



# Liberty Island Access Oral Appeal

Taylor Dahlke, 5/20/21



An aerial photograph of a wetland or marsh area. The foreground and middle ground are filled with dense, tall grasses in shades of green and yellow. To the right, a body of water is visible, reflecting the sky. The overall scene is a natural, undeveloped landscape.

# Outline

1. The Record shows that the Project is **inconsistent** with the Delta Plan.
2. The Record is **incomplete**.

# Project is **inconsistent** with the Delta Plan

Why?

Not Best Available Science

Conflicts with local land use

No mitigation for recreation impacts

Defies the Policies and Recommendations

Best Available Science is sorely lacking for recreation impacts



- **ZERO** hours surveying recreation use on site





Shag Slough Bridge, 12/19/2020



2012



17+ cars

2008



18+ cars

2014



9+ cars

2014



12+ cars

2013



9+ cars





locations.dennys.com



(707) 448-0660



92CR+G7 Vacaville, California

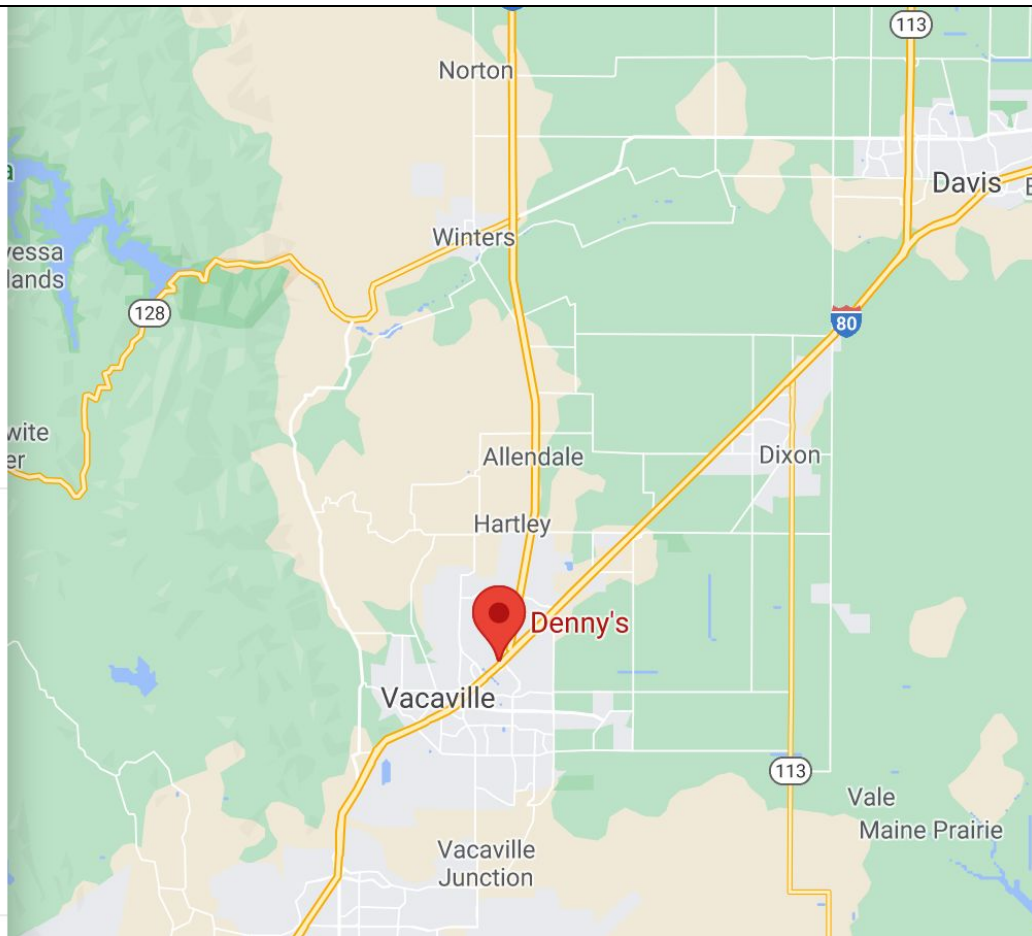
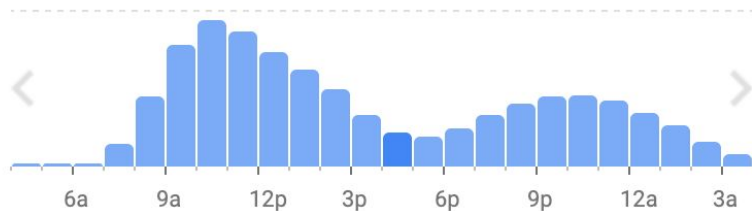


Add a label



Suggest an edit

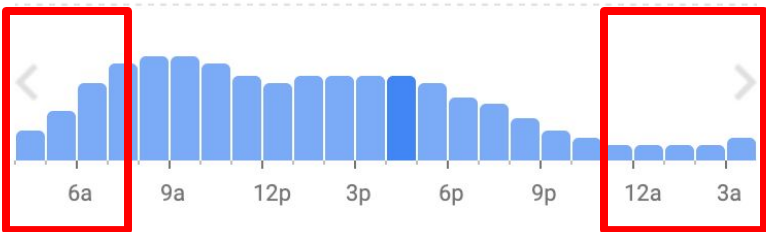
## Popular times Saturdays ▾



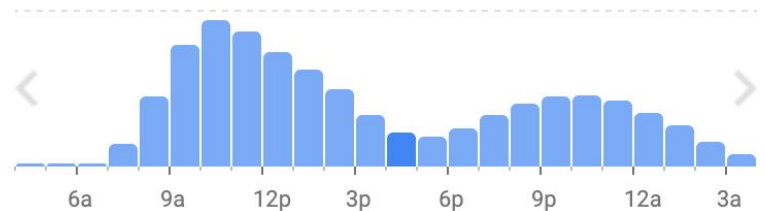


Add website

Popular times Saturdays ▾



Popular times Saturdays ▾



- **ZERO** hours surveying recreation use on site
- DWR **ignores their own** logic
- Sloppy analysis



# DWR claims users travel up to 1hr to Project site

“According to the California Department of Parks and Recreation’s 2012 statewide recreation survey, **a plurality of adult recreationists in California travel between 21 to 60 minutes** to the places they visit most often for recreation.”

(DEIR, Page IV.J-2)

“Although no public use data are readily available for the Reserve, based on the fact that ... **most Californians travel a maximum of an hour to their preferred recreation spots**, it is assumed that a relatively small number of people use the Reserve.”

(DEIR, Page IV.J-5)

## DWR assumes up to 1hr driving for measuring dispersion ...

“... assuming that they would evenly disburse to the limited sample of public recreational facilities (Table IV.1-1) upon loss of bank fishing access, any given public recreation facility **within an hour of the Proposed Project Site** would only absorb approximately six to seven semi-regular users.”

(DEIR, Page IV.J-6)

... but not for estimating users!

*California Department of Water Resources*

*December 2019*

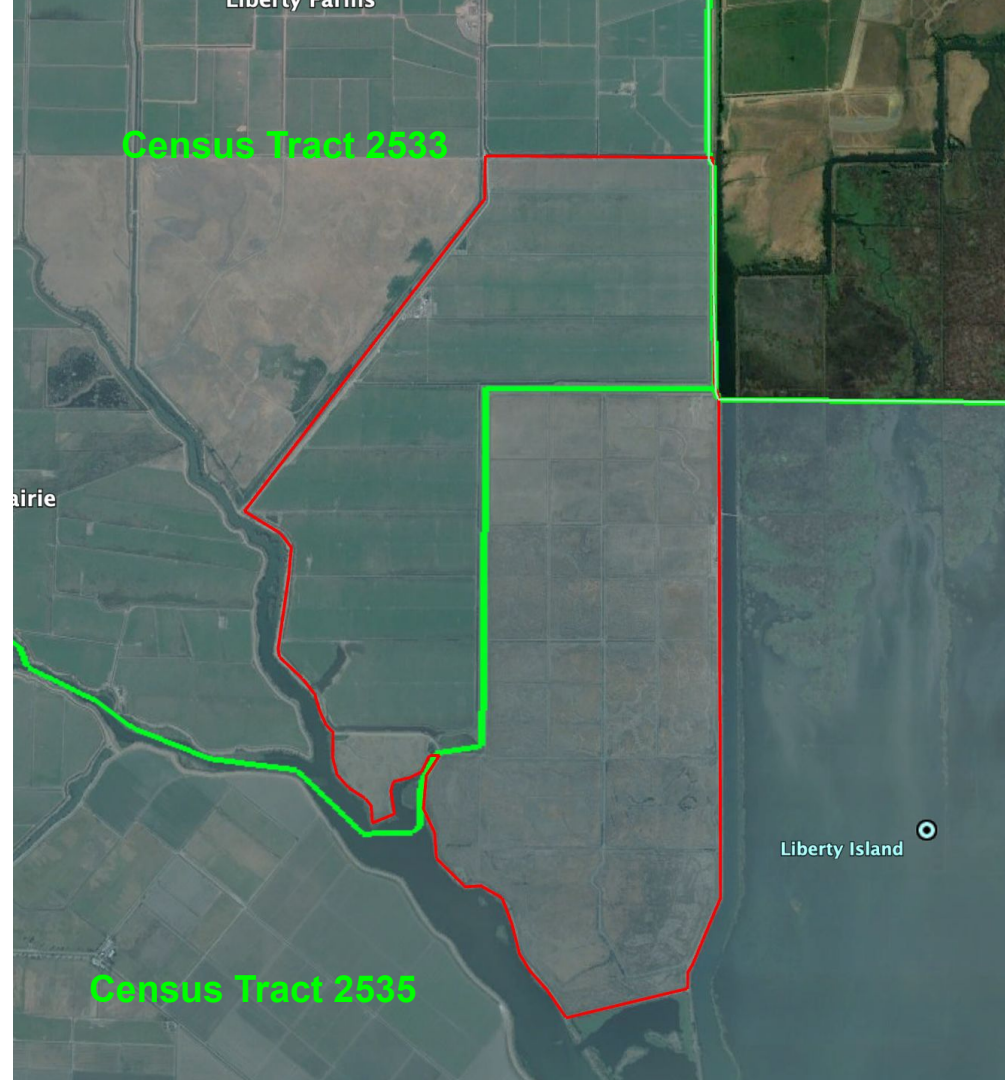
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small number of people use the Reserve. It is estimated based on fishing rates of Delta residents<sup>7</sup> and the population of the Proposed Project Site's Census Tract that approximately 200 people



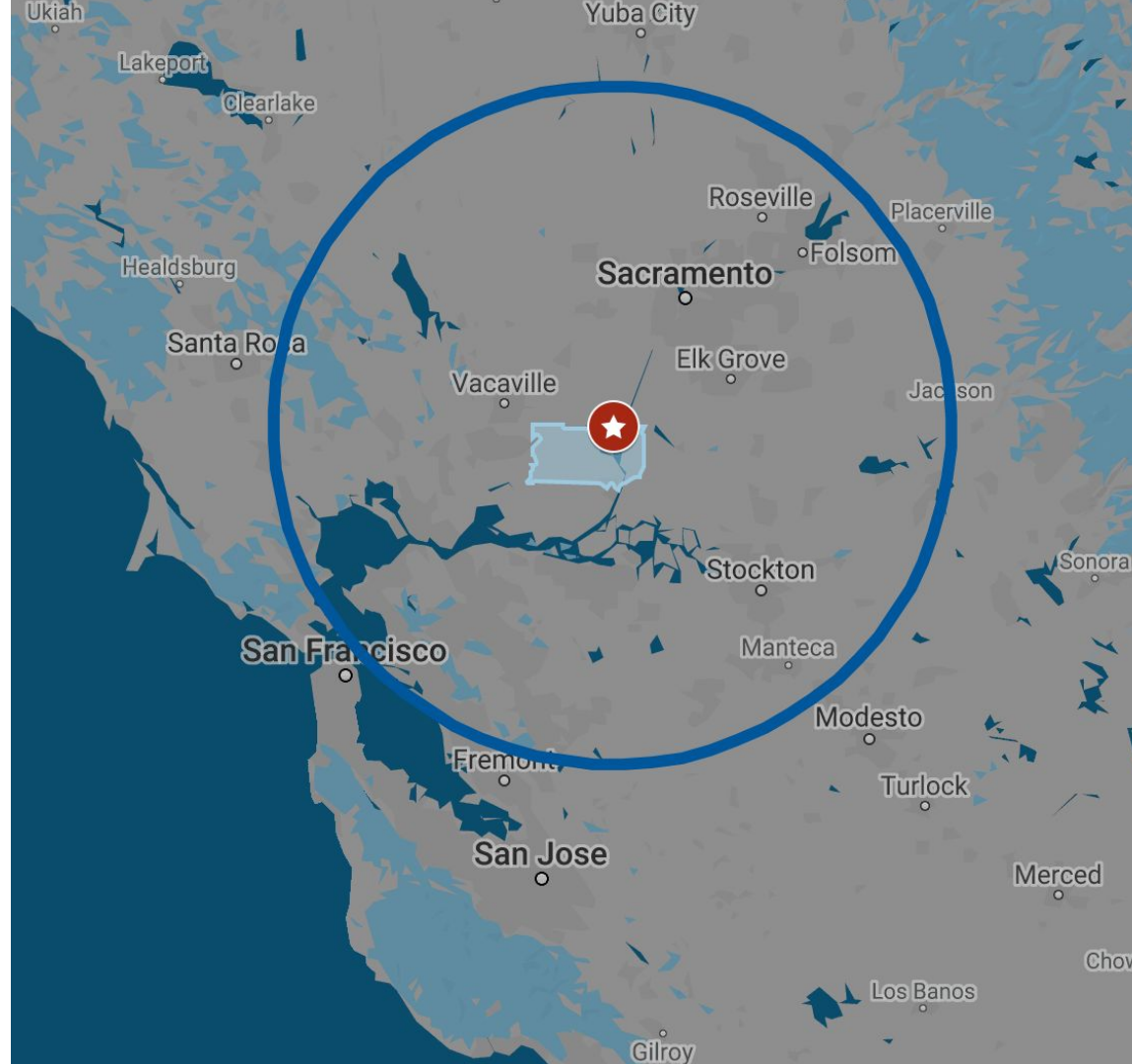
# Which census tract?

*“It is estimated on .... The population of the Proposed Project Site’s Census Tract...”*



# Not a “local” spot...

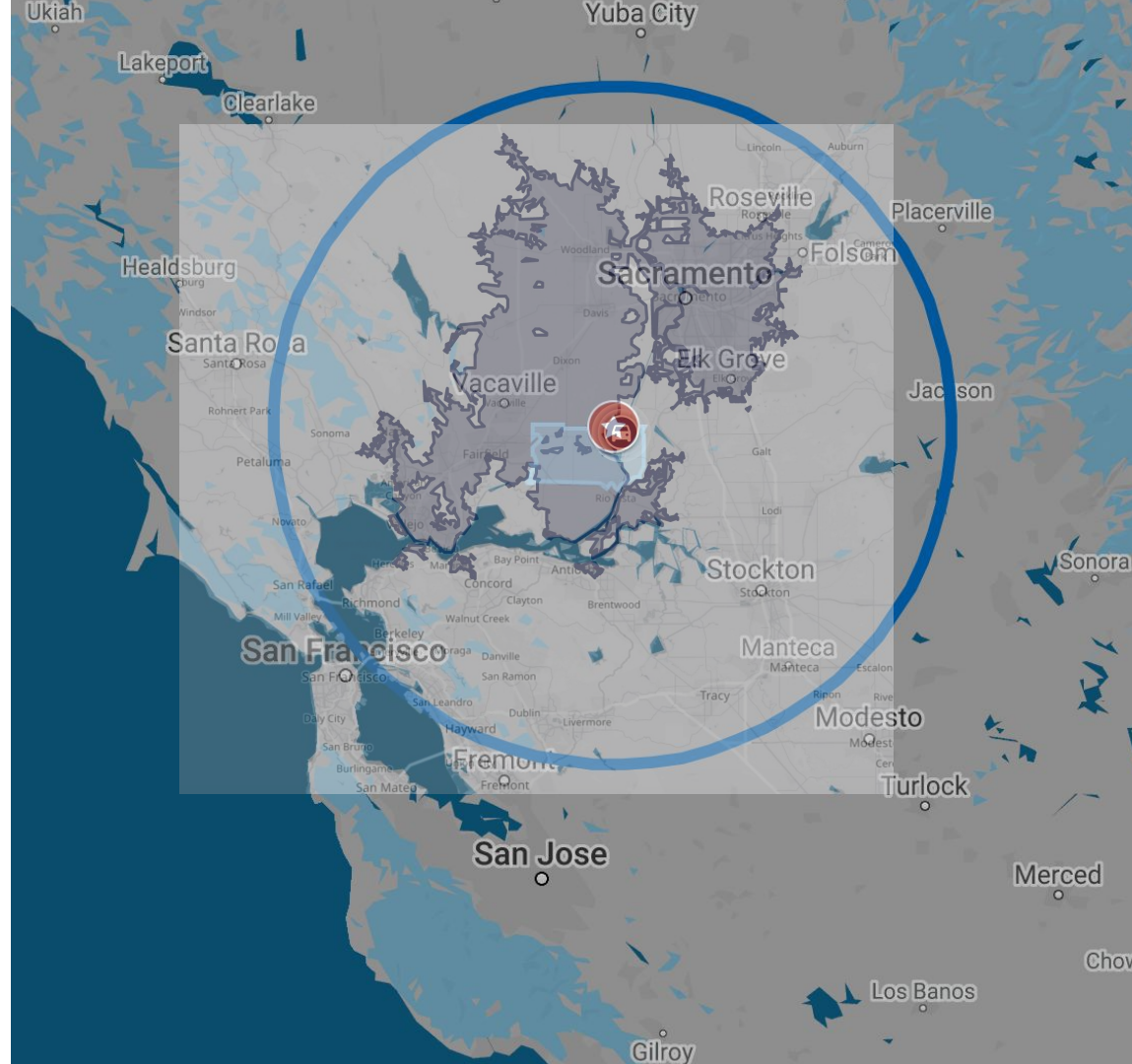
DWR's (more populated) census tract =  
10,124 people



# Not a “local” spot...

1hr driving distance =

**~1.9 million people**

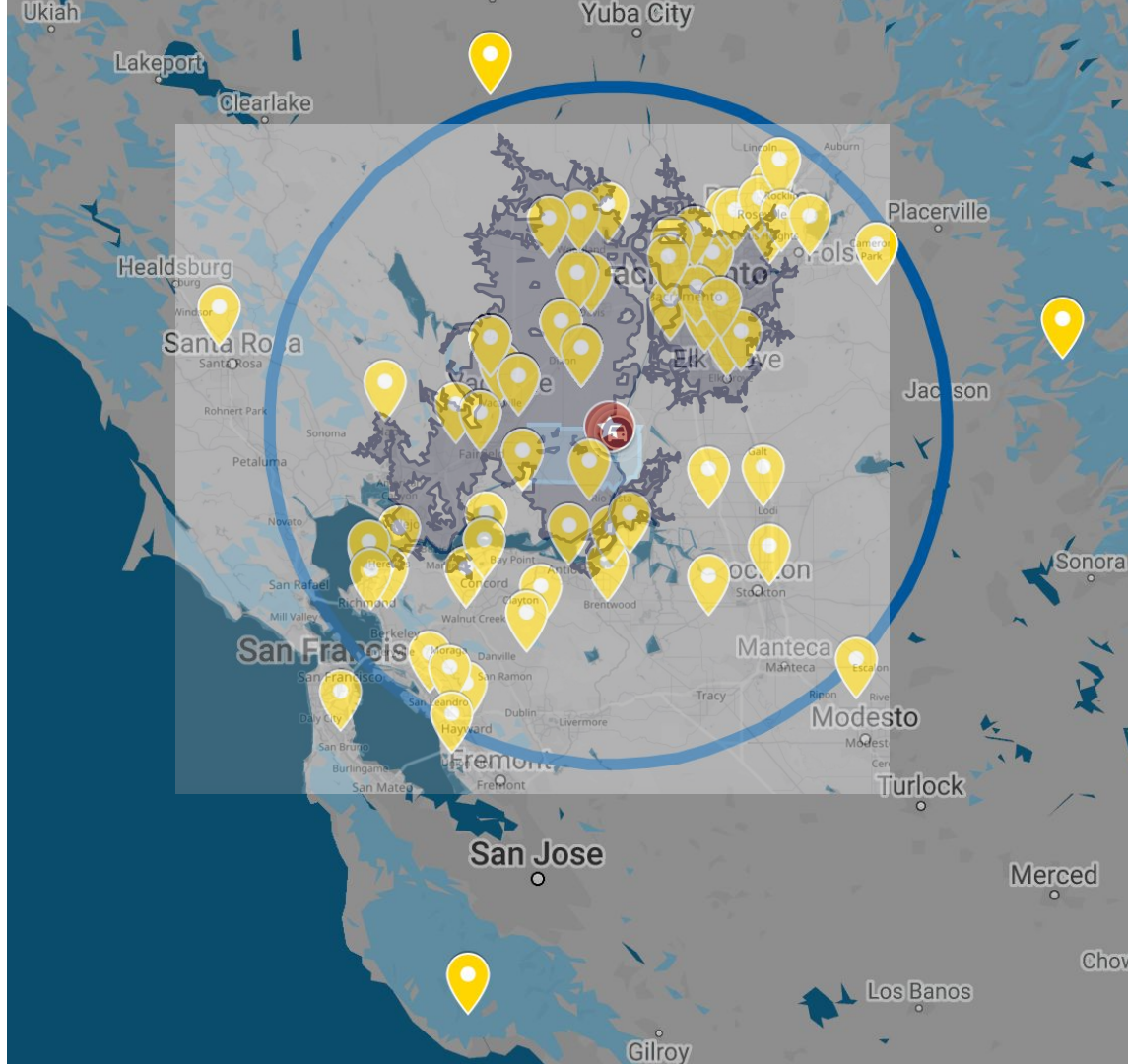




# Not a “local” spot... A regional destination

1hr driving distance =

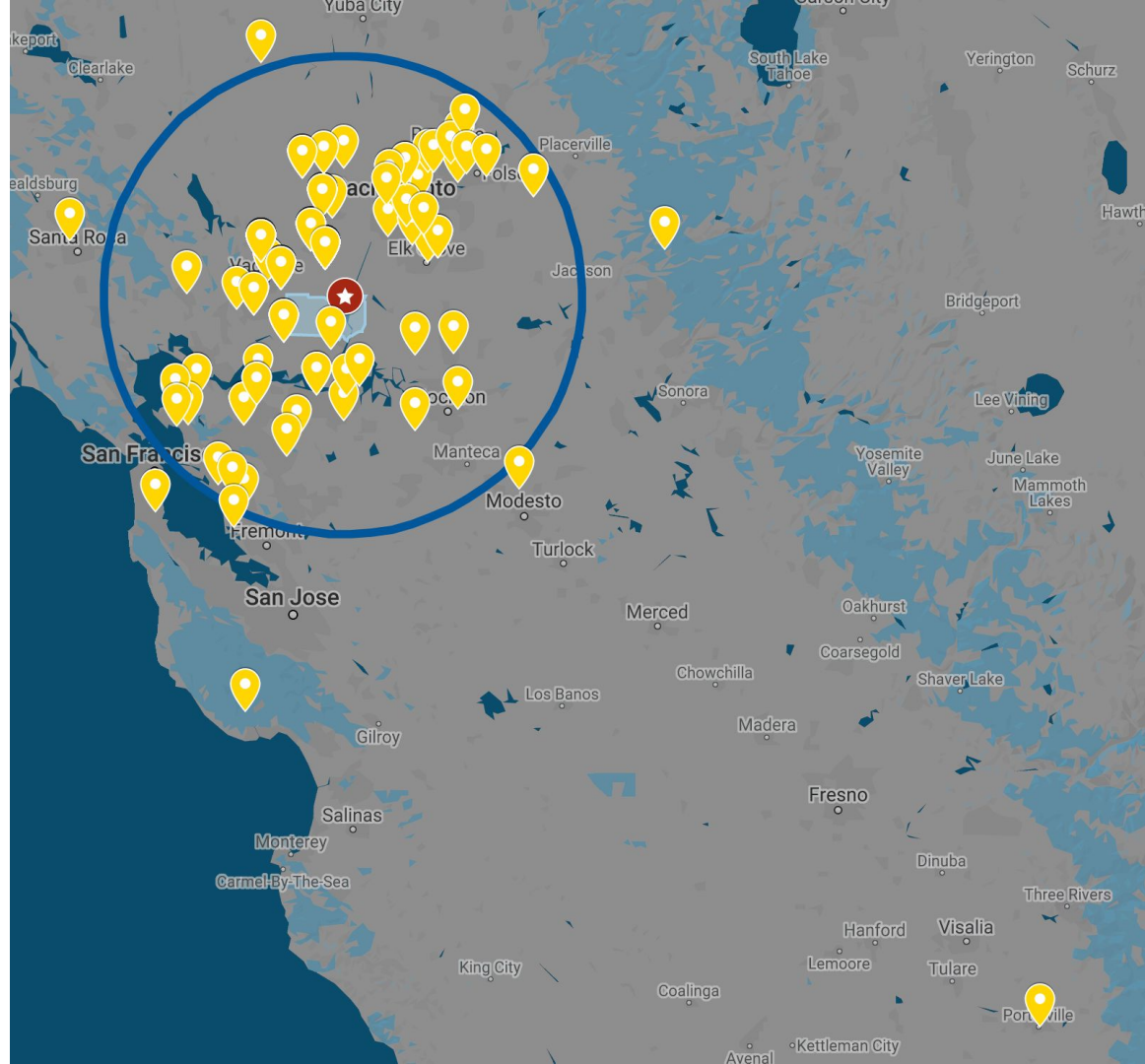
**~1.9 million people**



# Not a “local” spot... A regional destination

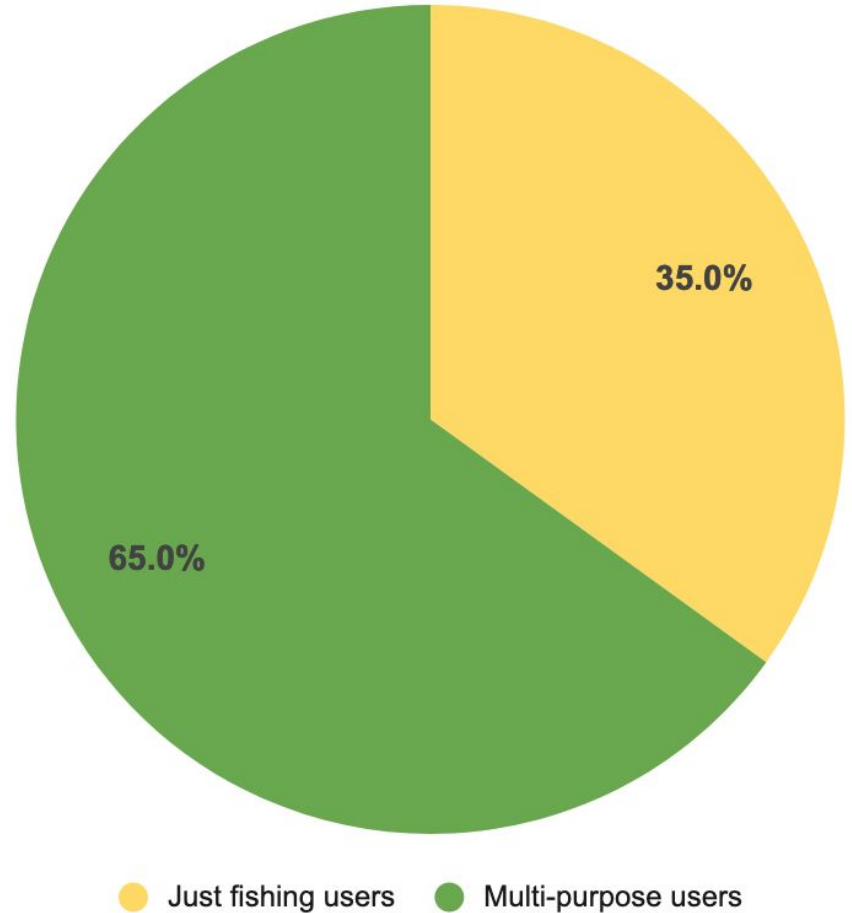
1hr driving distance =

**~1.9 million people**



# Not just a fishing spot

65% of 143 surveyed users visit for reasons **other than just fishing.**



# **Not even close** to Best Available Science

- Vague
- Self contradictory
- Sloppy

Project directly conflicts with Local Land Use



# Project directly conflicts with Local Land Use

- Long standing land-based recreation access will be **permanently** lost.
  - Area sees ~39,000 unique land-based visits a year.

# Recreational users are **numerous**



## LIBERTY ISLAND FISHING

Public group · 1.7K members

About

Discussion

Join Group

### Announcement · 1



Manuel Escobar shared a post.

January 16 ·

### About

LIBERTY ISLAND IN DIXON CA IS A GREAT PLACE TO FISH!!!!!!

# Recreational users are involved and active







On-site surveying indicates ~39,000 visitors a year





# CDFW highlighted recreation as a local land use early on

opportunities to fish from the shoreline within the Delta regions would be less-than-significant. However, CDFW disagrees and believes the loss of public land-based access to LIER via the Bridge is a significant impact.

or small watercraft and rely on the Bridge as the main access point to hand-launch onto LIER. Those that rely on the bridge and shoreline access are predominately from disadvantaged communities. The loss of foot-access to LIER via the Bridge will eliminate recreational opportunities for many hunters, anglers, and bird watchers who don't have the ability to purchase and maintain a boat capable of accessing the island from the nearest boat launches, making recreation impacts by the Project disproportionately affect lower income individuals and communities. Furthermore, public bank fishing is already very limited in the Cache Slough Complex as most of the levees are on private property or have restricted access. For those

# Conflicts with Solano County planning

Solano County General Plan:

**Liberty and Prospect Islands** - These islands are located on the eastern edge of Solano County north of the City of Rio Vista. These islands have been proposed for a National Wildlife Refuge; however, this proposal is on hold. The Delta Protection Commission has asked that the County consider operating these islands for such recreation uses as hunting, fishing, non-motorized boating, and wildlife observation.

# Conflicts with Solano County planning

## Solano County DEIR comments:

Severing and vacating the public right of way and access to Liberty Island Road, Shag Slough Bridge, and Liberty Island will conflict with the Solano County General Plan goal for improving agricultural, pedestrian, and general public access and circulation to eastern Solano County. It is also inconsistent with the California Constitution itself. (See Cal. Const., Art. X, § 4.) The Project may also significantly impact and degrade the condition of connecting roadways through importation (trucking) of soils over Solano County's roads.

# Project **directly conflicts** with Local Land Use

- All available data show that recreation use is **significant**, clearly **established**, and **long standing**.
- CDFW informed DWR early in the process, **but were ignored**.
- Project **conflicts with local planning** objectives and language in the Solano County General Plan



DWR provides no mitigation for impacts

# Mitigation measures clearly **specify a burden to preserve and enhance**

## Measure 18.1:

*“If the substantial impairment, degradation, or **elimination of recreational facilities occurs**, **replacement facilities of equal capacity and quality** with ongoing funding provided for maintenance of these facilities.”*

## Measure 18.2:

*“**Where impacts** to existing facilities **are unavoidable, compensate for impacts through mitigation**, restoration, or preservation off-site or creation of additional permanent new replacement facilities.”*

## Measure 19.1:

*“**Avoid modifications to** federal, State, and county highways, **local roadways**, and bridges that may reduce vehicle capacity, to the extent feasible”*

# DWR does not mitigate for recreation loss

*“**Pedestrian access** to the Reserve **would be eliminated** by the Proposed Project” (DEIR, Page IV.J-6)*

*“...the goals of the Proposed Project do not include other improvements related to public access and recreation ... **new park and recreation facilities would not be constructed.**” (DEIR, Page IV.J-6)*

*“Although the Proposed Project includes modifications to infrastructure such as construction of elevated peninsulas to provide maintenance access to transmission towers, levee top roadways, and a new boat ramp, **these elements would not be open to the general public.**” (DEIR, Page VI-1)*

*“The Proposed Project would provide **non-public internal access** to the Duck Slough Setback Levee, Cache/Hass Training Levee, Cross Levee, and the northern section of the degraded Shag Slough Levee. **A gate would be installed** at the northwest corner of the Project Site in order **to restrict public pedestrian and vehicular access** to the Project Site” (DEIR, Page III-35)*

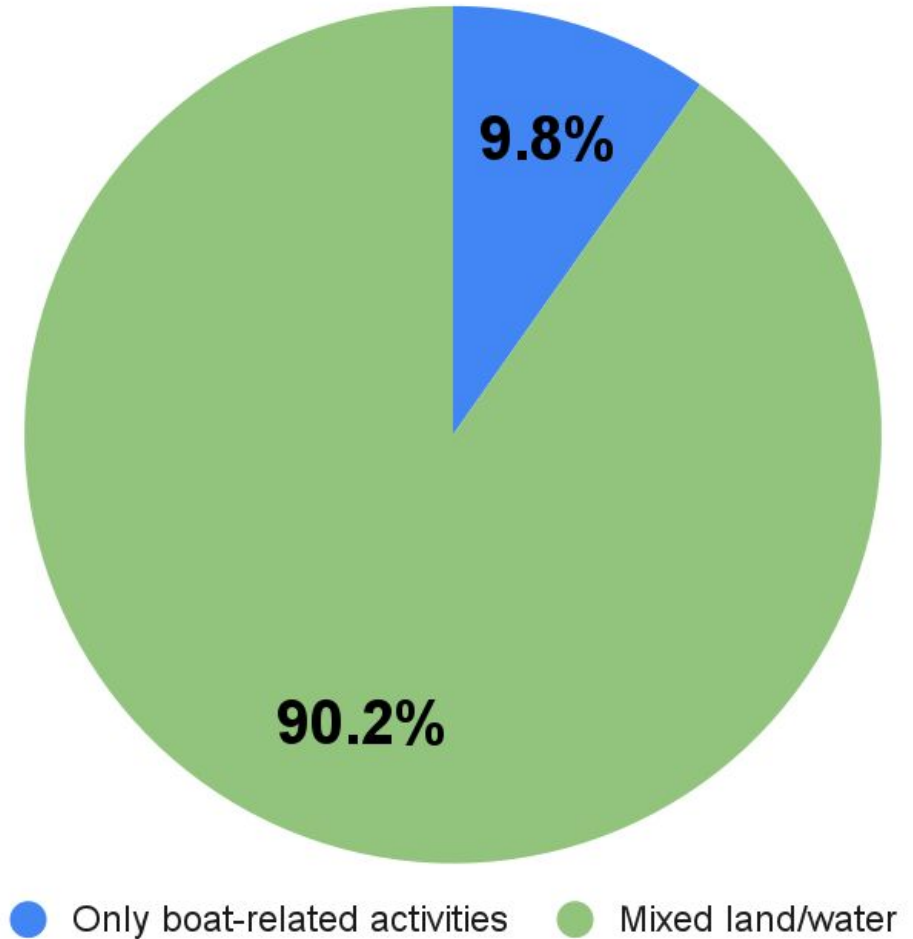
# Boat ramp is sorely insufficient mitigation

**Only 8% of US population** ages 6+ participate in paddle sports like kayaking, canoeing, and stand-up paddle boarding.

- 2020 Outdoor Participation Report, Outdoor Foundation

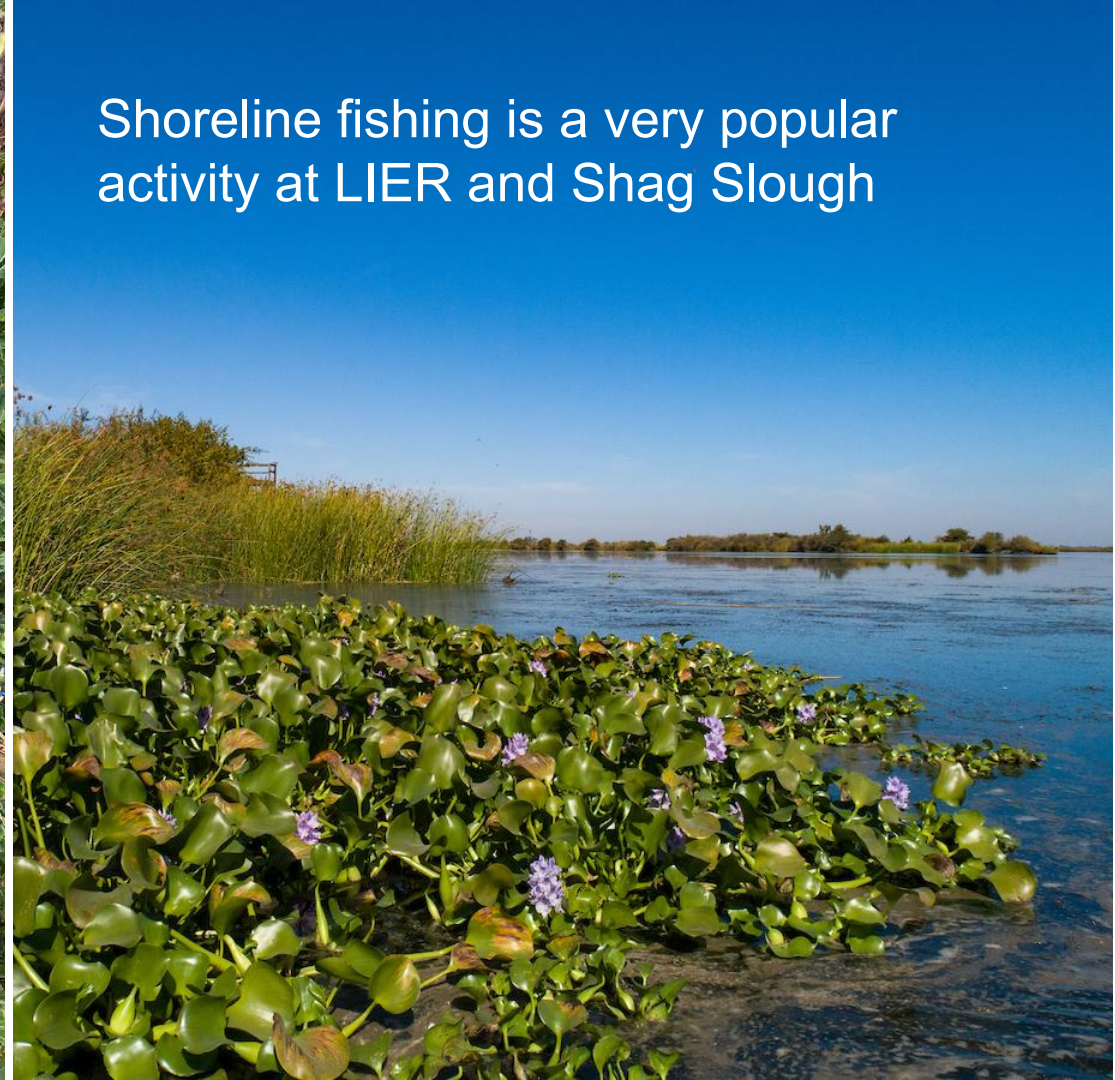


Most LIER users visit for  
**land based** activities





Shoreline fishing is a very popular activity at LIER and Shag Slough







Hiking and hunting are also very popular

# DWR cherry-picks what they want to mitigate for

## Loss of agricultural land:

*“...DWR to establish one or more off-site conservation easements on a minimum of **1,000 acres of Prime Farmland**. DWR intends to establish the easements in-county.”* (FEIR, Response 13.4)

## Swainson Hawk habitat:

*“DWR will procure a higher acreage of conservation easements totaling approximately **1,285 acres**, which will be managed for prey production to optimize Swainson’s hawk habitat values.”* (FEIR, Response 2.15)

## Giant garter snake:

*“...the procurement of a **57-acre offsite conservation easement** for GGS upland habitat ...”* (FEIR, Response 2.15)

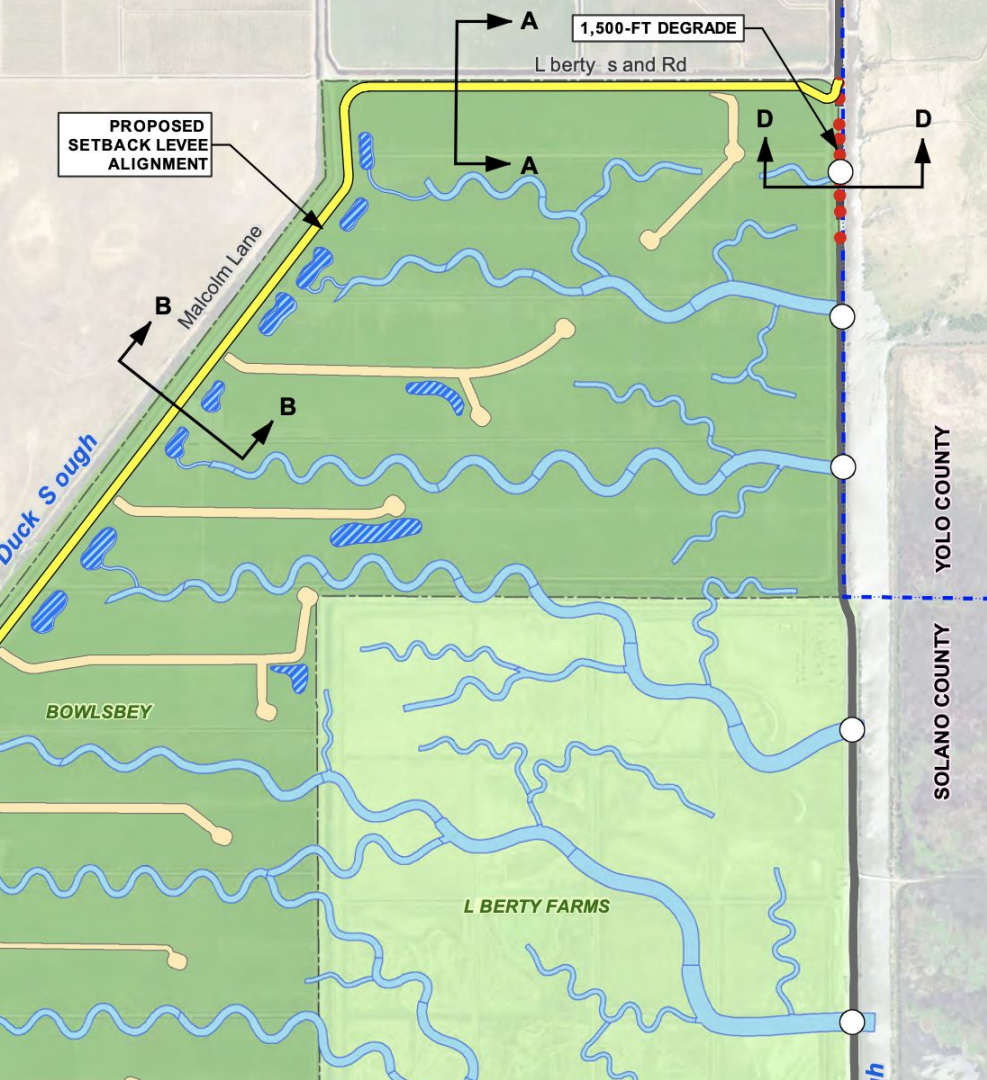
## DWR cherry-picks what they want to mitigate for

<b>Cement Faus</b>	\$46,000.00
<b>Perimeter &amp; Pasture Fencing</b>	\$189,649.00
<b>Water Control Structures</b>	\$25,000.00
<b>PG&amp;E Power Drops (4x)</b>	\$100,000.00
<b>Land Planning</b>	\$56,000.00
<b>Seeding</b>	\$26,280.00
<b>TOTAL:</b>	<b>\$ 1,651,129.00</b>

If the Schene livestock operations can be relocated and improvements to create prime farmland made on the approximately 762 acres on the Zanetti Property or similar location, those acres may be included by the Department in calculating and achieving the agricultural mitigation acreage discussed above.



Mitigation is feasible. Feasible does not mean FREE.



# Proposed design

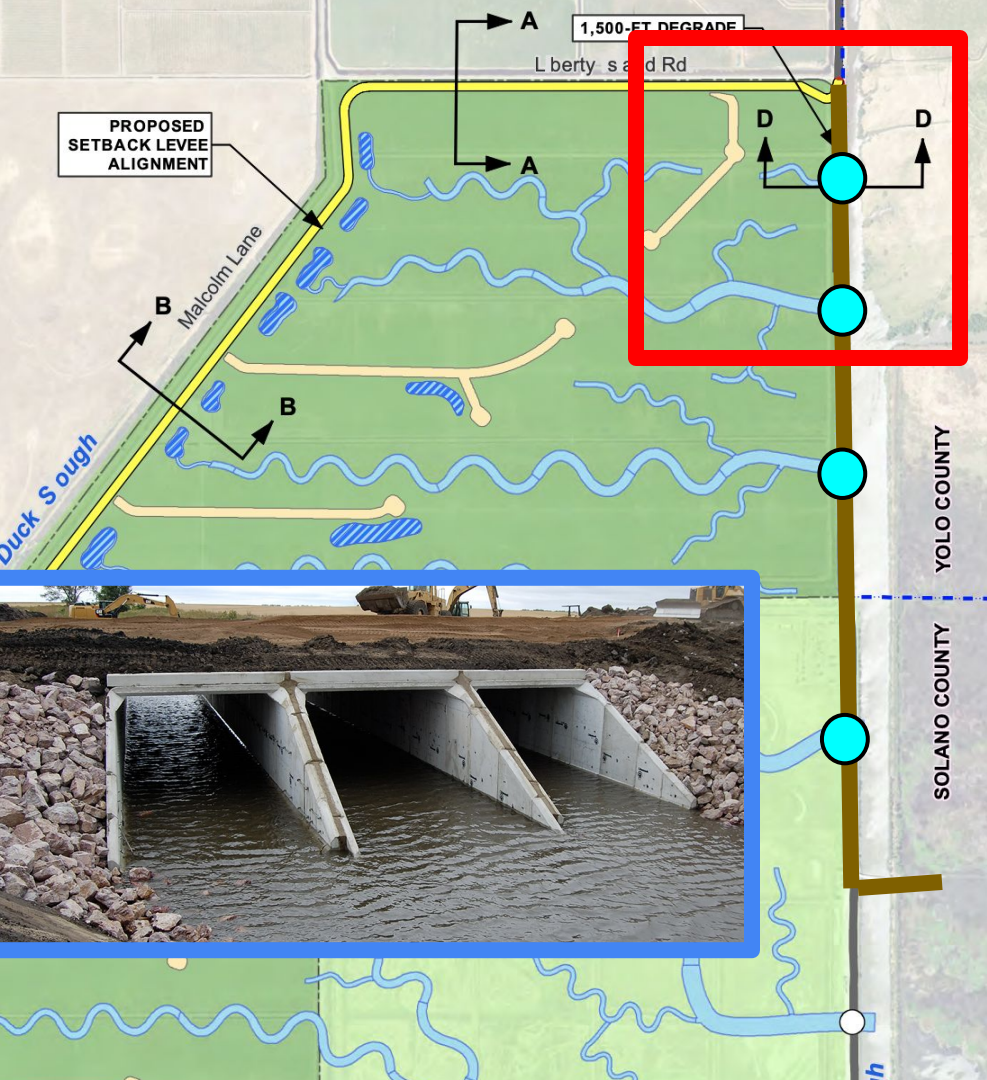


# Proposed design

## Box culverts

- Inexpensive
- Structurally robust
- Standardized designs
- Unimpeded water flow and passage of aquatic life
- Preserves existing high-level design
- Potentially less earth-moving since most soil remains under roadway



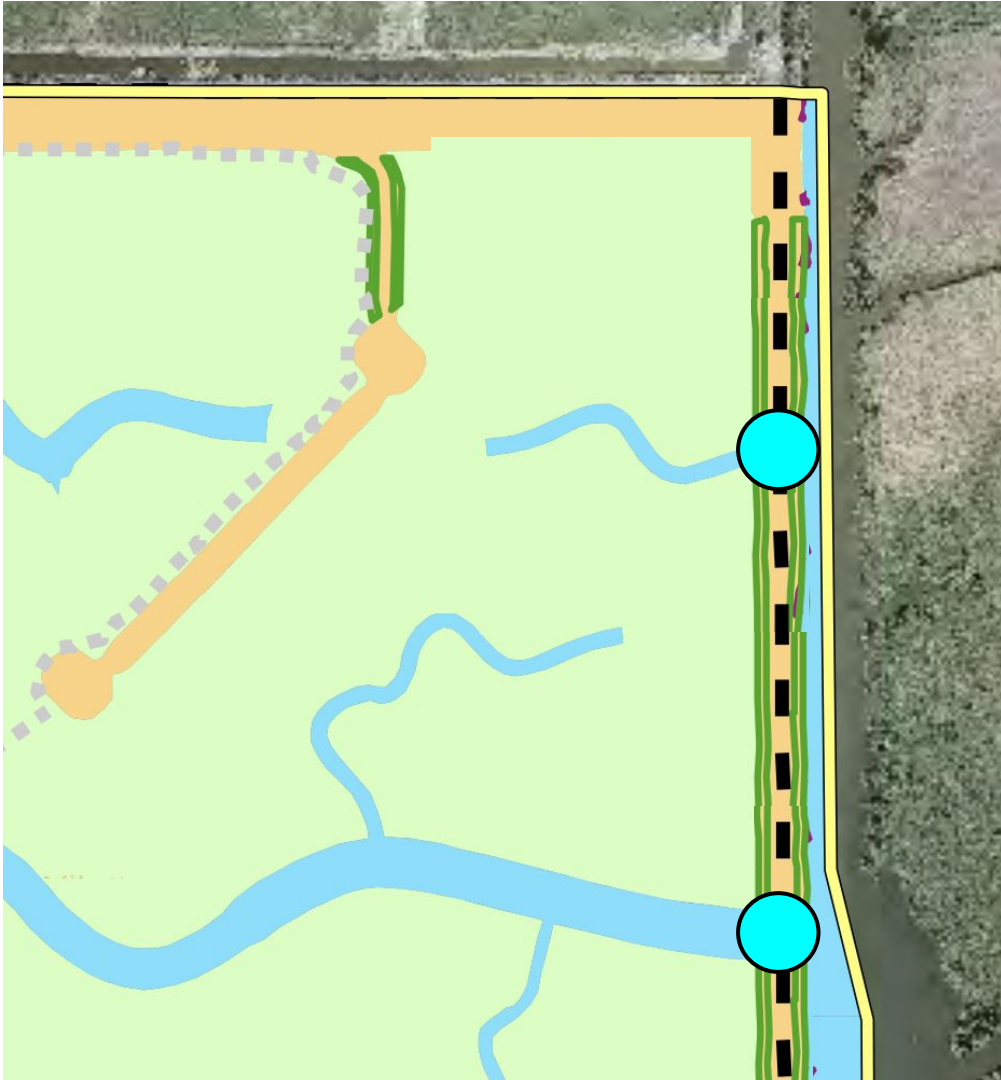


# Proposed design

## Box culverts

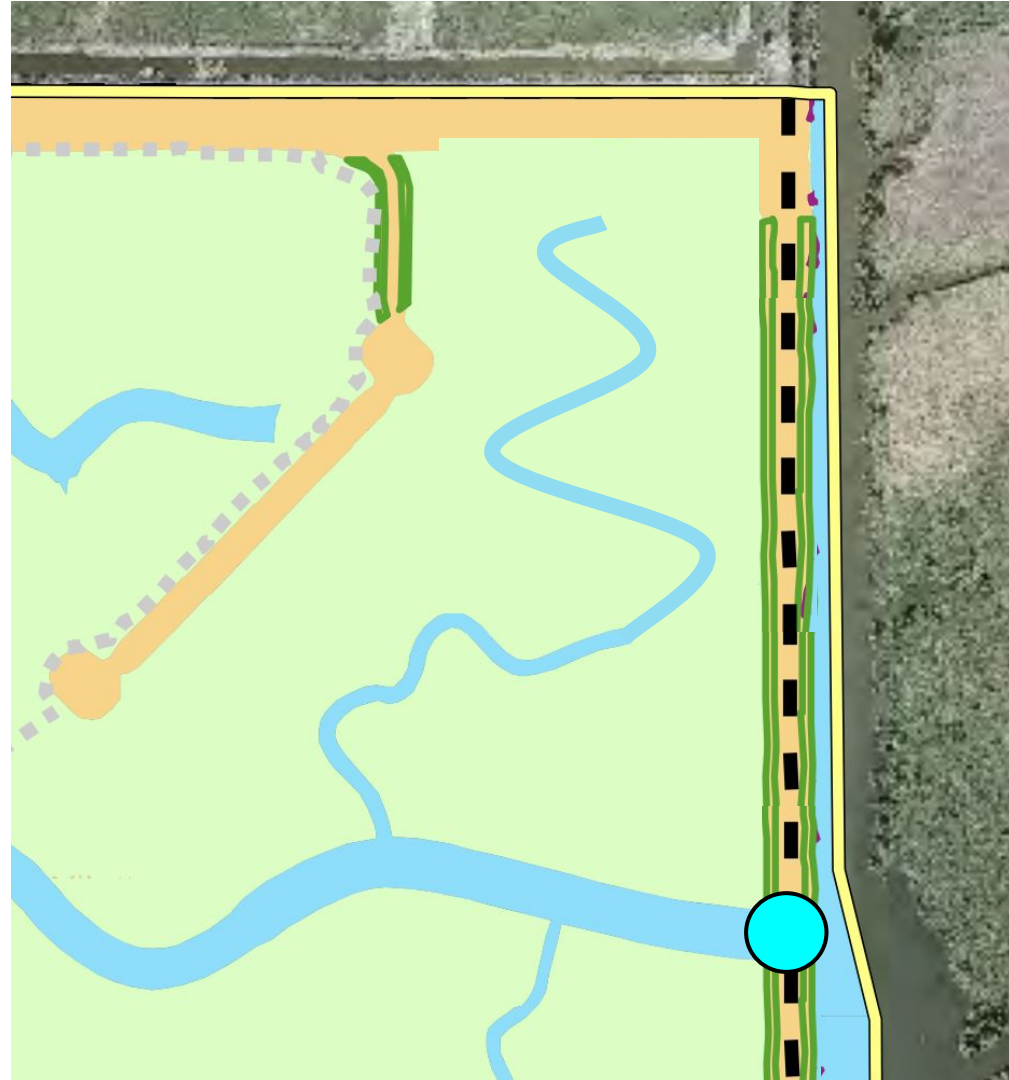
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- Preserves existing high-level design
- Potentially less earth-moving since most soil remains under roadway

# Proposed design



# Proposed design

With slight design modification, may be able to avoid need for first overcrossing.





# DWR provides no mitigation for impacts

1. DWR makes NO effort to mitigate this loss
2. DWR cherry-picks what they want to mitigate for
3. Mitigation is feasible. Feasible does not mean FREE.

DWR submitted an incomplete record

# DWR submitted an incomplete record

Where are the written public comments?

DWR cherry-picking information to avoid conflicts with their narrative

**Sent:** Monday, February 1, 2021 11:14 AM  
**To:** Biggs, Charlotte@DWR <[Charlotte.Biggs@water.ca.gov](mailto:Charlotte.Biggs@water.ca.gov)>  
**Subject:** Question regarding the Lookout Slough Tidal Habitat Restoration Improvement Project

Hi Charlotte,

I am a regular user of the Liberty Island Road access to Shag Slough and the Liberty Island Ecological Preserve. Recently signs have been posted indicating segment of the Liberty Island Ecological Preserve. Is this true?

If so, is it possible to complete this project without blocking access to Liberty Island road?

For those of us who kayak or walk in to this area, there isn't any alternative way to access this location.

Would people still be able to walk or bike the Liberty Island road section that runs along Shag Slough?

I visit this location year round and losing access to such a beautiful spot is deeply distressing. Each Spring I take family and friends on kayak tours to see the reality of this project. I do support the goal of expanding natural habitat, but preventing access to it would be heartbreaking.

Thanks for your consideration,

Marc Hanson

Project defies Delta Plan Policies and Recommendations

# Not consistent with Co-equal goals

*Water Code section 85054:*

“Coequal goals” means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. *The coequal goals **shall be achieved in a manner that protects and enhances the** unique cultural, **recreational**, natural resource, and agricultural values of the Delta as an evolving place.*

## Delta Reform Act: **Maximize access**

The Delta Reform Act states (Water Code section 85022 (d)):

*(3) Maximize public access to Delta resources and maximize public recreational opportunities in the Delta consistent with sound resources conservation principles and constitutionally protected rights of private property owners.*



# Delta Plan 2013: Enhance and protect access

## **DP R11. Provide New and Protect Existing Recreation Opportunities**

*Water management and ecosystem restoration agencies should provide recreation opportunities, including visitor-serving business opportunities, at new facilities and habitat areas whenever feasible; and existing recreation facilities should be protected, using California State Parks' Recreation Proposal for the Sacramento-San Joaquin Delta and Suisun Marsh and Delta Protection Commission's Economic Sustainability Plan for the Sacramento-San Joaquin Delta as guides.*

# Protecting recreation is a measured goal

## Mandate:

85308 The Delta Plan shall ... (d) Describe the methods by which the council shall measure progress **toward achieving the coequal goals.** (Delta Reform Act)

## Method:

Water management and ecosystem restoration agencies **provide recreation opportunities**, including visitor-serving business opportunities, at new facilities and habitat areas whenever feasible, **and protect existing recreation facilities** ... (Delta Plan 2013, Strategy 5.4)

## Metric:

Metrics evaluated annually:

- \* Acres of State and federal land accessible by the public for recreation and tourism.
- \* **Length (linear feet) of shoreline accessible for public recreation.** (Delta Plan 2013, Strategy 5.4.22)



A choice to be made



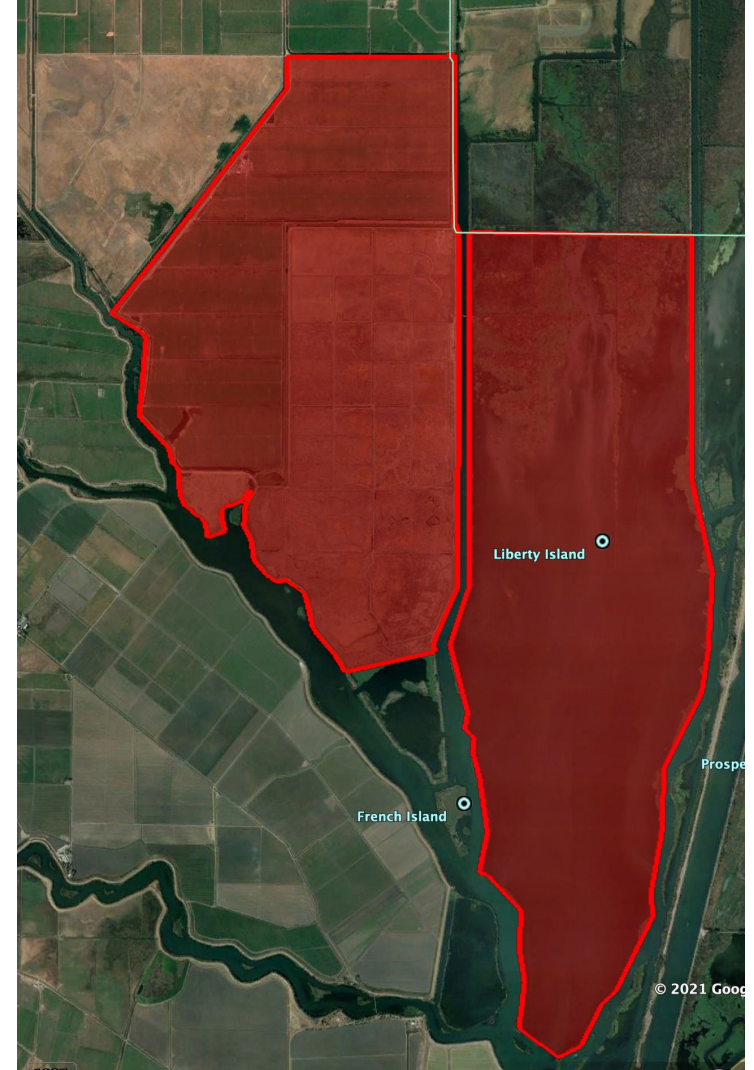


# Inaccessible wetlands

**4450 acre LOSS** of public lands accessible to all

**3.0 miles LOSS** of hiking trails

**4.3 miles LOSS** of existing shoreline access

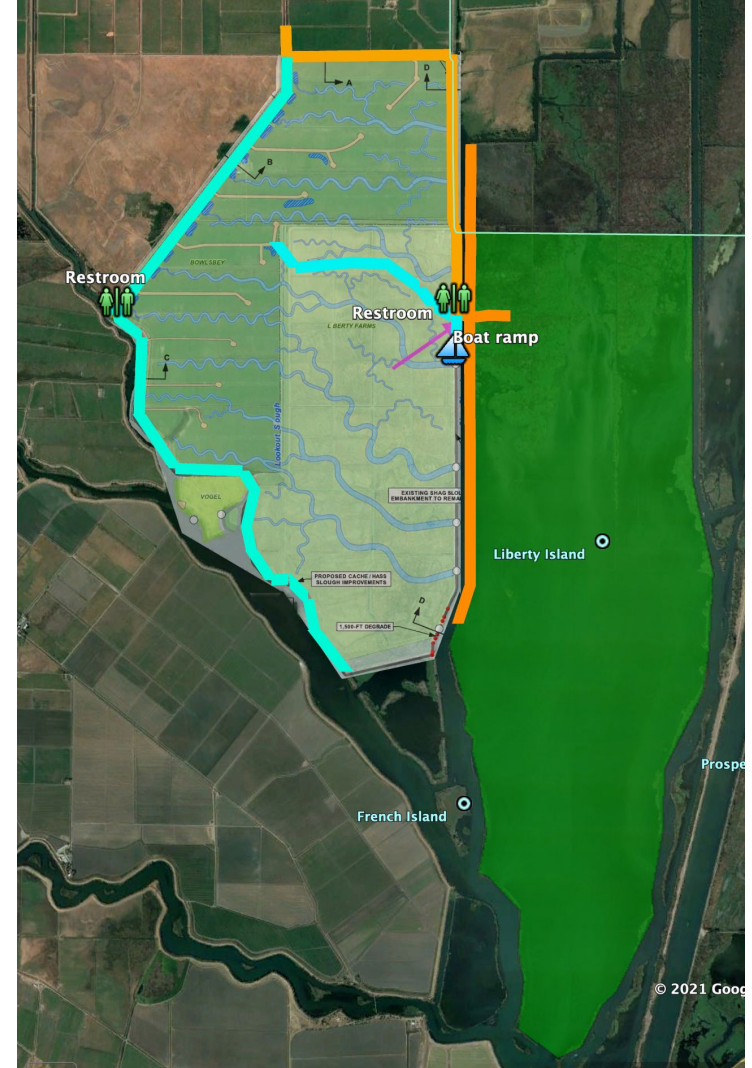


# Cache Slough Preserve and Recreation Complex

**3400 acre GAIN** of public lands accessible to all

**3.0+ miles** of trails to hike

**2.9 miles GAIN** of shoreline access







Questions?

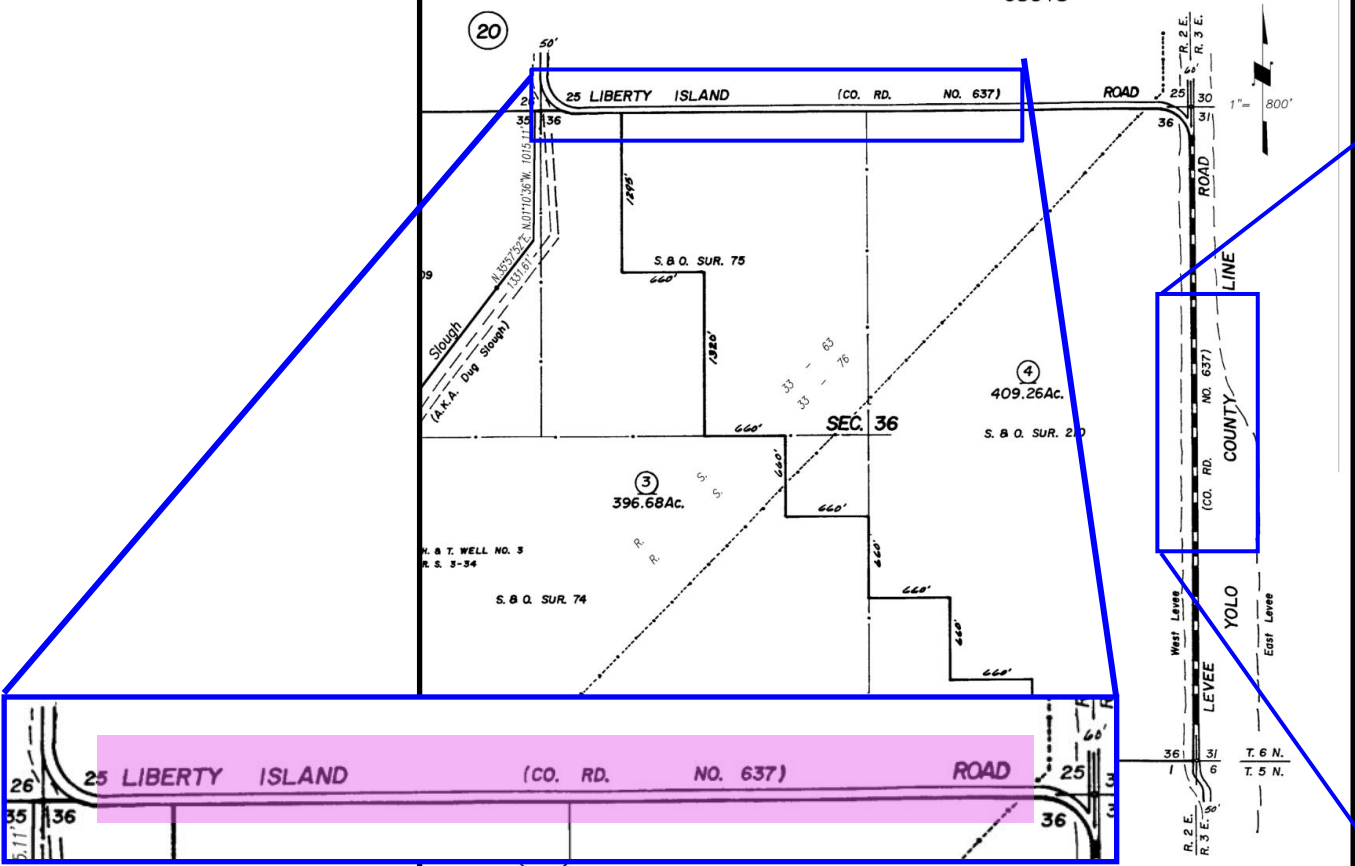


# EXTRA SLIDES

# Liberty Island Road is a public right of way

- Also known as County Road 637.
- Shown on all current parcel maps
- Recognized by Solano County as public
- Recognized by DWR as public
- CA Constitution authorizes public access to water from Liberty Island Road
- Legal precedent has cemented that access at Shag Slough Bridge is also legal.

(20)



LINE  
COUNTY  
(CO. RD. NO. 637)

(CO. RD. NO. 637)  
COUNTY

Assessor's Map Bk. 143 Pg. 24  
County of Solano, Calif.

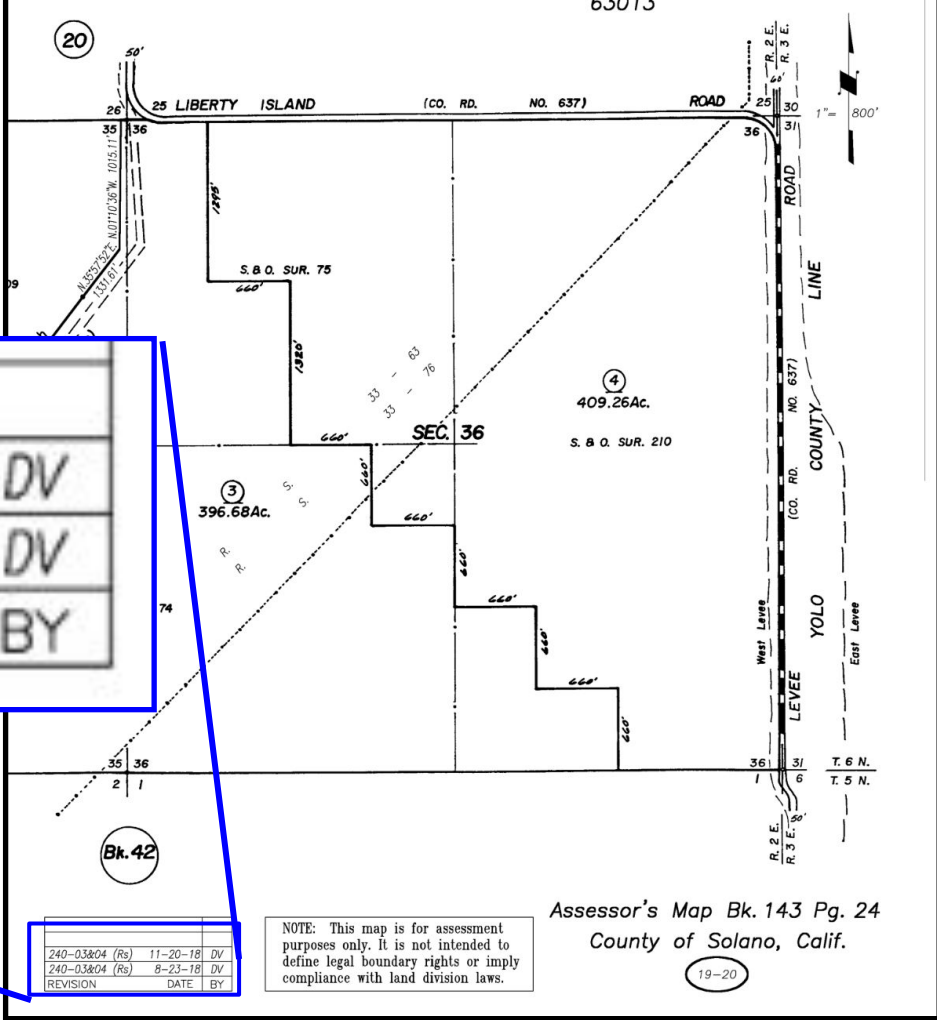
(19-20)

240-03&04 (Rs)	11-20-18	DV
240-03&04 (Rs)	8-23-18	DV
REVISION	DATE	BY

NOTE: This map is for assessment purposes only. It is not intended to define legal boundary rights or imply compliance with land division laws.



240-03&04 (Rs)	11-20-18	DV
240-03&04 (Rs)	8-23-18	DV
REVISION	DATE	BY





2011





LIER interior launch area #1

This is an aerial photograph of a coastal region. A paved road runs horizontally across the middle of the image. To the left of the road is a body of water, and to the right is a large area of dense, dark vegetation. Two specific areas are highlighted with red circles: one on the left side of the road near the water, and another on the right side of the road further inland. The right-side circle contains a small structure and a vehicle. The left-side circle contains a small clearing near the water's edge.

Shag Slough launch area

2011





LIER interior launch area #1

Shag Slough launch area

2018





The image is a composite of two aerial photographs. The left photograph shows a wide area with a road, industrial buildings, and a body of water. A red circle highlights a specific area on the shoreline. A red line extends from this circle to a larger, zoomed-in aerial photograph on the right. In the zoomed-in photo, a red circle highlights a small, dark, rectangular structure in the water, surrounded by dense vegetation and trees.

**LIER interior launch area #2**





An aerial photograph of a coastal area. A light blue line outlines a long, narrow strip of land that runs horizontally across the middle of the image. This strip is labeled 'CDFW LIER lands'. To the left of this strip, there is a road labeled '5449'. Below the strip, there is a body of water. A blue arrow points from the bottom right towards the strip, with a label 'Public right-of-way for LIR'.

**CDFW LIER lands**

**Public right-of-way for LIR**