

INFORMATION HANDOUT

WATER QUALITY

CALIFORNIA COASTAL COMMISSION

PERMIT NO. 6-11-076

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

BOARD ORDER NO. 99 - 06 - DWQ

NPDES PERMIT NO. CAS000003

PERMITS

UNITED STATES ARMY CORPS OF ENGINEERS

NATIONWIDE PERMITS NO. SPL-2011-00702-SCH, SPL-2011-00717-SCH, SPL-2011-00702-SCH, SPL-2011-00721-SCH

AGREEMENTS

CALIFORNIA DEPARTMENT OF FISH AND GAME

STREAMBED ALTERATION AGREEMENT, NOTIFICATION NO. 1600-2011-0193-R5

UNITED STATES FISH AND WILDLIFE SERVICE

INFORMAL SECTION 7 CONSULTATION NO. FWS-SDG-08B0398-08I0782

RIGHT-OF-WAY AGREEMENTS

RIGHT OF ENTRY PERMIT (LOCATION 1)

PERMIT NO. 34432

CATEGORICAL EXCLUSION, DECISION MEMORANDUM FOR NATIONAL ENVIRONMENTAL
POLICY ACT REVALIDATION TO PROVIDE CALTRANS TEMPORARY ACCESS FOR
CULVERT REPAIRS (LOCATION 2)

PERMIT NO. MCO P5090.2A

RIGHT OF WAY AGREEMENTS – TEMPORARY ACCESS AGREEMENTS (LOCATION 3)

PERMITS NO. 34752, 34753, 34754, 34755, 34756, 34757, 34758, 34759

CATEGORICAL EXCLUSION, DECISION MEMORANDUM FOR NATIONAL ENVIRONMENTAL
POLICY ACT REVALIDATION TO PROVIDE CALTRANS TEMPORARY ACCESS FOR
CULVERT REPAIRS (LOCATION 9)

PERMIT NO. 070076

LETTER OF NOTIFICATION (LOCATION 10)

PERMIT NO. 34433

ROUTE: Various

CALIFORNIA COASTAL COMMISSION

San Diego Coast Area Office
7575 Metropolitan Drive, Suite 103
San Diego, CA 92108-4421
(619) 767-2370
www.coastal.ca.gov



Page: 1

Date: **December 15, 2011**
Permit Application No.: **6-11-076**

COASTAL DEVELOPMENT PERMIT

On **December 7, 2011**, the California Coastal Commission granted to:

California Department of Transportation (Caltrans)

this permit subject to the attached Standard and Special Conditions, for development consisting of

The proposed project includes the repair and stabilization of an existing culvert. Proposed work includes the removal of exposed wingwalls, stabilization of the end wall with rip rap back fill, gabion installation, construction of a rock lined drainage channel, and reconstruction of a sunken rock-lined basin. The applicant proposes to mitigate on-site impacts to native habitat at the Marron Mitigation Site

more specifically described in the application filed in the Commission offices.

The development is within the coastal zone at

The project site is located north of the Las Pulgas Interchange and west of I-5, adjacent to Marine Base Camp Pendleton, San Diego County.

Issued on behalf of the California Coastal Commission by

CHARLES LESTER
Executive Director

A handwritten signature in black ink, appearing to read 'G. Buhr'.

By: **GABRIEL BUHR**
Coastal Program Analyst

ACKNOWLEDGMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions thereof.

The undersigned permittee acknowledges that Government Code Section 818.4 which states in pertinent part that: "A Public entity is not liable for injury caused by the issuance. . . of any permit. . ." applies to the issuance of this permit.

COASTAL DEVELOPMENT PERMIT

Date: December 15, 2011

Permit Application No.: 6-11-076

Page 2 of 3

IMPORTANT: THIS PERMIT IS NOT VALID UNLESS AND UNTIL A COPY OF THE PERMIT WITH THE SIGNED ACKNOWLEDGMENT HAS BEEN RETURNED TO THE COMMISSION OFFICE. 14 Cal. Admin. Code Section 13158(a).

12-29-2011

Date

Tom Querin (FOR EH)

Signature of Permittee

STANDARD CONDITIONS:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

SPECIAL CONDITIONS:

The permit is subject to the following conditions:

1. **Construction Methods.** The permittee shall comply with the following construction-related requirements:
 - Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of construction-related materials, and to contain sediment or contaminants associated with construction activity, shall be implemented prior to the on-set of such activity;
 - No construction materials, debris, or waste shall be placed or stored where it may enter a storm drain;
 - All trash and debris shall be disposed in the proper trash or recycling receptacle at the end of every construction day;

COASTAL DEVELOPMENT PERMIT

Date: December 15, 2011

Permit Application No.: 6-11-076

Page 3 of 3

- Construction debris and sediment shall be properly contained and secured on site with BMPs, to prevent the unintended transport of sediment and other debris into coastal waters by wind, rain or tracking. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil;
- Construction debris and sediment shall be removed from construction areas as necessary to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. All debris and trash shall be disposed of in the proper trash and recycling receptacles at the end of each construction day;
- The discharge of any hazardous materials into any receiving waters shall be prohibited;
- A pre-construction meeting shall be held for all personnel to review procedural and BMP/GHP guidelines;
- All BMPs shall be maintained in a functional condition throughout the duration of the project.

Debris shall be disposed at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place.

2. Timing of Construction. To avoid potential impacts to the Coastal California Gnatcatcher breeding period, construction will not be permitted between the dates of February 15th and September 15th of any year, unless written approval is received from USFWS and CDFG and provided to the Executive Director for review.

3. Landscape Plan. The applicant shall undertake plant installation as outlined in its Biological Assessment submitted to the US Fish and Wildlife Service (July 2008), more specifically detailed in Section 4 of that document.

Vegetation in landscaped areas shall only consist of native plants. No plant species listed as problematic and/or invasive by the California Native Plant Society (<http://www.CNPS.org/>), the California Invasive Plant Council (<http://www.cal-ipc.org/>), or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as a 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized within the property.

The permittee shall undertake development in accordance with the approved final plans. Any proposed changes to the approved final plan shall be reported to the Executive Director. No changes to the approved final plan shall occur without a Commission amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.



California Regional Water Quality Control Board San Diego Region



Matthew Rodriguez
Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Edmund G. Brown Jr.
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4353
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

January 18, 2012

Certified Mail – Return Receipt Requested

Article Number: 7011 0470 0002 8961 5186

Mr. Ed Hajj
Project Manager
California Department of Transportation
4050 Taylor Street, MS-341
San Diego, CA 92110

In reply refer to:

768599: mporter

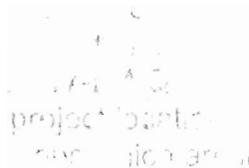
Dear Mr. Hajj:

**SUBJECT: Clean Water Act Section 401 Water Quality Certification No. 11C-058
for the Repair Culverts Project**

Enclosed is the Clean Water Act Section 401 Water Quality Certification for discharges to waters of the U.S. and acknowledgment of enrollment under State Water Resources Control Board Order No. 2003-017-DWQ for the Repair Culverts Project (project). A description of the project and project location can be found in the project information sheet, location map, and site maps which are included as Attachments 1 through 6.

Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that you have accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject the California Department of Transportation to enforcement actions by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.



In the subject line of any response, please include the requested **"In reply refer to:"** information located in the heading of this letter. For questions pertaining to the subject matter, please contact Mike Porter at 858-467-2726 or mporter@waterboards.ca.gov.

Respectfully,



DAVID W. GIBSON
Executive Officer

Enclosures:

Clean Water Act Section 401 Water Quality Certification No. 11C-058 for Repair Culverts Project, with six attachments.

E-copies: Refer to Attachment 2 of Certification 11C-058 for the Distribution List.

Tech Staff Info & Use	
File No.	11C-058
WDID	9000002017
Reg. Measure ID	380325
Place ID	768599
Party ID	7222
Person ID	527930

11C-058
WDID 9000002017
REG MEAS 380325
PLACE 768599
PARTY 7222
PERSON 527930

11C-058
WDID 9000002017
REG MEAS 380325
PLACE 768599
PARTY 7222
PERSON 527930



California Regional Water Quality Control Board

San Diego Region



Matthew Rodriguez
Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Edmund G. Brown Jr.
Governor

9174 Sky Park Court, Suite 100, San Diego, California 92123-4340
(858) 467-2952 • Fax (858) 571-6972
[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

Action on Request
for
Clean Water Act Section 401 Water Quality Certification
and
Waste Discharge Requirements
for
Discharge of Dredged and/or Fill Materials

PROJECT: Repair Culverts
Water Quality Certification No. 11C-058

APPLICANT: Mr. Ed Hajj
Project Manager
California Department of Transportation
4050 Taylor Street, MS-341
San Diego, CA 92110

WDID	9000002017
Reg. Meas.	380325
Place	768599
Party	7222
Person	527930

ACTION:

<input type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input checked="" type="checkbox"/> Order for Technically-conditioned, Programmatic Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004 DWQ

PROJECT DESCRIPTION:

The proposed project is the repair of ten culverts on State Route (SR)-52, SR-67, Interstate (I)-8, I-805, I-5, and I-15. Four of the ten culverts (Culverts Nos. 1, 3, 7, and 9) will have impacts to Federal and State jurisdictional wetlands. Repairs will include removing obstructions from inlets and outlets, re-grading outlet ditches, filling eroded areas, sealing culvert joints, relining culverts, structurally sleeving culverts, and repairing aprons and wingwalls.

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

Recycled Paper



Permanent project impacts to wetlands will be limited to 0.08-acre and 153-linear feet. Mitigation will be the deduction of 0.08-acres (300-linear feet) of establishment and 0.03-acre (75-linear feet) of enhancement mitigation credits from the Forester Creek mitigation site.

TABLE OF CONTENTS

I. STANDARD CONDITIONS: 3
II. ADDITIONAL CONDITIONS: GENERAL 3
III. ADDITIONAL CONDITIONS: CONSTRUCTION BEST MANAGEMENT PRACTICES 5
IV. ADDITIONAL CONDITIONS: IMPACTS AND COMPENSATORY MITIGATION 7
V. MONITORING REQUIREMENTS: 7
VI. NOTIFICATION REQUIREMENTS: 8
VII. REPORTING REQUIREMENTS: 9
VIII. CEQA FINDINGS: 11
IX. PUBLIC NOTIFICATION OF PROJECT APPLICATION: 11
X. SAN DIEGO WATER BOARD CONTACT PERSON: 11
XI. WATER QUALITY CERTIFICATION: 12

I. STANDARD CONDITIONS:

The following three standard conditions apply to all Certification actions, except as noted under Condition 3 for denials.

- A. 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 and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
- B. This Certification action is not intended and must not be construed to 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 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. The validity of any non-denial Certification action must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

II. ADDITIONAL CONDITIONS: GENERAL

- A. Water Quality Certification No. 11C-058 (Certification) is only valid if the project begins no later than 5 (five) years from the date of issuance. If the project has not begun within 5 years from the date of issuance, then this Certification expires.
- B. The California Department of Transportation must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material that have Received State Water Quality Certification*. These General Waste Discharge Requirements are accessible at: http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
- C. The California Department of Transportation must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the San Diego Water Board, to support this Certification and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must

supersede conflicting provisions within such plans submitted as part of this Certification action.

- D. The California Department of Transportation must permit the San Diego Water Board or its authorized representative at all times, upon presentation of credentials:
1. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 2. Access to copy any records required to be kept under the terms and conditions of this Certification.
 3. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 4. Sampling of any discharge or surface water covered by this Order.
- E. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
- F. In response to a suspected violation of any condition of this Certification, the San Diego Water Board may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the San Diego Water Board deems appropriate, provided that the burden, including costs, of the reports must bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
- G. In response to any violation of the conditions of this Certification, the San Diego Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.

III. ADDITIONAL CONDITIONS: CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. Prior to the start of the project, and annually thereafter, the California Department of Transportation must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and Best Management Practices BMPs implementation and maintenance.
- B. BMPs must include, but not be limited to, silt fencing, coffering and diverting surface waters around the construction areas, designated concrete washout areas, designated hazardous materials storage areas, erosion control, and sediment control.
- C. The California Department of Transportation must comply with the requirements of State Water Resources Control Board adopted Order No. 99-06-DWQ, NPDES No. CAS000003 *NPDES Permit Statewide Storm Water Permit and Waste Discharge Requirements (WDRs) for the State of California, Department of Transportation*.
- D. The California Department of Transportation must enroll in and comply with the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, NPDES No. CAS000002, *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities*.
- E. The California Department of Transportation must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.
- F. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the San Diego Water Board pursuant to CWC § 13260.
- G. Discharges of concentrated flow during construction or after completion must not cause downstream erosion or damage to properties or stream habitat.
- H. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm

flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each work day or sooner if rain is predicted.

- I. All surface waters, including ponded waters, must be diverted away from areas undergoing grading, construction, excavation, vegetation removal, or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
- J. All areas that will be left in a rough graded state must be stabilized no later than two weeks after completion of grading. The California Department of Transportation, land owners, and/or land managers are responsible for implementing and maintaining BMPs to prevent erosion of the rough graded areas. After completion of grading, all areas must be revegetated with native species appropriate for the area. The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at <http://www.cal-ipc.org/ip/inventory/weedlist.php>.
- K. Except as permitted, substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State, except as authorized by this Certification. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.
- L. Removal of vegetation must occur by hand, mechanically, or using EPA approved herbicides deployed using applicable BMPs to prevent impacts to beneficial uses of waters of the State. Use of aquatic pesticides must be done in accordance with State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, and any subsequent reissuance as applicable.
- M. If groundwater dewatering with discharge to surface water is necessary for project construction, the California Department of Transportation must apply for and obtain coverage under the San Diego Water Board Order No. R9-2008-0002, *General Waste Discharge Requirements for Discharges from Groundwater Extraction and Similar Discharges to Surface Waters Within the San Diego Region*. These General Waste Discharge Requirements are accessible at: http://www.swrcb.ca.gov/rwqcb9/board_decisions/adopted_orders/2008/2008_0002.pdf

- N. During construction, the California Department of Transportation must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.

IV. ADDITIONAL CONDITIONS:

UNAVOIDABLE IMPACTS AND COMPENSATORY MITIGATION

- A. Unavoidable, permanent impacts to wetland waters of the U.S. and State are limited to 0.08-acre and 153-linear feet.
- B. Compensatory mitigation must consist of the deduction 0.08-acre (300-linear feet) of establishment and 0.03-acre (75-linear feet) of enhancement as riparian mitigation credits from the Forester Creek Mitigation Site.
- C. Any maintenance activities that do not contribute to the success of the mitigation sites and enhancement of beneficial uses and ecological functions and services are prohibited. Maintenance activities are limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species and remedial measures deemed necessary for the success of the restoration program.
- D. For the purpose of determining mitigation credit for the removal of exotic/invasive plant species, only the actual area occupied by exotic/invasive plant species must be quantified to comply with mitigation requirements.
- E. The Forester Creek Mitigation Site must be maintained free of non-native and invasive plant species in perpetuity.
- F. The physical integrity of the Forester Creek Mitigation Site must be maintained in perpetuity.
- G. For purposes of this Certification, establishment is defined as the creation of vegetated or unvegetated waters of the United States/State where the resource has never previously existed (e.g. conversion of nonnative grassland to a freshwater marsh). Restoration is divided into two activities, re-establishment and rehabilitation. Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the United States/State previously existed (e.g., removal of fill material to restore a drainage). Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated or unvegetated waters of the United States/State (e.g., removal of a heavy infestation or monoculture of exotic plant species from jurisdictional areas

and replacing with native species). Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the United States/State (e.g., removal of small patches of exotic plant species from an area containing predominantly natural plant species). Preservation is defined as the acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the United States/State (e.g., conservation easement).

VI. NOTIFICATION REQUIREMENTS:

- A. The California Department of Transportation must report to the San Diego Water Board any noncompliance which may endanger human health or the environment. Any information shall be provided orally within **24 hours** of the time the California Department of Transportation becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the California Department of Transportation becomes aware of the circumstances. The written submission shall contain a written description of the incident and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The San Diego Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours.

- B. The California Department of Transportation must notify the San Diego Water Board of any change in ownership or transfer of certification responsibilities associated with the project or mitigation areas. Notification of change in ownership or transfer of responsibilities must include, but not be limited to, a statement that the California Department of Transportation has provided the purchaser/transferee with a copy of the Section 401 Water Quality Certification and that the purchaser/transferee understands and accepts the certification requirements and acknowledges the obligation to implement them and be subject to liability for failure to do so. The seller and purchaser/transferee must sign and date the notification and provide such notification to the Executive Officer of the San Diego Water Board within **10 days** of the transfer. Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the California Department of Transportation will be interpreted to refer to the transferee as appropriate. Transfer does not necessarily relieve the California Department of Transportation of this Certification in the event that a transferee fails to comply.

- C. Within one year of the start of construction, the California Department of Transportation must submit proof of a completed preservation mechanism that will protect all mitigation areas and their buffers in perpetuity. The conservation easement, deed restriction, or other legal limitation on the mitigation property must be adequate to demonstrate that the site will be maintained without future development or encroachment on the site which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the United States that it supports. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the site. The preservation mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.

VII. REPORTING REQUIREMENTS:

- A. The California Department of Transportation must submit annual progress reports describing status of compliance with all requirements of this Certification to the San Diego Water Board prior to **August 1** of each year following the issuance of this Certification until the project has reached completion. The California Department of Transportation must submit a Final Project Annual Report to the San Diego Water Board prior to **August 1** following completion of the project. The reports must include the following:
1. Date of construction initiation.
 2. Projected date of construction completion.
 3. Final Project Report: As-built drawings no larger than 11"X17", GPS readings, and photodocumentation of culverts pre- and post-repairs.
- B. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the San Diego Water Board for failure to furnish requested information pursuant to CWC section 13268.
- C. All reports and information submitted to the San Diego Water Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.

- D. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:
1. For a corporation, by a responsible corporate officer of at least the level of vice president.
 2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
 4. A duly authorized representative may sign applications, reports, or information if:
 - a. The authorization is made in writing by a person described above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the San Diego Water Board Executive Officer.
- E. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

- F. The California Department of Transportation must submit reports required under this Certification, or other information required by the San Diego Water Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification No. 11C-058
9174 Sky Park Court, Suite 100
San Diego, California 92123

VIII. CEQA FINDINGS:

- A. The California Department of Transportation is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)), and issued a Categorical Exemption / Categorical Exclusion Form on February 19, 2009.
- B. The San Diego Water Board has reviewed the lead agency's Categorical Exemption / Categorical Exclusion Form and finds that the project, as proposed, is exempt from CEQA.

IX. PUBLIC NOTIFICATION OF PROJECT APPLICATION:

- A. On July 18, 2011, receipt of the project application was posted on the San Diego Water Board web site to serve as appropriate notification to the public. No public comments were received.

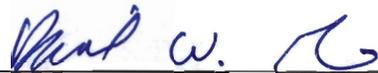
X. SAN DIEGO WATER BOARD CONTACT PERSON:

Mike Porter, Engineering Geologist
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
Telephone: 858-467-2726
Email: mporter@waterboards.ca.gov

XI. WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the **Repair Culverts** project (Certification No. 11C-058) 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. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)*," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue individual waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Water Quality Control Plan for the San Diego Basin Region (9) (Basin Plan).



DAVID W. GIBSON
Executive Officer
Regional Water Quality Control Board

18 January 2012
Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location Map(s)
 4. Site Figures(s)
 5. Mitigation Figures(s)
 6. Required Reports and Notifications Checklist

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: Mr. Ed Hajj
Project Manager
California Department of Transportation
4050 Taylor Street, MS-341
San Diego, CA 92110
Telephone: 619-220-5433
Fax: 619-688-4237
Email: Ed_Hajj@dot.ca.gov

Applicant
Representatives: Kim T. Smith
Branch Chief
Environmental Stewardship and Ecological Studies
Department of Transportation
4050 Taylor Street, MS-341
San Diego, CA 92110
Telephone : 619-688-0220
Fax: 619-688-4237
Email: kim_t_smith@dot.ca.gov

Project Name: Repair Culverts

Project Locations: The proposed project sites are located under and adjacent to State Routes 52 and 67, Interstates I-8, I-805, I-5, and I-15.

Type of Project: Culvert repairs.

Project Description: The proposed project is the repair of ten culverts on State Route (SR)-52, SR-67, Interstate (I)-8, I-805, I-5, and I-15. Four of the ten culverts (Culverts Nos. 1, 3, 7, and 9) will have impacts to Federal and State jurisdictional wetlands. Repairs will include removing obstructions from inlets and outlets, re-grading outlet ditches, filling eroded areas, sealing culvert joints, relining culverts, structurally sleeving culverts, and repairing aprons and wingwalls.

Federal Agency/Permit:	U.S. Army Corps of Engineers §404, Nationwide Permits 3 and 33, Ms. Stephanie Hall.
Other Required Regulatory Approvals:	California Department of Fish and Game (CDFG) § 1602 Streambed Alteration Agreement, Mr. Tim Dillingham.
California Environmental Quality Act (CEQA) Compliance:	The California Department of Transportation is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)), and issued a <u>Categorical Exemption / Categorical Exclusion Form</u> on February 19, 2009
Receiving Waters:	Tributaries to San Clemente Canyon, Poway Creek, the Otay River, and the Pacific Ocean.
Impacted Waters and Wetlands of the United States and State:	Permanent - Wetlands - 0.08-acre, 153-linear feet
Dredge Volume:	None proposed.
Related Projects Implemented/to be Implemented by the Applicant(s):	None disclosed.
Compensatory Mitigation:	Mitigation will be the deduction of mitigation credits from Caltrans' Forester Creek mitigation site totaling 0.08-acre (300-linear feet) of riparian establishment and 0.03-acre (75-feet) of riparian enhancement.
Public Notice:	On July 18, 2011, receipt of the project application was posted on the San Diego Water Board website to serve as appropriate notification to the public. No public comments were received.

Fees: Total Due: \$2,418.00
Total Paid: \$890.00 (Check No. 082-000000000942617)
Total Paid: \$1,528.00 (Check No. 082-000000000975880)

CIWQS: Regulatory Measure ID: 380325
Place ID: 768599
Party ID: 7222
Person ID: 527930
WDID 9 000002017

**ATTACHMENT 2
DISTRIBUTION LIST**

Ms. Stephanie Hall
Environmental Protection Specialist/Senior PM
USACOE-Los Angeles District
Regulatory Division
Stephanie.J.Hall@usace.army.mil

Ms. Gladys Baird
Stormwater Program Manager
California Department of Transportation
4050 Taylor Street, MS-341
San Marcos, CA 92069-2918
gladys_t_baird@dot.ca.gov

Kim T. Smith
Branch Chief
Environmental Stewardship and Ecological Studies
Department of Transportation
4050 Taylor Street
San Diego, CA 92110
kim_t_smith@dot.ca.gov

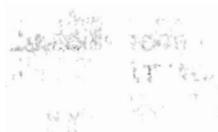
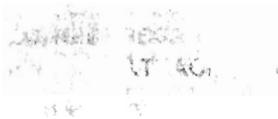
Mr. Tim Dillingham
California Department of Fish and Game
South Coast Region
Habitat Conservation Planning – North
3883 Ruffin Road
San Diego, CA 92123
TDillingham@dfg.ca.gov

Mr. Eric Raffini
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105
R9-WTR8-Mailbox@epa.gov

State Water Resources Control Board
Division of Water Quality
401 Water Quality Certification and Wetlands Unit
P.O. Box 100
Sacramento, CA 95812-0100
Stateboard401@waterboards.ca.gov



ATTACHMENT 3
LOCATION MAPS



INDEX OF PLANS

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION
 PROJECT PLANS FOR CONSTRUCTION ON
 STATE HIGHWAY
 IN SAN DIEGO COUNTY
 AT VARIOUS LOCATIONS

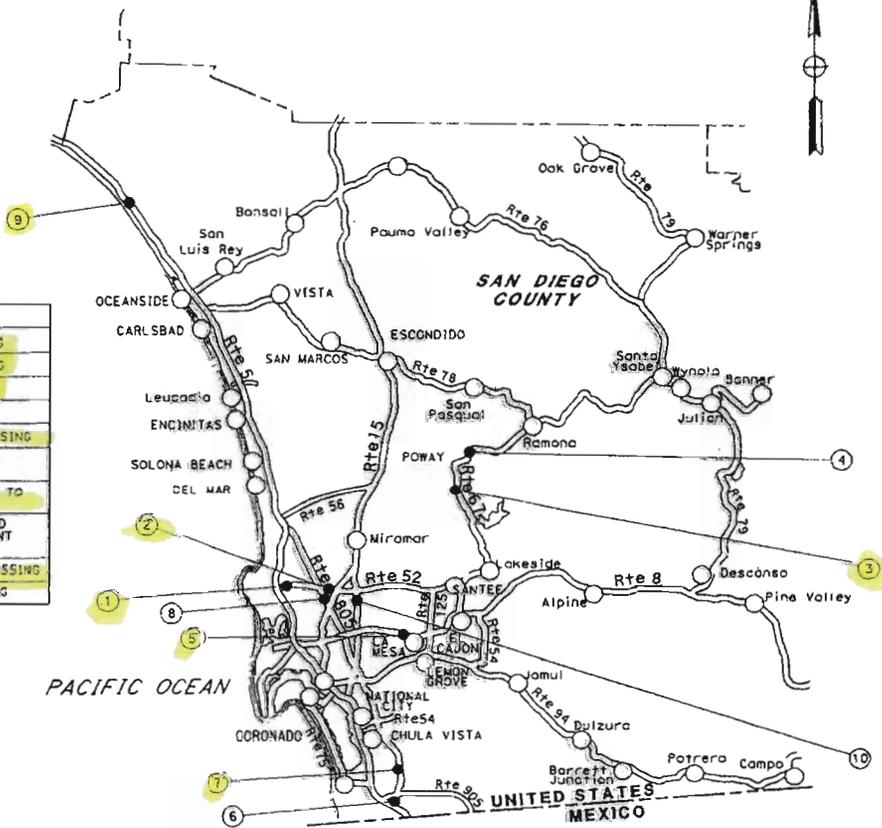
TO BE SUPPLEMENTED BY STANDARD PLANS DATED MAY 2006

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET NO.	TOT SHEET
11	SD	5, 8, 15, 62, 67, 80S	Var	1	



LOCATIONS OF CONSTRUCTION

Loc	Rte	PM	DESCRIPTION
1	52	1.31	0.04 MILE WEST OF REGENTS ROAD UNDERCROSSING
2	52	5.38	0.11 MILE EAST OF CONVOY STREET OVERCROSSING
3	67	13.75	0.19 MILE NORTH OF SCRIPPS POWAY PARKWAY
4	67	18.23	0.32 MILE SOUTH OF ARCHIE MOORE ROAD
5	8	10.62	0.05 MILE EAST OF FLETCHER PARKWAY OVERCROSSING
6	805	0.65/1.11	SAN YSIDRO BOULEVARD UNDERCROSSING TO BEYER BOULEVARD OVERCROSSING
7	805	2.88/3.38	0.02 MILE SOUTH OF PALM AVENUE OVERCROSSING TO OTAY RIVER BRIDGE
8	805	22.71/22.81	0.15 MILE NORTH OF CLAIREMONT MESA BOULEVARD OVERCROSSING TO 0.25 MILE NORTH OF CLAIREMONT MESA BOULEVARD OVERCROSSING
9	5	R62.60	0.52 MILE NORTH OF LAS PULGAS ROAD UNDERCROSSING
10	15	R9.24	0.10 MILE WEST OF BALBOA AVENUE OVERCROSSING



PROJECT MANAGER
 ED HAJJ
 DESIGN ENGINEER
 TOM GUERRINI

THE CONTRACTOR SHALL POSSESS THE CLASS (OR CLASSES) OF LICENSE AS SPECIFIED IN THE "NOTICE TO BIDDERS."

NO SCALE

PROJECT ENGINEER DATE
 REGISTERED CIVIL ENGINEER
 I.W. GUERRINI
 No. 065539
 Exp. 09-30-11
 CIVIL
 STATE OF CALIFORNIA

PLANS APPROVAL DATE
 THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

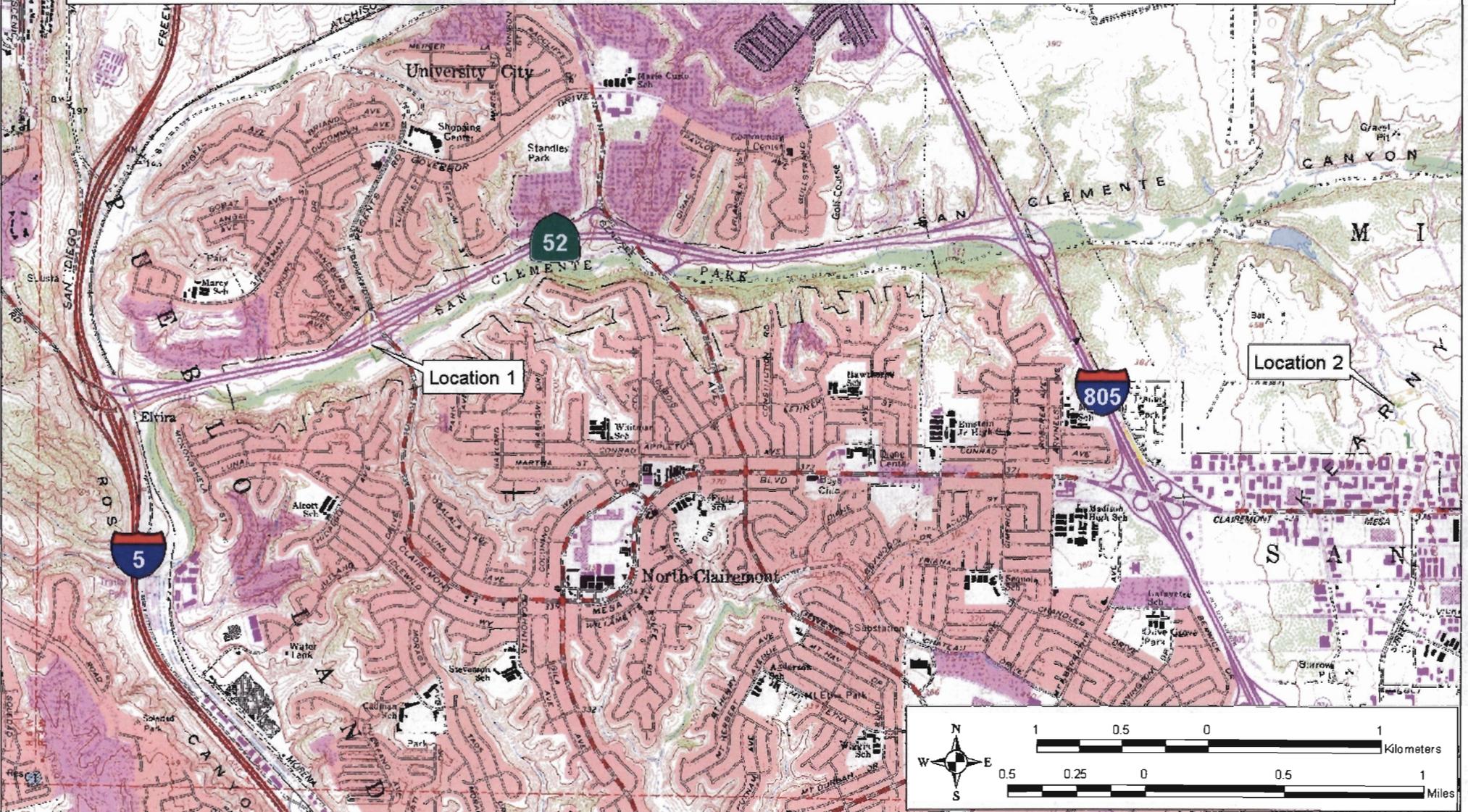
CONTRACT No. 11-27080
 PROJECT ID 1100000248

ATTACHMENT 4

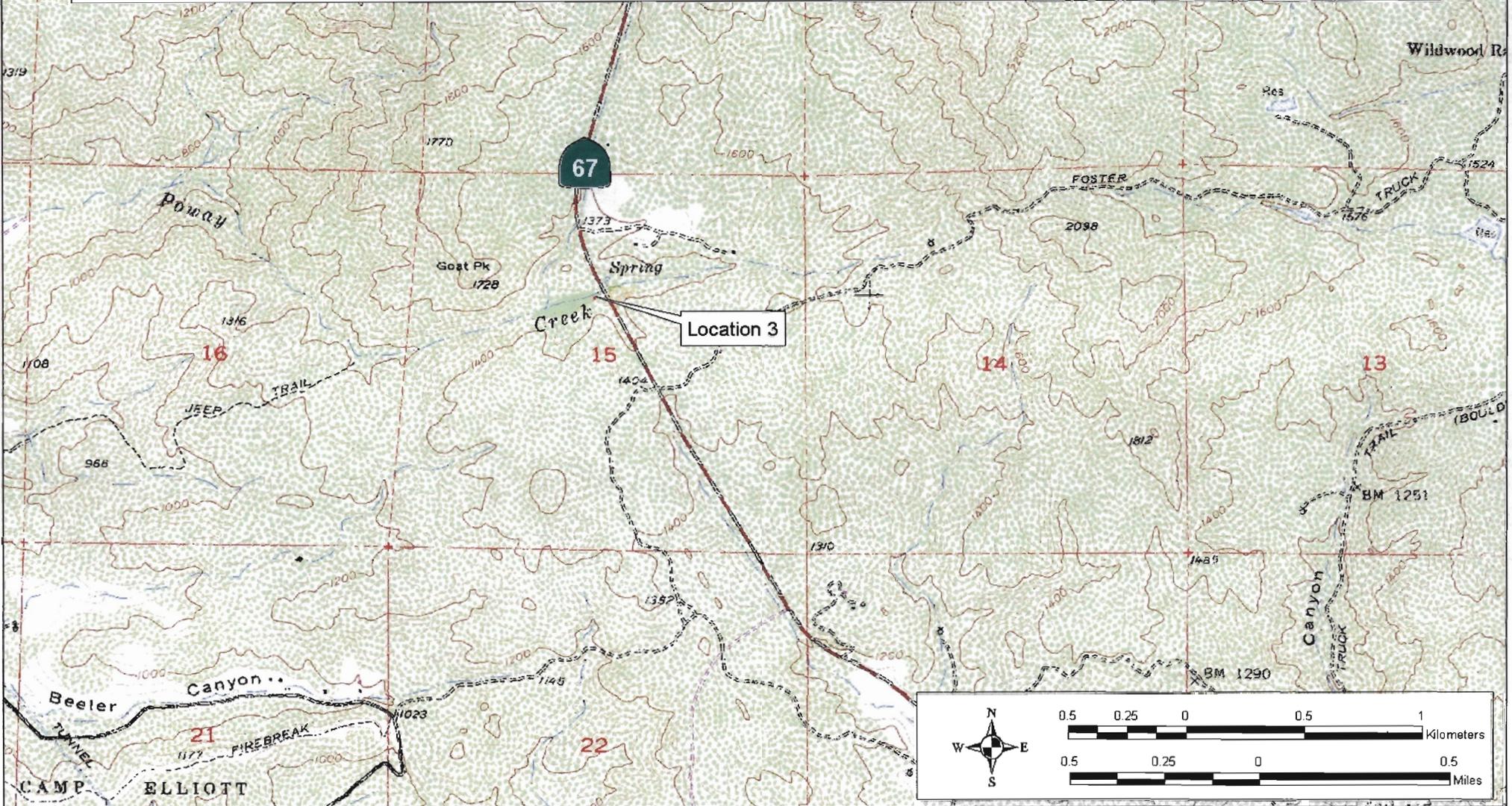
SITE FIGURES

2011-01-11 10:00 AM

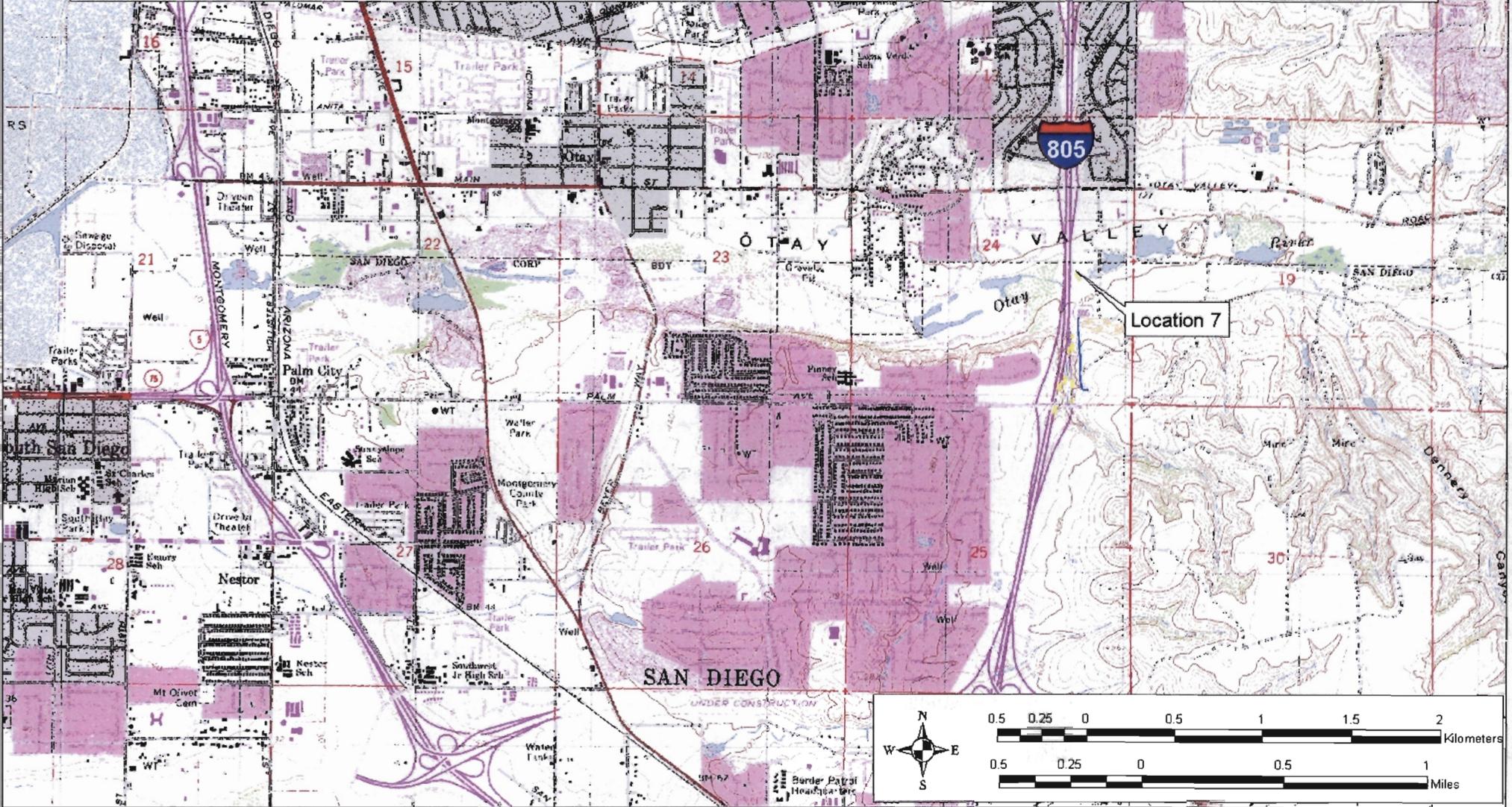
CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-52, PM 1.31 & 5.38, SAN CLEMENTE CANYON
USGS LA JOLLA QUADRANGLE 7.5 MINUTE SERIES, T 15S, R 3W



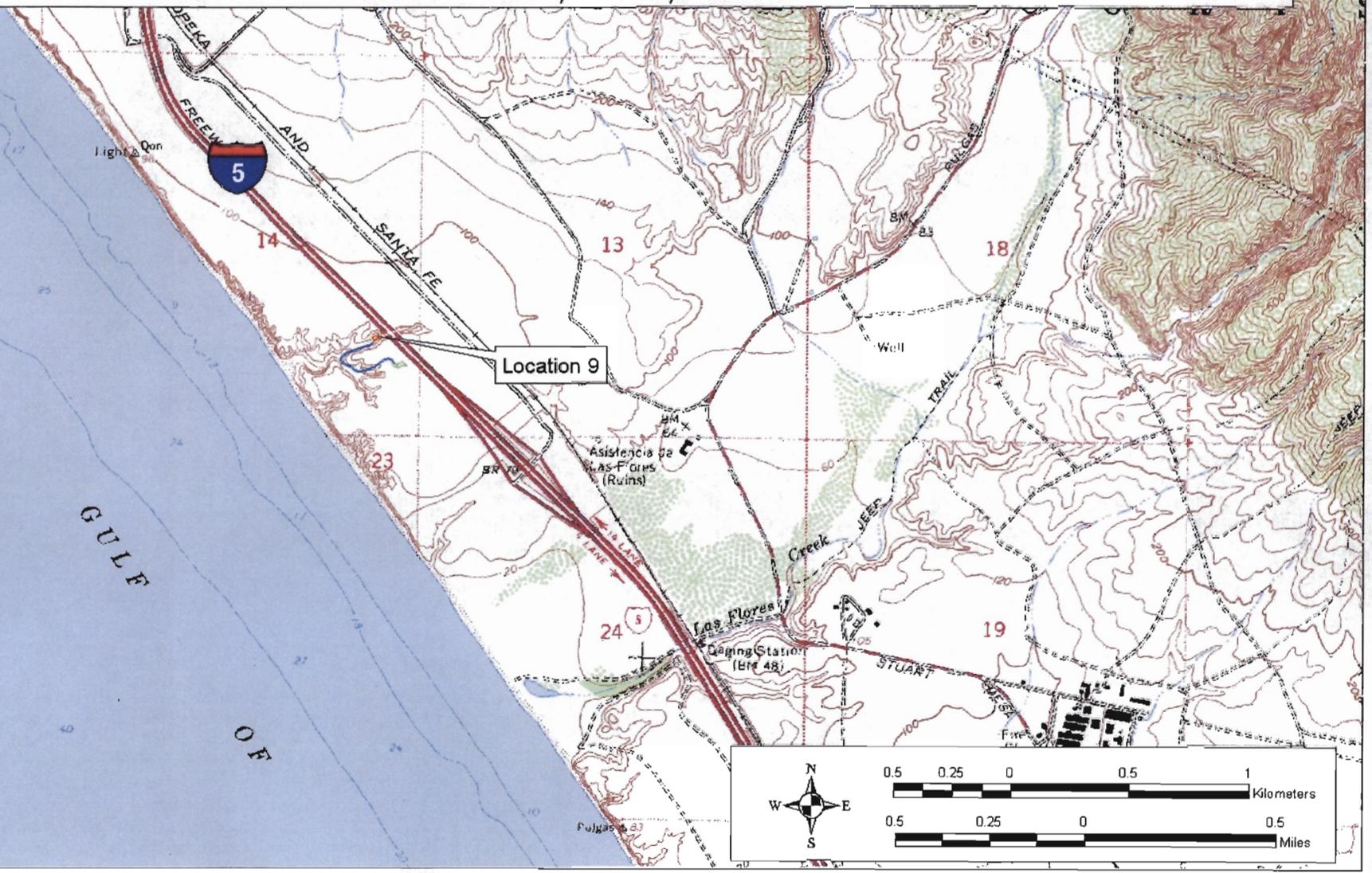
CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-67, PM 13.75, POWAY CREEK
USGS SAN VICENTE RESERVOIR QUADRANGLE 7.5 MINUTE SERIES,
SECTION 15, T 14S, R 1W



CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-805, PM 2.75-3.48, OTAY RIVER
USGS IMPERIAL BEACH QUADRANGLE 7.5 MINUTE SERIES,
SECTION 24, T 18S, R 2W



CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-5, PM 62.6, LAS PULGAS
USGS LAS PULGAS CANYON QUADRANGLE 7.5 MINUTE SERIES,
SECTION 14, T 10S, R 6W



STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
ED
DESIGN

FUNCTIONAL SUPERVISOR
 ED HAJJ

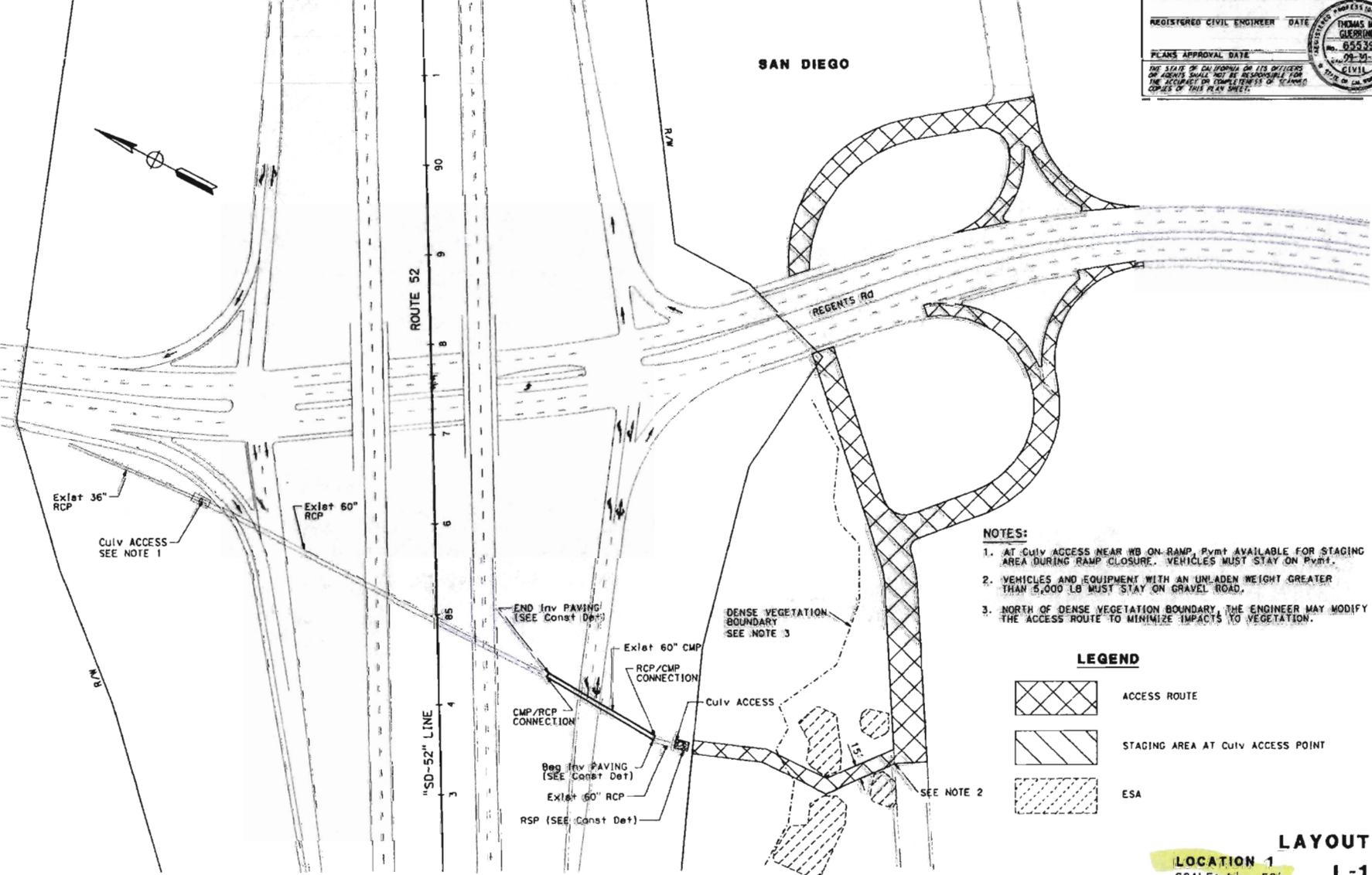
DESIGNED BY
 ANH NGUYEN

CHECKED BY
 PHOUKHAD SASINDOUAN

REVISOR
 ANH NGUYEN

DATE REVISION
 DATE REVISION

FOR ACCURATE RIGHT OF WAY DATA,
 CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.



NOTES:

1. AT CULV ACCESS NEAR WB ON-RAMP, Pymt AVAILABLE FOR STAGING AREA DURING RAMP CLOSURE. VEHICLES MUST STAY ON Pymt.
2. VEHICLES AND EQUIPMENT WITH AN UNLADEN WEIGHT GREATER THAN 5,000 LB MUST STAY ON GRAVEL ROAD.
3. NORTH OF DENSE VEGETATION BOUNDARY, THE ENGINEER MAY MODIFY THE ACCESS ROUTE TO MINIMIZE IMPACTS TO VEGETATION.

LEGEND

-  ACCESS ROUTE
-  STAGING AREA AT CULV ACCESS POINT
-  ESA

LAYOUT
LOCATION 1
 SCALE: 1" = 50'
L-1

DIST	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
11	SD	5,815	66,67,805	Var	

REGISTERED CIVIL ENGINEER DATE
 THOMAS D. GLENNON
 No. 65539
 09-11-11
 CIVIL

PLANS APPROVAL DATE

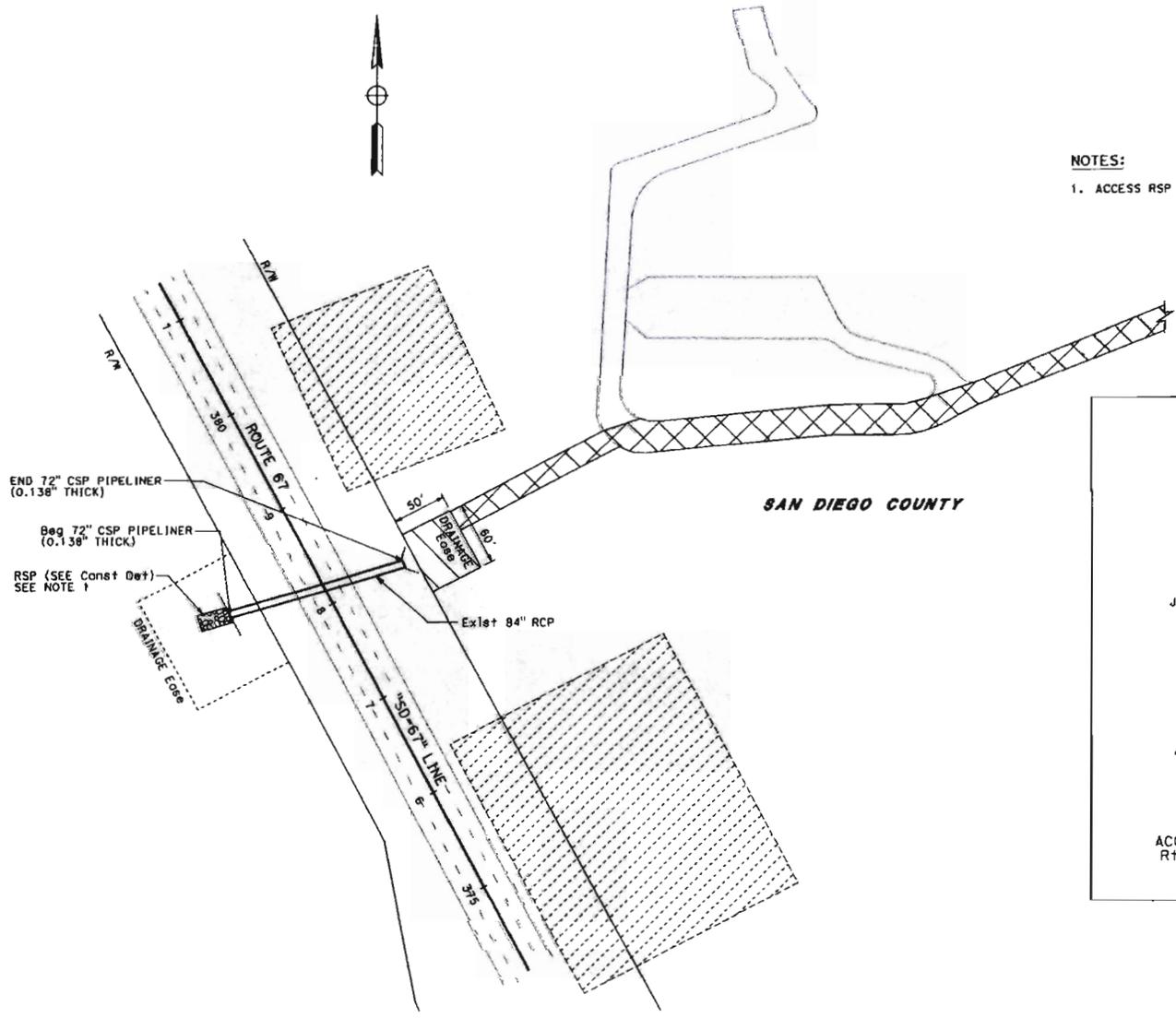
THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

EXISTING UTILITIES HAVE NOT BEEN PLOTTED ON THESE PLAN SHEETS AND SHALL BE PROTECTED IN PLACE

DATE PLOTTED 03/11/2011 11:27:01 AM PLOTTER 2311227

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
EDG
 DESIGN
 FUNCTIONAL SUPERVISOR
 ED HAJJ
 CHECKED BY
 PHOENIX SUSHOUJI
 AMH ROUTEN
 REVISED BY
 DATE REVISED

FOR ACCURATE RIGHT OF WAY DATA,
 CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.



DIST	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET NO.	TOTAL SHEETS
11	SD	5,8,15 66,67,80	Var		

REGISTERED CIVIL ENGINEER DATE
 THOMAS A. GERRIN
 No. 65539
 Exp. 09-30-13

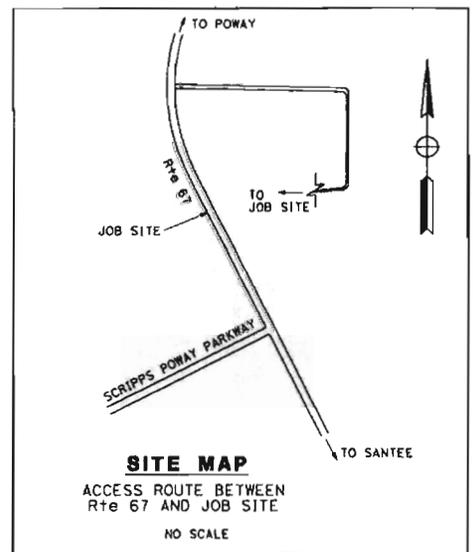
PLANS APPROVAL DATE
 09-30-13

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.

NOTES:

1. ACCESS RSP AREA VIA CULVERT FROM EAST SIDE OF HIGHWAY.

SEE SITE MAP FOR CONTINUATION
 OF ACCESS ROUTE BETWEEN
 JOB SITE AND Rte 67



SAN DIEGO COUNTY

LAYOUT
 LOCATION 3
 SCALE: 1" = 50'
L-4

DATE PLOTTED => 11-JUL-2011 TIME PLOTTED => 14:27

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
DESIGN
 GILBERTSON

FUNCTIONAL SUPERVISOR
 ED MAJJI

DESIGNED BY
 PHOUKHAD SASTINDHAN

CHECKED BY

REVISOR

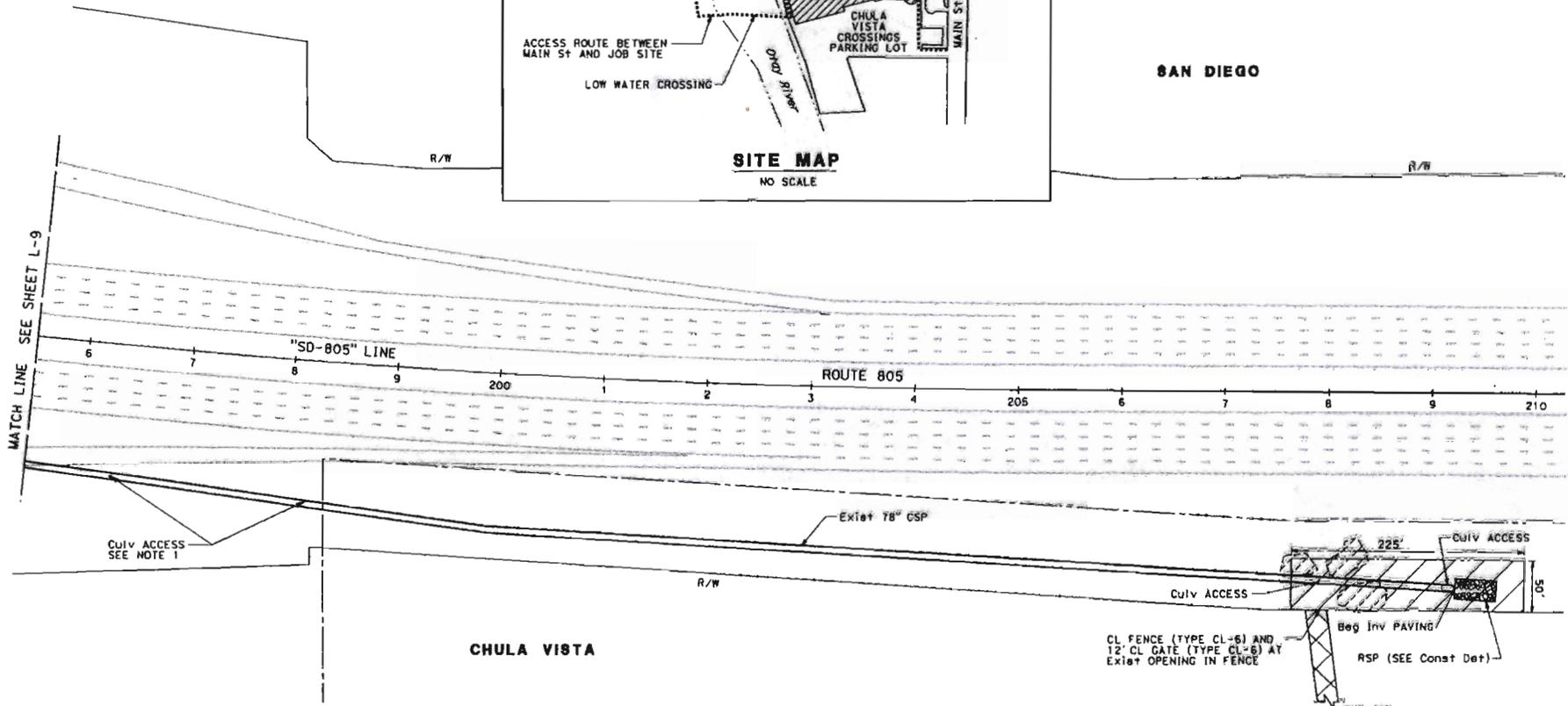
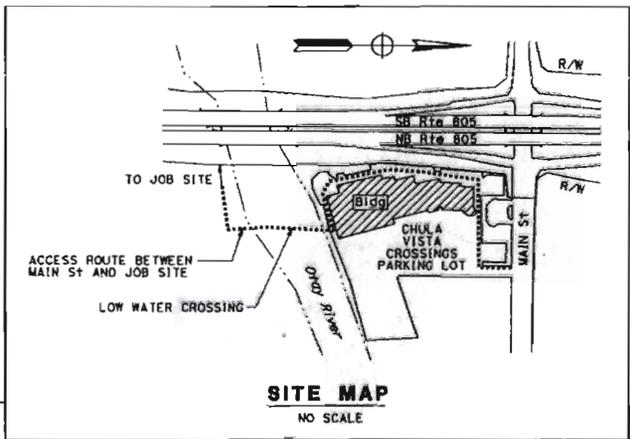
DATE REVISION

FOR ACCURATE RIGHT OF WAY DATA,
 CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

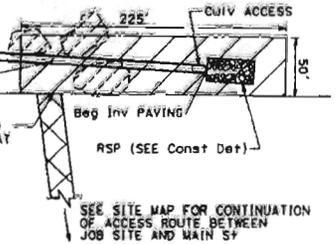
DIST	COUNTY	ROUTE	POST MILES	SHEET TOTAL
11	SD	5, 6, 7, 8, 9	Var	No. SHEETS

REGISTERED CIVIL ENGINEER	DATE
THOMAS M. GIBBERTI	6/23/10
NO. 65549	EXPIRES 06-23-13

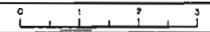
THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THIS PLAN SHEET.



- NOTES:**
1. Pvm# AREA AVAILABLE FOR STAGING AREA DURING RAMP CLOSURE. VEHICLES MUST STAY ON Pvm#.

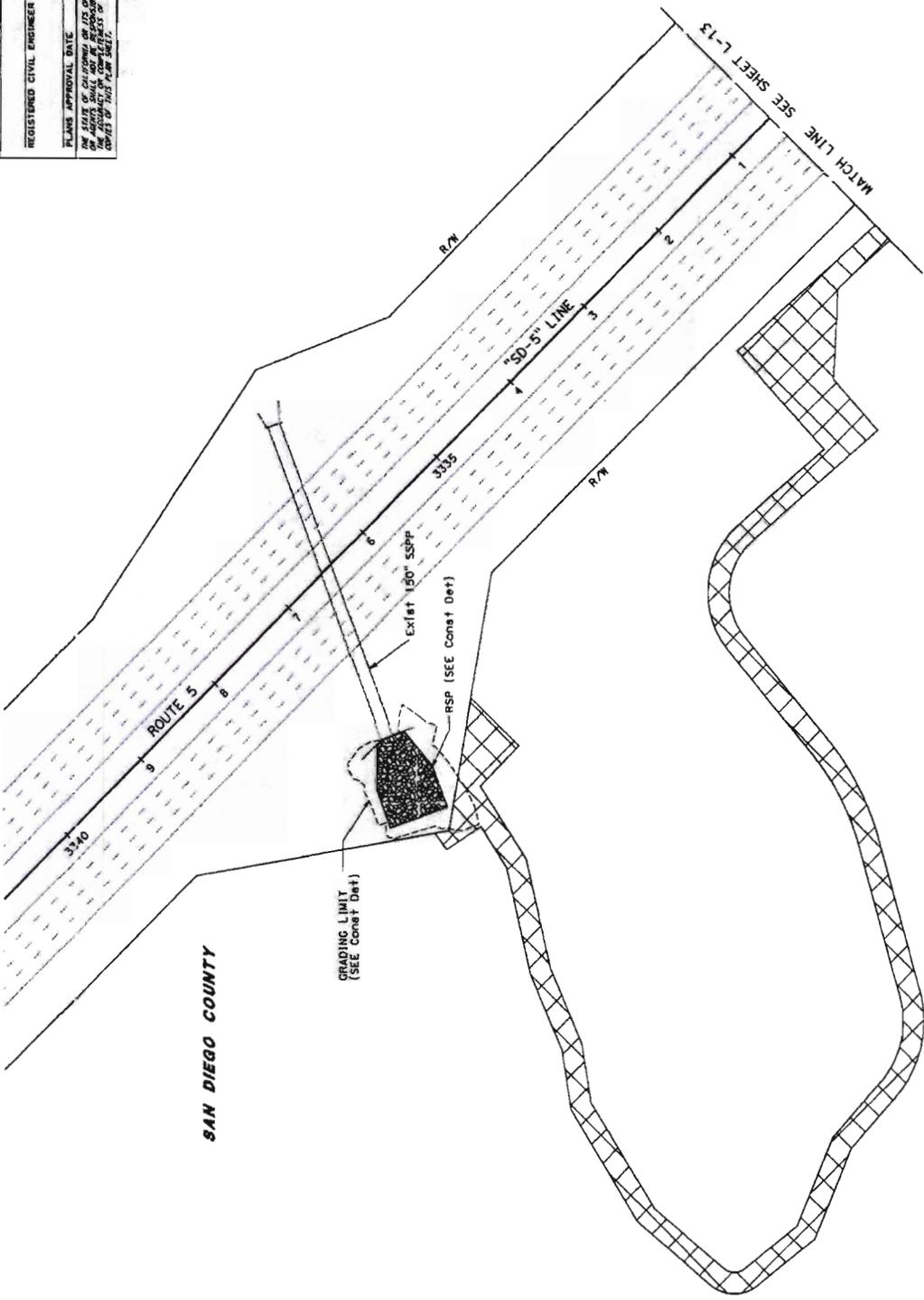


LAYOUT
LOCATION 7
 SCALE: 1" = 50'
L-10



DIS#	COUNTY	ROUTE	POST MILE	SHEET TOTAL
11	SD	5, 6, 15	86.87, 804	107/115
REGISTERED CIVIL ENGINEER DATE				
				
PLANS APPROVAL DATE				
THE STATE OF CALIFORNIA ON ITS OFFICERS AND AGENCIES, AND THE BOARD OF EQUALIZED COMES OF THIS PLAN SHEET.				

FOR ACCURATE RIGHT OF WAY DATA
CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.



SAN DIEGO COUNTY

LAYOUT
LOCATION 9
 SCALE: 1" = 50'

PROJECT NUMBER & PHASE

UNIT 2761

RELATIVE HORIZ SCALE
 1" = 100'

USERNAME: s4108333
 DSN FILE: 1100000248e012.dgn

BORDER LAST REVISED 7/2/2010

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	FUNCTIONAL SUPERVISOR	ED HALL
DESIGNED BY	AMR NGUYEN	REVISOR
CHECKED BY	PHUKHAO SASIKULAN	DATE REVISED

DATE PLOTTED: 11-06-2011
 TIME PLOTTED: 4:12:28

11000002481

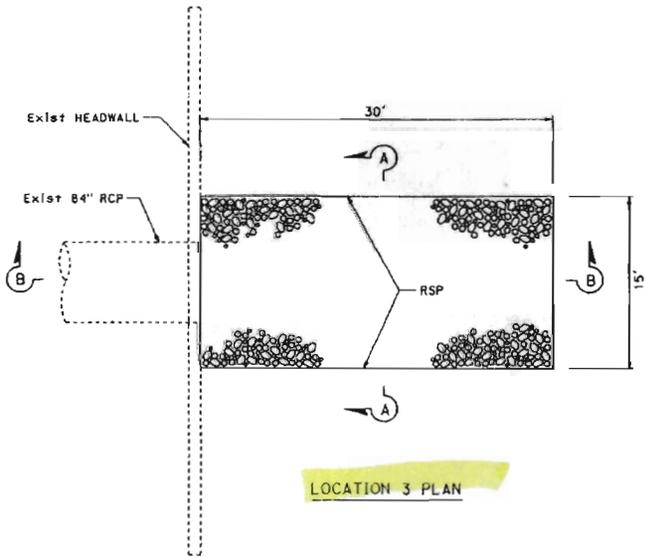
STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
EDWARDS
 DESIGN

FUNCTIONAL SUPERVISOR
 ED HAJJ

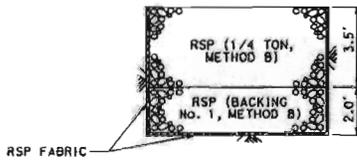
CALCULATED-
 DESIGNED BY
 CHECKED BY

TOM GUERRINI
 YUSUF RAHMAN

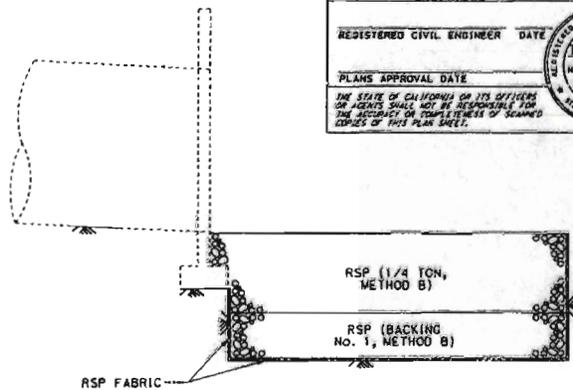
REVISED BY
 DATE REVISED



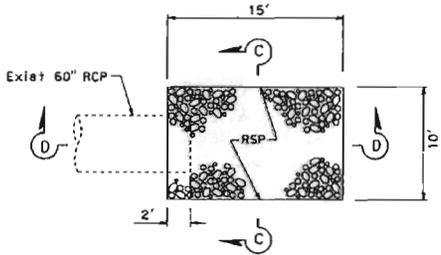
LOCATION 3 PLAN



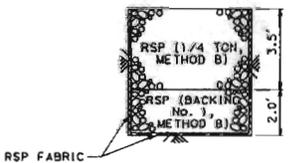
SECTION A-A



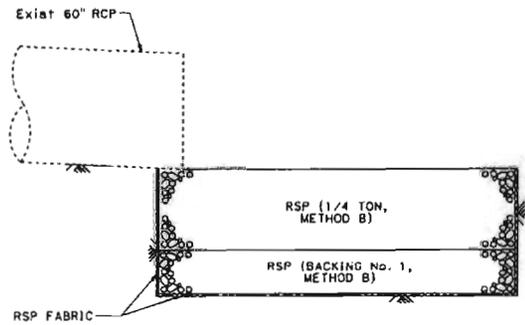
SECTION B-B



LOCATION 1 PLAN



SECTION C-C



SECTION D-D

ROCK SLOPE PROTECTION AT CULVERT OUTLETS

CONSTRUCTION DETAILS

NO SCALE

C-2

Dist	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET TOTAL No. SHEETS
11	SD	5, 8, 15	Var	

REGISTERED CIVIL ENGINEER DATE

PLANS APPROVAL DATE

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF DRAWING COPIES OF THIS PLAN SHEET.

REGISTERED PROFESSIONAL ENGINEER
T.M. CIERRINI
 No. 65539
 Exp. 09-30-17
 CIVIL
 STATE OF CALIFORNIA

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
Caltrans
 DESIGN

FUNCTIONAL SUPERVISOR
 ED MAJJ

CALCULATED-DESIGNED BY
 CHECKED BY

TOM GUERRINI
 YUSUF RAHMAN

REVISED BY
 DATE REVISED

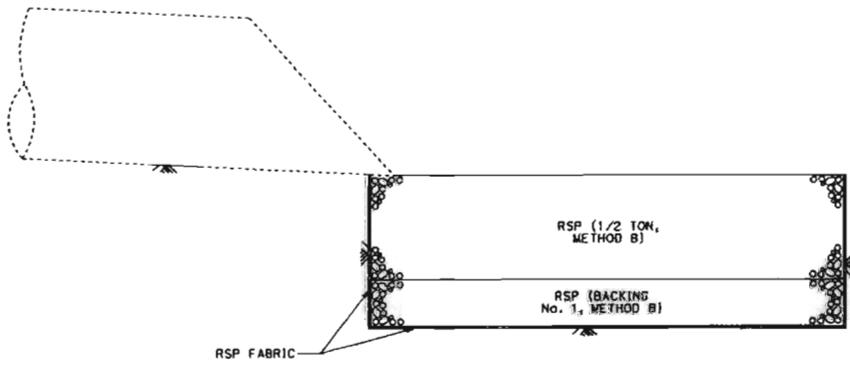
DIST.	COUNTY	ROUTE	POST MILES TOTAL PROJECT	SHEET No.	TOTAL SHEETS
11	SD	5, 8, 15 52, 57, 80	Var		

REGISTERED CIVIL ENGINEER DATE

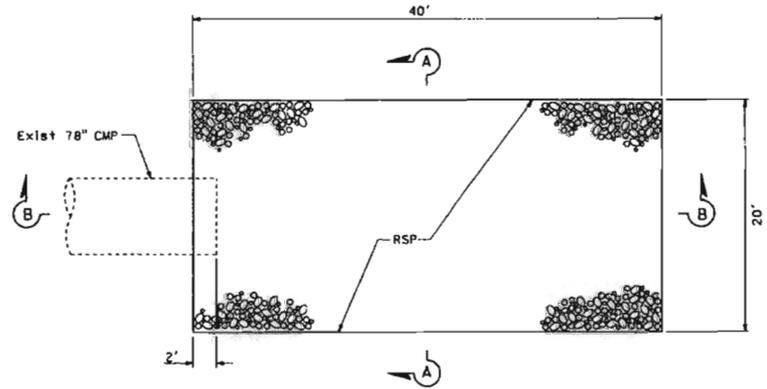
PLANS APPROVAL DATE

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE ACCURACY OR COMPLETENESS OF SCANNED COPIES OF THESE PLANS SHEETS.

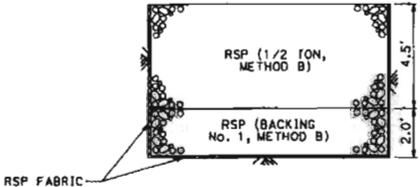
REGISTERED PROFESSIONAL CIVIL ENGINEER
 T.M. GUERRINI
 No. 65533
 Exp. 09-30-11
 CIVIL
 STATE OF CALIFORNIA



SECTION B-B



LOCATION 7 PLAN



SECTION A-A

ROCK SLOPE PROTECTION AT CULVERT OUTLETS

CONSTRUCTION DETAILS

NO SCALE C-3

DATE PLOTTED => 11-06-2011
 TIME PLOTTED => 14:39



Certification No. 11C-058

ATTACHMENT 5

MITIGATION FIGURES

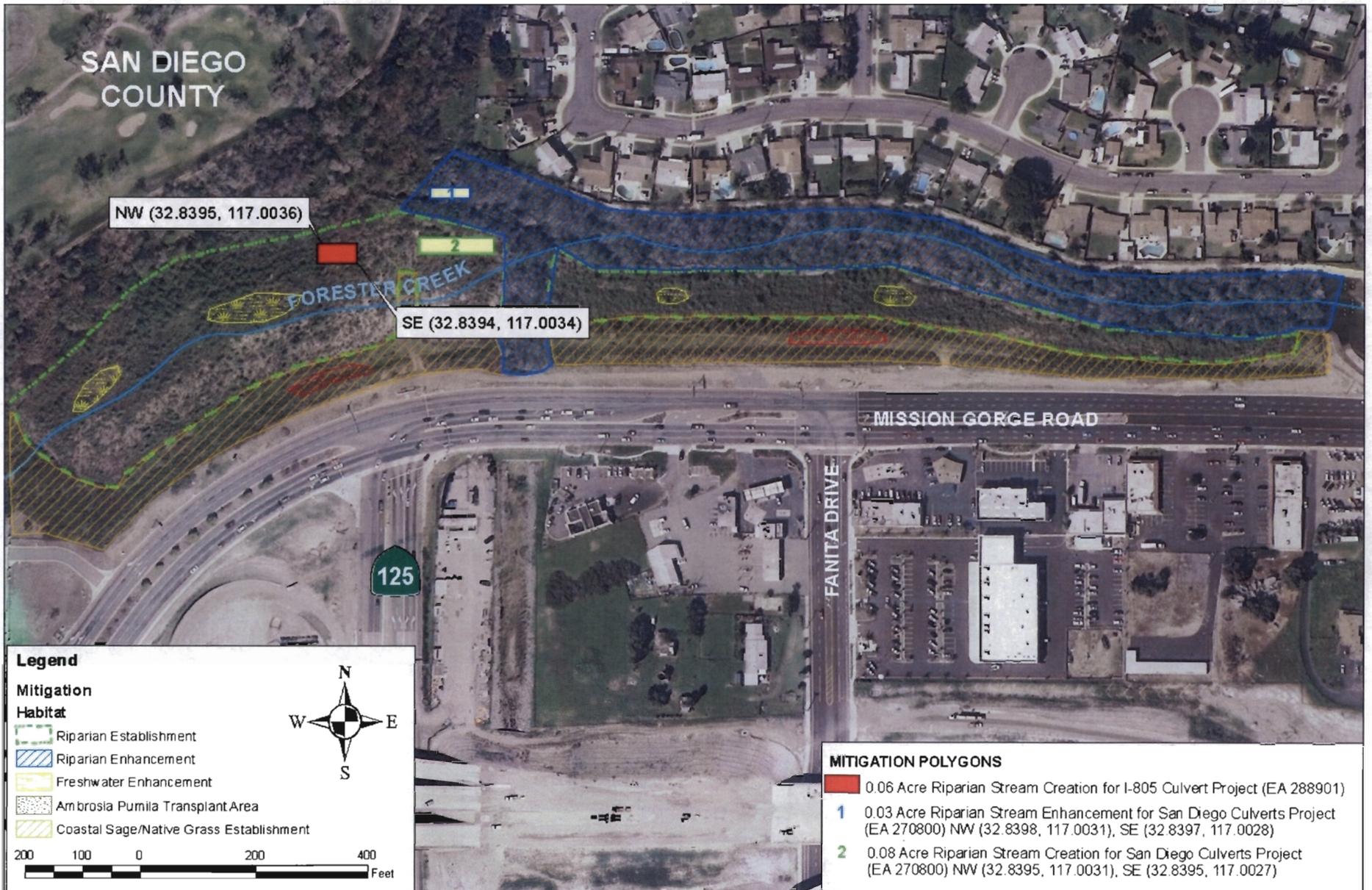


Figure 2. Forester Creek Mitigation Site - Location of Regional Water Quality Board Mitigation for Caltrans Projects

FORESTER CREEK

<u>Bank Location,</u> <u>Type of Resources &</u> <u>Any Restrictions</u>	<u>Project (Purchaser)</u>	<u>Creation Credits Available</u>		<u>Enhancement Credits Available</u>	
		<u>Used</u>	<u>Available</u>	<u>Used</u>	<u>Available</u>
			6.9 acres		3.46 acres
Riparian Habitat	SR-52 Unit 4	0.0052	6.89 acres	1.71	1.75 acres
	I-15 Managed Lanes	4.6	2.29 acres	0	1.75 acres
	Culverts (EA 270800)	0.08	2.21 acres	0.03	1.75 acres
	805 Culvert/N. of Governor (EA 288901)	0.06	2.15 acres		1.72 acres

Updated 1/13/12

ATTACHMENT 6

REQUIRED REPORTS AND NOTIFICATIONS CHECKLIST

2015-5-11

2015-5-11

Attachment 6

Checklist of Required Reports and Notifications

Required Notifications: 401 Certification No. 11C-058

Notification Requirement	Required Notification Period	Required Condition(s) To Be Met	Date Received
Unauthorized Discharge	Within 24 Hours of Discharge	VI.A	
Transfer of Responsibilities	Within 10 Days of Transfer	VII.B	
Mitigation Preservation Mechanism	Prior to construction commencement; Final within 1 year	VII.C	

Required Reports and Submittals: 401 Certification No. 11C-058

Required Report	Due Date	Required Condition(s) To Be Met	Date Received
Annual Project Report	August 1 st , Annually	VII.A	
Final Annual Project Report	August 1 st After Project Completion	VII.A	



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

January 20, 2012

REPLY TO
ATTENTION OF:

Office of the Chief
Regulatory Division

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Ed Hajj, Project Manager
California Department of Transportation, District 11
Attention: Robert A. James
4050 Taylor Street, MS-242
San Diego, California 92110

Dear Mr. Hajj:

This correspondence is in reply to your application (File No. SPL-2011-00715-SCH), dated June 13, 2011, for a Department of the Army Permit to discharge fill into waters of the U.S., in association with the maintenance of Culvert 1 and Culvert 2. Culvert 1 is located along State Route (SR) 52 at post mile 1.31(32.84048°N, -117.21782°W), and Culvert 2 is also located along SR-52 at post mile 5.38 (32.83836°N, -117.15465°W), within the city and county of San Diego, California.

Specifically, for Culvert 1, you have requested authorization to permanently impact 0.01 acre (20 linear feet) of wetland waters of the U.S. (WOUS) in association with discharging 25 cubic yards of fill at the culvert outlet, and temporarily impacting 0.05 acre (34 linear feet) of wetland WOUS in association with storing and staging of material and equipment, accessing the site, and stream dewatering. For Culvert 2, you have requested authorization to temporarily impact 0.06 acre of wetland WOUS in association with accessing the site, applying bituminous coating along the entire culvert bottom, paving the invert, repairing the pipe joints, and stream dewatering (see attached figures).

Based on the information you have provided, the Corps of Engineers has determined that your proposed activity complies with the enclosed terms and conditions of Nationwide Permit (NWP) No. 3 Maintenance, as described in enclosure 1.

Furthermore, you must comply with the following non-discretionary Special Conditions:

1. The permittee shall abide by the terms and conditions of the project's section 401 Water Quality Certification, dated January 18, 2012.

2. The Permittee has proposed to mitigate for permanent impacts to 0.01 acre of wetland waters of the U. S., by using credits available from the creation of 0.06 acre of riparian stream habitat and enhancement of 0.03 acre of riparian stream habitat within the Forester Creek Mitigation Site. The construction of the Forester Creek Mitigation Project is complete and on February 17, 2011 the Corps determined that the site met the Corps-approved success criteria. The Forester Creek Mitigation site is 18 acres in size. It is located in the city of Santee, and abuts existing mitigation sites. The Forester Creek Mitigation site consists of creation of 6.90 acres of riparian habitat, including 0.02 acre of freshwater marsh habitat. In addition to habitat created, approximately 3.46 acres of riparian restoration/enhancement occurred along the Forester Creek portion of the site, and 4.5 acres of coastal sage scrub/native grassland buffer were created in the upland portions of the site.

3. Prior to initiation of work in waters of the U.S., the Permittee shall provide a draft long-term site protection instrument, in a form approved by the Corps Regulatory Division, which will protect and maintain the approved mitigation site as natural open space in perpetuity. The Permittee shall receive written approval (by letter or e-mail) from the Corps Regulatory Division of the long-term protection instrument prior to it being executed and recorded. A recorded copy of the long-term site protection instrument shall be furnished to the Corps Regulatory Division prior or concurrent with initiation of work in waters of the U.S.

4. At the conclusion of the project, all temporary fill shall be removed and the area shall be restored to pre-construction conditions (contours and vegetated condition) to the maximum extent practicable. The Permittee shall hydroseed the disturbed portions of the earthen stream banks with native non-invasive vegetation of facultative upland (FACU) or wetter species, as appropriate. The Permittee shall submit the proposed planting palette for review and approval by the Corps, prior to initiation of construction. The Permittee shall ensure the hydroseeded areas are maintained and monitored for a period of two years after completing the seeding activities, such that less than 10 percent of the areas disturbed by the project are vegetated by non-native and invasive plant species. Monitoring reports shall be submitted by the Permittee to the Corps, by May 15th annually, one and two years following hydroseeding, documenting the recovery of the restored areas.

5. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter avoided waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

6. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memo indicating the date authorized impacts to waters of the U.S. ceased.
7. The permittee shall employ all best management practices (BMPs) to ensure that no debris, soil, silt, sand, rubbish, cement or concrete washings thereof, oil or petroleum can be washed by rainfall or runoff into waterways. When project operations are completed, any and all excess construction material, debris, and or other associated excess project materials shall be removed and if not recycled or reused, disposed of at an appropriate off-site location outside of any jurisdictional waters of the U.S. Similarly, the permittee shall ensure that all vehicle maintenance, staging, storage, and dispensing of fuel occurs in designated upland areas. The permittee shall ensure that these designated upland areas are located in such a manner to prevent any runoff from entering waters of the U.S.
8. A copy of the permit shall be on the job site at all times during construction. The permittee shall provide a copy of this permit to all contractors, subcontractors, and forepersons. The permittee shall require that all contractors and forepersons read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein.

Endangered Species Act:

9. This Corps permit does not authorize you to take any federally listed threatened or endangered species, in particular the federally listed as endangered least Bell's vireo (*Vireo bellii pusillus*) and the federally listed as threatened coastal California gnatcatcher (*Polioptila californica californica*), or adversely modify designated critical habitat. In order to legally take a federally listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA section 10 permit, or a Biological Opinion (BO) under ESA section 7, with "incidental take" provisions with which you must comply). The enclosed FWS correspondence (FWS-SDG-08BO398-08I0782, dated January 15, 2009) contains mandatory conservation measures to implement to avoid and minimize potential impacts to federally listed species. Your authorization under this Corps permit is conditional upon your compliance with all of the conservation measures associated with the attached correspondence from the Service, which are incorporated by reference in this permit. Failure to comply with the mandatory conservation measures would constitute non-compliance with your Corps permit. The FWS is the appropriate authority to determine compliance with the conservation measures contained in their correspondence dated January 15, 2009 and with the ESA.

Cultural Resources:

10. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic

property, the Permittee shall notify the Corps' Regulatory Division staff and Archeology Staff (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861) within 24 hours. The Permittee shall immediately suspend all work within 100 feet of any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Sophia Huynh of my staff at 213-452-3357 or via e-mail at Sophia.C.Huynh@usace.army.mil.

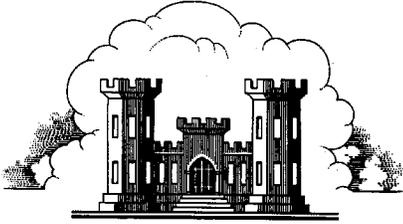
Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Mark D. Cohen
Deputy Chief, Regulatory Division

Enclosures



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *SPL-2011-00702-SCH*

Name of Permittee: *California Department of Transportation, District 11, Ed Hajj*

Date of Issuance: *January 20, 2012*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Division
ATTN: CESPL-RG-SPL-2011-00702-SCH
P.O. Box 532711
Los Angles, California 90053

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

Signature of Permittee

Date

Enclosure 1: NATIONWIDE PERMIT NUMBER(S) NWP 3 Maintenance. TERMS AND CONDITIONS

1. Nationwide Permit(s) NWP 3 Maintenance. Terms:

Your activity is authorized under Nationwide Permit Number(s) NWP 3 Maintenance. subject to the following terms:

3. Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays. (b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer. (c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. (d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects. Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404) Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

2. Nationwide Permit General Conditions:

The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. Navigation.

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, 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, the permittee 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.

2. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48.
6. *Suitable Material.* No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. *Water Supply Intakes.* No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. *Management of Water Flows.* To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. *Fills Within 100-Year Floodplains.* The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. *Equipment.* Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
13. *Removal of Temporary Fills.* Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
14. *Proper Maintenance.* Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.
15. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park

Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. *Tribal Rights*. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. *Endangered Species*.

(a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs. (e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. *Historic Properties*.

(a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-

Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. *Designated Critical Resource Waters.* Critical resource waters include: NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require preconstruction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater

than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.
22. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
23. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.
24. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
25. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

26. *Compliance Certification.* Each permittee who received an NWP verification from the Corps must submit a signed certification

regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

27. *Pre-Construction Notification.*

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan;
- (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated

critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

- (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) *Agency Coordination:*

- (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.
- (2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring preconstruction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each preconstruction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
- (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.
- (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.
- (5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) *District Engineer's Decision:* In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either:

- (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;
- (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or
- (3) that the project is authorized under the NWP with specific modifications or conditions.

Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. *Single and Complete Project.* The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

3. Regional Conditions for the Los Angeles District:

In accordance with General Condition Number 23, "Regional and Case-by-Case Conditions," the following Regional Conditions, as added by the Division Engineer, must be met in order for an authorization by any Nationwide to be valid:

1. For coastal watersheds from the southern reach of the Santa Monica Mountains in Los Angeles County to the San Luis Obispo County/Monterey County boundary, all road crossings must employ a bridge crossing design that ensures passage and/or spawning of steelhead (*Oncorhynchus mykiss*) is not hindered in any way. In these areas, bridge designs that span the stream or river, including designs for pier- or pile-supported spans, or designs based on use of a bottomless arch culvert simulating the natural stream bed (i.e., substrate and streamflow conditions in the culvert are similar to undisturbed stream bed channel conditions) shall be employed unless it can be demonstrated the stream or river does not support resources conducive to the recovery of federally listed anadromous salmonids, including migration of adults and smolts, or rearing and spawning. This proposal also excludes approach embankments into the channel unless they are determined to have no detectable effect on steelhead.
2. For the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), no nationwide permit, except Nationwide Permits 1 (Aids to Navigation), 2 (Structures in Artificial Canals), 3 (Maintenance), 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities), 5 (Scientific Measurement Devices), 6 (Survey Activities), 9 (Structures in Fleeting and Anchorage Areas), 10 (Mooring Buoys), 11 (Temporary Recreational Structures), 20 (Oil Spill Cleanup), 22 (Removal of Vessels), 27 (Stream and Wetland Restoration Activities), 30 (Moist Soil Management for Wildlife), 31 (Maintenance of Existing Flood Control Projects), 32 (Completed Enforcement Actions), 35 (Maintenance Dredging of Existing Basins), 37 (Emergency Watershed Protection and Rehabilitation), 38 (Cleanup of Hazardous and Toxic Waste) and 47 (Pipeline Safety Program Designated Time Sensitive Inspections and Repairs), or other nationwide or regional general permits that specifically authorize maintenance of previously authorized structures or fill, can be used to authorize the discharge of dredged or fill material into a jurisdictional special aquatic site as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes).
3. For all projects proposed for authorization by nationwide or regional general permits where prior notification to the district engineer is required, applicants must provide color photographs or color photocopies of the project area taken from representative points documented on a site map. Pre-project photographs and the site map would be provided with the permit application. Photographs should represent conditions typical or indicative of the resources before impacts.
4. Notification pursuant to general condition 27 shall be required for projects in all special aquatic sites as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes), and in all perennial waterbodies in the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), excluding the Colorado River from Davis Dam downstream to the north end of Topock and downstream of Imperial Dam (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring

notification do not apply to Nationwide Permit 47).

5. Notification pursuant to general condition 27 shall be required for projects in all areas designated as Essential Fish Habitat by the Pacific Fishery Management Council (i.e., all tidally influenced areas - Federal Register dated March 12, 2007 (72 FR 11092)), regional conditions requiring notification do not apply to Nationwide Permit 47).
6. Notification pursuant to general condition 27 shall be required for projects in all watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south (Federal Register dated March 12, 2007 (72 FR 11092)) - regional conditions requiring notification do not apply to Nationwide Permit 47).
7. Individual permits shall be required for all discharges of fill material in jurisdictional vernal pools.
8. Individual permits shall be required in Murrieta Creek and Temecula Creek watersheds in Riverside County for new permanent fills in perennial and intermittent watercourses otherwise authorized under NWP's 29, 39, 42 and 43, and in ephemeral watercourses for these NWP's for projects that impact greater than 0.1 acre of waters of the United States. In addition, when NWP 14 is used in conjunction with residential, commercial, or industrial developments the 0.1 acre limit would also apply.
9. Individual permits shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.
10. Notification pursuant to general condition 27 shall be required for projects in the Santa Clara River watershed in Los Angeles and Ventura counties, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River (Federal Register dated March 12, 2007 (72 FR 11092)) - regional conditions requiring notification do not apply to Nationwide Permit 47).

4. Further information:

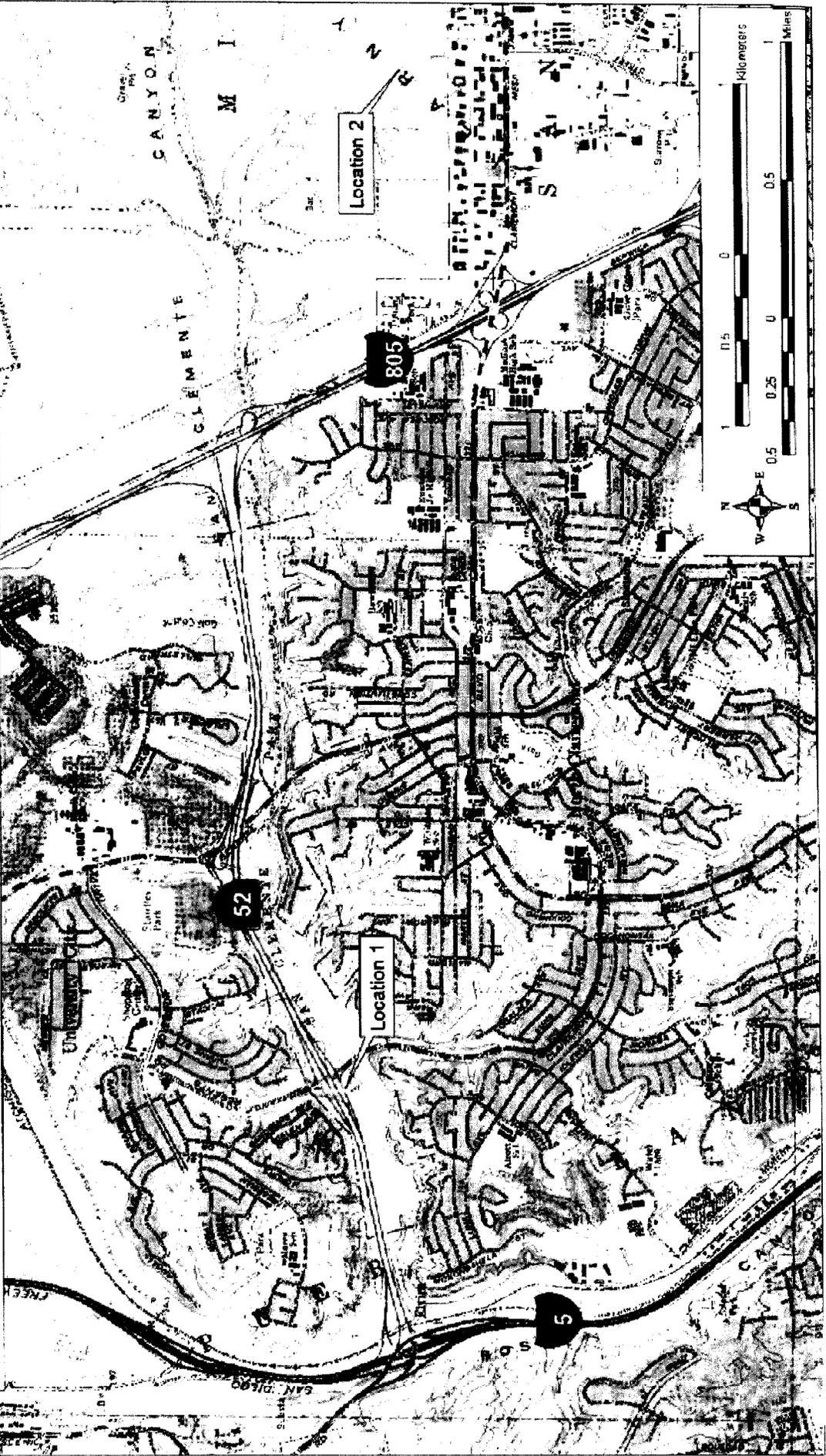
1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (x) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
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 4 above).
 - (c) Significant new information surfaces which this office did not consider in reaching the original public interest decision.

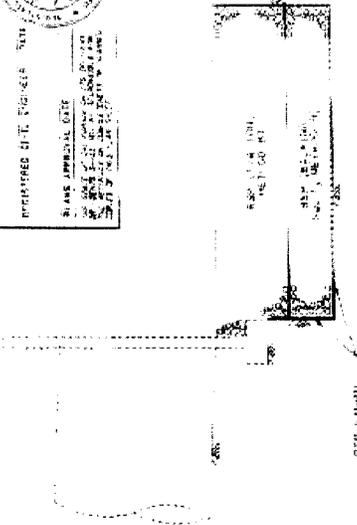
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance 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 measure 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 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.
7. 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 H 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.
8. 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 with the terms and conditions of your permit.

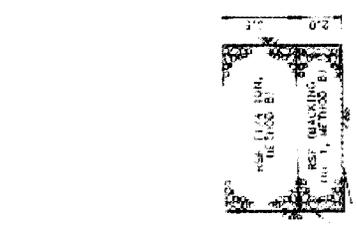
CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-52, PM 1.31 & 5.38, SAN CLEMENTE CANYON
USGS LA JOLLA QUADRANGLE 7.5 MINUTE SERIES, T 15S, R 3W



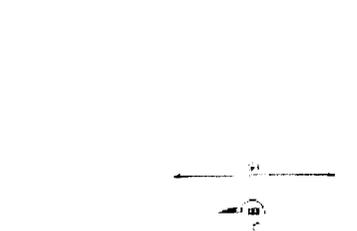
DATE	11	NOV	1950
BY	S. J. ...		
PREPARED BY: ... STATE APPROVAL DATE: ... STATE ENGINEER: ...			



SECTION B-B



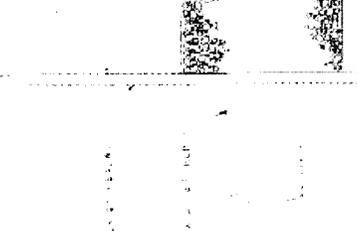
SECTION A-A



SECTION C-C



SECTION D-D



SECTION E-E

LOCATION 1 PLAN

LOCATION 2 PLAN

CONSTRUCTION DETAILS
C-2

NO SCALE

PROJECT NUMBER 3 PHASE

UNIT 218

DATE OF ISSUE

DATE OF REVISION

NO. 1

NO. 2

NO. 3

NO. 4

NO. 5

NO. 6

NO. 7

NO. 8

NO. 9

NO. 10

NO. 11

NO. 12

NO. 13

NO. 14

NO. 15

NO. 16

NO. 17

NO. 18

NO. 19

NO. 20

NO. 21

NO. 22

NO. 23

NO. 24

NO. 25

NO. 26

NO. 27

NO. 28

NO. 29

NO. 30

NO. 31

NO. 32

NO. 33

NO. 34

NO. 35

NO. 36

NO. 37

NO. 38

NO. 39

NO. 40

NO. 41

NO. 42

NO. 43

NO. 44

NO. 45

NO. 46

NO. 47

NO. 48

NO. 49

NO. 50

NO. 51

NO. 52

NO. 53

NO. 54

NO. 55

NO. 56

NO. 57

NO. 58

NO. 59

NO. 60

NO. 61

NO. 62

NO. 63

NO. 64

NO. 65

NO. 66

NO. 67

NO. 68

NO. 69

NO. 70

NO. 71

NO. 72

NO. 73

NO. 74

NO. 75

NO. 76

NO. 77

NO. 78

NO. 79

NO. 80

NO. 81

NO. 82

NO. 83

NO. 84

NO. 85

NO. 86

NO. 87

NO. 88

NO. 89

NO. 90

NO. 91

NO. 92

NO. 93

NO. 94

NO. 95

NO. 96

NO. 97

NO. 98

NO. 99

NO. 100

NO. 101

NO. 102

NO. 103

NO. 104

NO. 105

NO. 106

NO. 107

NO. 108

NO. 109

NO. 110

NO. 111

NO. 112

NO. 113

NO. 114

NO. 115

NO. 116

NO. 117

NO. 118

NO. 119

NO. 120

NO. 121

NO. 122

NO. 123

NO. 124

NO. 125

NO. 126

NO. 127

NO. 128

NO. 129

NO. 130

NO. 131

NO. 132

NO. 133

NO. 134

NO. 135

NO. 136

NO. 137

NO. 138

NO. 139

NO. 140

NO. 141

NO. 142

NO. 143

NO. 144

NO. 145

NO. 146

NO. 147

NO. 148

NO. 149

NO. 150

NO. 151

NO. 152

NO. 153

NO. 154

NO. 155

NO. 156

NO. 157

NO. 158

NO. 159

NO. 160

NO. 161

NO. 162

NO. 163

NO. 164

NO. 165

NO. 166

NO. 167

NO. 168

NO. 169

NO. 170

NO. 171

NO. 172

NO. 173

NO. 174

NO. 175

NO. 176

NO. 177

NO. 178

NO. 179

NO. 180

NO. 181

NO. 182

NO. 183

NO. 184

NO. 185

NO. 186

NO. 187

NO. 188

NO. 189

NO. 190

NO. 191

NO. 192

NO. 193

NO. 194

NO. 195

NO. 196

NO. 197

NO. 198

NO. 199

NO. 200

NO. 201

NO. 202

NO. 203

NO. 204

NO. 205

NO. 206

NO. 207

NO. 208

NO. 209

NO. 210

NO. 211

NO. 212

NO. 213

NO. 214

NO. 215

NO. 216

NO. 217

NO. 218

NO. 219

NO. 220

NO. 221

NO. 222

NO. 223

NO. 224

NO. 225

NO. 226

NO. 227

NO. 228

NO. 229

NO. 230

NO. 231

NO. 232

NO. 233

NO. 234

NO. 235

NO. 236

NO. 237

NO. 238

NO. 239

NO. 240

NO. 241

NO. 242

NO. 243

NO. 244

NO. 245

NO. 246

NO. 247

NO. 248

NO. 249

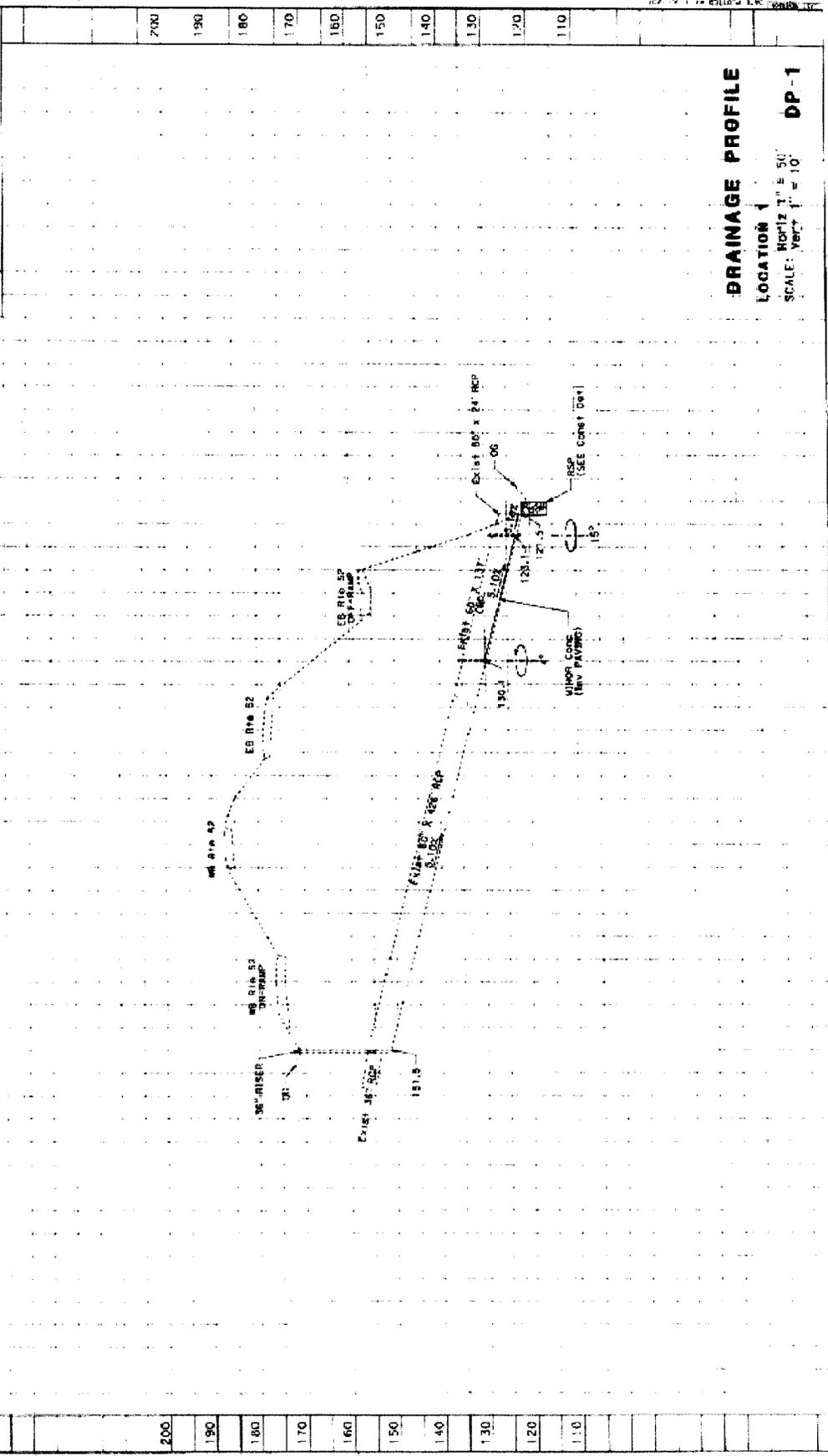
NO. 250

NO. 251

NO. 252

NO. 253

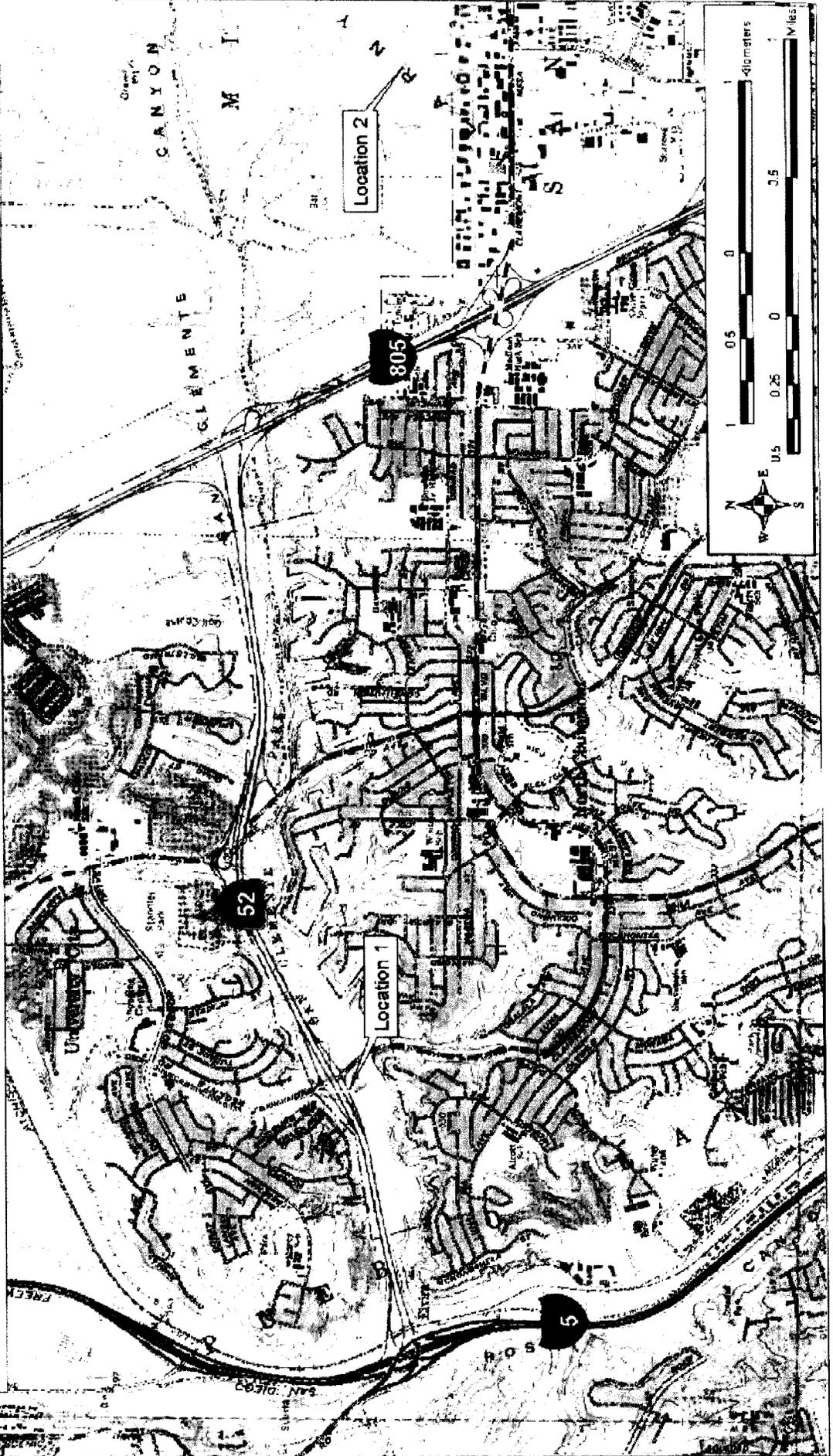
DATE	11/50	COMPUTED BY	10/21/80	PROJECT NO.	1100000268
DESIGNED BY		CHECKED BY		SCALE	VERT 1" = 10'
IN CHARGE		DATE		PLAN APPROVAL DATE	10/21/80
PROFESSIONAL ENGINEER STATE OF CALIFORNIA LICENSE NO. 55337 EXPIRES 12/31/81					



DRAINAGE PROFILE
 LOCATION 1
 SCALE: VERT 1" = 10'

PROJECT NUMBER & PHASE 1100000268 UNIT 2/151

CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-52, PM 1.31 & 5.38, SAN CLEMENTE CANYON
USGS LA JOLLA QUADRANGLE 7.5 MINUTE SERIES, T 15S, R 3W



DATE: 11/20/14
 DRAWN BY: J. J. WILSON
 CHECKED BY: J. J. WILSON
 PROJECT: 14-30660
 SHEET: 2 OF 3

APPROVED: [Signature]
 TITLE: [Title]

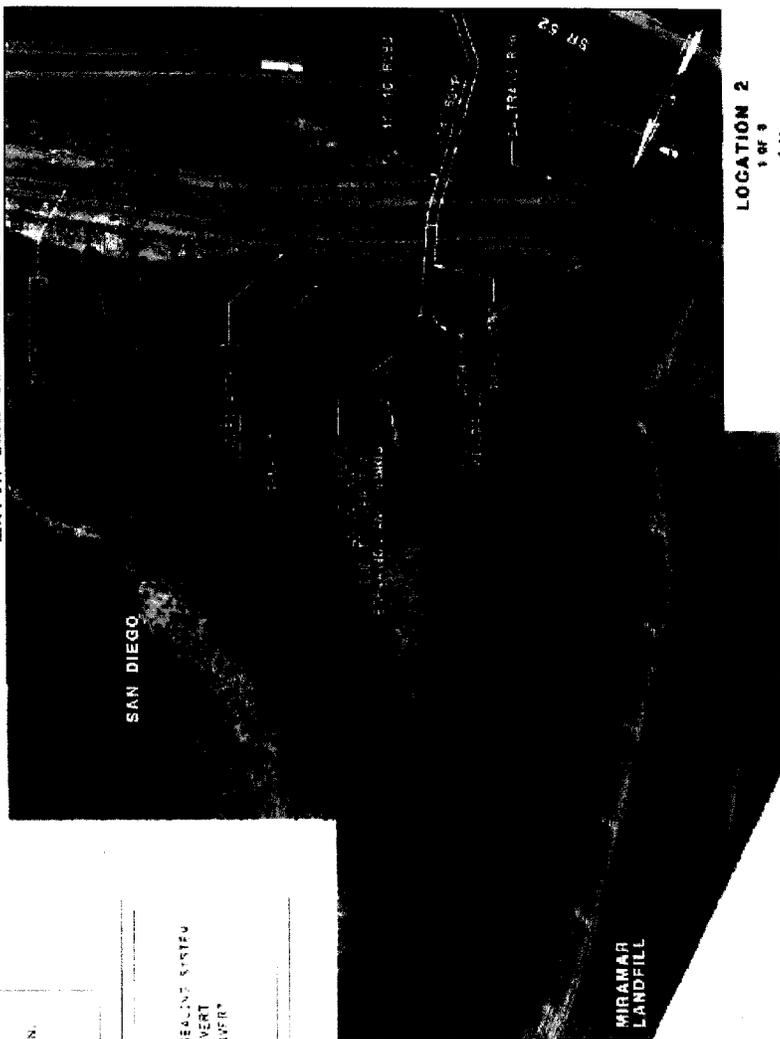
SCALE: 1" = 50'

PROJECT LOCATION: [Location]

PROJECT DESCRIPTION: [Description]

DATE: 11/20/14

MATCH LINE SEE SHEET 3 OF 3



LEGEND:

CONSTRUCTION EASEMENT

ACCESS EASEMENT

CONSTRUCTION SIGNS

TRAFFIC CONTROL:

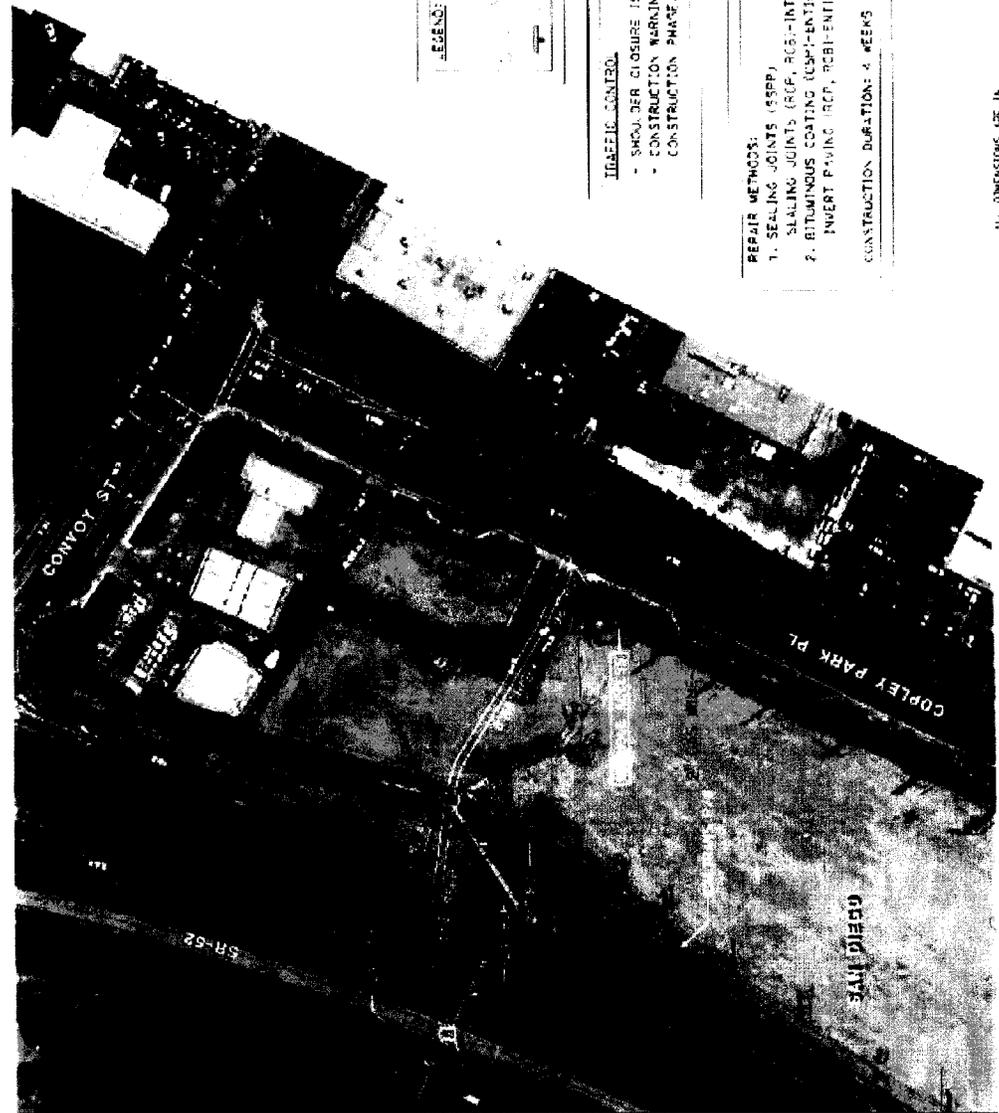
- SHOULDER CLOSURE IS NEEDED AT THIS LOCATION.
- CONSTRUCTION WARNING SIGNS DURING CONSTRUCTION PHASE.

REPAIR METHODS:

1. SEALING JOINTS - SSPF
2. BITUMINUM SEALING TIGHTENING COLLECTOR INVERT

SEMS DURATION: 4 WEEKS

STATE COUNTY ROUTE DISTRICT	11	50	32	5-238
RESIDENTIAL CIVIL ENGINEER	[Signature]			
STATE OF MISSISSIPPI	[Seal]			
ALVIN W. [Name]	[Address]			
MISSISSIPPI	[Address]			
DATE	[Date]			



LEGEND:

- TEMPORARY INVERT ASPHALT
- CONSTRUCTION EASEMENT
- CONSTRUCTION SIGN

TRAFFIC CONTROL:

- SHOULDER CLOSURE IS NEEDED AT THIS LOCATION.
- CONSTRUCTION WARNING SIGNS DURING CONSTRUCTION PHASE.

REPAIR METHODS:

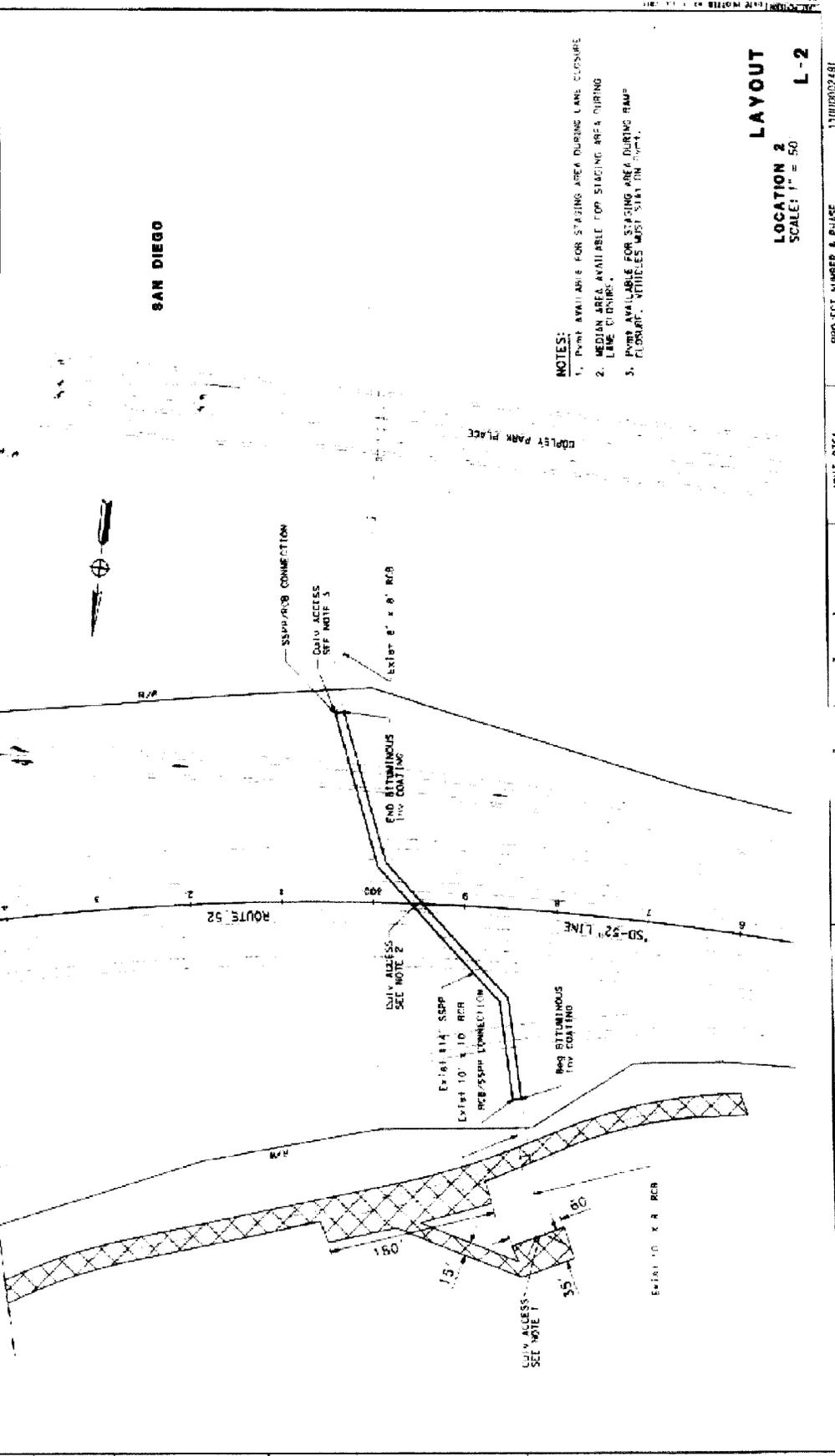
- SEALING JOINTS (SSPP)
- SEALING JOINTS (REF. RES.-INTERNAL JOINT SEALING SYSTEM)
- BITUMINOUS COATING (COM-ENTHRE) CONCRETE INVERT
- INVERT PAVING (RCP, RECENTHRE) CONCRETE INVERT

CONSTRUCTION DURATION: 4 WEEKS

LOCATION 2
2 OF 3

ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SHOWN.

DATE	11	50	10/11/05
PROJECT	SAN DIEGO		
ENGINEER	REGISTERED CIVIL ENGINEER		
SCALE	AS SHOWN		
DATE	10/11/05		



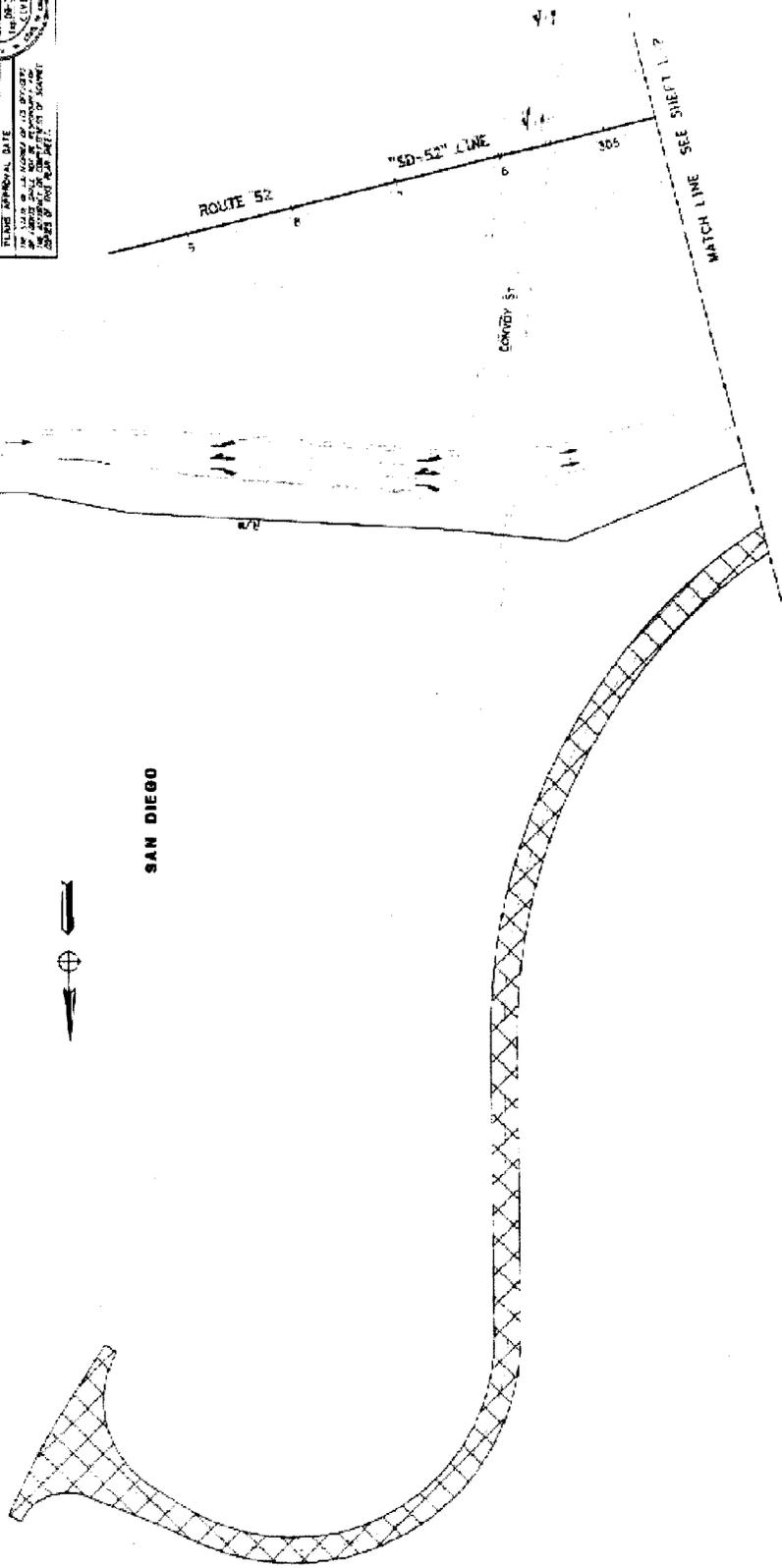
- NOTES:**
1. PAVEMENT AVAILABLE FOR STAGING AREA DURING LANE CLOSURE
 2. MEDIAN AREA AVAILABLE FOR STAGING AREA DURING LANE CLOSURE
 3. FLOORING AVAILABLE FOR STAGING AREA DURING RAMP

LAYOUT
LOCATION 2
SCALE: 1" = 50'
L-2

FOR ACCURATE RIGHT OF WAY DATA CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

DATE	PROJECT	SHEET NO.	TOTAL SHEETS
11/11/50	50-52	1	1
REGISTERED CIVIL ENGINEER	DATE		
PLANS APPROVAL DATE		THIS PLAN IS THE PROPERTY OF THE ENGINEER AND IS NOT TO BE REPRODUCED OR COPIED IN ANY MANNER WITHOUT HIS WRITTEN CONSENT.	

ALL INFORMATION RIGHT OF WAY DATA CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.



LAYOUT
LOCATION 2
 SCALE 1" = 50'
L-3



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

January 20, 2012

REPLY TO
ATTENTION OF:

Office of the Chief
Regulatory Division

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Ed Hajj, Project Manager
California Department of Transportation, District 11
Attention: Robert A. James
4050 Taylor Street, MS-242
San Diego, California 92110

Dear Mr. Hajj:

This correspondence is in reply to your application (File No. SPL-2011-00717-SCH), dated June 13, 2011, for a Department of the Army Permit to discharge fill into waters of the U.S., in association with the maintenance of Culvert 3, located along State Route (SR) SR-67 at post mile 13.75 where Poway Creek crosses SR-67, within an unincorporated area of San Diego County, California. (32.958419°N, -116.97094°W)

Specifically, you have requested authorization to repair an existing culvert which includes invert paving along the entire culvert length, sealing joints, re-establishing the outlet ditch, and removing an obstruction at the outlet. The proposed project will result in permanent impacts to 0.01 acre (22 linear feet) of non-wetland waters of the U.S. associated with discharging 70 cubic yards of fill at the culvert outlet, and in temporary impact to 0.03 acre (48 linear feet) of non-wetland waters of the U.S. associated with storing and staging of material and equipment and stream dewatering. (See attached figures).

Based on the information you have provided, the Corps of Engineers has determined that your proposed activity complies with the enclosed terms and conditions of Nationwide Permit (NWP) No. 3 Maintenance, as described in enclosure 1.

Furthermore, you must comply with the following non-discretionary Special Conditions:

1. The permittee shall abide by the terms and conditions of the project's section 401 Water Quality Certification, dated January 18, 2012.

2. The Permittee has proposed to mitigate for permanent impacts to 0.01 acre of waters of the U.S. by using credits available from the creation of 0.02 acre of riparian stream habitat and the enhancement of 0.01 acre of riparian stream habitat within the Forester Creek Mitigation Site. The construction of the Forester Creek Mitigation Project is complete and on February 17, 2011 the Corps determined that the site met the Corps-approved success criteria. The Forester Creek Mitigation site is 18 acres in size. It is located in the city of Santee, and abuts existing mitigation sites. The Forester Creek Mitigation site consists of creation of 6.90 acres of riparian habitat, including 0.02 acre of freshwater marsh habitat. In addition to habitat created, approximately 3.46 acres of riparian restoration/enhancement occurred along the Forester Creek portion of the site, and 4.5 acres of coastal sage scrub/native grassland buffer were created in the upland portions of the site.

3. Prior to initiation of work in waters of the U.S., the Permittee shall provide a draft long-term site protection instrument, in a form approved by the Corps Regulatory Division, which will protect and maintain the approved mitigation site as natural open space in perpetuity. The Permittee shall receive written approval (by letter or e-mail) from the Corps Regulatory Division of the long-term protection instrument prior to it being executed and recorded. A recorded copy of the long-term site protection instrument shall be furnished to the Corps Regulatory Division prior to or concurrent with initiation of work in waters of the U.S.

4. At the conclusion of the project, all temporary fill shall be removed and the area shall be restored to pre-construction conditions (contours and vegetated condition) to the maximum extent practicable. The Permittee shall hydroseed the disturbed portions of the earthen stream banks with native, non-invasive vegetation of facultative upland (FACU) or wetter species, as appropriate. The Permittee shall submit the proposed planting palette for review and approval by the Corps, prior to initiation of construction. The Permittee shall ensure the hydroseeded areas are maintained and monitored for a period of two years after completing the seeding activities, such that less than 10 percent of the areas disturbed by the project are vegetated by non-native and invasive plant species. Monitoring reports shall be submitted by the Permittee to the Corps, by May 15th annually, one and two years following hydroseeding, documenting the recovery of the restored areas.

5. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter avoided waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

6. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memo indicating the date authorized impacts to waters of the U.S. ceased.

7. The permittee shall employ all best management practices (BMPs) to ensure that no debris, soil, silt, sand, rubbish, cement or concrete washings thereof, oil or petroleum can be washed by rainfall or runoff into waterways. When project operations are completed, any and all excess construction material, debris, and or other associated excess project materials shall be removed and if not recycled or reused, disposed of at an appropriate off-site location outside of any jurisdictional waters of the U.S. Similarly, the permittee shall ensure that all vehicle maintenance, staging, storage, and dispensing of fuel occurs in designated upland areas. The permittee shall ensure that these designated upland areas are located in such a manner to prevent any runoff from entering waters of the U.S.

8. A copy of this permit shall be on the job site at all times during construction. The permittee shall provide a copy of this permit to all contractors, subcontractors, and forepersons. The permittee shall require that all contractors and forepersons read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein.

Endangered Species Act:

9. This Corps permit does not authorize you to take any federally listed threatened or endangered species, in particular the federally listed as endangered least Bell's vireo (*Vireo bellii pusillus*). In order to legally take a federally listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA section 10 permit, or a Biological Opinion (BO) under ESA section 7, with "incidental take" provisions with which you must comply). The enclosed FWS correspondence (FWS-SDG-08BO398-08I0782, dated January 15, 2009) contains mandatory conservation measures to implement to avoid and minimize potential impacts to federally listed species. Your authorization under this Corps permit is conditional upon your compliance with all of the conservation measures associated with the attached correspondence from the Service, which are incorporated by reference in this permit. Failure to comply with the mandatory conservation measures would constitute non-compliance with your Corps permit. The FWS is the appropriate authority to determine compliance with the conservation measures contained in their correspondence dated January 15, 2009 and with the ESA.

Cultural Resources:

10. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Regulatory Division staff and Archeology Staff (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861) within 24 hours. The Permittee shall immediately suspend all work within 100 feet of any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Sophia Huynh of my staff at 213-452-3357 or via e-mail at Sophia.C.Huynh@usace.army.mil.

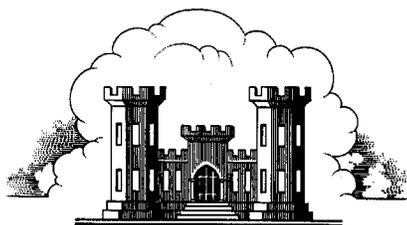
Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Mark D. Cohen
Deputy Chief, Regulatory Division

Enclosures



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *SPL-2011-00717-SCH*

Name of Permittee: *California Department of Transportation, District 11, Ed Hajj*

Date of Issuance: *January 20 2012*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Division
ATTN: CESPL-RG-SPL-2011-00717-SCH
P.O. Box 532711
Los Angeles, California 90053

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

Signature of Permittee

Date

Enclosure 1: NATIONWIDE PERMIT NUMBER(S) NWP 3 Maintenance. TERMS AND CONDITIONS

1. Nationwide Permit(s) NWP 3 Maintenance. Terms:

Your activity is authorized under Nationwide Permit Number(s) NWP 3 Maintenance. subject to the following terms:

3. Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays. (b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer. (c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. (d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects. Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404) Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

2. Nationwide Permit General Conditions:

The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. *Navigation.*

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, 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, the permittee 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.

2. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48.
6. *Suitable Material.* No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. *Water Supply Intakes.* No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. *Management of Water Flows.* To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. *Fills Within 100-Year Floodplains.* The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. *Equipment.* Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
13. *Removal of Temporary Fills.* Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
14. *Proper Maintenance.* Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.
15. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park

Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. *Tribal Rights*. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. *Endangered Species*.

(a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs. (e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. *Historic Properties*.

(a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-

Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. *Designated Critical Resource Waters.* Critical resource waters include: NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require preconstruction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater

than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWPs.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.
22. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
23. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.
24. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
25. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

26. *Compliance Certification.* Each permittee who received an NWP verification from the Corps must submit a signed certification

regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

27. *Pre-Construction Notification.*

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan;
- (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated

critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

- (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) *Agency Coordination:*

- (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.
- (2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring preconstruction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each preconstruction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
- (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.
- (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.
- (5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) *District Engineer's Decision:* In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either:

- (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;
- (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or
- (3) that the project is authorized under the NWP with specific modifications or conditions.

Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. *Single and Complete Project.* The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

3. Regional Conditions for the Los Angeles District:

In accordance with General Condition Number 23, "Regional and Case-by-Case Conditions," the following Regional Conditions, as added by the Division Engineer, must be met in order for an authorization by any Nationwide to be valid:

1. For coastal watersheds from the southern reach of the Santa Monica Mountains in Los Angeles County to the San Luis Obispo County/Monterey County boundary, all road crossings must employ a bridge crossing design that ensures passage and/or spawning of steelhead (*Oncorhynchus mykiss*) is not hindered in any way. In these areas, bridge designs that span the stream or river, including designs for pier- or pile-supported spans, or designs based on use of a bottomless arch culvert simulating the natural stream bed (i.e., substrate and streamflow conditions in the culvert are similar to undisturbed stream bed channel conditions) shall be employed unless it can be demonstrated the stream or river does not support resources conducive to the recovery of federally listed anadromous salmonids, including migration of adults and smolts, or rearing and spawning. This proposal also excludes approach embankments into the channel unless they are determined to have no detectable effect on steelhead.
2. For the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), no nationwide permit, except Nationwide Permits 1 (Aids to Navigation), 2 (Structures in Artificial Canals), 3 (Maintenance), 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities), 5 (Scientific Measurement Devices), 6 (Survey Activities), 9 (Structures in Fleeting and Anchorage Areas), 10 (Mooring Buoys), 11 (Temporary Recreational Structures), 20 (Oil Spill Cleanup), 22 (Removal of Vessels), 27 (Stream and Wetland Restoration Activities), 30 (Moist Soil Management for Wildlife), 31 (Maintenance of Existing Flood Control Projects), 32 (Completed Enforcement Actions), 35 (Maintenance Dredging of Existing Basins), 37 (Emergency Watershed Protection and Rehabilitation), 38 (Cleanup of Hazardous and Toxic Waste) and 47 (Pipeline Safety Program Designated Time Sensitive Inspections and Repairs), or other nationwide or regional general permits that specifically authorize maintenance of previously authorized structures or fill, can be used to authorize the discharge of dredged or fill material into a jurisdictional special aquatic site as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes).
3. For all projects proposed for authorization by nationwide or regional general permits where prior notification to the district engineer is required, applicants must provide color photographs or color photocopies of the project area taken from representative points documented on a site map. Pre-project photographs and the site map would be provided with the permit application. Photographs should represent conditions typical or indicative of the resources before impacts.
4. Notification pursuant to general condition 27 shall be required for projects in all special aquatic sites as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes), and in all perennial waterbodies in the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), excluding the Colorado River from Davis Dam downstream to the north end of Topock and downstream of Imperial Dam (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring

notification do not apply to Nationwide Permit 47).

5. Notification pursuant to general condition 27 shall be required for projects in all areas designated as Essential Fish Habitat by the Pacific Fishery Management Council (i.e., all tidally influenced areas - Federal Register dated March 12, 2007 (72 FR 11092), regional conditions requiring notification do not apply to Nationwide Permit 47).
6. Notification pursuant to general condition 27 shall be required for projects in all watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring notification do not apply to Nationwide Permit 47).
7. Individual permits shall be required for all discharges of fill material in jurisdictional vernal pools.
8. Individual permits shall be required in Murrieta Creek and Temecula Creek watersheds in Riverside County for new permanent fills in perennial and intermittent watercourses otherwise authorized under NWP's 29, 39, 42 and 43, and in ephemeral watercourses for these NWP's for projects that impact greater than 0.1 acre of waters of the United States. In addition, when NWP 14 is used in conjunction with residential, commercial, or industrial developments the 0.1 acre limit would also apply.
9. Individual permits shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.
10. Notification pursuant to general condition 27 shall be required for projects in the Santa Clara River watershed in Los Angeles and Ventura counties, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring notification do not apply to Nationwide Permit 47).

4. Further information:

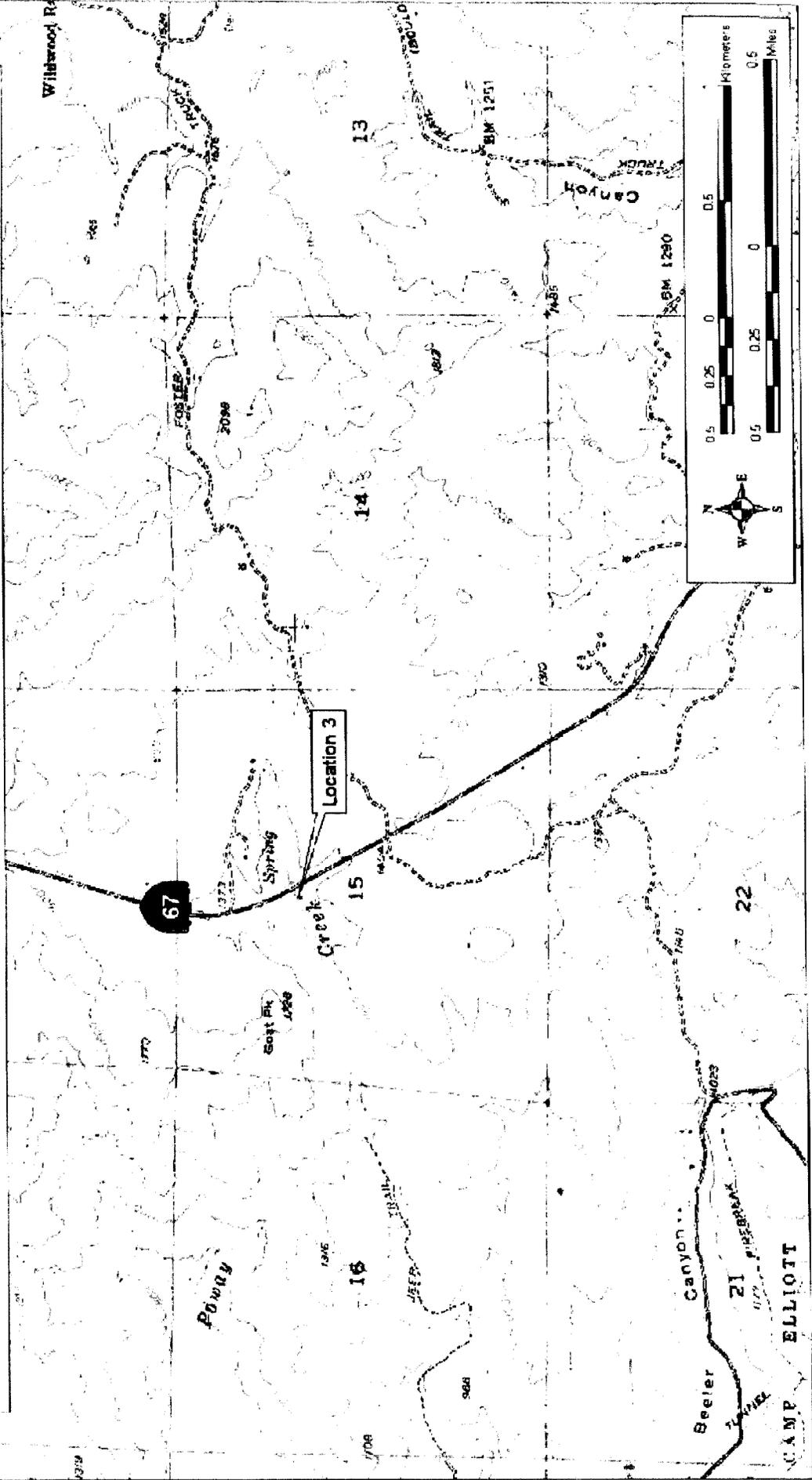
1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (x) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
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 4 above).
 - (c) Significant new information surfaces which this office did not consider in reaching the original public interest decision.

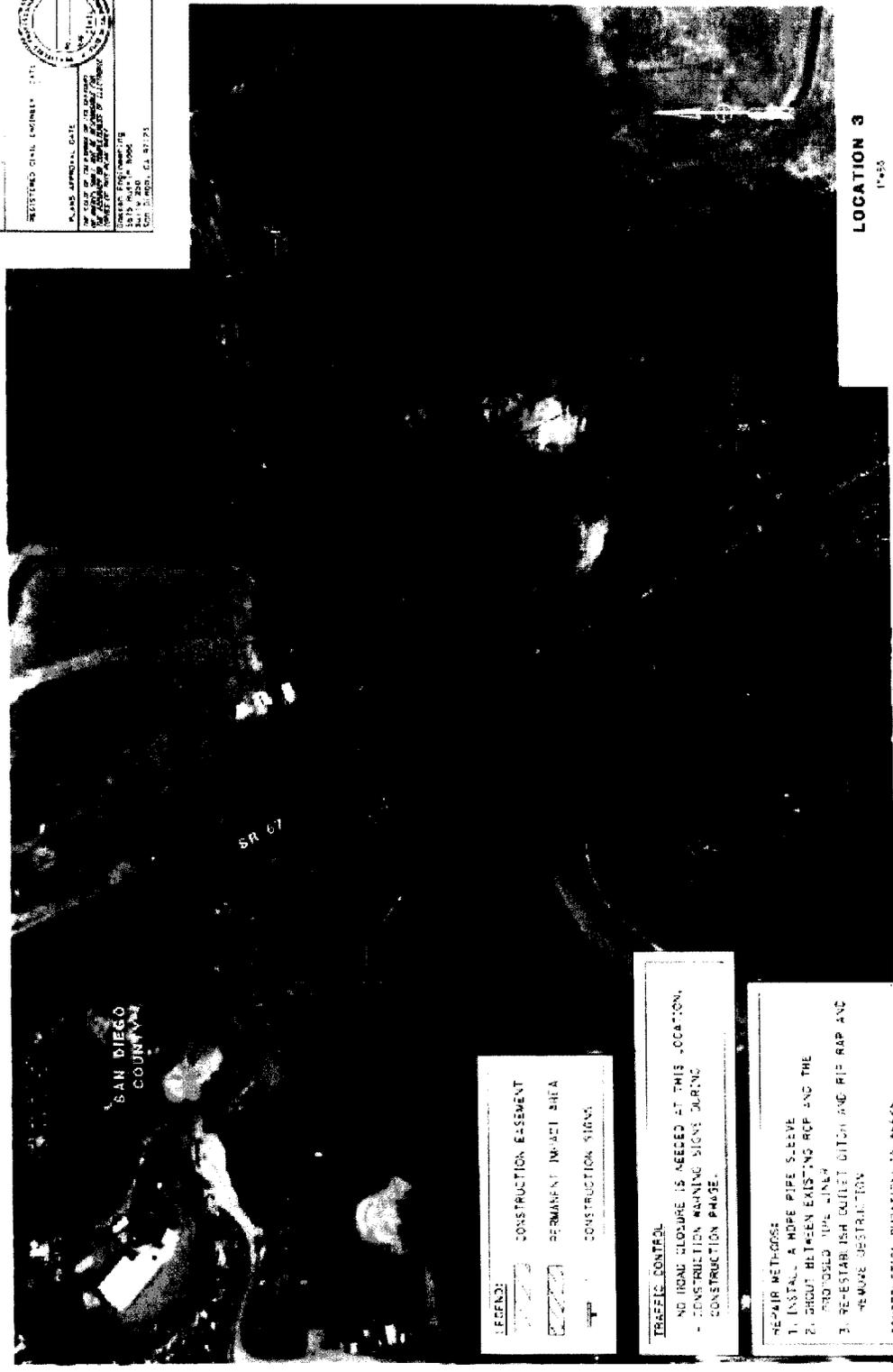
Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance 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 measure 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 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.
7. 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 H 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.
8. 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 with the terms and conditions of your permit.

CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-67, PM 13.75, POWAY CREEK
USGS SAN VICENTE RESERVOIR QUADRANGLE 7.5 MINUTE SERIES,
SECTION 15, T 14S, R 1W



DATE: 11-30-87
 TIME: 11:37
 REGISTERED CIVIL ENGINEER: [Signature]
 PLANS APPROVAL DATE: [Signature]
 PROJECT NO: [Number]
 SHEET NO: [Number]
 SHEET TOTAL: [Number]
 COUNTY: [County Name]
 CITY: [City Name]



LOCATION 3
 1+55

LEGEND:
 [Symbol] CONSTRUCTION EASEMENT
 [Symbol] PERMANENT IMPACT AREA
 [Symbol] CONSTRUCTION SIGNS

TRAFFIC CONTROL
 NO ROAD CLOSURE IS NEEDED AT THIS LOCATION.
 - CONSTRUCTION WARNING SIGNS DURING CONSTRUCTION PHASE.

REPAIR METHODOLOGY
 1. INSTALL A ROPE PIPE SLEEVE
 2. GROUT BETWEEN EXISTING RCP AND THE PROPOSED PIPE JUNKY
 3. RE-ESTABLISH GULLET DITCH AND RIP RAP AND REMOVE OBSTRUCTION
 CONSTRUCTION DURATION: 10 WEEKS

DATE OF CONSTRUCTION: [Blank]	CONTRACT NO: [Blank]	PROJECT NO: [Blank]	SHEET NO: [Blank]	SHEET TOTAL: [Blank]
APPROVED BY: [Signature]	DESIGNED BY: [Signature]	CHECKED BY: [Signature]	DATE: [Blank]	TIME: [Blank]

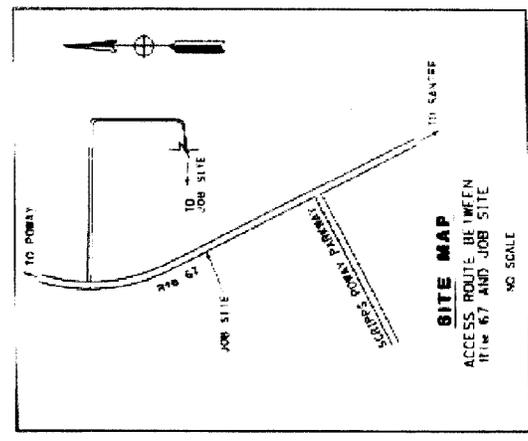
SAN DIEGO COUNTY
 PUBLIC WORKS DEPARTMENT
 14800 VIA VALERIO BLVD., SAN DIEGO, CA 92138
 TEL: (619) 495-3000
 FAX: (619) 495-3001

DATE	11	11	11
COUNTY	SD	SD	SD
CITY	BEVERLY HILLS	BEVERLY HILLS	BEVERLY HILLS
PROJECT NO.	100	100	100
REGISTERED CIVIL ENGINEER			
PLANS APPROVAL DATE			

NOTES:

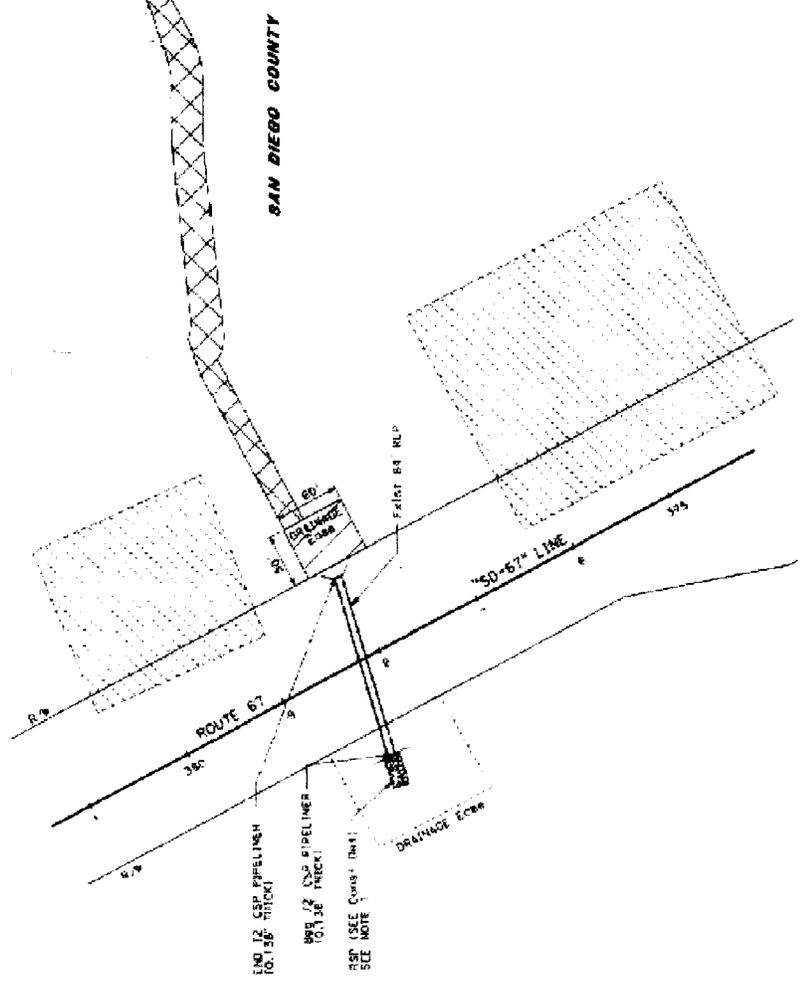
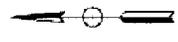
1. ADDRESS RSP AREA VIA CONVEY FROM EAST SIDE OF HIGHWAY.

SEE SITE MAP FOR DETAILED LOCATION OF ACCESS ROUTE BETWEEN JOB SITE AND RSP



LAYOUT
LOCATION 3
 SCALE: 1" = 50'
L-4

FOR ACCURATE RIGHT OF WAY DATA, CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.



STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
 CIVIL ENGINEER SUPERVISOR
 PROJECT NUMBER & PHASE
 UNIT 210
 PROJECT NUMBER & PHASE
 11/000002101

DESIGN

DATE: 11/11/11
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]

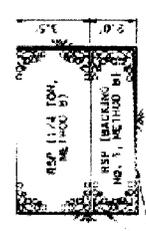
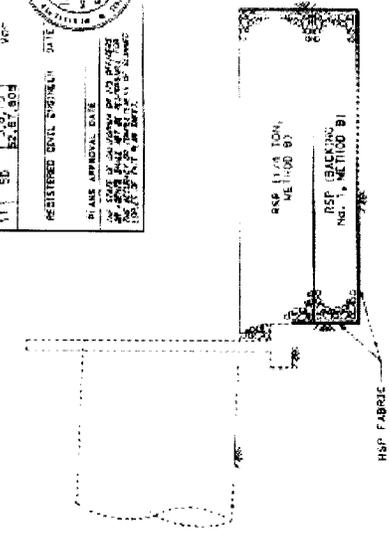
DATE	QUANTITY	PROJECT	STATE	SECTION	SCALE
11	SD	5.07'S	CA	11	1/8" = 1'-0"

REGISTERED CIVIL ENGINEER DATE

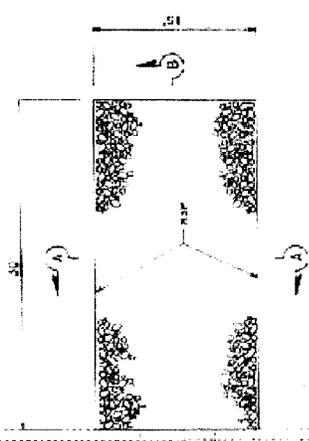
STATE OF CALIFORNIA
 J. G. GARDNER
 No. 65533
 Exp. 01/01/11

DESIGN APPROVAL DATE

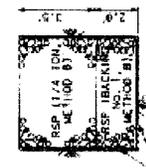
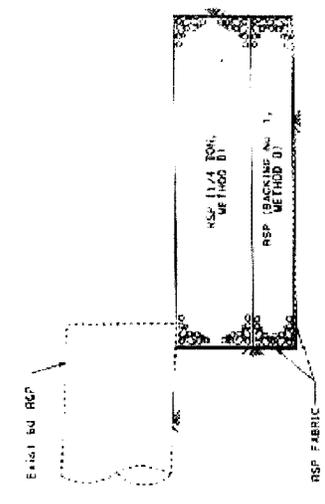
FOR THE PROJECT AND THE CONTRACT NO. 11-SD-5.07'S
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROTECTION OF ALL UTILITIES AND STRUCTURES TO REMAIN.



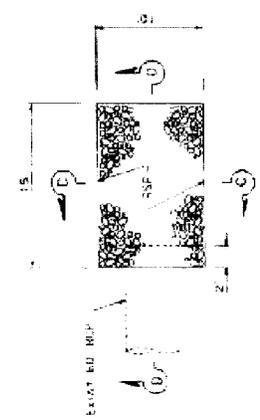
SECTION A-A



LOCATION 1 PLAN



SECTION C-C



LOCATION 1 PLAN

CONSTRUCTION DETAILS
 C-2

NO SCALE

PROJECT NUMBER & PHASE

UNIT 2361

RELATIVE SHEET PANEL

DATE

DATE

DATE

DATE

DATE



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

January 20, 2012

REPLY TO
ATTENTION OF:

Office of the Chief
Regulatory Division

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Ed Hajj, Project Manager
California Department of Transportation, District 11
Attention: Robert A. James
4050 Taylor Street, MS-242
San Diego, California 92110

Dear Mr. Hajj:

This correspondence is in reply to your application (File No. SPL-2011-00702-SCH), dated June 13, 2011, for a Department of the Army Permit to discharge fill into waters of the U.S., in association with the Repair and Rehabilitation to Culvert 5 project. Culvert 5 is located along Interstate 8 (I-8) at postmile 10.62, within the city of La Mesa, San Diego County, California. (32.773164°N, -117.02894°W)

Specifically, you have requested authorization to repair an existing culvert which includes sealing transverse cracks with flexible sealant or epoxy, cleaning out and repairing exposed re-bar with mortar and joint filler, and stream dewatering. The proposed project will temporarily impact 0.01 acre (31 linear feet) of non-wetland waters of the U.S. (see attached figures).

Based on the information you have provided, the Corps of Engineers has determined that your proposed activity complies with the enclosed terms and conditions of Nationwide Permit (NWP) No. 3 Maintenance, as described in enclosure 1.

Furthermore, you must comply with the following non-discretionary Special Conditions:

1. The permittee shall abide by the terms and conditions of the project's 401 Water Quality Certification, dated January 18, 2012.
2. At the conclusion of the project, all temporary fill shall be removed and the area shall be restored to pre-construction conditions to the maximum extent practicable.

3. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter avoided waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.
4. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memo indicating the date authorized impacts to waters of the U.S. ceased.
5. The permittee shall employ all best management practices (BMPs) to ensure that no debris, soil, silt, sand, rubbish, cement or concrete washings thereof, oil or petroleum can be washed by rainfall or runoff into waterways. When project operations are completed, any and all excess construction material, debris, and or other associated excess project materials shall be removed and if not recycled or reused, disposed of at an appropriate off-site location outside of any jurisdictional water of the U.S. Similarly, the permittee shall ensure that all vehicle maintenance, staging, storage, and dispensing of fuel occurs in designated upland areas. The permittee shall ensure that these designated upland areas are located in such a manner to prevent any runoff from entering waters of the U.S.
6. A copy of the permit shall be on the job site at all times during construction. The permittee shall provide a copy of this permit to all contractors, subcontractors, and forepersons. The permittee shall require that all contractors and forepersons read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein.

Endangered Species Act:

7. This Corps permit does not authorize you to take any federally listed (or proposed) threatened or endangered species or critical habitat. In order to legally take a federally listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply).

Cultural Resources:

8. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Regulatory Division staff and Archeology Staff (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861) within 24 hours. The Permittee shall immediately suspend all work within 100 feet of any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area

surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Sophia Huynh of my staff at 213-452-3357 or via e-mail at Sophia.C.Huynh@usace.army.mil.

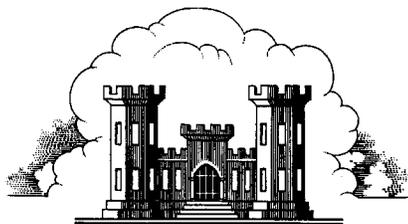
Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Mark D. Cohen
Deputy Chief, Regulatory Division

Enclosures



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *SPL-2011-00702-SCH*

Name of Permittee: *California Department of Transportation, District 11, Ed Hajj*

Date of Issuance: *January 20, 2012*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Division
ATTN: CESPL-RG-SPL-2011-00702-SCH
P.O. Box 532711
Los Angeles, California 90053

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

Signature of Permittee

Date

Enclosure 1: NATIONWIDE PERMIT NUMBER(S) NWP 3 Maintenance. TERMS AND CONDITIONS

1. Nationwide Permit(s) NWP 3 Maintenance. Terms:

Your activity is authorized under Nationwide Permit Number(s) NWP 3 Maintenance. subject to the following terms:

3. Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays. (b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer. (c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. (d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects. Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404) Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

2. Nationwide Permit General Conditions:

The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. *Navigation.*

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, 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, the permittee 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.

2. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48.
6. *Suitable Material.* No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. *Water Supply Intakes.* No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. *Management of Water Flows.* To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. *Fills Within 100-Year Floodplains.* The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. *Equipment.* Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
13. *Removal of Temporary Fills.* Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
14. *Proper Maintenance.* Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.
15. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park

Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. *Tribal Rights.* No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. *Endangered Species.*

(a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs. (e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. *Historic Properties.*

(a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-

Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. *Designated Critical Resource Waters.* Critical resource waters include: NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require preconstruction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater

than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.
22. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
23. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.
24. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
25. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

26. *Compliance Certification.* Each permittee who received an NWP verification from the Corps must submit a signed certification

regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

27. *Pre-Construction Notification.*

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan;
- (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated

critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

- (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) *Agency Coordination:*

- (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.
- (2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring preconstruction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each preconstruction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
- (3) In cases where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.
- (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.
- (5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) *District Engineer's Decision:* In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either:

- (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;
- (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or
- (3) that the project is authorized under the NWP with specific modifications or conditions.

Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. *Single and Complete Project.* The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

3. Regional Conditions for the Los Angeles District:

In accordance with General Condition Number 23, "Regional and Case-by-Case Conditions," the following Regional Conditions, as added by the Division Engineer, must be met in order for an authorization by any Nationwide to be valid:

1. For coastal watersheds from the southern reach of the Santa Monica Mountains in Los Angeles County to the San Luis Obispo County/Monterey County boundary, all road crossings must employ a bridge crossing design that ensures passage and/or spawning of steelhead (*Oncorhynchus mykiss*) is not hindered in any way. In these areas, bridge designs that span the stream or river, including designs for pier- or pile-supported spans, or designs based on use of a bottomless arch culvert simulating the natural stream bed (i.e., substrate and streamflow conditions in the culvert are similar to undisturbed stream bed channel conditions) shall be employed unless it can be demonstrated the stream or river does not support resources conducive to the recovery of federally listed anadromous salmonids, including migration of adults and smolts, or rearing and spawning. This proposal also excludes approach embankments into the channel unless they are determined to have no detectable effect on steelhead.
2. For the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), no nationwide permit, except Nationwide Permits 1 (Aids to Navigation), 2 (Structures in Artificial Canals), 3 (Maintenance), 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities), 5 (Scientific Measurement Devices), 6 (Survey Activities), 9 (Structures in Fleeting and Anchorage Areas), 10 (Mooring Buoys), 11 (Temporary Recreational Structures), 20 (Oil Spill Cleanup), 22 (Removal of Vessels), 27 (Stream and Wetland Restoration Activities), 30 (Moist Soil Management for Wildlife), 31 (Maintenance of Existing Flood Control Projects), 32 (Completed Enforcement Actions), 35 (Maintenance Dredging of Existing Basins), 37 (Emergency Watershed Protection and Rehabilitation), 38 (Cleanup of Hazardous and Toxic Waste) and 47 (Pipeline Safety Program Designated Time Sensitive Inspections and Repairs), or other nationwide or regional general permits that specifically authorize maintenance of previously authorized structures or fill, can be used to authorize the discharge of dredged or fill material into a jurisdictional special aquatic site as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes).
3. For all projects proposed for authorization by nationwide or regional general permits where prior notification to the district engineer is required, applicants must provide color photographs or color photocopies of the project area taken from representative points documented on a site map. Pre-project photographs and the site map would be provided with the permit application. Photographs should represent conditions typical or indicative of the resources before impacts.
4. Notification pursuant to general condition 27 shall be required for projects in all special aquatic sites as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes), and in all perennial waterbodies in the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), excluding the Colorado River from Davis Dam downstream to the north end of Topock and downstream of Imperial Dam (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring

notification do not apply to Nationwide Permit 47).

5. Notification pursuant to general condition 27 shall be required for projects in all areas designated as Essential Fish Habitat by the Pacific Fishery Management Council (i.e., all tidally influenced areas - Federal Register dated March 12, 2007 (72 FR 11092), regional conditions requiring notification do not apply to Nationwide Permit 47).
6. Notification pursuant to general condition 27 shall be required for projects in all watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring notification do not apply to Nationwide Permit 47).
7. Individual permits shall be required for all discharges of fill material in jurisdictional vernal pools.
8. Individual permits shall be required in Murrieta Creek and Temecula Creek watersheds in Riverside County for new permanent fills in perennial and intermittent watercourses otherwise authorized under NWP's 29, 39, 42 and 43, and in ephemeral watercourses for these NWP's for projects that impact greater than 0.1 acre of waters of the United States. In addition, when NWP 14 is used in conjunction with residential, commercial, or industrial developments the 0.1 acre limit would also apply.
9. Individual permits shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.
10. Notification pursuant to general condition 27 shall be required for projects in the Santa Clara River watershed in Los Angeles and Ventura counties, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring notification do not apply to Nationwide Permit 47).

4. Further information:

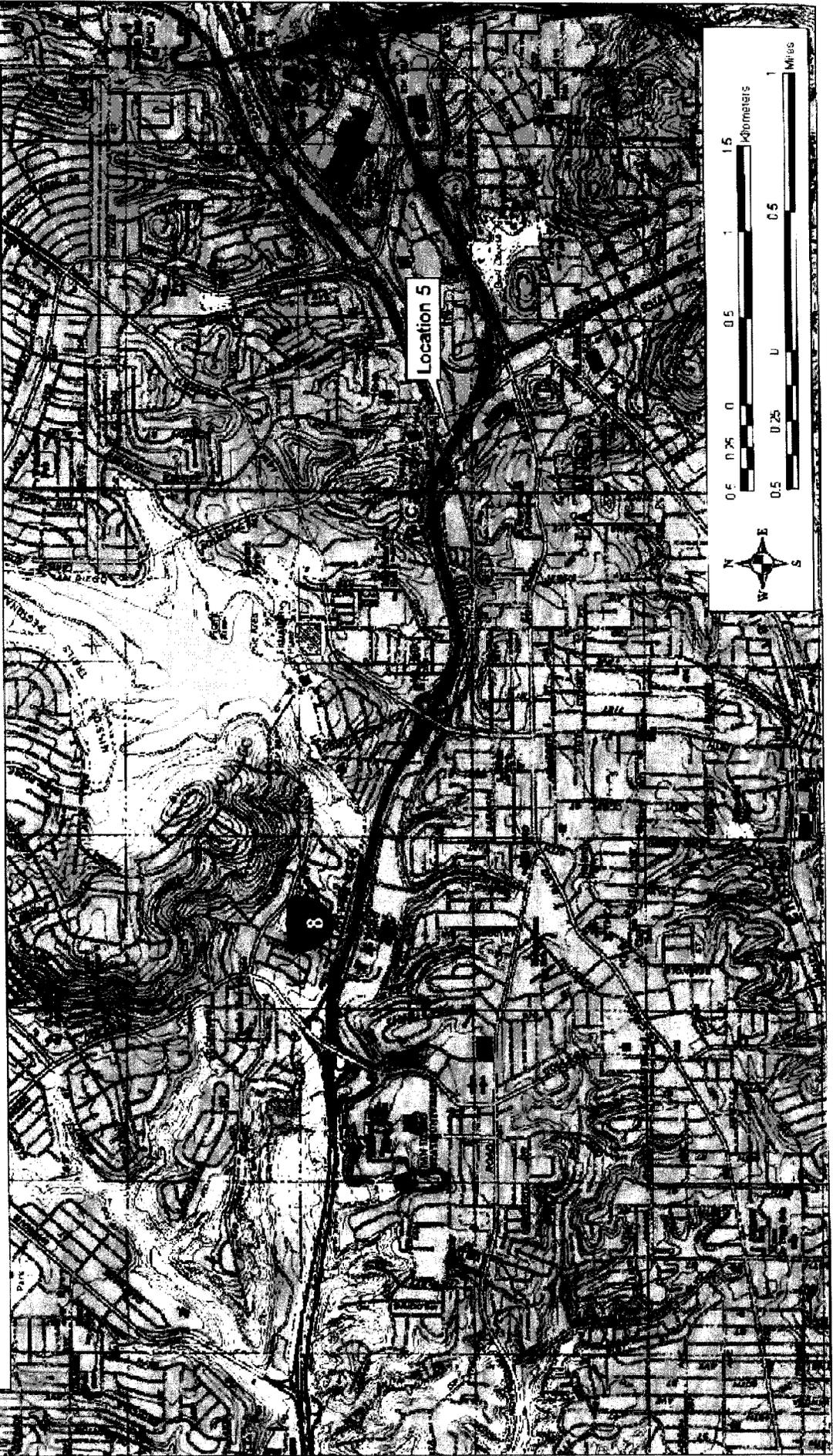
1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (x) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
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 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 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 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 measure 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 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.
7. 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 H 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.
8. 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 with the terms and conditions of your permit.

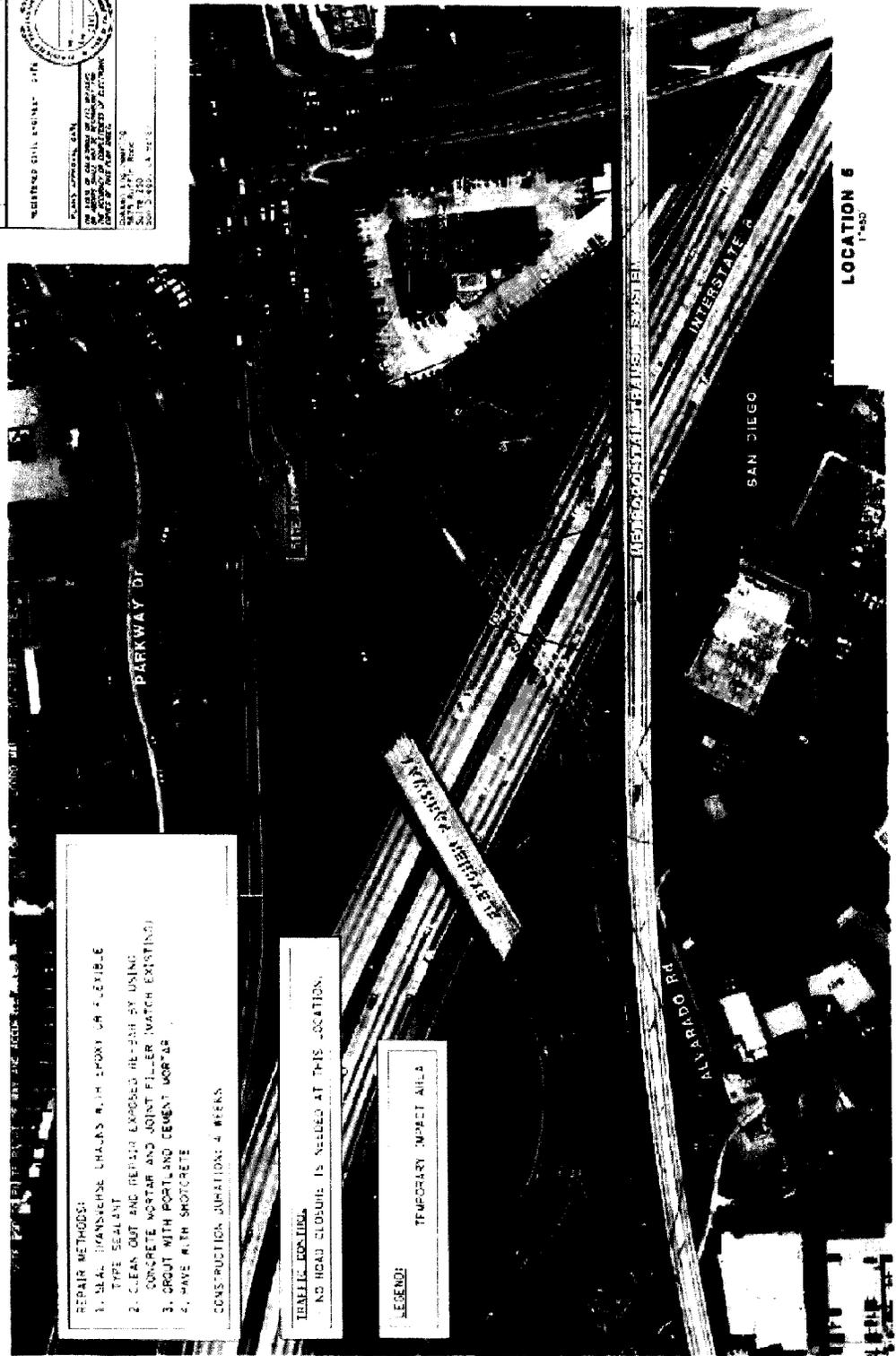
CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-8, PM 10.62, ALVARADO CREEK
USGS LA MESA QUADRANGLE 7.5 MINUTE SERIES, T 16S, R 1W



DATE: 11/13/62
 SHEET: 8 OF 10
 PROJECT: SAN DIEGO
 CONTRACT NO. 10-62



DESIGNED BY: JAMES W. SMITH
 CHECKED BY: JAMES W. SMITH
 DATE: 11/13/62



REPAIR METHODS:

1. SEAL JOINTS WITH EPoxy OR FLEXIBLE TIRE SEALANT
2. CLEAN OUT AND REPAIR EXPOSED REINFORCING CONCRETE MORTAR AND JOINT FILLER (MATCH EXISTING)
3. GROUT WITH PORTLAND CEMENT MORTAR
4. PAVE WITH SHOTCRETE

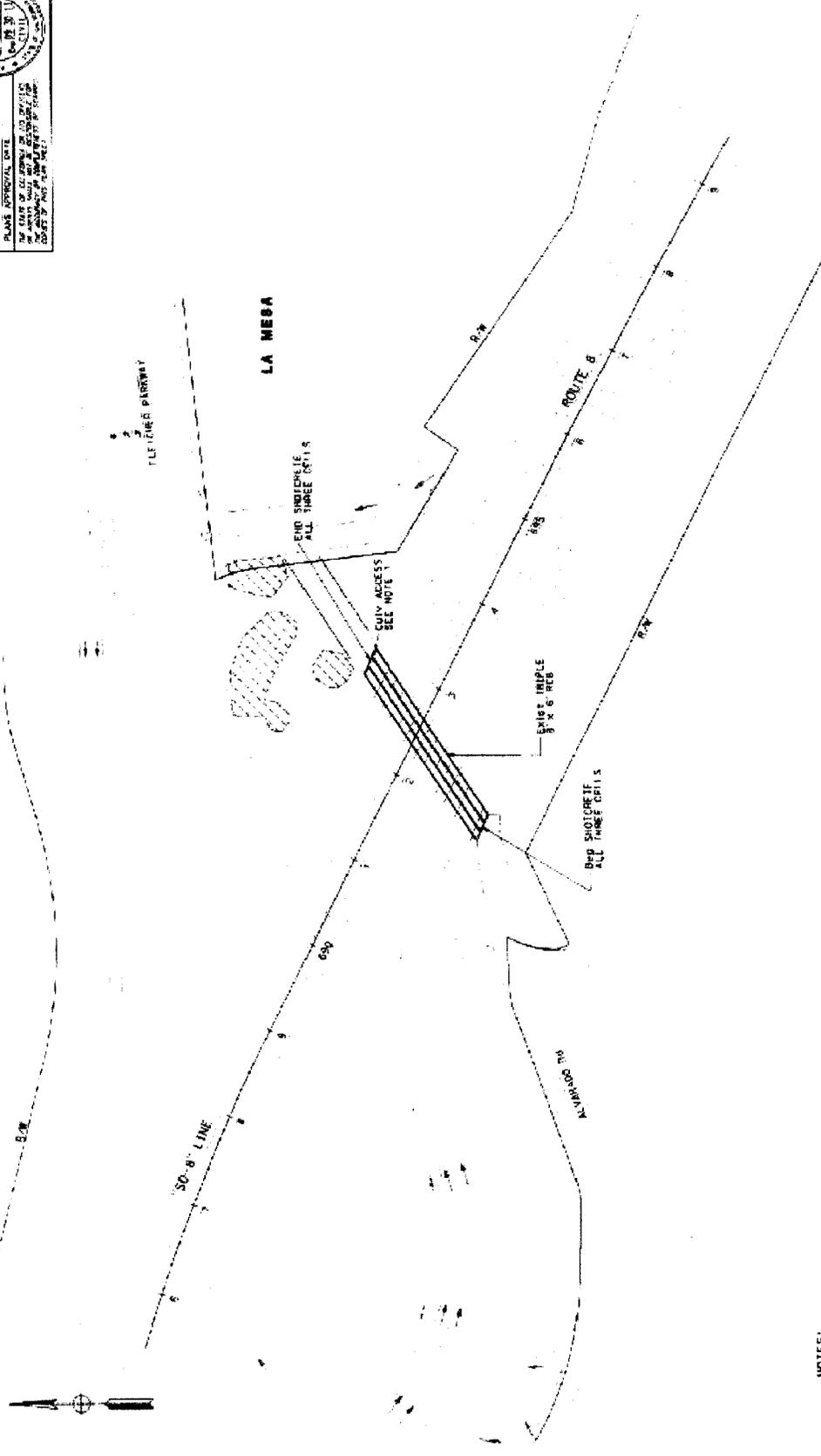
CONSTRUCTION DURATION: 4 WEEKS

TRAFFIC CONTROL:
 NO ROAD CLOSURE IS NEEDED AT THIS LOCATION.

LEGEND:
 TEMPORARY IMPACT AILLS

DATE	COUNTY	PROJECT	SHEET NO.	TOTAL SHEETS
11/11/04	SD	LA MESA	1	1
REGISTERED CIVIL ENGINEER STATE OF CALIFORNIA				
ENGINEER'S NAME: [Name] LICENSE NO.: [No.] EXPIRES: [Date]				
PLANS APPROVAL DATE: [Date] THE USE OF COMPUTERS IN THE PREPARATION OF THESE PLANS IS HEREBY CERTIFIED.				

FOR ACCURATE RIGHT OF WAY DATA,
CONTACT RIGHT OF WAY SURVEYING AT THE DISTRICT OFFICE.



LAYOUT
LOCATION 6
 SCALE: 1" = 50'

PROJECT NUMBER & PHASE
 UNIT 2161



DATE: 11/11/04
 TIME: 10:00 AM

DATE: 11/11/04
 TIME: 10:00 AM

NOTES:

1. PUMP AREA ON ILLICHOE PARKWAY AVAILABLE FOR STAGING AREA DURING LANE CLOSURE. VEHICLES MUST STAY ON HIGHWAY.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	DESIGN	DATE: 11/11/04	TIME: 10:00 AM
PROJECT NO. 04-00000-0000-00	UNIT 2161	SHEET 1 OF 1	TOTAL SHEETS 1



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

January 20, 2012

REPLY TO
ATTENTION OF:

Office of the Chief
Regulatory Division

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Ed Hajj, Project Manager
California Department of Transportation, District 11
Attention: Robert A. James
4050 Taylor Street, MS-242
San Diego, California 92110

Dear Mr. Hajj:

This correspondence is in reply to your application (File No. SPL-2011-00719-SCH), dated June 13, 2011, for a Department of the Army Permit to discharge fill into waters of the U.S., in association with the Repair and Rehabilitation of Culvert 7 project. Culvert 7 is located on the east side of Interstate 805 at post mile 0.65 to 1.11 where the freeway crosses the Otay River, in the city and county of San Diego, California. (32.590525°N, -117.035686°W)

Specifically, you have requested authorization to repair an existing culvert which includes invert paving along the entire culvert length, sealing joints, re-establishing the outlet ditch, and removing obstructions at the outlet. The proposed project will permanently impact 0.01 acre (11 linear feet) of non-wetland waters of the U.S. associated with discharging 150 cubic yards of fill at the culvert outlet, and temporarily impact 0.05 acre (63 linear feet) of non-wetland waters of the U.S. associated with vegetation removal, accessing the culvert, and stream dewatering (see attached figures).

Based on the information you have provided, the Corps of Engineers has determined that your proposed activity complies with the enclosed terms and conditions of Nationwide Permit (NWP) No. 3 Maintenance, as described in enclosure 1.

Furthermore, you must comply with the following non-discretionary Special Conditions:

1. The permittee shall abide by the terms and conditions of the project's section 401 Water Quality Certification, dated January 18, 2012.

2. The Permittee has mitigated for permanent impacts to 0.01 acre of waters of the U.S. by using credits available from the creation of 0.02 acre of riparian stream habitat and the enhancement of 0.01 acre of riparian stream habitat within the Forester Creek Mitigation Site. The construction of the Forester Creek Mitigation Project is complete and on February 17, 2011 the Corps determined that the site met the Corps-approved success criteria. The Forester Creek Mitigation site is 18 acres in size. It is located in the city of Santee, and abuts existing mitigation sites. The Forester Creek Mitigation site consists of creation of 6.90 acres of riparian habitat, including 0.02 acre of freshwater marsh habitat. In addition to habitat created, approximately 3.46 acres of riparian restoration/enhancement occurred along the Forester Creek portion of the site, and 4.5 acres of coastal sage scrub/native grassland buffer were created in the upland portions of the site.

3. Prior to initiation of work in waters of the U.S., the Permittee shall provide a draft long-term site protection instrument, in a form approved by the Corps Regulatory Division, which will protect and maintain the approved mitigation site as natural open space in perpetuity. The Permittee shall receive written approval (by letter or e-mail) from the Corps Regulatory Division of the long-term protection instrument prior to it being executed and recorded. A recorded copy of the long-term site protection instrument shall be furnished to the Corps Regulatory Division prior to or concurrent with initiation of work in waters of the U.S.

4. At the conclusion of the project, all temporary fill shall be removed and the area shall be restored to pre-construction conditions (contours and vegetated condition) to the maximum extent practicable. The Permittee shall hydroseed the disturbed portions of the earthen stream banks with native, non-invasive vegetation of facultative upland (FACU) or wetter species, as appropriate. The Permittee shall submit the proposed planting palette for review and approval by the Corps, prior to initiation of construction. The Permittee shall ensure the hydroseeded areas are maintained and monitored for a period of two years after completing the seeding activities, such that less than 10 percent of the areas disturbed by the project are vegetated by non-native and invasive plant species. Monitoring reports shall be submitted by the Permittee to the Corps, by May 15th annually, one and two years following hydroseeding, documenting the recovery of the restored areas.

5. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter avoided waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

6. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memo indicating the date authorized impacts to waters of the U.S. ceased.

7. The permittee shall employ all best management practices (BMPs) to ensure that no debris, soil, silt, sand, rubbish, cement or concrete washings thereof, oil or petroleum can be washed by rainfall or runoff into waterways. When project operations are completed, any and all excess construction material, debris, and or other associated excess project materials shall be removed and if not recycled or reused, disposed of at an appropriate off-site location outside of any jurisdictional water of the U.S. Similarly, the permittee shall ensure that all vehicle maintenance, staging, storage, and dispensing of fuel occurs in designated upland areas. The permittee shall ensure that these designated upland areas are located in such a manner to prevent any runoff from entering waters of the U.S.

8. A copy of the permit shall be on the job site at all times during construction. The permittee shall provide a copy of this permit to all contractors, subcontractors, and forepersons. The permittee shall require that all contractors and forepersons read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein.

Endangered Species Act:

9. This Corps permit does not authorize you to take any federally listed threatened or endangered species, in particular the federally listed as endangered least Bell's vireo (*Vireo bellii pusillus*) or adversely modify designated critical habitat. In order to legally take a federally listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA section 10 permit, or a Biological Opinion (BO) under ESA section 7, with "incidental take" provisions with which you must comply). The enclosed FWS correspondence (FWS-SDG-08BO398-08I0782, dated January 15, 2009) contains mandatory conservation measures to implement to avoid and minimize potential impacts to federally listed species. Your authorization under this Corps permit is conditional upon your compliance with all of the conservation measures associated with the attached correspondence from the Service, which are incorporated by reference in this permit. Failure to comply with the mandatory conservation measures would constitute non-compliance with your Corps permit. The FWS is the appropriate authority to determine compliance with the conservation measures contained in their correspondence dated January 15, 2009 and with the ESA.

Cultural Resources:

10. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Regulatory Division staff and Archeology Staff (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861) within 24 hours. The Permittee shall immediately suspend all work within 100 feet of any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in

the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Sophia Huynh of my staff at 213-452-3357 or via e-mail at Sophia.C.Huynh@usace.army.mil.

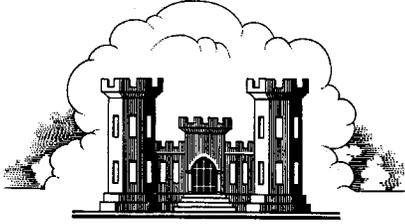
Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Mark D. Cohen
Deputy Chief, Regulatory Division

Enclosures



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *SPL-2011-00719-SCH*

Name of Permittee: *California Department of Transportation, District 11, Ed Hajj*

Date of Issuance: *January 20, 2012*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Division
ATTN: CESPL-RG-SPL-2011-00719-SCH
P.O. Box 532711
Los Angeles, California 90053

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

Signature of Permittee

Date

Enclosure 1: NATIONWIDE PERMIT NUMBER(S) NWP 3 Maintenance. TERMS AND CONDITIONS

1. Nationwide Permit(s) NWP 3 Maintenance. Terms:

Your activity is authorized under Nationwide Permit Number(s) NWP 3 Maintenance. subject to the following terms:

3. Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays. (b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer. (c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. (d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects. Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404) Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

2. Nationwide Permit General Conditions:

The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. *Navigation.*

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, 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, the permittee 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.

2. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48.
6. *Suitable Material.* No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. *Water Supply Intakes.* No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. *Management of Water Flows.* To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. *Fills Within 100-Year Floodplains.* The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. *Equipment.* Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
13. *Removal of Temporary Fills.* Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.
14. *Proper Maintenance.* Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.
15. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park

Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. *Tribal Rights.* No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. *Endangered Species.*

(a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs. (e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. *Historic Properties.*

(a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-

Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. *Designated Critical Resource Waters.* Critical resource waters include: NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require preconstruction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater

than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.
22. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
23. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.
24. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
25. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

26. *Compliance Certification.* Each permittee who received an NWP verification from the Corps must submit a signed certification

regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

27. *Pre-Construction Notification.*

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan;
- (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated

critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

- (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) *Agency Coordination:*

- (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.
- (2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring preconstruction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each preconstruction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
- (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.
- (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.
- (5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) *District Engineer's Decision:* In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either:

- (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;
- (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or
- (3) that the project is authorized under the NWP with specific modifications or conditions.

Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. *Single and Complete Project.* The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

3. Regional Conditions for the Los Angeles District:

In accordance with General Condition Number 23, "Regional and Case-by-Case Conditions," the following Regional Conditions, as added by the Division Engineer, must be met in order for an authorization by any Nationwide to be valid:

1. For coastal watersheds from the southern reach of the Santa Monica Mountains in Los Angeles County to the San Luis Obispo County/Monterey County boundary, all road crossings must employ a bridge crossing design that ensures passage and/or spawning of steelhead (*Oncorhynchus mykiss*) is not hindered in any way. In these areas, bridge designs that span the stream or river, including designs for pier- or pile-supported spans, or designs based on use of a bottomless arch culvert simulating the natural stream bed (i.e., substrate and streamflow conditions in the culvert are similar to undisturbed stream bed channel conditions) shall be employed unless it can be demonstrated the stream or river does not support resources conducive to the recovery of federally listed anadromous salmonids, including migration of adults and smolts, or rearing and spawning. This proposal also excludes approach embankments into the channel unless they are determined to have no detectable effect on steelhead.
2. For the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), no nationwide permit, except Nationwide Permits 1 (Aids to Navigation), 2 (Structures in Artificial Canals), 3 (Maintenance), 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities), 5 (Scientific Measurement Devices), 6 (Survey Activities), 9 (Structures in Fleeting and Anchorage Areas), 10 (Mooring Buoys), 11 (Temporary Recreational Structures), 20 (Oil Spill Cleanup), 22 (Removal of Vessels), 27 (Stream and Wetland Restoration Activities), 30 (Moist Soil Management for Wildlife), 31 (Maintenance of Existing Flood Control Projects), 32 (Completed Enforcement Actions), 35 (Maintenance Dredging of Existing Basins), 37 (Emergency Watershed Protection and Rehabilitation), 38 (Cleanup of Hazardous and Toxic Waste) and 47 (Pipeline Safety Program Designated Time Sensitive Inspections and Repairs), or other nationwide or regional general permits that specifically authorize maintenance of previously authorized structures or fill, can be used to authorize the discharge of dredged or fill material into a jurisdictional special aquatic site as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes).
3. For all projects proposed for authorization by nationwide or regional general permits where prior notification to the district engineer is required, applicants must provide color photographs or color photocopies of the project area taken from representative points documented on a site map. Pre-project photographs and the site map would be provided with the permit application. Photographs should represent conditions typical or indicative of the resources before impacts.
4. Notification pursuant to general condition 27 shall be required for projects in all special aquatic sites as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes), and in all perennial waterbodies in the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), excluding the Colorado River from Davis Dam downstream to the north end of Topock and downstream of Imperial Dam (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring

notification do not apply to Nationwide Permit 47).

5. Notification pursuant to general condition 27 shall be required for projects in all areas designated as Essential Fish Habitat by the Pacific Fishery Management Council (i.e., all tidally influenced areas - Federal Register dated March 12, 2007 (72 FR 11092), regional conditions requiring notification do not apply to Nationwide Permit 47).
6. Notification pursuant to general condition 27 shall be required for projects in all watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring notification do not apply to Nationwide Permit 47).
7. Individual permits shall be required for all discharges of fill material in jurisdictional vernal pools.
8. Individual permits shall be required in Murrieta Creek and Temecula Creek watersheds in Riverside County for new permanent fills in perennial and intermittent watercourses otherwise authorized under NWP's 29, 39, 42 and 43, and in ephemeral watercourses for these NWP's for projects that impact greater than 0.1 acre of waters of the United States. In addition, when NWP 14 is used in conjunction with residential, commercial, or industrial developments the 0.1 acre limit would also apply.
9. Individual permits shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.
10. Notification pursuant to general condition 27 shall be required for projects in the Santa Clara River watershed in Los Angeles and Ventura counties, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the mainstem of the Santa Clara River (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring notification do not apply to Nationwide Permit 47).

4. Further information:

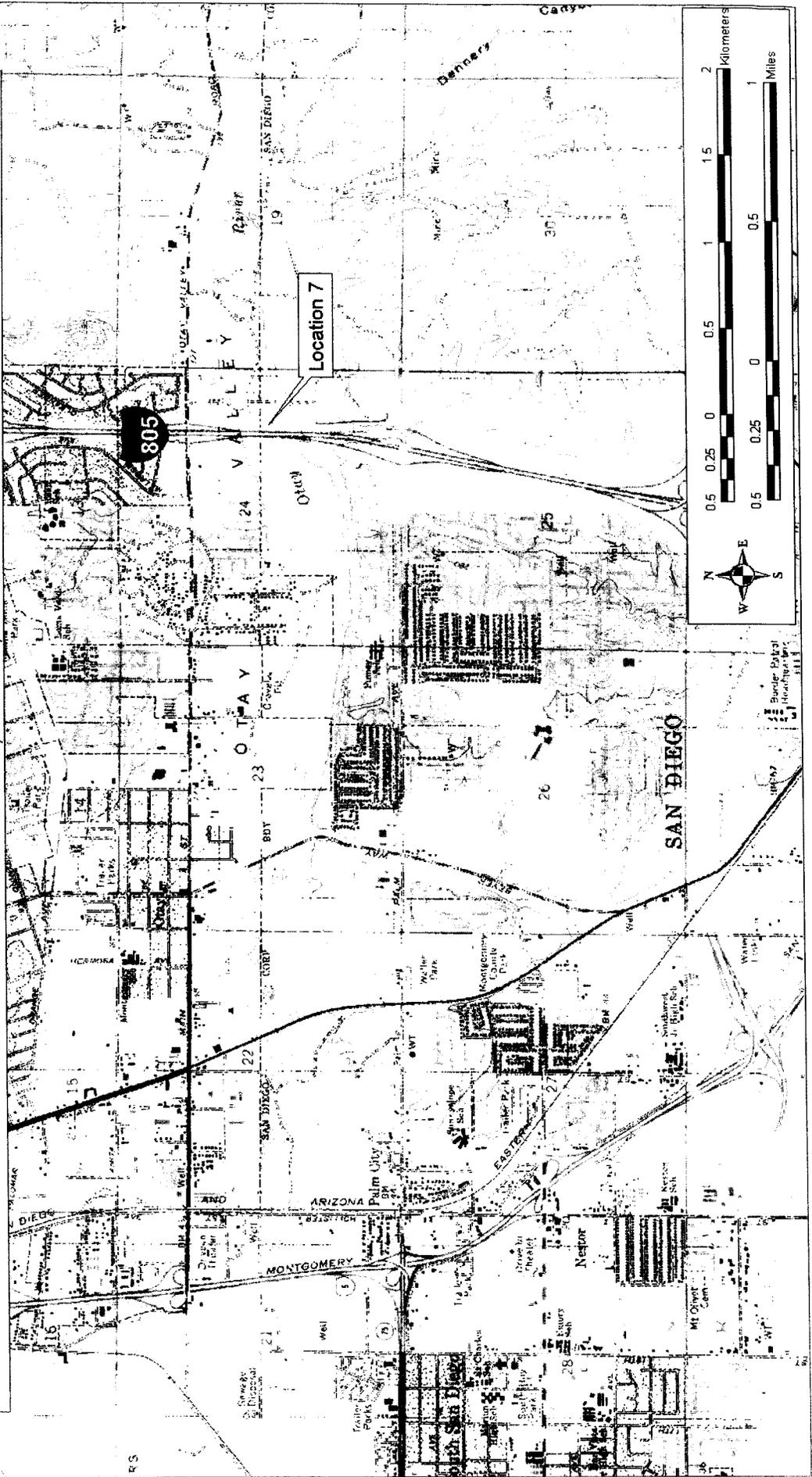
1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
 - () Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
 - (x) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
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 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 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 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 measure 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 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.
7. 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 H 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.
8. 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 with the terms and conditions of your permit.

CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-805, PM 2.75-3.48, OTAY RIVER
USGS IMPERIAL BEACH QUADRANGLE 7.5 MINUTE SERIES,
SECTION 24, T 18S, R 2W



PROJECT NO.	11 50
DATE	2.25/7.48
ENGINEER	REGISTERED CIVIL ENGINEER
DATE	
SCALE	AS SHOWN
PROJECT	CONSTRUCTION OF CALTRANS R/W
LOCATION	INTERSECTION OF CALTRANS R/W AND
DATE	
PROJECT	CONSTRUCTION OF CALTRANS R/W
DATE	
PROJECT	CONSTRUCTION OF CALTRANS R/W
DATE	
PROJECT	CONSTRUCTION OF CALTRANS R/W
DATE	

LEGEND:

TEMPORARY IMPACT AREA

PERMANENT IMPACT AREA

ACCESS EASEMENT

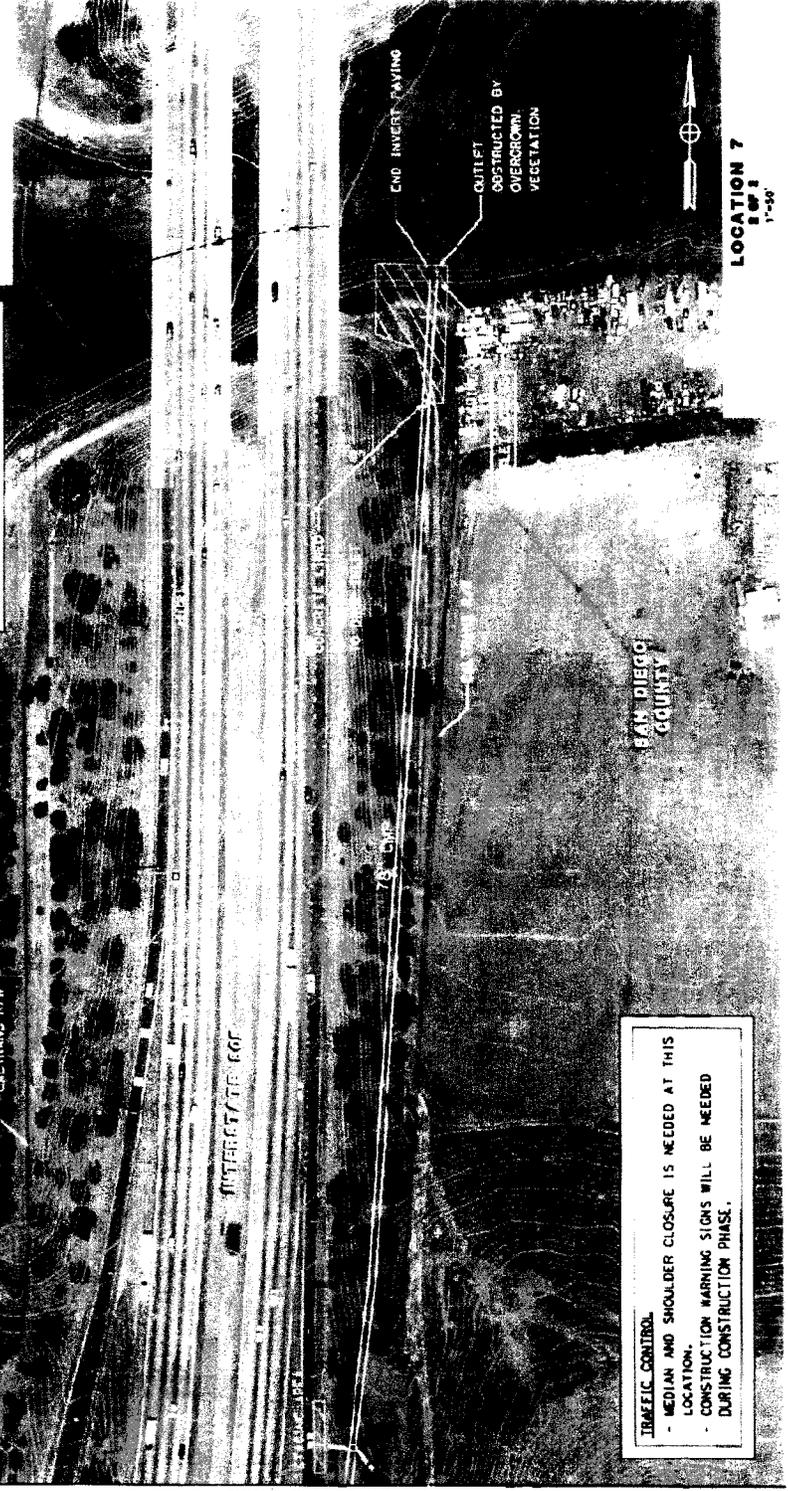
CONSTRUCTION SIGNS

RECOMMENDED REPAIR METHODS:

1. SEAL JOINTS (C&G) STEEL EXPANSION RING GASKETS
2. INVERT PAVING (ENTIRE LENGTH)
3. REESTABLISH OUTLET DITCH AND CONSTRUCT PERMANENT ACCESS GATE WITHIN THE RIGHT-OF-WAY

CONSTRUCTION DURATION: 16 WEEKS

TRAFFIC CONTROL - MEDIAN AND SHOULDER CLOSURE IS NEEDED AT THIS LOCATION. CONSTRUCTION WARNING SIGNS WILL BE NEEDED DURING CONSTRUCTION PHASE.



LOCATION 7
SHEET 1 OF 2
11-50

TRAFFIC CONTROL

- MEDIAN AND SHOULDER CLOSURE IS NEEDED AT THIS LOCATION.
- CONSTRUCTION WARNING SIGNS WILL BE NEEDED DURING CONSTRUCTION PHASE.

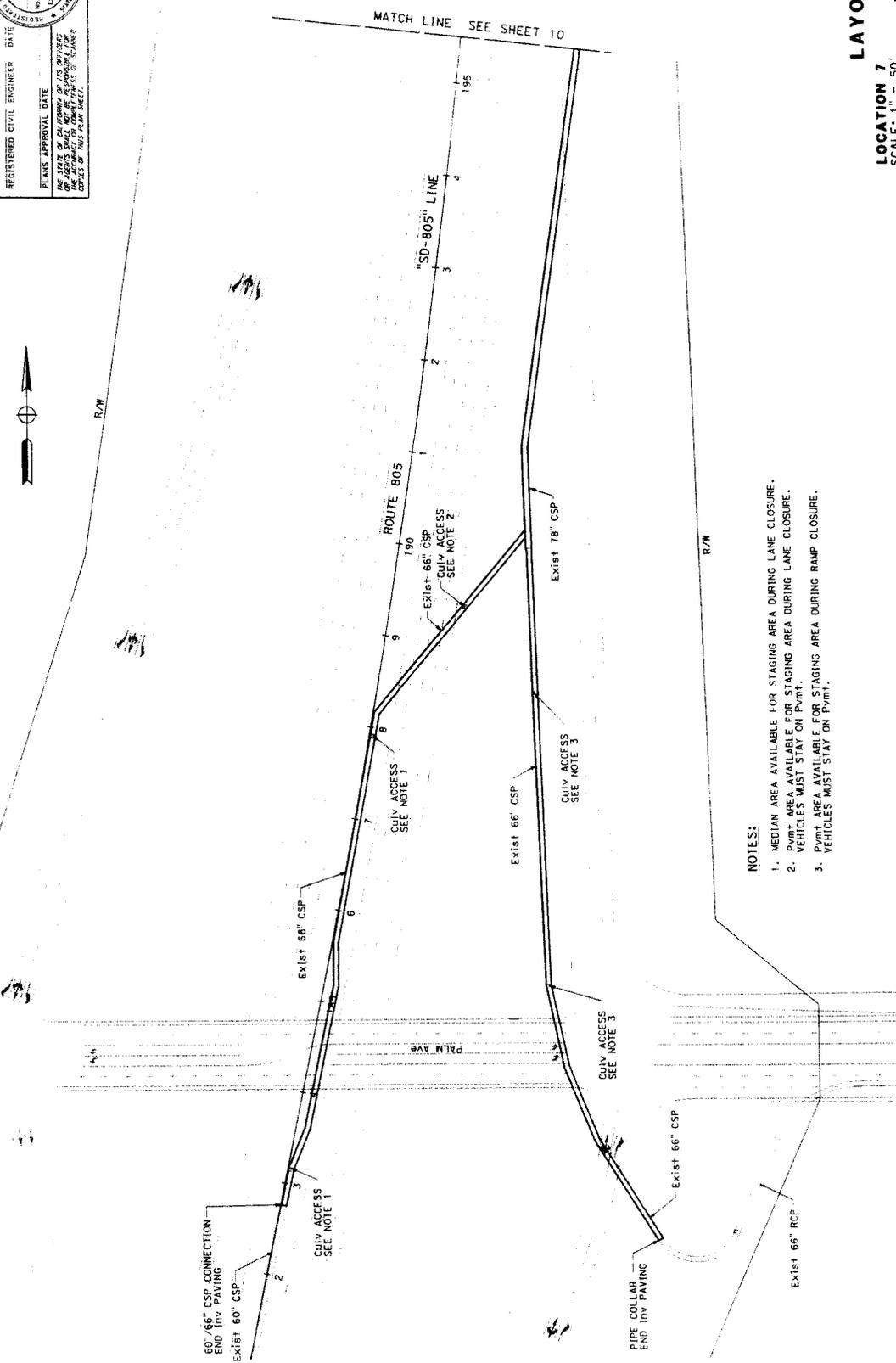
MATCH LINE SEE SHEET 1 OF 2

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	CONSULTANT FIRM: JOURNAL ENGINEERS
DESIGNED BY	CHECKED BY
REVISION BY	DATE REVISION

UNIT	COUNTY	ROUTE	POST MILES	SHEET TOTAL
11	SD	56.67, 1905		
REGISTERED CIVIL ENGINEER		DATE	PROJECT NO.	
THOMAS W. HARRIS		05-23-10	11-000002481	
PLANS APPROVAL DATE		SCALE		
05-23-10		1" = 50'		

THE STATE OF CALIFORNIA OR ITS OFFICERS OR AGENTS SHALL NOT BE RESPONSIBLE FOR THE CONSTRUCTION OF THIS PLAN SHEET.

FOR ACCURATE RIGHT OF WAY DATA, CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

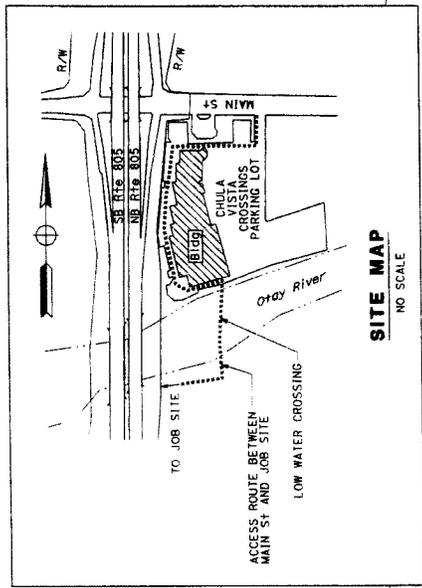


- NOTES:**
1. MEDIAN AREA AVAILABLE FOR STAGING AREA DURING LANE CLOSURE.
 2. PAVT AREA AVAILABLE FOR STAGING AREA DURING LANE CLOSURE. VEHICLES MUST STAY ON Pavt.
 3. PAVT AREA AVAILABLE FOR STAGING AREA DURING RAMP CLOSURE. VEHICLES MUST STAY ON Pavt.

LAYOUT
LOCATION 7
SCALE: 1" = 50'
L-9

DESIGNED BY	REVISED BY	ED HADD	DESIGNED BY	REVISED BY
AMH NGUYEN			PHOUKHAD SASINOUAN	
FUNCTIONAL SUPERVISOR	CHECKED BY		DATE REVISION	

DIST	COUNTY	ROUTE	POST MILES	SHEET TOTAL
11	SD	56.67, 805		NO. SHEETS
REGISTERED CIVIL ENGINEER		DATE	PROJECT TOTAL	
THOMAS M. GIBSON		08-30-13	NO. SHEETS	
PLANS APPROVAL DATE		PROJECT TOTAL		
08-30-13		NO. SHEETS		
THE STATE OF CALIFORNIA, BY ITS OFFICERS AND AGENCIES, HAS REVIEWED THE PLANS AND SPECIFICATIONS FOR THIS PROJECT AND HAS CONSENTED TO THIS PLAN SHEET.				

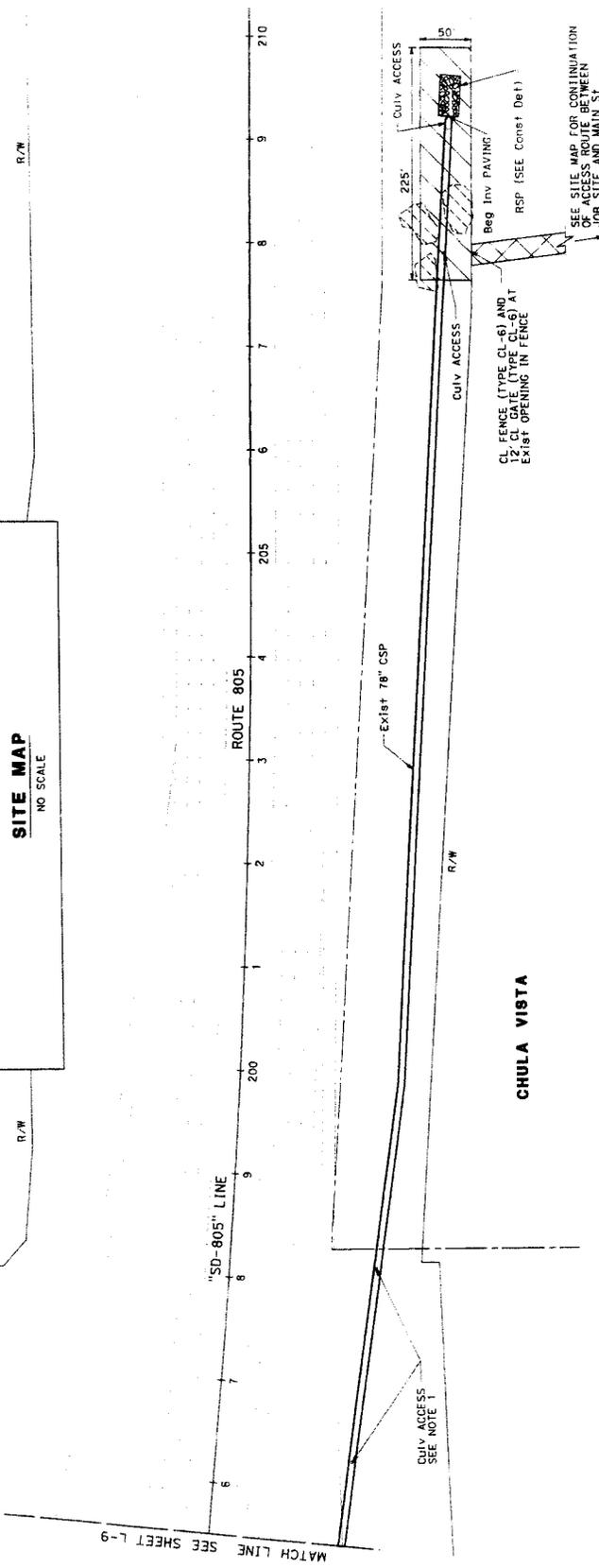


FOR ACCURATE RIGHT OF WAY DATA CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.



SAN DIEGO

SITE MAP
NO SCALE



NOTE S:
1. Pymt AREA AVAILABLE FOR STAGING AREA DURING RAMP CLOSURE. VEHICLES MUST STAY ON Pymt.

LAYOUT
LOCATION 7
SCALE: 1" = 50'
L-10

UNIT	2761	PROJECT NUMBER & PHASE	11000002481
RELATIVE BORDER SCALE	IS IN INCHES		
DATE	08/30/13	USER NAME	9-310838
DESIGNED BY	ANH NGUYEN	DOB FILE	1100000248010.cgr
CHECKED BY	PHUKHAO SASINDUAN		
DATE REVISION			
DESIGNED BY			
FUNCTIONAL SUPERVISOR			
ED HAND			
DESIGN			

05-05-11 TIME PLOTTED = 11:44:20
05-05-11 TIME PLOTTED = 2:41:28

BORDER LIST REVISED 7/2/2010

USERNAME: p3100838
 DGN FILE: p:\100002480.dgn

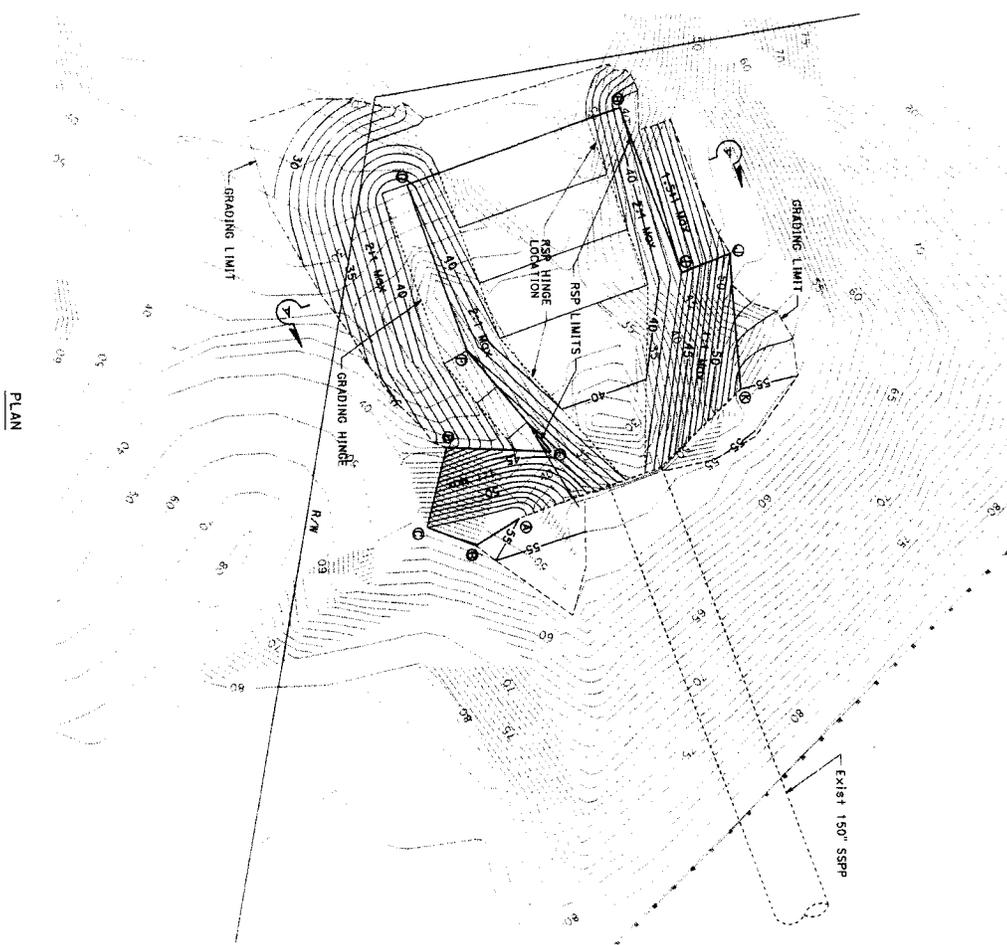
RELATIVE BORDER SCALE
 IS IN INCHES

UNIT: 2761

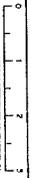
PROJECT NUMBER & PHASE

11000002481

FOR ACCURATE RIGHT OF WAY DATA,
 CONTACT RIGHT OF WAY ENGINEERING AT THE DISTRICT OFFICE.

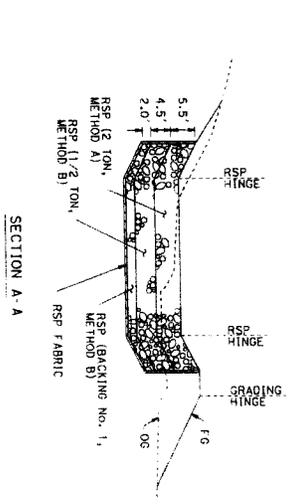


LOCATION 9



RSP LIMITS

POINT	ROLL	STG	OFFSET
A	333677.53	-117.966	
B	333677.53	-117.966	
C	333677.53	-117.966	
D	333677.53	-117.966	
E	333677.53	-117.966	
F	333677.53	-117.966	
G	333677.53	-117.966	
H	333677.53	-117.966	
I	333677.53	-117.966	
J	333677.53	-117.966	
K	333677.53	-117.966	



SECTION A-A

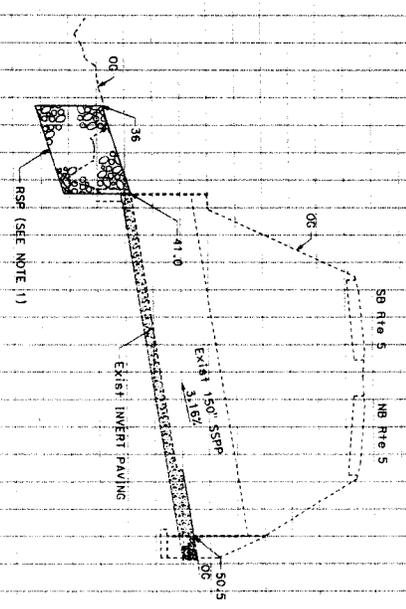
CONSTRUCTION DETAILS
 NO SCALE
C-5

DISTRICT: 11
 COUNTY: SD
 SQUARE FEET: 5,815
 TOTAL SQUARE FEET: 52,672,804
 REGISTERED CIVIL ENGINEER: [NAME]
 DATE: [DATE]
 PLANS APPROVAL DATE: [DATE]
 THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
 REGISTERED CIVIL ENGINEER: [NAME]
 NO. 65339
 EXPIRES: 09/30/13
 CIVIL
 (Seal of the State of California)

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION		FUNCTIONAL SUPERVISOR	CALCULATED-DESIGNED BY	PHOUKHAO SASINOLIAN	REVISED BY
DESIGN		ED HAJJ	CHECKED BY	TOM GUERRINI	DATE REVISED

10	20	30	40	50	60	70	80	90
----	----	----	----	----	----	----	----	----

NOTE 1: RSP SHOWN ALONG EXTENSION OF PIPE CULVERT CENTERLINE. SEE CONSTRUCTION DETAILS FOR COMPLETE RSP PLACEMENT AND GRADING.



BENTON LAST REVISED: 7/2/2010
 USERNAME: s10002481
 DGN FILE: 11000002481.dgn

RELATIVE ELEVATION SCALE
 IS IN INCHES



UNIT: 2761

PROJECT NUMBER & PHASE

11000002481

DRAINAGE PROFILE
 LOCATION 9
 SCALE: Horiz 1" = 50'
 Vert 1" = 10'
DP-9

DATE	11/05/11	POST MILES	5.71/5	SHEET TOTAL	11
COUNTY	SD	ROUTE	52.6/100	NO. SHEETS	11
REGISTERED CIVIL ENGINEER	DATE	REGISTERED CIVIL ENGINEER	DATE	REGISTERED CIVIL ENGINEER	DATE
ELIENS APPROVAL DATE	11/05/11	PHOUKHAO SASINOLIAN	11/05/11	ED HAJJ	11/05/11

REGISTERED CIVIL ENGINEER
 ED HAJJ
 No. 55539
 CIVIL
 State of California
 DIVISION OF THE ENGINEERS

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION	FUNCTIONAL SUPERVISOR	CALCULATED-DESIGNED BY	TOM GUERRINI	REVISED BY	
DESIGN	ED HAJJ	CHECKED BY	YUSUF RAHMAN	DATE REVISED	

BORDER LAST REVISED 7/27/2010

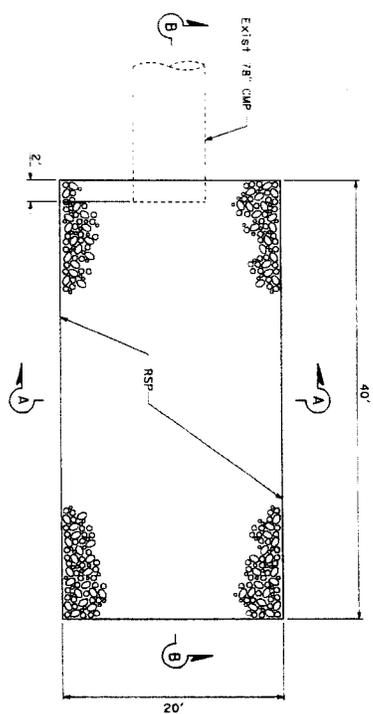
DATE PLOTTED 07-06-10 TIME PLOTTED 11:00:00 AM

REACTIVE BORDER SCALE IS IN INCHES

UNIT 2761

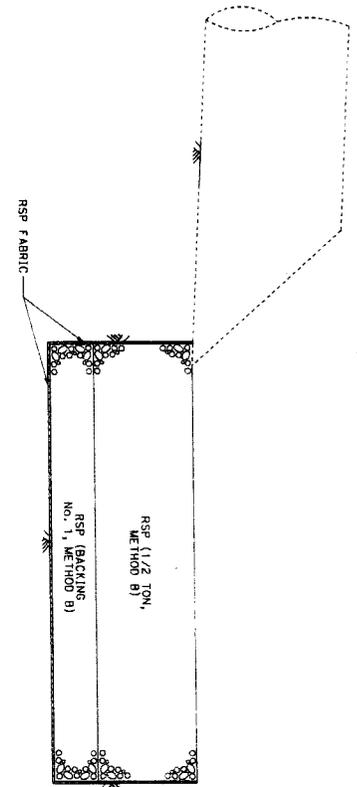
PROJECT NUMBER & PHASE

11000002481

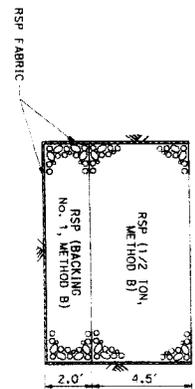


LOCATION 7 PLAN

ROCK SLOPE PROTECTION AT CULVERT OUTLETS



SECTION B-B



SECTION A-A

CONSTRUCTION DETAILS
NO SCALE
C-3

DATE	07-06-10	TIME	11:00:00 AM
REGISTERED CIVIL ENGINEER	T.M. GUERRINI		
SCALE APPROVAL DATE	07-28-10		
REGISTERED CIVIL ENGINEER	YUSUF RAHMAN		
ROUTE	584 TO	POST MILES	SHEET TOTAL
SD	24.5/30.5	TOTAL PROJECT	NO. SHEETS
			11

THE STATE OF CALIFORNIA AND ITS OFFICERS AND EMPLOYEES SHALL NOT BE HELD RESPONSIBLE FOR THE CONSEQUENCES OF ANY ERRORS OR OMISSIONS ON THIS PLAN SHEET.



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

January 23, 2012

REPLY TO
ATTENTION OF:

Office of the Chief
Regulatory Division

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Ed Hajj, Project Manager
California Department of Transportation, District 11
Attention: Robert A. James
4050 Taylor Street, MS-242
San Diego, California 92110

Dear Mr. Hajj:

This correspondence is in reply to your application (File No. SPL-2011-00721-SCH), dated June 13, 2011, for a Department of the Army Permit to discharge fill into waters of the U.S., in association with the Repair and Rehabilitation of Culvert 9 project. Culvert 9 is located along Interstate 5 at postmile 62.2, within an unincorporated area of San Diego County, California. (33.303336°N, -117.471364°W)

Specifically, you have requested authorization to repair an existing culvert which includes backfilling behind the endwall of the culvert outlet with rip-rap, constructing a rock-lined channel ditch to prevent erosion, re-grading and importing fill at the outlet, and reconstructing the rip-rap basin at the outlet. The proposed project will permanently impact 0.05 acre (100 linear feet) of non-wetland waters of the U.S. (WOUS) associated with discharging 70 cubic yards of fill at the culvert outlet, and temporarily impact 0.22 acre (500 linear feet) of non-wetland WOUS associated with construction access and re-grading and importing fill at the outlet (see attached figures). All permanent and temporary impacts associated with the removal of sediment and placement of rip-rap shall occur within 100 linear feet from the culvert outlet.

Based on the information you have provided, the Corps of Engineers has determined that your proposed activity complies with the enclosed terms and conditions of Nationwide Permit (NWP) No. 3 Maintenance, as described in enclosure 1.

Furthermore, you must comply with the following non-discretionary Special Conditions:

1. The permittee shall abide by the terms and conditions of the project's section 401 Water Quality Certification, dated January 18, 2012.

2. The permittee shall abide by the terms and conditions of your California Coastal Development Permit, dated December 15, 2011.
3. The Permittee has mitigated for permanent impacts to 0.05 acre of non-wetland waters of the U. S. through the completed enhancement of 0.10 acre of wetland habitat within the Marron Mitigation Site. The construction of the Marron Mitigation Project is complete and on September 24, 2008, the Corps determined that the site met the Corps-approved success criteria. The Marron Mitigation Site consists of 2.8 acres of riparian creation, 1.8 acres of riparian enhancement, and 5.7 acres of coastal sage scrub creation.
4. Prior to initiation of work in waters of the U.S., the Permittee shall provide a draft long-term site protection instrument, in a form approved by the Corps Regulatory Division, which will protect and maintain the approved mitigation site as natural open space in perpetuity. The Permittee shall receive written approval (by letter or e-mail) from the Corps Regulatory Division of the long-term protection instrument prior to it being executed and recorded. A recorded copy of the long-term site protection instrument shall be furnished to the Corps Regulatory Division prior to or concurrent with initiation of work in waters of the U.S.
5. At the conclusion of the project, all temporary fill shall be removed and the area shall be restored to pre-construction conditions (contours and vegetated condition) to the maximum extent practicable. The Permittee shall hydroseed the disturbed portions of the earthen stream banks with native non-invasive vegetation of facultative upland (FACU) or wetter species, as appropriate. The Permittee shall submit the proposed planting palette for review and approval by the Corps, prior to initiation of construction. The Permittee shall ensure the hydroseeded areas are maintained and monitored for a period of two years after completing the seeding activities, such that less than 10 percent of the areas disturbed by the project are vegetated by non-native and invasive plant species. Monitoring reports shall be submitted by the Permittee to the Corps, by May 15th annually, one and two years following hydroseeding, documenting the recovery of the restored areas.
6. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter avoided waters of the U.S. and riparian wetland/habitat areas. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.
7. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memo indicating the date authorized impacts to waters of the U.S. ceased.

8. The permittee shall employ all best management practices (BMPs) to ensure that no debris, soil, silt, sand, rubbish, cement or concrete washings thereof, oil or petroleum can be washed by rainfall or runoff into waterways. When project operations are completed, any and all excess construction material, debris, and or other associated excess project materials shall be removed and if not recycled or reused, disposed of at an appropriate off-site location outside of any jurisdictional water of the U.S. Similarly, the permittee shall ensure that all vehicle maintenance, staging, storage, and dispensing of fuel occurs in designated upland areas. The permittee shall ensure that these designated upland areas are located in such a manner to prevent any runoff from entering waters of the U.S.

9. A copy of this permit shall be on the job site at all times during construction. The permittee shall provide a copy of this permit to all contractors, subcontractors, and forepersons. The permittee shall require that all contractors and forepersons read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein.

Endangered Species Act:

10. This Corps permit does not authorize you to take any federally listed threatened or endangered species, in particular the federally listed as endangered San Diego Fairy Shrimp (*Branchinecta sandiegonensis*) and the federally listed as threatened coastal California gnatcatcher (*Polioptila californica californica*), or adversely modify designated critical habitat of federally listed species. In order to legally take a federally listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA section 10 permit, or a Biological Opinion (BO) under ESA section 7, with "incidental take" provisions with which you must comply). The enclosed FWS correspondence (FWS-SDG-08BO398-08I0782, dated January 15, 2009) contains mandatory conservation measures to implement to avoid and minimize potential impacts to federally listed species. Your authorization under this Corps permit is conditional upon your compliance with all of the conservation measures associated with the attached correspondence, which are incorporated by reference in this permit. Failure to comply with the mandatory conservation measures would constitute non-compliance with your Corps permit. The FWS is the appropriate authority to determine compliance with the conservation measures contained in their correspondence dated January 15, 2009 and with the ESA.

Cultural Resources:

11. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Regulatory Division staff and Archeology Staff (Steve Dibble at 213-452-3849 or John Killeen at 213-452-3861) within 24 hours. The Permittee shall immediately suspend all work within 100 feet of any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area

surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

This verification is valid until the NWP is modified, reissued, or revoked. All of the existing NWPs are scheduled to be modified, reissued, or revoked prior to March 18, 2012. It is incumbent upon you to remain informed of changes to the NWPs. We will issue a public notice when the NWPs are reissued. Furthermore, if you commence or are under contract to commence this activity before the date that the relevant nationwide permit is modified or revoked, you will have twelve (12) months from the date of the modification or revocation of the NWP to complete the activity under the present terms and conditions of this nationwide permit.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Sophia Huynh of my staff at 213-452-3357 or via e-mail at Sophia.C.Huynh@usace.army.mil.

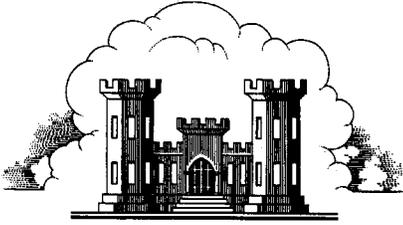
Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



Mark D. Cohen
Deputy Chief, Regulatory Division

Enclosures



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *SPL-2011-00721-SCH*

Name of Permittee: *California Department of Transportation, District 11, Ed Hajj*

Date of Issuance: *January 23, 2012*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Division
ATTN: CESPL-RG-SPL-2011-00721-SCH
P.O. Box 532711
Los Angeles, California 90053

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

Signature of Permittee

Date

Enclosure 1: NATIONWIDE PERMIT NUMBER(S) NWP 3 Maintenance. TERMS AND CONDITIONS

1. Nationwide Permit(s) NWP 3 Maintenance. Terms:

Your activity is authorized under Nationwide Permit Number(s) NWP 3 Maintenance, subject to the following terms:

3. Maintenance. (a) The repair, rehabilitation, or replacement of any previously authorized, currently serviceable, structure, or fill, or of any currently serviceable structure or fill authorized by 33 CFR 330.3, provided that the structure or fill is not to be put to uses differing from those uses specified or contemplated for it in the original permit or the most recently authorized modification. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, or current construction codes or safety standards that are necessary to make the repair, rehabilitation, or replacement are authorized. This NWP authorizes the repair, rehabilitation, or replacement of those structures or fills destroyed or damaged by storms, floods, fire or other discrete events, provided the repair, rehabilitation, or replacement is commenced, or is under contract to commence, within two years of the date of their destruction or damage. In cases of catastrophic events, such as hurricanes or tornadoes, this two-year limit may be waived by the district engineer, provided the permittee can demonstrate funding, contract, or other similar delays. (b) This NWP also authorizes the removal of accumulated sediments and debris in the vicinity of and within existing structures (e.g., bridges, culverted road crossings, water intake structures, etc.) and the placement of new or additional riprap to protect the structure. The removal of sediment is limited to the minimum necessary to restore the waterway in the immediate vicinity of the structure to the approximate dimensions that existed when the structure was built, but cannot extend further than 200 feet in any direction from the structure. This 200 foot limit does not apply to maintenance dredging to remove accumulated sediments blocking or restricting outfall and intake structures or to maintenance dredging to remove accumulated sediments from canals associated with outfall and intake structures. All dredged or excavated materials must be deposited and retained in an upland area unless otherwise specifically approved by the district engineer under separate authorization. The placement of riprap must be the minimum necessary to protect the structure or to ensure the safety of the structure. Any bank stabilization measures not directly associated with the structure will require a separate authorization from the district engineer. (c) This NWP also authorizes temporary structures, fills, and work necessary to conduct the maintenance activity. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. (d) This NWP does not authorize maintenance dredging for the primary purpose of navigation or beach restoration. This NWP does not authorize new stream channelization or stream relocation projects. Notification: For activities authorized by paragraph (b) of this NWP, the permittee must submit a pre-construction notification to the district engineer prior to commencing the activity (see general condition 27). Where maintenance dredging is proposed, the pre-construction notification must include information regarding the original design capacities and configurations of the outfalls, intakes, small impoundments, and canals. (Sections 10 and 404) Note: This NWP authorizes the repair, rehabilitation, or replacement of any previously authorized structure or fill that does not qualify for the Clean Water Act Section 404(f) exemption for maintenance.

Note: To qualify for NWP authorization, the prospective permittee must comply with the following general conditions, as appropriate, in addition to any regional or case-specific conditions imposed by the division engineer or district engineer. Prospective permittees should contact the appropriate Corps district office to determine if regional conditions have been imposed on an NWP. Prospective permittees should also contact the appropriate Corps district office to determine the status of Clean Water Act Section 401 water quality certification and/or Coastal Zone Management Act consistency for an NWP.

2. Nationwide Permit General Conditions:

The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. *Navigation.*

(a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, 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, the permittee 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.

2. *Aquatic Life Movements.* No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
3. *Spawning Areas.* Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.
4. *Migratory Bird Breeding Areas.* Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.
5. *Shellfish Beds.* No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP's 4 and 48.
6. *Suitable Material.* No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
7. *Water Supply Intakes.* No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.
8. *Adverse Effects From Impoundments.* If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.
9. *Management of Water Flows.* To the maximum extent practicable, the preconstruction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization and storm water management activities, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the preconstruction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).
10. *Fills Within 100-Year Floodplains.* The activity must comply with applicable FEMA-approved state or local floodplain management requirements.
11. *Equipment.* Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.
12. *Soil Erosion and Sediment Controls.* Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow.
13. *Removal of Temporary Fills.* Temporary fills must be removed in their entirety and the affected areas returned to preconstruction elevations. The affected areas must be revegetated, as appropriate.
14. *Proper Maintenance.* Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety.
15. *Wild and Scenic Rivers.* No activity may occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park

Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).

16. *Tribal Rights.* No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.

17. *Endangered Species.*

(a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless Section 7 consultation addressing the effects of the proposed activity has been completed.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until Section 7 consultation has been completed.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific regional endangered species conditions to the NWPs. (e) Authorization of an activity by a NWP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. FWS or the NMFS, both lethal and non-lethal "takes" of protected species are in violation of the ESA. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. FWS and NMFS or their world wide Web pages at <http://www.fws.gov/> and <http://www.noaa.gov/fisheries.html> respectively.

18. *Historic Properties.*

(a) In cases where the district engineer determines that the activity may affect properties listed, or eligible for listing, in the National Register of Historic Places, the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of Section 106 of the National Historic Preservation Act. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the authorized activity may have the potential to cause effects to any historic properties listed, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the preconstruction notification must state which historic properties may be affected by the proposed work or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the State Historic Preservation Officer or Tribal Historic Preservation Officer, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these efforts, the district engineer shall determine whether the proposed activity has the potential to cause an effect on the historic properties. Where the non-Federal applicant has identified historic properties which the activity may have the potential to cause effects and so notified the Corps, the non-

Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that consultation under Section 106 of the NHPA has been completed.

(d) The district engineer will notify the prospective permittee within 45 days of receipt of a complete preconstruction notification whether NHPA Section 106 consultation is required. Section 106 consultation is not required when the Corps determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). If NHPA section 106 consultation is required and will occur, the district engineer will notify the non-Federal applicant that he or she cannot begin work until Section 106 consultation is completed.

(e) Prospective permittees should be aware that section 110k of the NHPA (16 U.S.C. 470h-2(k)) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of Section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, explaining the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

19. *Designated Critical Resource Waters.* Critical resource waters include: NOAA-designated marine sanctuaries, National Estuarine Research Reserves, state natural heritage sites, and outstanding national resource waters or other waters officially designated by a state as having particular environmental or ecological significance and identified by the district engineer after notice and opportunity for public comment. The district engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWP 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, and 50 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWP 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with general condition 27, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

20. *Mitigation.* The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that adverse effects on the aquatic environment are minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating) will be required to the extent necessary to ensure that the adverse effects to the aquatic environment are minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10 acre and require preconstruction notification, unless the district engineer determines in writing that some other form of mitigation would be more environmentally appropriate and provides a project-specific waiver of this requirement. For wetland losses of 1/10 acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in minimal adverse effects on the aquatic environment. Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, wetland restoration should be the first compensatory mitigation option considered.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation, such as stream restoration, to ensure that the activity results in minimal adverse effects on the aquatic environment.

(e) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2 acre, it cannot be used to authorize any project resulting in the loss of greater

than 1/2 acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that a project already meeting the established acreage limits also satisfies the minimal impact requirement associated with the NWP.

(f) Compensatory mitigation plans for projects in or near streams or other open waters will normally include a requirement for the establishment, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, riparian areas may be the only compensatory mitigation required. Riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(g) Permittees may propose the use of mitigation banks, in-lieu fee arrangements or separate activity-specific compensatory mitigation. In all cases, the mitigation provisions will specify the party responsible for accomplishing and/or complying with the mitigation plan.

(h) Where certain functions and services of waters of the United States are permanently adversely affected, such as the conversion of a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse effects of the project to the minimal level.

21. *Water Quality.* Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA Section 401, individual 401 Water Quality Certification must be obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.
22. *Coastal Zone Management.* In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.
23. *Regional and Case-By-Case Conditions.* The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.
24. *Use of Multiple Nationwide Permits.* The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.
25. *Transfer of Nationwide Permit Verifications.* If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

“When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.”

(Transferee)

(Date)

26. *Compliance Certification.* Each permittee who received an NWP verification from the Corps must submit a signed certification

regarding the completed work and any required mitigation. The certification form must be forwarded by the Corps with the NWP verification letter and will include:

- (a) A statement that the authorized work was done in accordance with the NWP authorization, including any general or specific conditions;
- (b) A statement that any required mitigation was completed in accordance with the permit conditions; and
- (c) The signature of the permittee certifying the completion of the work and mitigation.

27. *Pre-Construction Notification.*

(a) *Timing.* Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, as a general rule, will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity:

- (1) Until notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or
- (2) If 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 17 that listed species or critical habitat might be affected or in the vicinity of the project, or to notify the Corps pursuant to general condition 18 that the activity may have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the Endangered Species Act (see 33 CFR 330.4(f)) and/or Section 106 of the National Historic Preservation (see 33 CFR 330.4(g)) is completed. Also, work cannot begin under NWPs 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee cannot begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) *Contents of Pre-Construction Notification:* The PCN must be in writing and include the following information:

- (1) Name, address and telephone numbers of the prospective permittee;
- (2) Location of the proposed project;
- (3) A description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity. The description should be sufficiently detailed to allow the district engineer to determine that the adverse effects of the project will be minimal and to determine the need for compensatory mitigation. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the project and when provided result in a quicker decision.);
- (4) The PCN must include a delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;
- (5) If the proposed activity will result in the loss of greater than 1/10 acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan;
- (6) If any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, for non-Federal applicants the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed work or utilize the designated

critical habitat that may be affected by the proposed work. Federal applicants must provide documentation demonstrating compliance with the Endangered Species Act; and

- (7) For an activity that may affect a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, for non-Federal applicants the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property. Federal applicants must provide documentation demonstrating compliance with Section 106 of the National Historic Preservation Act.

(c) *Form of Pre-Construction Notification:* The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is a PCN and must include all of the information required in paragraphs (b)(1) through (7) of this general condition. A letter containing the required information may also be used.

(d) *Agency Coordination:*

- (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWP and the need for mitigation to reduce the project's adverse environmental effects to a minimal level.
- (2) For all NWP 48 activities requiring pre-construction notification and for other NWP activities requiring preconstruction notification to the district engineer that result in the loss of greater than 1/2-acre of waters of the United States, the district engineer will immediately provide (e.g., via facsimile transmission, overnight mail, or other expeditious manner) a copy of the PCN to the appropriate Federal or state offices (U.S. FWS, state natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO) or Tribal Historic Preservation Office (THPO), and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the district engineer notice that they intend to provide substantive, site-specific comments. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the preconstruction notification. The district engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each preconstruction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.
- (3) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.
- (4) Applicants are encouraged to provide the Corps multiple copies of pre-construction notifications to expedite agency coordination.
- (5) For NWP 48 activities that require reporting, the district engineer will provide a copy of each report within 10 calendar days of receipt to the appropriate regional office of the NMFS.

(e) *District Engineer's Decision:* In reviewing the PCN for the proposed activity, the district engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. If the proposed activity requires a PCN and will result in a loss of greater than 1/10 acre of wetlands, the prospective permittee should submit a mitigation proposal with the PCN. Applicants may also propose compensatory mitigation for projects with smaller impacts. The district engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. The compensatory mitigation proposal may be either conceptual or detailed. If the district engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, after considering mitigation, the district engineer will notify the permittee and include any conditions the district engineer deems necessary. The district engineer must approve any compensatory mitigation proposal before the permittee commences work. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the district engineer will expeditiously review the proposed compensatory mitigation plan. The district engineer must review the plan within 45 calendar days of receiving a complete PCN and determine whether the proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the district engineer to be minimal, the district engineer will provide a timely written response to the applicant. The response will state that the project can proceed under the terms and conditions of the NWP.

If the district engineer determines that the adverse effects of the proposed work are more than minimal, then the district engineer will notify the applicant either:

- (1) That the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit;
- (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level; or
- (3) that the project is authorized under the NWP with specific modifications or conditions.

Where the district engineer determines that mitigation is required to ensure no more than minimal adverse effects occur to the aquatic environment, the activity will be authorized within the 45-day PCN period. The authorization will include the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation plan that would reduce the adverse effects on the aquatic environment to the minimal level. When mitigation is required, no work in waters of the United States may occur until the district engineer has approved a specific mitigation plan.

28. *Single and Complete Project.* The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

3. Regional Conditions for the Los Angeles District:

In accordance with General Condition Number 23, "Regional and Case-by-Case Conditions," the following Regional Conditions, as added by the Division Engineer, must be met in order for an authorization by any Nationwide to be valid:

1. For coastal watersheds from the southern reach of the Santa Monica Mountains in Los Angeles County to the San Luis Obispo County/Monterey County boundary, all road crossings must employ a bridge crossing design that ensures passage and/or spawning of steelhead (*Oncorhynchus mykiss*) is not hindered in any way. In these areas, bridge designs that span the stream or river, including designs for pier- or pile-supported spans, or designs based on use of a bottomless arch culvert simulating the natural stream bed (i.e., substrate and streamflow conditions in the culvert are similar to undisturbed stream bed channel conditions) shall be employed unless it can be demonstrated the stream or river does not support resources conducive to the recovery of federally listed anadromous salmonids, including migration of adults and smolts, or rearing and spawning. This proposal also excludes approach embankments into the channel unless they are determined to have no detectable effect on steelhead.
2. For the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), no nationwide permit, except Nationwide Permits 1 (Aids to Navigation), 2 (Structures in Artificial Canals), 3 (Maintenance), 4 (Fish and Wildlife Harvesting, Enhancement, and Attraction Devices and Activities), 5 (Scientific Measurement Devices), 6 (Survey Activities), 9 (Structures in Fleeting and Anchorage Areas), 10 (Mooring Buoys), 11 (Temporary Recreational Structures), 20 (Oil Spill Cleanup), 22 (Removal of Vessels), 27 (Stream and Wetland Restoration Activities), 30 (Moist Soil Management for Wildlife), 31 (Maintenance of Existing Flood Control Projects), 32 (Completed Enforcement Actions), 35 (Maintenance Dredging of Existing Basins), 37 (Emergency Watershed Protection and Rehabilitation), 38 (Cleanup of Hazardous and Toxic Waste) and 47 (Pipeline Safety Program Designated Time Sensitive Inspections and Repairs), or other nationwide or regional general permits that specifically authorize maintenance of previously authorized structures or fill, can be used to authorize the discharge of dredged or fill material into a jurisdictional special aquatic site as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes).
3. For all projects proposed for authorization by nationwide or regional general permits where prior notification to the district engineer is required, applicants must provide color photographs or color photocopies of the project area taken from representative points documented on a site map. Pre-project photographs and the site map would be provided with the permit application. Photographs should represent conditions typical or indicative of the resources before impacts.
4. Notification pursuant to general condition 27 shall be required for projects in all special aquatic sites as defined at 40 CFR Part 230.40-45 (sanctuaries and refuges, wetlands, mudflats, vegetated shallows, coral reefs, and riffle-and-pool complexes), and in all perennial waterbodies in the State of Arizona and the Mojave and Sonoran (Colorado) desert regions of California in Los Angeles District (generally north and east of the San Gabriel, San Bernardino, San Jacinto, and Santa Rosa mountain ranges, and south of Little Lake, Inyo County), excluding the Colorado River from Davis Dam downstream to the north end of Topock and downstream of Imperial Dam (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring

notification do not apply to Nationwide Permit 47).

5. Notification pursuant to general condition 27 shall be required for projects in all areas designated as Essential Fish Habitat by the Pacific Fishery Management Council (i.e., all tidally influenced areas - Federal Register dated March 12, 2007 (72 FR 11092), regional conditions requiring notification do not apply to Nationwide Permit 47).
6. Notification pursuant to general condition 27 shall be required for projects in all watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring notification do not apply to Nationwide Permit 47).
7. Individual permits shall be required for all discharges of fill material in jurisdictional vernal pools.
8. Individual permits shall be required in Murrieta Creek and Temecula Creek watersheds in Riverside County for new permanent fills in perennial and intermittent watercourses otherwise authorized under NWP's 29, 39, 42 and 43, and in ephemeral watercourses for these NWP's for projects that impact greater than 0.1 acre of waters of the United States. In addition, when NWP 14 is used in conjunction with residential, commercial, or industrial developments the 0.1 acre limit would also apply.
9. Individual permits shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.
10. Notification pursuant to general condition 27 shall be required for projects in the Santa Clara River watershed in Los Angeles and Ventura counties, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the mainstem of the Santa Clara River (Federal Register dated March 12, 2007 (72 FR 11092) - regional conditions requiring notification do not apply to Nationwide Permit 47).

4. 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. 403).
 - (x) Section 404 of the Clean Water Act (33 U.S.C. 1344).
 - () Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
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.

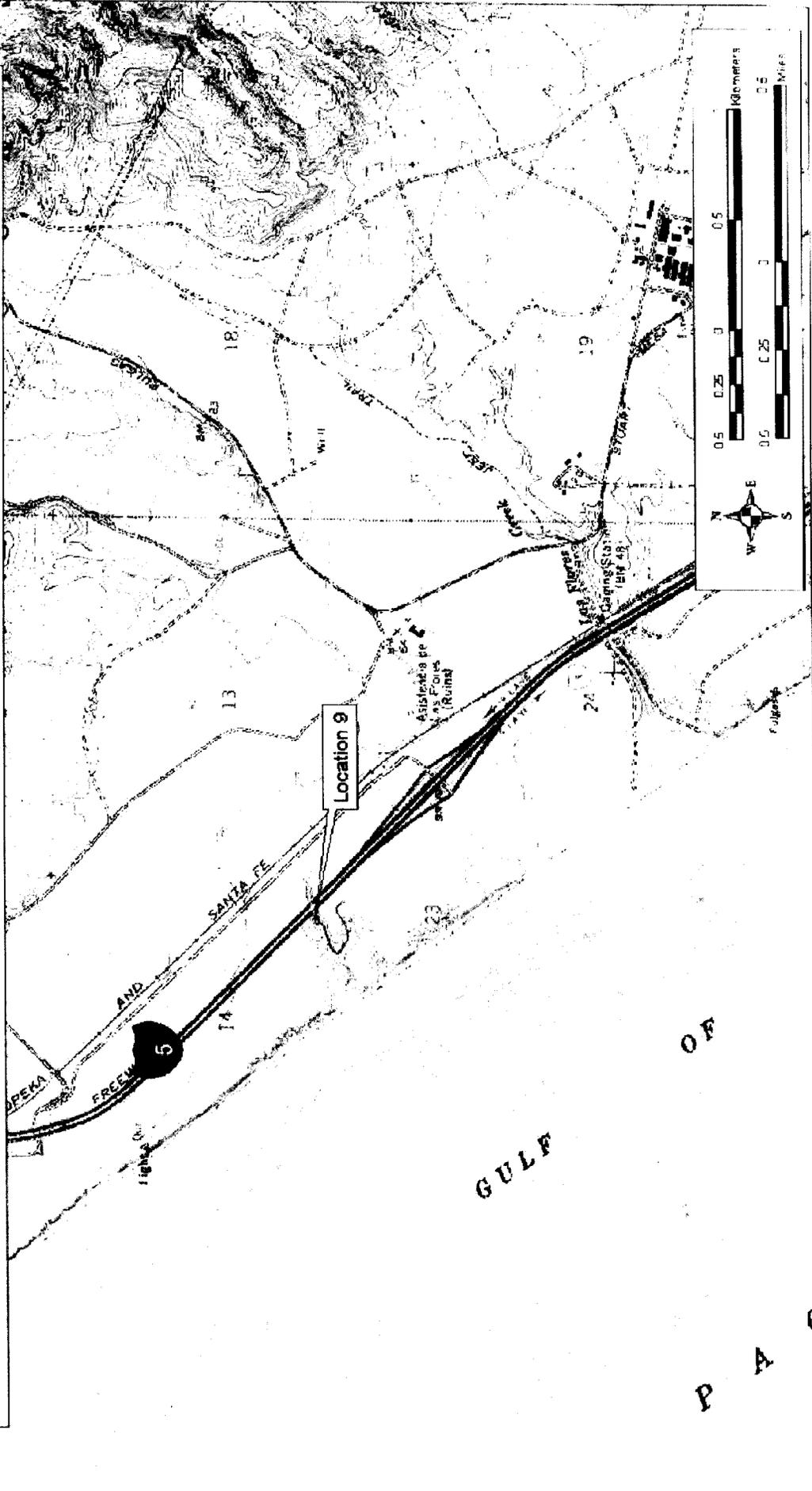
5. **Reevaluation of Permit Decision.** This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

- (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 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 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 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 measure 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 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

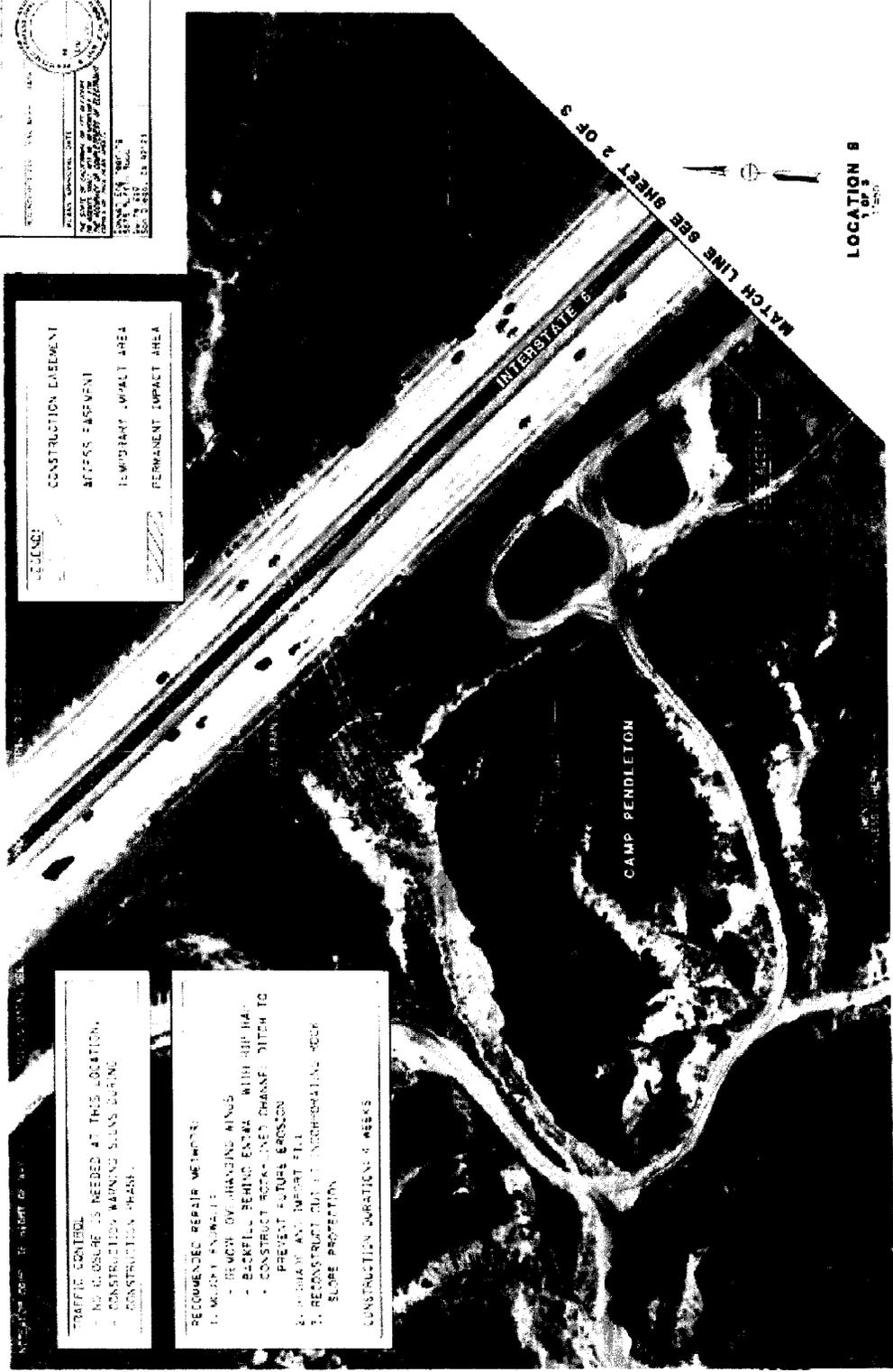
- 6. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.
- 7. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of 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 H 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.
- 8. 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 with the terms and conditions of your permit.

CALIFORNIA DEPARTMENT OF TRANSPORTATION, PROJECT ID 1100000248 / EA 270801
11-SD-5, PM 62.6, LAS PULGAS
USGS LAS PULGAS CANYON QUADRANGLE 7.5 MINUTE SERIES,
SECTION 14, T 10S, R 6W



DATE: 11/15/83
 TIME: 10:00 AM
 PROJECT: STATE ROUTE 99
 CONTRACT: 100-100-0000
 DRAWING: 100-100-0000
 SHEET: 1 OF 3
 SCALE: 1" = 100'
 DRAWN BY: J. B. BROWN
 CHECKED BY: J. B. BROWN
 APPROVED BY: J. B. BROWN
 DATE: 11/15/83

LEGEND
 CONSTRUCTION EASEMENT
 BUFFER EASEMENT
 TEMPORARY IMPACT AREA
 PERMANENT IMPACT AREA



TRAFFIC CONTROL:
 - NO TRAFFIC IS NEEDED AT THIS LOCATION.
 - CONSTRUCTION KAYING SLUGS DURING CONSTRUCTION PHASE.

RECOMMENDED REPAIR METHODS:
 1. MOBILE EXHAUSTS:
 - REMOVE OR CHANGING AIDS
 - BACKFILL BEHIND EXHAUST WITH HOT TAP
 - CONSTRUCT EXHAUST LINES CHANGING DITCH TO PREVENT FUTURE EROSION
 2. GRAVITY AND IMPACT FILL
 3. RECONSTRUCT CUTS WITH GEOTECHNICAL SOILS SLOPE PROTECTION
 CONSTRUCTION DURATION: 4 WEEKS

LOCATION 8
 100-100-0000

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION
 CONTRACT NO. 100-00-00-00
 SHEET NO. 1 OF 3
 TOTAL PROJECT COST: \$1,000,000
 CONTRACT VALUE: \$1,000,000
 PROJECT LOCATION: INTERSTATE 5
 CONTRACTOR: [Name]
 DATE: [Date]



MATCH LINE SEE SHEET 2 OF 3

NOTES:
 1. ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SPECIFIED.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.

TRAFFIC CONTROL
 NO CLOSURE IS NEEDED AT THIS LOCATION.
 CONSTRUCTION WARNING SIGNS DURING
 CONSTRUCTION PHASE.

RECOMMENDED REPAIR METHODS:
 1. MOBILE CONCRETE
 - REMOVE OVERHANGING WINGS
 - SACKS - BEHIND ENWALL WITH RIP RAP
 - CONSTRUCT ROCK-LINE CHANNEL DITCH TO
 PREVENT FUTURE EROSION
 2. REGRADE AND IMPACT FILL
 3. INSTALL OUTLET INCORPORATING ROCK
 SLOPE PROTECTION
 CONSTRUCTION DURATION: 10 WEEKS

LEGEND:
 [Symbol] SECTION ALIGNMENT
 [Symbol] TEMPORARY IMPACT AREA

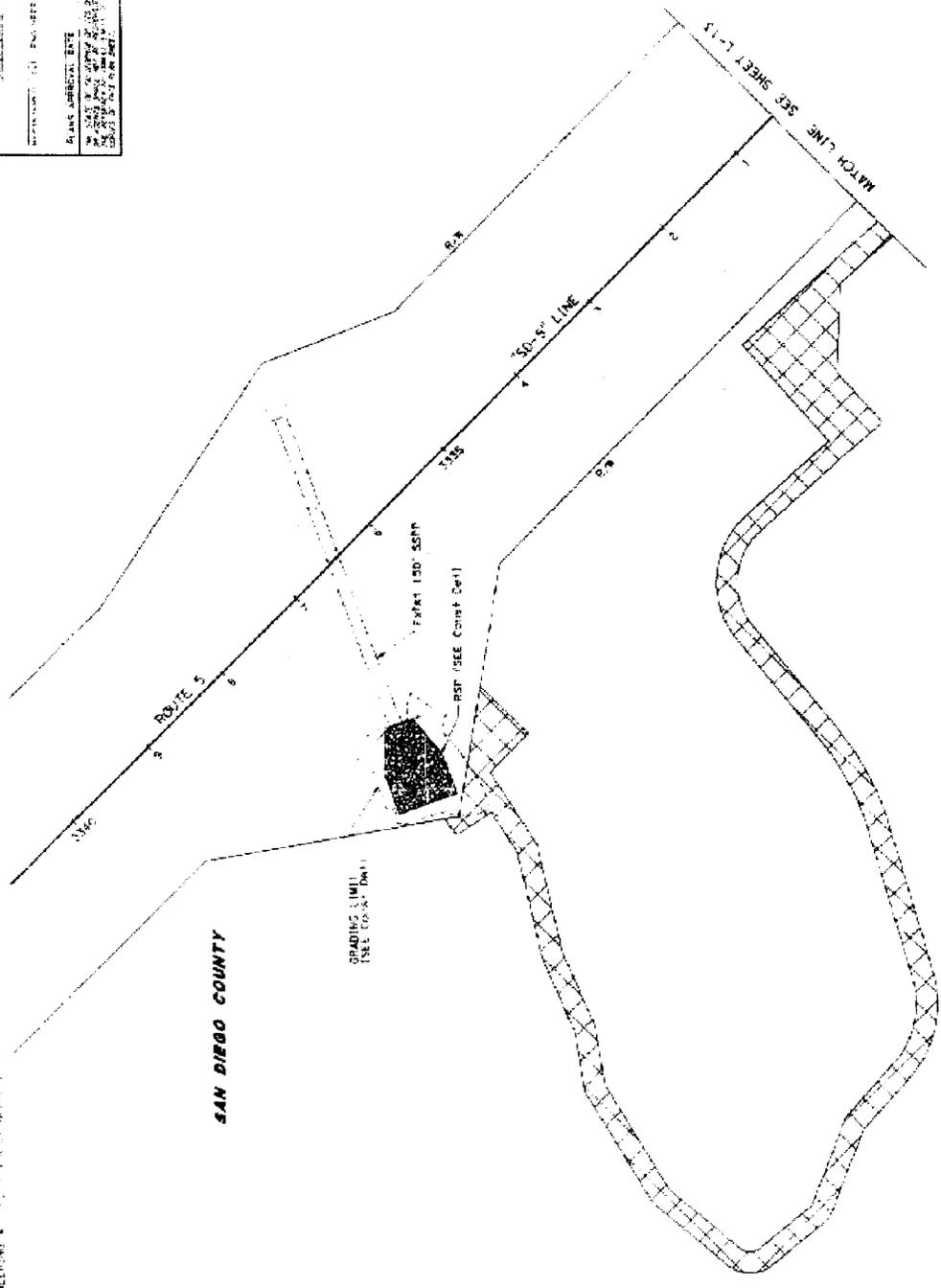
ALL DIMENSIONS ARE IN
 FEET UNLESS OTHERWISE SPECIFIED.



LOCATION 8
 1 OF 3

STATE OF CALIFORNIA
 DEPARTMENT OF TRANSPORTATION
 DIVISION OF HIGHWAYS
 SAN DIEGO DISTRICT
 PROJECT NUMBER 8 0186
 UNIT 2161
 SHEET L-12 OF 12

FOR ALL-SITE, CHECK OF ALL DATA,
 AND ALL RIGHTS OF WAY ENGINEERING & SURVEYING.



LAYOUT
LOCATION 9
 SCALE 1" = 50'
L-12

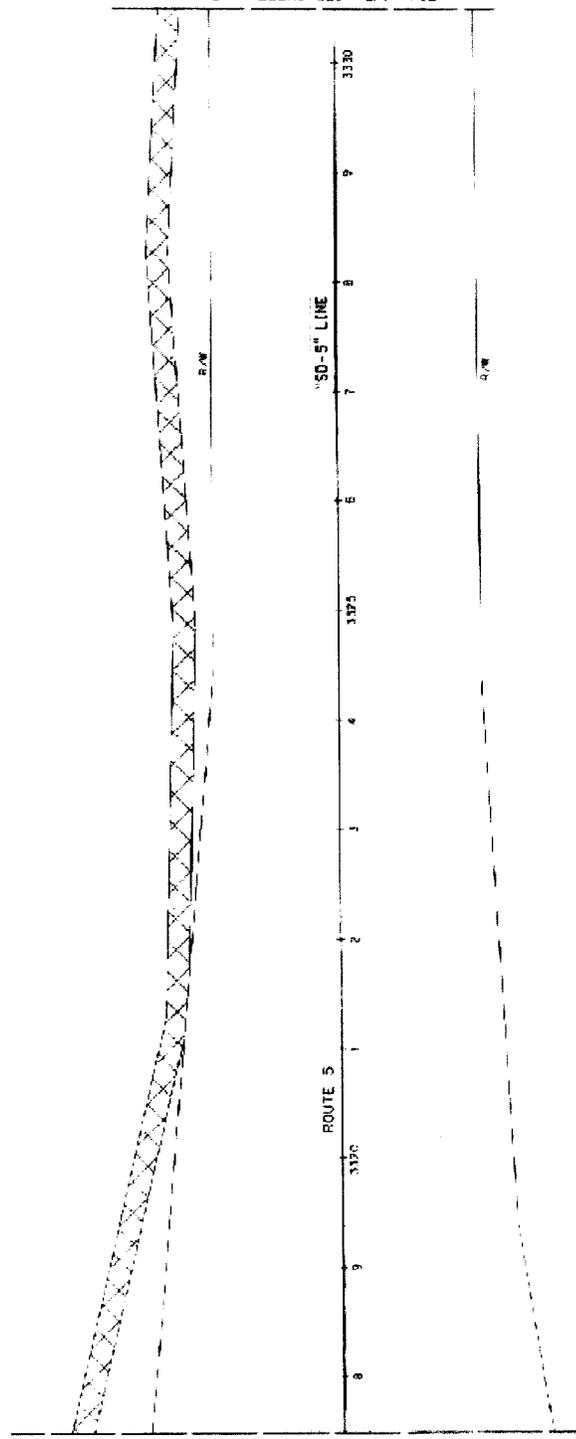
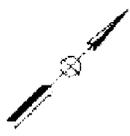
STATE OF CALIFORNIA	DEPARTMENT OF TRANSPORTATION	DESIGN
PROJECT NUMBER 8 0186	UNIT 2161	SHEET L-12 OF 12

DATE: 11/11/11
 COUNTY: SAN DIEGO
 SHEET: 11 OF 11
 PROJECT: 11-11-11
 DRAWING: 11-11-11
 SCALE: 1" = 50'
 PROJECT NUMBER & NAME: 11-11-11



SAN DIEGO COUNTY

FOR ACCURATE RICH IN MAP DATA, CONTACT THE DISTRICT OFFICE.



MATCH LINE SEE SHEET L-14

MATCH LINE SEE SHEET L-12

LAYOUT
 LOCATION: 11-11-11
 SCALE: 1" = 50'
 L-13

PROJECT NUMBER & NAME

UNIT 2 (B)

DATE: 11/11/11

SCALE: 1" = 50'

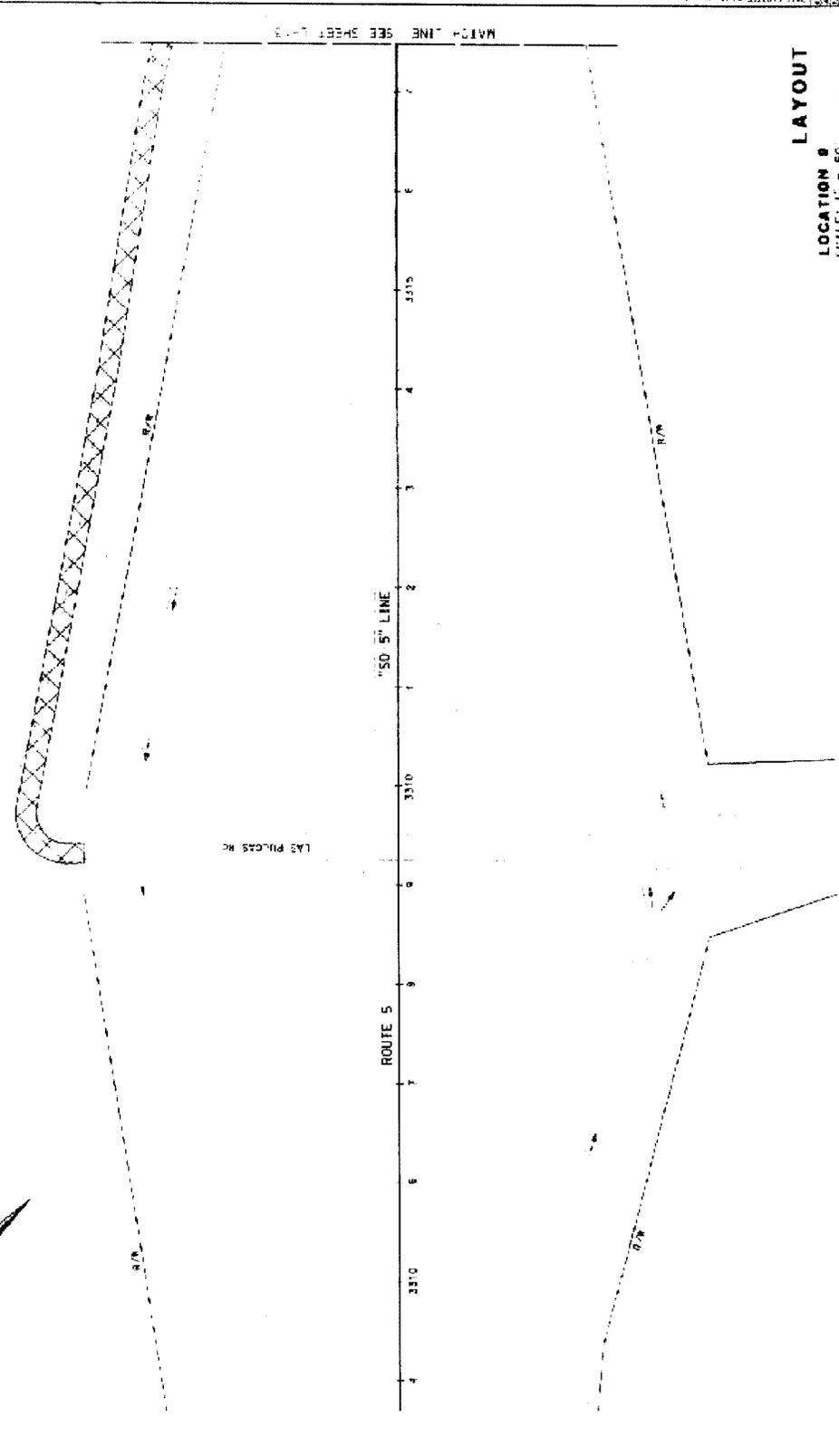
PROJECT NUMBER & NAME

STATE OF CALIFORNIA	DESIGN	DATE: 11/11/11	PROJECT NUMBER & NAME
DEPARTMENT OF TRANSPORTATION	SCALE: 1" = 50'	UNIT 2 (B)	DATE: 11/11/11
PROJECT NUMBER & NAME	SCALE: 1" = 50'	UNIT 2 (B)	DATE: 11/11/11
PROJECT NUMBER & NAME	SCALE: 1" = 50'	UNIT 2 (B)	DATE: 11/11/11

SAN DIEGO COUNTY
 REGISTERED CIVIL ENGINEER
 F. JAMES APPROVAL SEAL
 No. 10000
 EXPIRES 12/31/2010
 I hereby certify that I am a duly licensed and registered civil engineer in the State of California, and that I am the author of the design shown on this drawing.

SAN DIEGO COUNTY
 REGISTERED CIVIL ENGINEER
 F. JAMES APPROVAL SEAL
 No. 10000
 EXPIRES 12/31/2010

FOR THE RIGHT OF WAY OF SAN DIEGO COUNTY
 COMPLETE RIGHT OF WAY ENGINEERING & SURVEY DISTRICT OFFICE.



LAYOUT
LOCATION 9
 SCALE: 1" = 50'
L-14

PROJECT NUMBER & PHASE: UNIT 3781
 DATE: 11/18/2009
 DRAWING NO.: 10000-0001-01



State of California -The Natural Resources Agency
DEPARTMENT OF FISH AND GAME
South Coast Region
Habitat Conservation Planning
3883 Ruffin Road
San Diego, CA 92123
(858) 467-4201
www.dfg.ca.gov

EDMUND G. BROWN, JR. Governor
CHARLTON H. BONHAM, Director



October 13, 2011

Edward Hajj
Project Manager
California Department of Transportation
4050 Taylor Street, MS-340
San Diego, CA 92110

Subject: Final Streambed Alteration Agreement
Notification No. 1600-2011-0193-R5
Culvert Rehabilitation

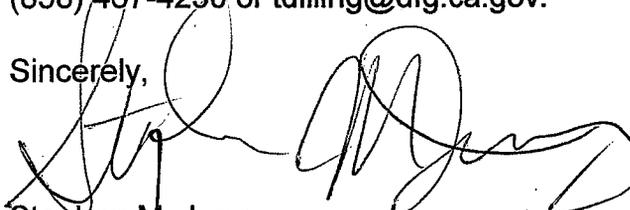
Dear Mr. Hajj:

Enclosed is the final Streambed Alteration Agreement (Agreement) for the Culvert Rehabilitation Project (Project). Before the Department may issue an Agreement, it must comply with the California Environmental Quality Act (CEQA). In this case, the Department, acting as a responsible agency, determined your project is exempt from CEQA and filed a notice of exemption (NOE) on the same date it signed the Agreement.

Under CEQA, filing a NOE starts a 35-day period within which a party may challenge the filing agency's approval of the project. You may begin your project before the 35-day period expires if you have obtained all necessary local, state, and federal permits or other authorizations. However, if you elect to do so, it will be at your own risk.

If you have any questions regarding this matter, please contact Tim Dillingham at (858) 467-4250 or tdilling@dfg.ca.gov.

Sincerely,


Stephen M. Juarez
Environmental Program Manager

cc: Tim Dillingham

ec: Kim T. Smith, Caltrans KSmith@dot.ca.gov

CALIFORNIA DEPARTMENT OF FISH AND GAME
SOUTH COAST REGION (REGION 5)
3883 RUFFIN ROAD
SAN DIEGO, CA 92123



STREAMBED ALTERATION AGREEMENT
NOTIFICATION NO. 1600-2011-0193-R5

CALTRANS DISTRICT 11
CULVERT REHABILITATION

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Game (DFG) and California Department of Transportation (Caltrans) District 11 (Permittee) as represented by Edward Hajj, Project Manager.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified DFG on July 14, 2011, that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, DFG has determined that the project could substantially adversely affect existing fish or wildlife resources and has included measures in the Agreement necessary to protect those resources.

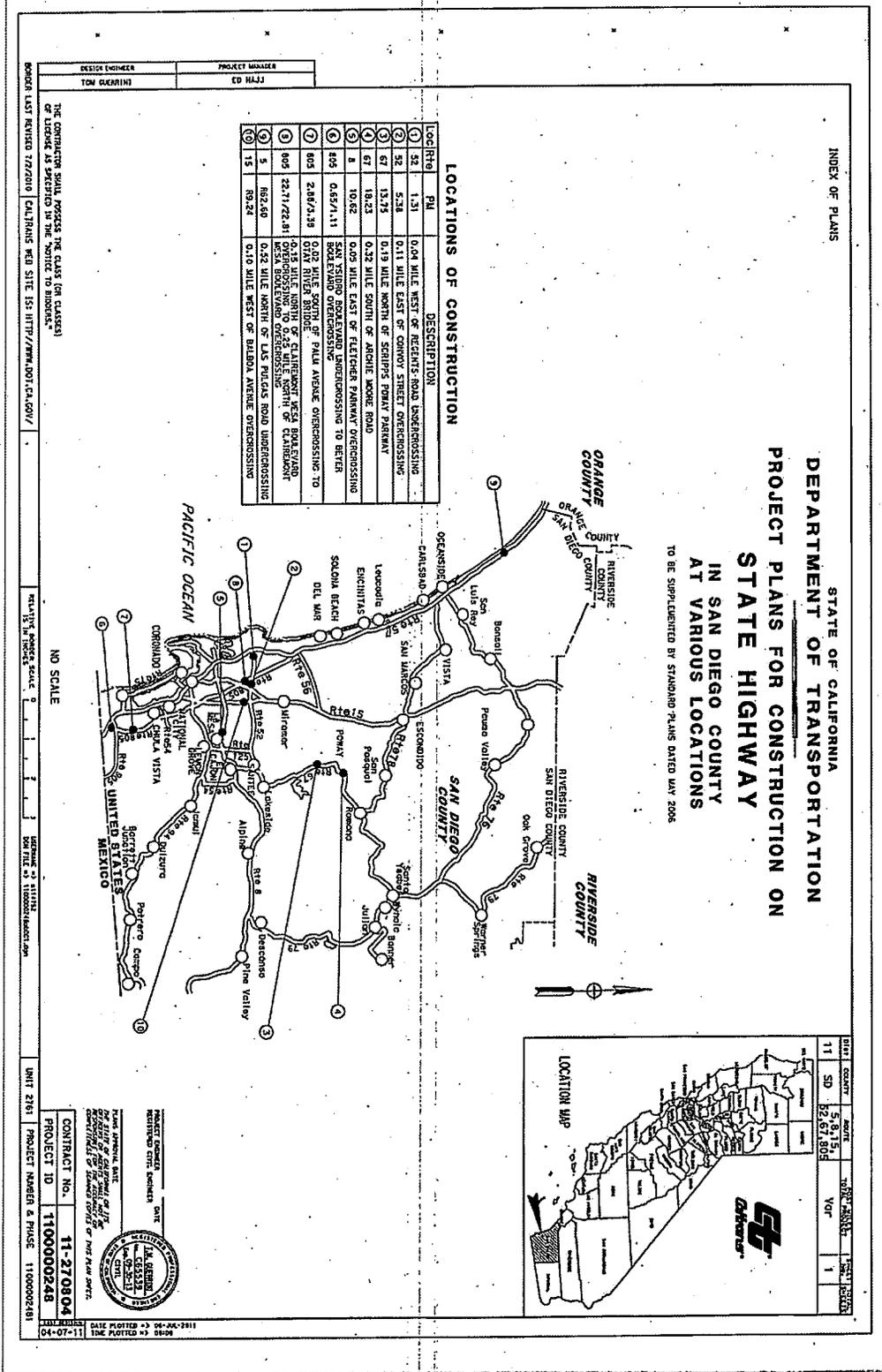
WHEREAS, Permittee has reviewed the Agreement and accepts its terms and conditions, including the measures to protect fish and wildlife resources.

NOW THEREFORE, Permittee agrees to complete the project in accordance with the Agreement.

PROJECT LOCATION

1. The project is located in multiple locations within the County of San Diego; see Figure 1 below and Table 1 for location descriptions.

Figure 1. Location Map



PROJECT DESCRIPTION

The project is limited to the following work:

1. Culvert 1: Adjacent to State Route (SR) 52, Post Mile (PM) 1.31: Dewatering, invert paving along culvert length, sealing joints, grouting, clearing the inlet apron of ice plant and re-establishing the outlet ditch by re-grading, placing rip-rap, and removing obstructions;
2. Culvert 2: Adjacent to SR-52, PM 5.38: Dewatering, invert paving and bituminous coating along culvert bottom, and sealing joints;
3. Culvert 3: Adjacent to SR-67, PM 13.75: Dewatering, install structural steel pipe sleeve, grout between pipe sleeve and existing reinforced concrete pipe (RCP), re-establish outlet ditch and remove obstructions at the outlet;
4. Culvert 5: Adjacent to Interstate 8, PM 10.62: Dewatering, seal transverse cracks with a flexible sealant or epoxy, clean out and repair exposed re-bar with mortar and joint filler, pave with shotcrete and wire mesh fabric, and grout separated joints with mortar;
5. Culvert 7: Adjacent to Interstate 805, PM 2.75-3.48: Dewatering, invert paving along culvert length, sealing joints with steel expansion ring gaskets, re-establishing the outlet ditch and removing obstructions at the outlet, and constructing a permanent access gate within the right-of-way;
6. Culvert 9: Adjacent to Interstate 5, PM 62.6: Cut off overhanging wings, backfill behind the endwall with rip-rap, construct a rock-lined channel ditch around the endwall, re-grade and import fill, reconstruct the riprap basin using current Caltrans standards for a 2-ton class rock slope pad.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include:

1. Culvert 1: non-native grassland, arroyo willow (*Salix lasiolepis*), poison oak (*Toxicodendron diversilobum*);
2. Culvert 2: non-native grassland, California sagebrush (*Artemisia californica*), flat-top buckwheat (*Eriogonum fasciculatum*), broom baccharis (*Baccharis sarothroides*), goldenbush (*Isocoma menziesii*), Edward's blue butterflies (*Hemiargus ceraunus gyas*), orange-throated whiptail (*Asidoscelis hyperythra beldingi*), coastal California gnatcatcher (*Polioptila californica californica*), red-tailed hawk (*Buteo jamaicensis*);
3. Culvert 3: non-native grassland, fuchsia-flowering gooseberry (*Ribes speciosum*), rush (*Juncus* sp.), mulefat (*Baccharis salicifolia*), coast live oak (*Quercus agrifolia* var. *agrifolia*), western sycamore (*Platanus racemosa*);

MEASURES TO PROTECT FISH AND WILDLIFE RESOURCES

1. Administrative Measures

Permittee shall meet each administrative requirement described below.

- 1.1 Documentation at Project Site. Permittee shall make the Agreement, any extensions and amendments to the Agreement, and all related notification materials and California Environmental Quality Act (CEQA) documents, readily available at the project site at all times and shall be presented to DFG personnel, or personnel from another state, federal, or local agency upon request.
- 1.2 Providing Agreement to Persons at Project Site. Permittee shall provide copies of the Agreement and any extensions and amendments to the Agreement to all persons who will be working on the project at the project site on behalf of Permittee, including but not limited to contractors, subcontractors, inspectors, and monitors.
- 1.3 Notification of Conflicting Provisions. Permittee shall notify DFG if Permittee determines or learns that a provision in the Agreement might conflict with a provision imposed on the project by another local, state, or federal agency. In that event, DFG shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that DFG personnel may enter the project site at any time to verify compliance with the Agreement.

2. Avoidance and Minimization Measures

To avoid or minimize adverse impacts to fish and wildlife resources identified above, Permittee shall implement each measure listed below.

- 2.1 Work Period and Time Limits. The Permittee shall not remove vegetation within the stream from February 15 to September 1 to avoid impacts to nesting birds. However, the Permittee may remove vegetation during this time if a qualified biologist conducts a survey for nesting birds within one week of the vegetation removal, and ensures no nesting birds shall be impacted by the project. If nesting birds are present, no work shall occur until the young have fledged and will no longer be impacted by the project.
- 2.2 Structures. Storm drains lines/culverts shall be adequately sized to carry peak storm flows for the drainage to one outfall structure. The storm drain lines/culverts and the outfall structure shall be properly aligned within the stream and otherwise engineered, installed and maintained, to assure resistance to washout, and to

erosion of the stream bed, stream banks and/or fill. Water velocity shall be dissipated at the outfall, to reduce erosion.

- 2.3 Equipment and Access. When work in a flowing stream is unavoidable, the entire stream flow shall be diverted around the work area by a barrier, temporary culvert, new channel, or other means approved by DFG. Location of the upstream and downstream diversion points shall be approved by DFG. Construction of the barrier and/or the new channel shall normally begin in the downstream area and continue in an upstream direction, and the flow shall be diverted only when construction of the diversion is completed. Channel bank or barrier construction shall be adequate to prevent seepage into or from the work area. Channel banks or barriers shall not be made of earth or other substances subject to erosion unless first enclosed by sheet piling, rock rip-rap, or other protective material. The enclosure and the supportive material shall be removed when the work is completed and removal shall normally proceed from downstream in an upstream direction. The Permittee shall obtain all written approvals from DFG prior to initiation of construction activities.
- 2.4 Equipment and Access (Pollution). Staging/storage areas for equipment and materials shall be located outside of the stream/lake.
- 2.5 Conditions for Species of Special Concern. No direct or indirect impacts shall occur to any threatened or endangered species, including least Bell's vireo. If any threatened or endangered species could be impacted by the work proposed, the Permittee shall obtain the required state and federal threatened and endangered species permits.
- 2.6 Vegetation, Revegetation and Restoration. Vegetation removed from the stream shall not be stockpiled in the stream bed or on its bank. The sites selected on which to push this material out of the stream should be selected in compliance with the other provisions of this Agreement. Permittee will trim native vegetation back or cut above ground level to allow for it to grow back after the maintenance work is complete. No live trees with a diameter at breast height of four inches or greater will be removed. Oak trees and sycamore trees will not be removed or trimmed back.
- 2.7 Vegetation, Revegetation and Restoration. The Permittee shall clean all equipment of soil containing seed and plant material prior to entry into the streambed to prevent the spread of invasive exotic plant species from adjacent areas or other sites where equipment may have been previously used.
- 2.8 Vegetation, Revegetation and Restoration. The Permittee shall not plant, seed or otherwise introduce invasive exotic plant species into areas adjacent to wetland/riparian areas. Vehicles should be clean of plant material prior to entering these areas. Exotic plant species not to be introduced include those species listed

on Lists A & B of the California Invasive Plant Council's list of "Exotic Pest Plants of Greatest Ecological Concern in California as of October 1999." This list includes such species as: pepper trees, pampas grass, fountain grass, ice plant, myoporum, tree of heaven, black locust, capeweed, periwinkle, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. A copy of the complete list can be obtained by contacting the California Invasive Plant Council at 1442-A Walnut Street, #462, Berkeley, CA 94709, or by accessing their web site at <http://www.caleppc.org>.

- 2.9 Habitat Protection. The perimeter of the work site shall be adequately flagged to prevent damage to adjacent riparian habitat and/or other Environmentally Sensitive Areas (ESA).
- 2.10 Habitat Protection (Herbicide Use). All herbicide use conditions for mixing, application and clean-up shall conform to all applicable federal, State, and local regulations, nothing in this Agreement represents a pesticide use recommendation that allows for an action that conflicts with pesticide use regulations.
- 2.11 Habitat Protection (Herbicide Use). Any application of herbicide shall be done by a licensed or certified applicator in accordance with all applicable, federal, state, and local laws.
- 2.12 Habitat Protection (Herbicide Use). Herbicide mixing sites shall only be located in areas devoid of vegetation, and where there is no potential of a spill reaching a vegetated area or a stream, for example avoid mixing at a storm water-inlet.
- 2.13 Habitat Protection (Herbicide Use). Any herbicide used where there is the possibility that the herbicide could come into direct contact with water shall be approved for use in an aquatic environment (e.g. Rodeo/Aquamaster). Great care shall be taken to avoid contact with any native vegetation, and it shall only be applied on calm days to prevent airborne transfer of the herbicide.
- 2.14 Litter and Pollution. The Permittee shall comply with all litter and pollution laws. All contractors, subcontractors and employees shall also obey these laws and it shall be the responsibility of the Permittee to ensure compliance.

3. Compensatory Measures

To compensate for adverse impacts to fish and wildlife resources identified above that cannot be avoided or minimized, Permittee shall implement each measure listed below.

- 3.1 Habitat Enhancement. Temporary and Permanent impact areas will have exotic and/or invasive plant control immediately following the impact, utilizing mechanical and/or herbicide controls of appropriate herbicides (see all measures for Habitat Protection (Herbicide Use). If mechanical means are utilized, Permittee will make

a reasonable attempt (e.g. cleaning equipment, bagging large seedheads) to contain exotic species seeds to prevent seed dispersal.

- 3.2 Habitat Restoration. Permanent impacts to 0.03 acre of riparian habitat (combined total for Culverts #1, #3, and #7) will be mitigated at a ratio of 3:1 through the deduction of 0.06 acre of riparian creation mitigation credits, and 0.03 acre of riparian enhancement credits from excess credits remaining at the Forester Creek Mitigation Site. Permanent Impacts at Culvert #9 to 0.05 acre of unvegetated streambed will be mitigated at a ratio of 2:1 through the deduction of 0.10 acre of enhancement credits at the Marron Mitigation Site. Permittee will provide documentation of debiting of mitigation credits to DFG prior to initiating project impacts.
- 3.3 Habitat Restoration. Temporary impacts will be restored on site at a 1:1 ratio during the concurrent or, with written approval from DFG, the next growing season after project completion. A planting plan and an exotic and/or invasive species control plan will be submitted to DFG for approval prior to initiating project impacts.
- 3.4 Mitigation for Unauthorized Impacts. The Permittee shall mitigate at a minimum 5:1 ratio for impacts beyond those authorized in this Agreement. In the event that additional mitigation is required, the type of mitigation shall be determined by DFG and may include creation, restoration, enhancement and/or preservation.

4. Reporting Measures

Permittee shall meet each reporting requirement described below.

- 4.1 Notification Prior to and Following Completion of Work. The Permittee shall notify DFG, in writing, at least five days prior to initiation of construction (project) activities and at least five days prior to completion of construction (project) activities, each time project activities occur. Notification shall be sent to DFG's South Coast Office at the address below, ATTN: Streambed Alteration Program – SAA # 1600-2011-0193-R5.
- 4.1 Pre-Impact Reports. Permittee will provide documentation of debiting of mitigation credits from Caltrans mitigation sites (see 3.2) for permanent impacts to DFG prior to initiation project impacts.
- 4.2 Monitoring Reports. A report shall be submitted to DFG within 90 days following completion of the construction with a description of exotic control efforts within the temporary and permanent impact areas. Photos showing the pre-construction condition and of the finished work at each culvert shall be included.

CONTACT INFORMATION

Any communication that Permittee or DFG submits to the other shall be in writing and any communication or documentation shall be delivered to the address below by U.S. mail, fax, or email, or to such other address as Permittee or DFG specifies by written notice to the other.

To Permittee:

Edward Hajj
4050 Taylor Street, MS-340
San Diego, CA 92110
(619) 688-0236
Ed_Hajj@dot.ca.gov

Cc: Michael Galloway

To DFG:

Department of Fish and Game
South Coast Region (R5)
3883 Ruffin Road
San Diego, CA 92123
Attn: Lake and Streambed Alteration Program – Tim Dillingham
Notification #1600-2011-0193-R5
(858) 467-4250
Fax (858) 467-4299
tdilling@dfg.ca.gov

LIABILITY

Permittee shall be solely liable for any violations of the Agreement, whether committed by Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents or contractors and subcontractors, to complete the project or any activity related to it that the Agreement authorizes.

This Agreement does not constitute DFG's endorsement of, or require Permittee to proceed with the project. The decision to proceed with the project is Permittee's alone.

SUSPENSION AND REVOCATION

DFG may suspend or revoke in its entirety the Agreement if it determines that Permittee or any person acting on behalf of Permittee, including its officers, employees,

representatives, agents, or contractors and subcontractors, is not in compliance with the Agreement.

Before DFG suspends or revokes the Agreement, it shall provide Permittee written notice by certified or registered mail that it intends to suspend or revoke. The notice shall state the reason(s) for the proposed suspension or revocation, provide Permittee an opportunity to correct any deficiency before DFG suspends or revokes the Agreement, and include instructions to Permittee, if necessary, including but not limited to a directive to immediately cease the specific activity or activities that caused DFG to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes DFG from pursuing an enforcement action against Permittee instead of, or in addition to, suspending or revoking the Agreement.

Nothing in the Agreement limits or otherwise affects DFG's enforcement authority or that of its enforcement personnel.

OTHER LEGAL OBLIGATIONS

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from obtaining any other permits or authorizations that might be required under other federal, state, or local laws or regulations before beginning the project or an activity related to it.

This Agreement does not relieve Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, from complying with other applicable statutes in the FGC including, but not limited to, FGC sections 2050 et seq. (threatened and endangered species), 3503 (bird nests and eggs), 3503.5 (birds of prey), 5650 (water pollution), 5652 (refuse disposal into water), 5901 (fish passage), 5937 (sufficient water for fish), and 5948 (obstruction of stream).

Nothing in the Agreement authorizes Permittee or any person acting on behalf of Permittee, including its officers, employees, representatives, agents, or contractors and subcontractors, to trespass.

AMENDMENT

DFG may amend the Agreement at any time during its term if DFG determines the amendment is necessary to protect an existing fish or wildlife resource.

Permittee may amend the Agreement at any time during its term, provided the amendment is mutually agreed to in writing by DFG and Permittee. To request an amendment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

TRANSFER AND ASSIGNMENT

This Agreement may not be transferred or assigned to another entity, and any purported transfer or assignment of the Agreement to another entity shall not be valid or effective, unless the transfer or assignment is requested by Permittee in writing, as specified below, and thereafter DFG approves the transfer or assignment in writing.

The transfer or assignment of the Agreement to another entity shall constitute a minor amendment, and therefore to request a transfer or assignment, Permittee shall submit to DFG a completed DFG "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5).

EXTENSIONS

In accordance with FGC section 1605(b), Permittee may request one extension of the Agreement, provided the request is made prior to the expiration of the Agreement's term. To request an extension, Permittee shall submit to DFG a completed DFG "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in DFG's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). DFG shall process the extension request in accordance with FGC 1605(b) through (e).

If Permittee fails to submit a request to extend the Agreement prior to its expiration, Permittee must submit a new notification and notification fee before beginning or continuing the project the Agreement covers (Fish & G. Code, § 1605, subd. (f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of DFG's signature, which shall be: 1) after Permittee's signature; 2) after DFG complies with all applicable requirements under the California Environmental Quality Act (CEQA); and 3) after payment of the applicable FGC section 711.4 filing fee listed at http://www.dfg.ca.gov/habcon/ceqa/ceqa_changes.html.

TERM

This Agreement shall expire on September 30, 2016, unless it is terminated or extended before then. All provisions in the Agreement shall remain in force throughout its term. Permittee shall remain responsible for implementing any provisions specified herein to protect fish and wildlife resources after the Agreement expires or is terminated, as FGC section 1605(a)(2) requires.

AUTHORITY

If the person signing the Agreement (signatory) is doing so as a representative of Permittee, the signatory hereby acknowledges that he or she is doing so on Permittee's behalf and represents and warrants that he or she has the authority to legally bind Permittee to the provisions herein.

AUTHORIZATION

This Agreement authorizes only the project described herein. If Permittee begins or completes a project different from the project the Agreement authorizes, Permittee may be subject to civil or criminal prosecution for failing to notify DFG in accordance with FGC section 1602.

CONCURRENCE

The undersigned accepts and agrees to comply with all provisions contained herein.

FOR CALTRANS DISTRICT 11

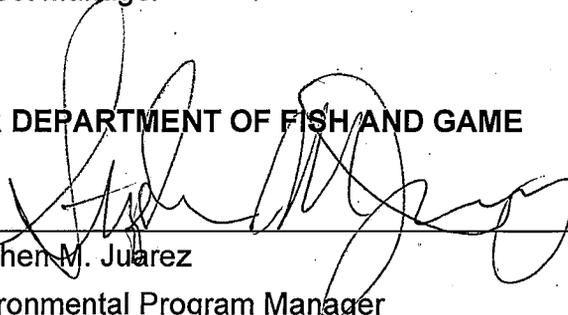


Edward Hajj
Project Manager

10/10/11

Date

FOR DEPARTMENT OF FISH AND GAME



Stephen M. Juarez
Environmental Program Manager

13 Oct 2011

Date

Prepared by: Tim Dillingham
Staff Environmental Scientist



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011

In Reply Refer To:
FWS-SDG-08B0398-08I0782

Mr. Chris White
Chief, Environmental Resource Studies
Department of Transportation, District 11
4050 Taylor Street
San Diego, California 92110

Attention: Michael Galloway

Regarding: Informal Section 7 Consultation for the San Diego County Culvert Rehabilitation Project, San Diego County, California

Dear Mr. White:

The U.S. Fish and Wildlife Service (Service) received a letter and a Biological Assessment (BA) dated July 29, 2008, requesting initiation of consultation pursuant to section 7 of the Endangered Species Act of 1973, as amended (Act) for the proposed San Diego County Culvert Rehabilitation Project. Caltrans requested consultation on six federally listed plant species and six federally listed animal species: the federally listed as endangered willow monardella (*Monardella linoides* ssp. *viminea*), San Diego thornmint (*Acanthomintha ilicifolia*), San Diego button celery (*Eryngium aristulatum* var. *parishii*), Orcutt's spineflower (*Chorizanthe orcuttiana*), San Diego ambrosia (*Ambrosia pumila*), Otay tarplant (*Deinandra* [*Hemizonia*] *conjugens*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), Quino checkerspot butterfly (*Euphydryas editha quino*), southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*; vireo), and the federally listed as threatened coastal California gnatcatcher (*Polioptila californica californica*; gnatcatcher).

Provided the conservation measures described below and in the BA are implemented, we concur that the proposed project will have no effect on the following species: willow monardella, San Diego thornmint, San Diego button celery, Orcutt's spineflower, San Diego ambrosia, Otay tarplant, Riverside fairy shrimp, Quino checkerspot butterfly, and southwestern willow flycatcher. These species will not be addressed further.

The proposed project is not located within designated critical habitat for any federally listed species. Therefore, critical habitat will not be addressed further.

Project Description

Caltrans proposes to repair two culverts on State Route 52 (SR-52), and one culvert each on State Route 67 (SR-67), Interstate 805 (I-805), and Interstate 5 (I-5), for a total of five culvert repairs (Figure 1). The proposed repairs will involve work within the culverts (sealing joints, pressure grouting, invert paving, etc.), temporary vegetation clearing for construction access roads and staging areas, and installation of fill and rip-rap at the culvert outlets (Tables 1 and 2).

Temporary vegetation clearing will consist of trimming vegetation back or cutting it above ground level to facilitate regrowth after the maintenance work is complete. Oak trees and sycamore trees will not be trimmed or cut, and no live trees with a diameter at breast height of 4 inches or greater will be cut. At culverts 1-4, water will be diverted around the work area. This will be accomplished by pumping water (as needed) from upstream of the repair area, through a hose, and discharging water downstream at the outlet. Work at Culvert 5 will involve removing the overhanging wingwalls, backfilling and constructing a rock-lined channel ditch behind the endwall to prevent erosion, and installation of rock slope protection at the culvert outlet. No grading or soil movement will occur in construction access roads and staging areas. Repair work is scheduled to begin in January 2011 and end in January 2013, with the estimated construction duration at each location as follows:

- | | | | |
|-------------|----------|-------------|----------|
| • Culvert 1 | 4 weeks | • Culvert 4 | 16 weeks |
| • Culvert 2 | 4 weeks | • Culvert 5 | 4 weeks |
| • Culvert 3 | 16 weeks | | |

The proposed project will result in a total of 0.12 acre of permanent and 4.13 acres of temporary impacts to riparian; coastal sage scrub (CSS); non-native (annual) grassland (NNG); and disturbed habitat (DIS) (Table 3, Figures 2 through 6). Permanent impacts will be caused by the discharge of fill and riprap at the culvert outlets, and temporary impacts by vegetation clearing for construction staging areas and access routes.

Protocol level surveys were not conducted for listed species. Species presence or absence in an area was determined on species detection in an area during general field surveys, historical occurrence of species in the area (CDFG 2003), habitat assessment, and Caltrans' personnel with knowledge of the area. Table 4 in the BA discusses listed species with the potential to occur in the project areas.

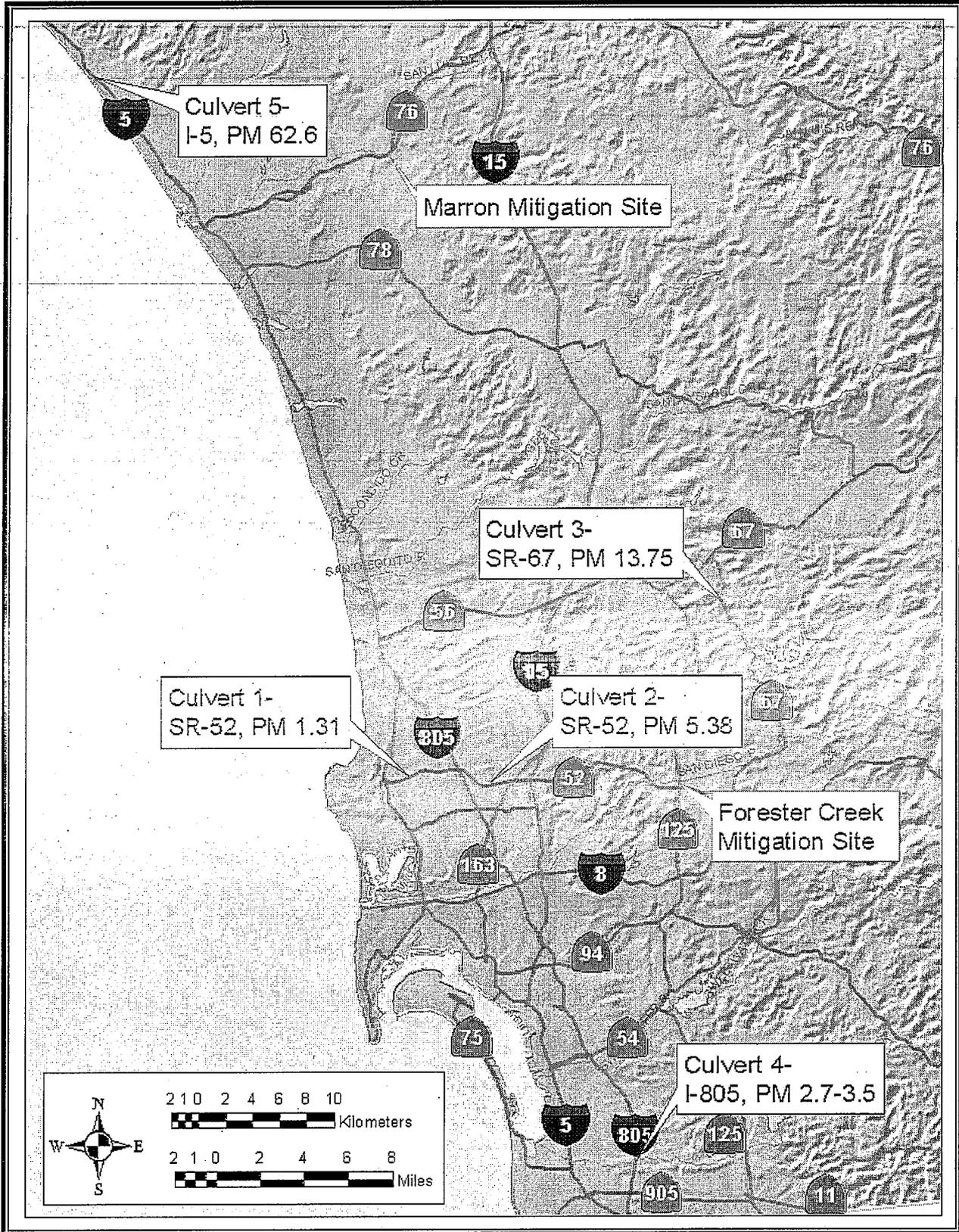


Figure 1. Project Location and Mitigation Site Map

Table 1: Proposed Work at the Five Culvert Locations.

Culvert	Route	Post Mile (PM)	Culvert System	Deficiency	Proposed Work
1	SR-52	1.31	60 inch (in.) x 450 foot (ft) reinforced concrete pipe (RCP) at inlet, 60 in. x 140 ft corrugated metal pipe (CMP) at outlet	<ol style="list-style-type: none"> 1) Excessively rusted invert 2) Deteriorated mortar at joints (RCP) 3) Joint separations (CMP) 4) RCP to CMP joint misaligned 5) Undesirable inlet conditions 6) Undesirable outlet conditions 	<ol style="list-style-type: none"> 1) Invert paving along entire culvert length 2) Sealing joints (internal joint sealing system (RCP)) 3) Sealing joints (steel expansion ring gaskets (CMP)) 4) Grouting with Portland Cement Mortar 5) Clear inlet apron of ice plant 6) Re-establish outlet ditch (re-grade and place rip-rap, remove obstructions)
2	SR-52	5.38	8 ft x 8 ft, x 25 ft reinforced concrete box culvert (RCBC) at inlet, 96 in. RCP, 114 in. bituminous-coated structural steel plate pipe (SSPP), 10 ft x 8 ft, x 50 ft RCBC at outlet	<ol style="list-style-type: none"> 1) Exposed aggregate and extensive rusting at invert 2) Joint separations 	<ol style="list-style-type: none"> 1) Bituminous coating along entire culvert bottom and invert paving 2) Sealing joints
3	SR-67	13.75	84 in. RCP	<ol style="list-style-type: none"> 1) Exposed aggregate and re-bar at invert 2) Pipe distortion with squashing and hairline cracks 3) Rusted joint steel rings 4) Joint separations 5) Misaligned endwall 	<ol style="list-style-type: none"> 1) Install structural steel pipe sleeve 2) Install structural steel pipe sleeve 3) Grout between pipe sleeve and existing RCP 4) Grout between pipe sleeve and existing RCP 5) Install structural steel pipe sleeve
4	I-805	2.75 - 3.48	Two 66 in. bituminous-coated CMPs at inlets, 78 in. bituminous-coated CMP at outlet	<ol style="list-style-type: none"> 1) Moderate thinning and rusting of the median culvert system 2) Extensive rusting of the eastern culvert system 3) Joint separations of the eastern culvert system 4) Undesirable outlet conditions of the eastern culvert system 	<ol style="list-style-type: none"> 1) Invert paving along entire culvert length 2) Invert paving along entire culvert length 3) Sealing joints with steel expansion ring gaskets 4) Re-establish outlet ditch and remove obstructions at outlet
5	I-5	62.6	150 in. x 312 ft SSPP	<ol style="list-style-type: none"> 1) Back of wingwall flares exposed 2) 4 ft to 6 ft drop at outlet 3) Sunk riprap basin 	<ol style="list-style-type: none"> 1) Cut off overhanging wings, backfill behind endwall with rip-rap, construct rock-lined channel ditch around endwall 2) Re-grade and import fill 3) Reconstruct using current Caltrans standards for a 2-ton class rock slope pad

Table 2: Equipment, Access, and Avoidance/Minimization Measures at Each Culvert.

Culvert	Equipment	De-watering?	Access	Vegetation Removal	Fill/Dredge?	Specific Biological Conditions
Culvert 1	-Cement truck for paving (can work from staging area) -Backhoe for placement of rip-rap (need to access creek-10 foot wide access path) -Production Truck for rip-rap	Yes	Trimming back willow and poison oak for access to culvert, diverting water to cross stream for access to culvert outlet, access via non-native grassland	Removal of iceplant at culvert inlet. Removal of dead tree, trimming back other vegetation at culvert outlet	Fill with rip-rap at culvert outlet to confluence of stream	-Work between September 1 and February 14 to avoid impacts to nesting birds
Culvert 2	-Cement truck for paving (can work from staging area)	Yes	Trimming back willow for access to culvert, access via non-native grassland and may require trimming back of CSS, which provides habitat for the federally threatened coastal California gnatcatcher	Trimming cattail to ground level at culvert outlet to a maximum of 50 feet from culvert outlet	None	-Work between September 1 and February 14 to avoid impacts to nesting birds -Stabilizing and planting slopes with native CSS plants if disturbed during project activities -Avoiding impacts to CSS outside of work area (designating areas as Environmentally Sensitive Areas [ESA])
Culvert 3	-Cement Truck for possible concrete slab for liner to slide on and for grouting (can work from staging area) -Crane and pulley system for liner installation (can work from staging area or SR-67 shoulder) -Backhoe for placement of rip rap -Production Truck for rip-rap	Yes	Clearance of light brush between staging area and culvert inlet	Clearance of light brush between staging area and culvert inlet; preserve large trees.	Fill with rip-rap at culvert outlet.	-No tree removal -Work between September 1 and February 14 to avoid impacts to nesting birds
Culvert 4	-Cement truck for paving (can work from staging area) -Backhoe for placement of rip-rap (need to access creek-10 foot wide access path) -Production Truck for rip-rap	Yes	Trimming back riparian vegetation (willow, etc.) for access to culvert	Removal of vegetation in drainage from culvert to Otay River by hand only	Fill with rip-rap at culvert outlet to confluence of Otay River	-Avoid riparian and CSS habitat outside of the work area (ESA) -Work between September 16 and February 14 to avoid impacts to nesting birds
Culvert 5	-Backhoe for regrade and placement of rip-rap up to culvert invert (need to access headwall-10 foot wide access path). -Production Truck for fill material & rip-rap	No	Access requires removal or trimming back of CSS, which provides habitat for the federally threatened coastal California gnatcatcher	Removal of CSS for placement of ditch around headwall	Fill with 2-ton class rock slope pad	-Work between September 1 and February 14 to avoid impacts to gnatcatcher -Avoiding areas of pooled water and CSS habitat outside of the work area (ESA) -Limiting equipment access and storage to existing developed and compacted areas -Stabilizing and planting slopes with native CSS plants if disturbed during project activities -Compensation for impacts to CSS habitat required

Table 3. Permanent and Temporary Impacts at the Five Culvert Locations.

Culvert	Permanent Impacts (acres)		Temporary Impacts (acres)			
	Riparian*	CSS	Riparian*	CSS	NNG	DIS
1	0.01	0.00	0.05	0.00	0.04	0.16
2	0.00	0.00	0.06	0.05	0.04	0.16
3	0.01	0.00	0.04	0.00	0.03	0.00
4	0.01	0.00	0.05	0.00	0.00	0.66
5	0.05	0.04	0.22	0.07	0.00	2.50
Totals	0.08	0.04	0.42	0.12	0.11	3.48

*Includes Corps jurisdictional waters of the United States, including wetlands, and CDFG jurisdictional waters of the State.

Conservation Measures

Caltrans has agreed to implement the following conservation measures as part of the project to avoid and minimize potential impacts to listed species. Species- and site-specific measures are detailed in section 4.1 of the BA and Table 2.

1. The trimming, clearing and grubbing of, and construction adjacent to, riparian, wetland and CSS habitats at all the culverts will occur outside of the bird breeding season (generally, February 15 to September 15, or sooner if a qualified biologist demonstrates to the satisfaction of the Service that all nesting is complete.
2. Caltrans will trim vegetation back or cut above ground level to allow for it to grow back after the maintenance work is complete if vegetation clearing is necessary for culvert access. No live trees with a diameter at breast height of 4 inches or greater will be removed. Oak trees and sycamore trees will not be removed or trimmed back.
3. Caltrans will implement construction site best management practices (BMPs), such as removing debris from the construction sites and directing runoff, generated as a result of the maintenance activities, away from any drainages and culverts to prevent deposition into the waterways. Additionally, the disposal of materials will be performed in a manner that will minimize unnecessary impacts to the environment.
4. Work will be minimized in riparian and wetland habitat. All riparian and wetland areas outside of the project limits will be designated as environmentally sensitive areas (ESAs). No personnel, debris, or equipment will be allowed in the ESAs, which will be fenced with high-visibility fencing.
5. Permanent impacts to a total of 0.03 acre of riparian/wetland habitat at Culverts 1, 3 and 4 will be compensated at a 3:1 ratio by using creation (0.06 acre) and enhancement (0.03 acre) mitigation credits at off-site mitigation locations (e.g., Caltrans mitigation sites at Forester Creek). Caltrans will provide documentation of debiting of mitigation credits to the Service prior to initiating project impacts. Temporary impacts to a total of 0.2 acre of riparian/wetland habitat at Culverts 1, 2, 3 and 4 will be compensated by on site restoration during the concurrent or next growing season after project completion.



Figure 2. Culvert 1, SR-52, PM 1.31

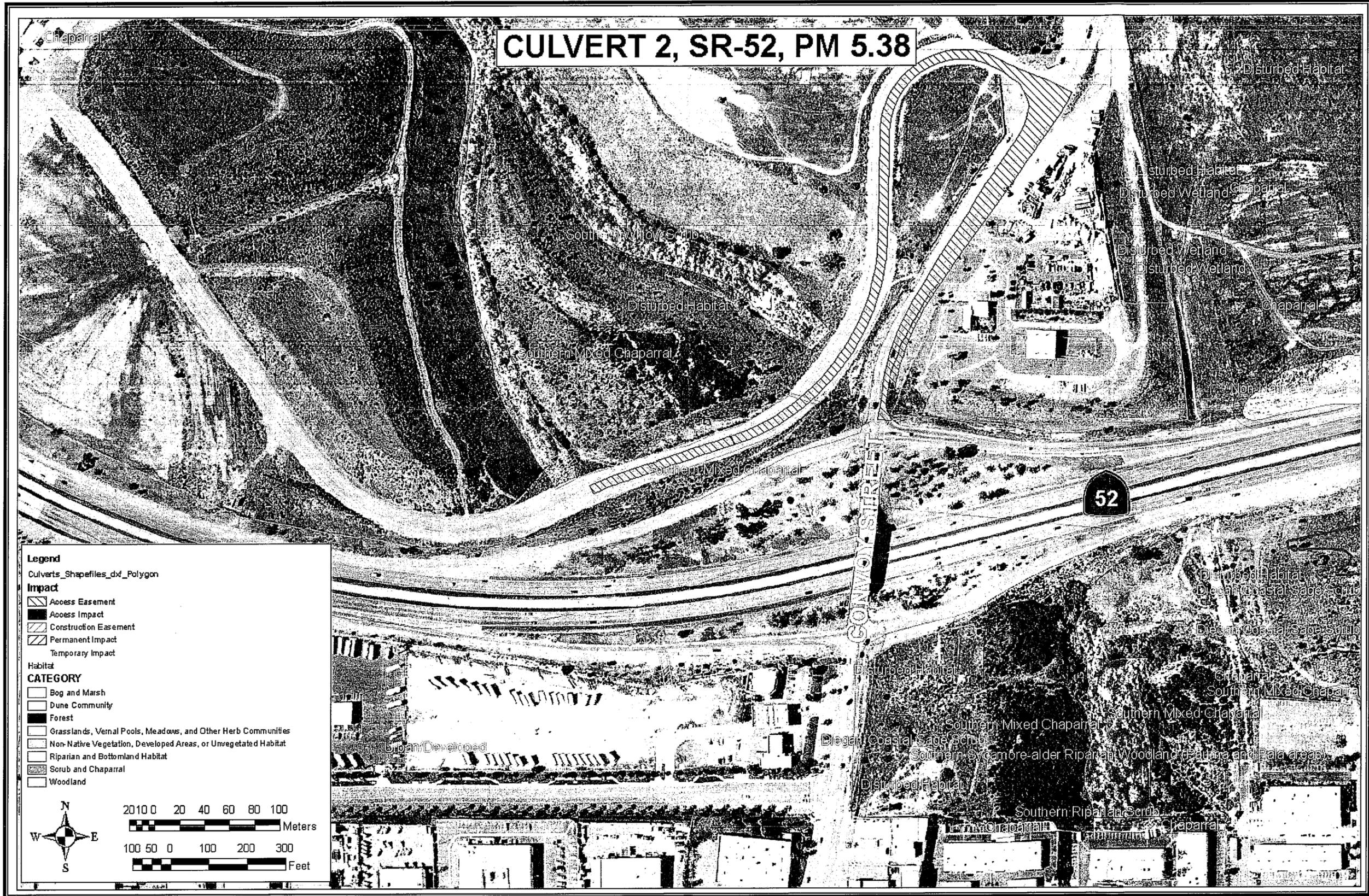


Figure 3. Culvert 2, SR-52, PM 5.38

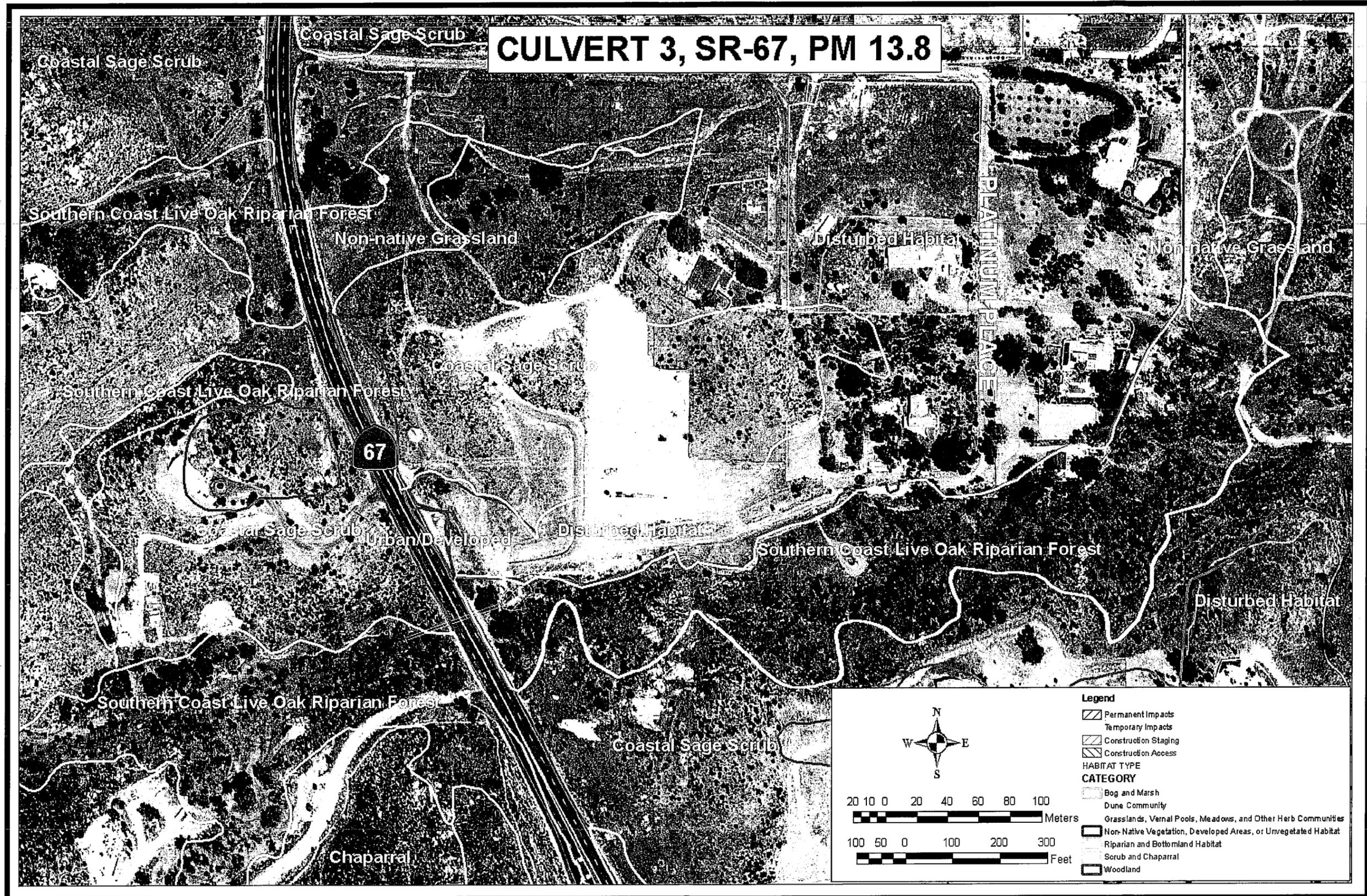


Figure 4. Culvert 3, SR-67, PM 13.8

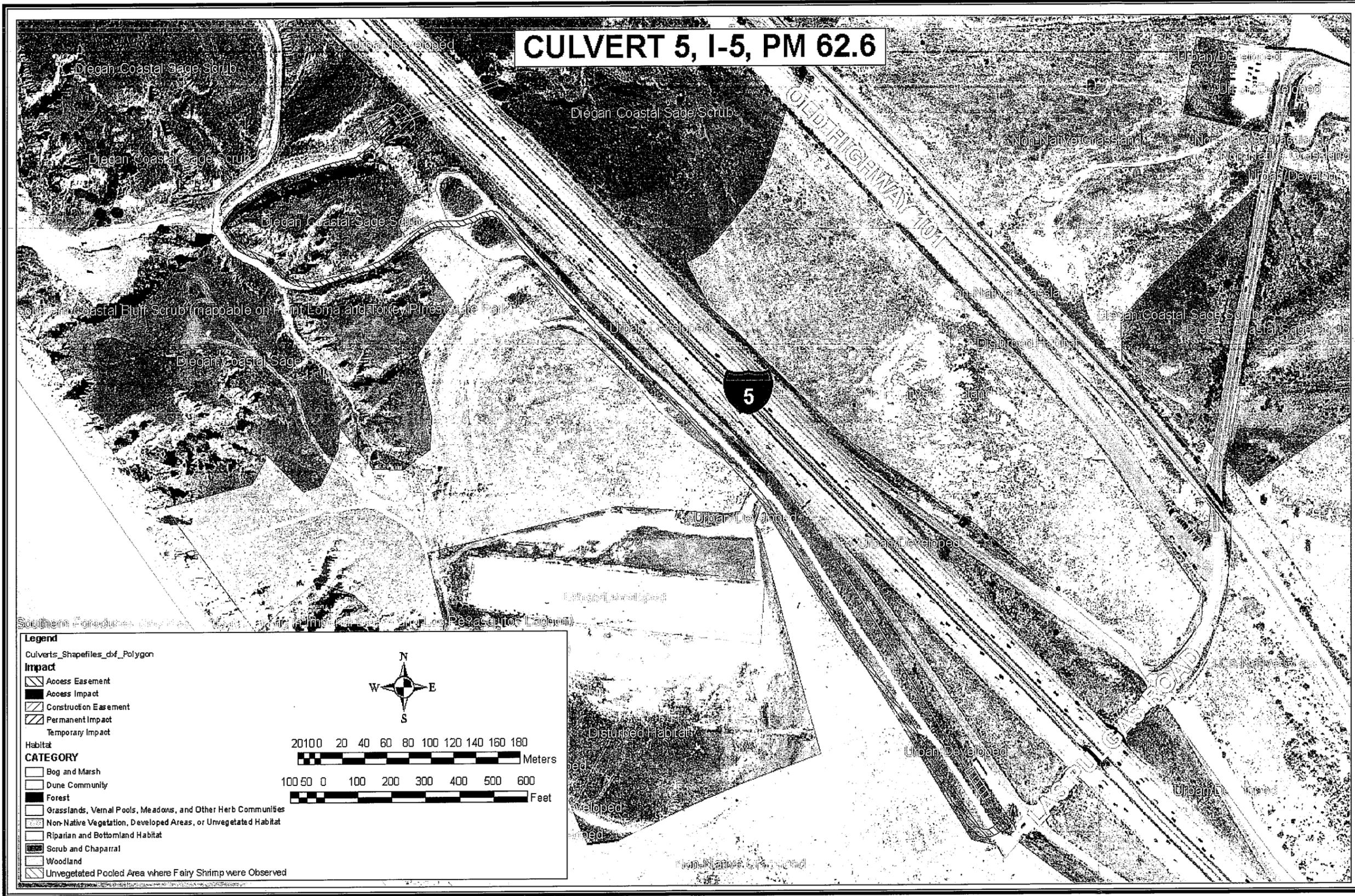


Figure 6. Culvert 5, I-5, PM 62.6

6. Permanent impacts to 0.04 acre of CSS at Culvert 5 will be compensated at a 2:1 ratio by using 0.08 acre of mitigation credits at an off-site CSS mitigation location (e.g., Caltrans mitigation site at Marron). Temporary impacts to 0.05 and 0.07 acre of CSS habitat at Culvert 2 and 5, respectively, will be compensated by on site restoration during the concurrent or next growing season after project completion.
7. Work will be minimized in CSS, riparian/wetland, and vernal/road pool habitat. All CSS, riparian/wetland, and vernal/road pool areas outside of the project limits will be designated as ESAs. No personnel, debris, or equipment will be allowed in the ESAs, which will be temporarily fenced (with silt barriers), including construction staging areas and access routes, to prevent additional habitat impacts and prevent the spread of silt from the construction zone into adjacent habitats to be avoided. Fencing will be installed in a manner that does not impact habitats to be avoided. Caltrans will submit to the Service for approval, at least 30 days prior to initiating project impacts, the final plans for initial clearing and grubbing of habitat and project construction. These final plans will include photographs that show the fenced limits of impact and all areas (including riparian/wetland or coastal sage scrub) to be impacted or avoided. If work occurs beyond the fenced or demarcated limits of impact, all work will cease until the problem has been remedied to the satisfaction of the Service. Any habitat impacts that occur beyond the approved fenced will be mitigated at a minimum 5:1 ratio. Temporary construction fencing will be removed upon project completion.
8. Caltrans will comply with the Integrated Natural Resource Management Plan, will adhere to measures documented in the Decision Memorandum issued by USMC-CP, and will consult with the Wildlife Management Branch of the USMC-CP to ensure that vernal/road pool habitat for the San Diego fairy shrimp is avoided. Caltrans will avoid areas of pooled water adjacent to access routes for Culvert 5 and designate these areas as ESAs (see Figure 6). At Culvert 5, existing USMC-CP roads will be used to access the site and parking, and driving. Project staging of equipment and materials will be limited to previously compacted and developed areas within Caltrans' right-of-way west of the I-5 off-ramp to Las Pulgas Road (see Figure 3). Work will be scheduled to occur between September 1 and October 31. If additional time is required, Caltrans will contact the Service for approval to continue after October 31. No personnel, debris, or equipment will be allowed in the ESAs, which will be fenced with high-visibility fencing.
9. The applicant shall ensure that the following conditions are implemented during project construction:
 - a. Employees shall strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint.
 - b. To avoid attracting predators of the gnatcatcher or vireo, the project site shall be kept as clean of debris as possible. All food related trash items shall be enclosed in sealed containers and regularly removed from the site.

- c. Pets of project personnel shall not be allowed on the project site.
- d. Disposal or temporary placement of excess fill, brush or other debris shall not be allowed in waters of the United States or their banks.
- e. All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities shall occur in designated areas outside of waters of the United States within the fenced project impact limits. These designated areas shall be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering waters of the United States, and shall be shown on the construction plans. Fueling of equipment shall take place within existing paved areas greater than 100 feet from waters of the United States. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary. "No-fueling zones" shall be designated on construction plans.

10. Caltrans will ensure that a biological monitor approved by the Service will be present during initial trimming and/or removal vegetation and project construction. The monitor will be knowledgeable of vireo, gnatcatcher and/or San Diego fairy shrimp biology and ecology. The biologist will perform the following duties.

- a. Perform a minimum of three focused surveys, on separate days, to determine the presence of gnatcatchers in the project impact footprint outside the gnatcatcher breeding season. Surveys will begin a maximum of seven days prior to performing construction activities and one survey will be conducted the day immediately prior to the initiation of work. If any gnatcatchers are found within the project impact footprint, the biologist will direct construction personnel to begin construction activities in an area away from the gnatcatchers. In addition, the biologist will walk ahead of equipment to flush birds towards areas of scrub to be avoided. It will be the responsibility of the biologist to ensure that gnatcatchers will not be injured or killed by construction activities. The biologist will also record the number and location of gnatcatchers disturbed by construction activities. The applicant will notify the Service at least seven days prior to construction activities to allow the Service to coordinate with the biologist on bird flushing activities.
- b. Oversee installation of and inspect the fencing and erosion control measures within or up-slope of CSS, riparian wetland and vernal/road pool areas a minimum of once per week and daily during all rain events to ensure that any breaks in the fence or erosion control measures are repaired immediately.
- c. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust.

- d. Train all contractors and construction personnel on the biological resources associated with this project and ensure that training is implemented by construction personnel. At a minimum, training will include: 1) the purpose for resource protection; 2) a description of the vireo, gnatcatcher and/or San Diego fairy shrimp, and their habitats; 3) the conservation measures given in this informal consultation that should be implemented during project construction to conserve the vireo, gnatcatcher and/or San Diego fairy shrimp, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); 4) environmentally responsible construction practices; 5) the protocol to resolve conflicts that may arise at any time during the construction process; and 6) the general provisions of the Act, the need to adhere to the provisions of the Act, the penalties associated with violating the Act.
 - e. Halt work, if necessary, and confer with the Service to ensure the proper implementation of species and habitat protection measures. The biologist will report any violation to the Service within 24 hours of its occurrence.
 - f. Submit a final report to the Service within 60 days of project completion that includes: as-built construction drawings with an overlay of habitat that was impacted and avoided, photographs of habitat areas that were to be avoided, and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with all conditions of this informal consultation was achieved.
11. If night work is necessary, night lighting will be of the lowest illumination necessary for human safety, selectively placed, shielded and directed away from natural habitats.
12. No grading or soil movement will occur in construction access and staging areas.

Environmental Baseline/Effects of the Action

San Diego Fairy Shrimp

Land Manager Thomas Sabol at the Wildlife Management Branch of the U.S. Marine Corps-Camp Pendleton (USMC-CP) identified federally endangered San Diego fairy shrimp in an unvegetated, vernal/road pool near the proposed access area for Culvert 5 during a field survey conducted on January 3, 2008 (Figure 6). The pooled area is in an existing road on a relatively flat bench above the portion of the access road that will be used for repairs at Culvert 5. To avoid and/or minimize potential impacts to the San Diego fairy shrimp, Caltrans will avoid areas of pooled water adjacent to access routes for Culvert 5 and designate these areas as ESAs. Work will be scheduled to occur between September 1 and October 31. If additional time is required, Caltrans will contact the Service for approval to continue after October 31. No personnel, debris, or equipment will be allowed in the ESAs, which will be fenced with high-visibility fencing.

Coastal California Gnatcatcher

In August 2007, approximately three gnatcatchers were observed within the coastal sage scrub habitat adjacent to Culvert 2. Gnatcatchers were also heard near the proposed access area for Culvert 5 in March 2008.

In San Diego County, the mean breeding season gnatcatcher territory size ranges from 12 to 27 acres per pair and non-breeding season territory size ranged from 12 to 42 acres per pair (Preston *et al.* 1998). During the non-breeding season, gnatcatchers have been observed to wander in adjacent territories and unoccupied habitat increasing their home range size to approximately 78 percent larger than their breeding territory (Preston *et al.* 1998). The smallest documented home ranges occur near the coast and increase in more inland areas (Preston *et al.* 1998).

Culverts 2 and 5 are located in more coastal areas of San Diego County. Repairs at Culvert 2 will temporarily impact 0.05 acre of CSS, and repairs at Culvert 5 will temporarily impact 0.07 acre and permanently impact 0.04 acre of CSS. Assuming a 12 acre territory size, these impacts represent less than one percent of the smallest in the range of observed gnatcatcher territories of 12 acres, and are not expected to result in any appreciable impact to the gnatcatcher. Permanent impacts to 0.04 acre of CSS at Culvert 5 will be offset at an off-site location (e.g., Caltrans mitigation site at Marron) at a ratio of 2:1 (i.e., 0.08 acre). Temporary vegetation clearing will consist of trimming vegetation back or cutting it above ground level to facilitate regrowth after the maintenance work is complete. Temporary impacts to 0.05 and 0.07 acre of CSS at Culvert 2 and 5, respectively, will be restored onsite after project completion. In addition, the limits of work shall be fenced, work will be overseen by a biological monitor, and all work will be done outside of the gnatcatcher breeding season.

Least Bell's Vireo

Vireos have not been identified historically within one mile of Culvert 1, Culvert 2, or Culvert 3 (CDFG 2007), and were not found within the project areas of these culverts during field surveys, even though there is potential habitat at these locations. Vireos have historically been observed within one mile of Culvert 4 within the Otay River, east and west of I-805, and within one mile of Culvert 5 in Las Pulgas Canyon and the Santa Margarita River (CDFG 2007). Culverts 1, 2, 3 and 4 are within riparian corridors that consist primarily of arroyo willow, cattail, mulefat, oaks and/or sycamore and are potential vireo habitat. Culvert 5 is within non-wetland waters of the U.S.

Vireo territory size ranges from 0.5 to 7.5 acres with an average territory size of approximately 1.96 acres (Service 1998). Repairs at Culverts 1, 2, 3 and 4 will temporarily impact 0.05 to 0.06 acre, and repairs at Culverts 1, 3, and 4 will permanently impact 0.01 acre, of riparian/wetland habitat at each location. These impacts represent less than one percent of an average 1.96-acre vireo territory, and are not expected to result in any appreciable impact to the vireo if present.

Mr. Chris White (FWS-SDG-08B0398-08I0782)

16

Permanent impacts to 0.3 acre of riparian/wetland habitat will be offset at an off-site location (e.g., Caltrans mitigation sites at Forester Creek) at a ratio of 3:1 (i.e., 0.09 acre). Temporary vegetation clearing will consist of trimming vegetation back or cutting it above ground level to facilitate regrowth after the maintenance work is complete. No live trees with a diameter at breast height (dbh) of 4 inches or greater will be removed. Oak trees and sycamore trees will not be removed or trimmed back. Temporary impacts to 0.2 acre of riparian/wetland habitat will be restored onsite after project completion. In addition, the limits of work shall be fenced, work will be overseen by a biological monitor, and all work will be done outside of the vireo breeding season.

Based on the information provided, including Caltrans' commitment to implement the conservation measures given above and in the BA, we have determination that the proposed culvert repairs, as described, are not likely to adversely affect the San Diego fairy shrimp, gnatcatcher and/or vireo. Therefore, the interagency consultation requirements of section 7 of the Act have been satisfied. Should project plans change, if listed species are detected at any of the culvert locations, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered and formal consultation may be required.

If you have any questions or concerns with regard to this letter, please contact Janet Stuckrath of my staff at (760) 431-9440 extension 270.

Sincerely,

Karen Goebel
Assistant Field Supervisor

Literature Cited

California Department of Fish and Game: Habitat Conservation Division. 2003. California Natural Diversity Database (CNDDB), Rarefind 3 (CD-ROM). Sacramento, California. Updated December, 2007.

Preston, K.L., P.J. Mock, M.A. Grishaver, E.A. Bailey, and D.F. King. 1998. California gnatcatcher territorial behavior. *Western Birds* 29:242-257.

U.S. Fish and Wildlife Service (Service). 1998. Draft recovery plan for the least Bell's vireo. U.S. Fish and Wildlife Service, Portland, Oregon. 139 pp.



THE CITY OF SAN DIEGO

Date: August 15, 2011

Site: Marian Bear Open Space Park
San Diego, CA 92117

Moises Tacazon
Associate Right of Way Agent
California Department of Transportation
4050 Taylor Street, MS-310
San Diego, CA 92110

Dear Mr. Tacazon:

Subject: Right of Entry Permit – Marian Bear Open Space Park

The City of San Diego (“City”) hereby grants permission to the Caltrans and/or its agent(s) (“Permittee”) to enter upon the above-referenced City-owned property (“Permit Area”), as delineated on the attached Exhibit “A”, based upon the following terms and conditions:

1. Right to Enter: Permittee’s and/or its agent(s) use of the Permit Area shall be limited to access to the Cal Trans easement through Marian Bear parking lot and open space as indicated in exhibit “A”. Per the attached CEQA document (Exhibit B) any permanent or temporary impacts will be compensated by either mitigation as described or on site restoration during the concurrent or next growing season after project completion. Any mitigation/restoration associated with this ROE must be completed to the satisfaction of the Park and Recreation Director or designee.
2. Fee: Consideration to City for granting this permit is a \$603 non-refundable processing fee due on the effective date hereof. The processing fee is hereby waived for this project.
3. Contingency: Permittee must validate to the satisfaction of the City that it has all the necessary funds and a 5% contingency on hand to complete the improvement project before beginning the project.
4. Term: This permit shall be in effect upon execution hereof by City and Permittee and approval by the City Attorney, and shall expire on March 31, 2014. Reasonable extension may be granted, if necessary.
5. Commencement of Work and Public Access: Permittee must contact Sr. Park Ranger Tracey Walker at 858-581-9952 at least two working days prior to the

Open Space Division • Park and Recreation

1250 Sixth Avenue, 4th Floor, MS 804A • San Diego, CA 92101-4215

Tel (619) 685-1350 Fax (619) 685-1362



start date of the project and submit a work schedule. Permittee shall notify Ranger Walker a minimum of ten (10) working days prior to start of work that may or may not affect the use of any public access in the area as shown on Exhibit "A".

6. Volunteers: Permittee shall be responsible for any work to be done with volunteer labor and ensure that volunteer workers adhere to all conditions as stated in this Right of Entry Permit and work only on the approved scope of work. Any work done that is not previously approved shall be removed at the Permittee's expenses.
7. Insurance: Permittee shall deliver to City a current certificate of insurance for:
 - a) Commercial General Liability Insurance, providing coverage for bodily injury, including death, personal injury, and property damage with limits of at least One Million Dollars (\$1,000,000) per occurrence, subject to an annual aggregate of at least Two Million Dollars (\$2,000,000).
 - b) Automobile Liability Insurance, providing coverage for all bodily injury and property damage, with a limit of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall cover liability arising out of any vehicle (including owned, hired, and non-owned vehicles) operated in performing any and all work pursuant to this Permit. Coverage shall be written on *ISO form CA 00 01 12 90*, or a substitute form providing equivalent liability coverage; and
 - c) Workers' Compensation Insurance, as required by the laws of the State of California for all of Permittee's employees who are subject to this Permit, with Employers' Liability coverage with a limit of at least One Million Dollars (\$1,000,000).

7.1 Additional Insureds. Pursuant to a separate endorsement [CG2010 (11/85) or equivalent form], "City of San Diego, its elected officials, officers, employees, representatives, and agents" shall be named as additional insureds in all policies.

7.2 Primary & Non-Contributory. Insurance policies shall be endorsed such that the coverage is primary and non-contributory to any coverage carried or maintained by City. The policies shall be kept in force for the duration of the term of this Permit. The certificate(s) of insurance shall be filed with the Park and Recreation Open Space Division upon execution of this permit.

7.3 Qualified Insurer(s). All insurance required by the terms of this Lease must be provided by insurers licensed to do business in the State of California which are rated at least "A-, VI" by the current AM Best Ratings Guide and which are acceptable to City. Non-admitted surplus lines insurers may be accepted provided they are included on the most recent list of California eligible surplus lines insurers (LESLI list) and otherwise meet City requirements.

7.4 Deductibles/Retentions. All deductibles and self-insured retentions on any insurance policy are the sole responsibility of Permittee and must be disclosed and acceptable to City at the time evidence of insurance is provided.

7.5 Continuity of Coverage. All policies shall be in effect on or before the first day of the Term, except "course of construction fire insurance" shall be in force on commencement of all authorized construction, and full applicable fire insurance coverage shall be effective upon completion of each insurable improvement. At least thirty (30) days prior to the expiration of each insurance policy, Permittee shall furnish a certificate(s) showing that a new or extended policy has been obtained which meets the requirements of this Permit. Permittee shall provide proof of continuing insurance at least annually during the Term. If insurance lapses or is discontinued for any reason, Permittee shall immediately notify City and obtain replacement insurance as soon as possible.

7.6 Modification. To assure protection from and against the kind and extent of risk existing with the Permit Area, City, at its discretion, may require the revision of amounts and coverage at any time during the term of this Permit by giving Permittee thirty (30) days prior written notice. Permittee shall also obtain any additional insurance required by City for new improvements, changed circumstances, or City's reasonable re-evaluation of risk levels related to the Permit Area.

7.7 Accident Reports. Permittee shall immediately report to City any accident causing property damage or injury to persons and related to the Permit Area. Such report shall contain the names and addresses of the involved parties, a statement of the circumstances, the date and hour of the accident, the names and addresses of any witnesses, and other pertinent information.

7.8 Causes of Loss - Special Form Property Insurance. Permittee shall obtain and maintain, at its sole cost, Causes of Loss - Special Form Property Insurance on all of Permittee's insurable property related to the Permit Area in an amount to cover 100 percent (100%) of the replacement cost. Permittee shall deliver to City a certificate of such insurance.

Applicant is self insured (Attachment C).

8. Indemnification. Permittee shall protect, defend, indemnify, and hold City, its elected officials, officers, representatives, agents, and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property, including injury to Permittee's officers, employees, agents, contractor's, invitees and guests, which arise out of or are in any manner directly or indirectly connected with this Permit or Permittee's Operations, including damages arising out of release of hazardous materials, and

all expenses of investigating and defending against same, including without limitation reasonable attorney fees and costs; provided, however, that Permittee's duty to indemnify and hold harmless shall not include any claims or liability arising from the established active negligence, sole negligence, or sole willful misconduct of City, its elected officials, officers, representatives, agents and employees. City may, at its election, conduct the defense or participate in the defense of any claim related in any way to this indemnification. If City chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification, Permittee shall pay all reasonable costs related thereto, including without limitation reasonable attorney fees and costs.

9. No Discrimination: Permittee agrees not to discriminate in any manner against any person or persons on account of race, color, religion, gender, sexual orientation, medical status, national origin, age, marital status, or physical disability in Permittee's use of the Permit Area, including but not limited to the providing of goods, services, facilities, privileges, advantages, and accommodations, and the obtaining and holding of employment.
10. Permittee's Risk: All risks in connection with Permittee's use of the Permit Area and any damages to the improvements thereon, thereunder, or in the vicinity thereof shall be borne in full by Permittee.
11. Nuisance: Permittee shall not use the Permit Area in any manner which, in the opinion of the Mayor, creates a nuisance or disturbs the quiet enjoyment of persons in the surrounding area.
12. Revocable Permit: This permit is revocable at any time by the City of San Diego. It is mutually agreed that the City of San Diego shall not be obligated for any loss, financial or otherwise, which may be incurred by Permittee as a result of termination of this permit, and, further, that Permittee expressly waives any claim for expense or loss which Permittee might incur as a result of termination of this permit.
13. Compliance with Law: Permittee shall, at its sole cost and expense, comply with all the requirements of all municipal, state, and federal authorities now in effect or which may hereafter be in effect, which pertain to the Permit Area.
14. Unauthorized Activities: Permittee shall not engage in any activity on City-owned property other than the activity for which this permit is expressly issued.
15. No Assignment: Permittee shall not assign any rights granted by this permit nor any interest therein without the prior written approval of the Mayor. Approval of any such proposed assignment may be withheld in the sole and absolute discretion of the Mayor. Any assignment by operation of law shall automatically terminate this permit.

16. Signs: No signs shall be displayed on the Permit Area or City property without the prior written consent of the Mayor.
17. Maintenance of Permit Area: The security and safety of the Permit Area affected by work for the Permittee's contract shall be the sole responsibility of Permittee during the entire term of this permit. Permittee shall be responsible for the maintenance and cleanup of the Permit Area immediately following each day's work. Construction fence and warning signs must be properly maintained on a daily basis. Trenches shall not be left open overnight or any other time when work associated with the Permittee's operations are not being actively performed.
18. Staging Area: The Sr. Park Ranger must approve any area where building or construction materials or vehicles are requested to be secured on the property overnight. All materials must be secured inside a locked storage container or surrounded by fencing. At no time shall any debris be left on the Permit Area that may be a hazard to public safety.
19. Hazardous Materials: Permittee shall not allow the installation or release of hazardous substances in, on, under, or from the Permit Area or the City Property. Permittee and Permittee's agents and contractors shall not store, utilize, or sell any hazardous substance on the Permit Area or City Property without City's prior written consent. For the purposes of this provision, a release shall include but not be limited to any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leeching, dumping, or otherwise disposing of hazardous substances. "Hazardous substances" shall mean those hazardous substances listed by the Environmental Protection Agency in regularly released reports and any other substances incorporated into the State of California's list of hazardous substances. A copy of the presently effective EPA and the State lists is on file in the Office of the City Clerk as Document 769704 and by this reference is incorporated into this Permit.

19.1 Remediation. If Permittee's occupancy, use, development, maintenance, or restoration of the Permit Area results in a release of a hazardous substance, Permittee shall pay all costs of remediation and removal of the hazardous substance in accordance with all applicable laws, rules, and regulations of governmental authorities.

19.2 Indemnity. Permittee shall protect, defend, indemnify, and hold City, harmless from any and all claims, costs, and expenses related to environmental liabilities resulting from Permittee's occupancy, use, development, maintenance, or restoration of the Permit Area, including but not limited to costs of environmental assessments, costs of remediation and removal, any necessary response costs, damages for injury to natural resources or the public, and costs of any health assessment or health effect studies.

19.3 Notice of Release. If Permittee knows or has reasonable cause to believe that a hazardous substance has been released on or beneath the Permit Area or the City Property, Permittee shall immediately notify City and deliver a written report thereof to City within three (3) business days of receipt of the knowledge or cause for belief. If Permittee knows or has reasonable cause to believe that such substance is an imminent and substantial danger to public health and safety, Permittee shall take all actions necessary to alleviate the danger. Permittee shall notify City immediately of any notice of violation received or initiation of environmental actions or private suits related to the Permit Area or the City Property.

19.4 Environmental Assessment. Upon reasonable cause to believe that Permittee's occupancy, use, development, maintenance, or restoration of the Permit Area or the City Property ("Permittee's Operations"), resulted in any hazardous substance being released on or beneath the Permit Area or the City Property, City may cause an environmental assessment of the suspect area to be performed by a professional environmental consultant registered with the State of California as a Professional Engineer, Certified Engineering Geologist, or Registered Civil Engineer. The environmental assessment shall be obtained at Permittee's sole cost and expense, and shall establish what, if any, hazardous substances have more likely than not been caused by Permittee's Operations on, in, or under the Permit Area or the City Property, and in what quantities. If any such hazardous substances exist in quantities greater than allowed by city, county, state, or federal laws, statutes, ordinances, or regulations, then the environmental assessment shall include a discussion of such substances with recommendations for remediation and removal necessary to effect compliance with those laws or statutes, and estimates of the cost of such remediation or removal. Permittee shall cause, or if Permittee fails to do so within a reasonable period of time, City may cause, the remediation and/or removal recommended in the environmental assessment such that compliance with environmental law is achieved, and Permittee shall pay all costs and expenses therefor.

20. Repairs: Permittee shall be responsible for the repair or replacement of any improvements damaged during the course of construction. This shall include, but not be limited to paving, fencing, irrigation systems, turf, structures, electrical systems and any item determined to be damaged by Sr. Park Ranger, Tracey Walker as a result of Permittee's operations. Plants and trees damaged beyond repair shall be replaced with the same species and of similar size and value, at the Permittee's expense. Replaced turf shall be installed sod and not seed or sprigs. Permittee shall also be responsible for all mitigation requirements as a result of impacts to any biological area caused by the Permittee's operations.
21. Vehicular Traffic: All vehicular traffic shall be confined to concrete, asphalt or decomposed aggregate surfaces unless approved otherwise by Sr. Park Ranger Tracey Walker prior to the commencement of the Permittee's operations.

22. Return of Property: At the completion of the Permittee's operations, Permittee shall be responsible for returning the Permit Area to its original condition subject to the satisfaction of the City of San Diego Park and Recreation Department.
23. Subcontractors: Permittee shall provide a list of any and all contractors and subcontractors to the Sr. Park Ranger Tracey Walker including name, address, email, fax and phone number. All work shall be done by contractors licensed within the State of California.
24. Clean Water Act: The Permittee shall comply with the Clean Water Act and prevent construction debris from entering into the existing storm drain systems. The construction project shall 1) use dry clean-up methods for spills and outdoor cleaning, 2) vacuum, sweep and use rags or dry absorbents, 3) properly label, store and dispose of hazardous wastes, 4) rake or sweep dust, litter and sediment, and properly dispose of, in construction trash receptacles, 5) use mops when water is needed to clean, and 6) locate the nearest storm drains and take measures to ensure that construction debris will not enter or be discharged into them.
25. Grading: Due to Storm Water Pollution Prevention Plan requirements, grading, filling, dumping, new planting or fencing beyond what is shown on the approved plans is prohibited unless first approved in writing by the Mayor. Permittee shall not change the surface grade or construct any permanent barriers on the permit area. Any violations will be corrected by Permittee at its sole expense to the satisfaction of the Mayor and are grounds, at the City's option, for immediate termination of this permit.
26. Pre-Construction Meeting: A minimum of five (5) working days prior to commencement of construction, Permittee shall invite Sr. Park Ranger Tracey Walker at 858-581-9952 to the pre-construction meeting. This meeting shall establish points of contact, define means and methods of Permittee's operations and coordinate the work schedule with Park and Recreation operations and scheduled activities.
27. Permittee Contact: Permittee shall provide a designated contact with name and emergency phone number as listed here:

Name: Resident Engineer TBD Alternate contact: Tom Guerrini
Cell Number: _____ Cell Number: _____
Office Number: _____ Office Number: 619-220-7384
28. Authority to Contract. Each individual executing this Permit on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Permit on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Permit is binding upon such person

or entity in accordance with its terms. Each person executing this Permit on behalf of another person or legal entity shall provide CITY with evidence, satisfactory to CITY, that such authority is valid and that such entity is a valid, qualified corporation, limited liability company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California

This permit shall take effect once the Permittee has received a signed copy of this permit.

Please acknowledge your agreement to the foregoing terms and conditions on the enclosed duplicate original and three (3) copies of this Right of Entry Permit and return them, with the Certificate of Insurance and relevant Endorsements, to the Park and Recreation Department, Open Space Division ATTENTION: Steve Haupt, District Manager, 202 C. Street 5th Floor, San Diego CA. 92101

 Date: 8/24/11
Chris Zirkle
Park and Recreation Deputy Director

The above is acknowledged and accepted this 24th day of August, 2011.

By 
Steve Aragon, Chief
Acquisition/Condemnation Branch
Department of Transportation

ENVIRONMENTAL ANALYSIS SECTION ENVIRONMENTAL CLEARANCE:

This activity (Right of Entry Permit for Caltrans to cross City property for purposes of accessing and maintaining Caltrans storm drainage facilities) is Categorically Exempt from CEQA pursuant to State CEQA Guidelines, Section 15301, "Existing Facilities", in accordance with Caltrans' CEQA determination dated February 19, 2009. Approved by Chris Zirkle, Park and Recreation Department, per MOU dated February 5, 2009.

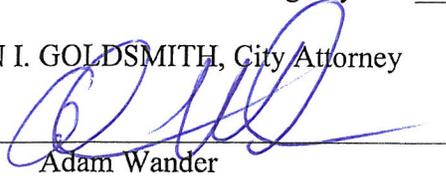
BY: 
Name: Chris Zirkle
Title: Dep Dir

Page 9 of 9
Right of Entry Permit
August 15, 2011

Approved as to form and legality this 24th day of AUGUST, 2011.

JAN I. GOLDSMITH, City Attorney

By



Adam Wander
Deputy City Attorney

KDavics ROE 1-20-09

Attachments: Exhibit A – Map of Permit Area
Exhibit B – Cal Trans CEQA Document
Exhibit C – Proof of Self Insured

cc: Chris Zirkle, Deputy Director Open Space Division
Adam Wander, Deputy City Attorney
Tracey Walker, Senior Park Ranger
Open Space Division File



UNITED STATES MARINE CORPS
MARINE CORPS AIR STATION MIRAMAR
P.O. BOX 452001
SAN DIEGO, CA 92145-2001

34430
Rec'd 2/23/2010

11011
Ser 5RE/0017
January 13, 2010

Ms. Lorna Timog
Right of Way Agent
Department of Transportation
District 11
4050 Taylor Street, MS-310
San Diego, CA. 92110

Dear Ms. Timog:

Thank you for your request of December 2, 2009 in which your agency requests to perform culvert repair work onboard Marine Corps Air Station (MCAS) Miramar. The location of the construction and the access road both lie within the perimeter of the City of San Diego's leased area for the Miramar Landfill. MCAS Miramar has reviewed your request and has no objections, providing the scope of work remains unchanged. You are required to coordinate your schedule and construction plans with the City of San Diego Environmental Services Department to ensure your proposed project does not interfere with landfill operations. Your contact at the City is: Lisa Wood, Senior Environmentalist, 9601 Ridgehaven Court Suite 210, San Diego, CA 92123-1636 and can be reached at (858) 573-1236.

Your proposed project does not involve any extraordinary circumstances and therefore qualifies for a Categorical Exclusion (CATEX) under National Environmental Policy Act (NEPA). Attached for your reference is a copy of the CATEX which lists specific instructions and environmental requirements that must be adhered to and provided to your construction personnel. Should the scope of your project change, you must coordinate those changes with this office prior to any construction to ensure the CATEX remains valid.

Should you have any questions or require further information, please contact me directly at (858) 577-9220.

Sincerely,

A. D. PEREZ
Land Use and Real Estate Division Head
By direction of the Commanding Officer

Enclosure 1: Categorical Exclusion of January 6, 2010

Copy to: Lisa Wood, Senior Environmentalist, City of San Diego



UNITED STATES MARINE CORPS

MARINE CORPS AIR STATION MIRAMAR
P.O. BOX 492001
SAN DIEGO CA 92145-2001

IN REPLY REFER TO:
5090 3036
06 JAN 2010

From: Assistant Environmental Management Officer
To: Land Use/Real Estate Division Officer

Subj: CATEGORICAL EXCLUSION, DECISION MEMORANDUM NEPA REQUEST FOR
CALTRANS CULVERT REPAIRS AT THE MIRAMAR LANDFILL AND STATE ROUTE 52
(ATN 2009-0000109)

Ref: (a) MCO P5090.2A
(b) LU/RE Div Officer ltr 11000 Ser 5RE/0012 of 17 Dec 09

Encl: (1) Project Map

1. In accordance with reference (a) and relevant laws and regulations, we have reviewed the proposed action in reference (b). It has been determined that a Categorical Exclusion (CATEX) is appropriate for purposes of the National Environmental Policy Act (NEPA), and subject to all avoidance measures and environmental requirements in paragraph 4. The project is excluded from further analysis.

2. The proposed project will allow Caltrans temporary access within the City of San Diego lease of Miramar Landfill for culvert repairs. The repair work will include bituminous coating and concrete paving of the culvert invert and sealing of the culvert joints. Equipment to be used for this project includes a concrete truck, a truck-mounted concrete pump for invert paving, a small generator, water pump for dewatering, a temporary fence for stockpiling materials, and concrete saw cutting tools.

3. The project does not involve any of the extraordinary circumstances described in reference (a) and qualifies for CATEX Number (33):

"Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping stations, and facilities; and similar utility and transportation uses."

4. The following is a list of environmental requirements that must be incorporated into the subject project in order to comply with applicable environmental regulations. All project activities must remain in the project map boundary as provided in Enclosure (1).

Subj: CATEGORICAL EXCLUSION, DECISION MEMORANDUM NUMBER REQUEST FOR CALTRANS CULVERT REPAIRS AT THE MIRAMAR LANDFILL AND STATE ROUTE 52 (ATN 2009-0000109)

a. AIR QUALITY:

DUST CONTROL. Ensure mitigation measures are taken during construction and site preparation to control fugitive dust discharge as not to cause injury, detriment, nuisance or annoyance to the public. Reference: San Diego County Air Pollution Control District Rule 51.

CUTBACK AND EMULSIFIED ASPHALTS. The use of cutback and emulsified asphalts as paving materials for parking lots, driveways, and similar structures shall conform to San Diego County Air Pollution District Rule 67.7. Operators of equipment used in this process must obtain permit, if required, from local and/or state regulators.
<http://www.sdapcd.org/rules/rules/Reg4word/R67-7.doc>

PERMIT REQUIREMENT. Any equipment or operation requiring an operating permit from the San Diego County Air Pollution Control District or from any regulatory body will be obtained by the owner/operator of that equipment/operation. Contractors, in consultation with Environmental Management Department, shall be responsible for obtaining and processing required permit for any permitted equipment or operation they install, repair or modify within MCAS Miramar. Acceptance by Environmental Management Department of a valid permit to operate the installed equipment or operation is a condition for final disposition of the contract by the contract agent for the government. Examples of such equipment and operations are, but not limited to, any non-mobile equipment utilizing an internal combustion engine greater than 50 bhp (diesel fueled electrical generators, lighting units, air compressors, etc.), rock crushing operation, and concrete batching operation.

b. SPILL PREVENTION CONTROL AND COUNTERMEASURES (SPCC):

Temporary Sites. Temporary construction/repair/modification/maintenance activities that involve the storage of oils in quantities equal or greater than 55-gal or more are required to implement SPCC requirements as presented in 40 CFR 112 and MCO P5090.2A, Chapter 7. This includes any container used for standby storage, seasonal storage, temporary storage, or not otherwise considered "permanently closed". Additionally, spill containment structures must be provided to prevent spills, leaks and unauthorized discharges.

c. STORM WATER:

Stormwater Pollution Prevention Best Management Practices must be implemented during project activities to minimize pollutant runoff to the storm water conveyance system. Reference: The California Stormwater Quality Association, Storm Water Best Management Practices: <http://www.cabmphandbooks.com/documents/Industrial/IndustrialCommercial.pdf>

Subj: CATEGORICAL EXCLUSION, DECISION MEMORANDUM NEPA REQUEST FOR
CALTRANS CULVERT REPAIRS AT THE MIRAMAR LANDFILL AND STATE ROUTE 52
(ATN 2009-0000109)

d. NATURAL RESOURCES:

The soils on MCAS Miramar are highly erodible and any soil disturbance activities must include Best Management Practices for soil stabilization, sediment control, and wind erosion control during the repair and revegetation of the site(s) post repair. Erosion control devices (e.g., wattles, jute netting, silt fencing, etc.) must be installed with appropriate revegetation efforts (use of native plants that correspond with the surrounding vegetation, invasive species control, revegetation maintenance, etc.). Language in the access agreement should include these soil erosion control necessities.

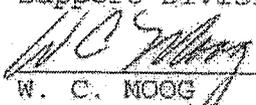
Ensure that project activities do not leave ruts or depressions that could pond water during the winter rainy season and be colonized by vernal pool associated endangered species. Excavations need to be fully backfilled. Grading windrows must be smoothed to prevent ponding/damming up water. Ruts must be decompacted and fully backfilled.

5. This document must be provided to project personnel (e.g., ROICC, contractor, etc.) to facilitate implementation of the environmental measures during the course of the work.

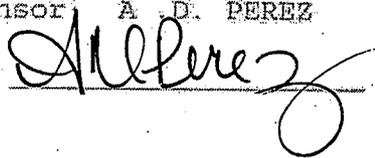
6. You must coordinate any project changes, in advance, (scope of work, project footprint or location, etc.) with our department to ensure that the categorical exclusion and environmental requirements remain valid.

7. Paragraph 12201.3d of reference (a) requires the action sponsor to acknowledge and agree to environmental requirements provided in this letter by signing the decision memorandum. Please sign the decision memorandum in the space provided and return the original to this office prior to initiation of the proposed action or 14 days from the date of this transmittal, whichever comes first.

8. Our point of contact is Ms. Myrna Alzaga, Director, Program Support Division, at 577-6115.


W. C. NOOG
Assistant Environmental Management Officer

Action Sponsor: A. D. PEREZ

Signature: 

Date: 7 Jan 10



UNITED STATES MARINE CORPS

MARINE CORPS AIR STATION MIRAMAR
P.O. BOX 452001
SAN DIEGO CA 92145-2001

IN REPLY REFER TO:
5090 3502
09 AUG 2011

From: Assistant Environmental Management Officer
To: Land Use/Real Estate Division Officer

Subj: CATEGORICAL EXCLUSION, DECISION MEMORANDUM FOR NEPA
REVALIDATION TO PROVIDE CALTRANS TEMPORARY ACCESS FOR
CULVERT REPAIRS (SR-52 & LANDFILL)
(ATN 2011-0000042/ATN 2009-0000109)

Ref: (a) MCO P5090.2A
(b) REO ltr 11011 Ser 5RE/0039 of 27 July 2011

Encl: (1) Project Map

1. In accordance with reference (a) and relevant laws and regulations, we have reviewed the proposed action in reference (b). It has been determined that a Categorical Exclusion (CATEX) is appropriate for purposes of the National Environmental Policy Act (NEPA), and subject to all avoidance measures and environmental requirements in paragraph 4. The project is excluded from further analysis.

2. The proposed project will allow CALTRANS temporary access within the City of San Diego lease of Miramar Landfill to perform culvert repairs. The access area changed to include an additional 1005 square feet as shown in Enclosure (1). Repair work will include bituminous coating and concrete paving of the culvert invert and sealing of the culvert joints. Equipment to be used for this project include concrete trucks and a truck-mounted concrete pump for invert paving, a small generator and water pump for dewatering, a temporary fence for stockpiling materials, and concrete saw cutting tools.

3. The project does not involve any of the extraordinary circumstances described in reference (a) and qualifies for CATEX Number (33):

"Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, stormwater, and irrigation pipelines, pumping

Subj: CATEGORICAL EXCLUSION, DECISION MEMORANDUM FOR NEPA
REVALIDATION TO PROVIDE CALTRANS TEMPORARY ACCESS FOR
CULVERT REPAIRS (SR-52 & LANDFILL)
(ATN 2011-0000042/ATN 2009-0000109)

stations, and facilities; and similar utility and transportation uses.

4. The following is a list of environmental requirements that must be incorporated into the subject project in order to comply with applicable environmental regulations. All project activities must remain in the project map boundary as provided in Enclosure (1).

a. AIR QUALITY:

DUST CONTROL. Ensure mitigation measures are taken during project execution to control fugitive dust discharge as not to cause injury, detriment, nuisance or annoyance to the public. Reference: San Diego County Air Pollution Control District Rules 50, 51 and 55.

PERMIT REQUIREMENT. Any equipment or operation requiring an operating permit from the San Diego County Air Pollution Control District or from any regulatory body will be obtained by the owner/operator of that equipment/operation. Examples of such equipment and operations are, but not limited to, any non-mobile equipment utilizing an internal combustion engine greater than 50 bhp (diesel fueled electrical generators, lighting units, air compressors, etc.), rock crushing operation, and concrete batching operation. The use of off-road diesel vehicles during the execution of this project, such as but not limited to, loaders, crawler tractors, skid steers, backhoes, and forklifts with engines rated at 25 bhp or greater shall comply with California Air Resources Board (CARB) regulations (CCR 13 Section 2449).

CUTBACK AND EMULSIFIED ASPHALTS. The use of cutback and emulsified asphalts as paving materials for parking lots, driveways, and similar structures shall conform to San Diego County Air Pollution District Rule 67.7. Operators of equipment used in this process must obtain permit, if required, from local and/or state regulators.

<http://www.sdapcd.org/rules/rules/Reg4word/R67-7.doc>

b. SPILL PREVENTION CONTROL AND COUNTERMEASURES (SPCC):

TEMPORARY SITES. Temporary construction, repair, modification, and maintenance activities that involve the storage of oils in quantities equal or greater than 55-gal or more are required to implement Spill Prevention Control & Countermeasures (SPCC) requirements as presented in 40 CFR 112, Marine Corps Order (MCO) P5090.2A, Chapter 7, and MCAS Miramar SPCC Plan, December 2010,

Subj: CATEGORICAL EXCLUSION, DECISION MEMORANDUM FOR NEPA
REVALIDATION TO PROVIDE CALTRANS TEMPORARY ACCESS FOR
CULVERT REPAIRS (SR-52 & LANDFILL)
(ATN 2011-0000042/ATN 2009-0000109)

Volume II, Section 7.38. This includes any container used for standby storage, seasonal storage, temporary storage, or not otherwise considered "permanently closed." Additionally, spill containment structures must be provided to prevent spills, leaks and unauthorized discharges. Contact S-7, Environmental Management Department, at (858) 577-1623 with any questions concerning SPCC.

c. STORM WATER:

Storm Water Pollution Prevention Best Management Practices must be implemented during project activities to minimize pollutant runoff to the storm water conveyance system. Reference: The California Storm Water Quality Association, Storm Water Best Management Practices:
<http://www.cabmphandbooks.com/documents/Industrial/IndustrialCommercial.pdf>

d. NATURAL RESOURCES:

The soils on MCAS Miramar are highly erodible and any soil disturbance activities must include Best Management Practices for soil stabilization, sediment control, and wind erosion control during the repair and re-vegetation of the site(s) post repair. Erosion control devices (e.g., wattles, jute netting, silt fencing, etc.) must be installed with appropriate re-vegetation efforts (use of native plants that correspond with the surrounding vegetation, invasive species control, re-vegetation maintenance, etc.). Language in the access agreement should include these soil erosion control necessities.

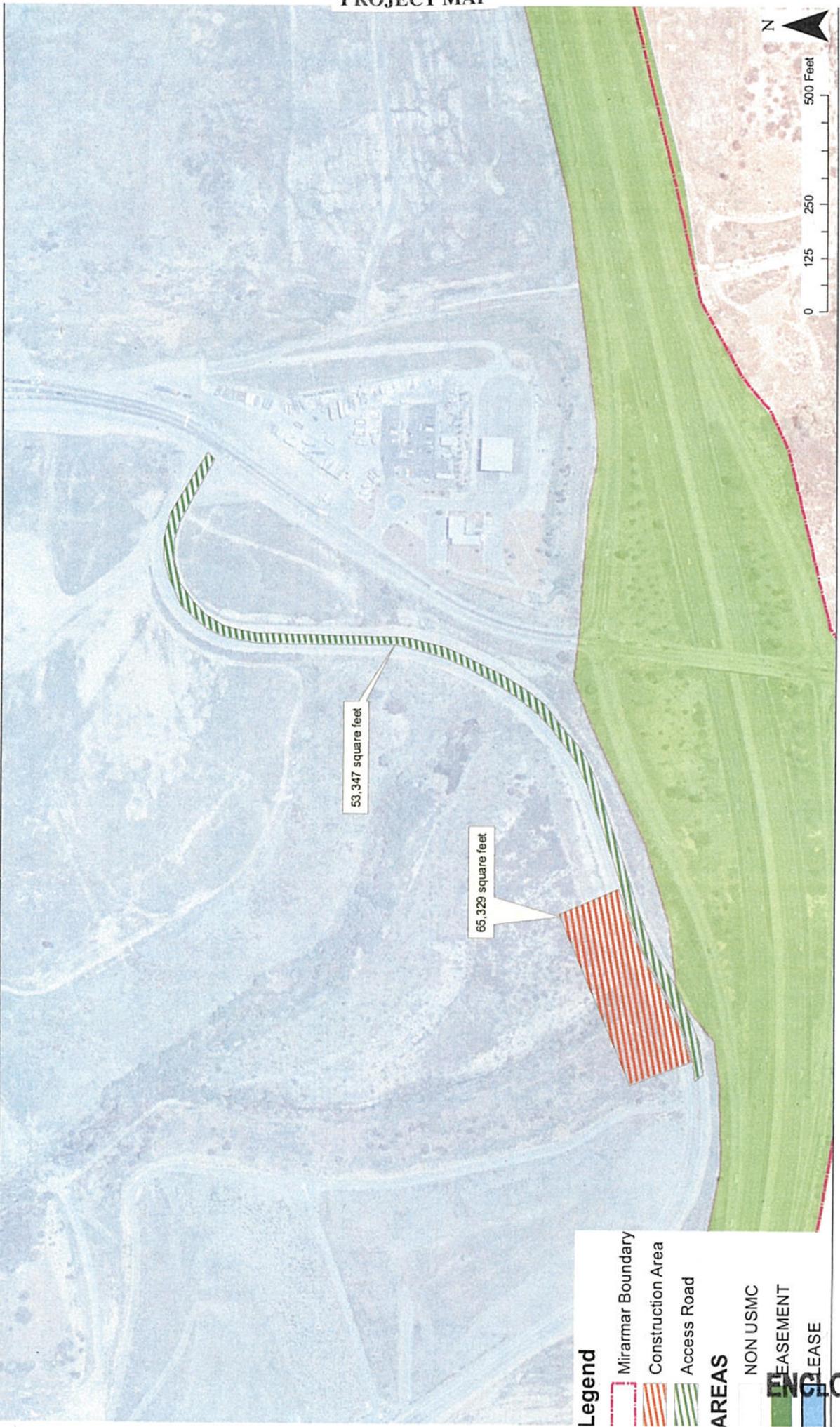
Ensure that project activities do not leave ruts or depressions that could pond water during the winter rainy season and be colonized by vernal pool associated endangered species. Excavations need to be fully backfilled. Grading windrows must be smoothed to prevent water from ponding and damming up. Ruts must be de-compacted and fully backfilled.

e. HAZARDOUS MATERIALS:

The Project Manager shall ensure hazardous materials are properly managed and stored while on-site so not to present health and safety risks or environmental liabilities. The Project Manager shall ensure contractor(s) removes excess hazardous material from the site once work is completed.

f. HAZARDOUS WASTE:

CalTrans Temporary Construction Area - Landfill



- Legend**
- Miramar Boundary
 - Construction Area
 - Access Road
- AREAS**
- NON USMC
 - EASEMENT
 - EASE

San Diego, California

April 30, 2011

DISTRICT	COUNTY	ROUTE	POST MILE	R/W E.A
11	SD	67	14.0	34752

Earl B.A. & Leslie R. Lim

Grantor--

RIGHT OF WAY CONTRACT--STATE HIGHWAY

Document No. 34752 in the form of a Right of Way Contract and Parcel Map, covering the property particularly described therein has been executed and delivered to Rainna Ford Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. The State shall pay the undersigned owner(s) the sum of \$1,000.00 for permission to enter this parcel.
3. Permission is hereby granted to the State or its authorized agent to enter upon owner's land where necessary within that certain area shown outlined on the map marked Exhibit "A" attached hereto and made a part hereof, for the purpose of providing temporary access to State right of way.

The owner shall grant temporary access to the State, or its authorized agent, across the owner's property to perform drainage work within State right of way.

4. The undersigned warrant(s) that they are the owner(s) in fee simple of the property affected by this contract, and that they have the exclusive right to grant this permission as described in Clause 3 above.
5. It is understood, as regards to the temporary access being granted by owner(s), State agrees to indemnify and hold harmless owner(s) from any liability arising out of State's operations on owner's property under this agreement. State further agrees to assume responsibility for any damages proximately caused by reason of State's obligations under this agreement and State will, at its option, either repair or pay for such damage.
6. The drainage work within State right of way shall occur between the period of March 1, 2012 through March 1, 2014.
7. This temporary permission to access shall terminate March 1, 2014 or upon completion of the above described work, whichever occurs first.
8. It is understood and confirmed by the parties hereto that a delay in passage of the State 2011-2012 fiscal year budget may result in a delay of the funding and close of escrow for this transaction.
9. This transaction will be handled through an internal escrow by the State of California, Department of Transportation, District 11, 4050 Taylor Street, San Diego, California 92110.

Earl B A & Leslie R Lim

By *Earl B A Lim*
Earl B A Lim

By *Leslie R Lim*
Leslie R Lim

Grantor(s)

Recommended for Approval:

STATE OF CALIFORNIA **MAY - 4 2011**

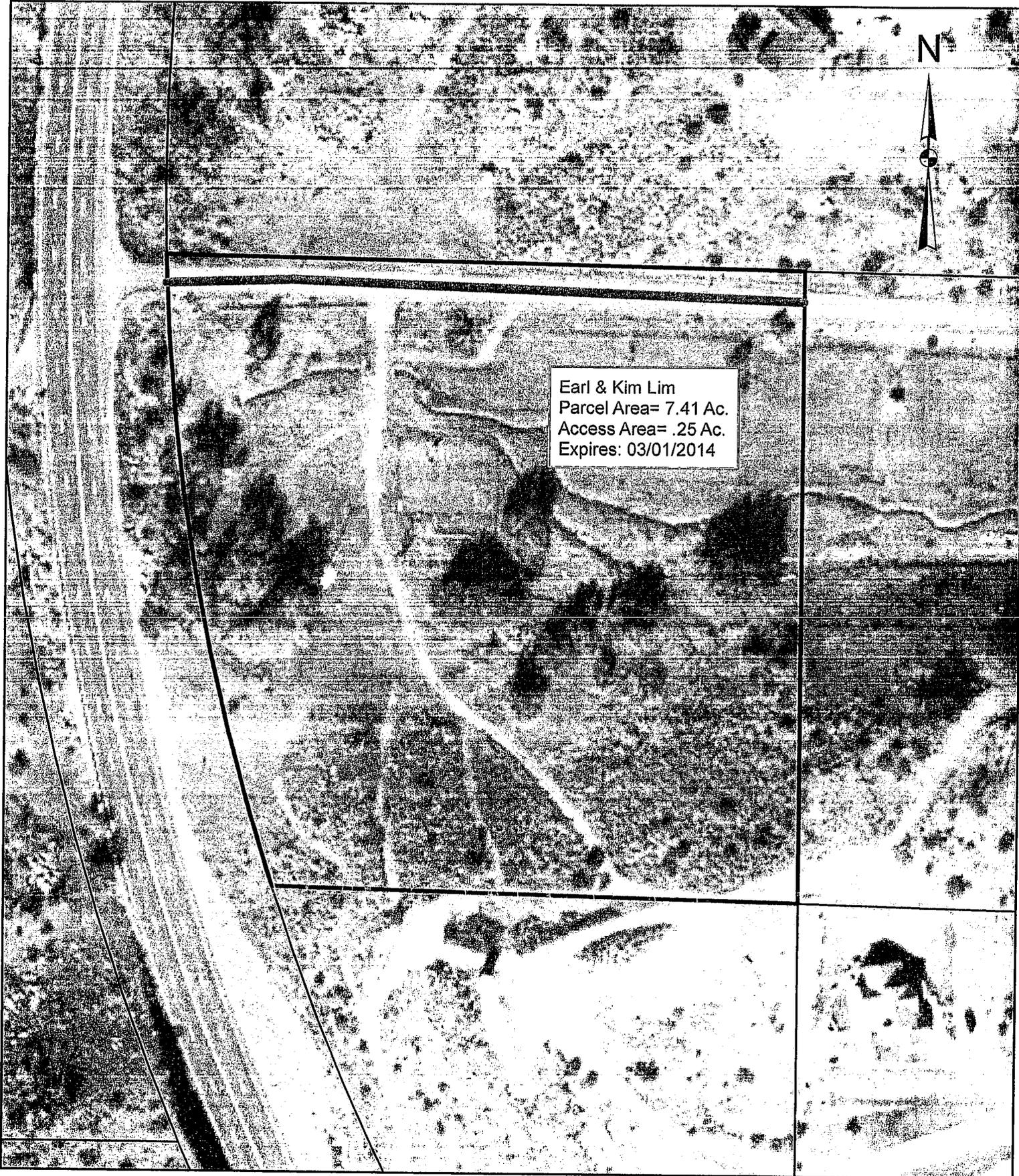
DEPARTMENT OF TRANSPORTATION

By *Rainna Ford*
RAINNA FORD *Right of Way Agent*

By *Steve Aragon*
STEVE ARAGON *Senior Right of Way Agent*

By *Janet Schaffer*
JANET SCHAFFER
Deputy District Director
Right of Way

No Obligation Other Than Those Set forth Herein Will Be Recognized

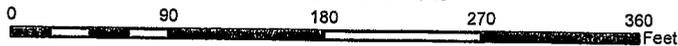


Earl & Kim Lim
Parcel Area= 7.41 Ac.
Access Area= .25 Ac.
Expires: 03/01/2014



Access Alignment

**20 ft. WIDE
TEMPORARY ACCESS AGREEMENT
PARCEL 34752**



OFFICE OF LAND SURVEYS

SR 67 PM 14.0
LOCATION 3



San Diego, California
April 19, 2011

DISTRICT	COUNTY	ROUTE	POST MILE	R/W E.A
11	SD	67	14.0	34753

William R. & Min J. Uzun

Grantor--

RIGHT OF WAY CONTRACT--STATE HIGHWAY

Document No. 34753 in the form of a Right of Way Contract and Parcel Map, covering the property particularly described therein has been executed and delivered to Rainna Ford Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. The State shall pay the undersigned owner(s) the sum of \$1,000.00 for permission to enter this parcel.
3. Permission is hereby granted to the State or its authorized agent to enter upon owner's land where necessary within that certain area shown outlined on the map marked Exhibit "A" attached hereto and made a part hereof, for the purpose of providing temporary access to State right of way.

The owner shall grant temporary access to the State, or its authorized agent, across the owner's property to perform drainage work within State right of way.

4. The undersigned warrant(s) that they are the owner(s) in fee simple of the property affected by this contract, and that they have the exclusive right to grant this permission as described in Clause 3 above.
5. It is understood, as regards to the temporary access being granted by owner(s), State agrees to indemnify and hold harmless owner(s) from any liability arising out of State's operations on owner's property under this agreement. State further agrees to assume responsibility for any damages proximately caused by reason of State's obligations under this agreement and State will, at its option, either repair or pay for such damage.
6. The drainage work within State right of way shall occur between the period of March 1, 2012 through March 1, 2014.
7. This temporary permission to access shall terminate March 1, 2014 or upon completion of the above described work, whichever occurs first.
8. It is understood and confirmed by the parties hereto that a delay in passage of the State 2011-2012 fiscal year budget may result in a delay of the funding and close of escrow for this transaction.
9. This transaction will be handled through an internal escrow by the State of California, Department of Transportation, District 11, 4050 Taylor Street, San Diego, California 92110.

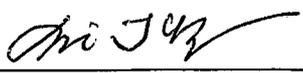
RIGHT OF WAY CONTRACT - STATE HIGHWAY (Cont.)

RW 8-3 (Rev. 6/95)

uzgn

William R. & Min J. Uzgn

By 
William R. Uzgn

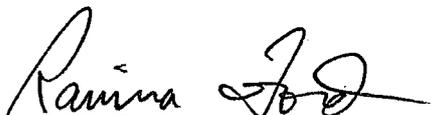
By 
Min J. Uzgn

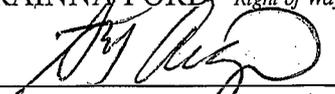
Grantor(s)

Recommended for Approval:

STATE OF CALIFORNIA **MAY - 3 2011**

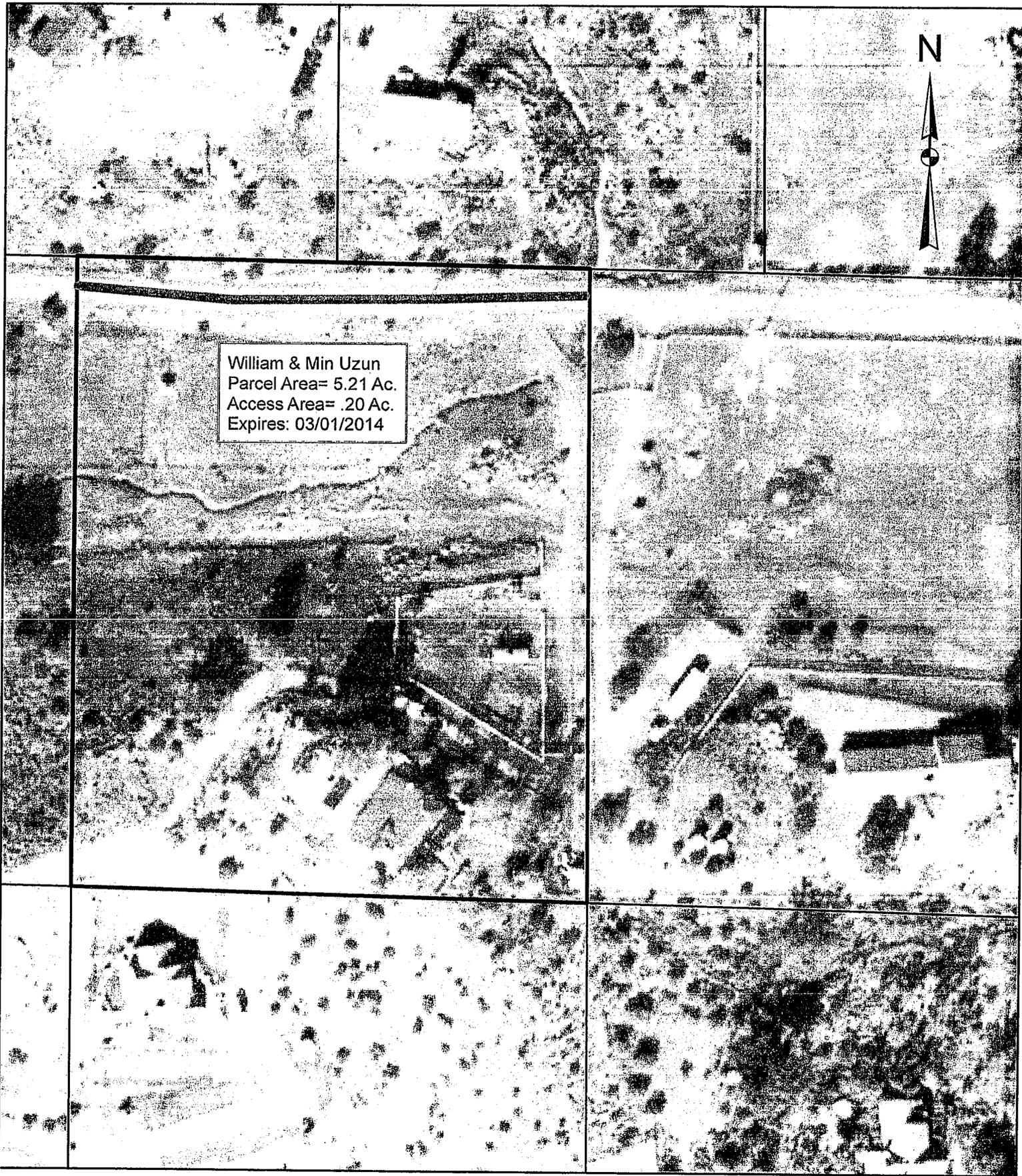
DEPARTMENT OF TRANSPORTATION

By 
RAINNA FORD *Right of Way Agent*

By 
STEVE ARAGON *Senior Right of Way Agent*

By 
JANET SCHAFFER
Deputy District Director
Right of Way

No Obligation Other Than Those Set forth Herein Will Be Recognized



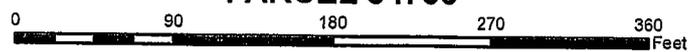
William & Min Uzun
Parcel Area= 5.21 Ac.
Access Area= .20 Ac.
Expires: 03/01/2014

**20 ft. WIDE
TEMPORARY ACCESS AGREEMENT
PARCEL 34753**

SR 67 PM 14.0
LOCATION 3



Access Alignment



OFFICE OF LAND SURVEYS



LAKESIDE, California

APRIL 21, 2011

DISTRICT	COUNTY	ROUTE	POST MILE	R/W E.A
11	SD	67	14.0	270809

Stanley A. & Terry L. Wilke

Grantor--

RIGHT OF WAY CONTRACT--STATE HIGHWAY

Document No. 34754 in the form of a Right of Way Contract and Parcel Map, covering the property particularly described therein has been executed and delivered to Moi Tacazon Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. The State shall pay the undersigned owner(s) the sum of \$1,000.00 for permission to enter this parcel.
3. Permission is hereby granted to the State or its authorized agent to enter upon owner's land where necessary within that certain area shown outlined on the map marked Exhibit "A" attached hereto and made a part hereof, for the purpose of providing temporary access to State right of way.

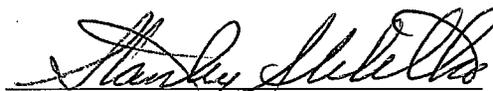
The owner shall grant temporary access to the State, or its authorized agent, across the owner's property to perform drainage work within State right of way.

4. The undersigned warrant(s) that they are the owner(s) in fee simple of the property affected by this contract, and that they have the exclusive right to grant this permission as described in Clause 3 above.
5. It is understood, as regards to the temporary access being granted by the owner(s), State agrees to indemnify and hold harmless owner(s) from any liability arising out of State's operations on owner's property under this agreement. State further agrees to assume responsibility for any damages proximately caused by reason of State's obligations under this agreement and State will, at its option, either repair or pay for such damage.
6. The drainage work within State right of way shall occur between March 1, 2012 through March 1, 2014.

This temporary permission to access shall terminate March 1, 2014 or upon completion of the above-described work, whichever occurs first.

7. It is understood and confirmed by the parties hereto that a delay in passage of the State 2011-2012 fiscal year budget may result in a delay of the funding and close of escrow for this transaction.

This transaction will be handled through an internal escrow by the State of California, Department of Transportation, District 11, 4050 Taylor Street, San Diego, California 92110.



Stanley A. Wilke



Terry L. Wilke

Grantor(s)

Recommended for Approval:

STATE OF CALIFORNIA APR 26 2011

DEPARTMENT OF TRANSPORTATION

By 
MOI TAZON *Right of Way Agent*

By 
STEVE ARAGON *Senior Right of Way Agent*

By 
JANET SCHAFFER
Deputy District Director
Right of Way

No Obligation Other Than Those Set forth Herein Will Be Recognized

EXHIBIT A

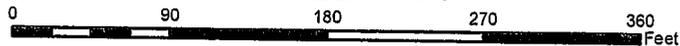


Stanley & Terry Wilke
Parcel Area= 5.03 Ac.
Access Area= .34 Ac.
Expires: 03/01/2014



Access Alignment

**20 ft. WIDE
TEMPORARY ACCESS AGREEMENT
PARCEL 34754**



SR 67 PM 14.0
LOCATION 3



LAKESIDE

, California

MAY 9

, 2011

DISTRICT	COUNTY	ROUTE	POST MILE	R/W E.A
11	SD	67	14.0	270809

Ivo & Romy Cimrmann

Grantor--

RIGHT OF WAY CONTRACT--STATE HIGHWAY

Document No. 34755 in the form of a Right of Way Contract and Parcel Map, covering the property particularly described therein has been executed and delivered to Moi Tacazon Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

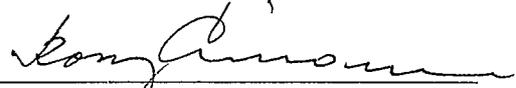
1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. The State shall pay the undersigned owner(s) the sum of \$1,000.00 for permission to enter this parcel.
3. Permission is hereby granted to the State or its authorized agent to enter upon owner's land where necessary within that certain area shown outlined on the map marked Exhibit "A" attached hereto and made a part hereof, for the purpose of providing temporary access to State right of way.

The owner shall grant temporary access to the State, or its authorized agent, across the owner's property to perform drainage work within State right of way.
4. The undersigned warrant(s) that they are the owner(s) in fee simple of the property affected by this contract, and that they have the exclusive right to grant this permission as described in Clause 3 above.
5. It is understood, as regards to the temporary access being granted by the owner(s), State agrees to indemnify and hold harmless owner(s) from any liability arising out of State's operations on owner's property under this agreement. State further agrees to assume responsibility for any damages proximately caused by reason of State's obligations under this agreement and State will, at its option, either repair or pay for such damage.
6. The drainage work within State right of way shall occur between March 1, 2012 through March 1, 2014.

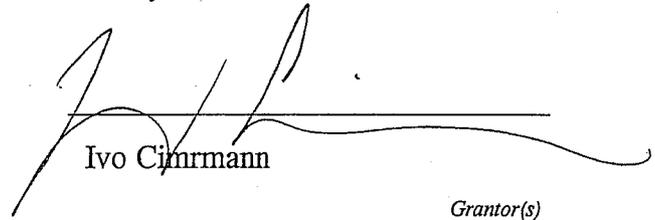
This temporary permission to access shall terminate March 1, 2014 or upon completion of the above-described work, whichever occurs first.

7. It is understood and confirmed by the parties hereto that a delay in passage of the State 2011-2012 fiscal year budget may result in a delay of the funding and close of escrow for this transaction.

This transaction will be handled through an internal escrow by the State of California, Department of Transportation, District 11, 4050 Taylor Street, San Diego, California 92110.



Romy Cimrman



Ivo Cimrman

Grantor(s)

Recommended for Approval:

STATE OF CALIFORNIA

MAY 12 2011

DEPARTMENT OF TRANSPORTATION

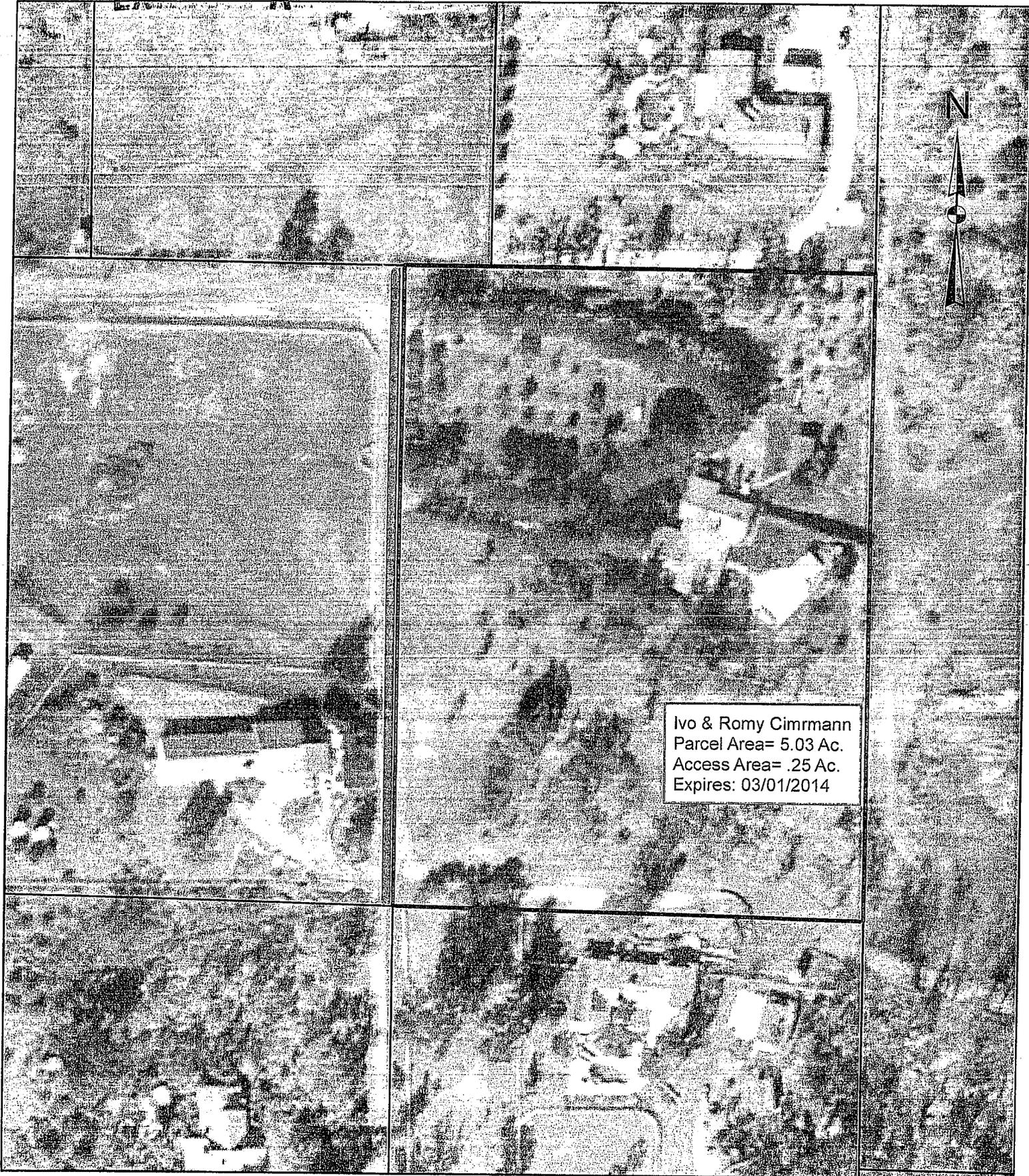
By 
MOI TACAZON *Right of Way Agent*

By 
STEVE ARAGON *Senior Right of Way Agent*

By 
JANET SCHAFFER
Deputy District Director
Right of Way

No Obligation Other Than Those Set forth Herein Will Be Recognized

EXHIBIT "A"

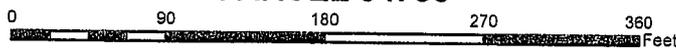


Ivo & Romy Cimrman
 Parcel Area= 5.03 Ac.
 Access Area= .25 Ac.
 Expires: 03/01/2014



Access Alignment

20 ft. WIDE
 TEMPORARY ACCESS AGREEMENT
 PARCEL 34755



OFFICE OF LAND SURVEYS

SR 67 PM 14.0
 LOCATION 3



RIGHT OF WAY CONTRACT - STATE HIGHWAY

RW 8-3 (Rev. 6/95)

Panama City Beach, Florida

June 3, 2011

Ella B. Weast

DISTRICT	COUNTY	ROUTE	POST MILE	R/W E.A
11	SD	67	14.0	270809

*Grantor-***RIGHT OF WAY CONTRACT--STATE HIGHWAY**

Document No. 34437-1 in the form of an Easement Deed covering the property particularly described therein and has been executed and delivered to Leslie Seymour, Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. (A) The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.

- (B) Grantee requires said property described in Document No. 34437-1 for State highway purposes, a public use for which Grantee has the authority to exercise the power of eminent domain. Grantor is compelled to sell, and Grantee is compelled to acquire the property.

Both Grantor and Grantee recognize the expense, time, effort, and risk to both parties in determining the compensation for the property by eminent domain litigation. The compensation set forth herein for the property is in compromise and settlement, in lieu of such litigation.

2. The State shall:

- (A) Pay the undersigned grantor(s) the sum of \$ **3,500.00** for the property or interest conveyed by above document(s) and for Parcel No. 34756 as shown on the attached map marked Exhibit "A".

- (B) Pay all escrow, notary, and recording fees and reconveyance fees and other related expenses incurred in this transaction.

3. The undersigned grantor(s) hereby agree(s) and consent(s) to the dismissal of any eminent domain action in the Superior Court wherein the herein described land is included and also waive(s) any and all claims to any money that may now be on deposit in said action.

This transaction will be handled through an internal escrow by the State of California Department of Transportation, District 11, 4050 Taylor Street, San Diego, California, 92110.

RIGHT OF WAY CONTRACT - STATE HIGHWAY

RW 8-3 (Rev. 6/95)

4. Grantor(s) warrant(s) that there are no oral or written leases on all or any portion of the property exceeding a period of one month, and the grantor(s) further agree(s) to hold the State harmless and reimburse the State for any and all of its losses and expenses occasioned by reason of any lease of said property held by any tenant of grantor(s) for a period exceeding one month.
5. It is understood and agreed between the parties hereto that the amount payable in Clause 2(A) above includes compensation in full for the Permanent Easement and the actual possession and use of the Temporary Access area identified as Parcel No. 34756 on the attached Exhibit "A" marked in red between the period of March 1, 2012 through March 1, 2014.
6. Permission is hereby granted to the State or its authorized agent to enter upon Grantor's land where necessary within that certain area shown in Document No. 34437-1 and that certain area identified as Parcel No. 34756 shown outlined on the attached map marked Exhibit "A" for the purpose of providing temporary access to State right of way to perform drainage work.
7. The undersigned warrant(s) that they are the owner(s) in fee simple of the property affected by this contract described in Clause 6 above, and that they have the exclusive right to grant this permission.
8. It is agreed and confirmed by the parties hereto that notwithstanding other provisions in this contract, the right of possession and use of the subject property by the State including the right to remove and dispose of improvements, shall commence on November 1, 2011 or the close of escrow controlling this transaction, whichever occurs first, and that the amount shown in Clause 2(A) herein includes, but is not limited to, full payment for such possession and use including damages, if any, from said date.
9. In consideration of the State's waiving the defects and imperfections in all matters of record title, the undersigned Grantor covenants and agrees to indemnify and hold the State of California harmless from any and all claims that other parties may make or assert on the title to the premises excluding any claims known to the State of California as of the date of execution of this contract. The Grantor's obligation herein to indemnify the State shall not exceed the amount paid to the Grantor under this contract.
10. Should the property be materially destroyed by fire, earthquake, or other calamity without the fault of either party, this contract may be rescinded by State; in such an event, the State may reappraise the property and make an offer thereon.
11. It is understood and confirmed by the parties hereto that a delay in passage of the State 2011-2012 fiscal year budget may result in a delay of the funding and close of escrow for this transaction.

In Witness Whereof, the parties have executed this agreement the day and year first above written.



ELLA B. WEAST *Grantor*

Recommended for Approval:

By: 

LESLIE SEYMOUR, *Right of Way Agent*

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

JUL - 5 2011

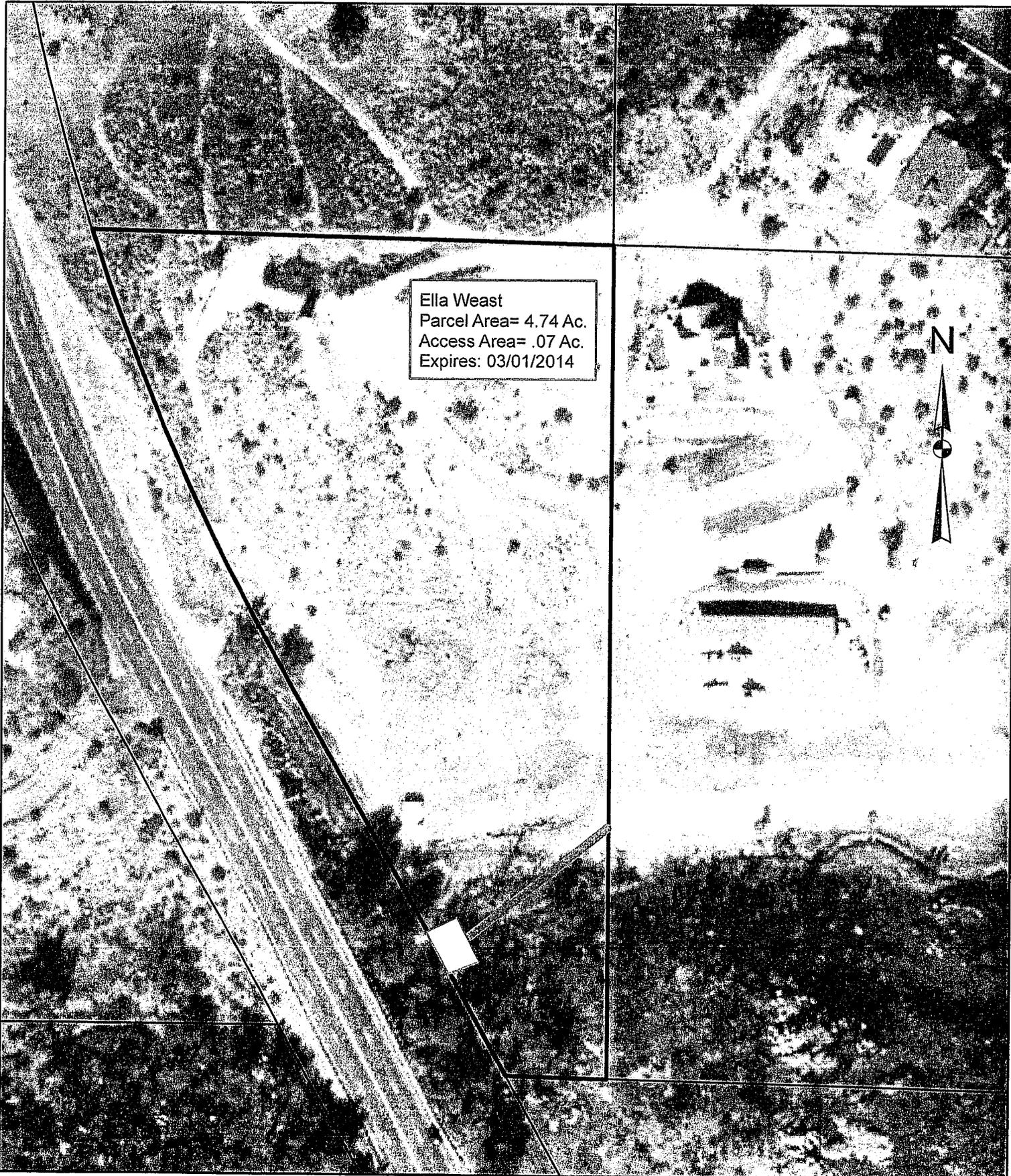
By: 

STEVE ARAGON, *Chief, Acquisition Branch*

By: 

JANET SCHAFFER
*Deputy District Director
Right of Way*

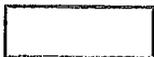
No Obligation Other Than Those Set forth Herein Will Be Recognized



Ella Weast
Parcel Area= 4.74 Ac.
Access Area= .07 Ac.
Expires: 03/01/2014

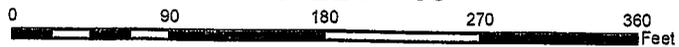


 Access Alignment



Drainage Easement

20 ft. WIDE
TEMPORARY ACCESS AGREEMENT
PARCEL 34756



OFFICE OF LAND SURVEYS

SR 67 PM 14.0
LOCATION 3



RIGHT OF WAY CONTRACT - STATE HIGHWAYRW 8-3 (Rev. 6/95)
R/W 34757

San Diego, California

April 18, 2011

Derek and Diane Leffler Revocable
Trust 04/14/2005*Grantor--*

DISTRICT	COUNTY	ROUTE	KILO POST	E.A	PID
11	SD	67	14.0	270809	11-0000-0248

RIGHT OF WAY CONTRACT--STATE HIGHWAY

Document No. 34757 in the form of a Right of Way Contract and Parcel Map, covering the property particularly described therein has been executed and delivered to Mendi Houx, Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. The State shall pay the undersigned owner(s) the sum of \$1,000.00 for permission to enter this parcel.
3. Permission is hereby granted to the State or its authorized agent to enter upon owner's land where necessary within that certain area shown outlined on the map marked Exhibit "A" attached hereto and made a part hereof, for the purpose of providing temporary access to State right of way.

The owner shall grant temporary access to the State, or its authorized agent, across the owner's property to perform drainage work within State right of way.

4. The undersigned warrant(s) that they are the owner(s) in fee simple of the property affected by this contract, and that they have the exclusive right to grant this permission as described in Clause 3 above.
5. It is understood, as regards to the temporary access being granted by the owner(s), State agrees to indemnify and hold harmless owner(s) from any liability arising out of State's operations on owner's property under this agreement. State further agrees to assume responsibility for any damages proximately caused by reason of State's obligations under this agreement and State will, at its option, either repair or pay for such damage.
6. The drainage work within State right of way shall occur between the period of March 1, 2012 through March 1, 2014.

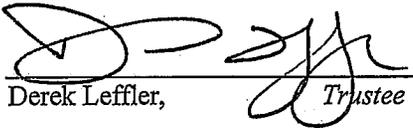
This temporary permission to access shall terminate March 1, 2014 or upon completion of the above-described work, whichever occurs first.

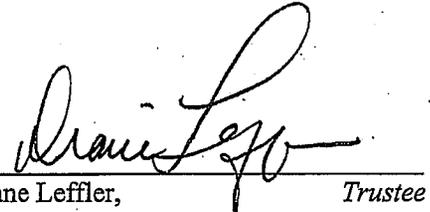
7. It is understood and confirmed by the parties hereto that a delay in passage of the State 2011-2012 fiscal year budget may result in a delay of the funding and close of escrow for this transaction.

This transaction will be handled through an internal escrow by the State of California, Department of Transportation, District 11, 4050 Taylor Street, San Diego, California 92110.

04-18-11 MH

In Witness whereof, the parties have executed this agreement the day and year first above written.

By 
Derek Leffler, *Trustee*

By 
Diane Leffler, *Trustee*

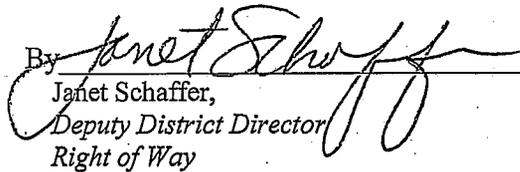
Grantor(s)

RECOMMENDED FOR APPROVAL:

By 
Mendi Houx, *Right of Way Agent*

STATE OF CALIFORNIA
Department of Transportation APR 19 2011

By 
Steve Aragon,
*District Branch Chief
Acquisition Services*

By 
Janet Schaffer,
*Deputy District Director
Right of Way*

No Obligations Other Than Those Set forth Herein Will Be Recognized

San Diego, California
April 22, 2011

DISTRICT	COUNTY	ROUTE	POST MILE	R/W E.A
11	SD	67	14.0	34758

Kiela Harper

Grantor--

RIGHT OF WAY CONTRACT--STATE HIGHWAY

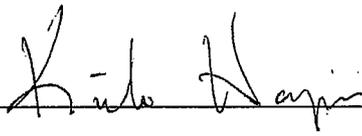
Document No. 34758 in the form of a Right of Way Contract and Parcel Map, covering the property particularly described therein has been executed and delivered to Rainna Ford Right of Way Agent for the State of California.

In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. The State shall pay the undersigned owner(s) the sum of \$1,000.00 for permission to enter this parcel.
3. Permission is hereby granted to the State or its authorized agent to enter upon owner's land where necessary within that certain area shown outlined on the map marked Exhibit "A" attached hereto and made a part hereof, for the purpose of providing temporary access to State right of way.

The owner shall grant temporary access to the State, or its authorized agent, across the owner's property to perform drainage work within State right of way.
4. The undersigned warrant(s) that they are the owner(s) in fee simple of the property affected by this contract, and that they have the exclusive right to grant this permission as described in Clause 3 above.
5. It is understood, as regards to the temporary access being granted by owner(s), State agrees to indemnify and hold harmless owner(s) from any liability arising out of State's operations on owner's property under this agreement. State further agrees to assume responsibility for any damages proximately caused by reason of State's obligations under this agreement and State will, at its option, either repair or pay for such damage.
6. The drainage work within State right of way shall occur between the period of March 1, 2012 through March 1, 2014.
7. This temporary permission to access shall terminate March 1, 2014 or upon completion of the above described work, whichever occurs first.
8. It is understood and confirmed by the parties hereto that a delay in passage of the State 2011-2012 fiscal year budget may result in a delay of the funding and close of escrow for this transaction.
9. This transaction will be handled through an internal escrow by the State of California, Department of Transportation, District 11, 4050 Taylor Street, San Diego, California 92110.

Kiela Harper

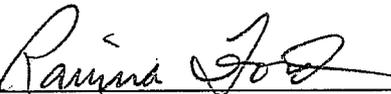
By 
Kiela Harper

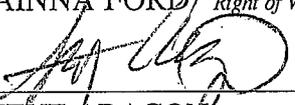
Grantor(s)

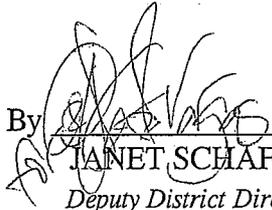
Recommended for Approval:

STATE OF CALIFORNIA MAY - 3 2011

DEPARTMENT OF TRANSPORTATION

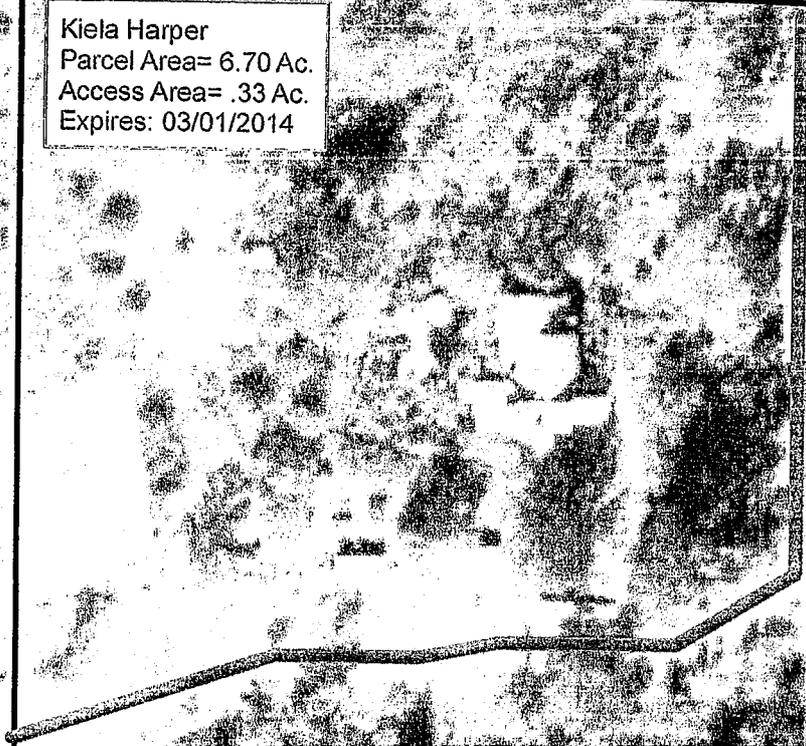
By 
RAINNA FORD *Right of Way Agent*

By 
STEVE ARAGON *Senior Right of Way Agent*

By 
JANET SCHAFFER
*Deputy District Director
Right of Way*

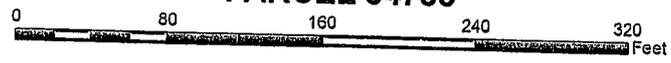
No Obligation Other Than Those Set forth Herein Will Be Recognized

Kiela Harper
Parcel Area= 6.70 Ac.
Access Area= .33 Ac.
Expires: 03/01/2014



 Access Alignment

**20 ft. WIDE
TEMPORARY ACCESS AGREEMENT
PARCEL 34758**



OFFICE OF LAND SURVEYS

SR 67 PM 14.0
LOCATION 3



San Diego, California
April 22, 2011

DISTRICT	COUNTY	ROUTE	POST MILE	R/W E.A
11	SD	67	14.0	34759

Elizabeth A Bodily

Grantor--

RIGHT OF WAY CONTRACT--STATE HIGHWAY

Document No. 34759 in the form of a Right of Way Contract and Parcel Map, covering the property particularly described therein has been executed and delivered to Rainna Ford Right of Way Agent for the State of California.

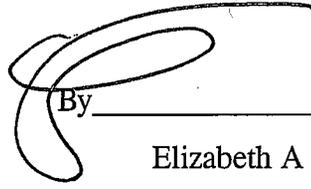
In consideration of which, and the other considerations hereinafter set forth, it is mutually agreed as follows:

1. The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document and shall relieve the State of all further obligation or claims on this account, or on account of the location, grade or construction of the proposed public improvement.
2. The State shall pay the undersigned owner(s) the sum of \$1,000.00 for permission to enter this parcel.
3. Permission is hereby granted to the State or its authorized agent to enter upon owner's land where necessary within that certain area shown outlined on the map marked Exhibit "A" attached hereto and made a part hereof, for the purpose of providing temporary access to State right of way.

The owner shall grant temporary access to the State, or its authorized agent, across the owner's property to perform drainage work within State right of way.

4. The undersigned warrant(s) that they are the owner(s) in fee simple of the property affected by this contract, and that they have the exclusive right to grant this permission as described in Clause 3 above.
5. It is understood, as regards to the temporary access being granted by owner(s), State agrees to indemnify and hold harmless owner(s) from any liability arising out of State's operations on owner's property under this agreement. State further agrees to assume responsibility for any damages proximately caused by reason of State's obligations under this agreement and State will, at its option, either repair or pay for such damage.
6. The drainage work within State right of way shall occur between the period of March 1, 2012 through March 1, 2014.
7. This temporary permission to access shall terminate March 1, 2014 or upon completion of the above described work, whichever occurs first.
8. It is understood and confirmed by the parties hereto that a delay in passage of the State 2011-2012 fiscal year budget may result in a delay of the funding and close of escrow for this transaction.
9. This transaction will be handled through an internal escrow by the State of California, Department of Transportation, District 11, 4050 Taylor Street, San Diego, California 92110.

Elizabeth A Bodily



By _____

Elizabeth A Bodily

Grantor(s)

Recommended for Approval:

STATE OF CALIFORNIA **MAY - 4 2011**

DEPARTMENT OF TRANSPORTATION

By  _____
RAINNA FORD *Right of Way Agent*

By  _____
STEVE ARAGON *Senior Right of Way Agent*

By  _____
JANET SCHAFFER
*Deputy District Director
Right of Way*

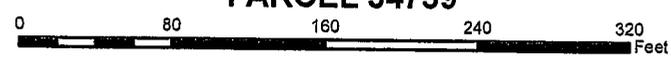
No Obligation Other Than Those Set forth Herein Will Be Recognized



Elizabeth Bodily
Parcel Area= 6.70 Ac.
Access Area= .14 Ac.
Expires: 03/01/2014


Access Alignment

20 ft. WIDE
TEMPORARY ACCESS AGREEMENT
PARCEL 34759



SR 67 PM 14.0
LOCATION 3





UNITED STATES MARINE CORPS
ASSISTANT CHIEF OF STAFF FACILITIES
MARINE CORPS BASE
BOX 555013
CAMP PENDLETON, CALIFORNIA 92055-5013

IN REPLY REFER TO:
11011
FAC/AB

NOV 23 2011

Department of Transportation
Attn: Mendi Houx
4050 Taylor Street, M.S. 120\
San Diego, California 92110

Ms. Houx:

SUBJECT: REQUEST FOR TEMPORARY ACCESS FOR CULVERT REPAIRS

This is in response to your letter, dated July 11, 2011, requesting permission for temporary access aboard Marine Corps Base, Camp Pendleton for culvert repair work.

Your request has been reviewed and approved by the Base under the conditions set forth by the Categorical Exclusion, National Environmental Policy Act (NEPA) PE20070076R (enclosure (1)).

Prior to the commencement of the work, your representatives are required to schedule all planned activities with Range Scheduling Office, Mr. Greg Labranche, at (760) 725-0362, at least seven working days in advance.

In order to prevent any damage to pipelines and/or wires buried in the vicinity, you are requested to contact the Base Locator, at (760) 725-4335/4813; Base Communications, at (760) 725-2100 and Underground Service Alert of Southern California, at (800) 227-2600.

If you have any questions, please contact Ms. Agnula Burdan, Real Estate Specialist, at (760) 725-5010.

Sincerely,

A handwritten signature in black ink, appearing to read "D. L. John", is written over the typed name.

D. L. JOHN
Facilities Manager
Assistant Chief of Staff, Facilities
By direction of
the Commanding Officer

Encl: (1) Categorical Exclusion, NEPA PE20070076R



UNITED STATES MARINE CORPS
MARINE CORPS BASE
BOX 559010
CAMP PENDLETON, CALIFORNIA 92055-5010

IN REPLY REFER TO
5090.CA
ENVEEC/512

10-Nov-11

From: Commanding Officer
To: Assistant Chief of Staff, Facilities, Marine Corps Base,
Camp Pendleton (Public Works Officer)

Subj: DECISION MEMORANDUM, CATEGORICAL EXCLUSION; REVISION,
CALTRANS CULVERT REPAIR, CALTRANSCULVERT, (NEPA
PE20070076R)

Ref: (a) REAL ESTATE OFFICE REIR of 28-Sep-11
(b) MCO P5090.2A
(c) 32 CFR 775.6(f)
(d) ORIGINAL Decision Memorandum (DM) (NEPA 070076)

Encl: (1) REIR
(2) Site Maps
(3) Applicable Conditions
(4) USFWS Informal Section 7 Consultation
FWS-SDG-08B0398-08I0782
(5) CALTRANS Weed and Erosion Control Measures
(6) Seed Planting Palette and Guidance

1. In response to reference (a), this document satisfies the National Environmental Policy Act (NEPA) review requirement under reference (b) and qualifies as a categorical exclusion in compliance with 32 CFR 775.6(f) (8), reference (c), which states:

(8) Routine repair and maintenance of buildings, facilities, vessels, aircraft, and equipment associated with existing operations and activities (e.g., localized pest management activities, minor erosion control measures, painting, refitting).

2. This Decision Memorandum is a renewal of the original DM, reference (d). The project proponent concurs that the scope of the project, enclosure (1), remains the same as in the original DM. The project is being revised due to the project not starting within one year of the original DM. This project proposes for the California Department of Transportation (CALTRANS) to repair and replace the rock slope protection and earth grading that have eroded from the front and back of a culvert headwall on the west side of Route 5 at Post Mile 62.6; see enclosure (1) and enclosure (2).

3. The Action Proponent or their designated representative must notify the AC/S, Environmental Security (ES) NEPA Branch by e-mail notification from the project page in the PAMS Web System a minimum of two weeks prior to the start of actual ground-disturbing activities.

4. This categorical exclusion shall become void and further

Encl (1)

Subj: DECISION MEMORANDUM, CATEGORICAL EXCLUSION; CALTRANS
CULVERT REPAIR, CALTRANSCULVERT, (NEPA PE20070076R)

environmental review will be required to determine appropriate
National Environmental Policy Act documentation if:

a. The subject action is not awarded or executed within one year
of the date of this document (ground-breaking, demolition, other
physical activity); or

b. The scope of the action changes from the description provided
in the submittal; or

c. All conditions of this document are not complied with.

Approved

/s/ G. SEAMAN
by direction

Subj: DECISION MEMORANDUM, CATEGORICAL EXCLUSION; CALTRANS
CULVERT REPAIR, CALTRANSCULVERT, (NEPA PE20070076R)

ENCLOSURE (1) REIR

Request for Environmental Impact Review

Project Title: CALTRANS CULVERT REPAIR
Project ID: CALTRANSCULVERT
Start By Date: 31-Aug-11
End By Date: 30-Jun-13
Duration (days):
Activity Sponsor (Unit/Command): REAL ESTATE OFFICE
Activity Sponsor POC: AGNULA BURDAN
Phone/Fax: 725-5010
Fund Source:
Funds Expire On:
Project Required To:
Action Will Be Performed By:
Project will result in permanent site improvement?: No
**New or Modified Real Estate License Will Be Issued By
Base?:** N/A

Descriptive Information

Purpose and Need of Action: THIS IS A RENEWAL CX - ORIGINAL
NOT AVAILABLE, BUT THE ATTACHED LAND MGMT REVIEW WITH THE NEPA
NUMBER IS PART OF THE CX REQUIREMENTS. CALTRANS HAS DONE PART
OF THE WORK, BUT RUN OUT OF FUNDS. THE FUNDS ARE AVAILABLE THIS
FISCAL YR AND NEED TO BE SPENT. PLS CONSIDER THIS RENEWAL AS A
PRIORITY TO HELP CALTRANS USE THE AVAILABLE FUNDS. PLS SEE
ATTACHMENTS

Scope of Preferred Alternative:

Identify Other Alternatives Considered:

Preferred and Alternative Sites

Preferred Site Description:

Installation Required Information

The project or action will:

- a. potentially affect the human environment, involve unique or unknown risks, or be scientifically controversial?:
- b. set a precedent, have significant future effects?:
- c. result in change to traffic flow patterns on- or off-base?:
- d. increase demand on local or state governments for support services?:
- e. cause an increase or decrease in the on- or off-site base population?:
- f. require construction of government facilities and/or private housing?:

The project is within 500 feet of:

- a. wetland area, water body or the 100-year floodplain?:
- b. threatened or endangered species?:
- c. habitat of threatened or endangered species?:
- d. an archeological site?:
- e. culturally or historically significant sites/buildings?:

The project will:

- a. introduce increased air emissions (e.g. new equipment or increase in operational hours)?:
- b. introduce new, relocated or increased hazardous material use or hazardous waste?:
- c. result in new or increased vehicle fuelign or maintenance?:
- d. introduce new or increased aircraft flight operations?:
- e. occur within the 'coastal zone' (within one mile of the coast)?:
- f. involve groundwater dewatering operations?:

The project is within:

- a. 1500 feet of an installation restoration (IR) site?:
- b. 1500 feet of an underground storage tank (UST) site?:
- d. 500 feet of a potable or non-potable well?:
- d. 500 feet of a hazardous waste or material storage site?:

Subj: DECISION MEMORANDUM, CATEGORICAL EXCLUSION; CALTRANS
CULVERT REPAIR, CALTRANSCULVERT, (NEPA PE20070076R)

The project will require:

- a. digging or grading?:
- b. clearing or grubbing of existing vegetation?:
- c. use of pesticides, herbicides, fungicides, rodenticide during/to maintain the installation?:
- d. new or enlarged firebreaks (mowed, disked, or graded)?:

The project will:

- a. increase water demand?:
- b. introduce new or increased sewage or solid waste?:
- c. result in increased gas demand?:
- d. result in increased electrical demand?:

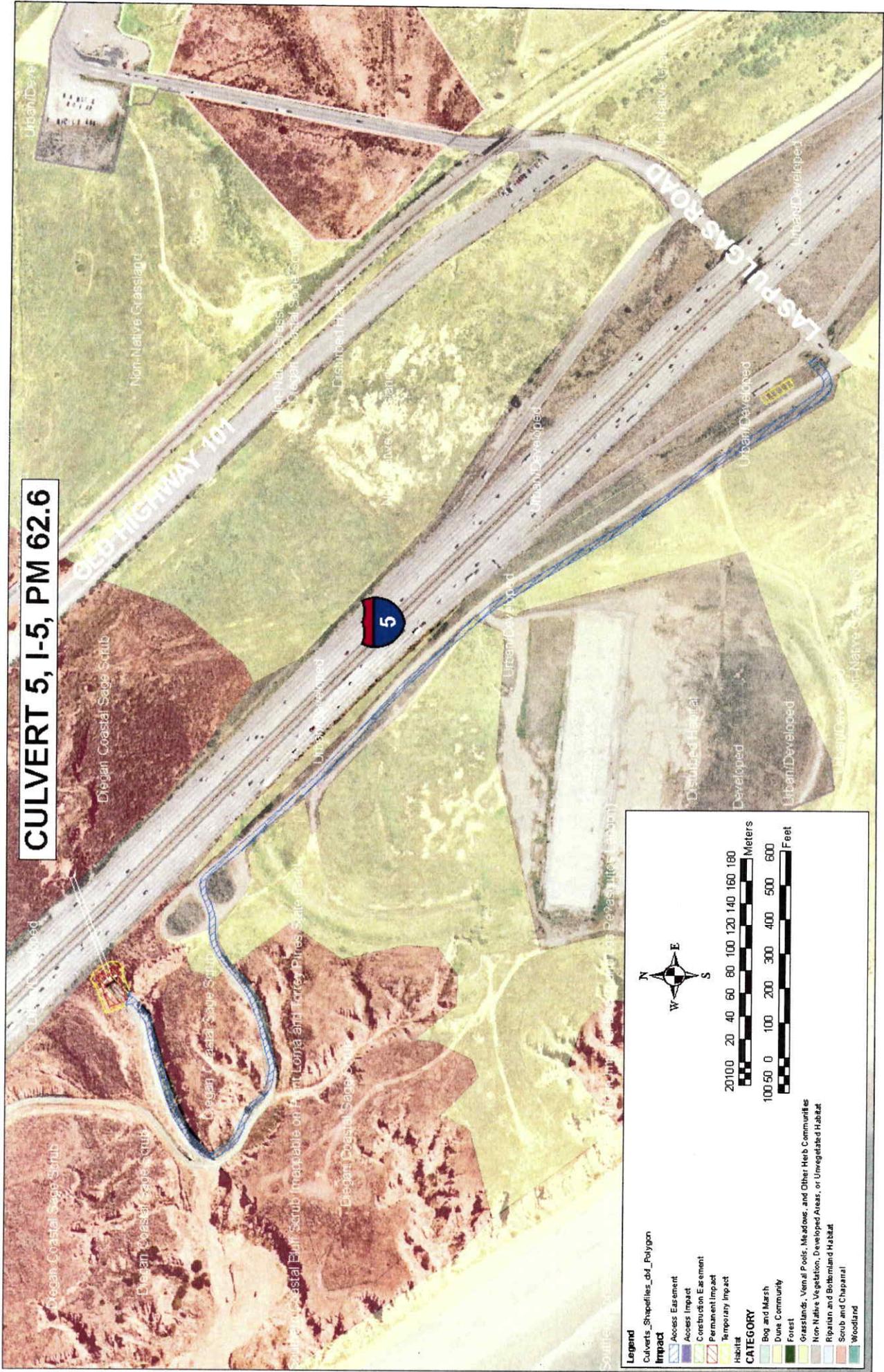
Explanation of 'Yes' responses:

Action Sponsor: AGNULA BURDAN

Rank: GS11

Title: REAL ESTATE SPECIALIST

CULVERT 5, I-5, PM 62.6



Legend

Culverts_Shapefiles_cul_Polygon

Impact

- Access Easement
- Access Impact
- Construction Easement
- Permanent Impact
- Temporary Impact

Habitat

- Bog and Marsh
- Dune Community
- Forest
- Grasslands, Wetland Pools, Meadows, and Other Herb Communities
- Non-Native Vegetation, Developed Areas, or Unvegetated Habitat
- Riparian and Bolsheland Habitat
- Scrub and Chaparral
- Woodland

Scale

Meters: 0 100 200 300 400 500 600 1000

Feet: 0 100 200 300 400 500 600 1000

North Arrow

N
W E
S

ENCLOSURE (3) APPLICABLE CONDITIONS

a. SITE ACCESS/RESTRICTIONS

(1) The project work areas are limited to the sites specified in enclosure (1) and enclosure (2). Parking, driving, and project staging of equipment and vehicles (i.e., lay down) are limited to previously compacted and developed areas.

(2) Access to the project site shall utilize existing Base roads. Projects that are being implemented in off-road areas will need four-wheel drive capability or Base Range Control will not allow entrance to the project site. Access to the project site shall not drive over any woody riparian vegetation. General entry and exit points for construction areas shall be marked with traffic cones or flagging to avoid disturbance to additional vegetation.

(3) Vehicle Restrictions. No off-road traveling is permitted outside of the project boundary in rare plant or other environmentally sensitive areas (e.g., riparian habitat, federally protected species habitat, and vernal pool areas) in compliance with MCBCP Range and Training Regulations BO 3500.1N, 2002.1.g, 2006, and 2007. Off-road vehicle operations within the project boundary shall be conducted in such a manner as to minimize the impact on the existing vegetation, wildlife, and terrain.

(4) All equipment and/or vehicles must be power-washed before entering Camp Pendleton property and the project site. This is to control the spread of invasive (non-native) weeds. These measures are in support of Marine Corps Order P5090.2A, 11200.7, which requires installations to restrict the introduction of exotic species into natural ecosystems.

b. WILDLIFE MANAGEMENT. The California Department of Transportation (CALTRANS) shall adhere to all conservation measures named in their United States Fish and Wildlife Service (USFWS) Informal Section 7 Consultation; enclosure (4). If CALTRANS should like to change the conditions of the consultation, then CALTRANS must reinitiate consultation with the USFWS and notify the AC/S, Environmental Security (ES) NEPA Branch at (760) 763-2059.

c. LAND MANAGEMENT

(1) Fire Prevention. Wildfires will be prevented by exercising care when driving and by not parking vehicles in grass where catalytic converters can ignite it. In times of high fire hazard, trucks will need to carry water and shovels or fire extinguishers in the field. No smoking or disposal of cigarette butts will take place within vegetated areas.

Subj: DECISION MEMORANDUM, CATEGORICAL EXCLUSION; CALTRANS
CULVERT REPAIR, CALTRANSCULVERT, (NEPA PE20070076R)

(2) Clean Water Act

(a) No dumping or fill shall be placed in/near any Clean Water Act (CWA) Section 404 Water of the U.S. except as authorized by a permit from the U.S. Army Corps of Engineers (USACE) in support of the CWA (33) U.S.C. §§ 1251 - 1387 section 404, the Soil and Water Conservation Act (16) U.S.C. §§ 2001 - 2009, and MCO P5090.2A, 11201.3.

(b) The AC/S, ES Land Management Branch (LMB), (760) 763-8537, requests that CALTRANS supply AC/S, ES LMB the following permitting information upon completion:

1. The 404 Authorization Letter from the USACE for the Nationwide Permit (NWP) 3/33.
2. Confirmation that the Regional Water Quality Control Board (RWQCB) application is complete.
3. California Coastal Commission (CCC) final written concurrence.
4. Information on the off-site mitigation site that CALTRANS will utilize.
5. When the project is complete and all mitigation has been completed, a copy of the signed 404 Certification of Compliance.

(3) CALTRANS weed and erosion control measures, enclosure (5), shall be implemented. CALTRANS shall use the enclosed planting palette of native seeds to use for bank, slope, and soil stabilization; see enclosure (6).

d. CULTURAL RESOURCES. In the event that archaeological materials (e.g., shell, wood, bone, or stone artifacts) are found or suspected during project operations or the project footprint is altered, work must be halted in the area of discovery and the AC/S, ES Cultural Resources Management Branch notified at (760) 725-9738, as soon as practicable, but no longer than 24 hours after the discovery. Project work at the discovery site shall not proceed until the Base Archaeologist has the opportunity to evaluate the find and gives permission to resume construction activities.

e. STORM WATER/EROSION CONTROL

(1) Herbicide/pesticide application shall be in accordance with Federal Insecticide, Fungicide, and Rodenticide (FIFRA) labels. Applicators shall be properly trained and certified. Limit applications to only base-approved herbicides/pesticides and avoid excessive use and spraying prior to storm events. Records of herbicide/pesticide use shall be submitted to and/or maintained by

Subj: DECISION MEMORANDUM, CATEGORICAL EXCLUSION; CALTRANS
CULVERT REPAIR, CALTRANSCULVERT, (NEPA PE20070076R)

AC/S Facilities, (760) 763-5941. Note that the US Environmental Protection Agency is currently developing a new permit to cover herbicide/pesticide applications near water bodies. The proposed action may be subject to the new permit upon adoption.

(2) Storm Water Best Management Practices (BMPs), as described below, shall be implemented where applicable to reduce or prevent pollutants from entering the storm drain system or surface waters, including seasonally dry water bodies. These efforts are in support of the Clean Water Act, Executive Order 11988: Flood Plain Management, and Executive Order 11990: Protection of Wetlands.

(a) Silt fencing will be installed around the site perimeter. Slopes will be protected with straw wattles or geotextile fabric. Whenever possible, grading will be phased to limit soil exposure. Finished areas will be revegetated or hydroseeded as soon as possible. Sediment basins will be constructed where appropriate and shall include gravel bags, straw wattles, filter fabric, etc. to filter discharge where necessary. Drain inlets will be protected using gravel bags or straw wattles. Check dams will be used to reduce runoff velocities where necessary.

(b) Stockpiles will be covered with plastic or geotextile fabric and/or surrounded with straw wattles or gravel bags. Scrap metal, containers of liquids, fertilizer and/or cement bags and other materials that impact storm water runoff will be stored in lockers, on pallets, inside rubber berms, indoors, or under a cover. Material storage areas will be located away from existing storm drains and surface waters.

f. AIR QUALITY

(1) All equipment use and activities proposed as part of this action shall be in compliance with all federal, state, and local air regulations. This includes, but is not limited to, SDAPCD permitting requirements, airborne toxic control measures (ATCM) requirements for fleet equipment, and anti-idling requirements for diesel vehicles.

(2) Stockpiles shall be covered with tarps during proposed action to minimize fugitive dust emissions from crossing project site boundary and shall be removed upon completion.

10-1. __ EROSION CONTROL (POLYMER STABILIZED FIBER MATRIX)

GENERAL

Summary

This work includes applying erosion control (polymer stabilized fiber matrix).

Comply with Section 20-3, "Erosion Control," of the Standard Specifications.

When notified by the Engineer that an area is ready to receive erosion control materials, start erosion control (Polymer Stabilizer Fiber Matrix) work within 5 business days of the Engineer's notification to perform the work.

The Engineer designates the ground location of erosion control areas in increments of one acre or smaller by directing the placing of stakes or other suitable markers. Furnish tools, labor, materials, and transportation required to adequately indicate the various locations.

Submittals

At least 5 business days before applying erosion control materials, submit:

1. Material Safety Data Sheet for the tackifier.
2. Product label describing the tackifier as an erosion control product.
3. List of pollutant indicators and potential pollutants for erosion control materials. Pollutant indicators are described under "Sampling and Analysis Plan for Non-Visible Pollutants," in the Preparation Manual.
4. Determination of acute and chronic toxicity for aquatic organisms conforming to EPA methods for the tackifier.
5. Composition of ingredients including chemical formulation, percent of pure polyacrylamide (PAM) present by weight, the percent activity, the average molecular weight, and the charge density of the PAM.

Submit a Certificate of Compliance as specified in Section 6-1.07, "Certificates of Compliance" of the Standard Specifications for:

1. Tackifier
2. Fiber

Quality Control and Assurance

Retain and submit records of erosion control materials applications including:

1. Compliance with specified rates
2. Application area
3. Application time
4. Quantity

MATERIALS

Seed

Seed not required to be labeled under the California Food and Agricultural Code must be tested for purity and germination by a seed laboratory certified by the Association of Official Seed Analysts or by a seed technologist certified by the Society of Commercial Seed Technologists.

Seed must not contain more than 1.0 percent total weed seed by weight.

Seed must be free of the following specific weed species: Brassica nigra (Black Mustard), Mellilotus indica (Indian Sweetclover), and Erodium botrys (Filaree).

Deliver seed to the job site in unopened separate containers with the seed tags attached. A container without a seed tag attached is not accepted. The Engineer takes a sample of approximately 1 ounce or 0.25 cup of seed for each seed lot greater than 2 pounds.

Seed must comply with the following:

Seed		
Botanical Name (Common Name)	Percent Germination (Minimum)	Pounds Pure Live Seed Per Acre (Slope Measurement)
Artemisia californica ¹ (California Sagebrush)	50	1.5
Baccharis pilularis ssp. Pilularis ¹ (Coyote Bush)	30	3
Eriogonum fasciculatum ¹ (California Buckwheat)	35	3
Lotus scoparius ¹ (Deerweed)	35	6
Nasella pulchra ¹ (Purple Needlegrass)	70	8
Nasella cernua ¹ (Nodding Needlegrass)	50	3
Nasella lepida ¹ (Foothills Needlegrass)	50	2.5
Total		27

Notes

¹Seed produced in California only.

Seed Sampling Supplies

At the time of seed sampling, furnish a glassine lined bag and custody seal tag for each seed lot sample.

Tackifier

Tackifier must be:

1. Classified as PAM and copolymer of acrylamide
2. Nonflammable
3. Nontoxic to aquatic organisms
4. Free from growth or germination inhibiting factors
5. Liquid formulation having PAM as the primary active ingredient
6. Linear, anionic copolymer of acrylamide and sodium acrylate
7. Anionic with a residual monomer content that is at most 0.05 percent by weight
8. Functional for at least 180 days
9. Prepackaged product labeled as one of the following:
 - 9.1 Formulated as a water-in-oil emulsion containing at least 2.6 pounds pure PAM per gallon. Pure PAM must be at least 30 percent active.
 - 9.2 Formulated as a liquid dispersed polyacrylamide (LDP) containing at least 4.4 pounds pure PAM per gallon. Pure PAM must be at least 35 percent active.

Fiber

Fiber must be wood fiber, cellulose fiber, alternate fiber, or combination of these fibers as specified. Fiber must be:

1. Free from lead paint, printing ink, varnish, petroleum products, seed germination inhibitors, or chlorine bleach.
2. Free from synthetic or plastic materials.
3. At most 7 percent ash.

Wood fiber must be:

1. Long strand, whole wood fibers, thermo-mechanically processed from clean, whole wood chips.
2. Not made from sawdust, cardboard, paper, or paper byproducts.
3. At least 25 percent of fibers 3/8 inch long.
4. At least 40 percent held on a No. 25 sieve.

Cellulose fiber must be:

1. Made from natural or recycled pulp fiber, such as wood chips, sawdust, newsprint, chipboard, corrugated cardboard, or a combination of these materials.

Alternate fiber must be:

1. Long strand, whole natural fibers made from clean straw, cotton, corn, or other natural feed stock
2. At least 25 percent of fibers 3/8 inch long
3. At least 40 percent held on a No. 25 sieve

Fiber coloring agent must be a biodegradable nontoxic coloring agent free from copper, mercury, and arsenic.

CONSTRUCTION

Application

Measure and mix individual seed species in the presence of the Engineer.

Dilute erosion control materials with water to spread the mulch evenly.

Use hydroseeding equipment to apply erosion control materials.

Apply erosion control materials:

1. In the proportions indicated in the table below. Successive applications or passes may be needed to achieve the required proportion rate:

Material	Application Rate
Seed	27 lbs/acre
Wood Fiber	1200 lbs/acre
Cellulose Fiber	800 lbs/ acre
Tackifier	10 gal/acre

2. To form a continuous mat with no gaps between the mat and the soil surface.
3. From 2 or more directions to achieve a continuous mat.
4. In layers to avoid slumping and to aid drying.
5. During dry weather or at least 24 hours before predicted rain.

Do not apply hydraulic mulch if:

1. Water is standing on or moving across the soil surface
2. Soil is frozen
3. Air temperature is below 40 °F during the tackifier curing period unless allowed by the tackifier manufacturer and the approved by the Engineer

Do not over-spray erosion control materials onto the traveled way, sidewalks, lined drainage channels, or existing vegetation.

MEASUREMENT AND PAYMENT

Erosion control (polymer stabilized fiber matrix) will be measured by the square foot or by the acre, whichever is designated in the Engineer's Estimate. The area will be calculated on the basis of actual or computed slope measurements.

The contract price paid per square foot or by the acre, for erosion control (polymer stabilized fiber matrix) includes full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all the work involved in erosion control (polymer stabilized fiber matrix), complete in place, as shown on the plans, as specified in the Standard Specifications and these special provisions, and as directed by the Engineer.

10-1. PLANT ESTABLISHMENT WORK

The plant establishment period shall be Type 2 and shall not be less than 250 working days.

After placement of erosion control (polymer stabilized fiber matrix), plant establishment work for the erosion control (polymer stabilized fiber matrix) areas will not be required except for weed control and reapplication of seed if necessary.

Trash and debris shall be removed from erosion control (polymer stabilized fiber matrix) areas as required under "Construction Site Management," of these special provisions.

Attention is directed to "Relief From Maintenance and Responsibility" in these special provisions regarding relief from maintenance and protection.

Weed control shall be performed a minimum of once every two weeks in areas that received erosion control (polymer stabilized fiber matrix).

Weed control shall consist of hand pulling or spot herbicide treatments with Glyphosate non-native plants and weeds before they reach a height of 4 inches or set seed, whichever occurs first.

Dispose of removed plant material in conformance with the provisions in Section 7-1.13, "Disposal of Material Outside the Highway Right of Way," of the Standard Specifications.

Weeds and plant species to be killed include, but are not limited to Pennisetum setaceum (Fountaingrass), Avena sp. (Wild Oat), Foeniculum vulgare (Fennel), Brassica sp. (Mustard).

Reapply seed when directed by the Engineer. Reapplication of seed must comply with "Erosion Control (Polymer Stabilized Fiber Matrix)," of these special provisions. Reapplication of seed will be paid for as extra work as provided in Section 4-1.03D, "Extra Work," of the Standard Specifications.

The final inspection shall be performed in conformance with the provisions in Section 5-1.13, "Final Inspection," of the Standard Specifications and shall be completed a minimum of 20 working days before the estimated completion of the contract.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011



In Reply Refer To:
FWS-SDG-08B0398-08I0782

JAN 15 2009

Mr. Chris White
Chief, Environmental Resource Studies
Department of Transportation, District 11
4050 Taylor Street
San Diego, California 92110

Attention: Michael Galloway

Regarding: Informal Section 7 Consultation for the San Diego County Culvert Rehabilitation Project, San Diego County, California

Dear Mr. White:

The U.S. Fish and Wildlife Service (Service) received a letter and a Biological Assessment (BA) dated July 29, 2008, from the California Department of Transportation (Caltrans) requesting initiation of consultation pursuant to section 7 of the Endangered Species Act of 1973, as amended (Act) for the proposed San Diego County Culvert Rehabilitation Project. Caltrans requested consultation on six federally listed plant species and six federally listed animal species: the federally listed as endangered willowy monardella (*Monardella linoides* ssp. *viminea*), San Diego thornmint (*Acanthomintha ilicifolia*), San Diego button celery (*Eryngium arisulatum* var. *parishii*), Orcutt's spineflower (*Chorizanthe orcuttiana*), San Diego ambrosia (*Ambrosia pumila*), Otay tarplant (*Deinandra [Hemizonia] conjugens*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), Quino checkerspot butterfly (*Euphydryas editha quino*), southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*; vireo), and the federally listed as threatened coastal California gnatcatcher (*Poliophtila californica californica*; gnatcatcher).

Provided the conservation measures described below and in the BA are implemented, we concur that the proposed project will have no effect on the following species: willowy monardella, San Diego thornmint, San Diego button celery, Orcutt's spineflower, San Diego ambrosia, Otay tarplant, Riverside fairy shrimp, Quino checkerspot butterfly, and southwestern willow flycatcher. These species will not be addressed further.

The proposed project is not located within designated critical habitat for any federally listed species. Therefore, critical habitat will not be addressed further.

TAKE PRIDE[®]
IN AMERICA 

Project Description

Caltrans proposes to repair two culverts on State Route 52 (SR-52), and one culvert each on State Route 67 (SR-67), Interstate 805 (I-805), and Interstate 5 (I-5), for a total of five culvert repairs (Figure 1). The proposed repairs will involve work within the culverts (scaling joints, pressure grouting, invert paving, etc.), temporary vegetation clearing for construction access roads and staging areas, and installation of fill and rip-rap at the culvert outlets (Tables 1 and 2).

Temporary vegetation clearing will consist of trimming vegetation back or cutting it above ground level to facilitate regrowth after the maintenance work is complete. Oak trees and sycamore trees will not be trimmed or cut, and no live trees with a diameter at breast height of 4 inches or greater will be cut. At Culverts 1-4, water will be diverted around the work area by pumping water (as needed) from upstream of the repair area, through a hose, and discharging water downstream at the outlet. Work at Culvert 5 will involve removing the overhanging wingwalls, backfilling and constructing a rock-lined channel ditch behind the endwall to prevent erosion, and installation of rock slope protection at the culvert outlet. No grading or soil movement will occur in construction access roads and staging areas. Repair work is scheduled to begin in January 2011 and end in January 2013, with the estimated construction duration at each location as follows:

- | | | | |
|-------------|----------|-------------|----------|
| ● Culvert 1 | 4 weeks | ● Culvert 4 | 16 weeks |
| ● Culvert 2 | 4 weeks | ● Culvert 5 | 4 weeks |
| ● Culvert 3 | 16 weeks | | |

The proposed project will result in a total of 0.12 acre of permanent and 4.13 acres of temporary impacts to riparian; coastal sage scrub (CSS); non-native (annual) grassland (NNG); and disturbed habitat (DIS) (Table 3, Figures 2 through 6). Permanent impacts will be caused by the discharge of fill and riprap at the culvert outlets, and temporary impacts by vegetation clearing for construction staging areas and access routes.

Protocol level surveys were not conducted for listed species. Species presence or absence in an area was determined on species detection in an area during general field surveys, historical occurrence of species in the area (CDFG 2003), habitat assessment, and Caltrans' personnel with knowledge of the area. Table 4 in the BA discusses listed species with the potential to occur in the project areas.

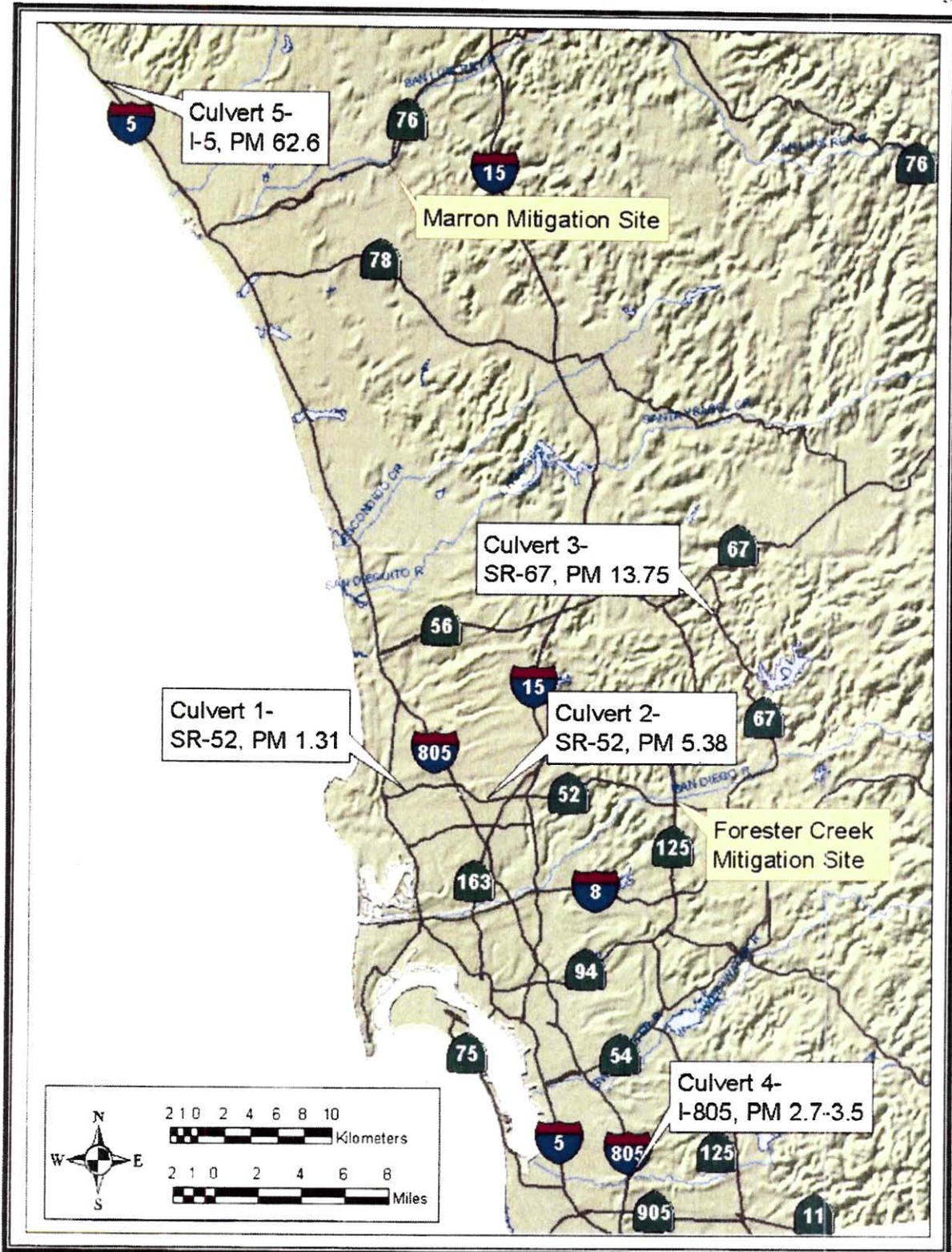


Figure 1. Project Location and Mitigation Site Map

Table 1: Proposed Work at the Five Culvert Locations.

Culvert Route	Post Mile (PM)	Culvert System	Deficiency	Proposed Work
1	SR-52 1.31	60 inch (in.) x 450 foot (ft) reinforced concrete pipe (RCP) at inlet, 60 in. x 140 ft corrugated metal pipe (CMP) at outlet	<ol style="list-style-type: none"> 1) Extensively rusted invert 2) Deteriorated mortar at joints (RCP) 3) Joint separations (CMP) 4) RCP to CMP joint misaligned 5) Undesirable inlet conditions 6) Undesirable outlet conditions 	<ol style="list-style-type: none"> 1) Invert paving along entire culvert length 2) Sealing joints (internal joint sealing system (RCP)) 3) Sealing joints (steel expansion ring gaskets (CMP)) 4) Grouting with Portland Cement Mortar 5) Clear inlet apron of ice plant 6) Re-establish outlet ditch (re-grade and place rip rap, remove obstructions)
2	SR-52 5.38	8 ft x 8 ft, x 25 ft reinforced concrete box culvert (RCBC) at inlet, 96 in RCP, 114 in. bituminous-coated structural steel plate pipe (SSPP), 10 ft x 8 ft, x 50 ft RCBC at outlet	<ol style="list-style-type: none"> 1) Exposed aggregate and extensive rusting at invert 2) Joint separations 	<ol style="list-style-type: none"> 1) Bituminous coating along entire culvert bottom and invert paving 2) Sealing joints
3	SR-67 13.75	84 in. RCP	<ol style="list-style-type: none"> 1) Exposed aggregate and re-bar at invert 2) Pipe distortion with squashing and hairline cracks 3) Rusted joint steel rings 4) Joint separations 5) Misaligned endwall 	<ol style="list-style-type: none"> 1) Install structural steel pipe sleeve 2) Install structural steel pipe sleeve 3) Grout between pipe sleeve and existing RCP 4) Grout between pipe sleeve and existing RCP 5) Install structural steel pipe sleeve <p>Re-establish outlet ditch, remove obstructions</p>
4	I-805 2.75 - 3.48	Two 66 in. bituminous-coated CMPs at inlets, 78 in. bituminous-coated CMP at outlet	<ol style="list-style-type: none"> 1) Moderate thinning and rusting of the median culvert system 2) Extensive rusting of the eastern culvert system 3) Joint separations of the eastern culvert system 4) Undesirable outlet conditions of the eastern culvert system 	<ol style="list-style-type: none"> 1) Invert paving along entire culvert length 2) Invert paving along entire culvert length 3) Sealing joints with steel expansion ring gaskets 4) Re-establish outlet ditch and remove obstructions at outlet <p>Construct permanent access gate within the right-of-way</p>
5	I-5 62.6	150 in. x 312 ft SSPP	<ol style="list-style-type: none"> 1) Back of wingwall flares exposed 2) 4 ft to 6 ft drop at outlet 3) Sunken riprap basin 	<ol style="list-style-type: none"> 1) Cut off overhanging wings, backfill behind endwall with rip-rap, construct rock lined channel ditch around endwall 2) Re-grade and import fill 3) Reconstruct using current Caltrans standards for a 2-ton class rock slope pad

Table 2: Equipment, Access, and Avoidance/Minimization Measures at Each Culvert.

Culvert	Equipment	De-watering?	Access	Vegetation Removal	Fill/Dredge?	Specific Biological Conditions
Culvert 1	-Cement truck for paving (can work from staging area) -Backhoe for placement of rip-rap (need to access creek-10 foot wide access path) -Production Truck for rip-rap	Yes	Trimming back willow and poison oak for access to culvert, diverting water to cross stream for access to culvert outlet, access via non-native grassland	Removal of iceplant at culvert inlet. Removal of dead tree, trimming back other vegetation at culvert outlet	Fill with rip-rap at culvert outlet to confluence of stream	-Work between September 1 and February 14 to avoid impacts to nesting birds
Culvert 2	-Cement truck for paving (can work from staging area)	Yes	Trimming back willow for access to culvert, access via non-native grassland and may require trimming back of CSS, which provides habitat for the federally threatened coastal California gnatcatcher	Trimming cutback to ground level at culvert outlet to a maximum of 50 feet from culvert outlet	None	-Work between September 1 and February 14 to avoid impacts to nesting birds -Stabilizing and planting slopes with native CSS plants if disturbed during project activities -Avoiding impacts to CSS outside of work area (designating areas as Environmentally Sensitive Areas [ESA])
Culvert 3	-Cement Truck for possible concrete slab for liner to slide on and for grouting (can work from staging area) -Crane and pulley system for liner installation (can work from staging area or SR-67 shoulder) -Backhoe for placement of rip rap -Production Truck for rip-rap	Yes	Clearance of light brush between staging area and culvert inlet	Clearance of light brush between staging area and culvert inlet; preserve large trees	Fill with rip-rap at culvert outlet	-No tree removal -Work between September 1 and February 14 to avoid impacts to nesting birds
Culvert 4	-Cement truck for paving (can work from staging area) -Backhoe for placement of rip-rap (need to access creek-10 foot wide access path) -Production Truck for rip-rap	Yes	Trimming back riparian vegetation (willow, etc.) for access to culvert	Removal of vegetation in drainage from culvert to Otay River by hand only	Fill with rip-rap at culvert outlet to confluence of Otay River	-Avoid riparian and CSS habitat outside of the work area (ESA) -Work between September 16 and February 14 to avoid impacts to nesting birds
Culvert 5	Backhoe for regrade and placement of rip-rap up to culvert invert (need to access headwall-10 foot wide access path) -Production Truck for fill material & rip-rap	No	Access requires removal or trimming back of CSS, which provides habitat for the federally threatened coastal California gnatcatcher	Removal of CSS for placement of ditch around headwall	Fill with 2-ton class rock slope pad	-Work between September 1 and February 14 to avoid impacts to gnatcatcher -Avoiding areas of pooled water and CSS habitat outside of the work area (ESA) -Limiting equipment access and storage to existing developed and compacted areas -Stabilizing and planting slopes with native CSS plants if disturbed during project activities -Compensation for impacts to CSS habitat required

Table 3. Permanent and Temporary Impacts at the Five Culvert Locations.

Culvert	Permanent Impacts (acres)		Temporary Impacts (acres)			
	Riparian*	CSS	Riparian*	CSS	NNG	DIS
1	0.01	0.00	0.05	0.00	0.04	0.16
2	0.00	0.00	0.06	0.05	0.04	0.16
3	0.01	0.00	0.04	0.00	0.03	0.00
4	0.01	0.00	0.05	0.00	0.00	0.66
5	0.05	0.04	0.22	0.07	0.00	2.50
Totals	0.08	0.04	0.42	0.12	0.11	3.48

*Includes Corps jurisdictional waters of the United States, including wetlands, and CDFG jurisdictional waters of the State

Conservation Measures

Caltrans has agreed to implement the following conservation measures as part of the project to avoid and minimize potential impacts to listed species. Species- and site-specific measures are detailed in section 4.1 of the BA and Table 2.

1. The trimming, clearing and grubbing of, and construction adjacent to, riparian, wetland and CSS habitats at all the culverts will occur outside of the bird breeding season (i.e., February 15 to September 15). Work may begin before September 15 if a qualified biologist demonstrates to the satisfaction of the Service that all nesting is complete.
2. Caltrans will trim vegetation back or cut above ground level to allow for it to grow back after the maintenance work is complete if vegetation clearing is necessary for culvert access. No live trees with a diameter at breast height of 4 inches or greater will be removed. Oak trees and sycamore trees will not be removed or trimmed back.
3. Caltrans will implement construction site best management practices (BMPs), such as removing debris from the construction sites and directing runoff, generated as a result of the maintenance activities, away from any drainages and culverts to prevent deposition into the waterways. Additionally, the disposal of materials will be performed in a manner that will minimize unnecessary impacts to the environment.
4. Permanent impacts to a total of 0.03 acre of riparian/wetland habitat at Culverts 1, 3 and 4 will be compensated at a 3:1 ratio by using creation (0.06 acre) and enhancement (0.03 acre) mitigation credits at off-site mitigation locations (e.g., Caltrans mitigation sites at Forester Creek). Caltrans will provide documentation of debiting of mitigation credits to the Service prior to initiating project impacts. Temporary impacts to a total of 0.2 acre of riparian/wetland habitat at Culverts 1, 2, 3 and 4 will be compensated by on site restoration during the concurrent or next growing season after project completion.
5. Permanent impacts to 0.04 acre of CSS at Culvert 5 will be compensated at a 2:1 ratio by using 0.08 acre of mitigation credits at an off-site CSS mitigation location (e.g., Caltrans mitigation site at Marron). Temporary impacts to 0.05 and 0.07 acre of CSS habitat at Culvert 2 and 5, respectively, will be compensated by on site restoration during the concurrent or next growing season after project completion.

6. Work will be minimized in CSS, riparian/wetland, and vernal/road pool habitat. All CSS, riparian/wetland, and vernal/road pool areas outside of the project limits will be designated as ESAs. No personnel, debris, or equipment will be allowed in the ESAs, which will be temporarily fenced (with silt barriers), including construction staging areas and access routes, to prevent additional habitat impacts and prevent the spread of silt from the construction zone into adjacent habitats to be avoided. Fencing will be installed in a manner that does not impact habitats to be avoided. Caltrans will submit to the Service for approval, at least 30 days prior to initiating project impacts, the final plans for initial clearing and grubbing of habitat and project construction. These final plans will include photographs that show the fenced limits of impact and all areas (including riparian/wetland or coastal sage scrub) to be impacted or avoided. If work occurs beyond the fenced or demarcated limits of impact, all work will cease until the problem has been remedied to the satisfaction of the Service. Any habitat impacts that occur beyond the approved fenced will be mitigated at a minimum 5:1 ratio. Temporary construction fencing will be removed upon project completion.
7. Caltrans will comply with the U.S. Marine Corps-Camp Pendleton (USMC-CP) Integrated Natural Resource Management Plan (INRMP) measures documented in the INRMP Decision Memorandum issued by USMC-CP, and will consult with the Wildlife Management Branch of the USMC-CP to ensure that vernal/road pool habitat for the San Diego fairy shrimp is avoided. Caltrans will avoid areas of pooled water adjacent to access routes for Culvert 5 and designate these areas as ESAs (see Figure 6). At Culvert 5, existing USMC-CP roads will be used to access the site and parking, and driving. Project staging of equipment and materials will be limited to previously compacted and developed areas within Caltrans' right-of-way west of the I-5 off-ramp to Las Pulgas Road (see Figure 3). Work will be scheduled to occur between September 1 and October 31. If additional time is required, Caltrans will contact the Service for approval to continue after October 31.
8. The applicant shall ensure that the following conditions are implemented during project construction:
 - a. Employees shall strictly limit their activities, vehicles, equipment, and construction materials to the fenced project footprint.
 - b. To avoid attracting predators of the gnatcatcher or vireo, the project site shall be kept as clean of debris as possible. All food related trash items shall be enclosed in sealed containers and regularly removed from the site.
 - c. Pets of project personnel shall not be allowed on the project site.
 - d. Disposal or temporary placement of excess fill, brush or other debris shall not be allowed in waters of the United States or their banks.

- e. All equipment maintenance, staging, and dispensing of fuel, oil, coolant, or any other such activities shall occur in designated areas outside of waters of the United States within the fenced project impact limits. These designated areas shall be located in previously compacted and disturbed areas to the maximum extent practicable in such a manner as to prevent any runoff from entering waters of the United States, and shall be shown on the construction plans. Fueling of equipment shall take place within existing paved areas greater than 100 feet from waters of the United States. Contractor equipment shall be checked for leaks prior to operation and repaired as necessary. "No-fueling zones" shall be designated on construction plans.
9. Caltrans will ensure that a biological monitor approved by the Service will be present during initial trimming and/or removal vegetation and project construction. The monitor will be knowledgeable of vireo, gnatcatcher and/or San Diego fairy shrimp biology and ecology. The biologist will perform the following duties.
- a. Perform a minimum of three focused surveys, on separate days, to determine the presence of gnatcatchers in the project impact footprint outside the gnatcatcher breeding season. Surveys will begin a maximum of seven days prior to performing construction activities and one survey will be conducted the day immediately prior to the initiation of work. If any gnatcatchers are found within the project impact footprint, the biologist will direct construction personnel to begin construction activities in an area away from the gnatcatchers. In addition, the biologist will walk ahead of equipment to flush birds towards areas of scrub to be avoided. It will be the responsibility of the biologist to ensure that gnatcatchers will not be injured or killed by construction activities. The biologist will also record the number and location of gnatcatchers disturbed by construction activities. The applicant will notify the Service at least seven days prior to construction activities to allow the Service to coordinate with the biologist on bird flushing activities.
 - b. Oversee installation of and inspect the fencing and erosion control measures within or up-slope of CSS, riparian wetland and vernal/road pool areas a minimum of once per week and daily during all rain events to ensure that any breaks in the fence or erosion control measures are repaired immediately.
 - c. Periodically monitor the work area to ensure that work activities do not generate excessive amounts of dust.
 - d. Train all contractors and construction personnel on the biological resources associated with this project and ensure that training is implemented by construction personnel. At a minimum, training will include: 1) the purpose for resource protection; 2) a description of the vireo, gnatcatcher and/or San Diego fairy shrimp, and their habitats; 3) the conservation measures given in this informal consultation that should be implemented during project construction to conserve the vireo, gnatcatcher and/or San Diego fairy

shrimp, including strictly limiting activities, vehicles, equipment, and construction materials to the fenced project footprint to avoid sensitive resource areas in the field (i.e., avoided areas delineated on maps or on the project site by fencing); 4) environmentally responsible construction practices; 5) the protocol to resolve conflicts that may arise at any time during the construction process; and 6) the general provisions of the Act, the need to adhere to the provisions of the Act, the penalties associated with violating the Act.

- e. Halt work, if necessary, and confer with the Service to ensure the proper implementation of species and habitat protection measures. The biologist will report any violation to the Service within 24 hours of its occurrence.
 - f. Submit a final report to the Service within 60 days of project completion that includes: as-built construction drawings with an overlay of habitat that was impacted and avoided, photographs of habitat areas that were to be avoided, and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance with all conditions of this informal consultation was achieved.
10. If night work is necessary, night lighting will be of the lowest illumination necessary for human safety, selectively placed, shielded and directed away from natural habitats.
11. No grading or soil movement will occur in construction access and staging areas.

Environmental Baseline/Effects of the Action

San Diego Fairy Shrimp

Land Manager Thomas Sabol at the Wildlife Management Branch of the USMC-CP identified federally endangered San Diego fairy shrimp in an unvegetated, vernal/road pool near the proposed access area for Culvert 5 during a field survey conducted on January 3, 2008 (Figure 6). The pooled area is in an existing road on a relatively flat bench above the portion of the access road that will be used for repairs at Culvert 5. To avoid and/or minimize potential impacts to the San Diego fairy shrimp, Caltrans will avoid areas of pooled water adjacent to access routes for Culvert 5 and designate these areas as ESAs. Work will be scheduled to occur between September 1 and October 31. If additional time is required, Caltrans will contact the Service for approval to continue after October 31. No personnel, debris, or equipment will be allowed in the ESAs, which will be fenced with high-visibility fencing.

Coastal California Gnatcatcher

In August 2007, approximately three gnatcatchers were observed within the coastal sage scrub habitat adjacent to Culvert 2. Gnatcatchers were also heard near the proposed access area for Culvert 5 in March 2008.

In San Diego County, the mean breeding season gnatcatcher territory size ranges from 12 to 27 acres per pair and non-breeding season territory size ranged from 12 to 42 acres per pair (Preston *et al.* 1998). During the non-breeding season, gnatcatchers have been observed to wander in adjacent territories and unoccupied habitat increasing their home range size to approximately 78 percent larger than their breeding territory (Preston *et al.* 1998). The smallest documented home ranges occur near the coast and increase in more inland areas (Preston *et al.* 1998).

Culverts 2 and 5 are located in more coastal areas of San Diego County. Repairs at Culvert 2 will temporarily impact 0.05 acre of CSS; and repairs at Culvert 5 will permanently impact 0.04 acre, and temporarily impact 0.07 acre, of CSS. Temporary impacts will consist only of trimming vegetation back or cutting it above ground level to facilitate regrowth, and CSS within temporary impact areas will be restored, after project completion. Assuming the site is occupied and a 12-acre territory size, permanent impacts at Culvert 5 represent less than one percent of a gnatcatcher territory. Permanent impacts to 0.04 acre of CSS at Culvert 5 will be offset at an off-site location (e.g., Caltrans mitigation site at Marron) at a ratio of 2:1 (i.e., 0.08 acre). In addition, the limits of work shall be fenced, work will be overseen by a biological monitor, and all work will be done outside of the gnatcatcher breeding season.

Least Bell's Vireo

Vireos have not been identified historically within one mile of Culvert 1, Culvert 2, or Culvert 3 (CDFG 2007), and were not found within the project areas of these culverts during field surveys, even though there is potential habitat at these locations. Vireos have historically been observed within one mile of Culvert 4 within the Otay River, east and west of I-805, and within one mile of Culvert 5 in Las Pulgas Canyon and the Santa Margarita River (CDFG 2007). Culverts 1, 2, 3 and 4 are within riparian corridors that consist primarily of arroyo willow, cattail, mulefat, oaks and/or sycamore and are potential vireo habitat. Culvert 5 is within non-wetland waters of the U.S.

Repairs at Culverts 1, 2, 3 and 4 will temporarily impact 0.05 to 0.06 acre, and repairs at Culverts 1, 3, and 4 will permanently impact 0.01 acre, of riparian/wetland habitat at each location. Temporary impacts will consist of trimming vegetation back or cutting it above ground level to facilitate regrowth after the maintenance work is complete. No live trees with a diameter at breast height (dbh) of 4 inches or greater, or oak and sycamore trees will be trimmed or cut. Riparian/wetland habitat will be restored in all temporary impact areas after project completion. Vireo territory size ranges from 0.5 to 7.5 acres (Service 1998). Assuming the sites are occupied and a 0.5-acre territory size, permanent impacts at Culverts 1, 3 and 4 represent only two percent of a vireo territory. Permanent impacts to 0.3 acre of riparian/wetland habitat will be offset at an off-site location (e.g., Caltrans mitigation sites at Forester Creek) at a ratio of 3:1 (i.e., 0.09 acre). In addition, the limits of work shall be fenced, work will be overseen by a biological monitor, and all work will be done outside of the vireo breeding season.

Based on the information provided, including Caltrans' commitment to implement the conservation measures given above and in the BA, we have determination that the proposed culvert repairs, as described, are not likely to adversely affect the San Diego fairy shrimp, gnatcatcher and/or vireo. Therefore, the interagency consultation requirements of section 7 of the Act have been satisfied. Should project plans change, if listed species are detected at any of the culvert locations, or if additional information on the distribution of listed or proposed species becomes available, this determination may be reconsidered and formal consultation may be required.

If you have any questions or concerns with regard to this letter, please contact Janet Stuckrath of my staff at (760) 431-9440 extension 270.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen A. Goebel", written over a horizontal line.

Karen A. Goebel
Assistant Field Supervisor

Literature Cited

California Department of Fish and Game: Habitat Conservation Division. 2003. California Natural Diversity Database (CNDDDB), Rarefind 3 (CD-ROM). Sacramento, California. Updated December, 2007.

Preston, K.L., P.J. Mock, M.A. Grishaver, E.A. Bailey, and D.F. King. 1998. California gnatcatcher territorial behavior. *Western Birds* 29:242-257.

U.S. Fish and Wildlife Service (Service). 1998. Draft recovery plan for the least Bell's vireo. U.S. Fish and Wildlife Service, Portland, Oregon. 139 pp.

Land Management Branch
Native Grassland Seeding Planting Palette for CATEXs
03 November 2011

After returning the topography to pre-existing conditions, exposed soil due to project activities will be planted with native species. The following planting palette will be used for this project site:

Plant Species	Lbs/Acre
Purple needlegrass (<i>Nassella pulchra</i>)	15
Nodding needlegrass (<i>Nassella cernua</i>)	10
Small fescue (<i>Vulpia microstachys</i>)	10
Tarweed (<i>Deinandra fasciculata</i>)	8
California poppy (<i>Eschscholzia californica</i>)	2
Blue-eyed grass (<i>Sisyrinchium bellum</i>)	2
Dot-seed plantain (<i>Plantago erecta</i>)	2
Goldfields (<i>Lasthenia californica</i>)	1
Total	50

Native seed and/or adult plant stock are to originate from no more than 2 counties from MCB Camp Pendleton. Call Land Management Branch at (760) 763-6330 for local suppliers.

Apply a hydromulch applicator, including a microbial inoculant, from October through January. The hydroseeded area must attain 50% plant cover within a year or additional seeding will be required. Watering may be required if natural precipitation is not sufficient to ensure required growth.



THE CITY OF SAN DIEGO

June 8, 2011

11-SD-15
P.M. R9.3
E.A. 1100000248
R/W 34433
(City of San Diego)

STATE OF CALIFORNIA
Department of Transportation
Right of Way Division
Attn: Janet Schaffer
Deputy District Director
4050 Taylor Street – MS 310
San Diego, CA 92110

Re: Letter of Notification
R/W: 34433
Location: Balboa Avenue/ Interstate 15

Dear Ms. Schaffer:

This letter notifies the Department of Transportation that the City of San Diego has acknowledged the State, or its authorized agent, will be performing work within an existing City drainage easement as shown on the attached map for purposes of culvert rehabilitation. It is further understood that access to the easement will be via the State's right of way.

The use of this City's easement by the State, or its authorized agent, shall terminate upon completion of the project known as "Culvert Rehabilitation RW 34433" or March 1, 2014, whichever date occurs first.

Questions and concerns may be directed to Lane MacKenzie, at 619-236-6050 or at bmackenzie@sandiego.gov.

ACKNOWLEDGEMENT AND CONSENT TO ENTER THE PROPERTY

THE CITY OF SAN DIEGO
B. Lane MacKenzie, SR/WA
Real Estate Asset Manager
Acquisition/Disposition Division

6-28-11
Date



Real Estate Assets

1200 Third Avenue, Suite 1700, MS 51A • San Diego, CA 92101-4199
Tel (619) 236-6020 Fax (619) 236-6706

CITY OF SAN DIEGO

DALEY - BOOTH
BUSINESS PARK



VIEWRIDGE AVENUE

MAP NO. 9680

APN 369-202-10

LOT 4

APN 369-202-09

LOT 3

15' DRAINAGE EASE
TO CITY OF SAN DIEGO
PER MAP NO. 9680

19.01'
N31°39'40"W

15.65'
S27°50'20"E

2948.00'
S15°20'3"E
(RAD)

183.98'
N31°39'40"W

LOT 2

CITY OF SAN DIEGO

34433-1

TEMP. CONST. AREA
EXP. 03-01-2014
AREA = 285 S.F.

R=2948'
Δ=00°18'15"
L=15.65'

STATE
R/W

SEE DETAIL

BALBOA AVENUE

STATE OF CALIFORNIA
BUSINESS & TRANSPORTATION AGENCY
DEPARTMENT OF TRANSPORTATION
DISTRICT 1 1

RIGHT OF ENTRY

RIGHT OF WAY MAP NO. Por. 55546

COUNTY	ROUTE	POST MILES	SCALE
SD	15	R9.3	NONE
			SHEET OF

