

**APPROVED**  
NOV 05 2020

**BOARD OF RECREATION  
AND PARK COMMISSIONERS**

**BOARD REPORT**

**NO.** 20-212

**DATE** November 5, 2020

**C.D.** 15

**BOARD OF RECREATION AND PARK COMMISSIONERS**

**SUBJECT:** KEN MALLOY HARBOR REGIONAL PARK – LAKE AND STREAMBED ALTERATION AGREEMENT (LSAA) 1600-2020-0072-R5 WITH CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE TO REMOVE VEGETATION - CATEGORICAL EXEMPTION FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO ARTICLE III, SECTION 1, CLASS 1(8) [MAINTENANCE OF EXISTING NATIVE GROWTH AND LANDSCAPING] OF CITY OF LOS ANGELES CEQA GUIDELINES AND ARTICLE 19, SECTION 15333 OF CALIFORNIA CEQA GUIDELINES

AP Diaz	_____	S. Piña-Cortez	_____
H. Fujita	_____	C. Santo Domingo	<u>DP</u>
V. Israel	_____	N. Williams	_____

*M. Shue*  
General Manager

Approved   X   Disapproved \_\_\_\_\_ Withdrawn \_\_\_\_\_

If Approved: Board President *Aylin Pabon* Board Secretary *F. Ornelas*

RECOMMENDATIONS

1. Authorize the Department of Recreation and Parks' (RAP) General Manager or designee to execute the Lake and Streambed Alteration Agreement (LSAA) #1600-2020-0072-R5 with the California Department of Fish and Wildlife (CDFW) substantially in the form attached hereto as Attachment A to this Report, subject to City Attorney approval as to form;
2. Determine that the proposed Project, consisting of the maintenance of existing native growth and landscaping, is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(8) [Maintenance of existing native growth and landscaping] of City of Los Angeles CEQA Guidelines and Article 19, Section 15333 of California CEQA Guidelines, and direct staff to file a Notice of Exemption (NOE);
3. Authorize RAP's Chief Accounting Employee to prepare a check to the Los Angeles County Clerk in the amount of \$75.00 for the purpose of filing an NOE; and,
4. Authorize RAP staff to make technical corrections as necessary to carry out the intent of this Report.

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### SUMMARY

Ken Malloy Harbor Regional Park (KMHRP) is located at 25820 Vermont Avenue in the San Pedro community of the City. This 290.87-acre park provides picnic areas, a walking/jogging trail, a lake, swimming pool, multipurpose fields, golf course and children's play areas for the community. Approximately 9,572 City residents live within a one-half mile walking distance of KMHRP. Due to the facilities, features, programs, and services it provides, KMHRP meets the standard for a Regional Park, as defined in the City's Public Recreation Plan.

KMHRP underwent a complete ecological rehabilitation under the Proposition O Program, but some areas of RAP's property were not included in the rehabilitation project.

In the last few years, the Greater Los Angeles County Vector Control District (GLACVCD) has been in communication with RAP regarding vegetation management at KMHRP in order to reduce the mosquito population and the risk of West Nile virus infecting the patrons of the park. GLACVCD has requested that RAP remove vegetation in the areas not included in the Proposition O Project in order to allow its crews access to the area to conduct vector surveillance and to take proper actions to manage the site for vector control.

Since the wetland is under the jurisdiction of the California Department of Fish and Wildlife (CDFW), RAP staff submitted notification of the proposed maintenance project to CDFW in December 2019. CDFW evaluated the submission and requested RAP to split the project in two phases.

Phase 1 of the project, which is the subject of this Report, includes the one time removal of a portion of the existing emergent wetland vegetation in the areas of concern of GLACVCD: the north shore of Lake Machado and the marshes located south of the dam that impounds the lake. Lake and Streambed Alteration Agreements (LSAA) #1600-2020-0072-R5 (Attachment A) authorizes the first phase of vegetation removal but requires some mitigation for removing 7.83 acres of bulrush marsh habitat, such as biological monitoring and nesting bird surveys if the project is implemented between February 1<sup>st</sup> and September 15<sup>th</sup>.

Phase 2 of the project, which includes annual removal of emergent wetland vegetation, brush clearance, invasive plants removal and trash removal for a period of 10 years, requires a different LSAA, which will be presented to the Board of Recreation and Park Commissioners (Board) at a subsequent meeting.

### TECHNICAL CHARACTERISTICS OF THE PROJECT (PHASE 1)

LSAA #1600-2020-0072-R5 authorizes RAP to remove 7.83 acres of bulrush marsh habitat manually with an amphibious equipment, or with a multipurpose aquatic vessel. In areas where vegetation can be accessed via land in the dry season, the vegetation will be mowed with a Caterpillar compact loader with brush cutter attachment. The removed vegetation will be dried in an upland area of the park and hauled offsite. The LSAA requires 2 pre-construction biological surveys, biological monitoring, nesting bird surveys if the project coincides with the nesting season (February 1st – September 15th) and Least Bell's Vireo survey if the project coincides

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with the Least Bell's Vireo nesting season and Tricolor Blackbird survey if the project coincides with the Tricolor Blackbird nesting season. It also requires that within one year from the approval of the SLAA, RAP shall implement enhancement activities to reduce the presence of and prevent the spread of non-native and invasive plant species and implement a Non-native and Invasive Species Prevention Plan.

### TREES AND SHADE

The approval of these agreements will have no impact on existing trees or shade at KMHRP.

### ENVIRONMENTAL IMPACT

The proposed Project consists of the maintenance of existing native growth and landscaping. Therefore, RAP staff recommends that the Board determines that it is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Article III, Section 1, Class 1(8) of City of Los Angeles CEQA Guidelines and to Article 19, Section 15333 of California CEQA Guidelines. RAP Staff will file an NOE with the Los Angeles County Clerk upon the Board's approval.

### FISCAL IMPACT

The proposed vegetation removal can be performed by current staff with appropriate district resources management, no overall impact to existing maintenance service at this facility is expected. The approval of this Report requires a commitment of \$30,000 for pre-construction biological survey and construction monitoring, which will be covered by RAP Maintenance Funds (Account number 302/883040/304/2690).

This Report was prepared by Elena Maggioni, Environmental Specialist, Planning, Maintenance and Construction Branch.

### ATTACHMENT

Attachment A: Lake and Streambed Alteration Agreement #1600-2020-0072-R5

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE**  
SOUTH COAST REGION  
3883 RUFFIN ROAD  
SAN DIEGO, CA 92123



**STREAMBED ALTERATION AGREEMENT**  
NOTIFICATION NO. 1600-2020-0072-R5  
LAKE MACHADO

CITY OF LOS ANGELES RECREATION AND PARKS  
LAKE MACHADO ECOSYSTEMS RESOURCE MANAGEMENT MAINTENANCE  
PROJECT, PHASE 1

This Lake and Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and the City of Los Angeles Department of Recreation and Parks (Permittee) as represented by Michael Shull acting on behalf of the Permittee.

## **RECITALS**

WHEREAS, pursuant to Fish and Game Code section 1602, Permittee notified CDFW on March 27, 2020 that Permittee intends to complete the project described herein.

WHEREAS, pursuant to Fish and Game Code 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 is located at Ken Malloy Harbor Regional Park within the Wilmington drain runoff capture area including the north channel, Lake Machado, and the southern marsh areas below the Lake Machado dam. The Project is located the City of Los Angeles, in the County of Los Angeles, State of California; Latitude 33.790823, Longitude - 118.285811; 25820 South Vermont Avenue, Los Angeles, CA 90710.

## **PROJECT DESCRIPTION**

The project (Project) is limited to selective removal of emergent wetland vegetation in Ken Malloy Harbor Regional Park to provide access to vector control abatement activities.

### **Setting:**

Emergent wetlands exist in three areas within Ken Malloy Harbor Regional Park:

Wilmington Drain runoff capture area: The Wilmington drain runoff capture area is the northernmost section of the Project area. This area contains riparian woodland below the Wilmington Drain outlet, the north storm drain channel (north channel), and Marsh 1. The area is represented in on the map in Exhibit A in green. Vegetation communities contain mix of southern black willow scrub, mulefat scrub, and bulrush marsh.

Lake Machado: Lake Machado is located in the middle section of the Project area. It consists of open water with emergent wetland surrounding the east and west banks. Water is retained within the lake by a dam at the southern base of the lake. The area is represented in on the map in Exhibit A in dark blue. Emergent wetland is made up of a mixture of bulrush and cattails. The lake also contains a significant amount of the invasive aquatic plant, Uruguay water primrose (*Ludwigia*).

South Marsh Areas: There is a lower floodplain area consisting of marshes and mixed riparian habitat south of the Lake Machado Dam. Marshes 2 to 6 contain open water and emergent wetland bulrush lining the sides. The area is represented on the map in Exhibit A in light blue. The lower floodplain vegetative communities include black willow thickets and mulefat scrub. There is a field of southern tarplant (*Centromadia parryi ssp. australis*) along the southwestern corner of Lake Machado below the dam. Along the southern outskirts of the Project area, there are patches of vegetation including coyote brush and sagebrush scrub habitat.

### **Activities:**

Removal of emergent wetland vegetation is needed to provide access to vector control abatement activities. Vegetation management was completed under previous permits for along the east and west banks of the lake, and the north channel under the Lake Machado Rehab Plan, LSA No. 1600-2012-0108-R5. The north wetland area was treated in 2019 under the Lake Machado North East Wetland project, LSA No. 1600-2018-0222-R5. The remaining areas that have not been maintained under previous permits have dense stands of vegetation and built up brush.

This project will consist of emergent wetland removal in the remaining overgrown areas. When this initial, “phase one”, project is completed, the Project area will be restored back to a density that can be maintained through smaller, routine maintenance activities. Routine maintenance of emergent wetland vegetation will commence one year after this project in “phase two”. Phase two will be covered under a separate Agreement, the Lake Machado Ecosystems Resource Management Long Term Maintenance Agreement, LSA No. 1600-2019-0275-R5.

This project will remove the dense stands of bulrush marsh and built up brush along the north bank of Lake Machado and the south marsh areas. The Project activities will

result in an 7.83 acre reduction in bulrush marsh habitat. The work area is shown in dark blue on the map included as Exhibit B.

Emergent wetland vegetation will be removed via an aquatic vessel with a customized bucket designed for aquatic vegetation removal. In other areas, the emergent vegetation will be removed with a multipurpose aquatic vessel. In areas where vegetation can be accessed via land in the dry season, a Caterpillar compact loader with brush cutter attachment will be used to mow the emergent wetland vegetation. The removed vegetation will be dried in an upland area of the park and hauled offsite.

When the Project is complete, future maintenance activities within the Project area will be covered under the Lake Machado Ecosystems Long Term Routine Maintenance Agreement, LSA No.1600-2019-0275-R5.

## PROJECT IMPACTS

Existing fish or wildlife resources the Project could substantially adversely affect include: **Plants:** southern tarplant (*Centromadia parryi ssp. australis*), southwestern spiny rush (*Juncus acutus ssp. leopoldii*); **Birds:** tricolored blackbird (*Agelaius tricolor*), yellow rail (*Coturnicops noveboracensis*), California black rail (*Laterallus jamaicensis coturniculus*), yellow warbler (*Setophaga petechia*), and least Bell's vireo (*Vireo bellii pusillus*) and all other aquatic and wildlife resources in the area, including the riparian vegetation which provides habitat for such species in the area.

The adverse effects the Project could have on the fish or wildlife resources identified above include: altered hydrology; loss of sediment, nutrients and other materials necessary for wetland health and function; increased turbidity; potential colonization by exotic plant or animal species; potential short-term release of contaminants (e.g., incidental from project activities); impacts to nesting birds; and disturbance to nesting birds.

This project will result in the removal of 7.83-acres of bulrush marsh habitat.

A 0.31-acre portion of the Project area overlaps with an area that was established as mitigation under a previous Agreement, the Lake Machado Ecological Rehabilitation Plan, LSA No. 1600-2012-0108-R5. The overlapping area is shown on the map included as Exhibit C, where the mitigation area, represented in green, is overlapped by the phase one project area, represented by red crosshatching. This area will be excluded from the treatment areas in order to avoid impacts to the mitigation area.

## 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 State and Federal Permits. CDFW believes that permit/certification(s) may be required from the Regional Water Quality Control Board and United States Army Corps of Engineers for this project. Should such permits/certification(s) be required, a copy shall be submitted to CDFW.
- 1.6 Personnel Compliance. If the Permittee or any employees, agents, contractors and/or subcontractors violate any of the terms or conditions of this Agreement, all work shall terminate immediately and shall not proceed until CDFW has taken all of its legal actions.
- 1.7 Pre-Work Briefing. A pre-work meeting/briefing shall be held involving all the workers, contractors, and subcontractors concerning the conditions in this Agreement.
- 1.8 Project Documentation. All documentation required by CDFW and/or referenced in this Agreement shall be submitted to the CDFW Regional Office for the South Coast Region. In addition, an electronic version of this documentation shall be simultaneously emailed to CDFW using the following: [R5LSACompliance@wildlife.ca.gov](mailto:R5LSACompliance@wildlife.ca.gov). When any documentation is submitted, it should reference this document using Agreement Number 1600-2020-0072-R5.
- 1.9 Notification Requirements. CDFW requires that the Permittee: (a) immediately notify CDFW in writing if monitoring reveals that any of the protective measures were not implemented during the period indicated in this program, or if it anticipates that measures will not be implemented within the time period specified;

and, (b) immediately notify CDFW if any of the protective measures are not providing the level of protection that is appropriate for the impact that is occurring, and recommendations, if any, for alternative protective measures.

- 1.10 Compliance. CDFW may, at its sole discretion, review relevant documents maintained by the Permittee, interview the Permittee's employees and agents, inspect the work site, and take other actions to assess compliance with or effectiveness of protective measures in this Agreement. CDFW shall verify compliance with protective measures to ensure the accuracy of the Permittee's mitigation, monitoring and reporting efforts.
- 1.11 Designated Biologist. At least thirty (30) days prior to initiating ground- or vegetation-disturbing activities, the Permittee shall submit to CDFW for review and approval a list of biological monitors (designated biologist) that will be involved with the Project. The list shall include their names, qualifications, experience, and contact information. Designated biologist shall: (a) be knowledgeable and experienced in the biology and natural history of local plant and wildlife resources; (b) be able to identify resources that are or have the potential to be present at the Project area; (c) have previous biological monitoring experience on construction projects; (d) for any required nesting bird surveys, the biologist must have at least 3 years of field experience conducting general and protocol level surveys related to finding nests and monitoring them for the specific purpose of determining breeding status, egg incubation, chick maturity, and estimating fledge date; (e) have the necessary experience and/or certifications for conducting protocol and focused surveys for species that may be present in the Project area; (f) when needed, have obtained the proper documentation in regards to Scientific Collecting Permits (SCP) or Memorandum of Understanding (MOU).
- 1.12 Agreed Work Activities. The activities within CDFW jurisdiction identified in the above project description constitute the limit of activities agreed to and resolved by this Agreement. The signing this Agreement does not imply that the Permittee is precluded from doing other activities within the streams identified within the Project location. However, activities within CDFW jurisdiction not specifically agreed to and resolved by this Agreement shall be subject to a separate notification.

## **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.

### **Sensitive Species Protection**

- 2.1 Take of Threatened and/or Endangered Species. An Incidental Take Permit (ITP) from CDFW may be required if the Project, project construction, or any project-related activity during the life of the Project will result in "take" as defined by the Fish and Game Code, of any species protected by CESA [Fish & G. Code, §§ 86,



2080, 2081, subd. (b) (c)]. This Agreement does not authorize take of any rare, threatened or endangered species that may occur within or adjacent to the proposed work area. If there is a potential for take, the Permittee may request consultation with CDFW and obtain the necessary state permits and/or submit plans to avoid any impacts to the species. Consultation with U.S. Fish and Wildlife Service (USFWS) or National Oceanic and Atmospheric Administration (NOAA) would be required to receive take authority for federal threatened and endangered species.

- 2.2 Threatened and/or Endangered Species. If CDFW determines that any threatened or endangered species shall be impacted by the work proposed, work at that location shall stop, and the habitat or nest site in question shall be avoided.
- 2.3 Reporting Observations to CNDDDB. Permittee shall be responsible for reporting all observations of threatened, endangered, or species of special concern to CDFW Natural Diversity Data Base (CNDDDB) within 14 days of the sighting. Information can be found at: <https://wildlife.ca.gov/Data/CNDDDB/Submitting-Data> This includes submitting observations for sightings that occurred for project surveys already conducted and for the term of this Agreement. If observation forms are submitted, please include local CDFW personnel on any email or submit copies of the forms as an appendix to any future reports (this will help CDFW to ensure the data is recorded). For bird species, the CNDDDB will only accept observations that include confirmed nesting and/or breeding activities (with the exception for wintering observations of the burrowing owl).
- 2.4 Designated Biologist – Monitoring. A designated biologist shall be on-site to monitor all project activities within and adjacent to CDFW jurisdictional streambed areas. If nesting birds or special status species are not observed on the site, the Permittee may request for CDFW approval that the designated biologist not be on-site for monitoring.
- 2.5 Designated Biologist – Responsibilities. A designated biologist shall also be responsible for: a) being present at the work site, on randomly selected days, to survey the work area immediately prior to the start of work on that given day; b) identify safe and pre-determined relocation areas suitable for the host of species that may need to be moved out of harm's way; c) have authority to immediately stop any activity that is not in compliance with this Agreement, and/or to order any reasonable measure to avoid or minimize impacts to fish and wildlife resources; d) educate the contractors and equipment operators regarding the conditions of this Agreement; e) install exclusionary devices, if and where necessary, to prevent the migration of species into the work area(s); and, f) conduct an environmental education program as detailed below.
- 2.6 Environmental Education Program/Materials. Educational materials shall be created and incorporated into an environmental training, to be conducted for all project personnel entering the Project area where sensitive habitats and/or

species may be present. Educational materials may be brief and concise but should illustrate sensitive species and their habitat, discuss any specific measures to protect the species, what to do if the species is observed, and so forth. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to their performing work on-site. Permittee shall prepare and distribute wallet-sized cards or a fact sheet for workers to carry on-site that contains this information and pertinent project contacts. Upon completion of the education program, employees shall sign a form stating they attended the program and understand all protection measures. These forms shall be filed at the worksite offices and be available to CDFW upon request.

- 2.7 Pre Project General Biological Surveys. Permittee shall have a designated biologist conduct a minimum of two pre-project surveys within and adjacent to the proposed work area within a ten-day period prior to the start of vegetation removal and brush clearance activities. Pre-project surveys shall include: a) general surveys for botanical and wildlife resources; b) the identification of any active burrows and/or woodrat nests (if active, they should be recorded, monitored for species observations, and mapped); c) work areas with flowing or standing shall be visually surveyed for any aquatic species that may be impacted by project activities; and, d) surveys of culvert and bridge areas to determine if these structures are being used for nesting, roosting, or habitat refugia. Pre project survey results, including negative findings, shall be submitted to CDFW prior to the initiation of project activities. If any special status species are observed during the surveys, Permittee shall contact CDFW immediately.
- 2.8 Take of Nesting Birds. Fish and Game Code section 3503 makes it unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by Fish and Game Code or any regulation made pursuant thereto. Fish and Game Code section 3503.5 makes it unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by Fish and Game Code or any regulation adopted pursuant thereto. Fish and Game Code section 3513 makes it unlawful to take or possess any migratory nongame bird or part thereof except as provided by the rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Bird Treaty Act of 1918 (MBTA; 16 U.S.C. § 703 et seq.) before January 1, 2017, and subsequent rules and regulations adopted pursuant to the MBTA that are consistent with the Fish and Game Code. The issuance of this Agreement does not in any way exempt or excuse compliance with these statutes.
- 2.9 Nesting and/or Breeding Bird Surveys. The Project activities that take place during the breeding bird nesting season (February 1 to September 15) shall comply with an approved nesting bird management plan. Permittee shall do one of the following to avoid and minimize impacts to nesting bird species:

- 2.9.1. Implement default 300-foot minimum avoidance buffers for all non-special status passerine birds and 500-foot minimum avoidance buffer for all special status passerine and raptor species, including the California black rail, yellow warbler, or yellow rail. The breeding habitat/nest site shall be fenced and/or flagged in all directions. Once the buffer is established, the designated biologist shall document baseline behavior, stage of reproduction, and existing site conditions, including vertical and horizontal distances from proposed work areas, visual or acoustic barriers, and existing level of disturbance. Following documentation of baseline conditions, Designated Biologist(s) may choose to make adjustments to the buffer, with CDFW approval, based on site characteristics, stage of reproduction, and types of project activities proposed at/near that location. Designated Biologist(s) shall monitor the nest at the onset of project activities addressed by this Agreement, and at the onset of any changes in project activities (e.g., increase in number or type of equipment, change in equipment usage, etc.) to determine the efficacy of the buffer. If Designated Biologist(s) determines that Authorized Activities may be causing an adverse reaction, Designated Biologist(s) shall adjust the buffer accordingly. This area shall not be disturbed until the nest becomes inactive, the young have fledged, the young are no longer being fed by the parents, the young have left the area, and the young will no longer be impacted by the Project.
  - 2.9.2. Develop a project specific Nesting Bird Management Plan. The site-specific nest protection plan shall be submitted to CDFW for review and approval. The Plan should include detailed methodologies and definitions to enable a CDFW-approved biologist to monitor and implement nest-specific buffers based on topography, vegetation, species, and individual bird behavior. This Nesting Bird Management Plan shall be supported by a Nest Log which tracks each nest and its outcome. The Nest Log will be submitted to CDFW at the end of each week.
  - 2.9.3. Permittee may propose an alternative plan for avoidance of nesting birds for CDFW concurrence.
- 2.10 Vegetation with Active Nests. Permittee shall not disturb trees or other vegetation that contain active bird nests without prior consultation and approval of a CDFW representative.
- 2.11 Least Bell's Vireo. Project activities that are scheduled during the breeding bird season (February 1 to September 15) shall not be initiated until focused surveys conducted during the breeding season following USFWS protocol for least Bell's vireo are completed. The physical extent of the survey area shall be where project activities can impact suitable breeding habitat. Survey results shall be submitted in writing to CDFW for review prior to initiation of Project activities.
- 2.11.1 Survey protocol for least Bell's vireo can be found at:  
[https://www.fws.gov/ventura/docs/species/protocols/lbv/leastbellsvireo\\_survey-](https://www.fws.gov/ventura/docs/species/protocols/lbv/leastbellsvireo_survey-)

[guidelines.pdf](#)

- 2.11.2 If least Bell's vireo is present, following avoidance measures shall be implemented;
- 2.11.3 No vegetation removal shall take place between March 15 through September 15.
- 2.11.4 If least Bell's vireo is present and the avoidance measures identified above cannot be implemented, take may result, and an Incidental Take Permit (ITP) should be applied for and obtained from the CDFW. An ITP will include the following measures for minimization and mitigation: work buffers, a biological monitor, sound walls, and habitat replacement.
- 2.12 Tricolored Blackbird. Due to potentially suitable breeding habitat within the Project site, prior to vegetation alterations that are scheduled during the breeding bird season (February 1-September 15), a designated biologist familiar with the species behavior and life history shall conduct focused surveys to determine the presence/absence of tricolored blackbird. Survey results including negative findings shall be submitted to CDFW prior to initiation of project activities. If the species is present, the Permittee shall not proceed with project activities during nesting season (February 1 to September 15) without prior coordination with CDFW. If "take" or adverse impacts to tricolored blackbird cannot be avoided either during Project activities or over the life of the Project, please be advised that a CESA permit must be obtained (pursuant to Fish and Game Code § 2080 et seq.).
- 2.13 Special Status Plant Species. Prior to initiation of project activities, the designated biologist shall survey all project work areas, access routes, and staging areas for special status plants, including, southern tarplant (*Centromadia parryi* ssp. *australis*) and southwestern spiny rush (*Juncus acutus* ssp. *leopoldii*). Field notes and survey results, including negative findings, shall be submitted to CDFW prior to the initiation of project activities. Any special status plant is identified in surveys, individual plants shall be marked for avoidance and designated biologist shall implement default 100-foot minimum avoidance buffers. Permittee may propose an alternative plan for avoidance of special status plant species for CDFW concurrence.

## **Vegetation Protection**

- 2.14 Stockpiled Vegetation. Vegetation removed from the routine maintenance activities shall not be stockpiled in the low flow channel of the lake/stream. Any materials placed in seasonally dry portions of the lake/stream that may be washed downstream shall be removed from these areas prior to inundation by high flows. The sites selected on which to push this material out of the stream should be selected in compliance with the other provisions of this Agreement. Where possible, brush piles shall be left outside the channel in upland areas to provide

wildlife habitat, except where rodent populations may be deemed a nuisance (e.g. near residential properties). Brush piles shall not be placed in areas that may impact sensitive floral resources or dormant seeds.

- 2.15 Prohibited Plant Species. Permittee shall not plant, seed or otherwise introduce invasive exotic plant species. Prohibited exotic plant species include those identified in the California Exotic Pest Plant Council's database, which is accessible at: <http://www.cal-ipc.org/ip/inventory/weedlist.php>.
- 2.16 Habitat Protection. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete the Project. No trees shall be removed as a result of this project. Vegetation outside the work area shall not be removed or damaged without prior consultation and approval of a CDFW representative.
- 2.17 Vegetation Marked for Protection. Prior to project activities, the Permittee shall clearly mark all vegetation within the Project area that shall be avoided during project activities.

### **Turbidity and Siltation**

- 2.18 Predicted Rain. If measurable rain with 50 percent or greater probability is predicted within 48 hours during project-related activities, all activities shall cease and protective measures to prevent siltation/erosion shall be implemented/maintained.
- 2.19 Work in Wetted Areas. Vehicles shall not be driven and equipment operated in water covered portions of a stream or lake, or where wetland vegetation, riparian vegetation, or aquatic organisms may be destroyed, except as otherwise provided for in the Agreement and as necessary to complete authorized work.

### **Equipment and Access**

- 2.20 Inspection of Project Equipment. Permittee shall inspect all vehicles, tools, waders and boots, and other project-related equipment and remove all visible soil/mud, plant materials, and animal remnants prior to entering and exiting the Project site.
- 2.21 Stationary Equipment. Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the stream/lake shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak. Clean up equipment such as extra boom, absorbent pads, skimmers, shall be on site prior to the start of project activities.
- 2.22 Equipment and Vehicles. Any equipment or vehicles driven and/or operated within or adjacent to the stream/lake shall be checked and maintained daily, to prevent leaks of materials that if introduced to water could be deleterious to aquatic life.

- 2.23 Staging and Storage Areas. Staging/storage areas for equipment and materials shall be located outside of the stream/lake. Any materials placed in seasonally dry portions of a stream or lake that could be washed downstream or could be deleterious to aquatic life shall be removed from the Project site prior to inundation by high flows.
- 2.24 Equipment Maintenance. No equipment maintenance shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas under any flow.

### **Pollution, Litter and Cleanup**

- 2.25 Pick Up Debris. The Permittee shall remove all human generated debris, such as yard and farm cuttings, broken concrete, construction waste, garbage and trash that the Permittee places within, or where they may enter, the stream. The Permittee shall pick up all debris and waste daily.
- 2.26 Trash Receptacles. The Permittee shall install and use fully covered trash receptacles with secure lids (wildlife proof) that contain all food, food scraps, food wrappers, beverage and other miscellaneous trash generated by work force personnel.
- 2.27 Spill Containment. All activities performed in or near a stream shall have absorbent materials designated for spill containment and cleanup activities on-site for use in an accidental spill. If a spill occurs, the Permittee shall immediately notify the California Emergency Management Agency at 1-800-852-7550 and immediately initiate the cleanup activities. CDFW shall also be notified by the Permittee and consulted regarding clean-up procedures.
- 2.28 Pollutants and Debris. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, construction waste, cement or concrete or washings thereof, asphalt, paint, oil or other petroleum products or any other substances which could be hazardous to aquatic life, or other organic or earthen material from any logging, maintenance activity, or other associated Project-related activity shall be allowed to contaminate the soil and/or enter into or placed where it may be washed by rainfall or runoff into, any stream/channel/culvert/ditch. Any of these materials, placed within or where they may enter a stream/channel/culvert/ditch, by the Permittee or any party working under contract, or with the permission of the Permittee, shall be removed immediately. When Project-related activities 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 stream.

### **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 Project Impacts. The Project will result in clearance of 7.83 acres of bulrush marsh. To compensate for the impacts to bulrush marsh habitat under this Agreement, as well as the impacts to bulrush marsh in phase two of this project), the Permittee shall implement enhancement activities to reduce the presence of and prevent the spread of non-native and invasive plant species within the Ken Malloy Harbor Regional Park area, which consists of 152 acres of mixed vegetative communities as shown in Exhibit D.
- 3.2 Non-native and Invasive Species Prevention Plan. The Permittee shall submit the Non-native and Invasive Species Prevention Plan (Plan) to CDFW for review and implementation throughout the life of LSA 1600-2019-0270-R5, the Lake Machado Ecosystems Resource Management and Long Term Maintenance Project Agreement. The Plan shall include details on (a) the percent native and non-native vegetation cover existing on the Project site, (b) the proposed control methods for targeted invasive plant species, (c) monitoring and reporting, (d) success criteria targets, and (e) adaptive management procedures. The Plan shall be submitted to CDFW for review and comment. The Plan shall be submitted and all CDFW comments shall be addressed within one year of execution of this Agreement.
  - 3.2.1 Invasive Species Map. The Plan shall include a map and description of non-native and invasive species that are present on the site. The map shall show the location of notable non-native or invasive species patches. The description shall include a list of non-native or invasive species detected within the Project area, a discussion of the pervasiveness of these species in current conditions, and a risk assessment for the likelihood of additional spread of the species.
  - 3.2.2 Control Methods. The Plan shall outline the proposed control methods for non-native and invasive species with details on seasonal timing, frequency of treatments, and equipment needed. If there are species specific control methods, the Plan shall specify the methods to control that species. Methodology shall be consistent with the Conditions in this Agreement, and shall not cause additional impacts to species present within the Project site.
  - 3.2.3 Monitoring and Reporting. The Permittee shall have a designated biologist conduct biennial surveys of the Project site to monitor the effectiveness of control methods and detect potential sites of new weed introductions. Surveys shall be completed prior to weed management activities begin for the year, and shall be sufficient to measure the consistency with success criteria (see condition below). The results and analysis shall be submitted to CDFW within the year the surveys were completed along with the annual report as required by Condition 4.7 of this Agreement. This analysis shall include the status and any success trends for the success criteria outlined in the Plan.

- 3.2.4 Success Criteria. Permittee shall include success criteria in the Plan, including desired conditions within 3, 5, and 7 years of execution of this Agreement. The Plan shall also specify final success criteria which the Project site shall achieve prior to CDFW sign-off of the mitigation requirements. As part of the success criteria, the Plan shall define priority weeds to target for control. Final success criteria shall include, at a minimum: (1) Less than 5% non native absolute cover within the Project area, and (2) 0% species ranked high risk on the CalIPC Inventory (found at <https://www.cal-ipc.org/plants/inventory/>).
- 3.2.5 Adaptive Management. The Plan shall specify adaptive management techniques if monitoring reports determine that success criteria are not being met. Adaptive management methods may include, changes in timing of treatments, increase in the number or scale of treatments, and planting of native species to prevent the reintroduction of weed after clearance.
- 3.3 Compensation for Unauthorized Impacts Impact beyond those specified in this Agreement are not authorized. Permittee shall notify CDFW immediately if unauthorized impacts occur. In the event that additional habitat conservation is required, the ratio and the type of habitat conservation shall be determined by CDFW, and may include creation, restoration, enhancement, and/or preservation.

#### **4. Reporting Measures**

Permittee shall meet each reporting requirement described below.

- 4.1 Provide List of Designated Biologists. Pursuant to Condition 1.11, at least thirty (30) days prior to initiating ground- or vegetation-disturbing activities, the Permittee shall submit to CDFW for review and comment, a list of biological monitors (designated biologist) that will be involved with the Project.
- 4.2 Mitigation Documentation Requirements for Review and Approval. Within one year of execution of this Agreement, the Permittee shall have submitted a draft Plan to control non-native and invasive species on the project site for CDFW review and approval.
- 4.3 Pre-Project Survey Report. Pre-project survey results, including those listed in Condition 2.7 for Pre Project General Biology Surveys, 2.8 for Nesting and/or Breeding Bird Surveys, Condition 2.11 for least Bell's vireo, and 2.12 for Tricolored Blackbird, and Condition 2.14 for Special Status Plant Species shall be summarized in a letter providing information on survey methodology, field observations, results and suggestions. Letter shall be submitted to CDFW for review no later than 48 hours prior to the start of project activities. Survey results shall be sent to CDFW at [R5LSACompliance@wildlife.ca.gov](mailto:R5LSACompliance@wildlife.ca.gov) as soon as the surveys are completed. Sensitive species, sensitive habitats, relocation areas, and other notable sightings or survey information shall also be recorded on a map and



submitted to CDFW as part of the survey report. If sensitive species are observed during the surveys, Permittee shall contact CDFW immediately.

- 4.4 Project Photo-Documentation. Prior to commencement of project activities, Permittee shall photograph the Project site and associated habitat. Spatial information shall be obtained with each photograph location (photopoint). Photopoints shall be collected in a repeatable manner and identified as permanent photopoints for additional project activity reporting. Upon completion of project activities, Permittee shall photograph the Project site from the same identified photopoints, as described above. This information shall be made available to CDFW upon request.

## **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 or email, or to such other address as Permittee or CDFW specifies by written notice to the other.

### To Permittee:

Michael Shull  
City of Los Angeles, Department of Recreation and Parks  
221 Figueroa St. Suite 400  
Los Angeles, CA 90021  
[Michael.A.Shull@lacity.com](mailto:Michael.A.Shull@lacity.com)

### To CDFW:

4665 Lampson Avenue, St C  
Los Alamitos, CA 90720  
Attn: Lake and Streambed Alteration Program  
Notification #1600-2020-0072-R5  
[R5LSACompliance@wildlife.ca.gov](mailto:R5LSACompliance@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 complying with, or 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. For example, if the Project causes take of a species listed as threatened or endangered under the Endangered Species Act (ESA), such take will be unlawful under the ESA absent a permit or other form of authorization from the U.S. Fish and Wildlife Service or National Marine Fisheries Service.

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 Fish and Game Code including, but not limited to, Fish and Game Code sections 2050 *et seq.* (threatened and endangered species), section 3503 (bird nests and eggs), section 3503.5 (birds of prey), section 5650 (water pollution), section 5652 (refuse disposal into water), section 5901 (fish passage), section 5937 (sufficient water for fish), and section 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). Submit the form and fee to the CDFW regional or field office that serves the area where the Project is located.

## **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). Submit the form and fee to the CDFW regional or field office that serves the area where the Project is located.

## **EXTENSIONS**

In accordance with Fish and Game Code section 1605, subdivision (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 Fish and Game Code section 1605, subdivisions (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 (Fish & G. Code § 1605, subd. (f)). Submit the form and fee to the CDFW regional or field office that serves the area where the Project is located.

## **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 Fish and Game Code section 711.4 filing fee listed at <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

## **TERM**

This Agreement shall expire on June 1, 2025, 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 Fish and Game Code section 1605, subdivision (a)(2) requires.

## **EXHIBITS**

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

- A. *Ken Malloy Harbor Regional Park Macro-Areas*, prepared by ESA
- B. *First Year 50% Emergent Wetland Vegetation Removal in the South Marshes*, Figure 4a and 4b of the Lake Machado Ecosystem Management and Long Term Maintenance Plan
- C. *Lake Machado Long Term Routine Management Plan*, prepared by the Los Angeles Department of Parks and Recreation and received via email by CDFW on April 7, 2020
- D. *Natural Communities and Land Cover Types*, Figure 3a and 3b of the Lake Machado Ecosystems Resource Management and Long Term Maintenance Plan

## **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 Fish and Game Code section 1602.

**CONCURRENCE**

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

**FOR LOS ANGELES DEPARTMENT OF RECREATION AND PARKS**

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Michael Shull  
General Manager

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Date

**FOR DEPARTMENT OF FISH AND WILDLIFE**

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Erinn Wilson  
Environmental Programs Manager

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Date

Prepared by: Audrey Kelly  
Environmental Scientist

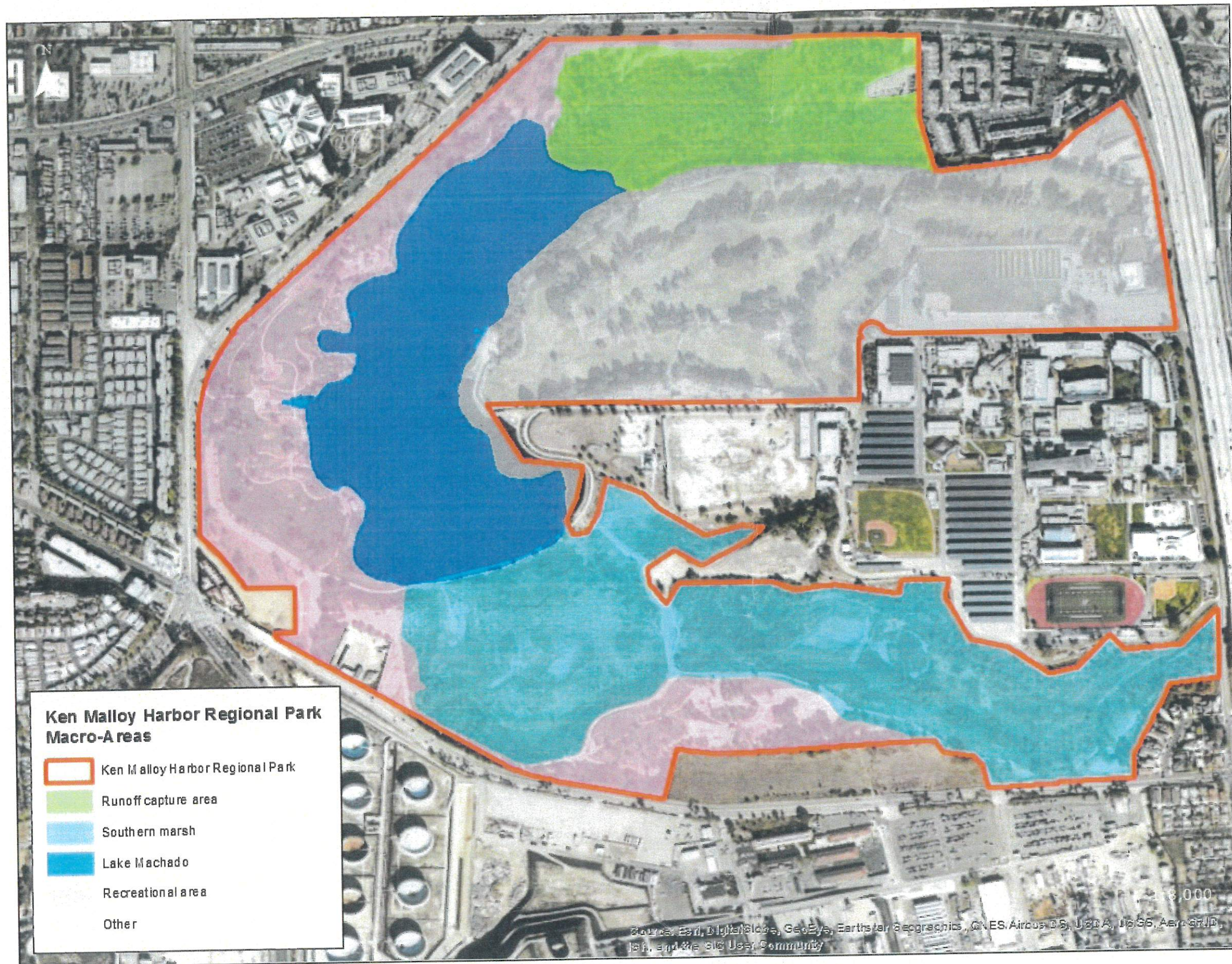
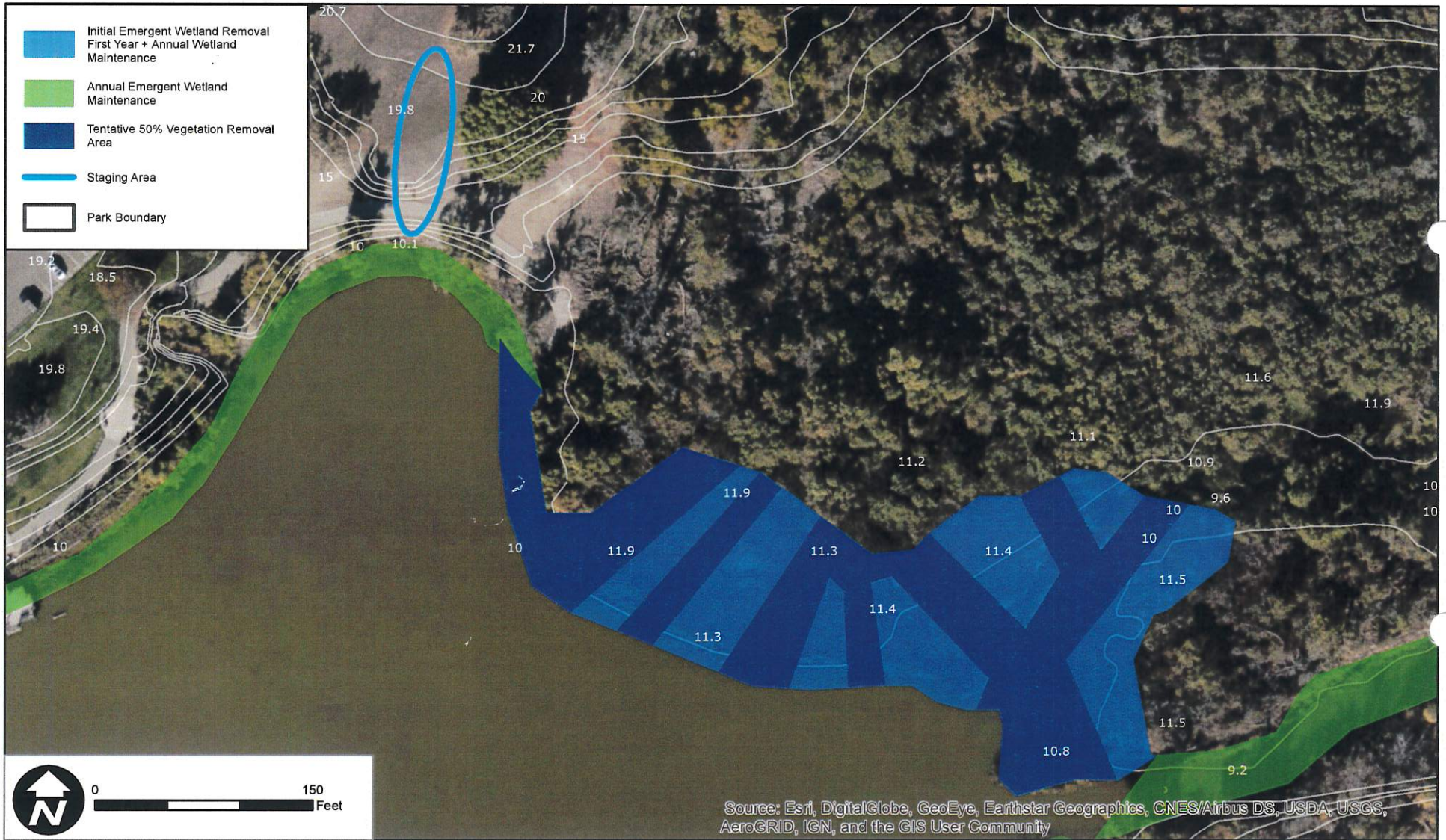


Fig. 1 Ken Malloy Harbor Regional Park Macro-Areas



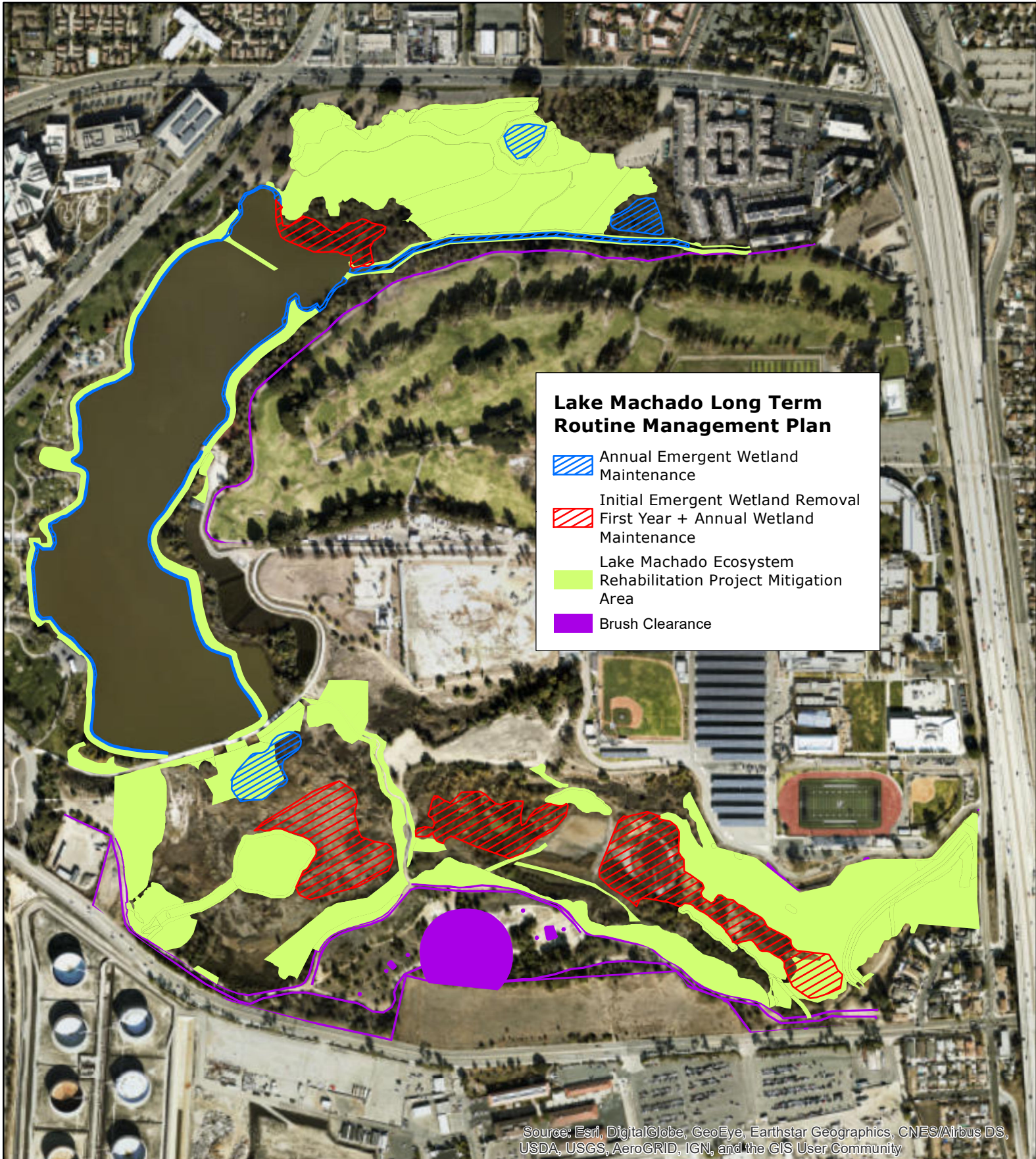
Lake Machado Ecosystem Resource Management and Long Term Maintenance Plan

**Figure 4a**

First Year 50% Emergent Wetland Vegetation Removal in the North Bank





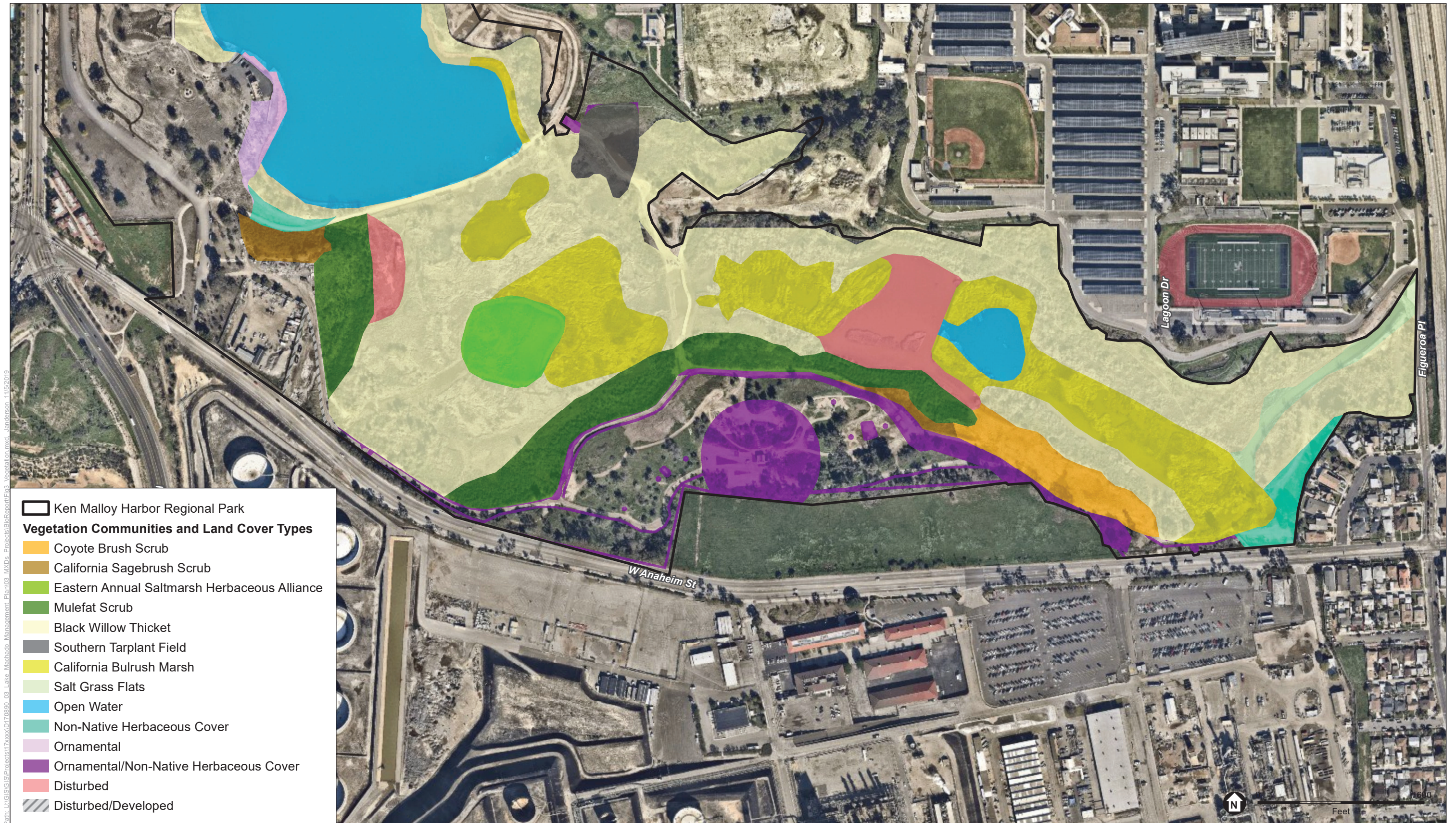




SOURCE: Mapbox

Lake Machado Ecosystem Resource Management and Long Term Maintenance Plan

**Figure 3a**  
 Natural Communities and Land Cover Types



SOURCE: Mapbox

Lake Machado Ecosystem Resource Management and Long Term Maintenance Plan

**Figure 3b**  
Natural Communities and Land Cover Types