

CALTRANS ENCROACHMENT PERMIT

The CONTRACTOR shall be in compliance with this Agreement when carrying out all Contract Work on the Project.

Print Permit

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION
ENCROACHMENT PERMIT
TR-0120 (REV. 6/2012)

IFB C-7-2018 Page 1 of 1
EXHIBIT J

In compliance with:

☒ Your application of September 12, 2017

☐ Utility Notice No. _____ of _____

☐ Agreement No. _____ of _____

☐ RW Contract No. _____ of _____

TO: Orange County Transportation Authority
P.O. Box 14184
Orange, CA 92863-1584

Permit No. 12-17-N-MC-0632	
Dist/Co/Rte/PM 12 / ORA / 73 / 10.3	
Permit Approval Date 09/25/2017	
Fee Paid \$ EXEMPT	Deposit \$ EXEMPT
Performance Bond Amount (1) \$ 0.00	Payment Bond Amount (2) \$ 0.00
Bond Company	
Bond Number (1)	Bond Number (2)

Attn: Sanya Sobot 714-560-5833
and subject to the following, PERMISSION IS HEREBY GRANTED to:

, PERMITTEE

REMOVE AND REPLACE APROX. 100 FEET LONG OF CALTRANS 6' CHAIN LINK FENCE ADJACENT TO SR-73 ALONG CAMINO CAPISTRANO IN THE CITY OF SAN JUAN CAPISTRANO IN CONJUNCTION WITH OCTA LAGUNA NIGUEL TO SAN JUAN CAPISTRANO PASSING SIDING PROJECT.

All performed work shall be in accordance with current Caltrans Standard Specifications and Standard Plans, the Encroachment Permits Manual, latest edition of the California MUTCD, the attached Provisions, and Permit plans stamp-dated SEPTEMBER 12, 2017.

Permittee shall contact State Permit Inspector SHAHRYAR DERAVID at 657-328-6403 between 10:30 AM and 13:00 PM a minimum of two working days prior to the start of work and a pre-job meeting will be scheduled at the earliest mutually agreeable time. Failure to comply with this requirement will result in suspension of this permit

THIS PERMIT IS NOT A PROPERTY RIGHT AND DOES NOT TRANSFER WITH THE PROPERTY TO A NEW OWNER.

The following attachments are also included as part of this permit (Check applicable):

☒ Yes ☐ No General Provisions

☐ Yes ☒ No Utility Maintenance Provisions

☐ Yes ☒ No Storm Water Special Provisions

☒ Yes ☐ No Special Provisions

☐ Yes ☒ No A Cal-OSHA permit, if required: Permit No. _____

☐ Yes ☒ No As-Built Plans Submittal Route Slip for Locally Advertised Projects

☐ Yes ☒ No Storm Water Pollution Prevention Plan / Water Pollution Control Plan

In addition to fee, the permittee will be billed actual costs for:

☐ Yes ☒ No Review
☐ Yes ☒ No Inspection
☒ Yes ☐ No Field Work

(if any Caltrans effort expended)

☐ Yes ☒ No The information in the environmental documentation has been reviewed and considered prior to approval of this permit.

This permit is void unless the work is completed before December 31, 2018

This permit is to be strictly construed and no other work other than specifically mentioned is hereby authorized.

No project work shall be commenced until all the other necessary permits and the environmental clearances have been obtained.

PERMIT ENGINEER: Raj Gohil
COPIES TO:
Permittee
File: 17-0632
S. Deravi
Maintenance

APPROVED:

Ryan Chamberlain, District Director

BY:



MAHESH R. BHATT, P.E., District Permit Engineer

FM 91 1436 (D12 Permit App.)

ORANGE COUNTY TRANSPORTATION AUTHORITY
1217- NMC-0632
SEPTEMBER 25, 2017

Permittee's Contractor shall furnish the State with a signed application requesting a separate Caltrans Double Permit "DP" authorizing the Contractor to perform the work on Permittee's behalf. The Contractor shall submit with the application a Traffic Control Plan (6 copies, folded 8 ½" x 11") for review and approval prior to the issuance of the DP. A deposit of \$820.00 is required at the time of application.

1. **STATE FACILITIES DAMAGED DURING AND WITHIN THIS PROJECT SHALL BE RESTORED AND RECONSTRUCTED PER CALTRANS STANDARDS BY PERMITTEE.**
2. **A SHOULDER CLOSURE IS REQUIRED FOR THE ENTIRE DURATION OF THE WORK.**
3. **ANY EXCAVATION WITHIN CALTRANS R/W NEED TO BE BACKFILLED AND COMPACTED 95% ACCORDING TO CALTRANS REQUIREMENTS. REPAIR IN KIND.**

In addition to the attached General Provisions (TR-0045), the following Special Provisions are applicable:

The following advance notification procedure shall be followed for permitted work activities requiring Traffic Control within the State Right of Way:

By Noon Monday, permittee shall submit a completed copy of the attached **District 12 Closure Schedule Form** to the assigned Permit Inspector by email (as shown on the Closure Schedule Form) or by Fax (657-328-6504) for the following week period, defined as Saturday through the following Friday. If Monday is a designated holiday, the schedule shall be submitted on Tuesday. Incomplete, illegible or inaccurate information will be returned for correction and resubmittal. Permittee/Permittee's contractor will be notified of disapproved closures or closures that require coordination with other parties as a condition of approval. If email or fax is unavailable, the schedule may be called in by calling the assigned Permit Inspector, and the completed Form be submitted to the Permit Inspector during the pre-job meeting.

- ADA Compliance requirements shall be met at all times. (DIB 82-05)
- Permittee shall contact the LOCAL LAW ENFORCEMENT JURISDICTION at least 48 hours prior to implementing traffic control measures. All closures shall conform to State standards and shall follow Chapter 8 of the Safety Manual.
- Except for installing, maintaining and removing traffic control devices, any work encroaching within 3 feet of the edge of a travel lane for areas with a posted speed limit below 45mph, or 6 feet of the edge of a travel lane, for areas with a speed limit posted at 45mph or higher, shall require closing of that travel lane. Any work encroaching within 6 feet of the edge of the shoulder, shall require closing of that shoulder. Permittee shall notify the Department's Representative, and obtain approval of, all traffic control, lane closures or detours, at least seven (7) WORKING DAYS prior to setting up of any traffic control." Orange vests and hard hats shall be worn at all times while working within State right-of-way.
- By acceptance of this permit, the permittee understands and agrees to reimburse the State for all costs incurred for performing corrective work in the event that the permittee or permittee's representatives fail to install, replace, repair, restore, or remove facilities to state specifications for the immediate safe operation of the highway and satisfactory completion of all permit work. State forces may perform corrective work or it may be contracted out. Understood is that the above charges are in addition to permit fees, and an invoice will be sent to permittee for said charges after satisfactory completion of all work. The issuance of the permit shall not set as precedence for other permits approved in the future.

- It is the responsibility of the permittee, permittee's agents, or contractors to comply with all provisions of this permit and instructions from the State permit inspector. Permittee shall keep the permit package or copies thereof, at the work site at all times and show it upon request to any Department representative or law enforcement officer. When the permit package is not available, then immediate suspension of permit will occur.
- Permittee shall furnish the necessary inspection to provide for public safety and to insure that all work within or affecting the State's right of way pursuant to this permit is in accordance with State Standards and requirements. The State permit inspectors will monitor the work authorized under this permit and the work is subject to the approval of the State permit inspectors.
- Permittee shall remain solely responsible for compliance with all requirements of this permit.
- Prior to performing any work pursuant to this permit, the permittee shall obtain all necessary permits and authorizations required of other governmental agencies and by law. The permittee shall make the necessary arrangements with the appropriate agencies to monitor and test performed work to ensure accordance with requirements of those agencies.
- All survey operations shall be conducted off the traveled way except where necessary to cross pavements and medians.
- American National Standards Institute (ANSI) compliant Class II vests and hard hats shall be worn while working within State's right-of-way. Workers working at night will be required to wear ANSI Class III warning garments. Class III compliance can be achieved by combining ANSI Class E pants worn with an ANSI Class II vest.
- The State permit inspector must ascertain and agree to all work details and all aspects of traffic control or no work shall begin on this permit.
- If a safe passage way cannot be provided, appropriate signs and barricades shall be installed at the limits and in advance of construction at the nearest Crosswalk or Intersection to detour pedestrians to facilities across the street.
- When the work area encroaches upon a sidewalk, walkway, or crosswalk area, special consideration must be given to pedestrian safety. Protective barricades, fencing, handrails and bridges, together with warning and guidance devices and signs must be utilized so that the passageway for pedestrians, especially blind and other physically handicapped is safe and well defined and shown on the approved permit plan.
- Personal vehicles of the Contractor's employees shall not be parked on paved shoulders or traveled way within the limits of this work.
- Unless otherwise approved by the State Permit Inspector no work that interferes with public traffic shall be performed on weekdays between 6:00 AM and 9:00 AM, and between 3:00 PM and 6:30 PM.
- The full width of traveled way shall be open for use by public traffic on Saturdays, and designated legal holidays, after 3:00 PM on Fridays and on the day preceding designated legal holidays, and when construction operations are not actively in progress.
- Except as specifically provided herein, all requirements of the Vehicle Code and other applicable laws must be complied with in all particulars.
- No lane may be closed or obstructed at any time unless specifically allowed per the encroachment permit, shown in approved traffic control plans, and/or as directed by the Department's Representative.
- The Permittee's work shall be subordinated to any operations which the Department may conduct and shall not delay, nor interfere with the Department's Forces or Department's Contractors.
- Should any deviation from these procedures or conditions be observed, all work shall be suspended until satisfactory steps have been taken to ensure compliance.

- In the event of any discrepancy between Permittee's Permit Plans and these Permit Special Provisions, these Special Provisions shall prevail.

Immediately following completion of the work permitted herein, Permittee shall fill out and fax the attached **Work Completion Notice** to **657-328-6504** to initiate final permit processing.

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

STANDARD ENCROACHMENT PERMIT APPLICATION

TR-0100 (REV. 07/2007)

Permission is requested to encroach on the State Highway right-of-way as follows:
(Complete all BOXES [write N/A if not applicable] Please print single sided)
This application is not complete until all requirements have been approved.

1. COUNTY ORANGE		2. ROUTE SR-73	3. POSTMILE 10.3
4. ADDRESS OR STREET NAME BETWEEN CAMINO CAPISTRANO AND CA-73			5. CITY SAN JUAN CAPISTRANO
6. CROSS STREET (Distance and direction from site) 185 FT SOUTH OF TO 384 FT NORTH OF CL RANCHO CAPISTRANO		7. PORTION OF RIGHT-OF-WAY Edge of Right-of-way	
8. WORK TO BE PERFORMED BY <input type="checkbox"/> OWN FORCES <input checked="" type="checkbox"/> CONTRACTOR		9. EST. START DATE 9/1/18	10. EST. COMPLETION DATE 3/1/19
11. EXCAVATION	MAX. DEPTH N/A	AVG. DEPTH 1'-0"	AVG. WIDTH N/A
			LENGTH N/A
12. EST. COST IN STATE HIGHWAY RIGHT-OF-WAY \$2,000		FUNDING SOURCE(S) <input checked="" type="checkbox"/> FEDERAL <input type="checkbox"/> STATE <input checked="" type="checkbox"/> LOCAL <input type="checkbox"/> PRIVATE	
13. PIPES	PRODUCT TYPE N/A	DIAMETER N/A	VOLTAGE / PSIG N/A
14. CALTRANS' PROJECT CODE			

FOR CALTRANS USE

PERMIT NO. 12-17-NMC-0632

DIST/CO/RTE/PM 12-ORA-73-10.3

SIMPLEX STAMP

D12 09/12/17 1421 00532

15. ☐ Double Permit Parent Permit Number _____
Applicant's Reference Number / Utility Work Order Number _____

16. Have your plans been reviewed by another Caltrans branch? ☒ NO ☐ YES (If "YES") Who? _____

17. Completely describe work to be done within STATE highway right-of-way :
Attach 6 complete sets of plans (folded to 8.5" x 11"), and any applicable specifications, calculations, maps, etc.
All dimensions shall be in U.S. Customary (English) Units.

As part of OCTA Laguna Niguel to San Juan Capistrano Passing Siding Project, removal and replacement is necessary of a 100 foot long segment of Caltrans 6' Chain Link Fence due to grading on Camino Capistrano (please see attached highlighted plan). Chain link fence will be replaced per Caltrans Standard Plan A85.

The location of the chain link fence is adjacent to the existing SR-73 (Southbound connector to I-5) along Camino Capistrano.

18. Is a city, county, or other agency involved in the approval of this project?

☒ YES (If "YES", check type of project and attach environmental documentation and conditions of approval.)

☐ COMMERCIAL DEVELOPMENT ☐ BUILDING ☒ GRADING ☒ OTHER OCTA improvements to railroad and roadway facilities

☐ CATEGORICALLY EXEMPT ☒ NEGATIVE DECLARATION ☐ ENVIRONMENTAL IMPACT REPORT ☐ OTHER _____

☐ NO (If "NO", please check the category below which best describes the project, and complete page 4 of this application.)

☐ DRIVEWAY OR ROAD APPROACH, RECONSTRUCTION, MAINTENANCE, OR RESURFACING ☐ FENCE

☐ PUBLIC UTILITY MODIFICATIONS, EXTENSIONS, HOOKUPS ☐ MAILBOX

☐ FLAGS, SIGNS, BANNERS, DECORATIONS, PARADES AND CELEBRATIONS ☐ EROSION CONTROL

☐ OTHER _____ ☐ LANDSCAPING

19. Will this project cause a substantial change in the significance of a historical resource (45 years or older), or cultural resource? ☐ YES ☒ NO
(If "YES", provide a description)

20. Is this project on an existing highway or street where the activity involves removal of a scenic resource including a significant tree or stand of trees, a rock outcropping or a historic building? ☐ YES ☒ NO (If "YES", provide a description)

21. Is work being done on applicant's property? ☐ YES ☒ NO (If "YES", attach site and grading plans.)

ADA NOTICE: For individuals with sensory disabilities, this document is available in alternate formats. For information, call (916) 654-6410, TTY 711, or write to Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

STATE OF CALIFORNIA - DEPARTMENT OF TRANSPORTATION

STANDARD ENCROACHMENT PERMIT APPLICATION

TR-0100 (REV. 07/2007)

PERMIT NO.

12-17-NMC-0632

22. Will this proposed project require the disturbance of soil?	<input checked="" type="checkbox"/> YES	<input type="checkbox"/> NO
If "YES", estimate the area <u>within</u> State Highway right-of-way in square feet AND acres: <u>50</u> (ft ²) AND <u>0.001</u> (acres)		
estimate the area <u>outside</u> of State Highway right-of-way in square feet AND acres: <u>N/A</u> (ft ²) AND <u>N/A</u> (acres)		
23. Will this proposed project require dewatering?	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
If "YES", estimate total gallons AND gallons/month: _____ (gallons) AND _____ (gallons/month)		
SOURCE*: <input type="checkbox"/> STORMWATER <input type="checkbox"/> NON-STORMWATER		
(*See Caltrans SWMP for definitions of non-storm water discharge: http://www.dot.ca.gov/hq/env/stormwater/index.htm)		
24. How will any storm water or ground water be disposed of from within or near the limits of this proposed project?		
<input checked="" type="checkbox"/> Storm Drain System <input type="checkbox"/> Combined Sewer / Storm System <input type="checkbox"/> Storm Water Retention Basin		
<input type="checkbox"/> Other (explain): <u>EXISTING STORM WATER SYSTEM WILL NOT BE DISTURBED</u>		

PLEASE READ THE FOLLOWING CLAUSES PRIOR TO SIGNING THIS ENCROACHMENT PERMIT APPLICATION.


The applicant, understands and herein agrees that an encroachment permit can be denied, and/or a bond required for non-payment of prior or present encroachment permit fees. Encroachment Permit fees may still be due when an application is withdrawn or denied, and that a denial may be appealed, in accordance with the California Streets and Highways Code, Section 671.5. All work shall be done in accordance with Caltrans rules and regulations subject to inspection and approval.

The applicant, understands and herein agrees to the general provisions, special provisions and conditions of the encroachment permit, and to indemnify and hold harmless the State, its officers, directors, agents, employees and each of them (Indemnitees) from and against any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, judgments, losses and liabilities of every kind and nature whatsoever (Claims) arising out of or in connection with the issuance and/or use of this encroachment permit and the placement and subsequent operation and maintenance of said encroachment for: 1) bodily injury and/or death to persons including but not limited to the Applicant, the State and its officers, directors, agents and employees, the Indemnitees, and the public; and 2) damage to property of anyone. Except as provided by law, the indemnification provisions stated above shall apply regardless of the existence or degree of fault of Indemnitees. The Applicant, however, shall not be obligated to indemnify Indemnitees for Claims arising from the sole negligence and willful misconduct of State, its officers, directors, agents or employees.

An encroachment permit is not a property right and does not transfer with the property to a new owner

DISCHARGES OF STORM WATER AND NON-STORM WATER: Work within State Highway right-of-way shall be conducted in compliance with all applicable requirements of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Department of Transportation (Department), to govern the discharge of storm water and non-storm water from its properties. Work shall also be in compliance with all other applicable Federal, State and Local laws and regulations, and with the Department's Encroachment Permits Manual and encroachment permit. Compliance with the Department's NPDES permit requires amongst other things, the preparation and submission of a Storm Water Pollution Protection Plan (SWPPP), or a Water Pollution Control Program (WPCP), and the approval of same by the appropriate reviewing authority prior to the start of any work. Information on the requirements may also be reviewed on the Department's Construction Website at:

<http://www.dot.ca.gov/hq/construc/stormwater>

25. NAME of APPLICANT or ORGANIZATION (Print or Type) Orange County Transportation Authority (OCTA) Attn: Jason Lee		E-MAIL ADDRESS JLee1@OCTA.net	
ADDRESS of APPLICANT or ORGANIZATION WHERE PERMIT IS TO BE MAILED (Include City and Zip Code) P.O. Box 14184, Orange, CA 92863-1584			
PHONE NUMBER (714) 560-5833		FAX NUMBER	
26. NAME of AUTHORIZED AGENT / ENGINEER (Print or Type) Sanya Sobot, P. Eng.		IS LETTER OF AUTHORIZATION ATTACHED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
ADDRESS of AUTHORIZED AGENT / ENGINEER (Include City and Zip Code) OCTA, 550 S. Main Street, Orange, CA 92868		E-MAIL ADDRESS ssobot@octa.net	
PHONE NUMBER (714) 560-5965		FAX NUMBER	
27. SIGNATURE of APPLICANT or AUTHORIZED AGENT 	28. PRINT OR TYPE NAME Sanya Sobot	29. TITLE Utility Coordinator	30. DATE 9/11/17

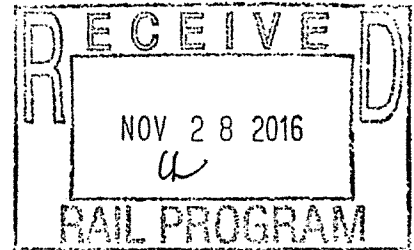
SECTION 1602 – CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE STREAMBED ALTERNATION AGREEMENT

The CONTRACTOR shall be in compliance with this Agreement when carrying out all Contract Work on the Project.



California Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
South Coast Region
3883 Ruffin Road
San Diego, California 92123
(858) 467-4201
www.wildlife.ca.gov

IFB C-7-2018
EXHIBIT J
EDMUND G. BROWN, Jr., Governor
CHARLTON H. BONHAM, Director



November 21, 2016

Mr. Jason Lee
Orange County Transportation Authority (OCTA)
550 S. Main Street
Orange, CA 92686

Subject: Final Lake or Streambed Alteration Agreement
Notification No. 1600-2016-0165-R5
Laguna Niguel to San Juan Capistrano Passing Siding Project

Dear Mr. Lee:

Enclosed is the final Streambed Alteration Agreement (Agreement) for the Laguna Niguel to San Juan Capistrano Passing Siding Project (Project). Before the California Department of Fish and Wildlife (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, filed a Notice of Determination (NOD) within five working days of signing the Agreement. The NOD was based on information contained in the final Mitigated Negative Declaration prepared by the lead agency.

Under CEQA, the filing of an NOD triggers a 30-day statute of limitations period during which an interested party may challenge the filing agency's approval of the Project. You may begin the Project before the statute of limitations 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 Jennifer Turner, Environmental Scientist at (858) 467-2717 or jennifer.turner@wildlife.ca.gov.

Sincerely,

Gail K. Sevens
Environmental Program Manager

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
SOUTH COAST REGION
3883 RUFFIN ROAD
SAN DIEGO, CALIFORNIA 92123



STREAMBED ALTERATION AGREEMENT
NOTIFICATION No. 1600-2016-0165-R5
Oso Creek

ORANGE COUNTY TRANSPORTATION AUTHORITY (OCTA)
LAGUNA NIGUEL TO SAN JUAN CAPISTRANO PASSING SIDING PROJECT

This Streambed Alteration Agreement (Agreement) is entered into between the California Department of Fish and Wildlife (CDFW) and OCTA (Permittee) as represented by Mr. Jason Lee.

RECITALS

WHEREAS, pursuant to Fish and Game Code (FGC) section 1602, Permittee notified CDFW on July 1, 2016, that Permittee intends to complete the project described herein.

WHEREAS, pursuant to FGC section 1603, CDFW 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

The project is located within the bed, channel, and bank of two unnamed drainages to Oso Creek within the San Luis Obispo-Santa Barbara-Los Angeles- San Diego rail corridor, within the existing Southern California Regional Rail Authority right of way west of Interstate 5 and Camino Capistrano, east of Oso Creek, south of State Route 73, north of the confluence of Oso Creek and Trabuco Creek, in the cities of Laguna Niguel and San Juan Capistrano in the County of Orange, State of California; Latitude 33.533922, Longitude -117.675809; Section numbers 25, 26, 35, and 36, Township #7S, Range #7W, U.S. Geological Survey (USGS) map San Juan Capistrano topographic map, San Bernardino base and meridian; Assessor's Parcel Numbers: 121-050-01, -12, -23; 637-082-14, -68; 637-561-01, -09, -12; 637-232-01, -08.

PROJECT DESCRIPTION

The project is limited to those activities described in Permittees Notification of Lake or Streambed Alteration and includes the addition of 1.8 miles of new passing siding railroad track between mile post (MP) 193.9 and MP 195., adjacent to the 8-foot wide low flow channel of Oso Creek . Project activities include: construction of 1.8 miles of track; relocation of an existing spur track with a new one at MP 194.6; construction of new retaining walls; relocation of existing power poles, fiber optic cables, water, and sewer lines; extension of casings for gas, water, and sewer lines; removal of control point (CP) Avery at MP 193.9; culvert extensions; addition of railroad bridge or box culvert at MP 194.6.).

Implementation of the project will result in 0.2004 acre (709 linear feet) of temporary impacts and 0.053 acre (440 linear feet) of permanent impacts (0.050 acre of unvegetated channel and 0.003 acre of riparian habitat). Permanent impacts will result from grading for track installation, trenching and the subsequent installation of utility lines, culvert extension, and drainage refinements. Temporary impacts will result from staging/storage of equipment, and track removal. See Exhibits 3, 3a, 3b, 3c, 3d, and 3e.

PROJECT IMPACTS

Existing fish or wildlife resources the project could substantially adversely affect include: BIRDS - burrowing owl (*Athene cunicularia*), coastal California gnatcatcher (*Polioptila californica californica*), least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), Anna's hummingbird (*Calypte anna*), lesser goldfinch (*Carduelis psaltria*), house finch (*Carpodacus mexicanus*), wrentit (*Chamaea fasciata*), and common raven (*Corvus corax*); MAMMALS - coyote (*Canus latrans*), bobcat (*Lynx rufus*), raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*), California ground squirrel (*Spermophilus beecheyi*), Botta's pocket gopher (*Thomomys bottae*), and desert cottontail (*Sylvilagus audubonii*), and Mexican free-tailed bat (*Tadarida brasiliensis*); PLANTS- white-rabbit tobacco (*Pseudognaphalium leucocephalum*), and Coulter's saltbush (*Atriplex coulteri*); and riparian vegetation which provides habitat for those species; and all other aquatic and wildlife resources in the project vicinity.

Other adverse effects the project could have on the fish or wildlife resources identified above include: disturbance of foraging area, disturbance of nests or nesting habitat, noise disturbance, redirected flow, loss or impediment of terrestrial animal species travel routes due to temporary structures (e.g., survey tape, sandbags, erosion protection materials etc.), and release of short-term release of contaminants (e.g., incidental from construction) into the stream.

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 CDFW 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 CDFW 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, CDFW shall contact Permittee to resolve any conflict.
- 1.4 Project Site Entry. Permittee agrees that CDFW personnel may verify compliance with the agreement through coordination with OCTA representative. All CDFW personnel shall receive training through Southern California Regional Rail Authority (SCRRA) Third Party Contractor Safety Training class prior to seeking project site entry to review railroad safety requirements. Project site entry shall be coordinated with OCTA representative 15 days in advance and be under Employee in Charge protection provided by OCTA.

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.

Resource Protection

- 2.1 Worker Environmental Awareness Program. Permittee shall develop a worker environmental awareness program that meets the approval of CDFW that shall be implemented during all phases of the project (e.g., site mobilization, ground disturbance, grading, construction, operation, site cleanup, and restoration activities). The worker environmental awareness program shall identify biological resources and Best Management Practices (BMPs) for minimizing impacts to fish and wildlife resources. Interpretation shall be provided for non-English speaking workers, and the same instruction shall be provided for any new workers prior to

their working onsite. The names of all onsite personnel (e.g., surveyors, construction engineers, employees, contractors, contractor's employees, subcontractors) who have participated in the education program shall be kept on file and made available to CDFW at the project field construction office. The program shall include but not be limited to the following: photographs and habitat descriptions for all special status species that may occur on the project site and information on their distribution, general behavior and ecology; the sensitivity of these species to human activities; legal protections afforded these species; BMPs for protecting species; penalties for violation of state and federal laws; worker responsibilities for trash disposal and safe/humane treatment of any special status species found on the project site, associated reporting requirements, and any specific measures required of workers to prevent taking of threatened or endangered species; handout materials summarizing all the contractual obligations and protective requirements specified in project permits and approvals; and requirements and penalties regarding adherence to speed limits on the project site.

- 2.2 Construction Area Demarcation. Prior to construction, the authorized construction limits shall be marked in coordination with a qualified biologist. No vegetation shall be removed outside of this marked area and no construction debris, equipment, or soils shall be placed outside of the marked area.
- 2.3 Qualified Biologist. For the purposes of this Agreement, a qualified biologist is one who has met all of the following minimum qualifications: (a) bachelor's degree in biological sciences, zoology, botany, ecology, or a closely related field; (b) at least 3 years of experience in field biology or current certification of a nationally recognized biological society; and (c) at least 1 year of field experience with biological resources found in or near the project area. In lieu of the following qualifications, a resume shall demonstrate to the satisfaction of CDFW that the proposed biologist(s) has the appropriate training and background to effectively implement the measures of this Agreement.
- 2.4 Nesting Birds. To avoid potential impact to tree nesting birds, trees and shrubs designated for removal should be cut down during the time period of September 16 to March 14. Trees/shrubs may be removed between March 15 and September 15 provided Permittee has a qualified biologist survey the proposed work area to verify the absence of nesting birds. Permittee shall not disturb trees that contain active bird nests. If avoidance of the avian breeding season is not feasible, at least 2 weeks prior to the initiation of project activities, a qualified biologist with experience in conducting breeding bird surveys will conduct weekly bird surveys to detect presence/absence of native bird species occurring in suitable nesting habitat that is to be directly or indirectly disturbed and (as access to adjacent areas allows) any other such habitat within an appropriate buffer distance of the disturbance area. Nesting buffers may be adjusted to reflect existing conditions including ambient noise, topography, and existing disturbances,

with the approval of CDFW. If a nesting bird species is found, flagging or stakes should be used to demarcate the boundary of the buffer between the project activities and the nest. The construction personnel, including all contractors working on site, should be instructed on the sensitivity of the area. This Agreement does not allow Permittee, any employees, or agents to take birds or to destroy the nest or eggs of any bird.

- 2.5 Protected Species Defined. This Agreement does not authorize the take of any protected species. For the purpose of this Agreement, "protected species" means the following: a species fully protected under state law; a species listed under the California Endangered Species Act (CESA; Fish & G. Code § 2050 et seq.) and/or the Endangered Species Act (ESA; 16 U.S.C. § 1531 et seq.); a species identified by CDFW as a species of special concern; or any other species for which take is prohibited under state or federal law. If the proposed work could affect any candidate species, or threatened and endangered species, Permittee is required, as prescribed in CESA or ESA, to consult with the appropriate agency prior to commencement of the project. Any unauthorized take of such listed species may result in prosecution.
- 2.6 Preconstruction Surveys Completed by Qualified Biologist. Permittee shall have a qualified biologist conduct preconstruction surveys in proposed work areas no more than 48 hours prior to the commencement of ground-disturbing construction activities to verify the presence or absence of special-status species. The results of the surveys shall be provided to CDFW, along with copies of field notes, prior to the initiation of work.
- 2.7 Biological Monitoring. Permittee shall have a biological monitor on-site during all grubbing and clearing of vegetation to ensure that all activities remain within the project footprint and that any flagging/stakes/fencing are maintained. A biological monitor will send weekly monitoring reports to Permittee during the ground disturbing activities and will notify Permittee immediately if project activities take, possess, or needlessly destroy the nest or eggs of any bird or other special-status species. Permittee will notify CDFW within 24 hours if damage to an active nest or eggs or injury or death of special-status species is observed.
- 2.8 Protected Species Plan. If a protected species is found in the proposed work area, or is in a location which could be directly or indirectly affected by the work proposed, Permittee shall submit a plan to CDFW for review and approval prior to the initiation of work to ensure impacts to the species are avoided. Permittee shall have a qualified biologist onsite daily to ensure that no impacts occur to protected species.
- 2.9 Dead or Injured Protected Species. Any dead or injured protected species found along roads or in project areas shall be reported to CDFW within 48 hours. The biologist shall report the location, cause of death, species found, and any other relevant information.

2.10 Least Bell's Vireo.

2.10.1 Seasonal and Other Restrictions. Permittee shall not conduct any grading or brushing activities within the stream zone in vireo-occupied habitat during the vireo breeding season, defined as March 15 through September 15. When performing all other construction activities during the breeding season within 500 feet of occupied or suitable vireo habitat, a qualified biologist, with experience in conducting breeding bird surveys, shall conduct a minimum of 3 focused pre-construction surveys on separate days within the week prior to initiation of activities. The final survey will be conducted the day immediately prior to the initiation of activities in the construction area. The results of the surveys shall be submitted to CDFW for review and approval prior to initiating any construction activities.

2.10.2 Site Monitoring and Restrictions. If vireos are present, a qualified biologist shall survey daily for nesting vireos within 500 feet of the construction area, for the duration of the activity in that area during the breeding season. If an active nest is located, a 500-foot no-construction buffer zone shall be established around each nest site; however, there may be a reduction of this buffer zone depending on site-specific conditions or the existing ambient level of activity. Permittee shall contact CDFW to determine the appropriate buffer zone. No construction shall take place within this buffer zone until the nest has fledged or is no longer active. If construction must take place within the buffer, a qualified acoustician shall monitor noise as construction approaches the edge of the occupied vireo habitat as directed by the permitted biologist. If the noise meets or exceeds the 60 dB(A) Leq threshold, or if the biologist determines that construction activities are disturbing nesting activities, the biologist shall have the authority to halt construction and shall consult with CDFW to devise methods to reduce the noise and/or disturbance. This may include methods such as, but not limited to, turning off vehicle engines and other equipment whenever possible to reduce noise, installing a protective noise barrier between the nesting birds and the activities, and working in other areas until the young have fledged. The CDFW-approved biologist shall monitor the nest daily until activities are no longer within 500 feet of the nest, or the fledglings become independent of their nest or the nest has failed.

2.11 Bat Protection - Culverts. Prior to project activities modifying or extending culverts or work on, under, or adjacent to bridges the following shall occur. The site shall be surveyed for bats by a qualified biologist. If bats are found, there shall be no further disturbance to the culvert or bridge until CDFW has been consulted. CDFW reserves the right to provide additional provisions to this agreement designed to protect nesting/roosting bats.

2.12 Personnel Compliance on Site. Permittee, its contractors, subcontractors, employees, and visitors to the site are prohibited from 1) feeding wildlife, 2)

bringing domestic pets to the project site, 3) collecting native plants, or 4) harassing wildlife. It shall be the responsibility of Permittee to ensure compliance.

- 2.13 Minimize Disturbance to Stream Zone. Disturbance or removal of vegetation shall not exceed the limits approved by CDFW. Within the stream zone, the area of disturbance shall be confined to the smallest practical area considering topography; placement of facilities; locations of burrows, nesting sites or dens; public health and safety; and other limiting factors. The development of all access and right-of-way roads shall be minimized and constructed without the clearing of vegetation and blading where feasible. Wherever possible, rather than clearing vegetation and grading the right-of-way, equipment and vehicles shall use existing surfaces or previously disturbed areas. A qualified biologist shall ensure that blading is conducted only where necessary. All new roadways not necessary for continued facility maintenance shall be blocked, ripped, and revegetated following completion of construction to restore habitat and prevent public use. Where grading is necessary, surface soils shall be stockpiled and replaced following construction to facilitate habitat restoration. To the extent possible, disturbance of shrubs and surface soils due to stockpiling shall be minimized.
- 2.14 Cover Trenches and Other Hazards. All steep-walled trenches or excavations used during the project shall be covered at all times except when being actively used, to prevent entrapment of wildlife (e.g. reptiles and small mammals). If trenches cannot be covered, exclusion fencing shall be installed around the trench or excavation. Open trenches, or other excavations, shall be inspected by the qualified biologist a minimum of three times per day and immediately before backfilling. All employees, contractors, or visitors shall look under their vehicles and equipment before movement. If wildlife is observed, no vehicles or equipment would be moved until the animal has left the area voluntarily or can be moved by a qualified biologist.
- 2.15 Secure Work Area. The work area shall be secured from trespass when (as determined by CDFW) fish or wildlife resources are vulnerable to damage from unsupervised public access.
- 2.16 Vegetation Removal. Disturbance or removal of vegetation shall be kept to the minimum necessary to complete project related activities. Vegetation marked for protection may only be trimmed with hand tools to the extent necessary to gain access to the work sites.
- 2.17 Return Low Flow Channel to Pre-project Conditions. If a stream channel has been altered during the operations, Permittee shall return its low flow channel, as nearly as possible, to pre project conditions without creating a possible future bank erosion problem or a flat wide channel or sluice like area.

- 2.18 Location of Spoil Sites. Spoil sites shall not be located within a stream or locations that may be subjected to high storm flows, where spoil may be washed back into a stream, or where it may impact streambed habitat, aquatic or riparian vegetation.
- 2.19 Weather Restrictions. Permittee shall monitor the five day weather forecast. If any precipitation is forecasted, work activities shall involve the securing of the site so as no materials may enter or be washed into the stream. The site shall be completely secured 1 day prior to precipitation, unless prior written approval has been provided by CDFW. During period of precipitation, no construction activities may occur; activities involving the preventing of materials from entering the stream or being washed downstream may be conducted. In the event that 1 inch of precipitation is accumulated within the watershed, no activities shall occur on site for 2 weeks, or until the flows have receded and the moisture content of the soils has stabilized.

Fill

- 2.20 Movement of Rock, Gravel and Other Materials. Rock, gravel, and/or other materials shall not be imported to, taken from or moved within the bed or banks of the stream except as otherwise addressed in this Agreement.
- 2.21 Certified Weed Free. All gravel and fill material shall be certified weed free.
- 2.22 Temporary Fills. Temporary fills shall be constructed of non-erodible materials and shall be removed immediately upon work completion.

Structures

- 2.23 Authorized Structures. This Agreement does not authorize the construction of any temporary or permanent dam, structure, flow restriction or fill except as described in Permittee's notification.
- 2.24 Impairment of Water Flow. Installation of bridges, culverts, dip crossings, or other structures shall be such that water flow is not impaired. Bottoms of temporary culverts shall be placed at stream channel grade and bottoms of permanent culverts shall be placed at or below stream channel grade.
- 2.25 Storm Drains and Culverts. Storm drain 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.

Flow Diversions

- 2.26 Ephemeral Stream Diversion. Vehicles shall not be driven or equipment operated in water covered portions of the stream, or where wetland vegetation, riparian vegetation, or aquatic organisms may be impacted.
- 2.27 Flow Diversions. 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 CDFW. Location of the upstream and downstream diversion points shall be approved by CDFW. 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. Permittee shall obtain all written approvals from CDFW prior to initiation of construction activities.
- 2.28 Protect Water Quality and Downstream Flow. Flow diversions shall be done in a manner that shall prevent pollution and/or siltation and which shall provide flows to downstream reaches. Flows to downstream reaches shall be provided during all times that the natural flow would have supported aquatic life. Said flows shall be sufficient quality and quantity, and of appropriate temperature to support fish and other aquatic life both above and below the diversion. Diversions shall be engineered, installed, and maintained to assure resistance to washout and erosion of the streambed and banks. Normal flows shall be restored to the effected stream immediately upon completion of work at that location.

Pollution, Sedimentation, and Litter

- 2.29 Keep Polluted Water from Entering Stream Zone. Water containing mud, silt, or other pollutants for aggregate washing or other activities shall not be allowed to enter a flowing stream or placed in locations that may be subject to high storm flows.
- 2.30 Keep Pollutants Out of Stream Zone. No debris, soil, silt, sand, bark, slash, sawdust, rubbish, construction waste, cement or concrete or washings thereof, asphalt, paint, oil or other petroleum products, or any other substances/materials associated with any project-related activity shall be allowed to contaminate the soil and/or enter into or be placed where they may be washed by rainfall or runoff into a stream or lake. Any of these substances/materials, placed within or where they may enter a stream or lake, by Permittee or any party working under contract, or with the permission of Permittee, shall be removed immediately upon observation of their presence. When operations are completed, any excess materials or debris shall be removed from the work area.

- 2.31 Litter and Pollution Control. 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 Permittee to ensure compliance. All trash and food-related items shall be disposed in self-closing, sealable containers with lids that latch to prevent wind and wildlife from opening containers. Trash containers shall be emptied daily and removed from the project site when construction is complete.
- 2.32 Operating Equipment and Vehicle Leaks. Any equipment or vehicles driven and/or operated within or adjacent to the stream shall be checked and maintained daily to prevent leaks of materials that could be deleterious to aquatic and terrestrial life or riparian habitat.
- 2.33 Stationary Equipment Leaks. Stationary equipment such as motors, pumps, generators, and welders, located within or adjacent to the stream shall be positioned over drip pans. Stationary heavy equipment shall have suitable containment to handle a catastrophic spill/leak.
- 2.34 Equipment Maintenance and Fueling. No equipment maintenance or fueling shall be done within or near any stream channel or lake margin where petroleum products or other pollutants from the equipment may enter these areas.
- 2.35 Equipment Storage. Staging and storage areas for equipment, materials, fuels, lubricants and solvents, shall be located outside of the stream channel and banks.

Restoration of Temporary Impacts

- 2.36 Restoration of Stream Zone to Pre-Project Conditions. Permittee shall restore all areas within the stream zone temporarily impacted by construction, such as construction sites, laydown/staging areas, temporary access and spur roads, and existing track/markers locations where tracks/markers are removed. If a stream channel has been altered during the operations, its low flow channel shall be returned as nearly as possible to pre-project conditions without creating a possible future bank erosion problem, or a flat wide channel or sluice-like area. The gradient of the streambed shall be returned to pre-project grade unless such operation is part of a restoration project, in which case, the change in grade must be approved by CDFW prior to project commencement.
- 2.37 Date of Completion. Permittee shall restore temporary impacts to the stream zone within 6 months following completion of project activity. Compensatory Mitigation Measures

3. Compensatory Mitigation Measures

- 3.1 Mitigation for Authorized Permanent Impacts. Permittee shall mitigate the impacts to 0.05 acre unvegetated streambed and 0.003 acre riparian forest at a 1:1

replacement-to-impact ratio through the purchase of 0.053 acres of riparian habitat creation credits at a CDFW authorized mitigation bank.

- 3.2 Mitigation for Unauthorized Impacts. 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 CDFW and may include creation, restoration, enhancement and/or preservation.

4. Reporting Measures

- 4.1 Proof of Purchase of Mitigation Credits. Permittee shall provide, at least 5 days before initiating project impacts, written evidence to CDFW, such as a letter from the wetland bank manager, confirming that 0.053 acre of riparian forest habitat credit was purchased at a CDFW authorized mitigation bank.
- 4.2 Notification Prior to Work. Permittee shall notify CDFW, in writing, at least 5 days prior to initiation of construction (project) activities and at least 5 days prior to completion of construction (project) activities, each time project activities occur. Notification shall be sent to CDFW's South Coast Office at the address above, or alternatively to R5LSACompliance@wildlife.ca.gov ATTN: Streambed Alteration Program – SAA # 1600-2016-0165-R5.
- 4.3 Reporting Sensitive Species to CNDDB. Permittee shall be responsible for reporting all observations of threatened /endangered species or of species of special concern to CDFW's Natural Diversity Data Base (CNDDB) within 60 days of sighting. The form and instructions for completing the form and submitting the information are available on-line at http://www.dfg.ca.gov/biogeodata/cnddb/submitting_data_to_cnddb.asp. In addition to sending the information to CNDDB a copy should be sent to the CDFW's South Coast Office, or alternatively to R5LSACompliance@wildlife.ca.gov, ATTN: Streambed Alteration Program – SAA #1600-2016-0165-R5.

CONTACT INFORMATION

Any communication that Permittee or CDFW 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 CDFW specifies by written notice to the other.

To Permittee:

Mr. Jason Lee
Orange County Transportation Authority (OCTA)

Notification #1600-2016-0165-R5
Streambed Alteration Agreement
Page 12 of 15

550 S. Main Street
Orange, CA 92686
(714) 560-5833
Jlee1@octa.net

To CDFW:

Department of Fish and Wildlife
South Coast Region
3883 Ruffin Road
San Diego, CA 92103
Attn: Lake and Streambed Alteration Program – Jennifer Turner
Notification #1600-2016-0165-R5
jennifer.turner@wildlife.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 CDFW'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

CDFW 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 CDFW 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 CDFW 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 CDFW to issue the notice.

ENFORCEMENT

Nothing in the Agreement precludes CDFW 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 CDFW'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

CDFW may amend the Agreement at any time during its term if CDFW 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 CDFW and Permittee. To request an amendment, Permittee shall submit to CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the corresponding amendment fee identified in CDFW'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 CDFW 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 CDFW a completed CDFW "Request to Amend Lake or Streambed Alteration" form and include with the completed form payment of the minor amendment fee identified in CDFW'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 CDFW a completed CDFW "Request to Extend Lake or Streambed Alteration" form and include with the completed form payment of the extension fee identified in CDFW's current fee schedule (see Cal. Code Regs., tit. 14, § 699.5). CDFW 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 (FGC section 1605(f)).

EFFECTIVE DATE

The Agreement becomes effective on the date of CDFW's signature, which shall be: 1) after Permittee's signature; 2) after CDFW 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 <https://www.wildlife.ca.gov/Conservation/CEQA/Fees>.

TERM

This Agreement shall expire on October 15, 2021, 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

Notification #1600-2016-0165-R5
Streambed Alteration Agreement
Page 15 of 15

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 CDFW in accordance with FGC section 1602.

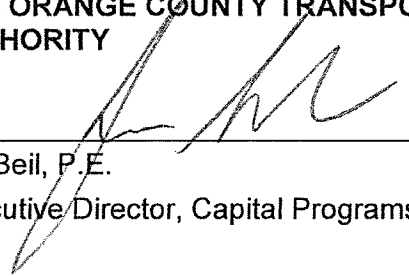
EXHIBITS

Overview Map Figure 3
CDFW Jurisdictional Delineation Impacts Figure 3a
CDFW Jurisdictional Delineation Impacts Figure 3b
CDFW Jurisdictional Delineation Impacts Figure 3c
CDFW Jurisdictional Delineation Impacts Figure 3d
CDFW Jurisdictional Delineation Impacts Figure 3e

CONCURRENCE

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

FOR ORANGE COUNTY TRANSPORTATION AUTHORITY



Jim Beil, P.E.
Executive Director, Capital Programs



Date

FOR DEPARTMENT OF FISH AND WILDLIFE

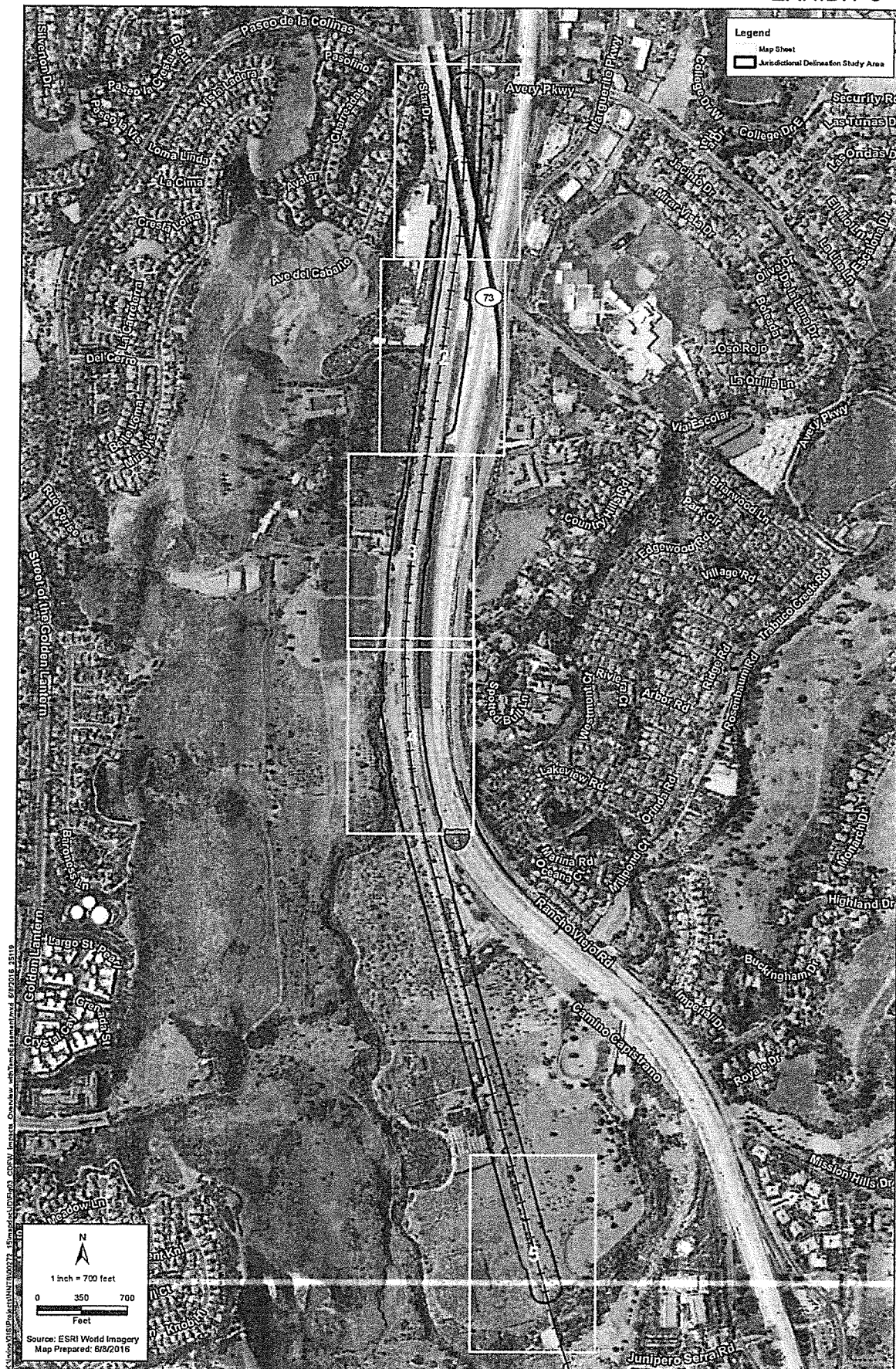


Gail Sevrens
Environmental Program Manager



Date

Prepared by: Jennifer Turner
Environmental Scientist



**Figure 3 - Overview Map
CDFW Jurisdictional Delineation Impacts
Laguna Niguel to San Juan Capistrano Passing Siding Project**

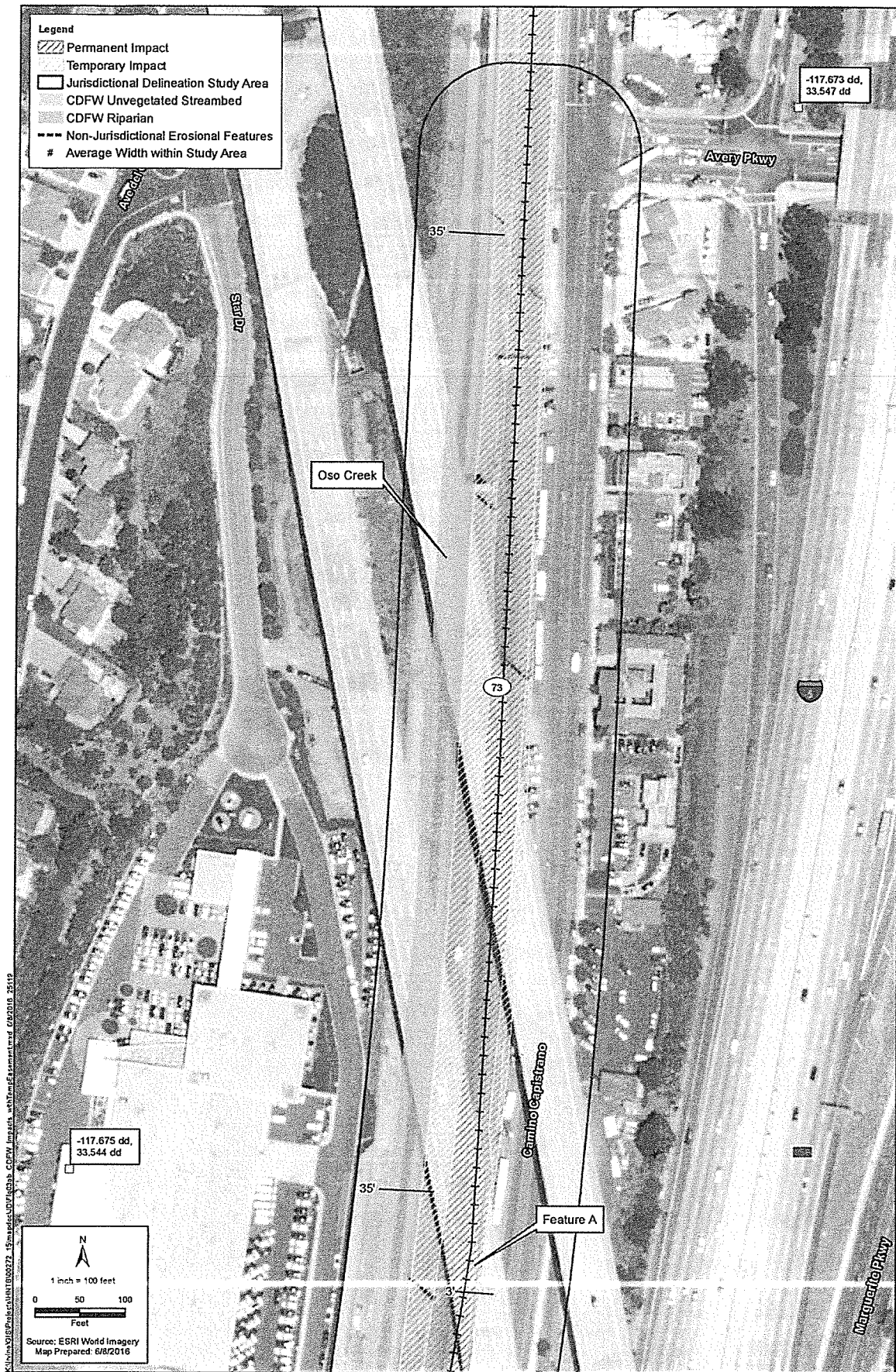


Figure 3a - Sheet 1 of 5
CDFW Jurisdictional Delineation Impacts
Laguna Niguel to San Juan Capistrano Passing Siding Project

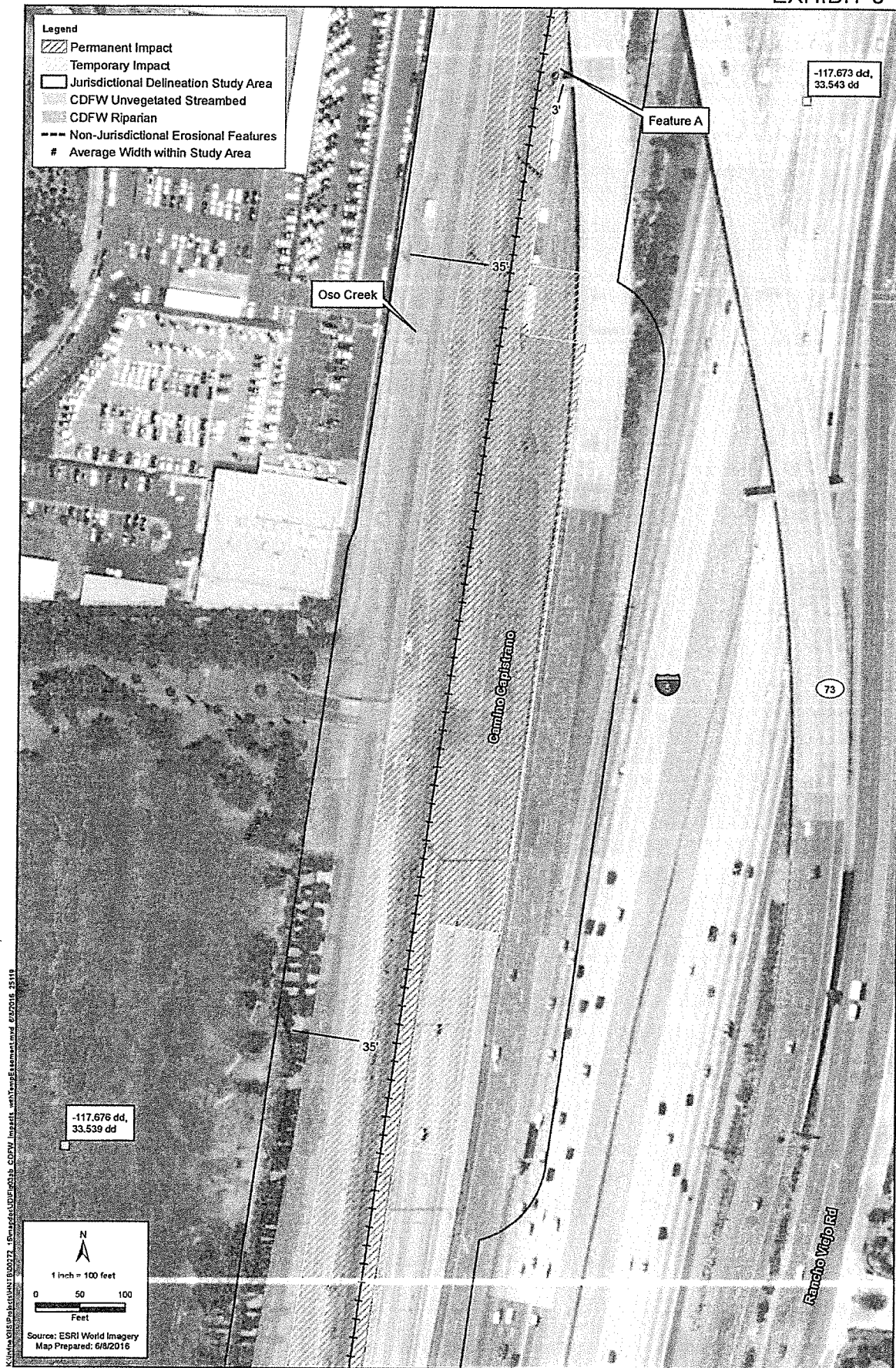


Figure 3b - Sheet 2 of 5
CDFW Jurisdictional Delineation Impacts
Laguna Niguel to San Juan Capistrano Passing Siding Project

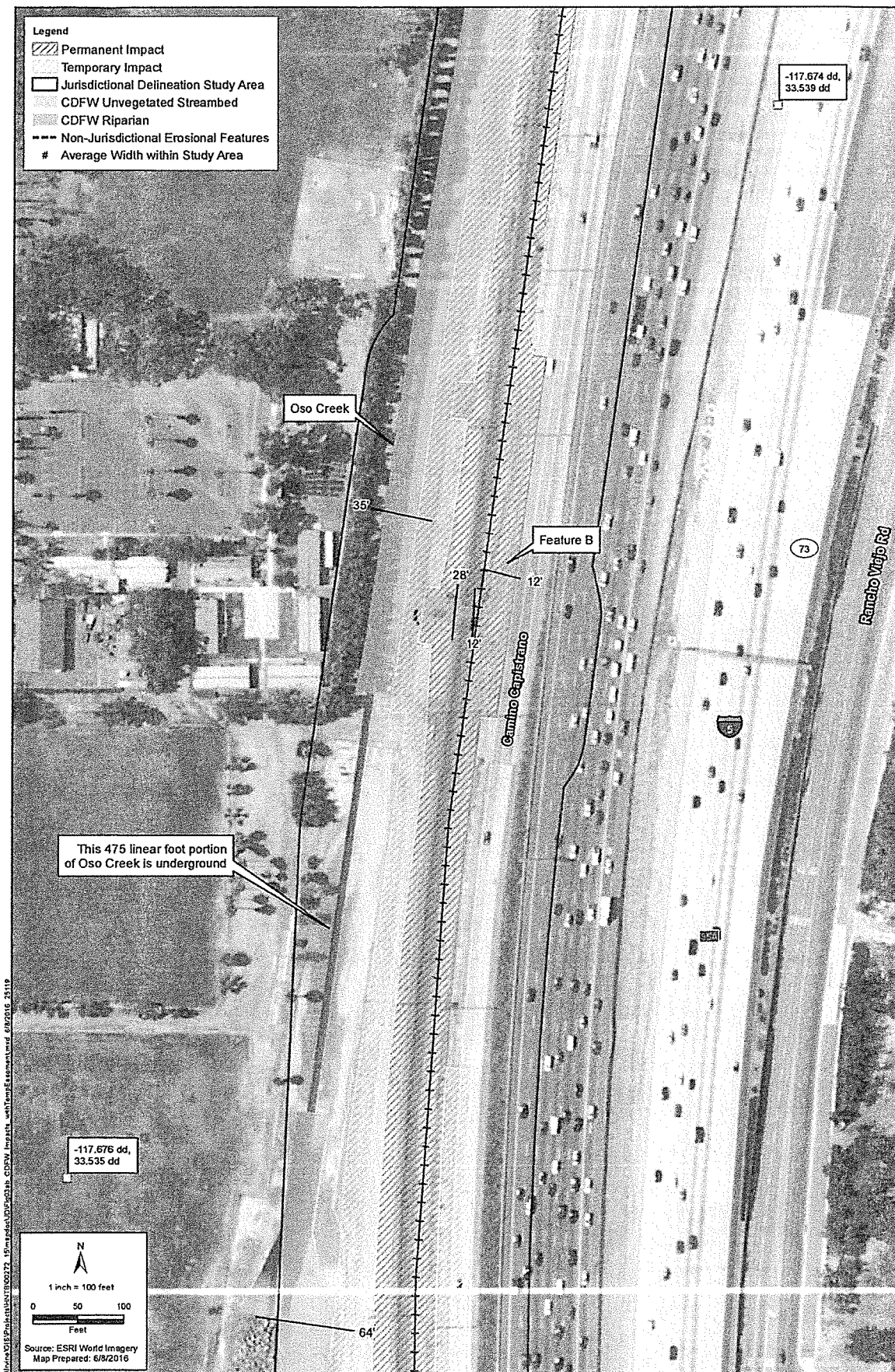


Figure 3c - Sheet 3 of 5
CDFW Jurisdictional Delineation Impacts
Laguna Niguel to San Juan Capistrano Passing Siding Project

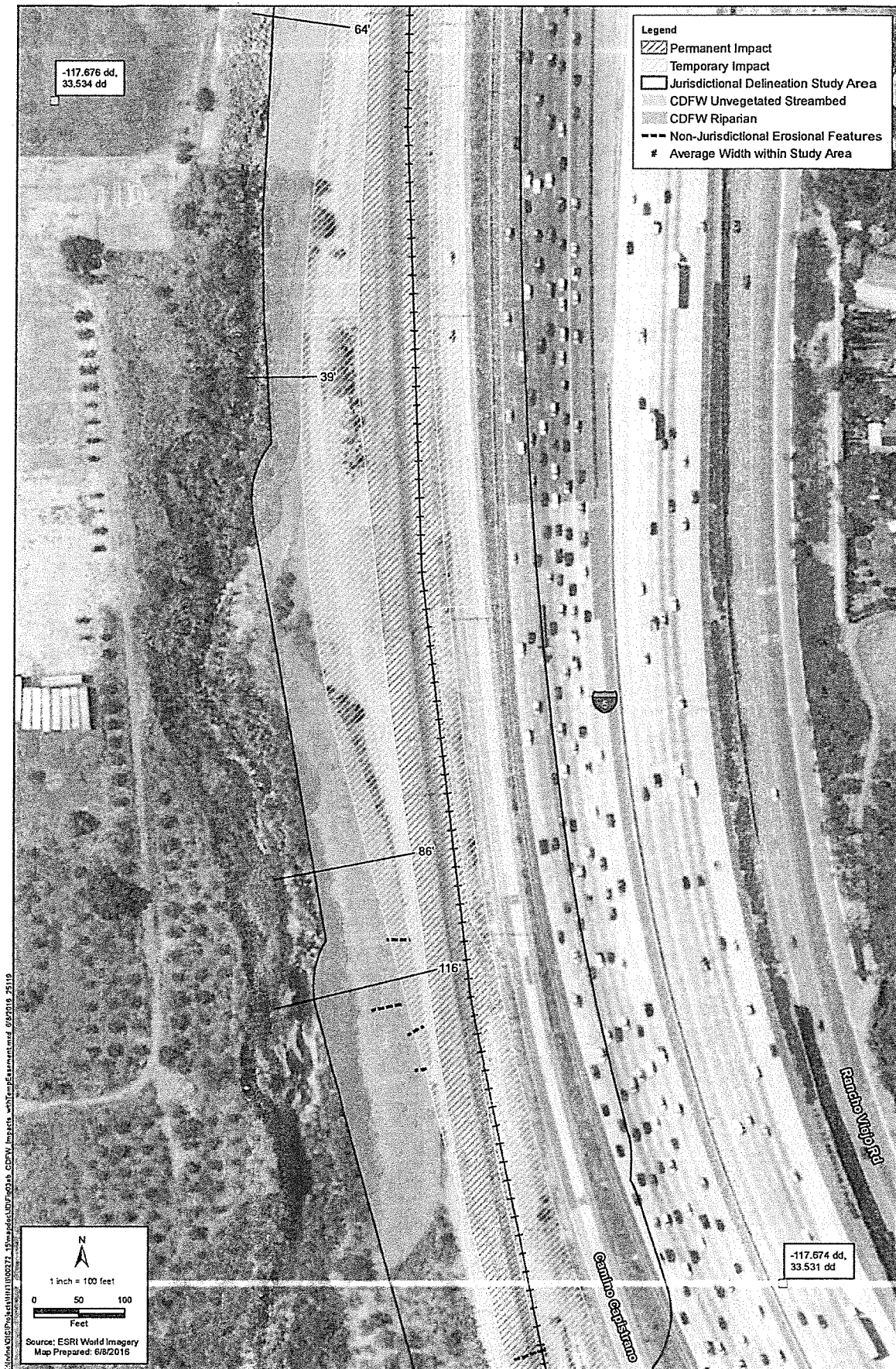
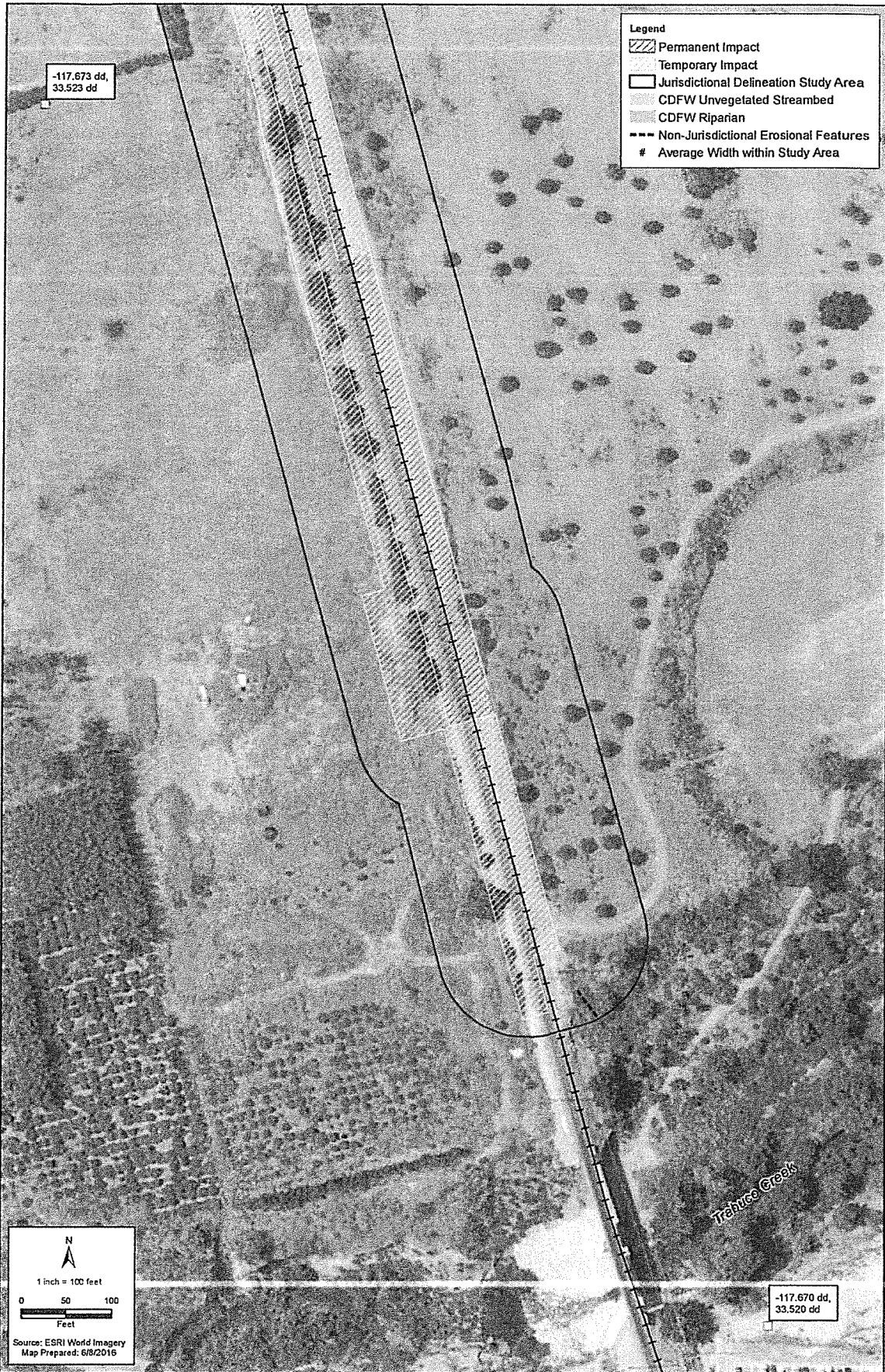
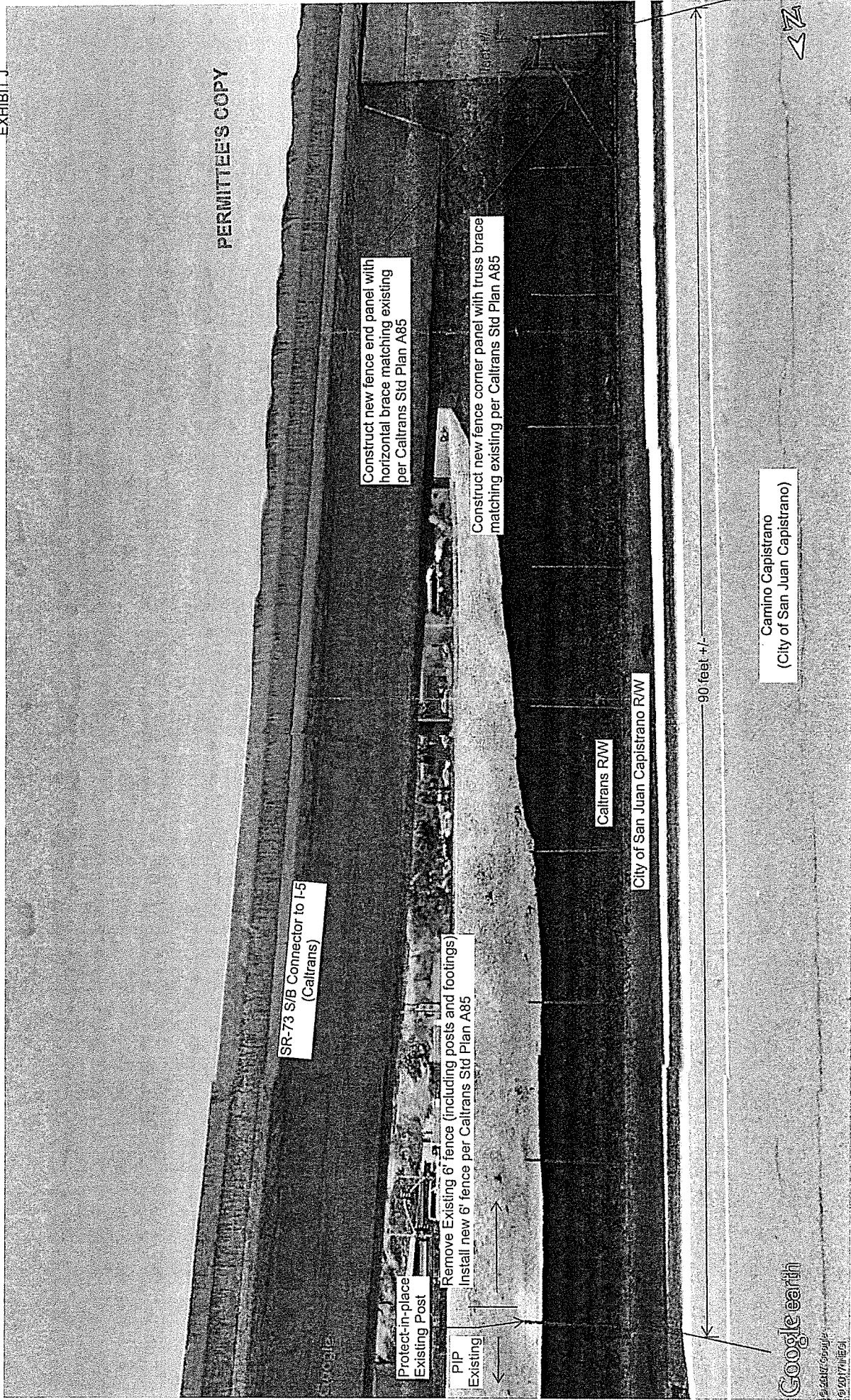
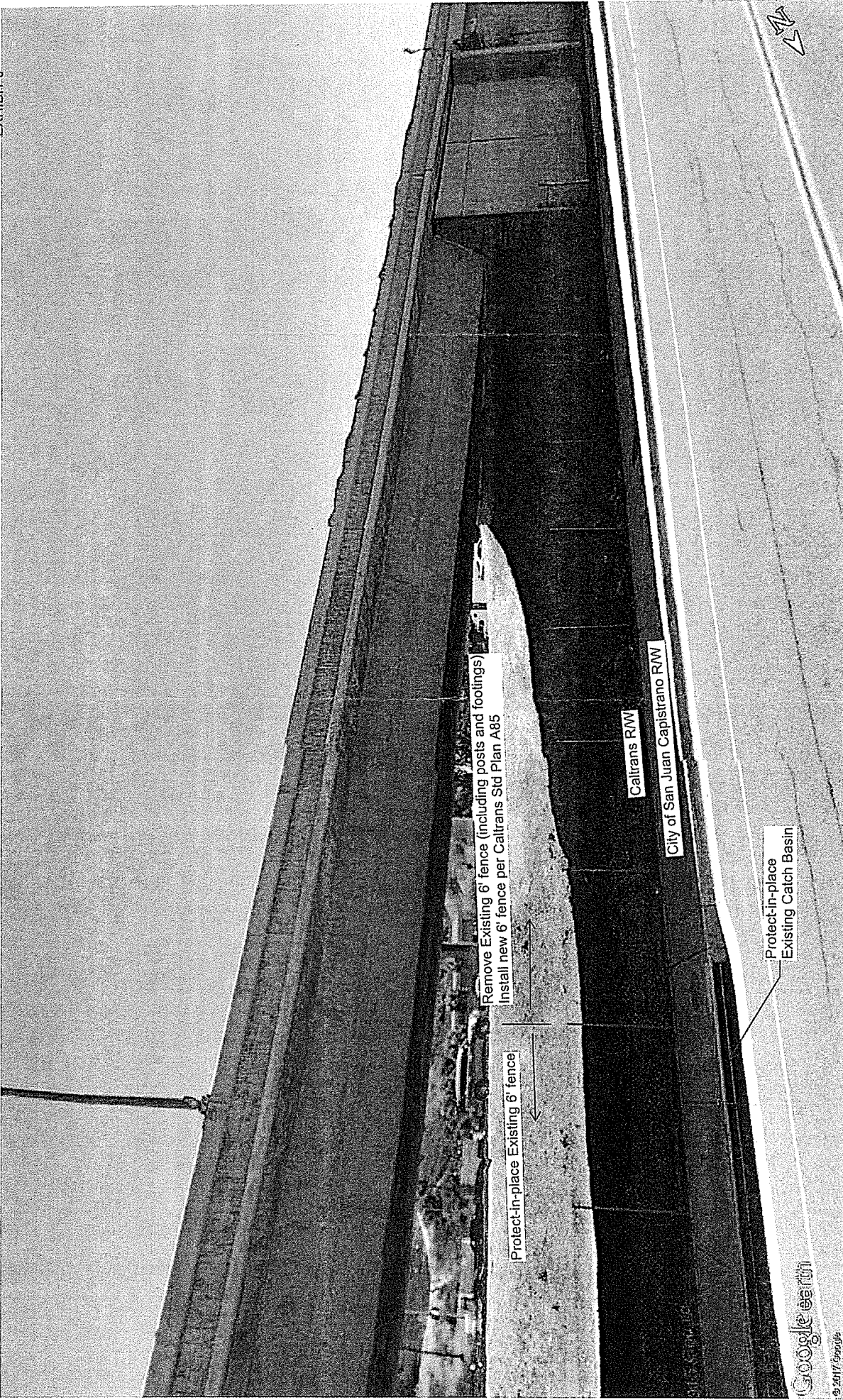


Figure 3d - Sheet 4 of 5
CDFW Jurisdictional Delineation Impacts
Laguna Niguel to San Juan Capistrano Passing Siding Project

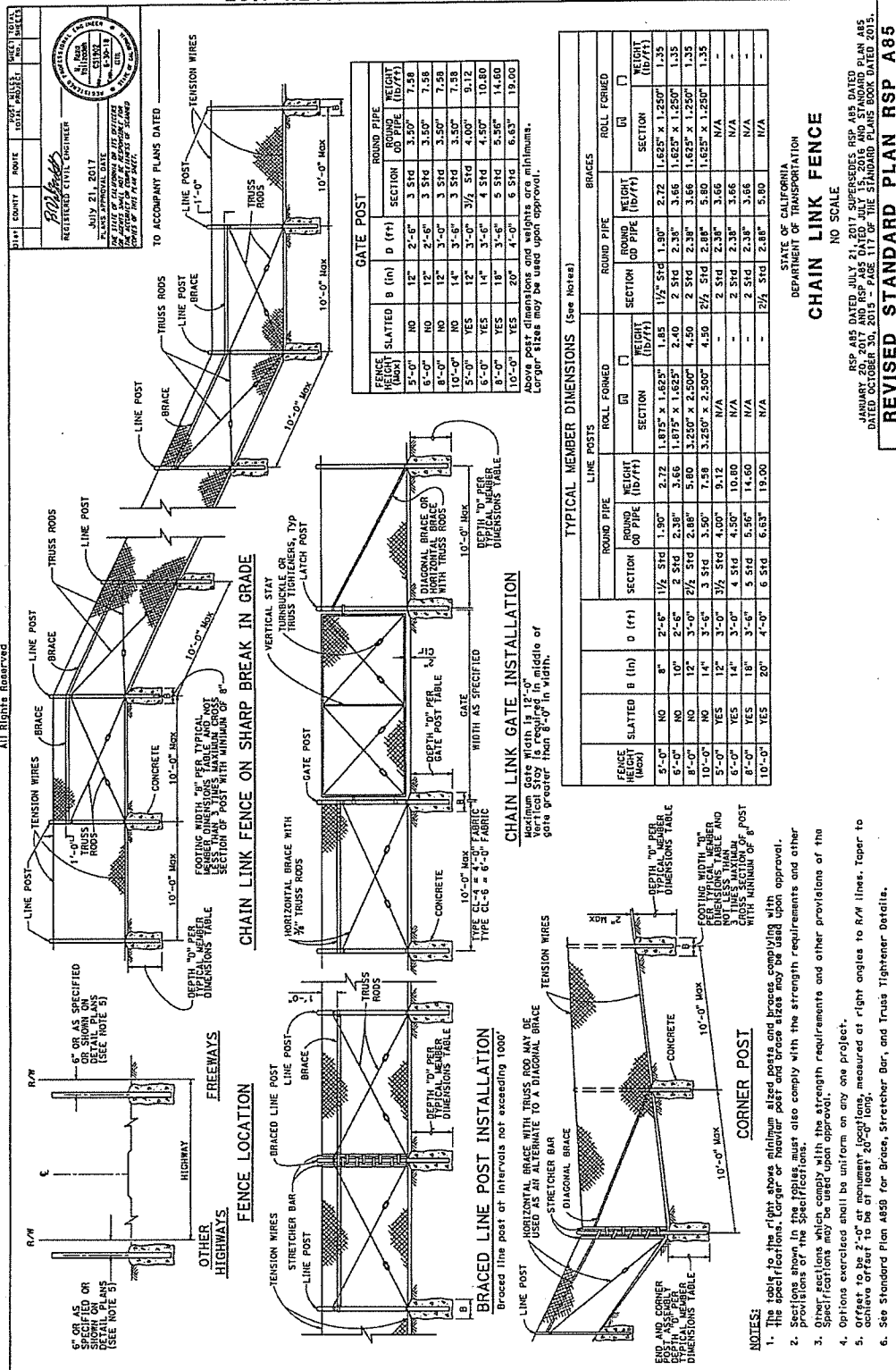


PERMITTEE'S COPY





2015 REVISED STANDARD PLAN RSP A85



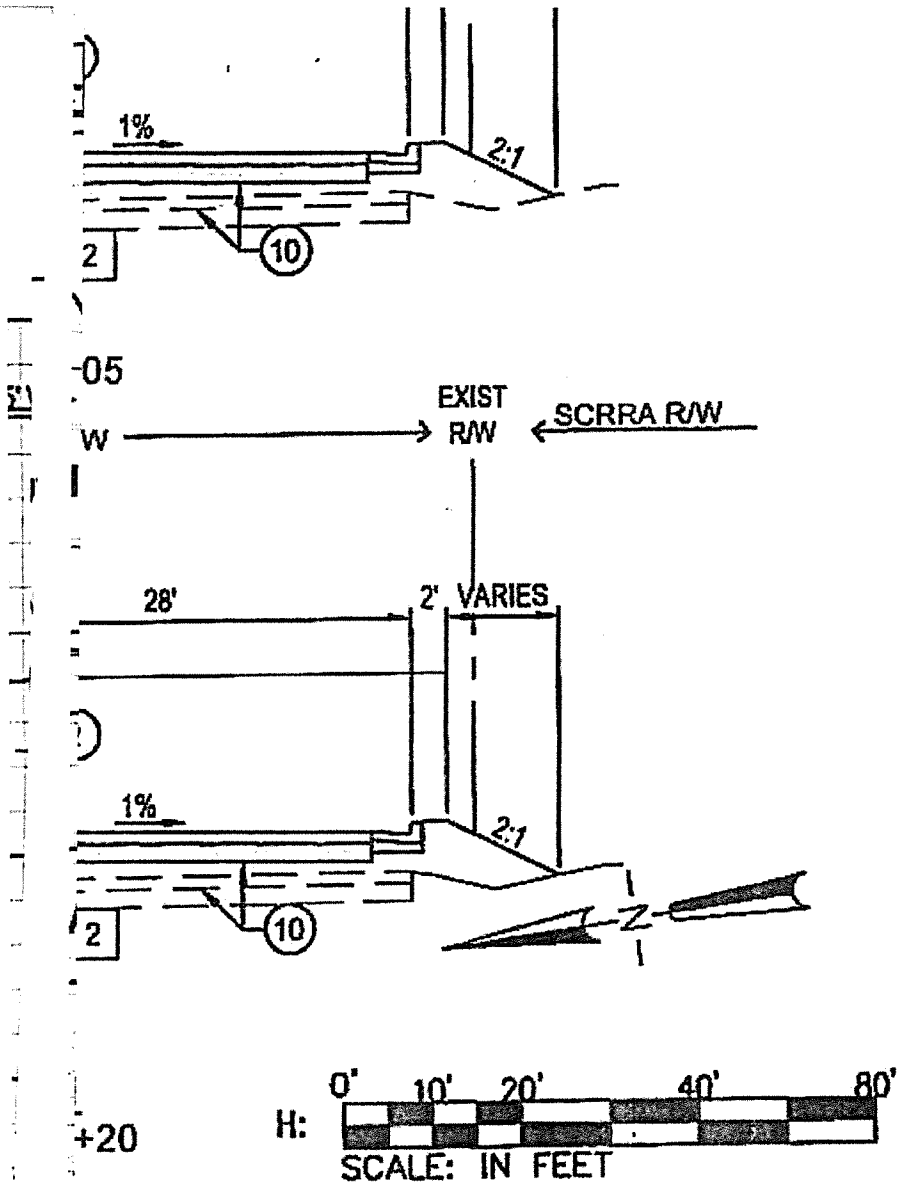
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

CHAIN LINK FENCE

NO SCALE

RSP A85 DATED JULY 21, 2017 SUPERSEDES RSP A85 DATED
JANUARY 20, 2017 AND RSP A85 DATED JULY 15, 2016 AND STANDARD PLAN A85
REVISED OCTOBER 30, 2015 - PAGE 111 OF THE STANDARD PLANS BOOK DATED 2015.

REVISED STANDARD PLAN RSP A85



PERMITTEE'S COPY

DISTRICT 12
CALTRANS PERMIT PLANS

SEP 12 2017

ATTACHED TO
PERMIT NO. _____

17-0632

90% DESIGN

RAIL SYSTEM
SIDING

END PROFILE
+00

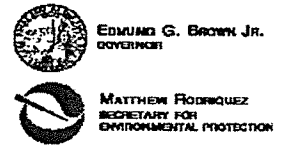
CONTRACT NO.	
DRAWING NO.	
OCTA -CP-101	
REVISION	SHEET NO.
0	55 /90
SCALE	
AS SHOWN	

SECTION 401 – REGIONAL WATER QUALITY CONTROL BOARD WATER QUALITY CERTIFICATION DRAFT APPLICATION

The AUTHORITY has not received the executed Section 401 Permit from the RWQCB as of the initial time of bidding, however anticipates receiving said 401 Permit prior to the start of Work on the Project.

The AUTHORITY's application is included for information to CONTRACTOR/Bidders at this time.

RWQCB CWA Section 401 Water Quality Certification Application



California Regional Water Quality Control Board, San Diego Region

APPLICATION FOR CLEAN WATER ACT SECTION 401
WATER QUALITY CERTIFICATION

All applicants must provide a **complete and detailed response to all sections** of the application or the application will be deemed incomplete. Responses should not refer reader to an attachment. Any responses by reference must indicate the specific document(s) name and page number(s) (include a copy of the entire reference document). All sections that do not apply must be indicated by Not Applicable ("NA") and must be accompanied by an explanation of why the project is exempt from the section.

1. APPLICANT/AGENT INFORMATION	
Applicant's Name: Orange County Transportation Authority (OCTA) Contact: Jason Lee	Authorized Agent's Name and Title: N/A
Applicant's Address: 550 S. Main Street, Orange, CA 92868	Agent's Address: N/A
Applicant's Phone: (714) 560-5833	Agent's Phone: N/A
Applicant's Fax: N/A	Agent's Fax: N/A
Applicant's Email: jlee1@octa.net	Agent's Email: N/A

STATEMENT OF AUTHORIZATION

I hereby authorize _____ to act in my behalf as my agent in the processing of this application, and to furnish upon request, supplemental information in support of this permit application.

Applicant's Signature _____

Date _____

(This **must** be signed by the applicant, **not** the authorized agent.)

2. PROJECT/ACTIVITY INFORMATION

PROJECT NAME OR TITLE Laguna Niguel to San Juan Capistrano Passing Siding Project

LOCATION OF PROJECT (See instructions.) The proposed Laguna Niguel to San Juan Capistrano Passing Siding Project (Project) is located along the San Luis Obispo – Santa Barbara – Los Angeles – San Diego (LOSSAN) rail corridor. The Project is located in urban Orange County in the cities of Laguna Niguel and San Juan Capistrano. Specifically, the proposed project is located within the existing Southern California Regional Rail Authority (SCRRA) right-of-way west of Interstate 5 (I-5) and Camino Capistrano and east of Oso Creek (Appendix A, Figures 1 and 2, attached). Additionally, the Project is south of the State Route 73 (SR-73) and north of the confluence of Oso Creek and Trabuco Creek. The Project is in Sections 25, 26, 35 and 36 of Township 7 South, Range 7 West, of the 7.5-minute U.S. Geological Survey (USGS) San Juan Capistrano topographic map (USGS 1981) (Appendix A, Figure 2, attached).

The proposed addition of 1.8 miles of the new passing siding track adjacent to the existing main track lies between milepost (MP) 193.9 in the City of Laguna Niguel and MP 195.7 in the City of San Juan Capistrano. The new passing siding track would extend from the end of the existing double track south of the Laguna Niguel Mission Viejo (LNMV) Station and terminate 500 feet north of the Trabuco Creek crossing. Oso Creek runs parallel to the Project alignment and Trabuco Creek crosses under the existing tracks approximately 500 feet south of the Project. Regional access to the LNMV station and San Juan Capistrano station is provided by I-5 and SR-73.

Street Address: N/A

County: Orange City: Laguna Niguel and San Juan Capistrano

Assessor's Parcel Number(s): The APNs that intersect the Project footprint are 121-050-01, -12, -23; 637-082-14, -68; 637-561-01, -09, -12; 637-232—01, -08.

Hydrologic Unit, Area, and Subarea: The Project is within the San Juan Creek HUC 10 watershed (1807030101), which is a sub-watershed of the larger Aliso-San Onofre HUC 8 watershed (18070301).

Provide latitude and longitude for the proposed project.

Latitude 33.533922 Longitude -117.675809 (Center Reading)

Latitude 33.521309 Longitude -117.671646

Latitude 33.54721 Longitude -117.67427

Latitude 33.525803 Longitude -117.673327

DIRECTIONS TO PROJECT SITE (See instructions.)

From the San Diego RWQCB Office, take CA-163 N toward Escondido and merge onto I-805 N toward Los Angeles. I-805 will become I-5 N. Take I-5 N/San Diego Fwy N toward Santa Ana. Exit Avery Parkway, left. The northernmost part of the project is near the Avery Parkway and Camino Capistrano intersection.

OWNERSHIP

Does the applicant own the project site? Yes ☒ No ☐

If the project site is not owned by the applicant, provide the name(s), address(es), and phone number(s) for the property owner(s) as well as evidence that the applicant has the necessary approvals to construct the project at this location.

Does the applicant plan on selling all or a portion of the site after receiving the necessary approvals?

Yes ☐ No ☒

Does the applicant plan on selling all or a portion of the site prior to starting construction? Yes ☐ No ☒

If yes, provide the name(s), address(es), and phone number(s) of the future land owner(s).

Does the applicant plan on transferring the certification after receiving the necessary approvals and/or prior to starting construction? Yes ☐ No ☒

If yes, provide the name(s), address(es), and phone number(s) of the future transferee(s).

AFFECTED WATER BODY(IES) (See instructions.)

List all affected water body(ies). Two unnamed features (Features A and B) tributary to Oso Creek

List water velocities and shear for the 2, 5, 10, 50, and 100 storm water elevations for each water body.

The Project will result in minor permanent impacts (0.04 acre/393 linear feet) resulting from extending existing culverts to properly convey storm flows across the existing mainline track and the passing siding. During the Project's operational phase the hydrologic or hydraulic conditions of the culverts are not expected to be impacted. The Project is not anticipated to result in alteration of the existing channels' abilities to accommodate storm water flows, nor is it intended to restrict flows.

Are any of the water body(ies) considered isolated per SWANCC or Rapanos? Yes ☐ No ☒

NEED FOR PROJECT (See instructions.)

The principal objective of the project is to assist in facilitating a faster, safer and more reliable passenger rail system for Amtrak and Metrolink operations. The proposed Project would provide the necessary flexibility to allow trains to pass through the Cities of Laguna Niguel and San Juan Capistrano more quickly by reducing the amount of time trains may "dwell" on either end of the existing single track infrastructure.

The proposed Project would enhance the operational efficiency of passenger service within the rail corridor, which in turn allows for improvements to the speed and reliability of the passenger rail system. The goals and solutions outlined in the 2010 OCTA Long Range Transportation Plan (LRTP) support the objectives of this Project within the LOSSAN corridor.

The LRTP highlights established improvement of transportation service performance as one of its primary objectives. To accomplish this goal, the LRTP identifies the expansion of Metrolink service as a solution to provide a fast, high frequency and high capacity transit backbone within Orange County. The proposed Project would help to meet the mobility goals of the LRTP by providing better operations through allowing existing train service to pass more quickly within the corridor.

The travel time of southbound trains between Los Angeles and San Diego is typically affected by delays incurred by northbound trains traveling on the single track segments of San Diego County and south Orange County. The single track requires holding of a southbound train until the northbound train passes. This "holding" currently results in an average delay of 5 minutes per train. Under the existing service plans, trains are scheduled to "meet" at Control Point (CP) Avery (located on the boundary between the cities of Laguna Niguel and San Juan Capistrano). The construction of the passing siding south of CP Avery will improve reliability by adjusting the "meet" location and reducing the amount of time trains spend "holding" for opposing northbound trains. Under the current schedule, this affects 16 trains (10 Amtrak trains and 6 Metrolink trains), which are scheduled to meet with other trains at or in proximity to CP Avery.

In addition, with the increase in passenger rail service along the corridor north of the LNMV station, shifting the "meet" location between trains farther south along the corridor alleviates congestion at the LNMV station. This is anticipated to have a beneficial effect on the on-time performance of trains originating or terminating at the LNMV station.

A passenger operations review of performance benefits determined that constructing a passing siding between CP Avery and the Trabuco Creek crossing could decrease overall travel time by reducing the "wait time" up to 46 percent for Amtrak trains and 67 percent for Metrolink trains, which are currently "waiting" (or holding) for opposing northbound trains. The single track requires holding of a southbound train until the northbound train passes. This "holding" currently results in an average delay of 5 minutes per train during both the morning and afternoon peak periods. The passing siding project would reduce the amount of time that trains will spend holding for opposing trains; thereby, improving reliability by reducing congestion. In addition, the benefits associated with the construction of the passing siding could reduce the overall travel time of passenger trains between Irvine and Oceanside by up to 5 percent.

DESCRIPTION OF ACTIVITY (See instructions.)

Project Description

The OCTA in coordination with Metrolink (operated by the SCRRA), the City of Laguna Niguel, and the City of San Juan Capistrano, proposes the addition of approximately 1.8 miles of new passing siding railroad track adjacent to the existing main track between MP 193.9 in the City of Laguna Niguel (just south of the LNMV Metrolink Station) and MP 195.7 in the City of San Juan Capistrano (approximately 500 feet north of the Trabuco Creek crossing). A portion of the project from approximately MP 194.0 to MP 194.2 passes through the City of Laguna Niguel. The Project consists of the following features:

- Construction of 1.8 miles of new passing siding railroad track
- Relocation of an existing spur track currently south of the LNMV Metrolink Station with a new spur track within the City of San Juan Capistrano at around MP 194.6
- Construction of new retaining walls
- Relocation of existing power poles, fiber optic cables, water and sewer lines
- Extension of casings for gas, water, and sewer lines
- Removal of CP Avery (MP 193.9)
- Culvert extensions and other drainage refinements
- Addition of a railroad bridge or box culvert at MP 194.6
- Asphalt paving adjacent to Camino Capistrano to accommodate parking for use by railroad at MP 194.6
- Reprofiling of approximately 600 feet of Camino Capistrano adjacent to Rancho Capistrano in order to improve grades

The project plans are included in Appendix B on the enclosed CD.

Project Components

The proposed Project would enable southbound trains to switch from the main track to the passing siding so a northbound train could continue its journey uninterrupted. The Project consists of the ten (10) bulleted project features listed above, which are expanded upon below.

Passing Siding and Switches

The new 1.8-mile passing siding would be located approximately 15 feet west of the existing mainline, extending southward from MP 193.9 in San Juan Capistrano to MP 195.7 in San Juan Capistrano. Switches would be located at each end such that southbound trains could be diverted from the mainline to the siding to enable northbound trains to continue travelling without interruption. Southbound trains would then return to the mainline and continue their southbound journey.

The passing siding and switches would be constructed on a bed of ballast approximately 13 to 15 feet wide and 12 to 14 inches above existing grade. Altogether, the passing siding and switches would occupy about 3.2 acres within the existing right-of-way.

Spur Track and Switch

The existing spur track south of the Laguna Niguel Metrolink Station would be relocated to become the mainline track. The spur track would be relocated at approximately MP 194.6 on the east side of the existing mainline track. The spur track would be used for Metrolink trains that terminate revenue service at the LNMV Station. After unloading all passengers, these trains would proceed southward to the spur track and switch off of the mainline. At a scheduled time, they would reverse direction to pick up passengers at the LNMV station and then continue in either a northbound or southbound direction.

The spur track and single switch would be standard railroad construction, about 1,145 feet long and 13 to 15 feet wide, and would occupy about 0.4-acre of land within the existing right-of-way.

The spur track would be parallel to and approximately 15 feet east of the mainline track.

Retaining Walls

Three retaining walls would be provided to support the new passing siding and spur track. The retaining walls would be within the existing right-of-way. The locations and characteristics of each wall are summarized below:

- Located east of the existing mainline and south of the crossing at Rancho Capistrano, this wall would be approximately 1,350 feet long and have an average height of 6 feet. The wall would be within the railroad right-of-way between the tracks and Camino Capistrano.

- Located west of the existing mainline and just south of the greenhouses and orchards, this wall would be approximately 510 feet long and have an average height of 6 feet. The wall would be within the railroad right-of-way between the tracks and Oso Creek.
- Located west of the existing mainline, this wall would be approximately 700 feet long and have an average height of 6 feet. The wall would be within the railroad right-of-way between the tracks and Oso Creek.

Utility Relocations

Some utilities would be relocated to accommodate the new passing siding and/or spur track. These include power poles, fiber optic cables, water and sewer lines that would be moved and re-established to provide appropriate clearance for the proposed track(s) in accordance with SCRRA and California Public Utilities Commission (CPUC) design standards. Based on current design, 18 above-ground power poles would be moved to provide adequate clearance for the passing siding and about 1,200 feet of underground fiber optic cable would be moved from its current location under the newly relocated spur track to just east of this location. Utility relocations would occur within the existing right-of-way.

Drainage Refinements

Three drainage culverts underneath the existing mainline would be extended to maintain existing drainage patterns under the new passing siding and spur track. Two parallel 24-inch reinforced concrete pipes near SR-73 would be extended 10 feet to the east of the existing structure and the existing headwall would be removed and reconstructed. A Rail Top Ballast Deck Bridge located south of the crossing at Camino Capistrano would be extended approximately 20 feet to the east and roughly 10 feet to the west of the existing structure. A corrugated metal pipe just north of the orange groves would be extended approximately five feet to the west of the existing structure. The existing wood headwall would be removed and replaced with an inter-block headwall. The extension of these three drainage culverts is based on current design plans. These plans may be refined during final design.

During the Project's operational phase, it is not expected that the hydrological or hydraulic conditions of the channels or culverts would be impacted. No temporary diversion of water is anticipated.

Proposed Maintenance Parking

The Project proposes approximately 1,350 square feet of asphalt concrete pavement adjacent to Camino Capistrano and the proposed spur track for Metrolink maintenance personnel parking. The proposed asphalt concrete pavement would accommodate up to four (8.5'x 18') parking spaces and would be located outside of the existing right-of-way.

Project Construction

Construction of the Project would occur over a period of 24 months primarily within the existing right-of-way with the exception of the new maintenance personnel parking, which would be located east of the existing right-of-way and south of the crossing at Rancho Capistrano and the reprofiling of approximately 600 feet of Camino Capistrano adjacent to Rancho Capistrano in order to improve grades. Staging areas for personal vehicles, construction equipment and supplies would be established by the contractor. Train schedules would be maintained during construction.

To prepare for track construction, ballast, rails, and ties would be transported to the project site and stored within the right-of-way. Also, blocks, cement, pipe, new power poles (as necessary), and other related materials would be transported and stored onsite (within the right-of-way). Track construction would involve grading to provide a surface for laying ballast, track and ties, and welding the track. Other activities would include excavation to extend culverts, underground utilities, relocate above ground power poles, and build retaining walls.

Impacts to Jurisdictional Waters

The Project will temporarily impact 0.003 acre (8 linear feet) and permanently impact 0.05 acre (431 linear feet) of non-wetland waters of the U.S. associated with extending existing culverts to properly convey storm flows across the existing mainline track and the passing siding. The Project impacts are depicted on Figure 3 (Appendix A, attached). These impacts are further detailed below in the "FILL AND DREDGE INFORMATION" section of this application.

Has any portion of the work been initiated? Yes ☐ No ☒

If yes, describe the initiated work and explain why it was initiated prior to obtaining a permit; indicate whether any enforcement action has been taken against the project.

AVOIDANCE OF IMPACTS (See instructions.)

The Project was designed to avoid impacting waters of the U.S. associated with the adjacent Oso and Trabuco Creeks. The construction footprint is located outside of both creeks and will occur primarily within the existing right-of-way.

MINIMIZATION OF IMPACTS (See instructions.)

The following measures are proposed to minimize impacts on waters of the U.S.:

- Construction access, staging, storage, and parking areas will be located outside of waters of the U.S. Vehicle travel in or adjacent to waters of the U.S. and riparian areas will be limited to existing roads and designated access paths. Work areas in and adjacent to sensitive natural communities (i.e., wetlands, waters, and riparian zones) will be marked in the field to minimize impacts and work activities will be limited to within the marked areas.
- Prior to Project activities, a qualified biologist will work with the construction crew to clearly delineate the work area and avoid impacts to the adjacent jurisdictional areas.
- A worker environmental education program will be conducted prior to Project initiation.
- Stockpiled material will be placed on a waterproof tarp or plywood covered with plastic. If left overnight, the stockpile will be covered and properly secured.
- Construction equipment and materials will not be placed in areas where they could be washed into adjacent drainages during periods of high flow or storm events.
- Any excess soil generated by project activities will be removed from the project site for proper disposal.
- Construction activities that include earth moving or the use of heavy construction equipment (construction activities) that occur within 300 feet of Least Bell's Vireo (*Vireo bellii pusillus*) (LBVI) and Southwestern Willow Flycatcher (*Empidonax traillii extimus*) (SWFL) habitat will occur between September 16 and March 14, outside of the nesting season.
- Construction activities that occur within 300 feet of Coastal California Gnatcatcher (*Poliioptila californica californica*) (CAGN) habitat will occur between September 1 and February 14, outside of the nesting season.
- If construction activities occur within 300 feet of suitable nesting LBVI and SWFL habitat during the nesting season (March 15 through September 15), a permitted biologist will conduct an initial nest survey no more than 7 days prior to the start of construction activities to determine if there are any nests within 300 feet of the Project. The biologist will then conduct bi-monthly (every other week) surveys while construction activities occur within 300 feet of suitable nesting habitat during the nesting season. The surveys will be conducted in accordance with the daily timing and weather requirements of the LBVI and SWFL nesting survey. If active nests occur within 300 feet of construction activities avoidance measures will be implemented. Such measures may include suspension of construction activities within 300 feet of the nest until a qualified biologist determines that the nest is no longer active and implement BMPs to minimize dust generation.
- If construction activities occur within 300 feet of suitable nesting CAGN habitat during the nesting season (February 15 through August 31), a permitted biologist will conduct an initial nest survey no more than 7 days prior to the start of construction activities to determine if there are any nests within 300 feet of the project. The biologist will then conduct bi-monthly (every other week) surveys while construction activities occur within 300 feet of suitable nesting habitat during the nesting season. The surveys will be conducted in accordance with the daily timing and weather requirements of the CAGN nesting survey. If active CAGN nests occur within 300 feet of construction activities avoidance measures will be implemented. Such measures may include suspension of construction activities within 300 feet of the nest until a qualified biologist determines that the nest is no longer active and implement BMPs to minimize dust generation.
- At the completion of Project activities, all excess construction materials and debris will be removed from the project area and recycled or properly disposed.

PROTECTION OF WATER QUALITY – CONSTRUCTION (See instructions.)

Best management practices (BMPs) will be implemented to prevent erosion and sedimentation from entering watercourses. In addition, a Storm Water Pollution Prevention Plan (SWPPP) will be prepared and implemented. The SWPPP would incorporate temporary and permanent treatment BMPs into the Project. Example BMPs include:

- Control sheet flow and run off from all disturbed areas using ditches, berms, weed free waddles, straw bales, and silt fencing.
- Use approved sediment control procedures to minimize sediment content of water flowing from work areas and into waters.
- Cover or stabilize loose soil and exposed slopes prior to the onset of rainy season and any time that rain is forecast within 24 hours.
- Use geotextile fabric or protective mats where feasible to minimize ground damage where vehicle travel through wetlands or other saturated soil areas cannot be avoided in temporary work areas.
- Install silt fencing and fiber rolls around soil and gravel stockpiles prior to the rainy season (between October 15 and April 15) to prevent sedimentation in nearby watercourses and wetlands.
- Hydroseed disturbed areas before the rainy season with a mixture of native and non-invasive plants that provide protection from erosion. The seed mixtures should be developed for each site based on local conditions.
- Construction runoff will be intercepted and conveyed away from surface waters. Construction and project activities will be limited to a well-defined footprint to minimize impacts to water resources. The boundaries of the footprint adjacent to any channels will be fenced with straw wattle/fiber roll berms, silt fencing and sand bags or other barriers as outlined in the SWPPP to prevent the transport of pollutants and sediment into the surface waters.

PROTECTION OF WATER QUALITY – POST-CONSTRUCTION (See instructions.)

There are several culverts that are currently sized to accommodate the existing mainline track. These culverts are required to be extended due to the construction of the passing siding. Therefore, as part of the Project, the culverts will be extended to properly convey storm waters across the existing mainline track and the passing siding. Only two of these culverts are subject to CWA Section 401 jurisdiction. Maintenance that currently occurs for the existing culverts would continue for the extended culverts upon Project completion.

During the Project's operational phase, it is not expected that the hydrologic or hydraulic conditions of the channels or culverts will be impacted.

PROTECTION OF WATER QUALITY – IMPAIRED WATER BODY(IES). (See instructions.)

Are any of the water body(ies) within the project area, including impacted and preserved water body(ies), listed as impaired on the Clean Water Act Section 303(d) list? Yes ☐ No ☒

Are any of the water body(ies) within the project area a tributary to a Clean Water Act Section 303(d) water body(ies)? Yes ☒ No ☐

Oso Creek is listed as a 303(d) impaired water body under the Clean Water Act at the Mission Viejo Golf Course (approximately 1 mile north of the Project) for chloride, sulfates, and total dissolved solids (TDS) from unknown sources. The lower portion of Oso Creek is listed as a 303(d) impaired water body for toxicity.

Are any of the water body(ies) within the project area the subject of an adopted Total Maximum Daily Load (TMDL)? Yes ☒ No ☐

A TMDL has been established for each identified pollutant, chloride, sulfates, and total dissolved solids, associated with the listing of Oso Creek at the Mission Viejo Golf Course.

If yes to any of the above, provide a detailed description of the actions that will be taken to ensure that the project does not contribute additional pollutants to the water body(ies). Include a discussion of the pollutants causing the impairment, potential sources of pollutants, and construction and post-construction BMPs.

The Water Quality Technical Memorandum (January 2013; included in Appendix C on the enclosed CD) indicates that the Project is not anticipated to directly affect the water quality of Oso or Trabuco Creeks or its tributaries since the construction footprint is located outside of both. However, pollutants that may enter the

storm drain system during construction of the passing siding and refinement of the drainage system, which could impact water quality. Construction-related water quality impacts would be temporary and would be minimized to the extent practicable through compliance with the NPDES General Construction Permit and implementation of a SWPPP with specific BMPs (listed above "PROTECTION OF WATER QUALITY – CONSTRUCTION" section) to ensure that the Project does not contribute additional pollutants to the water body.

STATE OR FEDERALLY THREATENED OR ENDANGERED SPECIES IMPACTED BY THIS PROJECT (See instructions.)

Are any state or federally threatened or endangered species potentially impacted by this project?

Yes ☐ No ☒

The following federally listed species have low to moderate potential to occur within the project site and/or immediate vicinity:

- CAGN – (low to moderate potential)
- LBVI – (low to moderate potential), and
- SWFL – (low potential)

Through detailed habitat assessments, studies, and surveys conducted by permitted/expert biologists, it is anticipated the Project is not likely to affect the CAGN, LBVI, or SWFL, based on the following reasons:

- All construction activities will occur within the existing railroad right-of-way or in areas that are developed or that have ruderal vegetation. Other than associated with Feature B, no riparian or upland shrub habitat clearing will occur as a result of the proposed project. No suitable nesting or foraging habitat for CAGN, LBVI, and SWFL occurs within the project footprint (temporary or permanent) and there will be no direct impacts to these species during construction or operation of the project.
- No designated critical habitat for CAGN, LBVI, or SWFL will be affected during construction or operation of the Project.
- Suitable riparian habitat for LBVI and SWFL within Oso Creek and Trabuco Creek is located approximately 100-500 feet from the proposed project area. Both of these creeks are deeply incised in the vicinity of the Project and the riparian habitat occurs well below the grade of the Project. Because direct impacts to these species are not anticipated, no focused surveys are recommended.
- The nearest LBVI California Natural Diversity Database (CNDDDB) occurrence is 0.75 mile to the east of the Project and the nearest SWFL CNDDDB occurrence is 4.35 miles to the east of the Project.
- Suitable occupied upland habitat for CAGN occurs adjacent to the Project. Protocol non-nesting surveys for CAGN were conducted between September 30, 2015 and February 24, 2016. Though CAGN were detected adjacent to the Project during the early surveys, none were detected during the later surveys. The results of the surveys indicate that the habitat is used by CAGN for foraging and dispersal, but is not part of a breeding territory.
- The new track for the Project will be placed 15 feet to the west of the existing track (closer to Oso Creek). A noise study was conducted for the Project during the Project's environmental compliance phase to determine the effects the new track might have on existing noise levels. The Day/Night Sound Level (Ldn) noise level measured at two monitoring sites located approximately 125 feet and 60 feet from the existing track was between 72 and 71-decibel level (A-weighted) (dBA), respectively. The Ldn levels with trains running on the passing siding track were modeled at 58 to 59 dBA, respectively, for the two monitoring sites. Based on Federal Transit Administration (FTA) criteria, an area with an existing Ldn of 72 would need the project noise level to be above 65 dBA for a moderate noise impact to occur. It was determined that neither monitoring site would be impacted by trains on the passing siding track. It can therefore be extrapolated that the passing siding track will not have an impact on LBVI or SWFL in riparian habitat along Oso Creek or CAGN in upland scrub habitat.
- Noise studies for other rail projects reflect similar results. The difference in sound level between a track at 100 feet and 85 feet is about 1 dB. This is based on an attenuation rate of 4.5 dB per doubling of distance, which is recommended by FTA. A change of 3 dB is normally considered to be the threshold of a perceptible change. A 1 dB change would be barely, if at all, perceptible. As such, the noise level at the habitat area from any individual train passby at 85 feet would not be significantly greater than the noise from a train at 100 feet.
- The installation of the new track will not result in increased rail traffic through the area. The purpose of the new track is to allow for greater flexibility in the movement of trains in the area.

The following measures will be implemented in an effort to avoid and/or minimize impacts to protect fish, wildlife, and plant resources.

- A worker environmental education program will be conducted prior to Project initiation.
- Construction activities that include earth moving or the use of heavy construction equipment (construction activities) that occur within 300 feet of LBVI and SWFL habitat will occur between September 16 and March 14, outside of the nesting season.
- Construction activities that occur within 300 feet of CAGN habitat will occur between September 1 and February 14, outside of the nesting season.
- If construction activities occur within 300 feet of suitable nesting LBVI and SWFL habitat during the nesting season (March 15 through September 15), a permitted biologist will conduct an initial nest survey no more than 7 days prior to the start of construction activities to determine if there are any nests within 300 feet of the Project. The biologist will then conduct bi-monthly (every other week) surveys while construction activities occur within 300 feet of suitable nesting habitat during the nesting season. The surveys will be conducted in accordance with the daily timing and weather requirements of the LBVI and SWFL nesting survey. If active nests occur within 300 feet of construction activities avoidance measures will be implemented. Such measures may include suspension of construction activities within 300 feet of the nest until a qualified biologist determines that the nest is no longer active and implement BMPs to minimize dust generation.
- If construction activities occur within 300 feet of suitable nesting CAGN habitat during the nesting season (February 15 through August 31), a permitted biologist will conduct an initial nest survey no more than 7 days prior to the start of construction activities to determine if there are any nests within 300 feet of the project. The biologist will then conduct bi-monthly (every other week) surveys while construction activities occur within 300 feet of suitable nesting habitat during the nesting season. The surveys will be conducted in accordance with the daily timing and weather requirements of the CAGN nesting survey. If active CAGN nests occur within 300 feet of construction activities avoidance measures will be implemented. Such measures may include suspension of construction activities within 300 feet of the nest until a qualified biologist determines that the nest is no longer active and implement BMPs to minimize dust generation.

If yes, provide a list of the potentially impacted species (with common name). N/A

FILL AND DREDGE INFORMATION (See instructions.)

Aquatic Resource or Plant Community Type	Impacts (acres)	Impacts (linear ft.)	Impacts (cubic yards)
Permanent Impacts			
Lake	—	—	—
Ocean	—	—	—
Riparian Zone	—	—	—
Stream Channel	<u>0.05</u>	<u>431</u>	—
Vernal Pool	—	—	—
Wetland	—	—	—
Temporary Impacts			
Lake	—	—	—
Ocean	—	—	—
Riparian Zone	—	—	—
Stream Channel	<u>0.003</u>	<u>8</u>	—
Vernal Pool	—	—	—
Wetland	—	—	—

Provide the acres of impacts considered waters of the U.S. and an explanation of how the waters of the U.S. and State will be impacted by the project.

To provide context of the drainage features proposed for impact, below is a summary of the existing drainage features. Additional details on each drainage feature are described in the Jurisdictional Delineation included in Appendix C on the enclosed CD. A Photo Log depicting each drainage feature is included in Appendix A, attached.

Description of Existing Drainage Features

Feature A

Feature A is earthen and appears to be constructed in uplands to convey flows either from the rail road tracks or from Camino Capistrano. Flows within the feature are conveyed approximately 327 linear feet before entering two 24-inch culverts that convey flows beneath the existing railroad track to Oso Creek. The feature is mostly devoid of vegetation except for a small patch of Bermuda grass (*Cynodon dactylon*) just upstream of the culverts. The ordinary high water mark (OHWM) within this portion of the feature is 3 feet in width. OHWM indicators observed included break in bank slope. Feature A contains 0.024 acre (342 linear feet) of potential non-wetland waters of the U.S. No wetlands were mapped in association with the feature. Additional details on this feature are included in the Jurisdictional Delineation (Appendix C on the enclosed CD). A Photo Log depicting the feature is included in Appendix A, attached.

Feature B

Feature B appears to be constructed in uplands to convey flows from Camino Capistrano. The feature is composed of rip-rap and slurry bed and banks and conveys flows approximately 139 linear feet before entering two 48-inch double box culverts that convey flows to Oso Creek. The feature is mostly devoid of vegetation except for a small patch of riparian vegetation consisting of Bermuda grass, Spanish sunflower (*Pulicaria paludosa*), nutsedge (*Cyperus eragrostis*), and one red willow (*Salix lasiandra*). The OHWM within Feature B ranges from 6 to 16 feet in width. OHWM indicators observed included break in bank slope. Feature B contains 0.032 acre (139 linear feet) of potential non-wetland waters of the U.S. No wetlands were mapped in association with the feature. Additional details on this feature are included in the Jurisdictional Delineation (Appendix C on the enclosed CD). A Photo Log depicting the feature is included in Appendix A, attached.

Oso Creek

The 5,791 linear foot portion of Oso Creek within the study area consists of both a concrete-lined and an earthen feature. The upper 4,640 linear feet of the feature within the study area is composed of concrete bed and banks with a concrete 8-foot wide low-flow channel, whereas the remaining 1,151 linear feet is composed of earthen bed and banks. The upper concrete-lined portion is devoid of vegetation and is composed of vertical concrete banks. The OHWM within this portion of the feature is 35 feet in width. A 351-linear-foot section of the feature between the concrete-lined and earthen portions is composed of a concrete bed and 2:1 rip-rap banks. The OHWM within this portion of the feature is 35 feet in width. The earthen portion of the feature is vegetated with southern willow scrub vegetation and has patches of wetland dominated by Olney's bulrush (*Schoenoplectus americanus*). Large blocks of concrete and other debris are located throughout the extreme southern portion of the feature in the study area. OHWM widths within the study area in the southern portion of the feature ranged from 12 to 27 feet in width. The earthen portion of Oso Creek contains patchy areas of U.S. Army Corps of Engineers' (USACE) three-parameter wetlands intermixed within stretches of non-wetland waters. In addition, the banks of the upper terrace associated with the southern portion of the feature are approaching vertical and are actively incising. Below the study area, Oso Creek travels south for approximately 1 mile before flows confluence with Trabuco Creek, which in turn travels in a southerly direction for approximately 4.6 miles before reaching the Pacific Ocean just south of Doheny State Beach. Additional details on this feature are included in the Jurisdictional Delineation (Appendix C on the enclosed CD). A Photo Log depicting the feature is included in Appendix A, attached.

Proposed Impacts

The Project will temporarily impact 0.003 acre (8 linear feet) and permanently impact 0.05 acre (431 linear feet) of potential non-wetland waters of the U.S. The impacts per drainage feature are summarized below.

The proposed impacts on Feature A are associated with the overall grading limits and extending an existing culvert to properly convey storm flows across the existing mainline track and the passing siding. Feature A will be replaced with a 15-inch underdrain. The underdrain will terminate just short of a headwall to a cross culvert (crossing the railroad tracks). The underdrain will then have ballast and gravel placed on top. The proposed impacts on Feature B are associated with the conversion of the existing bridge to a single-cell box culvert that will properly convey storm flows across the existing mainline track and the passing siding. No impacts on waters of the U.S. are associated with Oso Creek. The Project impacts are depicted on Figure 3 (Appendix A,

attached).

Project Footprint Impacts on Potential Non-wetland Waters of the U.S.				
	Temporary		Permanent	
Drainage Feature	Acres	Linear Feet	Acres	Linear Feet
Feature A	0.00	<0.01	0.02	302
Feature B	0.003	8	0.03	129
Oso Creek	--	--	--	--
Total	0.003	8	0.05	431

Provide the latitude and longitude for the proposed impacts.

Feature A

Latitude 33.543687 Longitude -117.674473 (Center Reading)
 Latitude 33.544147 Longitude -117.674428
 Latitude 33.543386 Longitude -117.674513
 Latitude 33.543265 Longitude -117.674533

Feature B

Latitude 33.537435 Longitude -117.675533 (Center Reading)
 Latitude 33.537578 Longitude -117.675391
 Latitude 33.537437 Longitude -117.675701
 Latitude 33.537435 Longitude -117.675408

Does the project involve dredging? Yes ☐ No ☒

If yes, provide the required information (See Instructions.)

Provide the latitude and longitude of the proposed dredging area. N/A

Latitude ____ Longitude ____ (Center Reading)
 Latitude ____ Longitude ____
 Latitude ____ Longitude ____
 Latitude ____ Longitude ____

DELINEATION INFORMATION (See instructions.)

Has the delineation been verified by the U.S. Army Corps? Yes ☐ No ☒

If yes, provide the date of verification.

Does the wetland delineation include the Arid West Region supplement? Yes ☒ No ☐

Provide the name, title, and affiliation of the person delineating the extent of Waters of the U.S. Also provide the date(s) of the wetland delineation.

Paul Schwartz, Senior Biologist, ICF
 Marissa Maggio, Biologist, ICF

The jurisdictional waters and wetland delineation was conducted on October 21 and 22, 2015.

3. OTHER LICENSES/PERMITS/AGREEMENTS

OTHER APPROVALS (See instructions.)

Agency	Contact (Include phone number, email)	License/Permit/Agreement	File Number	Date Applied	Status
USACE	TBD	CWA Section 404 Letter of Permission	TBD	May 2016	Pending
CDFW	Jennifer Edwards, (858) 467-2717, Jennifer.Edwards@wildlife.ca.gov	Fish and Game Code Section 1602 Streambed Alteration Agreement	TBD	May 2016	Pending

Does the project require a Federal Energy Regulatory Commission (FERC) license or amendment to a FERC license? Yes ☐ No ☒

4. COMPENSATORY MITIGATION

Is compensatory mitigation proposed? Yes ☒ No ☐

(See instructions for definitions.)

Impacts on jurisdictional waters of the U.S. will be addressed through use of an agency-approved in-lieu fee (ILF) program or mitigation bank. If the RWQCB does not approve using an ILF or bank outside of the Project's watershed, OCTA will investigate other options within the watershed (i.e., current OCTA restoration mitigation project located at the Oso Creek and Trabuco Creek confluence south of the Project, being implemented by Derek Ostensen & Associates). Mitigation for impacts will be at a 1:1 impact-to-mitigation ratio for permanent impacts. No wetlands will be impacted as a result of the Project. Temporary impacts will be recontoured and revegetated to pre-project conditions.

Aquatic Resource or Plant Community Type	Mitigation for Impacts (acres)	Mitigation for Impacts (linear ft.)	Type of Mitigation ¹
Permanent Impacts			
Lake	—	—	—
Ocean	—	—	—
Riparian Zone	—	—	—
Stream Channel	0.05	—	Rehabilitation
Vernal Pool	—	—	—
Wetland	—	—	—
Temporary Impacts Temporary impacts will be recontoured and revegetated to pre-project conditions.			
Lake	—	—	—
Ocean	—	—	—
Riparian Zone	—	—	—
Stream Channel	0.003	8	—
Vernal Pool	—	—	—
Wetland	—	—	—

1. Please list the type of mitigation proposed using the definitions below:

- **Establishment** — 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** – Restoration is divided into two activities, re-establishment and rehabilitation, please select one of the following:
 - **Re-establishment** – 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** – 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** – 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** – 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).

How many acres or linear feet of mitigation area are considered waters of the U.S.? 0.04 acre

What is the range of depths to groundwater across the proposed mitigation area? TBD

Is the mitigation site owned by the applicant? Yes ☐ No ☐

If no, provide the name(s), address(es), and phone number(s) of the land owner and evidence (e.g., agreements, contracts, etc.) that the applicant has the necessary approvals to implement mitigation at this location. If the land is to be purchased, provide the expected date that the purchase will be complete.

Provide the location of the Compensatory Mitigation. TBD

Street Address ____

County ____ City ____

Assessor's Parcel Number(s) ____

Hydrologic Unit, Area, and Subarea ____

Latitude ____	Longitude ____ (Center Reading)
Latitude ____	Longitude ____
Latitude ____	Longitude ____
Latitude ____	Longitude ____
Latitude ____	Longitude ____

MITIGATION BANK/IN-LIEU FEE PROGRAM (If proposed, See instructions.)

Mitigation Bank/In-Lieu Fee Name: TBD

Name of Mitigation Bank/In-Lieu Fee Operator:

Office Address of Operator/Phone Number:

Mitigation Bank/In-Lieu Fee Location: Latitude: Longitude:

County: City:

Mitigation Bank/In-Lieu Fee Water Body type(s):

Mitigation Area (acres or linear feet) and cost (dollar):

5. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Document Type/Title: Initial Study/Mitigated Negative Declaration

Lead Agency and Contact Information (name, address, phone number): Orange County Transportation Authority

Name: Jason Lee

Address: 550 S. Main Street, Orange, California 92863-1584

Phone Number: (714) 560-5833

State Clearinghouse Number:

Has the document been certified/approved and/or has a Notice of Exemption been filed? Yes ☒ No ☐

(If yes, include a copy of the certification. If no, provide the expected approval date and document type.)

A copy of the NOD is included in Appendix D on the enclosed CD.

Is this project considered an "emergency" pursuant to CEQA? Yes ☐ No ☒

*Note: Section 401 certification will not be granted without a certified CEQA document.

6. ADDITIONAL INFORMATION

PAST/FUTURE IMPACTS AND CUMULATIVE IMPACTS (See instructions.)

Other than continuous maintenance of the tracks within this area, no other past or future projects are proposed or have been implemented by OCTA within this area.

The Project would improve existing passenger and rail operations. The Project does not increase vehicular or train volumes or roadway capacity. As a result, the Project would not lead to individual or cumulative impacts when added to proposed, planned, or anticipated development in the project area.

In addition, due to the minimal impacts proposed for this project, the measures that will be implemented during construction, as described in the "Minimization of Impacts" and "Protection of Water Quality" sections of this application, and the requirement that all potential future projects implement similar measures to minimize impacts to aquatic resources; this project is not expected to contribute to cumulative impacts to aquatic resources.

7. APPLICATION FEE

FILING FEE

A fee deposit of \$600 is required to be submitted with this application. Additional fees, based on the extent of impacts, may be due. A fee schedule and calculator can be found at.

<http://www.waterboards.ca.gov/waterissues/programs/cwa401/>

Is check payable to the "State Water Resources Control Board" attached? Yes ☒ No ☐

Check No. XX Amount \$5,562

8. SIGNATURE

I hereby certify under penalty of perjury that the information provided in this application and in any attachments are true and accurate to the best of my knowledge. I further certify that I possess the necessary authority to undertake work described in this application.

Jason Lee
Applicant's Printed Name

Title

Applicant's Signature

Date

(This **must** be signed by the applicant, **not** the authorized agent.)

Attach the appropriate fee and any additional documents and submit this application to:

California Regional Water Quality Control Board, San Diego Region
Attn: 401 Water Quality Certification Application
2375 Northside Drive, Suite 100
San Diego, CA 92108

SECTION 404 – UNITED STATES ARMY CORPS OF ENGINEERS LETTER OF PERMISSION

The AUTHORITY has not received the executed Section 404 Permit from the USACE as of the initial time of bidding, however anticipated receiving said 404 Permit prior to the start of Work on the Project.

The AUTHORITY's letter of permission is included for information to CONTRACTOR/Bidders at this time.



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017

June 26, 2017

Jason Lee, Project Manager
Orange County Transportation Authority
550 S. Main Street
Orange, California 92686

Dear Mr. Lee:

I am responding to your request (Corps File No. SPL-2016-00530-TDK) for a Department of the Army permit for the proposed Orange County Transportation Authority (OCTA) Laguna Niguel to San Juan Capistrano Passing Siding Project. Under the provisions of section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344; C.F.R. part 323), you are hereby authorized to conduct the work described below in two ephemeral tributaries to Oso Creek within the cities of Laguna Niguel and San Juan Capistrano, in Orange County, California, as shown on the enclosed drawings (Figures 1-2e).

Specifically, and as shown on the attached drawings/maps, you are authorized to conduct the following regulated activities, which would result in temporary impacts to approximately 0.01 acre (75 linear feet) and permanent impacts to approximately 0.05 acre (400 linear feet) of ephemeral, non-wetland waters of the U.S.:

1. Extend the two parallel 24-inch-diameter concrete pipes and remove and reconfigure the headwall of the existing structure and convert the open drainage area to a 12-inch-diameter underdrain with ballast and gravel on top at "Feature A" (Figures 3-5); and
2. Convert the existing bridge at "Feature B" to a single-cell box culvert (Figures 6-8).

You must sign and date this Letter of Permission (LOP) indicating you agree to the work as described and will comply with all conditions. The signed LOP must be returned to the Corps of Engineers. In addition, please use the two attached forms to notify this office as to the dates of commencement (within 10 days prior to the start of construction) and completion of the activity (within 10 days following the end of construction).

Furthermore, you are hereby advised that the Corps of Engineers has established an Administrative Appeal Process which is fully described in 33 CFR part 331. The complete appeal process is diagrammed in the enclosed Appendix B.

Thank you for participating in our regulatory program. If you have any questions, please contact Tiffany Kwakwa at 213-452-3375 or via e-mail at Tiffany.D.Kwakwa@usace.army.mil.

Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

Michelle R. Lynch
Chief, South Coast Branch
Regulatory Division

Enclosures

PERMITTEE

DATE

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

TRANSFEREE

DATE



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
915 WILSHIRE BOULEVARD, SUITE 930
LOS ANGELES, CALIFORNIA 90017

June 26, 2017

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Specifically, and as shown on the attached drawings/maps, you are authorized to conduct the following regulated activities, which would result in temporary impacts to approximately 0.01 acre (75 linear feet) and permanent impacts to approximately 0.05 acre (400 linear feet) of ephemeral, non-wetland waters of the U.S.:

1. Extend the two parallel 24-inch-diameter concrete pipes and remove and reconfigure the headwall of the existing structure and convert the open drainage area to a 12-inch-diameter underdrain with ballast and gravel on top at "Feature A" (Figures 3-5); and
2. Convert the existing bridge at "Feature B" to a single-cell box culvert (Figures 6-8).

You must sign and date this Letter of Permission (LOP) indicating you agree to the work as described and will comply with all conditions. The signed LOP must be returned to the Corps of Engineers. In addition, please use the two attached forms to notify this office as to the dates of commencement (within 10 days prior to the start of construction) and completion of the activity (within 10 days following the end of construction).

Furthermore, you are hereby advised that the Corps of Engineers has established an Administrative Appeal Process which is fully described in 33 CFR part 331. The complete appeal process is diagrammed in the enclosed Appendix B.

Thank you for participating in our regulatory program. If you have any questions, please contact Tiffany Kwakwa at 213-452-3375 or via e-mail at Tiffany.D.Kwakwa@usace.army.mil.

Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey.

Sincerely,

Michelle R. Lynch
Chief, South Coast Branch
Regulatory Division

Enclosures

PERMITTEE

DATE

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

TRANSFEREE

DATE

PERMIT CONDITIONS

General Conditions:

1. The time limit for completing the authorized activity ends on **June 26, 2020**. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. 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.

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

Special Conditions:

1. The Permittee shall comply with all the Special Conditions identified in the Department of the Army permit the San Juan Creek Watershed/Western San Mateo Creek Watershed SAMP (File No. SPL-1999-16236), and dated March 23, 2007 (attached to this Letter of Permission).
2. 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, subcontractors, 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.

3. This permit is contingent upon the issuance of a Water Quality Certification (WQC) under section 401 of the Clean Water Act. The Permittee shall abide by the terms and conditions of the section 401 WQC. The Permittee shall submit the section 401 WQC to the Corps Regulatory Division (preferably via email) within two weeks of receipt from the issuing state agency. The Permittee shall not proceed with construction until receiving an e-mail or other written notification from Corps Regulatory Division acknowledging the section 401 WQC has been received, reviewed, and determined to be acceptable. If the Regional Water Quality Board fails to act on a valid request for certification within 60 days after receipt of a complete application for a section 401 WQC, please notify the Corps Regulatory Division so we may consider whether a waiver of water quality certification has been obtained.
4. Within 45 calendar days of completion of authorized work in waters of the United States, the Permittee shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:
 - A) Date(s) work within waters of the United States was initiated and completed;
 - B) Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
 - C) Color photographs (including map of photopoints) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S. such that the extent of authorized fills can be verified;
 - D) Color photographs (including map of photopoints) taken at the project site before and after construction for those aspects directly associated with temporary impacts to waters of the U.S. to ensure that the sites are restored to pre-project alignments, elevation contours, and conditions, including revegetation as appropriate with native plant species after completion of construction in the area, plus indicate for each project crossing/impact area, when temporary construction areas were re-contoured to pre-construction conditions;
 - E) One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
 - F) Signed Certification of Compliance (attached as part of this permit package).
5. Endangered Species Act: This Corps permit does not authorize you to take any threatened or endangered species, in particular the coastal California gnatcatcher (*Poliioptila californica californica*), least Bell's vireo (*Vireo bellii pusillus*), and southwestern willow flycatcher (*Empidonax traillii extimus*) or adversely modify their designated critical habitat. In order to legally take a 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). Pursuant to the U.S. Fish and Wildlife Service (USFWS) correspondence dated October 25, 2016 including the required avoidance and minimization measures, the Corps Regulatory Division has determined and USFWS has concurred that your activity may affect but is not likely to adversely affect the above species. Your authorization under this Corps permit is conditional upon your compliance with all of the required avoidance and minimization measures, which are incorporated by reference in this permit and listed in the USFWS's letter enclosed in this

permit verification. Failure to comply with the required avoidance and minimization measures would constitute non-compliance with your Corps permit. USFWS is the appropriate authority to determine compliance with the terms and conditions of its BO and with the ESA.

6. Cultural Resources: 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 staff (Tiffany Kwakwa at 213-452-3375) and Archaeology staff (Danielle Storey at 213-452-3855 OR Meg McDonald at 213-452-3849) 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.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to **section 404 of the Clean Water Act (33 U.S.C. 1344)**.

2. Limits of this authorization.

1. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
2. This permit does not grant any property rights or exclusive privileges.
3. This permit does not authorize any injury to the property or rights of others.
4. 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. Re-evaluation of Permit Decision. This office may re-evaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a re-evaluation 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 re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR § 325.7 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 C.F.R. § 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General Condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you a favorable consideration to a request for an extension of this time limit.

General Conditions for Letters of Permission – Special Area Management Plan for the San Juan Creek and Western San Mateo Creek Watersheds

Any activity authorized by LOP must also meet the following general conditions:

1. *Avoidance and Minimization.* The permittee must provide a written statement describing avoidance and minimization measures used to minimize discharges to jurisdictional waters at the project site to the maximum extent practicable.
2. *Ineligible Impacts.* Projects ineligible for LOP procedures include activities not evaluated for LOP procedures, projects that substantially alter a previously established compensatory mitigation site, or projects that involve the conversion of a soft-bottom channel to a concrete-lined channel within San Juan Creek, Oso Creek, Arroyo Trabuco, Chiquita Creek, Canada Gobernadora, San Mateo Creek, Gabino Creek, and Cristianitos Creek. Those proposed projects must be evaluated using an individual permit (Figures 2 and 3).
3. *Mitigation Policy.* The permit must comply with the SAMP mitigation framework (see Section E below), including the Strategic Mitigation Plan, established in conjunction with the proposed permitting procedures. In accordance with the Final Mitigation Rule (33 C.F.R. §332.3(k)), for an LOP that requires permittee-responsible mitigation, the special conditions of the LOP shall:
 - a. Identify the party responsible for providing the compensatory mitigation;
 - b. Incorporate, by reference, the final mitigation plan approved by the district engineer;
 - c. State the objectives, performance standards, and monitoring required for the compensatory mitigation project, unless they are provided in the approved final mitigation plan; and
 - d. Describe any required financial assurances or long-term management provisions for the compensatory mitigation project, unless they are specified in the approved final mitigation plan.
4. *Soil Erosion and Siltation Controls.* During project implementation, appropriate erosion and siltation controls such as siltation or turbidity curtains, sedimentation basins, and/or hay bales, or other means designed to minimize turbidity in the watercourse to prevent exceedences of background levels existing at the time of project implementation, shall be used and maintained in effective operating condition. Projects are exempted from implementing controls if site conditions preclude their use, or if site conditions are such that the proposed work would not increase turbidity levels above the background level existing at the time of the work. All exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be stabilized at the earliest practicable date to preclude additional damage to the project area through erosion or siltation and no later than November of the year the work is conducted to avoid erosion from storm events.
5. *Equipment.* If personnel would not be subjected to additional, potential hazardous conditions, heavy equipment working in or crossing wetlands must be placed on temporary construction mats (timber, steel, geotextile, rubber, etc.), or other measures must be taken to

minimize soil disturbance such as using low pressure equipment. Temporary construction mats shall be removed promptly after construction.

6. *Suitable Material.* No discharge of dredged or fill material into jurisdictional waters may consist of unsuitable materials (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts (see section 307 of the CWA).
7. *Management of Water Flows.* To the maximum extent practicable, the pre-construction 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. To the maximum extent practicable, the activity must provide for the retention of excess flows from the site and for the maintenance of surface flow rates from the site similar to pre-project conditions, while not increasing water flows from the project site, relocating water, or redirecting water flow beyond pre-project conditions unless it benefits the aquatic environment (e.g., stream restoration or relocation activities).
8. *Removal of Temporary Fills.* Any temporary fills must be removed in their entirety and the affected areas returned to their pre-existing conditions, including any native riparian and/or wetland vegetation. If an area impacted by such temporary fill is considered likely to naturally re-establish native riparian and/or wetland vegetation within two years to a level similar to pre-project or pre-event conditions, the permittee will not be required to restore the riparian and/or wetland vegetation. However, Exotic Species Management may be required to prevent the establishment of invasive exotic vegetation. (See Condition #13).
9. *Preventive Measures.* Measures must be adopted to prevent potential pollutants from entering the watercourse. Within the project area, construction materials, and debris, including fuels, oil, and other liquid substances shall be stored in a manner as to prevent any runoff from entering jurisdictional areas.
10. *Staging of Equipment.* Staging, storage, fueling, and maintenance of equipment must be located outside of the waters in areas where potential spilled materials will not be able to enter any waterway or other body of water.
11. *Fencing of Project Limits.* The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas shown on a project-specific figure attached to the LOP. 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.
12. *Avoidance of Breeding Season.* With regard to federally listed avian species, avoidance of

breeding season requirements shall be described in General Condition 19 below. For all other species, initial vegetation clearing in waters of the U.S. must occur between September 15 and March 15, which is outside the breeding season. Work in waters may occur during the breeding season between March 15 and September 15 if bird surveys indicate the absence of any nesting birds within a 50-foot radius, or in accordance with a signed streambed alteration agreement with conditions prescribing procedures for grading, including mitigation sites or biological surveys and time restrictions.

- ;
13. *Exotic Species Management.* All giant reed (*Arundo donax*), salt cedar (*Tamarix spp.*), castor bean (*Ricinus communis*), and all invasive non-native plants that threaten wildlands with the category of “High” on the California Invasive Plant Council’s (Cal-IPC) California Invasive Plant Inventory¹ must be removed from the affected area and ensure that the affected area remains free from these invasive, non-native species for a period of five years from completion of the project.
 14. *Site Inspections.* The Corps shall be allowed to inspect the site at any time during and immediately after project implementation. In addition, compliance inspections of all mitigation sites shall be allowed at any time.
 15. *Posting of Conditions.* A copy of the LOP terms and conditions shall be included in all bid packages for the project and be available at the work site at all times during periods of work and must be presented upon request by any Corps or other agency personnel with a reasonable reason for making such a request.
 16. *Post-Project Report.* Within 45 days of completion of impacts to waters, as-built drawings with an overlay of waters that were impacted and avoided must be submitted to the Corps. Post-project photographs, which document compliance with permit conditions, must also be provided.
 17. *Water Quality.* An individual section 401 water quality certification must be obtained (see 33 C.F.R. §330.4(c)).
 18. *Coastal Zone Management.* An individual California state coastal zone management consistency concurrence must be obtained or waived where the project may affect the Coastal Zone (see 33 C.F.R. §330.4(d)).
 19. *Endangered Species.*
 - a. No activity is authorized 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 ESA, or which will destroy or adversely modify the critical habitat of such species. Non-federal permittee shall not begin work on the activity until notified by the Corps that the requirements of the ESA have been satisfied and that the activity is authorized.

¹ Cal-IPC’s California Invasive Plant Inventory (2006 and 2007 updates) may be found online at: <http://www.cal-ipc.org/ip/inventory/index.php#categories>.

- 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 USFWS or NMFS, the district engineer may add species-specific regional endangered species conditions to the RGP notices to proceed.
- e. Authorization of an activity by an LOP 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 USFWS 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. USFWS and NMFS or their World Wide Web pages at <http://www.fws.gov/carlsbad/> and <http://www.nmfs.noaa.gov/pr/species/esa/index.htm>, respectively.

20. *Fish Passage.* For projects resulting in construction or replacement of stream crossings in Arroyo Trabuco or San Juan Creek, the resulting structure must comply with NOAA Fisheries and CDFG requirements for fish passage.

21. *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 (Register), the activity is not authorized, until the requirements of section 106 of the NHPA have been satisfied.
- b. Federal permittees should follow their own procedures for complying with the requirements of section 106 of the NHPA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with

those requirements.

- c. Non-federal permittees must submit with their application information on historic properties that 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 SHPO or Tribal Historic Preservation Officer (THPO), as appropriate, and the Register (see 33 C.F.R. §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 that 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. 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 C.F.R. §800.3(a)). If NHPA section 106 consultation is required to 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 110(k) 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.

22. *Air Quality.* No activity is authorized that causes or contributes to any new violation of national ambient air quality standards, increases the frequency or severity of any existing violation of such standards, or delays timely attainment of any such standard or interim emission reductions, as described in the applicable California State Implementation Plan for the South Coast Air Basin. As part of the Corps application package, the applicant shall submit an air quality emission and impact analysis for the proposed activity if the project would result in long-term or permanent stationary (point or area) source or indirect mobile

source emissions, or if the proposed activity would result in area source and direct mobile source emissions that exceed the annual *de minimis* emissions thresholds for any criteria air pollutant or its precursors.

23. *Transfer of LOP's.* If the permittee sells the property associated with a LOP, the permittee may transfer the LOP to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the LOP and the name and all available contact information, including company name, addresses, telephone numbers and e-mail, must be attached to the letter, and the letter must contain the following statement and signature:

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

(Transferee)

(Date)

24. *Compliance Certification.* Each permittee who receives an LOP from the Corps must submit a signed certification regarding the completed work and any required mitigation within 45 days after completing construction activities. The certification form must be forwarded by the Corps with the LOP and will include:
- a. A statement that the authorized work was done in accordance with the LOP 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.

The use and implementation of the LOP procedures for Corps permit applications is contingent on compliance with the terms and conditions of the LOP procedures. Should a permittee become non-compliant with permit conditions, the Corps may suspend, revoke, or modify the permit and assess administrative penalties. Pursuant to section 309(g) of the CWA, the Corps is able to levy Class I Administrative Penalties of up to \$11,000 per violation of a permit Special Condition, to a maximum of \$27,000.

Figure 1

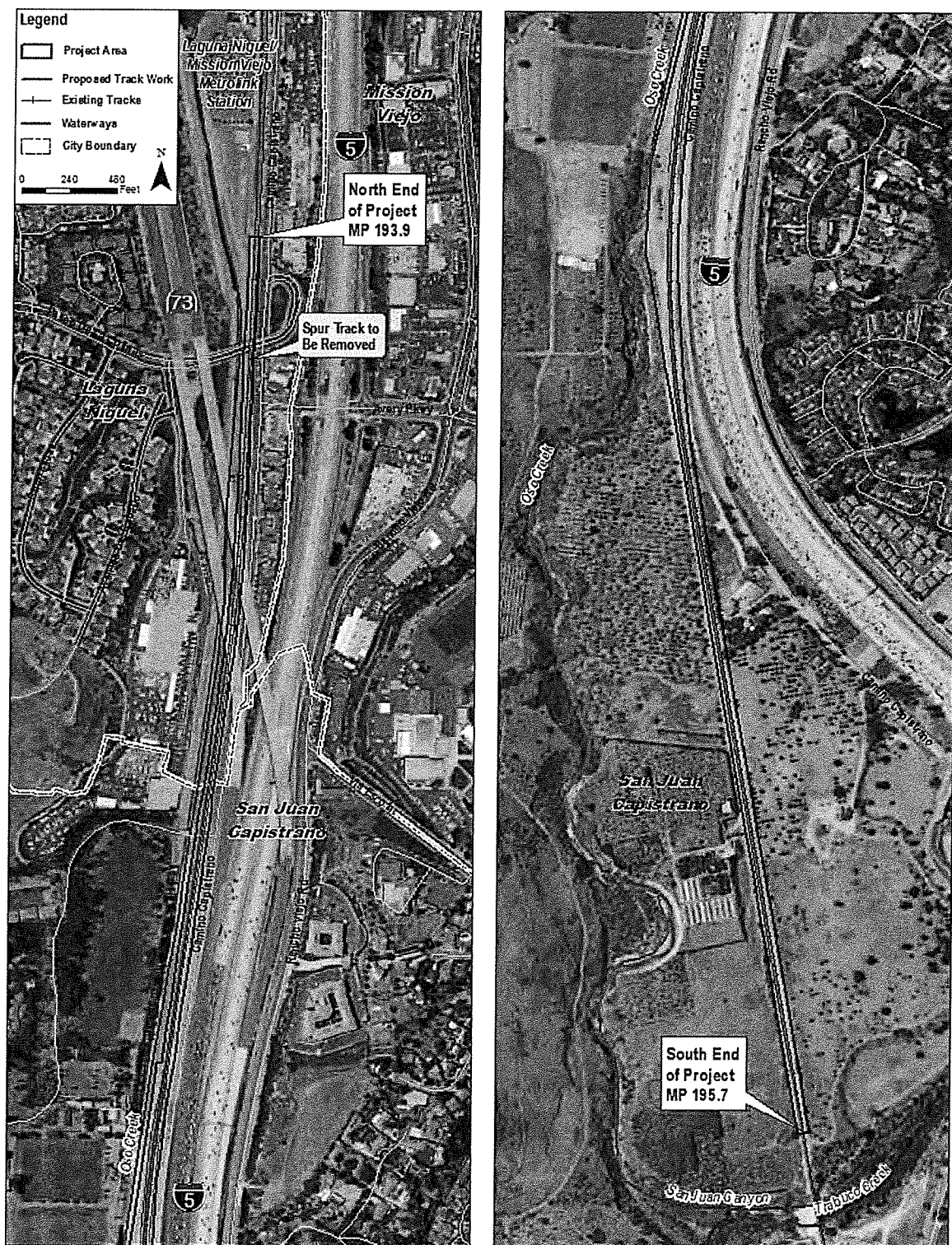


Figure 2

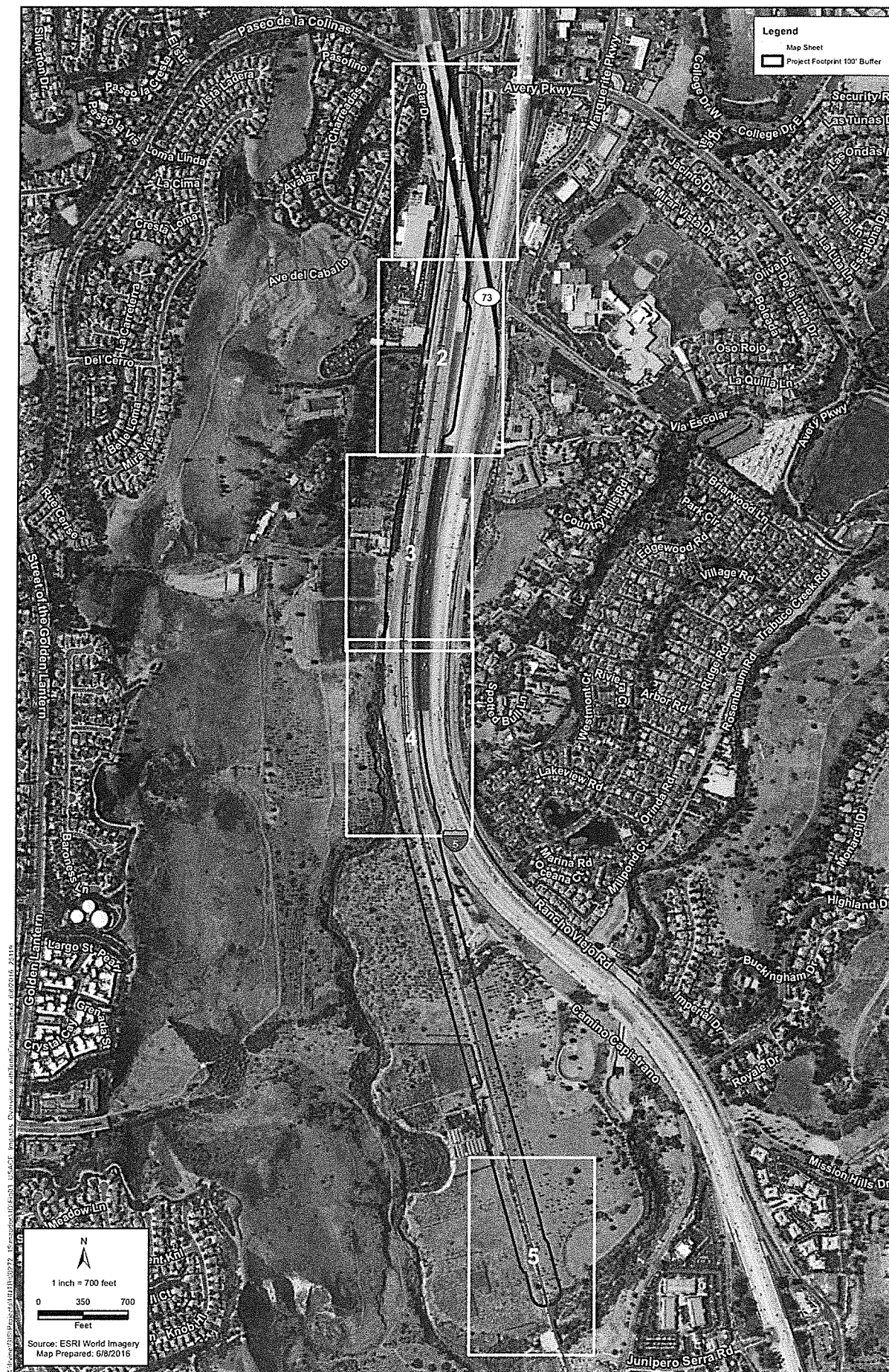


Figure 2a

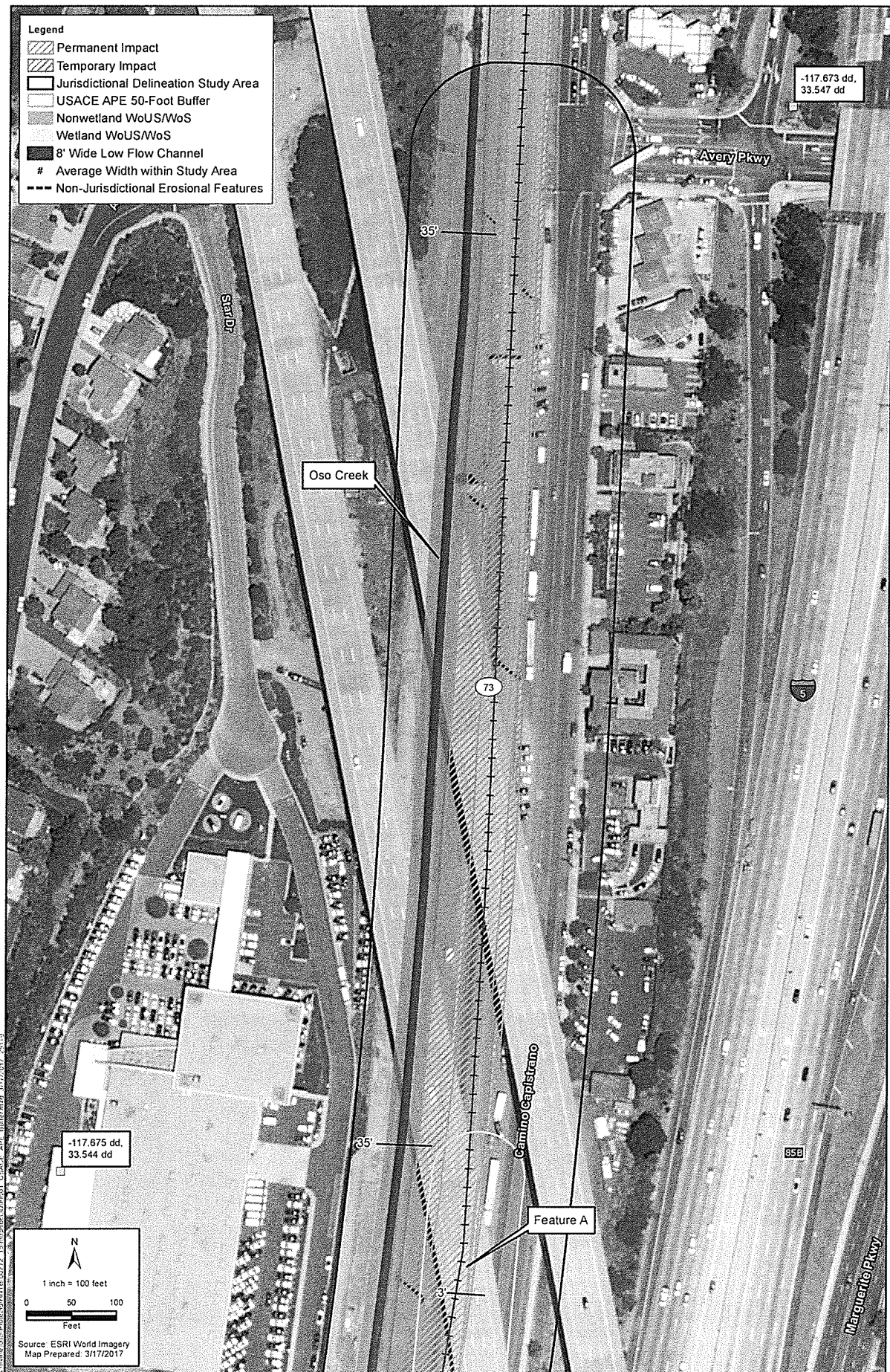


Figure 2b

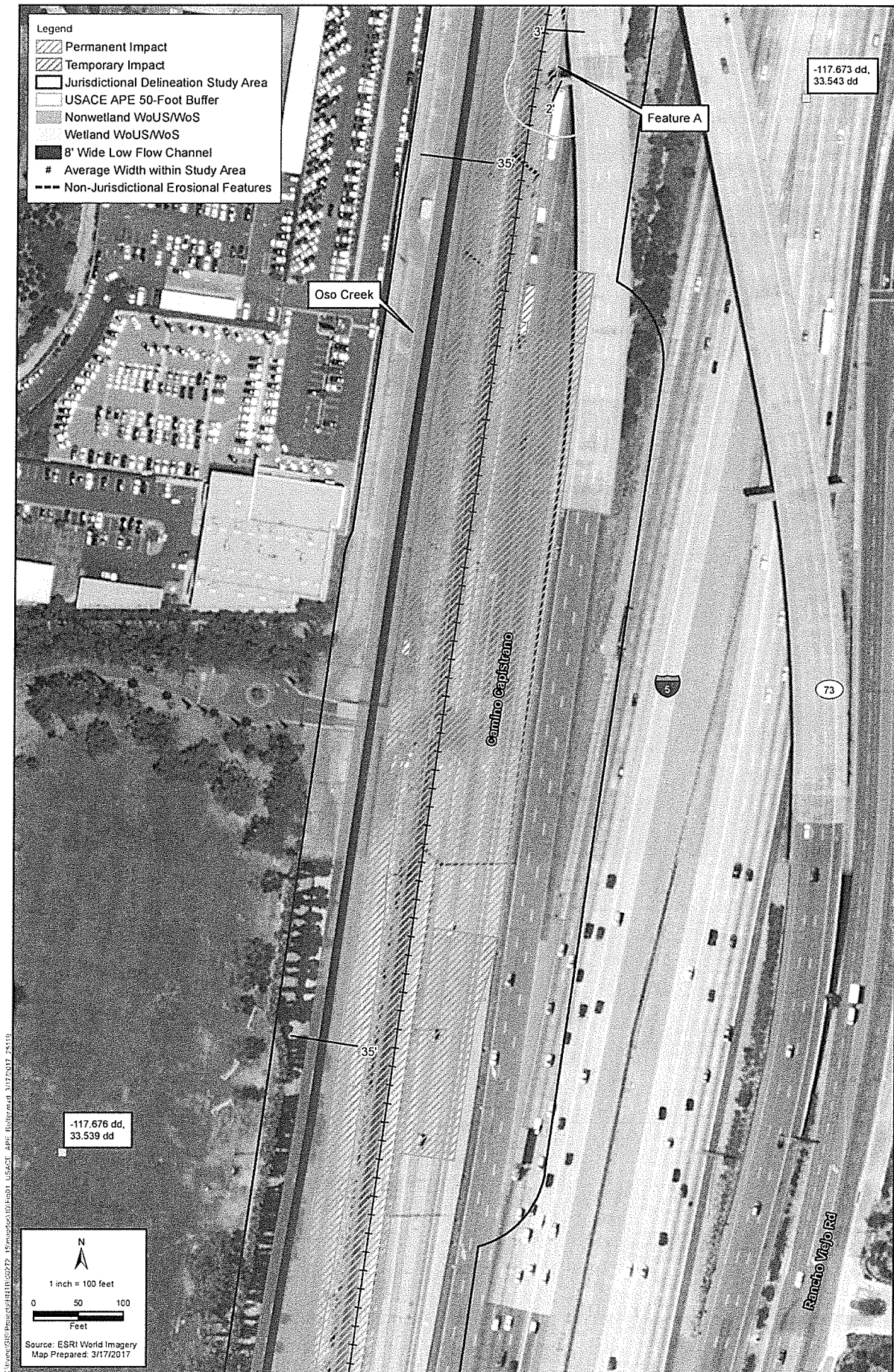


Figure 2c

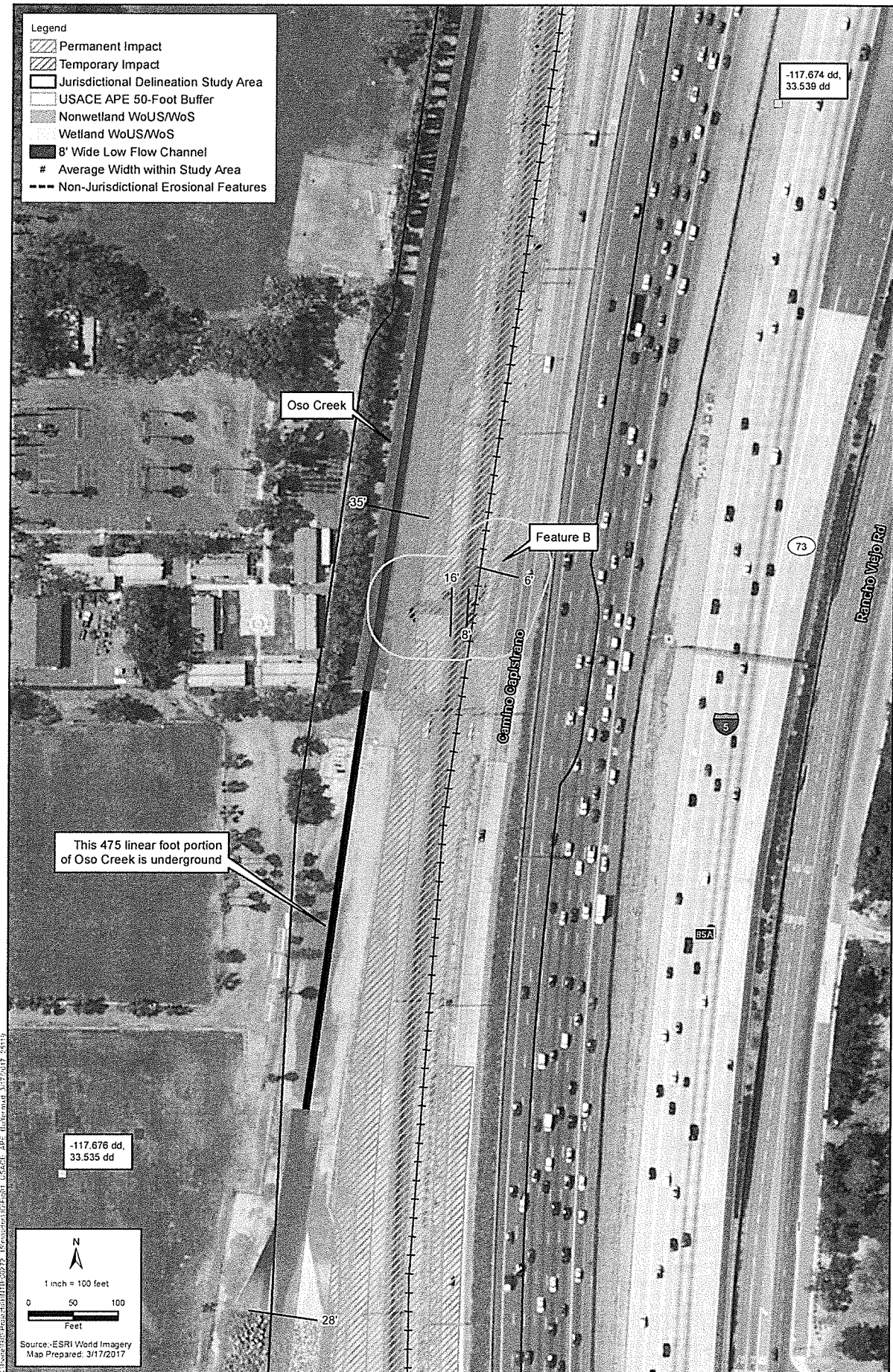


Figure 2d

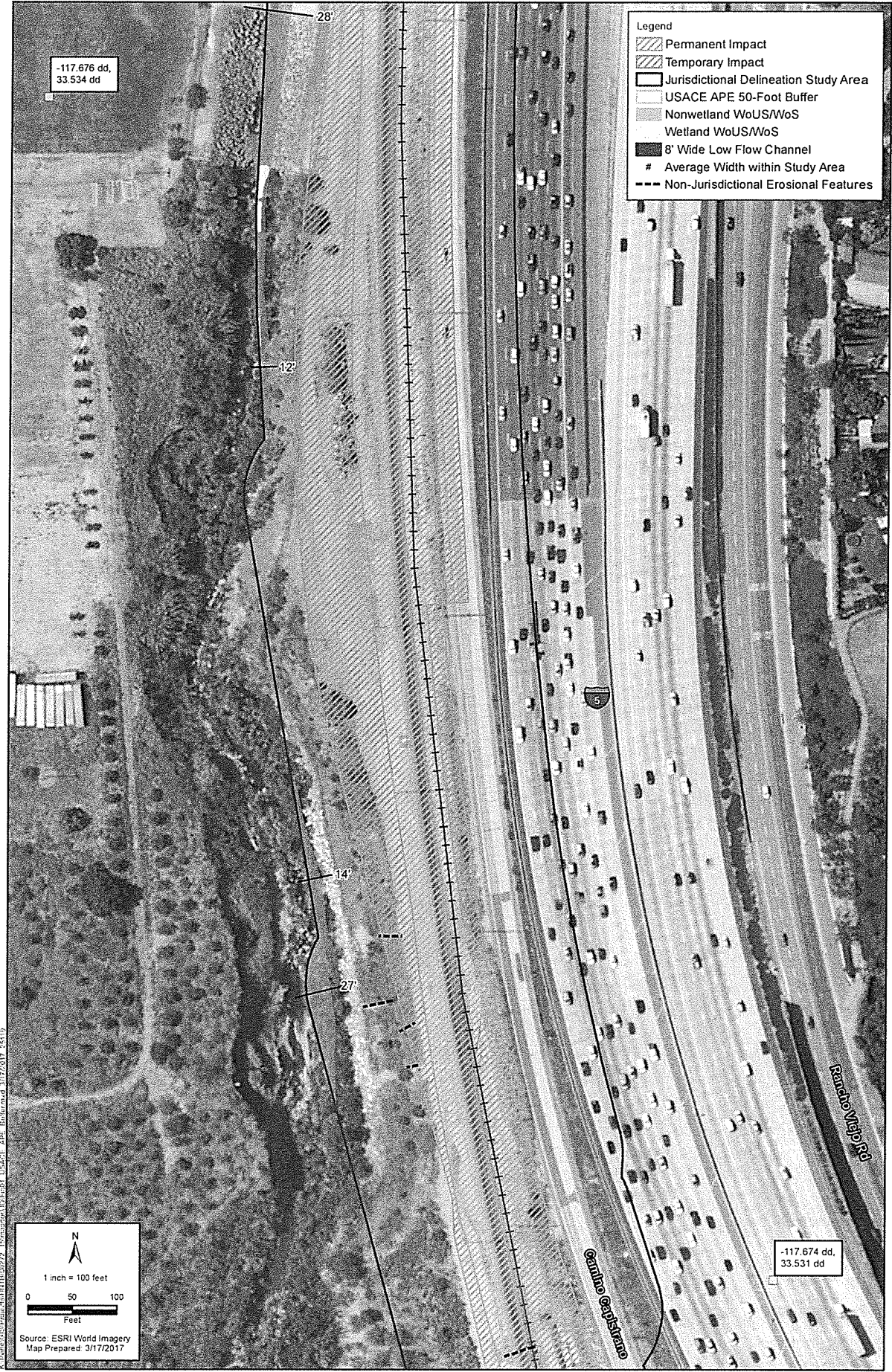
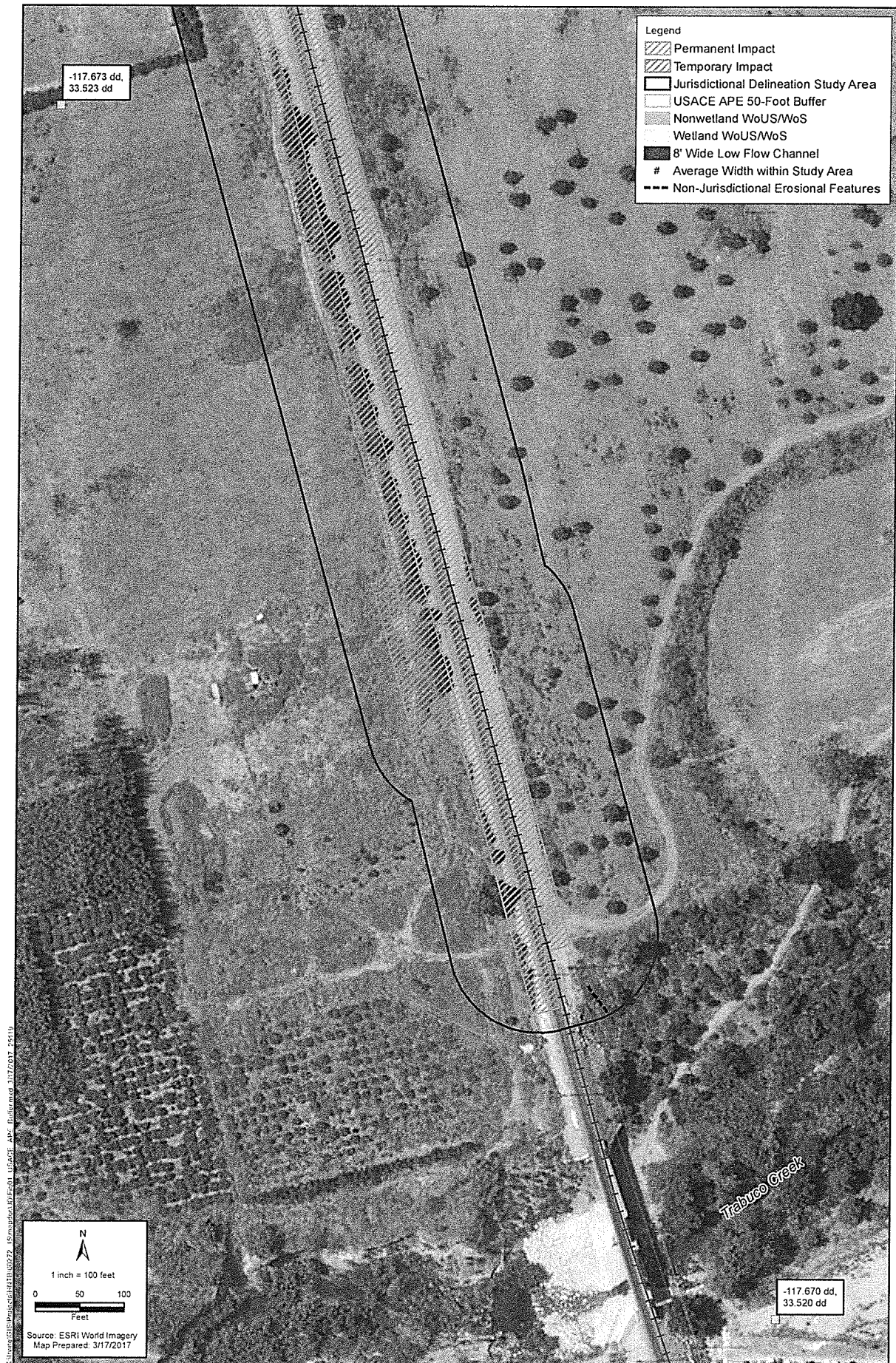


Figure 2e



[illegible]

1. THESE PLANS ARE ACCURATE FOR 24" RCP
OUTLET EXTENSION WORK ONLY.
2. THE CROSS SECTION IS SHOWN AT STA
4972+93.50.
3. SINKOUT EXIST 24" RCP 1' BEHIND WOOD HH.
4. CONTRACTOR SHALL VERIFY THE LOCATION OF
UTILITIES AFFECTED BY THE CONSTRUCTION.
5. OVER-EXCAVATION IS REQUIRED FOR PLACING
COMPACTED STRUCTURAL FILL.
6. CAST-IN THE WALL CONSTRUCTED ON EACH
HEADWALL WITH MINIMUM 6" TALL AND 1' DEEP
NUMBERS.
7. FOR CABLE RAILING DETAIL, SEE RW NO. PLANS.

DESIGN: AREMA MANUAL RAILWAY ENGINEERING, 2014
CONCRETE: F'C=4000 PSI IN 28 DAYS

REINFORCING STEEL.

2. MINIMUM COVER FOR CONCRETE PLACED AGAINST EARTH SHALL BE 3 INCHES AND FOR OTHER CONCRETE SHALL BE 2 INCHES UNLESS OTHERWISE SHOWN ON PLANS.

LIVE LOAD:

COOPER E80 APPLICABLE IMPACT ACCORDING TO AREMA
MANUAL.

SOIL:

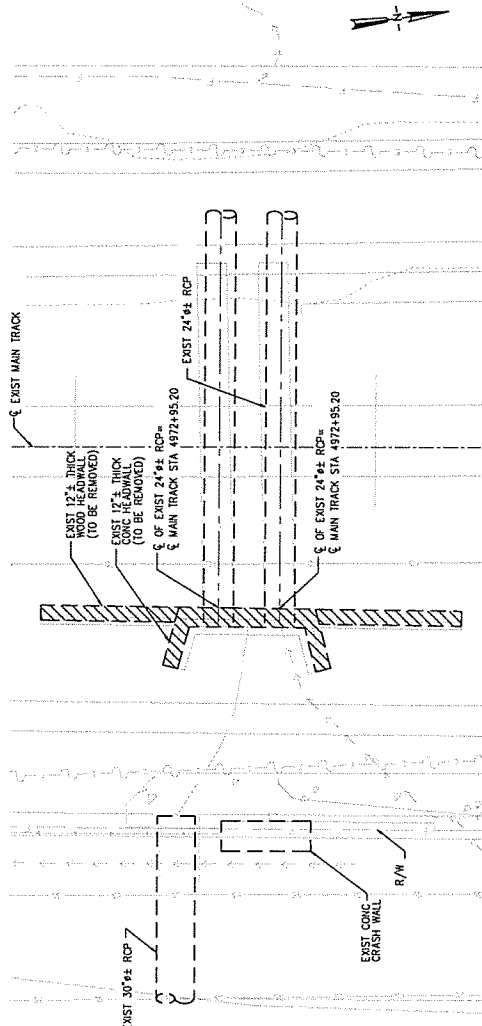
REFER TO GEOTECHNICAL REPORT FOR DETAILED INFORMATION OF SOIL PARAMETERS.

— — — EXISTING STRUCTURE

ABBREVIATION:

BOT
BW

BOTTOM OF WALL
 CONSTRUCTION JOINT
 CAST IN PLACE
 CLEARANCE
 DESIGN HEIGHT
 EXISTING
 FLOW LINE
 FINISHED GRADE
 HEAD WALL
 LINE OF LAYOUT
 ORIGINAL GRADE
 REINFORCED CONCRETE BOX
 RIGHT OF WAY
 RETAINING WALL
 SYMMETRICAL
 TOP OF WALL



PLAN

FILED
CONTRACT NO.
DRAWING NO.

REVISION SHEET

0	51435
---	-------

AS SHOWN

METROLINK COMMUTER RAIL SYSTEM

LN - SJC PASSING SIDING

Existing Conditions Feature A Location
MP 194.2 CULVERT EXTENSION (STA 4972+95.20)

PLAN



Orange County Transportation Authority

PRINT

RECEIVED BY
N. BEHARFAR
APPROVED BY

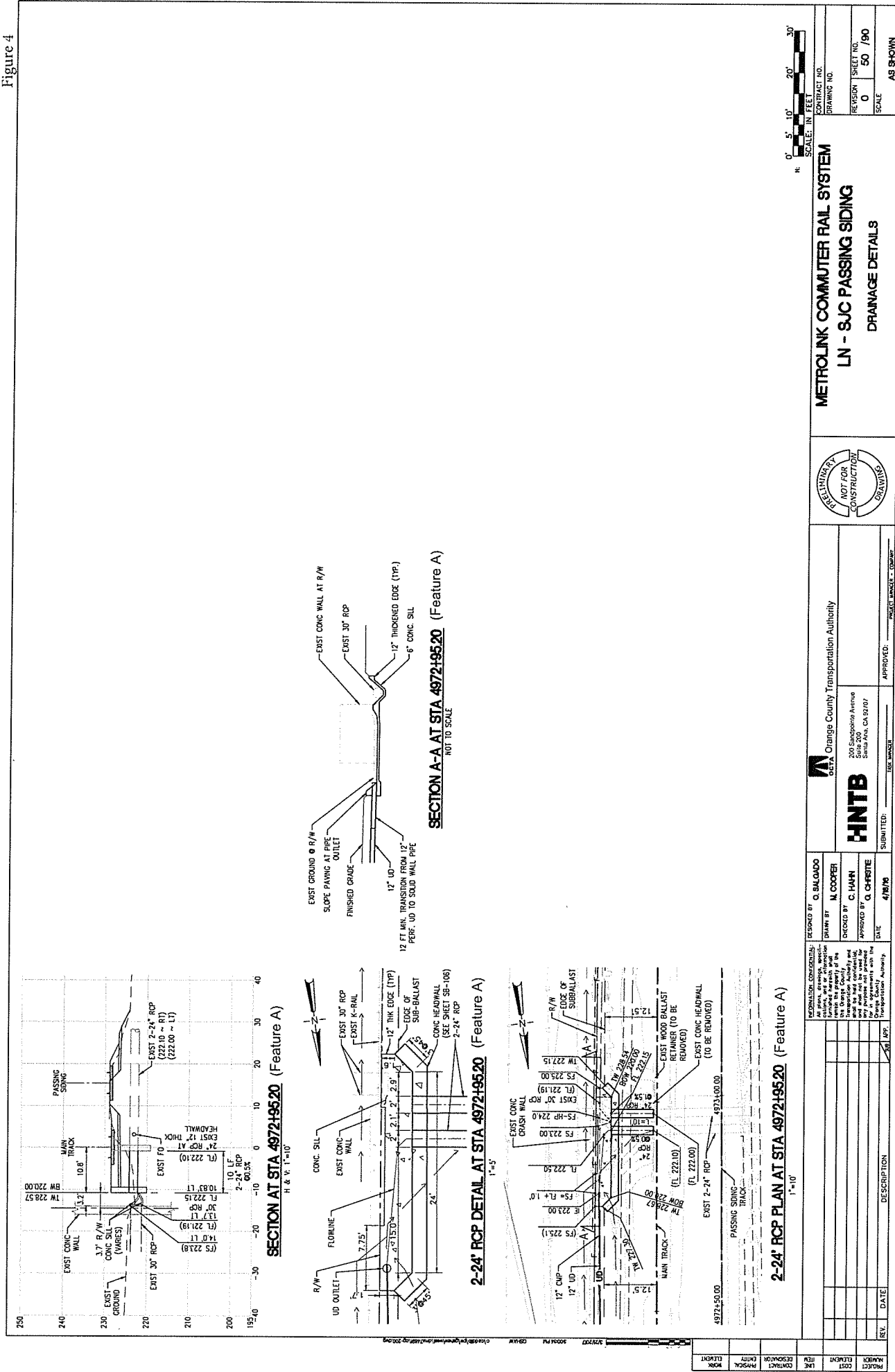
DATE	10/18/08
A. DURRANI	

CONFIDENTIAL: This information contains information, plans, drawings, specifications, and/or information furnished herewith shall remain the property of the Orange County Transportation Authority and shall be held confidential and shall not be used for any purpose not provided for in agreements with the Orange County Transportation Authority.

[illegible]

PROJECT NUMBER	ELEMENT	LINE ITEM
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Figure 4



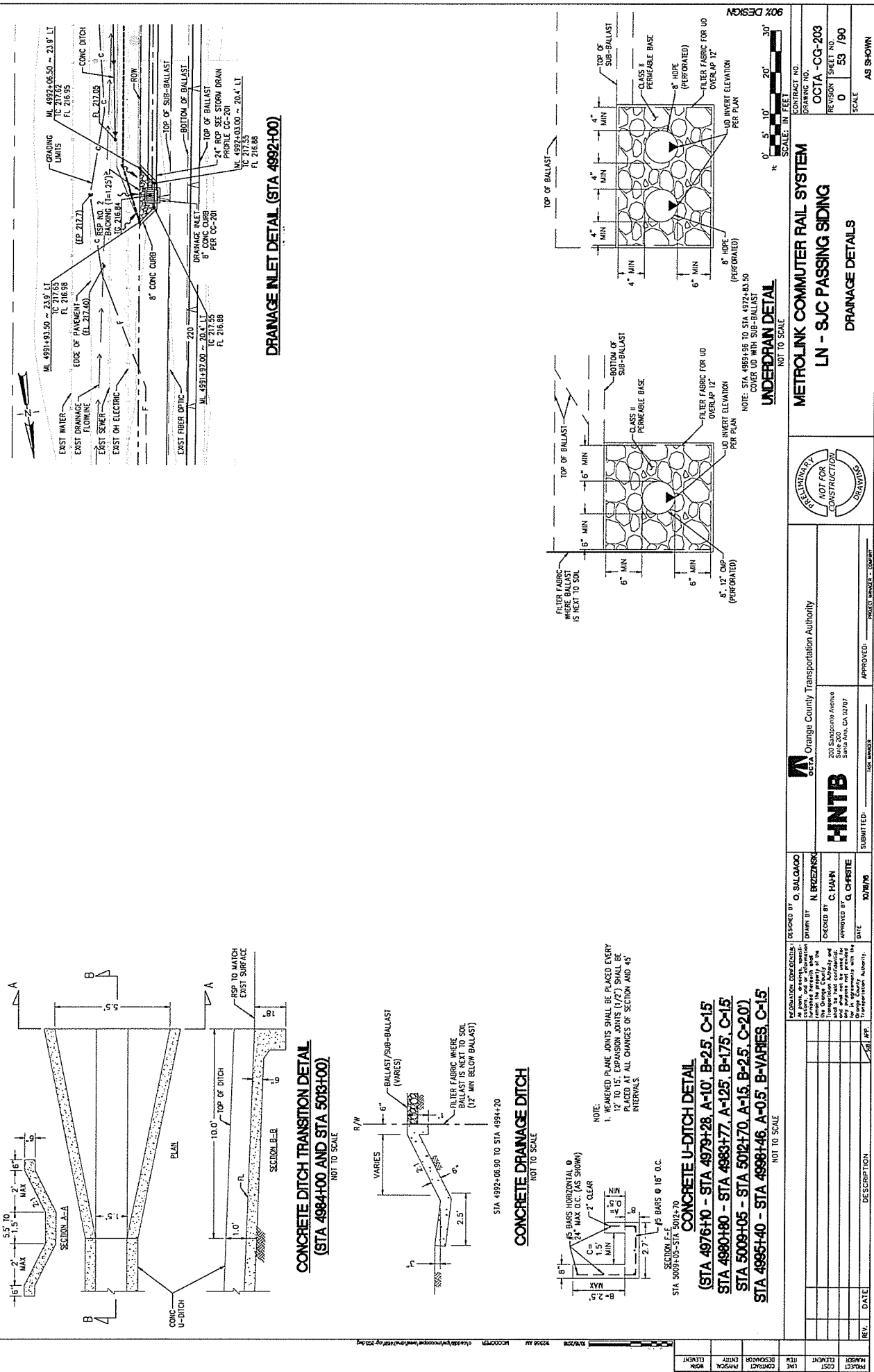


Figure 6

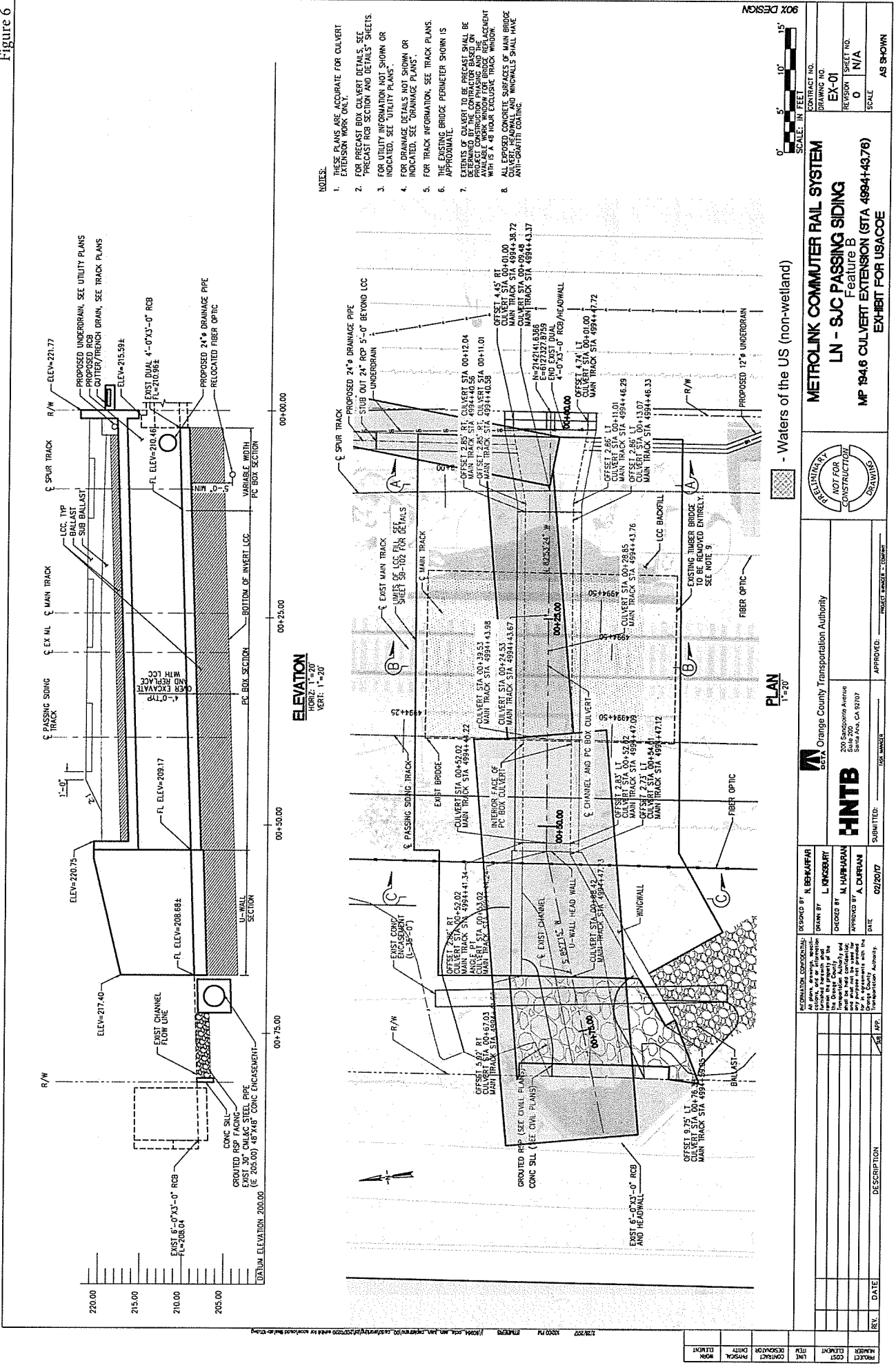


Figure 7

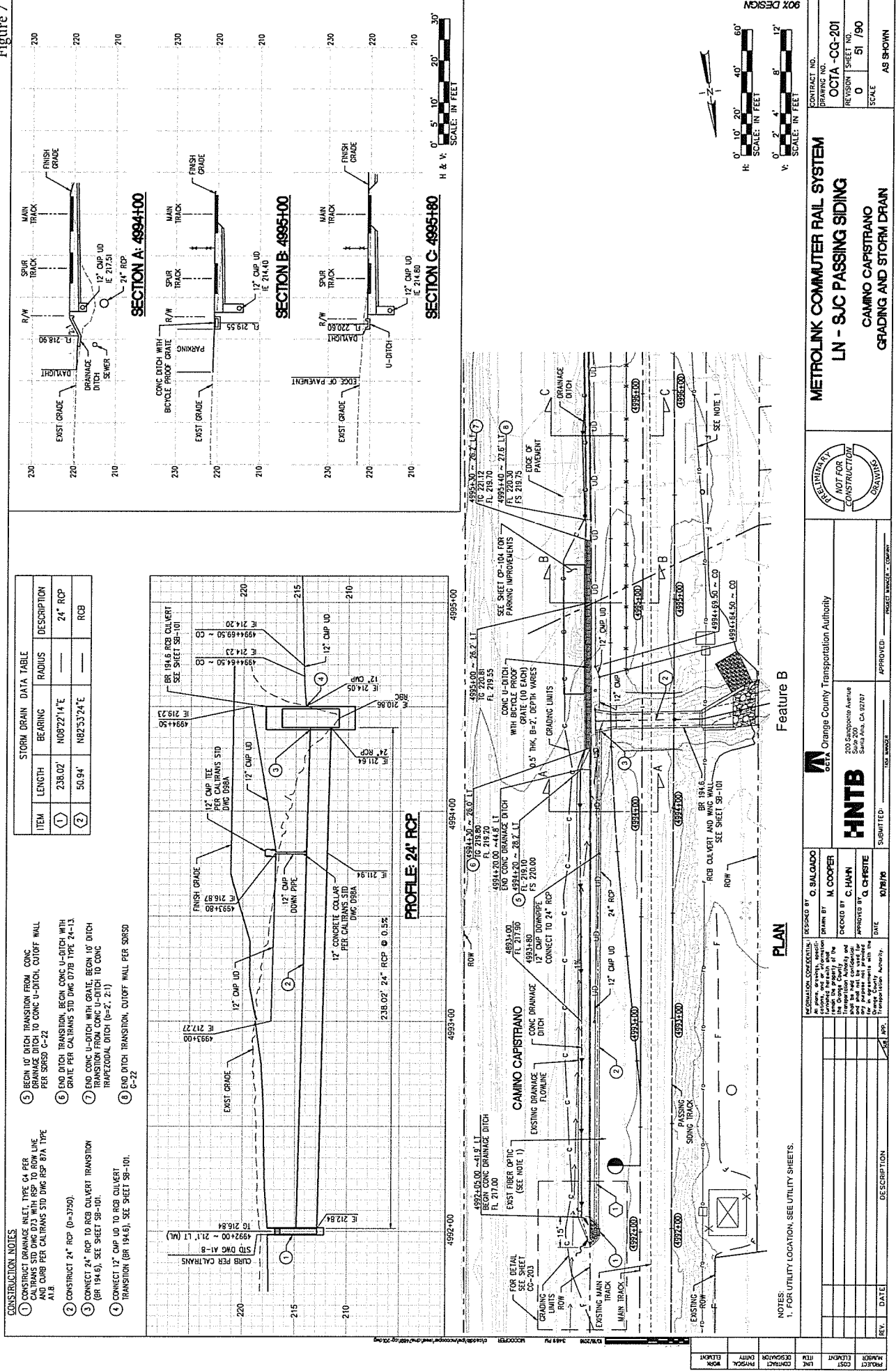
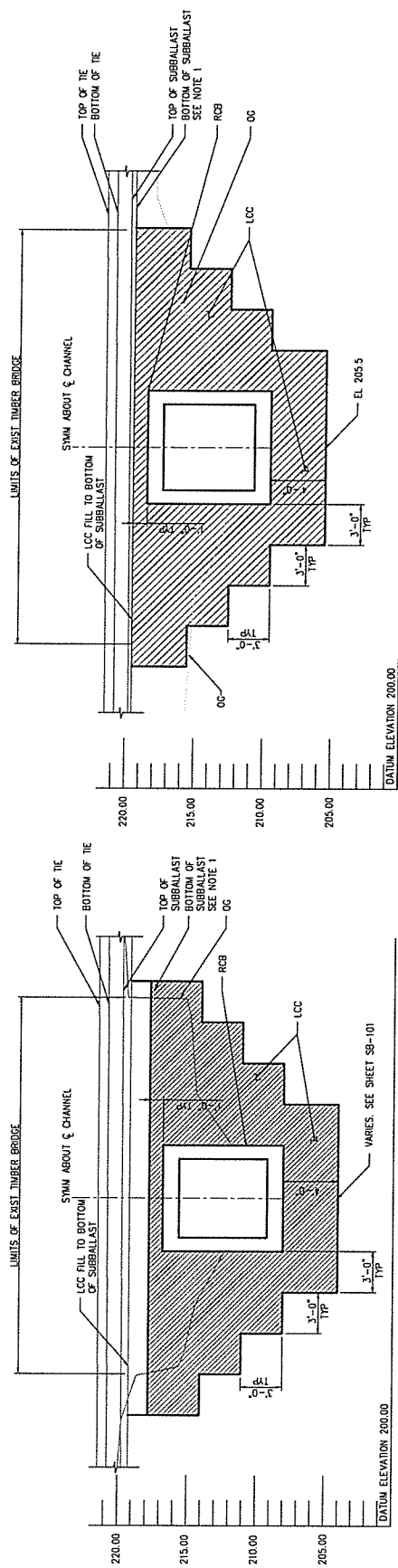
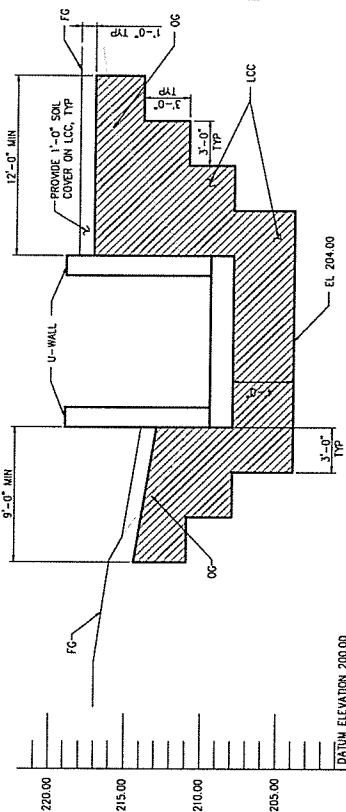


Figure 8



SECTION A-A
SCALE: 1/8"=1'-0"




SECTION C-C
SCALE: $\frac{1}{4}" = 1' - 0"$

NOTES:

1. MAINTAIN BOTTOM OF SUBBALLAST AT LEVEL ELEVATION OVER THE WIDTH OF LCC FILL. OBTAIN REQUIRED GRADE BY VARYING THE TOP OF THE SUBBALLAST.

PRODUCT NUMBER	COST ELEMENT	LINE ITEM	CONTRACT	PHYSICAL ENTITY	WORK ELEMENT
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[illegible]



METROLINK COMMUTER RAIL SYSTEM

LN - SJC PASSING SIDING

Feature B

MP 194.6 CULVERT EXTENSION (STA 4984+43.76)

CONTRACT NO.	
DRAWING NO.	
OCTA - SB-102	
REVISION	SHEET NO.
0	70 / 790
SCALE	TYPICAL SECTION

METROLINK COMMUTER RAIL SYSTEM
LN - SJC PASSING SIDING
Feature B
MP 194.6 CULVERT EXTENSION (STA 4994+43.76)
TYPICAL SECTIONS



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services

Carlsbad Fish and Wildlife Office

2177 Salk Avenue, Suite 250

Carlsbad, California 92008



In Reply Refer To:

FWS-OR-16B0291-1610706

October 25, 2016

Sent by Email

Leslie T. Rogers
Regional Administrator
U.S. Department of Transportation
Federal Transit Administration
90 Seventh Street, Suite 15-300
San Francisco, California 94103-6701

Subject: Informal Section 7 Consultation for the Laguna Niguel to San Juan Capistrano Passing Siding Project, Orange County, California

Dear Mr. Rogers:

We received an email correspondence from the Federal Transit Administration (FTA) dated May 9, 2016, requesting informal consultation in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) for the Laguna Niguel to San Juan Capistrano Passing Siding Project (Siding Project) in the cities of Laguna Niguel and San Juan Capistrano, California. The FTA has requested our concurrence that the proposed action may affect, but is not likely to adversely affect, the federally endangered least Bell's vireo (*Vireo bellii pusillus*; vireo), southwestern willow flycatcher (*Empidonax traillii extimus*; flycatcher), or the federally threatened coastal California gnatcatcher (*Poliophtila californica californica*; gnatcatcher) and its critical habitat.

The proposed Siding Project is located parallel and west of Interstate 5 and will extend from just south of the Laguna Niguel/Mission Viejo Station to about 500 feet north of the Trabuco Creek crossing. The project includes construction of a 1.8-mile long passing siding railroad track, new retaining walls, relocation of existing power poles and gas, water, and sewer infrastructure, the addition of a railroad bridge or box culvert at milepost 194.6, culvert extensions, a paved parking lot, and reprofiling of about 600 feet of Camino Capistrano. Construction of all of the project elements will occur within the existing Southern California Regional Rail Authority right-of-way or in areas that are developed or have ruderal vegetation. Associated grading and earthwork will accompany construction of the project. Construction work is estimated to occur over about a 2-year period. The installation of the new siding track will not result in increased rail traffic through the area.

The project site contains disturbed coastal sage scrub (CSS), non-native vegetation, disturbed areas, existing developed areas, and unpaved and paved roads. No project activities will occur

within the riparian habitat in Oso or Trabuco Creeks or within gnatcatcher critical habitat located immediately adjacent to the project footprint. No riparian habitat will be cleared as a result of the proposed project. About 0.31 acre of disturbed CSS will be permanently removed by the Siding Project. No critical habitat will be directly impacted by this project (Figure 1).

The FTA will incorporate the following conservation measures (CM) into the project to avoid and minimize adverse effects to the vireo, flycatcher, and gnatcatcher.

General Conservation Measures

- CM 1. The project work areas will be limited to the sites identified in the project description of the initiation letter and in the Vegetation Communities Map (Map Sheets 1 to 5) attached in an email from Stephanie Gasca, ICF International, to Katy Kughen, Service, dated June 23, 2016 (Gasca 2016, pers. comm.). Access to the project site will use existing roads. Parking, driving, lay-down, stockpiling, and vehicle and equipment storage will be limited to previously compacted and developed areas. No off-road vehicle use will be permitted beyond the project site and designated access routes.
- CM 2. A biologist (biological monitor)¹ familiar with the vireo, flycatcher, and gnatcatcher will be responsible for overseeing construction to ensure compliance with the conservation measures and for preventing unanticipated impacts to federally listed species. The biological monitor will be on site during construction activities with the potential to impact federally listed species.
- CM 3. At least 7 days before project initiation, the project boundary, including temporary features such as staging areas, will be clearly marked with flagging, fencing, or signposts. All project-related activities will occur within the project boundary.
- CM 4. A contractor education program will be conducted by the biological monitor. It will be conducted during all project phases and will cover the potential presence of listed species; the requirements and boundaries of the project; the importance of complying with avoidance, minimization, and compensation measures; and problem reporting and resolution methods.
- CM 5. Dust migration adjacent to gnatcatcher critical habitat, coastal sage scrub, and riparian areas will be minimized by lightly spraying areas of exposed soil with water during earth moving activities when weather conditions require the use of dust control measures.

¹ The designated biological monitor for this measure will be a trained ornithologist with at least 40 hours of observation in the field for the gnatcatcher and documented experience of at least 20 hours of locating and monitoring nests of the gnatcatcher. The vireo biologist will be a trained ornithologist with at least 40 hours of independent vireo observation and documented experience locating and monitoring nests of the vireo. The flycatcher biologist will be a trained ornithologist with at least 40 hours of independent flycatcher observation and documented experience locating and monitoring nests of the flycatcher. If appropriately qualified, a single person may act as the gnatcatcher, vireo, and flycatcher biologist.

- CM 6. To ensure fire does not commence due to project activities, construction trucks will carry water and shovels or fire extinguishers in the field. Shields, protective mats, or other fire prevention equipment will be used during grinding and welding, and vehicles will not be driven and parked in areas where catalytic converters could ignite dry vegetation. No smoking or disposal of cigarette butts will take place within vegetated areas.
- CM 7. No night work is anticipated in association with this project. However, if night work and lighting are required, a biological monitor will be present to ensure night-time construction activities in and adjacent to sensitive habitat avoid disturbance to federally listed species. Any night lighting will be shielded and directed away from sensitive areas to the greatest extent possible to avoid disturbance to federally listed species.
- CM 8. All trash will be disposed of properly. All food-related trash will be placed in sealed bins or removed from the site regularly. Following initial project construction, all equipment, waste, and construction debris will be removed from the site, and the soil will be re-contoured prior to habitat restoration.
- CM 9. A Storm Water Pollution Prevention Plan will be prepared and will incorporate Best Management Practices (BMPs),² such as silt fences, silt basins, and gravel bags, or other measures to control erosion and prevent the release of sediment and contaminants that could be harmful to federally listed species.
- CM 10. Permanent impacts to 0.31 acre of occupied gnatcatcher habitat will be offset through a contribution to the Center for Natural Lands Management in the amount of \$40,300.00. These funds will be used to conduct habitat restoration and enhancement activities within the Northwest Open Space (NWOS) in San Juan Capistrano, California. The NWOS is located within 1,000 feet of the Siding Project and is contiguous with the high-quality gnatcatcher habitat on the Pacifica San Juan Preserve.

Gnatcatcher Conservation Measures

- CM 11. To the maximum extent practicable, construction and other project-related activities (e.g., vegetation clearing) that occur within 500 feet of gnatcatcher-occupied CSS will take place outside of the gnatcatcher breeding season (February 15 to August 31).
- CM 12. If breeding season avoidance is not practicable, then the following additional measures will be employed:
 - a. The biological monitor will conduct pre-construction surveys for gnatcatchers and their nests in and within 500 feet of the proposed construction footprint.

² BMPs can be found in the California Stormwater Quality Association's Stormwater Best Management Practices Handbook for Construction, January 2003. <http://www.cabmphandbooks.com/>

- b. If an active gnatcatcher nest (nest containing eggs or an empty or partial nest with gnatcatchers actively exhibiting breeding behaviors) occurs within 500 feet of proposed construction area, the biological monitor will report the nest to the Service. After initial identification of the nest, the biological monitor will not approach within 25 feet of an active gnatcatcher nest; nest monitoring will occur with binoculars. The biological monitor will use the distance to the project limits and local topography to determine if construction activities are likely to directly damage a nest or significantly disturb nesting activities. Signage will be installed to deter people from entering any area with an active gnatcatcher nest.
- c. Where damage or disturbance of any gnatcatcher nest(s) is likely, the FTA will implement further measures to avoid the likelihood of nest destruction or disturbance, including temporarily halting construction activities until the nest fails or until at least 10 days after young fledge from the nest, with construction activities directed to other areas further than 500 feet from the active nest(s) or where the activities will not disturb the active nest(s).
- d. A biological monitor will monitor nest progress, construction activity, and protective fencing to minimize potential construction-related disturbance and will submit a weekly nest status report to the Service. A post-construction report will be submitted to the Service summarizing the weekly nest status report and outcomes within 6 months of project completion.

Vireo Conservation Measures

- CM 13. To the maximum extent practicable, construction and other project-related activities (e.g., vegetation clearing) that occur within 500 feet of vireo-occupied woody riparian vegetation [e.g., mulefat (*Baccharis salicifolia*) and willows (*Salix* sp.)] will take place outside of the vireo breeding season (March 15 to August 31).
- CM 14. If avoiding the vireo breeding season at specific locations is not possible, then the following additional measures will be employed:
 - a. The biological monitor will conduct pre-construction surveys (e.g., three pre-construction surveys at least 1 week apart) for vireo and their nests in and within 500 feet of the construction footprint.
 - b. If an active vireo nest (nest containing eggs, empty nest or partial nest with vireos actively exhibiting breeding behaviors) occurs within 500 feet of the proposed construction area, the biological monitor will report the nest to Service. After initial identification of the nest, the biological monitor will not approach within 25 feet of an active vireo nest; nest monitoring will occur with binoculars. The biological monitor will use the distance to the project limits and local topography to

determine if construction activities are likely to directly damage a nest or significantly disturb nesting activities.

- c. Where damage or disturbance of any vireo nest(s) is likely, the FTA will implement further measures to avoid the likelihood of nest destruction or disturbance, including temporarily halting clearing activities until the nest fails or until at least 10 days after young fledge from the nest, with construction activities directed to other areas further than 500 feet from the active nest(s) or where the activities will not disturb the active nest(s).
- d. Straw bale walls or other types of barriers may be constructed along the project perimeter to block visibility and sound from the adjacent construction, thereby reducing potential disturbance to active vireo nests. Also, signage will be installed to deter people from entering any area with an active vireo nest.
- e. A biological monitor will monitor nest progress, construction activity, and protective fencing to minimize potential construction-related disturbance and will submit a weekly nest status report to the Service. A post-construction report will be submitted to the Service summarizing the weekly nest status report and outcomes within 6 months of project completion.

Flycatcher Conservation Measures

- CM 15. To the maximum extent practicable, construction and other project-related activities (e.g., vegetation clearing) that occur within 500 feet of flycatcher-occupied woody riparian habitat will take place outside of the flycatcher breeding season (May 1 to August 31).
- CM 16. If avoiding the flycatcher breeding season at specific locations is not possible, then the following additional measures will be employed:
 - a. The biological monitor will conduct pre-construction surveys for flycatchers and their nests in and within 500 feet of the construction footprint.
 - b. If a flycatcher is detected within 500 feet of the proposed construction area, the biological monitor will report the nest to Service and the FTA will coordinate with the Service to evaluate if reinitiation of consultation is necessary.

Coastal California Gnatcatcher

The Passing Siding Project footprint contains about 0.31 acre of disturbed CSS, all of which will be permanently impacted. This disturbed CSS is located along a long, linear 2,300 feet of the median strip between the rail line and Camino Capistrano and is primarily composed of scattered

California buckwheat (*Eriogonum fasciculatum*; buckwheat) individuals and a few small patches of buckwheat surrounded by bare ground or ruderal vegetation. Although only 0.31 acre of disturbed CSS occurs within the project footprint, suitable gnatcatcher feeding, breeding, and sheltering habitat exists adjacent to the northern portion of the project footprint where Oso Creek exits the cement lined channel and adjacent to the southern portion of the project footprint near the confluence of Oso and Trabuco Creeks. Project-specific non-breeding season gnatcatcher surveys completed in 2015/2016 documented juvenile gnatcatchers foraging in CSS within 60 feet of the southern portion of the project footprint. These individuals were within designated critical habitat for the gnatcatcher, which is located immediately south of the project footprint, and within disturbed CSS to the west of the critical habitat.

Because suitable gnatcatcher feeding, breeding, and sheltering habitat occurs adjacent to the project footprint, foraging and dispersing gnatcatchers may use the CSS in the area, and it is possible, but unlikely, that gnatcatchers could establish a territory in the action area prior to project implementation. Nevertheless, construction activities within 500 feet of occupied gnatcatcher habitat will occur outside of the gnatcatcher breeding season to the maximum extent feasible. If the breeding season cannot be avoided, then focused surveys will be conducted in gnatcatcher habitat prior to initiation of project activities, and measures will be implemented to avoid impacts to nests and young or substantial disturbance of breeding gnatcatcher pairs that could cause the failure of a gnatcatcher nest.

Although a total of 0.31 acre of CSS habitat will be permanently removed, the habitat impacts will occur within a long narrow strip of highly disturbed habitat between the rail line and the roadway. Because of the linear nature of the impact area and the degraded quality of the CSS habitat, we anticipate that only a small fraction of a gnatcatcher territory will be affected and we do not expect this loss of habitat to interfere with essential behaviors such as breeding, feeding, and sheltering. Therefore, we anticipate that potential effects to gnatcatcher survival and reproduction will be insignificant.

Noise and vibrations associated with the use of heavy equipment during construction and the rail road's use of the passing siding have the potential to disrupt gnatcatcher behaviors in adjacent habitat by masking intraspecific communication and startling birds (e.g., see Dooling and Popper 2007 for a discussion of observed effects of highway noise on birds). However, any gnatcatcher territories located in close proximity to the project footprint and the rail line are already exposed to relatively high levels of noise and vibration associated with the daily operation of the rail road system and Interstate 5. Therefore, with the implementation of the above measures, project activities may result in minor disturbance to gnatcatchers in adjacent habitat, but we anticipate that these effects will be insignificant (i.e., unable to be meaningfully detected, measured, or evaluated).

Least Bell's Vireo and Southwestern Willow Flycatcher

No project-specific vireo or flycatcher surveys were completed for the Siding Project; however, according to information in our survey database, a male vireo was observed on a single day in 2006 singing about 500 feet south of the project footprint at the confluence of Oso Creek and

Trabuco Creek (Bonterra 2006), and a pair of flycatchers were observed on multiple occasions during a survey in 2002 within Sulpher Creek (PCR 2002), which is about 2 miles north.

There are no known vireo or flycatcher territories within 500 feet of the project footprint; however, suitable vireo and flycatcher feeding, breeding, and sheltering habitat exists within 50 feet of the project footprint. Therefore, foraging and dispersing vireos and flycatchers may use the riparian habitat in the area, and it is possible, but unlikely, that vireos and flycatchers could establish a territory in the action area prior to or during project implementation. Nevertheless, construction activities within 500 feet of occupied habitat will occur outside of the breeding season to the maximum extent feasible. If the breeding season cannot be avoided, then then focused surveys will be conducted in vireo and flycatcher habitat prior to initiation of project activities and measures will be implemented to avoid impacts to nests and young or substantial disturbance of breeding vireo or flycatcher pairs that could cause the failure of a nest.

Noise and vibrations associated with the use of heavy equipment during construction and the rail road's use of the passing siding have the potential to disrupt vireo and flycatcher behaviors in adjacent habitat by masking intraspecific communication and startling birds (e.g., see Dooling and Popper 2007 for a discussion of observed effects of highway noise on birds). However, any territories located in close proximity to the project footprint and the rail line are already exposed to relatively high levels of noise and vibration associated with the daily operation of the rail road system and Interstate 5. Therefore, with the implementation of the above measures, project activities may result in minor disturbance to vireo or flycatchers in adjacent habitat, but we anticipate that these effects will be insignificant (i.e., unable to be meaningfully detected, measured, or evaluated).

Based on the above analysis, the Service concurs with your determination that the proposed action may affect but is not likely to adversely affect the vireo, flycatcher, or the gnatcatcher and its critical habitat. With this determination, the interagency consultation requirements of section 7 of the Act have been satisfied. This determination shall be reconsidered if: (1) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not previously considered, (2) this action is subsequently modified in a manner that was not considered in this assessment, or (3) a new species is listed or critical habitat designated that may be affected by the action.

We appreciate your coordination on this project. If you have any questions regarding this letter, please contact Katy Kughen at 760-431-9440, extension 201.

Sincerely,

for Karen A. Goebel
Assistant Field Supervisor

LITERATURE CITED

[Bonterra] Bonterra Consulting. 2006. Result of Focused Presence/Absence Surveys for the Southwestern Willow Flycatcher and Least Bell's Vireo on the Hsiao-Williams Project Site, City of San Juan Capistrano, Orange County, California.

Dooling, R.J., and A.N. Popper. 2007. The effects of highway noise on birds. Prepared by Environmental BioAcoustics LLC., for the California Department of Transportation, Sacramento, California.

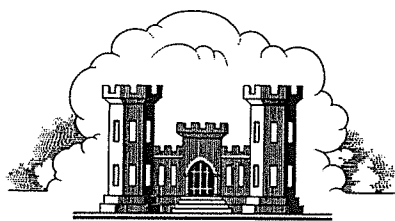
[PCR] PCR Services Corporation. 2002. Results of Focused Southwestern Willow flycatcher Surveys for the Sulpher Creek Project Site, Orange County, California.

Personal Communications

Gasca, S. 2016. Senior Associate, Regulatory Specialist, ICF International, Irvine, California. Email Correspondence to Katy Kughen, USFWS, Carlsbad, California. Dated: June 23, 2016. Subject: Re: Laguna Niguel to San Juan Capistrano Passing Siding Project.



Figure 1. Gnatcatcher Critical Habitat and Gnatcatcher locations 2015/2016.



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

**NOTIFICATION OF COMMENCEMENT OF WORK
FOR
DEPARTMENT OF THE ARMY PERMIT**

Permit Number: *SPL-2016-00530-TDK*

Name of Permittee: *Orange County Transportation Authority (OCTA) (POC: Jason Lee, Project Manager)*

Date of Issuance: *June 26, 2017*

Date work in waters of the U.S. will commence: _____

Estimated construction period (in weeks): _____

Name & phone of contractor (if any): _____

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 permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that I, and the contractor (if applicable), have read and agree to comply with the terms and conditions of the above referenced permit.

Signature of Permittee

Date

At least ten (10) days prior to the commencement of the activity authorized by this permit, sign this certification and return it using any ONE of the following three (3) methods:

1. E-MAIL a statement including all the above information to:

Tiffany.D.Kwakwa@usace.army.mil

OR

2. FAX this certification, after signing, to: 213-452-4196

OR

3. MAIL to the following address:

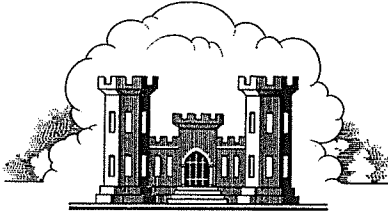
U.S. Army Corps of Engineers

Regulatory Division

ATTN: CESPL-RG-SPL-2016-00530-TDK

915 Wilshire Boulevard, Suite 930

Los Angeles, California 90017



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

**NOTIFICATION OF COMPLETION OF WORK AND
CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY PERMIT**

Permit Number: *SPL-2016-00530-TDK*

Name of Permittee: *Orange County Transportation Authority (OCTA) (POC: Jason Lee, Project Manager)*

Date of Issuance: *June 26, 2017*

Date work in waters of the U.S. completed: _____

Construction period (in weeks): _____

Name & phone of contractor (if any): _____

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 permit you may be subject to permit suspension, modification, or revocation.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of said permit.

Signature of Permittee

Date

Upon completion of the activity authorized by this permit, sign this certification and return it using any ONE of the following three (3) methods:

1. E-MAIL a statement including all the above information to:

Tiffany.D.Kwakwa@usace.army.mil

OR

2. FAX this certification, after signing, to: 213-452-4196

OR

3. MAIL to the following address:

U.S. Army Corps of Engineers
Regulatory Division
ATTN: CESPL-RG-SPL-2016-00530-TDK
915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL		
Applicant: OCTA (POC: Jason Lee, Project Manager)	File Number: SPL-2016-00530-TDK	Date: June 26, 2017
Attached is:		See Section below
x	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)	A
	PROFFERED PERMIT (Standard Permit or Letter of permission)	B
	PERMIT DENIAL	C
	APPROVED JURISDICTIONAL DETERMINATION	D
	PRELIMINARY JURISDICTIONAL DETERMINATION	E
SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at http://www.usace.army.mil/cecw/pages/reg_materials.aspx or Corps regulations at 33 CFR Part 331.		
A: INITIAL PROFFERED PERMIT: You may accept or object to the permit. <ul style="list-style-type: none"> ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit. OBJECT: If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below. 		
B: PROFFERED PERMIT: You may accept or appeal the permit <ul style="list-style-type: none"> ACCEPT: If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit. APPEAL: If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice. 		
C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.		

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- ACCEPT: You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- APPEAL: If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:

Tiffany D. Kwakwa, Project Manager
U.S. Army Corps of Engineers
Los Angeles District
915 Wilshire Blvd, Suite 930
Los Angeles, CA 90017
Phone: (213) 452-3375
Email: Tiffany.D.Kwakwa@usace.army.mil

If you only have questions regarding the appeal process you may also contact:

Thomas J. Cavanaugh
Administrative Appeal Review Officer
U.S. Army Corps of Engineers
South Pacific Division
1455 Market Street, 2052B
San Francisco, California 94103-1399
Phone: (415) 503-6574 Fax: (415) 503-6646
Email: Thomas.J.Cavanaugh@usace.army.mil

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number:

Administrative Appeal Process for Approved Jurisdictional Determinations

