

# San Francisco Bay Conservation and Development Commission

375 Beale Street, Suite 510, San Francisco, California 94105 tel 415 352 3600 fax 888 348 5190

State of California | Gavin Newsom – Governor | info@bcdc.ca.gov | www.bcdc.ca.gov

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**TO:** Commissioners and Alternates

**FROM:** Larry Goldzband, Executive Director (415/352-3653; larry.goldzband@bcdc.ca.gov)  
Cody Aichele-Rothman, Coastal Planner (415/352-3641; cody.aichele@bcdc.ca.gov)

**SUBJECT: Staff Planning Report and Preliminary Recommendation on Bay Plan Amendment 5-19, to remove the Water-Related Industry Priority Use Area Designation from a site along Pacheco Creek, near Martinez**  
(For Commission consideration on January 16, 2020)

## Preliminary Staff Recommendation

The staff preliminarily recommends that the Commission amend the San Francisco Bay Plan Maps 2 and 3 by: (1) removing the Water-Related Industry Priority Use Area designation from a 172-acre site west of Pacheco Creek near Martinez; and (2) making the necessary findings regarding environmental impacts outlined in the Environmental Assessment.

## Staff Report

### Reason for the Proposed Amendment

The Contra Costa County Flood Control and Water Conservation District (the Applicant) has applied to the Commission to amend the *San Francisco Bay Plan* (Bay Plan) Maps 2 and 3 by removing the Water-Related Industry Priority Use Area (WRI PUA) designation from a site west of Pacheco Creek near Martinez (Figures 1 and 2). Currently, the 172-acre subject site is included within BCDC's North Contra Costa WRI PUA designation. The Applicant purchased the site in 2003 for the purpose of restoring tidal wetlands (see Figure 3 for the restoration site plan). The subject site is one of four sites in the overall Lower Walnut Creek Restoration Project (LWCR Project), which will restore and enhance approximately 386 acres of tidal wetlands and habitats along Walnut Creek and Pacheco Creek, improving habitat quality, diversity, and connectivity along the creeks and along the southern Suisun Bay shoreline. The goals of the overall LWCR Project also include improving flood protection by increasing the potential capacity for flood water retention and eliminating the need for dredging the creek channels. Public access will be improved by providing connections to existing segments of the Bay Trail and the Iron Horse Trail extension, as well as on site facilities to be added in a later phase of the project. The other three sites in the Lower Walnut Creek Restoration Project are located south of the subject site, upstream along Pacheco Creek, and outside the Commission's jurisdiction, and are not within the North Contra Costa WRI PUA designation (or any other Bay Plan PUA designation)



Pursuant to the Commission's authority under the McAteer-Petris Act and the Bay Plan, any development within WRI PUAs in the Commission's permit jurisdiction must be consistent with the Bay Plan water-related industry policies that describe appropriate uses and other considerations for development and management of water-related industry. Bay Plan Water Related Industry Policy 1 states "Sites designated for both water-related industry and port uses in the Bay Plan should be reserved for those industries and port uses that require navigable, deep water for receiving materials or shipping products by water in order to gain a significant transportation cost advantage." Thus, wetland restoration within the subject site would be inconsistent with Bay Plan Water-Related Industry policies. In order to facilitate the restoration of 172 acres of tidal wetlands, a Bay Plan amendment is required to remove the designation. Figures 4 and 5 show the proposed changes to Bay Plan Maps 2 and 3.

### **Statutory and Policy Requirements**

Section 66602 of the McAteer-Petris Act states in part that, "certain water-oriented land uses along the bay shoreline are essential to the public welfare of the bay area, and that these uses include ports, water-related industries, airports, wildlife refuges, water-oriented recreation and public assembly, desalinization plants, upland dredged material disposal sites, and powerplants requiring large amounts of water for cooling purposes; that the *San Francisco Bay Plan* should make provisions for adequate and suitable locations for all these uses, thereby minimizing the necessity for future bay fill to create new sites for these uses...."

Bay Plan maps are an integral part of the Bay Plan and they show how to apply Bay Plan policies to specific areas. The maps also identify the shoreline PUAs, which reserve shoreline areas for water-oriented uses to minimize the need to fill the Bay in the future for such uses. Section 66652 of the McAteer-Petris Act states, in part, that, "the Commission at any time may amend, or repeal and adopt a new form of, all or any part of the *San Francisco Bay Plan* but such changes shall be consistent with the findings and declarations of policy contained in this title. Such changes shall be made by resolution of the Commission adopted after public hearing on the proposed change, of which adequate descriptive notice shall be given...If the proposed change pertains only to a map or diagram contained in the *San Francisco Bay Plan*, the resolution adopting the change shall not be voted on less than 30 days following notice of hearing on the proposed change, except that changes proposed under Section 66611 shall not be voted on less than 90 days following such notice, and shall, except as provided by Section 66611, require the affirmative vote of the majority of the commission members."

McAteer-Petris Act Section 66611 required the Commission, by no later than December 1, 1971, to adopt "a resolution fixing and establishing within the shoreline band the boundaries of the water-oriented priority land uses, as referred to in Section 66602." Section 66611 further provides that the Commission "may change such boundaries in the manner provided by Section 66652 for *San Francisco Bay Plan* maps. Such changes will become effective only if authorized by an affirmative vote of two-thirds of the Commission's members and, where the change involves a reduction or elimination of a priority use area which has been so designated because of contemplated acquisition necessary to implement the priority use, upon a finding that there is no substantial probability that a public agency will be committed to acquiring the area within

a three-year period following the year in which such finding is made.” On November 18, 1971, the Commission adopted Resolution No. 16, pursuant to Section 66611, establishing within the shoreline band the boundaries of the water-oriented priority use areas designated in the *San Francisco Bay Plan*, including the North Contra Costa (Water-Related Industry) PUA, which is composed of numerous sites on both sides of Pacheco Creek separated by tidal marsh, sloughs, and Pacheco Creek (See Figures 1 and 2).

### **Summary of Proposed Amendment**

The proposed Bay Plan amendment would remove 172 acres from the North Contra Costa WRI PUA designation at Pacheco Creek. The subject site is one of five sites within the current North Contra Costa WRI PUA designation, which would remain in place for each of the other four sites. The subject site is located partly in unincorporated Contra Costa County and partly in the City of Martinez. The subject site’s land use designation is “Open Space” (OS) in the Contra Costa County 2020 General Plan and “Open Space/Conservation Use Land” by the Martinez General Plan. Wetland restoration would be consistent with these land use designations. However, the subject site is currently zoned by Contra Costa County as “Heavy Industrial” (H-I). The areas of the subject site within the city limits of Martinez are zoned “Open Space” (OS) for the northern parcel and “Environmental Conservation District/Heavy Industrial” (ECD-H-I) in the southwestern parcel of the North Reach. Wetland restoration would be consistent with the City’s zoning, but not the County’s. As the LWCR Project site is owned by the County, the County does not need to amend the zoning to continue with the project.

Figure 6 shows the land use and zoning designations for the subject site. Removing the WRI PUA designation from the property would enable a shift in land uses consistent with the County’s and City’s general plans and zoning maps. The subject site is currently undeveloped, supporting a mix of pickleweed, muted marsh, ruderal grasslands, and seasonal ponds (see Figure 7 for photos of current conditions).

### **Background**

Pacheco Marsh historically was part of a broad marshland at the shoreline of Suisun Bay that was nurtured by periodic overflows from Walnut Creek. In the 1950s, a large sanitary sewer outfall and access road were constructed in the middle of the subject site. In 1969, the site, along with much of the surrounding area along the Bay intermixed with tidal marsh, sloughs and Pacheco Creek, was designated the North Contra Costa WRI PUA by BCDC in the original Bay Plan due to the many water-related industry attributes such as proximity to the deep-water channel, the easy access to intermodal transportation by land or rail, and the use of pipelines for surrounding industry already seen in the area. As noted above, the Commission adopted Resolution No. 16 on November 18, 1971, establishing within the shoreline band the boundaries of water-oriented priority use areas designated in the San Francisco Bay Plan,

including the North Contra Costa WRI PUA, which includes the subject site and additional nearby sites. Commission Resolution No. 16 describes the eastern boundary of the WRI PUA at North Contra Costa as “East line of Concord Naval Weapons Station,” and the western line as “West line of property on assessor’s map page 378-1.” Current Bay Plan Maps 2 and 3 show the WRI PUA at North Contra Costa in five sites or sections extending along either side of Pacheco Creek, consistent with the boundaries described in Commission Resolution No. 16.

By the 1980’s, the north end of Pacheco Marsh was used to store sand mined from the bay, and a 39-lot subdivision intended for industrial land uses was proposed to be built on the subject site. In the 1990s, the parcel owners defaulted on their property taxes, and in 2003, the parcel was acquired by the Applicant and its partners, John Muir Land Trust (JMLT) and East Bay Regional Park District (EBRPD), at a tax default sale. Restoration planning and design have been ongoing since then. These partners have recently acquired the last parcel of the fully designed plan - the Suisun Properties parcel where the remnant sand mining activities once took place - and are prepared to move ahead with over a decade of work and planning once the necessary permits and approvals have been granted.

The overall LWCR Project, of which the subject site is one of four LWCR Project sites, would respond to the loss of 80 percent of historic wetland habitats in the Bay Area.<sup>1</sup> The LWCR Project would restore 130 acres of tidal wetlands, 20 acres of non-tidal wetlands, 14 acres of tidal waters, 4 acres of non-tidal waters, and 118 acres of transitional and upland areas, and enhance an additional 100 acres of similar habitats, for a total of 386 acres in four phases over the next few years (Figure 3). This work would increase the tidal and habitat connectivity and provide flood protection by increasing flood water retention capacity. The project also responds to the lack of public access in the area by providing new and connecting public access trails and amenities, such as restrooms, a small interpretive/educational center, and a parking lot, in a later phase of the project. These new amenities would provide educational and recreational opportunities in a previously inaccessible location. During the first phase, the subject site would be re-graded, re-planted, and restored to a tidally active floodplain, complete with low, mid- and high marsh features.

As mentioned above, the Central Contra Costa Sanitary District (CCCSD) outfall pipeline runs through the center of the subject site. This 72-inch concrete pipe is located in a 130-foot wide easement and has 10 manholes, that are used for maintenance of the outfall within the subject site. CCCSD uses the existing access road to inspect and maintain the outfall pipeline. The proposed project would raise and re-align the CCCSD access road to provide continued access to the pipeline.

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<sup>1</sup> Lower Walnut Creek Restoration Project: Initial Study/Notice of Intent to Adopt a Mitigated Negative Declaration. Prepared for the Contra Costa Flood Control and Water Conservation District. September 2019. (State Clearinghouse No. 2019099043).



The Contra Costa County Board of Supervisors adopted the Mitigated Negative Declaration for the LWCR Project on November 19, 2019. The Applicant doesn't anticipate needing any discretionary permits from Contra Costa County itself, as they are the County; however, they will need permits from the other agencies whose facilities they will be impacting in other sites of the proposed project, outside of BCDC jurisdiction and outside of the area of the Bay Plan Amendment. These include a MP620 facility relocation agreement from the US Bureau of Reclamation, and a Discharge Permit from the Central Contra Costa County Sanitary District.

### **Staff Analysis**

In 1986, BCDC staff evaluated the need for WRI PUA designations around the Bay.<sup>2</sup> Portions of the North Contra Costa PUA were identified as no longer being suitable or needed for water-related industry for the following reasons: "...a major problem to developing most of the site for water-related industry, which by nature includes heavy materials or products, ... and heavy processing facilities, such as oil refineries or storage tanks, are the weak soils under most of the site that provide very poor building foundation for heavy loads unless piles are driven to support the loads. This process, although possible, is extremely expensive and would be done normally only where there is a very large demand for developing heavy industry uses on the property... The weak soils are present because most of the site was historically part of the Bay and is underlaid by deep bay muds and has a high ground water table."

As a result of this analysis, several WRI PUA designations were removed around the Bay Area, including from sites in the North Contra Costa PUA,<sup>3</sup> but the WRI PUA designation was not removed entirely at the subject site because a 19-acre parcel at the north end of the 172-acre subject site was being used to store and dry sediment dredged from the Bay. Since 2009, the parcel has not been used for that purpose, and remnant piles of sand and some equipment have been abandoned on the site. In 2019, this last parcel was sold to the Applicant and the new owners wish to include the site in the LWCR Project. Thus, the reason for the retention of the WRI PUA designation in 1986 is no longer valid.

The proposed Bay Plan amendment would remove the 172-acre site from the North Contra Costa WRI PUA, but would not change the boundaries within the shoreline band of that PUA as established by Resolution No. 16, and, therefore, no amendment of Resolution No. 16 would be required. As noted above, McAtter-Petris Act Section 66611 provides that where a change in the boundary of a PUA within the shoreline band "involves a reduction or elimination of a priority use area which has been so designated because of contemplated acquisition necessary to implement the priority use, upon a finding that there is no substantial probability that a public agency will be committed to acquiring the area within a three-year period following the

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<sup>2</sup> An Analysis of the Economic Demand for Land to Support the Needs of Water-Related Industry Around San Francisco Bay, for BCDC, by QED Research and BCDC staff, October 1986

<sup>3</sup> Bay Plan Amendment 3-86 Concerning Bay Plan Policy and Map Designations Related to Water-Related Industry, Adopted by the Commission on January 15, 1987



year in which such finding is made.” Section 66611 is not applicable to the requested amendment because the entire subject site, include those portions of the site within the shoreline band, are currently in public ownership. Rather, the public agency Applicant has requested the proposed amendment to facilitate tidal wetlands restoration as an alternative to WRI as a more appropriate use of the site.

While not in the immediate area, more recent staff analysis from the year 2000, Bay Plan Amendment No. 2-00, which removed the WRI PUA designation from 206 acres at the former Pacifica Refinery site in the City of Hercules, included this statement: “Time has shown that the Commission's 1986 assessment of the need for water-related industry priority use areas was correct. A scaling down of acreage reserved for water-related industry was an appropriate response to the shift in the Bay Area's economy, as well as the recognition that a number of existing industries have the capacity to accommodate any future growth.”

That this site has remained underutilized and largely disregarded by industry in the area, as described in more detail above, further supports this finding. Furthermore, the small number of BCDC permits for neighboring sites in the North Contra Costa PUA have been for maintenance of existing facilities, not for new or expanded facilities or operations, showing that this site is not in demand for water-related industry uses.

Additionally, for Commission consideration, while the Applicants work closely with the Eastern Contra Costa Habitat Conservancy (ECCHC) on many of their projects, the LWCR Project is outside the ECCHC geographic boundary and therefore the ECCHC, and the Eastern Contra Costa Habitat Conservation Plan, does not extend to the project site. The ECCHC also focus on upland terrestrial and avian species, rather than the tidal/estuarine mix found in the LWCR Project.

For these reasons, the staff preliminarily recommends that the Commission amend the *San Francisco Bay Plan* by removing the North Contra Costa WRI PUA designation at Pacheco Creek and revise Bay Plan Maps 2 and 3, as shown in the following attachments:

Figure 1 – Current Bay Plan Map 2

Figure 2 – Current Bay Plan Map 3

Figure 3 – Proposed Lower Walnut Creek Restoration Project site plans

Figure 4 – Detail of proposed WRI PUA removal from Bay Plan Map 2

Figure 5 – Proposed WRI PUA removal from Bay Plan Map 3

Figure 6 – Contra Costa County Land Use designations and Zoning for the subject site

Figure 7 – Existing conditions

Figure 8 – North Reach project plan details

Figure 9 – Future public access amenities

## Environmental Assessment

### Project Description

The proposed project for purposes of this environmental assessment (EA) is the removal of the WRI PUA designation on an approximately 172-acre site, as shown on Bay Plan Maps 2 and 3 (Figures 1 and 2). Removal of the WRI PUA designation on these maps, in and of itself, will not result in any direct adverse effects on the environment. Approval of the application to remove the WRI PUA on this site, as requested, supports the Applicant's proposal to complete tidal wetland restoration at Pacheco Marsh, which Contra Costa County has approved. Moreover, the Applicant intends to apply to the Commission for a BCDC permit to authorize those portions of the LWCR Project in the Commission's Bay and shoreline band jurisdiction.

The LWCR Project would restore and enhance tidal wetlands, adjacent lowland grasslands and seasonal wetlands, and uplands along the southern shore of Suisun Bay and from Suisun Bay upstream along Walnut Creek and its tributary, Pacheco Creek. By doing so, the proposed project would improve habitat quality, diversity, and connectivity along Walnut Creek and Pacheco Creek, and along the southern Suisun Bay shoreline; provide more sustainable flood protection that would avoid the need for significant dredging; and provide a public access trail corridor for future connection of the Iron Horse Regional Trail and San Francisco Bay Trail extension through the project site. See Figure 8 for details of the North Reach.

The LWCR Project would (1) enhance and restore 386 acres of coastal marsh habitat along Walnut and Pacheco Creeks, (2) set back sections of the levees along the creeks, (3) extend tidal channels under existing berms through culverts to expand the flood retention capacity, (4) grade existing seasonal wetlands in order to expand the tidal wetland habitat and create a migration space for tidal wetlands expansion, and (5) provide opportunities for future public access amenities, such as trail connections and an educational facility, on the site in a later phase of the project.

### Environmental Review under the McAteer-Petris Act

BCDC's planning and permitting programs under the McAteer-Petris Act are, as a result of having been certified as a Certified State Regulatory Program pursuant to section 21080.5 of the California Environmental Quality Act (CEQA) and CEQA Guidelines section 15251(h) (14 CCR § 15251(h)), exempt from the CEQA requirements to prepare an environmental impact report (EIR), mitigated negative declaration, negative declaration, or initial study. Instead, BCDC's regulations provide for preparation of an EA, which is considered the "functional equivalent" of an EIR (14 CCR §11521). An EA is required to be part of the staff planning report prepared and distributed prior to amending the Bay Plan. The EA must either: (1) state that the proposed amendment will have no significant adverse environmental impacts; or (2) describe any significant adverse environmental effects, any public benefits of the proposed amendments, any feasible mitigation measures that would lessen the significant adverse environmental impacts, and any feasible alternatives to the proposed amendment. (Id. § 11003(b)(6)).



In this case, the proposed amendment is a map change, which is necessary for the Applicant's proposed LWCR Project. The environmental impacts of the proposed LWCR Project have been assessed in the "Lower Walnut Creek Restoration Project: Initial Study/Notice of Intent to Adopt a Mitigated Negative Declaration" (MND), for which a Notice of Determination was issued by the Contra Costa County Flood Control and Water Conservation District on November 21, 2019 (State Clearinghouse No. 2019099043).

The MND analyzed and disclosed the LWCR Project's potential adverse environmental impacts and identified feasible mitigation measures to avoid or minimize those impacts. The MND considered the particular impacts that would occur in the area of the map change proposed in the Bay Plan Amendment and the development that would occur in the areas covered by the amendment, within the context of the overall LWCR Project. Supplemental analysis is provided in this EA, where necessary, to differentiate the impacts within the area of the amendment from those of the overall LWCR Project as a whole or to provide additional information to the Commission.

### **Findings of Environmental Impact**

The EA as informed by the MND finds that no substantial adverse environmental impacts would result directly from the map change in the proposed Bay Plan amendment. The MND identifies potentially significant adverse impacts from the overall LWCR Project related to land use, public access and recreation, cultural resources, air quality, hydrology and water quality, and biological resources, which would be reduced to less than significant with mitigation as summarized in this EA. These impacts, which are considered secondary or indirect impacts of the requested Bay Plan map change, and associated mitigation measures are summarized in the "Impacts of Proposed Bay Plan Amendment" section below.

### **Impacts of Proposed Bay Plan Amendment and Feasible Mitigation Measures**

As summarized below, the MND identifies the potentially significant adverse impacts from the Applicant's overall LWCR Project related to land use, public access and recreation, cultural resources, air quality, hydrology and water quality, and biological resources, which are summarized below, along with associated mitigation measures which would reduce such impacts to less than significant. Other impacts, such as noise, utilities, and transportation, were deemed less than significant or impacting other sites of the project, beyond the scope of this Bay Plan amendment.

### **Land Use**

The LWCR Project would involve enhancement and restoration of tidal wetlands within unincorporated Contra Costa County and the City of Martinez. The subject site is located partly in unincorporated Contra Costa County and partly in the City of Martinez. The subject site's land use designation is "Open Space" (OS) in the Contra Costa County 2020 General Plan and "Open Space/Conservation Use Land" in the Martinez General Plan. Wetland restoration would be consistent with these land use designations. However, the subject site is currently zoned by Contra Costa County as "Heavy Industrial" (H-I). The areas of the subject site within the city limits of Martinez are zoned "Open Space" (OS) for the northern parcel and "Environmental



Conservation District/Heavy Industrial” (ECD-H-I) in the southwestern parcel of the North Reach. Wetland restoration would be consistent with the City’s zoning, but not the County’s. As the LWCR Project is owned by the County, the County does not need to amend the zoning to continue with the project. Figure 6 shows the land use and zoning designations for the subject site.

## Recreation

In approving Bay Plan Amendment No. 2-06 in 2006, which amended the Bay Plan’s recreation policies, the Commission concluded that additional waterfront recreational opportunities are needed to meet regional need. Waterfront parks, including those currently designated in the Bay Plan and those purchased and developed for park use but not designated, comprise about 25,000 acres of regional supply, or slightly less than four percent of the total park acreage in the region. With greater population concentrations near the shoreline, the demand for useable, accessible waterfront parks will dramatically increase. Based on emerging trends, participation in water-oriented recreation of all types can be expected to grow in the coming years.

The proposed recreational public access amenities in the North Reach, for a later phase of the project, may include: (1) a parking/staging area with a restroom, (2) a small interpretive/education center (3) a four-mile trail network including raised boardwalks and bridges with interpretive signage, overlooks at the north end of the site, and a possible boat launch. See Figure 9 for details.

Nearby existing parks and trails include the Iron Horse Regional Trail, the Waterbird Regional Preserve, and nearby potential Bay Trail and Delta Trail connections. Future connections to these recreational amenities are planned with project partners JMLT and EBRP. The North Reach restoration site is projected to receive approximately 13,000 visitors annually, and visitation is expected to be fairly evenly spread across all seasons. Recreational activities are expected to primarily occur on weekends and during daytime hours, with occasional evening hour events. To mitigate for the increased recreational impacts, the following design elements will be utilized: viewing platforms will have taller guard rails, solid fencing, and educational signage to reduce disturbance to special-status species; the trail leading to the viewing platform near a tidal channel will be “limited access,” meaning it will only be open during the non-breeding season for special-status birds, such as California black rail and Ridgway’s rail; and small watercraft launch may be located near the water access drop-off point at the end of the CCCSD service road. The anticipated number of boaters to use the area is not known; however, use of this water access drop-off point will be limited by removable bollards along the service road, and reservations will be required for use, thereby limiting the level of access and unauthorized use of the area. Further analysis of these proposed recreation and associated mitigation features will be conducted through the review of the BCDC permit for this project.

## Appearance Design and Scenic Views

The land to be removed from the WRI PUA presently contains substantial undeveloped land containing non-native grasses and does not offer any special aesthetic features. Bay views will remain available from the subject site, which would be improved and made more accessible to the public through the proposed project.

The project site, while currently undeveloped, is located in a generally industrial and urban setting and surrounded by many light sources that raise ambient light levels at night. Development facilitated under the proposed LWCR Project is expected to result in a minor increase in the amount of light and glare generated at the project site. Although the proposed project is located in proximity to San Francisco Bay, given the small size of the proposed building compared to the adjacent significant light sources, the proposed project would not provide a significant new source of light that would act as an attractant for nocturnal migrating birds and result in collisions and avian mortality.

Further analysis will be conducted through the review of the BCDC permit for this project. However, the MND concluded that the project as a whole, including the development of the lands subject to the proposed Bay Plan amendment, in combination with reasonably foreseeable future projects, would not have a significant adverse cumulative impact with regard to aesthetics, scenic vistas, visual character, or light and glare.

## Cultural resources

Twelve cultural resource studies and surveys have been performed within a half mile of the project site, but none of the samples contained evidence of cultural resources, including midden soil, shell, bone, or other artifacts. No historical resources have been identified on the subject site. In the unlikely event that a previously unrecorded archaeological or cultural resource is identified during ground-disturbing activities that qualified as an historical resource or a unique archaeological resource, any impacts to the resource resulting from the project could be potentially significant. Mitigation Measure CUL-1 provides procedures for the inadvertent discovery of archaeological resources or tribal cultural resources and would reduce potentially significant impacts to less than significant with mitigation incorporated.

## Air Quality

The project site is located within the San Francisco Bay Area Air Basin and is regulated by the Bay Area Air Quality Management District (BAAQMD). The most recently adopted air quality plan to address nonattainment issues for the Bay Area is the 2017 Bay Area Clean Air Plan (CAP). The 2017 CAP provides a regional strategy to protect public health by continuing progress toward attaining all state and federal air quality standards. Additionally, the CAP is focused on eliminating health risk disparities from exposure to air pollution among Bay Area communities. The LWCR Project would result in a less than significant impact related to

construction emissions and would not result in long-term adverse air quality impacts; therefore, the LWCR Project would not conflict with the primary goals of the 2017 CAP. The 2017 CAP does not contain any measures specific to recreational parkland uses; therefore, no inconsistency with the 2017 CAP is identified.

Though the calculated daily emissions and exhaust from the project during construction and subsequent operation would be less than significant based on BAAQMD thresholds, Mitigation Measure AQ-1 would require implementation of BAAQMD Basic Construction Mitigation Measures, to further reduce the emissions of fugitive dust and equipment exhaust at or near the site.

## **Water Quality and Hydrology**

Lower Walnut Creek is exposed to elevated water levels from both tidal and fluvial sources. High tide waters in Suisun Bay can move upstream along the Walnut Creek Channel, while fluvial flooding occurs due to high flows conveyed by the Walnut Creek and Pacheco Creek channels. The marsh's hydrologic conditions have been degraded through years of human alterations to the surrounding landscape. The levees along the west bank of Walnut Creek and along Pacheco Creek are owned and maintained by the Applicant, with efforts targeted to protect the most sensitive infrastructure while minimizing impacts to existing habitats. The elevation of these levees varies. Hydraulic modeling performed by the Applicant indicates that levees to the west of Walnut Creek overtop in an approximately 1-in-40 annual chance exceedance flood event. The entire project site is within the 100-year floodplain.

Maintaining a 100-year level of flood protection currently requires expensive and environmentally destructive large-scale dredging to protect relatively flood-tolerant land uses. For the proposed project, the Applicant seeks to protect and maintain access to existing infrastructure (e.g., power lines, railroads, water lines) and adjacent private property. Open space areas may not require maintenance or improvement of flood protection levels.

Being located adjacent to Suisun Bay, Lower Walnut Creek, and Pacheco Creek, the depth to groundwater at the project site is shallow, with the lower elevation portions of the project area undergoing periodic inundation, especially during high tides and significant rain events. Consequently, the grading activities may encounter groundwater. Studies identified and conducted by the Applicant have found, in general, that there are no pollutants of concern at levels that exceed thresholds in the surrounding groundwater.

Construction of the LWCR Project would require excavation, grading, earthmoving, backfilling, and compaction, which could impact water quality. Construction and ground disturbance activities associated with the project would occur adjacent to and on the floodplain of Walnut Creek and Pacheco Creek, and water quality impacts, including turbidity impacts, could be significant in the immediate vicinity of construction activities. In addition, construction activities would require use of hazardous materials, such as fuels and oils, which, if not managed appropriately, could become mobilized by runoff and contribute to non-point source pollution

and degradation of water quality. Mitigation Measure BIO-1, discussed in the Biological Resources section of this EA, and Mitigation Measure HAZ-1, which would minimize potential for release of hazardous materials encountered in groundwater, would reduce this impact to a less than significant with mitigation incorporated.

Thus, operation of the LWCR Project would have no negative water quality impacts. The expanded and restored coastal habitat would have approximately the same potential to impact water quality as existing conditions. Under existing conditions, water quality impacts include natural erosion and siltation impacts, which occur during high precipitation events within the Walnut Creek watershed. With the implementation of the best management practices the Applicant has agreed to with the California Department of Fish and Wildlife, operational impacts on water quality would be less than significant.

The LWCR Project would alter the existing drainage pattern of the project area by altering levees and expanding tidal channel networks to connect the project area to natural hydrological processes (see Figure 3). Setting levees back, lowering them, and breaching them would allow land that is currently disconnected from the creek and tides to be reconnected to them hydrologically, both through the tidal channels that would be excavated as part of the project and through the exposure to potential flooding. These alterations would take place across the entire project area. Though the drainage pattern would be altered, the new pattern would reduce impacts from erosion and siltation. Under current conditions, during flooding events, the levees constrain flows to the main channel of Walnut Creek, increasing erosion and siltation in the main channel. The project was designed to include adjusted channel sizes that would reflect a state of equilibrium. Setting back the levees would expand the floodplain, allowing waters to spread out across the floodplain, slowing the flow, which would reduce erosion from scour and spread silt across the floodplain rather than in the channel, and would be environmentally beneficial.

The adjacent transitional lowlands are designed to be successional habitats, gradually converting to tidal marsh with sea level rise. The project is predicted to accommodate up to 5 feet of sea level rise as lowland grassland converts to tidal wetland. The tidal marsh-terrestrial ecotone would persist, moving upslope over time. The resilience of the proposed project to rising sea level and the long-term viability of required public access will be analyzed further in the BCDC permit for the project.

## **Biological Resources**

The Applicant conducted reconnaissance-level field surveys and rare plant surveys to document existing biological conditions, assess vegetation and wildlife habitats, and identify potential for special-status species to occur on the subject site. Rare plant surveys did not include portions of the North, Middle, and South reaches due to access limitations. All biological resource field surveys were informed by a desktop review of historic and current aerial imagery, subscription-based biological resource databases, publicly-available citizen science data, biological resources reports for Lower Walnut Creek, and restoration plans for Pacheco Marsh. In addition, the Applicant utilized information and analysis of current and potential salt marsh harvest mouse



habitat and trapping studies performed for the project. Results from these studies were gathered in the Lower Walnut Creek Restoration Project Habitat Assessment, which describes the existing biological resources on the subject site and the potential for special-status plant and wildlife species, sensitive natural communities, and state-and federally-regulated waters and wetlands to occur in the project area.

The California Natural Diversity Database, U.S. Fish and Wildlife Service Official Species List, and the California Native Plant Society document 83 special-status plant and wildlife species within a 10-mile buffer of the project area. The project area does not include suitable habitat for all of the listed species, due to elevation or other factors. Therefore, the analysis was limited to those that have a moderate to high potential to occur due to the project area including suitable habitat and being within the species' known range.

In addition to these special-status species, sensitive plant communities were also identified, such as creeping wildrye, submerged aquatic vegetation (sago pondweed), and eelgrass. Potential Impacts were categorized by restoration-related construction activities, public access and recreational facilities-related construction activities, invasive vegetation management, ongoing maintenance and public facility use, and habitat restoration and conversion use. If an animal or plant is present at the site or nearby during these activities, it could be impacted.

Overall, use of heavy equipment and vehicles would have the potential to impact the species either through direct injury or mortality, or by exposure to accidental release of construction-related pollutants. If construction personnel, vehicles, or heavy equipment were working within 150 feet of channel areas, species could potentially be directly impacted through injury or mortality, or indirectly impacted by disturbance to normal and necessary behaviors which could be a significant impact. In addition, equipment staging and project construction could render the site temporarily unsuitable for species due to the noise, vibration, and increased activity levels associated with grubbing, earth moving, heavy equipment operation, and increased human presence. Throughout the construction process standard and marsh-specific Best Management Practices would be utilized to reduce impacts. These construction-related impacts would be temporary and would cease upon completion of construction, invasive vegetation management, and native plant growing operations.

The project has been designed to minimize the need for active operations and ongoing maintenance. Still, species could be directly impacted by ongoing monitoring and maintenance activities along the levee tops and slopes. In addition, repair of erosion sites could cause short-term discharge of soil into channels during repair activities, which could negatively affect water quality and directly impact species present; however, this temporary impact would be alleviated by the long-term benefit of slope stabilization following repairs. Impacts associated with ongoing monitoring and maintenance are expected to be of short duration (i.e., on the order of hours to days) and infrequent, and are a continuation of comparable operations and maintenance activities currently implemented by the Applicant on existing levees. In addition, maintenance activities will follow Best Management Practices (BMPs) outlined in the Applicant's Routine Maintenance Agreement with California Department of Fish and Wildlife



(CDFW). Examples include, but are not limited to, performing Habitat Assessments, establishment of sensitive area buffers, and biological monitoring if applicable. In both jurisdictional and non-jurisdictional areas, standard BMPs to avoid erosion and accidental releases into adjacent waterways will be implemented; examples include, but are not limited to, use of wattles or silt fencing and covering stockpiles.

Because the interpretive/education center and associated infrastructure would avoid sensitive habitat, such as wetlands and channels, that could support special-status species, either currently or post-restoration, the use of this area is not expected to significantly impact listed species. Through restoration and enhancement, a significant area of higher quality habitat will be present in the subject site. Public use of trails and viewing platforms are expected to have a less than significant impact on these species due to restrictive protective measures and design aspects and public education efforts onsite.

It is likely that common bird species subject to provisions of the Migratory Bird Treaty Act (MBTA), such as house finch (*Haemorhous mexicanus*), northern mockingbird (*Mimus polyglottos*), and California towhee (*Melospiza crissalis*) nest on the subject site. Bird species listed under the Federal and California Endangered Species Acts (ESA), as well as non-ESA-listed birds, are afforded conservation protections. Because special-status bird species and birds protected by the MBTA could nest in trees, shrubs, grasses, emergent vegetation, marsh vegetation, or even on bare ground, all parts of the project area are considered potential nesting habitat. Impacts could occur to resident and migratory species during construction during breeding and non-breeding seasons, however significant impacts could occur if the breeding or nesting behaviors are altered from human presence and interference.

Habitat restoration elements would consist of creating and enhancing tidal marsh, as well as adjacent terrestrial lowlands and uplands, to support a diversity of plant communities and wildlife species. Restoration of tidal marshes is expected to have a less than significant impact on marsh species due to the beneficial restoration and enhancement of tidal wetland and non-tidal wetlands.

In summary, construction-related impacts on listed species would be potentially significant. Most negative impacts would be minimal and temporary and would be offset by the significant net gain of enhanced marsh habitat. All work would be restricted to identified work windows and seasonal restrictions. Implementation of Mitigation Measure BIO-1 (all species) would reduce construction-related impacts on all special-status species to a less than significant level by providing biological monitoring within 150-feet of sensitive aquatic sites; environmental training to construction personnel; general protection measures, including speed limits on all levees and roads during construction; and, specific survey and relocation measures for listed species, if encountered. With implementation of Mitigation Measure BIO-1, construction-related impacts would be less than significant. Operational and long-term effects of the project on species would be less than significant. Individual Mitigation Measures have been developed

for individual species or species groups to provide additional protections before and during construction activities related to specific species locations and buffer zones – with and without the use of curtains and fences – and specific animal behaviors and patterns of movement, such as basking of turtles and nesting of birds. Individual Mitigation Measures may be similar to each other and may benefit more than the species for which it was designed.

Additionally, Mitigation Measure BIO-11 would require the development and implementation of a Restoration Monitoring and Adaptive Management Program, developed for the overall project. It states: “The Applicant will develop and submit a Monitoring and Adaptive Management Plan to be implemented during the monitoring period to assure desired outcomes. The plan will be submitted to the CDFW, Regional Water Quality Control Board, U.S. Army Corps of Engineers, and BCDC prior to the start of construction. Elements of this plan shall be based upon final project design and construction documents. The plan shall include description of protocols for monitoring vegetation and geomorphology to evaluate project performance, monitoring schedule, performance criteria and thresholds that would trigger adaptive management actions, and reporting. An annual report shall be prepared and provided to the above-listed regulatory agencies in each year that post-construction monitoring is conducted.”

Although the project would include grading and vegetation management activities within potential wetlands and waters, and temporal loss of wetlands and waters during construction, these activities would support the goals of habitat restoration and would result in a net increase in wetlands and waters. Upon completion, the project would benefit native and migratory wildlife species. Therefore, operation/long-term impacts on movement of native and migratory wildlife and wildlife corridors would be less than significant. The project would result in long-term benefits, and therefore the potential operational/long-term impact on wetlands and waters would be less than significant. As such, restoration or enhancement projects with the potential to benefit special-status species are of paramount importance. Implementation of the project would immediately create significant tidal channel and marsh habitat for many listed species.

## **Conclusion**

Most of the potential impacts of the proposed LWCR Project would be temporary, short-term, and site-specific. These impacts would be localized to the proposed LWCR Project sites and may include limited adverse effects related to air quality, biological resources, cultural resources, hazards, and hazardous materials that may be used during the construction process. The proposed LWCR Project has been designed to meet the County’s flood standards and would adhere to local codes and regulations as conditions of project approval. Compliance with applicable local, state, and federal standards, as well as incorporation of mitigation measures, would result in less than significant impacts. The proposed LWCR Project would not cause substantial adverse direct or indirect effects as impacts would be avoided and minimized where possible and mitigated when necessary. Mitigation measures would be implemented as described in the sections above. Therefore, LWCR Project impacts would be less than significant with mitigation incorporated.



## **Public Benefits of the Proposed Amendment and Restoration Project**

As described above, the LWCR Project would provide restoration of 386 acres of tidal wetlands, increased flood retention capacity, and future public access amenities and recreational opportunities in a previously inaccessible location on the waterfront.

## **Alternatives to the Proposed BCDC Bay Plan Amendment**

BCDC regulations require, in part, that the EA consider any alternatives to the proposed amendment. In this case, the only reasonably identifiable alternative is the “no project” alternative, under which the Commission would not approve the request to remove the WRI PUA from the subject site. Under this alternative, the site would remain in its current condition and no restoration would occur. The Applicant would not apply for a BCDC permit to implement tidal restoration at the subject site and there would be no construction and no provision of tidal marsh restoration or public access.

## **Response to Comments**

As of November 28, 2019, no comments on the descriptive notice have been received at the Commission office.

Figures and Maps:

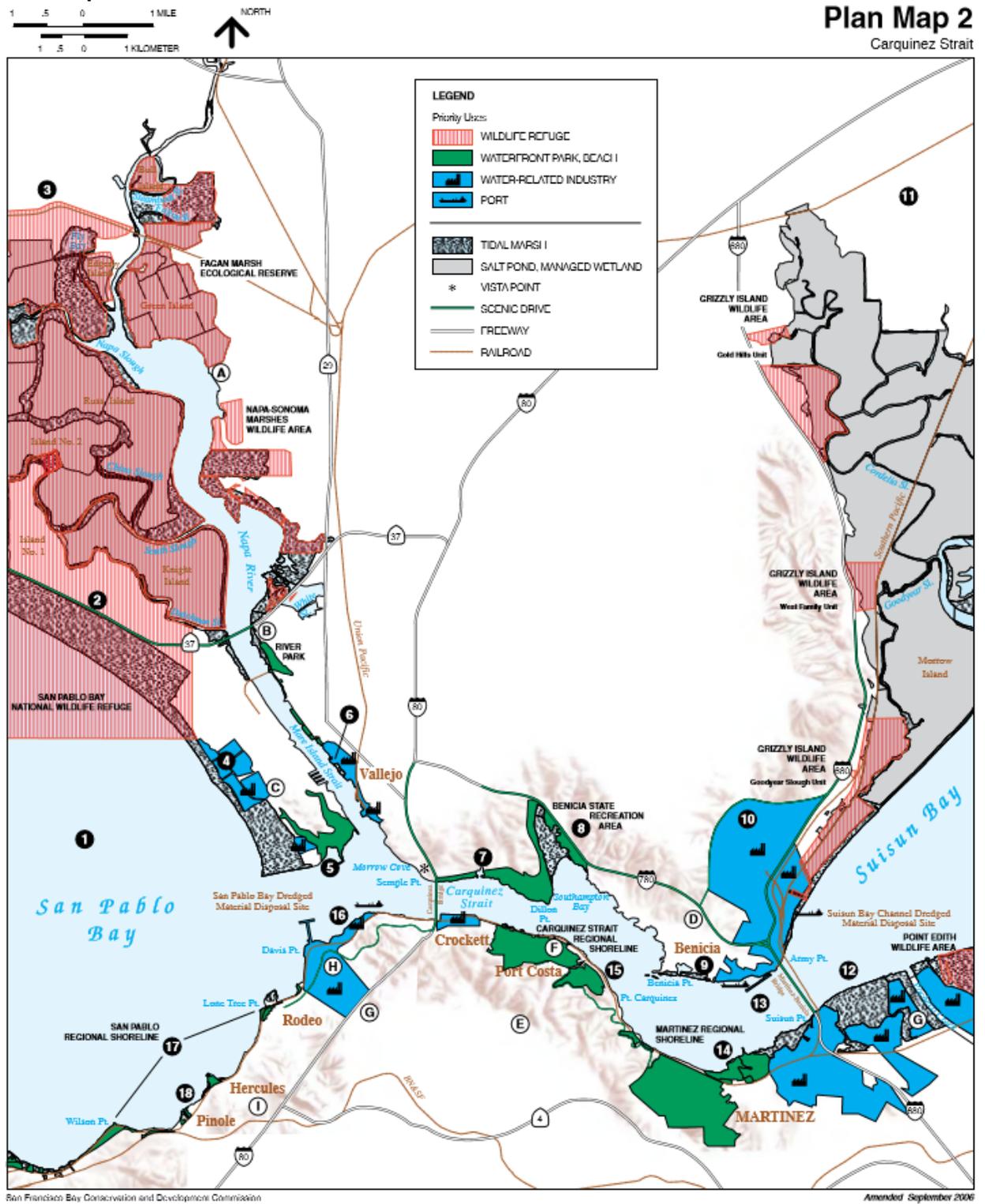
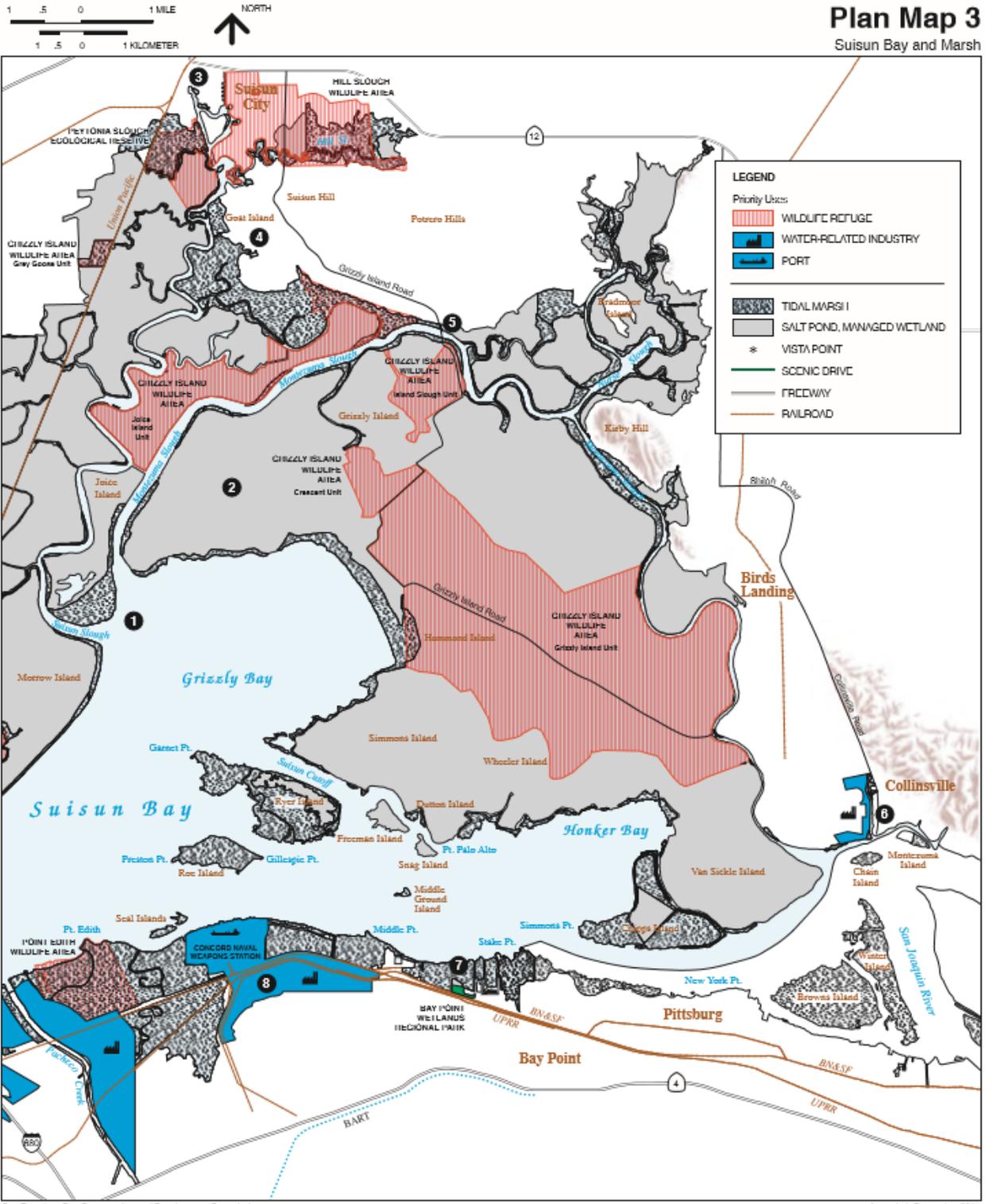


Figure 1: Bay Plan Map 2





San Francisco Bay Conservation and Development Commission Amended September 2011

Figure 2: Bay Plan Map 3



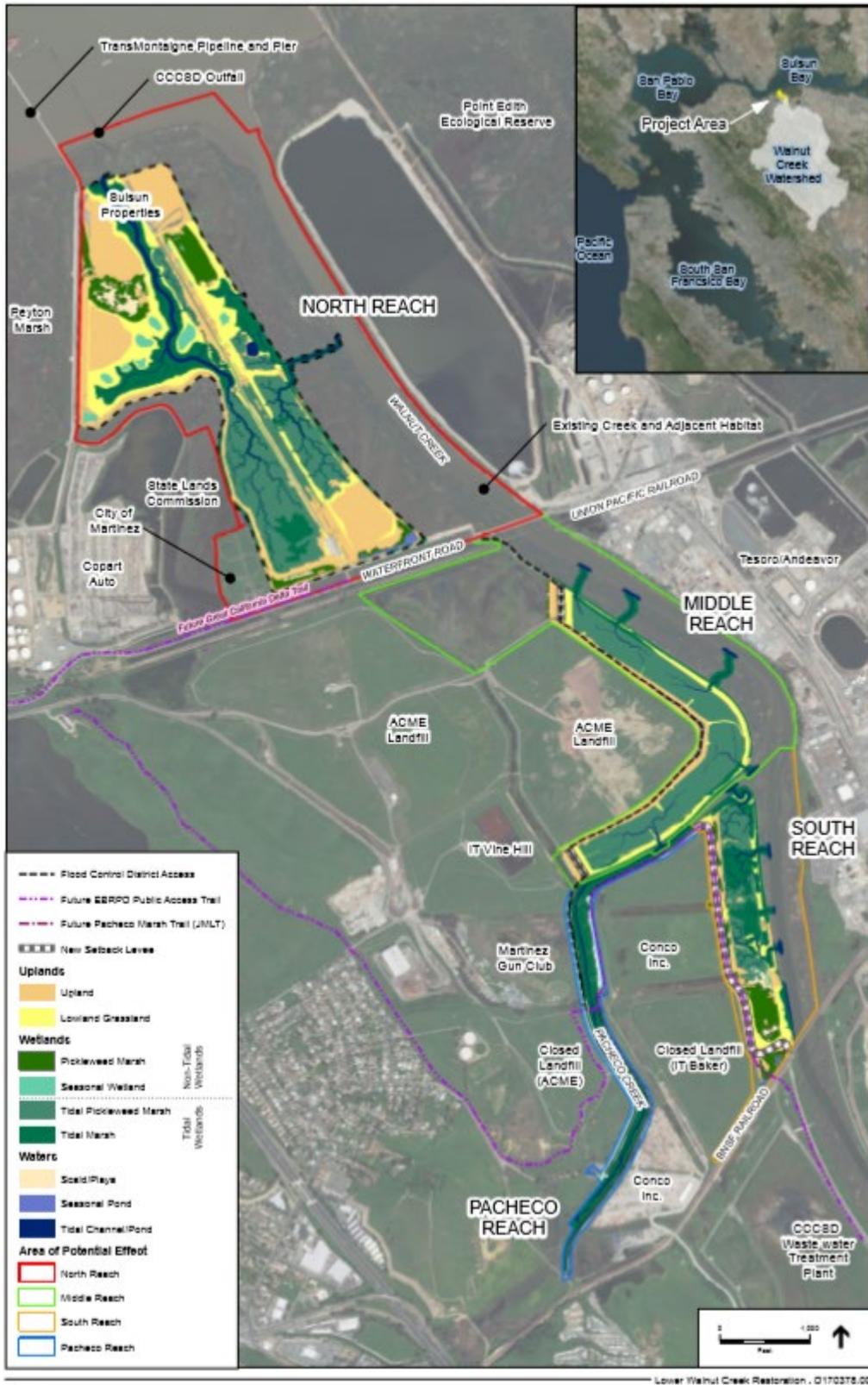


Figure 3: Proposed Lower Walnut Creek Restoration Project site plans

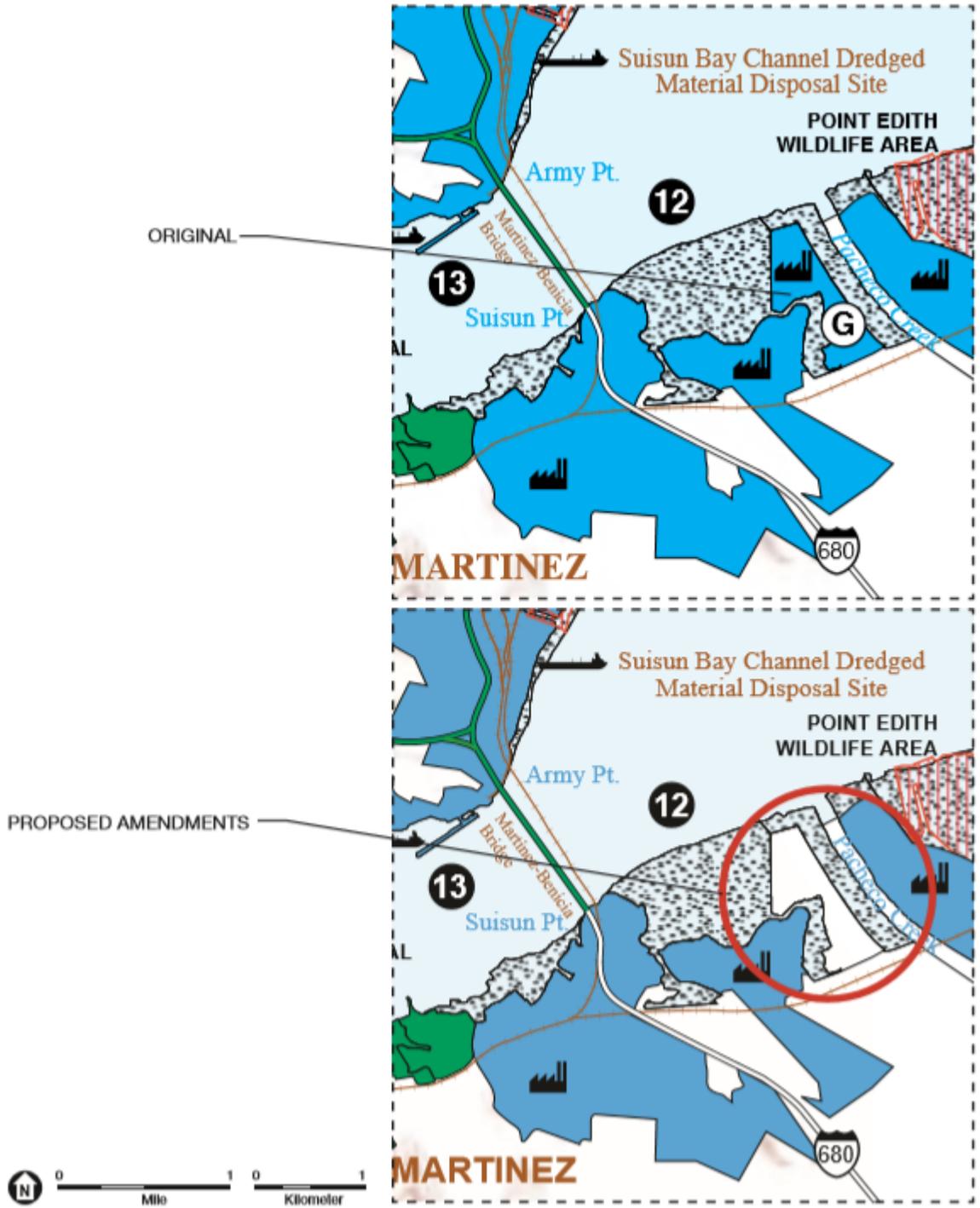


Figure 4: Detail of proposed WRI PUA removal from Bay Plan Map 2

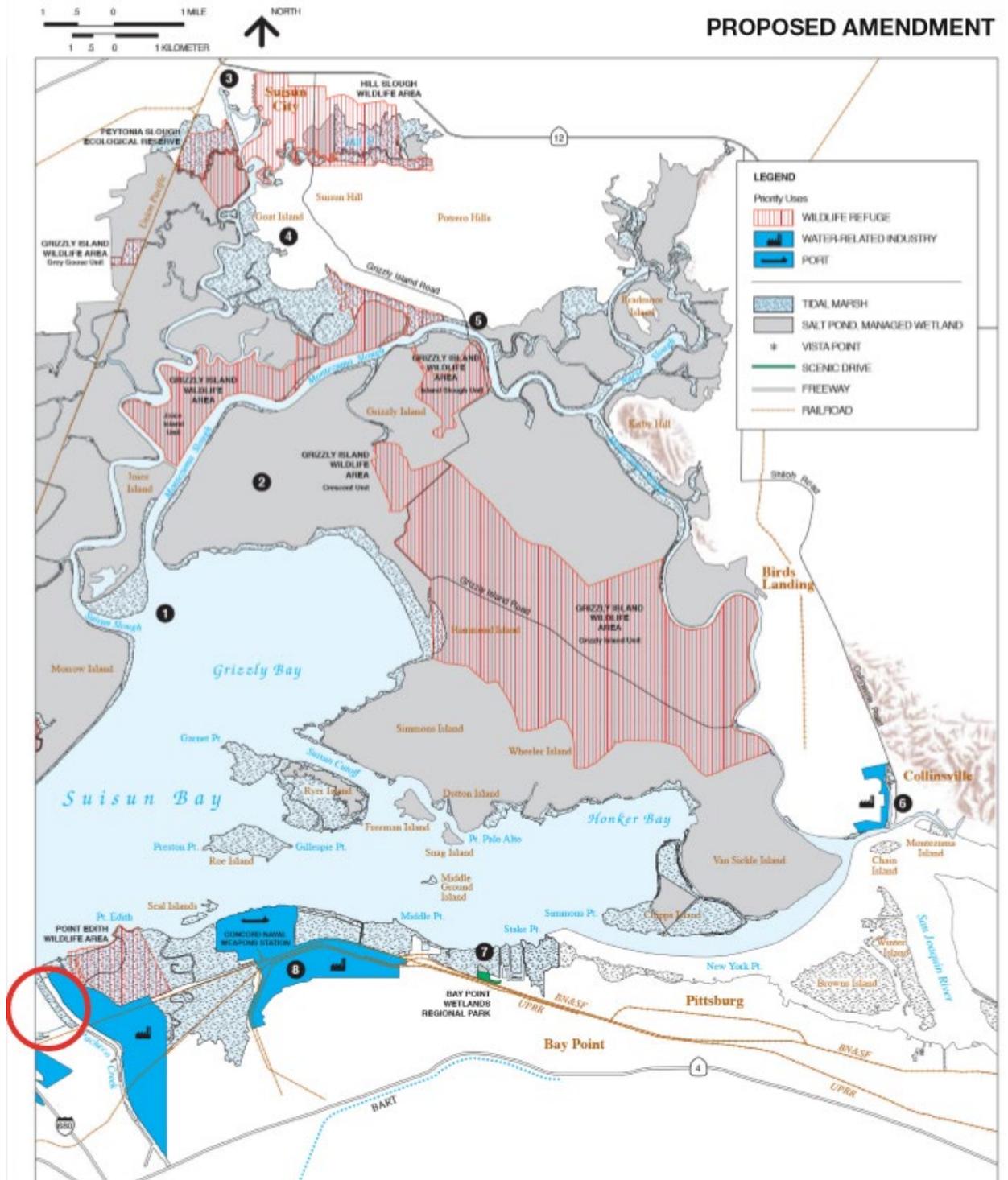
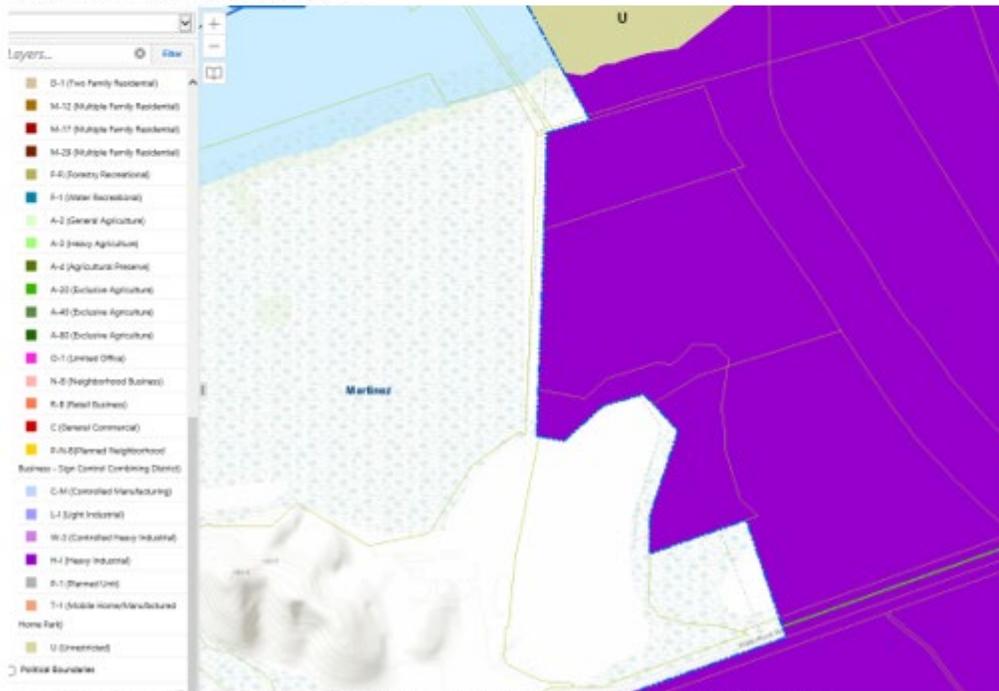


Figure 5: Proposed WRI PUA removal from Bay Plan Map 3

County General Plan Designation is OS (Open Space)



County Zoning is HI (Heavy Industrial)



Data Source: CCC County GIS data layers served via Public Works 'pwmmaps' GIS viewer.  
Accessed 11-25-19

Figure 6: Contra Costa County Land Use designations and Zoning for the subject site

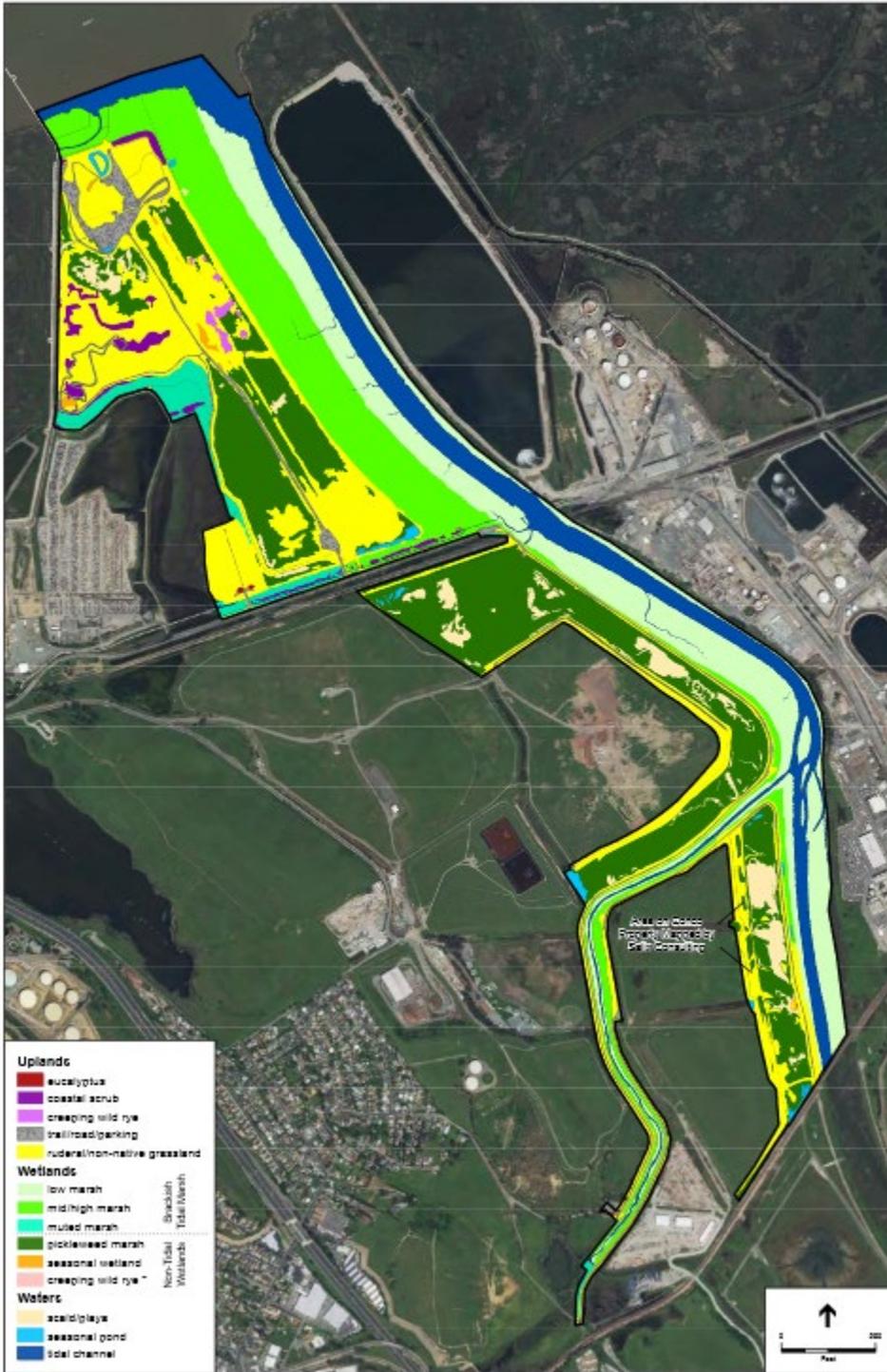


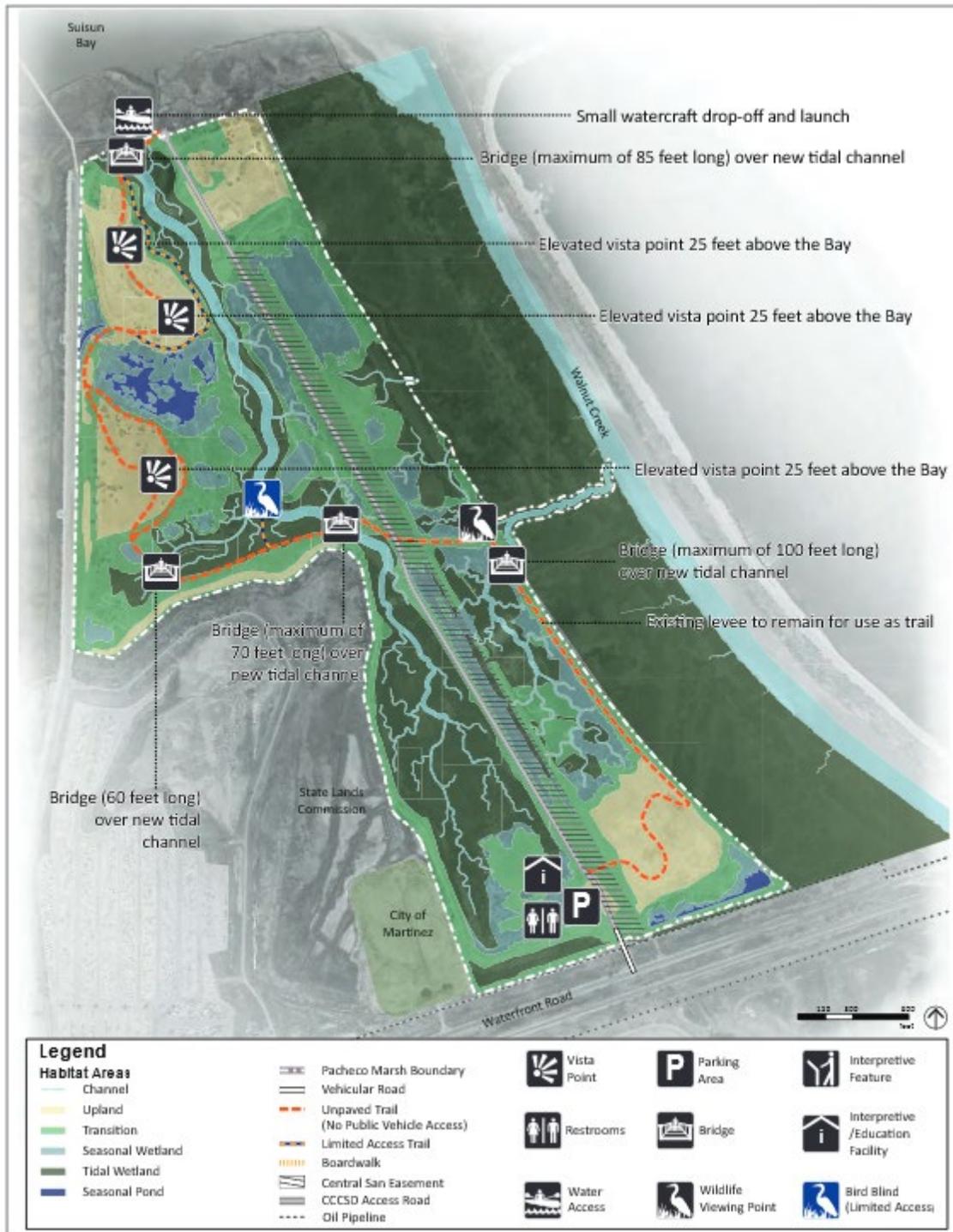
Figure 7: Existing conditions



SOURCE: ESA

Lower Walnut Creek Restoration D170378

Figure 8: North Reach project plan details



SOURCE: ESA, 2018

Lower Walnut Creek Restoration D170378

Figure 9: Future public access amenities