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## Central Valley Regional Water Quality Control Board

21 December 2012

Robert Brosamer  
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CERTIFIED MAIL  
7011 2970 0003 8939 6168

***CLEAN WATER ACT §401 TECHNICALLY CONDITIONED WATER QUALITY  
CERTIFICATION; BROSAMER & WALL, LLC, EXTENSION OF STORM DRAIN PIPE  
PROJECT (WDID#5B07CR00135), CONTRA COSTA COUNTY***

This Order responds to your 20 August 2012 application submittal for the Water Quality Certification of a storm drain pipe extension project permanently impacting 0.2 acre/653 linear feet of waters of the United States.

This Order serves as certification of the United States Army Corps of Engineers' Individual Permit (SPK# 2005-01115) under § 401 of the Clean Water Act, and a Waste Discharge Requirement under the Porter-Cologne Water Quality Control Act.

### **WATER QUALITY CERTIFICATION STANDARD CONDITIONS:**

1. This Order serves as a Water Quality Certification (Certification) action that is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to § 13330 of the California Water Code and § 3867 of the California Code of Regulations.
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 § 3855(b) of the California Code of Regulations, 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 shall be conditioned upon total payment of the full fee required under § 3833 of the California Code of Regulations, unless otherwise stated in writing by the certifying agency.
4. This Certification is valid for the duration of the described project. This Certification is no longer valid if the project (as currently described) is modified, or coverage under § 404 of the Clean Water Act has expired.

5. All reports, notices, or other documents required by this Certification or requested by the Central Valley Regional Water Quality Control Board (Central Valley Water Board) shall be signed by a person described below or by a duly authorized representative of that person.
  - (a) For a corporation: by a responsible corporate officer such as (1) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function; (2) any other person who performs similar policy or decision-making functions for the corporation; or (3) the manager of one or more manufacturing, production, or operating facilities if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (b) For a partnership or sole proprietorship: by a general partner or the proprietor.
  - (c) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

6. Any person signing a document under Standard Condition number 5 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

#### **TECHNICAL CERTIFICATION CONDITIONS:**

In addition to the above standard conditions, Brosamer & Wall, LLC shall satisfy the following:

1. Brosamer & Wall, LLC shall notify the Central Valley Water Board in writing 7 days in advance of the start of any work within waters of the United States. The notification shall include the name of the project and the WDID number, and shall be sent to the Central Valley Water Board Contact indicated in this Certification.
2. Except for activities permitted by the United States Army Corps of Engineers under § 404 of the Clean Water Act, soil, silt, or other organic materials shall not be placed where such materials could pass into surface water or surface water drainage courses.
3. Brosamer & Wall, LLC shall maintain a copy of this Certification and supporting documentation (Project Information Sheet) at the Project site during construction for review by site personnel and agencies. All personnel (employees, contractors, and subcontractors) performing work on the proposed project shall be adequately informed and trained regarding the conditions of this Certification.

4. Brosamer & Wall, LLC shall perform surface water sampling: 1) when performing any in-water work; 2) in the event that project activities result in any materials reaching surface waters; or 3) when any activities result in the creation of a visible plume in surface waters. The monitoring requirements in Table 1 shall be conducted upstream out of the influence of the project, and 300 feet downstream of the work area. The sampling frequency may be modified for certain projects with written approval from Central Valley Water Board staff.

**Table 1:**

Parameter	Unit	Type of Sample	Minimum Sampling Frequency	Required Analytical Test Method
Turbidity	NTU	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)
Settleable Material	mL/L	Grab <sup>(1)</sup>	Every 4 hours during in-water work	(2)
Visible construction related pollutants <sup>(3)</sup>	Observations	Visual Inspections	Continuous throughout the construction period	—

<sup>(1)</sup> Grab sample shall not be collected at the same time each day to get a complete representation of variations in the receiving water.

<sup>(2)</sup> Pollutants shall be analyzed using the analytical methods described in 40 Code of Federal Regulations Part 136; where no methods are specified for a given pollutant, method shall be approved by Central Valley Water Board staff.

<sup>(3)</sup> Visible construction-related pollutants include oil, grease, foam, fuel, petroleum products, and construction-related, excavated, organic or earthen materials.

A surface water monitoring report shall be submitted to the Central Valley Water Board Contact indicated in this Certification within two weeks of initiation of sampling and every two weeks thereafter. In reporting the monitoring data, Brosamer & Wall, LLC shall arrange the data in tabular form so that the sampling locations, date, constituents, and concentrations are readily discernible. The data shall be summarized in such a manner to illustrate clearly whether the project complies with Certification requirements. The report shall include surface water sampling results, visual observations, and identification of the turbidity increase in the receiving water applicable to the natural turbidity conditions specified in the turbidity criteria below.

5. The Central Valley Water Board adopted a *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011 (Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. Turbidity and settleable matter limits are based on water quality objectives contained in the Basin Plan and are part of this Certification as follows:

A. Activities shall not cause turbidity increases in surface water to exceed:

- i. where natural turbidity is less than 1 Nephelometric Turbidity Units (NTUs), controllable factors shall not cause downstream turbidity to exceed 2 NTUs;
- ii. where natural turbidity is between 1 and 5 NTUs, increases shall not exceed 1 NTU;
- iii. where natural turbidity is between 5 and 50 NTUs, increases shall not exceed 20 percent;
- iv. where natural turbidity is between 50 and 100 NTUs, increases shall not exceed 10 NTUs; and
- v. where natural turbidity is greater than 100 NTUs, increases shall not exceed 10 percent.

Except that these limits will be eased during in-water working periods to allow a turbidity increase of 15 NTUs over background turbidity. In determining compliance with the above limits, appropriate averaging periods may be applied provided that beneficial uses will be fully protected. Averaging periods may only be used with prior approval of the Central Valley Water Board staff.

B. Activities shall not cause settleable matter to exceed 0.1 mL/L in surface waters as measured in surface waters within 300 feet downstream of the project.

6. Brosamer & Wall, LLC shall notify the Central Valley Water Board immediately if the above criteria for turbidity, settleable matter, or other water quality objectives are exceeded.
7. The discharge of petroleum products or other excavated materials to surface water is prohibited. Activities shall not cause visible oil, grease, or foam in the receiving water. Brosamer & Wall, LLC shall notify the Central Valley Water Board immediately of any spill of petroleum products or other organic or earthen materials.
8. Brosamer & Wall, LLC shall comply with all California Department of Fish and Game requirements, including but not limited to those requirements described in Lake or Streambed Alteration Agreement No. 1600-2012-0315-R3.
9. Brosamer & Wall, LLC shall comply with all United States Fish and Wildlife Service requirements, including but not limited to those requirements described in the Biological Opinion or Letter of Concurrence provided to United States Army Corps of Engineers.
10. The use of netting material (e.g., monofilament-based erosion blankets) that could trap aquatic dependent wildlife is prohibited within the project area, as indicated in the attached map (Figure 1).
11. All temporarily affected areas will be restored to pre-construction contours and conditions upon completion of construction activities.
12. All areas disturbed by project activities shall be protected from washout or erosion.
13. In-stream work will occur during periods of low flow and no precipitation.

14. This Certification does not allow permanent water diversion of flow from the receiving water. This Certification is invalid if any water is permanently diverted as a part of the project.
15. Refueling of equipment within the floodplain or within 300 feet of the waterway is prohibited. If critical equipment must be refueled within 300 feet of the waterway, spill prevention and countermeasures must be implemented to avoid spills. Refueling areas shall be provided with secondary containment including drip pans and/or placement of absorbent material. No hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, or other construction-related potentially hazardous substances should be stored within a floodplain or within 300 feet of a waterway. Brosamer & Wall, LLC must perform frequent inspections of construction equipment prior to utilizing it near surface waters to ensure leaks from the equipment are not occurring and are not a threat to water quality.
16. Brosamer & Wall, LLC shall develop and maintain onsite a project-specific Spill Prevention, Containment and Cleanup Plan outlining the practices to prevent, minimize, and/or clean up potential spills during construction of the project. The Plan must detail the project elements, construction equipment types and location, access and staging and construction sequence. The Plan must also address the potential of responding to a spill or prevention of spills occurring within the project site.
17. If temporary surface water diversions and/or dewatering are anticipated, Brosamer & Wall, LLC shall develop and maintain on-site a Surface Water Diversion and/or Dewatering Plan(s). The Plan(s) shall include the proposed method and duration of diversion activities. The Surface Water Diversion and/or Dewatering Plan(s) must be consistent with this Certification.
18. When work in a flowing stream is unavoidable and any dam or other artificial obstruction is being constructed, maintained, or placed in operation, sufficient water shall at all times be allowed to pass downstream, to maintain beneficial uses of waters of the State below the dam. Construction, dewatering, and removal of temporary cofferdams shall not violate Technical Certification Condition 5 of this Certification.
19. Any temporary dam or other artificial obstruction constructed shall only be built from clean materials such as sandbags, gravel bags, water dams, or clean/washed gravel which will cause little or no siltation. Stream flow shall be temporarily diverted using gravity flow through temporary culverts/pipes or pumped around the work site with the use of hoses.
20. During construction, silt fencing, straw wattles, or other effective management practices must be used along the construction zone to minimize soil or sediment along the embankments from migrating into the waters of the United States.
21. All materials resulting from the project shall be removed from the site and disposed of properly.

22. If unanticipated discharges to the waters of the United States and/or soil occur, Brosamer & Wall, LLC shall notify the Central Valley Water Board Contact indicated in this Certification in writing within 5 calendar days of occurrence. Unanticipated discharges may include, but are not limited to, any construction materials, hazardous materials, pesticides, fuels, lubricants, oils, hydraulic fluids, raw cement, concrete, asphalt, paint, coating material, drilling fluids, or other construction-related potentially hazardous substances.
23. Brosamer & Wall, LLC shall obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ for discharges to surface waters comprised of storm water associated with construction activity, including, but not limited to, demolition, clearing, grading, excavation, and other land disturbance activities of one or more acres, or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres.
24. The Conditions in this Certification are based on the information in the attached "Project Information Sheet." If the actual project, as described in the attached Project Information Sheet, is modified or changed, this Certification is no longer valid until amended by the Central Valley Water Board.
25. Brosamer & Wall, LLC shall implement each of the mitigation measures specified in the approved Environmental Impact Report for the project, as they pertain to biology, hydrology and water quality impacts as required by § 21081.6 of the Public Resource Code and CEQA Guidelines, § 15097 of the California Code of Regulations.
26. 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 and federal law. The applicability of any state law authorizing remedies, penalties, process, or sanctions for the violation or threatened violation constitutes a limitation necessary to ensure compliance with this Certification.
  - (a) If Brosamer & Wall, LLC or a duly authorized representative of the project fails or refuses to furnish technical or monitoring reports, as required under this Certification, or falsifies any information provided in the monitoring reports, the applicant is subject to civil liability, for each day of violation, and/or criminal liability.
  - (b) In response to a suspected violation of any condition of this Certification, the Central Valley Water Board may require Brosamer & Wall, LLC to furnish, under penalty of perjury, any technical or monitoring reports the Central Valley Water Board deems appropriate, provided that the burden, including cost of the reports, shall be in reasonable relationship to the need for the reports and the benefits to be obtained from the reports.
  - (c) Brosamer & Wall, LLC shall allow the staff(s) of the Central Valley Water Board, or an authorized representative(s), upon the presentation of credentials and other documents, as may be required by law, to enter the project premises for inspection, including taking photographs and securing copies of project-related records, for the purpose of assuring compliance with this Certification and determining the ecological success of the project.

27. Brosamer & Wall, LLC shall provide a Notice of Completion (NOC) no later than 30 days after the project completion. The NOC shall demonstrate that the project has been carried out in accordance with the project's description in the Certification and in any amendments approved. The NOC shall include a map of the project location(s), including final boundaries of any on-site restoration area(s), if appropriate, and representative pre and post construction photographs. Each photograph shall include a descriptive title, date taken, photographic site, and photographic orientation.
28. Brosamer & Wall, LLC shall provide evidence of all on-site and off-site compensatory mitigation requirements, including, but not limited to, the recordation of a perpetual conservation easement grant as required by the United States Army Corps of Engineers at least 30 days prior to commencing construction to the Central Valley Water Board.

Compensatory mitigation must comply with the effective policy at the time of Certification, which ensures no overall net loss of wetlands for impacts to waters of the State.

The recorded executed conservation easement shall be consistent with §§ 815-816 of the California Civil Code.

Evidence of compliance with compensatory mitigation requirements include providing a recorded executed perpetual conservation easement grant with Contra Costa County as proposed in the 401 Water Quality Certification application and a letter from the approved conservancy. The letter must: (a) be on the conservancy's letterhead; (b) be signed by an authorized representative of the conservancy; (c) indicate the United States Army Corps of Engineers' SPK number; (d) describe the project name and location; and (e) detail the type of conservation easement for the project's impacts.

**CENTRAL VALLEY WATER BOARD CONTACT:**

Trevor Cleak, Environmental Scientist  
11020 Sun Center Drive #200  
Rancho Cordova, CA 95670-8114  
tcleak@waterboards.ca.gov  
(916) 464-4684

**CALIFORNIA ENVIRONMENTAL QUALITY ACT:**

The City of Antioch is the Lead Agency responsible for compliance with the California Environmental Quality Act for the Extension of Storm Drain Pipe Project pursuant to § 21000 et seq. of the Public Resources Code. The City of Antioch certified an Environmental Impact Report on 21 January 2009 (State Clearinghouse Number 2008052128). The City of Antioch filed a Notice of Determination with the State Clearinghouse on 21 April 2009.

The Central Valley Water Board is a responsible agency for the project. The Central Valley Water Board has determined that the Environmental Impact Report is in accordance with the requirements of the California Environmental Quality Act and is valid pursuant § 21167.3(b) of the Public Resources Code.

The Central Valley Water Board has reviewed and evaluated the significant impacts to water quality identified in the Environmental Impact Report. The various mitigation measures discussed in the Environmental Impact Report to reduce and minimize project impacts are required by this Certification.

With regard to the remaining significant impacts identified in the Environmental Impact Report the corresponding mitigation measures proposed are within the responsibility and jurisdiction of other public agencies.

**WATER QUALITY CERTIFICATION:**

I hereby issue an Order certifying that any discharge from the Brosamer & Wall, LLC, Extension of Storm Drain Pipe Project (WDID#5B07CR00135) will comply with the applicable provisions of § 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 Resources Control Board Water Quality Order No. 2003-0017 DWQ "Statewide General Waste Discharge Requirements For Dredged Or Fill Discharges That Have Received State Water Quality Certification (General WDRs)".

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 compliance with the conditions of this Certification, Brosamer & Wall, LLC's application package, and the attached Project Information Sheet, and (b) compliance with all applicable requirements of the *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011.

*Original signed by Kenneth D. Landau for*

Pamela C. Creedon  
Executive Officer

Enclosure: Project Information

Attachment: Figure 1 – Project Location Map

cc: Distribution List, page 13

## PROJECT INFORMATION SHEET

**Application Date:** 20 August 2012

**Applicant:** Robert Brosamer  
Brosamer & Wall, LLC  
1777 Oakland Road, Suite 100  
Walnut Creek, CA 94596

**Applicant Representatives:** Randall Long  
RCL Ecology  
329 Mt. Palomar Place  
Clayton, CA 94517

**Project Name:** Extension of Storm Drain Pipe Project

**Application Number:** WDID#5B07CR00135

**Type of Project:** Storm drain pipe extension project

**Timeframe of Project Implementation:** October 2012 through October 2014

**Project Location:** Section 28, Township 2 North, Range 2 East, MDB&M.  
Latitude: 37°59'35"N and Longitude: 121°45'46" W

**County:** Contra Costa County

**Receiving Water(s) (hydrologic unit):** East Antioch Creek, San Joaquin Hydrologic Basin,  
North Diablo Range Hydrologic Unit #543.00

**Water Body Type:** Wetland

**Designated Beneficial Uses:** The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins*, Fourth Edition, revised October 2011 (Basin Plan) has designated beneficial uses for surface and ground waters within the region. Beneficial uses that could be impacted by the project include, but are not limited to: Municipal and Domestic Water Supply (MUN); Agricultural Supply (AGR); Industrial Supply (IND); Hydropower Generation (POW); Groundwater Recharge (GWR); Water Contact Recreation (REC-1); Non-Contact Water Recreation (REC-2); Warm Freshwater Habitat (WARM); Cold Freshwater Habitat (COLD); Preservation of Biological Habitats of Special Significance (BIOL); Rare, Threatened, or Endangered Species (RARE); Migration of Aquatic Organisms (MIGR); Spawning, Reproduction, and/or Early Development (SPWN); and Wildlife Habitat (WILD). A comprehensive and specific list of the Beneficial Uses applicable for the project area can be found at [http://www.waterboards.ca.gov/centralvalley/water\\_issues/basin\\_plans/index.shtml](http://www.waterboards.ca.gov/centralvalley/water_issues/basin_plans/index.shtml).

**303(d) List of Water Quality Limited Segments:** East Antioch Creek, a tributary to the western portion of the Legal Delta is the receiving water for the Extension of Storm Drain Pipe Project.

The western portion of the Legal Delta is listed on the 303(d) list for chlorpyrifos, DDT, diazinon, electrical conductivity, group A pesticides, invasive species, mercury, and unknown toxicity. This project does not impact an already impaired water body. The most recent list of approved water quality limited segments can be found at:  
[http://www.waterboards.ca.gov/water\\_issues/programs/tmdl/integrated2010.shtml](http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2010.shtml).

**Project Description:** The 370-acre Extension of Storm Drain Pipe Project consists of building a mixed-use commercial development in Antioch. The project is located between Highway 4 to the south and Oakley Road to the north in Contra Costa County.

In-water work for the development will include extending an existing 60-inch pre-cast concrete culvert 720 feet. The existing drainage discharges from a culvert under Highway 4 and flows north to a wetland swale. Approximately 653 feet of the drainage extension will impact waters of the United States. The extension of the pipe will require grading an adjacent knoll, constructing a building pad, and filling approximately 0.2 acre of a wetland. The extension will also require the construction of a temporary access road adjacent to the drainage and dewatering with a coffer dam and hose system to pipe water around the work area. A staging area will be constructed in the upland. No wet concrete will be placed into waters of the United States.

The project will include the construction of approximately 2,500 residential units, 57 acres of commercial development, and a transit village. Construction of these will not impact waters of the United States.

The project will permanently impact 0.2 acre/653 linear feet of waters of the United States.

**Preliminary Water Quality Concerns:** Construction activities may impact surface waters with increased turbidity and settleable matter.

**Proposed Mitigation to Address Concerns:** Brosamer & Wall, LLC will implement Best Management Practices to control sedimentation and erosion. All temporary affected areas will be restored to pre-construction contours and conditions upon completion of construction activities. Brosamer & Wall, LLC will conduct turbidity and settleable matter testing during in-water work, stopping work if Basin Plan criteria are exceeded or are observed.

**Excavation/Fill Area:** Approximately 288 cubic yards of gravel and soil will be placed into 0.2 acre of waters of the United States.

**Dredge Volume:** None

**United States Army Corps of Engineers File Number:** SPK #2005-01115

**United States Army Corps of Engineers Permit Type:** Individual Permit

**California Department of Fish and Game Lake or Streambed Alteration Agreement:**  
1600-2012-0315-R3

**Possible Listed Species:** Burrowing owl, Great horned owl, Red-tailed hawk, Northern harrier, Saltmarsh common yellowthroat, Loggerhead shrike, Valley elderberry longhorn beetle, White-tailed kite, California tiger salamander, California red-legged frog, Western pond turtle, Silvery legless lizard, Alameda whipsnake, Pallid bad, Townsend's big-eared bat, western red bat, hoary bat, Long-eared myotis, Fringed myotis, Long-legged myotis, and Yuma myotis.

**Status of CEQA Compliance:** The City of Antioch certified an Environmental Impact Report on 21 January 2009. The City of Antioch filed a Notice of Determination with the State Clearinghouse on 21 April 2009 (State Clearinghouse Number 2008052128).

The Central Valley Water Board filed a Notice of Determination with the State Clearinghouse as a responsible agency within 5 days of the date of this Certification.

**Compensatory Mitigation:** As required by the United States Army Corps of Engineers, Brosamer & Wall, LLC will record a perpetual conservation easement grant for 0.4 acre of wetland habitat to mitigate for 0.2 acre of impacts to waters of the United States.

Evidence of this recorded perpetual conservation easement shall be provided to the Central Valley Water Board prior to proceeding with the activity authorized by this permit.

**Application Fee Provided:** Total fees of \$1,675.00 have been submitted to the Central Valley Water Board as required by § 3833(b)(3)(A) and § 2200(a)(3) of the California Code of Regulations.

## DISTRIBUTION LIST

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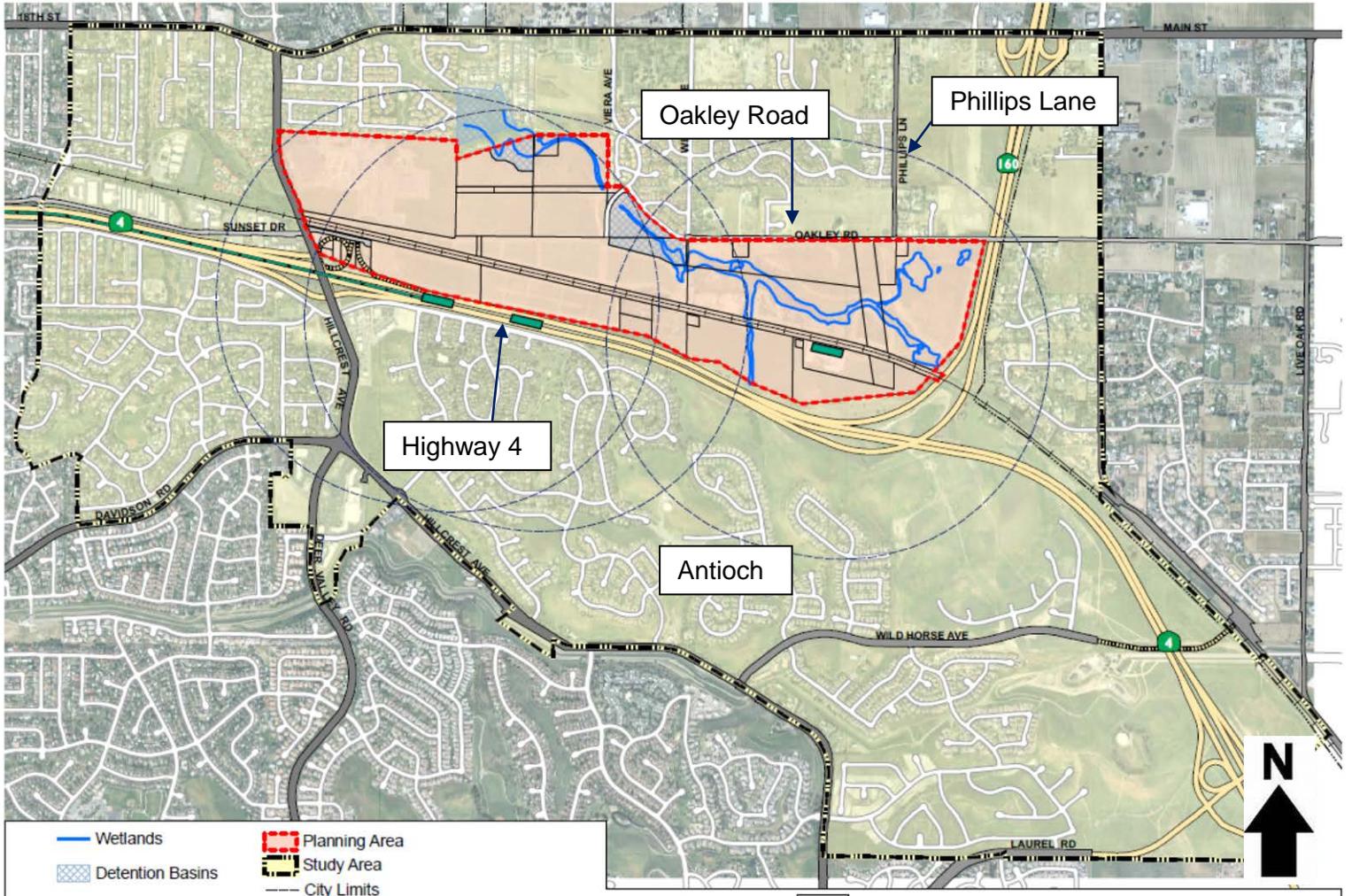


Figure 1 – Project Location Map