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## Central Valley Regional Water Quality Control Board

5 June 2024

Katherine Bandy  
Department of Water Resources  
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Sacramento, CA 95815  
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**NOTICE OF APPLICABILITY FOR COVERAGE UNDER ORDER WQ 2022-0048-DWQ,  
ORDER FOR CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION  
AND WASTE DISCHARGE REQUIREMENTS FOR RESTORATION PROJECTS  
STATEWIDE, MARSH CREEK IMPROVEMENTS PROJECT (WDID#5B07CR00258),  
CONTRA COSTA COUNTY**

On 19 April 2024, the Department of Water Resources submitted a Notice of Intent (NOI) to enroll under and comply with State Water Resources Control Board (State Water Board) Order No. WQ 2022-0048-DWQ, Order for Clean Water Act Section 401 Water Quality Certification and Waste Discharge Requirements for Restoration Projects Statewide (Order).

The Central Valley Water Quality Control Board (Central Valley Water Board) has reviewed your enrollment materials and finds the Marsh Creek Improvements Project (Project) meets the requirements of, and is hereby enrolled under, Order No. WQ 2022-0048-DWQ. You may proceed with your Project in accordance with the Order. This Notice of Applicability is being issued under the General Certification Order pursuant to Section 3838 of the California Code of Regulations.

A copy of [Order No. WQ 2022-0048-DWQ](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo2022-0048-dwq.pdf) ([https://www.waterboards.ca.gov/board\\_decisions/adopted\\_orders/water\\_quality/2022/wqo2022-0048-dwq.pdf](https://www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2022/wqo2022-0048-dwq.pdf)) can be found on the State Water Resources Control Board's General Orders webpage.

Please familiarize yourself with the requirements of Order No. WQ 2022-0048-DWQ. You are responsible for complying with all applicable Order requirements. Coverage under the Order is no longer valid if the Project (as described) is modified. Failure to comply with Order No. WQ 2022-0048-DWQ constitutes a violation of the California Water Code and may result in enforcement action or termination of enrollment under the Order.

**PROJECT DESCRIPTION:**

The 1.4-acre Project consists of permanent damage repair to channel banks and bed sustained during the January 2023 storm event. In addition, the Project includes stabilization measures to reduce future erosion under high flow conditions.

Project elements that affect aquatic resources are outlined below:

- On the Emerson Parcel of the Dutch Slough site, partially rebuilding the eroded left bank between the channel bifurcation and the pedestrian bridge and treating the bank with vegetated rock slope protection (RSP) (approximately 200 feet).
- For the left bank of Marsh Creek, replacing emergency armor rock with vegetated RSP (approximately 1000 feet). The new rock slope protection will be placed in a more controlled manner than the emergency repair work, in a manner that enhances both bank stability and supports native plantings, as feasible.
- For the right bank of Marsh Creek, excavate the existing earthen bench, and rebuild the slope with brush mat on rock toe protection (approximately 600 feet). (This work includes removal and reinstallation of approximately 150 feet of previously installed brush mat.)
- Restore the channel bed in this tidally influenced reach to roughly pre-storm elevations using a mixture of graded rock and native bed material to reduce future erosion potential (approximately 850 feet). Existing bed and rock materials in the channel will be salvaged and reused as much as possible.

The design seeks to balance the use of biotechnical stabilization measures and maintaining natural creek function with the need to reduce future erosion to protect adjacent levees and water quality.

The Project activities will permanently impact 1.32 acres/1,000 linear feet of stream channel.

**PROJECT LOCATION:**

The Project is located on Marsh Creek in Contra Costa County. The approximate center of the Project area is located at latitude 37.999364° and longitude -121.694629°.

**PROJECT SCHEDULE:**

The Project is expected to take place from 1 June 2024 through 31 October 2024.

**APPLICATION FEE RECEIVED:**

\$796.00 was received on 28 May 2024. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category D - Ecological Restoration and Enhancement Projects (fee code 85) with the dredge and fill fee calculator.

### **CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

The Central Valley Water Board has determined that the Project is exempt from review under CEQA pursuant to California Code of Regulations, title 14, section 15061.

The Central Valley Water Board has determined that the issuance of this Order is exempt by statute pursuant to California Code of Regulations, title 14, section 15269.

The Central Valley Water Board will file a Notice of Exemption with the State Clearinghouse within five (5) working days from the issuance of this Order. (California Code of Regulations., title 14, section 15062.)

### **REPORTING AND NOTIFICATION REQUIREMENTS**

The Permittee shall follow notification and reporting requirements described in this Notice of Applicability (NOA), and those found in Attachment D of the Order WQ 2022-0048-DWQ, unless specified as an optional requirement and excluded from this NOA.

#### **1. Annual Reporting**

The Permittee shall submit an Annual Report each year within one month of the anniversary of the effective date of this Notice of Applicability. Annual reporting shall continue until the active discharge period is complete and the project enters the post-construction monitoring phase where upon the Permittee shall annually submit a Post-Construction Monitoring Report (Report Type 2) The Post-Construction Monitoring Report shall be submitted on the anniversary of the date that the project restoration activities were completed.

The Annual Report and Post Construction Monitoring Report shall include the information specified in Attachment D, Part A of Order No. WQ 2022-0048-DWQ. The Permittee shall submit the report in accordance with the report submittal instructions in Attachment D of Order No. WQ 2022-0048-DWQ and email it to [centralvalleysacramento@waterboards.ca.gov](mailto:centralvalleysacramento@waterboards.ca.gov) and cc Olivia Ilsley at [Olivia.ilsley@waterboards.ca.gov](mailto:Olivia.ilsley@waterboards.ca.gov).

#### **2. Notification for In-Water Work and Diversions**

The project proponent shall notify the Water Board at least forty-eight (48) hours prior to initiating work in flowing or standing water or stream diversions. Notification may be via e-mail, delivered written notice, or other verifiable means. Within three (3) working days following completion of work in water or stream diversions, or within a timeframe specified by the approving Water Board, an In-Water Work and Diversions Water Quality Monitoring Report must be submitted to the Water Board.

#### **3. Water Quality Monitoring Plan for In-Water Work or Diversions**

A Water Quality Monitoring Plan shall be submitted to the approving Water Board for acceptance at least thirty (30) days in advance of commencement of project activity. Standards for in-water work or diversions are discussed in General In-Water Measures, specifically IWW-6, presented in Attachment A. The Permittee shall comply with the approving Water Board-specific water quality control plan water quality objectives and reporting requirements.

#### **4. Environmental Monitoring**

Per General Protection Measure 5 (GPM-5) of the Order, a resource specialist shall ensure that all applicable protective measures are implemented during project construction. The resource specialist shall have authority to stop any work if they determine that any permit requirement is not fully implemented. The resource specialist shall prepare and maintain a monitoring log of construction site conditions and observations, which will be kept on file.

#### **ADDITIONAL CONDITIONS:**

1. The Applicant shall obtain coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ, as amended for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavations, and other land disturbance activities of one of more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.

#### **NOTICE OF COMPLETION:**

Upon completion of the Project, you shall submit a Notice of Completion (NOC) no later than 30 days after Project completion. The NOC shall demonstrate the Project was carried out in accordance with the Project description, include a map of the Project location with final boundaries of the restoration area, and include post-project photographs. More information on the NOC is listed in section B.6 of the Order.

If you have questions concerning this matter, please contact Olivia Ilsley by phone at (916) 464-4673 or by email at [Olivia.ilsley@waterboards.ca.gov](mailto:Olivia.ilsley@waterboards.ca.gov).

*Original Signed by Anne Walters for:*

Patrick Pulupa  
Executive Officer

Attachments: Figure 1 – Project Area  
Figure 2 – Impact Mapping  
Figure 3 – Project Vicinity  
Figure 4 – Project Location  
Figure 5 – Access and Staging Areas  
Figure 6 – Existing Conditions and Demolition  
Figures 7-11 – Project Overview and Grading Plans

cc: Distribution List, Page 5



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Figure 1: Project Area





Figure 2: Impact Mapping

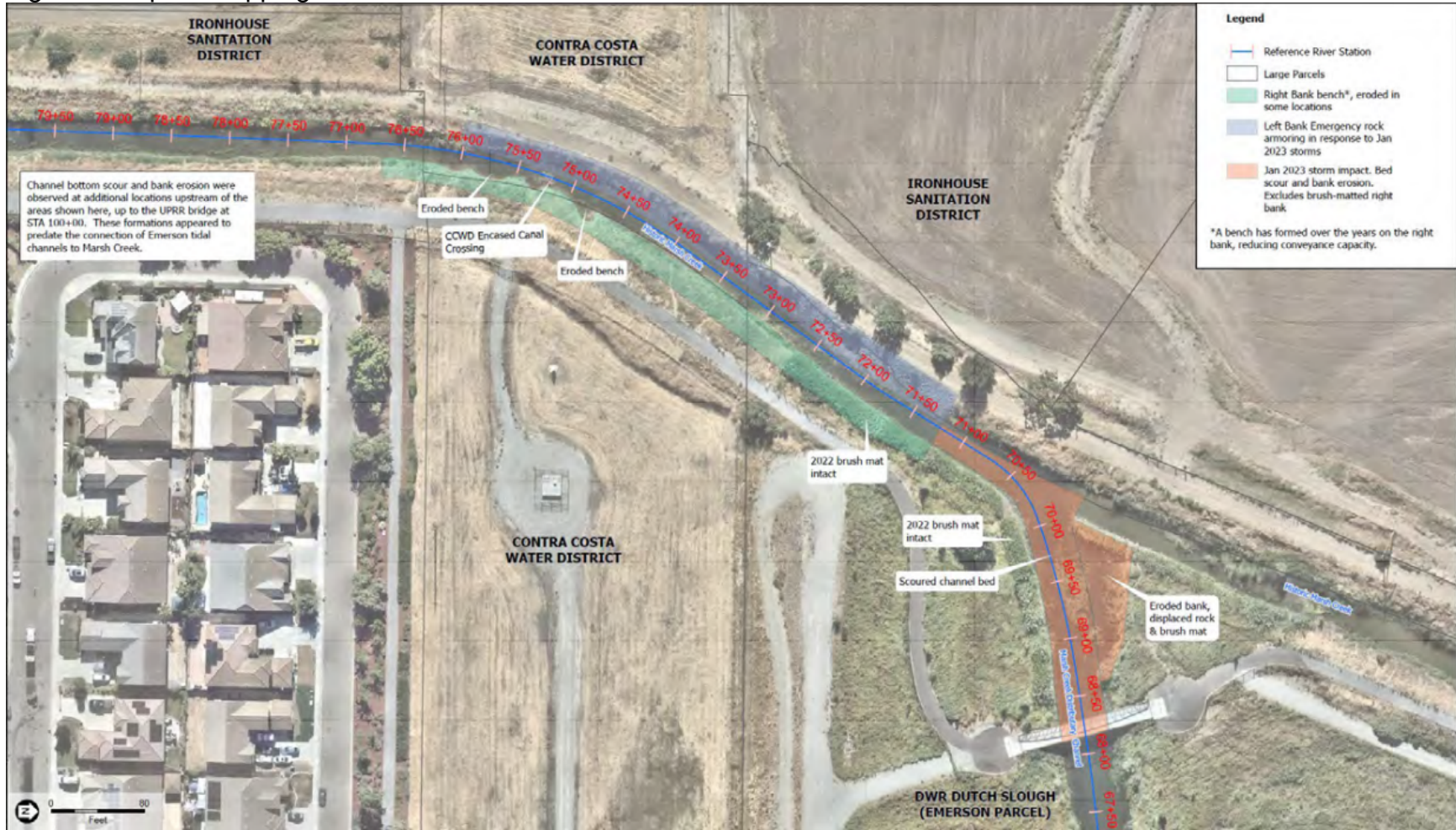




Figure 3: Project Vicinity



Figure 4: Project Location





Figure 5: Access and Staging Areas

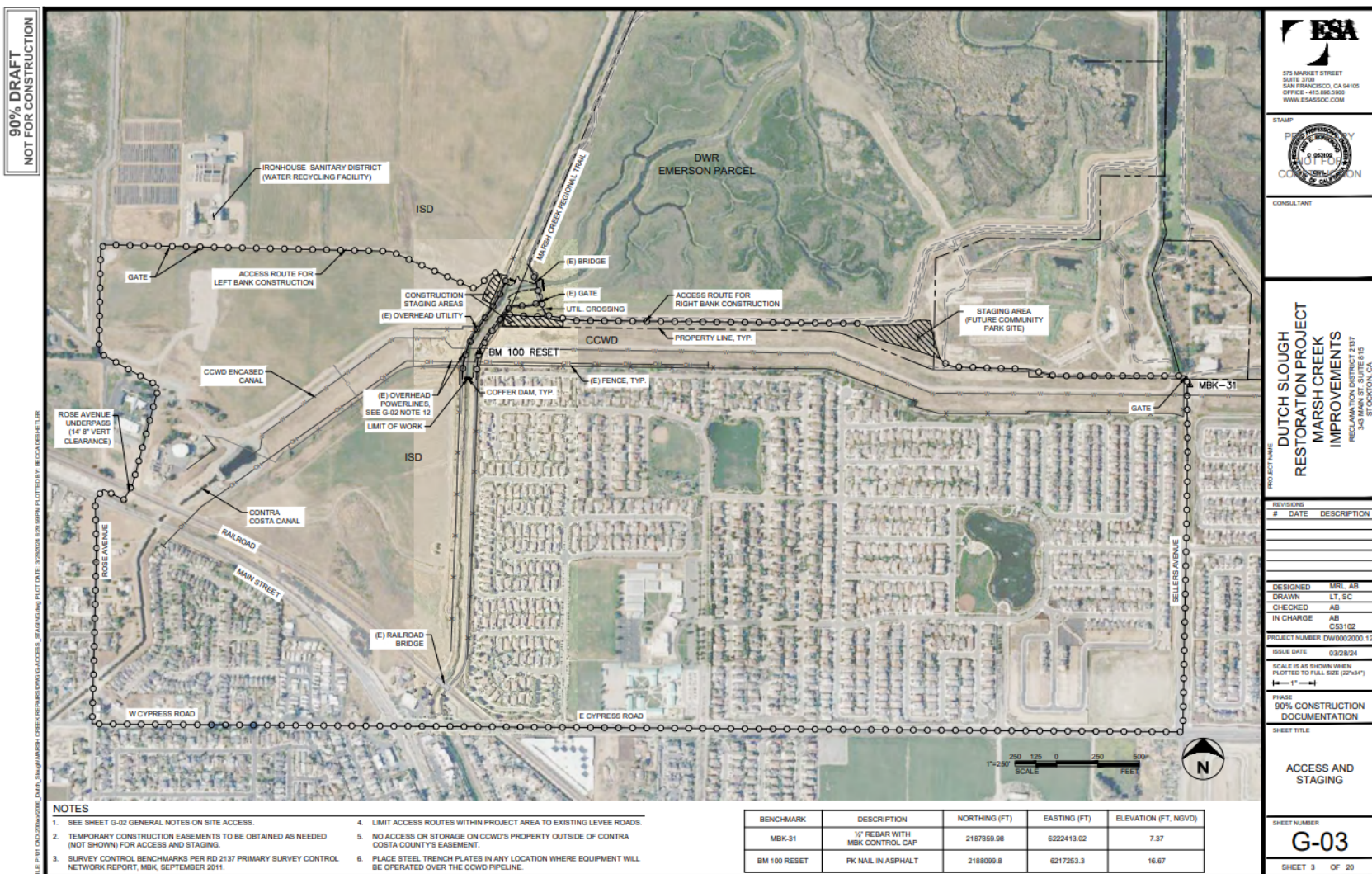




Figure 6: Existing Conditions and Demolition

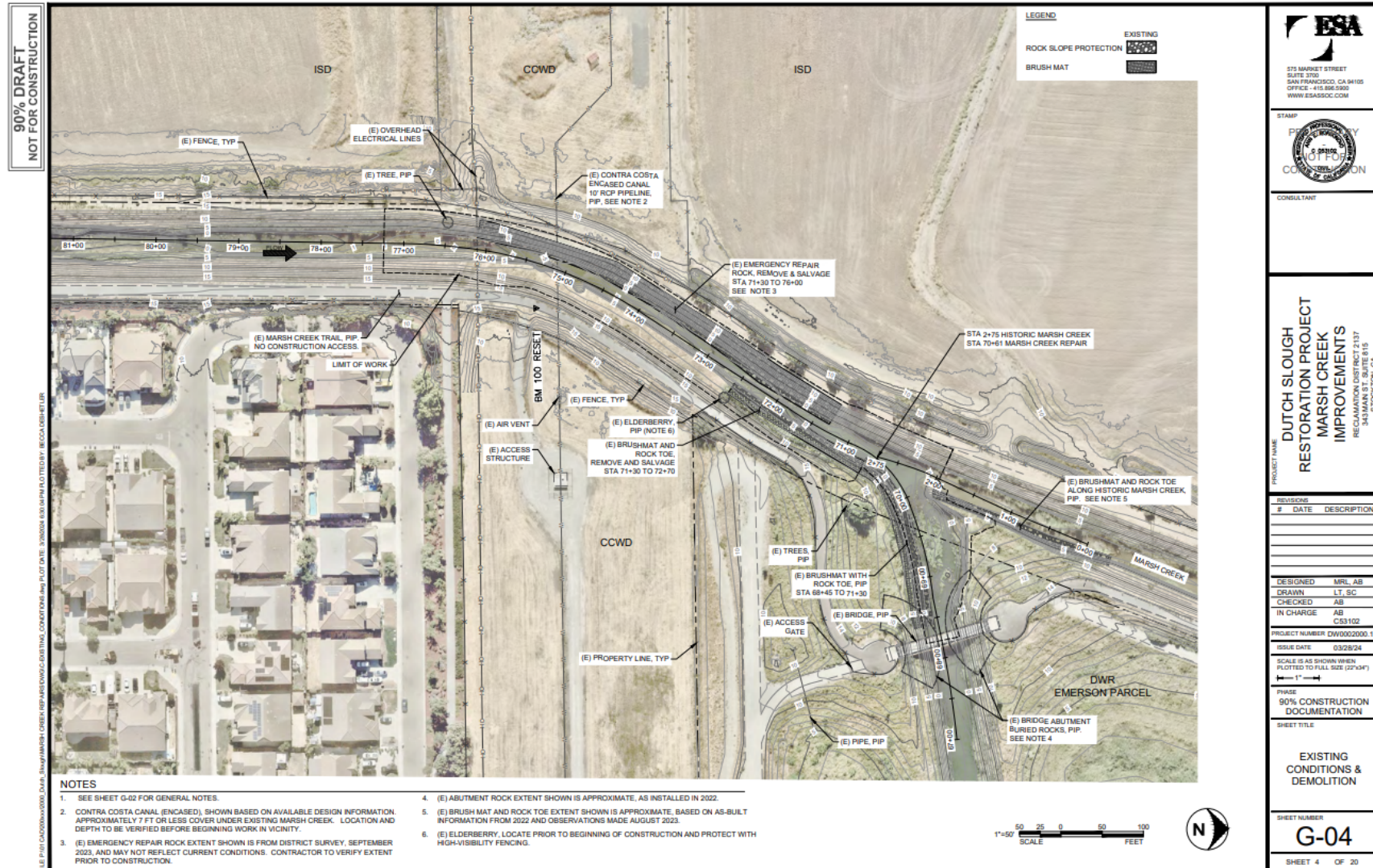








Figure 8: Grading Overview

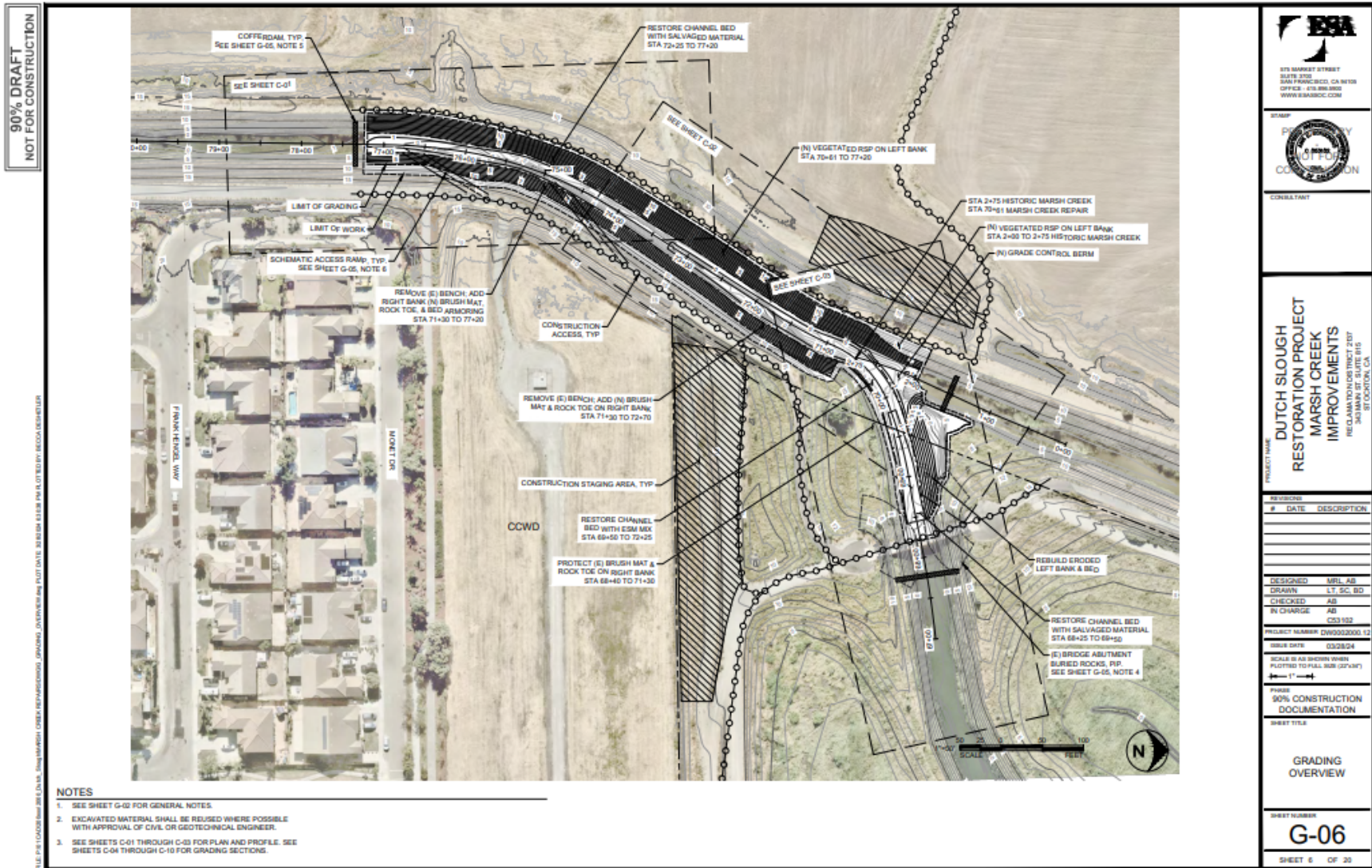


Figure 9: Grading Plan 1

