



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS
333 MARKET STREET
SAN FRANCISCO, CALIFORNIA 94105-2197

APR 25 2005

Regulatory Branch

SUBJECT: File Number 22704N

Mr. Jeff Jensen
California Department of Transportation
Office of Biological Science and Permits
P.O. Box 23660
Oakland, California 94623-0660

Dear Mr. Jensen:

Enclosed is your signed copy of a Department of the Army permit (Enclosure 1) to fill and realign portions of Irwin Creek and place fill in unnamed tributaries to San Rafael Creek to accommodate the Marin 101 HOV Lane Gap Closure Project in the City of San Rafael, Marin County, California.

Please complete the appropriate parts of "Project Status" form (Enclosure 2), and return it to this office as your work progresses. You are responsible for ensuring that the contractor or workers executing the activity authorized herein are knowledgeable of the terms and conditions of this authorization.

Should you have any questions regarding this matter, please call John Yeakel of our Regulatory Branch at 415-977-8472. Please address all correspondence to the Regulatory Branch and refer to the File Number at the head of this letter. If you would like to provide comments on our permit review process, please complete the Customer Survey Form available through the Forms and Contacts Block on our website: www.spn.usace.army.mil/regulatory.

Sincerely,

Jane M. Hicks

Philip T. Feir
Philip T. Feir
Lieutenant Colonel, U.S. Army
Commanding

Enclosures

Copies Furnished (w/encl 1 only):

US EPA, San Francisco, CA
US FWS, Sacramento, CA
US NMFS, Santa Rosa, CA
CA DFG, Yountville, CA
CA RWQCB, Oakland, CA

DEPARTMENT OF THE ARMY PERMIT

PERMITTEE: Jit S. Pandher, California Department of Transportation

PERMIT NO.: 22704N

ISSUING OFFICE: San Francisco District

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate District or Division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below:

PROJECT DESCRIPTION:

As shown in the attached drawings "Marin 101 HOV Lane Gap Closure Projects" dated June 8, 2004 (Attachments A - J), Caltrans plans to widen the pavement in the median and along the southbound side of Route 101 to close the gap between the existing high occupancy vehicle lanes in San Rafael. An Environmental Impact Statement/Report for the Marin 101 HOV Gap Closure Project was completed in January 2000. Projects 4 and 5 in the EIS/EIR are the Gap Closure Project at Irwin Creek and San Rafael Creek. The project will result in approximately 539 cubic yards (cy) of fill placed in 0.178 acre (1,332 linear feet) of Corps jurisdictional waters and 0.020 acre (154 linear feet) of wetlands.

Project 4 specific details include pavement widening in the median and to the west of Route 101. The profile of Linden Lane will be lowered to accommodate the construction of a new underpass at Linden Lane. Linden Lane and the southbound Lincoln Avenue Undercrossing will be widened. As a result of the Route 101 widening, relocation of the railroad tracks and realignment of Ranchitos Road and the nearby bicycle path will be necessary. It will also be necessary to relocate utility lines and overhead signs. Existing portions of the soundwall at Route 101 will be demolished and reconstructed to accommodate for the widening. Eight retaining walls will be installed along Route 101. The Route 101 widening and relocation of the railroad right of way will require the relocation of Irwin Creek. (Attachments B-E and H-J)

Irwin Creek will be filled at four locations adjacent to southbound 101:

- South of Linden Lane (Attachments C and H), approximately 0.066 acre, 262 linear feet.
- North of Brookdale Avenue and south of Grand Avenue (Attachments D and H), approximately 0.017 acre, 146 linear feet.
- South of Grand Avenue (Attachment D and H), approximately 0.017 acre, 173 linear feet.
- North of Grand Avenue and south of Myrtle Avenue (Attachments D, E and H), approximately 0.042 acre, 687 linear feet.

Project 5 will include pavement widening in the median and to the west of Route 101, realignment of the Route 101 northbound exit off Bellam Boulevard, and a realignment of the westbound 101/580 connector. A new San Quentin Way Separation will be constructed to accommodate this project. It will be necessary to relocate Francisco Boulevard West. This will include the relocation of utilities, the demolition of some buildings, the installation of traffic signals, and the reconstruction of the sidewalk, curbs and gutters, driveways and concrete barriers along Francisco Boulevard West. Existing portions of the soundwall at Route 101 will be demolished and reconstructed to accommodate the widening. Seven retaining walls will be installed along Route 101. A new concrete median barrier will be installed. The box culvert at Francisco Boulevard West will be extended to

accommodate for the widening. The widening of Route 101 and extending of the box culvert at Francisco Boulevard West will require realignment of the drainage system in the project area. (Attachments B, F, G, K and L)

Two locations will be impacted as a result of widening Route 101 and realignment of the westbound 101/580 connector:

- Route 580 on-ramp to northbound 101 (Attachment F and K), approximately 0.020 acre, 154 linear feet, of wetlands will be filled.
- South of Route 101 at Harbor Street (Attachment G and L), approximately 0.016 acre, 64 linear feet, of Waters of the U.S. will be affected by the extension of the culvert.

PROJECT LOCATION: San Rafael, Marin County, California

PERMIT CONDITIONS:

GENERAL CONDITIONS:

1. The time limit for completing the work authorized ends on October 15, 2009. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.
7. You understand and agree that, if future operations by the United States require the removal, relocation or other alteration of the structure or work authorized herein, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, you will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

SPECIAL CONDITIONS:

1. Environmentally sensitive areas (ESAs) shall be clearly identified on all plans. As a first order of work ESA boundaries shall be established on site using high-visibility fencing. ESAs shall be off-limits to project-related activities, equipment, materials and personnel. ESA fencing shall be maintained to prevent encroachment.
2. All work in Corps jurisdiction shall be completed between June 15 and October 15 to help minimize impacts to aquatic resources.
3. No work shall be conducted in a live stream channel.
4. All project staging, storage, and equipment-parking areas shall be located outside of Corps jurisdiction.
5. No debris, oil, petroleum products or other organic material resulting from construction activities shall be allowed to enter or be placed where it may be washed by rainfall or runoff into areas subject to the jurisdiction of the Corps.
6. Any temporary structures used for diversion/dewatering of the stream shall utilize clean gravel, water bladders, sand bags or other non-erodible material and shall be completely removed from the work area at project completion.
7. Downstream flow of the creek shall be maintained at all times.
8. No concrete shall be poured within flowing water in the creek. No concrete washings or water from concrete shall be allowed to enter areas subject to the jurisdiction of the Corps.
9. Any turbid water generated as a result of project construction shall not be discharged directly into Corps jurisdiction without settling or other form of pre-treatment. All settled or otherwise pre-treated water discharged into Corps jurisdiction shall meet water quality standards specified by the RWQCB.
10. Appropriate best management practices (BMP) shall be implemented throughout the project site to minimize erosion and sedimentation of adjacent waterways. BMPs shall include, but not necessarily be limited to, placement of silt fencing and fiber rolls/or hay bales at the toe of all exposed slopes adjacent to waterways to intercept sediments and stabilization of all exposed areas using erosion control blankets and/or seeding with a locally-adapted California native plant seed mix at project completion.
11. All food, garbage and refuse that would attract wildlife into the construction zone or work area shall be removed from the site on a daily basis.
12. You shall retain a qualified biologist(s) to conduct daily inspections of the project site for the duration of construction activities in biologically sensitive areas to ensure compliance with the terms and conditions of this permit. A log of all inspections shall be maintained by the monitor and be made available to the Corps upon request.
13. Mitigate for temporary impacts to Corps jurisdictional areas at a ratio of not less than 1:1 by on-site restoration of affected areas. After completion of construction, all temporary fill shall be removed and the temporary impact areas contour-graded where necessary to restore the pre-disturbance topography. All disturbed areas shall be planted with an appropriate native plant mix to control erosion.
14. Replacement and mitigation planting shall be done in accordance with the "Habitat Mitigation and Monitoring Proposal At Irwin Creek," signed October 29, 2004. Implementation of the proposal shall occur concurrent with project construction with mitigation planting occurring in the first fall after contour grading.

- a. You shall compensate for the loss of approximately 0.20 acre of riparian habitat along Irwin Creek by restoring approximately 0.45 acre of riparian habitat along approximately 1,200 feet of Irwin Creek, including the realigned sections. Restoration shall include:
 - o Removing culverts through portions of Irwin Creek.
 - o Removing non-native vegetation from the mitigation area.
 - o Laying back the channel slopes and replanting the area with appropriate native riparian vegetation.
 - o Installing large woody material collected on site to provide slope protection for some portions of Irwin Creek.
- b. Site Protection: You shall ensure that a conservation easement, restrictive covenant, deed restriction, or other appropriate land encumbrance is completed and registered with the County Recorder's Office, specifying the preservation of the mitigation area as wetland and riparian wildlife habitat in perpetuity. Copies of the recorded documents shall be provided to the Corps prior to commencement of work.
- c. You shall establish a long-term funding mechanism, in the form of a performance bond or letter of credit, intended to ensure the construction, monitoring, maintenance, and success of the mitigation area. The amount of the bond or letter of credit shall be based on the cost of the Irwin Creek/riparian habitat construction, monitoring, and reporting for the mitigation area and shall be approved by the Corps before it is established. A copy of the bond agreement shall be provided to the Corps within six (6) months of the issuance of this permit. At the end of the five-year monitoring period, the Corps will determine whether or not the mitigation required by this permit has been successfully implemented.
- d. The first report shall include as-built plans and a thorough description of the mitigation site. Monitoring reports including photo-documentation shall be submitted to the regulatory permitting agencies by 31 December of each year.
- e. If performance criteria are not achieved for any portion of the mitigation in any year, or if any of the final success criteria are not met, Caltrans shall work with the permitting agencies to prepare an analysis of the cause(s) of failure and prepare a remedial action plan. Alternative mitigation site planning shall begin if it becomes apparent that the long-term success criteria for the sites will not be achieved in a timely fashion.

FURTHER INFORMATION:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

- () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. Section 403).
- (X) Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. Limits of this authorization:

- a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.

- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability: In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

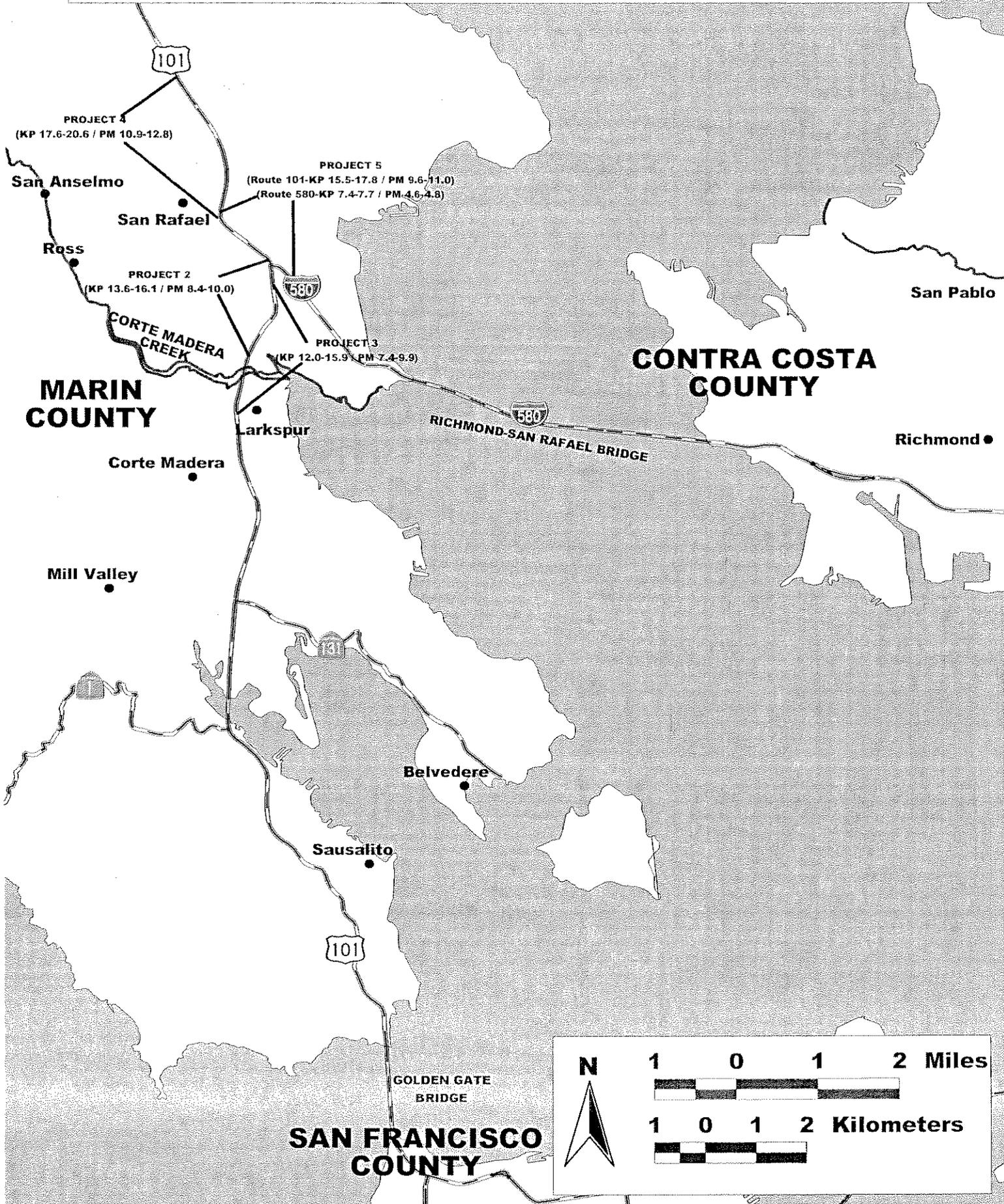
5. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate. (See Item 4 above.)
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 C.F.R. Section 325.7 or enforcement procedures such as those contained in 33 C.F.R. Sections 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 C.F.R. Section 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions: General Condition I establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

ATTACHMENT A-LOCATION OF MARIN 101 HOV LANE GAP CLOSURE PROJECTS



ATTACHMENT B-MARIN 101 HOV LANE GAP CLOSURE PROJECTS 4 AND 5

PROJECT 4

PROJECT 5



LINCOLN AVE.
BROOKDALE AVE.

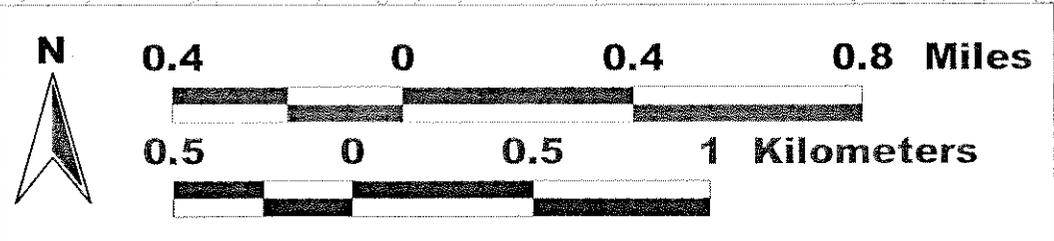
LINDEN LN.

2ND ST.

FRANCISCO BLVD. WEST
HARBOR ST.

IRWIN CREEK

SAN RAFAEL CREEK



04/22/04

DIST. COUNTY: ROUTE: 04 Mer. 101 17.6/20.6

REGISTERED CIVIL ENGINEER

PLEASE APPROVE THIS PLAN

FOR THE STATE OF CALIFORNIA OR THE CITY OF LOS ANGELES FOR THE COUNTY OF LOS ANGELES

Contract No. 101-17.6/20.6



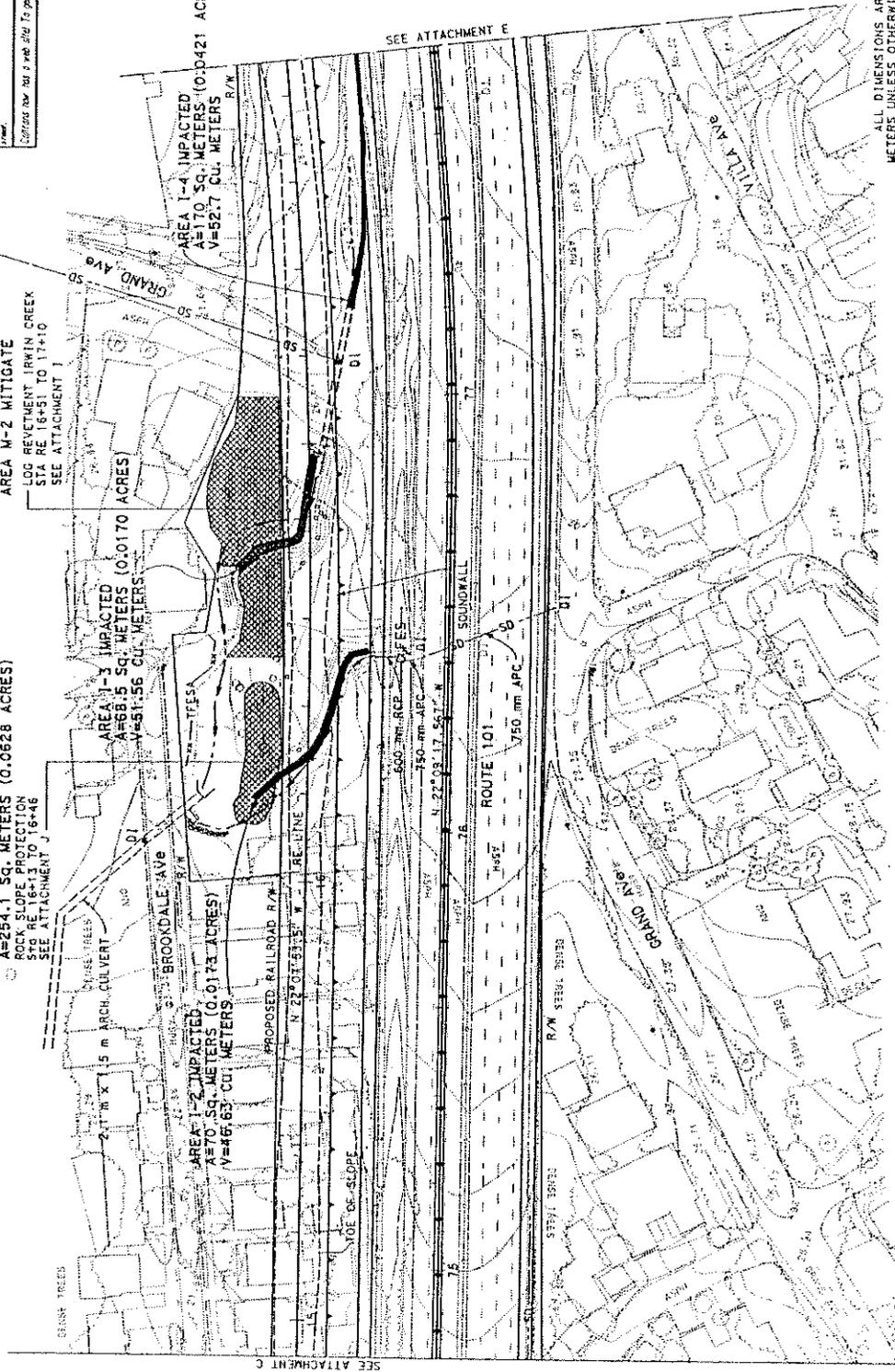
A=738.2 SQ. METERS (0.1824 ACRES)
 AREA M-2 MITIGATE
 LOG RETENTION IRVIN CREEK
 STA RE 16+51 TO 17+10
 SEE ATTACHMENT I

A=254.1 SQ. METERS (0.0628 ACRES)
 AREA M-1 MITIGATE
 ROCK SLOPE PROTECTION
 STA RE 16+13 TO 16+46
 SEE ATTACHMENT J

AREA M-3 IMPACTED
 A=66.5 SQ. METERS (0.0170 ACRES)
 V=51.56 CU. METERS

AREA M-4 IMPACTED
 A=10.0 SQ. METERS (0.0421 ACRES)
 V=52.7 CU. METERS

AREA M-2 IMPACTED
 A=70.0 SQ. METERS (0.0173 ACRES)
 V=46.83 CU. METERS



ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SHOWN

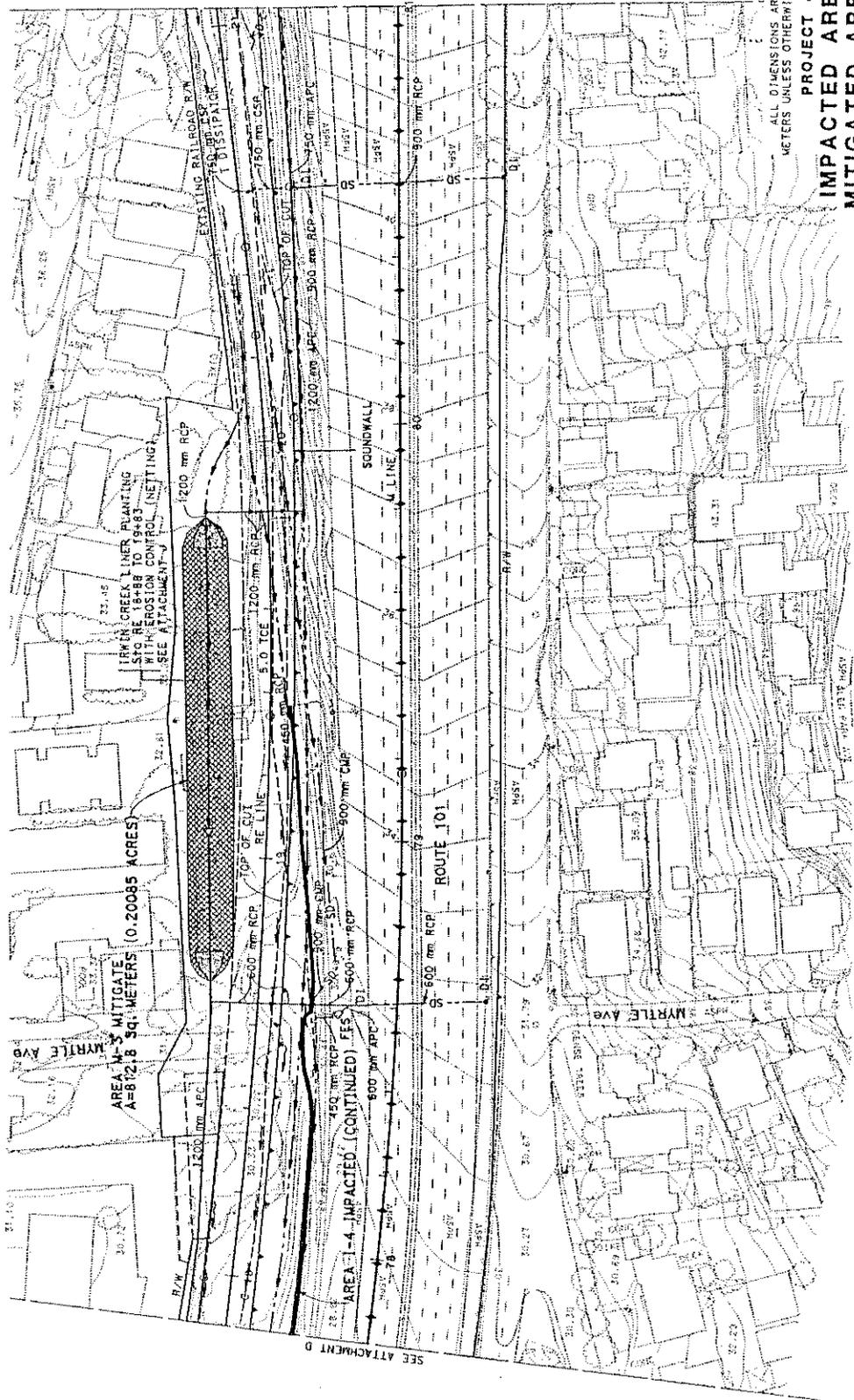
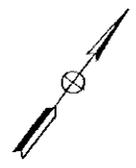
**IMPACTED AREAS I-2, I-3 AND I-4
 MITIGATED AREAS M-1 AND M-2**

ATTACHMENT D

SCALE: 1:1500

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	PROJECT ENGINEER	CALCULATED/DESIGNED BY	CHECKED BY	DATE RECEIVED
Calltrans				

DIST. COUNTY ROUTE 15000 SHEETS 15000 SHEETS
 04 A A A
 REGISTERED CIVIL ENGINEER
 PLANS APPROVAL DATE
 CONTRACT NO. 103 A was added to per to the web site, go to www.cdagov



SEE ATTACHMENT F

SEE ATTACHMENT D

PROJECT 4
 IMPACTED AREA I-4
 MITIGATED AREA M-3
 ATTACHMENT E
 SCALE: 1:500

ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SHOWN

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	PROJECT ENGINEER	DATE	REVISOR
Caltrans			
CALCULATOR/DESIGNED BY	CHECKED BY	DATE REVISOR	

RELATIVE BORDER SCALE
 0 20 40 60 80
 USERNAME: s7438mrc
 JOB FILE: s72264rpp3.dgn

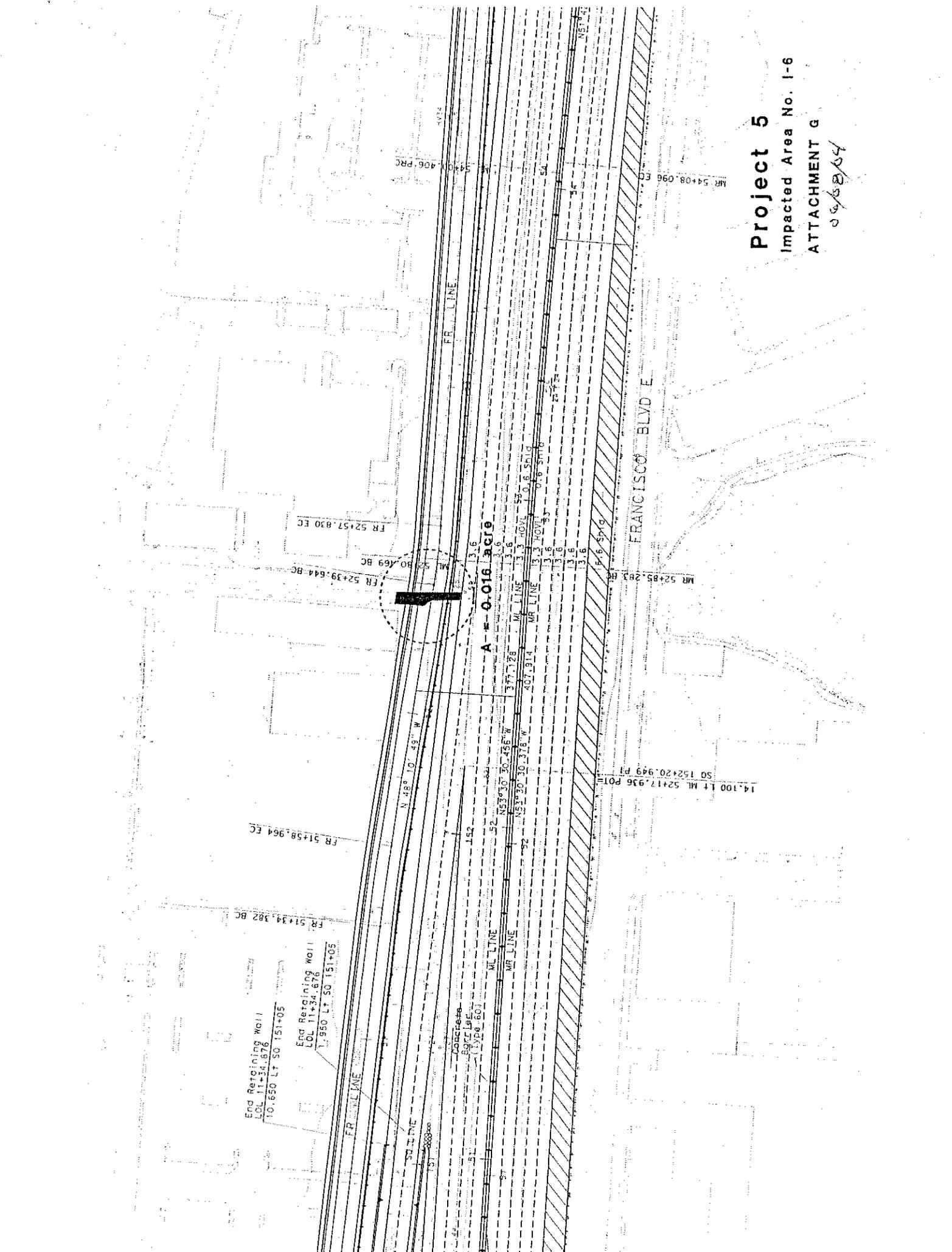
CU 04343

EA 226141

15000 SHEETS
 DATE PLOTTED: 08-JUN-2004
 TIME PLOTTED: 13:47

Project 5
 Impacted Area No. I-6
 ATTACHMENT g

09/28/04



End Retaining Wall
 LOL 11+34.876
 10.650 LT SQ 151+05

End Retaining Wall
 LOL 11+34.676
 1.950 LT SQ 151+05

A = 0.016 acre

FRANCISCO BLVD E

FR 54+08.096 EC

FR 52+37.830 EC

FR 52+39.644 BC

FR 52+80.469 BC

FR 51+58.964 EC

FR 51+34.302 BC

14.100 LT ML 52+17.936 POT
 50 152+20.949 P

FR 54+08.096 EC

MR 54+08.096 EC

MR 52+85.283 EC

FR 52+39.644 BC

FR 52+80.469 BC

FR 51+58.964 EC

FR 51+34.302 BC

14.100 LT ML 52+17.936 POT
 50 152+20.949 P

FR 54+08.096 EC

MR 54+08.096 EC

MR 52+85.283 EC

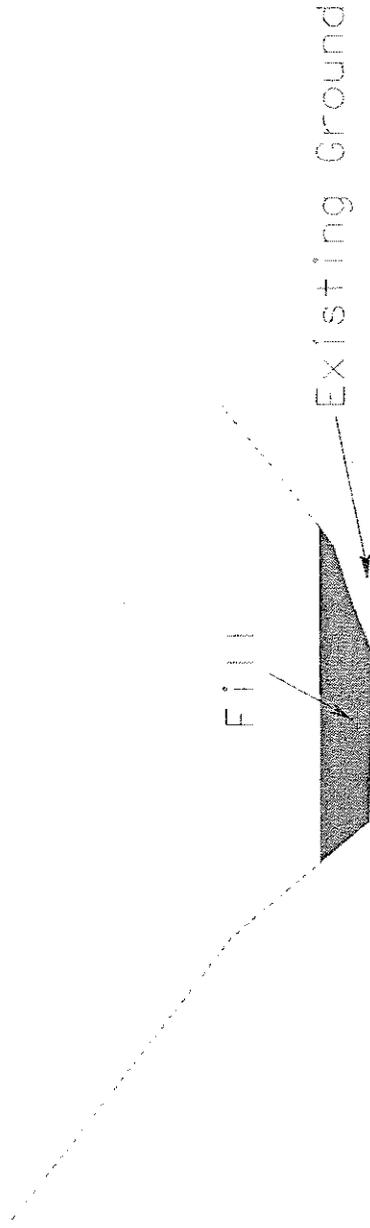
FR 52+39.644 BC

FR 52+80.469 BC

FR 51+58.964 EC

FR 51+34.302 BC

14.100 LT ML 52+17.936 POT
 50 152+20.949 P



Typical Cross Section of Irwin Creek (Filled)

Attachment H

06/18/64

11-05-03
DATE PLOTTED 02/08/2004
TIME 09:11:11
SCALE 1:5000
FILE C:\PROJECTS\11-05-03\11-05-03.dwg

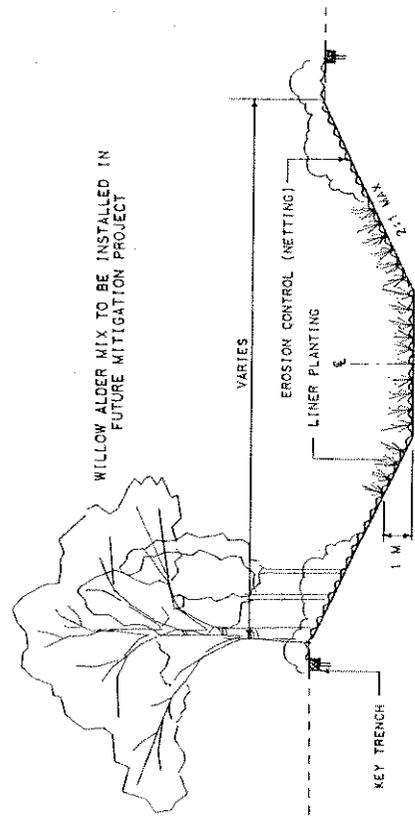
SHEET	COUNTY	ROUTE	SECTION	DATE
04	MRN	101	17.6/20.6	17.6/20.6

LICENCED LANDSCAPE ARCHITECT

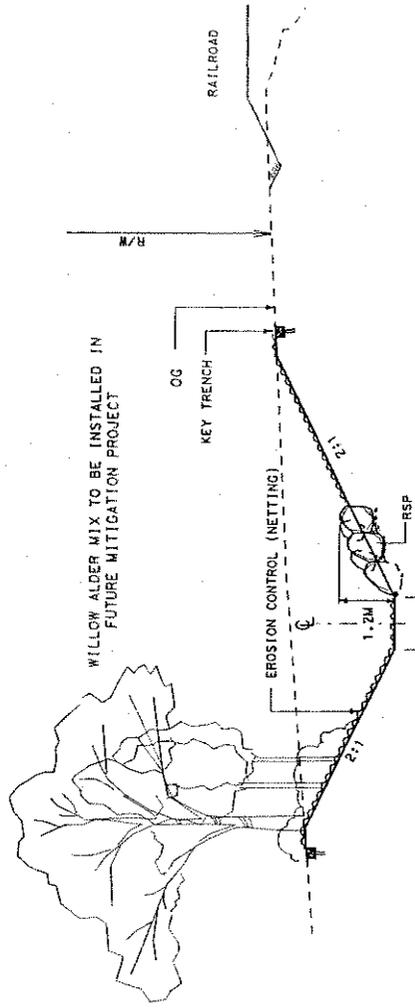
PLANS APPROVAL DATE

THE STATE OF CALIFORNIA

CONTRACT NO. 042



SECTION
IRWIN CREEK LINER PLANTING
AREA M-3



SECTION
ROCK SLOPE PROTECTION
AREA M-1

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	PROJECT LANDSCAPE ARCHITECTURE	DESIGNED BY	CHECKED BY	DATE	REVISOR	DATE
Callitans LANDSCAPE ARCHITECTURE						

ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SHOWN

ATTACHMENT J

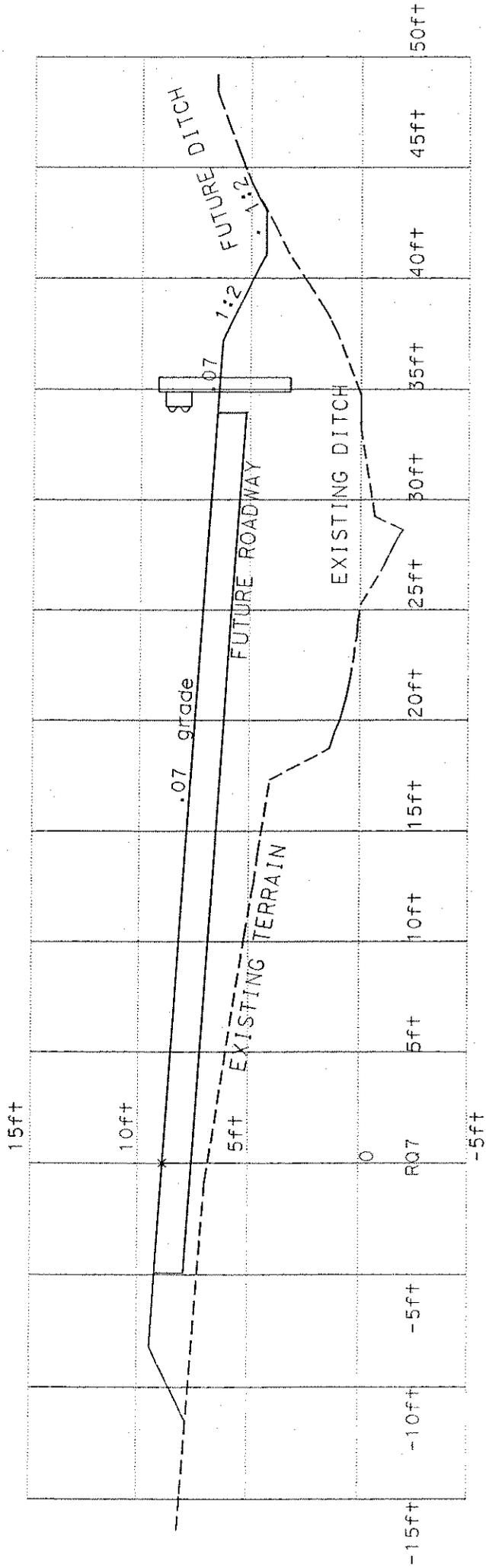
NO SCALE

EA 226141
CU 04343

RQ7 ALIGNMENT

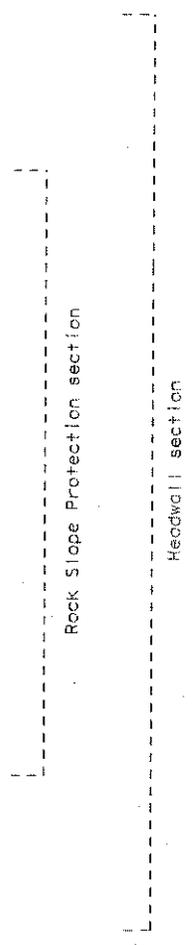
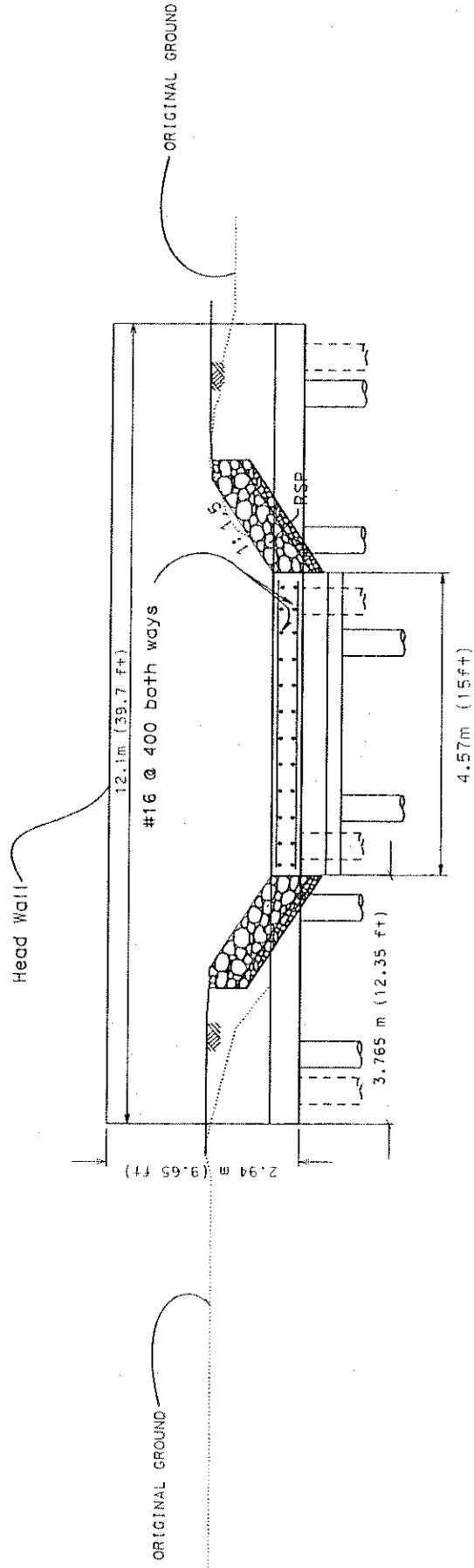
Cross Section for Attachment F

Station 147+45



PROJECT 5
 ATTACHMENT K
 02/08/09

DRAINAGE INLET ON FRANCISCO BLVD CROSS SECTION FOR ATTACHMENT G



PROJECT 5
ATTACHMENT L
02/08/64



California Regional Water Quality Control Board

San Francisco Bay Region

WKB



Alan C. Lloyd, Ph.D.
Agency Secretary

1515 Clay Street, Suite 1400, Oakland, California 94612
(510) 622-2300 • Fax (510) 622-2460
<http://www.waterboards.ca.gov/sanfranciscobay>

Arnold Schwarzenegger
Governor

Date: MAR 11 2005

File: 2158.04 (FG)

Site No: 02-21-C0425

Mr. Sotero Angeles
Project Engineer
Caltrans, District 4
111 Grand Avenue, Mail PO Box 23660
Oakland, CA 94612-0660

**SUBJECT: CONDITIONAL WATER QUALITY CERTIFICATION FOR CALTRANS
STATE HIGHWAY 101/580 HOV LANE GAP CLOSURE PROJECT, CORTE
MADERA/SAN RAFAEL, MARIN COUNTY**

Dear Mr. Sotero:

We have reviewed and hereby issue a conditional water quality certification for the above project.

You have applied to the U.S. Army Corps of Engineers (Corps) for an individual permit pursuant to Section 404 of the Clean Water Act (CWA). Correspondingly, you have also applied to the Regional Water Quality Control Board (Water Board) for a Clean Water Act Section 401 water quality certification that the project will not violate State water quality standards. Your application was deemed complete on March 9, 2005.

Project: The proposed project would close the gap between the existing high occupancy vehicle (HOV) lanes, and provide a continuous HOV lane in both directions along the U.S. Route 101 (US 101) corridor in Marin County. The Marin 101 HOV Gap Closure Project is located between Lucky Drive in Corte Madera to the South and North San Pedro Road in San Rafael to the north.

Impacts: The proposed project will impact approximately 0.15 acre (1,334 linear feet) of riparian habitat along Irwin Creek as a result of widening US 101 between Anderson Drive and Lincoln Avenue. Caltrans proposes to relocate the portion of the Irwin Creek that exists within the project area to accommodate the proposed railroad right of way. The proposed project would also impact approximately 0.036 acre (218 linear feet) of other unnamed drainages in the San Rafael Yacht Harbor area.

Mitigation: To compensate for these impacts, Caltrans proposes to restore approximately 0.45 acre of riparian habitat along 1,200 feet of the low quality riparian zone associated with Irwin Creek (including the realigned section of Irwin Creek).

Caltrans will restore portions of Irwin Creek by:

1. Removing the culverts through these portions of the Creek;
2. Removing existing non-native vegetation from the mitigation area;
3. Laying back the channel bank and replanting the area with appropriate native riparian vegetation; and,
4. Installing large woody material collected on site to provide slope protection for some portions of the Creek.

Caltrans will monitor the site for five years to ensure that the planted material survives.

CEQA Compliance: The California Department of Transportation, as the California Environmental Quality Act (CEQA) Lead Agency, filed a Notice of Determination (Environmental Impact Report) on April 21, 2000, that the Project is in compliance with CEQA.

Certification: I hereby issue an order certifying that with the incorporation of the following conditions, any discharge from the applicant's proposed project described in its application will comply with the applicable provisions of Sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017 DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification. The following conditions are associated with this certification.

1. The applicant shall comply with all terms and Conditions of the Corps' Permit and any permits or approvals from other agencies;
2. No equipment shall be operated in stream channels or other waters where there is flowing or standing water;
3. Disturbance or removal of vegetation shall not exceed the minimum necessary to complete operations. The Project site shall be stabilized as necessary through incorporation of appropriate Best Management Practices, including the successful reestablishment of native vegetation as appropriate, to enhance wildlife habitat values, and to prevent and control erosion and sedimentation;
4. The Project shall implement and maintain adequate erosion and sediment control measures during and after construction as required by the State's Construction Activities Storm Water General Permit to control the release of sediment to waters of the State, and to storm drains discharging into waters of the State;

5. The project shall also implement the post construction stormwater pollution prevention measures, as described in the "Fact Sheet for Marin Gap Closure Project" submitted to the Water Board on December 6, 2004;
6. No debris, soil, silt, sand, cement, concrete, or washings thereof, or other construction related materials or wastes, oil or petroleum products or other organic or earthen material shall be allowed to enter into or be placed where it may be washed by rainfall or runoff into waters of the State. When operations are completed, any excess material shall be removed from the work area and any areas adjacent to the work area where such material may be washed into waters of the State;
7. The Project shall be constructed as described in the application materials and summarized herein. Any additional work or variation from the described work which may result in additional or increased impacts to waters of the State (including quantity or quality of water or habitat) is not authorized, unless approved in writing by the Executive Officer prior to implementation. Note: Obtaining Executive Officer approval may require from several days to several weeks from the date of notification;
8. The "Habitat Mitigation and Monitoring Plan" (Irwin Creek Mitigation Project, November 2004) shall be implemented;
9. Mitigation monitoring reports acceptable to the Executive Officer shall be submitted annually for five years beginning one year after completion of construction of the mitigation site. The reports shall describe the results of monitoring performed during the previous year and progress towards achieving the performance standards and project objectives. They shall also describe any problem(s) encountered during the year, and explain actions taken or proposed to address the problem(s). Reports shall be submitted to the Executive Officer under cover letter signed by the Applicant committing to implementation of appropriate action to address any problems;
10. A final mitigation report, acceptable to the Executive Officer, shall be submitted at the end of five years monitoring period indicating whether performance standards have been met. Additional requirements may be imposed at that time if success standards have not been met to the satisfaction of the Executive Officer;
11. The applicant shall maintain a copy of this Water Quality Certification at the Project site so as to be available at all times to site operating personnel;
12. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code (CWC) and Section 3867 of Title 23 of the California Code of Regulations (23 CCR);

- 13. This certification action does not apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent certification application was filed pursuant to California Code of Regulations (CCR) Title 23, Subsection 3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought; and,
- 14. Certification is conditioned upon total payment of the full fee required in State regulations (23 CCR Section 3833). The total fee for this certification is \$8,260. The applicant has paid \$2,250; the remaining balance of \$6,010 is due before this certification is effective.

Please be aware that any violation of water quality certification conditions is subject to administrative civil liability pursuant to CWC Section 13350. Failure to meet any condition of a certification may subject you to civil liability imposed by the Regional Board to a maximum of \$5,000 per day of violation or \$10 for each gallon of waste discharged in violation of this certification. Any request for a report made as a condition to this action is a formal request pursuant to CWC Section 13267, and failure or refusal to provide, or falsification of such requested report is subject to civil liability as described in CWC Section 13268.

We anticipate no further action on this request. Should new information come to our attention that indicates a water quality problem with this project, the Regional Board may issue Waste Discharge Requirements pursuant to 23 CCR Section 3857.

If you have any questions, please contact Mr. Farhad Ghodrati of my staff at (510) 622-2331, e-mail fg@waterboards.ca.gov.

Sincerely,

BH Wolfe
 for Bruce H. Wolfe
 Executive Officer

cc: 401 Program Manager, SWRCB-DWQ
 John Yeakel, U.S. Army Corps of Engineers
 U.S. EPA, WTR-8

PROJECT STATUS

Please use the forms below to report the dates when you start and finish the work authorized by the enclosed permit. Also if you suspend work for an extended period of time, use the forms below to report the dates you suspended and resumed work. The second copy is provided for your records. If you find that you cannot complete the work within the time granted by the permit, please apply for a time extension at least one month before your permit expires. If you materially change the plan or scope of the work, it will be necessary for you to submit new drawings and a request for a modification of your permit.

(cut as needed) -----

Date: _____

NOTICE OF COMPLETION OF WORK under Department of the Army Permit No. 22704N

TO: District Engineer, US Army Corps of Engineers, Regulatory Branch, 333 Market Street, 8th Floor, San Francisco, CA 94105-2197

In compliance with the conditions of Permit No. 22704N, this is to notify you that work was completed on _____

Permittee: California Department of Transportation, Jit S. Pandher
Address: Project Design, P.O. Box 23660, , Oakland, CA 94623-0660

(cut as needed) -----

Date: _____

NOTICE OF RESUMPTION OF WORK under Department of the Army Permit No. 22704N

TO: District Engineer, US Army Corps of Engineers, Regulatory Branch, 333 Market Street, 8th Floor, San Francisco, CA 94105-2197

In compliance with the conditions of Permit No. 22704N, this is to notify you that work was resumed on _____

Permittee: California Department of Transportation, Jit S. Pandher
Address: Project Design, P.O. Box 23660, , Oakland, CA 94623-0660

(cut as needed) -----

Date: _____

NOTICE OF SUSPENSION OF WORK under Department of the Army Permit No. 22704N

TO: District Engineer, US Army Corps of Engineers, Regulatory Branch, 333 Market Street, 8th Floor, San Francisco, CA 94105-2197

In compliance with the conditions of Permit No. 22704N, this is to notify you that work was suspended on _____

Permittee: California Department of Transportation, Jit S. Pandher
Address: Project Design, P.O. Box 23660, , Oakland, CA 94623-0660

(cut as needed) -----

Date: _____

NOTICE OF COMMENCEMENT OF WORK under Department of the Army Permit No. 22704N

TO: District Engineer, US Army Corps of Engineers, Regulatory Branch, 333 Market Street, 8th Floor, San Francisco, CA 94105-2197

In compliance with the conditions of Permit No. 22704N, this is to notify you that work commenced on _____

Permittee: California Department of Transportation, Jit S. Pandher
Address: Project Design, P.O. Box 23660, , Oakland, CA 94623-0660

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