

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**  
INLAND DESERTS REGION  
78078 COUNTRY CLUB DRIVE, SUITE 109  
BERMUDA DUNES, CA 92203



**LAKE and STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2016-0141-R6  
SALTON SEA

**CALIFORNIA DEPARTMENT OF WATER RESOURCES**  
**SALTON SEA SPECIES CONSERVATION HABITAT (SCH) PROJECT**

This Lake and Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the California Department of Water Resources (Permittee) as represented by Kent Nelson.

## **RECITALS**

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified CDFW on August 9, 2016 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, CDFW has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

## **PROJECT LOCATION**

The project (Figure 1) is located on the southern end of the Salton Sea and is adjacent to the mouth of the New River about 9 miles west of the City of Calipatria, in the County of Imperial, State of California; Sections 13 and 14, Township 12 South, Range 12 East, U.S. Geological Survey (USGS) Quad Map Westmoreland West and Sections 23, 24, 25, 26, 27, 28, and 29, Township 12 South, Range 12 East, U.S. Geological Survey (USGS) Quad Map Obsidian Butte. Latitude 33.10383<sup>0</sup> North, Longitude 115.70078<sup>0</sup> West.

## PROJECT DESCRIPTION

The project (Figure 2) is limited to the construction of three pond units (East New, West New, and Far West New) that will impound saline water at a shallow depth within the project site, the development of associated water delivery systems, and associated electrical power infrastructure development to provide power for the water pumps. The project will restore piscivorous bird habitat within an area of currently exposed and dry playa area to offset the loss of habitat of this type that is occurring as the Salton Sea recedes and concurrently increases in salinity. The East New pond unit will be located on the east side of the New River along the Salton Sea shoreline, the West New pond unit will be located on the west side of the New River along the Salton Sea shoreline, and the Far West New pond unit will be located along the Salton Sea shoreline west of West New pond unit. The project will be constructed in phases as funding is available. Phase I (Figure 3) will consist of the construction of the East New pond unit. The East New pond unit consists of two ponds totaling 640 acres with associated water delivery and electrical power supply infrastructure. The water delivery system infrastructure that will be developed in Phase I will also provide water to subsequent project phases. Water from the Salton Sea will be referred to as hypersaline water in this Project Description to avoid confusion with the saline water in pond impoundments which will be a blend of fresh water from the New River and hypersaline water from the Salton Sea. The water delivery infrastructure development consists of a pump station for fresh water supply on the north bank of the New River, a hypersaline water pump station at the north end of Kornbloom Road that will pump hypersaline water from an excavated channel that supplies water from the Salton Sea, two sedimentation basins that will allow sediment to settle from water from the New River prior to discharge into constructed saline water ponds, and an interceptor channel that will capture agricultural runoff water before it enters the ponds. Only one sedimentation basin, on the east side of the New River, may be constructed during Phase I. The interceptor channel will not be constructed in Phase I. This channel will only be needed for subsequent phases. Subsequent phases (West New and Far West New pond units) will also require the addition of river crossings of water pipelines. Electrical power for the pumping stations will be supplied by extensions of power lines from the nearest Imperial Irrigation District (IID) three-phase power connections.

### *Ponds*

Creation of the ponds (Figure 2) will require construction of both perimeter and cascading interior berms. Perimeter berms will form the exterior boundary of the project site and be located in the areas facing the Salton Sea. The cascading interior berms will be berms between ponds that allow water to "cascade" or flow by gravity between ponds. Aeration drop structures will be placed within cascading berms. Phase I will include two ponds. Both ponds are supplied by water from the sedimentation basin (see below) at the southwest corner of the Phase I area and pond water discharges to the north towards the Salton Sea. Gated control structures in interior berms control flow between ponds.

### *Berms*

The base of the berms will be about 110 linear feet wide with the tops approximately 26 feet wide. A 20-foot wide roadway will be located on top of each berm. Berms will be constructed on both exposed playa and within the waters of the Salton Sea. Those that are constructed on the playa are considered to be constructed "in the dry" and those constructed within standing water are constructed "in the wet". In-the-wet construction may require that protective measures be implemented to ensure that Salton Sea wave activity does not erode the berm. Protective measures may include sacrificial soil barrier, rubble rock mound, sheet pile barrier, timber backwater, geotube, large sand bags, water-filled bladder, and/or floating tire breakwater. Construction equipment used "in the dry" includes scrapers, bulldozers, excavators, front loaders, and dump trucks. Floating equipment (e.g. barge-mounted excavator) will be used "in the wet". Berms will be constructed from on-site material. The borrow source for berm material will be from excavation trenches along berms, shallow excavations, and borrow swales. The borrow swales will create deeper channels within ponds.

### *Bird Habitat Islands*

Excavated material will be used to create habitat islands for birds. These islands will be used to provide nesting and roosting habitat. All islands will be surrounded by water at least one foot deep and will be constructed at a distance from shore suitable to minimize predation. Distance from shore of constructed islands, however, may be limited by the necessity of maintaining the capability to observe bird and predator activity from shore through visual enhancement equipment (e.g. spotting scopes). In order to observe bird and predator activity during the breeding season, islands must be within the range of spotting scopes that are used on the shoreline because approaching islands by watercraft during the breeding season may constitute excessive disturbance.

### *Constructed Aquatic Features*

Each pond will also include aquatic features that not only provide suitable habitat for fish but also increase microhabitat diversity as well as provide cover and attachment sites for a variety of invertebrate species. Aquatic features may include swales, channels, hard substrate on berms, bottom hard substrate, floating islands, and submerged aquatic vegetation.

### *Water Supply*

The hypersaline water supply will be pumped out of an excavated channel from the Salton Sea by a pump station at the north end of Kornbloom Road (Figure 3). The water will be pumped under pressure through a water main buried under the approximate centerline of Kornbloom Road. The buried water main will continue south along Kornbloom Road, crossing the Vail drain after about one mile, to Bowles Road. At Bowles Road the buried pipeline will turn west and follow along the centerline of

Bowles Road to the Imperial Irrigation District (IID) access road where it will turn south again and continue to the sedimentation basin located at the southwest corner of the Phase I ponds.

The fresh water is supplied from a pump station located on the north side of the New River (Figure 3). Both the hypersaline water from the Salton Sea and the fresh water from the New River are pumped into a sedimentation basin at the southwest corner of the Phase I area. The sedimentation basin allows sediment suspended in the water to settle before entering the constructed ponds. Salinity in the sedimentation basin is controlled by regulating the inflow of fresh and hypersaline water into the basin. Target salinity for the resulting blended saline water will be within the ranges of tolerance for currently resident fish species known to be used as prey by piscivorous bird species inhabiting the area. Saline water flows from the sedimentation basin into the constructed ponds through gated water control structures.

### *Boat Ramps*

A total of three boat ramps will be constructed. One boat ramp will be constructed in each sedimentation basin (Figure 4) near the New River pump station in order to perform maintenance as needed. A third boat ramp will be located near the hypersaline pump station (Figure 5). Each ramp will consist of 16 foot wide concrete articulated mats with an extra two feet on each edge to anchor them. The dimensions of the sedimentation basin ramps are 20 feet by 100 feet. The dimension of the hypersaline pump station ramp is 20 feet by 240 feet. The first eight feet of each ramp's length will be buried within the substrate.

### *Sedimentation Basins*

Two sedimentation basins will be constructed eventually, one on the east side of the New River and one on the west side. Each basin may be divided into two parts: the active basin and the maintenance basin. The active basin is where sediments will settle out of the water prior to inflowing into the ponds. The active basin will become the maintenance basin as sediments are left to dry and then removed. Sediments will be excavated and used to maintain project components and/or stockpiled for future use. Both basins will be constructed with steep slopes in order to prevent the establishment of emergent vegetation. Phase I of the project may include the construction of the sedimentation basin on the east side but not the west.

### *Pipeline River Crossings*

Two temporary river crossings, at the middle and north part of the New River, would be used to suspend water supply lines across the New River. In the initial construction (Phase I), all the SCH project components (ponds and water supply diversions) will be located on the east side of the New River and therefore, current project design does not

require a river crossing. This facility, if needed, would be constructed at a later date when ponds are developed in subsequent phases on the west side of the river.

If necessary, the pipes will be placed on a small platform which will be supported by foundations located on both sides of the river. The exact placement of the temporary crossings has not been identified, but one will potentially be located at the north part of New River and the second about halfway between the northern and southern boundaries of the project area. The foundation area is expected to be about 15 feet wide. An excavator or similar equipment will be used to excavate the foundations and lift the structure and pipeline in place. Further construction will not be needed until such time that pipeline infrastructure replacement and/or repair is needed. Pipelines would be in operation as long as water supply is required in ponds west of the river.

### *Electrical Power*

Electrical power for the pumping stations will be supplied by extensions of power lines from the nearest IID three-phase power connections that can support the anticipated electrical loads. These locations have been tentatively identified as the corner of Young Road and Kornbloom Road for the Salton Sea hypersaline pumping station and near Vail Road for the New River fresh water pumping station.

### *Staging Areas*

Only one staging area will be used for Phase I. Although the final location of the staging areas for subsequent phases has not been determined, a maximum of six staging areas may be utilized during project implementation (all phases combined). Staging areas will be used for equipment storage and support activities.

### *Interceptor Channel*

Phase I will not require an interceptor channel. However, subsequent phases will require the construction of an interceptor channel. Agricultural drains operated by IID will terminate at the southern boundary of constructed project ponds in these subsequent phases. A 30-foot-wide earthen interception ditch (Figure 2) will be created along the southern perimeter of the ponds to capture agricultural runoff before it enters the ponds.

### *Maintenance*

Ongoing maintenance will be an integral part of SCH operations. Activities would include maintaining sedimentation basins, interior and exterior berms, protective riprap, pumping stations and associated project features. Material excavated from the sedimentation basins will be used to maintain project components. Hypersaline pumping facilities will be maintained to reduce fouling caused by hypersaline water and all pumping facilities will be maintained to reduce biological fouling. These activities will

be included in maintenance plans. However, if buildup in pipelines become excessive, pipe replacement may be required. Draining the ponds would not be a routine maintenance activity, but may be required if a berm were damaged or other emergency action is required.

### *Coffer Dams and Dewatering*

Construction will need to be performed in the wetted portion of the channel for the construction of the New River pump station and inlet. Coffer dams (sheet piles) will be used to isolate the work areas (Figure 4). The water will then be pumped from the interior of the sheet pile enclosure. Sumps will be created at low points within the dewatered areas and incidental seepage water will be pumped out to maintain the work area in a dry condition. Additionally, coffer dams will be used to construct boat ramps "in the dry" at the sedimentation basins (Figure 4). Construction of the hypersaline pump station and associated boat ramp within the Salton Sea will also utilize coffer dams (Figure 5) to isolate the work areas. Procedures followed will be similar to those described above for the New River pump station. All coffer dams will be temporary and will be removed after construction of the pump stations and associated infrastructure.

## **PROJECT IMPACTS**

Existing fish or wildlife resources the project could substantially adversely affect include: desert pupfish (*Cyprinodon macularius*), California least tern (*Sternula antillarum browni*), Yuma clapper rail (*Rallus longirostris yumanensis*), California black rail (*Laterallus jamaicensis coturniculus*), Southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), Western burrowing owl (*Athene cunicularia hypugaea*), migrant bird species, and all other fish and wildlife resources in the project vicinity.

The adverse effects the project could have on the fish or wildlife resources identified above include: disturbance to foraging desert pupfish, potential disturbance to California least terns, Yuma clapper rails, California black rails, Southwestern willow flycatchers, and least Bell's vireos, disturbance to foraging and nesting burrowing owls, and impacts to migrant bird species and their habitat.

The adverse effects the project could have on the fish and wildlife resources identified above include the temporary loss of desert pupfish foraging and spawning habitat. In addition, the construction of the project will have the following impacts on streambed:

Temporary impacts will occur in up to 210.6 acres of non-wetland waters, vegetated wetland, non-vegetated wetland, and riparian vegetation through the use of staging areas, pipeline river crossings and interstitial Project areas (all phases of the Project combined). Permanent impacts will occur in up to 90.5 acres of non-wetland waters, vegetated wetland, non-vegetated wetland, and riparian vegetation through the development of pond berms, interception ditch, New River diversion and sedimentation

basins (all phases of the Project combined). The permanent inundation of the majority of the site will convert exposed playa and/or soon-to-be exposed playa into piscivorous bird foraging and nesting habitat. Without the SCH project, most of the Salton Sea piscivorous bird habitat will disappear as the Salton Sea recedes and concurrently increases in salinity. The inundation of the Project pond areas will constitute a considerable increase in value as wildlife habitat and consequently, inundated areas will not be considered further as impacted areas.

Temporary impacts of 210.6 acres and permanent project impacts of 90.5 acres are authorized under this Agreement. If any additional impacts are anticipated to lake, riparian and/or streambed habitat, during project activities, Permittee shall submit an application for an amendment to this Agreement for authorization of those impacts

## **MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES**

### **1. Administrative Measures**

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to CDFW personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify CDFW if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, CDFW shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that CDFW personnel may enter the project site at any time to verify compliance with the Agreement.
- 1.5 Take of Nesting Birds. Sections 3503, 3503.5, and 3513 of the California Fish and G. Code prohibit the take of all birds and their active nests, including raptors and other migratory non-game birds (as listed under the United States Migratory Bird Treaty Act).

## 2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

2.1 Desert Pupfish. The following measures will be implemented to avoid and minimize impacts to desert pupfish.

2.1.1 Construction within wetted areas will be minimized to the greatest extent feasible.

2.1.2 A biological monitor and/or CDFW personnel will develop and conduct a worker education program to all construction personnel as described in Measure 2.11 of this Agreement.

2.1.3 All activities will be conducted in accordance with any CDFW California Endangered Species Act (CESA) Incidental Take Permit (ITP) issued for this project.

2.2 California Least Tern. California least terns are not currently established in the project area. If this species is identified within the Project area, CDFW will be notified no later than noon of the next business day. In the event this species becomes established on bird habitat islands or other areas within 500 feet of the Project site, construction and other disturbance will be timed, to the greatest extent feasible, to avoid the nesting season for California least terns within a 500-foot area around active nests. Project activities within the affected area may not proceed without CDFW concurrence during the period of March 15-July 15.

2.3 Yuma Clapper Rail and California Black Rail. In the event that suitable habitat for these species may be impacted during the project, project activities will not be scheduled to occur within 500 feet of suitable habitat during the period February 15-September 30 to avoid impacts to breeding rails and molting, flightless rails (late summer). If necessary, United States Fish and Wildlife Service (USFWS) protocol surveys will be performed during the prescribed survey period. If pre-construction surveys for these species indicate that one or both of these species are not present within 500 feet of the area to be impacted, project activities may proceed within the affected area subject to the other provisions of this Agreement and/or federal and state law. In the event that rails are located within 500 feet of proposed project activities, CDFW will be notified no later than noon of the next business day. Project activities within the affected area may not proceed without CDFW concurrence during the period February 15-September 15. Suitable habitat patches for these species may not be removed during the period February 15-September 15 if a rail has been detected within that habitat patch during that time period.



- 2.4 Southwestern Willow Flycatcher. Southwestern willow flycatchers may seasonally occur within the project area. Permittee shall not remove vegetation that constitutes suitable habitat for this species, as determined by CDFW, from the project site during the period of March 15 through September 15 to avoid impacts to this species. If vegetation removal cannot be avoided during the period of March 15 through September 15, Permittee shall have a CDFW-approved biologist(s) survey for Southwestern willow flycatchers within all suitable habitat that is within 500 feet of the vegetation that will be removed, prior to commencing project activities (including construction and/or site preparation). If no Southwestern willow flycatchers are detected, project activities may begin subject to the other provisions of this Agreement and/or federal and state law. If an active Southwestern willow flycatcher nest is located, the nest site shall be marked (flagged) at a minimum of 500 feet in all directions and CDFW must be notified no later than noon of the next business day. This area shall not be disturbed without CDFW concurrence until after September 15 and/or until the nest becomes inactive.
- 2.5 Least Bell's Vireo. Least Bell's vireos do not currently occupy the project area but could occupy the site in the future. Permittee shall not remove vegetation that constitutes suitable habitat for this species, as determined by CDFW, from the project site during the period of March 15 through September 15 to avoid impacts to nesting birds. If vegetation removal cannot be avoided during the period of March 15 through September 15, Permittee shall have a CDFW-approved biologist(s) survey site for least Bell's vireos within all suitable habitat that is within 500 feet of the vegetation that will be removed, prior to commencing project activities (including construction and/or site preparation). If no least Bell's vireos are detected, project activities may begin subject to the other provisions of this Agreement and/or federal and state law. If an active least Bell's vireo nest is located, the nest site shall be marked (flagged) at a minimum of 500 feet in all directions and CDFW must be notified no later than noon of the next business day. This area shall not be disturbed without CDFW concurrence until after September 15 and/or until the nest becomes inactive.
- 2.6 Burrowing Owl. The following measure will be implemented to avoid and minimize impacts to burrowing owls.
- 2.6.1 Two pre-construction surveys will be required for burrowing owls. The first survey will be conducted during peak activity period (one hour before to two hours after sunrise or two hours before to one hour after sunset) between 14 and 30 days prior to the start of construction. The second survey will be performed within the 24-hour period prior to ground disturbance. **Permittee shall obtain CDFW approval of the biologist(s) 30 days prior to performing surveys.** The impact area and a 500-foot buffer (where practicable) will be surveyed. If owls are located during the surveys, a buffer area will be established according to guidelines included in the Staff Report if located between February 1 and August 31 (nesting season). A

modified buffer reduction may be used with CDFW concurrence. If located outside this time period (i.e. the non-breeding season), owls may be passively relocated by a qualified biologist according to the procedures outlined in the guidelines included in the March 7, 2012 DFG *Staff Report on Burrowing Owl Mitigation* (Staff Report) or a modified buffer reduction may be used with CDFW concurrence. If burrowing owls are found on site, the Permittee shall submit the survey results to the CDFW Region 6, 78078 Country Club Drive, Suite 109, Bermuda Dunes, CA 92203. **ATTN: Streambed Team**, at least five days prior to commencing project activities pursuant to the Agreement. **Please reference SAA# 1600-2016-0141-R6.**

2.6.2 Surveys for burrowing owls in subsequent phases of the project will be conducted, as needed, according to the guidelines included in the March 7, 2012 DFG Staff Report.

2.7 Nesting Birds (General). The following measures will be implemented to avoid and minimize impacts to nesting birds. If the nesting season cannot be avoided and construction between March 1st to September 15th (January 1st to July 31st for Raptors), the Permittee will do the following to avoid and minimize impacts to nesting birds:

2.7.1 No less than 30 days prior to initiating project activities, including site preparation and staging, Permittee shall submit to CDFW for review and approval a Nesting Bird Plan (NBP) that includes project specific avoidance and minimization measures to ensure that impacts to nesting birds do not occur and that the project complies with all applicable laws related to nesting birds and birds of prey. The NBP shall include, at a minimum: monitoring protocols; survey timing and duration; copies of survey and nest monitoring datasheets, and procedures for submittal to CDFW; and project-specific avoidance and minimization measures including, but not limited to: project phasing and timing, monitoring of project-related noise, sound walls, and buffers, where appropriate. The Permittee shall submit the NBP to the CDFW Region 6, 78078 Country Club Drive, Suite 109, Bermuda Dunes, CA 92203. **ATTN: Streambed Team. Please reference SAA# 1600-2016-0141-R6.**

2.7.2 Bird surveys will be performed as described below. A CDFW-approved biological monitor shall survey the entirety of the project site, and within a recommended 500-foot buffer (where feasible) surrounding the project site for nesting birds, prior to commencing project activities (including construction and/or site preparation). Surveys shall be conducted by the approved biological monitor at the appropriate time(s) of day, no more than three days prior to commencement of project activities. Documentation of surveys and findings shall be submitted to CDFW for review prior to conducting project activities. If an active bird nest is located, the approved biological monitor shall implement and monitor specific avoidance and

minimization measures as specified in the CDFW-approved NBP (refer to Measure 2.3.1).

Migratory non-game native bird species are protected by international treaty under the federal Migratory Bird Treaty Act (MBTA) of 1918, as amended (16 U.S.C. 703 et seq.). In addition, Sections 3503, 3503.5, and 3513 of the FGC afford the following protective measures: Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by FGC or any regulation made pursuant thereto; Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by FGC or any regulation adopted pursuant thereto; and Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the Migratory Bird Treaty Act or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act.

- 2.8 Pollution and Litter. The Permittee shall comply with all litter and pollution laws. All contractors, subcontractors, and employees shall also obey these laws and it shall be the responsibility of the Permittee to ensure compliance.
- 2.8.1 The Permittee shall not allow water containing mud, silt, or other pollutants from grading, aggregate washing, or other activities to enter a lake, streambed, or flowing stream or be placed in locations that may be subjected to high storm flows.
- 2.8.2 Spoil sites shall not be located within a lake, streambed, or flowing stream or locations that may be subjected to high storm flows, where spoil shall be washed back into a lake, streambed, or flowing stream where it will impact streambed habitat and aquatic or riparian vegetation.
- 2.8.3 Raw cement/concrete or washings thereof, asphalt, paint, or other coating material, oil or other petroleum products, or any other substances which could be hazardous to fish and wildlife resources resulting from project related activities shall be prevented from contaminating the soil and/or entering the waters of the State. These materials, placed within or where they may enter a lake, streambed, or flowing stream by the Permittee or any party working under contract or with the permission of the Permittee, shall be removed immediately.
- 2.8.4 No broken concrete, cement, debris, soil, silt, sand, bark, slash, sawdust, rubbish, or washings thereof, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever

nature shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess materials or debris shall be removed from the work area. No rubbish shall be deposited within 150 feet of the high water mark of any lake, streambed, or flowing stream.

2.8.5 No equipment maintenance shall be done within or near any lake, streambed, or flowing stream where petroleum products or other pollutants from the equipment may enter these areas under any flow.

2.9 Non-native plant species. CDFW recommends the use of native plants to the greatest extent feasible in the landscaped areas adjacent to and/or near mitigation/open space areas and within or adjacent to stream channels. Permittee shall not plant, seed, or otherwise introduce invasive non-native plant species to the landscaped areas adjacent to and/or near mitigation/open space areas and within or adjacent to stream channels (minimum 100 foot setback from open space areas and 150 foot setback from stream channels and wetland/riparian mitigation sites). Invasive non-native plant species not to be used include those species listed on the "California Invasive Plant Inventory, February 2006" and the "February 2007 Inventory Update", (which are updates to Lists A & B of the California Exotic Pest Plant Council's list of "Exotic Pest Plants of Greatest Ecological Concern in California as of October 1999"). This list includes: pepper trees, pampas grass, fountain grass, ice plant, myoporum, black locust, capeweed, tree of heaven, periwinkle, bush lupine, sweet alyssum, English ivy, French broom, Scotch broom, Spanish broom, and pepperweed. A copy of the complete list can be obtained by contacting the California Invasive Plant Council by phone at (510) 843-3902, at their website at [www.cal-ipc.org](http://www.cal-ipc.org), or by email at [info@cal-ipc.org](mailto:info@cal-ipc.org).

2.10 Designated Biologist. A CDFW-approved biologist (biological monitor) shall be onsite to monitor all activities that result in the clearing of sensitive habitat, as determined by CDFW. **Permittee shall obtain CDFW approval of the biological monitor(s) 30 days prior to initiation of any project activities in jurisdictional areas.** The biological monitor shall be responsible for monitoring activities addressed by this Agreement, including, but not limited to all activities that result in the clearing or grading of sensitive habitat, performance of necessary surveys, and taking photographs during the construction process, as required by this Agreement. The biological monitor is required to halt construction activities if threatened or endangered species are identified and notify the appropriate agencies immediately. If the species observed is desert pupfish, the procedures specified in any ITP issued for this project will be followed. The biological monitor shall have proven knowledge of the general area and experience handling sensitive species present in the project area. Permittee shall obtain CDFW approval if the biological monitor must be changed. The biological monitor may also act as the Designated Biologist required by an ITP issued for this project.

2.11 Education Program. Permittee shall conduct an education program for all persons employed or otherwise working in the Project Area before performing any work. The program shall consist of a presentation from a CDFW-approved biologist and/or CDFW personnel that includes a discussion of the biology and general behavior of sensitive species in the area, information about the distribution and habitat needs of these species, sensitivity of these species to human activities, sensitive species status pursuant to CESA including legal protection, and Project-specific protective measures described in this Agreement. Permittee shall provide interpretation for non-English speaking workers, and the same instruction shall be provided to any new workers before they are authorized to perform work in the Project Area. Upon completion of the program, employees shall sign a form (signature sheet) stating they attended the program and understand all protection measures. A copy of the signature sheet for this training will be provided to CDFW.

### 3. Compensatory Measures

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

3.1 Invasive Species Control. Non-native plants will be removed and/or controlled within the project site for a period of five years post-project completion in all areas not inundated by the project. The project site is defined as the area temporarily and/or permanently impacted by the project as indicated in Figure 2. Invasive species control will be accomplished through the means described in the HMMP (see Measure 4.1). Success criteria will also be described in the HMMP.

3.2 Invasive Plant Monitoring. Occurrence of non-native plants will be monitored within the project site for five years post-project completion as described in the HMMP.

### 4. Reporting Measures

Permittee shall meet each reporting requirement described below.

4.1 Habitat Mitigation and Monitoring Plan. **No later than 90 days** after the signature to this Agreement and prior to the initiation of any project activities in state jurisdictional areas, the Permittee will submit to CDFW a HMMP designed to meet the overall goals identified in section 3. At a minimum, the HMMP shall include the following information related to the project site: (a) a description of the existing physical conditions at the project site, (b) a plan for control of non-native invasive plant species and (c) success criteria for achieving control.

4.2 Photo Documentation. Five photo monitoring points will be established at the Phase I portion of the project site. Photo Point No. 1 will be established at a location that provides an unobstructed view of the hypersaline water supply

channel from the Salton Sea. Photo Point No. 2 will be established at a location that provides an unobstructed view of the fresh water intake pump station at the New River. Photo Point No. 3 will be established at a location that provides an unobstructed view of the Phase I sedimentation basin. Photo Points 4 and 5 will be established at points that provide an unobstructed views of the two cells (ponds) of Phase I. In subsequent phases of the project, one photo point will be established for each sedimentation basin and pond constructed. Each photo point will provide an unobstructed view of the project feature with which it is associated. A photo will document at least one constructed bird habitat island immediately after construction for each phase of the project. Any interception canal constructed during subsequent phases of the project will have at least one photo point established at a location that provides an unobstructed view of this feature. Photo documentation will be performed from each point prior to project phase initiation and after project phase completion. These photos will be included in the Project Completion Report (see Measure 4.3). At least one photo of a constructed bird habitat island will be included in the Project Completion Report. Photo documentation will also be performed annually and included in the Annual Reports (see Measure 4.4) with the exception of photo(s) of bird habitat islands. Photos of these islands will be documented and provided in Annual Reports only when opportunities occur that will not disturb nesting birds. Photo documentation of islands will be at the discretion of CDFW personnel. At least one recent (during that calendar year) long distance photo of a bird habitat island will be provided in each Annual Report.

- 4.3 **Project Completion Report.** **No later than 90 days after project completion**, the Permittee will submit to CDFW a report that summarizes all project activities including the implementation of all items specified in Section 2. This report will include but not be limited to: photo documentation, all survey results, avoidance/minimization measures implemented and maps that display work areas, surveyed areas and locations of any species specified in Section 2 and/or any nest of species specified in Section 2.
- 4.4 **Annual Reporting.** An annual report will be submitted to CDFW for five years following signature of this Agreement providing photo documentation, documenting invasive species control and monitoring activities and degree of achievement of success criteria for each year of the Agreement. Reports will be due 60 days after the end of the calendar year. **The next annual report for the 2016 calendar year is due no later than March 1, 2017.**
- 4.5 **Notification to the California Natural Diversity Data Base (CNDDDB).** If any sensitive species are observed on or in proximity to the project site, or during project surveys, the Permittee shall submit CNDDDB forms and maps to the CNDDDB within five working days of the sightings, and provide the regional CDFW office with copies of the CNDDDB forms and survey maps. The CNDDDB form is available online at [www.dfg.ca.gov/whdab/pdfs/natspec.pdf](http://www.dfg.ca.gov/whdab/pdfs/natspec.pdf). **This information shall be mailed within five days to:** California Department of Fish and Wildlife

Natural Diversity Data Base, 1807 13<sup>th</sup> Street, Suite 202, Sacramento, CA 95814. Phone (916) 324-3812. A copy of this information will be mailed within five days to the CDFW Region 6, 78078 Country Club Drive, Suite 109, Bermuda Dunes, CA 92203. **ATTN: Streambed Team. Please reference SAA# 1600-2016-0141-R6.**

- 4.6 Notification of Start of Construction. The Permittee shall notify CDFW, in writing, at least five days prior to initiation of project activities in state jurisdictional areas and at least five days prior to completion of project activities in jurisdictional areas. Notification shall be mailed to the CDFW Region 6, 78078 Country Club Drive, Suite 109, Bermuda Dunes, CA 92203. **ATTN: Streambed Team. Please reference SAA# 1600-2016-0141-R6.**

## CONTACT INFORMATION

Any communication that Permittee or CDFW submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

### To Permittee:

Kent Nelson  
California Department of Water Resources  
901 P Street, Room 411A  
Sacramento CA 95814  
(916) 653-9190  
[knelson@water.ca.gov](mailto:knelson@water.ca.gov)

### To CDFW:

Department of Fish and Wildlife  
Inland Deserts Region  
78078 Country Club Drive, Suite 109  
Bermuda Dunes, CA 92203  
Attn: Lake and Streambed Alteration Program – Charles Land  
Notification #1600-2016-0141-R6  
(760) 200-9358  
[Charles.Land@wildlife.ca.gov](mailto:Charles.Land@wildlife.ca.gov)

## LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute CDFW's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

## **SUSPENSION AND REVOCATION**

CDFW may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before CDFW suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before CDFW suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused CDFW to issue the notice.

## **ENFORCEMENT**

Nothing in the Agreement precludes CDFW from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects CDFW's enforcement authority or that of its enforcement personnel.

## **OTHER LEGAL OBLIGATIONS**

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 *et seq.* (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.



## **AMENDMENT**

CDFW may amend the Agreement at any time during its term if CDFW determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by CDFW and Permittee. To request an amendment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## **TRANSFER AND ASSIGNMENT**

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter CDFW approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

## **EXTENSIONS**

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (FGC section 1605(f)).

## **EFFECTIVE DATE**

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after Permittee's signature; 2) after CDFW complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the

applicable FGC section 711.4 filing fee listed at  
<https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

**TERM**

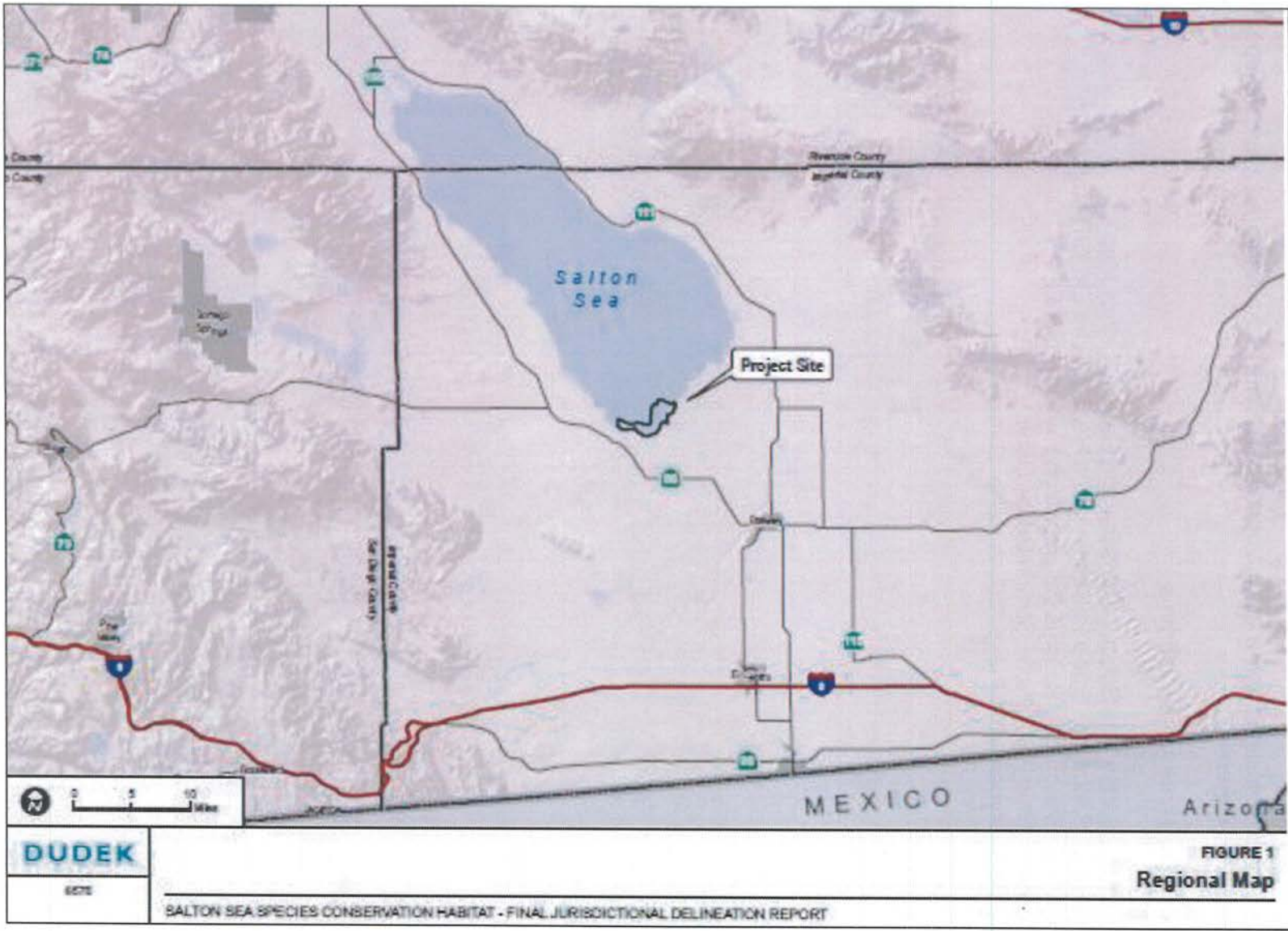
This Agreement shall expire on December 31, 2021, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

## EXHIBITS

The documents listed below are included as exhibits to the Agreement and incorporated herein by reference.

### Exhibit A. Three Maps/Diagrams

- Figure 1. Salton Sea Species Conservation Habitat Vicinity Map
- Figure 2. Salton Sea Species Conservation Habitat Final EIS/EIR Map
- Figure 3. Salton Sea Species Conservation Habitat Phase I.
- Figure 4. New River Pump Station Cofferdams
- Figure 5. Hypersaline Pump Station Cofferdams



DUDEK

SITE

SALTON SEA SPECIES CONSERVATION HABITAT - FINAL JURISDICTIONAL DELINEATION REPORT

FIGURE 1  
Regional Map

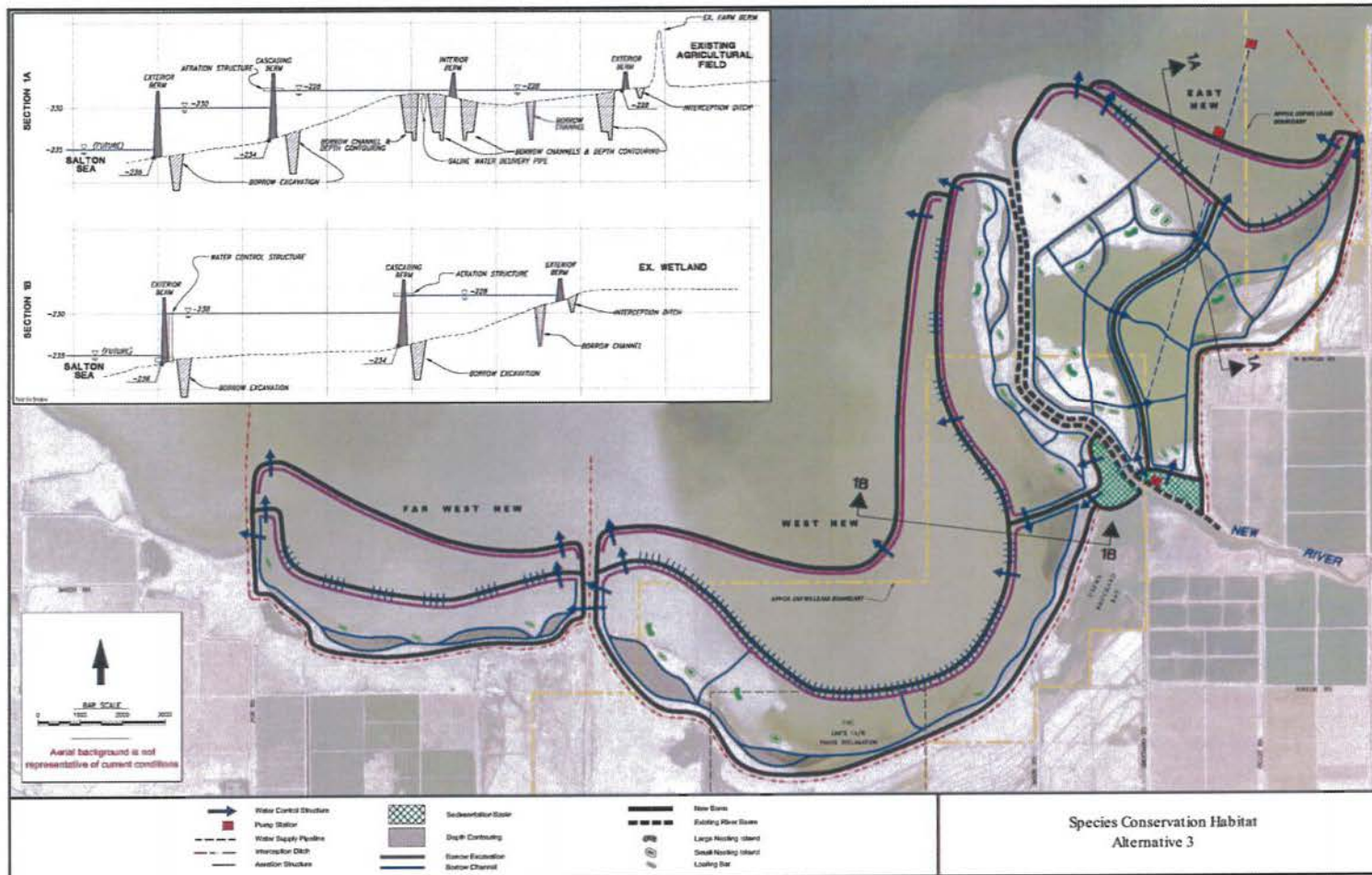


FIGURE 2

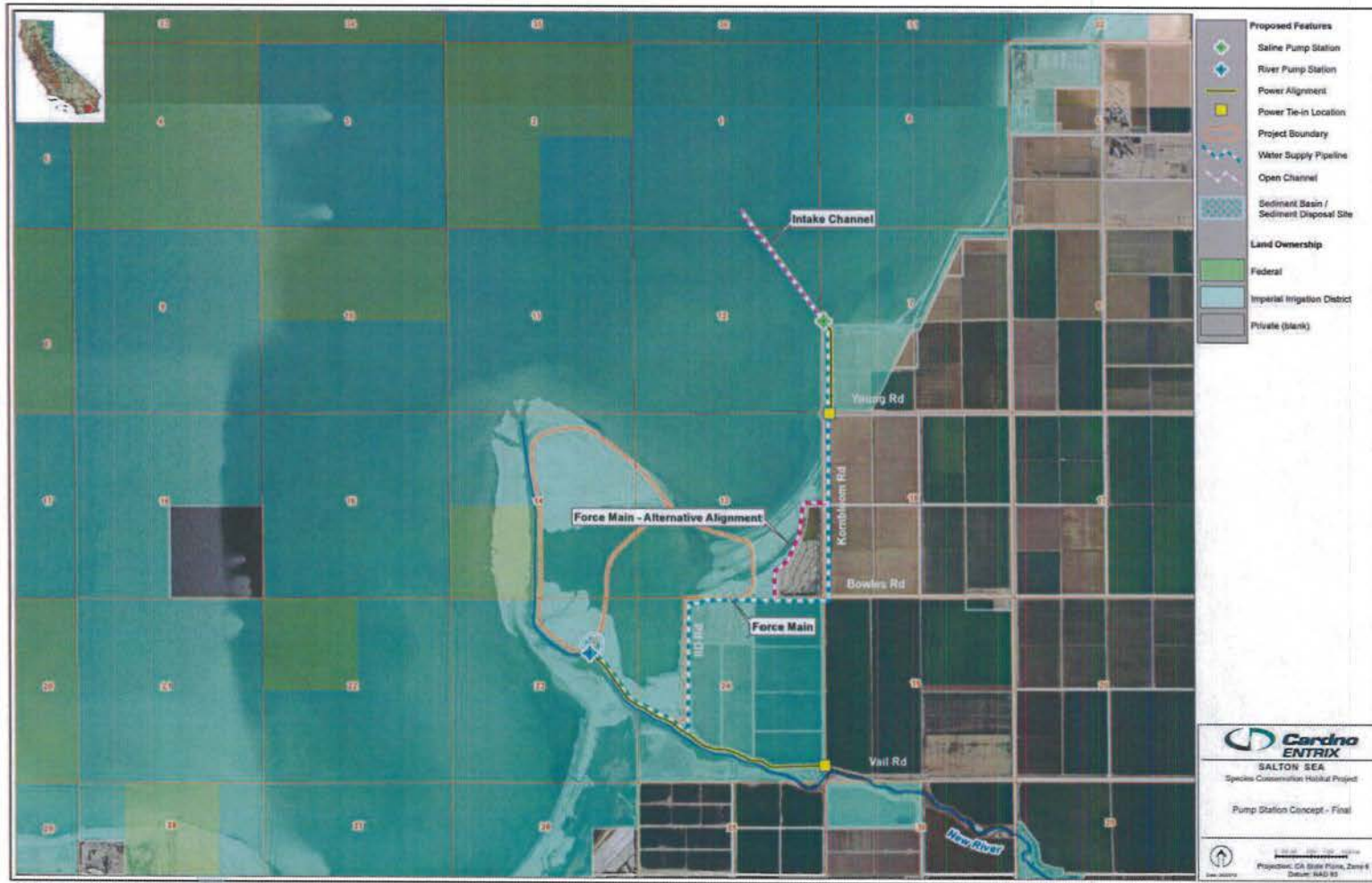


FIGURE 3. PHASE I.

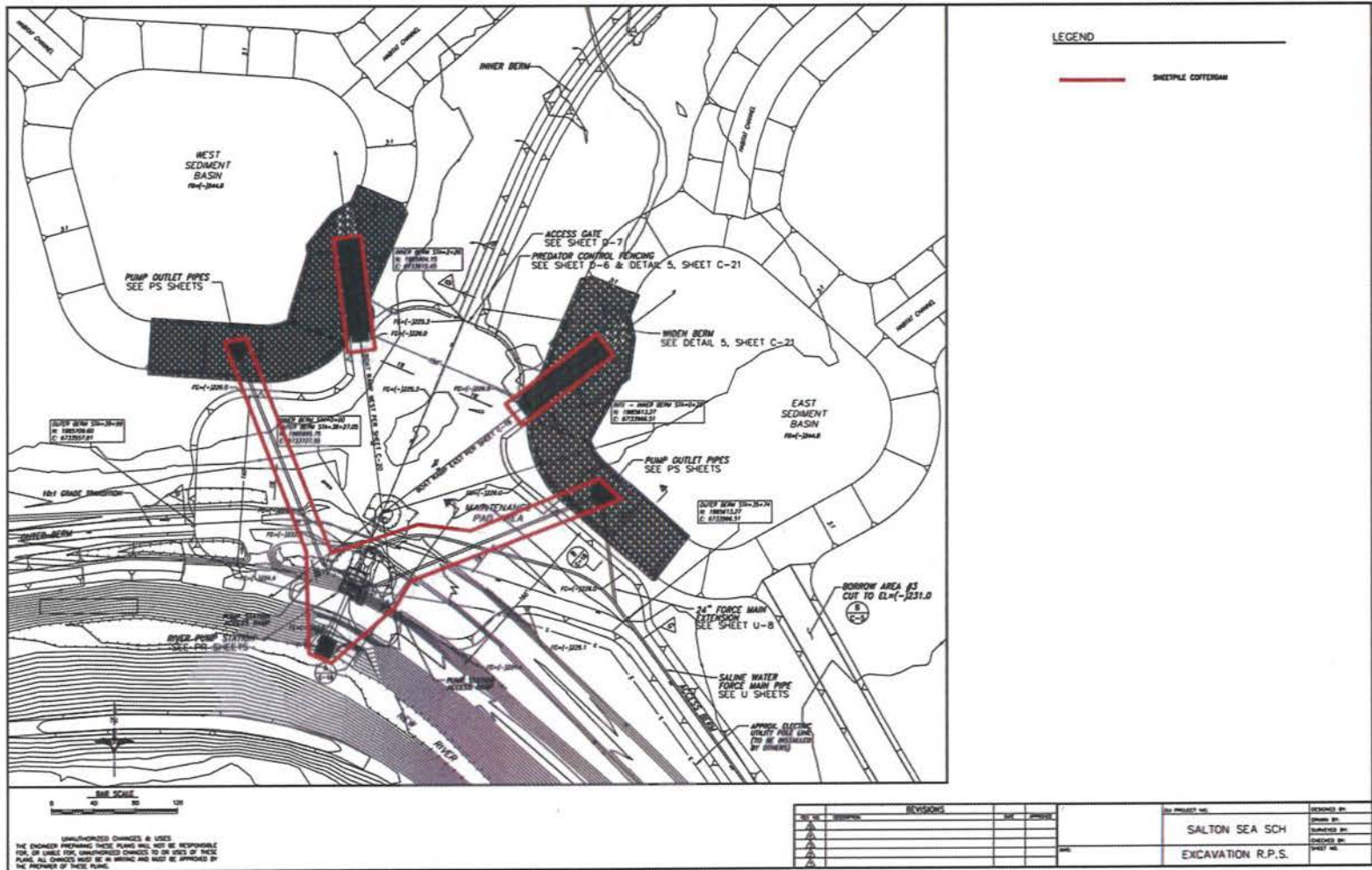


Figure 4. New River Pump Station Cofferdams

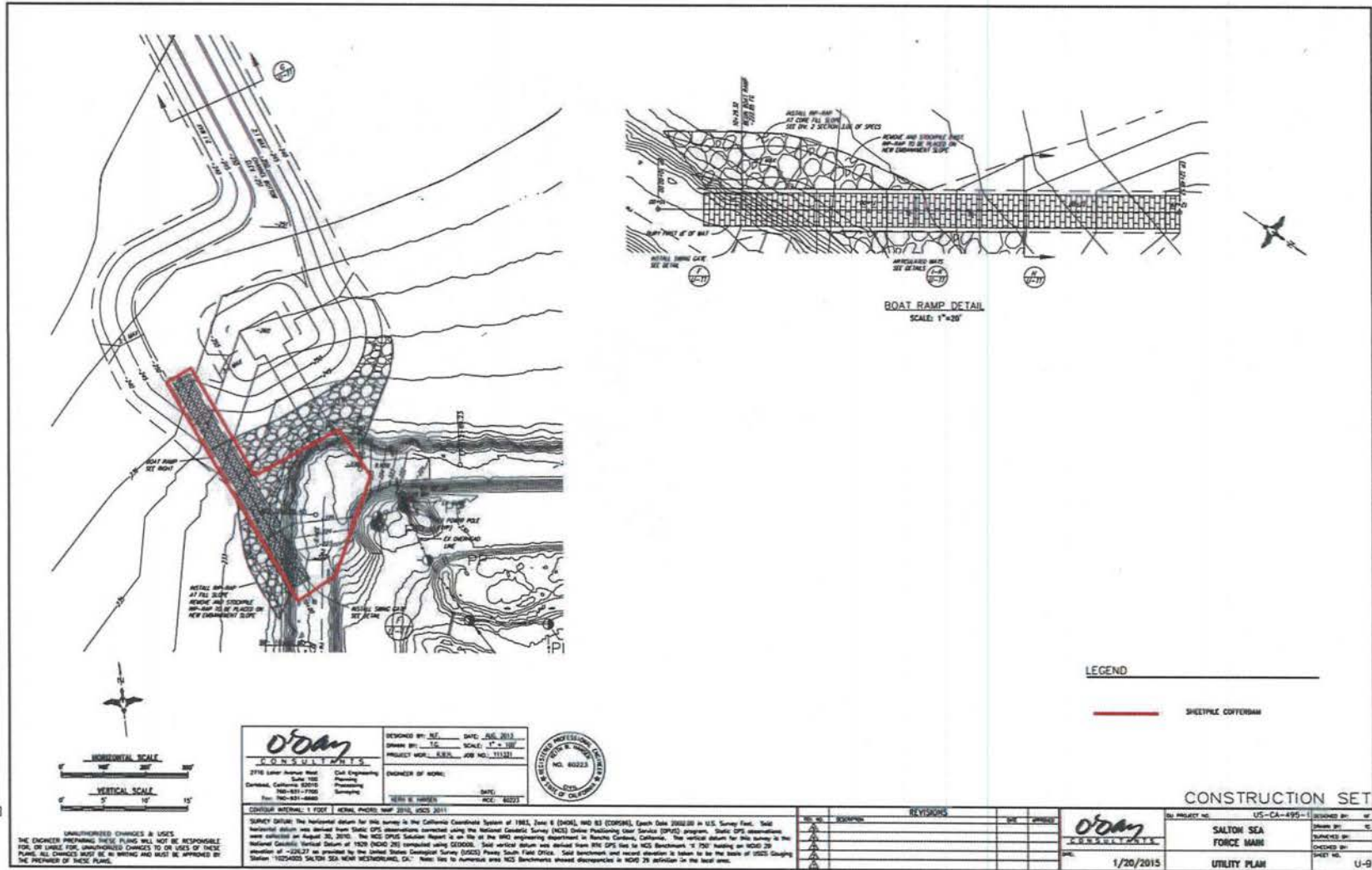


Figure 5. Saline Pump Station Cofferr Dams



**AUTHORITY**

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

**AUTHORIZATION**


This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify CDFW in accordance with FGC section 1602.

**CONCURRENCE**

The undersigned accepts and agrees to comply with all provisions contained herein.

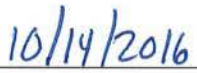
**FOR CALIFORNIA DEPARTMENT OF WATER  
RESOURCES**

  
\_\_\_\_\_  
Kent Nelson  
Program Manager, Salton Sea Restoration Program

  
\_\_\_\_\_  
Date

**FOR DEPARTMENT OF FISH AND WILDLIFE**

  
\_\_\_\_\_  
David Elms  
Environmental Program Manager

  
\_\_\_\_\_  
Date

Prepared by: Charles Land  
Environmental Scientist

