

REGULATORY SCREENING MEMO

Compliance Pack, Pro Screening Memo

Prepared June 16, 2026

Categorical Exclusions (CEs) and Environmental Assessments (EAs) under 50 acres. The pack most consultants start with. Includes complete Endangered Species Act (ESA) §7 screening (Critical Habitat + IPaC species list) and Safe Drinking Water Act (SDWA) sole-source aquifer screen.

DETERMINISTIC REGULATORY SCREENING: NOT LEGAL ADVICE. Findings must be independently verified by a qualified environmental professional before any submission to a federal or state agency.

PROJECT METADATA

Project	Sample: Solano County, CA Delta infill site
Pack	Compliance Pack · Pro Screening Memo (+\$499 at pack checkout)
AOI	24.23 acres
Centroid	38.155°N, 121.7°W
Coordinate system	WGS 84 / EPSG:4326
Model	deterministic-engine-v1
Generated	2026-06-16 14:42 UTC
Corpus version	v2026.05.2 (whitelist SHA: b450c8a5ebe1)

1. Project Summary

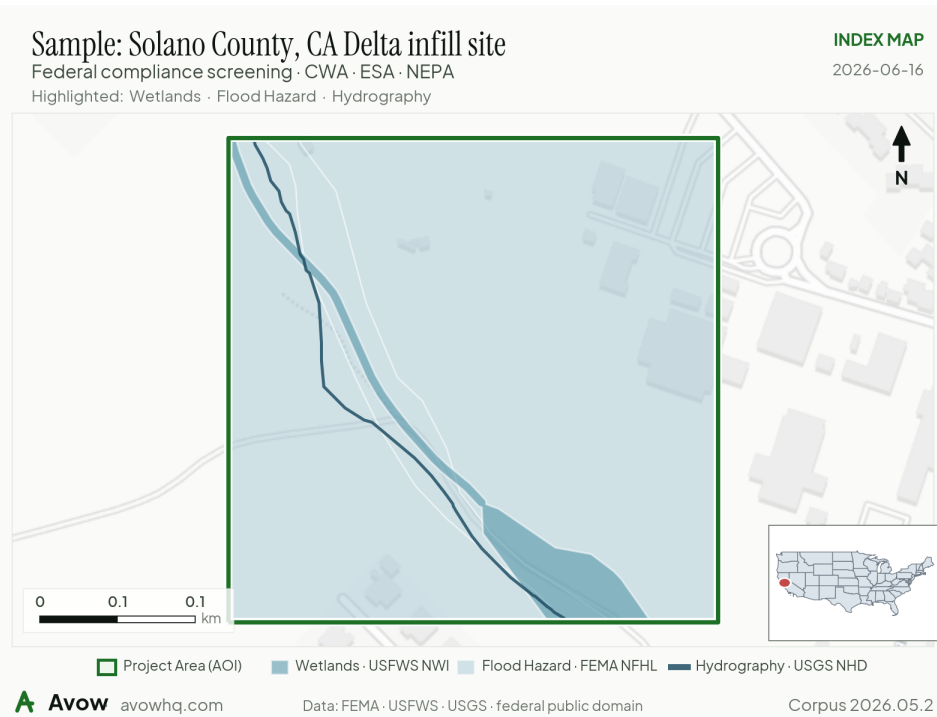


Figure 1. Area of Interest index map — Compliance Pack. CRS: WGS 84 (EPSG:4326).

This screening evaluates an Area of Interest (AOI) of approximately 24.23 acres (centroid 38.155, -121.7) under the Compliance Pack configuration. The screening draws on 9 federal datasets clipped to the AOI extent; 6 returned features intersecting the AOI and 3 returned no features at this location.

Notable resources mapped within the AOI include NWI wetlands, Federal Emergency Management Agency (FEMA) flood hazard (Zone X, Zone AO), ESA-listed/proposed species (10), and soils (incl. prime/important farmland); detail and regulatory context for each appear in the Resources Present section below.

The output is intended as a preliminary screening input to support a licensed environmental practitioner's professional judgment. It does not constitute a jurisdictional determination under § 404 of the Clean Water Act, a formal Section 7 consultation under the Endangered Species Act, a Section 106 finding under the National Historic Preservation Act, or any other agency action. The consultant of record retains full professional responsibility for any subsequent submission to a federal or state agency.

Regulatory framing reflects the post-Sackett v. EPA (598 U.S. 651, 2023) jurisdictional framework for waters of the United States and the post-Loper Bright Enterprises v. Raimondo (603 U.S. 369, 2024) deference posture for agency interpretations. Where agency interpretations are cited, they are framed as persuasive guidance rather than binding law.

2. Resources Present in the AOI

Each federal layer included in the pack was clipped to the AOI and intersected with the project boundary. The bracketed number after each layer (e.g. [1]) references that data source in the Citations section. Findings reflect data current at the moment of pack generation; source vintages are stamped in the pack's METADATA.json and CITATIONS.json files.

LAYER	FINDING IN AOI	STATUS
National Wetlands Inventory (NWI) [1]	<p>Freshwater Emergent Wetland (PEMIC, ~1.4 ac)</p> <p>U.S. Fish and Wildlife Service (USFWS) wetland classification (Cowardin).</p> <p>NWI features are the federal record of mapped wetlands. They inform Section 404 Clean Water Act (CWA) jurisdictional review, EO 11990 wetland avoidance analysis, and FEMA floodplain wetland buffer planning. Post-Sackett (598 U.S. 651, 2023), §404 jurisdiction also requires a continuous surface connection to a Traditional Navigable Water; NWI alone does not establish jurisdiction.</p>	Within AOI
FEMA National Flood Hazard Layer (NFHL) [2]	<p>Zone X (~22.2 ac), Zone AO (~2.1 ac)</p> <p>Special Flood Hazard Area zones (A, AE, V, X) under the National Flood Insurance Program (NFIP) at 44 CFR pt. 59-65.</p> <p>FEMA NFHL zones trigger EO 11988 Floodplain Management for any federal action in or affecting a 100-year floodplain (Zone A, AE, AH, V, or VE). Federally backed mortgages in Special Flood Hazard Areas (SFHAs) require NFIP flood insurance under 42 U.S.C. § 4012a.</p>	Within AOI
NLCD Land Cover [3]	<p>Grassland/Herbaceous (~62%), Cultivated Crops (~8%), Developed, Medium Intensity (~8%), Developed, Open Space (~7%), Developed, High Intensity (~7%), Developed, Low Intensity (~7%)</p> <p>U.S. Geological Survey (USGS)/MRLC 30m land-cover classification (16 categories).</p> <p>Land-cover baseline supports impervious-surface analysis for National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) (40 CFR 122) and informs ecological-baseline framing under National Environmental Policy Act (NEPA). The classification is screening-grade; site-specific cover should be field-verified.</p>	Within AOI

LAYER	FINDING IN AOI	STATUS
NHD Plus High Resolution [4]	<p>stream/river (2)</p> <p>USGS hydrography (flowlines, waterbodies, catchments).</p> <p>NHD flowlines and waterbodies are the federal hydrography baseline for §404/§401 connectivity analysis under the post-Sackett continuous-surface-connection test. The Hydrologic Unit Code (HUC)-12 catchment context anchors watershed-scale antidegradation review under CWA § 401.</p>	Within AOI
IPaC Species List [5]	<p>California Ridgway's rail (Endangered), California tiger Salamander (Threatened), Conservancy fairy shrimp (Endangered), Giant garter snake (Threatened), Monarch butterfly (Proposed Threatened), Northwestern Pond Turtle (Proposed Threatened), +4 more</p> <p>USFWS Information for Planning and Consultation species list.</p> <p>The IPaC list enumerates threatened, endangered, candidate, and proposed species that may occur in the project area. It is the first deliverable USFWS expects in a §7 consultation.</p>	Within AOI
SSURGO Soils [6]	<p>Soil orders: Vertisols (5) · hydric soils ~6% of mapped area (1 of 5 map units) · 3 prime/important-farmland units · dominant series: Diablo-Ayar clays; Diablo-Ayar clays</p> <p>USDA Natural Resources Conservation Service (NRCS) soil mapping; hydric and farmland classification.</p> <p>SSURGO hydric soil designations support §404 wetland delineation. Farmland of Statewide, Local, or Prime importance designations under 7 CFR 658 (FPPA) trigger federal-action consideration where farmland conversion may occur. NRCS Land Capability Class (LCC) is a separate, soil-physical rating and is not equivalent to the FPPA designation.</p>	Within AOI
Layers returning no features at this AOI	<p>3 federal layer(s) returned no features intersecting the AOI extent</p> <p>Absence is documented for completeness; field verification is the authoritative confirmation.</p> <p>ESA Critical Habitat, PAD-US Protected Areas, EPA Sole Source Aquifers (SSA)</p>	Empty in AOI

3. Applicable Statutes & Authorities

The following federal authorities appear to apply based on the layer findings above. Each citation has been validated against the Avow citation whitelist (SHA prefix shown on every page footer) before delivery. Trigger language uses "appears likely / appears unlikely", final jurisdictional determinations remain the authority of the relevant federal or state agency.

STATUTE / AUTHORITY	CITATION	TRIGGER ANALYSIS
NEPA	42 U.S.C. 4321	NEPA sets the procedural framework for environmental review of major federal actions.
NEPA, Fiscal Responsibility Act (FRA) 2023 amendments	42 U.S.C. 4336	The Fiscal Responsibility Act 2023 amendments set NEPA page and time limits, lead-agency procedure, and programmatic-review authority. They are the binding implementation authority on the NEPA process after the prior Council on Environmental Quality (CEQ) implementing regulations at 40 CFR 1500–1508 were rescinded in January 2026.
Agency-specific NEPA procedures	40 CFR 6	These are Environmental Protection Agency (EPA)'s own NEPA implementing procedures; analogous agency rules govern elsewhere, such as 7 CFR 1b for USDA and the agency NEPA chapters at Department of the Interior (DOI), DOT, and U.S. Army Corps of Engineers (USACE).
Clean Water Act § 404	33 CFR 323	Section 404 governs the discharge of dredged or fill material into waters of the United States. Screening basis — National Wetlands Inventory (NWI): Freshwater Emergent Wetland (PEM1C, ~1.4 ac).
USACE Waters of the United States (WOTUS) definition	33 CFR 328	This rule defines waters of the United States under the post-Sackett (2023) jurisdiction framework. Screening basis — National Wetlands Inventory (NWI): Freshwater Emergent Wetland (PEM1C, ~1.4 ac).

STATUTE / AUTHORITY	CITATION	TRIGGER ANALYSIS
Endangered Species Act §7	50 CFR 402	<p>Section 7 requires interagency consultation and an effects determination where a federal action may affect a listed species or its critical habitat.</p> <p>Screening basis — IPaC Species List: California Ridgway's rail (Endangered), California tiger Salamander (Threatened), Conservancy fairy shrimp (Endangered), Giant garter snake (Threatened), Monarch butterfly (Proposed Threatened), Northwestern Pond Turtle (Proposed Threatened), +4 more.</p>
National Historic Preservation Act (NHPA) §106	36 CFR 800	Section 106 requires the agency to identify historic properties, assess effects, and resolve any adverse effects.
EO 11988 Floodplain Management	EO 11988	<p>This order requires federal actions to avoid floodplain development where practicable and to minimize adverse floodplain impacts.</p> <p>Screening basis — FEMA National Flood Hazard Layer (NFHL): Zone X (~22.2 ac), Zone AO (~2.1 ac).</p>
EO 11990 Protection of Wetlands	EO 11990	<p>This order requires federal actions to avoid new construction in wetlands where practicable and to minimize wetland impacts.</p> <p>Screening basis — National Wetlands Inventory (NWI): Freshwater Emergent Wetland (PEM1C, ~1.4 ac).</p>
EO 13175 Tribal Consultation	EO 13175	This order requires government-to-government consultation with tribes on actions that may affect them.

4. Permit Pathway

The NEPA pathway for this action turns on whether it qualifies for a CE or requires an EA, and that determination sets the consultation calendar. The lead agency's CE catalog is identified; where the lead agency adopts another agency's CE for a similar action, the adoption authority at 42 U.S.C. 4370h applies. The extraordinary-circumstances screen is then run against the AOI findings.

NWI polygons inside the development envelope frame the § 404 question; under *Sackett v. EPA*, 598 U.S. 651 (2023), jurisdiction requires a relatively-permanent-water connection and continuous surface connection, both field-verification questions. Where § 404 jurisdiction is likely, evaluate the Nationwide Permit (NWP) options at 33 CFR 330. The common fits for sub-50-acre projects are

NWP 14 (linear transportation crossings), NWP 29 (residential developments), and NWP 39 (commercial and institutional developments). Each carries acreage and linear-foot thresholds; exceeding them triggers a Pre-Construction Notification (PCN) and a 45-day USACE review. Activities above the NWP thresholds require an Individual Permit (IP) under 33 CFR 325, where median 2026 district timelines run 12 to 22 months.

ESA Critical Habitat overlap triggers the § 7 may-affect analysis: a no-effect, may-affect-not-likely-to-adversely-affect (informal consultation, concurrence), or likely-to-adversely-affect (formal consultation, Biological Opinion under 50 CFR 402.14) determination, with the controlling timeline 90 days for consultation plus 45 days to deliver the Biological Opinion (BiOp) under 50 CFR 402.14(e). EPA-designated Sole Source Aquifer overlap triggers SDWA § 1424(e) project review at 40 CFR 149 for federally assisted projects. PAD-US overlap is read for use-restriction conflict. Where SSURGO maps prime, unique, or important farmland within the conversion footprint and a federal nexus is present, FPPA review at 7 CFR 658 applies, scored on Form AD-1006 in coordination with NRCS. CWA § 401 water-quality certification from the state or tribe is identified as a parallel pathway to any § 404 action.

5. Section 7 Assessment

The ESA Critical Habitat layer returned no features intersecting the AOI. Absence of designated critical habitat does not eliminate the § 7 obligation: species may be present without designated habitat, and the IPaC species list remains the authoritative starting point.

The IPaC species layer indicates 10 potentially-occurring federally-protected species in the AOI vicinity. The list comprises California Ridgway's rail (Endangered), California tiger Salamander (Threatened), Conservancy fairy shrimp (Endangered), Giant garter snake (Threatened), Monarch butterfly (Proposed Threatened), Northwestern Pond Turtle (Proposed Threatened), +4 more. Confirm the current list directly via the USFWS IPaC portal before initiating consultation; the IPaC list is the required attachment to the consultation initiation letter.

6. Risk Flags

Critical-habitat overlap without species presence

USFWS Critical Habitat designations are based on the physical and biological features essential to the conservation of a listed species and can include areas the species does not currently occupy. Overlap with critical habitat triggers ESA § 7 review independent of species presence; an IPaC pull is required for the action area to complete the may-affect determination.

Sole Source Aquifer § 1424(e) review trigger

EPA designation of a Sole Source Aquifer under SDWA § 1424(e) triggers federal-project review at 40 CFR 149 for any federally assisted project in the designated area. Review by the controlling EPA regional office is required before federal financial assistance is committed; the screen flags the designation, not the review outcome.

NWP threshold creep

Project design changes during scoping and pre-application coordination routinely push permanent-wetland-loss above NWP thresholds (commonly 0.5 acre) and into Individual Permit territory under 33 CFR 325. Re-screen any meaningful footprint change before locking the NWP pathway.

Mitigation service-area constraint

Compensatory mitigation under 33 CFR 332 requires credits from a USACE-approved bank or ILF program with the project in the bank's service area (typically HUC8 or HUC10). Where no in-service-area credits exist, the project may face permittee-responsible mitigation, higher ratios for out-of-service-area credits, or delay.

PAD-US use-restriction conflict

PAD-US overlap can reflect federal land (NPS, USFS, Bureau of Land Management (BLM), USFWS, DoD), conservation easements, designated wilderness under 16 U.S.C. 1131, or state and local protected lands. The screen flags the overlap; the controlling use restrictions and any right-of-way or special-use authorization pathway require direct agency coordination.

Post-Sackett WOTUS uncertainty

Wetlands lacking a continuous surface connection to a Traditional Navigable Water may be outside § 404 jurisdiction under the post-Sackett framework. The classification of specific features in this AOI requires the connectivity trace this screening does not perform.

FEMA map currency

Verify the effective Flood Insurance Rate Map (FIRM) panel date against any Letters of Map Amendment (LOMA) or Letters of Map Revision (LOMR) issued for the AOI. Older panels may not reflect current channel conditions.

Data vintage

Federal datasets used in this screening reflect the federal record at the time of generation; consult the CITATIONS file for the source date of each layer. Field conditions should be confirmed independently before any final agency submission.

7. Recommended Next Steps

1. Confirm the lead federal agency and its current CE catalog (post-2025 DOI handbook, post-April-2026 USDA consolidation at 7 CFR 1b, or other-agency rule).
2. Pull a USFWS IPaC species list for the action area (50 CFR 402.02, direct and indirect effects); structure the may-affect determination as no-effect, not likely to adversely affect (NLAA), or likely to adversely affect (LAA).
3. Commission a wetland delineation under the 1987 Corps Manual and applicable Regional Supplement, and request a Preliminary or Approved Jurisdictional Determination from the USACE district.
4. If § 404 jurisdiction is likely, evaluate NWP 14 / 29 / 39 fit at 33 CFR 330 and identify the PCN trigger thresholds; if NWP thresholds are exceeded, scope the Individual Permit application under 33 CFR 325.
5. Identify the state or tribal § 401 water-quality certification pathway under 33 U.S.C. 1341 and the controlling one-year clock from the 2023 § 401 rule revision.
6. If the AOI overlaps an EPA-designated Sole Source Aquifer, open early coordination with the controlling EPA regional office on SDWA § 1424(e) project review at 40 CFR 149.
7. If SSURGO maps prime, unique, or important farmland within the conversion footprint and a federal nexus is present, open NRCS coordination on AD-1006 under 7 CFR 658.
8. Maintain a written administrative record of all agency correspondence, including response and concurrence letters, so the project's compliance file is complete and defensible if the action is later challenged.
9. Have a qualified environmental professional review this screening output before it is used in any agency filing, because the screen is an input to a determination, not the determination itself.

8. Scope Disclosure

This memo was generated from the 9 federal layer(s) included in the Compliance Pack. The block below lists what was in-scope for the analysis and what was not. The 'not analyzed' items are not errors; they are honest scope limits the customer should consider before relying on this memo for a determination that would require those data layers.

Analyzed in this memo

- wetlands inventory (CWA §404, EO 11990)
- 100-year floodplain (EO 11988, NFIP)
- land-cover baseline (NEPA affected environment)
- surface-water hydrography (CWA §404 connectivity)
- ESA designated critical habitat overlay
- ESA §7 federally-listed species list
- federal protected-areas overlay (§4(f), FLPMA)
- soils + hydric/prime farmland (CWA §404 indicators, FPPA 7 CFR 658)
- SDWA sole-source aquifer (40 CFR 149)

Not analyzed, outside the scope of this pack

REGULATORY TOPIC	UPLIFT PACK
NHPA §106 National Register of Historic Places overlay	the Section 106 Cultural Pack
tribal lands / AIAN areas (EO 13175, AB 52)	the Section 106 Cultural Pack or Linear Corridor Pack
CEQ 2023 Phase 2 environmental-justice section	the EJ + Title VI Pack
Magnuson-Stevens Essential Fish Habitat consultation	the Coastal & Marine Pack

The 'not analyzed' items below indicate regulatory questions this memo cannot answer from the pack's data alone. Each entry names the uplift pack that closes the gap.

9. References

Data Sources

Bracketed numbers [N] reference the data source in the Resources Present table above.

- [1] U.S. Fish and Wildlife Service. 2026. National Wetlands Inventory. Washington, D.C.: U.S. Department of the Interior, Fish and Wildlife Service.
- [2] Federal Emergency Management Agency (FEMA). 2026. National Flood Hazard Layer. Washington, DC: FEMA.
- [3] Jin, S., et al. 2026. Overall methodology and outcomes of the NLCD. ISPRS Journal.
- [4] Moore, R.B., et al. 2026. NHD Plus HR User's Guide. USGS Open-File Report.
- [5] U.S. Fish and Wildlife Service. 2026. Information for Planning and Consultation (IPaC). ECOS.
- [6] Soil Survey Staff, NRCS, USDA. Web Soil Survey. <https://websoilsurvey.nrcs.usda.gov/>.

Statutes, Regulations & Executive Orders

- National Environmental Policy Act (NEPA) — 42 U.S.C. 4321
- NEPA, FRA 2023 amendments — 42 U.S.C. 4336
- Agency-specific NEPA procedures — 40 CFR 6
- Clean Water Act § 404 — 33 CFR 323
- USACE WOTUS definition — 33 CFR 328
- Endangered Species Act § 7 — 50 CFR 402
- NHPA § 106 — 36 CFR 800
- EO 11988 Floodplain Management — EO 11988
- EO 11990 Protection of Wetlands — EO 11990
- EO 13175 Tribal Consultation — EO 13175

Case Law

- Sackett v. EPA, 598 U.S. 651 (2023).
- Loper Bright Enterprises v. Raimondo, 603 U.S. 369 (2024).

Guidance & Technical References

- U.S. Army Corps of Engineers. 1987. Corps of Engineers Wetlands Delineation Manual (Technical Report Y-87-1).
- U.S. Army Corps of Engineers. Regional Supplement to the Corps of Engineers Wetland Delineation Manual (applicable regional edition).
- Cowardin, L.M., V. Carter, F.C. Golet & E.T. LaRoe. 1979. Classification of Wetlands and Deepwater Habitats of the United States. USFWS FWS/OBS-79/31.
- U.S. Dept. of Agriculture, NRCS. Form AD-1006, Farmland Conversion Impact Rating.

DISCLAIMER & LIMITATIONS**Use restrictions and audit defensibility**

This screening report was generated by Avow using deterministic, rule-based analysis of publicly available federal datasets against a versioned regulatory corpus.

Same input → same output.

It is intended for use by qualified environmental professionals as a preliminary screening tool to inform, not replace, professional judgment, field verification, and formal agency consultation.

Avow does not certify jurisdictional determinations under §404 CWA, presence or absence of listed species under the ESA, or eligibility under NHPA.

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