



PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

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APPLICATION FOR PERMIT, NOTICE OF AVAILABILITY FOR A FINAL EIS/EIR

Public Notice/Application No.: SPL-2010-00142-LLC

Project: Salton Sea Species Conservation Habitat Project

Comment Period: July 26, 2013 through August 26, 2013

Project Manager: Lanika Cervantes; 760-602-4838; Lanika.L.Cervantes@usace.army.mil

Applicant/CEQA Lead Agency

California Natural Resources Agency
Mr. David Elms
1416 Ninth Street, Suite 1311

Applicant Contact

California Department of Fish and Wildlife
Sacramento, CA 95814
(760) 200-9394

Location

California Natural Resources Agency's preferred alternative/proposed project for the Salton Sea Species Conservation Habitat (SCH) Project is Alternative 3 (NR-3) as described in the draft EIS/EIR. The SCH Project is located near the mouth of the New River, at the southern end of the Salton Sea, in an unincorporated area of Imperial County, California (Figures 1 and 2).

Activity

The SCH Project would restore shallow water habitat lost due to the Salton Sea's ever-increasing salinity and reduced area as the Sea recedes. The Natural Resources Agency (applicant) is requesting a Section 404 permit from the U.S. Army Corps of Engineers (Corps) for the construction of up to 3,770 acres of shallow ponds and associated infrastructure at the southern end of the Salton Sea in Imperial County, California (Figure 3). Construction would occur in phases, with the Corps reviewing each phase of construction prior to implementation. The construction of the SCH Project would permanently impact (resulting in a loss) up to 90.1 acres, permanently impact (resulting in a habitat type conversion but not a permanent loss) up to 2,402.1 acres, and temporarily impact up to 209.7 acres of waters of the U.S. Compared to existing conditions, the SCH Project would result in a net increase in the extent of Waters of the U.S. by up to 793 acres. This net increase is due to the restoration of waters of the U.S. that was previously lost by the receding Sea between elevations -228 feet mean sea level (msl) and -231 feet msl. For more information, see page 6 of this notice. **The Final EIS/EIR will be available for public review at the following website:**
<http://www.water.ca.gov/saltonsea/>

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached Figures 1-3. We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the Corps Regulatory Division, you provide information that

support the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under Section 404 of the Clean Water Act 33 United States Code [USC] 1344).

Written comments can be mailed to:

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U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division – Carlsbad Field Office
ATTN: SCH Project; CESPL-RG-S-2010-00142-LLC
5900 La Place Court, Suite 100
Carlsbad, CA 92008

Or

David Elms
California Department of Fish and Wildlife
ATTN: SCH Project; State Clearinghouse No. 2010061062
78078 Country Club Drive, Suite 109
Bermuda Dunes, CA 92203

The mission of the U.S. Army Corps of Engineers Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable water and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem system functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors, which may be relevant to the proposal, will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- The Corps has determined that an EIS is required for the proposed work, and this public notice supplements the Notice of Availability of the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) that was published in the Federal Register on July 26, 2013 by the Environmental Protection Agency (EPA). The document is a joint Federal and state document. The Final EIS/EIR is a larger project-level document that addresses a number of interrelated actions over a specific geographic area that (1) would occur in phases, and (2) would be implemented under the same authorizing statutory or regulatory authorities. The information in the Final EIS/EIR will be sufficient for the Corps to make a decision regarding the issuance of a Section 404 permit for the SCH Project.

Public scoping was conducted to help identify areas of concern and specific issues that should be addressed in the EIS/EIR. In compliance with NEPA, the Corps issued a Notice of Intent for the preparation of the Draft EIS/EIR on June 23, 2010. To solicit additional comments on the scope and content of the Draft EIS/EIR, the lead agencies held four public scoping meetings at Palm Desert, Thermal, Calipatria, and Brawley on July 7 and 8, 2010. The information from scoping was used to shape the scope, content, and level of detail in the Draft EIS/EIR and in all phases of document preparation.

The 60-day public comment period for the Draft EIS began on August 19, 2011 with a Notice of Availability published in the Federal Register 76(161): 51956-51957 (FR Doc No: 2011-21239). The public comment period closed on October 17, 2011. The Corps and the Natural Resources Agency

jointly conducted a series of public hearings to receive comments on the SCH Project Draft EIS/EIR. These were held on September 14, 2011 in both Calipatria and Brawley and on September 15, 2011 in Palm Desert. Individual or master responses were provided for all substantive comments, and corrections and/or clarifications were made to the Draft EIS/EIR text in response to these comments. Revisions also included refinements to the State's preferred alternative/proposed project and the Corp's decision of the least environmentally damaging alternative (LEDPA)/preferred alternative as outlined in the draft 404(B)(1) Alternatives Analysis that is an Attachment to the Final EIS/EIR.

The Final EIS/EIR will be available for public review at the following website:

<http://www.water.ca.gov/saltosea/>. In addition, hard and/or electronic copies of the Final EIS/EIR will be available for public review at the following locations:

- Brawley Public Library
400 Main Street
Brawley CA 92227
- Calipatria Branch Library
225 W Main Street
Calipatria CA 92233
- City Of Imperial Public Library
200 W. Ninth Street
Imperial CA 92251
- Coachella Branch Library
1538 Seventh Street
Coachella CA 92236
- El Centro Public Library
539 State Street
El Centro CA 92243
- Imperial County Free Library
2098 Frontage Road
Salton City CA 92275
- Mecca-North Shore Branch Library
65-250A Coahuilla Street
Mecca CA 92254
- University Of California, Riverside
Riviera Library
3401 Watkins Drive
Riverside CA 92517

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

Coastal Zone Management- This project is located outside the coastal zone and preliminary review indicates that it would not affect coastal zone resources.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and this site is not listed. Historic property identification efforts included: 1) a cultural resource records search and pedestrian survey report completed in January 2012; 2) a Sacred Lands File Search through the NAHC in Sacramento completed on November 12, 2010 and August 26, 2011; and Native American consultation letters completed on April 27, 2011 and October 13, 2011. Results of the above surveys indicate that there are no cultural resources present within the SCH Project; in addition, no substantial comments were received. Therefore, the Corps determined that there will be "no historic properties affected" for the proposed undertaking. A letter requesting concurrence from the State Historic Preservation Office (SHPO) was sent on October 5, 2012. No response has been received from SHPO.

Endangered Species- The Corps has determined the SCH Project may affect/is likely to adversely affect the Federally listed as endangered desert pupfish (*Cyprinodon macularius*), known to utilize habitat in the vicinity of the proposed SCH Project. Based on the above determinations, the Corps has initiated formal consultation under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service on May 7, 2012. Consultation was concluded and a final Biological Opinion was issued, on March 5, 2013, for the SCH Project.

Public Hearing- No Public hearings will be conducted during the comment period of the Final EIS/EIR. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material in to a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs. The basic project purpose for the proposed project is **aquatic habitat restoration. The project is water dependent.**

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is **to develop a range of aquatic habitats along the exposed shoreline of the Salton Sea that would support fish and wildlife species dependent on the Salton Sea in Imperial County, California.**

Additional Project Information

Background information- The Salton Sea is located more than 200 feet below sea level in a desert basin in Riverside and Imperial Counties, California. The Salton Sea has no natural outlet and receives additional hydrology from the surrounding landscape and agricultural practices. The Salton Sea serves as foraging grounds for resident and migratory birds, numerous fish species, and a variety of other wildlife.

The SCH Project area supports a total of 2,188 acres of waters of the U.S. consisting of unvegetated channels, lacustrine non-wetland waters, and lacustrine wetland waters (Figure 4). A description of each type of jurisdictional habitat is described below.

Nonvegetated Waters

The SCH project supports a total of 15 acres (24,300 linear feet) of unvegetated channel composed of a portion of the New River as it outlets into the Salton Sea and 24 agricultural drainages that discharge into the Salton Sea. Each drainage exhibited signs of an OHWM, and the OHWM widths ranged from 2 feet up to 30 feet and are relatively permanent waterbodies. The drainages demonstrated unvegetated channels within the OHWM and many support some wetland vegetation.

The drainages receive hydrology primarily from agricultural runoff, and receive additional hydrology from direct precipitation and local stormwater runoff.

Lacustrine Non-wetland Waters

The total lacustrine non-wetland Waters of the U.S. present in the SCH Project area is 2,173 acres. This consists of the open water areas within the Salton Sea, delineated from the OHWM and seaward.

Lacustrine Wetland Waters

Wetland waters consisted of both vegetated and unvegetated wetland waters. The vegetated wetlands comprise approximately 349 acres of the Project area. Vegetation was dominated by iodine bush (*Allenrolfea occidentalis*), tamarisk (*Tamarix spp.*), with lesser amounts of saltbush (*Atriplex spp.*), southern cattail (*Phragmites australis*), and salt grass (*Distichlis spicata*).

Unvegetated wetlands occupy 196 acres of the Project area. Unvegetated wetlands include a few specific areas that have recent indicators of hydric soils and hydrology (similar to those listed above for vegetated wetlands) but may not support vegetation due to historical or current disturbance, including high salinity.

Project description- The proposed SCH Project would be constructed in phases to restore shallow water habitat lost due to the Salton Sea's ever-increasing salinity and reduced area as the Sea recedes. The SCH ponds would use available land at elevations less than -228 feet msl (the former Sea level in June 2005).

The SCH Project would use the large bay to the northeast of the New River (East New), the shoreline to the southwest (West New), and the shoreline continuing to the west (Far West New). Cascading ponds would be attached to each of the pond units (Figure 3). The ponds would be constructed with the necessary infrastructure to allow for the management of water into and through the Project area. The newly created habitat would be contained within low-height berms. The water supply for the SCH Project ponds would be a combination of brackish river water and saline water from the Sea, blended to maintain an appropriate salinity range.

The SCH Project is designed as a proof-of-concept project in which several project features, characteristics, and operations could be tested under an adaptive management framework for approximately 10 years after completion of construction (until 2025). By then, managers would have had time to identify those management practices that best meet the Project goals. After the proof-of-concept period, the Project would be operated until the end of the 75-year period covered by the Quantification Settlement Agreement (2078), or until funding was no longer available. The SCH ponds would be constructed and operated by DFG, on behalf of the Natural Resources Agency.

The SCH ponds would be constructed on recently exposed playa following the existing topography (ground surface contours) where possible using a range of design specifications. The ground surface within the SCH ponds would be excavated with a balance between cut and fill to acquire material to build the berms and habitat islands. Specifically, the SCH water depth at the exterior berms would range between 0 and 6 feet (measured from the water surface to the Sea-side toe of the berm), the maximum depth within the SCH ponds would be up to 12 feet in excavated holes, and the maximum water surface elevation would be at -228 feet msl.

Permanent Impacts – Loss of waters of the U.S.

SCH Project components that are categorized as permanent impacts resulting in a loss of waters of the U.S. include berms, sedimentation basins, water diversion at the New River, and creation of an

interception ditch. Construction of these Project components would result in the permanent loss of approximately 90.1 acres of jurisdictional resources.

Permanent Impacts – Habitat Conversion

The ponds themselves and the pond shoreline would still be considered jurisdictional waters post-construction, however construction of the ponds would permanently alter existing conditions (e.g., change bottom elevation and contours), and therefore these areas are also considered permanently impacted. The pond shoreline, located between the berms and the water surface of the ponds, would vary in width from 6 to 25 feet wide. Construction of the SCH ponds and pond shoreline (totaling 3,285 acres) would result in permanent impacts, but also would convert jurisdictional waters from one type to another. Up to 2,402.1 acres of jurisdictional resources (2,012 acres of non-wetland waters and 390 acres of wetland waters) would be converted to saline wetland ponds.

Temporary Impacts

Temporary impacts include staging areas, two temporary river crossings, and interstitial areas (areas between the footprint of the berms and the SCH Project boundary [i.e., construction work areas]). These three Project components would temporarily impact up to 209.7 acres of jurisdictional resources.

Proposed Mitigation– The proposed mitigation may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

Avoidance and Minimization: The SCH Project features outside the ponds have been sited to minimize or avoid impacts on vegetated wetland waters of the U.S. to the maximum extent feasible.

Compensation: The proposed SCH Project purpose is to restore aquatic habitat along the Salton Sea; therefore, the majority of impacts on waters of the U.S., while permanent (because the proposed Project would alter the elevation and contours), would not result in a loss of waters of the U.S. The pond sites would be converted from one aquatic resource habitat type to another. In addition, the small amount (90.1 acres) of permanent impacts that would result in a loss of waters of the U.S. would be from the creation of berms, diversion structures, and sedimentation basins, which are essential components of the proposed Project and are required to create the restored areas. The SCH Project, when completed, would restore a total of 883.4 acres of waters of the U.S. that currently are non-jurisdictional upland playa, resulting in an overall net gain of 793.3 acres (restored waters of the U.S. minus loss of waters due to the SCH Project implementation). Therefore, no Project-specific compensatory mitigation for impacts on jurisdictional wetlands and waters of the U.S. is required. Due to the beneficial nature of the SCH Project for water quality, wildlife habitat, and special-status wildlife species, the SCH Project is considered to be self-mitigating. However, the Corps will review and approve the adaptive habitat management plan that would be developed and require monitoring reports to be available for Corps review upon request to ensure that habitat restoration is successful and functioning as intended. In addition, all temporarily impacted areas would be restored to pre-construction conditions once project activities have terminated.

Proposed Special Conditions

None at this time.

For additional information, please call Lanika Cervantes at 760-602-4838 or via e-mail at Lanika.L.Cervantes@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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

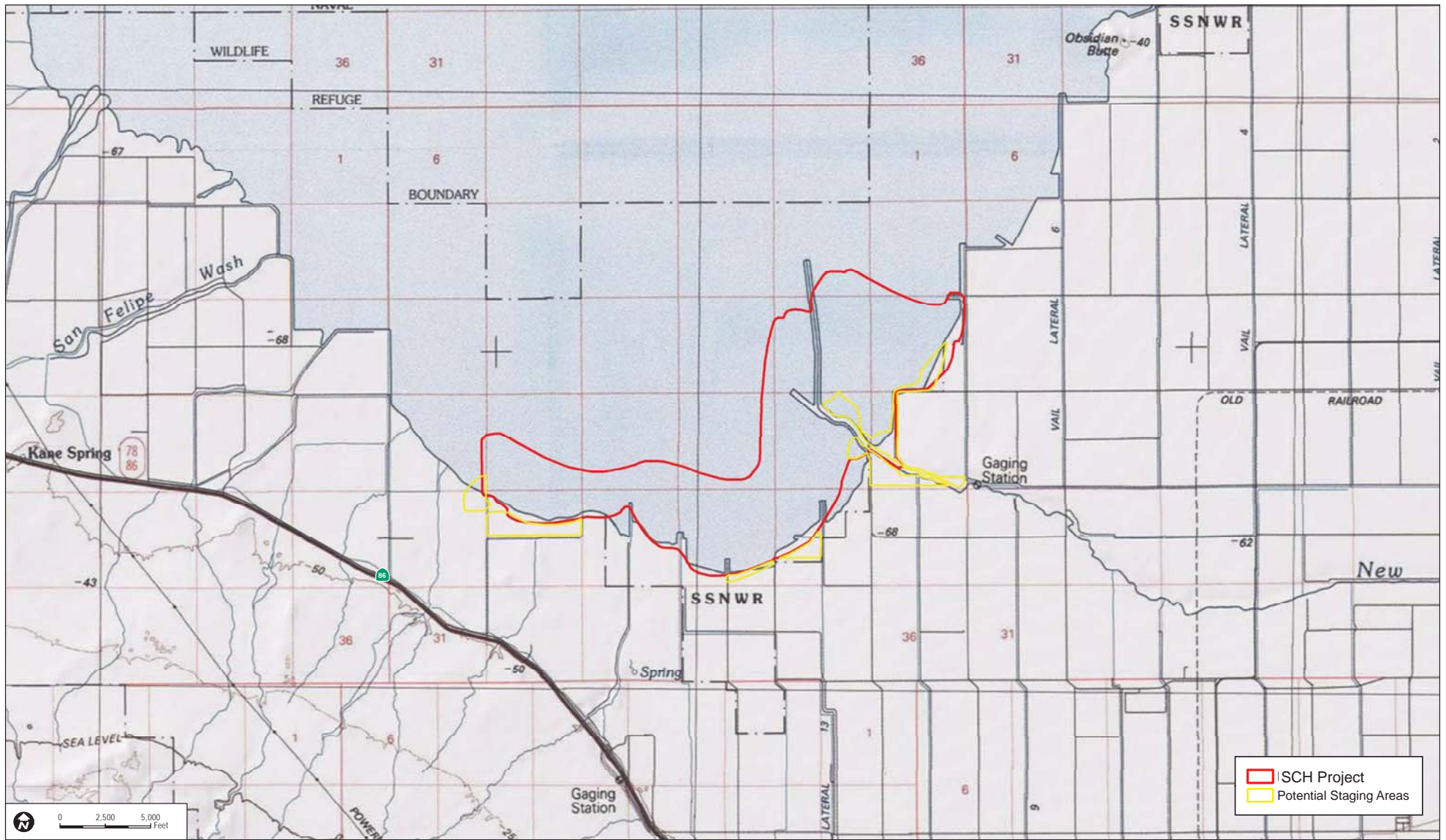
Carlsbad Field Office
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Carlsbad, CA 92008
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SCH Project

Potential Staging Areas

FIGURE 1
Regional Map



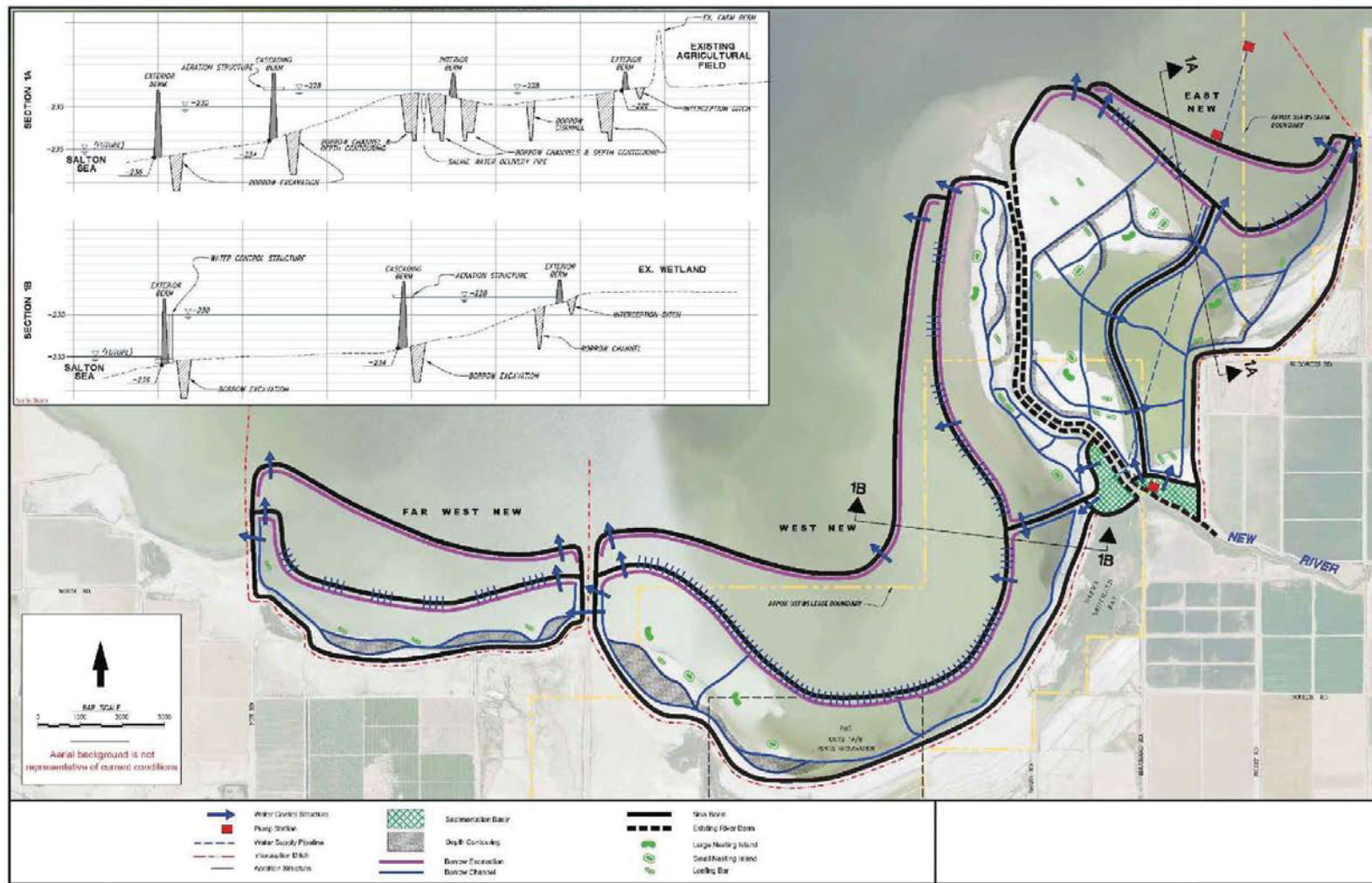
SOURCE: USGS 7.5-Minute Series Obsidian Butte, Calipatria SW, and Niland Quadrangles.

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Salton Sea Species Conservation Habitat (SCH) Project -

FIGURE 2
Vicinity Map



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SOURCE: Cardno ENTRIX, Corps and Natural Resources Agency 2011

Salton Sea Species Conservation Habitat (SCH) Project

Conceptual Layout of the SCH Project

FIGURE 3

