

AUG 2023

Knightsen Wetland Restoration and Flood Protection Project



**Delta
Stewardship
Council**

A CALIFORNIA STATE AGENCY

Overview

- Cutting the Green Tape: overview of the Statutory CEQA Exemption for Restoration Projects (SERP)
- Description of the Knightsen Wetland Restoration and Flood Protection Project
- Delta Plan and Covered Action Considerations





Cutting the Green Tape

- CEQA Statutory Exemption for Restoration Projects (SERP) (Public Resources Code section 21080.56 (a) through (d))
- Administered by California Department of Fish and Wildlife (CDFW)
- Projects must meet specific qualifying criteria for SERP
- Lead agency must determine project to be exempt from CEQA
- CDFW Director must concur with lead agency determination, based on substantial evidence and best available science



CEQA STATUTORY EXEMPTION FOR RESTORATION PROJECTS UPDATE

DELTA STEWARDSHIP COUNCIL – AUGUST 24, 2023

PETE MCHUGH, CDFW BAY-DELTA REGION





The California Department of Fish and Wildlife's Cutting the Green Tape program is a statewide effort to increase the pace and scale of habitat restoration by creating and implementing new environmental permitting and grant funding tools.



Grant Funding



**Permitting and
CEQA**



**Project
Coordination**

<https://wildlife.ca.gov/Cutting-Green-Tape>



CUTTING THE GREEN TAPE

Restoration Permitting and CEQA Tools



Restoration Management Permit (RMP)

The RMP is a consolidated take authorization for both state listed species and Fully Protected species.



Restoration Consistency Determination (CD)

Restoration CDs are fast, free, and provide take coverage for animals that are both state and federally listed.



Habitat Restoration and Enhancement Act (HREA)

HREA is a CEQA exemption, LSA Agreement, and CESA permit for small restoration projects.



Statutory Exemption for Restoration Projects (SERP)

SERP can save substantial money and time for qualifying projects that need CEQA coverage.

CEQA STATUTORY EXEMPTION FOR RESTORATION PROJECTS (SERP)

- SERP is a CEQA exemption pathway for restoration projects of any size
- Effective late 2021 through January 1, 2025
- Lead Agency must determine if their project meets the SERP criteria, California P.R.C. § 21080.56 subdivisions (a) through (d) :
 - (a) ... to qualify for this ... exemption, a project must exclusively be one of the following:
 - (1) A project to conserve, restore, protect, or enhance, and assist in the recovery of California native fish and wildlife, and the habitat upon which they depend.
 - (2) A project to restore or provide habitat for California native fish and wildlife.
 - (b) An eligible project may have incidental public benefits, such as public access and recreation.

(cont'd)

CEQA STATUTORY EXEMPTION FOR RESTORATION PROJECTS (SERP)

(California P.R.C. § 21080.56, cont'd)

(b) To qualify for this exemption, a project must do both of the following:

- (1) Result in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery.
- (2) Include procedures and ongoing management for the protection of the environment.

(d) This exemption does not apply to a project that includes construction activities, except for construction activities solely related to habitat restoration.

- The lead agency must obtain the CDFW Director's concurrence for the determinations made pursuant to subdivisions (a) through (d).

SERP PROCESS AND DELTA CONSIDERATIONS

- **Lead Agency responsibilities**

- Consult with CDFW
- Meet and confer with Native American Tribes and stakeholders
- Make initial SERP determinations and submit request to CDFW
- File a Notice of Exemption with OPR within 48 hours of approving the project

- **CDFW responsibilities**

- Review the Lead Agency's initial determinations & provide the CDFW Director's written concurrence, based on substantial evidence and best available science
- Post the CDFW Director's concurrence on CDFW's website

- **Considerations for the projects in the Legal Delta**

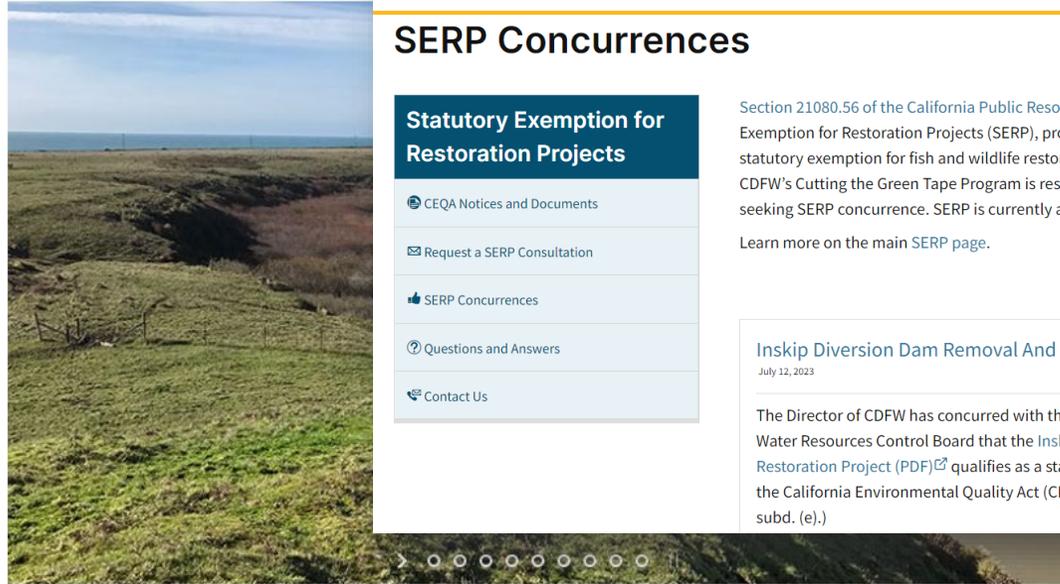
- Delta Plan context; recommend early engagement with DSC
- Recommend enhanced outreach, following Delta Plan's Good Neighbor Checklist

CDFW'S CEQA STATUTORY EXEMPTION FOR RESTORATION PROJECTS (SERP) WEBPAGE

CEQA Statutory Exemption for Restoration Projects (SERP)

Statutory Exemption for Restoration Projects

- CEQA Notices and Documents
- Request a SERP Consultation
- SERP Concurrences
- Questions and Answers
- Contact Us



Governor Newsom signed Senate Bill (SB) 155, on September 23, 2021, adding Section

SERP ACTIVITY TO DATE



- Activity to date (8/14/23):
 - 105 consultation requests statewide
 - 32 concurrences issued (1 in the Delta)
 - Concurrences encompass >15,000 acres
 - Range of project types, complexity included
 - Savings and efficiencies due to exemption:
 - Average of ~7 months & \$100K in project savings
 - Unquantified additional savings for agencies
 - Savings expected to be greater in Delta



Knightsen Wetland Restoration and Flood Protection Project

- Proposed by East Contra Costa County Habitat Conservancy (ECCHC)
- ECCHC made preliminary determination that Knightsen Project meets SERP criteria
- CDFW Director concurred
- Supporting materials
 - “Good Neighbor Checklist” per Delta Plan Recommendation **ER RB** (Ecosystem Amendment)
 - Letter from Delta Counties Coalition supporting the project and use of SERP
- ECCHC and CDFW coordinated with Council staff

Knightsen Wetland Restoration Project

Delta Stewardship Council
August 24, 2023



Abigail Fateman, Executive Director, East Contra Costa County Habitat Conservancy

Knightsen Wetland Project: www.tinyurl.com/Wetland-Knightsen



Project Team

Landowners

- East Contra Costa County Habitat Conservancy
- East Bay Regional Park District

Site Design – Environmental Science Associates

Groundwater and Soils – Balance Hydrologics

Outreach and Communications – Catalyst Group

Funders – California Coastal Conservancy, California Department of Fish and Wildlife, California Wildlife Conservation Board, Contra Costa County Flood Control & Water Conservation District, East Bay Regional Park District, East Contra Costa County Habitat Conservancy, Knightsen Community Services District, Sacramento-San Joaquin Delta Conservancy, and U.S. Fish and Wildlife Service

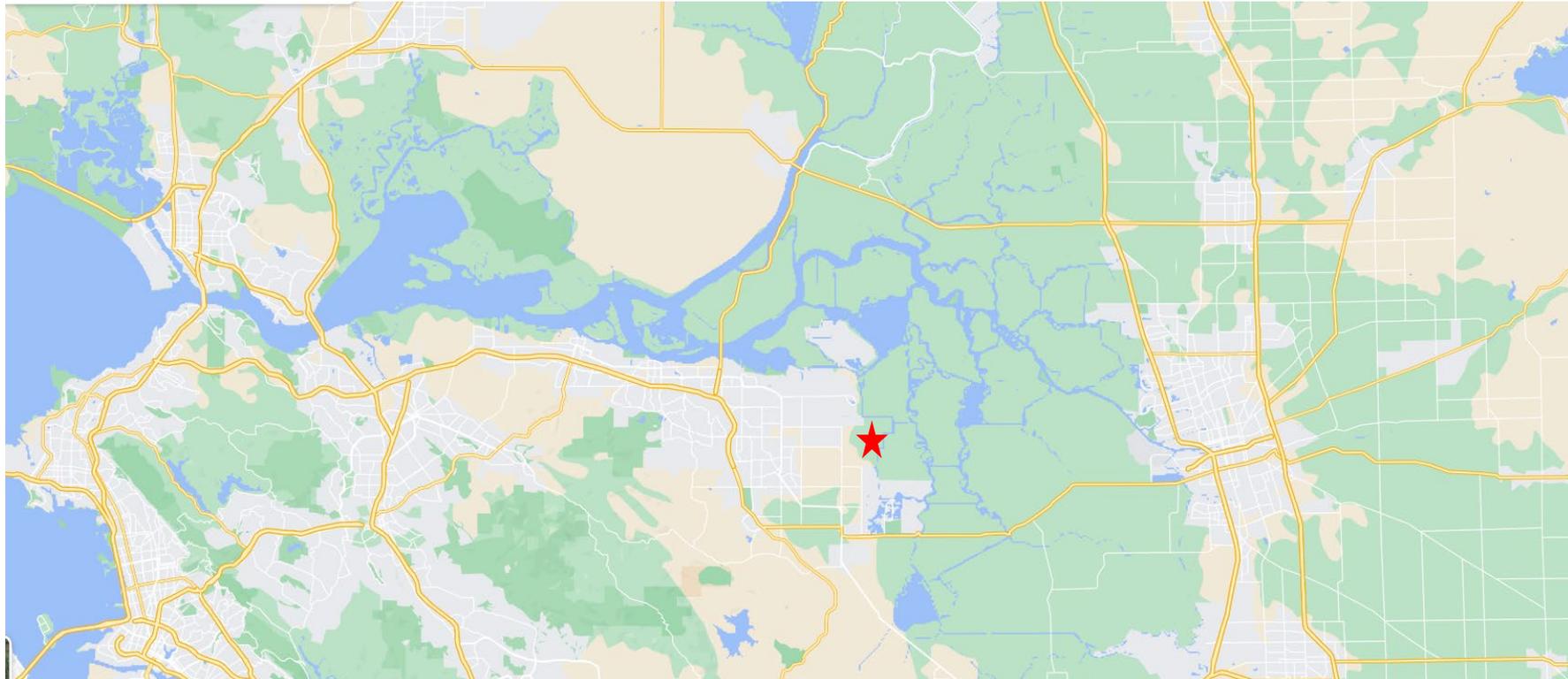




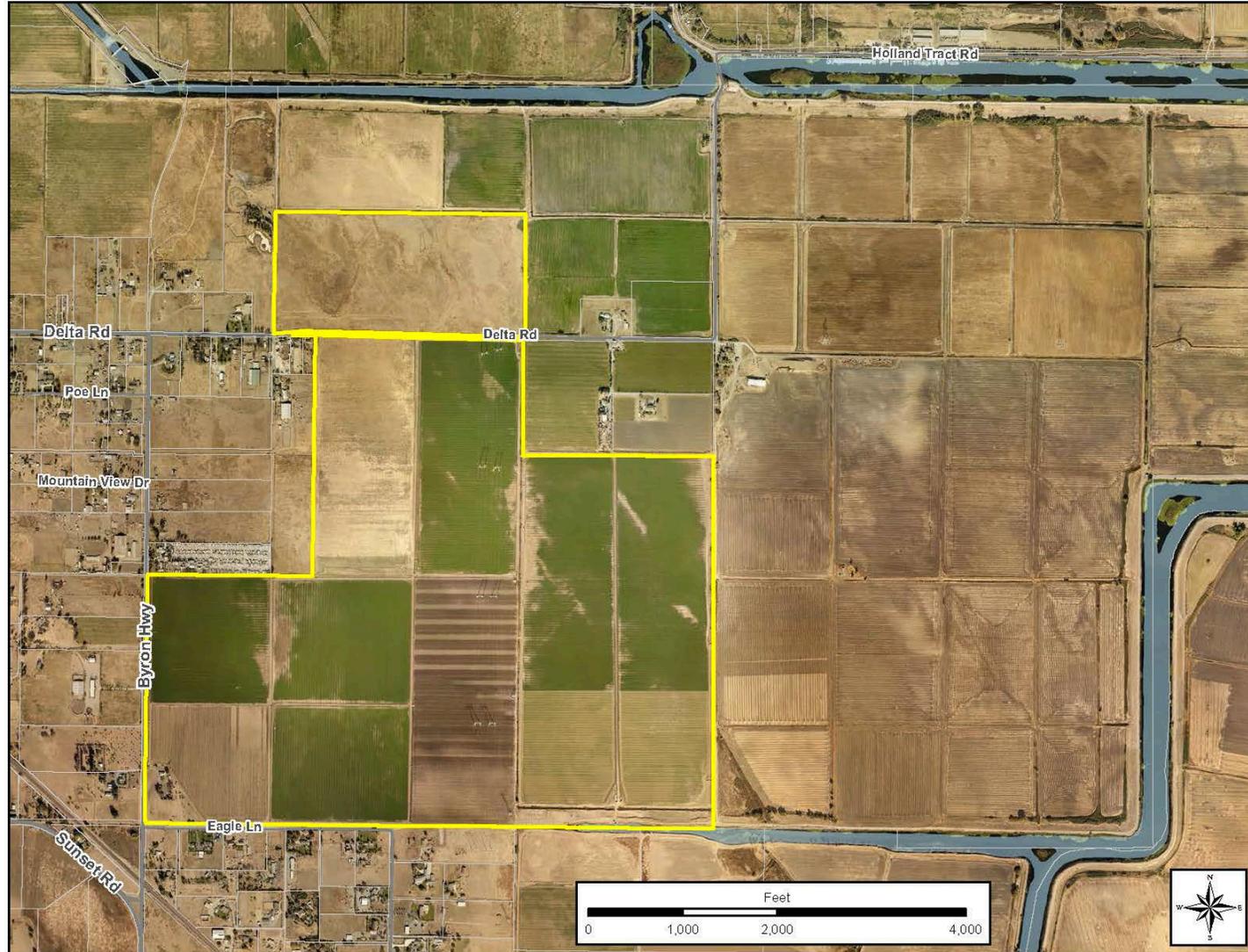
Project Overview

Transform a 645-acre property that has been managed primarily as irrigated agriculture and pasture to a mosaic of habitats to support special status species.

Orientation to the Site



Orientation to the Site

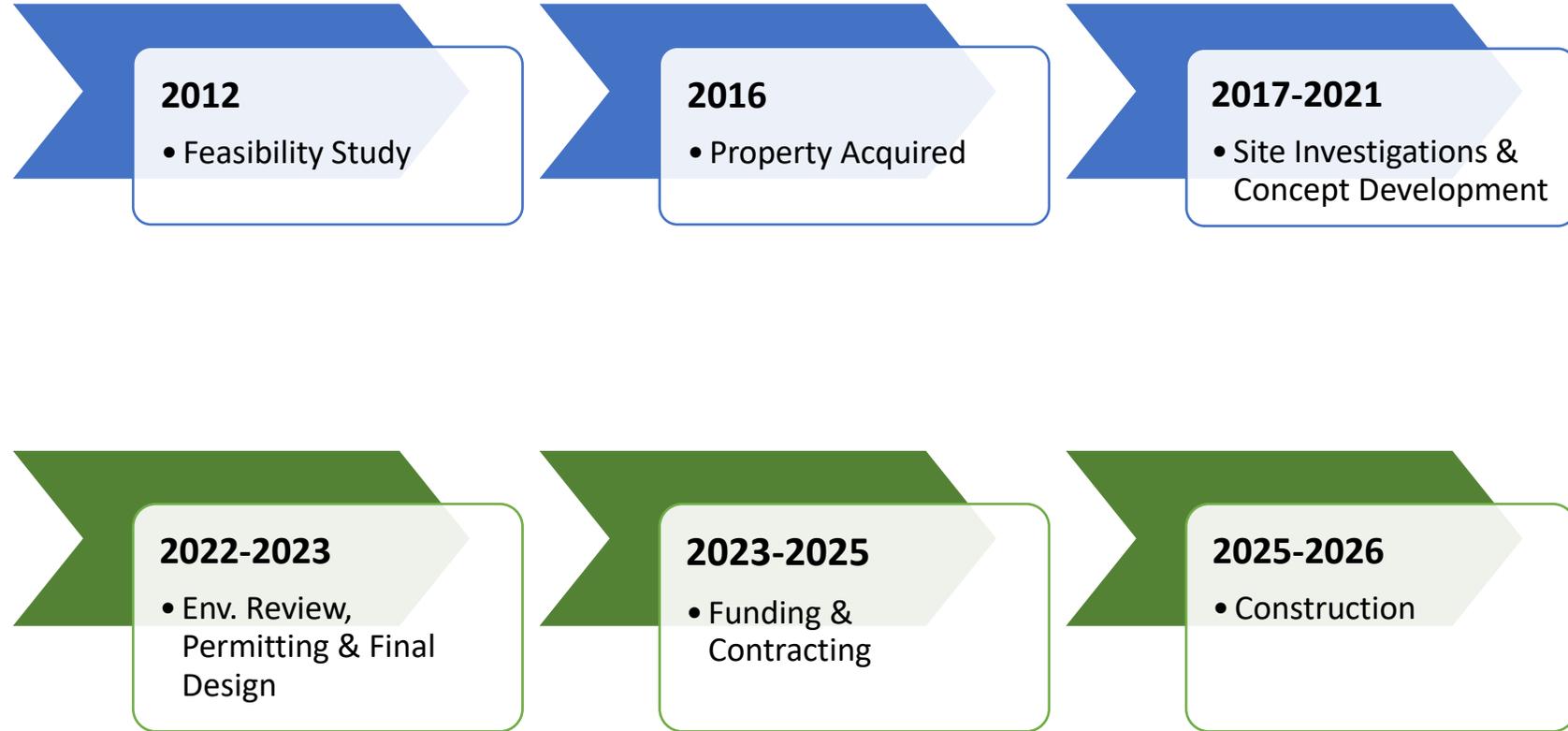


Project Purpose

- Protect land from development.
- Restore habitat and reconnect to the Delta.
- Improve water quality discharging to the Delta.



Project Timeline (Subject to Change)



Studies and Assessments

- Surface Water Hydrologic Assessment
- Groundwater Modeling and Water Chemistry
- Soils Investigation and Analysis
- Cultural Resources Assessment / Tribal Consultations
- Biological Resources Assessment
 - Habitat Assessment
 - Wetland Delineation
 - Rare Plant Survey & Invasive Weed Mapping
- Utilities Constraints Analysis
- Topographic Surveys



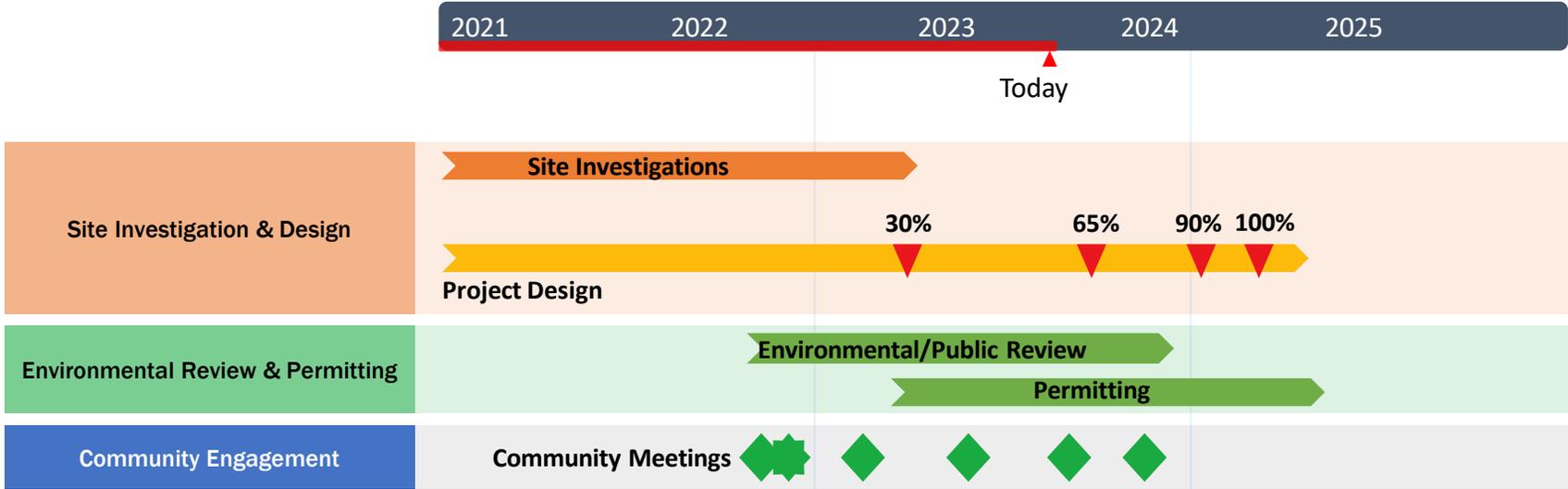


Community Engagement

Goals

- Listen and understand community interests and concerns.
- Describe the project and potential effects.
- Discuss project changes to improve benefits and reduce community effects.

Tentative Project Timeline (subject to change)



Regional Outreach



East Contra Costa County
Habitat Conservancy

East Bay 
Regional Park District
Healthy Parks Healthy People

APPENDIX Q2. KEY CONSIDERATIONS AND BEST AVAILABLE SCIENCE FOR PROTECTING, RESTORING, AND ENHANCING THE DELTA ECOSYSTEM

Good Neighbor Checklist

Habitat restoration projects have many benefits, but can also affect neighboring properties, agriculture, infrastructure and water resources. Inclusion of Good Neighbor considerations into habitat restoration project planning can support agricultural communities, reinforce the benefits of conservation partnerships, reduce conflict and project delays, and help achieve sustainable conservation. Habitat restoration project planners and managers can use the following checklist to help ensure that restoration projects are planned and designed to avoid or reduce conflicts with existing neighboring land uses.

Some of the checklist items are also considered in California Environmental Quality Act (CEQA) and regulatory review processes. The purpose of the checklist is to encourage early conversations and coordination with neighboring interests, and it does not substitute for any other process.

Good Neighbor Restoration Projects:

Siting and Planning

- Is the project sited on public or conservation-entitled lands, or where private property is required, has there been engagement to find willing sellers?
- If there are existing agricultural or conservation easements, has thought been given to how to incorporate or avoid conflicts with them?
- Is the project sited to avoid fragmenting existing farms?
- Have neighbors and stakeholders been included in the early planning stage?
- Will the project potentially disturb utilities, roads, bridges, or other infrastructure that serve local uses? If so, are those uses taken into account during project planning?
- Is the project designed to avoid interfering with other beneficial water uses (e.g., existing water diversions, boating, fishing, and recreation)?
- Will the project design avoid or reduce damage to nearby drainage, irrigation, and flood control facilities (e.g., levees) during construction and operation and avoid conflicting management practices?
- Has the project considered buffers where restoration lands could potentially interfere with surrounding agricultural lands or where agricultural lands could potentially interfere with restoration lands?
- As a result of the project, are special status species on the project site expected to increase markedly in abundance, and potentially move from the site to neighboring lands or waterways? If so, has coordination on safe harbor or other protections for neighboring land and water uses been considered?
- Is the project designed so that any new public access is compatible with, would benefit, and would avoid or reduce conflict with, local businesses, landowners and residents?

DELTA PLAN, AMENDED – JUNE 2022 Q2-15



Delta Counties Coalition
Contra Costa County · Sacramento County · San Joaquin County · Solano County · Yolo County
Working together to water and wild life issues

February 1, 2023

Chuck Bonham, Director
California Department of Fish and Game
1416 9th Street, CA 95914
Director@wildlife.ca.gov

Re: California Environmental Quality Act (CEQA) Statutory Exemption for the Knightsen Wetland Restoration Project

Dear Director Bonham:

The Delta Counties Coalition (DCC) writes to you in support of using the CEQA Statutory Exemption for Restoration Projects (SERP) for the proposed Knightsen Wetland Restoration Project.

As you know, the DCC has expressed concerns about the use of the SERP for projects in the Delta. In our October 8, 2021 letter, we outlined our concerns and identified steps the California Department of Fish and Wildlife (CDFW) and the Natural Resources Agency could take to ensure restoration projects that propose to use the SERP give due consideration to local plans, priorities, and concerns. The DCC supports well-planned restoration projects that protect the environment, local land use, and regional planning.

After review of the proposed Knightsen Wetland Restoration Project, the DCC supports the project and thinks use of the SERP is appropriate. The Knightsen Wetland Restoration Project proposal was developed at the local level, following local outreach, and complements local and regional planning. The Conservancy voluntarily completed the Good Neighbor Checklist¹ and continues to engage stakeholders as they finalize project design and permitting process.

The DCC's support for using the SERP for the Knightsen Wetland Restoration Project is based on important locally-driven features or elements of the project:

- The project is proposed by the East Contra Costa County Habitat Conservancy, a local joint exercise of powers agency. The Conservancy is responsible for overseeing the implementation of the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP), a

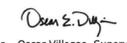
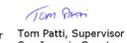
¹ <http://delcouncil.ca.gov/pdf/delta-plan/2022-07-15-good-neighbor-checklist.pdf>

by Contra Costa County and cities in east Contra Costa County's governing board is made up of elected officials from the cities of Brentwood, Clayton, Oakley and Pittsburg, locally-sponsored and was developed in coordination with other relevant agencies, including Contra Costa County Flood Control, Contra Costa County Vector Control, and the East Contra Costa County CC is not concerned that this project will interfere with any of these agencies.

and operated by the East Bay Regional Park District, part of the Preserve System for the HCP/NCCP. The DCC helps to achieve regional conservation goals identified in the HCP/NCCP.

through an extensive outreach process that included public meetings, stakeholder interviews, and other outreach activities. In recent years, through DFJW and the Delta Conservancy, the Conservancy has facilitated support for the outreach process. These materials and understanding the importance of this project to local agencies, the DCC supports the use of the SERP for the Knightsen Wetland Restoration Project. Feel free to contact us through our coordinator Elisia De Borda at 916-874-4227 or deborde@SacCounty.gov.

Sincerely,

 Patrick Kennedy, Supervisor Sacramento County	 Oscar Villegas, Supervisor Yolo County	 Diane Burgis, Supervisor Contra Costa County
 Mitch Mashburn, Supervisor Solano County	 Tom Patti, Supervisor San Joaquin County	

cc: Brad Henderson
Peter McHugh

Good Neighbor Checklist for Restoration Projects.
Delta Plan, Amended June 2022

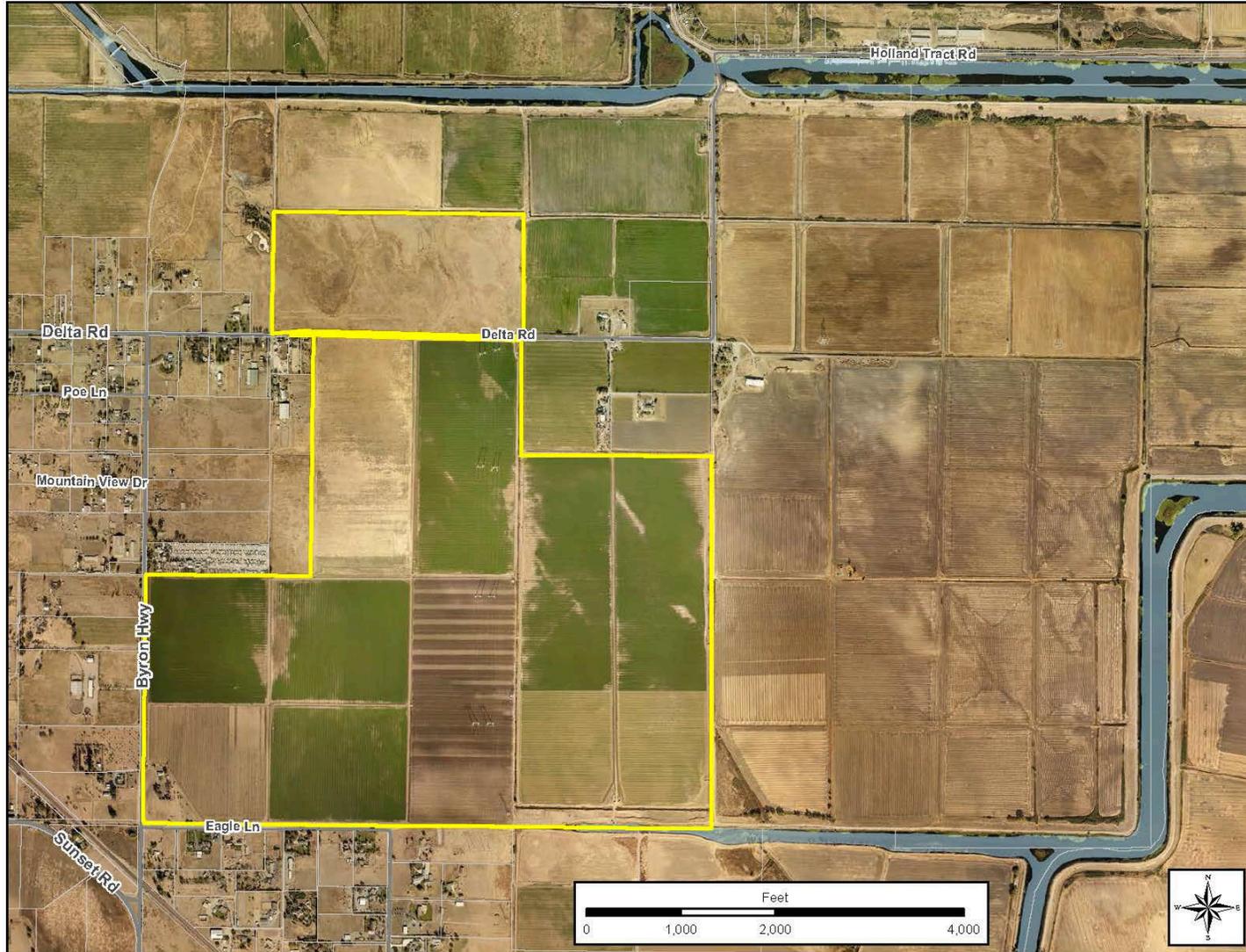
Delta Counties Coalition Support, 2023



Project Design

Detailed design and construction details continues based on the selected site concept.

Existing Site



Species

Target Species:

- western pond turtle
- giant garter snake
- tricolored blackbird
- Swainson's hawk
- western burrowing owl
- golden eagle
- listed vernal pool branchiopods
- Northern California legless lizard

Other Species expected to benefit:

- Migratory birds
- Raptors, including white tailed kite
- Delta aquatic species
- Locally rare plants



Site Concept



DRAFT

WET SEASON CONDITIONS

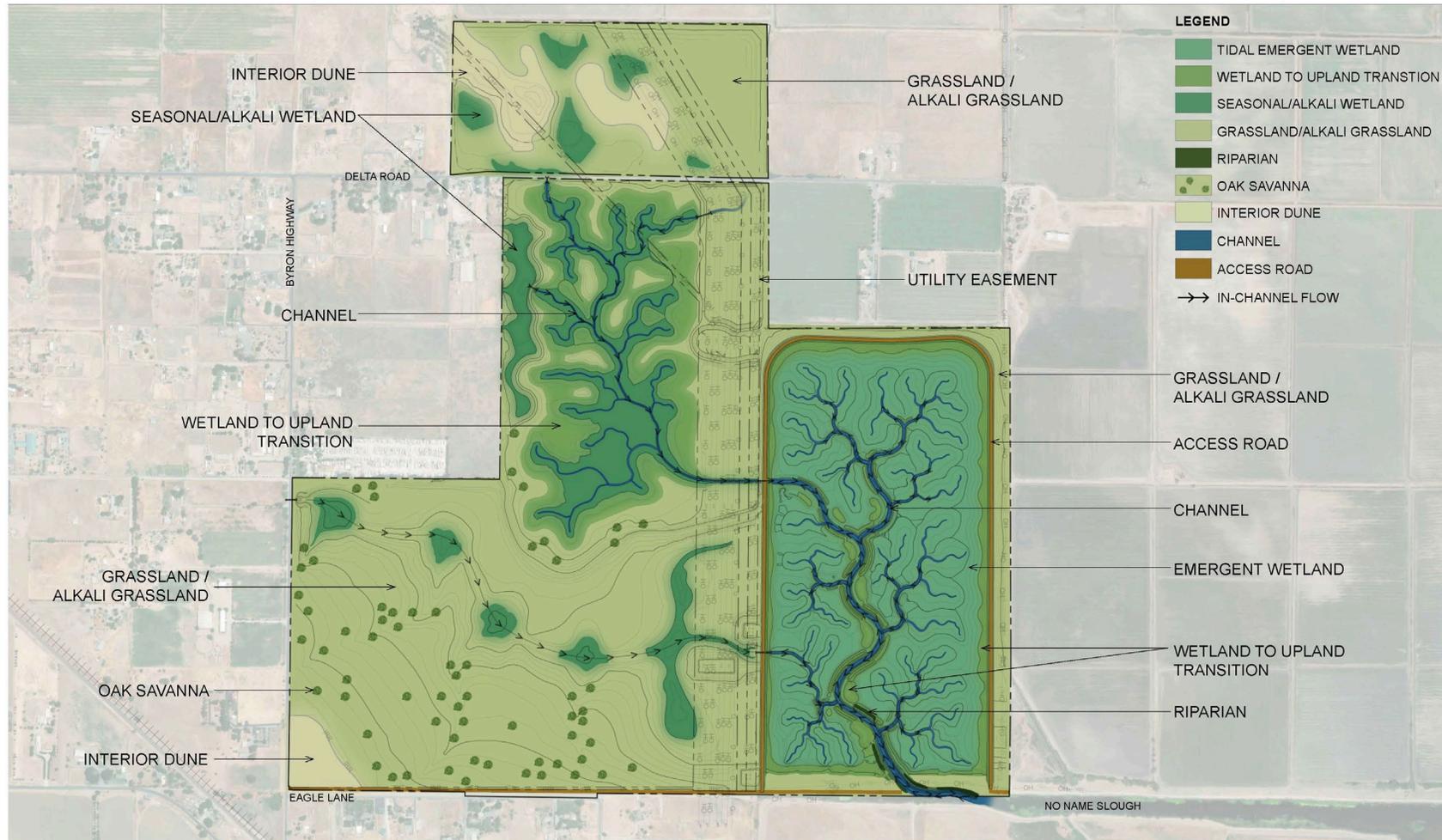
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LEGEND

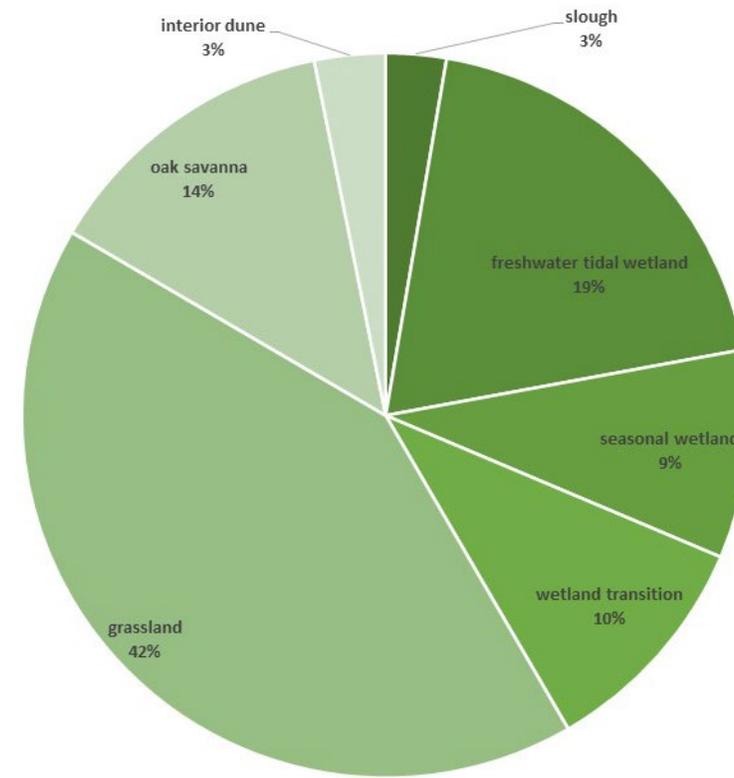
- OPEN WATER (TIDAL CHANNEL)
- MUTED TIDAL CHANNEL
- INTERMITTENTLY INUNDATED
- EMERGENT WETLAND (TULE)
- SEASONAL WETLAND (BIO-SWALE)
- ALKALI MEADOW
- GRASSLAND
- OAK SAVANNA
- LEVEE / BERM
- DUNES
- WATER CONTROL STRUCTURE
- FLOW DIRECTION
- EXISTING DRAINAGE DITCH/SWALE
- PUMP STATION



Project Design



Target Habitats



Habitat Types	Acres
slough	17
freshwater tidal wetland	123
seasonal wetland	59
wetland transition	65
grassland	265
oak savanna	85
interior dune	20





Next Steps

- Complete Project Design and Construction Documents
- Finalize Permits
- Secure Construction and Early Implementation Funding
- Initiate Early Implementation Activities (vegetation, site preparation)

Delta Plan and Covered Action Considerations

- Projects exempt from CEQA are not covered actions unless there are “unusual circumstances” (23 CCR section 5001(dd)(4))
- Knightsen Project objectives and use of “Good Neighbor Checklist” align with many Delta Plan objectives
- Council staff reviewed project and consulted with ECCHC and CDFW, and has not identified unusual circumstances
 - Delta Counties Coalition letter further supports this conclusion
- Council staff have discussed this understanding with CDFW and ECCHC staff
- Pursuant to the Council’s regulations, the Knightsen Project is not a covered action and ECCHC does not intend to submit a certification of consistency for the project to the Council

Thank you

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