



US Army Corps
of Engineers®

Regulatory Division
1455 Market Street
San Francisco, CA 94103-1398

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

Project: Vineyard Lake Project

NUMBER: 28994N

DATE: November 24, 2008

RESPONSE REQUIRED BY: December 24, 2008

PROJECT MANAGER: Katerina Galacatos

PHONE: 415-503-6778

1. **INTRODUCTION:** Vineyard Lake Associates, LLC (Gerald Bybee, 707-823-9001, 9499 Mill Station Road, Sebastopol, CA 95472), has applied for an after-the-fact Department of the Army permit for the Vineyard Lake Project. The Vineyard Lake Project is located at 9499 Mill Station Road, Sebastopol, Sonoma County (Figure 1). This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. **PROJECT SITE:** The project site is situated along the floodplain of Atascadero Creek and the adjacent hills (Figure 2). The project site encompasses 82 acres that has been agricultural development since 1929. Historically, the project site was a dairy farm. Currently the project site is a vineyard and orchard. The project site is located in a region of rural residential and small-scale agricultural development.

3. **PROPOSED PROJECT:** Vineyard Lake was constructed in 1995-1998 (Figure 3). The lake is approximately 12 acres with an average depth of 5 feet. The lake is 2100 feet long and 175-200 feet wide with two small islands on the northern and southern ends. Vineyard Lake situated along the western boundary of Atascadero Creek and receives run-off from the adjacent fields and properties. The lake may occasional flood due to heavy winter rainfall.

The Vineyard Lake Project is currently used solely as an agricultural stock pond. However, in the past it had also been used for water-skiing.

Construction of Vineyard Lake resulted in the fill discharge into 4.88 acres of jurisdictional wetlands comprised of four stock ponds and a swale totaling (Figure 4). The four stock ponds totaled 2.25 acres of with varying areas of open water habitat, emergent vegetation, and floating aquatic vegetation. The wetland swale was 2.63 acres. The applicant has created 4.85 acres of wetlands at the northern, southern, and western edge of Vineyard Lake that are being proposed as mitigation for the wetland impacts (Figure 5).

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal

consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. The proposed project will not impact any known threatened or endangered species.

Magnuson-Stevens Fisheries Conservation and Management Act: Essential Fish Habitat - The Magnuson-Stevens Fishery Conservation and Management Act requires all Federal agencies to consult with the National Marine Fisheries Service (NMFS) on all actions, or proposed actions permitted by the agency that may adversely affect Essential Fish Habitat (EFH). There are no EFH concerns with this proposed project.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section

1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is not water dependent.

Coastal Zone Management Act of 1972 (CZMA): Section 307 of the Coastal Zone Management Act requires the applicant to certify that the proposed project is consistent with the State's Coastal Zone Management Program, if applicable. The proposed project is not within the Coastal Zone.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the

public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Division, 1455 Market Street, San Francisco, California 94103-1398. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Katerina Galacatos of our office at telephone 415-503-6778 or E-mail: Katerina.Galacatos@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

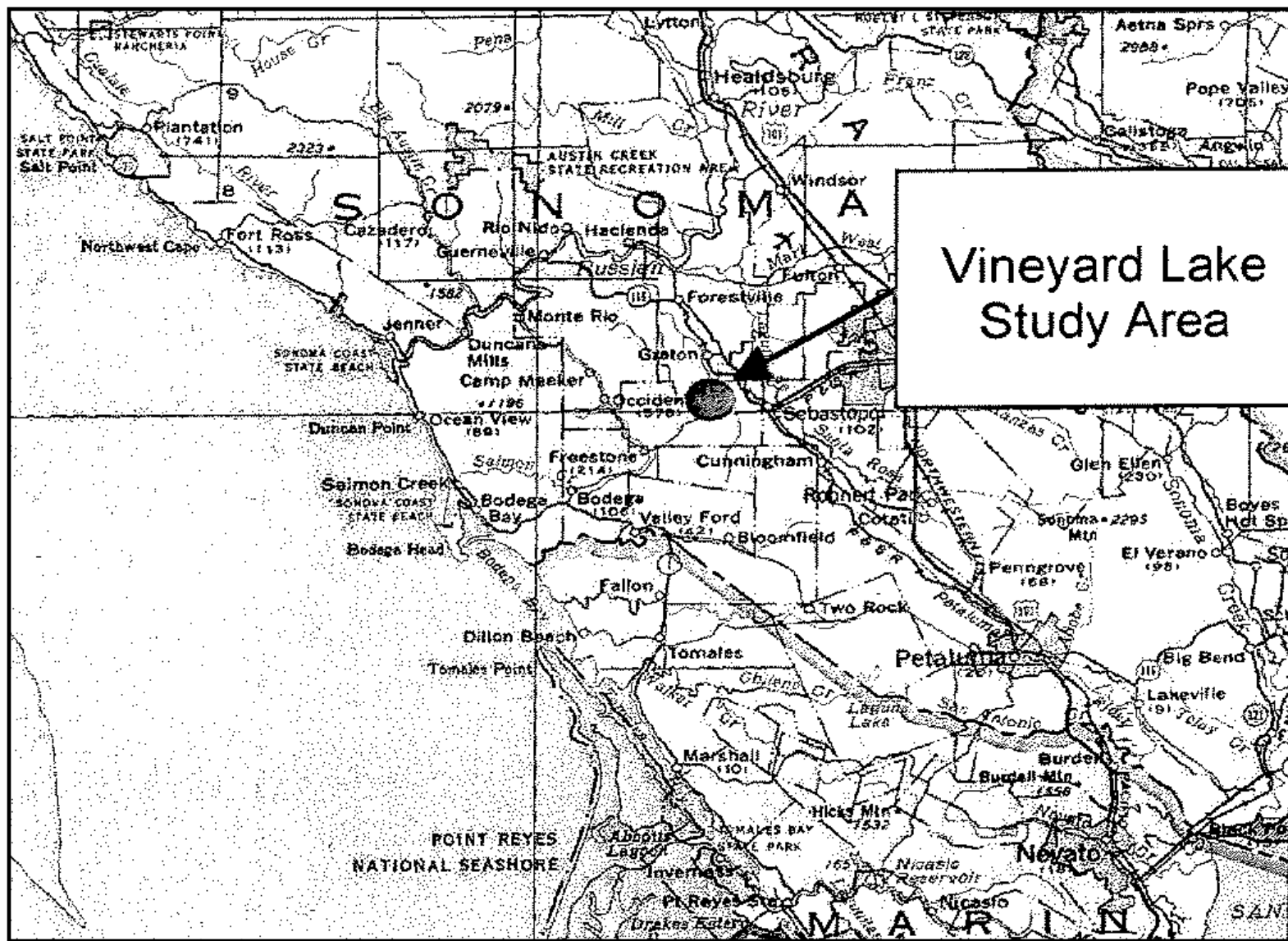


Figure 1. Regional location Map of Project Site, Sonoma County, California

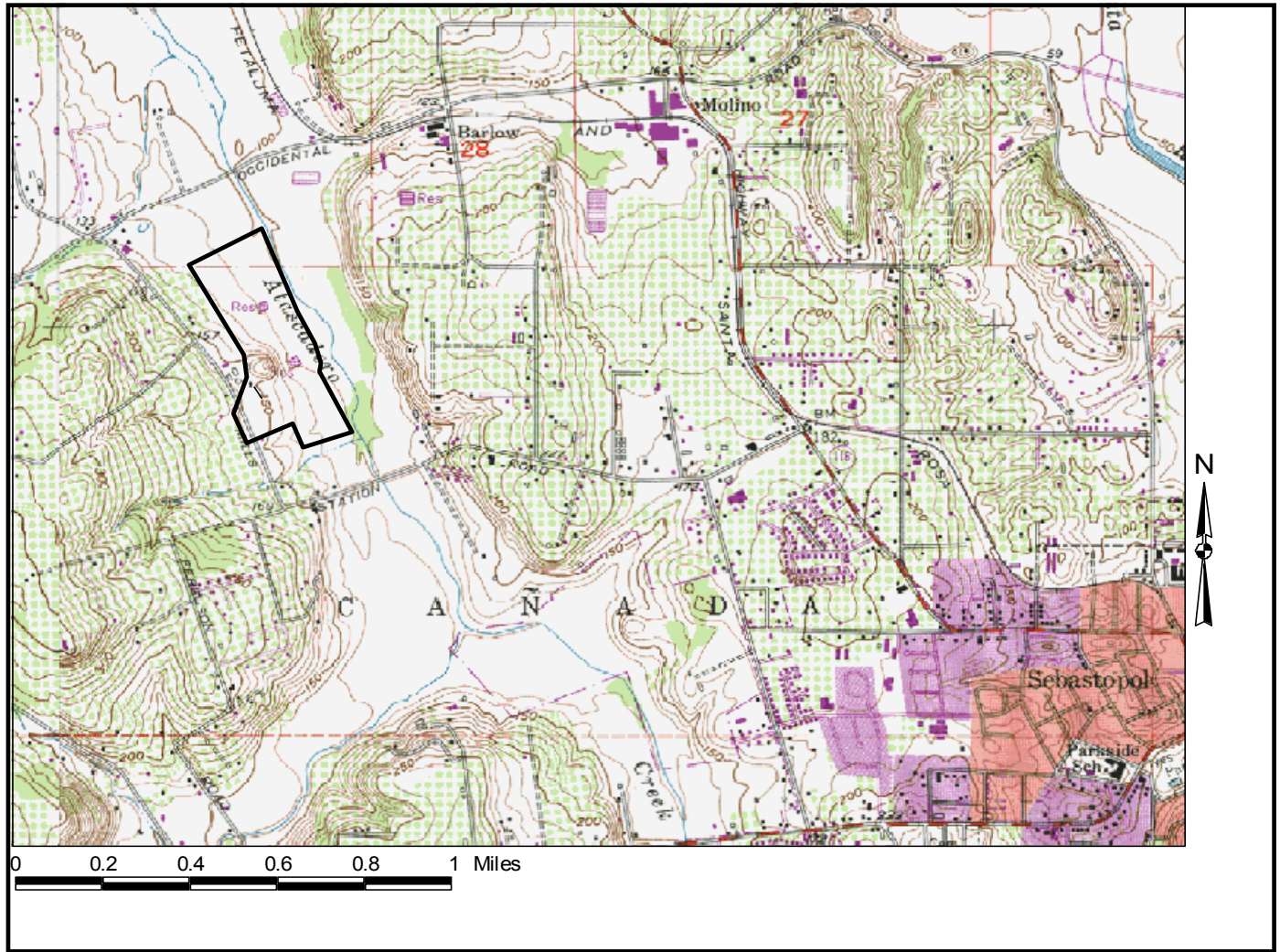


Figure 2. Location Map of Project Site, 9499 Mill Station Road, Sebastopol Sonoma County, California

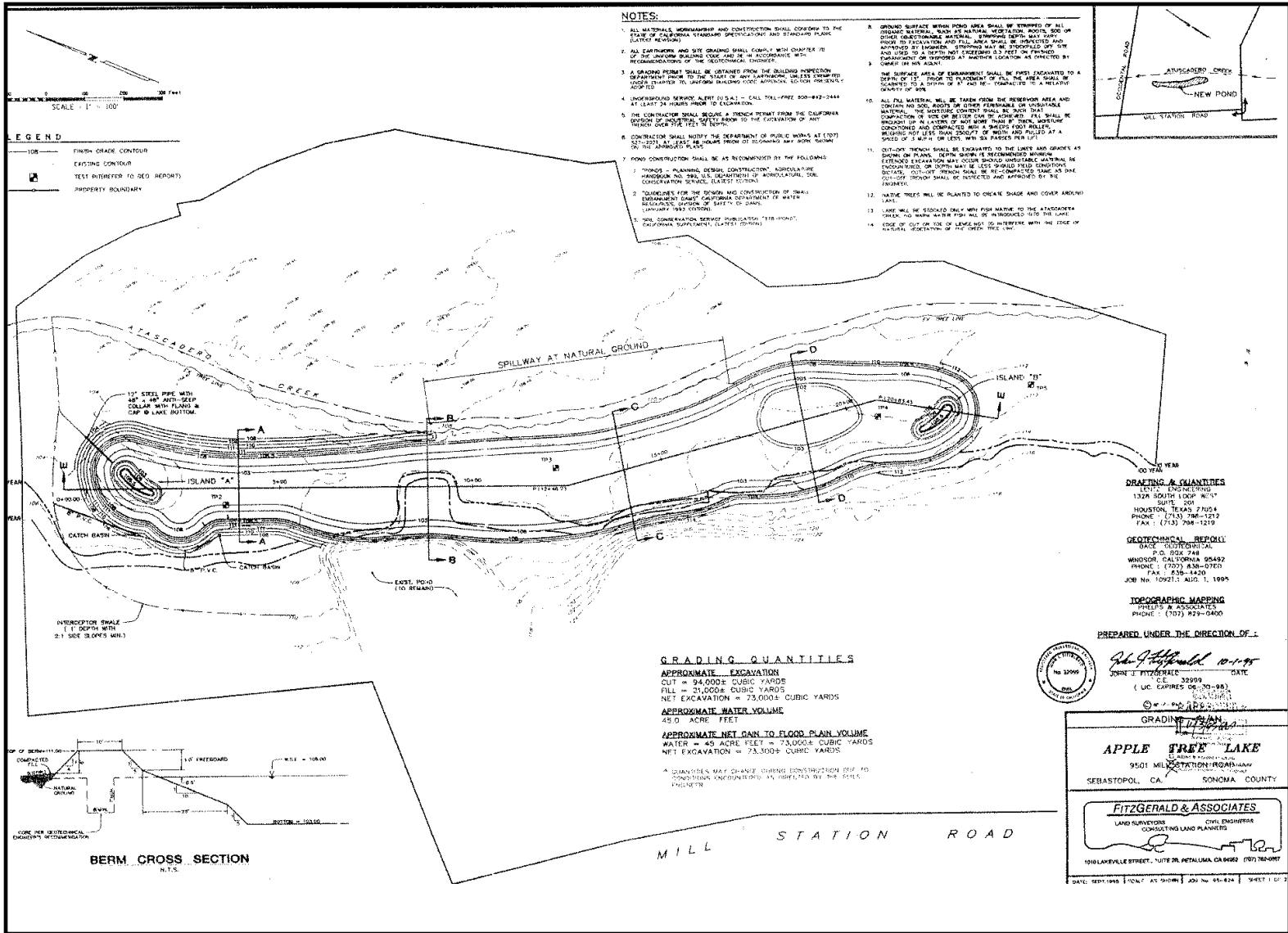


Figure 3. Construction plan view for Vineyard Lake, Sebastopol, Sonoma County, California.

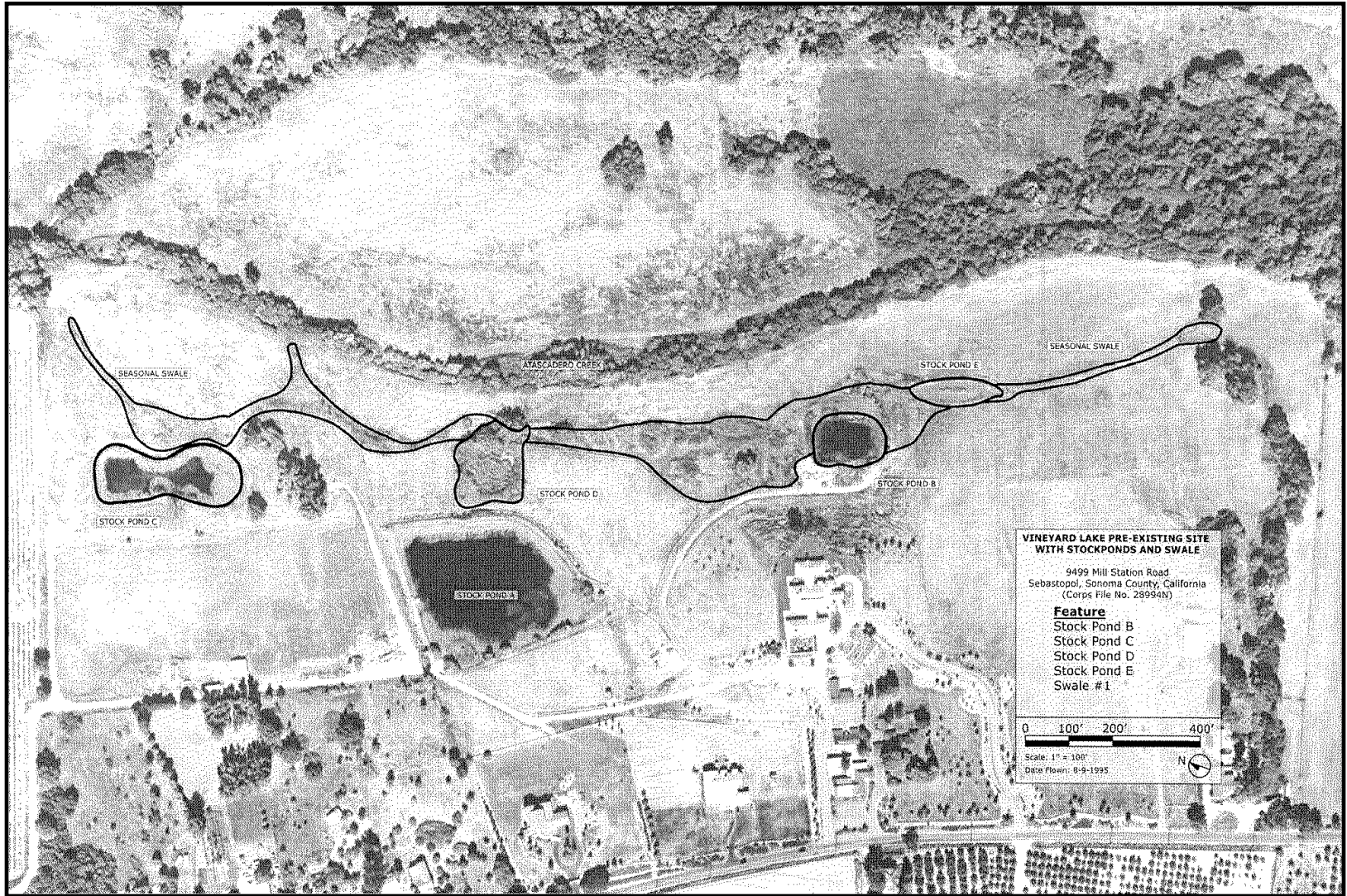


Figure 4. Pre-existing wetland features at the Vineyard Lake Project site, Sebastopol, Sonoma County, California

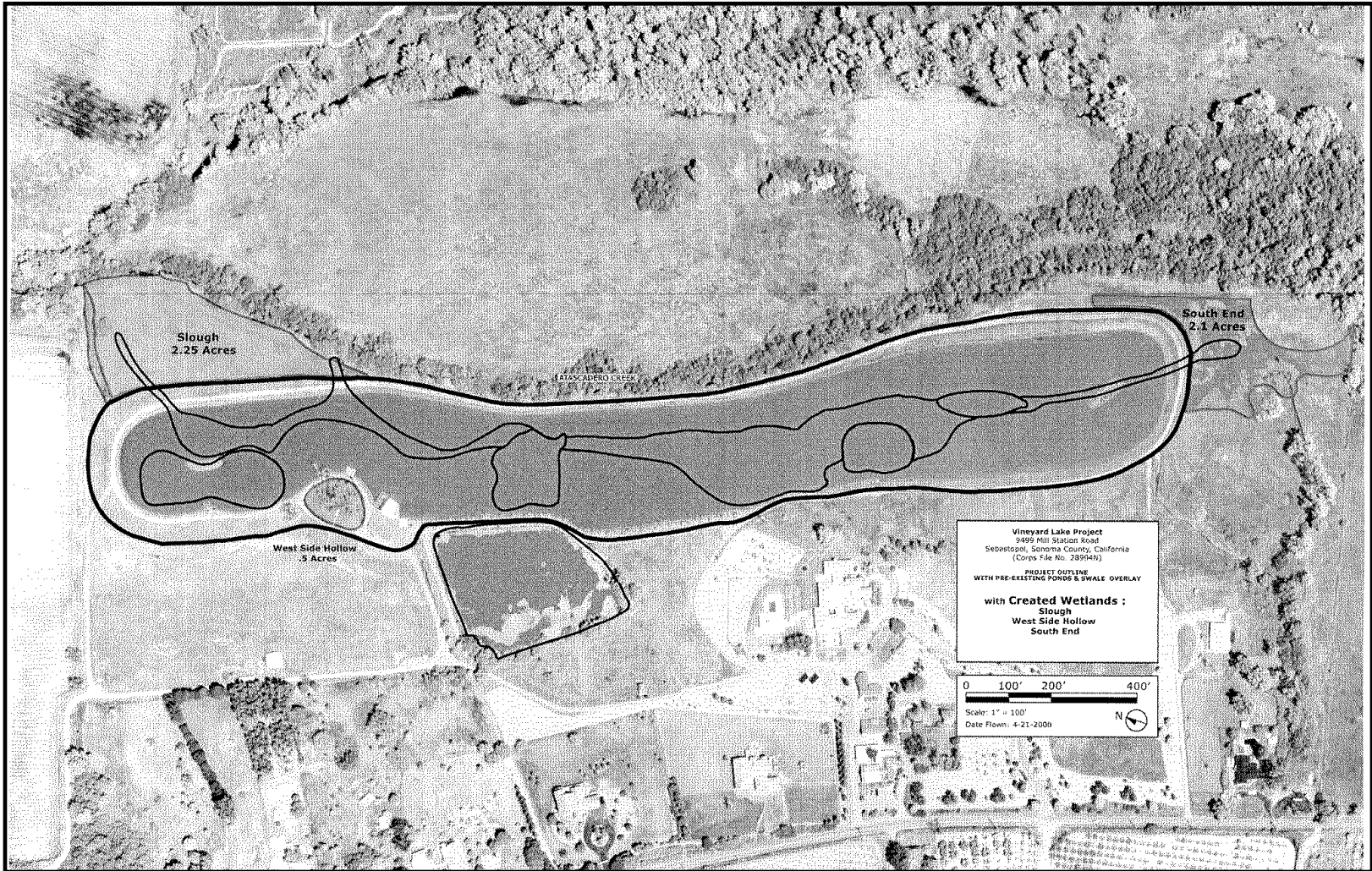


Figure 5. Current site conditions with created wetlands at the Vineyard Lake project site, Sebastopol, Sonoma County, California.