



US Army Corps  
of Engineers®

Regulatory Division  
1455 Market Street  
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

# PUBLIC NOTICE

## Project: Napa Salt Marsh Restoration, Pond 1 Amendment

NUMBER: 2004-28695

DATE: June 14, 2010

RESPONSE REQUIRED BY: July 30, 2010

PROJECT MANAGER: Roberta Morganstern

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Email: robertamorganstern@usace.army.mil

1. **INTRODUCTION:** The State of California, Department of Fish and Game (c/o Charles Armor, Bay Delta Region, 7329 Silverado Trail, Napa, California 94558), has applied for a Department of the Army Individual Permit to construct a kayak launch ramp and fishing pier as part of public access improvements and to strengthen the levee located on the eastern boundary of Pond 1. The project proposes to construct acceleration and a portion of the deceleration lanes for safe ingress and egress from State Highway 37 to the existing Department of Fish and Game parking lot. The project overlaps with elements of Napa Salt Marsh Restoration Project (NSMRP). NSMRP includes land in both Napa and Solano Counties. The location of this project is Solano County, north of Highway 37 and west of the Napa River. The collaborative effort between State of California, Department of Fish and Game (CDFG) and U.S. Fish and Wildlife Service (FWS) can be viewed on the location map identified as Figure 5 at the end of this notice.

Pond 1 of NSMRP is owned and managed by CDFG and is one of five ponds which have been restored to higher quality habitat ponds and tidal marsh under authorization #28695N issued in 2004. These lower ponds, identified as 1 through 5, consist of 7,190 acres of jurisdictional open water ponds, managed to provide wildlife benefits. Jurisdiction was verified in 2004 by the U.S. Army Corps of Engineers (USACE). The restored former salt ponds were part of the historic tidal marsh of the Napa River estuary which had been diked during the 1850s for

agriculture prior to conversion to salt ponds in the 1950s. Authorization for work performed under Project #28695N allowed tidal influence to be restored to Ponds 3, 4, and 5, and water management infrastructure improvements to improve aquatic habitat quality in Ponds 1, 1a and 2. Authorization included improvements to water control structures, habitat restoration and salinity reduction. That authorization included expansion of levee uplands on the eastern boundary of Pond 1 to provide space for parking and a kayak launch ramp. The kayak launch was determined to be better located as part of the current project to provide access to deeper water. Work authorized in 2004 has been completed, except for the kayak launch and elevation increase to the upland levee. Ponds 1 through 5 have been restored to higher quality pond habitat for wildlife use.

The work proposed by the current authorization request would occur within jurisdictional open waters of Pond 1 and in jurisdictional open water borrow ditches in the adjacent parcel, identified as Cullinan Ranch. Improvements described here are in preparation for restoration activities proposed under separate authorization for Cullinan Ranch. This application is being processed pursuant to the provisions of Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403) and Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. **PROPOSED PROJECT:** The focus of this project is to strengthen the eastern slope of the 7,000 linear foot levee which forms the boundary

between CDFG property and the FWS parcel, identified as Cullinan Ranch. Restoration to historic tidal marsh habitat is the goal for Cullinan Ranch. In preparation for future breaching of northern perimeter levees within FWS' property, two water control structures will be installed in the upland levee of Pond 1. During installation, 100 cubic yards of fill will be placed into the levee as bedding for two water control structures, connecting jurisdictional open waters of Pond 1 with jurisdictional open water ditch and seasonal wetlands on the Cullinan Ranch parcel. Prior to breaching levees within Cullinan Ranch, FWS plans to pre-flood the parcel to allow resident species to move into adjoining habitat some of which will be created as part of this project. To promote better circulation in Pond 1, approximately 100,000 cubic yards (14.01 acres) of material would be excavated from Pond 1 floor and placed within the borrow ditch at the toe, on the eastern side of Pond 1 levee. The ditch has been verified as jurisdictional open waters by the Corps in 2008. A maximum of 20,000 additional cubic yards of material would be placed within the borrow ditch and fill an area of 7.9 acres of jurisdictional ditches and open waters. A softer side slope (7:1) would be constructed adjacent to the eastern side of the levee, providing 3.9 acres of tidal marsh habitat in the form of a 30 foot wide bench. The bench will parallel 400 feet of levee south of the kayak launch site. At the junction with Highway 37, the intertidal bench will continue eastward, adjacent to the proposed Highway 37 deceleration lane for a distance of about 90 feet. This portion of the deceleration lane would be constructed under this authorization; the remainder would be authorized under a future project. Site access, which was authorized in the original permit, includes resurfacing the 7,000 foot long levee and increasing the height to 8.0 feet NGVD 1929. The improvements allow wheelchair access and provide a base for a fishing pier and kayak launch site, both ADA accessible. Figure 4 depicts the recreation features. The fishing pier (Trex decking coated with Amerlock or similar product), 12 feet by 100 feet, would parallel the

improved levee and be supported by a graded fill base or pilings. The kayak ramp would be perpendicular to the levee and occupy an area 15 feet wide by 130 feet long, supported either by pilings or a graded fill ramp. An excavated channel will lead kayakers to deeper water as shown in Figure 4 on plans accompanying this notice. Graded earthen pads would place a total of 7,000 cubic yards of fill within 1.5 acres of jurisdictional seasonal wetlands and open water borrow ditch for the foundation of the kayak launch and fishing pier.

Adhering to Caltrans standards, construction of a 750 foot acceleration lane would require 66,000 cubic yards of fill placed within 6.5 acres of non-wetland, jurisdictional open waters in Pond 1. To construct 90 feet of deceleration lane, 1,104 cubic yards of fill would be placed in 1 acre of the borrow ditch, jurisdictional open water ditch on FWS' Cullinan Ranch. The remaining 660 feet of deceleration lane will be permitted separately.

Restoration of salt ponds to higher quality wildlife ponds required no mitigation under authorization #28695N. Pond ecology, salt marsh habitat and seasonal wetlands have diminished as other uses were found for these lands. Placement of fill in the jurisdictional waters of the borrow ditch to strengthen the levee to withstand wind and wave stress from future tidal action requires authorization as discharge of fill into jurisdictional waters under the Clean Water Act. Purchase of the Cullinan Ranch parcel by FWS was for the purpose of creating habitat for special status species, salt marsh harvest mouse (*Reithrodontomys raviventris*) and California clapper rail (*Rallus Longirostris obsoletus*). In preparation for the introduction of tidal action into the Cullinan Ranch parcel, FWS has devised a creative plan to both strengthen the levee by placing fill in the jurisdictional borrow ditch, constructed to reclaim marsh for agricultural use, and expand upland areas for recreational use and transitional habitat. Four acres of created intertidal habitat, planted with pickle weed and

**other native species may serve as a starting point for accretion of sediment. In the short term it will serve as refuge for special status species and resident creatures which will be displaced by the conversion of habitat types.**

Mitigation details have been submitted for both the Cullinan Ranch restoration and the work covered by this request. This collaborative project will improve public access and safety for recreation and maintenance to the NSMRP. Improvements to Highway 37 in the form of ingress and egress within this project and with armoring and raising the highway levee height as part of the Cullinan Ranch restoration is a public service resulting from activities designed to minimize and mitigate the lost quality and functions of the filled seasonal wetlands.

### **3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:**

**National Environmental Policy Act of 1969 (NEPA):** The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the NEPA decision document would describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the decision document will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398. We hereby incorporate by reference Environmental Impact Statement/Environmental Impact Report, Cullinan Ranch Restoration Project, Solano and Napa Counties, California, prepared for FWS and CDFG by Ducks Unlimited. Draft is dated April 2008, Final, dated April 2009, and was certified by Record of Decision signed April 2010.

**Endangered Species Act of 1973 (ESA):** Section 7

of the Endangered Species Act requires consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. Correspondence dated April 5, 2010 from NMFS concurred with FWS' determination that the restoration project was not likely to adversely affect listed species or designated critical habitat. An intra-Service Section 7 consultation produced a biological opinion, issued by FWS on May 7, 2010.

**Magnuson-Stevens Fisheries Conservation and Management Act:** Essential Fish Habitat (EFH) - The Magnuson-Stevens Fishery Conservation and Management Act requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH). NMFS' response dated April 5, 2010 describes the project area as a Habitat Area of Particular Concern. The evaluation has determined that the proposed project would adversely affect EFH. However, adequate measures are contained in the project to avoid, minimize, mitigate and offset adverse effects and the activities would increase quantity and quality of EFH over the long term.

#### **Clean Water Act of 1972 (CWA):**

**a. Water Quality:** Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. The applicant will submit a copy of their amended Section 401 Conditional Water Quality Certification (File No. 2139.3031). No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

**b. Alternatives:** Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water dependent.

**Coastal Zone Management Act of 1972 (CZMA):** Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. An amendment has been requested from San Francisco Bay Conservation and Development Commission (Permit No. 8-04).

**National Historic Preservation Act of 1966 (NHPA):** Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

**4. PUBLIC INTEREST EVALUATION:** The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable

detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

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

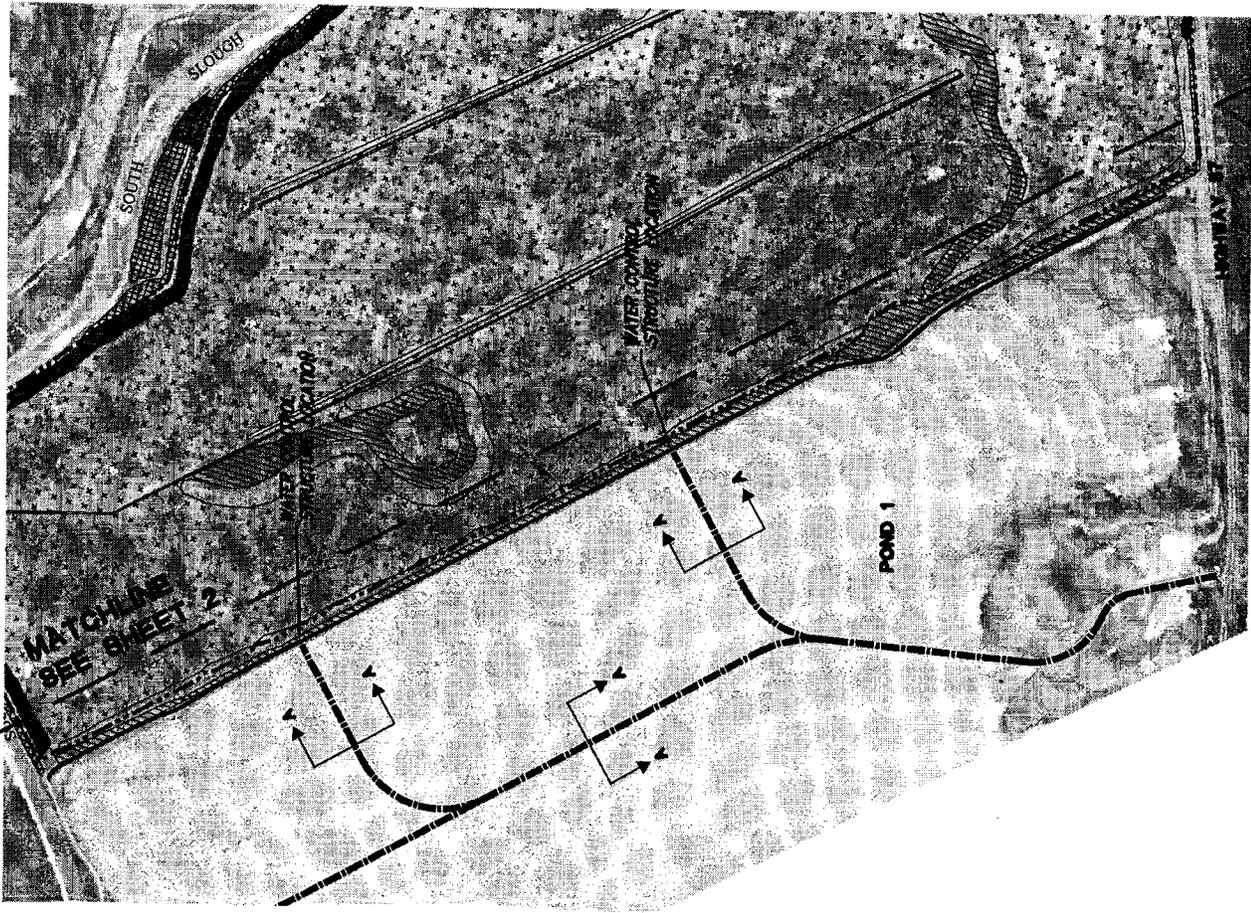
**6. SUBMISSION OF COMMENTS:** Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public

hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Roberta Morganstern of our office at 415-503-6782 or E-mail: [Roberta.Morganstern@usace.army.mil](mailto:Roberta.Morganstern@usace.army.mil). Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

LEGEND	
	Improved Levee Road
	Acceleration/Deceleration Lane and Buttress Levee Footprint
	Borrow Ditch Fill Footprint
	Rip Rap Footprint
	Levee Lowering Spoils
	50 Acre Salt Mouse Harvest Mouse Habitat
	Excavation Through Perimeter Marsh for Breaches
	Fish and Wildlife Service Property Boundary and Limits of Potential Borrow Area
	Temporary Construction Route
ACOE Jurisdictions per Delineation	
	Freshwater Marsh
	Open Water Ditches/Sloughs
	Coastal Salt Marsh



SECTION A-A  
TYPICAL POND 1 CHANNEL  
SEE P. 105



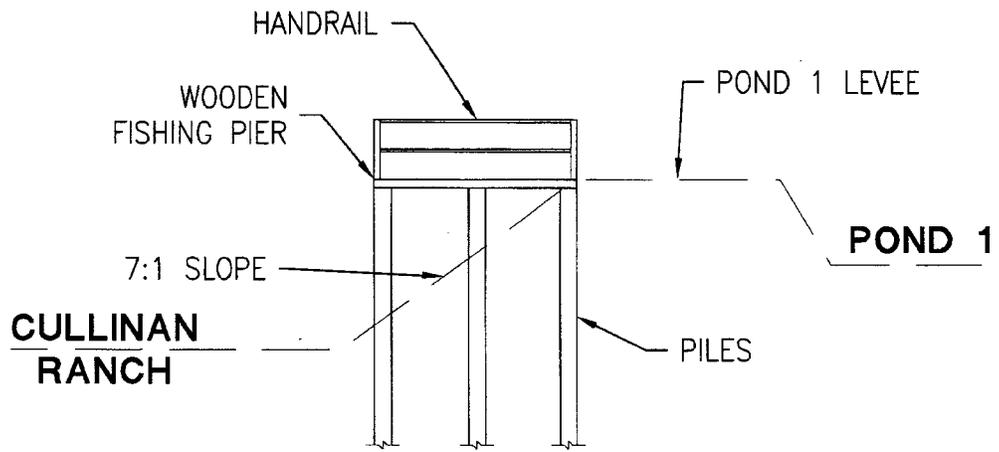
**SAN PABLO BAY NWR, CULLINAN RANCH  
WETLAND RESTORATION  
ACOE POND 1 EXHIBIT**



DUCKS  
UNLIMITED  
INC.  
WESTERN REGIONAL OFFICE

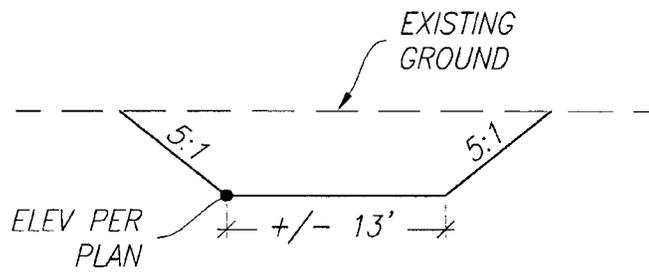
PROJECT NO. US-04-0119-010  
DRAWING NAME: ACQ. EXHIBIT

**FIGURE 1**



FISHING PIER CROSS SECTION

NOT TO SCALE

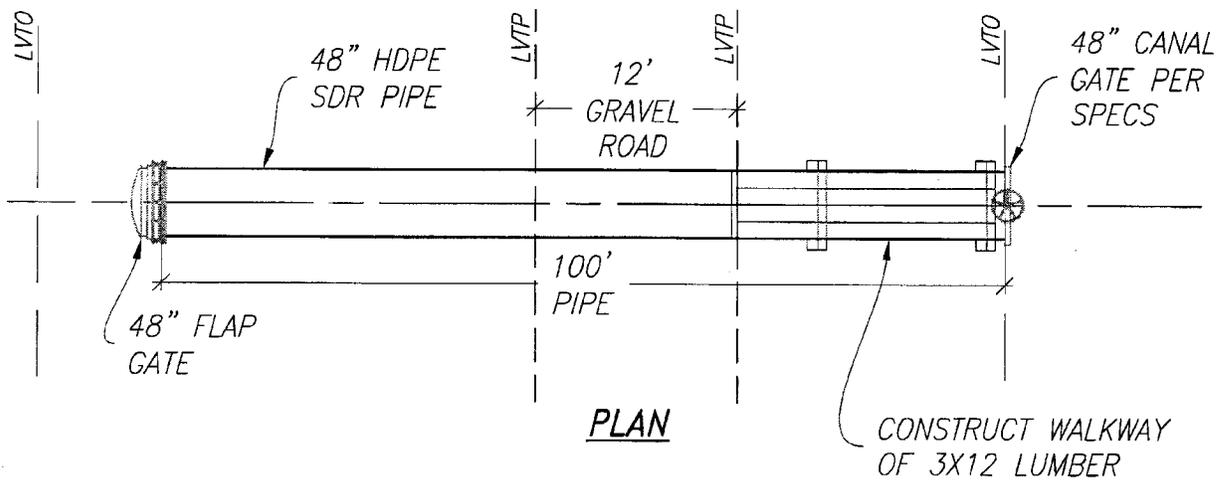
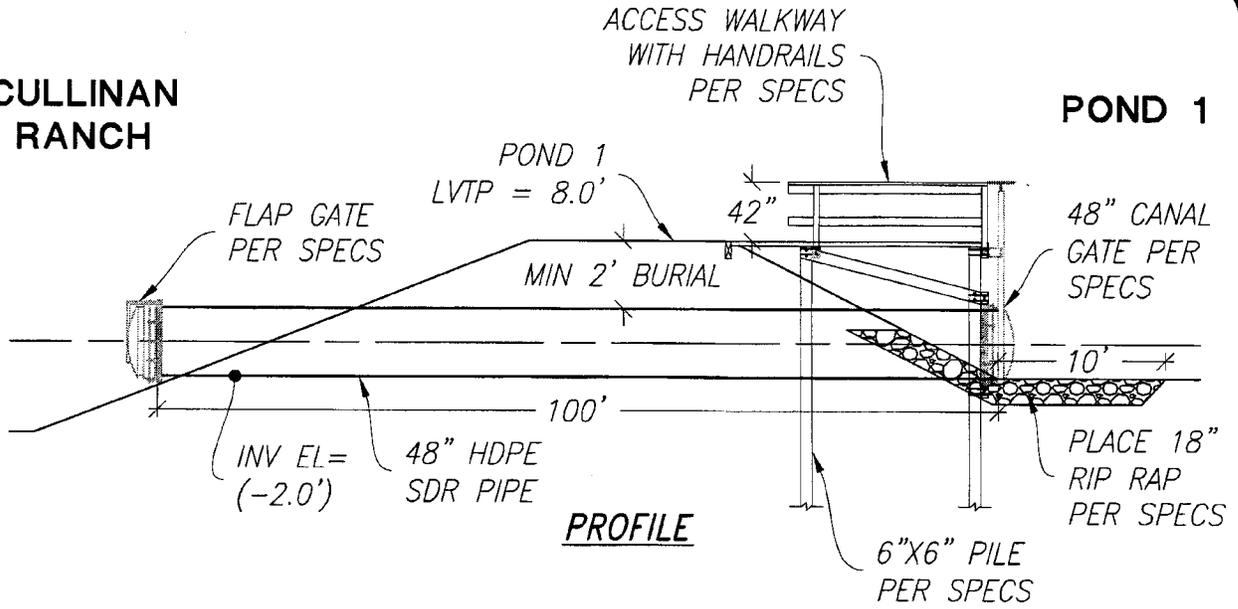


TYPICAL KAYAK CHANNEL SECTION

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CULLINAN RANCH

POND 1



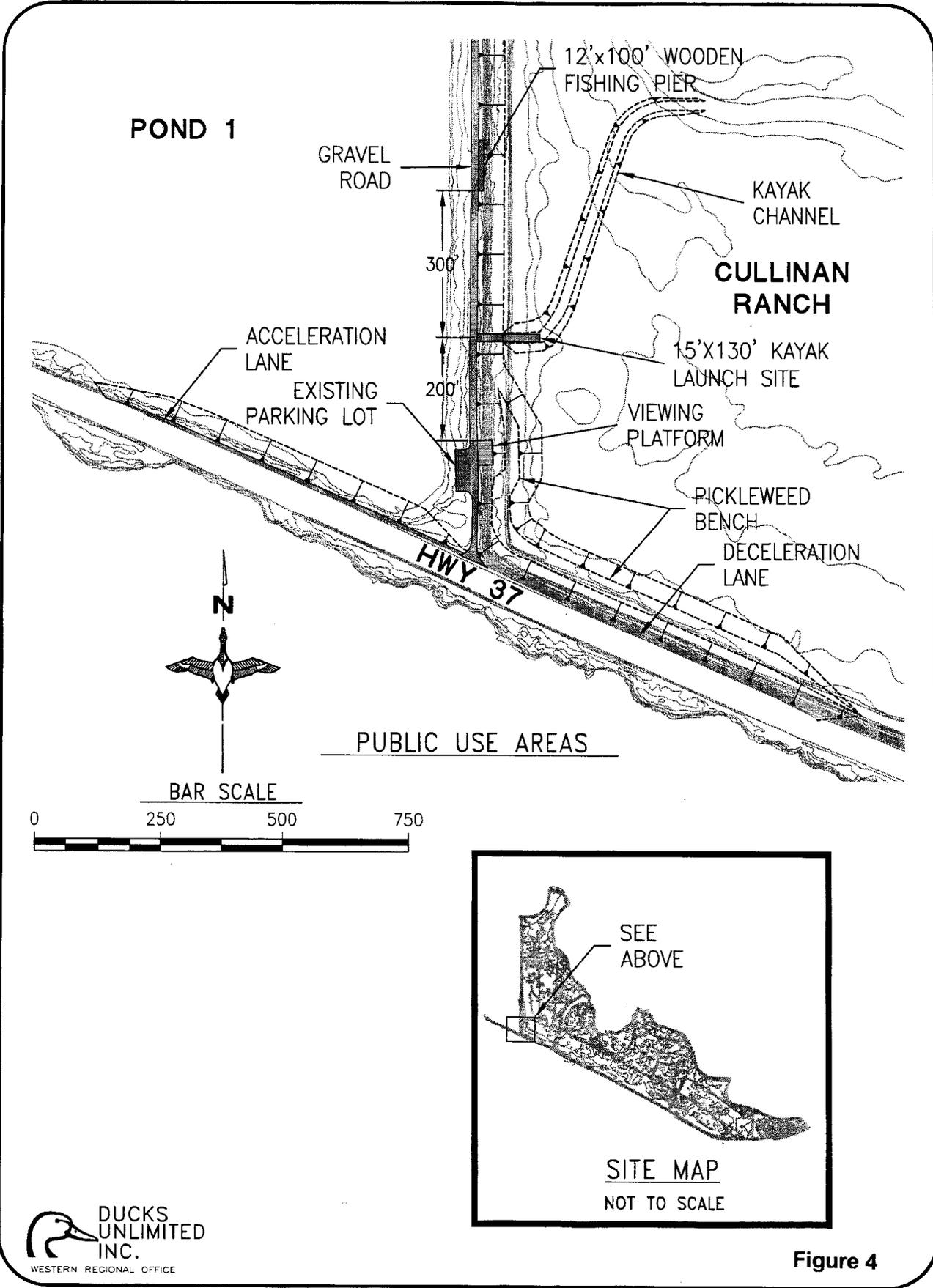
**TYPICAL WATER CONTROL STRUCTURE**

NOT TO SCALE

**SAN PABLO BAY NWR, CULLINAN RANCH  
WETLAND RESTORATION  
TYPICAL STRUCTURE**



Figure 2



**Figure 4**

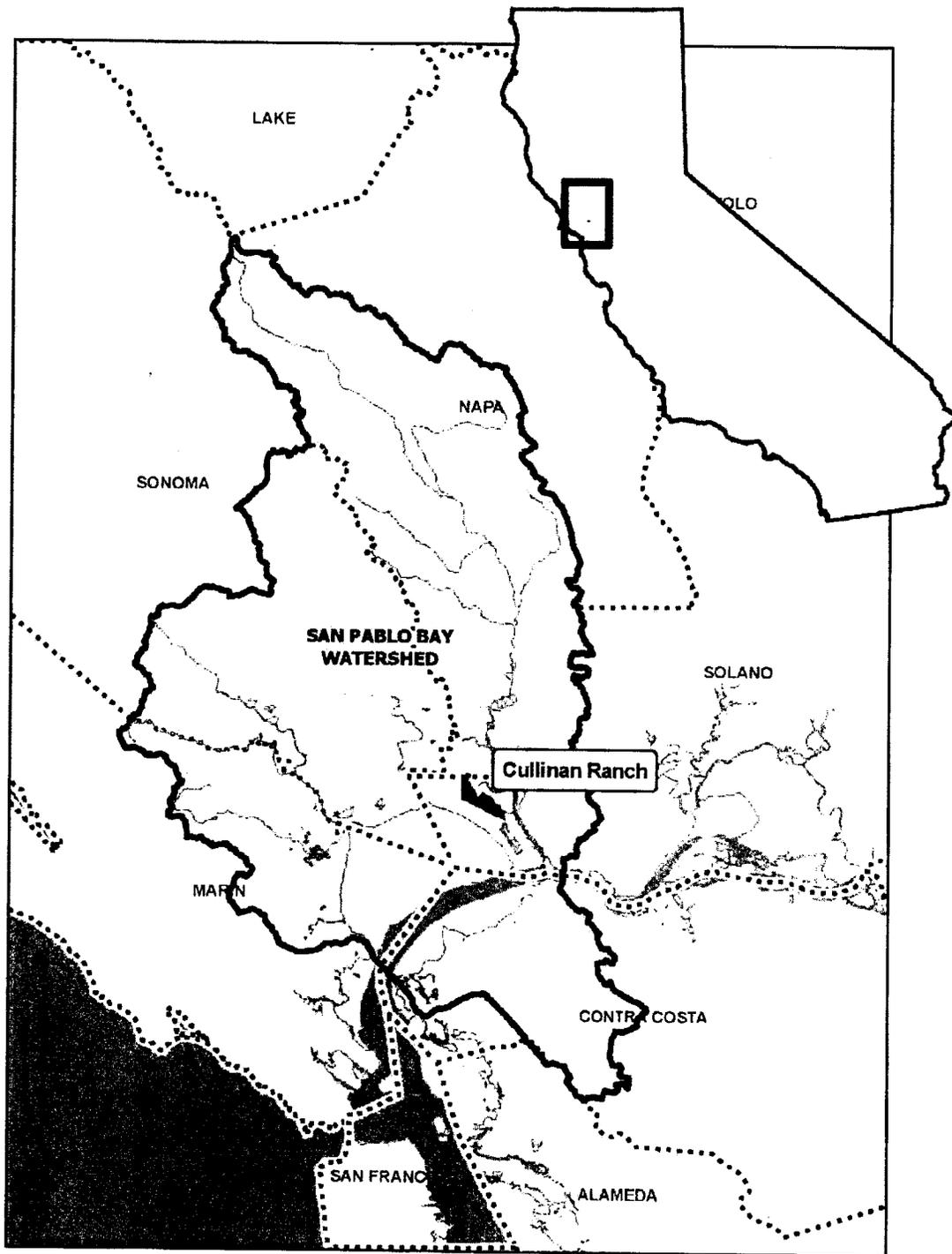


Figure 5 Vicinity Map