

EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## California Regional Water Quality Control Board, San Diego Region

April 5, 2013

In reply refer to:  
787209: amonji

Mr. Keith Rhodes  
Keith B. Rhodes Living Trust  
4495 Point Loma Ave  
San Diego, California 92107

**Certified Mail – Return Receipt Requested**  
Article Number: 7011 0470 0002 8961 6176

**Subject: Amendment No. 1 to Water Quality Certification No. 04C-082 for the Rhodes Crossing Project**

Mr. Rhodes:

You will find enclosed Amendment No. 1 to Clean Water Act Section 401 Water Quality Certification No. 04C-082 (Certification Amendment) for the Rhodes Crossing Project (Project). The Certification Amendment shows changes in redline/strikeout format to indicate added and removed language. Water Quality Certification No. 04C-082 has also been enclosed for your reference.

On June 6, 2005, the original Certification was issued to Keith B. Rhodes Living Trust for the Project. By letter dated November 5, 2012, Alden Environmental Inc., requested the Certification be amended to reflect minor changes on impacts to waters of the United States and/or State and a change in the mitigation approach. Based on the amendment request, the San Diego Water Board is amending the Certification to revise the Project impacts and to include the updated mitigation approach.

The mitigation has been revised from off-site creation of wetlands and streambed habitat to onsite vernal pool restoration (0.30 acres) and enhancement of existing vernal pools (0.74 acres). The total mitigation proposed is described in the *Rhodes Crossing Mitigation Plan dated March 4, 2013* (Mitigation Plan). The Mitigation Plan proposes: a) 0.27 acres of vernal pool restoration to satisfy U.S. Army Corps of Engineers and California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) mitigation requirements, b) an additional 0.03 acres of vernal pool restoration to satisfy U.S. Fish and Wildlife requirements, and c) 0.74 acres of enhancement to 144 existing vernal pools and 8 existing road pools. The original certification avoided impacts to the existing vernal pools. The revised mitigation now includes restoration and enhancement of the existing vernal pools along with a minimum of seven years of maintenance and monitoring.

Any petition for reconsideration of this amended Certification must be filed with the State Water Resources Control Board (State Water Board) within 30 days of certification action (23 CCR § 3867). If a petition is not filed with the State Water Board within 30 days, Keith B. Rhodes

TOMAS MORALES, CHAIR | DAVID GIBSON, EXECUTIVE OFFICER

9174 Sky Park Court, Suite 100, San Diego, CA 92123 | (858) 467-2952 | [www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

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April 5, 2013

Living Trust will have accepted the changes to Certification No. 04C-082 and must comply with all the certification conditions. Failure to comply with all conditions of this certification may result in enforcement actions against Keith B. Rhodes Living Trust.

In the subject line of any response, please include the reference number 787209:amonji. For questions or comments, please contact Alan Monji by phone at (858) 637-7140, or by email at [amonji@waterboards.ca.gov](mailto:amonji@waterboards.ca.gov).

Respectfully,



David W. Gibson,  
Executive Officer

DG:js:db:kdd:atm

Enclosures:

Amendment No. 1 to Clean Water Act Section 401 Water Quality Certification No. 04C-082

Clean Water Act Section 401 Water Quality Certification No. 04C-082 for the Rhodes Crossing Project, with attachments.

Amendment Request letter from Alden Environmental for the Rhodes Crossing Project, 04C-082, dated November 5, 2012.

cc: (via email)

Greg Mason  
Alden Environmental, Inc.  
[gmason@aldenenv.com](mailto:gmason@aldenenv.com)

Meris Bantilan-Smith  
US Army Corps of Engineers  
[Meris.Bantilan-Smith@usace.army.mil](mailto:Meris.Bantilan-Smith@usace.army.mil)

State Water Resources Control Board, Division of Water Quality  
401 Water Quality Certification and Wetlands Unit  
[Stateboard401@waterboards.ca.gov](mailto:Stateboard401@waterboards.ca.gov)

U.S. EPA, OWOW, Region 9  
75 Hawthorne St.  
San Francisco, CA 94105  
[R9-WTR8-Mailbox@epa.gov](mailto:R9-WTR8-Mailbox@epa.gov)

Tech Staff Info & Use	
File No.	04C-082
WDID	9 000002537
Reg. Measure ID	388406
Place ID	787209
Party ID	357778

California Regional Water Quality Control Board, San Diego Region

Amendment No. 1 to Clean Water Act Section 401  
Water Quality Certification No. 04C-082

**PROJECT:** Rhodes Crossing Project Water Quality Certification No. 04C-082

**APPLICANT:** Keith B. Rhodes Living Trust  
Attention: Mr. Keith Rhodes  
4495 Point Loma Avenue  
San Diego, CA 92107

The following changes have been made to Clean Water Act Section 401 Water Quality Certification No. 04C-082, Rhodes Crossing Project. Changes below are shown in redline/strikeout format to indicate added and removed language.

1. Page 1, **STANDARD CONDITION 3** has been modified as follows:

~~The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.~~ This Certification action is conditioned upon total payment of any fee required under chapter 28 (commencing with section 3830) of 23 CCR and owed by the applicant.

2. Page 3, **GENERAL CONDITION A.2** has been modified as follows:

Keith B. Rhodes Living Trust shall comply with the requirements of State Water Resources Control Board Water Quality Order No. ~~99-08-DWQ~~ 2009-0009-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity.

3. Page 3, **GENERAL CONDITION A.12** has been added follows:

Water Quality Certification No. 04C-082 (Certification) is only valid if the Project begins no later than 5 (five) years from the date of issuance of this Certification Amendment No. 1. If the Project has not begun within 5 years from the date of issuance, then this Certification Amendment No. 1 shall expire 5 years from the date of issuance.

4. **Page 4, POST CONSTRUCTION STORM WATER MANAGEMENT  
CONDITION B.5 has been added as follows:**

Post-construction BMPs must treat 100 percent of the added impervious surface and all must be sized to comply with the following numeric sizing criteria:

**a. Volume**

Volume-based BMPs must be designed to mitigate (infiltrate, filter, or treat) either:

- i. The volume of runoff produced from a 24-hour 85<sup>th</sup> percentile storm event, as determined from the local historical rainfall record (0.6 inch is the approximate average for the San Diego County area); or
- ii. The volume of runoff, as determined from the local historical rainfall record, that achieves approximately the same reduction in pollutant loads and flows as achieved by mitigation of the 85<sup>th</sup> percentile 24-hour runoff event.

**b. Flow**

Flow-based BMPs must be designed to mitigate (infiltrate, filter, or treat) either:

- i. The maximum flow rate of runoff produced from a rainfall intensity of 0.2 inch of rainfall per hour; or
- ii. The maximum flow rate of runoff produced by the 85<sup>th</sup> percentile hourly rainfall intensity, as determined from the local historical rainfall record, multiplied by a factor of two; or
- iii. The maximum flow rate of runoff, as determined from the same reduction in pollutant loads and flows as achieved by mitigation of the 85<sup>th</sup> percentile hourly rainfall intensity multiplied by a factor of two.

5. **Page 4, POST CONSTRUCTION STORM WATER MANAGEMENT  
CONDITION B.6 has been added as follows:**

Post-construction BMPs must be designed, constructed, and maintained in accordance with the most recent California Stormwater Quality Association guidance which can be accessed at <http://www.cabmphandbooks.com/>.

6. **Page 4, MITIGATION PROVISION C.1 has been modified as follows:**

Mitigation for the permanent impact to ~~0.03~~ 0.05 acre of wetland and ~~0.19~~ 0.17 acre (2,461 linear feet) of ephemeral (non-wetland) streambed will be achieved at a 1:1 ratio, by creating ~~through on-site restoration of 0.03~~ 0.30 acre of wetlands ~~vernal pool habitat~~ and enhancement of 0.19 ~~0.74~~ acre of



~~streambed~~ vernal pool habitat. The mitigation is described in Rhodes Crossing Mitigation Plan (Mitigation Plan), prepared by Alden Environmental, and dated March 4, 2013. The Keith B. Rhodes Living Trust or other parties that assume future transferred liability under this Certification must implement the Mitigation Plan and any subsequent version reviewed and accepted by the San Diego Water Board. ~~the McGonigle Canyon Final Wetland Mitigation Plan by Helix Environmental Planning and dated October 9, 2001. Mitigation was completed in 2002 and is currently surpassing its success criteria.~~

**7. Page 5, MITIGATION PROVISION C.4 has been modified as follows:**

f) Other items specified in the Rhodes Crossing Mitigation Plan, prepared by Alden Environmental, dated March 4, 2013 and any subsequent versions reviewed and accepted by the San Diego Water Board. ~~draft and final Wetland and Riparian Mitigation and Monitoring Plan.~~

**8. Page 5, MITIGATION PROVISION C.6 has been added as follows:**

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.

**9. Page 5, MITIGATION PROVISION C.7 has been added as follows:**

Mitigation shall be considered acceptable once it has met the pre-determined success criteria for that site and shall be maintained, in perpetuity, in a manner that consistently meets the final success criteria identified in the Rhodes Crossing Mitigation Plan, prepared by Alden Environmental, dated March 4, 2013 and any subsequent versions reviewed and accepted by the San Diego Water Board.

**10. Page 6, REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON has been modified as follows:**

~~Mike Porter~~ Alan Monji  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123  
~~858-467-2726~~ 637-7140  
~~portm@rb9.swrcb.ca.gov~~ amonji@waterboards.ca.gov

**11. ATTACHMENT 1, APPLICANT REPRESENTATIVE has been modified as follows:**

~~Dr. Stephen Neudecker~~ Greg Mason  
~~Helix Environmental Planning, Inc.~~ Alden Environmental, Inc.  
~~Phone: 619-462-1515~~ 619-284-3815  
~~Facsimile: 619-462-0552~~ 284-3815  
~~E-mail: steven@helixepi.com~~ gmason@aldenenv.com

**12. ATTACHMENT 1, FEDERAL AGENCY/PERMIT has been modified as follows:**

~~U.S. Army Corps of Engineers – Terrence Dean~~ Meris Bantilan-Smith, NWP 39

**13. ATTACHMENT 1, IMPACTED WATERS OF THE UNITED STATES has been modified as follows:**

The proposed project will permanently impact (fill) ~~0.03~~ 0.05 acre of wetland and ~~0.19~~ 0.17 acre (2,461 linear feet) of non-wetland waters of the U.S.

**14. ATTACHMENT 1, COMPENSATORY MITIGATION has been modified as follows:**

~~Proposed compensatory mitigation consists of the 1:1 creation of 0.04 acre of wetland and the creation of 0.19 acre of streambed. The mitigation site is near the Rhodes Crossing project in McGonigle Canyon. The McGonigle Canyon Mitigation Site was created two years ago to meet the compensatory mitigation needs of the following projects: Torrey Glen, Camino Ruiz (Greystone segment), Camino Ruiz North (Rhodes segment), Torrey Ranch Garden Communities, La Jolla Crossroads, and Rhodes Crossing~~ 0.30 acres of vernal pool restoration and 0.74 acres of vernal pool enhancement. The mitigation is described in the ~~McGonigle Canyon Final Wetland Mitigation Plan by Helix Environmental Planning and dated October 9, 2001~~ Rhodes Crossing Project Mitigation Plan, prepared by Alden Environmental, Inc., dated March 4, 2013 and any subsequent versions reviewed and accepted by the San Diego Water Board.

~~According to Helix Environmental Planning, the McGonigle Canyon Mitigation Site was graded and planted two years ago and the site is surpassing its success criteria.~~

~~1:1 mitigation is acceptable on this project because the mitigation is creation and there will be no temporal loss of functions and values because Rhodes Crossing will not be constructed for two years.~~



**ATTACHMENT 1, BEST MANAGEMENT PRACTICES has been modified as follows:**

During construction, this project will comply with the Best Management Practices (BMPs) stipulated in the State Water Resources Control Board Order No. ~~99-08~~2009-0009-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity.

Post-construction BMPs ~~will be implemented~~ must be sized to comply with numeric sizing criteria contained in the California Regional Water Quality Control Board, San Diego Region Order No. R9-2007-0001, NPDES No. CAS0108758, Waste Discharge Requirements for Discharges of Urban Runoff from the Municipal Separate Storm Sewer Systems (MS4s) Draining the Watersheds of the County Of San Diego. ~~the Standard Urban Storm Water Mitigation Plan (SUSMP) requirements, San Diego Regional Water Quality Control Board Order No. 2001-01 (the San Diego Municipal Storm Water Permit).~~ The post-construction BMPs are described in the Water Quality Technical Report for Rhodes Crossing by Latitude 33 Planning and Engineering and dated June 9, 2003. Post-construction BMPs must be designed, constructed, and maintained in accordance with the most recent California Stormwater Quality Association guidance.

**15. ATTACHMENT 2, DISTRIBUTION LIST has been modified as follows:**

~~Mr. Terrence Dean~~ Meris Bantilan-Smith  
U.S. Army Corps of Engineers  
Regulatory Branch  
~~16885 W. Bernardo Dr., Suite 300 A~~ 6010 Hidden Valley Road, Suite 105  
~~San Diego~~ Carlsbad, CA 92127 92011  
~~(858) 674-5388 (fax)~~ (760)-602-4830

~~Dr. Stephen Neudecker~~ Greg Mason  
Alden Environmental, Inc. ~~HELIX Environmental Planning~~  
~~8100 La Mesa Blvd, Suite~~ 3245 University Ave #1188 450  
~~La Mesa, CA 91941~~ San Diego, CA 92104


**16. ATTACHMENT 4, SITE MAP has been modified as follows:**

Replace Helix Site Plan, Figure 3 with Alden Environmental Rhodes Crossing Site Plan.

**17. ATTACHMENT 5, MITIGATION MAP has been modified as follows:**

Replace Helix Figure 2, 3, and 4 with Alden Environmental Figure 3 and 4.

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. 04C-082 issued on April 5, 2013.

  
\_\_\_\_\_  
David W. Gibson  
Executive Officer  
Regional Water Quality Control Board

April 4, 2013  
Date

WDID	9 000002537
CIWQS:	
Party No.	357778
Place No.	787209
Reg. M. No.	388406





# California Regional Water Quality Control Board

## San Diego Region



Alan C. Lloyd, Ph.D.  
Secretary for  
Environmental  
Protection

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

Arnold Schwarzenegger  
Governor

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

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

**PROJECT:** Rhodes Crossing Project (File No. 04C-082)

**APPLICANT:** Mr. Keith B. Rhodes  
Keith B. Rhodes Living Trust  
4495 Point Loma Avenue  
San Diego, CA 92107

18-2004062.02 mg

**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 Certification | <input checked="" type="checkbox"/> Waiver of Waste Discharge Requirements |

**STANDARD CONDITIONS:**

The following three standard conditions apply to all certification actions, except as noted under Condition 3 for denials (Action 3).

1. This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
2. This certification action is not intended and shall 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.
3. The validity of any non-denial certification action (Actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

**California Environmental Protection Agency**

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

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**ADDITIONAL CONDITIONS:**

In addition to the three standard conditions, Keith B. Rhodes Living Trust shall satisfy the following:

**A. GENERAL CONDITIONS**

1. Keith B. Rhodes Living Trust, shall, at all times, fully comply with the engineering plans, specifications and technical reports submitted with this application for 401 Water Quality Certification and all subsequent submittals required as part of this certification.
2. Keith B. Rhodes Living Trust, shall comply with the requirements of State Water Resources Control Board Water Quality Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.
3. Keith B. Rhodes Living Trust, shall maintain a copy of this certification at the project site so as to be available at all times to site personnel and agencies.
4. Prior to the start of the project, Keith B. Rhodes Living Trust, shall educate all relevant personnel on the requirements in this certification, pollution prevention measures, and spill response.
5. Keith B. Rhodes Living Trust shall permit the Regional Board or its authorized representative at all times, upon presentation of credentials:
  - a. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
  - b. Access to copy any records required to be kept under the terms and conditions of this certification.
  - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this certification.
  - d. Sampling of any discharge or surface water covered by this Certification.

6. Keith B. Rhodes Living Trust, shall notify the Regional Board within 24 hours of any unauthorized discharge to waters of the U.S. and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional BMPs or other measures that will be implemented to prevent future discharges.
7. Keith B. Rhodes Living Trust shall, at all times, maintain appropriate types and sufficient quantities of materials onsite to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reached a waters of the U.S. and/or State.
8. This Certification must be disclosed and transferred to another party when that party receives title to the property (in whole or part) for which Certification was issued. This Certification is not transferable to any person except after notice to the Executive Officer of the San Diego Regional Water Quality Control Board (Regional Board). The applicant shall submit this notice in writing at least 30 days in advance of any proposed transfer. The notice must include a written agreement between the existing and new owner containing a specific date for the transfer of this Certification's responsibility and coverage between the current discharger and the new discharger. This agreement shall include an acknowledgement that the existing owner is liable for compliance and violations up to the transfer date and that the new owner is liable from the transfer date on.
9. In the event of any violation or threatened violation of the conditions of this certification, the violation or threatened violation shall 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.
10. In response to a suspected violation of any condition of this certification, the Regional Water Quality Control Board (RWQCB) may require the holder of any permit or license subject to this certification to furnish, under penalty of perjury, any technical or monitoring reports the RWQCB deems appropriate, provided that the burden, including costs, of the reports shall be a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
11. In response to any violation of the conditions of this certification, the RWQCB may add to or modify the conditions of this certification as appropriate to ensure compliance.

## **B. POST CONSTRUCTION STORM WATER MANAGEMENT**



1. All construction and post-construction Best Management Practices (BMPs) proposed in the application by Keith B. Rhodes Living Trust, for the Rhodes Crossing Project, shall be implemented and maintained by Keith B. Rhodes Living Trust, or the successor owners of the Rhodes Crossing.
2. Post-construction BMPs must be installed and functional prior to occupancy and/or planned use of project areas.
3. Keith B. Rhodes Living Trust, their designated party, or other parties that assume future transferred liability under this Certification, shall inspect and maintain post-construction structural BMPs per the manufacturers' specifications and/or engineering design specifications. An inspection and maintenance log shall be maintained for review by germane agencies. Copies of the inspection and maintenance log shall be provided to the Regional Board upon request.
4. On or before January 2, 2006, Keith B. Rhodes Living Trust or the successor owners of the Rhodes Crossing, shall submit a letter to the Regional Board and the City of San Diego describing where the post-construction inspection and maintenance log will be kept. Failure to maintain a post-construction inspection and maintenance log will be a violation of this Certification.

#### C. MITIGATION

1. Mitigation for the permanent impact to 0.03 acre of wetland and 0.19 acre (2,461 linear feet) of ephemeral streambed will be achieved at a 1:1 ratio, by creating 0.03 acre of wetlands and 0.19 acre of streambed. The mitigation is described in the McGonigle Canyon Final Wetland Mitigation Plan by Helix Environmental Planning and dated October 9, 2001. Mitigation was completed in 2002 and is currently surpassing its success criteria.
2. Within 90 days of the issuance of this certification, Keith B. Rhodes Living Trust, shall provide a draft preservation mechanism (e.g. deed restriction, conservation easement, etc.) that will protect all mitigation areas and their buffers in perpetuity. The conservation easement or other legal limitation on the mitigation property shall 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 U.S. that it supports. The conservation easement or other appropriate legal limitation shall 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, paved maintenance roads, and areas of maintained landscaping for recreation. The Keith B. Rhodes Living Trust, shall submit proof of a completed preservation mechanism within one year of issuance of this certification.

3. If at any time during the implementation and establishment of the mitigation area(s), and prior to verification of meeting success criteria, a catastrophic natural event (e.g., fire, flood) occurs and impacts the mitigation area, Keith B. Rhodes Living Trust, or their successors shall be responsible for the morphological repair and replanting of the damaged area(s).
4. Mitigation monitoring reports shall be submitted annually to the Regional Board until mitigation has been deemed successful. The final monitoring report shall be submitted no later than 30 days following the end of the monitoring period. Monitoring reports shall include, but not be limited to, the following:
  - a) Names, qualifications, and affiliations of the persons contributing to the report;
  - b) Tables presenting the raw data collected in the field as well as analyses of the physical and biological data;
  - c) Qualitative and quantitative comparisons of current mitigation conditions with pre-construction conditions and previous mitigation monitoring results;
  - d) Photodocumentation from established reference points;
  - e) Survey report documenting boundaries of mitigation area; and
  - f) Other items specified in the draft and final Wetland and Riparian Mitigation and Monitoring Plan.
5. For purposes of this certification, creation is defined as the creation of vegetated or unvegetated waters of the U.S. where they have never been documented or known to occur (e.g., conversion of nonnative grassland to freshwater marsh). Restoration is defined as the creation of waters of the U.S. where they previously occurred (e.g., removal of fill material to restore a drainage). Enhancement is defined as modifying existing waters of the U.S. to enhance functions and values (e.g., removal of exotic plant species from jurisdictional areas and replacing with native species).

#### **D. REPORTING**

1. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the Regional Board for failure to furnish requested information pursuant to CWC section 13268.
2. All applications, reports, or information submitted to the Regional Board shall 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."*

3. Keith B. Rhodes Living Trust, shall submit reports required under this certification, or other information required by the Regional Board, to:

Executive Officer  
California Regional Water Quality Control Board  
San Diego Region  
Attn: 401 Certification; File No. 04C-082  
9174 Sky Park Court, Suite 100  
San Diego, California 92123

**PUBLIC NOTIFICATION OF PROJECT APPLICATION:**

On March 8, 2004, receipt of the project application was posted on the SDRWQCB web site to serve as appropriate notification to the public.

**REGIONAL WATER QUALITY CONTROL BOARD CONTACT PERSON:**


Mike Porter  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123  
858-467-2726  
portm@rb9.swrcb.ca.gov

**WATER QUALITY CERTIFICATION:**

I hereby certify that the proposed discharge from the Rhodes Crossing Project (File No. 04C-082) 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 California Regional Water Quality Control Board, San Diego Region, Waiver of Waste Discharge Requirements (Waiver Policy) No. 17. Please note that this waiver is conditional and, should new information come to our attention that indicates a water quality problem, the regional Board may issue waste discharge requirements at that time.



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

  
\_\_\_\_\_  
John H. Robertus  
Executive Officer  
Regional Water Quality Control Board

1-6-2005  
Date

- Attachments:
1. Project Information
  2. Distribution List
  3. Location Map
  4. Site Map
  5. Mitigation Map

**ATTACHMENT 1  
PROJECT INFORMATION**

**Applicant:** Mr. Keith B. Rhodes, Keith B. Rhodes Living Trust  
4495 Point Loma Avenue  
San Diego, CA 92107  
Phone: 619-269-9094  
Facsimile: 619-269-9103  
E-mail: keithbrhodes@cox.net

**Applicant Representative:** Dr. Stephen Neudecker  
Helix Environmental Planning, Inc.  
8100 La Mesa Blvd., Suite 150  
La Mesa, CA 91941-6476  
Phone: 619-462-1515  
Facsimile: 619-462-0552  
E-mail: steven@helixepi.com

**Project Name:** Rhodes Crossing Project (File No. 04C-082)

**Project Location:** The Rhodes Crossing Project is located in central San Diego County, within northern City of San Diego, two miles west of I-15, at the terminus of Carmel Mountain Road, east of Deer Canyon and 3,000 feet north of the Los Penasquitos Canyon Preserve. The project is adjacent to the Rancho Penasquitos Community and Torrey Highlands Subarea Plans. The future extension of State Route 56 is currently being built across the northern portion of the subject site.

The center of the project is at latitude 33°57'00" north, longitude 117°10'00" west. Reference maps: Thomas Brothers page 1189, coordinates: B5; USGS 7.5 Minute Series, Del Mar quadrangle map.

**Type of Project:** Residential housing, self-storage, and commercial property development.

**Project Description:** The 147-acre proposed project is the development of 112 single-family residential lots, 624 multi-family residential units, self-storage units and commercial development. SR-56, Camino del Sur, and Carmel Mountain Road are not part of this project.

**Federal Agency/Permit:** U.S. Army Corps of Engineers – Terrence Dean, NWP 39

**Other Required Regulatory Approvals:** California Department of Fish and Game  
1603 Streambed Alteration Agreement

**California Environmental Quality Act (CEQA) Compliance:** City of San Diego, Final EIR for Rhodes Crossing, dated December 2, 2003; Project No. 3230; SCH No. 2002121089. Notice of Determination filed April 2, 2004.

Receiving Water: Deer Canyon Creek, which is tributary to the McGonigle Canyon Creek and an unnamed tributary to Los Penasquitos Canyon Creek, Penasquitos Hydrologic Unit, Miramar Reservoir hydrologic area (906.10).

Impacted Waters of the United States: The proposed project will permanently impact (fill) 0.03 acre of wetland and 0.19 acre (2461 linear feet of ephemeral streambed) of non-wetland waters of the U.S.

Dredge Volume: None

Related Projects Implemented/to be Implemented by the Applicant(s): None disclosed.

Avoidance/Minimization Measures: The proposed project avoided jurisdictional waters as much as possible.

Compensatory Mitigation: Proposed compensatory mitigation consists of the 1:1 creation of 0.04 acre of wetland and the creation of 0.19 acre of streambed. The mitigation site is near the Rhodes Crossing project in McGonigle Canyon. The McGonigle Canyon Mitigation Site was created two years ago to meet the compensatory mitigation needs of the following projects: Torrey Glen, Camino Ruiz (Greystone segment), Camino Ruiz North (Rhodes segment), Torrey Ranch Garden Communities, La Jolla Crossroads, and Rhodes Crossing. The mitigation is described in the McGonigle Canyon Final Wetland Mitigation Plan by Helix Environmental Planning and dated October 9, 2001.

According to Helix Environmental Planning, the McGonigle Canyon Mitigation Site was graded and planted two years ago and the site is surpassing its success criteria.

1:1 mitigation is acceptable on this project because the mitigation is creation and there will be no temporal loss of functions and values because Rhodes Crossing will not be constructed for two years.

Best Management Practices: During construction, this project will comply with the Best Management Practices (BMPs) stipulated in the State Water Resources Control Board Order No. 99-08-DWQ, the NPDES General Permit for Storm Water Discharges Associated with Construction Activity.

Post-construction BMPs will be implemented to comply with the Standard Urban Storm Water Mitigation Plan (SUSMP) requirements, San Diego Regional Water Quality Control Board Order No. 2001-01 (the San Diego Municipal Storm Water Permit). The post-construction BMPs are



described in the Water Quality Technical Report for Rhodes Crossing by Latitude 33 Planning and Engineering and dated June 9, 2003.

Specific examples of the planned post-construction BMPs include, but are not limited to:

- Nineteen (19) BioClean Inlet Filter Inserts;
- Four (4) Continuous Deflection Separator (CDS) units;
- One (1) vegetated swale
- One (1) in-line extended water quality and quantity detention basin;
- Roof runoff directed to pervious landscaped areas;
- Slopes planted with native vegetation;
- Trash storage areas designed to reduce rainfall runoff;
- Efficient landscape irrigation and integrated pest management;
- Storm water quality education program for owners; and
- Stenciling or curb markings of MS4 inlets.

Public Notice:

July 27, 2004 on the Regional Board internet website

Fees:

Total Due: \$12,815.00

Total Paid: \$500.00 [check No. 1287];

\$12,315.00 [check No. 1317]

**ATTACHMENT 2  
DISTRIBUTION LIST**

Mr. Terrence Dean  
U.S. Army Corps of Engineers  
Regulatory Branch  
16885 W. Bernardo Dr., Suite 300 A  
San Diego, CA 92127  
(858) 674-5388 (fax)

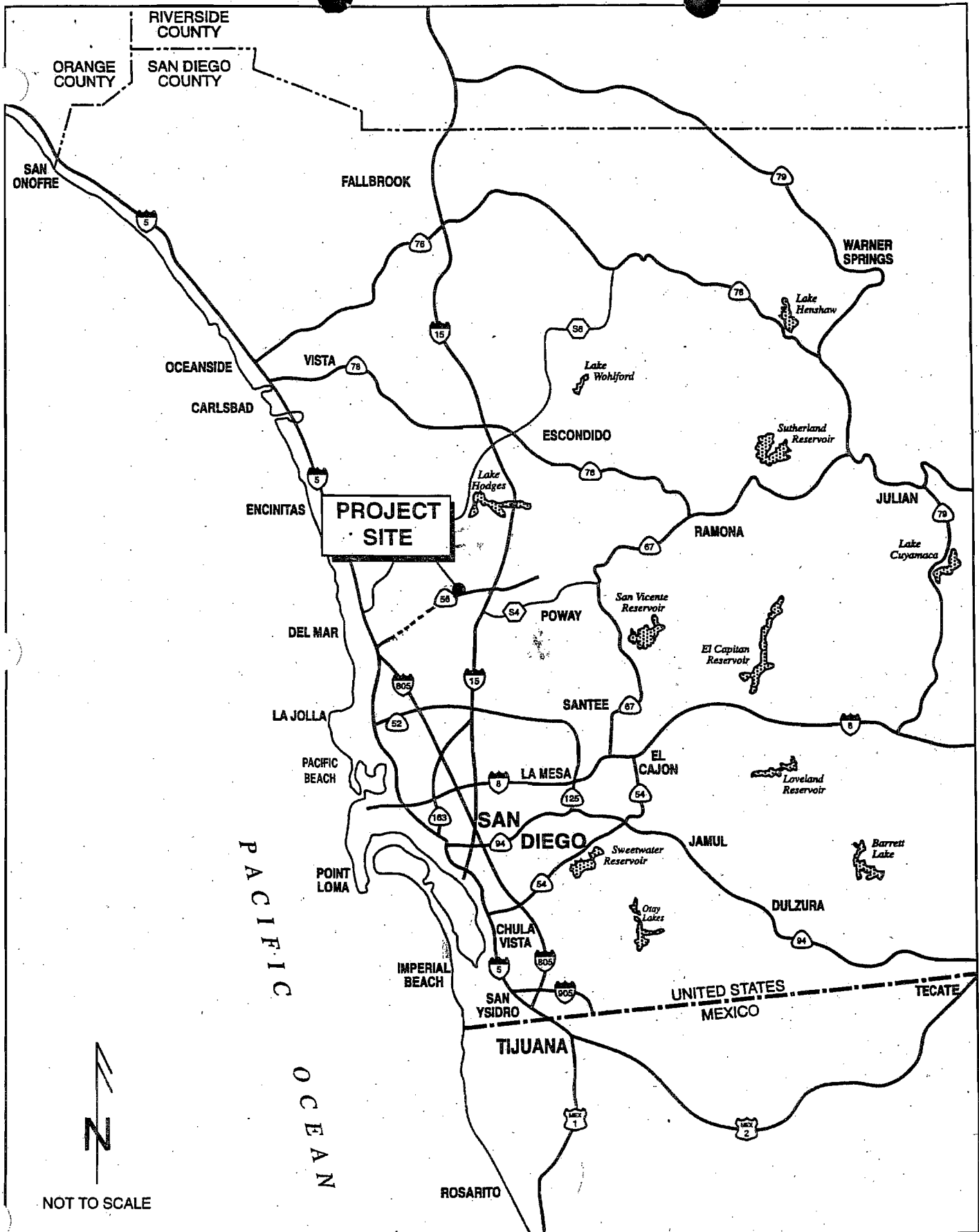
Dr. Stephen Neudecker  
HELIX Environmental Planning  
8100 La Mesa Blvd, Suite 150  
La Mesa, CA 91941

State Water Resources Control Board  
Division of Water Quality

Attachment 3

File No. 04C-082

**ATTACHMENT 3  
LOCATION MAP**

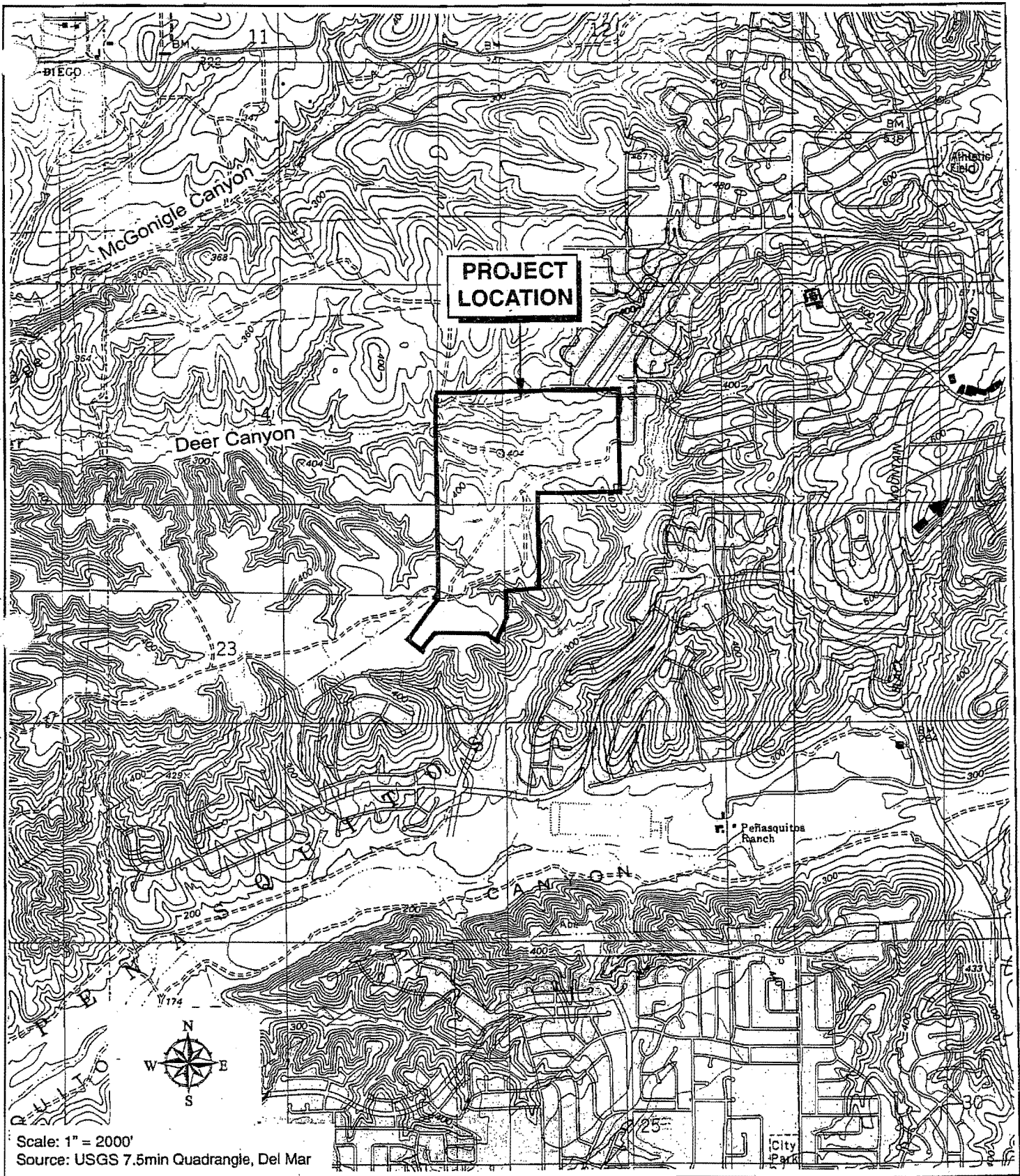


**Regional Location Map**

RHODES CROSSING

Figure 1

**HELIX**



**Project Vicinity Map**  
RHODES CROSSING  
Figure 2



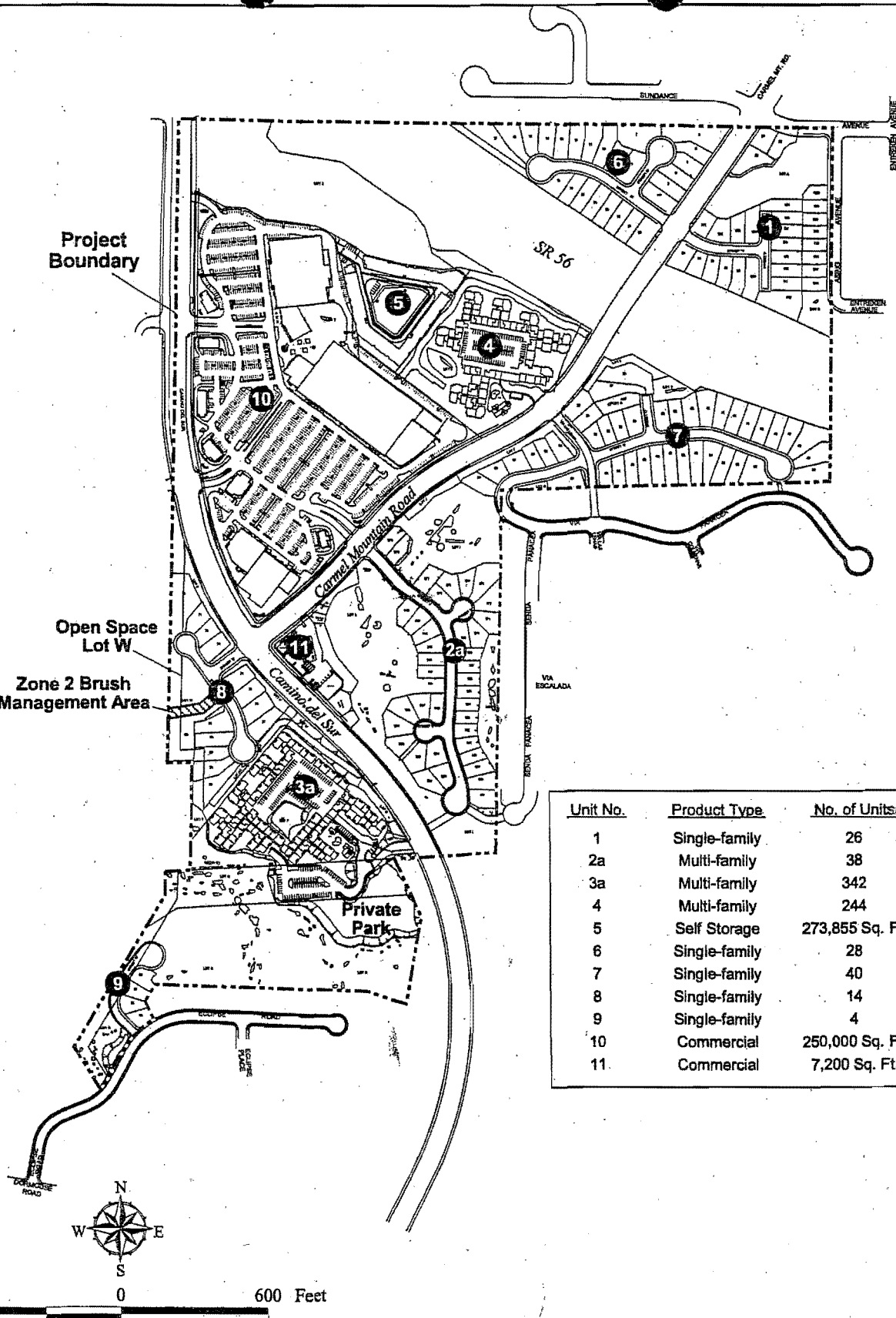
Attachment 4

File No. 04C-082

**ATTACHMENT 4  
SITE MAP**

Project Boundary

Open Space Lot W  
Zone 2 Brush Management Area



Unit No.	Product Type	No. of Units
1	Single-family	26
2a	Multi-family	38
3a	Multi-family	342
4	Multi-family	244
5	Self Storage	273,855 Sq. Ft.
6	Single-family	28
7	Single-family	40
8	Single-family	14
9	Single-family	4
10	Commercial	250,000 Sq. Ft.
11	Commercial	7,200 Sq. Ft.



600 0 600 Feet

Source: Latitude 33 Planning and Engineering

Job No: RHO-01 Date: 06/18/04-JP

IGIS\SR\RHO-01 Rhodes\Draw\rho-01.apr\ACOE Permit - Site Plan

# Site Plan

RHODES CROSSING HMP

Figure 3



**LEGEND**

**Wetland Habitats**

- SWS Southern willow scrub
- FMW Freshwater marsh
- MFS Mule fat scrub

**Jurisdictional Areas/Impacts (Acres)**

- ACOE Wetlands (0.02)
- CDFG Wetlands (0.03)

Note: CDFG jurisdictional areas include all jurisdictional areas.

**ACOE Non-wetland Waters of the U.S./CDDI**

- Intermittent (0.02)
- Ephemeral (0.09)
- Open water (0.08)

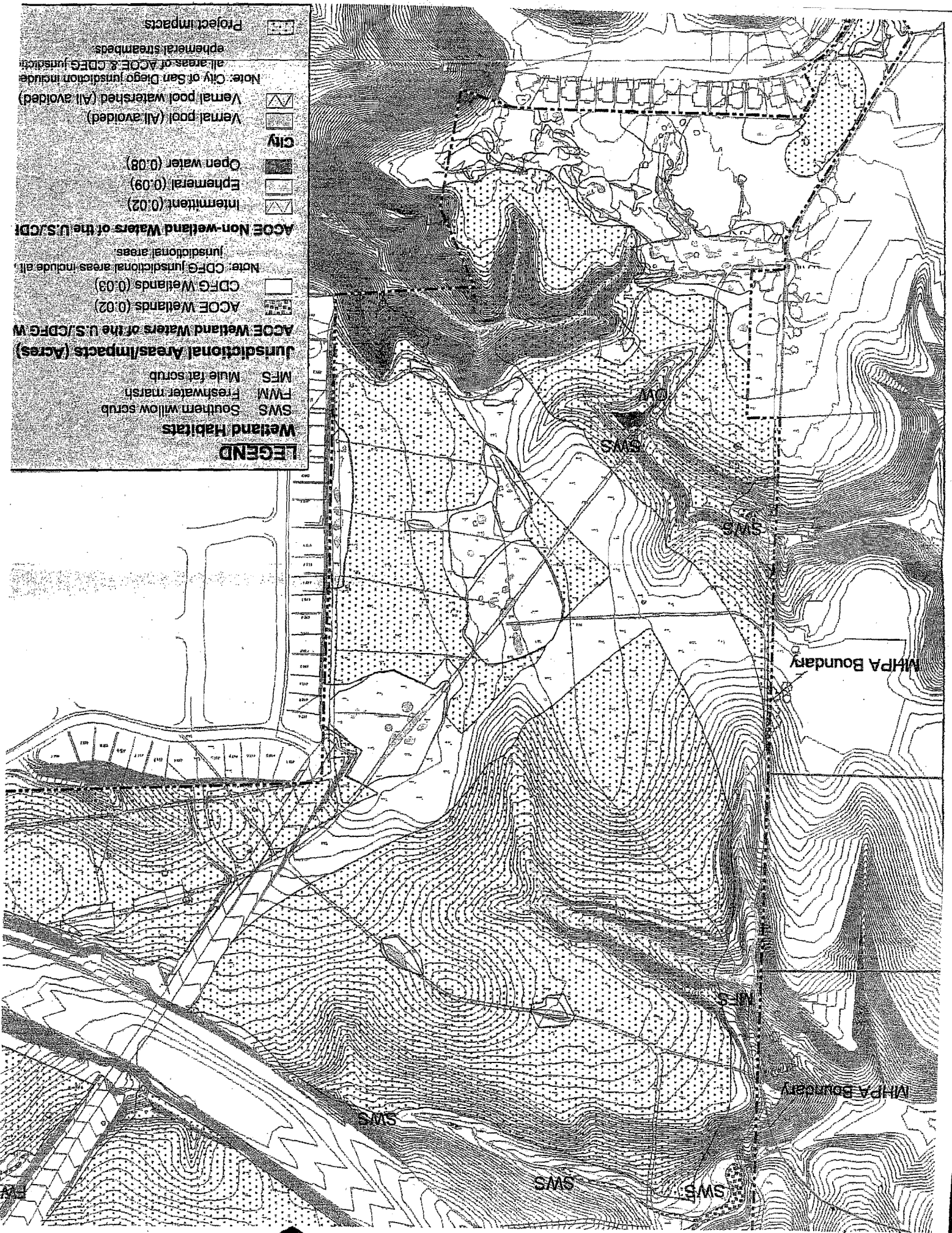
**City**

- Vernal pool (All avoided)
- Vernal pool watershed (All avoided)

Note: City of San Diego jurisdiction includes all areas of ACOE & CDFG jurisdictional areas.

**Project Impacts**

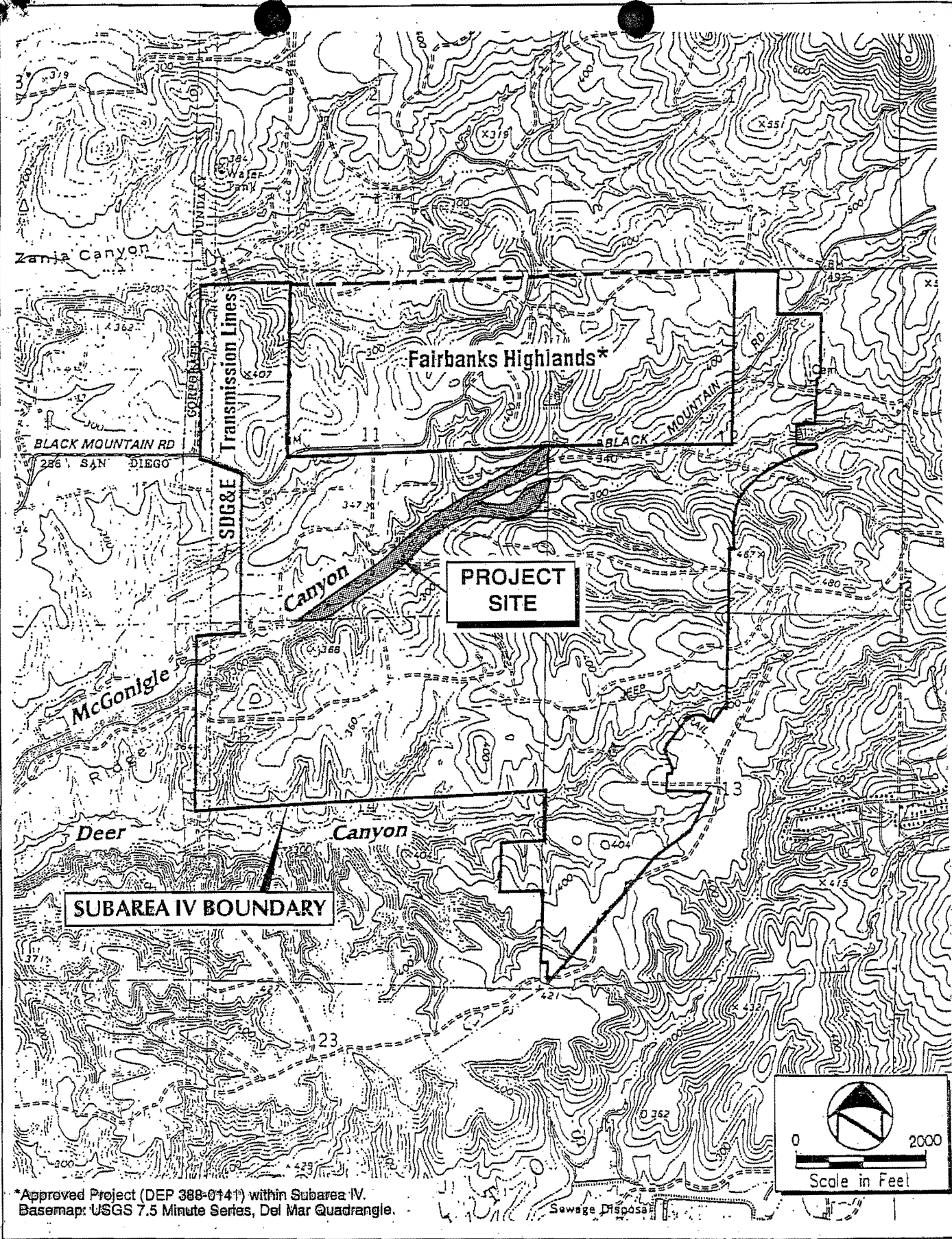
- ephemeral streambeds



Attachment 5

File No. 04C-082

**ATTACHMENT 5  
MITIGATION MAP**



\*Approved Project (DEP 388-0141) within Subarea IV.  
 Basemap: USGS 7.5 Minute Series, Del Mar Quadrangle.








### Project Vicinity Map

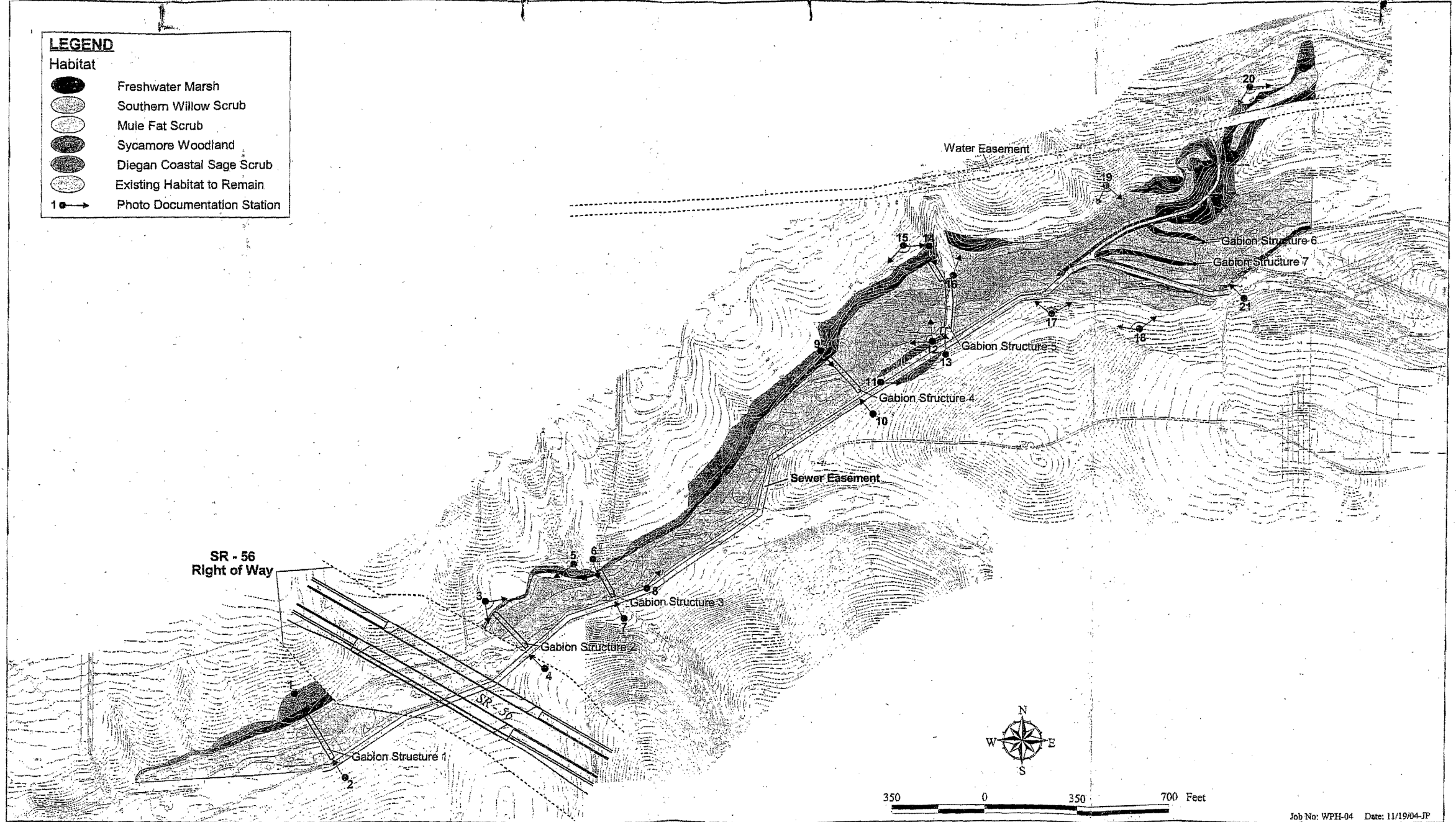
McGONIGLE CANYON MITIGATION SITE  
 Figure 2



**LEGEND**

Habitat

-  Freshwater Marsh
-  Southern Willow Scrub
-  Mule Fat Scrub
-  Sycamore Woodland
-  Diegan Coastal Sage Scrub
-  Existing Habitat to Remain
-  Photo Documentation Station



HGIS\WPH-01\McGonigle\Drawings\61.apr\Photo Key Map\Restoration As-Built

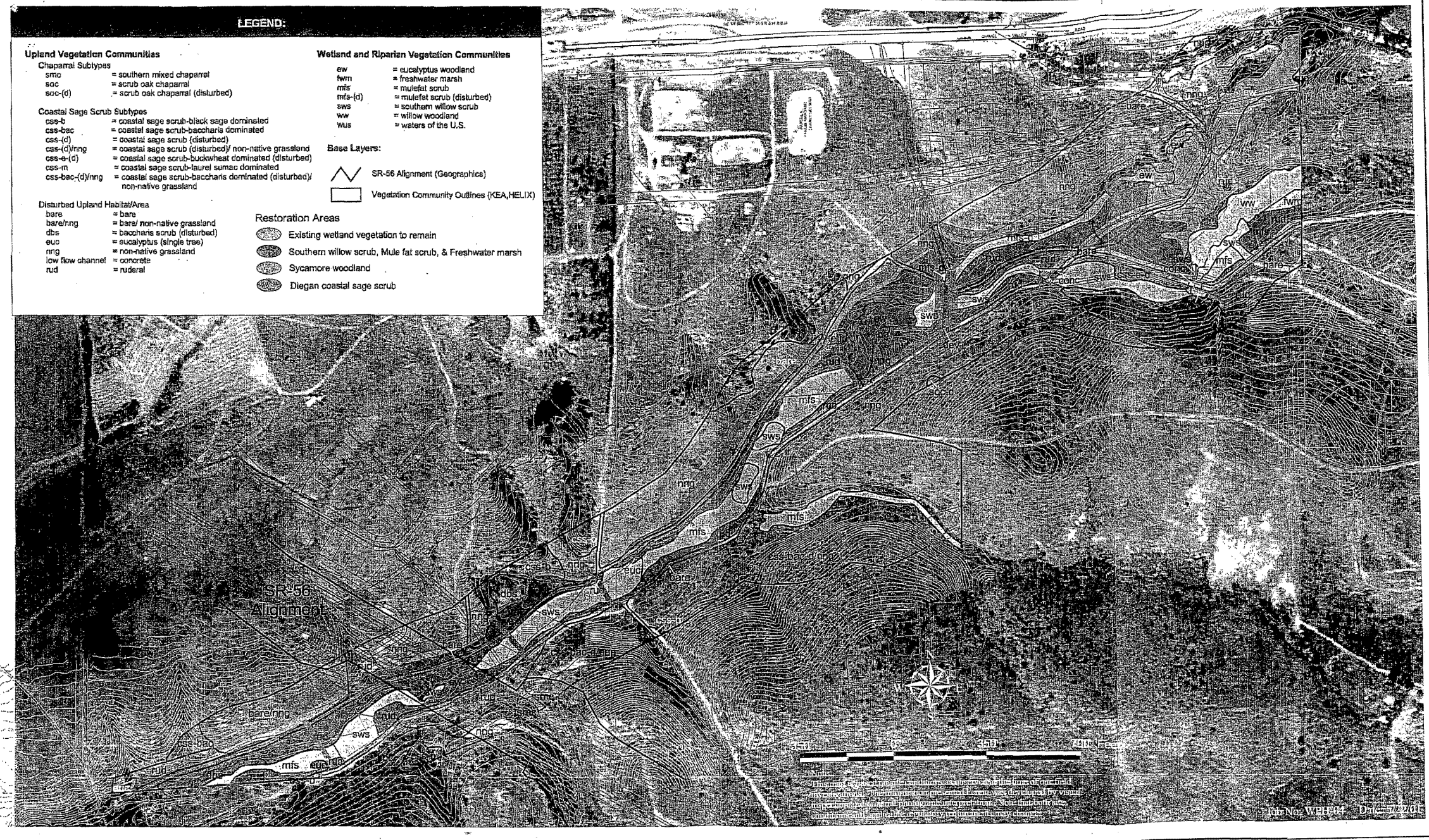
Job No: WPH-04 Date: 11/19/04-JP

**Restoration Vegetation As-Built**

MCGONIGLE CANYON

**HELIX**

Figure 3



**LEGEND:**

**Upland Vegetation Communities**

- Chaparral Subtypes**  
 smc = southern mixed chaparral  
 soc = scrub oak chaparral  
 soc-(d) = scrub oak chaparral (disturbed)

- Coastal Sage Scrub Subtypes**  
 css-b = coastal sage scrub-black sage dominated  
 css-bac = coastal sage scrub-baccharis dominated  
 css-(d) = coastal sage scrub (disturbed)  
 css-(d)/rng = coastal sage scrub (disturbed)/ non-native grassland  
 css-e-(d) = coastal sage scrub-buckwheat dominated (disturbed)  
 css-m = coastal sage scrub-laurel sumac dominated  
 css-bac-(d)/rng = coastal sage scrub-baccharis dominated (disturbed)/ non-native grassland

- Disturbed Upland Habitat/Area**  
 bare = bare  
 bare/rng = bare/ non-native grassland  
 dbs = baccharis scrub (disturbed)  
 euc = eucalyptus (single trees)  
 rng = non-native grassland  
 low flow channel = concrete  
 rud = ruderal

**Wetland and Riparian Vegetation Communities**

- ew = eucalyptus woodland  
 fwm = freshwater marsh  
 mis = mulefat scrub  
 mis-(d) = mulefat scrub (disturbed)  
 sws = southern willow scrub  
 ww = willow woodland  
 wus = waters of the U.S.

**Base Layers:**

- SR-56 Alignment (Geographics)  
 Vegetation Community Outlines (KEA, HELIX)

**Restoration Areas**

- Existing wetland vegetation to remain  
 Southern willow scrub, Mule fat scrub, & Freshwater marsh  
 Sycamore woodland  
 Diegan coastal sage scrub

**McGonigle Canyon Restoration Plan**

McGONIGLE CANYON

Figure 4