



EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

June 25, 2014

Certified Mail – Return Receipt Requested

Article Number: 7011 0470 0002 8952 6079

Thomas Duffy
Environmental Planning Manager
County of San Diego
Department of Public Works
Environmental Services Unit
5510 Overland Avenue, Suite 410
San Diego, CA 92123-1237

**In reply/refer to:
mporter:772336**

Subject: Amendment No. 1 to Clean Water Act Section 401 Water Quality Certification No. 11C-090 for the Emery Road Realignment Project

Mr. Duffy:

Enclosed find Amendment No. 1 to Clean Water Act Section 401 Water Quality Certification No. 11C-090 (Amendment) issued by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) in response to an amendment request submitted by the County of San Diego for the Emery Road Realignment Project (Project). The Certification Amendment shows changes in redline/strikeout format to indicate added and removed language. Water Quality Certification No. 11C-090 has also been enclosed for your reference.

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

In the subject line of any response, please include reference number mporter:772336. For questions or comments, please contact Mike Porter by telephone at (619) 521-3967 or by email at mike.porter@waterboards.ca.gov.

Respectfully,

DAVID W. GIBSON
Executive Officer

Enclosure:

Clean Water Act Section 401 Water Quality Certification No. 11C-090 for the Emery Road Realignment Project

Amendment No. 1 to Clean Water Act Section 401 Water Quality Certification No. 11C-090 for the Emery Road Realignment Project

DWG:jgs:dtb:kkd:mgp

cc:

U.S. Army Corps of Engineers, Regulatory Branch
San Diego Field Office
Ms. Meris Bantilan-Smith
meris.bantilan-smith@usace.army.mil

California Department of Fish and Game
South Coast Region
Habitat Conservation Planning – South
Ms. Kelly Fisher
kfisher@dfw.ca.gov

U.S. EPA, OWOW, Region 9
R9-WTR8-Mailbox@epa.gov

State Water Resources Control Board
Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

Tech Staff Info & Use	
Certification No.	11C-090
Party ID	11763
File No.	None
WDID	9 000002369
NPDES No.	None
Regulatory ID	381896
Place ID	772336
Person ID	399949
Inspection ID	None

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

2375 Northside Drive, Suite 100, San Diego, CA 92108
Phone (619) 516-1990 • Fax (619) 516-1994
<http://www.waterboards.ca.gov/sandiego/>

**Amendment No. 1 to Clean Water Act Section 401
Water Quality Certification No. 11C-090**

**PROJECT: Emery Road Realignment Project
Certification Number 11C-090
WDID: 9000002369**

Reg. Meas. ID: 381869
Place ID: 772336
Party ID: 11763
Person ID: 399949

**APPLICANT: County of San Diego
Department of Public Works
Environmental Services Unit
5510 Overland Drive
Suite 410
San Diego, CA 92123-1237**

On November 16, 2012, Clean Water Act Section 401 Water Quality Certification No. 11C-090 (Certification) was issued to the County of San Diego for the Emery Road Realignment Project (Project). By letter dated February 19, 2014, the County of San Diego requested the Certification be amended to modify the Benthic Macroinvertebrate Community Analysis requirements. Based on the County of San Diego's request and additional analysis, the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) is amending the Certification. The following modifications to the Certification, shown below in redline/strikeout format, are hereby effective and enforceable requirements of the Certification. Except as modified or superseded by the Certification modifications set forth below, all of the findings, provisions, and other requirements of Certification No. 11C-090 remain in full force and effect.

Page 4, I. STANDARD CONDITIONS are replaced with the following:

Pursuant to section 3860 of title 23 of the California Code of Regulations, the following three standard conditions apply to all water quality certification actions:

- A. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the Water Code and chapter 28, article 6 (commencing with title 23, section 3867), of the California Code of Regulations.
- B. This Certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a

FERC license unless the pertinent Certification application was filed pursuant to California Code of Regulations title 23, section 3855 subdivision (b), and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.

- C. This Certification action is conditioned upon total payment of any fee required under title 23, chapter 28 (commencing with section 3830) of California Code of Regulations and owed by the applicant.

Page 10, MONITORING REQUIREMENTS Section VI.A.1. is modified as follows:

Benthic Macroinvertebrate Community Analysis

Bioassessment monitoring must be performed using the professional level non-point source protocol of the California Stream Bioassessment procedure¹ to assess effects of the project mitigation on the biological integrity of the receiving waters. ~~At a minimum, bioassessment monitoring must be performed at three sites (assessment stations) on Dulzura Creek (as flow permits) before mitigation commences, and then on years three and five, during the established "index period" for the Dulzura Creek watershed. At a minimum, bioassessment monitoring must be performed at two sites (assessment stations) on Dulzura Creek (as flow permits) concurrent with the installation of mitigation, and then on years three and five following mitigation installation, during the established "index period" for the Dulzura Creek watershed.~~ The first assessment station is the reference station, which must be located in Dulzura Creek upstream of the mitigation site in a reference area within the Lawrence and Barbara Daley Preserve (Preserve); and the second assessment station must be located at the furthest upstream location within the mitigation site; ~~the third assessment station must be located immediately downstream of the mitigation site.~~ The reference station upstream of the project discharge must be located and sampled concurrently with the mitigation site station second and third assessment stations.

The Benthic Macroinvertebrate Community Analysis performed at the Preserve may be used for current and future certified projects performing compensatory mitigation at the Preserve on a case-by-case basis and as approved by the San Diego Water Board. The results of the Benthic Macroinvertebrate Community Analysis must be submitted with the respective Annual Progress Report described in section VIII. – Reporting Requirements of the Certification.

¹ Electronic copies of the California Stream Bioassessment Procedure can be obtained at <http://www.dfg.ca.gov/abl/Field/csbpwforms.asp>. Additional information regarding stream bioassessment may be obtained at http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/bioassessment/index.shtml

Page 16, Reporting Requirements Section VIII.A.5 is added as follows:


5. The results of the Benthic Macroinvertebrate Community Analysis monitoring required under section VI.A.1 of this Certification.

Page 16, Reporting Requirements Section VIII.A.6 is added as follows:

6. The results of the CRAM assessment required under section VI.A.2 of this Certification.

Notification. Any person aggrieved by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with California Code of Regulations, title 23, sections 3867 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Certification Amendment. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Amendment No. 1 to Certification No. 11C-090 issued on June 25, 2014.



David W. Gibson
Executive Officer
Regional Water Quality Control Board

25 June 2014
Date



EDWARD G. BROWN JR.
GOVERNOR

MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

California Regional Water Quality Control Board, San Diego Region

November 16, 2012

Certified Mail – Return Receipt Requested
Article Number: 7011 0470 0002 8961 6473

Mr. Thomas Duffy
Environmental Planning Manager
Department of Public Works,
Environmental Services Unit
County of San Diego
5510 Overland Avenue
Suite 410
San Diego, CA 92123

In reply/refer to:
772336:mporter

**Subject: Clean Water Act Section 401 Water Quality Certification
No. 11C-090 for the Emery Road Realignment Project**

Mr. Duffy:

Enclosed is Clean Water Act Section 401 Water Quality Certification No. 11C-090 (Certification) for discharges to waters of the U.S. and acknowledgment of enrollment under State Water Resources Control Board Order No. 2003-017-DWQ for the Emery Road Realignment Project (Project). A description of the Project and Project location can be found in the Project information sheet, location map, and site maps which are included as attachments to this Certification.

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

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

GRANT DESTACHE, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

9174 Sky Park Court, Suite 100, San Diego, CA 92123 | (858) 487-2952 | www.waterboards.ca.gov/sandiego



In the subject line of any response, please include reference number 772336:mporter. For questions or comments, please contact Mike Porter by telephone at (858) 467-2726 or by email at mporter@waterboards.ca.gov.

Respectfully,



DAVID W. GIBSON
Executive Officer

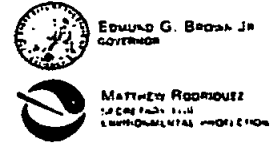
Enclosure:

Clean Water Act Section 401 Water Quality Certification No. 11C-090 for the Emery Road Realignment Project, with four attachments.

DWG:jgs:db:kd:mpp

cc: Refer to Attachment 2 of the Certification 11C-090 for Distribution List

Tech Staff Info & Use	
Certification No.	11C-090
Party ID	11763
File No.	11C-090
WDID	9 000002369
NPDES No.	None
Regulatory ID	381896
Place ID	772336
Person ID	399949
Inspection ID	None



California Regional Water Quality Control Board, San Diego Region

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

**PROJECT: Emery Road Realignment Project
Water Quality Certification No. 11C-090; WDID: 9 00002369**

**APPLICANT: Mr. Thomas Duffy
Environmental Planning Manager
County of San Diego
Department of Public Works
Environmental Services Unit
5510 Overland Avenue
Suite 410
San Diego, CA 92123**

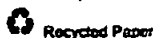
Reg. Meas.	381896
Place	772336
Party	11763
Person	399949

ACTION:

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

PROJECT DESCRIPTION:

The proposed project is the realignment of an existing section of Emery Road to eliminate a sharp blind curve and provide sufficient sight distance for transportation safety. Emery Road is and will remain a dirt road. The County of San Diego proposes to straighten and widen the existing 0.25-mile road section by cutting a new alignment through the small, rocky ridge that the road currently circumvents.



In addition, the project will result in the construction of two new culverts to serve the realigned roadway and convey 100-year storm water elevation beneath the roadway. Dewatering may be required if groundwater is encountered during construction.

Permanent impacts to 0.011-acre (130-linear feet) of non-wetland waters of the U.S. and State will be caused by roadway improvements and related drainage facilities. The proposed project will also cause temporary impacts of 0.022-acre (280-linear feet) to non-wetland waters of the U.S. and/or State.

Unavoidable impacts will be mitigated through the offsite re-establishment of 0.069-acres (315-linear feet) of riparian streambed at the Lawrence and Barbara Daley Preserve and the onsite re-establishment of 0.022-acre (280-linear feet) of unvegetated streambed and 0.044-acre (300-linear feet) of riparian habitat. Project impacts and mitigation are summarized in the following table:

Type and jurisdiction of impacts:	Acreage of impacts:	Linear feet of impacts:
Permanent Impacts to non-wetland waters of the U.S. and State	0.011-acre	130-linear feet
Temporary Impacts to non-wetland waters of the U.S. and State	0.022-acre	280-linear feet
Mitigation: offsite re-establishment of riparian streambed	0.069-acre	315-linear feet
Mitigation: onsite re-establishment of unvegetated streambed	0.022-acre	280-linear feet
Mitigation: onsite re-establishment of riparian habitat	0.044-acre	300-linear feet

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I. STANDARD CONDITIONS

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

- A. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
- B. This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. The validity of any non-denial Certification action must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

II. ADDITIONAL CONDITIONS: GENERAL

- A. Water Quality Certification No. 11C-090 (Certification) is only valid if the project begins no later than 5 (five) years from the date of issuance. If the project has not begun within 5 years from the date of issuance, then this Certification shall expire 5 years from the date of issuance.
- B. The Applicant (Applicant) must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material that have Received State Water Quality Certification*. These General Waste Discharge Requirements are accessible at:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
- C. The Applicant must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), to support this Certification and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must supersede conflicting provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the San Diego Water Board and

reevaluation for individual Waste Discharge Requirements and/or Certification amendment.

- D. During construction, the Applicant must maintain a copy of this Certification at the project site. This Certification must be available at all times to site personnel and agencies.
- E. Upon presentation of credentials, the Applicant must permit the San Diego Water Board or its authorized representative(s) to:
1. Enter onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 2. Access and/or copy any records required to be kept under the terms and conditions of this Certification.
 3. Inspect of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 4. Sample any discharge or surface water covered by this Certification.
- F. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
- G. In response to a suspected violation of any condition of this Certification, 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 Certification to investigate, monitor, and report information on the violation; provided that the burden, including costs of preparing the reports, bears a reasonable relationship to the need for and the benefits to be obtained from the reports.
- H. In response to any violation of the conditions of this Certification, or if the results of the project have unintended impacts to water quality, the San Diego Water Board may modify the conditions of this Certification as appropriate to ensure compliance.

III. ADDITIONAL CONDITIONS: CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. Construction Best Management Practices (BMPs) must be implemented as described in the October 10, 2012 *County of San Diego Stormwater Intake Form For Development Projects, Project Number PWR-1011355* for the Emery Road Realignment Project, prepared by Mario Arellano. Construction BMPs must include, but not be limited to:
1. Sediment Control;
 2. Erosion Control;
 3. Material Delivery and Storage;
 4. Material Use;
 5. Stockpile Management;
 6. Spill Prevention and Control;
 7. Solid Waste Management;
 8. Hazardous Waste Management;
 9. Sanitary/Septic Waste Management;
 10. Storm Drain Inlet Protection;
 11. Water Conservation Practices;
 12. Dewatering Operations;
 13. Vehicle and Equipment Cleaning;
 14. Vehicle and Equipment Fueling;
 15. Vehicle and Equipment Maintenance;
 16. Concrete Waste and Curing Management; and
 17. Stabilized Construction Ingress/Egress.
- B. The Applicant must enroll in and comply with the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the *NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity*.
- C. Prior to the start of the project, and annually thereafter, the Applicant must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and Best Management Practices (BMP) implementation and maintenance.
- D. The Applicant 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 U.S. and/or State.
- E. 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 section 13260.

- F. Discharges of flow during construction or after completion must not cause downstream erosion or damage to properties or stream habitat.
- G. 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.
- H. 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 water. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.
- 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 Applicant, land owners, and/or land managers are responsible for implementing and maintaining BMPs to prevent erosion of the rough graded areas. After completion of grading, all areas must be revegetated. 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>.
- J. Except as authorized by this Certification, 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 EPA approved herbicides deployed using applicable BMPs to prevent impacts to Beneficial Uses of waters of the State. Use of aquatic pesticides must be done in accordance with *State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, Statewide General National Pollution Discharge Elimination System Permit for the Discharge of Aquatic Pesticides for Aquatic Weed Control in Waters of the United States*, and any subsequent reissuance as applicable.
- L. If groundwater dewatering with discharge to surface water is necessary for project construction, the Applicant must comply with *San Diego Water Board Order No. R9-2008-0002, General Waste Discharge Requirements for Discharges from Groundwater Extraction and Similar Discharges to Surface Waters Within the San Diego Region*.

These General Waste Discharge Requirements are accessible at:
http://www.swrcb.ca.gov/rwqcb9/board_decisions/adopted_orders/2008/2008_0002.pdf

IV. ADDITIONAL CONDITIONS: POST-CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. Post-construction BMPs must be implemented as described in the June 28, 2012 *Plans for Construction of Emery Road Realignment Project*, prepared by the Applicant.
- B. Post-construction BMPs must include revegetating the slopes where applicable to avoid erosion of manufactured slopes and rip-rap energy dissipaters will be placed at culvert outlets to allow for velocity dissipation.
- C. Pedestrian-accessible storm drain inlet structures within the project boundaries must be stamped and/or stenciled with appropriate language prohibiting non-storm water discharges.
- D. Post-construction BMPs must be installed and functional prior to occupancy and/or planned use of development areas.

V. ADDITIONAL CONDITIONS: IMPACTS AND COMPENSATORY MITIGATION

- A. Permanent impacts to waters of the U.S. and State are limited to 0.011-acre and 130-linear feet.
- B. Temporary impacts to waters of the U.S. and State are limited to 0.022-acre and 280-linear feet.
- C. Mitigation for permanent and temporary project impacts to non-wetland waters of the U.S. and/or State must be implemented as described in the *Comprehensive Wetland Conceptual Mitigation Plan for Emery Road Drainage Improvement Project*, prepared by AMEC, and dated October 14, 2012.
- D. Compensatory impacts will be mitigated through offsite re-establishment of 0.069-acres (315-linear feet) of riparian streambed at the Lawrence and Barbara Daley Preserve for permanent impacts and onsite re-establishment of 0.022-acre (280-linear feet) of unvegetated streambed and 0.044-acre (300-linear feet) of riparian habitat for temporary impacts.
- E. The construction of proposed mitigation must be concurrent with project grading and completed no later than 9 months following the initial discharge of dredge or fill material into on-site waters. 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.

- F. The Applicant must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge to waters of the U.S. and State. Restoration must include grading of disturbed areas to pre- project contours and revegetation with native species.
- G. Mitigation areas must be maintained free of perennial exotic plant species, in perpetuity, including, but not limited to, pampas grass, giant reed, tamarisk, sweet fennel, tree tobacco, castor bean, and pepper tree. Annual exotic plant species must not occupy more than 5 percent of the mitigation areas.
- H. San Diego Water Board acceptance of the final mitigation plan for each project site applies only to the site and plan that mitigates for each project and must not be construed as approval of the mitigation site or plan for use by other current or future projects that are planning to use additional acreage at the site for mitigation.
- I. Any maintenance activities that do not contribute to the success of the mitigation sites and enhancement of beneficial uses and ecological functions and services are prohibited. Maintenance activities are limited to the removal of trash and debris, removal of exotic plant species, replacement of dead native plant species and remedial measures deemed necessary for the success of the restoration program.
- J. If at any time during the implementation and establishment of the mitigation areas, and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation areas, the Applicant is responsible for repair and replanting of the damaged areas.
- K. For purposes of this Certification, establishment is defined as the creation of vegetated or unvegetated waters of the U.S. and/or State where the resource has never previously existed (e.g. conversion of nonnative grassland to a freshwater marsh). Restoration is divided into two activities, re-establishment and rehabilitation. Re-establishment is defined as the return of natural/historic functions to a site where vegetated or unvegetated waters of the U.S. and/or State previously existed (e.g., removal of fill material to restore a drainage). Rehabilitation is defined as the improvement of the general suite of functions of degraded vegetated or unvegetated waters of the U.S. and/or State (e.g., removal of a heavy infestation or monoculture of exotic plant species from jurisdictional areas and replacing with native species). Enhancement is defined as the improvement to one or two functions of existing vegetated or unvegetated waters of the U.S. and/or State (e.g., removal of small patches of exotic plant species from an area containing predominantly natural plant species). Preservation is defined as the acquisition and legal protection from future impacts in perpetuity of existing vegetated or unvegetated waters of the U.S. and/or State (e.g., conservation easement).

- L. Mitigation site monitoring must continue until the mitigation site has met the success criteria stated in the mitigation plan(s) and until the San Diego Water Board agrees to cessation of mitigation site monitoring. The mitigation site must be maintained, in perpetuity, free of non-native and invasive plant species and maintained in accordance with specified success criteria.

VI. MONITORING REQUIREMENTS

- A. Prior to construction initiation, the Applicant shall develop a monitoring plan that contains the following elements for the Lawrence and Barbara Daley Preserve mitigation site:

1. **Benthic Macroinvertebrate Community Analysis**

Bioassessment monitoring must be performed using the professional level non-point source protocol of the California Stream Bioassessment procedure¹ to assess effects of the project on the biological integrity of receiving waters. At a minimum, bioassessment monitoring must be performed at three sites (assessment stations) on Dulzura Creek (as flow permits) before mitigation commences, and then on years three and five, during the established "index period" for the Dulzura Creek watershed. The first assessment station is the reference station, which must be located upstream of the mitigation site in a reference area; the second assessment station must be located at the furthest upstream location within the mitigation site; the third assessment station must be located immediately downstream of the mitigation site. The reference station upstream of the project discharge must be located and sampled concurrently with the second and third assessment stations. The results of the Benthic Macroinvertebrate Community Analysis must be submitted with the respective **Annual Progress Report**.

2. **California Rapid Assessment Method**

The Applicant must conduct a quantitative function-based assessment of the health of wetland and riparian habitats to establish baseline conditions, set success criteria, and assess mitigation site progress at the Lawrence and Barbara Daley Preserve mitigation site using the California Rapid Assessment Method (CRAM)² at the three assessment stations described in section VI.A of this Certification, prior to the start of construction and then three and five years following construction completion and continuing until success criteria have been met. The results of the CRAM assessment must be submitted with the **respective Annual Progress Reports**.

¹ Copies of the California Stream Bioassessment Procedure can be obtained at <http://www.dfg.ca.gov/cabw/cabwhome.html>. Additional Information on Stream bioassessment may be obtained at http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/bioassessment/index.shtml

² Information on CRAM is available at the California Rapid Assessment Method homepage at <http://www.cramwetlands.org/>

The San Diego Water Board may make revisions to the monitoring program at any time during the five year monitoring term, and may include a reduction or increase in the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.

Where procedures are not otherwise specified for the monitoring, sampling, and analysis, the quality assurance/quality control procedures must be conducted in accordance with the Surface Water Ambient Monitoring Program (SWAMP) Quality Assurance Program Plan (QAPP)³ for the State of California's Surface Water Ambient Monitoring Program, adopted by the State Water Resources Control Board.

3. At a minimum, monitoring should be scheduled prior to the start of construction and then in years 1, 2, 3, 5, and 7 after the start of construction. The results of the CRAM assessment must be submitted in the **respective Annual Progress Reports**.

VII. NOTIFICATION REQUIREMENTS

- A. The Applicant must report to the San Diego Water Board any noncompliance that may endanger human health or the environment. Any information shall be provided orally within **24 hours** from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within **five (5) days** of the time the Applicant becomes aware of the circumstances. The written submission shall contain a written description of the incident and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The San Diego Water Board may waive the above-required written report under this provision on a case-by-case basis if an oral report has been received within 24 hours.
- B. The Applicant must notify the San Diego Water Board of any transfer in responsibility for implementation of the requirements of this Certification. Notification must include, but not be limited to, a statement that the Applicant has provided the transferee with a copy of the Certification and that the transferee understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so. The Applicant and transferee must sign and date the notification and including a designated date of transfer. The Applicant must provide such notification to the Executive Officer of the San Diego Water Board prior to the intended date of

³ The Quality Assurance Program Plan is available on the State Water Board's SWAMP website at http://www.waterboards.ca.gov/water_issues/programs/swamp/docs/qapp/qappr082209.pdf

transfer. Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the Applicant will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the Applicant of the requirements in this Certification in the event that a transferee fails to comply.

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

VIII. REPORTING REQUIREMENTS

- A. The Applicant must submit annual progress reports describing status of compliance with all requirements of this Certification to the San Diego Water Board prior to August 1 of each year following the issuance of this Certification until the project has reached completion. The Applicant must submit a Final Project Annual Report to the San Diego Water Board prior to August 1 following completion of the project. The reports must include, but not be limited to, the following:**
- 1. Date of construction initiation.**
 - 2. Projected date of construction completion.**
 - 3. Status of BMPs for the project.**
 - 4. Final Project Report: As-built drawings no larger than 11"X17", GPS readings of all post-construction BMPs, and photodocumentation of post-construction BMPs.**

- B. Mitigation monitoring reports must be submitted annually until mitigation has been deemed successful. Annual monitoring reports must be submitted prior to **December 1** of each year. Monitoring reports must include, but not be limited to, the following:**
- 1. Names, qualifications, and affiliations of the persons contributing to the report;**
 - 2. Date of initiation of mitigation installation and date mitigation installation was completed.**
 - 3. Mitigation as-builts, including topography maps and planting locations.**
 - 4. Tables presenting the raw data collected in the field as well as analyses of the physical and biological data;**
 - 5. Topographic complexity characteristics at each mitigation site;**
 - 6. Upstream and downstream habitat and hydrologic connectivity;**
 - 7. Source of hydrology;**
 - 8. Width of native vegetation buffer around the entire mitigation site;**
 - 9. Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;**
 - 10. Stream photo documentation, including all areas of permanent and temporary impact, prior to and after project construction, and mitigation areas, prior to and after implementation. Photo documentation must be conducted in accordance with guidelines posted at http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/StreamPhotoDocSOP.pdf. In addition, photo documentation must include Geographic Positioning System (GPS) coordinates for each of the photo points referenced; and**
 - 11. A Survey report documenting boundaries of mitigation area(s), including Geographic Information System (GIS) shape files (polygons) of the impact and mitigation areas (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.**
- C. All information requested in this Certification is pursuant to Water Code section 13267. Civil liability may be administratively imposed by the San Diego Water Board for failure to furnish requested information pursuant to Water Code section 13268.**
- D. All reports and information submitted to the San Diego Water Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report**

submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.

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

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

F. 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."

G. The Applicant must submit reports required under this Certification, or other information required by the San Diego Water Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification No. 11C-090; 772336:mporter
9174 Sky Park Court, Suite 100
San Diego, California 92123

IX. CEQA FINDINGS

- A. The County of San Diego is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)), and issued the *Mitigated Negative Declaration, Emery Road Realignment Project*, State Clearinghouse No. 2009041068, dated May 15, 2011.
- B. The San Diego Water Board has reviewed the lead agency's Mitigated Negative Declaration and finds that the project as proposed will not have a significant effect on the environment if compensatory mitigation is accomplished as conditioned in this Certification.

X. PUBLIC NOTIFICATION OF PROJECT APPLICATION

On October 20, 2011, receipt of the project application was posted on the San Diego Water Board web site to serve as appropriate notification to the public. No public comments were received.

XI. SAN DIEGO WATER BOARD CONTACT PERSON

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

XIII. WATER QUALITY CERTIFICATION

I hereby certify that the proposed discharge from the **Emery Road Realignment Project** (Certification No. 11C-090) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)*," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue individual waste discharge requirements at that time.

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

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Certification No. 11C-090 issued on November 16, 2012.



DAVID W. GIBSON
Executive Officer
Regional Water Quality Control Board

Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location Map(s)
 4. Site and Mitigation Figures(s)

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: Mr. Thomas Duffy
Environmental Planning Manager
County of San Diego
Department of Public Works
Environmental Services Unit
5510 Overland Avenue
Suite 410
San Diego, CA 92123
Telephone: 858-874-4039
Fax: 858-874-4043
Email: Thomas.Duffy@sdcounty.ca.gov

**Applicant
Representatives:** None.

Project Name: Emery Road Realignment Project

Project Location: The proposed project is located 0.1-mile north of the intersection of Emery and Humphries Road, within the unincorporated community of Tecate, south-eastern San Diego County, California, and 3000-feet north of the U.S./Mexico international border. The project is located approximately at latitude 32° 35' 08" north and longitude -116° 37' 13" east.

Type of Project: Transportation safety and flood control improvements.

Project Description and Need: The proposed project is a realignment of an existing section of Emery Road to eliminate a sharp blind curve and provide sufficient sight distance for transportation safety. Emery Road is and will remain a dirt road. The County of San Diego proposes to straighten and widen the existing 0.25-mile road section by cutting a new alignment through the small, rocky ridge that the current road circumvents. In addition, the project will result in the construction of two new culverts to serve the realigned roadway and convey 100-year storm water elevation beneath the roadway. Dewatering may be required if groundwater is encountered during construction.

Federal Agency/Permit: U.S. Army Corps of Engineers §404, Nationwide Permits 14, 33, and 43, Ms. Meris Bantilan-Smith, San Diego Field Office.

Other Required Regulatory Approvals: California Department of Fish and Game (CDFG) § 1602 Streambed Alteration Agreement, Ms. Kelly Fisher.

California Environmental Quality Act (CEQA) Compliance: *Applicant Mitigated Negative Declaration, Emery Road Realignment Project*, State Clearinghouse No. 2009041068, May 15, 2011.

Receiving Waters: An unnamed ephemeral stream to the Tijuana River; Tijuana River hydrologic unit, Campo hydrologic area, Tecate hydrologic subarea (907.70).

Impacted Wetlands and Waters of the United States and State: Permanent –
Unvegetated streambed 0.011-acre, 130-linear feet
Temporary –
Unvegetated streambed 0.022-acre, 280-linear feet

Impacted Waters for CDFG jurisdiction only: None.

Dredge Volume: None.

**Related Projects
Implemented/to be
Implemented by the
Applicant(s):**

None disclosed.

**Compensatory
Mitigation:**

Compensatory impacts will be mitigated through offsite re-establishment of 0.069-acres (315-linear feet) of riparian streambed at the Lawrence and Barbara Daley Preserve for permanent impacts and onsite re-establishment of 0.022-acre (280-linear feet) of unvegetated streambed and 0.044-acre (300-linear feet) of riparian habitat for temporary impacts.

**Best Management
Practices (BMPs):**

Construction BMPs must include:

- Sediment Control
- Erosion Control
- Material Delivery and Storage
- Material Use
- Stockpile Management
- Spill Prevention and Control
- Solid Waste Management
- Hazardous Waste Management
- Sanitary/Septic Waste Management
- Storm Drain Inlet Protection
- Water Conservation Practices
- Dewatering Operations
- Vehicle and Equipment Cleaning
- Vehicle and Equipment Fueling
- Vehicle and Equipment Maintenance
- Stabilized Construction Ingress/Egress
- Wind Erosion Control

Public Notice:

On October 20, 2011, receipt of the project application was posted on the San Diego Water Board web site to serve as appropriate notification to the public. No comments were received.

Fees: Total Due: \$4,814.00
 Total Paid: \$640.00 (Check No. 3483145)
 Total Paid: \$4,174.00 (Check No. 3662361)

CIWQS: Regulatory Measure ID: 381896
 Place ID: 772336
 Party ID: 11763
 Person ID: 399949
 WDID 9 000002369

**ATTACHMENT 2
DISTRIBUTION LIST**

Ms. Meris Bantilan-Smith
U.S. Army Corps of Engineers
San Diego Field Office
meris.bantilan-smith@usace.army.mil

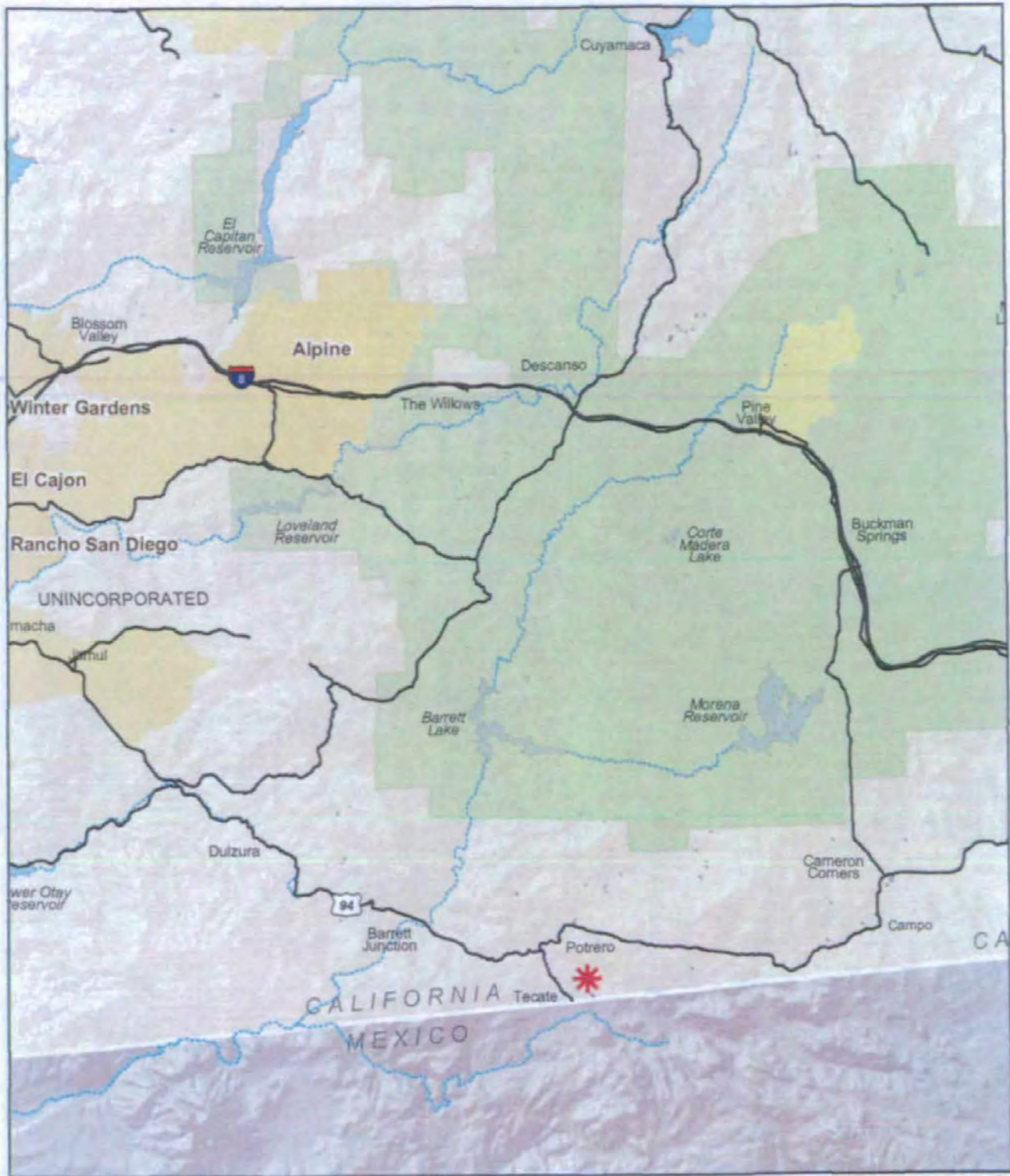
Ms. Kelly Fisher
California Department of Fish and Game
South Coast Region
Habitat Conservation Planning – North
kfisher@dfg.ca.gov


Ms. Malia Durand
Environmental Land Use Planner II
Applicant, Department of Public Works
Environmental Services Unit
malia.durand@sdcountry.ca.gov

Mr. Eric Raffini
Wetlands Regulatory Office
U.S. Environmental Protection Agency, Region 9
R9-WTR8-Mailbox@epa.gov

State Water Resources Control Board
Division of Water Quality
401 Water Quality Certification and Wetlands Unit
Stateboard401@waterboards.ca.gov

U.S. Department of the Interior
Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92011



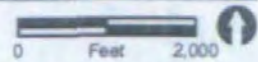
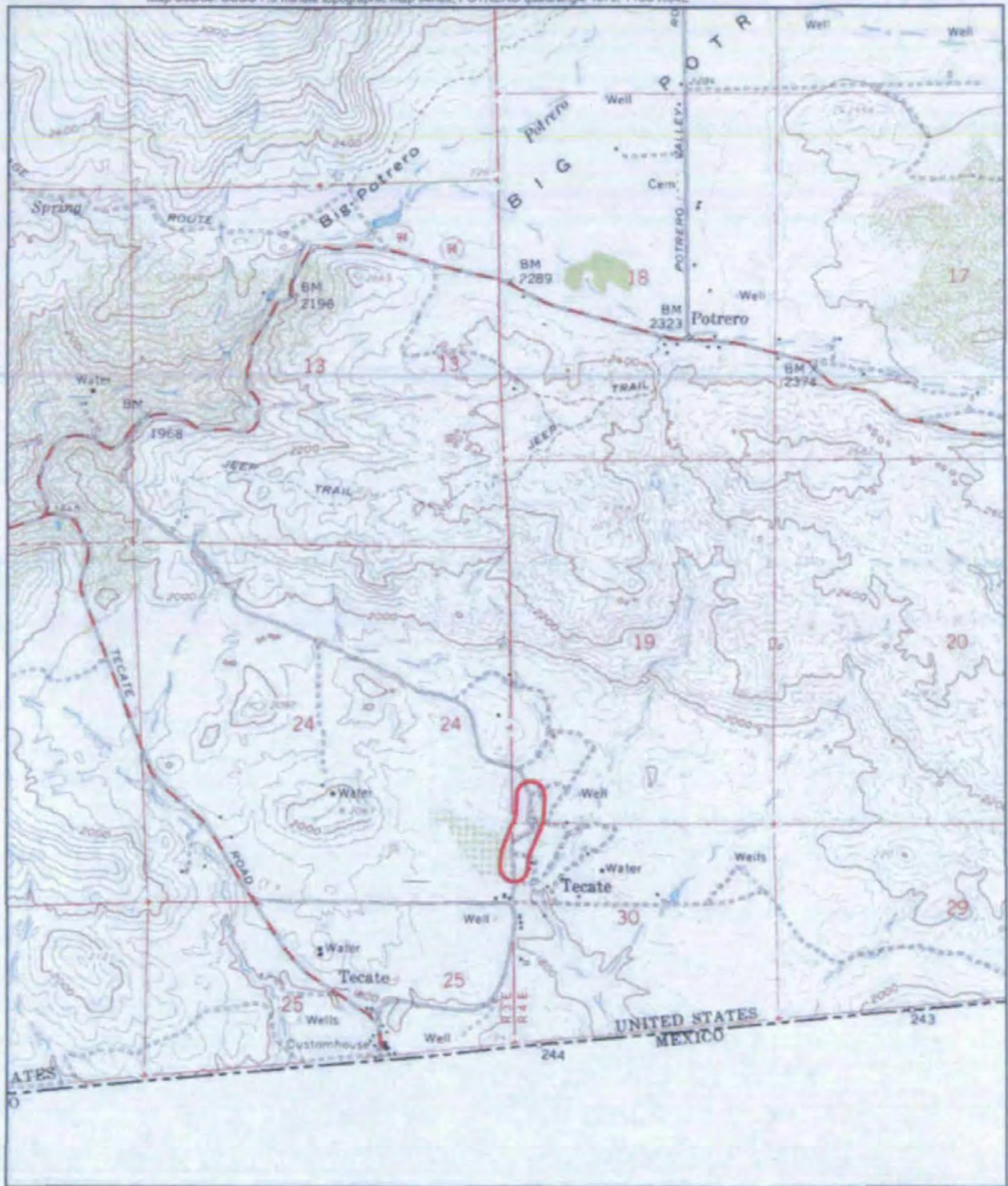
 Project Location

RECON

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FIGURE 1
Regional Location of the
Emery Road Realignment Project

Map Source: USGS 7.5 minute topographic map series, POTRERO quadrangle 1975, T18S R04E



Survey Area

RECON

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FIGURE 2
Emery Road Realignment
Project Location on USGS Map

ATTACHMENT 4

SITE AND MITIGATION FIGURES AND TABLE



- Survey Area
- Project Area
- ACOE Jurisdictional Resources
- Non-wetland Waters
- Wetland
- Sample Points
- Culverts



FIGURE 5
Existing ACOE Jurisdictional
Resources within Project Survey Area



- | | | |
|--------------|---------------|--------------------------------------|
| Survey Area | Sample Points | CDFG Jurisdictional Resources |
| Project Area | Culverts | Riparian |
| | | Streambed |



FIGURE 6
Existing CDFG Jurisdictional
Resources within Project Survey Area



- | | | |
|-------------------|---------------|-------------------------------|
| Survey Area | Sample Points | ACOE Jurisdictional Resources |
| Permanent Impacts | Culverts | Non-wetland Waters |
| Temporary Impacts | | Wetland |



FIGURE 8
Impacts to ACOE Jurisdictional Resources



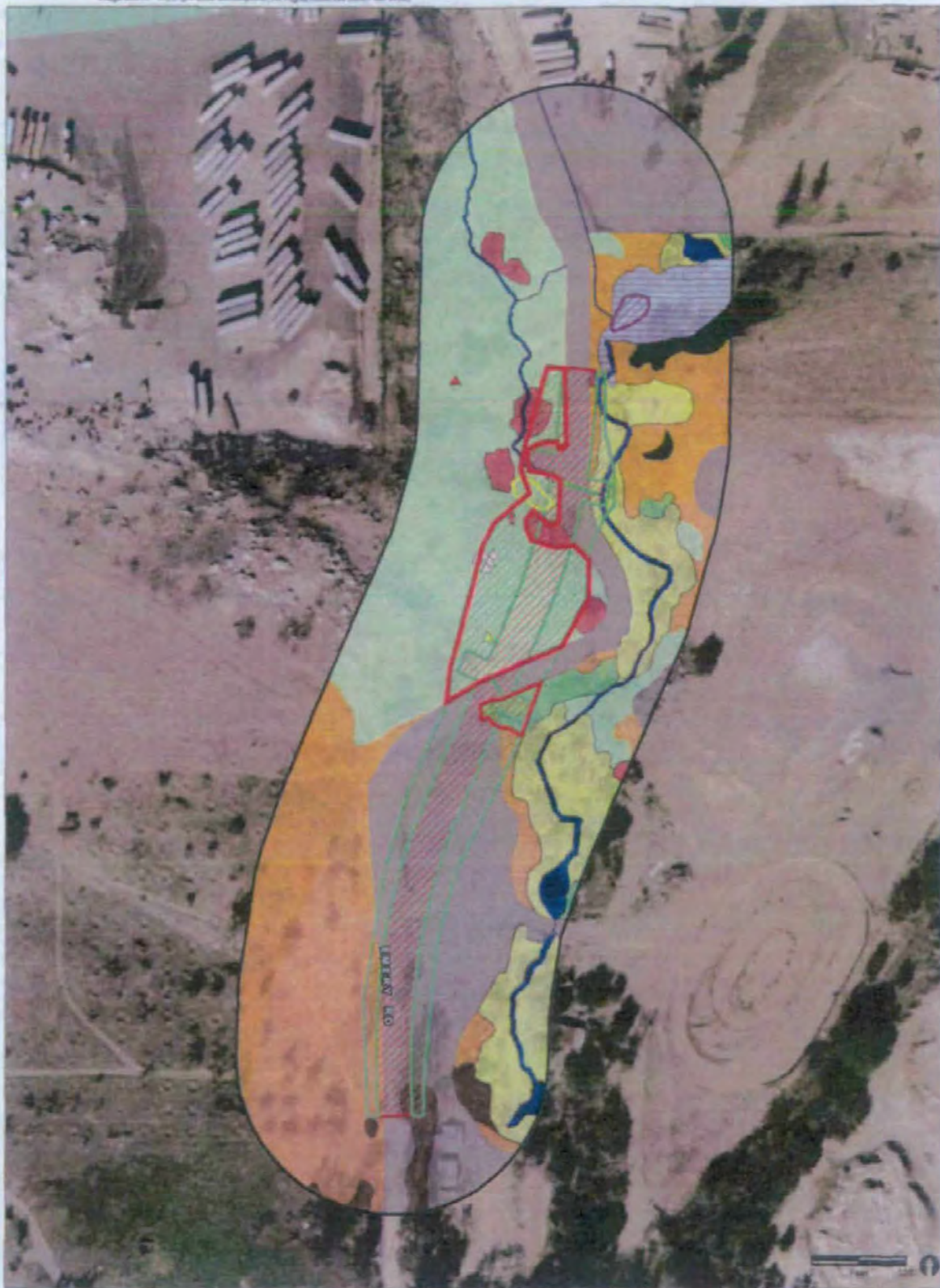
- | | | |
|-------------------|---------------|--------------------------------------|
| Survey Area | Sample Points | CDFG Jurisdictional Resources |
| Permanent Impacts | Culverts | Riparian |
| Temporary Impacts | | Streambed |

0 50 100 Feet

RECON

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FIGURE 9
Impacts to CDFG Jurisdictional Resources



- Survey Area
- Permanent Impacts
- Temporary Impacts

- ▲ Orange-throated Whiptail (*Aspidoscelis hyperythra*)
- ▲ Quino Checkerspot Butterfly (*Euphydryas editha quino*)
- ▲ Sticky Geranium (*Geranium viscidum*)
- Rush-like Bristleweed (*Machaeranthera juncea*)
- Tecate Tarplant (*Deinandra floribunda*)

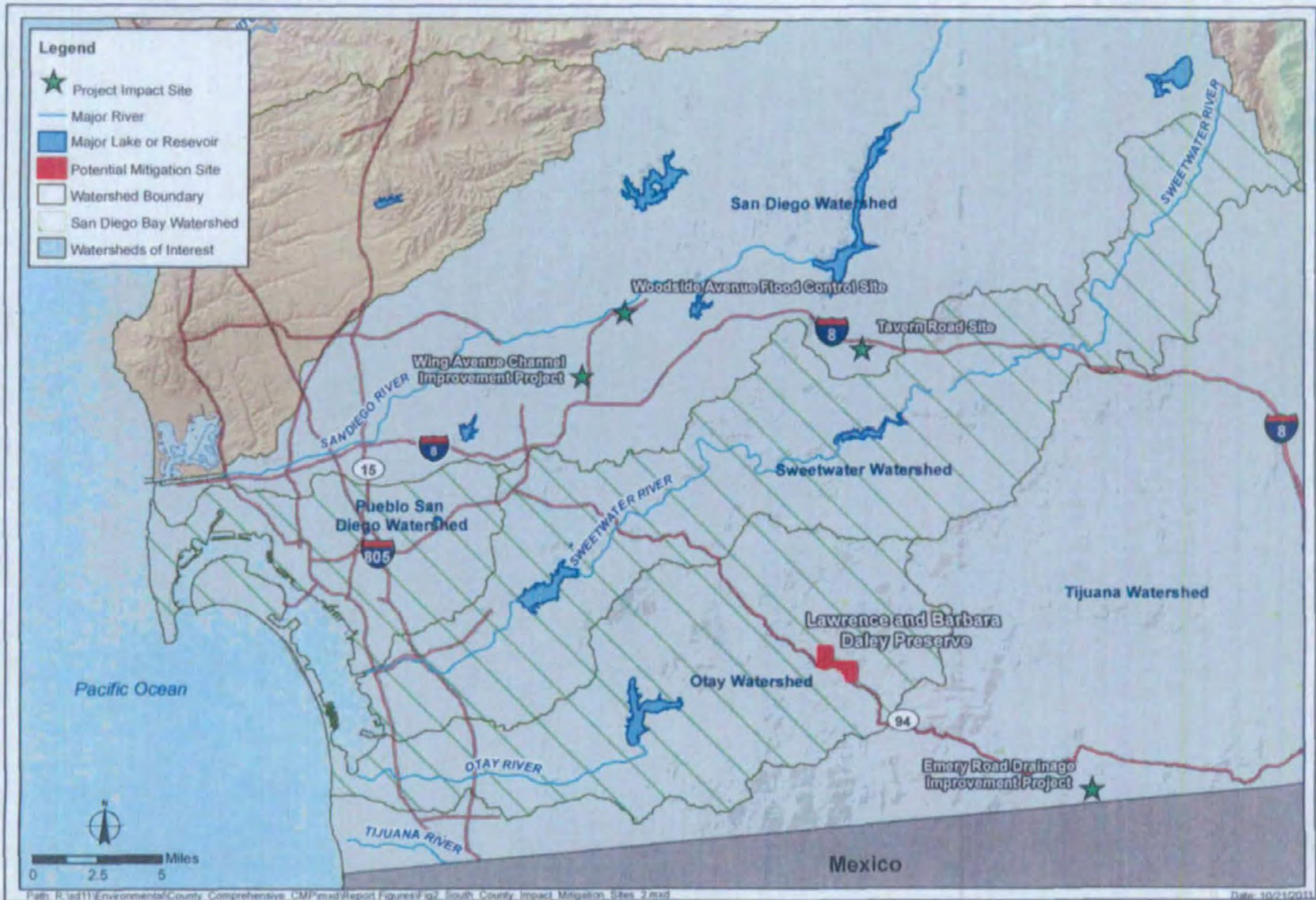
- Vegetation Communities**
- Coastal Sage - Chaparral Scrub
 - Disturbed Diegan Coastal Sage Scrub
 - Disturbed Habitat
 - Disturbed Southern Riparian Scrub
 - Eucalyptus Woodland
 - Non-vegetated Channel

- Open Coast Live Oak Woodland / Individuals
- Scrub Oak Chaparral
- Developed
- Southern Coast Live Oak Riparian Forest

RECON

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**Emery Road Realignment
Habitat Loss Permit Figure
October 10, 2011**



Impact and Mitigation Sites
Comprehensive Conceptual Mitigation Plan

FIGURE
2

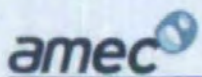




FIGURE 9

Proposed Restoration, Enhancement Areas and Vegetation Communities
 Lawrence and Barbara Daley Preserve
 Comprehensive Conceptual Mitigation Plan



Proposed Restoration and Enhancement Areas
 Lawrence and Barbara Daley Preserve
 Comprehensive Conceptual Mitigation Plan

FIGURE



**Table 1.
 Proposed Impacts by Project Site**

Project Name	Watershed	Resource Agency	Permit #s	Wetlands / Vegetation Types Impacted	Permanent Impacts Acreage	Temporary Impacts Acreage (to be revegetated on-site)	Off-site Mitigation Ratio	Off-site Mitigation Acreage
Tavern Road Drainage Improvements	San Diego River	ACOE	SPL-2008-00947-TCD	non-wetland waters	0.013*	0.00	5:1	0.00910
		RWQCB	08C-065		0.00182*			
		CDFG	1600-2008-0313-R5 (SAA Not required)	streambed	0.023*			
Wing Avenue Drainage Improvements	San Diego River	ACOE	Pending	Jurisdictional wetland	0.10	0.76	1:1	0.10
		CDFG	1600-2011-0260-R5 (no SAA needed)	Jurisdictional waters	0.01	0.49	0.00	0.00
		RWQCB	09C-061 (default certification)					
Woodside Ave Drainage Improvements	San Diego River	ACOE	Pending	Jurisdictional wetlands (FWM)	0.07	0.08	3:1	0.21
		RWQCB	Pending					
		CDFG	1600-2010-0383-RF (no SAA needed)	Non-wetlands/streambed	0.00	0.04	0.00	0.00
Emery Road Roadway Improvements	Tijuana River	ACOE, RWQCB, and CDFG	Pending	Non-wetland waters/streambed	0.011	0.022	3:1	0.033
				Riparian	0.012	0.044		0.036
South County Mitigation Needs								0.3881

Notes:

*Permanent impacts have already been mitigated for this project. An additional 0.00182 acres were impacted post-mitigation, and will be mitigated for as part of this comprehensive wetland conceptual mitigation plan.

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- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Thomas Duffy
 Environmental Planning Manager
 County of SD
 DPW-ESU
 5516 Overland Ave.
 Suite 410
 SD, CA 92123

2. Article Number
 (Transfer from service label)

7011 0470 0002 8961 6473

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

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 Addressee

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 No
 If YES, enter delivery address below:

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 Tom Duffy, County of SD, DPW-ESU
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 or PO Box No. 5516 Overland, Suite 410
 City, State, ZIP+4
 SD, CA 92111

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