



Lahontan Regional Water Quality Control Board

TO: Water Board Advisory Team and the California Department of Transportation, District 8 (Caltrans)

- **FROM:** Lauri Kemper ^U Assistant Executive Officer **DATE:** June 6, 2016
- SUBJECT: RESPONSE TO THE WATER BOARD ADVISORY TEAM'S MAY 24, 2016 EMAIL REQUESTING ADDITIONAL INFORMATION REGARDING THE REVISED DRAFT SHEEP CREEK CLEANUP AND ABATEMENT ORDER

On June 2, 2016, the State Water Resources Control Board (State Water Board) issued Caltrans a Notice of Applicability of Water Quality Order 2004-0004-DWQ General Waste Discharge Requirements (General WDRs) for the State Route – 138 Widening Project. In light of this development, the California Regional Water Quality Control Board, Lahontan Regional (Water Board) Prosecution Team intends to recommend changes to the revised draft Cleanup and Abatement Order (CAO) as some of the requirements of the revised draft CAO are now moot or covered by the General WDRs. For example, the "Sheep Creek Abutment and Creek Restoration Project" is now covered by the General WDRs and some of the items listed under "Information Required for Completion of Individual Waste Discharge Requirements" are no longer necessary or have already been provided to the State Water Board.

The Water Board Prosecution Team believes a CAO is still necessary given that the General WDRs permit Caltrans' project activities on a going-forward basis but do not address past impacts to Sheep Creek nor Drainage Systems 1, 2, 3, 4, and 6 for unauthorized activities that caused or permitted waste to be discharged to waters of the state.

The Water Board Prosecution Team provides the following responses to the Water Board Advisory Team's May 24, 2016 email:

1) What sort of communications have the parties had since the responses to comments and revised proposed CAO were issued on April 8, 2016? Are the parties in agreement on the terms of the CAO?

Please see the enclosed "Sheep Creek Communication Timeline" for details of the communications between Caltrans and the Water Board Prosecution Team (collectively

AMY L. HORNE, PHD, CHAIR | PATTY Z. KOUYOUMDJIAN, EXECUTIVE OFFICER

referred to as Parties) since the responses to comments and the revised draft CAO were issued on April 8, 2016.

The Water Board Prosecution Team will contact Caltrans to discuss changes to the revised draft CAO, will notify the Water Board Advisory Team of whether the Parties are in agreement on the terms, and will present the revised draft CAO to the Water Board Advisory Team for final approval.

2) Does Caltrans understand what is expected of them in the CAO?

On June 2, 2016, Jan Zimmerman of the Water Board Prosecution Team spoke with Caltrans Resident Engineer Elvira Lenart regarding Caltrans' understanding of the revised draft CAO. Caltrans indicated it understood the requirements of the revised draft CAO.

The Water Board Prosecution Team will confirm that Caltrans understands subsequent changes to the revised draft CAO.

3) How much compensatory mitigation is required? How will that be determined?

The amount of compensatory mitigation required will be addressed in changes to the revised draft CAO. Compensatory mitigation requirements are likely to be similar to the requirements under the 401 Certification for waters of the United States and under the General WDRs for non-federal waters of the state, meaning the Mitigation Ratio is likely to be 3:1 for compensatory mitigation involving restoration and enhancement and 5:1 for compensatory mitigation involving preservation only.

4) The draft CAO does not contain a narrative chronology of events, such as Water Board communication and Caltrans actions, since the Water Board field inspections on September 29, 2015, and February 24, 2016. Please provide a succinct summary of relevant Caltrans and Water Board communication and actions since September 29, 2015.

Please see the enclosed "Sheep Creek Communication Timeline" for details of the communications between the parties.

5) The draft CAO describes the project as occurring in federal Waters of the US and in non-federal waters of the state. Please include a narrative description of the project to explain which portions are within the jurisdiction of the Santa Ana Water Board and which portions are in the Lahontan Water Board jurisdiction, and include an aerial map delineating the two jurisdictions relative to the project area.

See "Attachment D Project Impact Details" for jurisdictional delineation maps of waters of the United States covered by the 401 Certification issued to Caltrans by the State Water Board for activities taking place in and impacting waters of the United States. Page D-4 contains a map for Phases I and II of the project. Drainage IDs 1 - 41 and

Cajon Creek are within the Santa Ana Regional Water Quality Control Board's jurisdiction. Drainage IDs 41a - 57 are within the Lahontan Water Board's jurisdiction. Drainage IDs 1 - 41, Cajon Creek, and Drainage IDs 41a - 57 are all jurisdictional waters of the United States and covered under the 401 Certification issued to Caltrans by the State Water Board.

See the enclosed "Updated Jurisdictional Delineation Map Figures 2E & 2F" for maps of non-federal waters of the state within the Water Board's jurisdiction. Drainage IDs 58-62, as labeled in this document, and Sheep Creek are non-federal waters of the state that are covered by the revised draft CAO and the General WDRs. Please note there is a discrepancy between the numbering system used in the Jurisdictional Delineation Report (Drainage IDs 58-62) and the numbering system used in Caltrans Plan Sheets(Drainage Systems 1, 2, 3, 4, and 6). To make the process easier for Caltrans, the revised draft CAO uses the drainage numbering system in the Caltrans Plan Sheets. Also included for reference are maps submitted by Caltrans with the NOI for the General WDRs which show Sheep Creek and Drainage Systems 1, 2, 3, 4, and 6.

The Water Board Prosecution Team will be in contact with Caltrans and the Water Board Advisory Team in the near future regarding changes to the revised draft CAO. In the interim, if you have questions or comments regarding this matter, please contact me at (530) 542-5436 or Jan Zimmerman at (760) 241-7376.

Enclosures: Sheep Creek Communication Timeline Attachment D Project Impact Details Updated Jurisdictional Delineation Map Figures 2E & 2F General WDRs NOI Maps

cc (via email):

Elvira Lenart, Caltrans Scott Quinnell, Caltrans Patty Kouyoumdjian, Executive Officer, Lahontan Water Board Doug Smith, Advisory Team Member, Lahontan Water Board Kimberly Niemeyer, Office of Chief Counsel, State Water Board Mike Plaziak, Lahontan Water Board Patrice Copeland, Lahontan Water Board Jan Zimmerman, Lahontan Water Board Mayumi Okamoto, Office of Enforcement, State Water Board Kailyn Ellison, Office of Enforcement, State Water Board Bill Orme, State Water Board

SUMMARY OF BOARD STAFF COMMUNICATIONS CALTRANS HWY 138 PROJECT AT SHEEP CREEK							
DATE	TOPIC	BOARD STAFF	CALTRANS CONTACT	EMAIL	PHONE CALL	INSPECTION	
September 29, 2015	Hwy 138 Widening Project Inspection	Brian Dailey, Jan Zimmerman	Elvira Lenart, Dave Meress, Ron Lamaster			х	
October 7, 2015	Mitigation for WDR and Response to NOV	Brian Dailey	Scott Quinnell, Bryce Johnston, Elvira Lenart, Louis Flores, David Bricker, Adam Compton	Х			
October 7, 2015	Mitigation for WDR and Response to NOV	Brian Dailey	Scott Quinnell, Adam Compton, Elvira Lenart	Х			
October 7, 2015	September Inspection Issues	Brian Dailey	Adam Compton	Х			
October 21, 2015	WDR Status Update	Brian Dailey	Scott Quinnell & Adam Compton	Х			
October 23, 2015	WDR Status Update	Brian Dailey	Scott Quinnell & Adam Compton	Х			
January 7, 2016	Cajon Creek Certification Deviation	Brian Dailey	Scott Quinnell & Adam Compton	X			
January 8, 2016	Cajon Creek Certification Deviation	Brian Dailey	Scott Quinnell & Adam Compton	X			
January 14, 2016	Draft CAO Issued						
January 26, 2016	CAO information	Brian Dailev	Scott Quinnell	Х			
February 8, 2016	WDR/Mitigation	Brian Dailey	Scott Quinnell, Michael Beauchamp, Ray Stokes,		Х		
February 11, 2016	Sheep Creek Work Plans	Brian Dailey	David Bricker Scott Quinnell	V			
		Brian Dalley		X			
February 12, 2016	Caltrans Comments on Draft CAO		Elvira Lenart	X			
February 16, 2016	Sheep Creek Work Plans	Brian Dailey	Scott Quinnell	X			
February 21, 2016	Mitigation Letter of Commitment	Brian Dailey	Scott Quinnell, Adam Compton	Х		X	
February 24, 2016	Hwy 138 Widening Project Inspection	Jan Zimmerman	Elvira Lenart, Scott Quinnell, Byrce Johnston, Ron Lamaster			X	
March 1, 2016	Sheep Creek Mitigation	Brian Dailey	Scott Quinnell	Х			
March 8, 2016	HWY 138 project phases and CEQA	Jan Zimmerman	Scott Quinnell	Х	Х		
March 23, 2016	WDR/401	Brian Dailey	Scott Quinnell	Х			
March 28, 2016	Sheep Creek Work Plans	Brian Dailey	Scott Quinnell	Х			
March 28, 2016	WDR/401	Brian Dailey	Scott Quinnell	Х			
March 28, 2016	WDR/401	Brian Dailey	Scott Quinnell		Х		
April 8, 2016	Response to Comments and Proposed CAO						
April 11, 2016	Discuss Response to Comments and Caltrans understanding of proposed CAO requirements	Jan Zimmerman	Elvira Lenart		Х		
April 19, 2016	401 Cert Mitigation	Brian Dailey	Scott Quinnell, Adam Compton	Х			
April 21, 2016	401 Cert Mitigation	Brian Dailey	Scott Quinnell, Adam Compton	X			
May 4, 2016	401 Cert Mitigation	Brian Dailey	Scott Quinnell	X			
June 2, 2016	Discuss Caltrans understanding of proposed CAO Requirements	Jan Zimmerman	Elvira Lenart		Х		
June 2, 2016	State Board issued NOA to Caltrans for coverage under General WDRs						
June 3, 2016	Terms and conditions of the NOA	Brian Dailey	Elvira Lenart		Х		

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Attachment D

Caltrans State Route 138 Widening Project I.D. No. SB13004IN, RM 394308 Project Impact Details

Maps and Information are provided by Caltrans

- Table 1 Project Impacts by Drainage ID
- Figure 1 Regional Location Map
- Figure 2A Jurisdictional Delineation Map
- Figure 2B Jurisdictional Delineation Map
- Figure 2C Jurisdictional Delineation Map
- Figure 2D Jurisdictional Delineation Map
- Figure 2E Jurisdictional Delineation Map
- Figure 3A Impact Assessment Map Cajon Creek

Attachment D

Caltrans State Route 138 Widening Project I.D. No. SB13004IN, RM 394308 Project Impact Details

Table 1

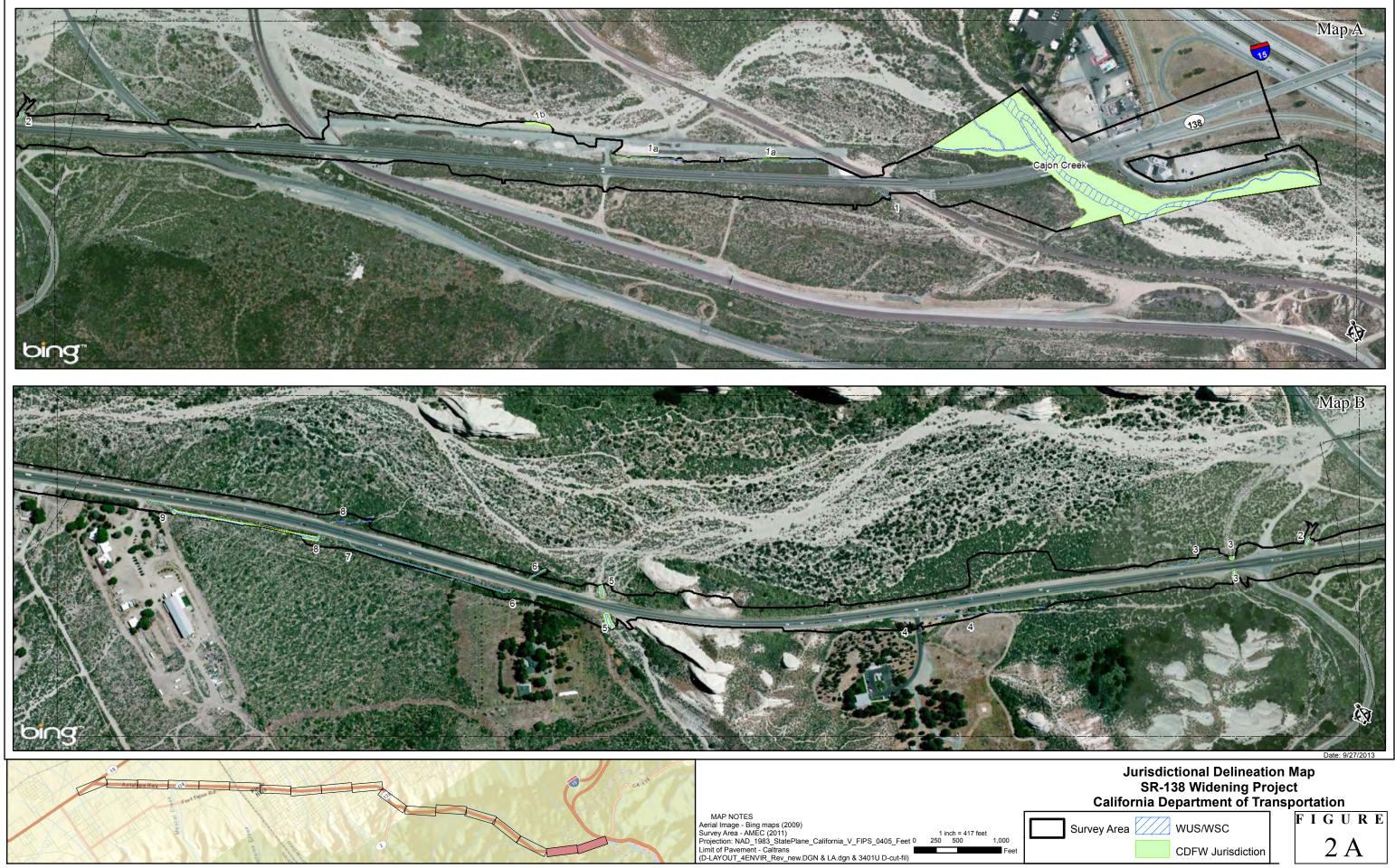
Drainage ID	Temporary Impacts to Waters of the U.S. (acres)	Permanent Impacts to Waters of the U.S. (acres)	Temporary Impact Length to Waters of the U.S. (feet)	Permanent Impact Length to Waters of the U.S. (feet)	Watershed	Figure
1	0	0.0043	0	87	Santa Ana	2A
1a	0	0.032	0	730	Santa Ana	2A
1b	0	0	0	0	Santa Ana	2A
2	0	0.007	0	40	Santa Ana	2A
3	0	0.0238	0	310	Santa Ana	2A
4	0	0.0157	0	681	Santa Ana	2A
5	0	0.0345	0	134	Santa Ana	2A
6	0	0.0296	0	574	Santa Ana	2A
7	0	0.0183	0	400	Santa Ana	2A
8	0	0.0286	0	418	Santa Ana	2A
9	0	0.0327	0	343	Santa Ana	2A
10	0	0.0508	0	167	Santa Ana	2B
11	0	0.0597	0	168	Santa Ana	2B
12	0	0.0744	0	520	Santa Ana	2B
13	0	0.0312	0	176	Santa Ana	2B
14	0	0.0937	0	246	Santa Ana	2B
15	0	0.0030	0	88	Santa Ana	2B
16	0	0.0503	0	270	Santa Ana	2B
17	0	0.1079	0	305	Santa Ana	2C
18	0	0.0025	0	36	Santa Ana	2C
19	0	0.0254	0	1046	Santa Ana	2C
20	0	0.0176	0	572	Santa Ana	2C
21	0	0.0853	0	1093	Santa Ana	2C
22	0	0.0038	0	166	Santa Ana	2C
23	0	0.0056	0	99	Santa Ana	2C
24	0	0.0690	0	201	Santa Ana	2C
25	0	0.0079	0	348	Santa Ana	2C
26	0	0.0032	0	140	Santa Ana	2C
27	0	0.0034	0	151	Santa Ana	2C
28	0	0.0034	0	94	Santa Ana	2C
29	0	0.0008	0	35	Santa Ana	2C
30	0	0.0025	0	55	Santa Ana	2C
31	0	0.0009	0	38	Santa Ana	2C
32	0	0.0008	0	34	Santa Ana	2C
32a	0	0.0008	0	35	Santa Ana	2C
32b	0	0.0086	0	90	Santa Ana	2C
32c	0	0.0012	0	50	Santa Ana	2D
33	0	0.0031	0	138	Santa Ana	2D

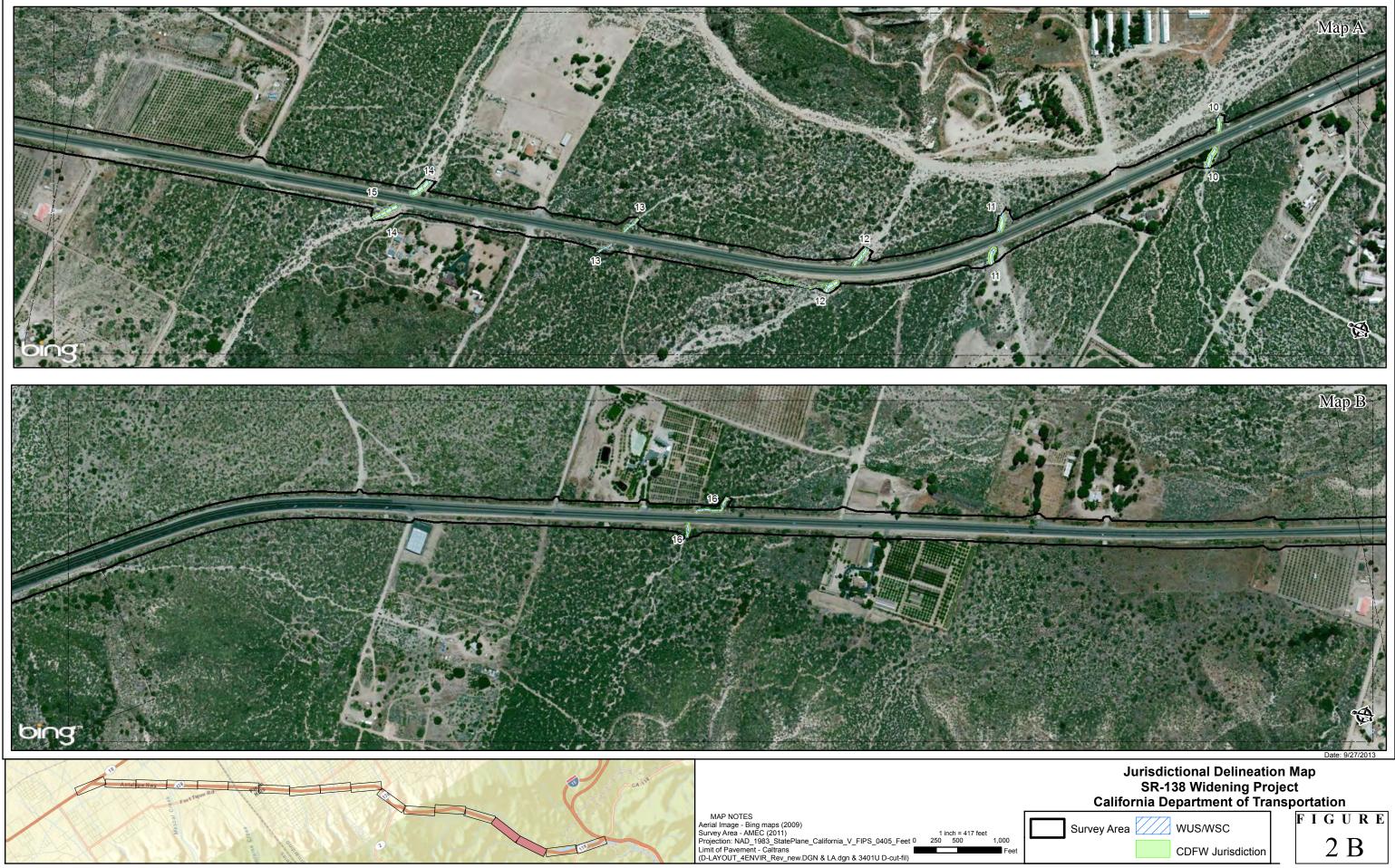
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Caltrans State Route 138 Widening Project I.D. No. SB13004IN, RM 394308 Project Impact Details

Drainage ID	Temporary Impacts to Waters of the U.S. (acres)	Permanent Impacts to Waters of the U.S. (acres)	Temporary Impact Length to Waters of the U.S. (feet)	Permanent Impact Length to Waters of the U.S. (feet)	Watershed	Figure
33a	0	0.0009	0	42	Santa Ana	2D
33b	0	0.0016	0	69	Santa Ana	2D
34	0	0.00560	0	48	Santa Ana	2D
34a	0	0.0027	0	38	Santa Ana	2D
35	0	0.0081	0	70	Santa Ana	2D
36	0	0.0151	0	162	Santa Ana	2D
37	0	0.0017	0	73	Santa Ana	2D
38	0	0.0039	0	84	Santa Ana	2D
39	0	0.0016	0	68	Santa Ana	2D
40	0	0.0062	0	89	Santa Ana	2D
41	0	0.0060	0	130	Santa Ana	2D
41a	0	0.0090	0	46	Mojave	2D
41b	0	0.0100	0	69	Mojave	2D
41c	0	0.0275	0	233	El Mirage	2E
41d	0	0.0086	0	170	El Mirage	2E
42	0	0.0087	0	82	El Mirage	2E
43	0	0.0292	0	279	El Mirage	2E
44	0	0.1258	0	1194	El Mirage	2E
45	0	0.0445	0	431	El Mirage	2E
46	0	0.0136	0	220	El Mirage	2E
47	0	0.0393	0	550	El Mirage	2E
48	0	0.0271	0	178	El Mirage	2E
49	0	0.0073	0	108	El Mirage	2E
50	0	0.0111	0	159	El Mirage	2E
51	0	0.0086	0	124	El Mirage	2E
52	0	0.0179	0	155	El Mirage	2E
53	0	0.0131	0	123	El Mirage	2E
54	0	0.0192	0	170	El Mirage	2E
55	0	0.0183	0	213	El Mirage	2E
56	0	0.0264	0	251	El Mirage	2E
57	0	0.0181	0	197	El Mirage	2E
Cajon Creek	0.200	0.006	307	48	Santa Ana	2A
Total	0.200	1.486	307	15,951	-	-

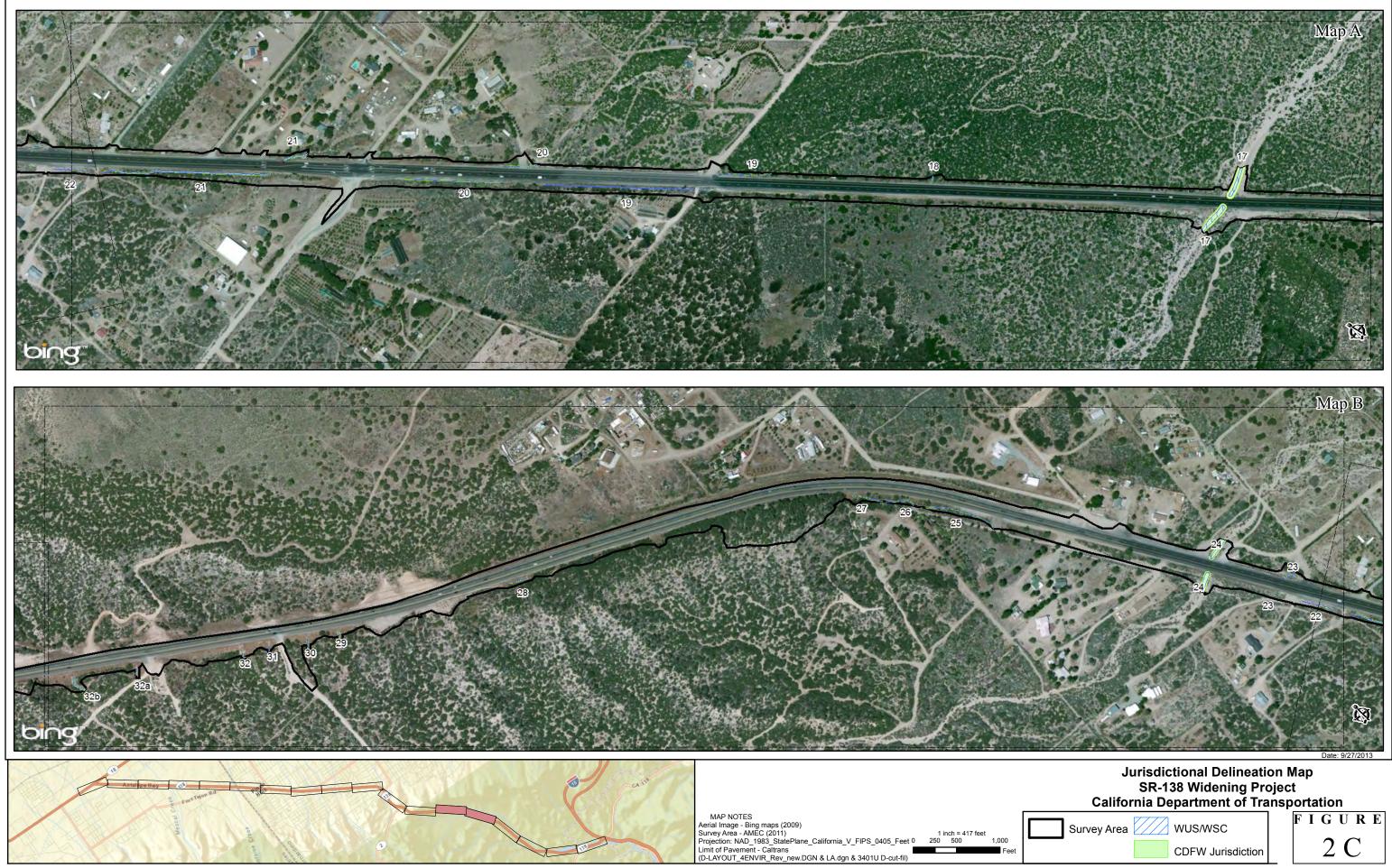


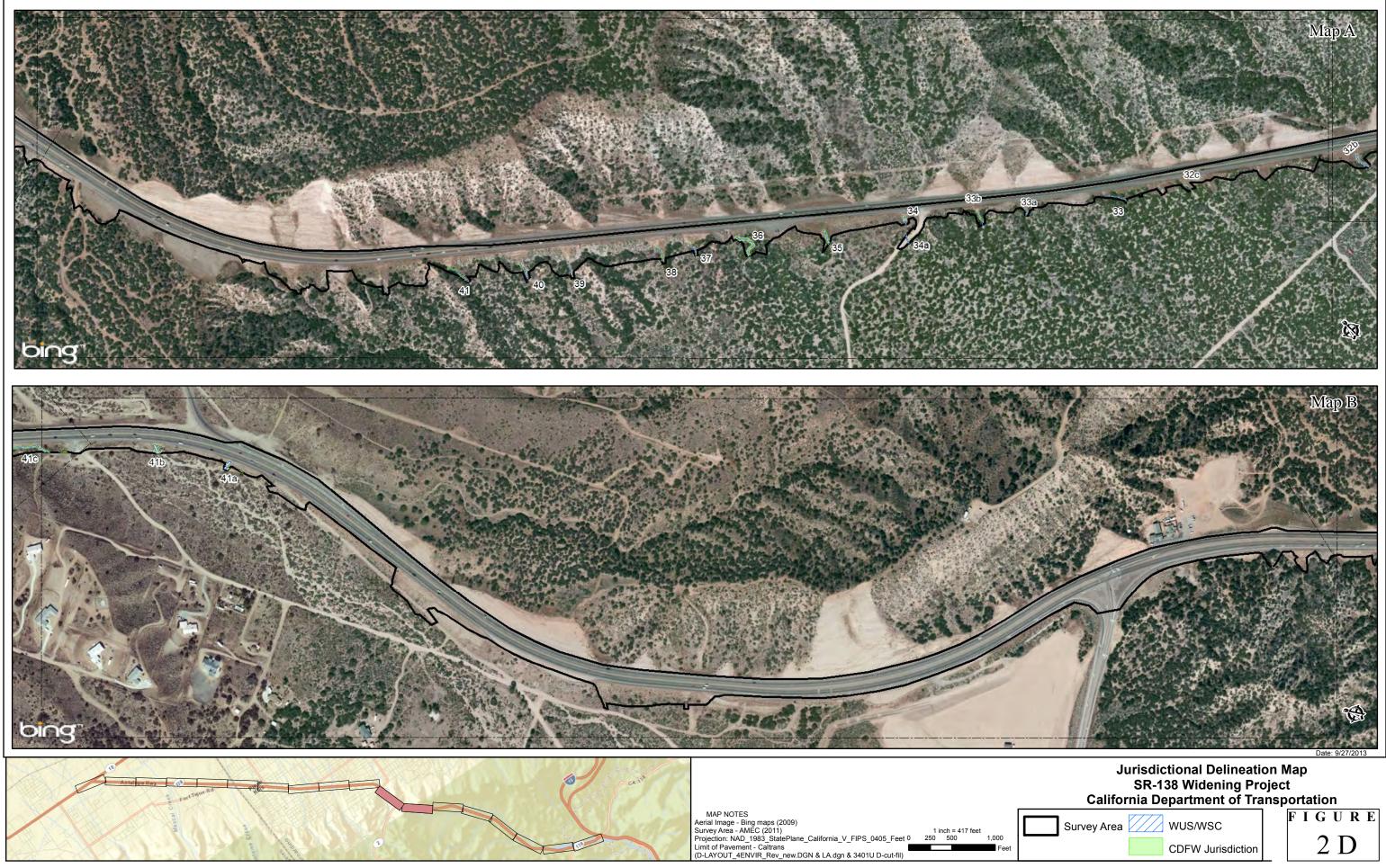


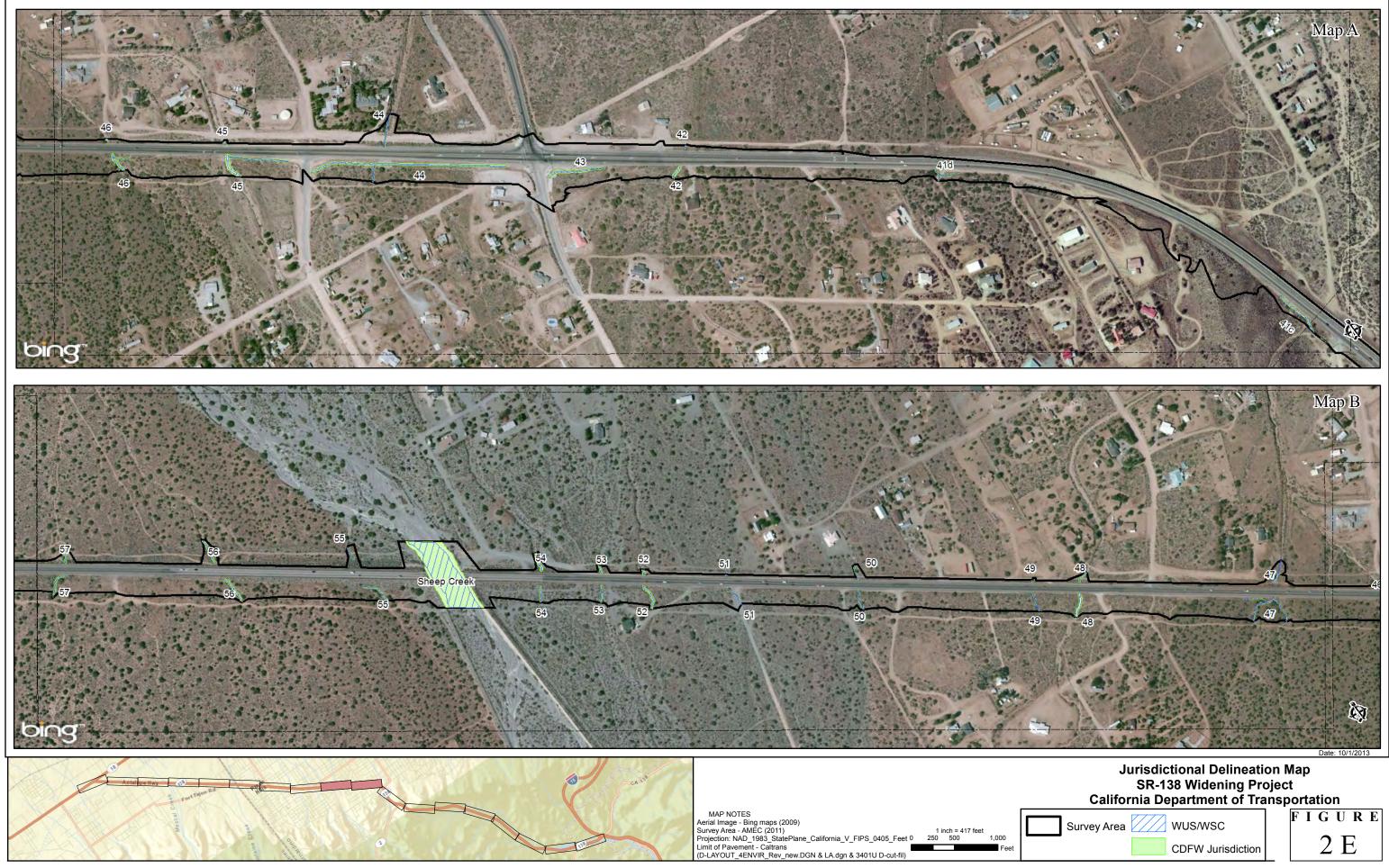


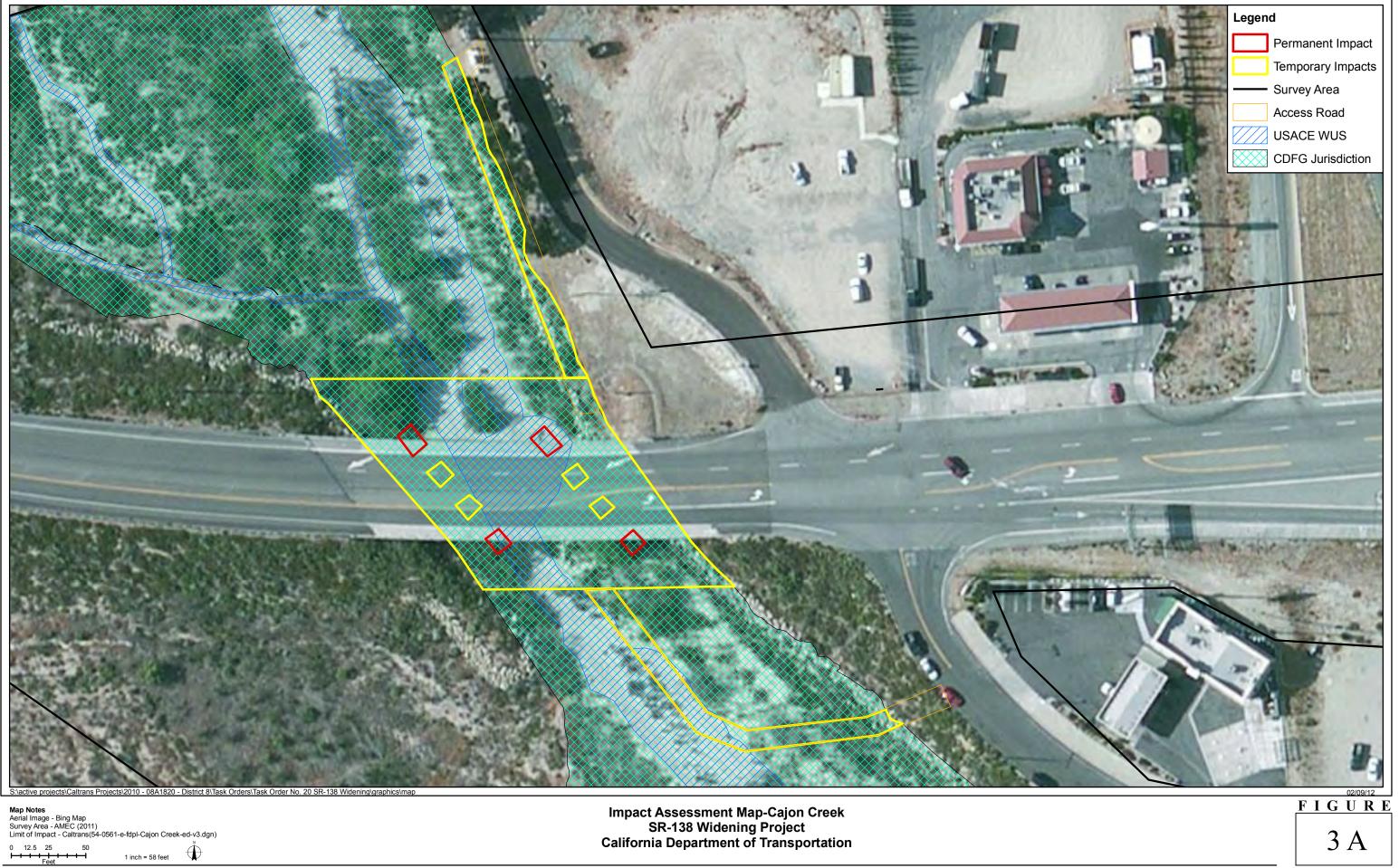
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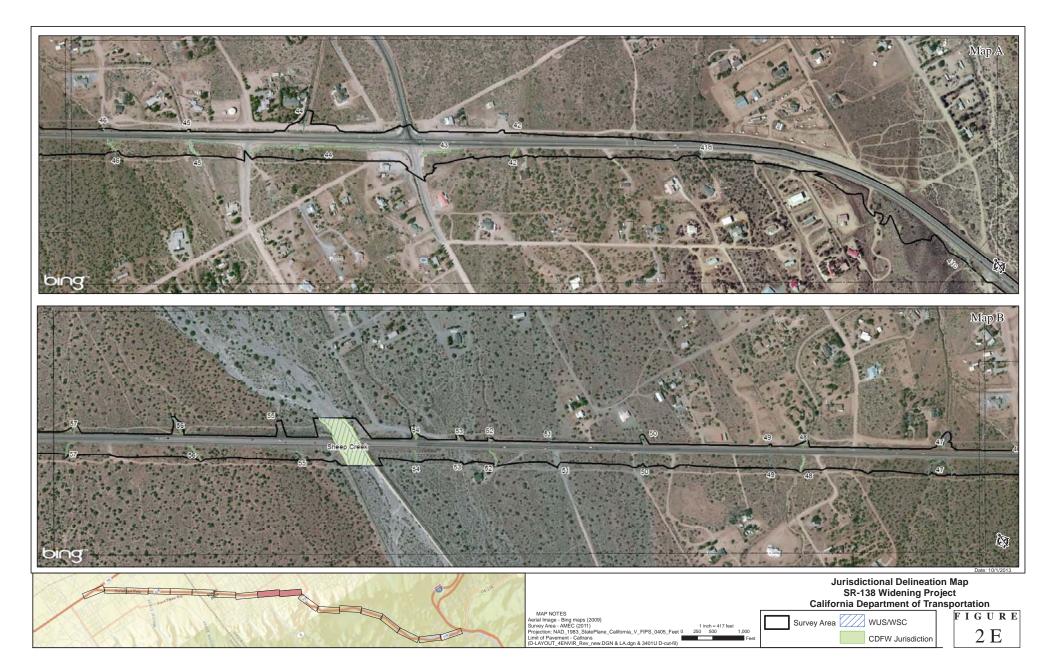
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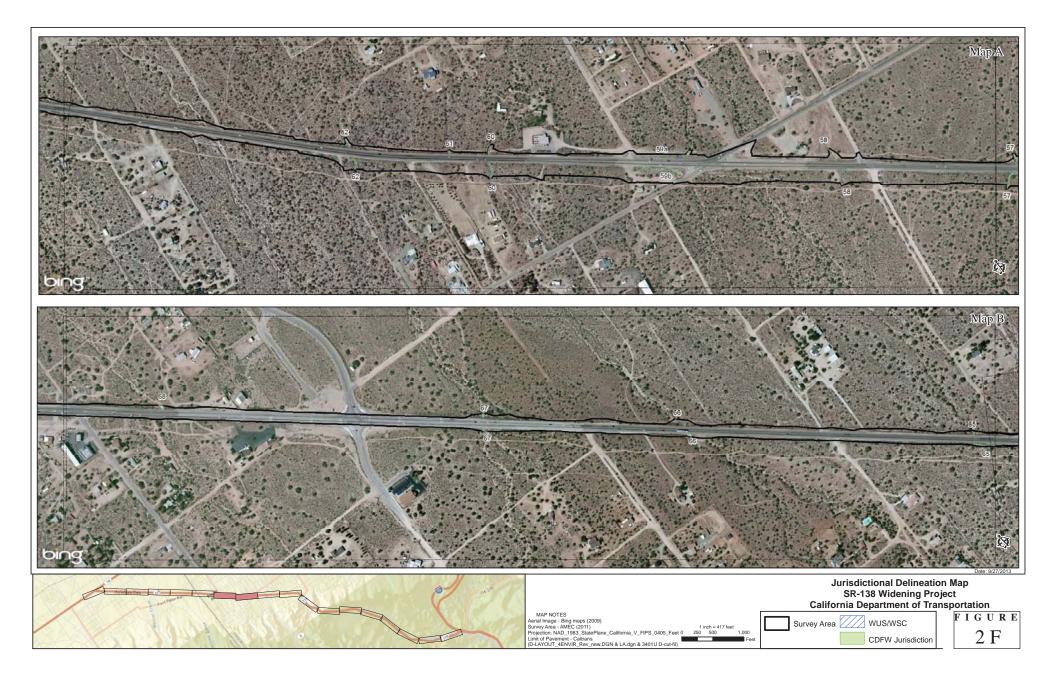












Attachment 3: Drainage System Design Plans & Aerial Map Photos





