

**CALIFORNIA WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

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TENTATIVE ORDER NO. R9-2013-0007

**WASTE DISCHARGE REQUIREMENTS
FOR
FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY**

**TESORO EXTENSION (SR 241) PROJECT
ORANGE COUNTY**

The following Discharger is subject to waste discharge requirements as set forth in this Order:

Table 1. Discharger Information

Discharger	Foothill/Eastern Transportation Corridor Agency
Name of Project	Tesoro Extension (SR 241)
Project Address	125 Pacifica #120, Irvine, CA 92618
CIWQS Party Number	536510

Discharges by the Foothill/Eastern Transportation Corridor Agency from the discharge points identified below are subject to the waste discharge requirements set forth in this Order:

Table 2: Discharge Location

Discharge Point	Discharge Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
1	Clean Fill	33.532853° N	-117.600563° W	Unnamed tributary to Cañada Gobernadora Creek
2	Clean Fill	33.536310° N	-117.596573° W	Unnamed tributary to Cañada Gobernadora Creek
3	Clean Fill	33.548477° N	-117.596190° W	Unnamed tributary to Cañada Gobernadora Creek
4	Clean Fill	33.553264° N	-117.595168° W	Unnamed tributary to Cañada Gobernadora Creek

Table 2: Discharge Location Continued

Discharge Point	Discharge Description	Discharge Point Latitude	Discharge Point Longitude	Receiving Water
A2	Clean Fill	33.542563° N	-117.594252° W	Unnamed tributary to Cañada Gobernadora Creek
A3	Clean Fill	33.544166° N	-117.594145° W	Unnamed tributary to Cañada Gobernadora Creek
F	Clean Fill	33.539938° N	N -117.597137° W	Unnamed tributary to Cañada Gobernadora Creek
G	Clean Fill	33.547330° N	-117.593120° W	Unnamed tributary to Cañada Gobernadora Creek
H	Clean Fill	33.551465° N	-117.594385° W	Unnamed tributary to Cañada Gobernadora Creek
J	Clean Fill	33.581497° N	-117.609899° W	Unnamed tributary to Cañada Chiquita Creek
K	Clean Fill	33.581031° N	-117.608638° W	Unnamed tributary to Cañada Chiquita Creek
L	Clean Fill	33.581565° N	-117.607591° W	Unnamed tributary to Cañada Chiquita Creek
T5	Clean Fill	33.563031° N	-117.605581° W	Unnamed tributary to Cañada Chiquita Creek
T6A	Clean Fill	33.565526° N	-117.608472° W	Unnamed tributary to Cañada Chiquita Creek
T6E	Clean Fill	33.563933° N	-117.608397° W	Unnamed tributary to Cañada Chiquita Creek
T7C	Clean Fill	33.568236° N	-117.611080° W	Unnamed tributary to Cañada Chiquita Creek
T8	Clean Fill	33.577195° N	-117.609911° W	Unnamed tributary to Cañada Chiquita Creek
IW1 (wetland)	Clean Fill	33.574888° N	-117.612536° W	Isolated Wetland
T6W (wetland)	Clean Fill	33.562923° N	-117.608649° W	Wetland feature-unnamed tributary to Cañada Chiquita Creek

Table 3. Administrative Information

This Order was adopted by the California Regional Water Quality Control Board, San Diego Region on:	March 13, 2013
This Order shall become effective on:	March 13, 2013

I, David W. Gibson, Executive Officer, do hereby certify that this order is a full, true, and correct copy of an order adopted by the California Regional Water Quality Control Board, San Diego Region, on March 13, 2013.

Tentative
David W. Gibson
Executive Officer

TABLE OF CONTENTS

I.	PROJECT INFORMATION	5
II.	FINDINGS	5
III.	DISCHARGE PROHIBITIONS	10
IV.	CONSTRUCTION BEST MANAGEMENT PRACTICES	10
V.	POST- CONSTRUCTION BEST MANAGEMENT PRACTICES.....	12
VI.	RECEIVING WATER LIMITATIONS.....	13
VII.	COMPENSATORY MITIGATION.....	14
VIII.	REPORTING REQUIREMENTS	18
IX.	PROVISIONS	22
X.	NOTIFICATIONS.....	26

ATTACHMENT A: PROJECT SITE MAPS

ATTACHMENT B: INFORMATION SHEET

ATTACHMENT C: MITIGATION SITE MAPS

ATTACHMENT D: NON-FEDERAL WATERS OF THE STATE

**ATTACHMENT E: TREATMENT CONTROL BEST MANAGEMENT PRACTICE
PLAN**

I. PROJECT INFORMATION

The following Project is subject to waste discharge requirements as set forth in this Order:

Table 4. Project Information

Discharger	Foothill/Eastern Transportation Corridor Agency
Name of Project	Tesoro Extension (SR 241)
Project Address	Terminus at Oso Parkway to the future Cow Camp Road immediately north of SR-74 east of San Juan Capistrano, Orange County, CA
Project Contact, Title, and Phone	Valerie McFall, Director, Environmental Services (949) 754-3475
Mailing Address	125 Pacifica #120, Irvine, CA 92618
Type of Project	Transportation
CIWQS Place Number	785677
WDID Number	9000002505

II. FINDINGS

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board) finds:

- A. **Report of Waste Discharge.** The Foothill/Eastern Transportation Corridor Agency (hereinafter Discharger or F/ETCA) is a Joint Powers Agency created by the California State Legislature to plan, finance, design, construct and operate a toll highway system in Orange County, California. The F/ETCA submitted a Report of Waste Discharge (ROWD) to construct the Tesoro Extension (SR 241) (Project), located in Orange County on August 10, 2012. Additional information to complete the ROWD application was received on October 4, 2012 and November 8, 2012. The ROWD was deemed complete on November 14, 2012. The Discharger proposes to discharge fill material to waters of the State associated with construction activity at the Project site.
- B. **Project Location.** The Project is an approximate 5.5 mile long extension of the existing State Route (SR) 241 from its current terminus at Oso Parkway to the future Cow Camp Road immediately north of SR-74 in Orange County. The Project is located within the Cañada Gobernadora and San Clemente US Geological Survey 7.5-minute quadrangle maps. Attachment A of this Order provides the location of the Project and mitigation sites.
- C. **Receiving Waters.** The Project Study Area contains a total of 16.01 acres and 28,747 lineal feet of surface waters of the State and/or waters of the United States, of which a total of 14.35 acres constitute wetlands pursuant to federal Clean Water Act guidance in the United States Army Corps of Engineers (USACOE) Wetlands Delineation 1987 Manual and Supplements and Title 33, Code of Federal Regulations, Part 328 (33 CFR 328). The receiving waters in

the vicinity of the Project are Cañada Gobernadora Creek and Cañada Chiquita Creek. The Project area lies within the Mission Viejo Hydrologic Area. Individual hydrologic subareas (HSA) defined in the Mission Viejo hydrologic area include Oso; Upper Trabuco; Middle Trabuco; Gobernadora; Upper San Juan; Middle San Juan; Lower San Juan; and Ortega. Lands within the project watersheds are largely undeveloped, and the majority of the terrain is natively vegetated or used for rangeland or agricultural purposes.

- D. **Overall Project Purpose.** The purpose of the Project is to provide a transportation facility that will reduce existing and forecasted deficiencies and congestion on the I-5 freeway and the arterial network in southern Orange County. The Project will serve both local (existing and future) and intra- and inter-regional trips.

The Project includes four general-purpose travel lanes, two in each direction. The center median from Oso Parkway to the Cow Camp Road will be revegetated with a native seed mix and will include drainage improvements, similar to the median along the existing SR-241. The median offers future opportunities for bus rapid transit, light rail, or additional lanes as traffic conditions warrant.

Cow Camp Road will be constructed by Rancho Mission Viejo and the County of Orange prior to, or concurrent with, the construction of the Tesoro Extension Project. An interchange at "G" Street and SR-241 will be constructed 0.6 mile north of Cow Camp Road (See Project Site Maps, Attachment A).

The footprint for the Tesoro Extension Project includes areas for grading, remedial grading, and construction disturbance areas. In addition to the paved road and associated bridges and interchanges, the construction area includes access roads, materials storage areas, areas for utility relocations, and areas for the construction of Best Management Practices (BMPs). The Project adds approximately 100 acres of impervious surface. More details about the Project and Project impacts are described in Attachments A–E of this Order.

- E. **Project Impacts.** The Project will result in the discharge of waste (fill) in a total of 0.64 acre of waters of the State, including 0.40 acre (5,297 linear feet) of permanent impacts and 0.24 acres (1,819 linear feet) of temporary impacts to jurisdictional waters in the Mission Viejo Hydrologic Area (901.20) in the San Juan Hydrologic Unit (901.00) (See Attachment B, Table 1).
- F. **Project Mitigation.** The Discharger submitted a compensatory mitigation plan, *Draft Habitat Mitigation and Monitoring Plan (HMMP) for the Tesoro Extension Project*, prepared by NewFields, in October of 2012. The draft HMMP contains a compensatory mitigation plan which offsets adverse water quality impacts attributed to the Project in a manner that protects and restores the abundance, types and conditions of aquatic resources and supports their beneficial uses. The draft HMMP, and any subsequent versions reviewed and approved by the

San Diego Water Board, must be implemented under the terms and conditions of this Order.

- G. **Regulatory Authority and Reason for Action.** By letter dated November 5, 2012, the USACOE determined that the proposed Project activities will not occur within waters of the United States and therefore the Project is not subject to USACOE jurisdiction under Section 404 of the Clean Water Act (CWA) and a Section 404 permit is not required for the Project. However, surface waters affected by the Project are waters of the State, as defined by section 13050 of the Water Code which include all water bodies, including wetlands and ephemeral, intermittent and perennial stream channels, in all flow conditions, including effluent dominated and seasonally dry. Waste discharges to these waters are subject to State regulation under division 7 of the Water Code (commencing with section 13000).

This Order is issued pursuant to Water Code section 13263, and establishes waste discharge requirements for the discharge of fill material, including structural material and/or earthen wastes from Project construction activities, to waters of the State. The waste discharge requirements of this Order are necessary to adequately address potential and anticipated impacts to waters of the State, and to ensure compliance with applicable water quality control plans and polices. This Order may also serve as a CWA Section 401 water quality certification should the USACOE non-jurisdictional determination be reversed for the Project.

- H. **Statement of Basis.** The San Diego Water Board developed the requirements in this Order based on information submitted as part of the ROWD and other available information. The Information Sheet in Attachment B of this Order contains background information and the supporting rationale for the requirements of this Order and is hereby incorporated into this Order and constitutes part of the Findings for this Order.
- I. **Water Quality Control Plan.** The San Diego Water Board adopted a Water Quality Control Plan for the San Diego Region (hereinafter Basin Plan) on September 8, 1994 that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for Cañada Gobernadora Creek, Cañada Chiquita Creek, and other receiving waters addressed through the Plan. Subsequent revisions to the Basin Plan have also been adopted by the San Diego Water Board and approved by the State Water Resources Control Board (State Water Board). Beneficial uses applicable to the unnamed tributaries of Cañada Gobernadora and Cañada Chiquita Creeks specified in the Basin Plan are as follows:

Table 1. Basin Plan Beneficial Uses of Cañada Gobernadora and Cañada Chiquita Creeks

Discharge Points	Receiving Water Name	Beneficial Use(s) (check these)
1, 2, 3, 4, A ₂ , A ₃ , F, G, H	Unnamed tributaries to Cañada Gobernadora Creek	Municipal and Domestic Supply; Industrial service supply; agricultural supply; contact water recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; and wildlife habitat.
J, K, L, T5, T6A, T6E, T7C, T8, IW1, T6W	Unnamed tributaries to Cañada Chiquita Creek	Municipal and Domestic Supply; Industrial service supply; agricultural supply; contact water recreation; non-contact water recreation; warm freshwater habitat; cold freshwater habitat; and wildlife habitat.

Together with an anti-degradation policy, the Basin Plan beneficial uses and water quality objectives serve as water quality standards under the Clean Water Act. This Order specifies waste discharge requirements that are necessary to adequately address effects on, and threats to, applicable water quality standards resulting from discharges attributed to the Project. Through compliance with the waste discharge requirements of this Order, the Project will not result in State water quality standards being exceeded.

J. Anti-Degradation Policy. The State Water Resources Control Board established California's anti-degradation policy in State Water Board Resolution No. 68-16 (Policy) which requires that existing quality of waters be maintained unless degradation is justified based on specific findings. Minimal water quality degradation may be allowed under the Policy if any change in water quality is consistent with the maximum benefit to the people of the State; the degradation will not unreasonably affect present and anticipated beneficial uses; the degradation will not result in violation of any applicable Water Quality Control Plan; and, discharges must use the best practicable treatment or control to avoid pollution or a condition of nuisance. Consistent with the Policy, this Order contains waste discharge requirements to ensure beneficial uses are maintained or enhanced through mitigation and monitoring requirements for impacts to waters of the State. The waste discharge requirements are designed to ensure and verify that the highest level of water quality is maintained consistent with the maximum benefit to the people of the State.

K. No Net Loss Policy. In 1993, the Governor of California issued the California Wetlands Conservation Policy (Executive Order W- 59-93). Commonly referred to as the "No Net Loss Policy" for wetlands, the Executive Order requires state agencies to "ensure no overall net loss [of wetlands] and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship and respect for private property." This Order meets the objectives of Executive Order W-59-93 through the establishment of compensatory mitigation requirements which offset adverse water quality impacts attributed to the Project in a manner that protects and restores the abundance, types and conditions of aquatic resources and supports their beneficial uses.

- L. **California Environmental Quality Act.** The Discharger is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)). The Discharger certified a Final Environmental Impact Report (EIR) for the South Orange County Transportation Improvement Project, and filed a Notice of Determination (SCH # 2001061046) on February 23, 2006, under CEQA Guidelines Title 14, California Code of Regulations. The Discharger determined the Project, without mitigation, will have a significant effect on the environment. Therefore, the Final EIR incorporates mitigation measures that mitigate many of the Project's effects on the environment to less than significant. For those impacts the Discharger determined to be unavoidable impacts, the Discharger adopted a Statement of Overriding Considerations finding that the benefits of the project outweighed the impacts.

The San Diego Water Board has reviewed the lead agency's Final EIR and Statement of Overriding Considerations. None of the significant unavoidable environmental impacts triggering the lead agency's adoption of the Statement of Overriding Considerations are within the areas of responsibility of the San Diego Water Board. The San Diego Water Board also concludes that without mitigation, the Project as proposed may have a significant effect on the environment. This Order requires implementation of mitigation measures that will reduce effects on the environment within the San Diego Water Board's jurisdiction to less than significant. The Order requires the Discharger to comply with a monitoring and reporting program that will ensure that the mitigation measures are implemented and the requirements of this Order are met.

- M. **Executive Officer Delegation of Authority.** The San Diego Water Board by prior resolution has delegated all matters that may legally be delegated to its Executive Officer to act on its behalf pursuant to Water Code section 13223. Therefore, the Executive Officer is authorized to act on the San Diego Water Board's behalf on any matter within this Order unless such delegation is unlawful under Water Code section 13223 or this Order explicitly states otherwise
- N. **Public Notice.** The San Diego Water Board has notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and has provided them with an opportunity to submit their written comments and recommendations. Details of the notification are provided in the Information Sheet provided in Attachment B of this Order.
- O. **Public Hearing.** The San Diego Water Board, in a public meeting, heard and considered all comments pertaining to the discharge. Details of the Public Hearing are provided in the Information Sheet provided in Attachment B of this Order.

IT IS HEREBY ORDERED that, in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted

thereunder, the Discharger shall comply with the requirements in this Order.

III. DISCHARGE PROHIBITIONS

- A. The discharge of waste, in a manner or location other than as described in the Report of Waste Discharge or findings of this Order, and for which valid waste discharge requirements are not in force is prohibited.
- B. The discharge of sand, silt, clay, or other earthen materials from any activity in quantities which cause deleterious bottom deposits, turbidity, or discoloration in waters of the State or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.
- C. The treatment, storage, or disposal of waste in a manner that creates a pollution, contamination or nuisance, as defined by Water Code section 13050, is prohibited.
- D. The dumping, deposition, or discharge of waste directly into waters of the State, or adjacent to such waters in any manner which may permit it's being transported into the waters, is prohibited unless authorized by the San Diego Water Board
- E. The Discharger must comply with all applicable Discharge Prohibitions contained in Chapter 4 of the Basin Plan, incorporated into this Order as if fully set forth herein.

IV. CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. Prior to the start of the project, and annually thereafter, the Discharger must educate all personnel on the requirements in this Order, including pollution prevention measures, spill response, and Best Management Practices (BMPs) implementation and maintenance.
- B. The Discharger must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.
- C. The Discharger, and/or all legally responsible parties in the Project construction area, must enroll in and comply with the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, NPDES No. CAS000002, *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities*, and any subsequent revisions thereto.
- D. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by

the San Diego Water Board pursuant to Water Code 13260.

- E. Discharges of concentrated flow during construction or after completion of the Project must not cause downstream erosion or damage to properties or stream habitat.
- F. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each work day or sooner if rain is predicted.
- G. All surface waters, including ponded waters, must be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving waters. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
- H. Cofferdams and water barrier construction shall be adequate to prevent seepage into or from the work area. Cofferdams or water barriers shall not be made of earth or other substances subject to erosion or that contain pollutants. When dewatering is necessary to create a temporary dry construction area, the water shall be pumped through a sediment-settling device before it is returned to the water body. The enclosure and the supportive material shall be removed when the work is completed, and removal shall proceed from downstream to upstream.
- I. All areas that will be left in a rough graded state must be stabilized no later than two weeks after completion of grading. The Discharger is responsible for implementing and maintaining BMPs to prevent erosion of rough graded areas. Hydroseed areas must be revegetated with native species appropriate for the area. The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at <http://www.cal-ipc.org/ip/inventory/weedlist.php>. Follow-up seed applications must be made as needed to cover bare spots and to maintain adequate soil protection.
- J. Except as authorized by this Order, substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.

- K. Removal of vegetation must occur by hand, mechanically, or using United States Environmental Protection Agency (USEPA) approved herbicides deployed using applicable BMPs to prevent impacts to beneficial uses of waters of the State. Use of aquatic pesticides must be done in accordance with State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, *Statewide General National Pollutant Discharge Elimination System Permit For The Discharge Of Aquatic Pesticides For Aquatic Weed Control In Waters Of The United States General Permit No. CAG990005*, and any subsequent revisions thereto.

V. POST- CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. All storm drain inlet structures within the Project boundaries must be stamped and/or stenciled with appropriate language prohibiting non-storm water discharges.
- B. The Project adds approximately 100 acres of impervious surface. The Discharger must install and implement the post construction BMPs for the Project described in the *Runoff Management Plan (RMP) for 241 Tesoro Extension Project*, prepared by Saddleback Constructors for F/ETCA, and dated February 14, 2012. Post-construction BMPs must be installed and functional within 30 days of Project completion and prior to any authorized use of the State Route (SR) 241 Tesoro Extension.
- C. Post-construction BMPs must provide for the capture and treatment of the 85th percentile, 24-hour storm event from 100 percent of the added impervious surfaces, and comply with the draft Model Water Quality Management Plan (Model WQMP) for South Orange County, dated December 16, 2011, and the draft South Orange County Hydromodification Plan (HMP), dated December 11, 2011.
- D. All post-construction structural treatment BMPs, including, but not limited to, vegetated swales and media filters, must be regularly inspected and maintained in perpetuity per manufacturers' specifications for proprietary structural devices, and at frequencies no less than those recommended by the California Storm Water Quality Association (CASQA)¹ guidance for non-proprietary measures. At a minimum, the Discharger must comply with the following:
1. Final maintenance plans for the vegetated swales must be developed and implemented based on CASQA guidance.
 2. Flow-based treatment BMPs (e.g., media filters and vegetated swales) must be inspected at a minimum monthly from October through April and

¹ California Storm Water Quality Association (*California Storm Water BMP Handbook, New Development and Redevelopment 2003*), available on-line at: <http://www.cabmphandbooks.org/> [Accessed on January 15, 2012]

at least twice from May through September each year.

3. Retention basins must be maintained as necessary to prevent nuisance conditions, including those associated with odors, trash, and disease vectors. Such maintenance shall not compromise the ability of the basins to perform water quality treatment required by this Order.
 4. Records must be kept regarding inspections and maintenance in order to assess the performance of the systems and determine whether adaptations are necessary to protect receiving waters.
- E. Bridges, culverts, dip crossings, or other stream crossing structures shall be designed and installed so they will not cause scouring of the stream bed and erosion of the banks in the vicinity of the Project. Storm drain lines/culverts and other stream crossing structures shall be designed and maintained to accommodate at least a 100-year, 24-hour storm event, including associated bedload and debris with a similar average velocity as upstream and downstream sections. Bottoms of temporary culverts shall be placed at stream channel grade and bottoms of permanent culverts shall be open bottom or embedded and backfilled below the grade of the stream greater than or equal to a depth of 1 foot.
- F. If groundwater dewatering is required for the Project, the Discharger shall comply with the requirements of Regional Board Order No. R9-2008-0002 NPDES No. CAG919002, General Waste Discharge Requirements For Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within The San Diego Region Except for San Diego Bay.

VI. RECEIVING WATER LIMITATIONS

- A. The receiving water limitations set forth below for the unnamed tributaries of Cañada Gobernadora and Cañada Chiquita Creeks are based on applicable water quality standards contained in the Basin Plan and federal regulations and are a required part of this Order. Project activities shall not cause or contribute to violation of these receiving water limitations.
1. **Water Quality Objectives.** Water quality objectives applicable to the unnamed tributaries of Cañada Gobernadora and Cañada Chiquita Creeks established in Chapter 3 of the San Diego Water Board's Water Quality Control Plan for the San Diego Basin (Basin Plan) shall not be exceeded.
 2. **Priority Pollutant Criteria.** Priority pollutant criteria applicable to the unnamed tributaries of Cañada Gobernadora and Cañada Chiquita Creeks promulgated by the U.S. Environmental Protection Agency (U.S. EPA) through the a) National Toxics Rule (NTR) (40 CFR 131.36 promulgated on December 22, 1992 and amended on May 4, 1995) and b) California Toxics

Rule (CTR) (40 CFR 131.38, (65 Fed. Register 31682-31719), adding Section 131.38 to Title 40 of the Code of Federal Regulations, on May 18, 2000) shall not be exceeded.

VII. COMPENSATORY MITIGATION

- A. **Duty to Comply.** The Discharger shall retain responsibility for providing compensatory mitigation for the Project as required in this Order and shall direct any agreement(s) to obtain compensatory mitigation services.
- B. **Compensatory Mitigation Plan.** The Discharger shall implement compensatory mitigation as detailed in the *Habitat Mitigation and Monitoring Plan for the Tesoro Extension Project*, prepared by NewFields, October 2012 (and any subsequent versions reviewed and approved by the San Diego Water Board) at the general locations described in Attachment C of this Order.
- C. **Updated Compensatory Management Plan Development.** The Discharger shall prepare and submit a finalized and updated Habitat Mitigation and Monitoring Plan (HMMP) no later June 14, 2013 and prior to the start of Project construction. The finalized and updated HMMP shall contain the following elements to the satisfaction of the San Diego Water Board:
1. A description of the legal arrangements and instruments for financial assurance, protection, and management that will be used to ensure the long term protection of the compensatory mitigation sites in perpetuity.
 2. A description of the interim and long-term management and reporting plans for the compensatory mitigation sites.

At a minimum, this shall include:

- a. A description and schedule of maintenance, after initial construction, to support achievement of performance standards and maintenance for any other purpose.
- b. A detailed long-term plan that specifies how the site will be used, how the site will be maintained, who will be responsible for the work, and a schedule for all activities.
- c. Management measures needed to ensure long-term sustainability after performance standards have been achieved; the responsible party; and long-term financing mechanisms; as well as the conditions that will trigger certain maintenance needs or management activities. Compensatory mitigation sites shall be designed to be self-sustaining when mature to the maximum degree practicable.

3. A description of the factors considered during the site selection process. This should include consideration of watershed needs, and the practicability of accomplishing ecologically self-sustaining aquatic resource restoration, establishment, enhancement, and/or preservation at the compensatory mitigation site.
4. A map of suitable scale and description to identify the ecological characteristics of the compensatory mitigation sites and how that replaces the functions and services of the Project impact sites. This may include descriptions of historical and existing plant communities, historical and existing hydrology, soil conditions, and other site characteristics appropriate to the type of water body proposed as mitigation.
5. A description of the amount and form of financial assurance (e.g. performance bonds, escrow accounts, casualty insurance, letters of credit, legislative appropriations for government sponsored projects, or other appropriate instruments) to be provided, including a brief explanation of the rationale for this determination.
6. Detailed written specifications and work descriptions for the development of the compensatory mitigation sites, including at a minimum, timing, sources of water (include proof of pertinent water right(s), if applicable), methods for establishing desired plant communities, and erosion control measures.
7. A description and schedule of maintenance requirements to ensure the continued viability of the aquatic resources once initial construction is completed.
8. A description of ecologically based, and measureable, performance standards that will be used to determine whether the compensatory mitigation objectives are being met.
9. A description of the factors or parameters that will be monitored to determine whether the compensatory mitigation is on track to meet performance standards and whether adaptive management is needed. A schedule for monitoring and reporting must be included.
10. A description of how the compensatory mitigation sites will be managed, in perpetuity after performance standards have been achieved, to ensure the long-term sustainability of the resource. The description shall identify the long-term finance mechanisms and the party responsible for long-term management.
11. An adaptive management plan that includes a management strategy to address unforeseen changes in site conditions or other components of the

compensatory mitigation sites. The adaptive management plan should be of sufficient detail to guide decisions for revising the compensatory mitigation plans and implementing corrective measures as necessary to address both foreseeable and unforeseen circumstances.

- D. **Temporary Project Impacts.** The Discharger must restore areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the United States and/or State. Restoration must include grading of disturbed areas to pre-project contours and revegetation with native species. The Discharger must implement all necessary BMPs to control erosion and runoff from areas associated with this project. The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at <http://www.cal-ipc.org/ip/inventory/weedlist.php>. Follow-up applications shall be made, as needed, to cover bare spots and to maintain adequate soil protection.
- E. **Timing of Compensatory Mitigation.** The Discharger shall implement the compensatory mitigation projects in accordance with the tasks and schedule described below:
1. The construction of the compensatory mitigation projects must be completed no later than 12 months following the initial discharge of dredge or fill material into waters of the State. Delays in implementing mitigation must be compensated for by an increased mitigation implementation of 10 percent of the cumulative compensatory mitigation for each month of delay.
 2. If the Discharger is unable to implement the compensatory mitigation described in this Order within 12 months following the initial discharge, the Discharger will be in violation of this Order and subject to administrative civil liabilities under the California Water Code, section 13350.
 3. Within 6 months of the start of Project construction, the Discharger shall provide for adequate funding to purchase and maintain the compensatory mitigation sites to satisfy the compensatory mitigation requirements of the Project as described in the HMMP in perpetuity.
- F. **Conservation Easement.** The Discharger must comply with the following requirements:
1. The Discharger must provide a copy of the Conservation Easement for the compensatory mitigation sites to the San Diego Water Board no later than 6 months following issuance of this Order. The Conservation Easement Deed shall indicate the "Grantor" (property owner) and "Grantee" (holder) of the Conservation Easement.

2. For the purposes of independent review, the holder of the Conservation Easement shall not be the Discharger. The Discharger shall provide sufficient funds to the holder of the Conservation Easement to allow the holder to monitor the compensatory mitigation sites in perpetuity and to ensure compliance with the conservation easement and report to the agencies. Funds shall be provided by the Discharger to the holder no later than 18 months of issuance of this Order.
 3. The Conservation Easement must ensure that the property for compensatory mitigation will be retained in perpetuity and maintained without future development or encroachment on the site or activities which could otherwise reduce the functions and values of the site or activities which could otherwise reduce the functions and values of the site for the variety of beneficial uses of waters of the State that it supports. The Conservation Easement or other appropriate legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland functions and values of the site. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.
 4. The Conservation Easement must provide the Assessor's Parcel Numbers for all the properties in the compensatory mitigation sites.
 5. Endowment funding for the interim and long-term management of the compensatory mitigation sites must meet the following requirements:
 - i The endowment holder shall not be the Discharger.
 - ii The Discharger must provide the San Diego Water Board with proof of full funding for the endowment fund for the interim and long-term management of the compensatory mitigation sites in accordance with the HMMP no later than 6 months of issuance of this Order.
- G. **Letter of Credit.** The Discharger must comply with the following requirements to use a letter of credit as a form of financial assurance:
1. No later than 6 months of issuance of this Order, the Discharger shall provide the San Diego Water Board an irrevocable letter of credit in an amount determined by the San Diego Water Board to be sufficient for the value of (1) the acquisition of sites in the land required for compensatory mitigation, (2) the estimated amount of the endowment fund, and (3) the estimated amount of the conservation easement endowment. The Discharger shall prepare a draft letter of credit and submit it to the San Diego Water Board for its approval no later than 90 days following issuance of this Order. The letter of credit shall allow the San Diego

Water Board to immediately draw on the letter of credit if the San Diego Water Board determines in its sole discretion that the Discharger has failed to meet its mitigation obligations.

2. The Discharger's bank shall finalize and execute the letter of credit after the San Diego Water Board approves the draft letter of credit.
3. If the Discharger has not met its mitigation obligations within 60 days prior to the letter of credit's expiration date, the Discharger shall confirm with its bank that the expiration date will be extended. If the bank elects not to extend the expiration date, the Discharger shall establish a new letter of credit to replace the original letter of credit. The new letter of credit shall be subject to the San Diego Water Board's approval following the same procedure described in the requirements above. The Discharger shall maintain a letter of credit in place, as described above, until the Discharger has met its mitigation obligations.

VIII. REPORTING REQUIREMENTS

- A. Mitigation and monitoring reporting must be conducted for the compensatory mitigation sites and submitted to the San Diego Water Board prior to December 1st of each year. The Discharger shall provide a report to the San Diego Water Board after the completion of baseline surveys of aquatic resources at the compensatory mitigation sites. The Discharger shall also provide annual reports for the compensatory mitigation sites during the management period for the first five years and until all long-term performance measures identified in the HMMP have been met to the satisfaction of the San Diego Water Board. The reports must document conditions at the mitigation sites so that changes can be tracked and management issues identified and addressed and include the following information:
 1. The following identification numbers in the header or subject line: Place ID No. 785677, Order No. R9-2013-0007;
 2. The names, qualifications, and affiliations of the persons contributing to the report;
 3. A status report on the construction of the Project;
 4. Tables presenting the raw data collected in the field as well as analyses of the physical and biological data, including at a minimum;
 - i Topographic complexity characteristics at each mitigation site;
 - ii Upstream and downstream habitat and hydrologic connectivity; and
 - iii Width of native vegetation buffer around the entire mitigation site.
 5. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring

results;

6. Other items specified in the HMMP;
 7. Results of general compensatory mitigation sites conditions, global positioning system (GPS) recordation of jurisdictional waters, and changes in hydrology. Any recommendations for habitat enhancement measures, changes in the monitoring program, or issues such as weed removal and erosion control;
 8. An annual monitoring report, prepared by the easement holder, documenting compliance with the conservation easement;
 9. Photo documentation must be conducted in accordance with the State Water Resources Control Board Standard Operating Procedure 4.2.1.4². The Discharger must conduct photo documentation of the Project site, post construction BMPs, and mitigation areas prior to, during, and after Project construction. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced. The report must include a compact disc that contains digital files of all the photos (*jpeg file type or similar*); and
 10. Documentation that Project information has been uploaded to the California Wetlands Portal at <http://www.californiawetlands.net/tracker/>.
- B. **California Rapid Assessment Method.** The California Rapid Assessment Method (CRAM) must be utilized at the impact and mitigation sites prior to impacts to establish pre-project baseline conditions. In addition, CRAM must be utilized at the mitigation sites at years 3 and 5 following completion of the mitigation site construction and continuing until success criteria have been met. The results of the CRAM assessment must be submitted each year with the Annual Monitoring Reports and data must be uploaded into eCRAM (<http://www.cramwetlands.org>).
- C. **Geographic Information System Reporting.** The Discharger must submit Geographic Information System (GIS) shape files of the impact and mitigation areas with the annual report. All impact and mitigation areas shape files must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.

² Available at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/StreamPhotoDocSOP.pdf [Accessed on January 15, 2012]

- D. **Project Completion Report.** Within 30 days of Project completion and prior to any authorized use of the State Route (SR) 241 Tesoro Extension, the Discharger must submit a Project Completion Report to the San Diego Water Board containing the following information:
1. The dates for initiation of Project construction and completion of Project construction;
 2. An evaluation, interpretation and tabulation of Project activities detailing the completion of construction and compliance with all requirements of this Order and all applicable mitigation measures contained in the Project's certified Final Environmental Impact Report for the *South Orange County Transportation Infrastructure Improvement Project*;
 3. As-built Project drawings no bigger than 11" x 17"; and
 4. Photos of the completed Project including post-construction BMPs.
- E. **Compensatory Mitigation Completion Report.** The Discharger must prepare and submit a report to the San Diego Water Board, within 30 days of completion of mitigation site preparation and planting, containing the following information:
1. The as-built status of the mitigation sites;
 2. Mitigation site topography maps;
 3. Planting locations;
 4. Pre- and post-construction photos of the mitigation sites; and
 5. A survey report documenting the boundaries of mitigation sites.
- F. **Noncompliance Reports.** The Discharger must report to the San Diego Water Board any noncompliance which may endanger human health or the environment. Any information shall be provided orally within 24 hours from the time the Discharger becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the Discharger becomes aware of the circumstances. The written submission shall contain a description of the incident and its cause, the period of the noncompliance including exact dates and times; and if the noncompliance has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The San Diego Water Board may waive the above-required written report under this provision on a case by case basis if an oral report has been received within 24 hours.
- G. **Hazardous Substance Discharge.** Except for a discharge which is in compliance with this Order, any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the State, shall as soon as (a) that person has knowledge of the discharge, (b) notification is possible, and (c) notification can be

provided without substantially impeding cleanup or other emergency measures, immediately notify the County of Orange, Environmental Health Division in accordance with California Health and Safety Code section 5411.5 and the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State toxic disaster contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.17), and immediately notify the State Water Board or the San Diego Water Board of the discharge. This provision does not require reporting of any discharge of less than a reportable quantity as provided for under subdivisions (f) and (g) of section 13271 of the Water Code unless the Discharger is in violation of a Basin Plan prohibition.

- H. **Oil or Petroleum Product Discharge.** Except for a discharge which is in compliance with this Order, any person who without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, shall, as soon as (a) such person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State oil spill contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.1). This requirement does not require reporting of any discharge of less than 42 gallons unless the discharge is also required to be reported pursuant to Clean Water Act section 311, or the discharge is in violation of a Basin Plan prohibition
- I. **Report Submittal.** The Discharger shall submit both one complete electronic copy (on CD or other appropriate media) and one complete paper copy of all reports required under this Order including notifications, technical reports, and monitoring reports. All correspondence and documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: Place ID No. 785677, Order No. R9-2013-0007. The preferred electronic format for each report submission is PDF format that is Optical Character Recognition (OCR) capable.
- J. **Signatory Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:
1. For a corporation, by a responsible corporate officer of at least the level of vice president; or
 2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively; or

3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
- K. **Duly Authorized Representative.** Applications, reports, or information submitted to the San Diego Water Board may be signed by a duly authorized representative of that person described in Reporting Requirement H above if:
1. The authorization is made in writing by a person described above;
 2. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity; and
 3. The written authorization is submitted to the San Diego Water Board.

If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.

- L. **Certification.** All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

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

- M. **Submittal Address.** The Discharger must submit reports required under this Order, or other information required by the San Diego Water Board, to:

Executive Officer
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123

IX. PROVISIONS

- A. **Duty to Comply.** The Discharger must comply with all conditions of this Order. Any noncompliance with this Order constitutes a violation of the Water Code and is grounds for (a) enforcement action; (b) termination, revocation and reissuance, or modification of this Order; or (c) denial of a report of waste discharge in application for new or revised waste discharge requirements.

- B. **Duty to Comply.** The Discharger must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the San Diego Water Board) to support this Order and all subsequent submittals required under this Order and as described herein. The conditions within this Order shall supersede conflicting provisions within such plans, specifications, technical reports and other submittals required under this Order.
- C. **Need to Halt or Reduce Activity Not a Defense.** It shall not be a defense for a Discharger in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Order.
- D. **Duty to Mitigate.** The Discharger shall take all reasonable steps to minimize or prevent any discharge in violation of this Order that has a reasonable likelihood of adversely affecting human health or the environment, including such accelerated or additional monitoring as may be necessary to determine the nature and impact of the noncompliance.
- E. **Property Rights.** This Order does not convey any property rights of any sort or any exclusive privileges. The issuance of this Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations
- F. **Inspection and Entry.** The Discharger must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents, as may be required by law, to:
1. Enter upon the Applicant's premises, where a regulated facility or activity is located or conducted, or where records are kept under the conditions of this Order;
 2. Access and copy, at reasonable times, any records that must be kept under the conditions of this Order;
 3. Inspect and photograph, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices or operations regulated or required under this Order; and
 4. Sample or monitor, at reasonable times, for the purposes of assuring compliance with this Order or as otherwise authorized by the Water Code, any substances or parameters at any location.
- G. **Retention of Records.** The Discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all

reports required by this Order, and records of all data used to complete the application for this Order. Records shall be maintained for a minimum of five years from the date of the sample, measurement, report, or application. Records may be maintained electronically. This period may be extended during the course of any unresolved litigation regarding this discharge or when requested by the San Diego Water Board.

- H. **Duty to Provide Information.** The Discharger shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Order. The Discharger shall also furnish to the San Diego Water Board, upon request, copies of records required to be kept by this Order.
- I. **Duty to Provide Information.** When the Discharger becomes aware that it failed to submit any relevant facts in a Report of Waste Discharge or submitted incorrect information in a Report of Waste Discharge or in any report to the San Diego Water Board, it shall promptly submit such facts or information.
- J. **Reopener Provision.** This Order may be modified, revoked and reissued, or terminated for cause including, but not limited to, the following:
 - 1. Violation of any terms or conditions of this Order.
 - 2. Obtaining this Order by misrepresentation or failure to disclose fully all relevant facts.
 - 3. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

Should this Order serve as a CWA section 401 Certification action, it will be subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).

- K. **Reopener Provision.** The filing of a request by the Discharger for the modification, revocation, reissuance, or termination of this Order, or notification of planned changes or anticipated noncompliance does not stay any condition of this Order.
- L. **Reopener Provision.** The San Diego Water Board reserves the right to suspend, cancel, or modify and reissue this Order, after providing notice to the Discharger, if the San Diego Water Board determines that the Project fails to comply with any of the terms or requirements of this Order or if the or if the

results of the Project have unintended impacts to water quality.

- M. **Transfer of Responsibility.** This Order is not transferable to any person except after notice to the San Diego Water Board. This notice must be in writing and received by the San Diego Water Board at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new Discharger containing a specific date for the transfer of this Order's responsibility and coverage between the current Discharger and the new discharger. This agreement shall include an acknowledgement that the existing Discharger is liable for violations up to the transfer date and that the new discharger is liable from the transfer date on. The San Diego Water Board may require modification or revocation and reissuance of this Order to change the name of the Discharger and incorporate such other requirements as may be necessary under the Water Code.
- N. **Hydroelectric Facility.** This Order is not intended and shall not be construed to apply to any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license, unless the pertinent WDR application was filed pursuant to Cal. Code Regs., title 23, section 3855, subdivision (b), and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- O. **Payment of Fees.** This Order is conditioned upon total payment of any fee required under California Code of Regulations, Title 23 section 3833, and owed by the Discharger.
- P. **Order Availability.** A copy of this Order, the application, and supporting documentation must be available at the Project site during construction for review by site personnel and agencies. A copy of this Order must also be provided to the contractor and all subcontractors working at the Project site.
- Q. **Enforcement Authority.** In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law.
- R. **Investigation of Violations.** In response to a suspected violation of any condition of this Order, the San Diego Water Board may, pursuant to Water Code sections 13267 and 13383, require the holder of any permit or license subject to this Order to investigate, monitor, and report information on the violation. The only restriction is that the burden, including costs of preparing the reports, must bear a reasonable relationship to the need for and the benefits to be obtained from the reports.

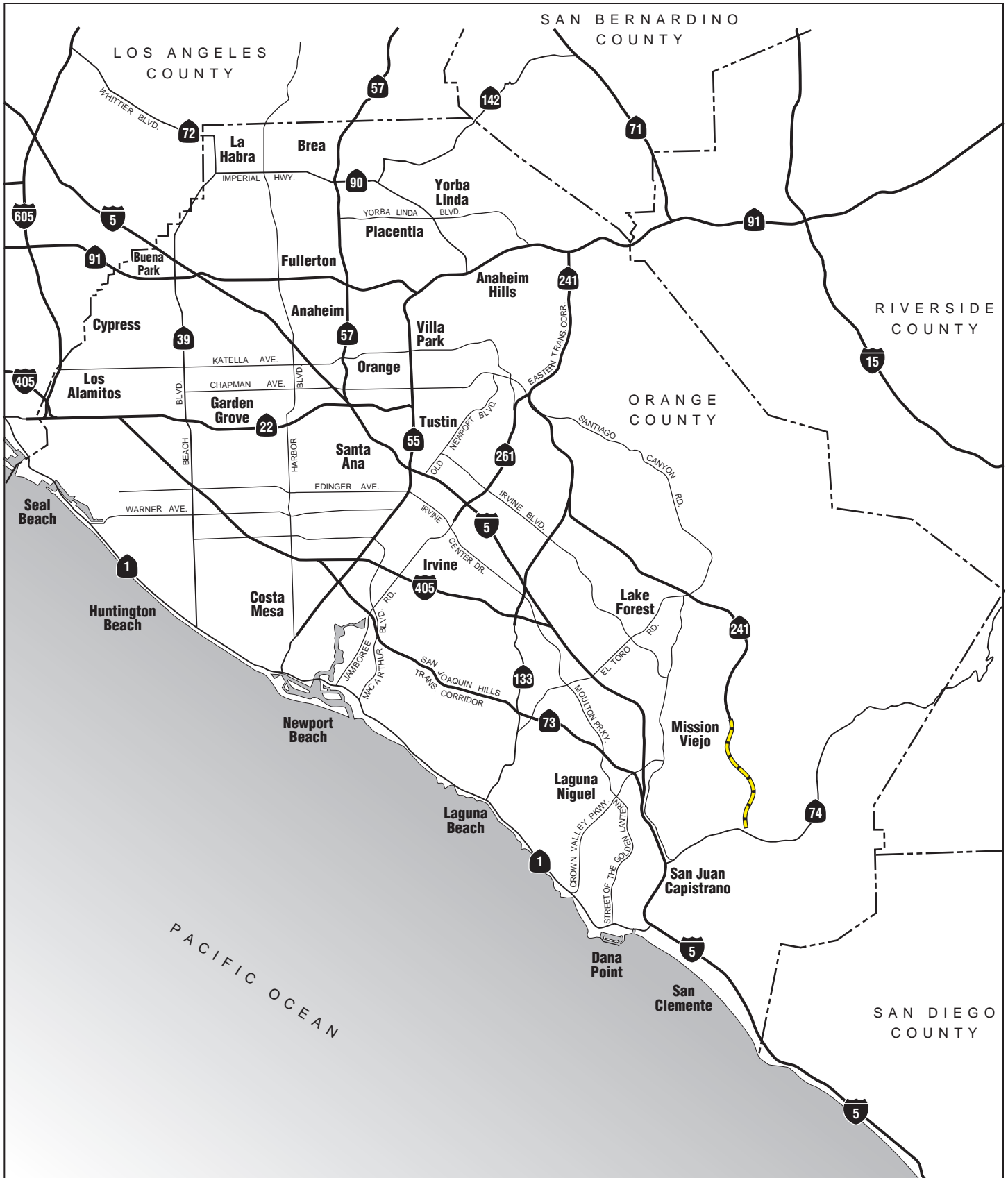
X. NOTIFICATIONS


- A. These requirements have not been officially reviewed by the United States Environmental Protection Agency and are not issued pursuant to CWA section 402.
- B. The provisions of this Order are severable, and if any provision of this Order, or the application of any provision of this Order to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this Order, shall not be affected thereby.
- C. This Order becomes effective on the date of adoption by the San Diego Water Board.

F/ETCA
Tesoro Extension (SR 241) Project
Order No. R9-2013-0007

March 13, 2013
Item No. 8
Supporting Document No. 2

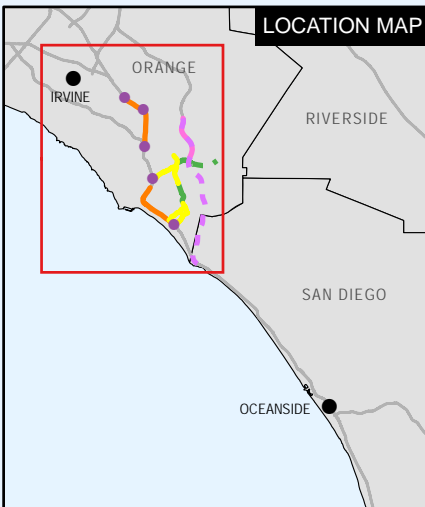
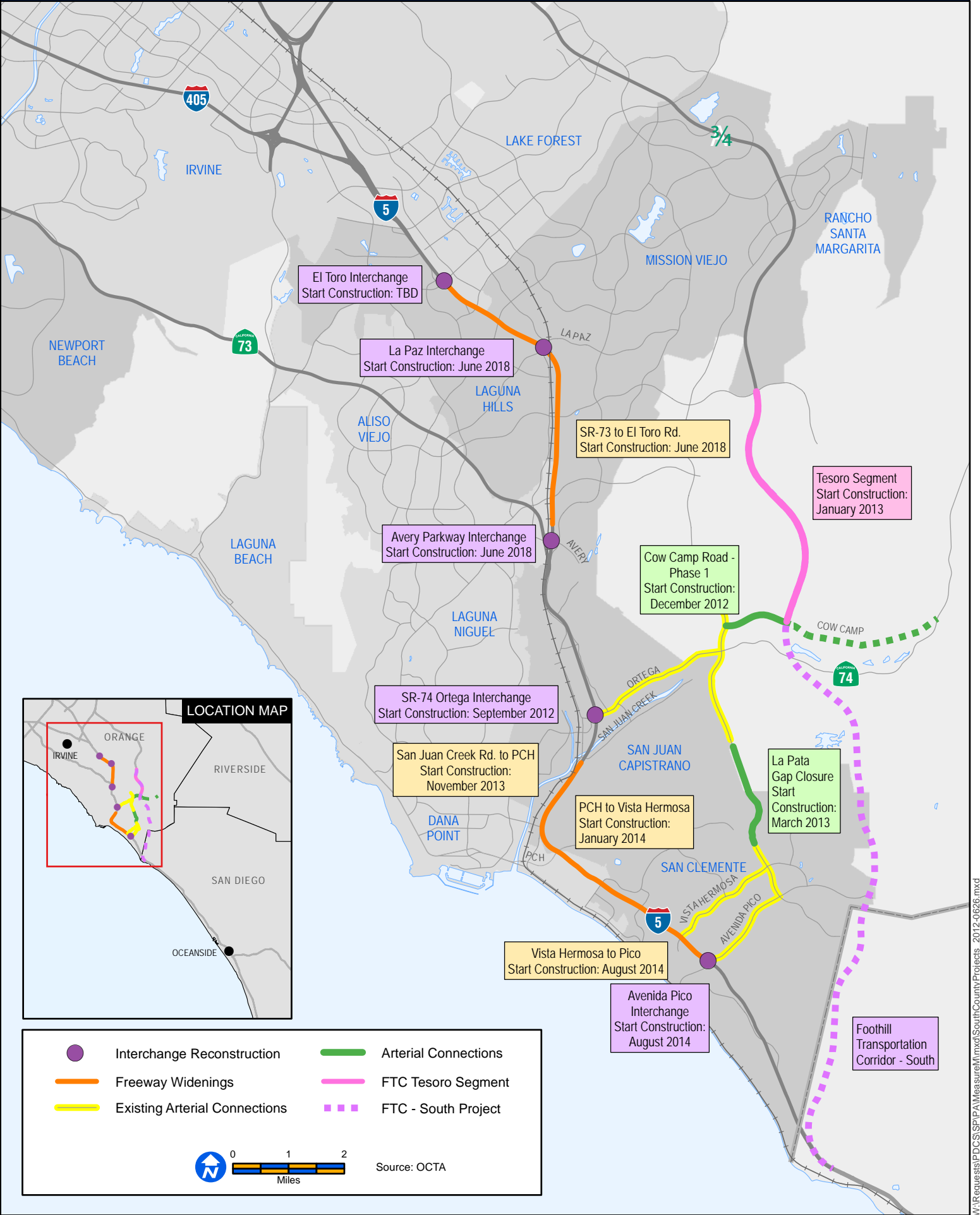
**ATTACHMENT A
PROJECT SITE MAPS**



 Proposed Extension



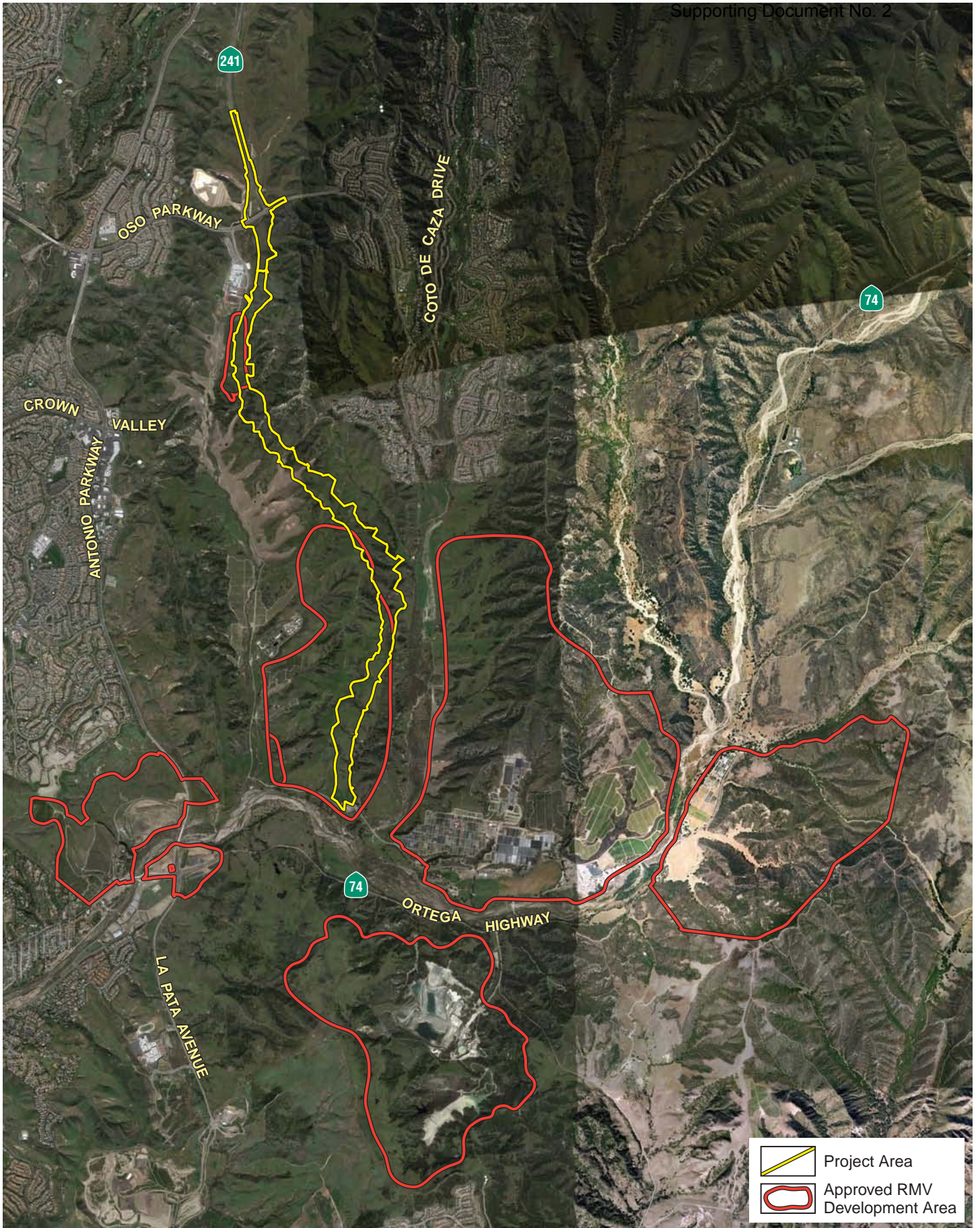
South County Project Schedules



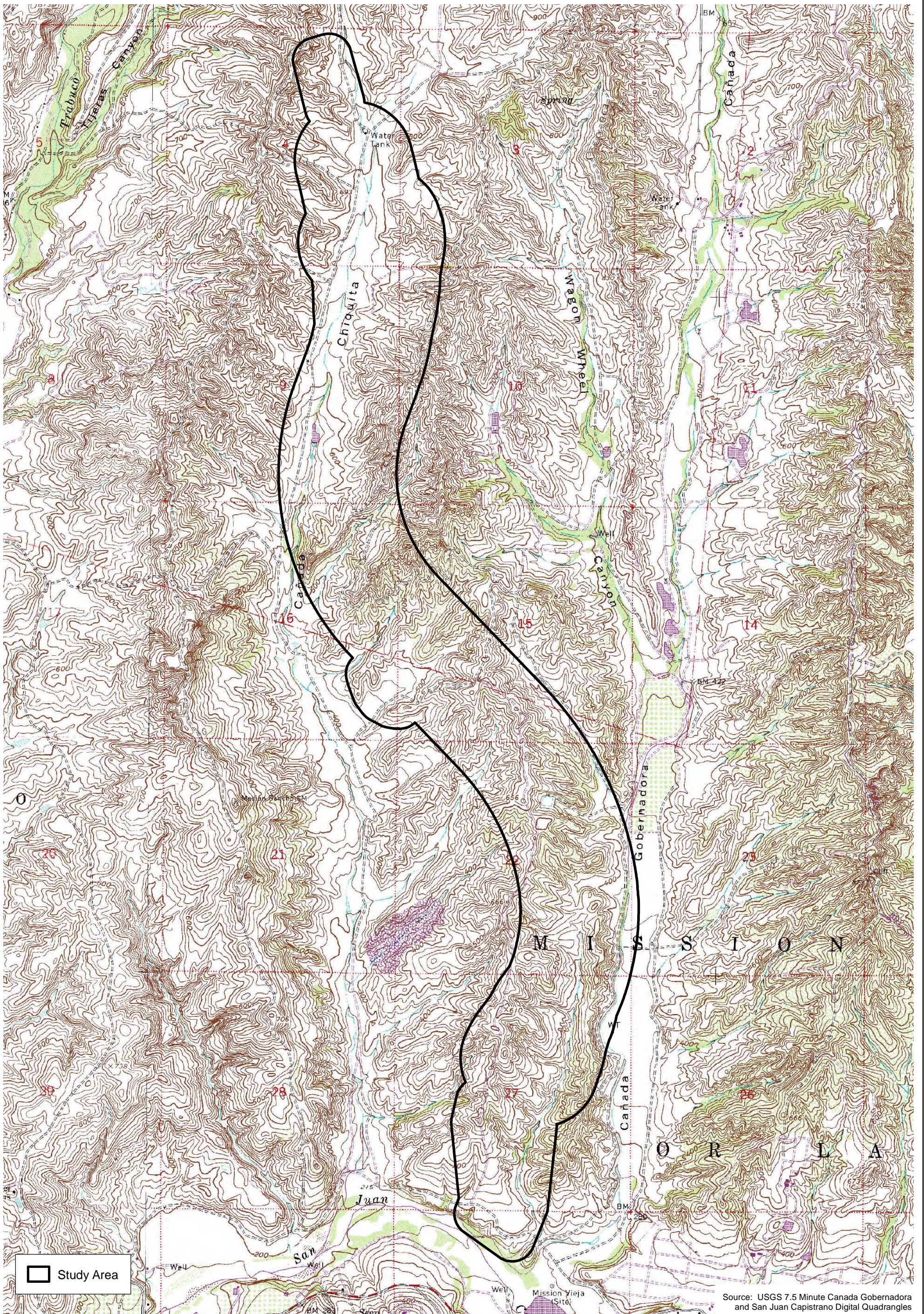
	Interchange Reconstruction		Arterial Connections
	Freeway Widenings		FTC Tesoro Segment
	Existing Arterial Connections		FTC - South Project

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Miles

Source: OCTA

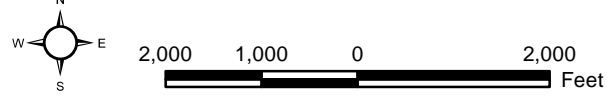


	Project Area
	Approved RMV Development Area



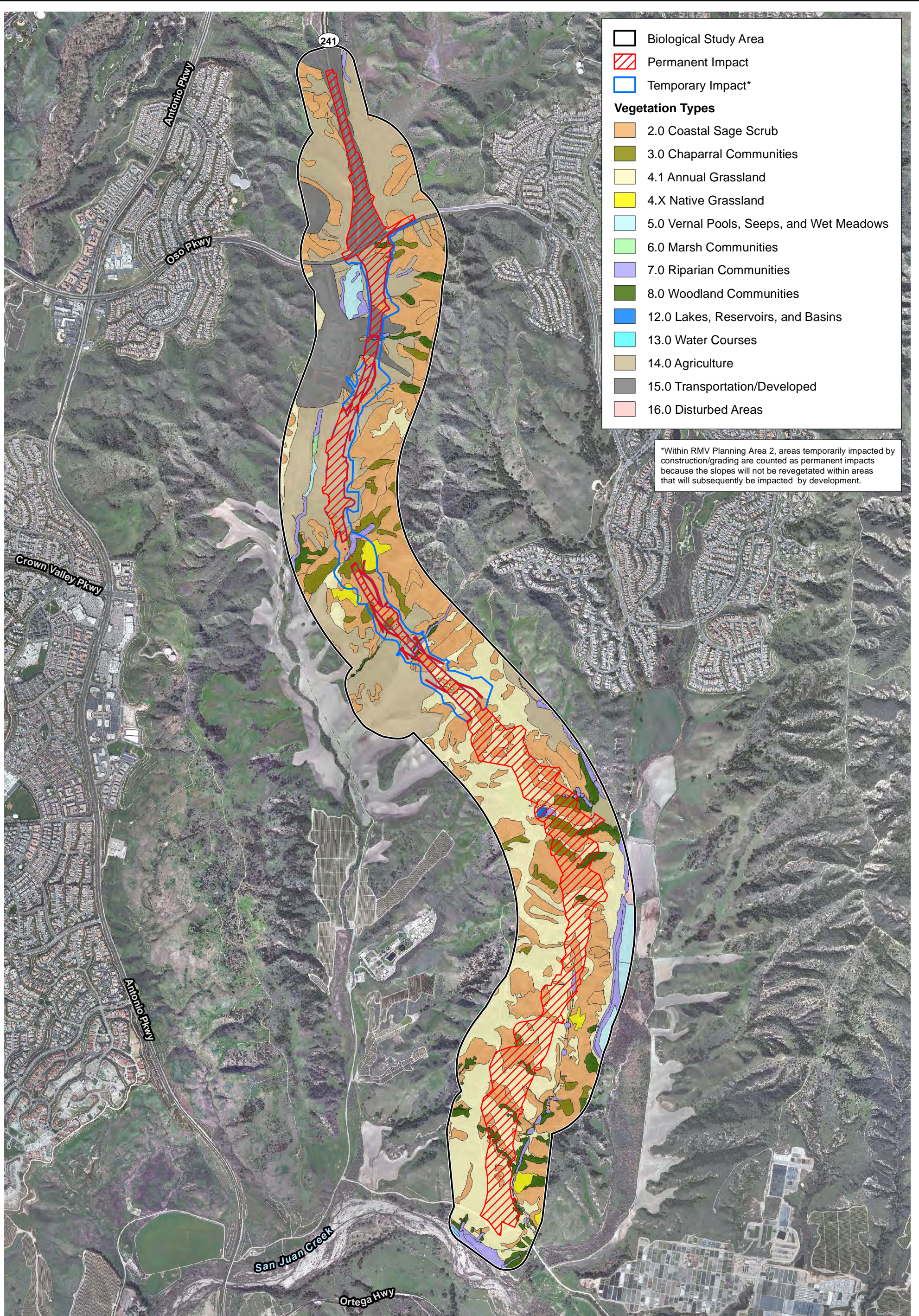
Study Area

Study Area
SR 241 Tesoro Extension Project



Source: USGS 7.5 Minute Canada Gobernadora and San Juan Capistrano Digital Quadrangles

Figure 2



Biological Study Area
 Permanent Impact
 Temporary Impact*

Vegetation Types

- 2.0 Coastal Sage Scrub
- 3.0 Chaparral Communities
- 4.1 Annual Grassland
- 4.X Native Grassland
- 5.0 Vernal Pools, Seeps, and Wet Meadows
- 6.0 Marsh Communities
- 7.0 Riparian Communities
- 8.0 Woodland Communities
- 12.0 Lakes, Reservoirs, and Basins
- 13.0 Water Courses
- 14.0 Agriculture
- 15.0 Transportation/Developed
- 16.0 Disturbed Areas

*Within RMV Planning Area 2, areas temporarily impacted by construction/grading are counted as permanent impacts because the slopes will not be revegetated within areas that will subsequently be impacted by development.

Vegetation Types
 SR 241 Tesoro Extension Project

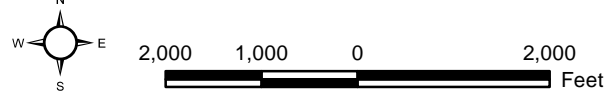


Figure 4

D:\Projects\TCAU010\MXD\Biological_Assessment\Ex_veg_BA.mxd

ATTACHMENT B INFORMATION SHEET

Table of Contents

1.0 Applicant.....	2
2.0 Project Description	2
3.0 Regulatory Background.....	3
4.0 California Environmental Quality Act (CEQA)	5
5.0 Water Quality Standards and Prohibitions	5
6.0 Basis for Tentative Waste Discharge Requirements	10
7.0 Mitigation Measures.....	10
8.0 Runoff Management Plan (RMP).....	14
9.0 Monitoring and Reporting Requirements.....	14
10.0 Notifications	Error! Bookmark not defined.
11.0 Written Comments	15
12.0 Public Hearing	16
13.0 Additional Information	17
14.0 WDR Review	17
15.0 Documents Used in Preparation of the Fact Sheet and Order	17
16.0 Interested Parties	18

1.0 Applicant

Foothill/Eastern Transportation Corridor Agency
(Hereinafter Discharger)
125 Pacifica #120
Irvine, CA 92618

District Contact:
Valerie McFall
(949) 754-3475
vmcfall@thetollroads.com

2.0 Project Description

The Project is an approximate 5.5 mile long extension of the existing State Route (SR) 241 from its current terminus at Oso Parkway to the future Cow Camp Road immediately north of SR-74 in Orange County. The Project is located within the Cañada Gobernadora and San Clemente US Geological Survey 7.5-minute quadrangle maps.

The purpose of the Project is to provide a transportation facility that will reduce existing and forecasted deficiencies and congestion on the I-5 freeway and the arterial network in southern Orange County. The Project will serve both local (existing and future) and intra- and inter-regional trips.

The Project includes four general-purpose travel lanes, two in each direction. The center median from Oso Parkway to the Cow Camp Road will be revegetated with a native seed mix and will include drainage improvements, similar to the median along the existing SR-241. The median offers future opportunities for bus rapid transit, light rail, or additional lanes as traffic conditions warrant.

Cow Camp Road will be constructed by Rancho Mission Viejo and the County of Orange prior to, or concurrent with, the construction of the Tesoro Extension Project. An interchange at "G" Street and SR-241 will be constructed 0.6 mile north of Cow Camp Road (See Project Site Maps, Attachment A).

The footprint for the Tesoro Extension Project includes areas for grading, remedial grading, and construction disturbance areas. In addition to the paved road and associated bridges and interchanges, the construction area includes access roads, materials storage areas, areas for utility relocations, and areas for the construction of Best Management Practices (BMPs). The Project adds approximately 100 acres of impervious surface.

The Project will discharge waste (fill) in a total of 0.64 acre of waters of the State, including 0.40 acre (5,297 linear feet) of permanent impacts and 0.24 acres

(1,819 linear feet) of temporary impacts to jurisdictional waters in the Mission Viejo Hydrologic Area (901.20) in the San Juan Hydrologic Unit (901.00) as summarized in Table 1.

By letter dated November 5, 2012, the United States Army Corps of Engineers (USACOE) determined that the Project activities will not occur within waters of the United States and therefore the Project is not subject to USACOE jurisdiction under Section 404 of the Clean Water Act (CWA) and a Section 404 permit is not required for the Project. The 0.64 acre of wetland and non-wetland waters was determined by the U.S. Army Corps of Engineers (USACOE) to be isolated waters outside of federal jurisdiction. These isolated waters remain non-federal waters of the State, and discharges to these waters are thereby regulated pursuant to California Water Code Section 13260, *et. seq.*

Table 1: Jurisdictional Impact Summary

Jurisdiction Type	Permanent Impact		Temporary Impact	
	Area (acres)	Length (LF)	Area (acres)	Length (LF)
Surface Waters of the State (non-wetland; ephemeral)	0.20	5,297	0.15	1,819
Waters of the State (wetland)	0.20	NA	0.09	NA
Total	0.40	5,297	0.24	1,819

3.0 Regulatory Background

Section 13260(a) of the California Water Code (Water Code) requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, which could affect the quality of the waters of the State, file a Report of Waste Discharge (ROWD). The discharge of dredged or fill material constitutes a discharge of waste that could affect the quality of waters of the State. Water Code section 13263(a) requires that Waste Discharge Requirements (WDRs) be prescribed as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. Such WDRs must implement any relevant water quality control plans, taking into consideration beneficial uses to be protected, the water quality objectives reasonably required for those purposes, other waste discharges, the need to prevent nuisance, and the provisions of Water Code section 13241.

Construction activities associated with the proposed discharges of fill threaten beneficial uses on-site and downstream. The Discharger will file a Notice of Intent to the State Water Resources Control Board (State Board) for coverage under State Board Order No. 2009-0009-DWQ, *National Pollutant Discharge*

Elimination System (NPDES) General Permit, For Storm Water Discharges Of Associated With Construction And Land Disturbance Activities (Order No. 2009-0009-DWQ). The San Diego Water Board may conduct inspections to verify compliance with Order No. 2009-0009-DWQ, including, but not limited to, implementation of a storm water pollution prevention plan.

Since all federal waters can also be considered waters of the State, the State of California largely relies on Section 401 of the federal Clean Water Act (CWA) (33 U.S.C. § 1341) to regulate discharges of dredged or fill material to waters of the State. That section requires an applicant to obtain "water quality certification" from California that the project will comply with State water quality standards before certain federal licenses or permits may be issued. Each water quality certification includes a condition of coverage with State Water Resources Control Board's General Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Dredge and Fill Discharges that have Received State Water Quality Certification*.

In light of recent U.S. Supreme Court rulings, isolated waters, or waters lacking a significant nexus to a traditionally navigable waterbody, are no longer considered waters of the U.S. (i.e. federal waters), and therefore no longer require certification pursuant to Section 401 of the CWA. In order to comply with the State's "No Net Loss" Policy for wetlands (Executive Order W-59-93), discharges of waste to these nonfederal, State wetlands are being regulated pursuant to California Water Code Section 13260.

On November 5, 2012, the USACOE determined the Project property contained no waters of the U.S... On August 10, 2012, the Discharger submitted a ROWD, along with required fees in accordance with the State Water Board's Dredge and Fill Fee Calculator, for discharges of fill associated with the Project to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board). Pursuant to fee schedules currently set in CCR Title 23, no annual fees are required, and a threat to water quality (TTWQ) and complexity (CPLX) rating is not applicable for the site. By letter dated November 14, 2012, the San Diego Water Board informed the Discharger that the application was complete.

Order No. R9-2013-0007 serves as individual waste discharge requirements for discharges of fill to non-federal waters of the State. Should the USACOE non-jurisdictional determination be reversed for this site, without any material change in the nature of the discharge, this Order may also serve as a CWA Section 401 water quality certification.

4.0 California Environmental Quality Act

Before the San Diego Water Board can issue WDRs, the project must have a final, valid environmental document meeting the criteria of the California Environmental Quality Act (CEQA). The CEQA document must fully disclose the potential significant adverse impacts of the project and identify measures to avoid, minimize, rectify, reduce or compensate for the impacts identified, including a monitoring and reporting program to ensure compliance with the proposed mitigation measures.

The Discharger is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)). The Discharger certified a Final Environmental Impact Report (EIR) for the South Orange County Transportation Improvement Project, and filed a Notice of Determination (SCH # 2001061046) on February 23, 2006, under CEQA Guidelines Title 14, California Code of Regulations. The Discharger determined the Project, without mitigation, will have a significant effect on the environment. Therefore, the Final EIR incorporates mitigation measures that mitigate many of the Project's effects on the environment to less than significant. For those impacts the Discharger determined to be unavoidable impacts, the Discharger adopted a Statement of Overriding Considerations finding that the benefits of the project outweighed the impacts.

The San Diego Water Board has reviewed the lead agency's Final EIR and Statement of Overriding Considerations. None of the significant unavoidable environmental impacts triggering the lead agency's adoption of the Statement of Overriding Considerations are within the areas of responsibility of the San Diego Water Board. The San Diego Water Board also concludes that without mitigation, the Project as proposed may have a significant effect on the environment. This Order requires implementation of mitigation measures that will reduce effects on the environment within the San Diego Water Board's jurisdiction to less than significant. The Order requires the Discharger to comply with a monitoring and reporting program that will ensure that the mitigation measures are implemented and the requirements of this Order are met.

5.0 Water Quality Standards and Prohibitions

Section 303 of the federal Clean Water Act (33 U.S.C. §1313) defines the term water quality standards as the uses of the surface waters, the water quality criteria which are applied to protect those uses, and an antidegradation policy¹.

¹ Pursuant to the federal Clean Water Act, water quality standards are composed of three parts: (1) designated uses, e.g., protection of fish and wildlife, recreation and drinking water supply (40 C.F.R. 131.10); (2) numeric or narrative water quality criteria to protect those uses (40 C.F.R. 131.11); and (3) an antidegradation policy (40 C.F.R. 131.12).

A water quality standard defines the water quality goals for a water body by designating the use or uses to be made of the water body, by setting criteria to protect the uses, and by protecting water quality through non-degradation provisions. Under the Porter-Cologne Water Quality Control Act (California Water Code, Division 7, Chapter 2 §13050), these concepts are defined separately as beneficial uses and water quality objectives. Beneficial uses and water quality objectives are required to be established for all waters of the State, both surface and ground waters.

The Project will affect Cañada Gobernadora Creek, Cañada Chiquita Creek and associated tributaries in the Mission Viejo Hydrologic Area (901.20) in the San Juan Hydrologic Unit (901.00). Individual hydrological subareas (HSA) defined in the Mission Viejo hydrologic area include Oso; Upper Trabuco; Middle Trabuco; Gobernadora; Upper San Juan; Middle San Juan; Lower San Juan; and Ortega.

The Cañada Gobernadora Creek sub-basin originates in the community of Coto de Caza and drains southerly into San Juan Creek. The northern portion of the sub-basin consists of the Coto de Caza residential community and the southern portion has undergone ranching operations. The 11.10-square mile Cañada Gobernadora sub-basin is an elongated valley that is aligned north to south. This sub-basin is predominantly underlain by sands and silts and has the potential to generate relatively high amounts of sediment where the surface is disturbed and channelized.

The Cañada Chiquita sub-basin has a catchment of 9.24 square miles and is aligned north to south. Below the “narrows” in middle Chiquita Canyon, soils are predominantly sands, silts, and clays. Above the narrows, the soils contain slightly more gravels and cobbles. The sandy substrates mean that the main creek is prone to incision under altered hydrologic regimes. Several active headcuts are present in Cañada Chiquita Creek, and the channel is presently incising in several locations. The Chiquita sub-basin produces substantially less sediment than Gobernadora Canyon. Cañada Chiquita Creek rises at an elevation of about 1,000 feet, near the Plano Trabuco, and flows southwest for 1 mile, then due south for about 6 miles to the confluence with San Juan Creek about 1 mile west of Cañada Gobernadora Creek.

The Water Quality Control Plan for the San Diego Basin (9) (Basin Plan), adopted on September 8, 1994 as amended, designates existing and potential beneficial uses for surface and ground waters within the San Diego region. Beneficial uses within the project area are summarized in Table 2 below.

Table 2. Beneficial Uses of the Project Site Surface and Ground Waters

Beneficial Use	Description
Municipal and Domestic Supply (MUN)	Uses of water for community, military, or individual water supply systems, including, but not limited to, drinking water supply.
Agricultural Supply (AGR)	Uses of water for farming, horticulture, or ranching, including, but not limited to, irrigation, stock watering, or support of vegetation for range grazing.
Industrial Service Supply (IND)	Uses of water for industrial activities that do not depend primarily on water quality, including, but not limited to, mining, cooling water supply, hydraulic conveyance, gravel washing, fire protection, and oil well repressurization.
Contact Water Recreation (REC1)	Uses of water for recreational activities involving body contact with water where ingestion of water is reasonably possible. These uses include, but are not limited to, swimming, wading, water-skiing, skin and scuba diving, surfing, whitewater activities, fishing, and uses of natural hot springs.
Non-contact Water Recreation (REC2)	Uses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tide pool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.
Warm Freshwater Habitat (WARM)	Uses of water that support warm water ecosystems including, but not limited to, preservation or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates.
Cold Freshwater Habitat (COLD)	Uses of water that support cold water ecosystems, including, but not limited to, preservation or enhancement of aquatic habitats, vegetation, fish, or wildlife, including invertebrates.
Wildlife Habitat (WILD)	Uses of waters that support wildlife habitats, including, but not limited to, the preservation and enhancement of vegetation and prey species used by wildlife, such as waterfowl.

The Basin Plan establishes Water Quality Objectives for surface waters within the Mission Viejo Hydrologic Area (901.20) as shown in Table 3 below.

Table 3. Water Quality Objectives for Surface Waters in the Mission Viejo Hydrologic Area

Constituent	Concentration ^a
Total Dissolved Solids	500
Chloride	250
Sulfate	250
Percent Sodium	60
Nitrogen and Phosphorus	b
Iron	0.3
Manganese	0.05
Methylene Blue-Activated Substances	0.5
Boron	0.75
Turbidity (NTU)	20
Color Units	20
Fluoride	1

- a. All units are mg/L unless otherwise noted.
- b. Concentrations of nitrogen and phosphorus, by themselves or in combination with other nutrients, shall be maintained at levels below those which stimulate algae and emergent plant growth. Threshold total Phosphorus (P) concentrations shall not exceed 0.05 mg/l in any stream at the point where it enters any standing body of water, or 0.025 mg/l in any standing body of water. A desired goal in order to prevent plant nuisances in streams and other flowing waters appears to be 0.1 mg/l total P. These values are not to be exceeded more than 10% of the time unless studies of the specific body in question clearly show that water quality objective changes are permissible and changes are approved by the San Diego Water. Analogous threshold values have not been set for nitrogen compounds; however, natural ratios of nitrogen to phosphorus are to be determined by surveillance and monitoring and upheld. If data are lacking, a ratio of N:P =10:1 shall be used.

The Basin Plan establishes Water Quality Objectives for ground waters within the Mission Viejo Hydrologic Area (901.20) as shown in Table 4 below.

Table 4. Water Quality Objectives for Ground Waters in the Mission Viejo Hydrologic Area

Constituent	Concentration (mg/L or as noted)							
	Oso	Upper Trabuco	Middle Trabuco	Gobernadora	Upper San Juan	Middle San Juan	Lower San Juan	Ortega
Total Dissolved Solids	1200	500	750	1200	500	750	1200	1100
Chloride	400	250	375	400	250	375	400	375
Sulfate	500	250	375	500	250	375	500	450
Percent Sodium	60	60	60	60	60	60	60	60
NO ₃	45	45	45	45	45	45	45	45
Iron	0.3	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Manganese	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05
Methylene Blue-Activated Substances	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Boron	0.75	0.75						
Turbidity (NTU)	5	5	5	5	5	5	5	5
Color Units	15	15	15	15	15	15	15	15
Fluoride	1	1	1	1	1	1	1	1

The Basin Plan establishes the following Waste Discharge Prohibitions pursuant to California Water Code §13243:

- Prohibition No. 1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code §13050, is prohibited.
- Prohibition No. 2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code §13264 is prohibited.
- Prohibition No. 3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code §13376) is prohibited.

- Prohibition No. 7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which may permit it's being transported into the waters, is prohibited unless authorized by the San Diego Water Board.
- Prohibition No. 14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.

6.0 Basis for Waste Discharge Requirements

Order No. R9-2013-0007 establishes requirements for the discharge of wastes pursuant to Division 7 of the California Water Code and Article 4, Title 23 of the California Water Code, and establishes mitigation and monitoring provisions based on best professional judgment. If the federal non-jurisdictional determination is reversed for this site, without any material change to the discharge, the Order may also serve as a Section 401 Water Quality Certification. The Basin Plan states "certification is dependent upon the assurances that the project will not reduce water quality below applicable standards as defined in the Clean Water Act (i.e., the water quality objectives established and the beneficial uses which have been designated for the surface waters.)" The waste discharge requirements, reporting requirements, and standard provisions in Order No. R9-2013-0007 are established in accordance with Division 7 of the California Water Code. The discharge of fill as regulated by Order No. R9-2013-0007 will not reduce water quality below applicable standards.

7.0 Mitigation Measures

Compensatory mitigation for permanent impacts to wetland and non-wetland waters is proposed within Chiquita Canyon. Attachment C shows the general location of the two proposed mitigation areas, Mitigation Area A and Mitigation Area B. The total mitigation acreage, including San Diego Water Board and California Department of Fish and Wildlife (CDFW) jurisdictional areas for establishment and restoration/enhancement (21.27 acres) and upland watershed buffer restoration (13.55 acres) comprises a total of 34.82 acres. The following sections describe existing conditions and the type of mitigation that is proposed for each area.

Mitigation Area A

Mitigation Area A is a 15.96-acre area adjacent to Tesoro High School; located along Chiquita Creek and one of its tributaries (refer to Attachment C). Mitigation Area A is also downstream of the Conservation Area. The establishment/restoration in Mitigation Area A will include the following:

- Restoration of 2.73 acres of southern willow scrub
- Restoration of 0.45 acre of existing channel
- Establishment of 2.36 acres of southern willow scrub
- Establishment of 4.79 acres of mulefat scrub
- Establishment and restoration of 5.63 acres of wet meadow

The soils in Mitigation Area A are suitable for the proposed wetland and riparian establishment, restoration, and enhancement. Soils within Upper Chiquita Canyon along the creek have been mapped as Chino silty clay loam in the *Soil Survey of Orange and Western Part of Riverside Counties, California*. Clay soils have high water holding capacity, which allows for the slow release of moisture, increasing the duration in which water becomes available to plants. The presence of wet meadow habitat along this creek is driven by the soil characteristics and will allow for this type of habitat to be established under the restored hydrologic regime.

Mitigation Area B

Mitigation Area B is an 18.86-acre area within the approximately 1,158-acre Upper Chiquita Canyon Conservation Area (Conservation Area), the headwaters of Chiquita Creek

The Discharger holds the conservation easement on this land, and they have managed the land for the past 15 years. The Conservation Area, no longer grazed, is a 1,158-acre site composed of north-south orientated, narrow to broad valleys between rolling hills. Elevations of the site range between 670 to 1,217 feet above sea level. The Conservation Area currently supports two main plant communities, annual grasslands and coastal sage scrub, with small areas of oak woodland, and remnant perennial grasslands. Additionally, some areas are ecotones that transition from annual grasslands to coastal sage scrub. Cattle grazing has occurred for more than 80 years in the low valleys of the Conservation Area. Within these areas, non-wetland ephemeral drainages have been disturbed and in some cases lost completely. Mitigation Area B is located in the southern end of the Conservation Area (refer to Attachment C). In the upper section of the mitigation area, an old ranch berm exists that blocks the ephemeral drainage course from the northern end of the main valley of the

Conservation Area. The entire proposed mitigation area is currently annual grassland.

Establishment and restoration actions for Mitigation Area B are:

- Establishment of 0.14 acre of southern sycamore woodland
- Restoration of 4.70 acres of riparian oak/elderberry restoration
- Restoration of 13.55 acres of native grassland restoration (upland buffer)
- Establishment of 4,873 linear feet (0.22 acre) of ephemeral drainage
- Restoration of 5,456 linear feet (0.25 acre) of ephemeral drainages

The soils within Mitigation Area B are mainly Botella Clay Loam, with some areas of Capistrano Sandy Loam that currently support annual grasslands, but are typically soils that support native perennial grassland vegetation and oak/elderberry habitat. The presence of these soils and water holding characteristics will allow for these types of habitats to be established and restored under the restored hydrologic regime.

Mitigation activities are expected to be successful based on the location, soil type, expected hydrology, and the use of plant species that occur on-site and are known to perform well in habitat restoration programs.

Mitigation will be conducted as outlined in the *Habitat Mitigation and Monitoring Plan for the Tesoro Extension Project*, prepared by NewFields, October, 2012 and any subsequent versions reviewed and approved by the San Diego Water Board).

Long term maintenance beyond the minimum five-year mitigation monitoring program must be provided. The Discharger shall be responsible for managing the mitigation site in perpetuity to ensure the long-term sustainability of the resource. Long-term management shall include, but is not limited to; adaptive management, long-term financing mechanisms, and a conservation easement.

For the reasons above, it is anticipated that the proposed mitigation will adequately compensate for impacts to waters of the state associated with the discharge of fill material.

Table 5, *Impact and Compensatory Mitigation Summary*, provides a summary of the jurisdictional impacts and conceptual mitigation approach.

Table 5. Impact and Compensatory Mitigation Summary

Jurisdiction Type	Permanent Impact		Mitigation Proposed (Establishment, Restoration, and Enhancement)		Water Board Mitigation Ratio
	Area (acres)	Length (LF)	Site A	Site B	
waters of the state (non-wetland; ephemeral)	0.20	5,297		<ul style="list-style-type: none"> Establishment: 0.22 acre (4860 LF) of ephemeral, non-wetland drainage area Restoration: 0.25 acre (5,456 LF) of existing ephemeral, non-wetland drainage area. Restoration: 4.70 acres of mixed live oak/elderberry habitat Establishment: 0.14 acre southern sycamore riparian Restoration: 13.55 acres perennial grassland upland buffer 	2.4:1 (ac) 1.9:1 (LF)
waters of the state (wetland)	0.20	NA	<ul style="list-style-type: none"> Establishment: 5.63 acres establishment and enhancement of wet meadow (<u>minimum 4.84 acres of wetland establishment</u>) Establishment: 2.36 acres- establishment of southern willow woodland Establishment: 4.79 acres – establishment of mulefat scrub Enhancement: 0.45 acre – enhancement of existing channel Enhancement: 2.73 acres - enhancement of existing southern willow woodland 		15:1
Total			11.93-acres wetland habitat	0.47-acre ephemeral drainage, 10,316 LF	

8.0 Runoff Management Plan (RMP)

The post-construction Best Management Practices (BMPs) for the Project are detailed in *Runoff Management Plan, 241 Tesoro Extension Project* prepared by Saddleback Constructors for the Discharger, February 14, 2012. All onsite highway runoff for SR-241 from the area north of San Juan Creek to Oso Parkway will be conveyed to treatment BMPs via storm drain systems equipped with:

- Grated catch basins that minimize trash and debris entering the network,
- A pipeline network that conveys the runoff flows to treatment BMPs with a mainline that runs longitudinally along the highway, and
- Flow splitters that route water quality flows to the BMPs and allow peak flows to continue on their original flow path.

There are 44 proposed onsite drainage systems for this section of the project, and each will convey flow to treatment BMPs which include; 5 Austin Sand Filters (ASF), 5 Biofiltration Swales (BSW), and 3 Detention Basins (EDB). Treatment BMP locations are shown in Attachment E. The BMP exhibits in Attachment E show the preliminary onsite drainage network locations.

Through this Order (Order No. R9-2013-0007), the Project is conditioned to mitigate (infiltrate, filter, and/or treat), prior to discharging to receiving waters, the volume of runoff produced by all storms up to and including the 24-hour, 85th percentile storm event for volume-based BMPs and/or the 1 hour, 85th percentile multiplied by a factor of two for flow-based BMPs, as determined from the local historical rainfall record. The Project must also conform to the Caltrans Project Planning and Design Guide (PPDG), California Department of Transportation, 2010.

9.0 Monitoring and Reporting Requirements

Requirements for monitoring and reporting for the Tesoro Extension (SR 241) mitigation project are found in Order No. R9-2013-0007. Monitoring results will be uploaded by the Discharger to California Wetland Portal (<http://www.californiawetlands.net/tracker/>) for public review.

10.0 Public Participation

The public was notified by a San Diego Water Board internet website posting on August 24, 2012 that a report of waste discharge application for WDRs for the Project was submitted.

As a step in the WDR adoption process, the San Diego Water Board developed

Tentative Order No. R9-2013-0007, a draft version of the Order. The San Diego Water Board has taken the following steps to encourage public participation in the San Diego Water Board's proceedings to consider adoption of the Tentative Order.

Notification of Interested Parties

The San Diego Water Board notified the Discharger and interested agencies and persons of its intent to prescribe waste discharge requirements for the discharge and provided them with an opportunity to submit their written comments and recommendations. Notification was provided through the San Diego Water Board website and the San Diego Water Board Meeting agenda publication.

The Tentative Order No. R9-2013-0007 was posted on the San Diego Water Board's website for public review and comment on January 17, 2013.

11.0 Information and Copying

The Report of Waste Discharge (ROWD), related documents, the tentative Order including discharge specifications and special provisions, comments received, and other information are on file and may be inspected at the address below at any time between 8:00 a.m. and 5:00 p.m., Monday through Friday. Copying of documents may be arranged through the San Diego Water Board by calling 858-467-2952.

12.0 Submission of Written Comments

Interested persons wishing to submit written comments on the Tentative Order must submit them so that they are received no later than 5:00 p.m. on February 18, 2013. Comments should be submitted either in person during business hours or by mail to:

David W. Gibson, Executive Officer
Attn: Darren Bradford
Place ID No. 785677
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

The early submission of written comments on the Tentative Order is encouraged. Electronic written comments are acceptable and should be submitted via e-mail to the attention of Darren Bradford at dbradford@waterboards.ca.gov.

Please indicate in the subject line of all written comments "Comment – Tentative Order No. R9-2013-0007, Place ID: 785677." If the submitted written comments

exceed five pages in length or contain foldouts, color graphics, or maps, 15 hard copies must be submitted for distribution to the San Diego Water Board members and staff.

The submission of written comments is the opportunity for interested persons to raise and comment on issues pertaining to the terms and conditions of the Tentative Order. Consistent with State Water Resources Control Board regulations that apply to this proceeding, written comments received after the close of the comment period will not be accepted and will not be incorporated into the administrative record if doing so would prejudice any party. Written comments received by the close of the comment period will be provided to the San Diego Water Board members for their review in advance of a public hearing to consider adoption of the Tentative Order. All timely written comments will also be posted as they are received on the San Diego Water Board website.

13.0 Public Hearing

Tentative Order No. R9-2013-0007 will be considered by the San Diego Water Board for adoption in a public hearing during its regular Board meeting as follows:

Date: March 13, 2013
Time: 9:00 a.m.
Location: Regional Water Quality Control Board
San Diego Water Board Meeting Room
9174 Sky Park Court, Suite 100
San Diego, CA 92123

On January 17, 2013, a public hearing notice and copies of the Tentative Order were emailed to all known interested persons and posted on the San Diego Water Board's website. Interested persons are invited to attend the public hearing. Participants in the public hearing will have an opportunity to address the San Diego Water Board members at the hearing subject to reasonable limitations prior to the Board taking action on the Tentative Order.

Please be aware that dates and venues may change. The San Diego Water Board Web address is http://www.waterboards.ca.gov/sandiego/board_info/agendas/ where you can access the current agenda for changes in dates and locations.

Information and Copying

The Report of Waste Discharge (ROWD), related documents, the tentative Order including discharge specifications and special provisions, comments received, and other information are on file and may be inspected at the address below at any time between 8:00 a.m. and 5:00 p.m., Monday through Friday. Copying of documents may be arranged through the San Diego Water Board by calling 858-467-2952.

Register of Interested Persons

Any person interested in being placed on the mailing list for information regarding Order No. R9-2013-0007 should contact Darren Bradford (see contact information below), reference the project, and provide a name, address, phone number, and email address.

14.0 Additional Information

For additional information, interested persons may write to the following address or contact Darren Bradford of the San Diego Water Board staff at 858-637-7137 or via email at DBradford@waterboards.ca.gov.

Attn: Darren Bradford
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123

15.0 WDR Petitions

A person may petition the State Board to review the decision of the San Diego Water Board regarding the final Order in accordance with California Water Code Section 13330. A petition must be made within 30 days of the San Diego Water Board taking an action.

16.0 Documents Used in Preparation of the Information Sheet and Order

The following documents were used in the preparation of this Information Sheet and Order No. R9-2013-0007:

- a. Application/Report of Waste Discharge submitted on August 10, 2012 with 13 attachments.

- b. Supplemental application information submitted on October 4, 2012.
- c. Draft Habitat Mitigation and Monitoring Plan, October 1, 2012.
- d. Drainage Plan. Prepared by CH2M Hill, October 1, 2012.
- e. Final Drainage Report. Prepared by Saddleback Constructors, June 1, 2012.
- f. Chiquita Woods Wildlife UC General Plan, prepared by CH2M Hill, September 30, 2012.
- g. Sam Creek Bridge General Plan, Prepared by CH2M Hill, September 30, 2012.
- h. Wildlife/Access UC No. 3 General Plan, prepared by CH2M Hill, September 30, 2012.
- i. Runoff Management Plan: 241 Tesoro Extension Project, Prepared by Saddleback Constructors, February 14, 2012.
- f. South Orange County Transportation Infrastructure Improvement Project Environmental Impact Report, SCH #2001061046, February 23, 2006.
- g. South Orange County Transportation Infrastructure Improvement Project, Notice of Determination, SCH #2001061046, February 23, 2006.
- h. Letter from the U.S. Army Corps of Engineers to the Transportation Corridor Agencies. Subject: Determination regarding requirement for Department of the Army Permit, November 5, 2012.
- i. Storm Water Pollution Prevention Plan Outline: 241 Tesoro Extension Project, Prepared by Saddleback Constructors, July 27, 2012.

17.0 Interested Parties

The following individuals and/or entities have been identified as interested parties:

Damon Nagami
Natural Resources Defense Council
dnagami@nrdc.org

Susan Meyer
Army Corps of Engineers
Susan.A.Meyer@usace.army.mil

F/ETCA
Tesoro Extension (SR 241) Project
Order No. R9-2013-0007

March 13, 2013
Item No. 8
Supporting Document No. 2

Bill Orme
State Water Resources Control Board, Division of Water Quality
BOrme@waterboards.ca.gov

David Zoutendyk
U.S. Fish and Wildlife Service
David_Zoutendyk@fws.gov

Kelly Fisher
California Department of Fish and Game
kfisher@dfg.ca.gov

Tech Staff Info & Use	
File No.	12C-072
WDID	9000002505
Reg. Measure ID	387248
Place ID	785677
Party ID	536510

F/ETCA
Tesoro Extension (SR 241) Project
Order No. R9-2013-0007

March 13, 2013
Item No. 8
Supporting Document No. 2

**ATTACHMENT C
MITIGATION SITE MAPS**



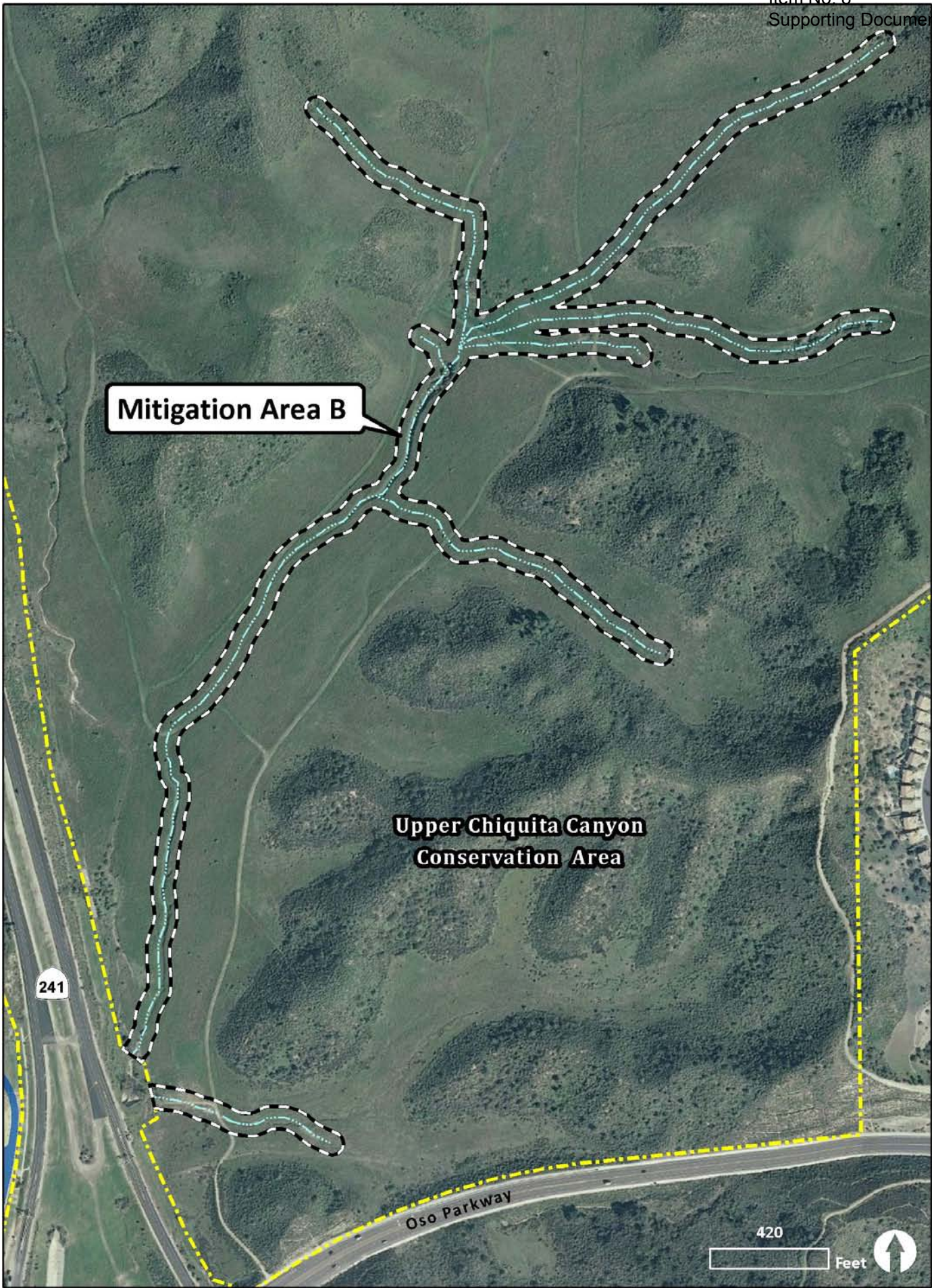
Tesoro Extension Project

EXHIBIT A



Tesoro Extension Project

EXHIBIT B

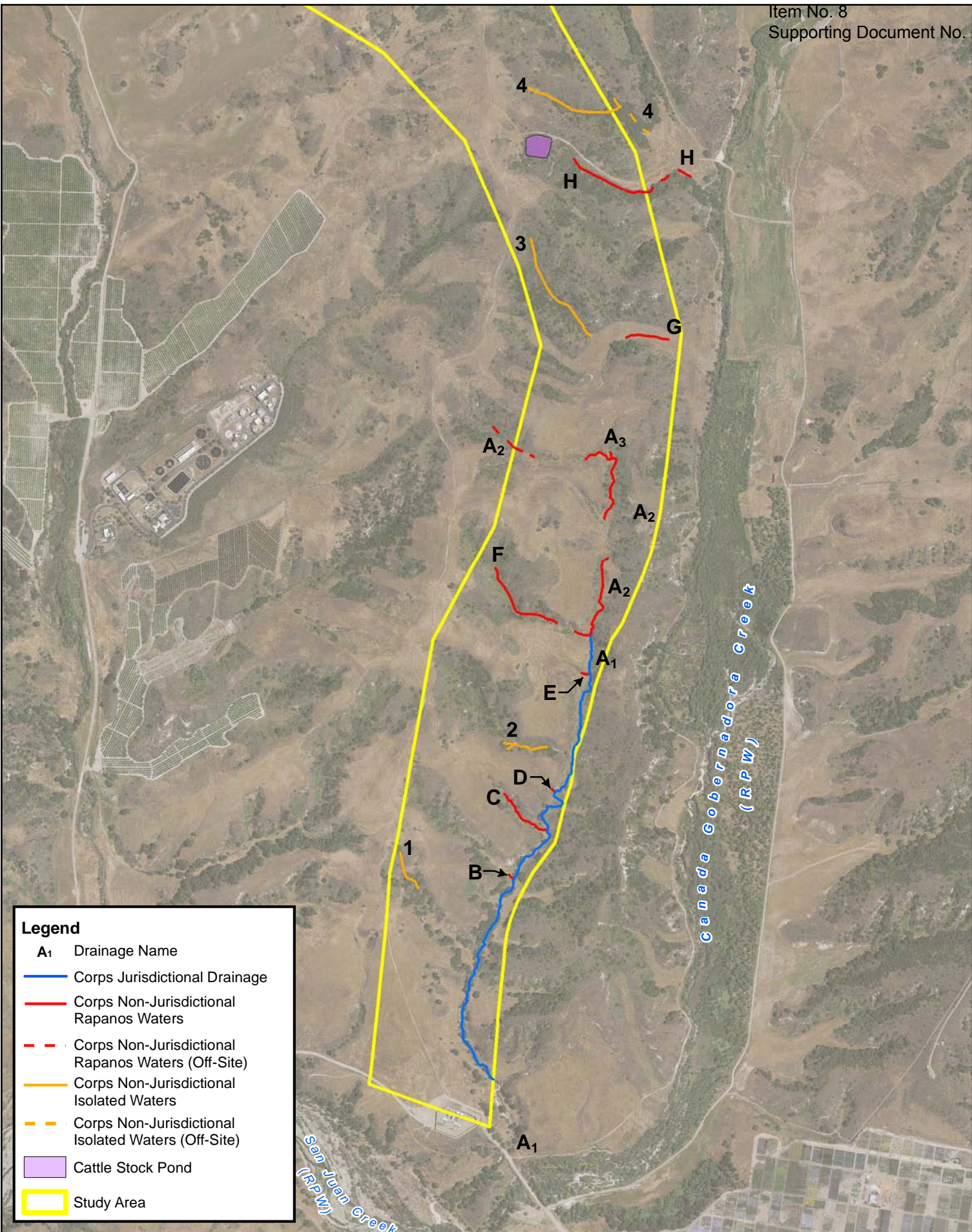


Tesoro Extension Project

EXHIBIT C

F/ETCA
Tesoro Extension (SR 241) Project
Order No. R9-2013-0007

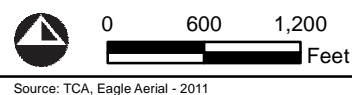
ATTACHMENT D
NON-FEDERAL WATERS OF THE STATE



8/7/2012 JN.M:\Midat\10105687\GIS\Corps\Maps_Index\Map_85x11.mxd JMcPherson

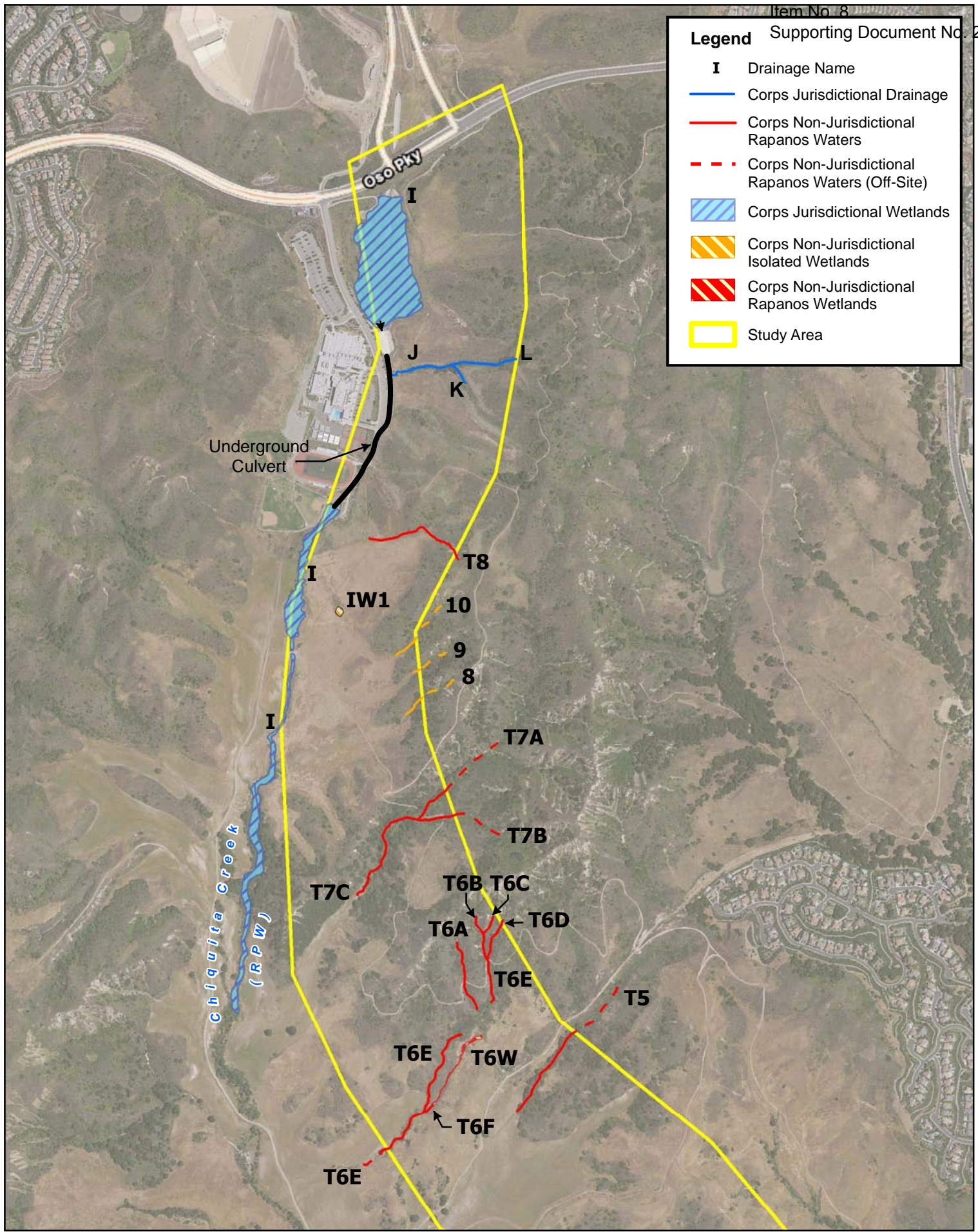
Legend

- A₁ Drainage Name
- Corps Jurisdictional Drainage
- Corps Non-Jurisdictional Rapanos Waters
- - - Corps Non-Jurisdictional Rapanos Waters (Off-Site)
- Corps Non-Jurisdictional Isolated Waters
- - - Corps Non-Jurisdictional Isolated Waters (Off-Site)
- Cattle Stock Pond
- Study Area



Source: TCA, Eagle Aerial - 2011

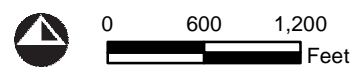
TESORO EXTENSION
Jurisdictional Map - South



Legend

- I** Drainage Name
- Corps Jurisdictional Drainage
- Corps Non-Jurisdictional Rapanos Waters
- Corps Non-Jurisdictional Rapanos Waters (Off-Site)
- Corps Jurisdictional Wetlands
- Corps Non-Jurisdictional Isolated Wetlands
- Corps Non-Jurisdictional Rapanos Wetlands
- Study Area

8/7/2012 JN.M:\Midat\10105687\GIS\Corps\Maps_Index\Map_85x11.mxd JMcPherson

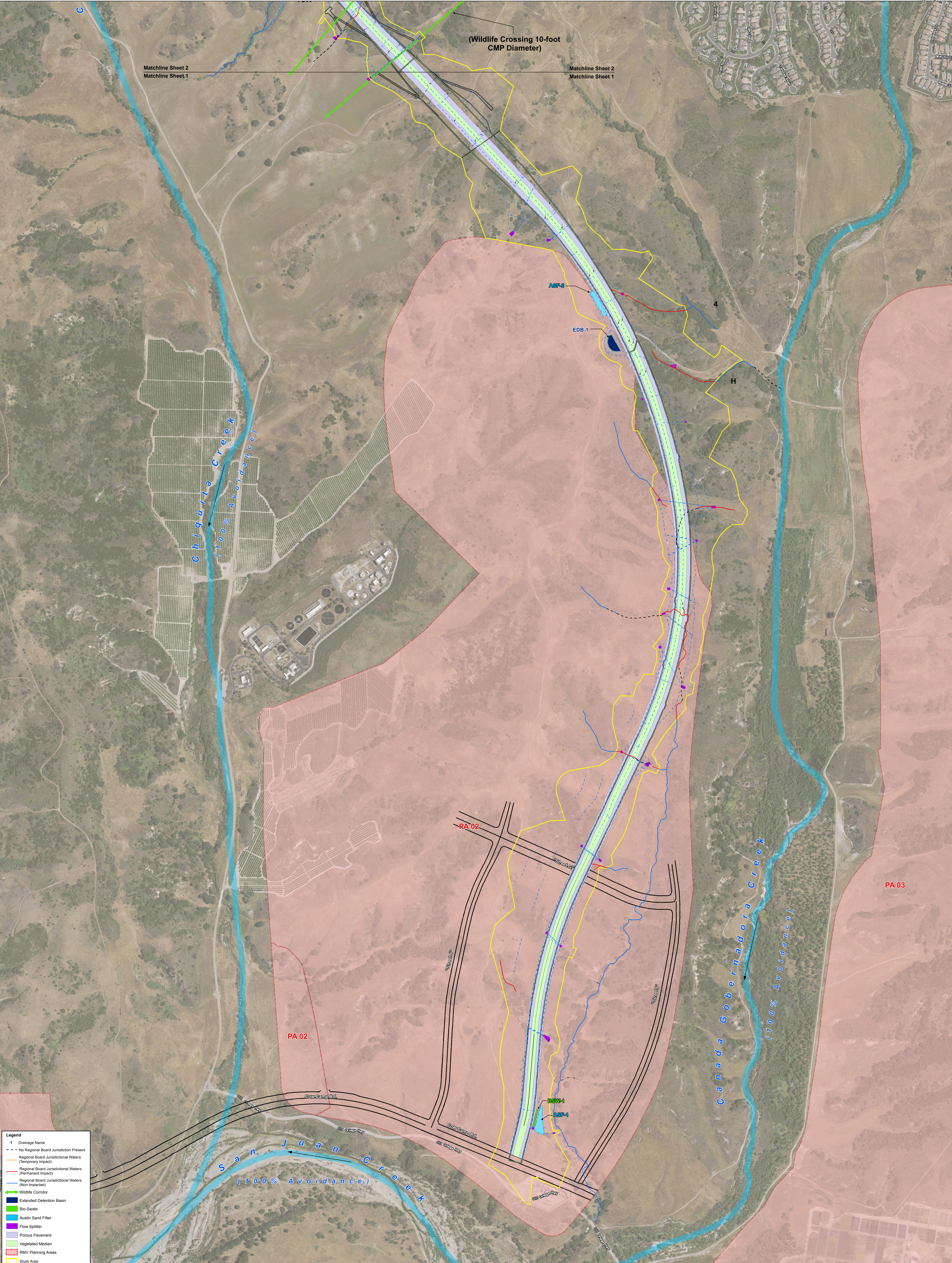


Source: TCA, Eagle Aerial - 2011

TESORO EXTENSION
Jurisdictional Map - North

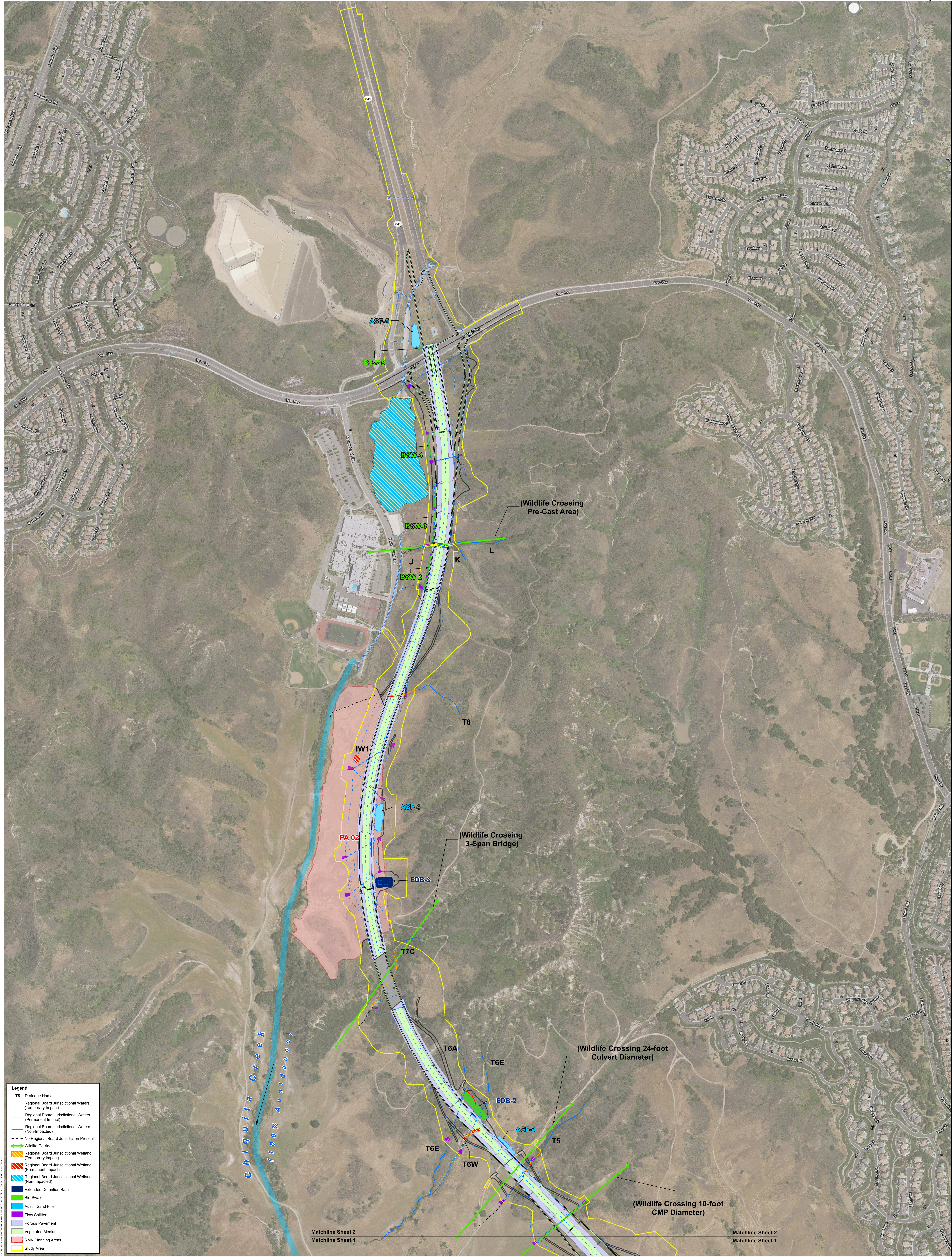
F/ETCA
Tesoro Extension (SR 241) Project
Order No. R9-2013-0007

ATTACHMENT E
TREATMENT CONTROL BEST MANAGEMENT PRACTICE PLANS



Legend

- 1 Drainage Name
- - - No Regional Board Jurisdiction Present
- Regional Board Jurisdictional Waters (Temporary Impact)
- Regional Board Jurisdictional Waters (Permanent Impact)
- Regional Board Jurisdictional Waters (Non-Impacted)
- Wildlife Corridor
- Extended Detention Basin
- Bio-Swale
- Austin Sand Filter
- Flow Splitter
- Porous Pavement
- Vegetated Median
- RMV Planning Areas
- Study Area



Legend

- T8 Drainage Name
- Regional Board Jurisdictional Waters (Temporary Impact)
- Regional Board Jurisdictional Waters (Permanent Impact)
- Regional Board Jurisdictional Waters (Non-Impacted)
- No Regional Board Jurisdiction Present
- Wildlife Corridor
- Regional Board Jurisdictional Wetland (Temporary Impact)
- Regional Board Jurisdictional Wetland (Permanent Impact)
- Regional Board Jurisdictional Wetland (Non-Impacted)
- Extended Detention Basin
- Bio-Swale
- Austin Sand Filter
- Flow Splitter
- Porous Pavement
- Vegetated Median
- RMV Planning Areas
- Study Area

Matchline Sheet 2
Matchline Sheet 1

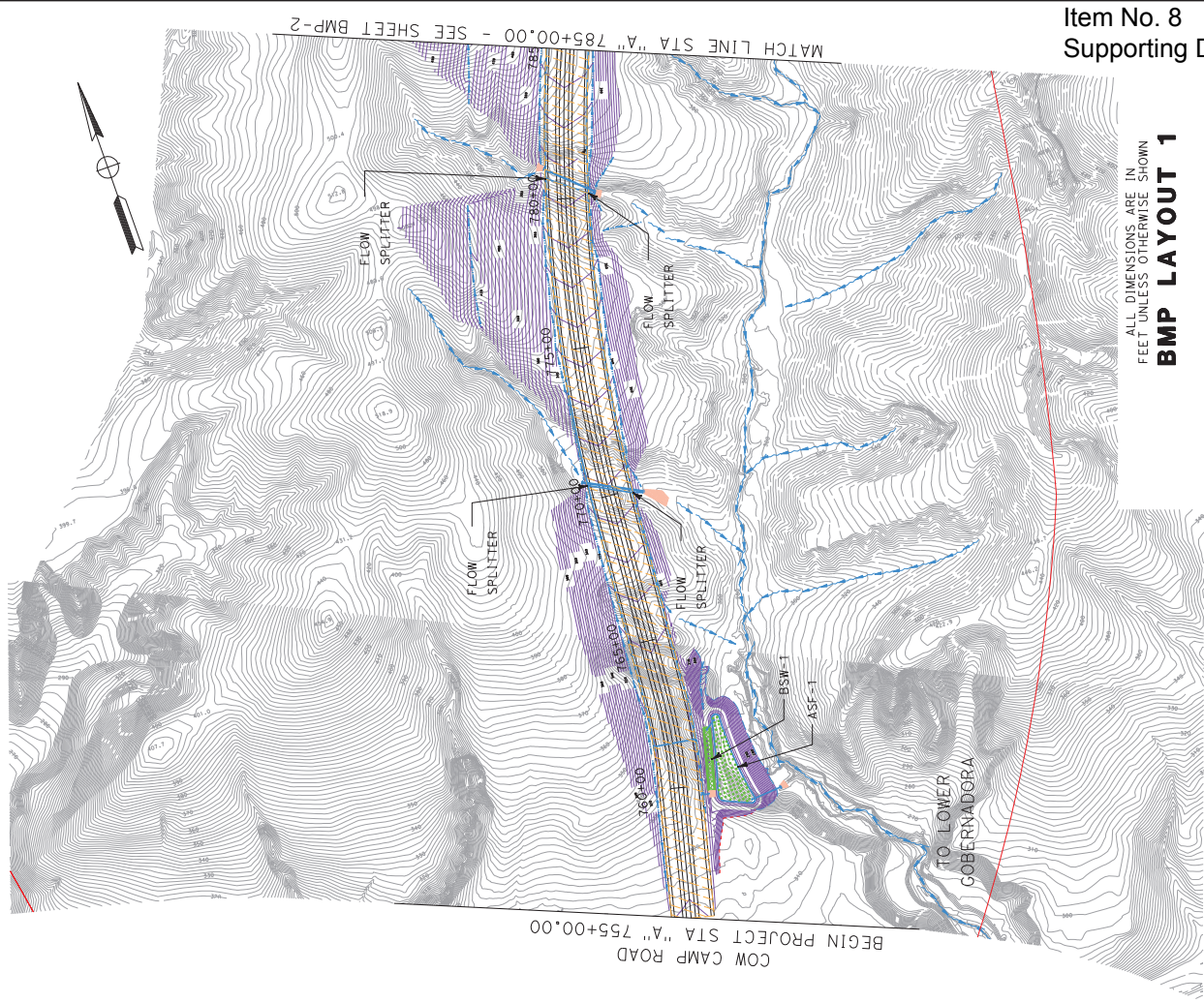
Matchline Sheet 2
Matchline Sheet 1

BMP-1

BMP LAYOUT 1

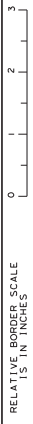
SCALE 1"=400'

ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SHOWN



LEGEND

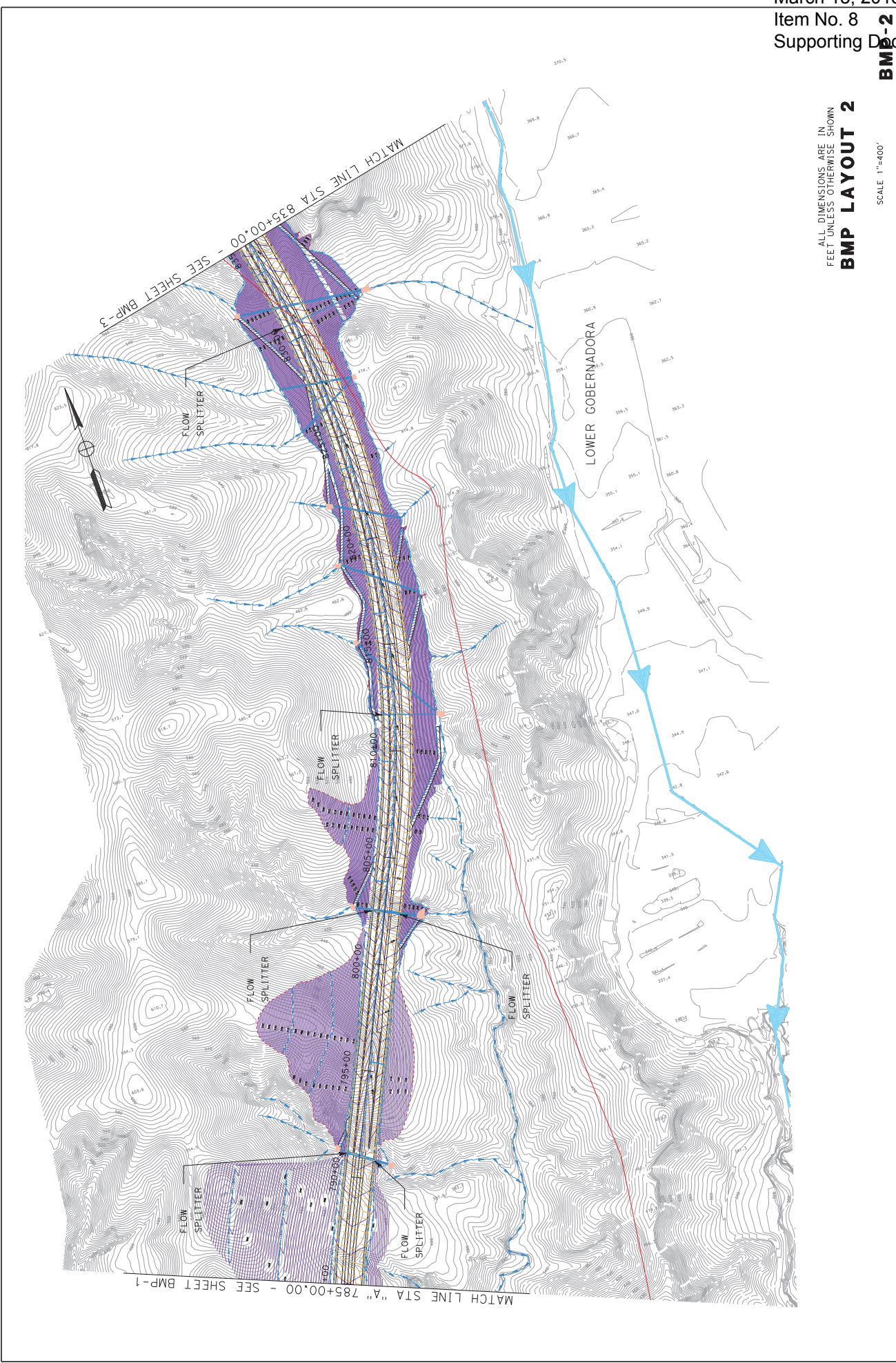
- FLOW DIRECTION
- DRAINAGE AREA BOUNDARY
- PROPOSED STORM DRAIN
- PROPOSED JUNCTION STRUCTURE
- PROPOSED CATCH BASIN
- EXISTING STORM DRAIN
- DETENTION BASIN
- AUSTIN SAND FILTER
- AC SPILLWAY
- DRAINAGE DITCH
- PIPE RISER
- RIP RAP ENERGY DISSIPATOR
- FLARED END SECTION
- BIO-SWALE
- BIO-STRIP
- CONTOUR LINE (PROPOSED GRADING)
- RMV PLANNING AREA BOUNDARY



SCALE 1"=400'

ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SHOWN
BMP LAYOUT 2

BMP-2

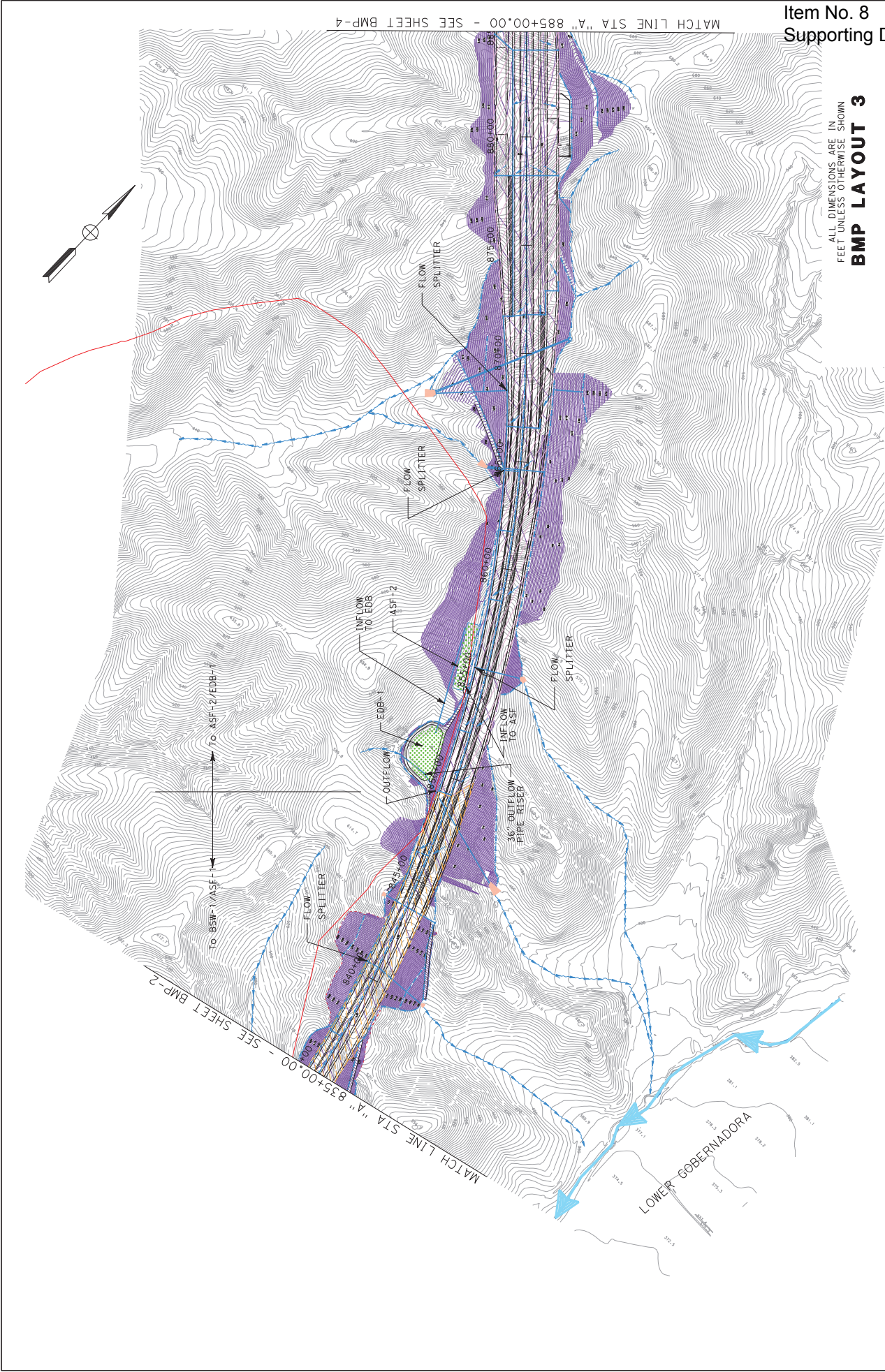


RELATIVE BORDER SCALE
IS IN INCHES

SCALE 1"=400'

BMP LAYOUT 3
ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SHOWN

BMP-3



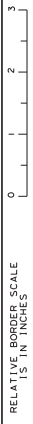
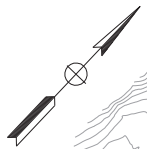
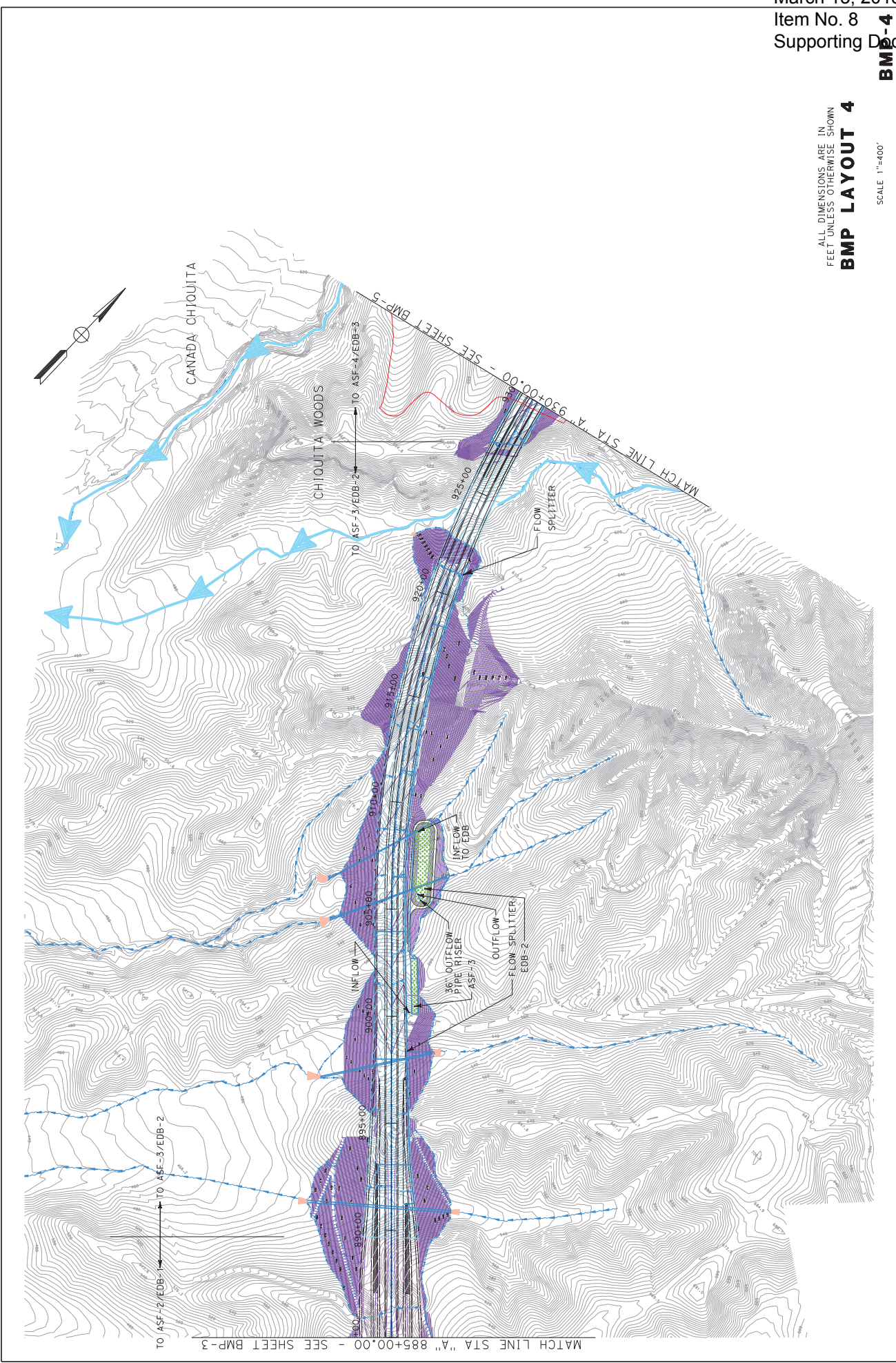
RELATIVE BARBER SCALE
1/32" IN INCHES

SCALE 1"=400'

BMP LAYOUT 4

ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SHOWN

BMP-4

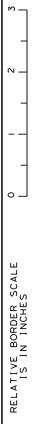
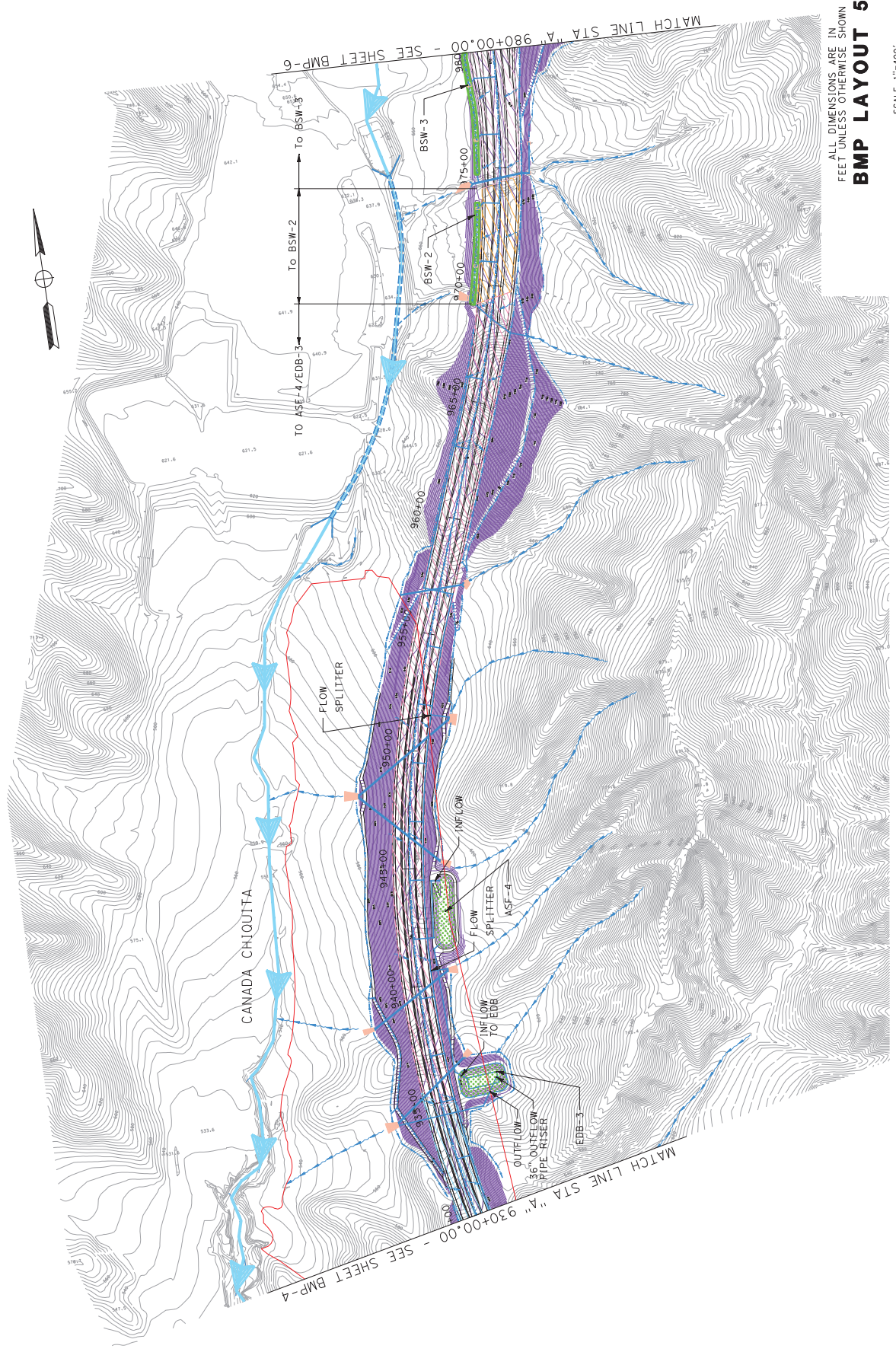


BMP-5

BMP LAYOUT 5

SCALE 1"=400'

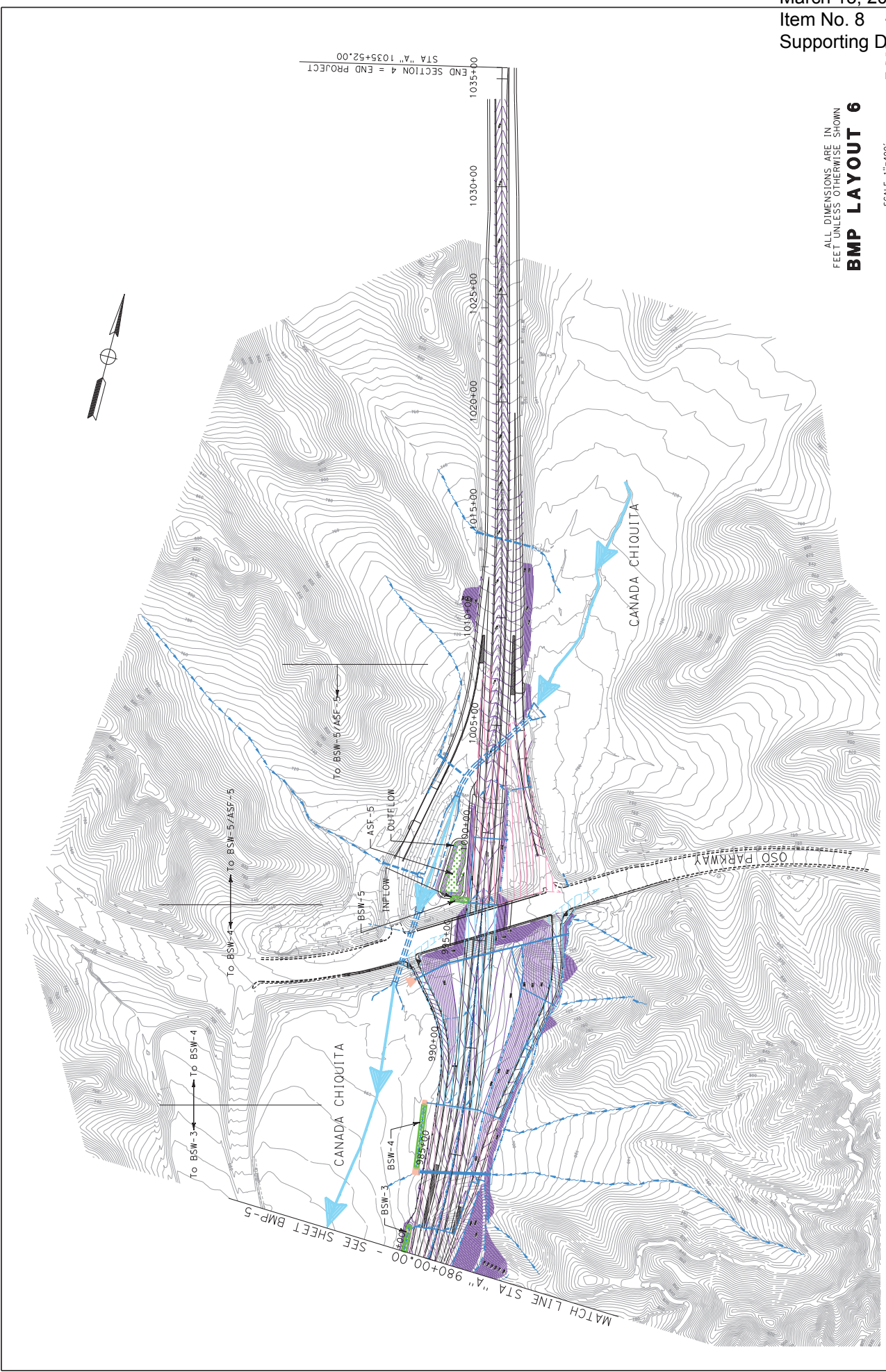
ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SHOWN



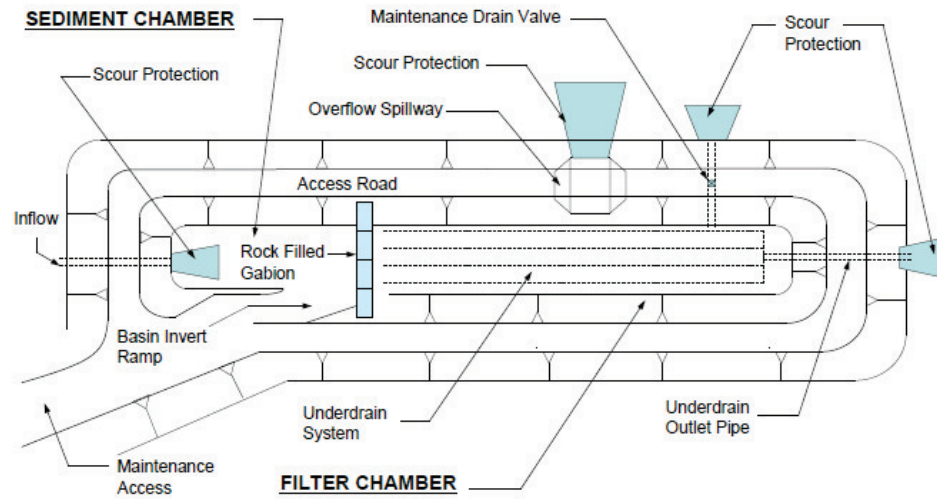
BMP-6

ALL DIMENSIONS ARE IN FEET UNLESS OTHERWISE SHOWN
BMP LAYOUT 6

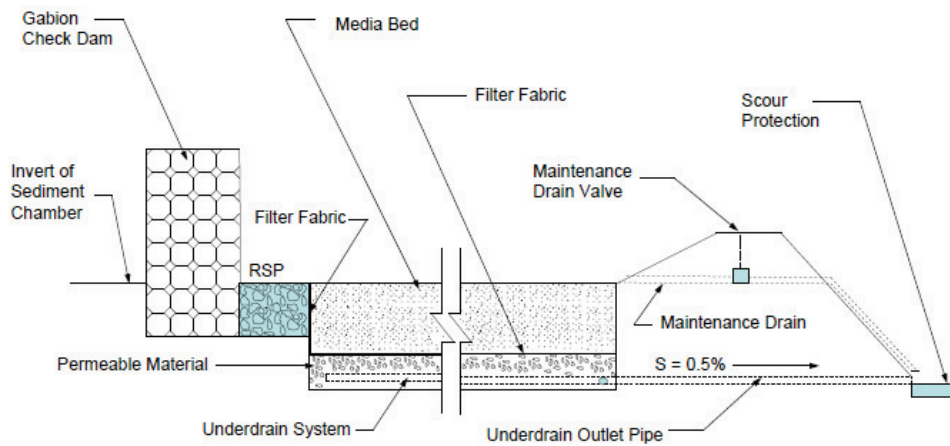
SCALE 1"=400'



RELATIVE BARBER SCALE
1/32" IN INCHES



Plan View



Second (Filter) Chamber Cross Section

NOT TO SCALE

Figure 7-1. Proposed ASF Design Details³

³ California Department of Transportation 2010.