

United Water Conservation District

Multiple Species

Habitat Conservation Plan

NEPA/CEQA Scoping Meeting

Thursday, December 12, 2013

1:00-3:00 p.m. and 6:00-8:00 p.m.

United Water Conservation District – *Lead CEQA Agency*

California Department of Fish and Wildlife – *CEQA Responsible Agency*

U.S. Fish and Wildlife Service – *Lead NEPA Agency*

National Marine Fisheries Service – *Lead NEPA Agency*

U.S. Army Corps of Engineers – *NEPA Cooperating Agency*



US Army Corps of Engineers

Least Bell's vireo

- Federally and California listed as endangered.
- Designated critical habitat, but none in project area.
- Draft recovery plan (USFWS 1998).
- Typically found in structurally diverse woodlands in riparian areas.
- Needs dense cover within 6 feet of the ground for nesting.
- Needs dense, stratified canopy for foraging.
- Breeds April – August in California, winters in Southern Baja, Mexico.
- Santa Clara River population is expected to play an important role as the species reoccupies its former range.
- The population is considered to be rapidly expanding into the available habitat in the watershed, including the MSHCP project area.
- United conducts surveys within the project area affected by the covered activities around the Freeman Diversion.



Southwestern willow flycatcher

- Federally and California listed as endangered.
- Designated critical habitat in the project area.
- Final recovery plan (USFWS 2002).
- Breeds in dense riparian habitats, typically near surface water or saturated soil.
- Breeds May - August in California.
- Winters in Mexico, Central America, and possibly northern South America.
- Reported in 13 known territories in the Santa Clara River watershed.
- United is conducting additional surveys within the project area affected by the covered activities around the Freeman Diversion. No southwestern willow flycatchers have been documented in the MSHCP project area.



Yellow warbler

- Not federally listed, but substantial population declines reported.
- California species of special concern.
- Favors wet habitats, especially willows and alders, open woodlands, gardens, and orchards for breeding and foraging.
- Resides in California principally as a migrant and summer resident from late March through early October.
- Winters in Central and South America.
- Appropriate breeding habitat for yellow warbler exists throughout much of the Santa Clara River watershed including the MSHCP project area.
- United is conducting surveys throughout the MSHCP area.



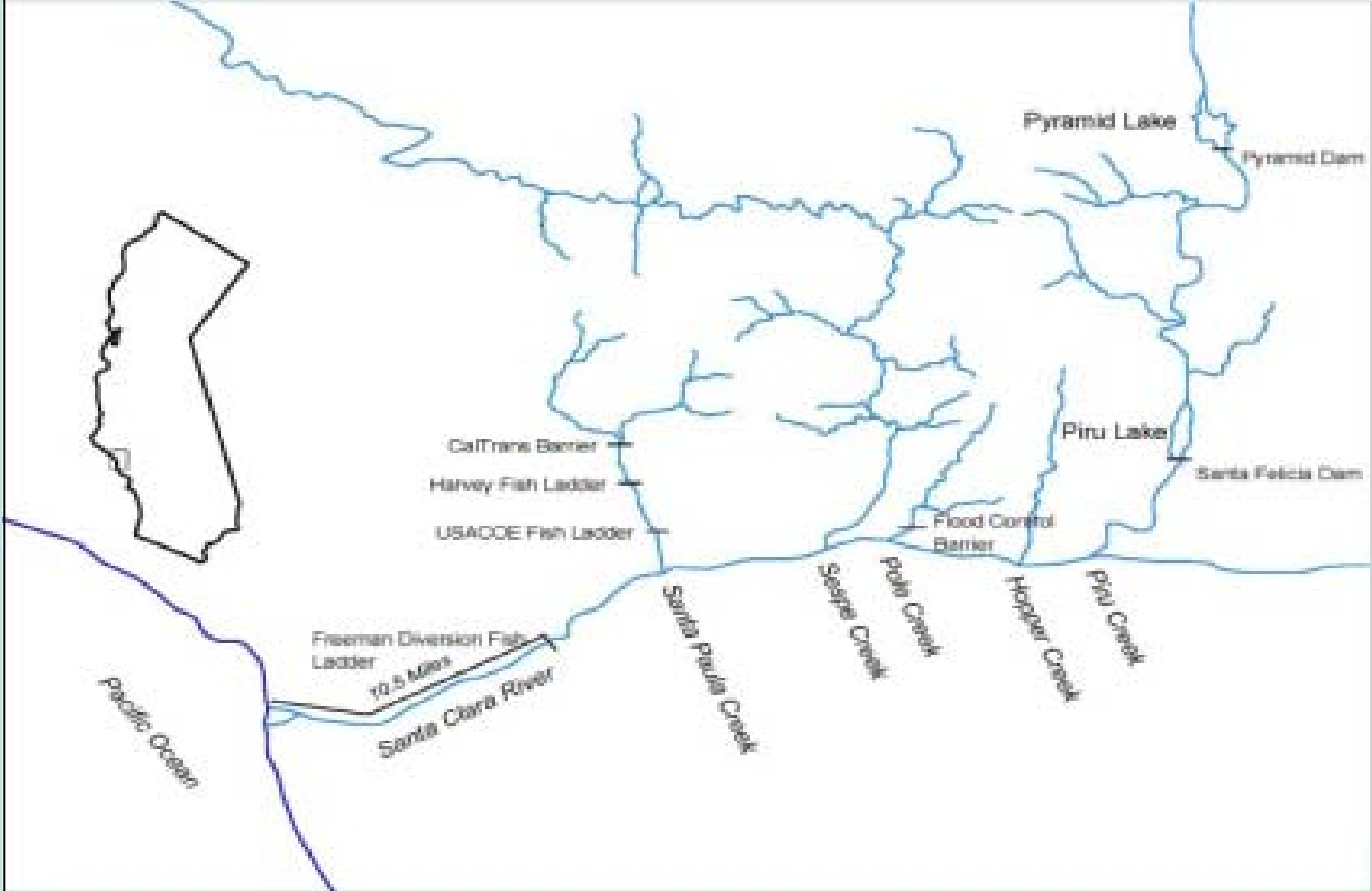
Yellow-breasted chat

- Not federally listed, but substantial population declines reported throughout its range.
- California species of special concern.
- Prefers dense thickets and brushy edges in moist areas, accustomed to living close to human habitation.
- Nests in small trees or shrubs from April –July.
- Winters in Central America.
- Numerous breeding pairs known in the Santa Clara River watershed including the MSHCP project area.
- United is conducting surveys within the project area affected by the covered activities around the Freeman Diversion.



Southern California steelhead

- Federally listed as endangered, California species of special concern.
- Federally designated critical habitat in the project area.
- Final recovery plan (NMFS 2012).



- Anadromous form of coastal rainbow trout, spending part of its life in the ocean and part in fresh water.
- Adults live in the ocean and enter coastal streams to spawn during periods of increased flows, typically between December and May.
- Young generally spend 1-3 years in freshwater before entering ocean, usually between January and June.
- Migration barriers (e.g., dams) and altered stream flows (e.g. diversion and pumping) are principal threats to the survival and recovery of southern California Steelhead.
- The population of adult steelhead on the Santa Clara River since 2000 is estimated to be below 10, considered substantially below historical numbers.
- Two adult steelhead were documented by monitoring cameras passing the Freeman Diversion in 2012.
- Annually, 0-150 smolts (downstream migrant juvenile steelhead) are typically documented at the Freeman Diversion.

Tidewater goby

- Federally listed as endangered, California species of special concern.
- Coastal lagoon and estuary of Santa Clara River is federally designated as critical habitat.
- Final recovery plan (USFWS 2005).

- Inhabit coastal lagoons and estuaries in low salinity areas.
- Spawn in sandy areas in lagoons.
- Largest and most robust southern California population found in the Santa Clara River.
- Surveys conducted by the City of Ventura in the lower Santa Clara River documented at least tens of thousands of gobies present from 2004 through 2010.



Pacific lamprey

- Not federally or California listed, but noted as declining throughout its range with potential extirpation of some populations south of Big Sur.



- Adults live in the open ocean and are known to return to the Santa Clara River and its tributaries between mid-winter and May, where they spend the next year maturing and then spawn the following spring.
- Ammocoetes (larvae) live entirely in freshwater and enter the ocean after about 4-7 years, once they have transformed into juveniles. Outmigration is typically in winter-spring, associated with high flow events.
- Adults generally die after spawning. However, some evidence indicates that Santa Clara lampreys may oversummer in the river before they spawn and die.
- Sespe Creek and its tributaries provide spawning and rearing habitat.
- Santa Clara River downstream of the Freeman Diversion functions as a seasonal migration corridor.
- No juvenile lampreys have been observed in the Santa Clara drainage since 2004. Adults were last seen at Freeman Diversion facility in 2001.

Western pond turtle

- Not federally listed, but declining throughout its range.
- California species of special concern.



- Found in aquatic habitats with abundant vegetation.
- Can be found in upland habitat in summer, fall, or over winter.
- Requires structures or plant material for basking at water level.
- Reproduces in April and May and lays eggs on land.
- Eats a variety of foods from plants to crayfish.
- Diurnal though some nocturnal activity occurs in summer.
- Documented populations in the project area, including the MSHCP project area in the vicinity of the Freeman Diversion.

California least tern

- Federally and California listed as endangered.
- Fully Protected under the California Fish and Game Code.
- No designated critical habitat.



- Nests in colonies on beaches near estuaries.
- Generally present at nesting areas between mid-April and late September.
- Forages for small fish over shallow water, primarily along the coast, in estuaries, bays, or nearshore marine waters .
- No nesting recorded in MSHCP area.
- Adults observed foraging and exhibiting courtship behavior at Freeman Diversion and Saticoy spreading grounds.

Two-striped garter snake

- Not federally listed, but declining throughout most of its range.
- California species of special concern.



- Found in or near permanent fresh water, perennial or intermittent streams where riparian vegetation is present along sandy river beds.
- Breeds in late March to early April.
- Forages primarily on fish, fish eggs and tadpoles.
- Two sightings documented within the MSHCP project area as well as numerous undocumented observances in the vicinity of the Freeman Diversion.

Western yellow-billed cuckoo

- Proposed for federal listing as endangered.
- Listed as endangered in California.



- Breeding and nesting habitat includes riparian woodlands of deciduous trees with a dense understory near water.
- Nests and forages in structurally diverse, mature riparian habitat containing willows and cottonwoods.
- Breeds June through August.
- Infrequent observations in the Santa Clara River watershed.
- United is conducting surveys for this species throughout the MSHCP area around the Freeman Diversion. To date, none have been observed.

Environmental Review

National Environmental Policy Act (NEPA)



“NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences and take actions that protect, restore and enhance the environment” (CEQ Reg.1500.01)

Purposes of NEPA

- Declares a national policy that will encourage productive and enjoyable balance between humans and the environment.
- To promote efforts that will prevent or eliminate damage to the environment and promote human health and welfare.
- To enrich the understanding of the ecological systems and natural resources important to the Nation.
- Establishes a Council on Environmental Quality (CEQ) to administer NEPA.

Requirements

- Requires Federal agencies to consider and disclose the impacts of their proposed actions on the environment . Also requires reasonable alternatives to those actions.
- An inter-disciplinary approach. List of resources to be considered includes:

Air Quality
Hydrology
Biological Resources
Cultural Resources
Health and Human Services
Geology and Soils
Climate Change

Environmental Justice
Socioeconomics
Hazardous Wastes
Water Quality
Noise
Recreation
Aesthetics

MSHCP NEPA process

- Lead agencies – NMFS and USFWS
- Cooperating agency – US Army Corps of Engineers
- Actions taken by the lead agencies triggering NEPA review:
 - Issuance of Incidental Take Permits
- Interaction with other laws/regulations:
 - Section 404 of the Clean Water Act
 - Section 401 of the Clean Water Act
 - Section 106 of the National Historic Preservation Act
 - Section 7 of the Endangered Species Act

Environmental Review

California Environmental Quality Act (CEQA)

Purposes of CEQA

- Inform government decision makers and the public.
- Compel government to make decisions with environmental consequences in mind.
- Identify and disclose significant environmental effects.
- Identify feasible ways significant impacts can be avoided or reduced.

The Legislature declares a project should not be approved
“...as proposed if there are feasible alternatives or mitigation measures that could substantially lessen significant environmental effects...”

Requirements

- Environmental Impact Report (EIR) must identify significant physical effects on the environment.
- EIR must identify feasible mitigation measures or alternative that avoid or reduce significant environmental effects.
- List of resources to be addressed are similar to those listed for NEPA (with the exception of socioeconomics and environmental justice).
- Changes to the environment/environmental effects are compared against the existing condition or environmental “baseline.” Baseline is typically considered the conditions at the time the Notice of Preparation (NOP) is distributed.

MSHCP CEQA process

- Lead Agency – United Water Conservation District
- Action taken by lead agency triggering CEQA review:
 - Adoption of the MSHCP
 - Implementation of conservation measures and management actions in the MSHCP that could affect the physical environment; including constructing, operating, and maintaining a new fish passage facility and other infrastructure included in the MSHCP
- Future use of the EIR by Responsible Agencies:
 - Responsible Agency: All state or local agencies other than Lead Agency with discretionary approval over a project
 - » California Department of Fish and Wildlife
 - » Regional Water Quality Control Board
 - » State Water Resources Control Board



Scoping and Public Participation: Environmental Review (NEPA/CEQA)

What is scoping?

- A process for soliciting the views of interested persons, organizations, and agencies as they relate to the scope and content of the information to be included and analyzed in the EIS and EIR.
- A requirement of both NEPA and CEQA.

Types of input suggested for scoping

- Scope and content of the NEPA and/or CEQA documents.
- Potential impact mechanisms or issue areas to be addressed.
- Potential alternatives or mitigation measures to be considered.
- Any other information relevant to the preparation of the NEPA and/or CEQA document

Future opportunities for participation and input

- Release of Draft EIS and EIR documents for public and agency review and comments, including a public meeting on the Draft EIR

THEN...

- Release of the Final EIS and EIR documents containing responses to the comments received on the drafts

To comment on the EIS (NEPA):

Darren Brumback, National Marine Fisheries Service

- For questions: 562-980-4060
- Send comments to: 501 West Ocean Blvd, Suite 4200
Long Beach, CA 90802
or
unitedwaterhcp@noaa.gov

David Simmons, Ventura Fish and Wildlife Office

- For questions: 805-644-1766
- Send comments to: 2493 Portola Rd, Suite B
Ventura, CA 93003
or
unitedwaterhcp@noaa.gov

To comment on the EIR (CEQA):

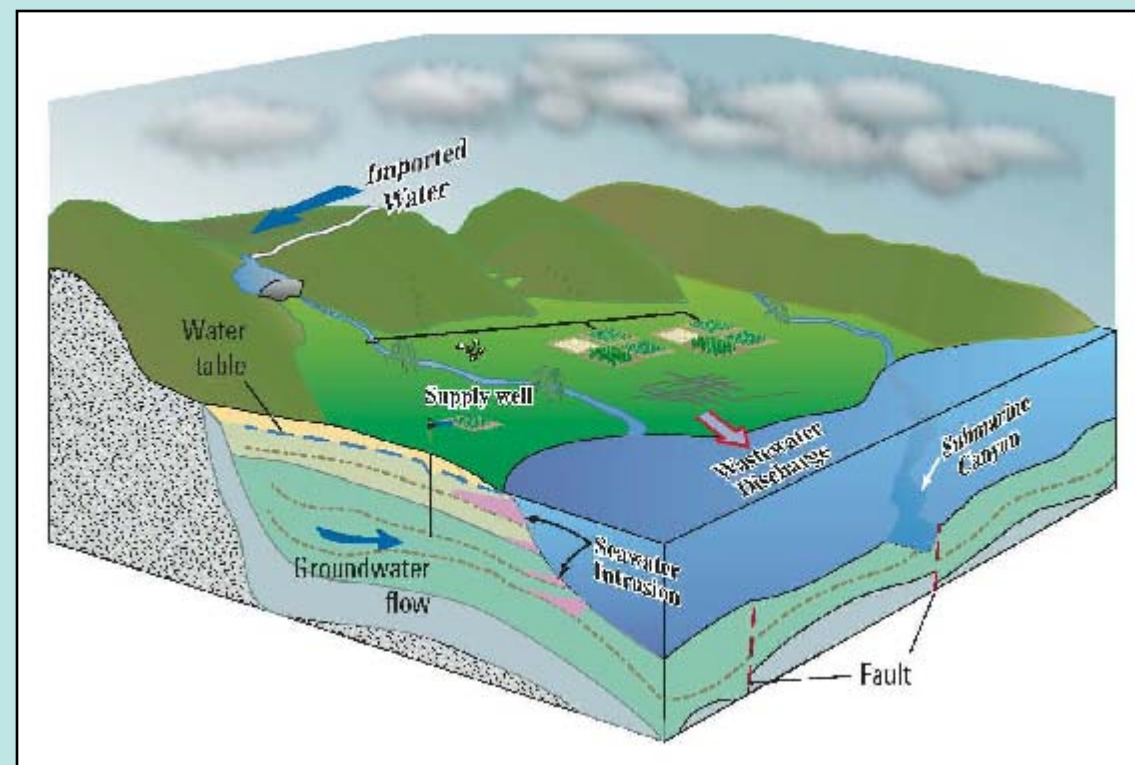
Catherine McCalvin, United Water Conservation District

- For questions: 805-317-8985
- Send comments to: 106 N 8th Street, Santa Paula, CA 93060
or
HCP_CEQA_Scoping@unitedwater.org

(If submitting an electronic mail attachment, please use one of these document formats: Adobe portable document format (.pdf), Microsoft Word (.doc, .docx), rich text file (.rtf), ASCII or Unicode plaintext (.txt), Microsoft Excel (.xls, .xlsx), Word Perfect (.wpd), or Microsoft Works (.wps).)

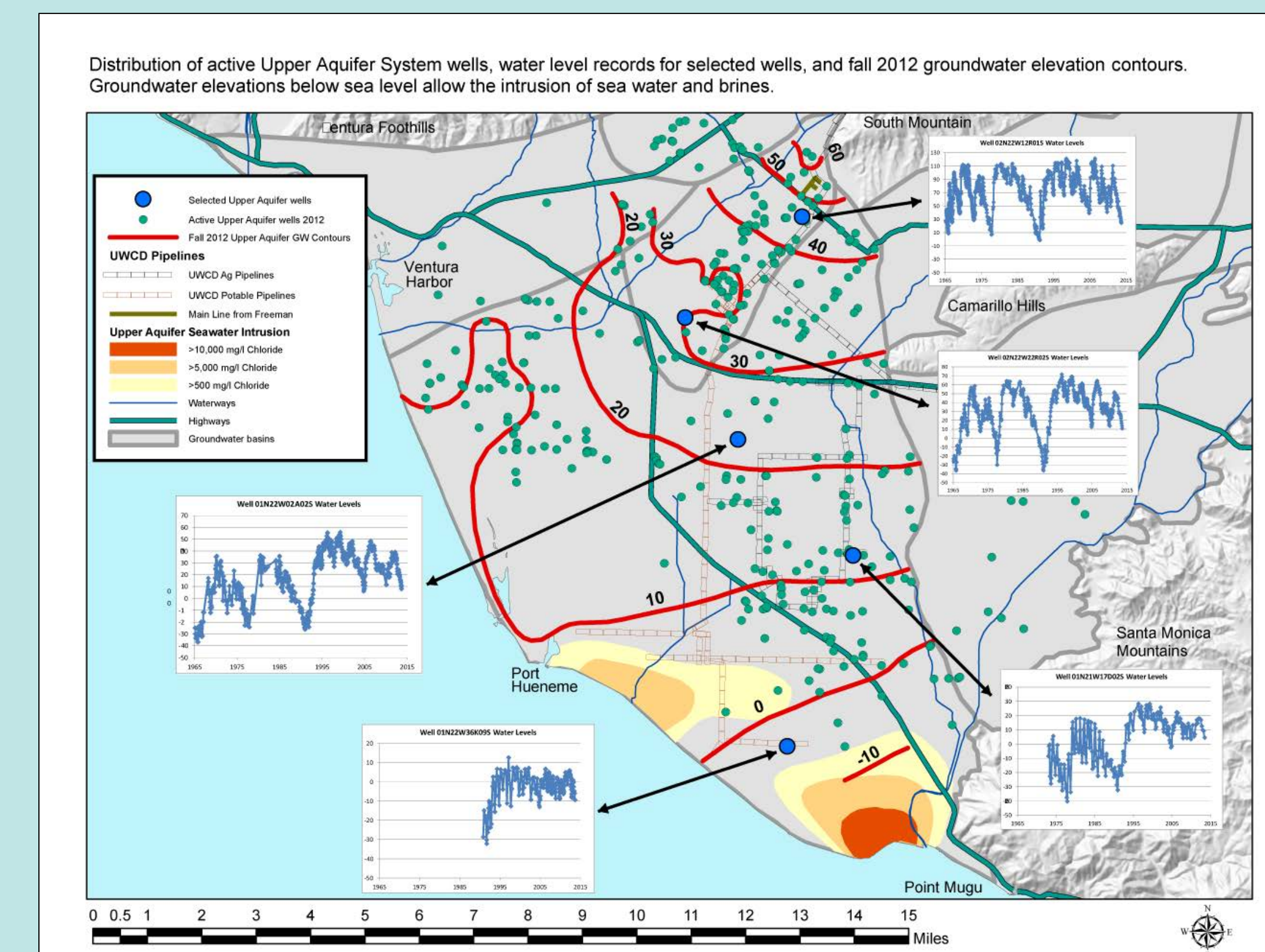
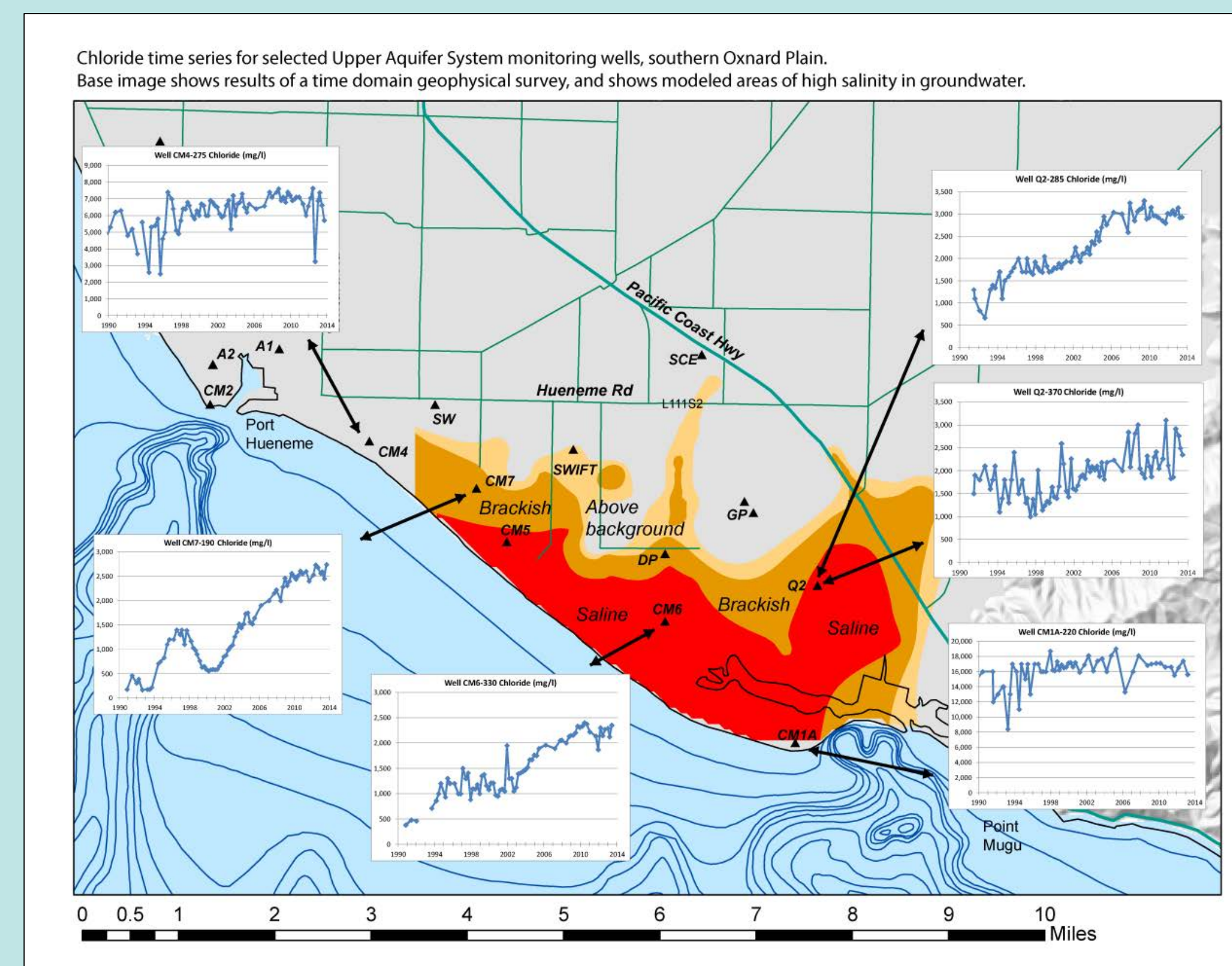
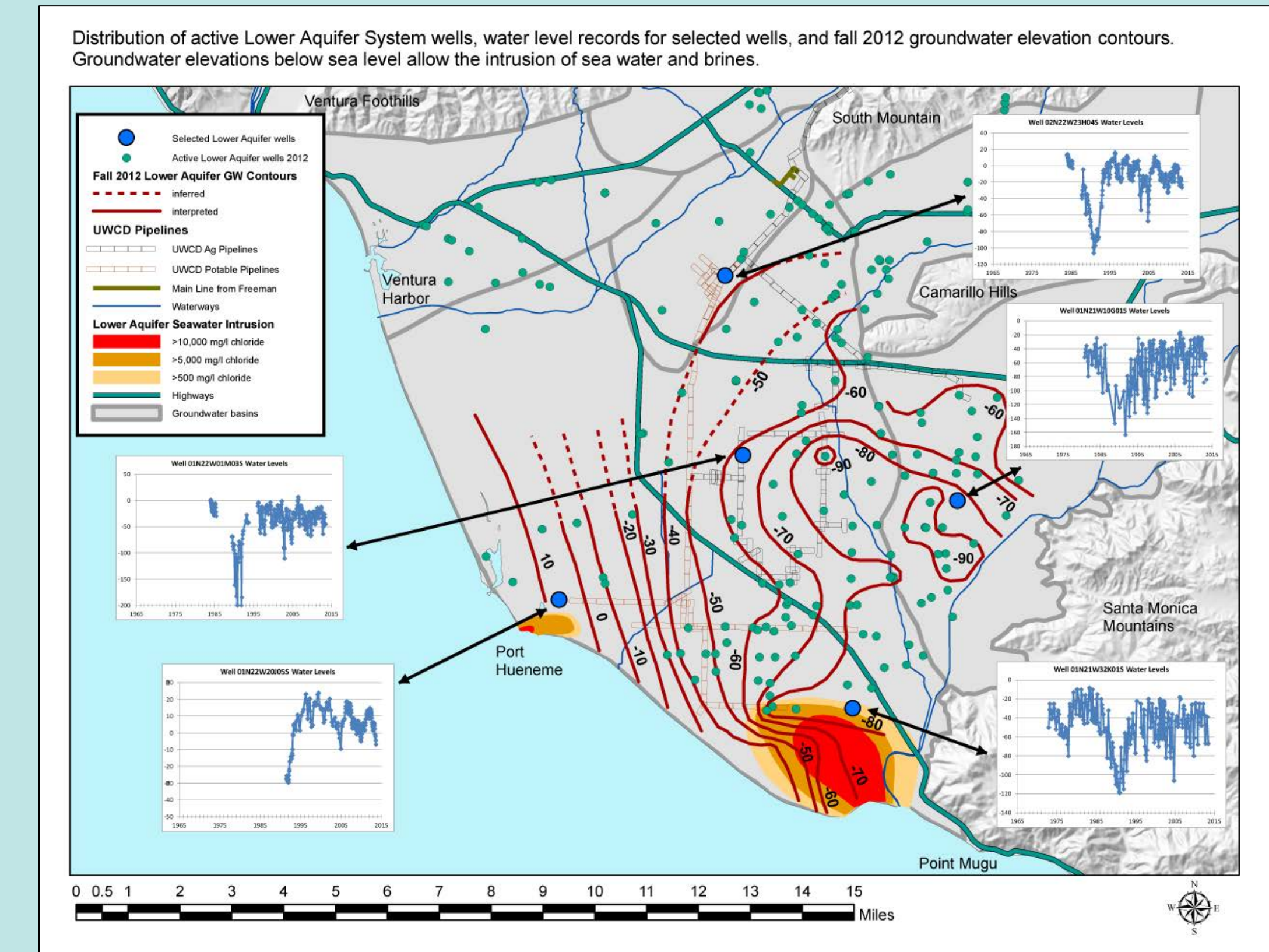
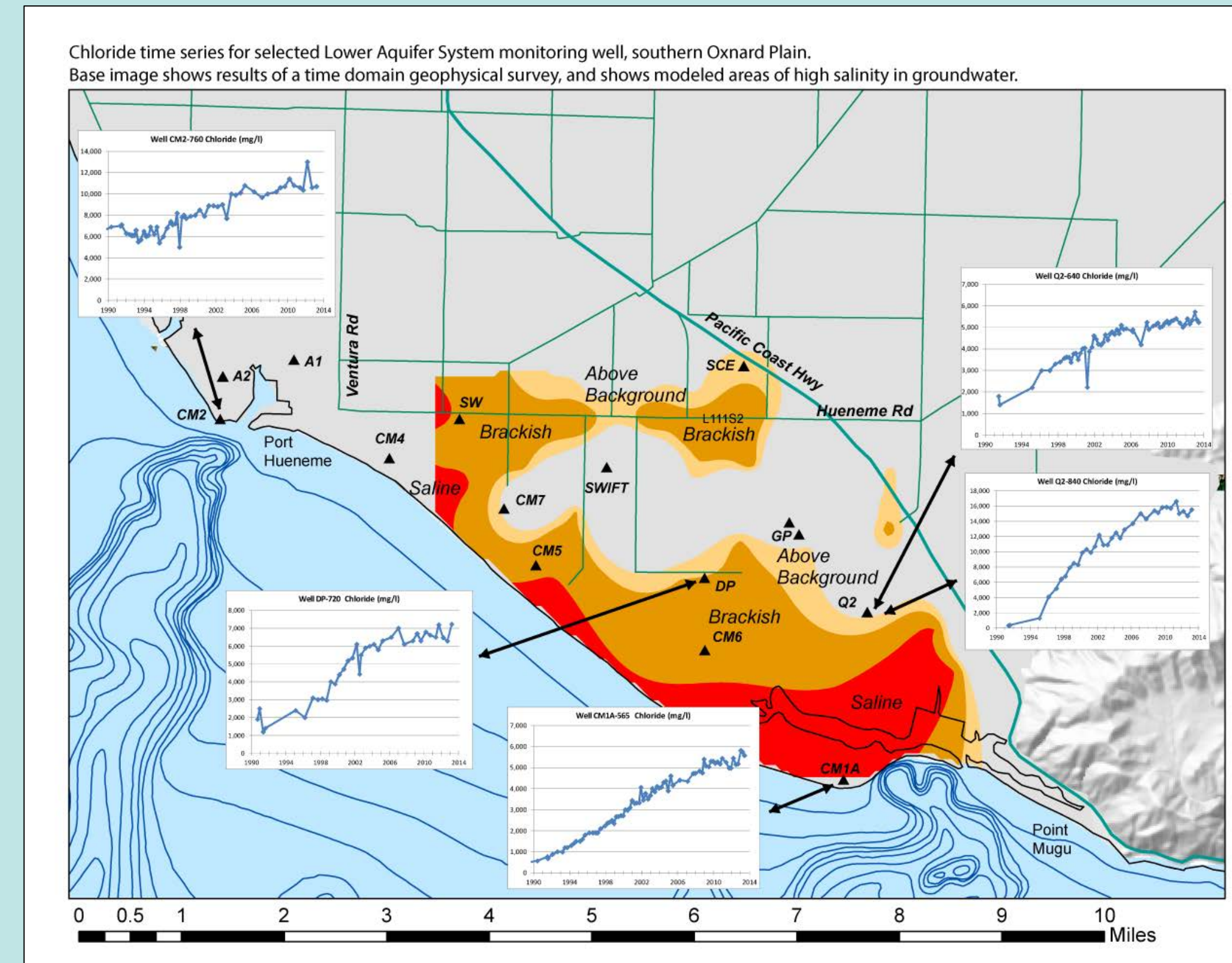
Groundwater Conditions – Oxnard Plain

The dynamics of salt water intrusion

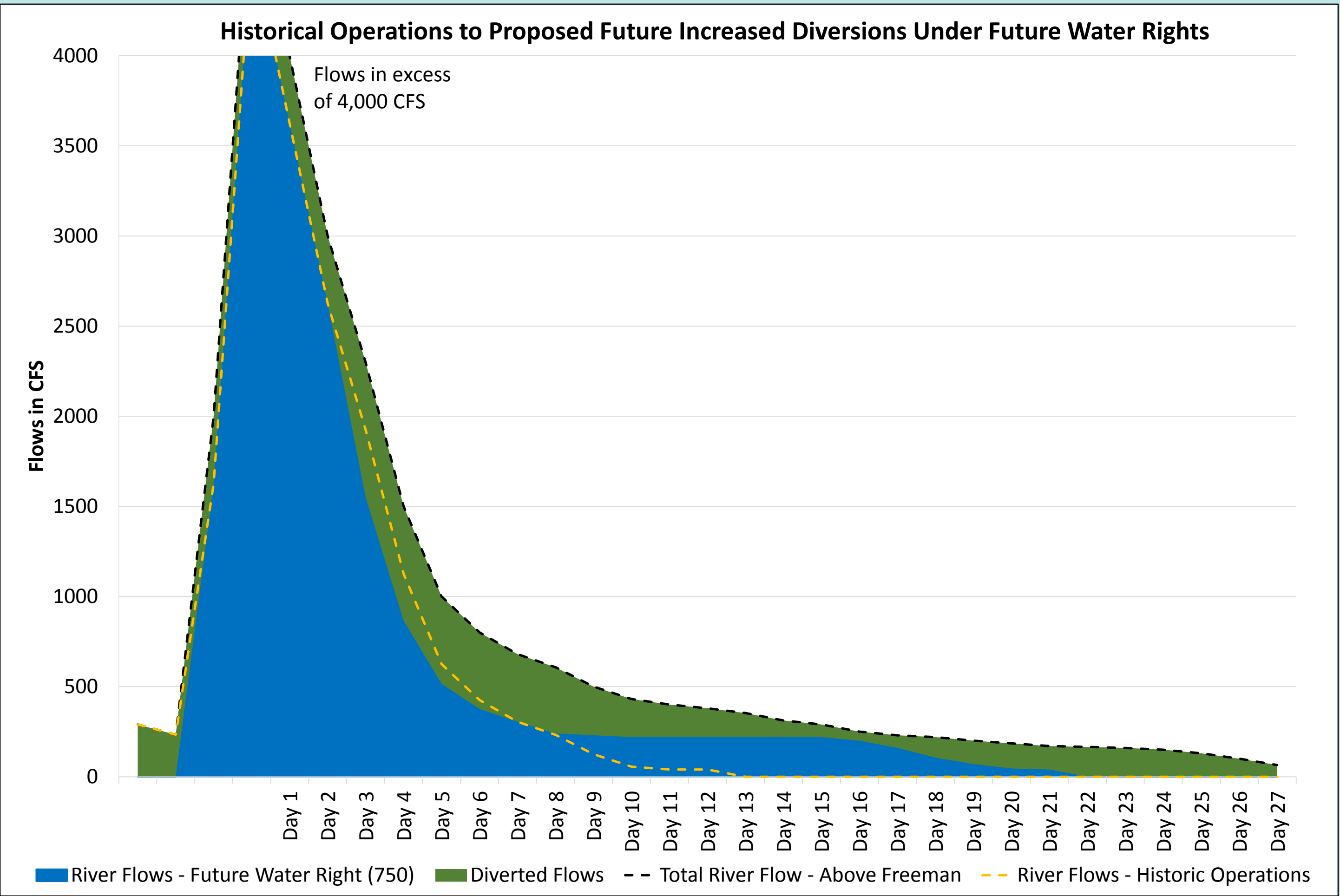
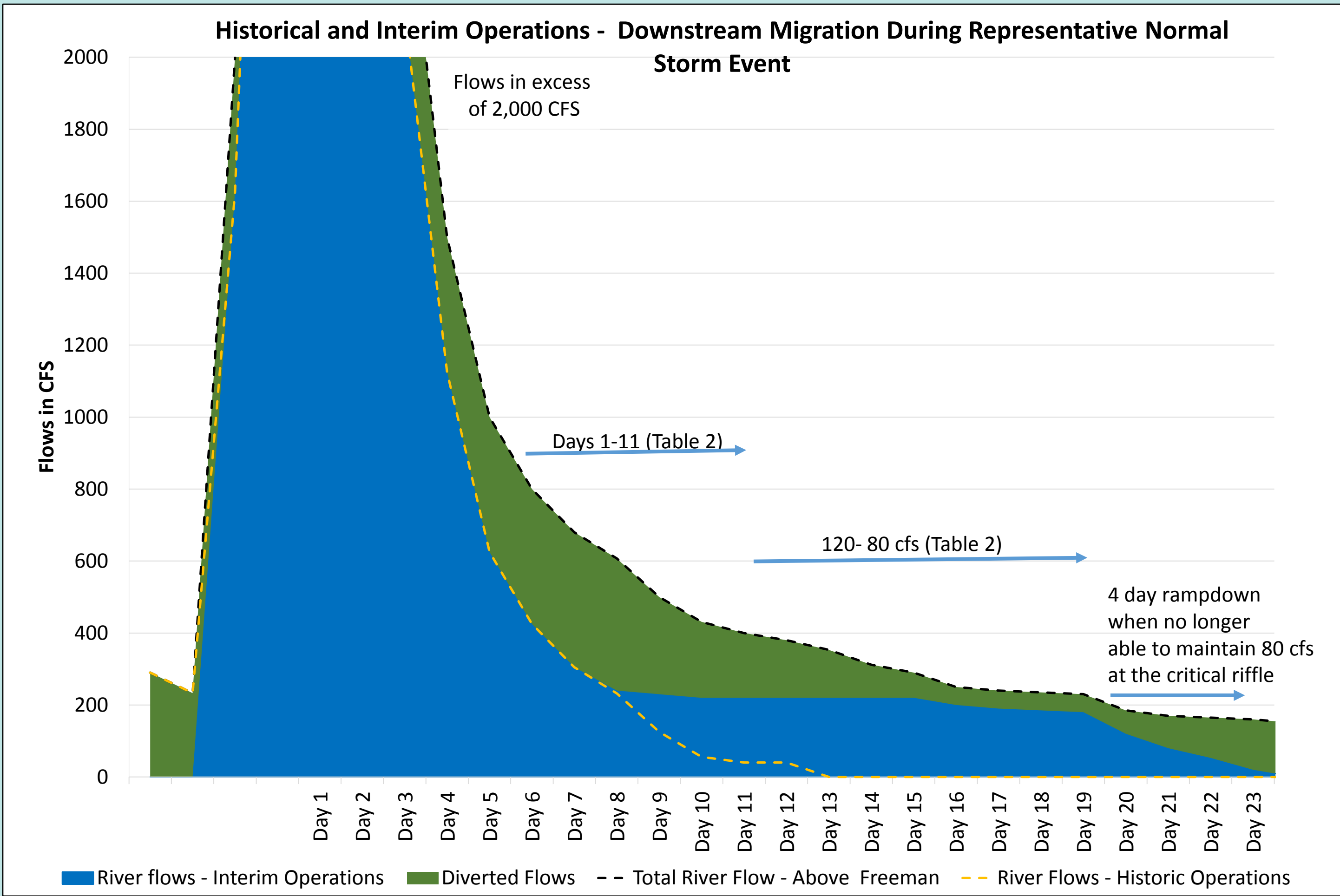
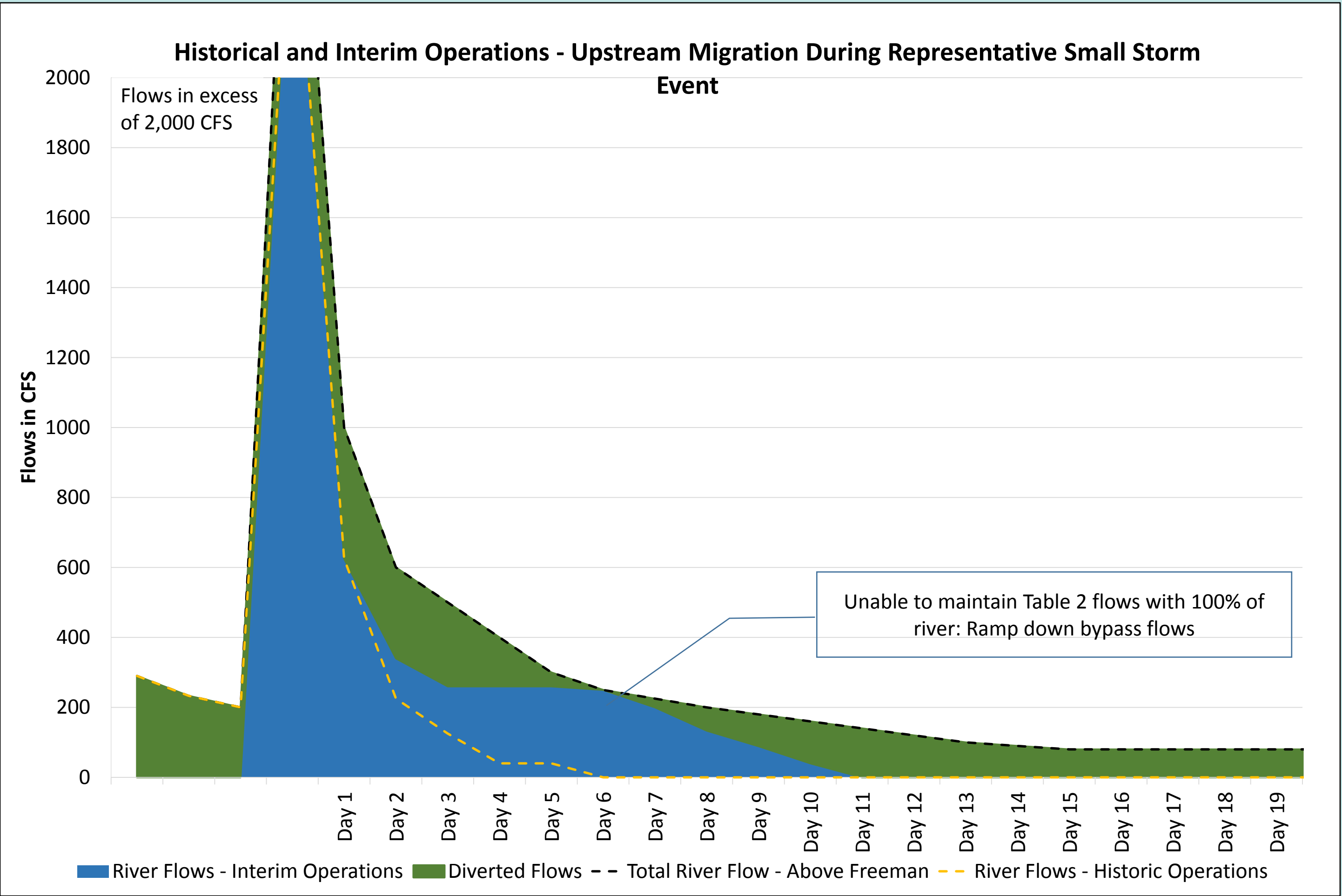
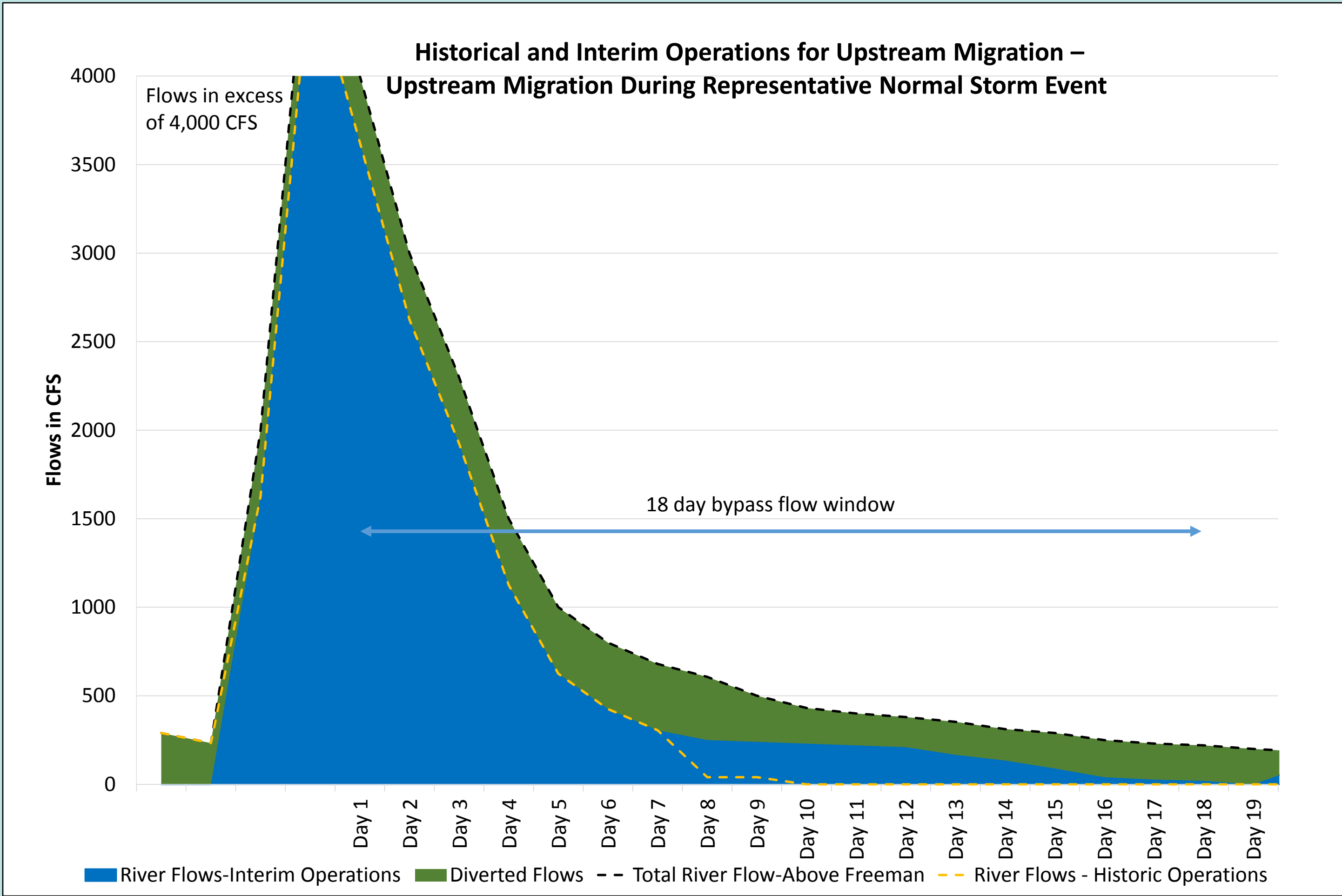


The aquifers recharged by the Freeman Diversion are subject to seawater and saline intrusion due to the imbalance of extraction rates and recharge rates.

If recharge is reduced but extractions do not change, seawater and saline intrusion are likely to increase.



Santa Clara River Flows and Freeman Water Diversions



What Is United Water Conservation District (United)?

United Water Conservation District's mission

- Works to manage, protect, conserve and enhance the region's water supply.
- Maintains the water resources of the Santa Clara River, its tributaries, and associated aquifers.

Status of groundwater basin

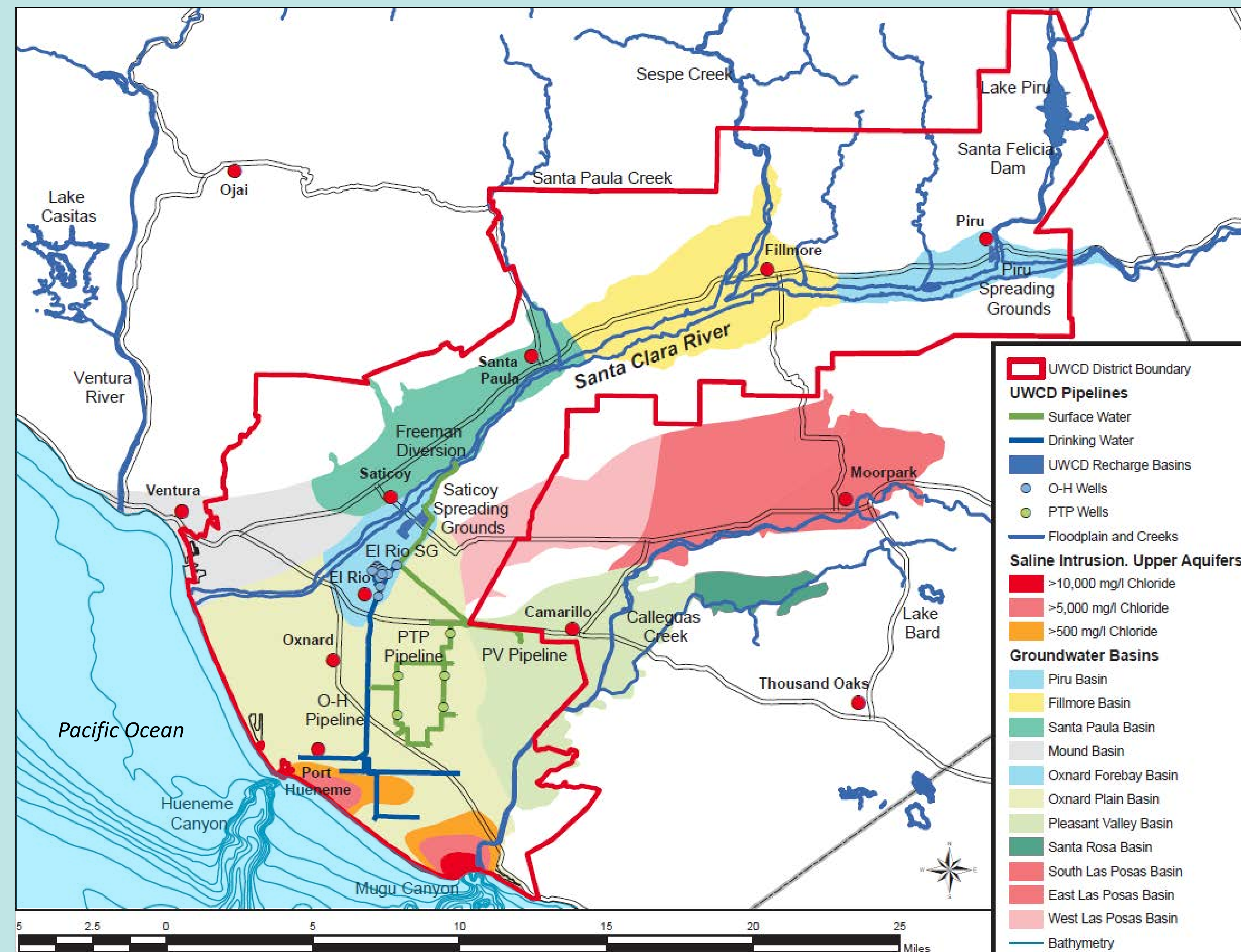
- Approximately 160,000 - 200,000 acre-feet of groundwater is pumped from wells within the Santa Clara River drainage and Oxnard Plain annually.
- United recharges aquifers with nearly 100,000 acre-feet of water annually, augmenting natural recharge.
- The area has experienced chronic groundwater overdraft for several decades, contributing to saltwater intrusion.
- The intrusion of salt water (from the ocean) and brines (from the deep subsurface) into the groundwater aquifers of the Oxnard Plain is a serious threat to the region's water supply.

Groundwater management

- United stores winter runoff in Lake Piru with Santa Felicia Dam for release during the dry season, recharges the aquifers through spreading ponds and diversions, and delivers water to cities and agricultural users so that groundwater pumping is reduced in critically overdrafted aquifers.
- The cities of Oxnard and Port Hueneme import State water to reduce demands on aquifers vulnerable to saline intrusion.

Major facilities owned and operated by United

- Lake Piru and the Santa Felicia Dam
- Piru Diversion
- Freeman Diversion
- Spreading grounds in El Rio, Saticoy, Noble, Rose, Ferro, and Piru
- Two pipeline systems in the Oxnard Plain
- Well fields



Why United is Pursuing the Multiple Species Habitat Conservation Plan (MSHCP)

Purpose and need for the MSHCP

- United's operations and maintenance activities at the Freeman Diversion facility and nearby spreading grounds have the potential to affect steelhead and other species that are, or could become, listed as threatened or endangered under the Federal Endangered Species Act (FESA) and California Endangered Species Act (CESA).
- United is seeking Incidental Take Permits (ITPs) from the U.S. Fish and Wildlife Service (USFWS), the National Marine Fisheries Service (NMFS), and California Department of Fish and Wildlife (CDFW), which have regulatory authority to implement FESA and CESA.
- ITPs allow "take" of listed species that is incidental to otherwise lawful activities.
- The MSHCP is a required component of the applications for ITPs.
- The MSHCP and ITPs provide a mechanism to allow United to continue operations and maintenance activities at the Freeman Diversion facility and nearby spreading grounds while ensuring that these activities are in compliance with FESA and CESA.
- The MSHCP contains measures that United will implement to minimize and mitigate the effects of the incidental take on covered species.

What is take?

- Under FESA, the term "take" means to "harass, harm, pursue, hunt, shoot, kill, trap, capture, collect, or to attempt to engage in any such conduct" (16 U.S.C. 1532(19)). "Harm" means an act which actually kills or injures wildlife. Such acts may include "significant habitat modification or degradation, where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering" (50 CFR 17.3, 222.102).
- Under CESA, "take" is defined as "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" (Section 86 of the California Fish and Game Code).



What is a Habitat Conservation Plan (HCP)?

Definition

- Required part of an application for an Incidental Take Permit (ITP) under Section 10 of the Federal Endangered Species Act (FESA).
- Planning document that ensures that the anticipated take of a listed species will be minimized and mitigated to the maximum extent practicable.
- A *multiple species* HCP covers numerous species.
- A HCP can support California Endangered Species Act (CESA) Section 2081 for an Incidental Take Authorization (ITA) or Section 2080.1 for a Consistency Determination.



Required components of a HCP

(per FESA Section 10(a)(2)(A) and 95 FR 35242)

- Impacts likely to result from the proposed take of the species for which ITP coverage is requested.
- Measures the applicant will undertake to monitor, minimize, and mitigate such impacts; funding to be made available to undertake such measures; and procedures to deal with unforeseen circumstances.
- Alternative actions the applicant considered and the reasons why such alternatives are not being utilized.
- Additional measures USFWS or NMFS may require as necessary or appropriate for purposes of the plan.

Parties involved

- USFWS and NMFS are the lead agencies tasked with implementation of the FESA and are responsible for issuing ITPs under the FESA.
- CDFW is the lead agency tasked with the implementation of CESA and is responsible for issuing ITAs under CESA.
- The U.S. Army Corp of Engineers (USACE) regulates discharge of dredge or fill material into waters of the United States under the Clean Water Act (CWA).
- United is applying for ITPs and a permit under the CWA for its construction of a fish passage facility, and operation and maintenance activities at the Freeman Diversion and spreading ground facilities; and, therefore, must submit an HCP to NMFS, USFWS, and CDFW, as well as a permit application to USACE.

Application of “No Surprises” Policy

- USFWS and NMFS cannot require the permittee to provide further mitigation measures in the form of additional land, water, or money or require additional restrictions on the use of land, water, or other natural resources when the permittee is properly implementing the HCP.
- “No Surprises” policy does allow for other entities to implement additional mitigation measures.
- HCPs must describe how changed and unforeseen circumstances would be addressed if they arise during implementation of the HCP. “No Surprises” policy applies to changed and unforeseen circumstances that are not explicitly provided for in the HCP.

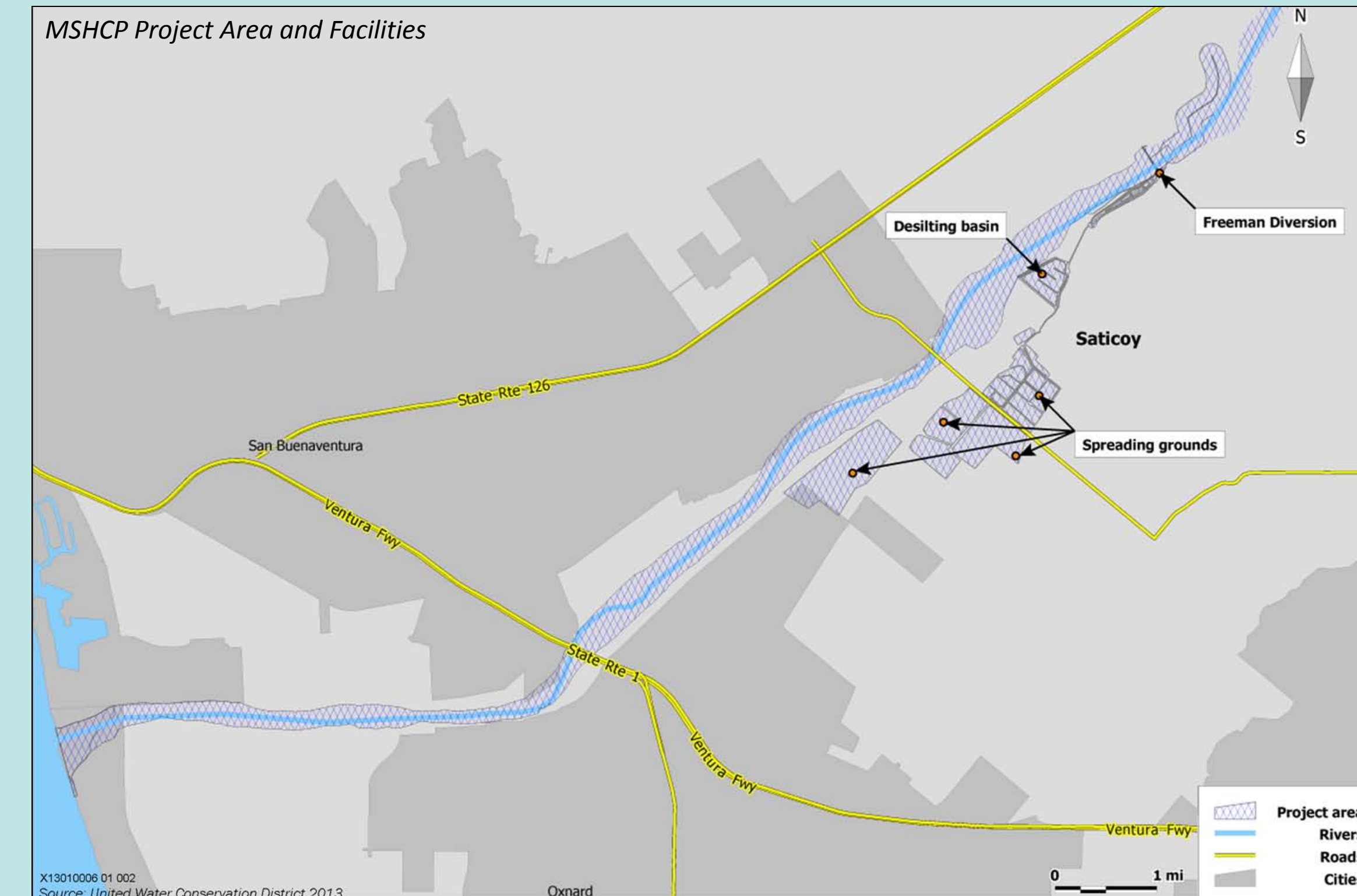
Overview of the Proposed MSHCP Covered Activities

Covered activities in the MSHCP are those activities for which United is seeking ITPs (i.e., those activities that may result in take of covered species). Not all covered activities are part of the proposed project being considered under CEQA.

The proposed covered activities fall into four categories:

1) Current operations and maintenance

- Current operations and maintenance of the Freeman Diversion and related facilities to the extent such activities result in, or may result in, take of listed species.
 - Diversion and bypass flows, headworks operations
 - Saticoy, Noble, Ferro, and Rose Spreading Ground facilities operation and maintenance
- The EIR considers this a continuation of existing conditions.
- The MSHCP excludes all other current activities because they:
 - Do not affect a species protected under FESA or CESA, or
 - Are addressed through other regulatory mechanisms under FESA and CESA



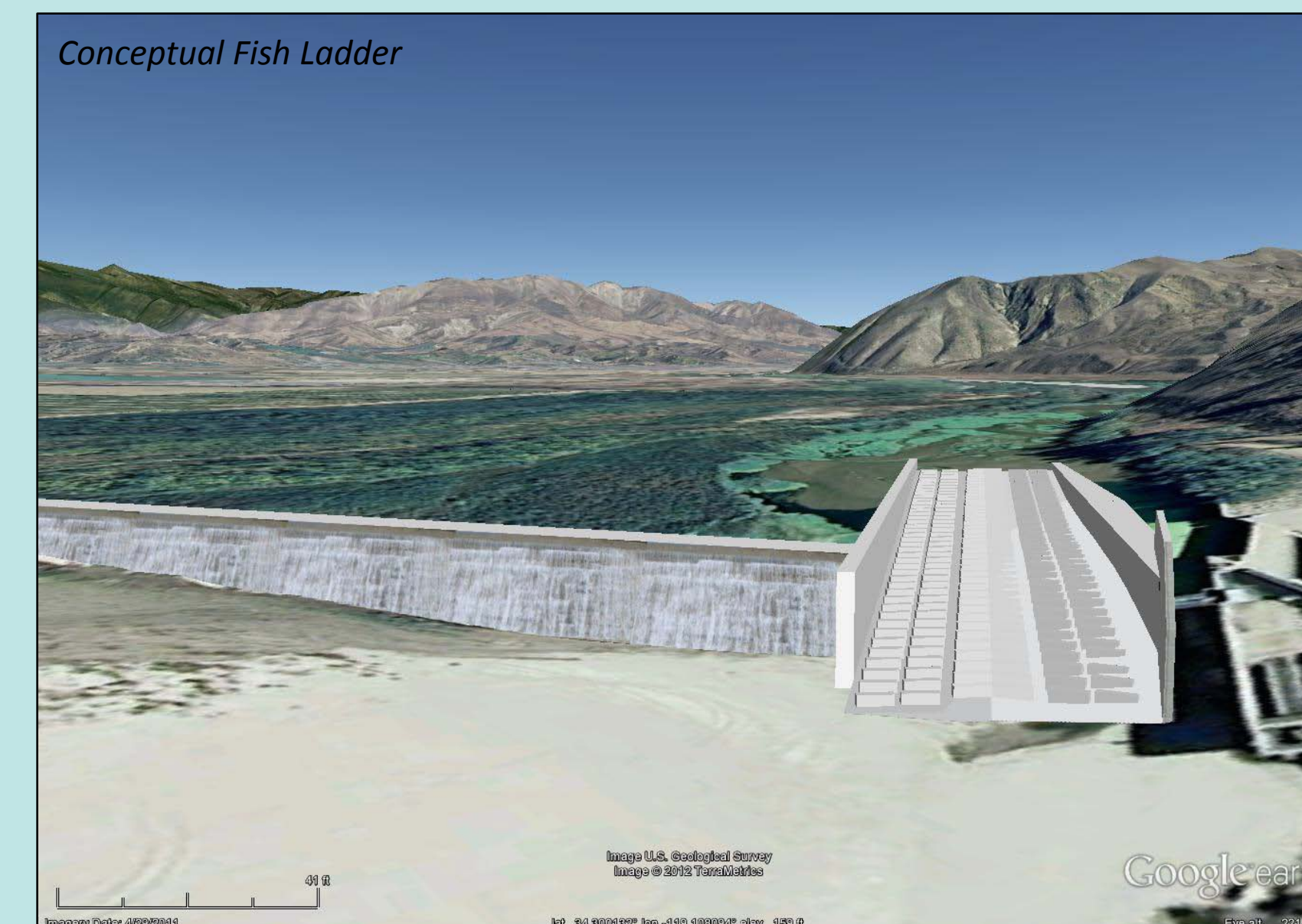
2) Potential future increase in the maximum diversion rate at the Freeman Diversion facility to allow United to divert greater volumes of water during higher river flows

3) Conservation measures that may result in take

- Construction, operation, and maintenance of a hardened ramp fish passage facility.
- Modifications to the management of flows and diversions.
- Installation of a new fish screen at the Freeman Diversion.
- Improved trapping/trucking of steelhead and lamprey.
- Habitat preservation, restoration, and enhancement.

4) Monitoring and adaptive management that may result in take

- May involve surveys that require handling or disturbing species.



Proposed Conservation Measure – Modified Water Diversions

Covered activities

- Diversions of water from Santa Clara River for recharge and direct delivery as allowed in United's water license and permit for the Freeman Diversion (but not currently being implemented).
- Proposed future increases in diversions of water during higher flows.

Conservation measures

- Modified bypass flows and diversion rates for the Freeman Diversion .
- May or may not resemble interim bypass flows currently being implemented.

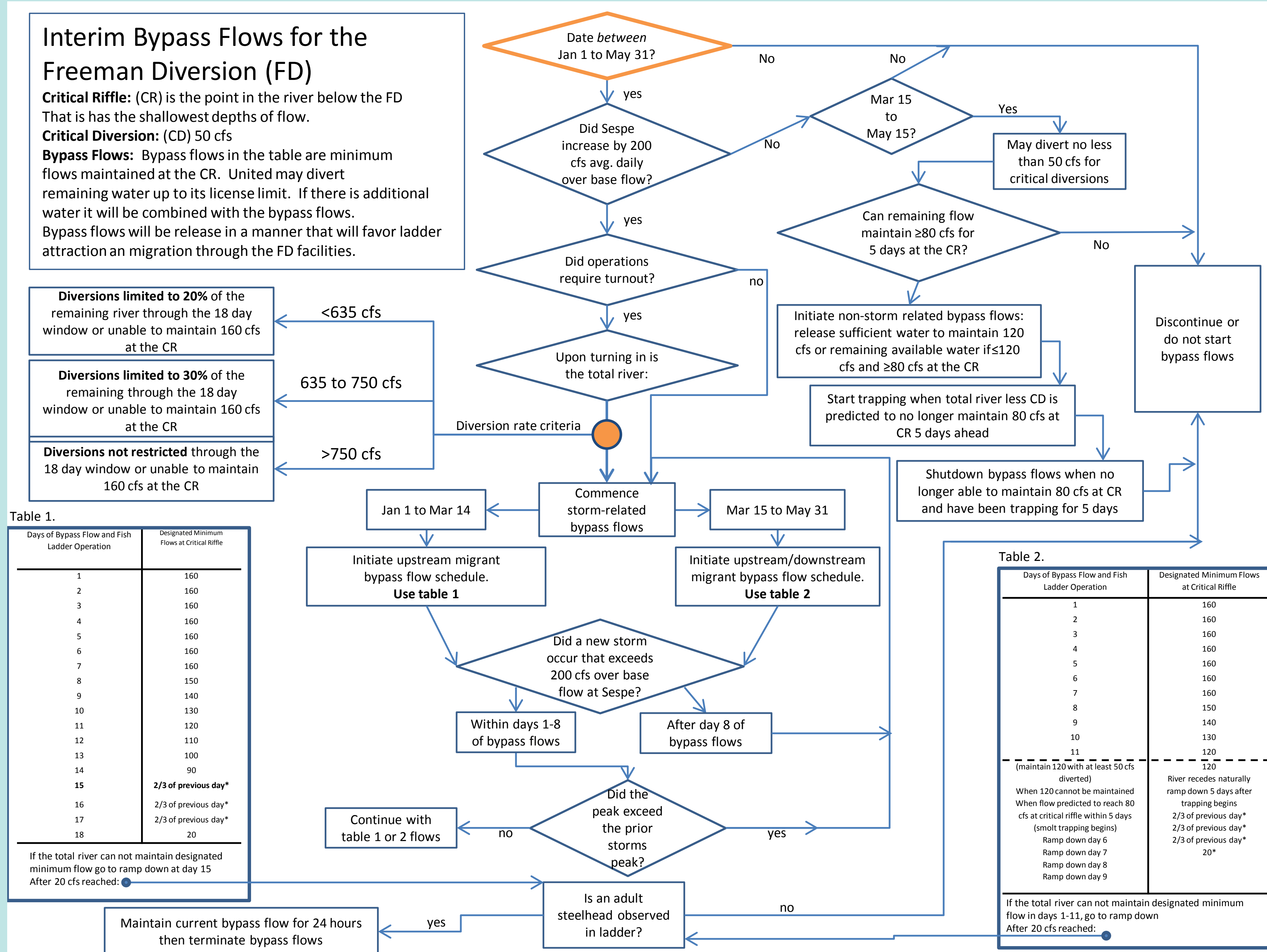
Interim Bypass Flows for the Freeman Diversion (FD)

Critical Riffle: (CR) is the point in the river below the FD That is has the shallowest depths of flow.

Critical Diversion: (CD) 50 cfs

Bypass Flows: Bypass flows in the table are minimum flows maintained at the CR. United may divert remaining water up to its license limit. If there is additional water it will be combined with the bypass flows.

Bypass flows will be release in a manner that will favor ladder attraction a migration through the FD facilities.



Future Increased Diversions: Example Operations under 750 cfs Diversions

Day of storm	Total river	Require bypass	Required bypass flow	Allowable diversion
1	5000 cfs	70%	3500 cfs	750 cfs
2	1500 cfs	70%	1050 cfs	450 cfs
3	800 cfs	Bypass flows in existing operations because 70% of 800 cfs > required bypass flows of 160 cfs at critical riffle	425 cfs	375 cfs

Bypass flow monitoring



Proposed Conservation Measure – New Fish Passage Facility

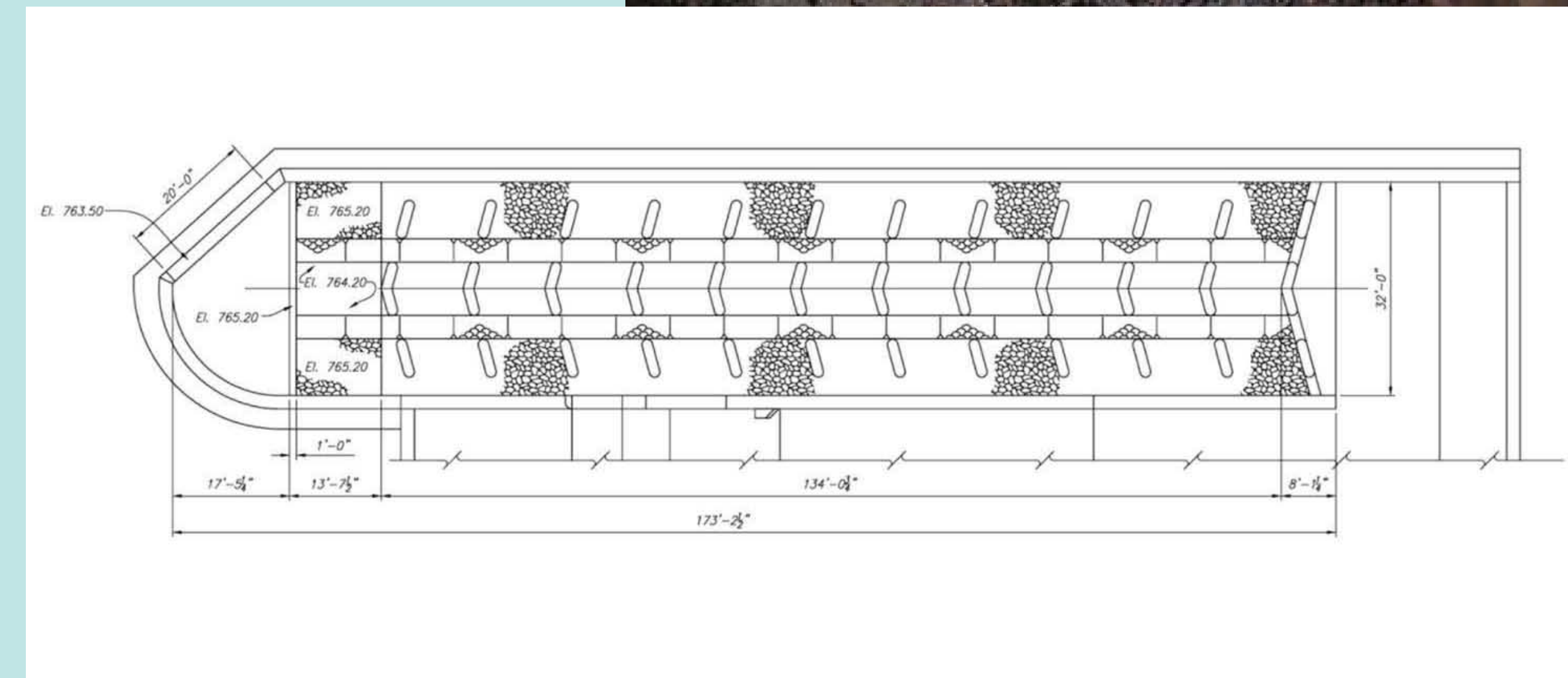
Design objectives

- Provide flow velocities, depths, and turbulence conditions that attract and maximize fish passage past the Freeman Diversion.
 - Meet fish passage design flow range of 45 to 6,000 cfs.
- Durable and low maintenance.



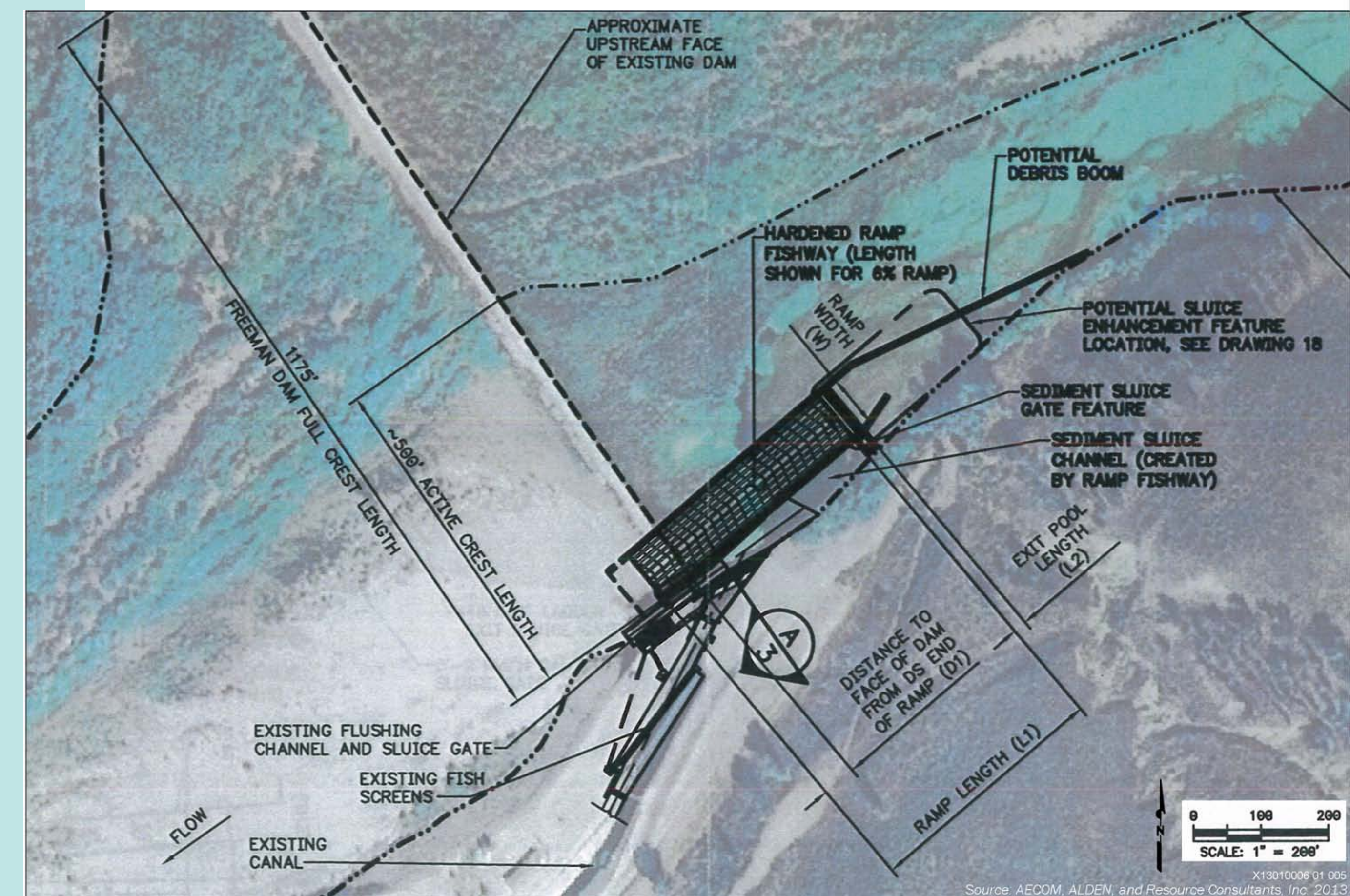
Physical characteristics – conceptual design

- Hardened ramp with baffles and a slope of less than 8%.
- Conceptual designs put ramp at approximately 80 ft wide and 400 ft long.
- Headworks at top of ramp provide flow control.
- Has a resting (exit) pool.



Construction characteristics

- Possible diversion of flows around construction site.
- Cut into diversion structure.
- Concrete batch plant on site.
- Access via State Route 118, Southern Pacific Milling Road, and from The Nature Conservancy's Hanson-Villanueva Property to the north.



Other Proposed Conservation Measures

Fish screen replacement

- Designed to exclude fish as small as first year steelhead fry from entering diversion canals.
- Replaces existing screen at Freeman Diversion.
- Less susceptible to sediment build up.
- More efficient operations and maintenance.



Fish trap and haul

- Fish trap at the downstream end of the fish screen bay.
- Objective is to capture downstream-migrating steelhead and lamprey when conditions in the lower river are not favorable for successful migration to the ocean. Fish species are then transported to appropriate habitat in the estuary (steelhead and lamprey) or up river (rainbow trout and lamprey too young to migrate to ocean).

Modifications to Freeman Diversion operation and maintenance

- Timing of flushing events conducted to manage sediment above Freeman to possibly improve conditions for migrating steelhead and lamprey.

Modifications to spreading grounds operation and maintenance

- Monitor for California least tern nesting activities and implement measures to avoid the nests.
- If nesting potential is high in any given area, implement measures to discourage nesting, such as allowing vegetation to grow in targeted areas of bare ground where vegetation is currently suppressed.

Habitat preservation/restoration/enhancement



Covered Species - Overview

Covered species were selected based on:

- A screening assessment that evaluated the overlap of habitat and distribution of sensitive species with United’s activities to determine the potential for effects.
- Input from experts, agencies, and stakeholders.

Species that are not currently listed as threatened or endangered are included:

- To allow for coverage under the MSHCP/ITPs if they are listed in the future.
- To promote the species’ conservation.

Species Covered in United’s HCP	Federal Status	State Status	Critical Habitat
Southern California steelhead (<i>Oncorhynchus mykiss</i>)	E	SSC	Yes
Tidewater goby (<i>Eucyclogobius newberryi</i>)	E	SSC	Yes
Least Bell’s vireo (<i>Vireo bellii pusillus</i>)	E	E	Yes, but not in MSHCP Area
Southwestern willow flycatcher (<i>Empidonax traillii extimus</i>)	E	E	Yes
California least tern (<i>Sternula antillarum browni</i>)	E	E, FP	No
Pacific lamprey (<i>Entosphenus tridentatus</i>)	None	None	No
Western pond turtle (<i>Emys marmorata</i>)	None	SSC	No
Two-striped garter snake (<i>Thamnophis hammondi</i>)	None	SSC	No
Yellow warbler (<i>Dendroica petechia</i>)	None	SSC	No
Western yellow-billed cuckoo (<i>Coccyzus americanus occidentalis</i>)	PT	E	No
Yellow-breasted chat (<i>Icteria virens</i>)	None	SSC	No

E = endangered, T = threatened, PT = Proposed Threatened, SSC = California Species of Special Concern, FP = Fully Protected