



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
5900 LA PLACE COURT, SUITE 100
CARLSBAD, CA 92008

March 29, 2017

Kent Nelson
California Department of Water Resources
Division of Integrated Regional Water Management
901 P St. Room, 411A
Sacramento, CA 95814

Dear Mr. Nelson:

I am responding to your request SPL-2010-00142 for a Department of Army permit for your proposed project, Salton Sea Species Conservation Habitat Project (EIS). The proposed project is located at the southern end of the Salton Sea, near the mouth of the New River, in Imperial County, California.

Under the provisions of Section 10 of the Rivers and Harbors Act of March 3, 1899 (33 U.S.C. 403), and Section 404 of the Clean Water Act, you are hereby authorized to conduct the work described below in within the Salton Sea, Imperial County, California, as shown on the enclosed drawings.

Specifically, and as shown on the attached drawing(s)/map(s), you are authorized to:

Construct 871.41 acres of ponds, berms drainages, a force main pipeline, an intake channel and other appurtenances; construct 23.19 acres of staging areas, 5.20 acres of stockpiling areas, and 4.95 acres of New River levee improvements, including 0.74 acres on the western New River levee and 4.21 acres on the eastern New River levee (See Figures 1-3).

Specific temporary and permanent impacts are identified in the table below:

Permanent and Temporary Impacts

Impacts	Area (Acres)
Permanent Impacts	851.33
Temporary Impacts (Staging Areas)	23.19
Total	874.52

Total Permanent and Temporary Impacts to Jurisdictional Resources

Wetland Feature	Area (Acres)
Lacustrine - Disturbed Vegetated Lake Bed (Above -231)	0.27
Lacustrine - Open Water (Below -231)	234.18
Lacustrine - Unvegetated Lake Bed (Above - 231)	470.57
Lacustrine - Vegetated Lake Bed (Above -231)	98.95
Lacustrine - Vegetated Lake Bed (Below -231)	4.40

Riverine - Below OHWM (Above -231)	3.75
Total	812.12

Permanent Impacts: New River Levee Improvements

Levee Feature	(Acres)
Northern Western Levee (W1)	0.15
Southern Western Levee (W2)	0.59
Western Bank Total	0.74
Eastern Levee (E1)	0.64
Eastern Levee (E2)	0.07
Eastern Levee (E3)	1.59
Eastern Levee (E4)	1.90
Eastern Bank Total	4.21
Total	4.95

Temporary Impacts: Staging Areas

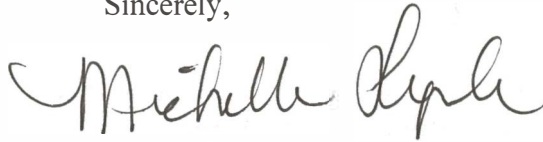
Feature	Area (Acres)
Initial Staging Area	3.07
Saline Pump Station Staging Area	18.75
Trailer and Parking Staging Area	1.37
Total	23.19

You must sign and date all copies of this Letter of Permission (LOP) indicating you agree to the work as described and will comply with all conditions. One of the signed copies of this Letter of Permission must be returned to the Corps of Engineers. In addition, please use the two attached enclosures to notify this office as to the dates of commencement (within 10 days prior to the start of construction) and completion of the activity (within 10 days following the end of construction).

Furthermore, you are hereby advised that the Corps of Engineers has established an Administrative Appeal Process which is fully described in 33 CFR Part 331. The complete appeal process is diagrammed in the enclosed Appendix B.

Thank you for participating in our regulatory program. If you have any questions, please contact Michelle Lynch of my staff at (760) 602-4850 or via e-mail at Michelle.R.Lynch@usace.army.mil. Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,



Michelle Lynch
Chief, South Coast Branch

Enclosure(s)

 _____ 4.10.17
PERMITTEE DATE

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this LOP will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

TRANSFEEEE DATE

Enclosure(s)

PERMIT CONDITIONS

General Conditions:

1. The time limit for completing the authorized activity ends on March 29, 2020. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Furthermore, you must comply with the following non-discretionary Special Conditions:

Special Conditions:

Construction

1. The permittee shall allow representatives from the Corps Regulatory Division to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of the permit.
2. The permittee shall clearly mark the limits of the workspace with plastic snow fencing, silt fencing, flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S., including wetlands, as well as riparian scrub habitat areas shown on plans, maps, drawings or figures submitted to the Corps for each project phase. Adverse impacts to waters of the U.S., including wetlands, beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

3. A qualified biological monitor shall document implementation of this permit, and submit a written observation report to the permittee's project engineer. The biologist/permittee shall report any non-compliance incident with the permit to the Corps Carlsbad field office (760-602-4829) within one day of its occurrence. The biologist/permittee shall submit a written report summarizing the noncompliance with the permit and any measures implemented to rectify the incident to the Corps Regulatory Division field office within three days of notification to the Corps Regulatory Office of the non-compliance.
4. The permittee shall discharge only clean construction materials suitable for use in the riverine environment.
5. Excavated materials from within the project site will be discharged within the permitted project boundary (either used as construction material or disposed outside the outer berm of the project). The permittee shall immediately remove all excess excavated material to an approved upland storage or disposal site.
6. All temporary stockpiling in waters of the US is authorized only where it is specifically stated in the project phase Construction Notification; all temporary stockpiles shall be removed from waters of the US within two weeks of completion of the project phase.
7. No debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products from construction shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the U.S., including wetlands outside of authorized impact areas.
8. No mechanized equipment, rubber-tired vehicles, track vehicles, or other equipment shall be stored, staged, or fueled in waters of the U.S., including wetlands outside of authorized impact areas.
9. The permittee shall ensure that all vehicle maintenance, staging, storage, and dispensing of fuel occurs in areas designated in the project phase Construction Notification. The permittee shall ensure that these designated upland areas are located in such a manner as to prevent any runoff from entering waters of the U.S., including wetlands, and shall be designated on maps furnished in the project phase Construction Notification.

Post-Construction

10. Within six months of completion of each phase of authorized discharges of dredged or fill material in waters of the U.S., including wetlands and upon completion of each authorized O&M activity, the permittee shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:
 - a. Date(s) work within waters of the U.S., including wetlands, was initiated and completed;
 - b. Summary of compliance status with each special condition of this permit (including any non-compliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
 - c. Color photographs (including map of photopoints) taken at the project site before and after construction for those aspects directly associated with permanent impacts to

waters of the U.S., including wetlands, such that the extent of authorized discharges of fill material can be verified;

- d. One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
- e. Signed Certification of Compliance (attached as part of this permit).

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to **Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act.**

2. Limits of this authorization.

a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

b. This permit does not grant any property rights or exclusive privileges.

c. This permit does not authorize any injury to the property or rights of others.

d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

d. Design or construction deficiencies associated with the permitted work.

e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

**NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND
REQUEST FOR APPEAL**

Applicant: Kent Nelson, DWR		File Number: SPL-2010-00142	Date: 3/29/17
Attached is:		See Section below	
X	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A	
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B	
	PERMIT DENIAL	C	
	APPROVED JURISDICTIONAL DETERMINATION	D	
	PRELIMINARY JURISDICTIONAL DETERMINATION	E	

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Michelle Lynch
Chief, South Coast Branch
U.S. Army Corps of Engineers
Los Angeles District
5900 La Place Ct, Suite 100
Carlsbad, CA 92008
Phone: (760) 602-4850
Email: Michelle.R.Lynch@usace.army.mil

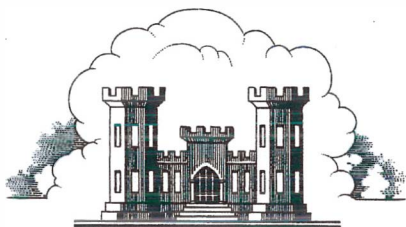
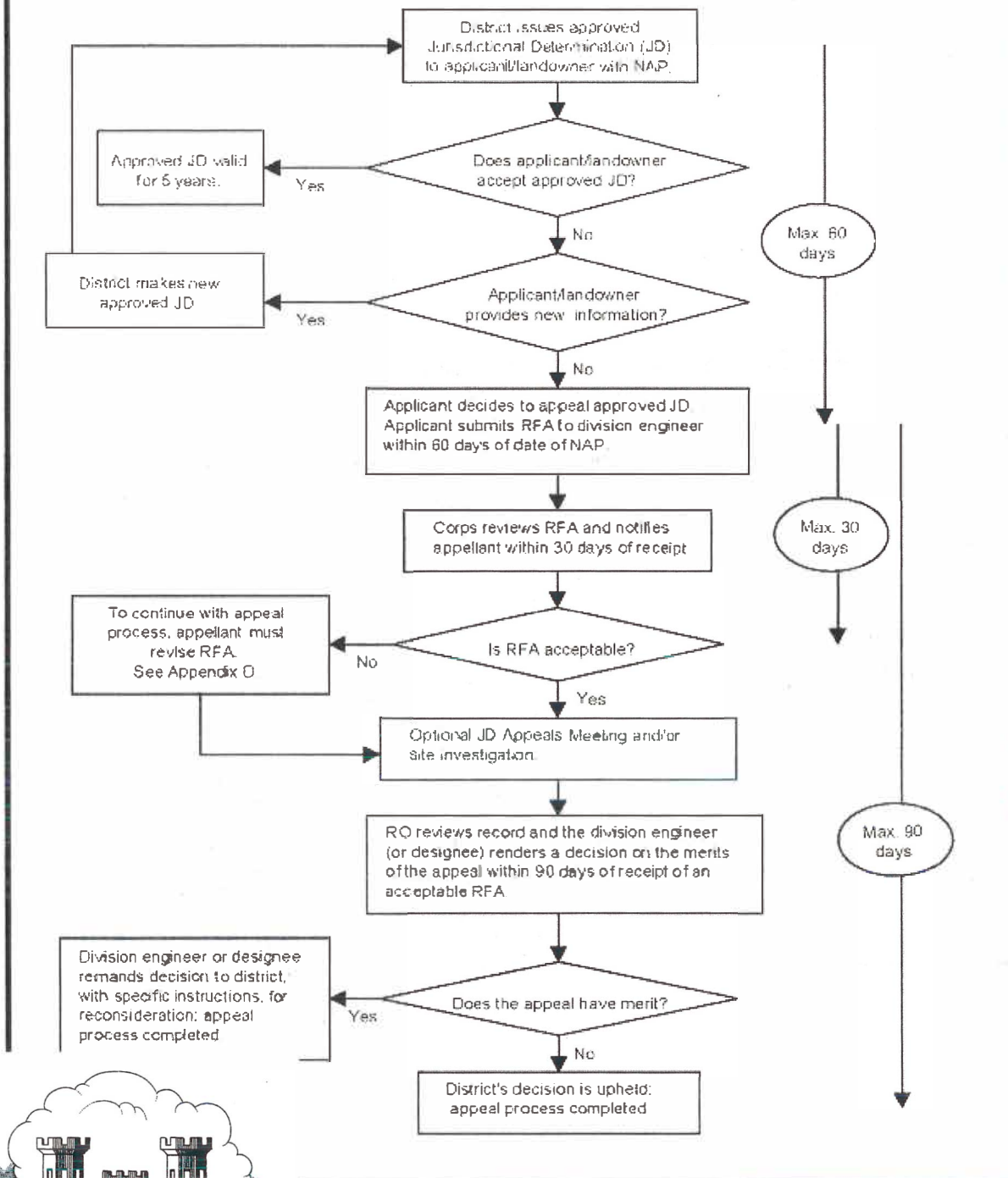
If you only have questions regarding the appeal process you may also contact:

Thomas J. Cavanaugh
Administrative Appeal Review Officer,
U.S. Army Corps of Engineers
South Pacific Division
1455 Market Street, 2052B
San Francisco, California 94103-1399
Phone: (415) 503-6574 Fax: (415) 503-6646
Email: thomas.j.cavanaugh@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.	Date:	Telephone number:
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Administrative Appeal Process for Approved Jurisdictional Determinations



*LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS*

**NOTIFICATION OF COMMENCEMENT OF WORK
FOR**

DEPARTMENT OF THE ARMY PERMIT

Permit Number: *SPL-2010-00142*

Name of Permittee: *Kent Nelson, DWR*

Date of Issuance: *March 29, 2017*

Date work in waters of the U.S. will commence: _____

Estimated construction period (in weeks): _____

Name & phone of contractor (if any): _____

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that I, and the contractor (if applicable), have read and agree to comply with the terms and conditions of the above referenced permit.

Signature of Permittee

Date

At least ten (10) days prior to the commencement of the activity authorized by this permit, sign this certification and return it using any ONE of the following three (3) methods:

(1) E-MAIL a statement including all the above information to:
Michelle.R.Lynch@usace.army.mil

OR

(2) FAX this certification, after signing, to: 760-602-4848

OR

(3) MAIL to the following address:

U.S. Army Corps of Engineers

Regulatory Division

ATTN: CESPL-RG-SPL-2010-00142



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

**NOTIFICATION OF COMPLETION OF WORK AND
CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY PERMIT**

Permit Number: *SPL-2010-00142*
Name of Permittee: *Kent Nelson, DWR*
Date of Issuance: *March 29, 2017*

Date work in waters of the U.S. completed: _____
Construction period (in weeks): _____
Name & phone of contractor (if any): _____

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit.

Signature of Permittee

Date

Upon completion of the activity authorized by this permit, sign this certification and return it using any ONE of the following three (3) methods:

(1) E-MAIL a statement including all the above information to:
Michelle.R.Lynch@usace.army.mil

OR

(2) FAX this certification, after signing, to: 760-602-4848

OR

(3) MAIL to the following address:

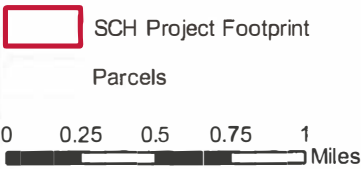
U.S. Army Corps of Engineers
Regulatory Division
ATTN: CESPL-RG-SPL-2010-00142



Figure 1. APNs near the SCH Project

Source Data:
 NAD_1983_StatePlane_California_VI_FIPS_0406_Feet
 NAIP World Imagery
 Author: S. Paiva-Lowry
 Preparation Date: 3/9/17

1:38,187



SCH Project Footprint
 Parcels



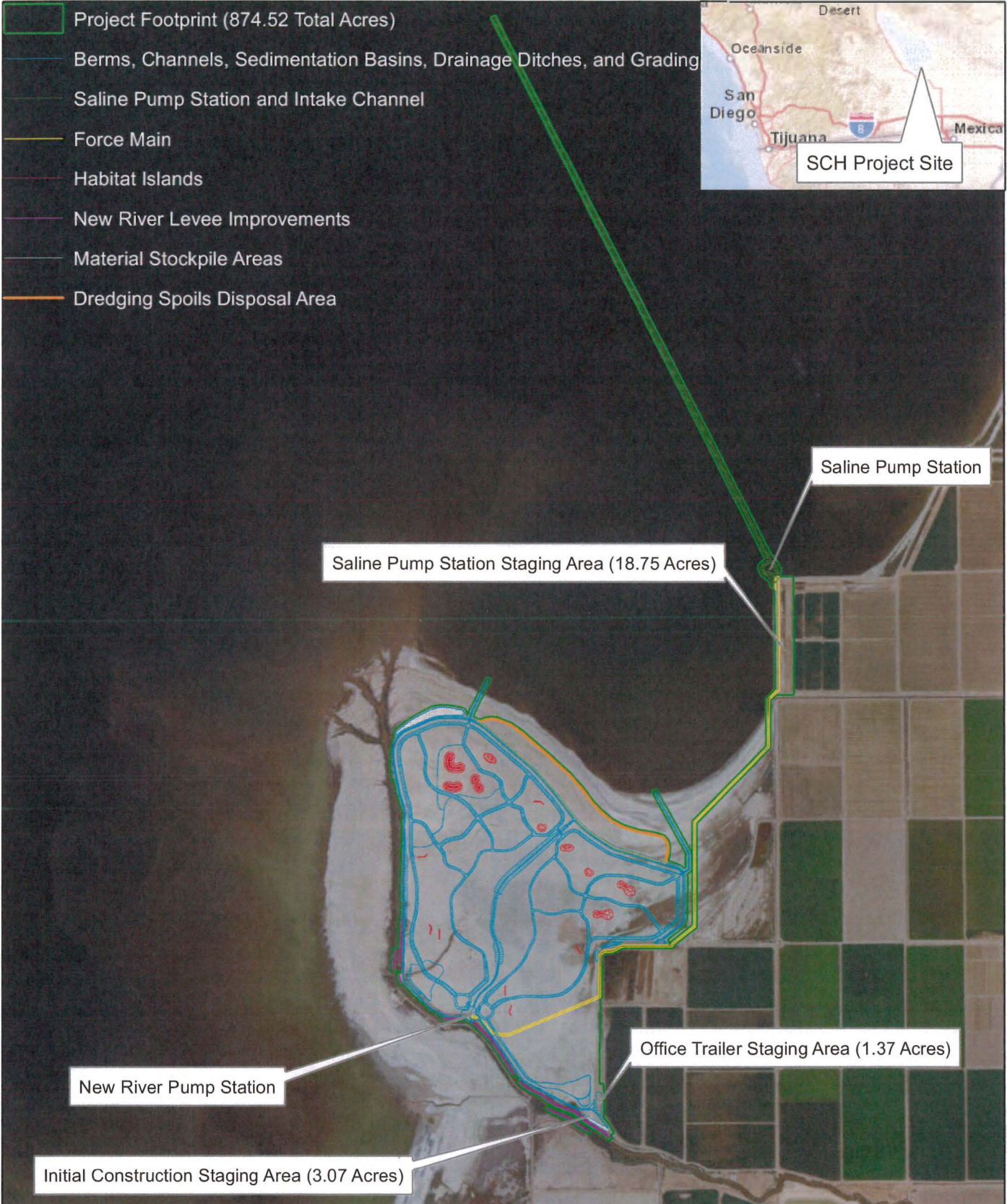


Figure 1a. SCH Project Site Plan
 Source Data: NAD_1983_StatePlane_California_VI_FIPS_0406_Feet
 NAIP 2014 World Imagery



Author: S. Paiva-Lowry
 California Dept. Water Resources
 Preparation Date: 3/9/17
 1:33,405



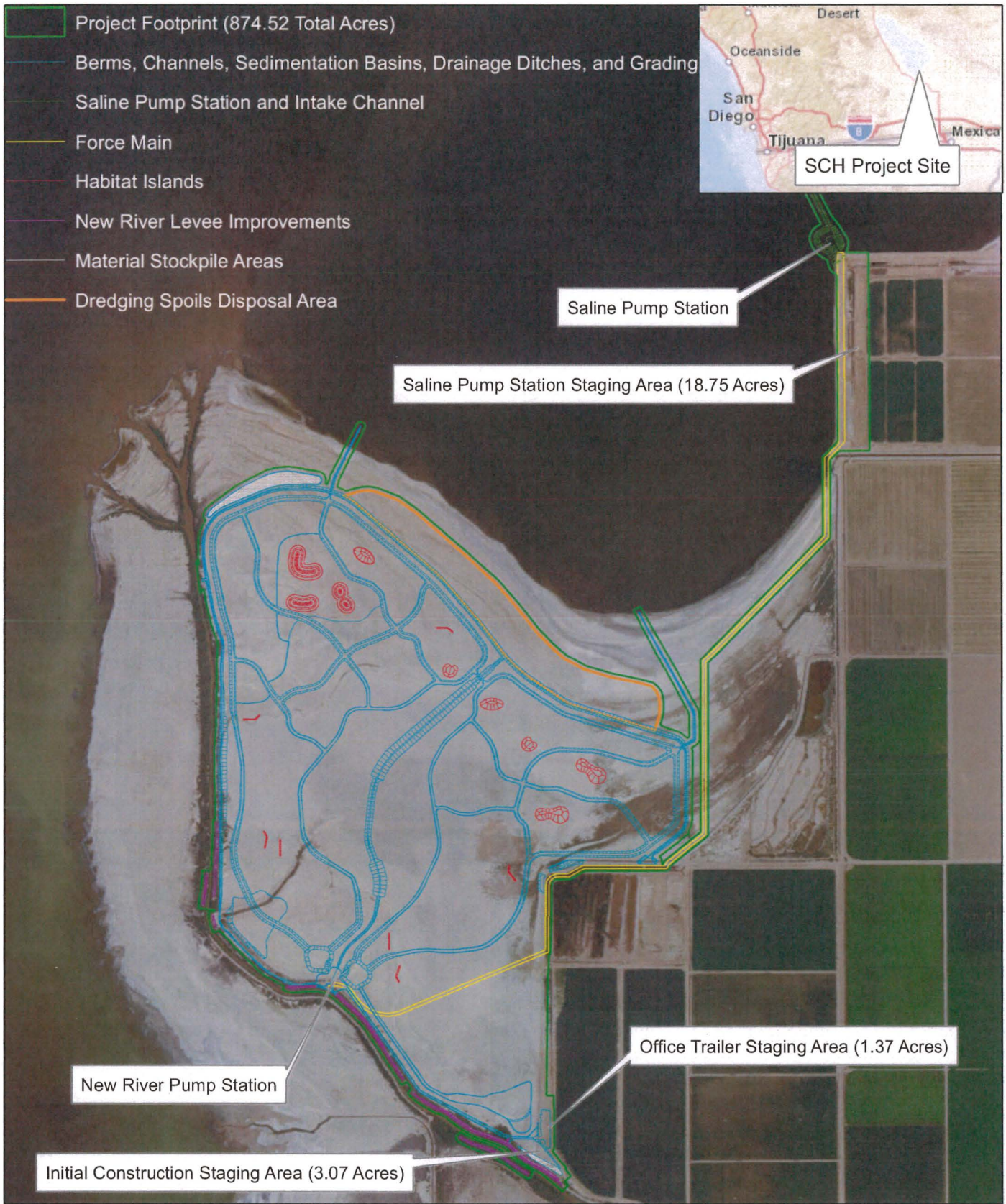


Figure 1b. SCH Project Detail
 Source Data: NAD_1983_StatePlane_California_VI_FIPS_0406_Feet
 NAIP 2014 World Imagery



Author: S. Paiva-Lowry
 California Dept. Water
 Resources
 Preparation Date: 3/9/17
 1:20,000



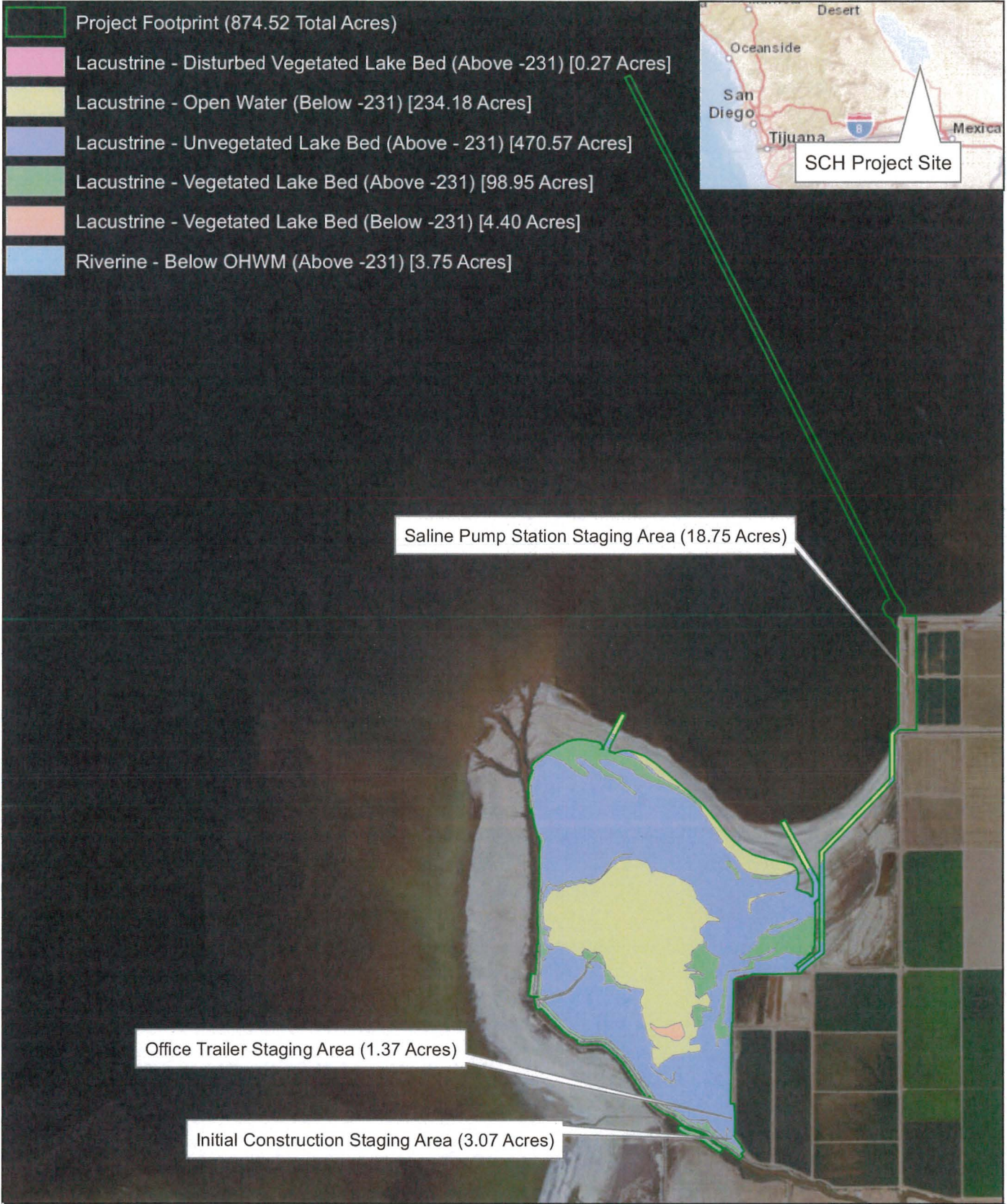


Figure 2a. SCH Wetland Features Site Plan
 Source Data: NAD_1983_StatePlane_California_VI_FIPS_0406_Feet
 NAIP 2014 World Imagery



Author: S. Paiva-Lowry
 California Dept. Water Resources
 Preparation Date: 3/9/17
 1:34,582



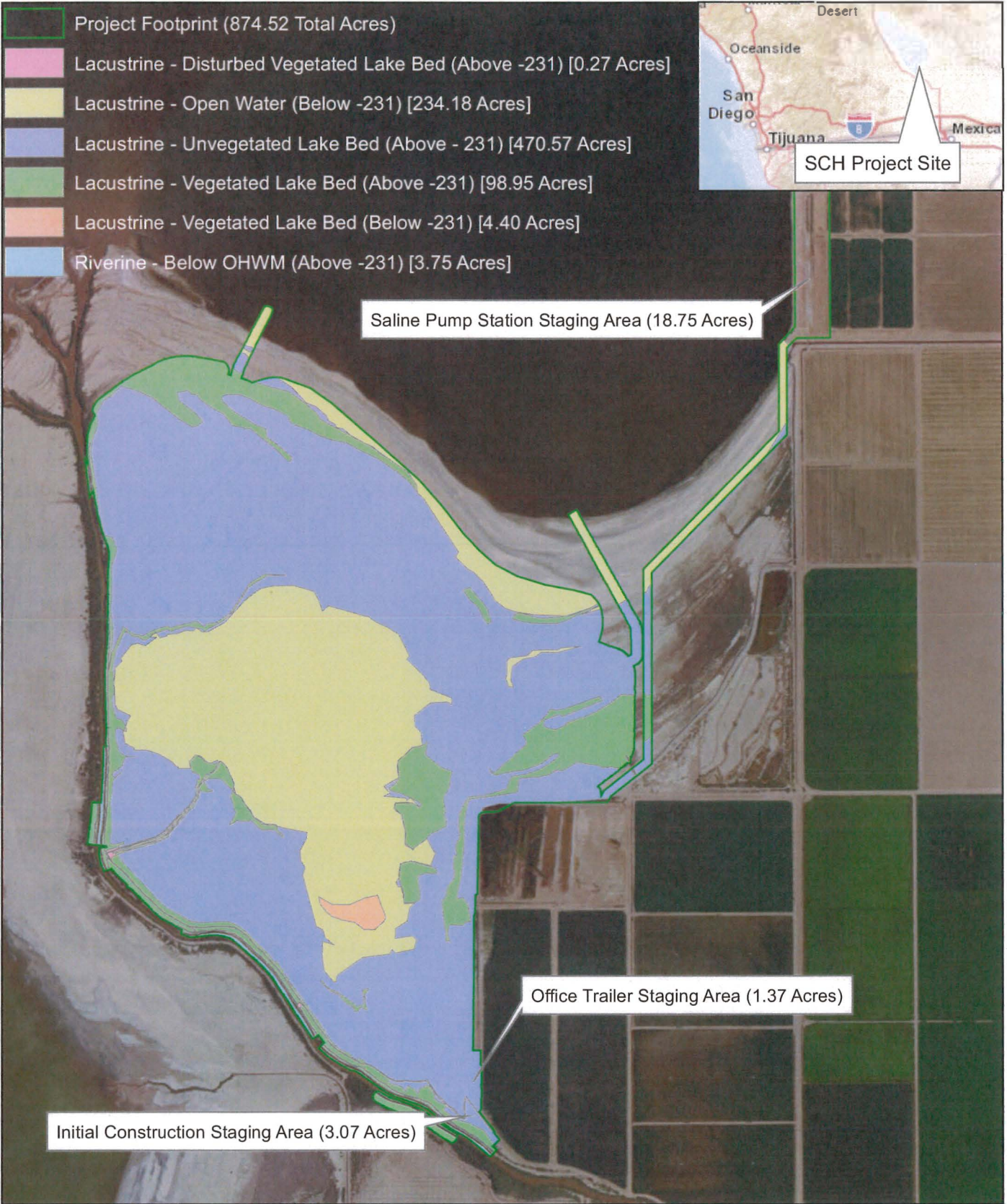


Figure 2b. SCH Wetland Features Detail
 Source Data: NAD_1983_StatePlane_California_VI_FIPS_0406_Feet
 NAIP 2014 World Imagery



Author: S. Paiva-Lowry
 California Dept. Water Resources
 Preparation Date: 3/9/17
 1:18,140



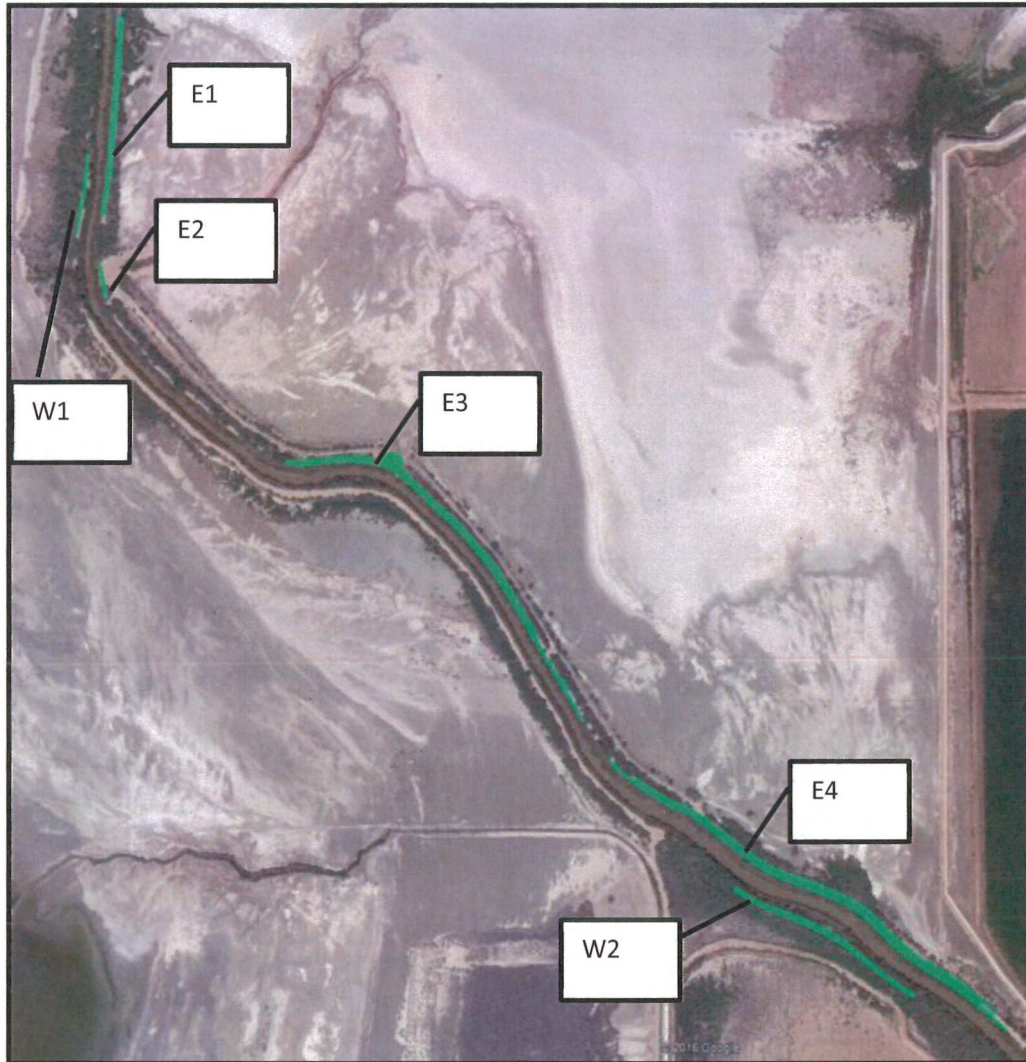


Figure 3. New River Levee Improvements.
The western New River levee will be lowered at W1-W2.
The eastern New River levee will be reinforced at E1-E4.

