

Chapter 1. Introduction

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PROJECT BACKGROUND

Delta Wetlands Properties (DW) proposes a water storage project on four islands in the Sacramento-San Joaquin Delta (Delta). The project would involve diverting and storing water on two of the islands (Bacon Island and Webb Tract, or "reservoir islands") for later discharge for export sales or to meet outflow requirements for the San Francisco Bay/Sacramento-San Joaquin Delta (Bay-Delta) estuary, and seasonally diverting water to create and enhance wetlands and to manage wildlife habitat on the other two islands (Bouldin Island and Holland Tract, or "habitat islands"). DW proposes constructing recreation facilities along the perimeter levees on all four DW project islands; operating a private airstrip on Bouldin Island; and, during periods of nonstorage, managing shallow water, which may provide wetland habitat values on the reservoir islands. The DW project islands are owned either wholly or partially by DW. To operate its project, DW would improve and strengthen levees on all four islands and install additional siphons and water pumps on the perimeters of the reservoir islands. DW would operate the habitat islands to compensate for impacts on state-listed threatened or endangered species and to provide wetlands and wildlife habitat in the Delta.

The Delta is part of an interconnected system that includes Suisun Marsh, San Francisco Bay, and the Sacramento and San Joaquin Rivers (Figure 1-1). The Bay-Delta estuary is one of the most important and complex estuaries on the Pacific Coast, providing important aquatic and terrestrial habitat for fish, waterfowl, and other wildlife. Water that flows through the Delta supplies a portion of the domestic water supply for over two-thirds of the state's population and irrigates several million acres of farmlands (California Department of Water Resources [DWR] 1994). Figure 1-2 shows the location of the four DW project islands.

DW originally applied for water rights to seasonally store water on all four project islands. The DW project, as originally proposed, was analyzed in a draft environmental impact report/environmental impact statement (EIR/EIS) released in December 1990. In August 1993, DW submitted new water right applications that revised the DW project description (see Appendix 1 for the 1993 public notice). This new draft EIR/EIS presents the environmental assessment of the DW project based on the new project description.

THE EIR/EIS PROCESS

Objectives of the EIR/EIS

The California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) require environmental analyses for local, state, and federal permitting processes. DW has applied to the California State Water Resources Control Board (SWRCB), Division of Water Rights, for the necessary permits to divert water, store it on the DW project islands, and discharge it into Delta channels for export or to meet Bay-Delta estuary outflow requirements. DW also has applied to the U.S. Army Corps of Engineers (Corps) for a permit under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act

of 1899 to discharge dredged or fill material into waters of the United States and for other project activities in navigable waters. Because of DW's applications to SWRCB and the Corps, SWRCB is deemed the lead agency under CEQA and the Corps is deemed the lead agency under NEPA. This joint EIR/EIS is being prepared under the direction of the lead agencies to comply with the regulatory requirements of both CEQA and NEPA.

The purposes of this EIR/EIS are to analyze and disclose the environmental effects of DW's project, to identify ways to reduce or avoid potential adverse environmental impacts resulting from the project, and to identify and assess alternatives to the proposed action. CEQA requires agencies under its jurisdiction to mitigate or avoid the significant adverse environmental effects, as

identified in an EIR/EIS, of projects they approve or implement, whenever feasible.

Scoping Process

The scoping process is intended to identify the range of actions and alternatives, mitigation measures, and potential adverse environmental effects that should be analyzed in the EIR/EIS, and to help resolve concerns of affected agencies, the proponent of the action, and other interested parties. Scoping is intended to ensure that individuals have an opportunity to suggest topics of concern and ensure that important issues are not overlooked in the design of the EIR/EIS.

After DW submitted applications for the original DW project in 1987, SWRCB and the Corps determined that the DW project could have significant environmental impacts. A notice of preparation (NOP) for the EIR/EIS for the DW project was distributed in February 1988; 40 days were allowed for submission of comments. A notice of intent (NOI) for the preparation of the EIR/EIS was published in the Federal Register on January 6, 1988.

A scoping meeting was held on February 11, 1988. Thirty-five scoping comment letters were received by SWRCB and the Corps. A scoping report on the DW project was published on September 20, 1988. The report summarized the comments received during the scoping period and the issues raised in water right protests, and described the kind and extent of analyses to be performed for the EIR/EIS (Jones & Stokes Associates [JSA] 1988).

The lead agencies determined that DW's revised water right applications in 1993 did not trigger the need for issuance of an additional NOP/NOI. The information submitted in response to the original NOP/NOI and the comments received on the 1990 draft EIR/EIS assisted the lead agencies in defining the kind and extent of analyses to be performed for this EIR/EIS.

Uses of the EIR/EIS

Information presented in this EIR/EIS will be used by SWRCB and the Corps in their evaluation of DW permit applications for the diversion of water onto the DW project islands and discharge of water into the Delta for export at the Delta export pumps or to meet Bay-Delta estuary water quality or flow requirements. Other governmental agencies with interests in the DW project will

review and comment on the draft EIR/EIS. This EIR/EIS and the information collected during the environmental analysis will also be used to satisfy permit requirements and to support environmental review and consultations required under other laws and regulations, such as the federal and state Endangered Species Acts and the National Historic Preservation Act (NHPA). This EIR/EIS may be used by other state and federal agencies for compliance with CEQA and NEPA for other requirements necessary for the DW project. Chapter 4, "Permit and Environmental Review and Consultation Requirements", describes these requirements for the DW project. The EIR/EIS also serves as a full-disclosure document for the public to ensure that interested parties have an opportunity to express their views and concerns about the DW project.

For purposes of this EIR/EIS, the DW project is analyzed without consideration of subsequent environmental effects caused by the delivery of purchased DW water or by the storage of water under a third party's water rights because the identity of the end user of the DW water remains speculative. The DW project islands could also be used for interim storage of water being transferred through the Delta from sellers upstream to buyers served by Delta exports or to meet Bay-Delta estuary outflow requirements (water transfers), or for interim storage of water owned by parties other than DW for use to meet scheduled Bay-Delta estuary outflow requirements or for export (water banking). This EIR/EIS analysis considers the water supply yield of the DW project based only on water stored under DW's own appropriate permits and subsequently conveyed to Delta channels. A separate entity purchasing DW water could divert that water from Delta channels to storage on the DW islands and discharge it, probably through Central Valley Project (CVP) or State Water Project (SWP) facilities, for direct use or to increase groundwater or surface storage or could use water for estuarine or Delta beneficial uses (increased outflow). The purchasing entity would affect SWP or CVP operations to the same extent as would any entity that diverts, stores, and discharges water under California Water Code provisions and contracts authorized by those provisions. A number of opportunities exist to operate the DW project conjunctively with the CVP and SWP, but these arrangements remain speculative and are beyond the scope of this EIR/EIS.

**Public Review and Comment Period
for the EIR/EIS**

This draft EIR/EIS is being circulated for a 60-day public review period, during which the public and interested agencies are encouraged to submit comments on the document. Comments should be sent directly to the Corps or SWRCB, the joint lead agencies. A public hearing will be conducted during the review period to solicit oral comments on this EIR/EIS. Once all comments have been assembled and reviewed, the Corps and SWRCB will prepare responses on all notable environmental issues that have been raised. These responses to comments, combined with the draft EIR/EIS and revisions to the draft EIR/EIS, will constitute the final EIR/EIS.

Before a decision is made on DW's permit applications, SWRCB will certify that the final EIR/EIS was prepared in compliance with CEQA, was considered before approval of the project, and reflects the independent judgment of SWRCB. SWRCB will hold a public hearing on DW's water right permit applications prior to deciding whether to issue the permits. If SWRCB decides to issue the permits necessary for implementation of the DW project, SWRCB will prepare findings for each significant environmental effect of SWRCB's action identified in the EIR/EIS and will prepare a statement of overriding considerations for impacts determined to be significant and unavoidable. SWRCB will also adopt a program for monitoring implementation of mitigation measures that are required as part of DW project approval.

The Corps will circulate the final EIR/EIS for public review and hold a public hearing before adopting the final EIR/EIS. If the Corps determines that the EIR/EIS meets NEPA requirements, it will adopt the final EIR/EIS. The Corps will, at the time of its decision on DW's permit application, prepare a Record of Decision regarding the DW project decision, the alternatives analyzed, the mitigation measures required as a condition of permit approval, mitigation measures presented but not required, and monitoring and enforcement of the required mitigation measures.

**WATER RIGHT AND PERMIT
APPLICATION PROCESS**

Water Right Applications

The State of California recognizes riparian and appropriative surface water rights. Riparian rights are correlative entitlements to water that are held by owners of land bordering natural water courses. California requires a statement of diversion and use of natural flows on adjacent riparian land under a riparian right. Water is currently being used for agriculture on the DW project islands under riparian and existing appropriative water rights. However, because water obtained under riparian rights cannot be stored and cannot be sold, DW must apply for new appropriative water rights to divert and store water for later sale on the reservoir and habitat islands. A distinct appropriative water right permit would apply to each island.

SWRCB has authority to issue permits to grant appropriative water rights. Appropriative water rights allow the diversion of a specified amount of water from a source for reasonable and beneficial use during all or a portion of the year. In California, previously issued appropriative water rights are superior to and take precedence over newly granted rights.

When an appropriative water right application is filed with SWRCB, the application is given a number and priority date. Applications determined by SWRCB to be complete are published to inform the public of the application and to allow for protests to be filed against the application. Most protests are based on suspected interference with existing water rights or harm to the environment. After a 40- to 60-day protest period, the applicant may negotiate with those filing protests, to attempt to reach agreements for protest dismissal.

SWRCB originally issued the notice of applications prepared by DW to appropriate water on December 4, 1987 (Application Nos. 29061, 29062, 29063, and 29066) (Appendix 1). SWRCB issued the notice for DW's revised water right applications and new applications on August 6, 1993 (new Application Nos. 30267, 30268, 30269, and 30270) (Appendix 1). SWRCB will hold a public hearing before deciding to approve or reject DW's application(s) and impose conditions on any permits it issues. If permits are issued, the permittee must subsequently establish that the water is being put to a reasonable and beneficial use before the right is made permanent through licensing.

DW has applied for water right permits for direct diversion or diversion to storage of surplus Delta inflows, storage of water, and discharge of water from the reservoir islands and habitat islands to Delta channels to meet Bay-Delta estuary water quality or flow requirements, or redirection of water from the Delta for export. SWRCB's decision on these water right applications will therefore address the availability of water for direct diversion, diversion to storage, discharge of water into the Delta, export of stored water, and management of the habitat islands to compensate for effects of water storage on wetlands and wildlife habitat. This EIR/EIS describes the analysis of effects of the diversion of water onto the DW project islands and redirection of water for export at the Delta export pumps and discusses the relationship of such diversions and pumping to applicable federal and state restrictions.

Diverting transferred water or water intended for banking to DW storage would require separate authorization by SWRCB when the holder of a post-1914 appropriative water right proposes to park water (transferred or banked) on DW's reservoir islands. SWRCB's authorization for diversions would change the transfer right holder's place of use or point of diversion and could require further environmental documentation.

Department of the Army Permit Application

Section 404 of the Clean Water Act prohibits the discharge of dredged or fill material into waters of the United States, including wetlands, unless a permit is obtained from the Corps. Section 10 of the Rivers and Harbors Act of 1899 prohibits placement of materials within navigable waters of the United States without a permit from the Corps.

DW is required to obtain a permit from the Corps under Section 404 because DW project fill activities associated with perimeter and interior levee work on the reservoir islands; habitat enhancement activities on the habitat islands; and construction of boat docks, pumps, and siphons in Delta channels would be considered discharges into waters of the United States. As part of the DW project review process for issuance of a permit for the fill and discharge activities, the Corps will use the information in this EIR/EIS and appendices to comply with the requirements of the U.S. Environmental Protection Agency's (EPA's) Section 404 (b)(1) guidelines. Before DW can be issued a permit under Section 404, it must obtain a water quality certification from SWRCB indicating that Section 401 of the Clean Water Act would

be satisfied. Section 401 certification ensures that discharge of dredged or fill material into waters of the United States will not violate state water quality standards. The Section 401 certification will be appended to the permit and incorporated by reference. Compliance with Section 7 of the federal Endangered Species Act and Section 106 of the NHPA will also be required prior to issuance of the permit.

In addition to the Section 404 requirements, DW would be required to comply with Section 10 of the Rivers and Harbors Act because it proposes to construct docks and install siphons and pumps in navigable waters. Authority for activities conducted below the ordinary high-water mark in navigable waters would be authorized under Section 10 jurisdiction through issuance of the Department of the Army permit. Requirements of both Section 10 and Section 404 are considered concurrently in Department of the Army permit applications (Corps 1977).

KEY ISSUES

Based on the initial scoping process, public and agency comments received on the December 1990 draft EIR/EIS, and other correspondence with state and federal agencies, the lead agencies determined that the following issue areas would be addressed in the EIR/EIS:

- water supply,
- hydrodynamics,
- water quality,
- flood control,
- utilities and highways,
- fishery resources,
- vegetation and wetlands,
- wildlife,
- land use and agriculture,
- recreation and visual resources,
- economic issues,
- traffic,
- cultural resources,
- mosquitos and public health, and
- air quality.

The EIR/EIS analyzes the environmental effects associated with each resource issue listed above for each alternative in a similar level of detail. Cumulative impacts and construction-related impacts are also assessed. A No-Project Alternative, consisting of DW's actions that would take place in the absence of any state or federal discretionary approvals, is also analyzed. Although the project applicant would not be required to

implement the mitigation measures recommended for the No-Project Alternative, they are presented to provide a comparison with the other alternatives analyzed. The specific approach, methodology, and breadth of each evaluation are discussed in Chapter 3, "Affected Environment and Environmental Consequences".

REPORT ORGANIZATION

This document has been organized to comply with the requirements and guidelines of CEQA and NEPA and to provide decision makers with a description of the project, its impacts, and suggested mitigation measures. The report is organized into the following chapters.

- "Summary" provides a comparison of environmental effects between the alternatives and a summary of impact determinations, as required by CEQA and NEPA. Unavoidable impacts are identified, as are irreversible commitments of resources and cumulative impacts of this project in combination with other actions in the region.
- Chapter 2, "Delta Wetlands Project Alternatives", identifies the purpose of and need for the project and describes the features of the DW project alternatives considered in this EIR/EIS.
- Chapter 3, "Affected Environment and Environmental Consequences", is presented as a series of chapters (3A through 3O), each devoted to an issue area listed under "Key Issues" above. Each of these chapters describes the affected environment and environmental impacts of the DW project alternatives, and methods of mitigating significant impacts.
- Chapter 4, "Permit and Environmental Review and Consultation Requirements", summarizes the environmental review, consultation, and permitting requirements that must be satisfied before the DW project can proceed.
- Chapter 5, "List of Preparers", lists the individuals involved in preparing this EIR/EIS.
- Chapter 6, "Glossary of Technical Terms", provides definitions of technical terms used in this report.

The technical appendices of the EIR/EIS contain background information for the resource chapters and detailed data compiled for impact assessment. These

appendices are listed in the table of contents and are included in a separate volume of this EIR/EIS.

References are listed at the end of each chapter or appendix in which they are cited. A list of all acronyms used in the EIR/EIS is provided in the front matter of each volume.

CITATIONS

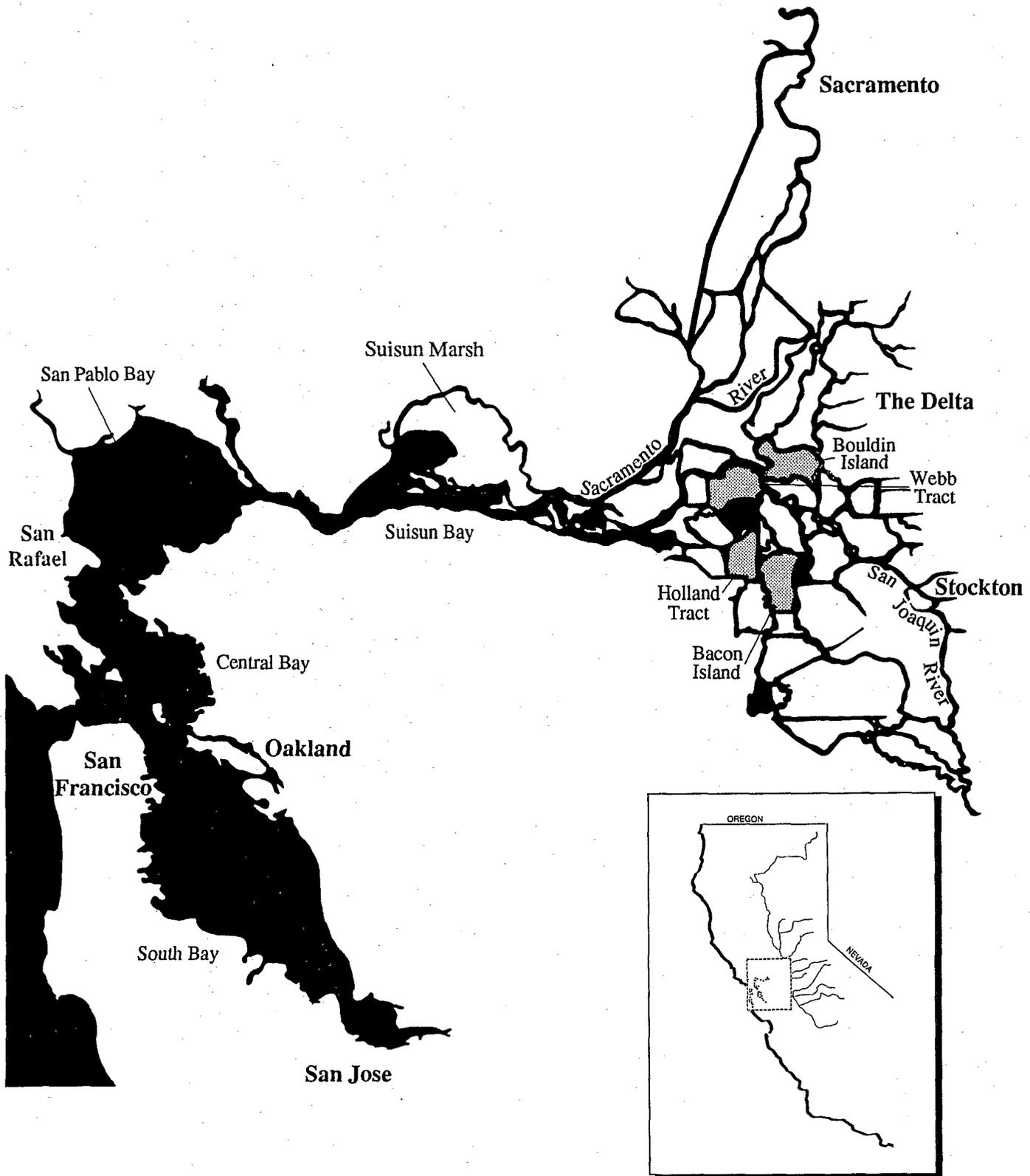
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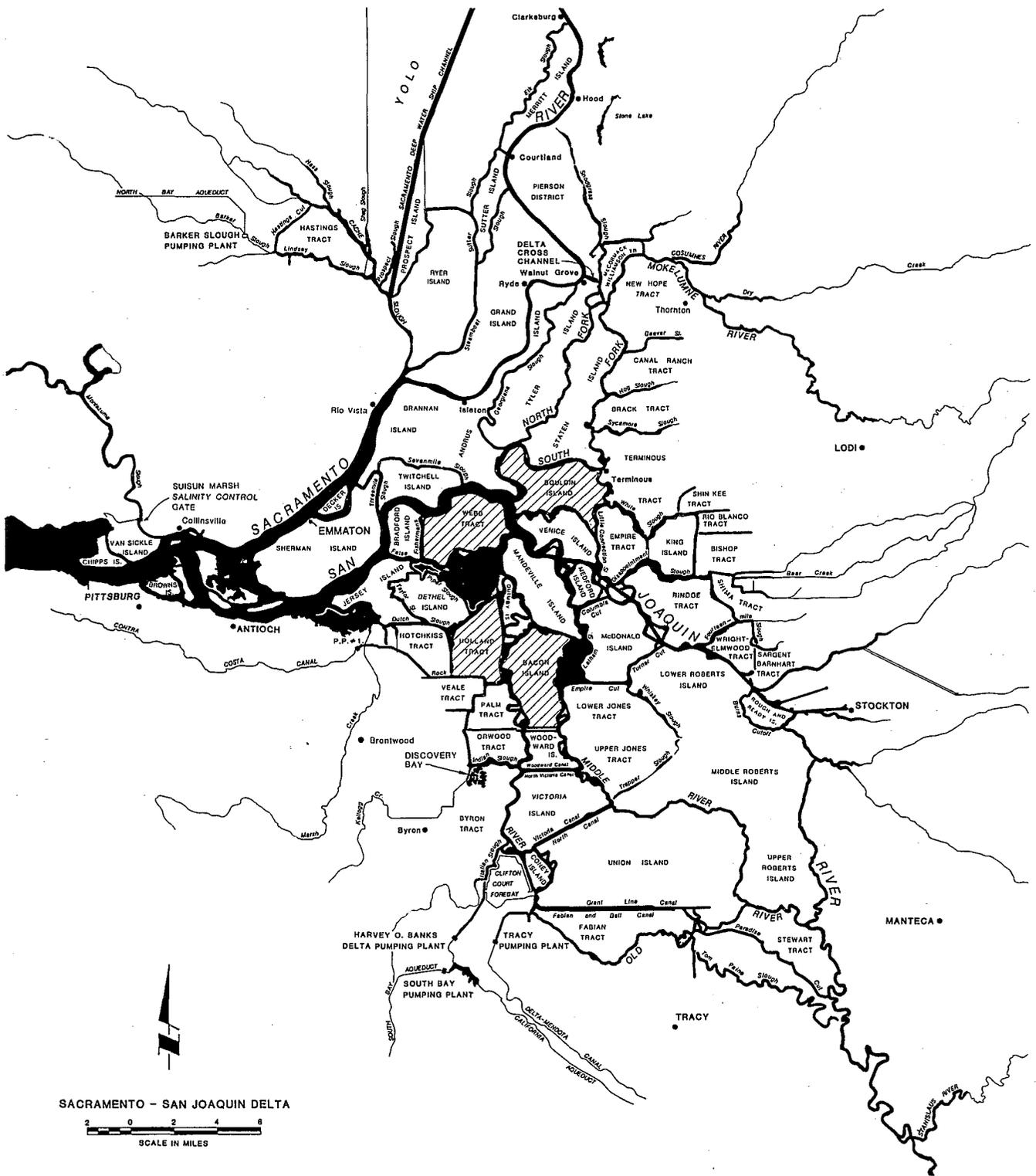
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Source: Adapted from San Francisco Estuary Project 1993.

Figure 1-1.
Regional Location of the DW Project Islands

**DELTA WETLANDS
PROJECT EIR/EIS**
Prepared by: Jones & Stokes Associates



Source: Adapted from California Department of Water Resources 1993.

Figure 1-2.
DW Project Islands in the Delta

DELTA WETLANDS PROJECT EIR/EIS

Prepared by: Jones & Stokes Associates