with the Discharger.
11. Any and all monitoring reports required by this Order are required pursuant to CWC § 13267.
12. The Discharger must attach a signed, certified cover letter to all monitoring reports provided to the Central Valley Water Board. The certified cover letter must clearly identify any violations of this Order, discuss corrective actions taken or planned, and propose a time schedule for completing identified corrective actions. Identified violations must include a description of the violation.
13. The Central Valley Water Board may review and revise waste discharge requirements in accordance with CWC § 13263, subdivisions (e) and (f). The Central Valley Water Board will review this Order periodically and will revise requirements when necessary.

If, in the opinion of the Executive Officer, the Discharger fails to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement, may issue a complaint for administrative civil liability, or may take other enforcement actions. Failure to comply with this Order may result in the assessment of Administrative Civil Liability of up to \$10,000 per violation, per day, depending on the violation, pursuant to the CWC, including § 13268 and § 13350. The Central Valley Water Board reserves its right to take any enforcement actions authorized by law.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with CWC § 13320 and CCR, title 23, § 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water 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.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on 31 July 2015.

Original signed by:

PAMELA C. CREEDON, Executive Officer

Order Attachments: A. Location Map and Project Area Figures
B. Dredge and Fill Location Identification Number and Attributes
C. CEQA Mitigation Measures

Monitoring and Reporting Program R5-2015-0105
Information Sheet
Standard Provisions for Waste Discharge Requirements (1 March 1991)

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION**

**MONITORING AND REPORTING PROGRAM R5-2015-0105
FOR
PANOCH VALLEY SOLAR, LLC
PANOCH VALLEY SOLAR PROJECT
SAN BENITO COUNTY**

All reports and information required herein are required pursuant to California Water Code (CWC) § 13267.

I. Dredge and Fill Activity Monitoring

A. Dredge and Fill Activity Monitoring

1. The Discharger shall document the start dates and end dates for each individual dredge and fill location within non-federally jurisdictional waters.
2. The Discharger shall maintain on-site records of all inspections, personnel performing the observations, observation dates, weather conditions, locations observed, and corrective actions taken in response to the observations.
3. The Discharger shall take photographs of all completed, stabilized dredge and fill locations.

B. Compensatory Mitigation Monitoring

1. Creation, Enhancement and Restoration Areas

The Discharger shall monitor the creation, enhancement, and restoration mitigation areas in accordance with the Wetlands Mitigation and Monitoring Plan, dated June 2015, or according to subsequent revisions thereto approved by the Executive Officer.

2. Preservation Areas

The Discharger shall monitor the preservation mitigation areas in accordance with the Wetlands Mitigation and Monitoring Plan, dated June 2015, or according to subsequent revisions thereto approved by the Executive Officer.

II. Reporting

A. Annual Reporting Requirements

1. Dredge and Fill Activity Monitoring Annual Report

The Discharger shall submit a Dredge and Fill Activity Monitoring Annual Report **by no later than July 31** of each year within which ground-disturbing activities take place in the vicinity of the affected drainages and vernal pools. The Dredge and Fill Activity Monitoring Annual Report shall contain at minimum:

- a. a list of all dredge and fill locations initiated or completed, their start dates, their end dates if applicable, and their location identification number as listed in Attachment B of Order R5-2015-0105;
- b. summaries of all inspections and results obtained;
- c. summaries and evaluations of all monitoring results including a summary of all corrective actions taken during the year; identification of any compliance activities or corrective actions that were not implemented;
- d. a summary of all violations of Order R5-2015-0105 and corrective actions taken;
- e. the names of individual(s) who performed the inspections, sampling, and/or measurements;
- f. the date, place, time of inspections, sampling, visual observations, and/or measurements; and
- g. copies of photographs taken during inspections.

2. Compensatory Mitigation Monitoring Annual Report

The Discharger shall submit a Compensatory Mitigation Monitoring Annual Report by no later than **March 1** of each year summarizing activities from the previous calendar year (January through December). The Compensatory Mitigation Monitoring Annual Report shall contain documentation of all monitoring and maintenance activities required by section I.B. of this Monitoring and Reporting Program.

B. General Reporting Requirements

The Central Valley Water Board has gone to a Paperless Office System. All regulatory documents, submissions, materials, data, monitoring reports, and correspondence should be converted to a searchable Portable Document Format (PDF) and submitted electronically. Documents that are less than 50MB should be emailed to: centralvalleyfresno@waterboards.ca.gov. Documents that are 50MB or larger should be transferred to a disk and mailed to the appropriate regional water board office, in this case 1685 E Street, Fresno, CA, 93706.

To ensure that your submittals are routed to the appropriate staff, the following information block should be included in any email used to transmit documents to this office:

Program: Surface Water Body Alterations, WDID: 5C35CR00002,
Facility Name: Panoche Valley Solar Project, Order: R5-2015-0105.

All monitoring reports shall comply with the signatory requirements in Standard Provision B.3. For a Discharger conducting any of its own analyses, reports must also be signed and certified by the chief of the laboratory.

All monitoring reports that involve planning, investigation, evaluation, or design, or other work requiring interpretation and proper application of engineering or geologic sciences, shall be prepared by or under the direction of persons registered to practice in California pursuant to California Business and Professions Code sections 6735, 7835, and 7835.1.

In the future, the State or Central Valley Water Board may notify the Discharger to electronically submit and upload monitoring reports using the State Water Board's California Integrated Water Quality System (CIWQS) Program Web site <http://www.waterboards.ca.gov/ciwqs/index.html> or similar system. Electronic submittal to CIWQS, when implemented, will meet the requirements of our Paperless Office System.

III. Records

- A.** The Discharger shall maintain the following records on-site and such records shall be available to Central Valley Water Board staff for inspection and provided upon request by Central Valley Water Board staff:
1. All sampling and analyses results and records including laboratory data sheets, as required;
 2. Meter calibration records, as required;
 3. Complete copies of qualitative and quantitative data gathered;
 4. All quality control and quality assurance records;
 5. Complete copies of all inspection reports and records, incident reports and records;
 6. All photographic evidence gathered as a result of monitoring and assessment activities;
 7. Reports of corrective actions and adaptive management measures implemented; and
 8. All plans and reports referenced by and/or required by this Monitoring and Reporting Program.

These records shall be retained for a period of at least 5 years from the date of the sample, inspection, measurement, report, or application, or 5 years from the date of Project completion, whichever is longer.

The Discharger shall implement the above monitoring program on the date this Monitoring and Reporting Program is ordered by the Executive Officer.

Original signed by:

Ordered by: _____
PAMELA C. CREEDON, Executive Officer

31 July 2015

(Date)

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

STANDARD PROVISIONS AND REPORTING REQUIREMENTS
FOR
WASTE DISCHARGE REQUIREMENTS

1 March 1991

A. General Provisions:

1. The requirements prescribed herein do not authorize the commission of any act causing injury to the property of another, or protect the Discharger from liabilities under federal, state, or local laws. This Order does not convey any property rights or exclusive privileges.
2. The provisions of this Order are severable. If any provision of this Order is held invalid, the remainder of this Order shall not be affected.
3. After notice and opportunity for a hearing, this Order may be terminated or modified for cause, including, but not limited to:
 - a. Violation of any term or condition contained in this Order;
 - b. Obtaining this Order by misrepresentation, or failure to disclose fully all relevant facts;
 - c. A change in any condition that results in either a temporary or permanent need to reduce or eliminate the authorized discharge;
 - d. A material change in the character, location, or volume of discharge.
4. Before making a material change in the character, location, or volume of discharge, the discharger shall file a new Report of Waste Discharge with the Regional Board. A material change includes, but is not limited to, the following:
 - a. An increase in area or depth to be used for solid waste disposal beyond that specified in waste discharge requirements.
 - b. A significant change in disposal method, location or volume, e.g., change from land disposal to land treatment.
 - c. The addition of a major industrial, municipal or domestic waste discharge facility.
 - d. The addition of a major industrial waste discharge to a discharge of essentially domestic sewage, or the addition of a new process or product by an industrial facility resulting in a change in the character of the waste.

Waste Discharge to Land

5. Except for material determined to be confidential in accordance with California law and regulations, all reports prepared in accordance with terms of this Order shall be available for public inspection at the offices of the Board. Data on waste discharges, water quality, geology, and hydrogeology shall not be considered confidential.
6. The discharger shall take all reasonable steps to minimize any adverse impact to the waters of the state resulting from noncompliance with this Order. Such steps shall include accelerated or additional monitoring as necessary to determine the nature and impact of the noncompliance.
7. The discharger shall maintain in good working order and operate as efficiently as possible any facility, control system, or monitoring device installed to achieve compliance with the waste discharge requirements.
8. The discharger shall permit representatives of the Regional Board (hereafter Board) and the State Water Resources Control Board, upon presentations of credentials, to:
 - a. Enter premises where wastes are treated, stored, or disposed of and facilities in which any records are kept,
 - b. Copy any records required to be kept under terms and conditions of this Order,
 - c. Inspect at reasonable hours, monitoring equipment required by this Order, and
 - d. Sample, photograph and video tape any discharge, waste, waste management unit, or monitoring device.
9. For any electrically operated equipment at the site, the failure of which would cause loss of control or containment of waste materials, or violation of this Order, the discharger shall employ safeguards to prevent loss of control over wastes. Such safeguards may include alternate power sources, standby generators, retention capacity, operating procedures, or other means.
10. The fact that it would have been necessary to halt or reduce the permitted activity in Order to maintain compliance with this Order shall not be a defense for the discharger's violations of the Order.
11. Neither the treatment nor the discharge shall create a condition of nuisance or pollution as defined by the California Water Code, Section 13050.
12. The discharge shall remain within the designated disposal area at all times.

B. General Reporting Requirements:

1. In the event the discharger does not comply or will be unable to comply with any prohibition or limitation of this Order for any reason, the discharger shall notify the Board by telephone at **(916) 464-3291** [*Note: Current phone numbers for all three Regional Board offices may be found on the internet at http://www.swrcb.ca.gov/rwqcb5/contact_us.*] as soon as it or its agents

Waste Discharge to Land

have knowledge of such noncompliance or potential for noncompliance, and shall confirm this notification in writing within **two weeks**. The written notification shall state the nature, time and cause of noncompliance, and shall include a timetable for corrective actions.

2. The discharger shall have a plan for preventing and controlling accidental discharges, and for minimizing the effect of such events.

This plan shall:

- a. Identify the possible sources of accidental loss or leakage of wastes from each waste management, treatment, or disposal facility.
- b. Evaluate the effectiveness of present waste management/treatment units and operational procedures, and identify needed changes of contingency plans.
- c. Predict the effectiveness of the proposed changes in waste management/treatment facilities and procedures and provide an implementation schedule containing interim and final dates when changes will be implemented.

The Board, after review of the plan, may establish conditions that it deems necessary to control leakages and minimize their effects.

3. All reports shall be signed by persons identified below:
 - a. For a corporation: by a principal executive officer of at least the level of senior vice-president.
 - 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 or appointed official.
 - d. A duly authorized representative of a person designated in 3a, 3b or 3c of this requirement if;
 - (1) the authorization is made in writing by a person described in 3a, 3b or 3c of this provision;
 - (2) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a waste management unit, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
 - (3) the written authorization is submitted to the Board

Waste Discharge to Land

Any person signing a document under this Section shall make the following certification:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of the those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.”

4. Technical and monitoring reports specified in this Order are requested pursuant to Section 13267 of the Water Code. Failing to furnish the reports by the specified deadlines and falsifying information in the reports, are misdemeanors that may result in assessment of civil liabilities against the discharger.
5. The discharger shall mail a copy of each monitoring report and any other reports required by this Order to:

California Regional Water Quality Control Board
Central Valley Region
11020 Sun Center Drive, #200
Rancho Cordova, CA 95670-6114

Note: Current addresses for all three Regional Board offices may be found on the internet at http://www.swrcb.ca.gov/rwqcb5/contact_us.

or the current address if the office relocates.

C. Provisions for Monitoring:

1. All analyses shall be made in accordance with the latest edition of: (1) *Methods for Organic Chemical Analysis of Municipal and Industrial Wastewater* (EPA 600 Series) and (2) *Test Methods for Evaluating Solid Waste* (SW 846-latest edition). The test method may be modified subject to application and approval of alternate test procedures under the Code of Federal Regulations (40 CFR 136).
2. Chemical, bacteriological, and bioassay analysis shall be conducted at a laboratory certified for such analyses by the State Department of Health Services. In the event a certified laboratory is not available to the discharger, analyses performed by a noncertified laboratory will be accepted provided a Quality Assurance-Quality Control Program is instituted by the laboratory. A manual containing the steps followed in this program must be kept in the laboratory and shall be available for inspection by Board staff. The Quality Assurance-Quality Control Program must conform to EPA guidelines or to procedures approved by the Board.

Unless otherwise specified, all metals shall be reported as Total Metals.

3. The discharger shall retain records of all monitoring information, including all calibration and maintenance records, all original strip chart recordings of continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to

Waste Discharge to Land

complete the application for this Order. Records shall be maintained for a minimum of three years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the Regional Board Executive Officer.

Record of monitoring information shall include:

- a. the date, exact place, and time of sampling or measurements,
 - b. the individual(s) who performed the sampling of the measurements,
 - c. the date(s) analyses were performed,
 - d. the individual(s) who performed the analyses,
 - e. the laboratory which performed the analysis,
 - f. the analytical techniques or methods used, and
 - g. the results of such analyses.
4. All monitoring instruments and devices used by the discharger to fulfill the prescribed monitoring program shall be properly maintained and calibrated at least yearly to ensure their continued accuracy.
 5. The discharger shall maintain a written sampling program sufficient to assure compliance with the terms of this Order. Anyone performing sampling on behalf of the discharger shall be familiar with the sampling plan.
 6. The discharger shall construct all monitoring wells to meet or exceed the standards stated in the State Department of Water Resources *Bulletin 74-81* and subsequent revisions, and shall comply with the reporting provisions for wells required by Water Code Sections 13750 through 13755.22

D. Standard Conditions for Facilities Subject to California Code of Regulations, Title 23, Division 3, Chapter 15 (Chapter 15)

1. All classified waste management units shall be designed under the direct supervision of a California registered civil engineer or a California certified engineering geologist. Designs shall include a Construction Quality Assurance Plan, the purpose of which is to:
 - a. demonstrate that the waste management unit has been constructed according to the specifications and plans as approved by the Board.
 - b. provide quality control on the materials and construction practices used to construct the waste management unit and prevent the use of inferior products and/or materials which do not meet the approved design plans or specifications.
2. Prior to the discharge of waste to any classified waste management unit, a California registered civil engineer or a California certified engineering geologist must certify that the waste management unit meets the construction or prescriptive standards and performance goals in Chapter 15, unless an engineered alternative has been approved by the Board. In the case of an engineered alternative, the registered civil engineer or a certified engineering geologist must

Waste Discharge to Land

certify that the waste management unit has been constructed in accordance with Board-approved plans and specifications.

3. Materials used to construct liners shall have appropriate physical and chemical properties to ensure containment of discharged wastes over the operating life, closure, and post-closure maintenance period of the waste management units.
4. Closure of each waste management unit shall be performed under the direct supervision of a California registered civil engineer or a California certified engineering geologist.

E. Conditions Applicable to Discharge Facilities Exempted from Chapter 15 Under Section 2511

1. If the discharger's wastewater treatment plant is publicly owned or regulated by the Public Utilities Commission, it shall be supervised and operated by persons possessing certificates of appropriate grade according to California Code of Regulations, Title 23, Division 4, Chapter 14.
2. By-pass (the intentional diversion of waste streams from any portion of a treatment facility, except diversions designed to meet variable effluent limits) is prohibited. The Board may take enforcement action against the discharger for by-pass unless:
 - a. (1) By-pass was unavoidable to prevent loss of life, personal injury, or severe property damage. (Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a by-pass. Severe property damage does not mean economic loss caused by delays in production); and
 - (2) There were no feasible alternatives to by-pass, such as the use of auxiliary treatment facilities or retention of untreated waste. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a by-pass that would otherwise occur during normal periods of equipment downtime or preventive maintenance; or
 - b. (1) by-pass is required for essential maintenance to assure efficient operation; and
 - (2) neither effluent nor receiving water limitations are exceeded; and
 - (3) the discharger notifies the Board ten days in advance.

The permittee shall submit notice of an unanticipated by-pass as required in paragraph B.1. above.

3. A discharger that wishes to establish the affirmative defense of an upset (see definition in E.6 below) in an action brought for noncompliance shall demonstrate, through properly signed, contemporaneous operating logs, or other evidence, that:

Waste Discharge to Land

- a. an upset occurred and the cause(s) can be identified;
- b. the permitted facility was being properly operated at the time of the upset;
- c. the discharger submitted notice of the upset as required in paragraph B.1. above; and
- d. the discharger complied with any remedial measures required by waste discharge requirements.

In any enforcement proceeding, the discharger seeking to establish the occurrence of an upset has the burden of proof.

4. A discharger whose waste flow has been increasing, or is projected to increase, shall estimate when flows will reach hydraulic and treatment capacities of its treatment, collection, and disposal facilities. The projections shall be made in January, based on the last three years' average dry weather flows, peak wet weather flows and total annual flows, as appropriate. When any projection shows that capacity of any part of the facilities may be exceeded in four years, the discharger shall notify the Board by **31 January**.
5. Effluent samples shall be taken downstream of the last addition of wastes to the treatment or discharge works where a representative sample may be obtained prior to disposal. Samples shall be collected at such a point and in such a manner to ensure a representative sample of the discharge.
6. Definitions
 - a. Upset means an exceptional incident in which there is unintentional and temporary noncompliance with effluent limitations because of factors beyond the reasonable control of the Discharger. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper action.
 - b. The monthly average discharge is the total discharge by volume during a calendar month divided by the number of days in the month that the facility was discharging. This number is to be reported in gallons per day or million gallons per day.

Where less than daily sampling is required by this Order, the monthly average shall be determined by the summation of all the measured discharges by the number of days during the month when the measurements were made.
 - c. The monthly average concentration is the arithmetic mean of measurements made during the month.
 - d. The "daily maximum" **discharge** is the total discharge by volume during any day.

Waste Discharge to Land

- e. The “daily maximum” **concentration** is the highest measurement made on any single discrete sample or composite sample.
- f. A “grab” sample is any sample collected in less than 15 minutes.
- g. Unless otherwise specified, a composite sample is a combination of individual samples collected over the specified sampling period;
 - (1) at equal time intervals, with a maximum interval of one hour
 - (2) at varying time intervals (average interval one hour or less) so that each sample represents an equal portion of the cumulative flow.

The duration of the sampling period shall be specified in the Monitoring and Reporting Program. The method of compositing shall be reported with the results.

7. Annual Pretreatment Report Requirements:

Applies to dischargers required to have a Pretreatment Program as stated in waste discharge requirements.)

The annual report shall be submitted **by 28 February** and include, but not be limited to, the following items:

- a. A summary of analytical results from representative, flow-proportioned, 24-hour composite sampling of the influent and effluent for those pollutants EPA has identified under Section 307(a) of the Clean Water Act which are known or suspected to be discharged by industrial users.

The discharger is not required to sample and analyze for asbestos until EPA promulgates an applicable analytical technique under 40 CFR (Code of Federal Regulations) Part 136. Sludge shall be sampled during the same 24-hour period and analyzed for the same pollutants as the influent and effluent sampling analysis. The sludge analyzed shall be a composite sample of a minimum of 12 discrete samples taken at equal time intervals over the 24-hour period. Wastewater and sludge sampling and analysis shall be performed at least annually. The discharger shall also provide any influent, effluent or sludge monitoring data for nonpriority pollutants which may be causing or contributing to Interference, Pass Through or adversely impacting sludge quality. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto.

- b. A discussion of Upset, Interference, or Pass Through incidents, if any, at the treatment plant which the discharger knows or suspects were caused by industrial users of the system. The discussion shall include the reasons why the incidents occurred, the corrective actions taken and, if known, the name and address of the industrial user(s) responsible. The discussion shall also include a review of the applicable pollutant limitations to determine whether any

Waste Discharge to Land

additional limitations, or changes to existing requirements, may be necessary to prevent Pass Through, Interference, or noncompliance with sludge disposal requirements.

- c. The cumulative number of industrial users that the discharger has notified regarding Baseline Monitoring Reports and the cumulative number of industrial user responses.
- d. An updated list of the discharger's industrial users including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The discharger shall provide a brief explanation for each deletion. The list shall identify the industrial users subject to federal categorical standards by specifying which set(s) of standards are applicable. The list shall indicate which categorical industries, or specific pollutants from each industry, are subject to local limitations that are more stringent than the federal categorical standards. The discharger shall also list the noncategorical industrial users that are subject only to local discharge limitations. The discharger shall characterize the compliance status through the year of record of each industrial user by employing the following descriptions:
 - (1) Complied with baseline monitoring report requirements (where applicable);
 - (2) Consistently achieved compliance;
 - (3) Inconsistently achieved compliance;
 - (4) Significantly violated applicable pretreatment requirements as defined by 40 CFR 403.8(f)(2)(vii);
 - (5) Complied with schedule to achieve compliance (include the date final compliance is required);
 - (6) Did not achieve compliance and not on a compliance schedule;
 - (7) Compliance status unknown.

A report describing the compliance status of any industrial user characterized by the descriptions in items (d)(3) through (d)(7) above shall be **submitted quarterly from the annual report date** to EPA and the Board. The report shall identify the specific compliance status of each such industrial user. This quarterly reporting requirement shall commence upon issuance of this Order.

- e. A summary of the inspection and sampling activities conducted by the discharger during the past year to gather information and data regarding the industrial users. The summary shall include but not be limited to, a tabulation of categories of dischargers that were inspected and sampled; how many and how often; and incidents of noncompliance detected.

Waste Discharge to Land

- f. A summary of the compliance and enforcement activities during the past year. The summary shall include the names and addresses of the industrial users affected by the following actions:
- (1) Warning letters or notices of violation regarding the industrial user's apparent noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the apparent violation concerned the federal categorical standards or local discharge limitations;
 - (2) Administrative Orders regarding the industrial user's noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations;
 - (3) Civil actions regarding the industrial user's noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations;
 - (4) Criminal actions regarding the industrial user's noncompliance with federal categorical standards or local discharge limitations. For each industrial user, identify whether the violation concerned the federal categorical standards or local discharge limitations.
 - (5) Assessment of monetary penalties. For each industrial user identify the amount of the penalties;
 - (6) Restriction of flow to the treatment plant; or
 - (7) Disconnection from discharge to the treatment plant.
- g. A description of any significant changes in operating the pretreatment program which differ from the discharger's approved Pretreatment Program, including, but not limited to, changes concerning: the program's administrative structure; local industrial discharge limitations; monitoring program or monitoring frequencies; legal authority of enforcement policy; funding mechanisms; resource requirements; and staffing levels.
- h. A summary of the annual pretreatment budget, including the cost of pretreatment program functions and equipment purchases.
- i. A summary of public participation activities to involve and inform the public.
- j. A description of any changes in sludge disposal methods and a discussion of any concerns not described elsewhere in the report.

Duplicate signed copies of these reports shall be submitted to the Board and:

Regional Administrator
U.S. Environmental Protection Agency W-5
75 Hawthorne Street
San Francisco, CA 94105

and

State Water Resource Control Board
Division of Water Quality
P.O. Box 100
Sacramento, CA 95812

Revised January 2004 to update addresses and phone numbers

INFORMATION SHEET

ORDER R5-2015-0105
PANOCHÉ VALLEY SOLAR, LLC
PANOCHÉ VALLEY SOLAR PROJECT
SAN BENITO COUNTY

On 4 November 2014, Panoche Valley Solar, LLC (Discharger) submitted a 401 Water Quality Certification application package and on 30 January 2015, submitted a revised application that also serves as a Report of Waste Discharge (ROWD) for proposed discharge of fill to waters of the State resulting from the construction and operation of a utility-scale solar photovoltaic energy generating facility, known as the Panoche Valley Solar Facility (the Project), on private lands in San Benito County, California. Additional ROWD information was submitted on 9 February and 5 March. The Project's footprint is approximately 2,506 acres. The Project footprint is approximately two miles north of the intersection of Panoche Road and Little Panoche Road, in eastern San Benito County. The Project is approximately two miles southwest of the Fresno County Line and the Panoche Hills, and approximately 15 miles west of Interstate 5 and the San Joaquin Valley. The property is currently used for cattle grazing and has been used for irrigated agriculture in the past.

The Project footprint is planned to avoid impacts to natural drainages and wetland areas to the greatest extent possible while achieving the Project's objectives. The Project is also designed to maintain the pre-development hydrology of the site through use of low impact development techniques including construction of specially engineered low water crossings and arched pipe culverts in drainage crossings necessary for construction of the perimeter safety road. Best management practices will also be implemented to decrease impacts to waters of the State through FEIR and SEIR approved mitigation measures and the National Pollution Discharge Elimination System Permit for construction storm water discharges.

The Project drains by sheet flow and small ephemeral drainages to Las Aguilas and Panoche Creeks. In general, a majority of drainages are formed in topography in the rolling hills to the east and west outside the Project boundary, concentrating minimal short-duration flows in small drainages. In most of the drainages, flow events do not appear to maintain the volume and/or duration required to establish an ordinary high water mark (OHWM) which was used by the U.S. Army Corps of Engineers (Corps) to identify portions of five drainages as jurisdictional for Clean Water Act Section 404 permitting purposes. Where the OHWM was no longer visible, the end of the drainage was noted and the Corps determined its jurisdiction ended. The Discharger applied to the California Department of Fish and Wildlife (CDFW) for a Lake and Streambed Alteration agreement for the Project. CDFW regulates activities that alter habitat in the channel, bed, and bank of streams, which encompasses a larger area than the Corps jurisdiction. As the State Water Resources Control Board does not have a procedure for delineating the extent of a water of the State, these WDRs base impacts to waters of the State to be consistent with the area used by CDFW. The Central Valley Regional Water Quality Control Board (Central Valley Water Board) is issuing these Waste

Discharge Requirements to ensure there is mitigation for impacts to waters of the State that are not subject to the jurisdiction of the Corps. The Central Valley Water Board will issue a separate Clean Water Act §401 Water Quality Certification for the impacts to the federal jurisdictional areas within the Project.

The prohibitions in this Order are largely based on prohibitions in the Water Quality Control Plan for the Tulare Lake Basin, Second Edition, revised January 2004 (Basin Plan) or parts of the California Code of Regulations and California Water Code that restrict discharges to those proposed by the Discharger and evaluated by and authorized by the Central Valley Water Board. Discharge specifications in this Order are largely designed to ensure discharges meet the water quality objectives listed in the Basin Plan or to ensure the Discharger implements measures it proposed and/or are necessary to protect water quality.

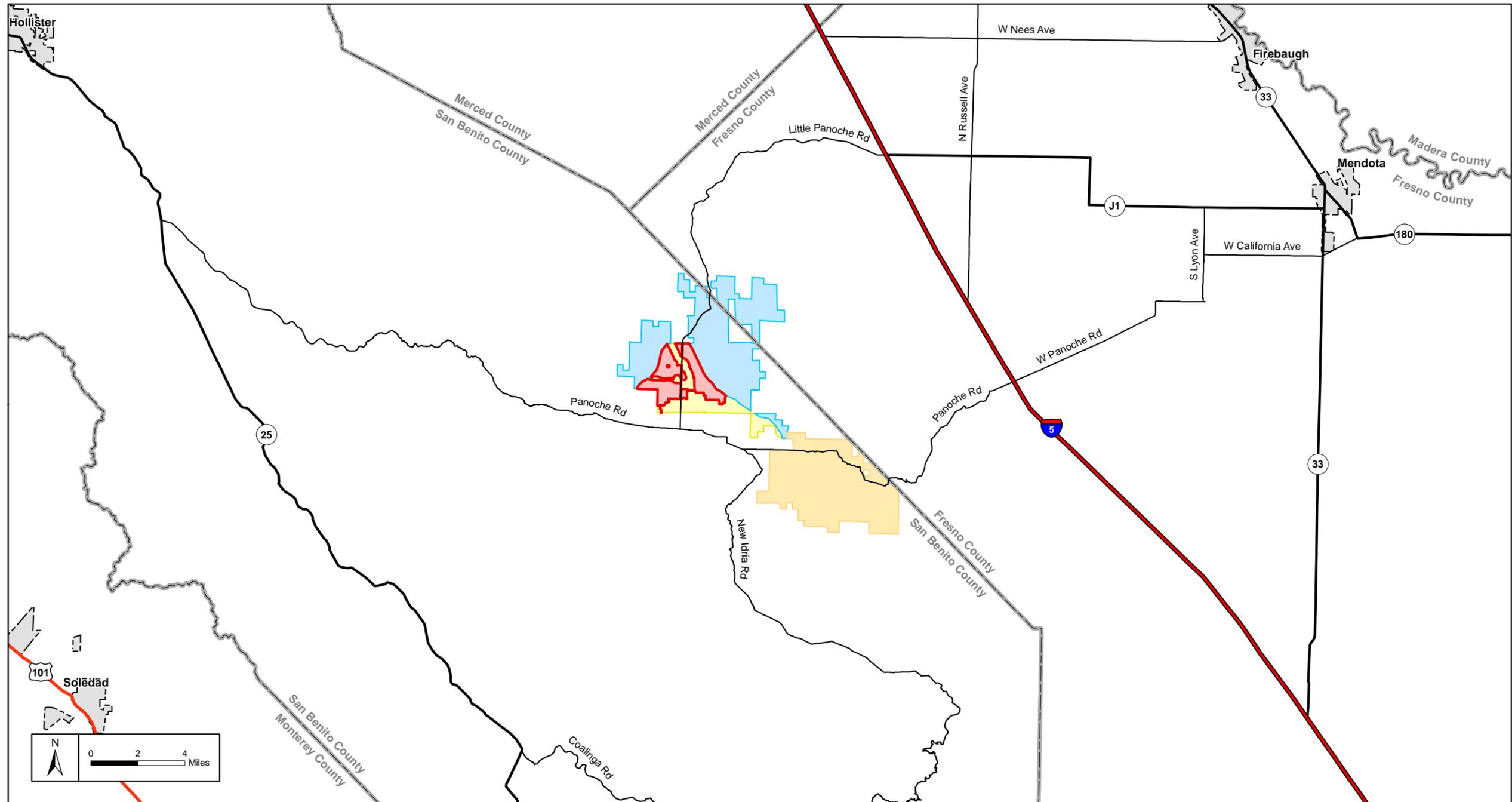
Avoidance of impacts to waters of the State was a primary planning consideration in establishing the location of infrastructure within the Project. Due to the effort in avoiding waters of the State, the Project avoids impacts to 6.179 acres of the 14.767 acres (29,996 linear feet), or 42% of the on-site waters within the Project footprint. To mitigate for the loss of waters of the State, and to comply with the goals of the California Wetlands Conservation Policy (Executive Order W-59-93, signed 23 August 1993), which include ensuring "no overall loss" and achieving a "...long-term net gain in the quantity, quality, and permanence of wetland acreage and values in California in a manner that fosters creativity, stewardship, and respect for private property ...," the Discharger will enhance, create, and restore a total of 11.96 acres of drainages, vernal pools, and wetlands. The Discharger is permanently protecting three off-site open space preserves (Conservation Lands) with a combined area of 24,176 acres under conservation easements and will implement long-term management for the preserves. The creation, enhancement, and restoration areas are located within the Conservation Lands. Additionally, approximately 716,853 linear feet (approximately 136 miles) of streams, drainages, and creeks within the Conservation Lands will be preserved in perpetuity. In summary, permanent impacts to 8.710 acres and 21,357 linear feet of waters of the State and waters of the United States will be mitigated by the creation, enhancement, or restoration of 11.96 acres of drainages and wetlands and permanent protection of three off-site open space preserves with 716,853 linear feet of streams, drainages, and creeks, resulting in a creation/ enhancement/ restoration ratio of 1.4 to 1, and a preservation ratio of 19.5 to 1.

The mitigation ratios applied for permanently impacted waters are consistent with the U.S. Army Corps of Engineers' and the Environmental Protection Agency's Compensatory Mitigation for Losses of Aquatic Resources, Final Rule (73 FR 19594-19705) to provide permittee-responsible compensatory mitigation of "no net loss" of wetland acreage and function. The Discharger submitted a wetland mitigation and monitoring plan which includes a functional assessment of the proposed mitigation areas and demonstrates that implementation of the plan will result in a net increase in

form and function of aquatic resources. The proposed Order will require implementation of the mitigation plan.

The Discharger has proposed many mitigation measures that are included in this Order to ensure protection of water quality during development of the Project. The measures, an antidegradation analysis, and best practicable treatment or control are discussed in detail in the Order. Maintaining compliance with this Order will result in compliance with the State Water Resources Control Board Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California).

ATTACHMENT A
 ORDER R5-2015-0105
 PANOCH VALLEY SOLAR LLC
 PANOCH VALLEY SOLAR PROJECT
 SAN BENITO COUNTY

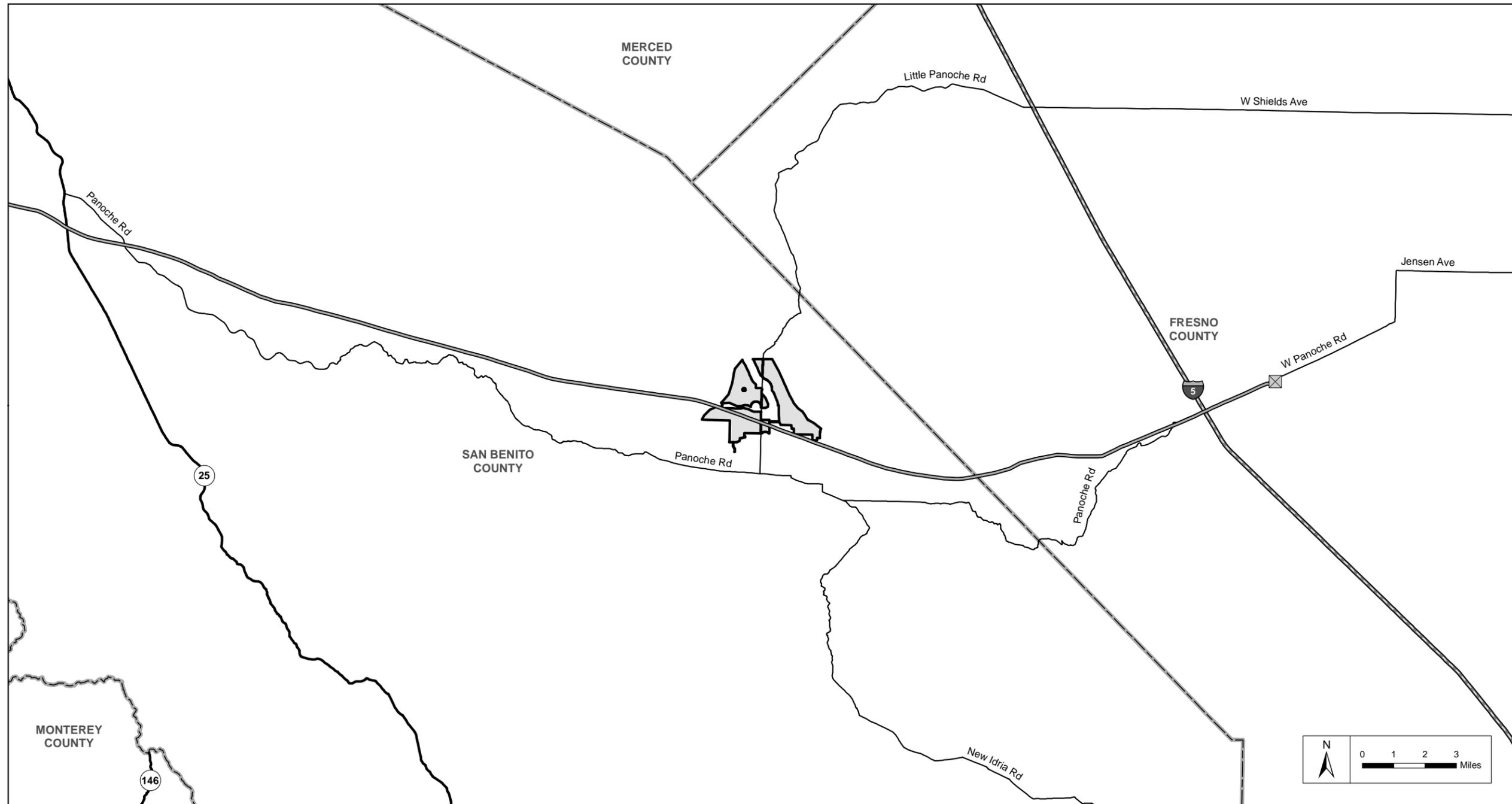


Legend

- Project Footprint
- Valadeao Ranch Conservation Lands
- Valley Floor Conservation Lands
- Silver Creek Ranch Conservation Lands
- City

Panoche Valley Solar Project
 Project Location

FIGURE
 1

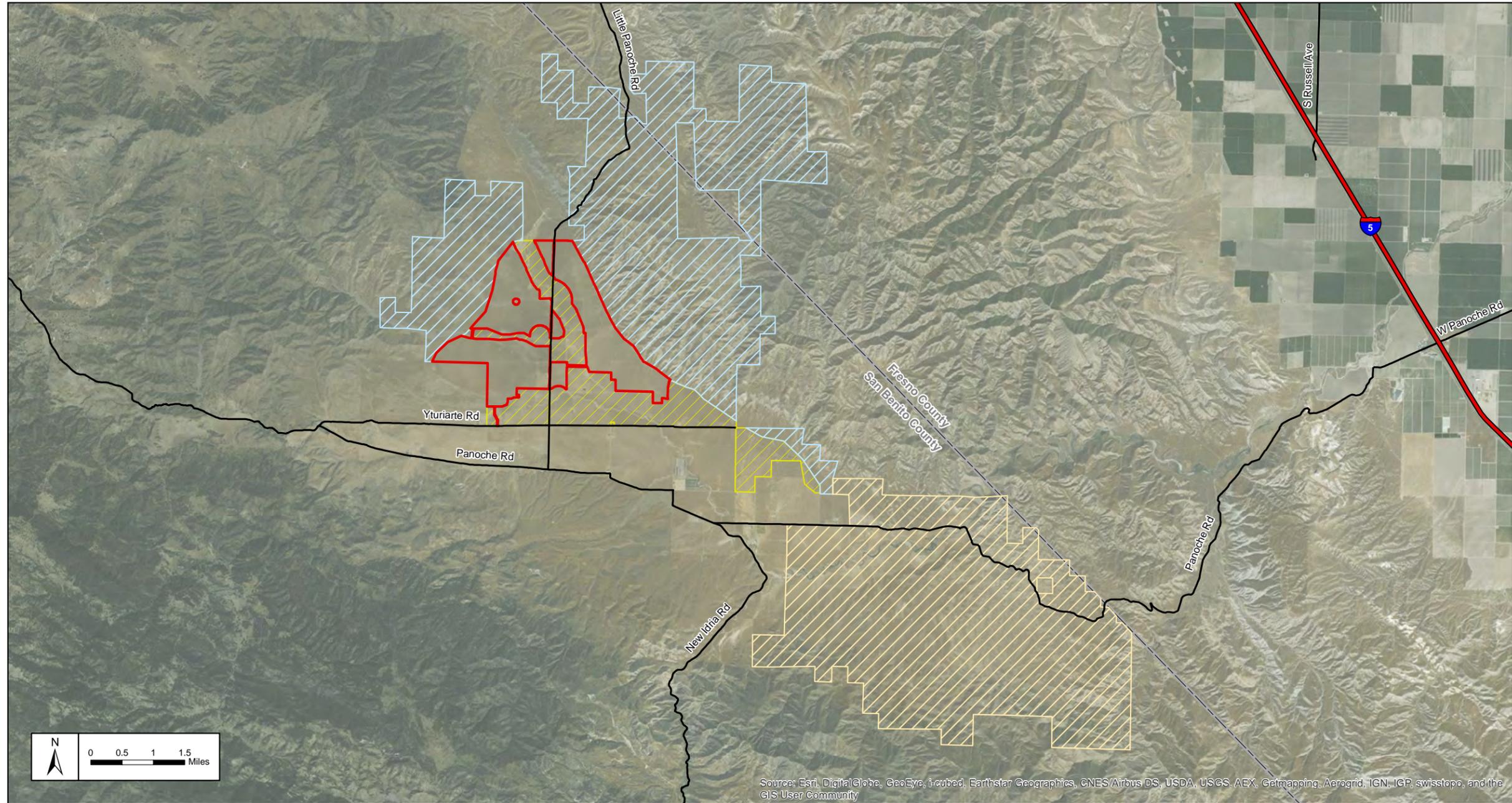


Legend

- | | |
|---|---|
|  Project Footprint |  Panoche Substation |
|  County Boundary |  Electric Transmission |

Panoche Valley Solar Project
 Telecom Upgrades
 Regional Overview

FIGURE
 2

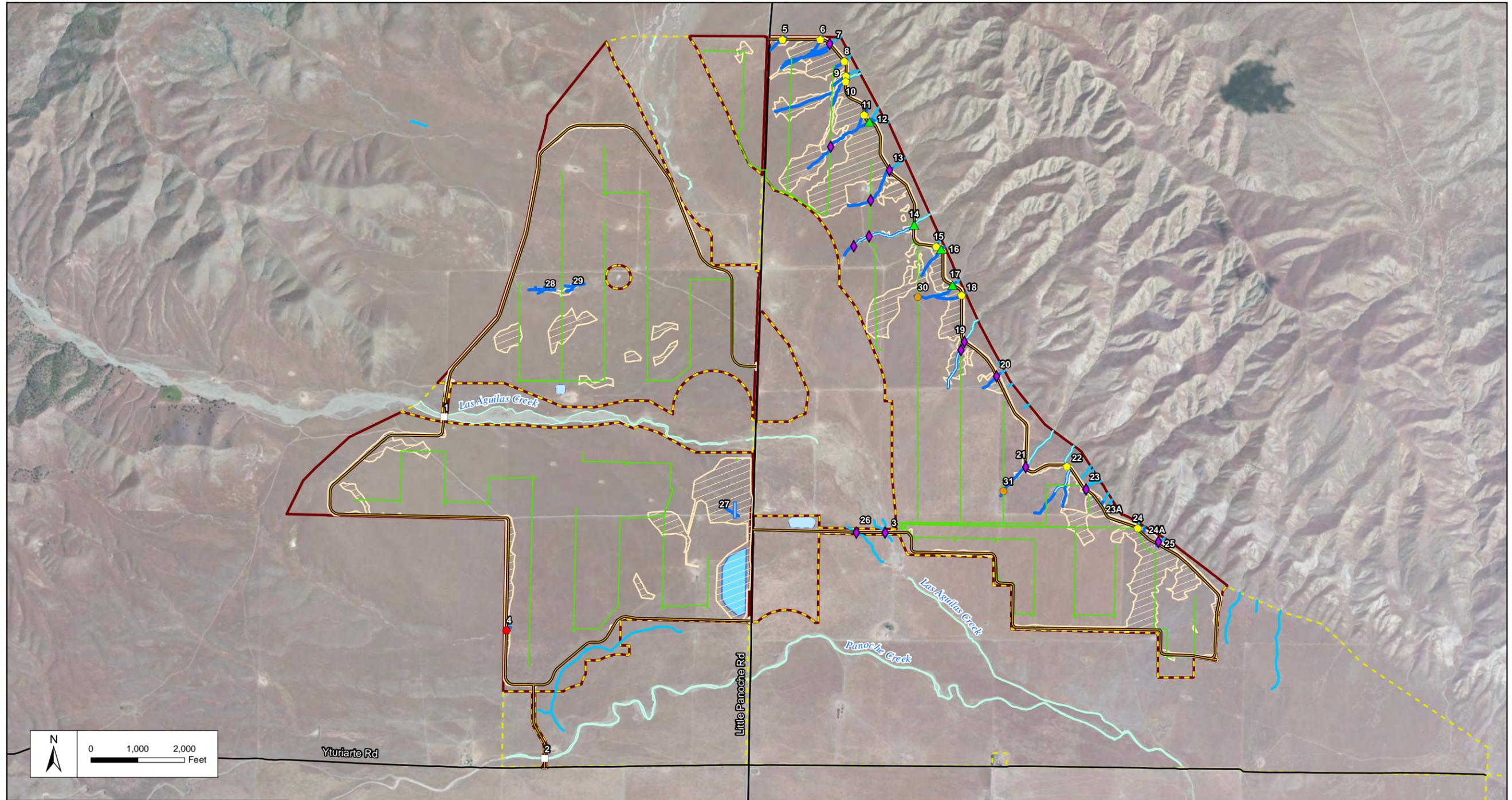


Legend

- Project Footprint
- Valadeao Ranch Conservation Lands
- Valley Floor Conservation Lands
- Silver Creek Ranch Conservation Lands

Panoche Valley Solar Project
 Project Footprint and Conservation Lands

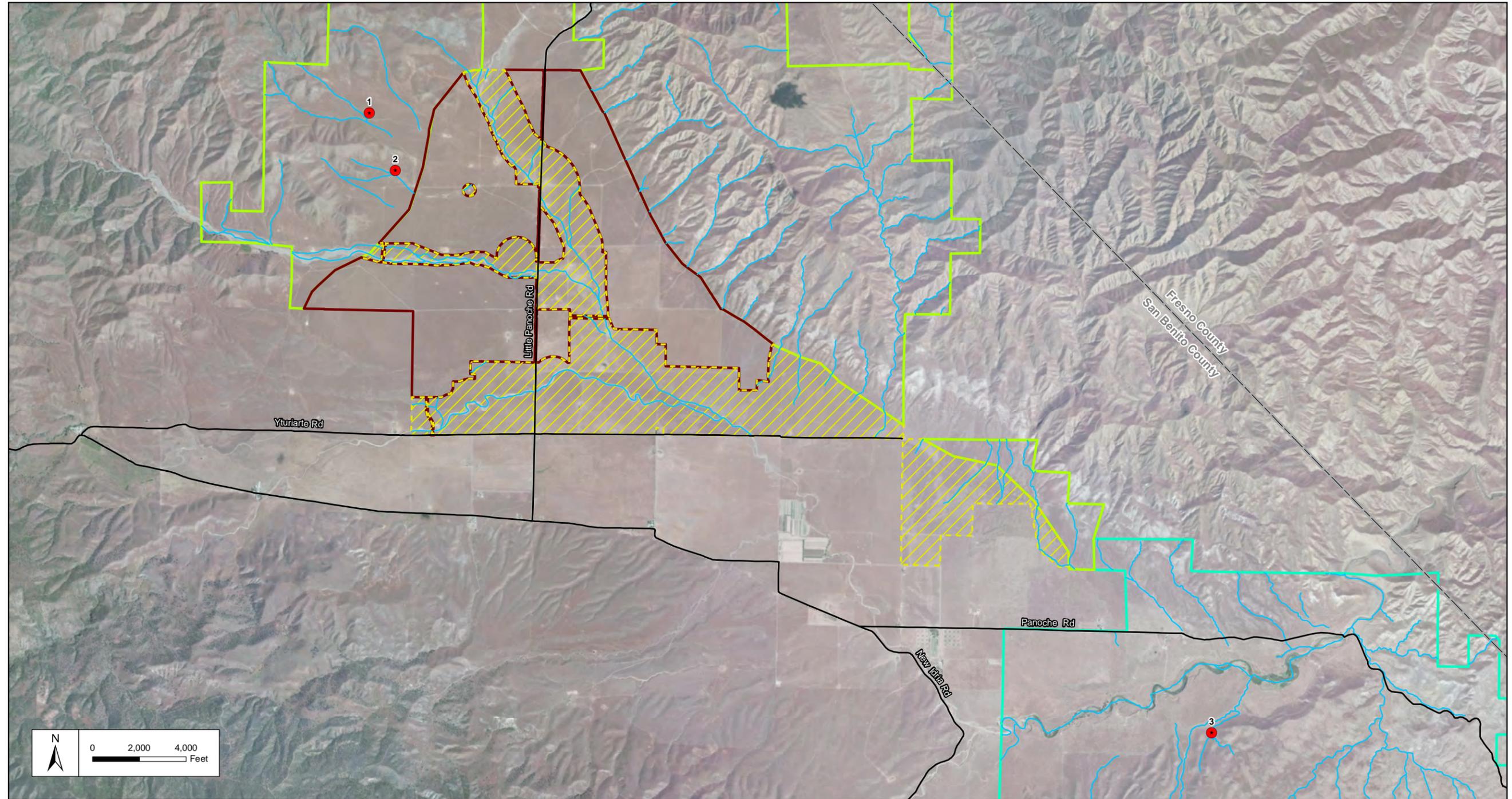
FIGURE
 3



Legend			
Project Footprint	Perimeter Road	Drainage	Low Water Crossing
Valley Floor Conservation Lands	AC Block Feeder	Drainage Impact	Single Span Bridge
Grading Area	Federal Jurisdictional Drainage	Culvert	Trench
Detention Pond	Temporary Water Pond	Diversion	Vented Ford

Panoche Valley Solar Project
 Drainage Impacts

FIGURE
 4A

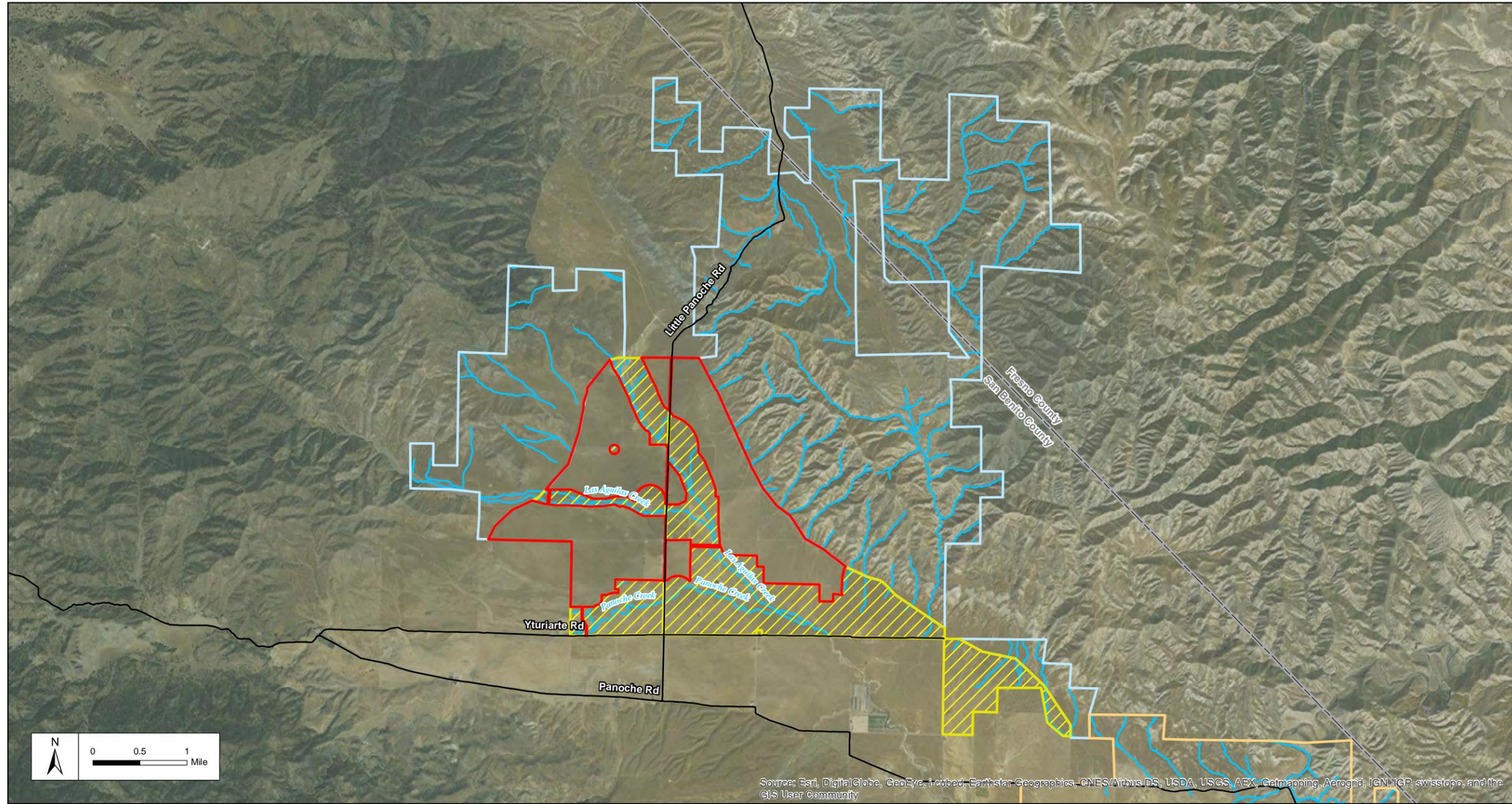


Legend

- | | |
|---|---|
|  Project Footprint |  Silver Creek Ranch Conservation Lands |
|  Proposed Mitigation Pond Location |  Valadeao Ranch Conservation Lands |
|  Conservation Lands Waters |  Valley Floor Conservation Lands |

Panoche Valley Solar Project
 California Tiger Salamander Proposed Mitigation Ponds

FIGURE
4B



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Geomapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

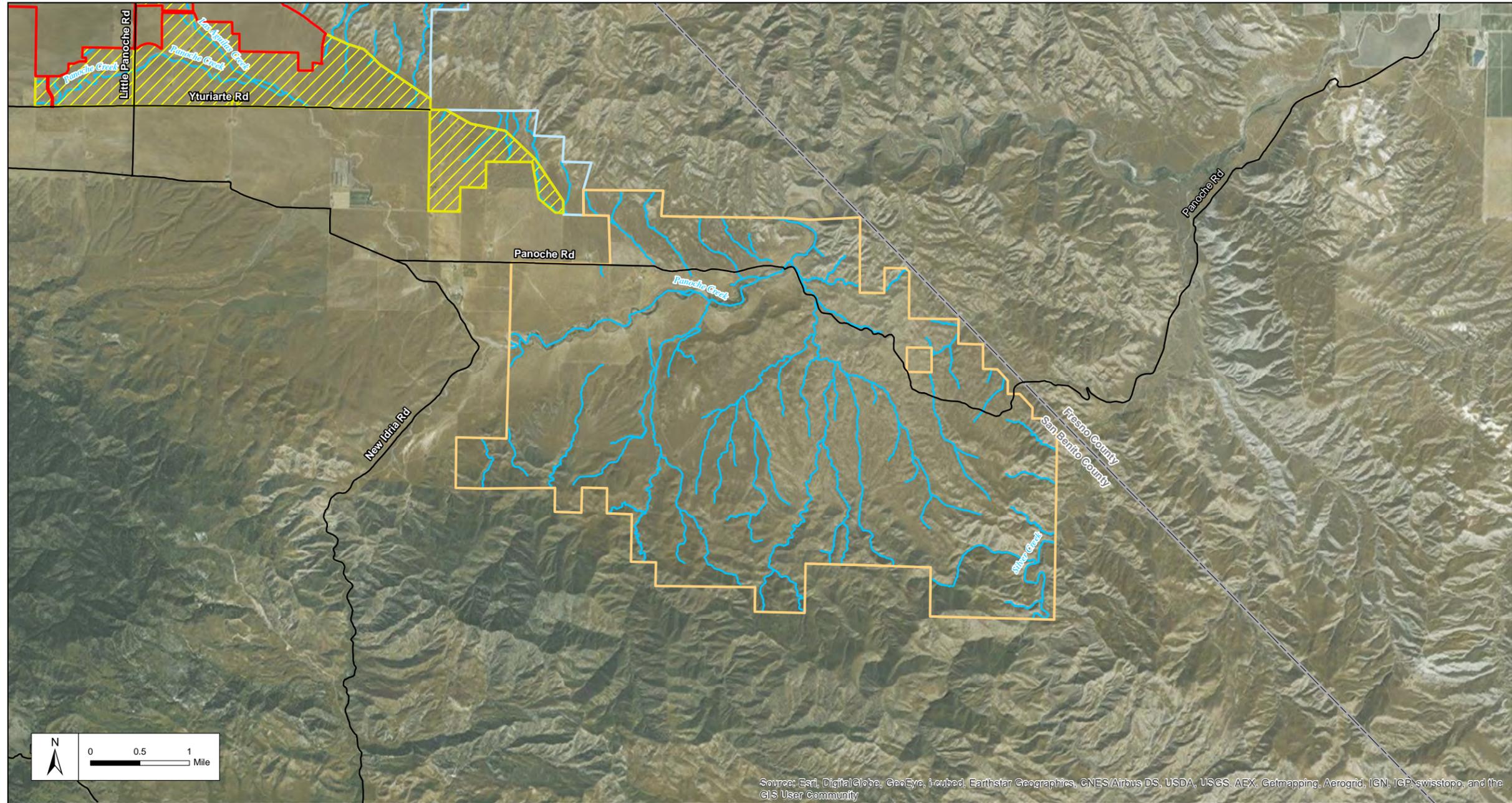
Legend

- Project Footprint
- Silver Creek Ranch Conservation Lands
- Valadeao Ranch Conservation Lands
- Valley Floor Conservation Lands
- ~ Stream/Drainage

Panoche Valley Solar Project
 Conservation Lands Waters
 Valadeao Ranch and Valley Floor

FIGURE
5A

ATTACHMENT A
 ORDER R5-2015-0105
 PANOCH VALLEY SOLAR LLC
 PANOCH VALLEY SOLAR PROJECT
 SAN BENITO COUNTY



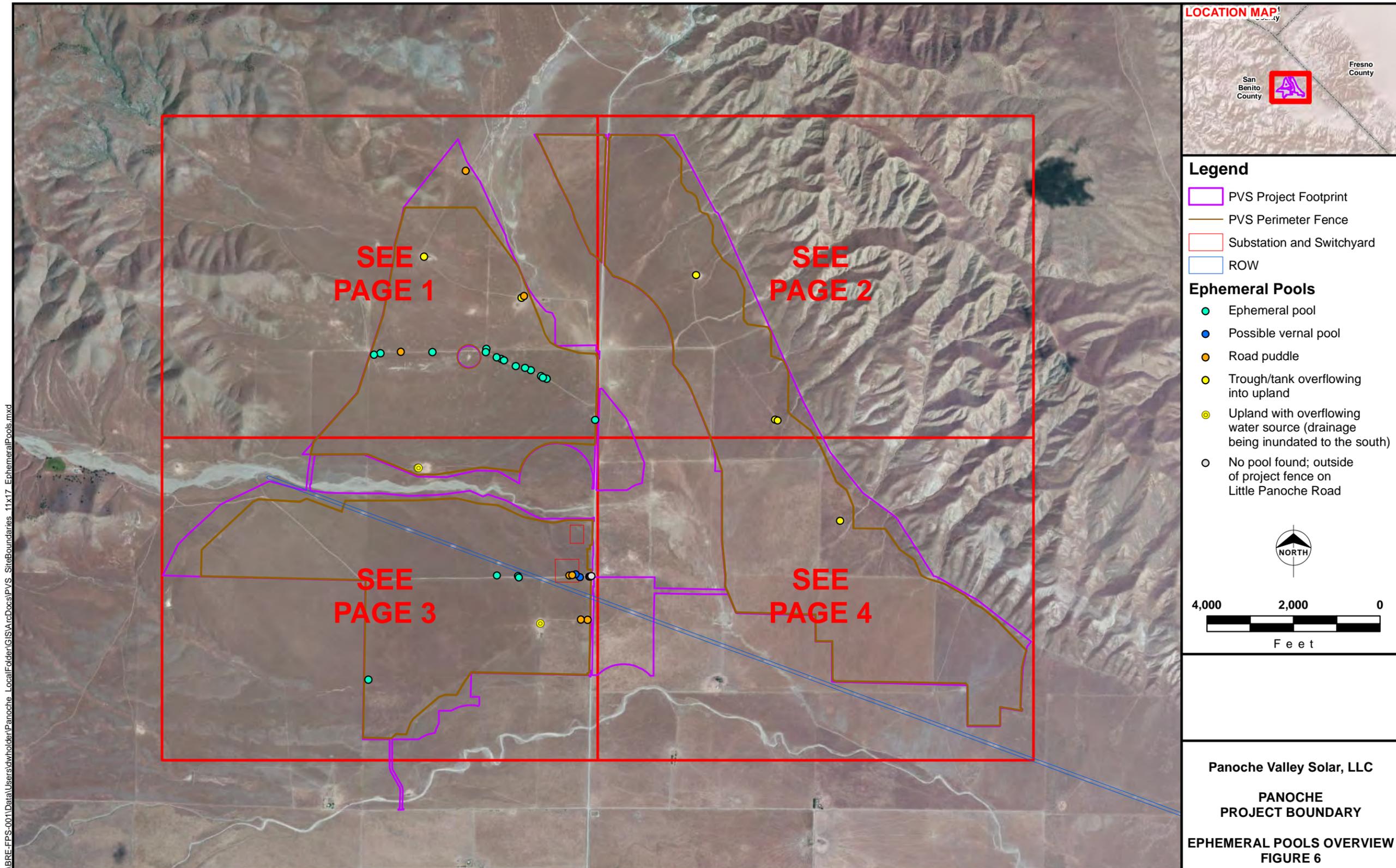
Source: Esri, DigitalGlobe, GeoEye, i-cubed, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Legend

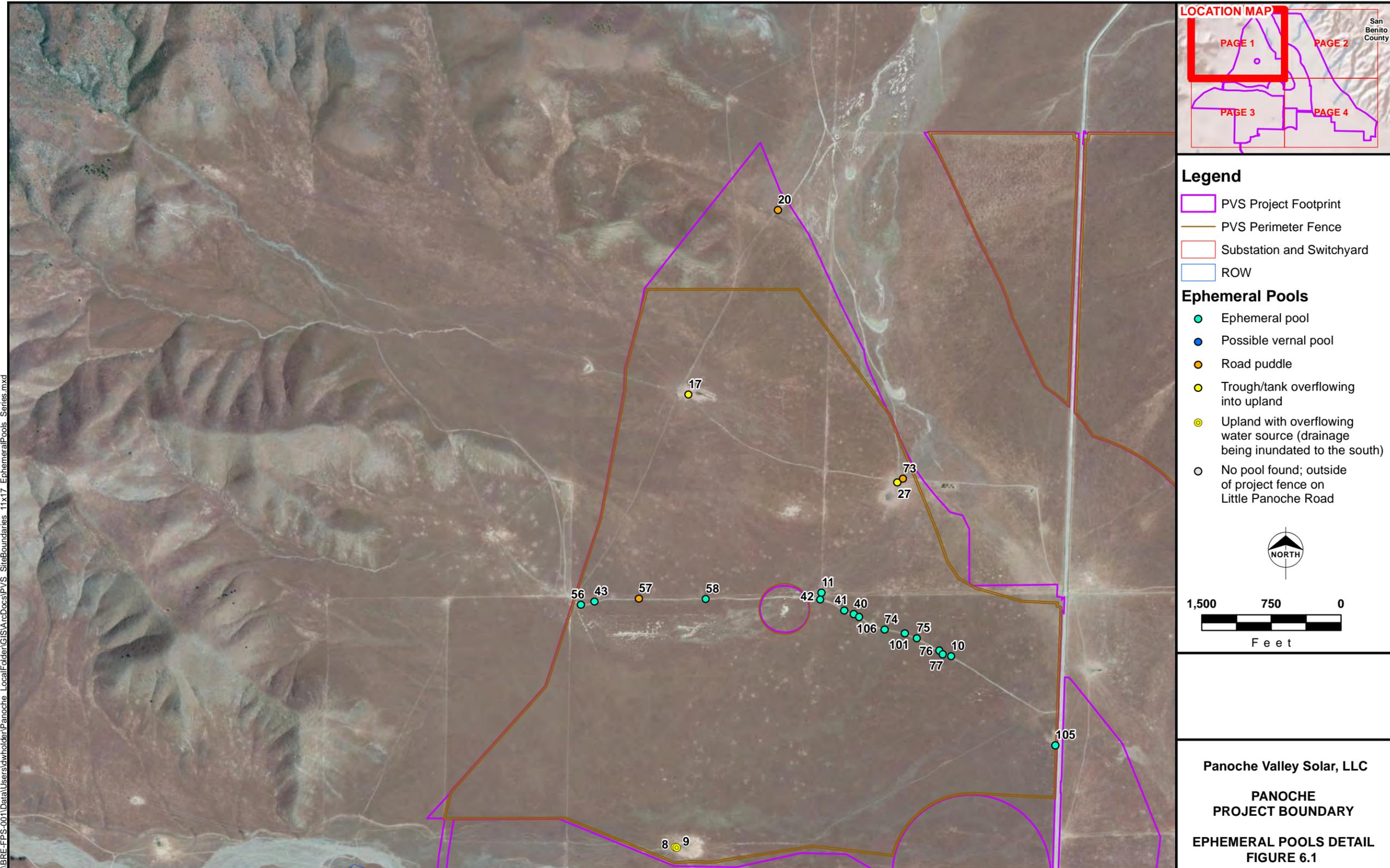
- Project Footprint
- Silver Creek Ranch Conservation Lands
- Valadeao Ranch Conservation Lands
- Valley Floor Conservation Lands
- ~ Stream/Drainage

Panoche Valley Solar Project
 Conservation Lands Waters
 Silver Creek Ranch

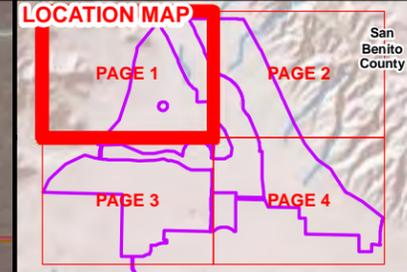
FIGURE
5B



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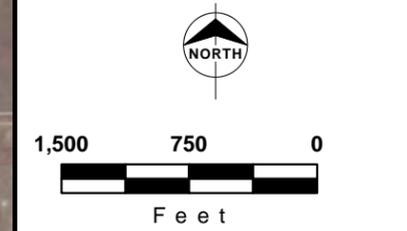


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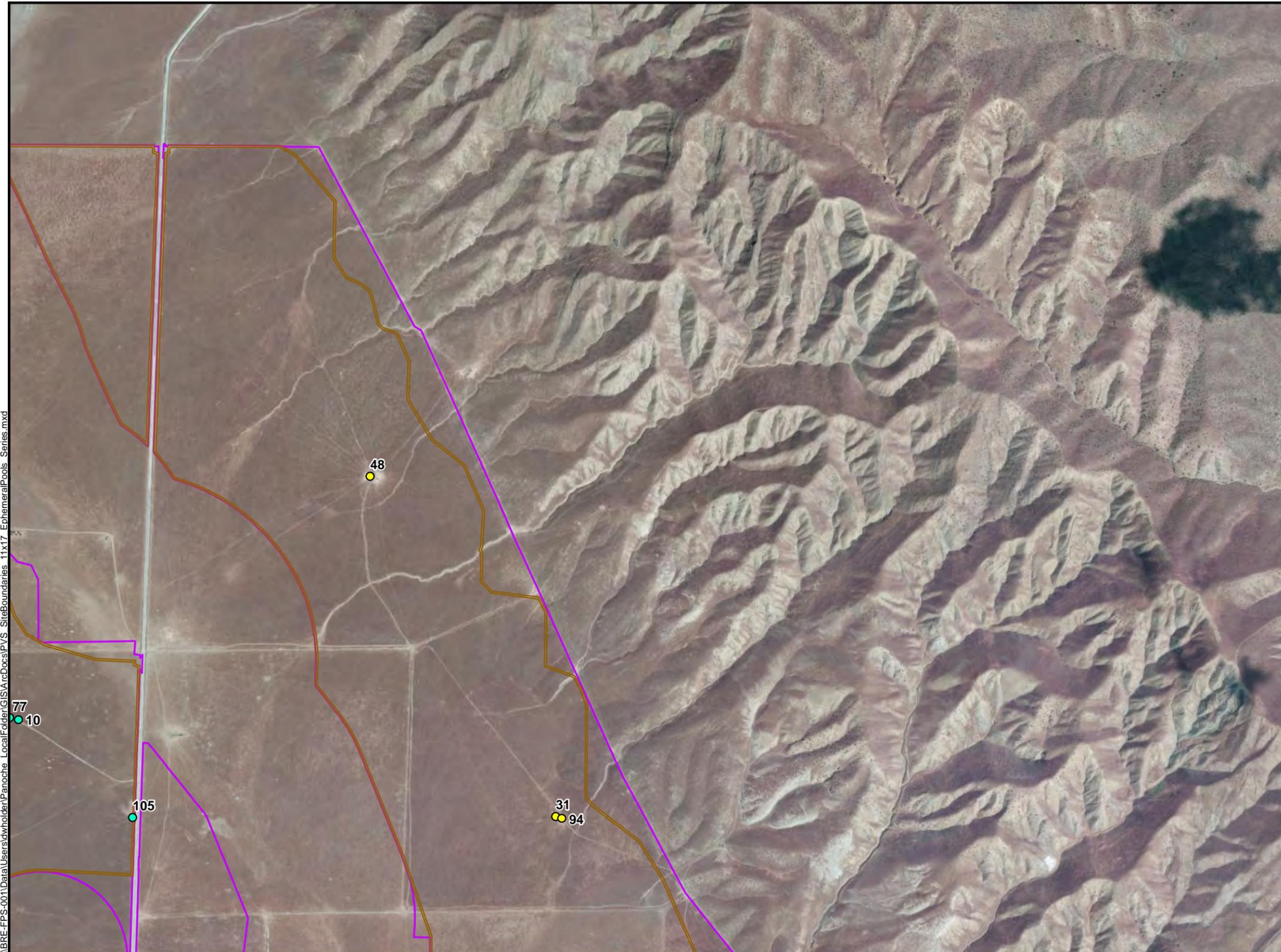


- Legend**
- PVS Project Footprint
 - PVS Perimeter Fence
 - Substation and Switchyard
 - ROW

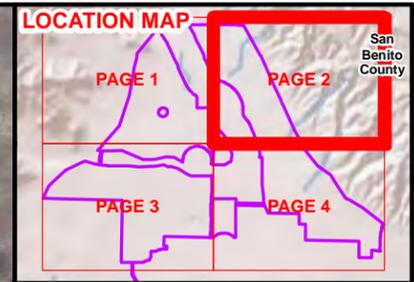
- Ephemeral Pools**
- Ephemeral pool
 - Possible vernal pool
 - Road puddle
 - Trough/tank overflowing into upland
 - Upland with overflowing water source (drainage being inundated to the south)
 - No pool found; outside of project fence on Little Panoche Road



Panoche Valley Solar, LLC
PANOCH
PROJECT BOUNDARY
EPHEMERAL POOLS DETAIL
FIGURE 6.1



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 Panoche Valley Solar Project Boundary, 1:24,000, DWHolder, 3/25/2015

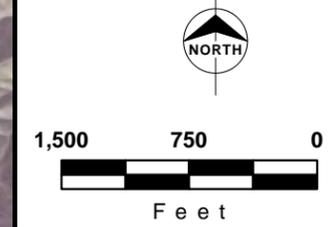


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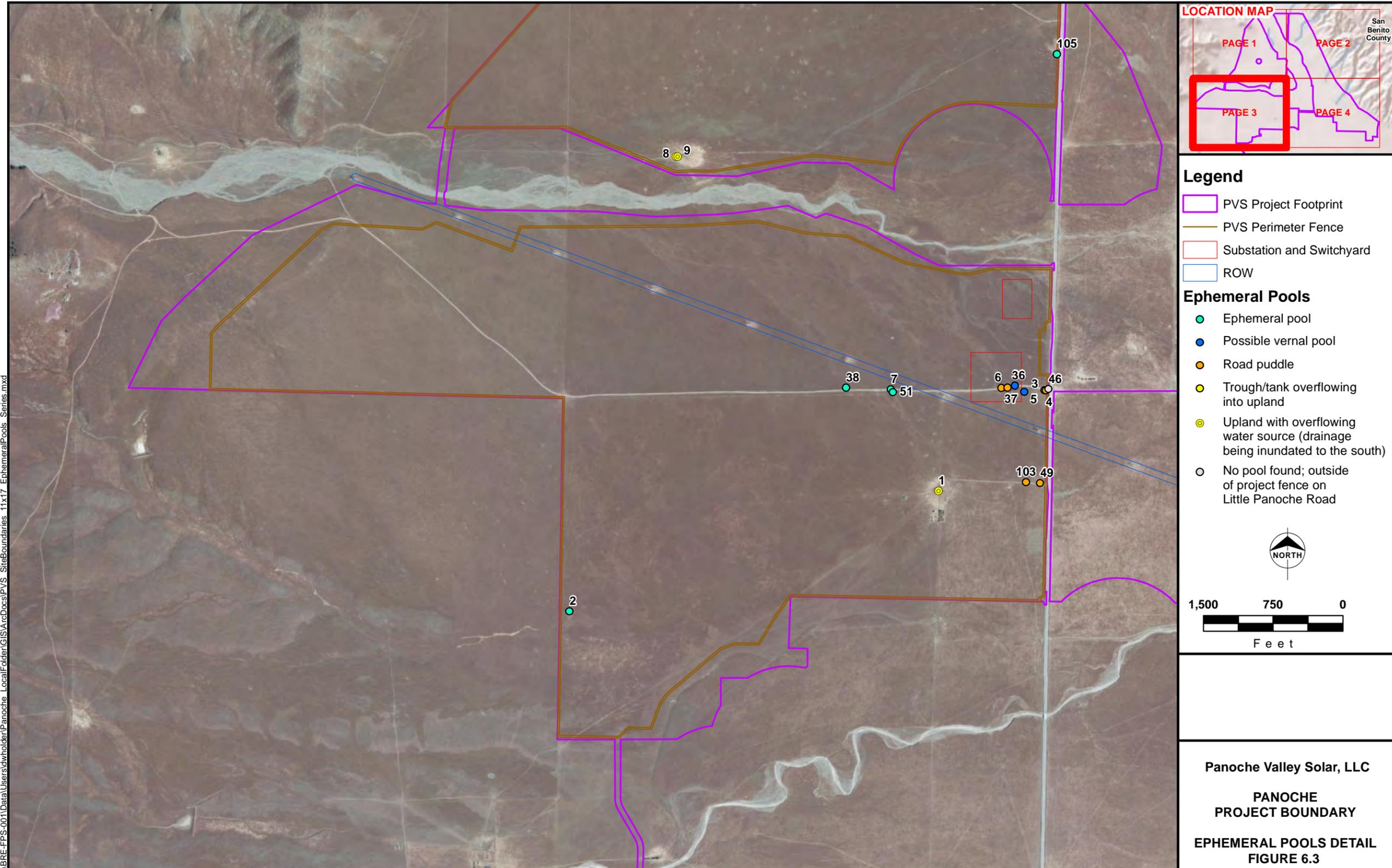
- PVS Project Footprint
- PVS Perimeter Fence
- Substation and Switchyard
- ROW

Ephemeral Pools

- Ephemeral pool
- Possible vernal pool
- Road puddle
- Trough/tank overflowing into upland
- ⊙ Upland with overflowing water source (drainage being inundated to the south)
- No pool found; outside of project fence on Little Panoche Road

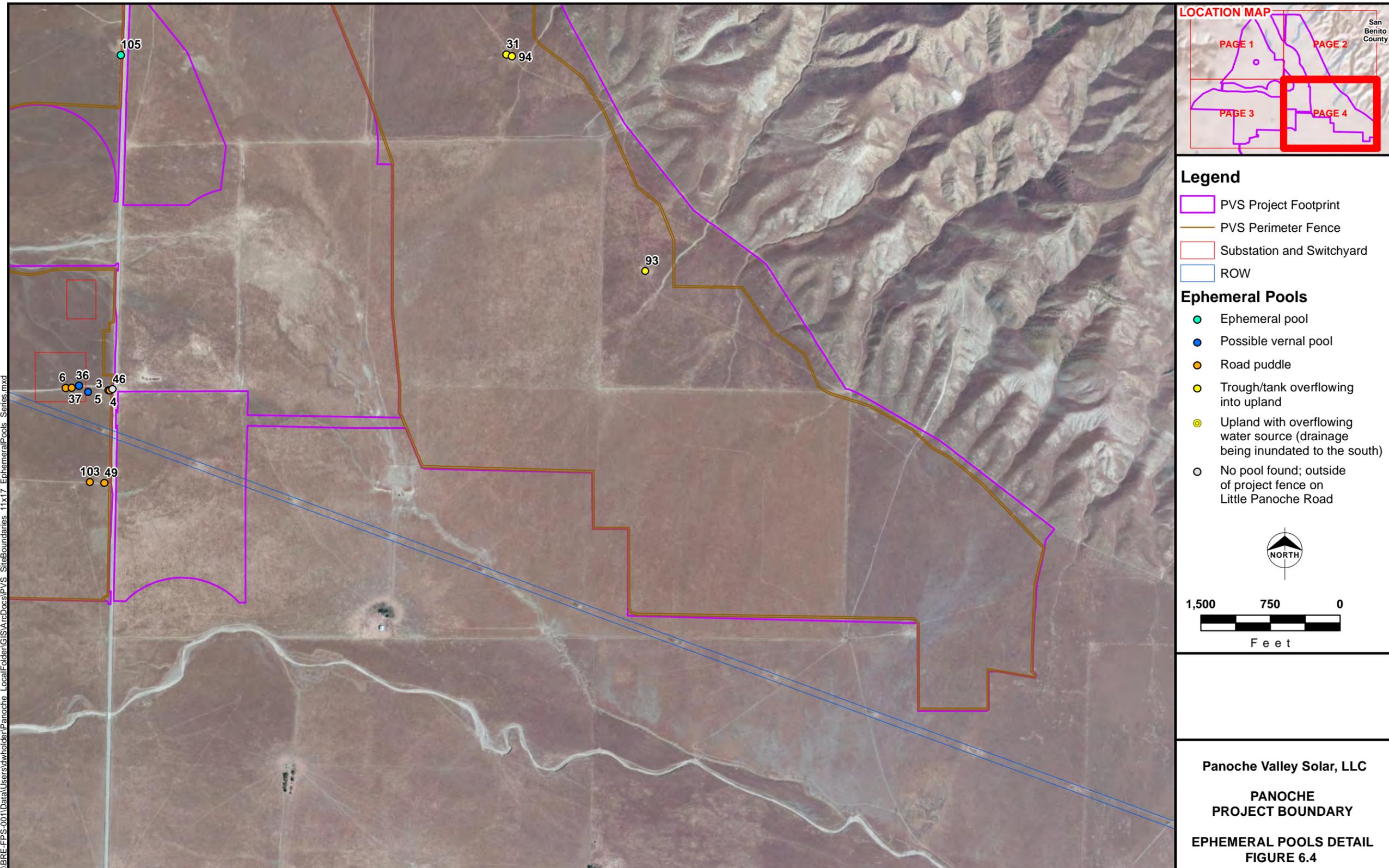


Panoche Valley Solar, LLC
PANOCH
PROJECT BOUNDARY
EPHEMERAL POOLS DETAIL
FIGURE 6.2

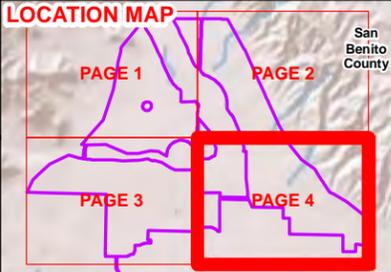


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Panoche Valley Solar, LLC
PANOCHÉ
PROJECT BOUNDARY
EPHEMERAL POOLS DETAIL
FIGURE 6.3

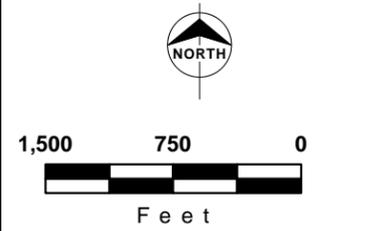


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- Legend**
- PVS Project Footprint
 - PVS Perimeter Fence
 - Substation and Switchyard
 - ROW

- Ephemeral Pools**
- Ephemeral pool
 - Possible vernal pool
 - Road puddle
 - Trough/tank overflowing into upland
 - ⊙ Upland with overflowing water source (drainage being inundated to the south)
 - No pool found; outside of project fence on Little Panoche Road



Panoche Valley Solar, LLC

PANOCH
PROJECT BOUNDARY

EPHEMERAL POOLS DETAIL
FIGURE 6.4