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21 Power Authority

22 [ADDITIONAL COUNSEL LISTED ON FOLLOWING PAGE]

23 **BEFORE THE**

24 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

25 HEARING IN THE MATTER OF
26 CALIFORNIA DEPARTMENT OF WATER
27 RESOURCES AND UNITED STATES
28 BUREAU OF RECLAMATION'S
REQUEST FOR A CHANGE IN POINT OF
DIVERSION FOR CALIFORNIA WATER FIX

**LOCAL AGENCIES OF THE NORTH DELTA
ET AL., ISLANDS, INC., AND THE SAN
JOAQUIN COUNTY PROTESTANTS'
JOINT MOTION FOR RECONSIDERATION**

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1 **I. Introduction**

2 On February 21, 2017, the Hearing Officers issued a Ruling on Evidentiary Objections
3 (“Ruling”) containing determinations on well over one hundred objections to evidence
4 submitted in Part IB of the California Water Fix Petition Hearings. In the Ruling, the Hearing
5 Officers excluded the following exhibits submitted by Local Agencies of the North Delta
6 (“LAND”): LAND-3, LAND-4, LAND-5, LAND-6, LAND-7, LAND-57, LAND-58, LAND-59 and
7 LAND-60.¹ (Attached collectively hereto as Exhibit 1 for ease of reference.) These exhibits
8 were excluded because they purportedly “do not identify the source of information depicted,
9 and neither exhibits themselves nor any of LAND’s witnesses explained how the exhibits were
10 prepared or by whom.” (Ruling, p. 34.)

11 LAND believes exclusion of these exhibits may be an oversight resulting from the sheer
12 volume of evidentiary objections the Officers were forced to rule on in an abbreviated period of
13 time. As explained herein, these documents were improperly excluded, the documents have
14 properly been authenticated, and the documents are otherwise admissible. (See Exhibit 2,
15 Summary of Testimony Supporting Excluded LAND Exhibits.) This Motion for Reconsideration
16 references and explains the materials that fully support the admission of these exhibits,
17 especially under the relaxed standard that governs administrative adjudications. (Gov. Code,
18 § 11513.)

19 **II. Factual Background**

20 As part of its California Water Fix Case in Chief, LAND submitted a number of
21 evidentiary exhibits, including expert and lay testimony, maps of the areas being testified
22 about, and other materials relied upon by expert witnesses. On September 21, 2016, the
23 Department of Water Resources (“DWR”) and the San Luis & Delta-Mendota Water Authority
24 (“SLDMWA”) filed dozens of objections to these exhibits, arguing that they were hearsay,
25

26 ¹ This Motion for Reconsideration does not request reconsideration of the Ruling’s
27 conclusions regarding LAND-51 through LAND-55. Incorporation by reference of the
28 protestants’ water rights on file with the SWRCB was requested simply to demonstrate that the
protestants have underlying water rights. Admission of these exhibits, however, is not
necessary since “[a]ny person may protest” the filing of a petition for a change in diversion.
(Wat. Code, § 1102.1.)

1 irrelevant, lacked foundation, or were otherwise inadmissible.² LAND responded to both sets
2 of Objections on November 2, 2016, outlining the admissibility of each exhibit.³ On November
3 4, 2016, the Hearing Officers provided an oral ruling on the objections at issue.⁴ At that time,
4 the Hearing officers ruled to sustain objections to LAND’s attempt to authenticate figures
5 through witness authentication, and struck the supporting declaration of LAND’s counsel.
6 DWR and SLDMWA filed additional and renewed Objections on December 30, 2016.⁵ On
7 January 6, 2017, LAND responded to these additional Objections, arguing that the exhibits
8 were admissible under the relevant standard provided by Government Code section 11513,
9 and that any remaining questions regarding the reliability of the documents went to the weight
10 to be given to the documents, not their admissibility.⁶ The Ruling that is the subject matter of
11 this Motion for Reconsideration followed on February 21, 2017.

12 III. Argument

13 A. **LAND-3 through LAND-7 are Admissible Evidence**

14 The Ruling excluded LAND-3 through LAND-7 on the basis that they “do not identify the
15 source of the information depicted, and neither the exhibits themselves nor any of LAND’s
16 witnesses explained how the exhibits were prepared or by whom.” (Ruling, p. 34.) These
17 documents, however, are based on documents generated from DWR, the Delta Habitat

18
19 ² See DWR Objections, available at:
20 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi
21 [x/opening_statements/objections_part_1b/20160921_dwr_obj_land.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi); SLDMWA Objections ,
22 available at:

23 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi
24 [x/opening_statements/objections_part_1b/20160921_sldmwa_obj.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi).

25 ³ See LAND et al.’s November 2016 Response to Objections, available at:
26 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi
27 [x/opening_statements/docs/20161102_land_resp.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi).

28 ⁴ See November 4, 2016 Transcript, 4:8-25, available at:
29 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi
30 [x/docs/transcripts/20161104_transcript.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi).

⁵ See December 30, 2016 DWR Objections, available at:
31 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi
32 [x/docs/petitions/2016dec/20161230_dwr_objection.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi); (December 30, 2016 SLDMWA
33 Objections, available at:

34 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi
35 [x/docs/petitions/2016dec/20161230_sldmwa_objection.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi).

⁶ See LAND et al.’s January 6, 2017, Response to Objections, available at:
36 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi
37 [x/docs/petitions/2017jan/20170106_cosj_response_dwr.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi).

1 Conservation and Conveyance Plan, and other agency documents. All of the maps include
2 text explaining that they were prepared by BSK Associates using Arcmap 10.4 software and
3 relied on the ESRI World Imagery basemap, and each has additional indicia of reliability
4 supporting its admission.

5 LAND-3 and LAND-4 state in the map legend that they are adapted from materials in
6 the 2015 Bay Delta Conservation Plan. The figures also depict the same information regarding
7 the proposed Change Petition as several admitted DWR exhibits. LAND-3 and LAND-4 show
8 essentially the same area as DWR-2, slide 10, adding the location of LAND districts in
9 relationship to the Project's features. This is verified by reference to Exhibit B to the LAND
10 Protest, which the Hearing Officers admitted as LAND-62, which lists all LAND member
11 districts and provides a map of water diversion points within the LAND geographic area.
12 LAND-5, LAND-6, and LAND-7 depict the same underlying geography and proposed project
13 components as seen in DWR-2, slides 23-25. The protestants' diversions depicted on these
14 slides that will be destroyed by the Delta Tunnels intake facilities are also listed in LAND-62,
15 Exhibit B. Thus, admitted evidence establishes and corroborates the reliability of these
16 exhibits.

17 LAND also presented witness testimony establishing the accuracy and reliability of each
18 figure. Expert witness Josef Tootle testified that LAND-3, LAND-4, and LAND-5 are the type of
19 diagrams that he would ordinarily see in his work and rely upon in making assessments. (See
20 Exhibit 2, Summary of Testimony Supporting Excluded LAND Exhibits, Nov. 10, 2016, 82:9-
21 83:5.) He also expressed expert opinion that the documents provide a general idea of the
22 wells located in the area, and that if wells were omitted from the map, it is because the figures
23 were not intended to show *all* wells in the vicinity. (*Ibid.*) Brad Lange testified that LAND-6
24 identifies both the diversions on his property and the prospective placement of the tunnels.
25 (See Exhibit 2, Nov. 3, 2016, 126:17-128:4.) Richard Elliot also testified during both direct and
26 cross examination that LAND-7 depicts his water rights. (Exhibit 2, Nov. 10, 2016, 55:4-21,
27 156:5-14, 195:16-21.) If DWR believed that despite this support, the maps and figures were
28 inaccurate and required correction, DWR had every opportunity to raise those objections

1 during cross examination of the LAND witnesses; yet DWR never did so during any part of the
2 Part IB proceedings.⁷ Similarly, no specific errors in the exhibits were identified in the
3 objections filed by DWR. These exhibits have sufficient foundation and indicia of reliability to
4 properly be admitted. (See generally Gov. Code, § 11513, subd. (c).)

5 **B. LAND-57 through LAND-60 are Admissible Evidence**

6 The Ruling excluded LAND-57 through LAND-60 for the same reasons it excluded
7 LAND-3 through LAND-7, stating that neither LAND nor its witnesses had produced
8 information identifying the source of the information depicted by the figures. (Ruling, p. 34.)
9 But, as with the earlier exhibits, DWR never challenged the accuracy of any of the figures,
10 LAND witnesses have provided testimony supporting each figure's accuracy, and each figure
11 depicts information similar to that contained in other admitted exhibits. Foundational support
12 for each document is summarized below and in Exhibit 2.

13 LAND-57, a map showing the private properties necessary for Tunnels intakes, was
14 obtained from a Public Records Act Request to the Metropolitan Water District, and was
15 prepared as part of the Delta Habitat Conservation and Conveyance Process. The exhibit
16 states on its face that it was prepared from the DWR Petition. DWR-1, slide 24 depicts the
17 very same area; LAND-57 merely includes APN numbers. In addition, Richard Elliot identified
18 his property under proposed Delta Tunnel Intake number 3 on LAND-57. (Exhibit 2, Nov. 10,
19 2016, 59:23-60:22, 72:2-9.)

20 LAND-58 also states in the legend that it was adapted from the 2015 Bay Delta
21 Conservation Plan and is based on a preliminary survey of available information regarding well
22 locations and depths in the vicinity of the proposed Tunnels. Expert witness Josef Tootle
23 corroborated LAND-58's accuracy, identifying it as a true and correct copy of a document upon
24

25 ⁷ See Transcript of November 4, 2016 Water Fix Hearing, available at:
26 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi/x/docs/transcripts/20161104_transcript.pdf (containing cross-examination of LAND witnesses);
27 Transcript of November 10, 2016 Water Fix Hearing, available at
28 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi/x/docs/transcripts/20161110_transcript.pdf (same). For instance, if one of the LAND figures depicted a proposed intake in the wrong location, one would expect that DWR would have objected on that basis.

1 which his opinion was based. (Exhibit 2, Nov 10, 2016, 79:17-24.) Russell Van Lobel Sels
2 also explained that he is personally familiar with all except one of the wells depicted in LAND-
3 58. (Exhibit 2, Nov. 10, 2016, 113:8-115:10.) Richard Elliot also testified that LAND-58
4 depicts land that includes his property and wells. (Exhibit 2, Nov. 10, 2016, 62:12-63:17.)
5 Further, LAND-58 also depicts the same area shown in DWR-1, slides 23-25. LAND laid an
6 adequate foundation for this document, and it should therefore be admitted into evidence.

7 LAND also identified the source of the information depicted in LAND-59, a map of San
8 Joaquin County Wells in the vicinity of the Tunnels, in its Response to Objections dated
9 November 2, 2016. As explained by Josef Tootle, this document was produced based on data
10 from the San Joaquin County Environmental Health Department. The well locations were
11 generated based on either the Assessor's Parcel Number or longitude and latitude values
12 provided to the County, as well as conversations with well users. (Exhibit 2, Nov. 10, 2016,
13 80:19-81:19, 133:2-136:7, 228:5-229:11.) The face of the document also indicates that the
14 map upon which the probable well locations were placed was the Conceptual Engineering
15 Report admitted as LAND-65.

16 LAND-60 was prepared with documents and information provided by Russel Van Loben
17 Sels, a farmer and trustee of Reclamation District 744. It identifies the location of the
18 Reclamation District 744 water delivery and drainage system under the footprint of proposed
19 Delta Tunnels Intake number 2. (See also DWR-1, slides 23-25.) Those locations were then
20 placed on the Tunnels basemap. Mr. Van Loben Sels explained that he assisted in creating
21 LAND-60 and noted that it accurately depicts the Reclamation District 744 drainage system.
22 (Exhibit 2, Nov. 10, 2016, 46:21-47:20.)

23 Neither DWR nor any other Hearing participant ever suggested that any of the excluded
24 exhibits is unreliable, and LAND has adequately substantiated their accuracy. In a hearing
25 where "[a]ny relevant evidence will be admitted if it is the sort of evidence on which responsible
26 persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of
27 any common law or statutory rule which might make improper the admission of the evidence
28

1 over objection in civil actions,” these exhibits should be admitted. (Gov. Code, § 11513, subd.
2 (c).)

3 **IV. Conclusion**

4 All of the LAND exhibits discussed herein have been adequately supported by LAND,
5 either through evidence that the documents are drawn from reliable, verifiable sources or
6 through witness testimony confirming the accuracy of the figures, and often by both. LAND,
7 Islands, Inc., and the San Joaquin County Protestants respectfully request that the Hearing
8 Officers reconsider their Ruling in light of this additional information, and admit exhibits LAND-
9 3, LAND-4, LAND-5, LAND-6, LAND-7, LAND-57, LAND-58, LAND-59 and LAND-60. (See
10 Exhibit 1.)

11
12 Dated: March 8, 2017

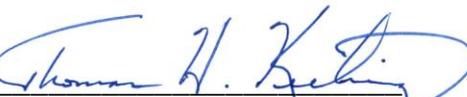
SOLURI MESERVE,
A LAW CORPORATION

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14 By: 

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Local Agencies of the North Delta
Bogle Vineyards/DWLC
Diablo Vineyards and Brad Lange/DWLC
Stillwater Orchards/DWLC

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19 Dated: March 8, 2017

FREEMAN FIRM,

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21 By: 

Thomas H. Keeling
Attorneys for Protestants County of San Joaquin,
San Joaquin County Flood Control and Water
Conservation District, and
Mokelumne River Water and Power Authority

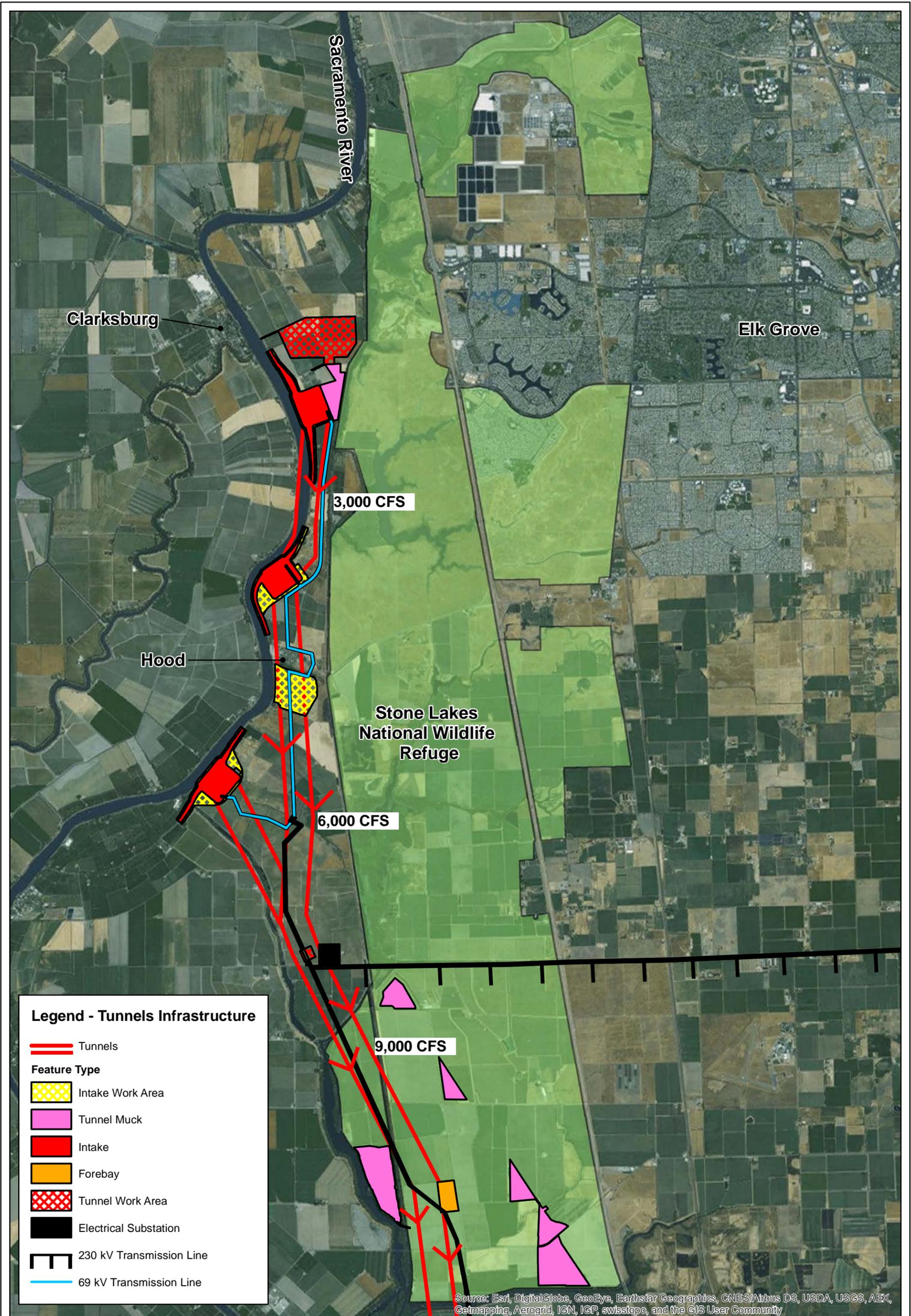
1 Dated: March 8, 2017

HANSON BRIDGETT LLP

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3 By: 
4 Michael J. Van Zandt
Attorneys for Protestants Islands, Inc.

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EXHIBIT 1

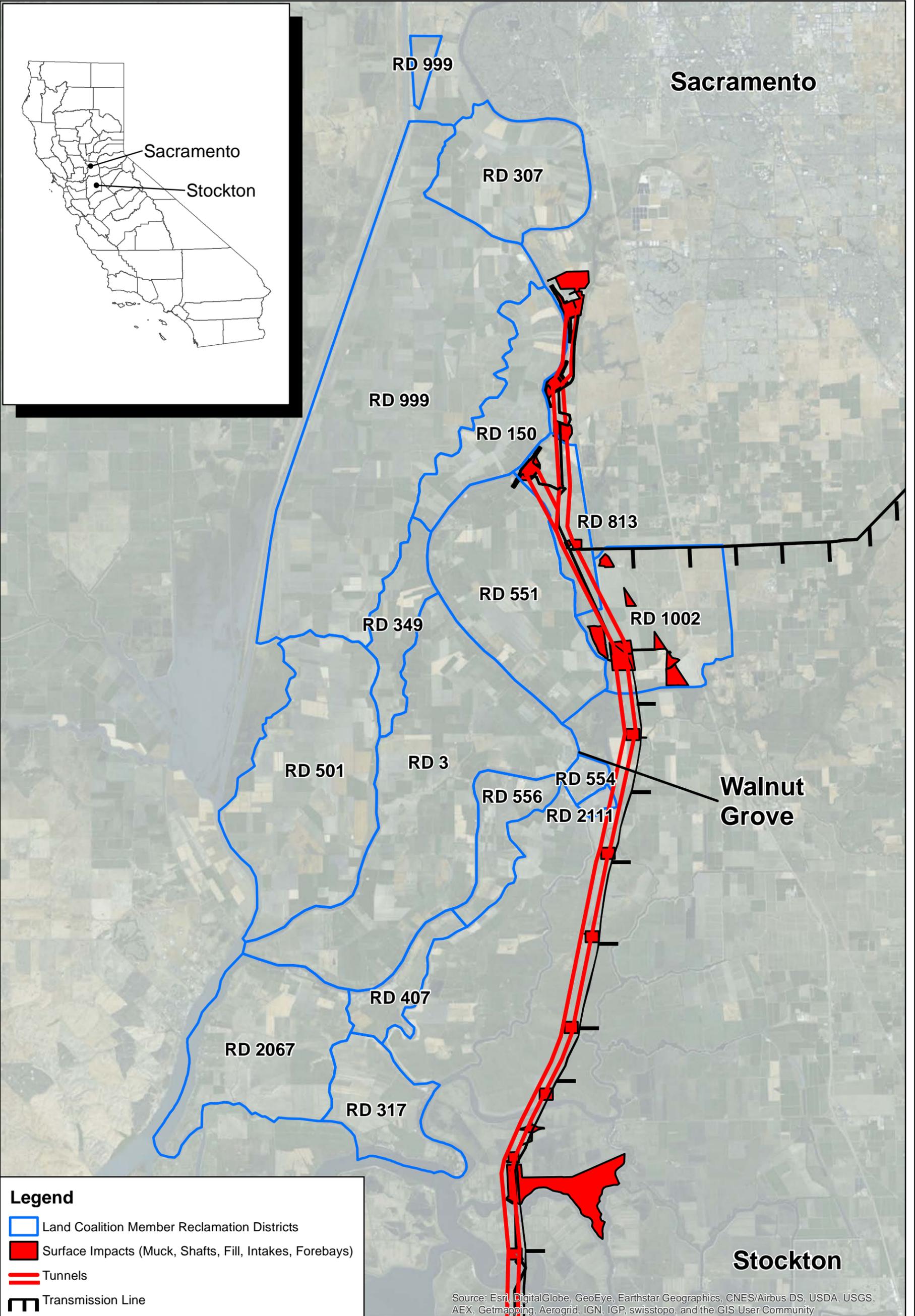


Date: 2/10/2016 BY: KG
 *All locations are approximate. *Tunnels infrastructure to scale, but tunnels expanded for illustration.
 The proposed WaterFix is a DWR project.
 Source: Adapted from BDCP 2015.



**Tunnels/WaterFix Impacts
 Sacramento-San Joaquin Delta**





Legend

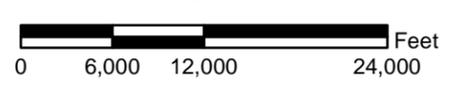
- Land Coalition Member Reclamation Districts
- Surface Impacts (Muck, Shafts, Fill, Intakes, Forebays)
- Tunnels
- Transmission Line

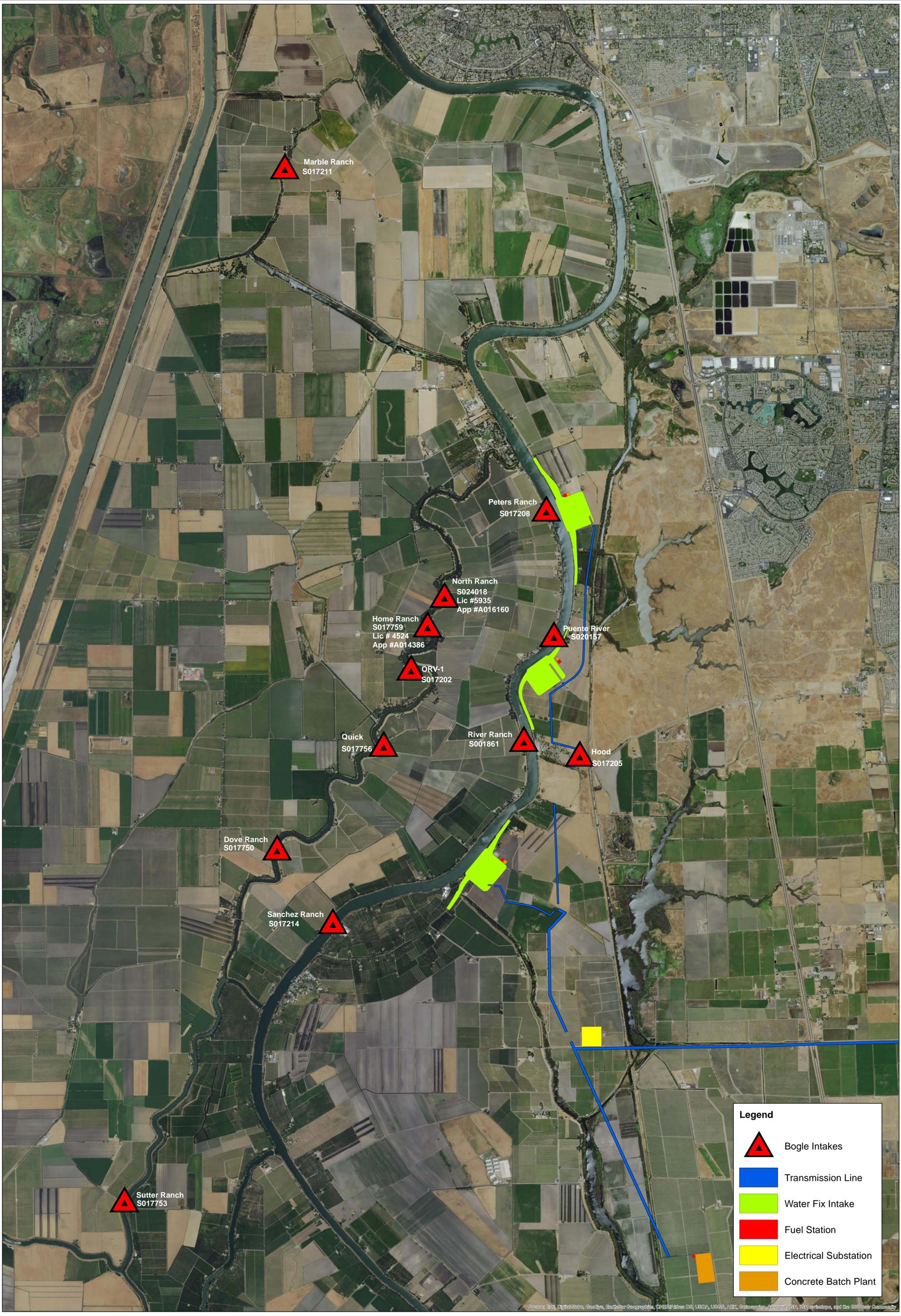
Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AEX, Getmapping, Aerogrid, IGN, IGP, swisstopo, and the GIS User Community

Date: 2/26/2016 BY: KG
 *All locations are approximate. *Tunnels infrastructure not to scale.
 The proposed WaterFix is a DWR project.
 Source: Adapted from BDCP 2015.



Local Agencies of the North Delta Coalition Member Districts





Legend

-  Bogle Intakes
-  Transmission Line
-  Water Fix Intake
-  Fuel Station
-  Electrical Substation
-  Concrete Batch Plant

Source: Esri, DigitalGlobe, GeoEye, IGN, GeoEye GeoIntelligence, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, Esri, DeLorme, and the GIS User Community



0 1,250 2,500 5,000 Feet

Bogle Water Rights Injuries from CWF Tunnels



Legend

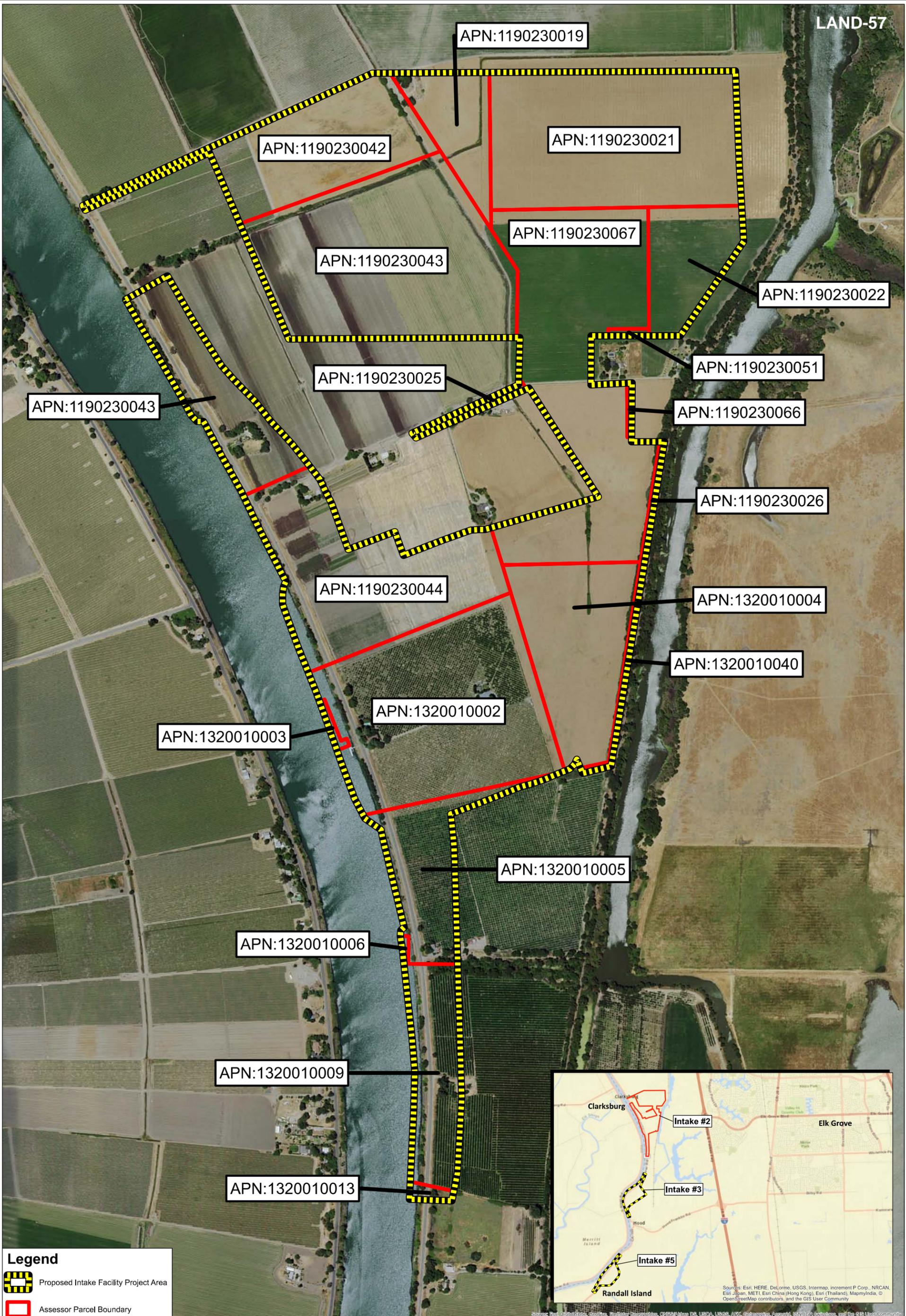
-  Lange Twins Intakes
-  Transmission Line
-  Water Fix Intake
-  Fuel Station
-  Electrical Substation
-  Concrete Batch Plant

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, SITA, Swire, and the GIS User Community

**Lange Twins
Water Rights Injuries
from CWF Tunnels**



0 1,500 3,000 6,000
Feet



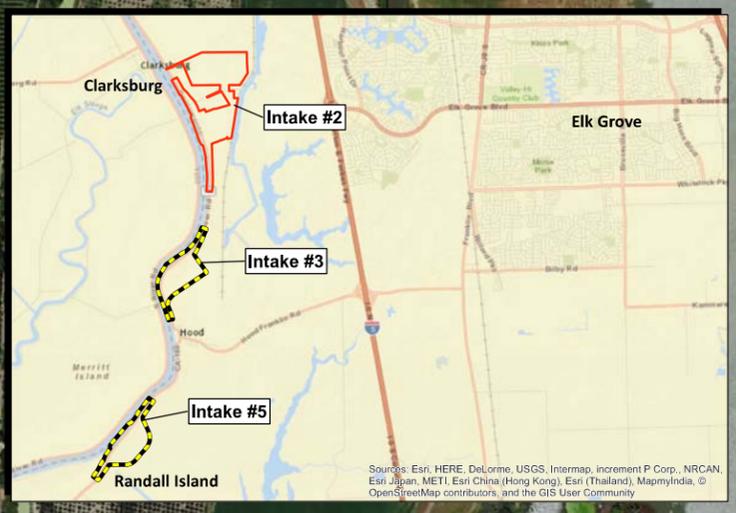
Legend

- Proposed Intake Facility Project Area
- Assessor Parcel Boundary

**Private Properties Needed for Water Tunnel
Intake #2 - Clarksburg, BDCP/Fix Alt. 4A
From DWR/BOR,
SWRCB Petition for Change, 8/25/2015**

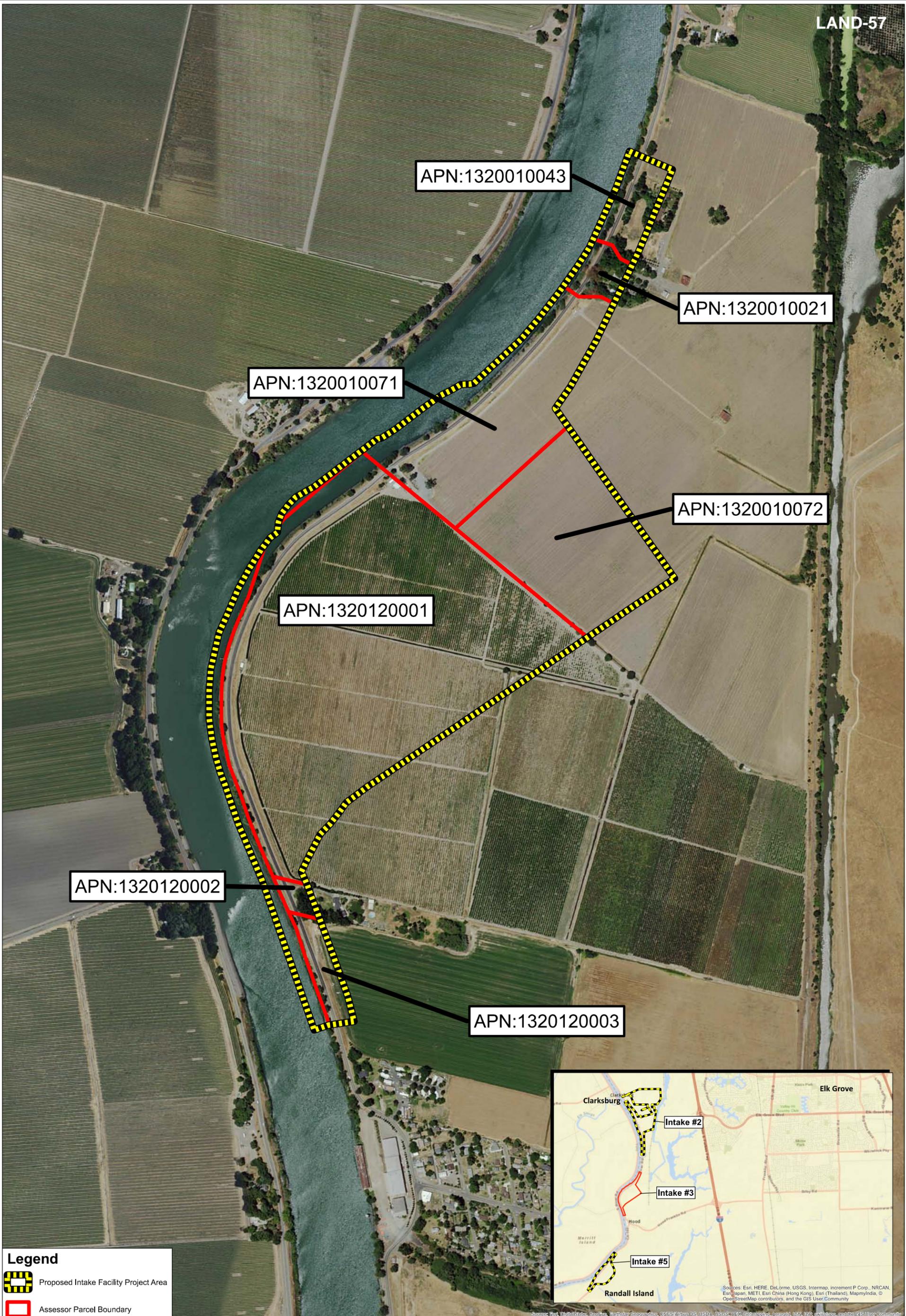
BSK Associates
Engineers/Laboratories

0 175 350 700
Feet



Notes:
Locations identified are approximate and only represent proposed BDCP facilities, not final plans. Developed from Materials Provided by DWR, BDCP and DHCCP, reflecting the most recent proposal to date. Locations estimated from <http://sdgweb.com/home.aspx>. Source: Plan Area, SAIC 2010; DWR DHCCP Engineering (rev 5a) [5/6/2015] & Plan Area, ICF 2012; DWR DCE MPTO Construction Footprint (rev 5a), Williamson Act 2009 [3/28/2015]. Projection: NAD 1983 UTM Zone 10N

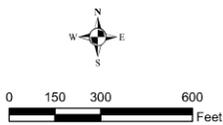
Prepared for Local Agencies
of the North Delta
September 2015



Legend

-  Proposed Intake Facility Project Area
-  Assessor Parcel Boundary

**Private Properties Needed for Water Tunnel
Intake #3 - Hood, BDCP/Fix Alt. 4A
From DWR/BOR,
SWRCB Petition for Change, 8/25/2015**



Document Path: \\GIS_Data_Files\Projects\10013015 - BDCP\September 2015\Proposed Intakes_9_4_15.mxd



APN:1320120059

APN:1320120062

APN:1320120053

APN:1320120115

APN:1320120085

APN:1320120095

APN:1320120086

APN:1320120096

APN:1320120087

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APN:1320210054

APN:1320210044

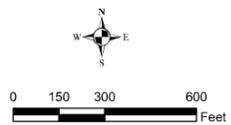
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Legend

- Proposed Intake Facility Project Area
- Assessor Parcel Boundary

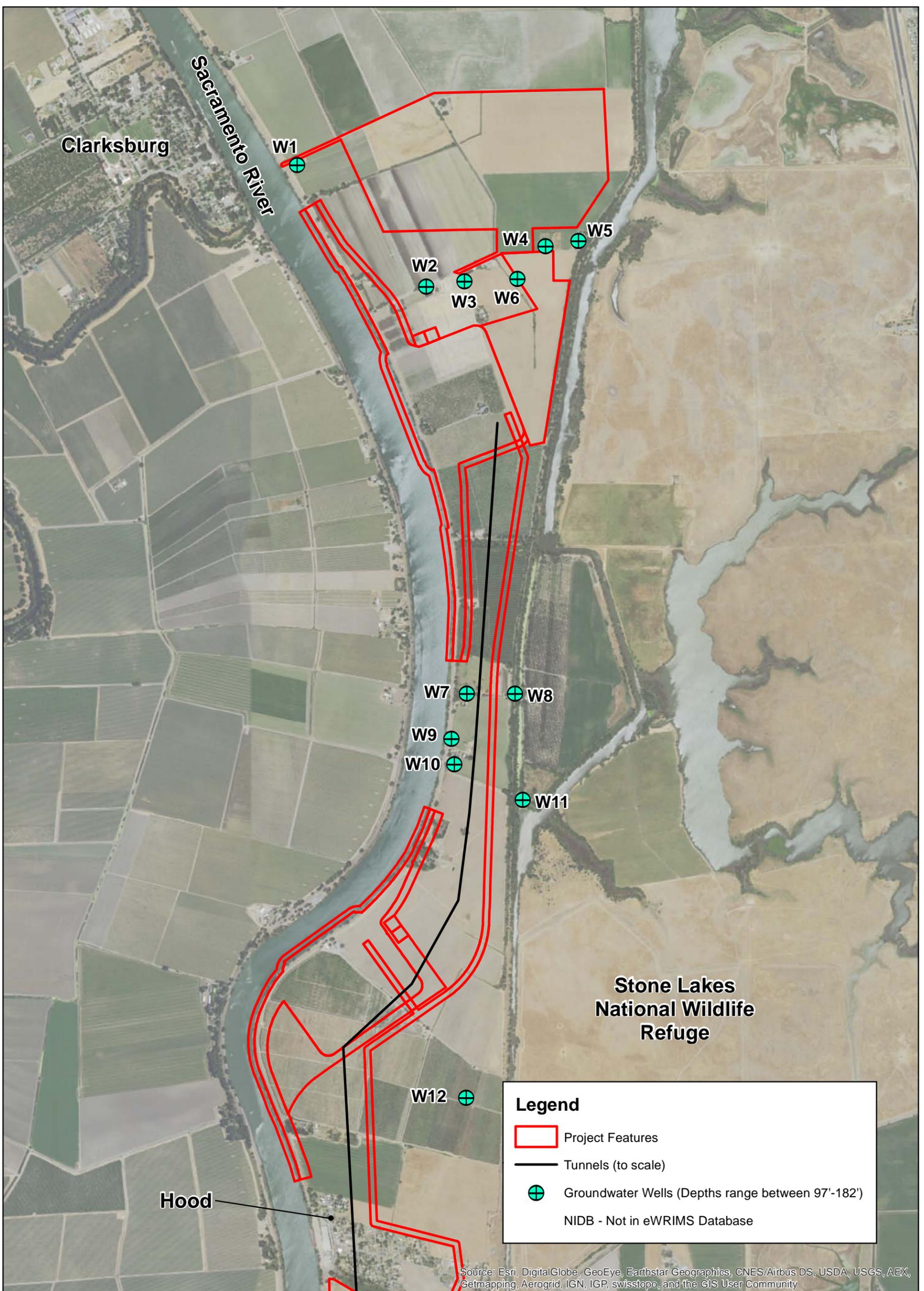


**Private Properties Needed for Water Tunnel
Intake #5 - Randall Island, BDCP/Fix Alt. 4A
From DWR/BOR,
SWRCB Petition for Change, 8/25/2015**



Notes:
Locations identified are approximate and only represent proposed BDCP facilities, not final plans. Developed from Materials Provided by DWR, BDCP and DHCCP, reflecting the most recent proposal to date. Locations estimated from <http://dcdweb.com/home.aspx>. Source: Plan Area, SAIC 2010; DWR DHCCP Engineering (rev 5a) [6/2015]. Projection: NAD 1983 UTM Zone 10N

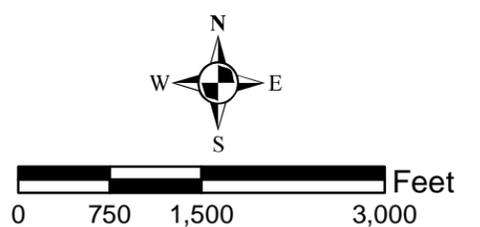
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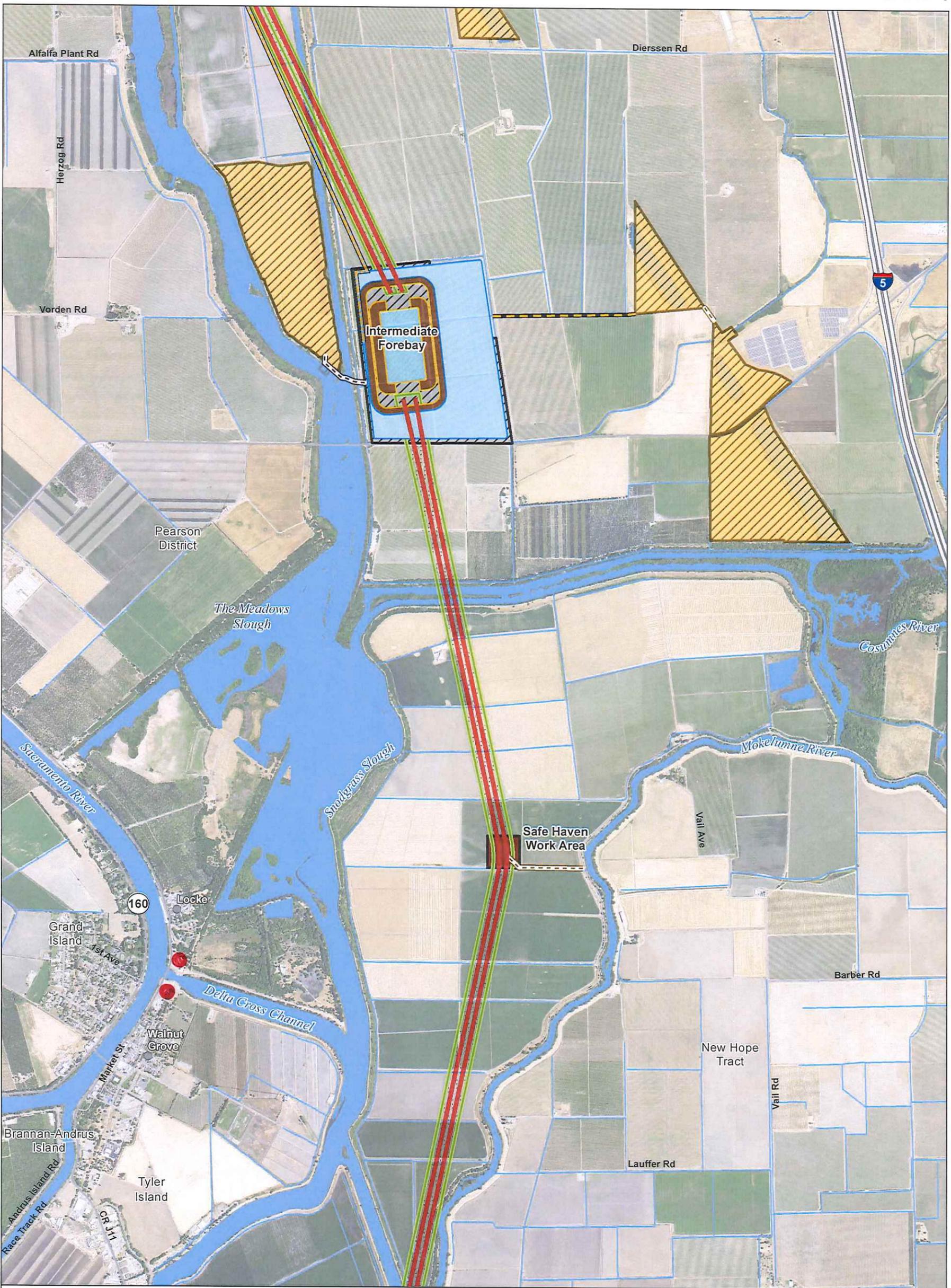
Date: 8/31/2016
 Tunnels infrastructure to scale (approximately 1:7.5)
 The proposed WaterFix is a DWR project.
 Source: Adapted from BDCP 2015 and conceptual map based on a preliminary survey of limited available information regarding well locations and depths in the vicinity of the CWF proposed facilities. Locations are approximate only.



**Estimated Locations/Depth Ranges of Wells Near Proposed Intakes/Tunnels
 Tunnels/WaterFix Impacts
 Sacramento-San Joaquin Delta**



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

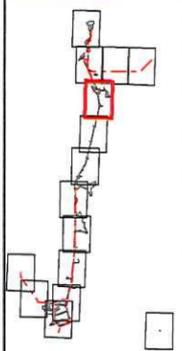


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Legend

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|---|-----------------------|-----------------------|--|
| Plan Area | Canal | Dredging | *Proposed Subsurface Easement |
| Areas of Additional Analysis (Outside of Legal Delta; for Power Only) | Operable Barrier | Forebay | **Proposed Permanent Surface Impact |
| Interconnection Point | Permanent Access Road | Forebay Embankment | Proposed Temporary Surface Impact |
| Proposed Permanent OH Transmission Line | Siphon | Forebay Overflow | Proposed Potential Borrow And/Or Spoil |
| Proposed Temporary OH Transmission Line | Temporary Access Road | Intake | Reusable Tunnel Material Area |
| | Tunnel | Geotech Planning Area | Barge Unloading Facility |
| | Tunnel Conveyor | | Safe Haven Work Area |
| | | | Fuel Station |
| | | | Concrete Batch Plant |

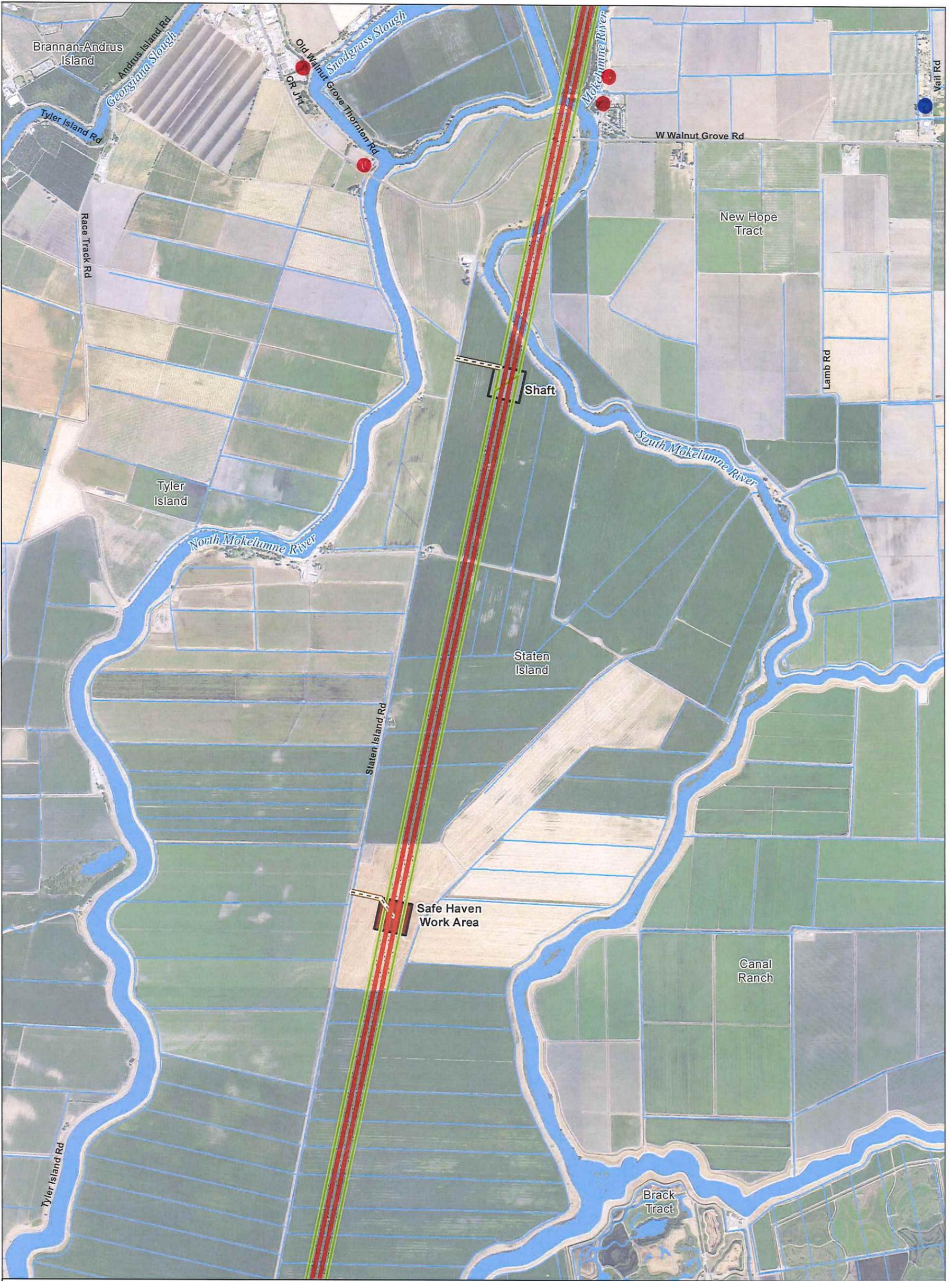
*Surface impacts are not expected to result from subsurface features.
 **In-river features are not a permanent impact to navigation.
 ***Surface impacts will only occur at sites selected for geotechnical explorations.
 See Ch. 3, Section 3.6.1.10 for more information



Sources: Plan Area, SAIC 2010; DWR DHCCP Engineering (rev 5a); NAIP 2014

Permitted Well Potential Public Water System Well

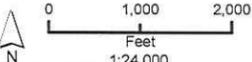
Figure M3-4: Sheet 5 of 15
 Modified Pipeline/Tunnel Alignment (Alternative 4)



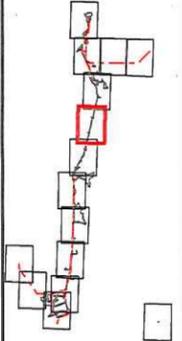
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Legend

- | | | | |
|---|-----------------------|--------------------------|--|
| Plan Area | Canal | Dredging | *Proposed Subsurface Easement |
| Areas of Additional Analysis (Outside of Legal Delta; for Power Only) | Operable Barrier | Forebay | **Proposed Permanent Surface Impact |
| Interconnection Point | Permanent Access Road | Forebay Embankment | Proposed Temporary Surface Impact |
| Proposed Permanent OH Transmission Line | Siphon | Forebay Overflow | Proposed Potential Borrow And/Or Spoil |
| Proposed Temporary OH Transmission Line | Temporary Access Road | Intake | Reusable Tunnel Material Area |
| Tunnel | Geotech Planning Area | Barge Unloading Facility | Safe Haven Work Area |
| Tunnel Conveyor | | Fuel Station | Concrete Batch Plant |



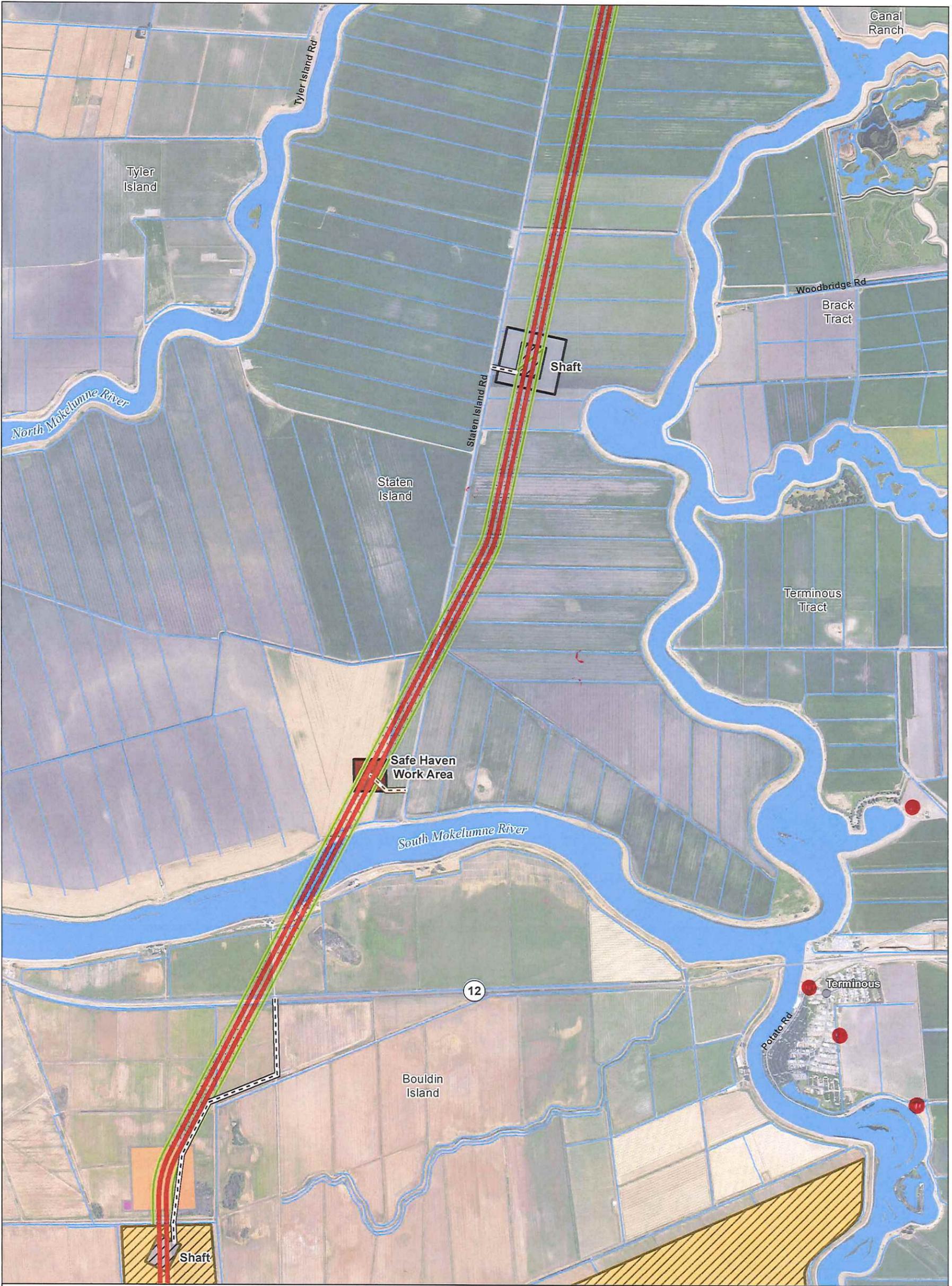
*Surface impacts are not expected to result from subsurface features.
 **In-river features are not a permanent impact to navigation.
 ***Surface impacts will only occur at sites selected for geotechnical explorations. See Ch. 3, Section 3.6.1.10 for more information



Sources: Plan Area, SAIC 2010; DWR DHCCP Engineering (rev 5a); NAIP 2014

● Permitted Well ● Potential Public Water System Well

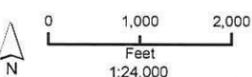
Figure M3-4: Sheet 6 of 15 Modified Pipeline/Tunnel Alignment (Alternative 4)



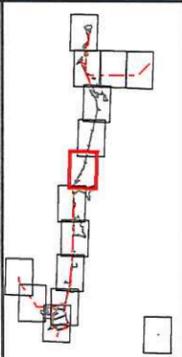
TIWGI-38\GIS_33_00\GISRequest_11\FIC\FIC098_14\REIS_1\PTO_Mapbook_Ch3.mxd 2015708

Legend

- | | | | |
|---|-----------------------|--------------------------|--|
| Plan Area | Canal | Dredging | *Proposed Subsurface Easement |
| Areas of Additional Analysis (Outside of Legal Delta; for Power Only) | Operable Barrier | Forebay | **Proposed Permanent Surface Impact |
| Interconnection Point | Permanent Access Road | Forebay Embankment | Proposed Temporary Surface Impact |
| Proposed Permanent OH Transmission Line | Siphon | Forebay Overflow | Proposed Potential Borrow And/Or Spoil |
| Proposed Temporary OH Transmission Line | Temporary Access Road | Intake | Reusable Tunnel Material Area |
| Tunnel | Geotech Planning Area | Barge Unloading Facility | Safe Haven Work Area |
| Tunnel Conveyor | | Fuel Station | Concrete Batch Plant |



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 See Ch. 3, Section 3.6.1.10 for more information



Sources: Plan Area, SAIC 2010; DWR DHCCP Engineering (rev 5a); NAIP 2014

● Permitted Well ● Potential Public Water System Well

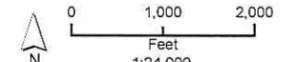
Figure M3-4: Sheet 7 of 15 Modified Pipeline/Tunnel Alignment (Alternative 4)



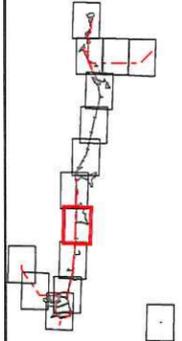
T:\WGI-38\GIS_33_00\GISRequest_11\FIC\FIC098_14\IREIS_MPTO_Mapbook_C13.mxd 2015708

Legend

- | | | | |
|--|-----------------------|--------------------------|--|
| Plan Area | Canal | Dredging | *Proposed Subsurface Easement |
| Areas of Additional Analysis
(Outside of Legal Delta; for Power Only) | Operable Barrier | Forebay | **Proposed Permanent Surface Impact |
| Interconnection Point | Permanent Access Road | Forebay Embankment | Proposed Temporary Surface Impact |
| Proposed Permanent OH Transmission Line | Siphon | Forebay Overflow | Proposed Potential Borrow And/Or Spoil |
| Proposed Temporary OH Transmission Line | Temporary Access Road | Intake | Reusable Tunnel Material Area |
| Tunnel | Geotech Planning Area | Barge Unloading Facility | Safe Haven Work Area |
| Tunnel Conveyor | | Fuel Station | Concrete Batch Plant |



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 **In-river features are not a permanent impact to navigation.
 ***Surface impacts will only occur at sites selected for geotechnical explorations. See Ch. 3, Section 3.6.1.10 for more information.

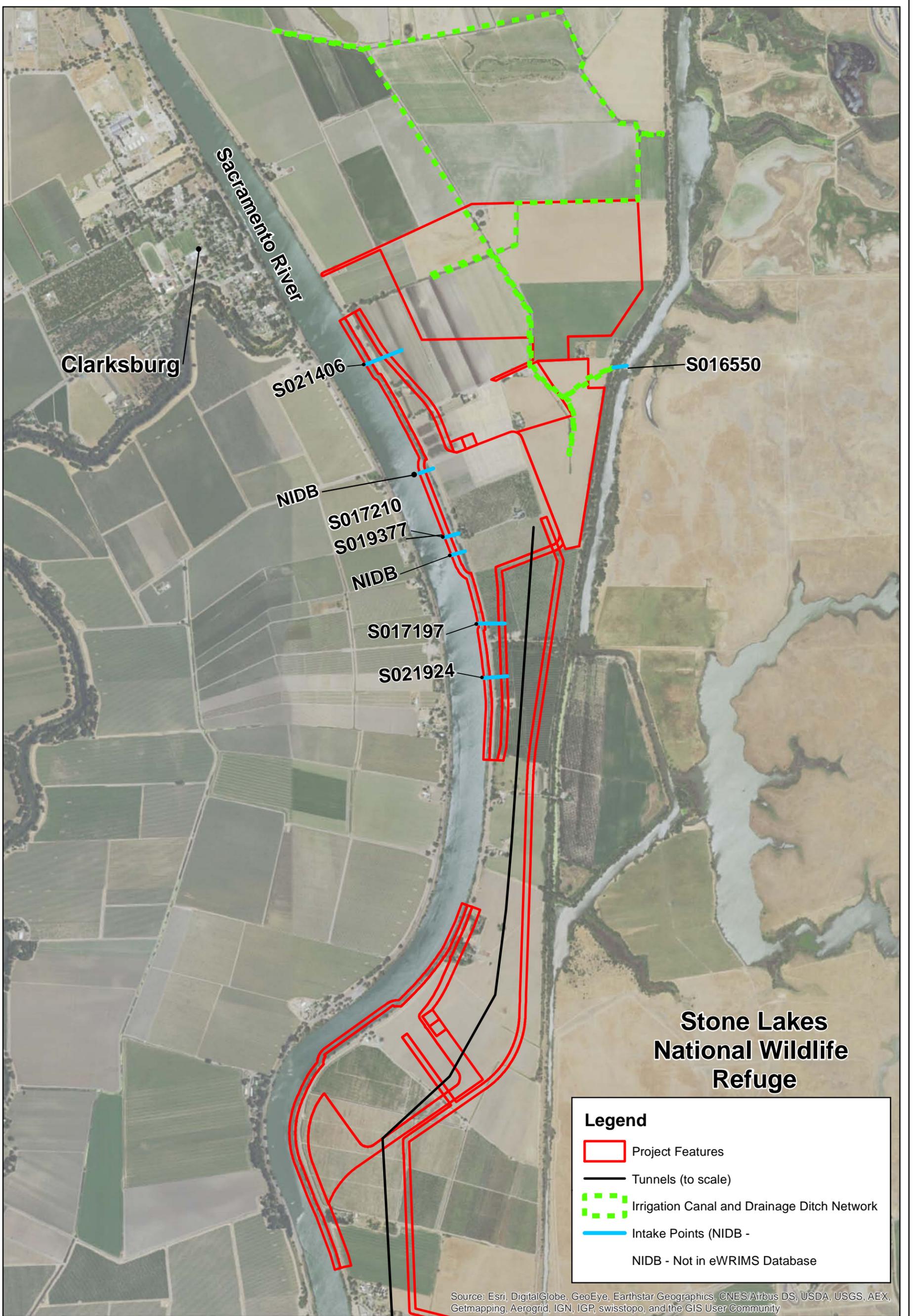


Sources: Plan Area, SAIC 2010; DWR DHCCP Engineering (rev 5a); NAIP 2014

Permitted Well

Potential Public Water System Well

Figure M3-4: Sheet 9 of 15
 Modified Pipeline/Tunnel Alignment (Alternative 4)



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

Date: 8/25/2016 BY: KG
 *All locations are approximate. *Tunnels infrastructure to scale (approximately 1:7.5).
 The proposed WaterFix is a DWR project.
 Source: Adapted from BDCP 2015.

**Intakes 2 and 3
 Tunnels/WaterFix Impacts
 Sacramento-San Joaquin Delta**

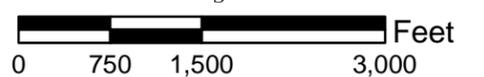


EXHIBIT 2

EXHIBIT 2: SUMMARY OF TESTIMONY SUPPORTING EXCLUDED LAND EXHIBITS

LAND Exhibit	Exhibit Description	Authenticating Testimony Location	Summary of Authenticating Testimony
LAND-3	Map – Intake Overview Figure	Direct Testimony of Mr. Tootle on Nov. 10, 2016 at pp. 82:9-83:5.	Mr. Tootle states that the exhibit is the type of diagram he would ordinarily see in his work and rely on in making assessments. He believes the exhibit showed a basic concept of the wells located in that area.
LAND-4	Map – LAND Coalition Member Districts	Direct Testimony of Mr. Tootle on Nov. 10, 2016 at pp. 82:9-83:5.	Mr. Tootle states that the exhibit is the type of diagram he would ordinarily see in his work and rely on in making assessments. He believes the exhibit showed a basic concept of the wells located in that area.
LAND-5	Map – Bogle Water Right Injuries from CWF Tunnels	Direct Testimony of Mr. Tootle on Nov. 10, 2016 at pp. 82:9-83:5.	Mr. Tootle states that the exhibit is the type of diagram he would ordinarily see in his work and rely on in making assessments. He believes the exhibit showed a basic concept of what could be there.
LAND-6	Map – LangeTwins Water Rights Injuries from CWF Tunnels	Direct Testimony of Daniel Lange on Nov. 3, 2016, pp. 126:17-128:4.	Mr. Lange identifies the blue triangles as the locations of his diversions on Ryer Island, where he has farmed since 2001. He identifies the yellow markings as the proposed location of the tunnels.

EXHIBIT 2: SUMMARY OF TESTIMONY SUPPORTING EXCLUDED LAND EXHIBITS

LAND Exhibit	Exhibit Description	Authenticating Testimony Location	Summary of Authenticating Testimony
LAND-7	Map – Elliot/Stillwater Orchards Injuries from CWF Tunnels	Direct Testimony of Mr. Elliot on Nov. 10, 2016 at pp. 55:4 – 21.	Mr. Elliot identifies on the map the extent of his agricultural operation and the diversions on his property.
		Akroyd Cross of Mr. Elliot on Nov. 10, 2016 at pp. 156:5 – 14	Mr. Elliot identifies exhibit as relating to documentation of water rights being on file with the Board.
		Direct Testimony of Mr. Elliot on Nov. 10, 2016 at pp. 195:16 – 21	Mr. Elliot identifies the exhibit as map of his water rights presented in his protest.
LAND-57	Map – Private Properties Needed for Water Tunnel, Intake No. 2, 3, and 5	Direct Testimony of Mr. Elliot on Nov. 10, 2016 at pp. 59:23-60:22.	Mr. Elliot identifies the location and boundaries of his property on the exhibit.
		Direct Testimony of Mr. Elliot on Nov. 10, 2016 at pp. 72:2 – 9.	Mr. Elliot identifies the location of property on the exhibit, and the APN.
LAND-58	Map – Sacramento County Wells in Vicinity of Tunnels	Direct Testimony of Mr. Elliot on Nov. 10, 2016 at pp. 62:12-63:17	Mr. Elliot identified the location of his property, the intake, wells, and the project site on the exhibit.
		Direct Testimony of Mr. Tootle on Nov. 10, 2016 at pp. 79:17-80:18	Mr. Tootle identifies exhibit as true and correct copy of documents used to form his opinion. He correlates the depth range of the wells depicted in LAND-58 with the intended depth of the tunnels.

EXHIBIT 2: SUMMARY OF TESTIMONY SUPPORTING EXCLUDED LAND EXHIBITS

LAND Exhibit	Exhibit Description	Authenticating Testimony Location	Summary of Authenticating Testimony
		Mizell Cross of Mr. Van Loben Sels on Nov. 10, 2016 at pp. 113:8-115:10	Mr. Van Loben Sels explains that he is personally familiar with all of the wells shown on LAND-58 except the well marked as W6. He believes the well depths are from very shallow to about 125 feet deep.
		Direct Testimony of Mr. Tootle on Nov. 10, 2016 at pp. 229:12 – 24.	Mr. Tootle identifies that exhibit shows depth range of wells shown. He believes these are relevant because portions of project extend to those areas.
LAND-59	Map – San Joaquin County Wells in Vicinity of Tunnels	Direct Testimony of Mr. Tootle on Nov. 10, 2016, p. 79:17-24.	Mr. Tootle identifies exhibit as true and correct copy of documents used to form his opinion.
		Direct Testimony of Mr. Tootle on Nov. 10, 2016, pp. 80:19-81:19.	Mr. Tootle notes that this map relies in part on a San Joaquin County database that includes APN numbers and longitude and latitude coordinates of wells. Mr. Tootle also notes that the intent of the map is to show both wells and intakes in close proximity to the tunnels.

EXHIBIT 2: SUMMARY OF TESTIMONY SUPPORTING EXCLUDED LAND EXHIBITS

LAND Exhibit	Exhibit Description	Authenticating Testimony Location	Summary of Authenticating Testimony
		Mizell Cross of Mr. Tootle on Nov. 10, 2016, pp. 133:2-136:7.	Mr. Tootle explains that San Joaquin County employees generated the map based on County databases as well as conversations with well users and their general understanding of the municipal water system.
		Direct Testimony of Mr. Tootle, Nov. 10, 2016, pp. 228:5-229:11.	Mr. Tootle explains that based on his conversation with the engineer who worked on the figure; the blue dots depict a place where a well is known to exist based on APN or latitude and longitude given and a red dot is a spot where there is no municipal water service, but water is used. The engineer inferred the existence of a domestic well in those locations.
LAND-60	Map – Intakes 2 and 4 Tunnels/Water Fix Injuries – Water Delivery Service System Example	Direct Testimony of Mr. Van Loben Sels, Nov. 10, 2016, pp. 46:21- 47:20.	Mr. Van Loben Sels notes that he assisted in creating the figure.

1 **STATEMENT OF SERVICE**

2 **CALIFORNIA WATERFIX PETITION HEARING**
3 **Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

4 I hereby certify that I have on March 8, 2017, submitted to the State Water Resources
5 Control Board and caused a true and correct copy of the following document:

6 **LOCAL AGENCIES OF THE NORTH DELTA ET AL., ISLANDS, INC., AND THE**
7 **SAN JOAQUIN COUNTY PROTESTANTS' JOINT MOTION FOR RECONSIDERATION**

8 to be served by Electronic Mail (email) upon the parties listed in Table 1 of the Current Service
9 List for the California WaterFix Petition Hearing, dated January 13, 2017, posted by the State
10 Water Resources Control Board at
11 [http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfi](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)
12 [x/service_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)

13 I certify that the foregoing is true and correct and that this document was executed on
14 March 8, 2017.

15 Signature:  _____

16 Name: Mae Ryan Empleo

17 Title: Legal Assistant for Osha R. Meserve
18 Soluri Meserve, A Law Corporation

19 Party/Affiliation:

20 Local Agencies of the North Delta

21 Bogle Vineyards/DWLC

22 Diablo Vineyards and Brad Lange/DWLC

23 Stillwater Orchards/DWLC

24 Address:

25 Soluri Meserve, A Law Corporation

26 1010 F Street, Suite 100, Sacramento, CA 95814