

Public Notice
Notice of Exemption



To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

From: Valley Water
5750 Almaden Expressway
San Jose, CA 95118
Telephone (408) 265-2600

Project Title: Pond A4 Resilient Habitat Restoration Project

Project Location-Specific: Southern portion of Pond A4; Segment of San Francisco Bay Trail immediately south of Pond A4; Smart Station Trail north of Caribbean Drive adjacent to Sunnyvale East Channel

Project Location-City: Sunnyvale and San Jose

Project Location-County: Santa Clara

Project Purpose: Valley Water plans to implement the Pond A4 Resilient Habitat Restoration Project (Project), which would involve restoration of mudflat habitat in Pond A4 by beneficially reusing fill material.

Name of Public Agency Approving Project: Valley Water

Name of Agency or Person Carrying Out Project: Valley Water

Exempt Status: (check one)

- Ministerial [§21080(b)(1); 15268];
- Declared Emergency [§21080(b)(3); 15269(a)];
- Emergency Project [§21080(b)(c); 15269(b)(c)];
- Categorical Exemptions
- Statutory Exemptions [Public Resources Code (PRC) §21080.56]

Reasons Why Project is Exempt: The Project meets all the requirements described in PRC §21080.56 and Valley Water has determined that the Project is eligible for the Statutory Exemption for Restoration Projects (SERP). Pursuant to Public Resource Code § 21080.56(e), Valley Water obtained concurrence from the Director of the California Department of Fish and Wildlife that the project qualifies as a statutorily exempt restoration project (Concurrence No. 21080.56-2024-048-R3).

PRC §21080.56 states:

- (a) This division does not apply to a project that is exclusively 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.
- (c) This section does not apply to a project unless the project does both of the following:
 - (1) Results in long-term net benefits to climate resiliency, biodiversity, and sensitive species recovery.
 - (2) Includes procedures and ongoing management for the protection of the environment.
- (d) This section does not apply to a project that includes construction activities, except for construction activities solely related to habitat restoration.

(e) The lead agency shall obtain the concurrence of the Director of Fish and Wildlife for the determinations required pursuant to subdivisions (a) to (d), inclusive. The director shall document the director's concurrence using substantial evidence and best available science.

(f) The project shall remain subject to all other applicable federal, state, and local laws and regulations, and shall not weaken or violate any applicable environmental or public health standards.

(g) Within 48 hours of making a determination that a project is exempt pursuant to this section, a lead agency shall file a notice described in subdivision (b) of Section 21108 or subdivision (b) of Section 21152 with the Office of Planning and Research, and the Department of Fish and Wildlife shall post the concurrence of the Director of Fish and Wildlife on the department's internet website.

Description of Project: The Project would restore pond-upland ecotone habitat along the southern shoreline of Pond A4 by beneficially reusing sediment from Valley Water's Stream Maintenance Program (SMP) and potentially other soil/sediment sources. The Project would construct an approximately 350 feet wide by 4,500 feet long shallow-water shorebird foraging habitat bench along the south (landward) edge of Pond A4 (**Figure 1**). The habitat bench would provide approximately 38 acres of new shorebird foraging habitat by converting deep open water to shallow open water/mudflat (**Figure 2**). The primary function of the restored habitat would be a shallow-water shorebird foraging mudflat positioned on a habitat bench slightly below the existing ordinary high-water mark (OHWM), created by raising the pond bottom. The habitat bench would provide new foraging habitat for shorebirds, including western snowy plover, under the current, managed hydrologic conditions in Pond A4. The project's proposed shorebird foraging habitat would be resilient to sea level rise because it would be situated in a non-tidal pond protected with existing berms. Valley Water would continue to maintain Pond A4's diked condition, along with its managed hydroperiod and water quality parameters during and after implementation of the Project.

To construct the habitat bench, SMP sediment that meets applicable standards for beneficial reuse would be delivered to Pond A4 during the summer and fall (typically June through November), as available, over the next 10 to 15 years. To facilitate sediment delivery, an existing access road running from Caribbean Drive to the edge of the pond would be widened from 15 feet to approximately 35 feet through installation of a retaining wall and placement of fill material between the retaining wall and the existing maintenance road surface (**Figure 1**). A sediment staging area would be constructed along the southern border of the pond. This staging area would allow trucks to offload fill material for storage and turn around. Once delivered, the staging area would be used to temporarily store fill until it could be placed as part of the habitat bench (**Figure 1**). The staging area would be approximately 1.1 acres in size.

Lead Agency: Valley Water
Contact Person: Nick Mascarello

Area Code/Telephone/Extension:
(408) 630-3147

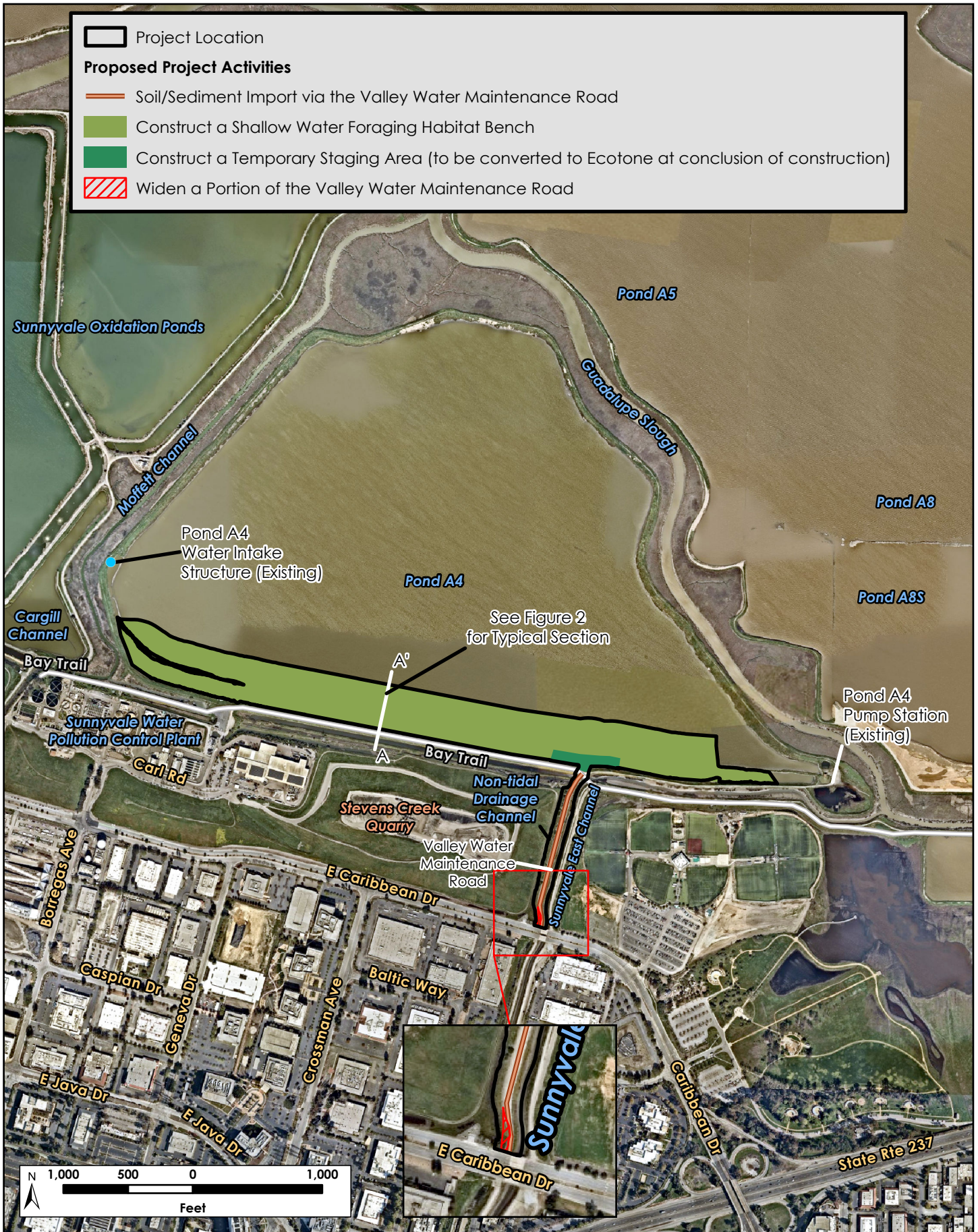
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Signature: _____
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Date: 2/7/2024

Title: Nick Mascarello
Associate Environmental Planner

cc: CEQA Administrative Record



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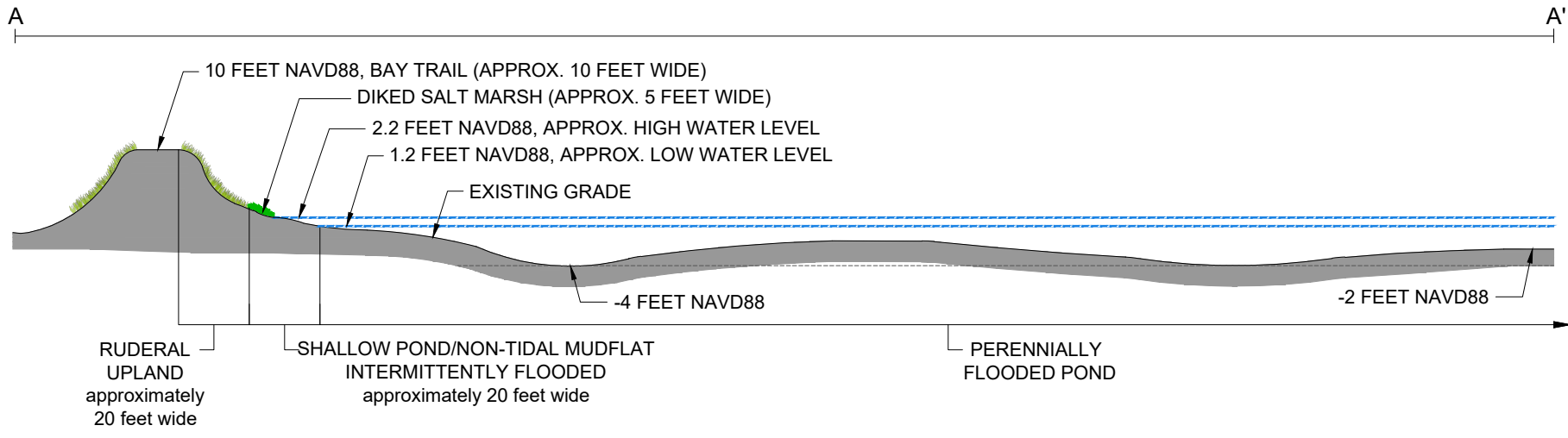


H. T. HARVEY & ASSOCIATES
Ecological Consultants

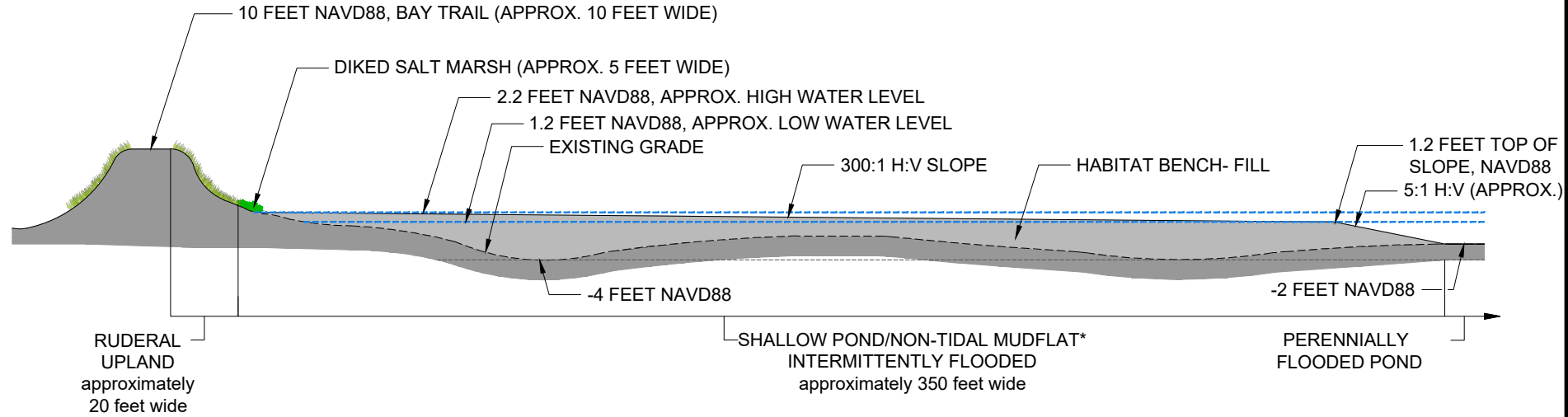
Figure 1. Project Activities

Pond A4 Resilient Habitat Restoration Project -
Ecological Assessment Report (4325-17)
January 2024

DRAWING NAME: C:\Work Products\Active Projects\4325_Valley Water On-Call 2019\17_Pond A4 Benefits\Graphics\CrossSection\Working_Files\4325-17_CrossSection_20231219-v1.d



Existing Condition



Proposed Condition

*THE WATER LEVEL IN POND A4 TYPICALLY FLUCTUATES INTRA-ANNUALLY BETWEEN 2.2 AND 1.2 FEET NAVD88; THEREFORE, THIS HABITAT ALTERNATES BETWEEN SHALLOWLY FLOODED POND AND EXPOSED NON-TIDAL MUDFLAT.

NOTE: All elevations are approximate, not to scale. Section is Vertically exaggerated for visual clarity

Figure 2. Proposed Shallow Water Foraging Habitat Bench Cross Section at Pond A4