

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

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**FACT SHEET  
for  
ORDER NO. R9-2008-0003  
WASTE DISCHARGE REQUIREMENTS AND  
SECTION 401 WATER QUALITY CERTIFICATION  
for  
PAUL GARRETT ENTERPRISES INC.  
and  
TEMECULA PROPERTIES, LLC,  
  
TEMECULA 84,  
RIVERSIDE COUNTY, CALIFORNIA**

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## 1.0 Applicants

Paul Garret Enterprises Inc. and Temecula Properties, LLC  
(hereinafter Dischargers)  
One Better World Circle, Suite 300  
Temecula, CA 92590

## 2.0 Project Description

The proposed Temecula 84 project (Project) is a commercial development on an 86-acre site, including a 25-acre graded pad for a Professional Hospital Supply warehouse facility with office space and surrounding parking infrastructure. The design includes an on-site extension of Remington Road and widening portions of both Winchester Road and Dendy Parkway. Access would be provided by Remington Road. The majority of the western parcel (no. 909-370-018) has already been graded. The Professional Hospital Supply building footprint is shown in Attachment 1.

The project is located west of Winchester Road between Remington Avenue and Cherry Street in Temecula, Riverside County, California. The site is situated on unsectioned lands of the Santa Road Land Grant, Township 8 South, Range 3 West in US Geological Survey 7.5-minute Murrieta quadrangle map. The project will affect unnamed drainages to Murrieta Creek in the Murrieta Hydrologic Subarea (902.32) in the Santa Margarita Hydrologic Unit.

On-site federal jurisdictional waters total 0.05 acres of non-wetland waters of the U.S as shown in Attachment 2. On-site non-federal waters of the State total 0.02 acres of disturbed wetland and 0.03 acre of streambed as shown in Attachment 3.

The Project will affect 0.02 acres (540.5 linear feet) of federal, waters of the U.S., ephemeral drainages. The Project will affect 0.05 acres (834.92 linear feet) of non-federal, waters of the State. Total project effects are 0.07 acres (1,375 linear feet) of waters as shown in Table 1.

**Table 1.**  
**Temecula 84**  
**On-site and Project Impacts**  
**Non-federal Waters of the State and Federal Waters of the U.S.**

<b>Habitat</b>	<b>Existing On-site Acres (linear feet)</b>	<b>Project Effects Acres (linear feet)</b>
Non-federal, waters of the State, Disturbed Wetlands	0.02 (84.4)	0.02 (84.4)
Non-federal, waters of the State, Ephemeral Drainage	0.02 (750.5)	0.02 (750.5)
<b>Non-federal State Waters subtotal</b>	<b>0.05 (834.9)</b>	<b>0.05 (834.9)</b>
<b>Federal Waters of the U.S.</b>		
Ephemeral Drainage, Non-wetland	0.1 (2,221.6)	0.02 (540.5)
<b>Total</b>	<b>0.14 (3,056.52)</b>	<b>0.07 (1,375.42)</b>

### 3.0 Regulatory Background

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

The State of California largely relies on Section 401 of the federal Clean Water Act (CWA) (33 U.S.C. § 1341) to regulate discharges of dredged or fill material to waters of the State. That section requires an applicant to obtain "water quality certification" from California that the project will comply with State water quality standards before certain federal licenses or permits may be issued. The permits subject to section 401 include permits for the discharge of dredged or fill materials (CWA section 404 permits) issued by the U.S. Army Corps of Engineers (Corps). WDRs under the Porter-Cologne Water Quality Control Act

are typically waived for projects that are certified under Clean Water Act section 401<sup>1</sup>.

In recent years the Corps has increasingly determined that discharges of fill to some surface waters are not subject to CWA section 404 permits. WDR waivers associated with discharges of fill subject to section 401 Certifications do not apply to discharges of fill to surface waters deemed outside of Corps jurisdiction. Surface waters outside of Corps jurisdiction are called non-federal waters of the State.

To streamline the issuance of WDRs for projects that propose to place small amounts of fill into non-federal waters, the State Water Resources Control Board (State Board) issued Order No. 2004-0004-DWQ, "Statewide General Waste Discharge Requirements for Dredge and Fill Discharges to Waters Deemed by the U.S. Army Corps of Engineers to be Outside of Federal Jurisdiction." These General WDRs are restricted to dredged or fill discharges of not more than two-tenths (0.2) of an acre and 400 linear feet for fill and excavation discharges. Pursuant to CWC section 13263(a), the California Regional Water Quality Control Boards prescribe individual WDRs for proposed discharges of fill to non-federal waters that exceed the thresholds in Order No. 2004-0004-DWQ.

On July 9, 2007, the Discharger submitted an incomplete application for Section 401 Certification for discharges of fill associated with the Project to the California Regional Water Quality Control Board, San Diego Region (Regional Board). By letter dated July 31, 2007, the Regional Board informed the Discharger that the 401 Certification application was incomplete and that the non-federal waters would need WDRs. On August 9, 2007, the Discharger submitted a revised application including a ROWD for WDRs for the non-federal waters. A ROWD was submitted to the Regional Board pursuant to Water Code section 13260 because the proposed amount of fill into non-federal waters of the State exceeds the numerical thresholds limit of State Board Order No. 2004-0004-DWQ. By letter dated August 22, 2007, the Regional Board informed the Discharger that the application for 401 Certification and the ROWD for WDRs were incomplete. Additional information to complete the 401 Certification application and ROWD for WDRs was received on October 22, 2007.

Order No. R9-2006-0104 serves as both section 401 Water Quality Certification for federal waters of the U.S. and as waste discharge requirements for discharges of fill to non-federal waters of the State.

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<sup>1</sup> The discharge associated with a Section 401 water quality certification has been regulated under California Regional Water Quality Control Board, San Diego Region, Waiver of Waste Discharge Requirements (Waiver Policy) No. 17. This waiver expired on December 31, 2007, and the new waiver has not been fully approved.

#### **4.0 California Environmental Quality Act (CEQA)**

Before the Regional Board can issue 401 Water Quality Certification and WDRs, it must be provided a final, valid environmental document meeting the criteria of the California Environmental Quality Act (CEQA). The CEQA document must fully disclose the potential significant adverse impacts of the project and identify measures to avoid, minimize, rectify, reduce or compensate for the impacts identified and to include a monitoring and reporting program to ensure compliance with the proposed mitigation measures.

On September 25, 2007, the City of Temecula (City) approved the Notice of Determination for a Mitigated Negative Declaration for the Temecula 84 project (State Clearinghouse No. 2007081042). The Mitigated Negative Declaration found that the Temecula 84 project would have less than significant or no impact on hydrology and water quality. No mitigation measures for hydrology and water quality were proposed above complying with existing laws and requirements, such as the municipal storm water permit. The Mitigated Negative Declaration found that the Temecula 84 project would have potentially significant impacts unless mitigation is incorporated on biological resources. The following mitigation measures relevant to the 401 water quality certification were incorporated into the CEQA document:

1. Both Federal Clean Water Sections 404 and 401 permits and a 1602 Streambed Alteration Agreement are required. Copies of all required permits shall be provided to the City prior to the start of construction and full compliance with all of the terms and conditions of those permits and agreement is required.
2. Impacts to jurisdictional areas will be mitigated through a 1:1 ratio through off-site creation or purchase of wetland credits within an approved wetland mitigation bank.

#### **5.0 Water Quality Standards and Prohibitions**

Section 303 of the federal Clean Water Act (33 U.S.C. §1313) defines the term water quality standards as the uses of the surface waters, the water quality criteria which are applied to protect those uses, and an antidegradation policy<sup>2</sup>. A water quality standard defines the water quality goals for a water body by designating the use or uses to be made of the water body, by setting criteria to protect the uses, and by protecting water quality through non-degradation provisions. Under the Porter-Cologne Water Quality Control Act (California Water Code, Division 7, Chapter 2 §13050), these concepts are defined separately as beneficial uses and water quality objectives. Beneficial uses and

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

water quality objectives are required to be established for all waters of the State, both surface and ground waters.

The Temecula 84 project will affect unnamed drainages to Murrieta Creek in the Murrieta Hydrologic Subarea (902.32) in the Santa Margarita Hydrologic Unit.

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

**Table 2. Beneficial Uses of the Site Surface and Ground Water**

Beneficial Use <sup>1</sup>	Surface Water		Ground Water
	Murrieta Creek (902.32)	Santa Margarita River (902.22)	Murrieta Hydrologic Unit (902.30)
Municipal and Domestic Supply (MUN)	■	■	■
Agriculture Supply (AGR)	■	■	■
Industrial Service Supply (IND)	■	■	■
Industrial Process Supply (PROC)	■		■
Contact Water Recreation (REC 1)	○	■	
Non-contact Water Recreation (REC 2)	■	■	
Warm Freshwater Habitat (WARM)	■	■	
Cold Freshwater Habitat (COLD)		■	
Wildlife Habitat (WILD)	■	■	
Rare, Threatened, or Endangered Species (RARE)		■	

1. ■ = Existing Beneficial Use; ○ = Potential Beneficial Use

The Basin Plan establishes Water Quality Objectives for surface waters within the Murrieta Hydrologic Subarea (902.32) as shown in Table 3 below.

**Table 3. Water Quality Objectives for Surface Waters in the Murrieta Hydrologic Subarea**

Constituent	Concentration <sup>a</sup>
Total Dissolved Solids	750
Chloride	300
Sulfate	300
Percent Sodium	60
Nitrogen and Phosphorus	b
Iron	0.3
Manganese	0.05
Methylene Blue-Activated Substances	0.5
Boron	0.75
Turbidity (NTU)	20
Color Units	20
Fluoride	1

- a. All units are mg/L unless otherwise noted.
- b. Concentrations of nitrogen and phosphorus, by themselves or in combination with other nutrients, shall be maintained at levels below those which stimulate algae and emergent plant growth. Threshold total Phosphorus (P) concentrations shall not exceed 0.05 mg/l in any stream at the point where it enters any standing body of water, nor 0.025 mg/l in any standing body of water. A desired goal in order to prevent plant nuisances in streams and other flowing waters appears to be 0.1 mg/l total P. These values are not to be exceeded more than 10% of the time unless studies of the specific body in question clearly show that water quality objective changes are permissible and changes are approved by the Regional Board. Analogous threshold values have not been set for nitrogen compounds; however, natural ratios of nitrogen to phosphorus are to be determined by surveillance and monitoring and upheld. If data are lacking, a ratio of N:P =10:1 shall be used.

The Basin Plan establishes Water Quality Objectives for ground waters within the Murrieta Hydrologic Subarea (902.32) as shown in Table 4 below.

**Table 4. Water Quality Objectives for Ground Waters in the Murrieta Hydrologic Subarea**

Constituent	Concentration <sup>b</sup>
Total Dissolved Solids	750 <sup>a</sup>
Chloride	300 <sup>a</sup>
Sulfate	300 <sup>a</sup>
Percent Sodium	60
NO <sub>3</sub>	10 <sup>a</sup>
Iron	0.3 <sup>a</sup>
Manganese	0.05 <sup>a</sup>
Methylene Blue-Activated Substances	0.5
Boron	0.75 <sup>a</sup>
Turbidity (NTU)	5
Color Units	15
Fluoride	1

- a. The recommended plan would allow for measurable degradation of ground water in this basin to permit continued agricultural land use. Point sources, however, would be controlled to achieve effluent quality corresponding to the tabulated numerical values. In future years demineralization may be used to treat ground water to the desired quality prior to use.
- b. All units are mg/L unless otherwise noted.

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

- Prohibition No. 1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code §13050, is prohibited.
- Prohibition No. 2. The discharge of waste to land, except as authorized by waste discharge requirements or the terms described in California Water Code §13264 is prohibited.
- Prohibition No. 3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code §13376) is prohibited.
- Prohibition No. 7. The dumping, deposition, or discharge of waste directly into waters of the state, or adjacent to such waters in any manner which

may permit it's being transported into the waters, is prohibited unless authorized by the Regional Board.

- Prohibition No. 14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the state or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.

## **6.0 Basis for Tentative Waste Discharge Requirements**

Order No. R9-2008-0003 establishes requirements for the discharge of wastes pursuant to Division 7 of the California Water Code and Article 4, Title 23 of the California Water Code, and establishes mitigation and monitoring provisions based on best professional judgment. The Order also includes Section 401 Water Quality Certification. The Basin Plan states "certification is dependent upon the assurances that the project will not reduce water quality below applicable standards as defined in the Clean Water Act (i.e., the water quality objectives established and the beneficial uses which have been designated for the surface waters.)" Standard provisions, reporting and record keeping requirements, and notifications in Order No. R9-2008-0003 are established in accordance with Division 7 of the California Water Code. The discharge of fill as regulated by Order No. R9-2008-0003 will not reduce water quality below applicable standards.

## **7.0 Mitigation Measures**

The proposed mitigation will adequately compensate for impacts to waters of the U.S. and State associated with the discharge of fill material.

A total of 0.5 acres has been preserved at the Barry Jones Wetland Mitigation Bank by agreement dated September 28, 2007. This is a preservation ratio of more than 6:1 for the impacted waters.

A total of 0.07 acres (771 linear feet) of waters of the State will be created as detailed in the *Draft Murrieta 18 Mitigation Plan, October 19, 2007* (Mitigation Plan) as amended by the revised Figure 5 to the Mitigation Plan submitted by e-mail dated November 29, 2007. This is a creation ratio of 1:1 for the impacted waters. As shown in the revised Figure 5 included as Attachment 4, a channel will be dug parallel to the existing channel. The wetland mitigation site, called Murrieta 18, is an 18-acre, rectangular shaped, vacant property bordered by Murrieta Hot Springs Road to the north and Jefferson Avenue to the west. The unnamed drainage on the Murrieta 18 site is a tributary to Murrieta Creek. Ultimately, a triangular 2.94-acre corner of the Murrieta 18 site will be a mitigation area.

Mitigation activities are expected to be successful based on the location and expected hydrology of the mitigation area. The areas selected for wetland creation are immediately adjacent to the existing stream channel that already supports wetlands and will have increased flow from the proposed development in its watershed. Any upland buffer or slope areas will be seeded with native species known to occur in the immediate vicinity of the project site. Maintenance and monitoring of these areas for five years is expected to keep weedy species from predominating the landscape and allow native species to take over.

Order R9-2008-0003 contains restoration and mitigation performance criteria that must be met.

Long term maintenance beyond the five-year mitigation monitoring program will be provided. The mitigation site will be deeded in-fee-title to the Western Riverside Conservation Authority to become part of the Multiple Species Habitat Conservation Program Reserve.

## **8.0 Water Quality Management Plan (WQMP)**

The post-construction BMPs for the project are detailed in *Project Specific Water Quality Management Plan for: PHS Warehouse, 42500 Winchester Road, City of Temecula, CA 92590, Phase 1 of Development Only, DEVELOPMENT NO. TPM 35181, DESIGN REVIEW NO. PA06-0369, September 24, 2007 (WQMP)*. A supplemental map was submitted on February 7, 2008, depicting changes in the structural treatment BMPs.

The structural treatment BMPs proposed for the project include 1) grass swales {22 segments totaling 3,570 lineal feet}, 2) four proprietary media filtration units by CDS Technologies with Zeolite/Perlite/Granulated Activated Carbon (ZPG) media, and 3) three StormFilters by Contech Stormwater Solutions. All three types are flow based BMPs.

The vegetated swales are located at the exterior edge of the parking lots and loading/receiving dock areas. These swales provide treatment for the paved areas. Flows from the swales are collected by the onsite storm drain system. Maintenance requirements for the vegetated swales are primarily aimed at sustaining a long and healthy grass.

Two media filtration units are located near the northeast corner of the Project site and a third is located at the east portion of the site. A smaller fourth unit is located along the southern edge of the pad near the Remington truck entry. These units provide sole treatment for roof water and supplemental treatment for the parking lot runoff. The media filtration units are essentially an underground vault with multiple filtration cartridges. The treatment flow rate is obtained by installing multiple cartridges. All flows must travel through the cartridges and piping system in order to escape the vault. The vault design includes an oil baffle

and the ability to trap sediment. An upstream diversion manhole is provided to channel low flows to the media filtration unit and allow larger storm flows to bypass the treatment path. Maintenance requirements include removing accumulated floatables, trash, debris, and sediment. Depending upon pollutant loading levels, the filtration media in the cartridges will get replaced on an annual basis. The proposed proprietary device, the Media Filtration System by CDS Technologies with mixed media containing Zeolite, Perlite and Granulated Activated Carbon, has a removal efficiency expected to be medium to high for all pollutants categories

Runoff from the driveway entrances and adjacent slopes, along with water from the public streets will be treated with three StormFilters by Contech Stormwater Solutions. These StormFilters have medium to high pollutant removal efficiencies. Two small units will treat water from Remington Avenue. A single larger unit will treat water from both inlets at Dendy Drive.

## **9.0 Monitoring and Reporting Requirements**

Requirements for monitoring and reporting for the Murrieta 18 mitigation project are found in Monitoring and Reporting Program No. R9-2008-0003.

## **10.0 Notifications**

The public was notified of this project at the Regional Board internet website on July 13, 2007.

## **11.0 Written Comments**

Interested persons are invited to submit written comments on these waste discharge requirements. Comments should be submitted either in person during business hours or by mail to:

John H. Robertus, Executive Officer  
Attn: Kristin Schwall  
File No. 18-2007069.02  
WDID 9 000001678  
California Regional Water Quality Control Board, San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

In order for the Regional Board to fully consider any comments, twenty copies of all documents should be submitted no later than 5:00 p.m. on Wednesday, January 30, 2008. The final deadline for submittal of written comments is February 6, 2008. Written material submitted after February 6, 2008 will not be provided to Regional Board members prior to the meeting on February 13, 2008.

## **12.0 Public Hearing**

Tentative Order No. R9-2008-0003 will be considered by the Regional Board at a public hearing on February 13, 2008, at the following location:

Mission Viejo Civic Center  
City Hall Council Chambers  
200 Civic Center  
Mission Viejo, CA 92691

## **13.0 Additional Information**

For additional information, interested persons may write to the following address or contact Ms. Kristin Schwall of the Regional Board staff at 858-467-2345 or via email at [kschwall@waterboards.ca.gov](mailto:kschwall@waterboards.ca.gov).

California Regional Water Quality Control Board  
Attn: Kristin Schwall  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

Copies of the tentative waste discharge requirements and other documents (other than those the Executive Officer maintains as confidential) are available at the Regional Board office for inspection and copying. Please contact Ms. Sylvia Wellnitz at 858-637-5593 for file review times and procedures.

## **14.0 WDR Review**

A person may petition the State Board to review the decision of the Regional Board regarding the final WDR. A petition must be made within 30 days of the Regional Board taking an action.

## **15.0 Documents Used in Preparation of the Fact Sheet and Order**

The following documents were used in the preparation of this fact sheet and Order No. R9-2008-0003:

- a. Application for Section 401 Water Quality Certification submitted on July 9, 2007.
- b. Supplemental application for Section 401 Water Quality Certification and Application/Report of Waste Discharge submitted on August 9, 2007.
- c. Supplemental application information submitted on October 22, 2007

- d. Draft Murrieta 18 Mitigation Plan, October 19, 2007 (Mitigation Plan) as amended by revised Figure 5 submitted by e-mail dated November 29, 2007.
- e. Responses to the California Regional Water Quality Control Board's Comments on BMPs for 401 #07C-069, Allen Butcher, PE, SB&O, Inc., November 30, 2007
- f. Project Specific Water Quality Management Plan for: PHS Warehouse, 42500 Winchester Road, City of Temecula, CA 92590, Phase 1 of Development Only, DEVELOPMENT NO. TPM 35181, DESIGN REVIEW NO. PA06-0369, September 24, 2007.

### 16.0 Interested Parties

The following interested parties were identified with the help of Temecula Properties, LLC and Helix Environmental Planning, Inc:

Nancy Daniels, Project Manager  
Paul Garrett Enterprises and Temecula Properties LLC  
ndaniels@thegarrettgroup.net  
One Better World Circle, Suite 300  
Temecula, CA 92590

Stephen Neudecker  
HELIX Environmental Planning, Inc.  
[Steven@helixepi.com](mailto:Steven@helixepi.com)

Crystel Doyle  
Army Corps of Engineers  
crystel.l.doyle@usace.army.mil

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

David W. Smith  
Wetlands Regulatory Office, U.S. EPA, Region 9  
smith.davidw@epa.gov

Elizabeth Goldman  
US Environmental Protection Agency  
Goldmann.Elizabeth@epamail.epa.gov

John Lormon  
Procopio Cory Hargreaves & Savitch LLP  
[jjl@procopio.com](mailto:jjl@procopio.com)

**ATTACHMENT 1  
PROFESSIONAL HOSPITAL SUPPLY BUILDING FOOTPRINT**



**Corps Jurisdictional Areas/Project Effects**

TEMECULA 84 PROJECT

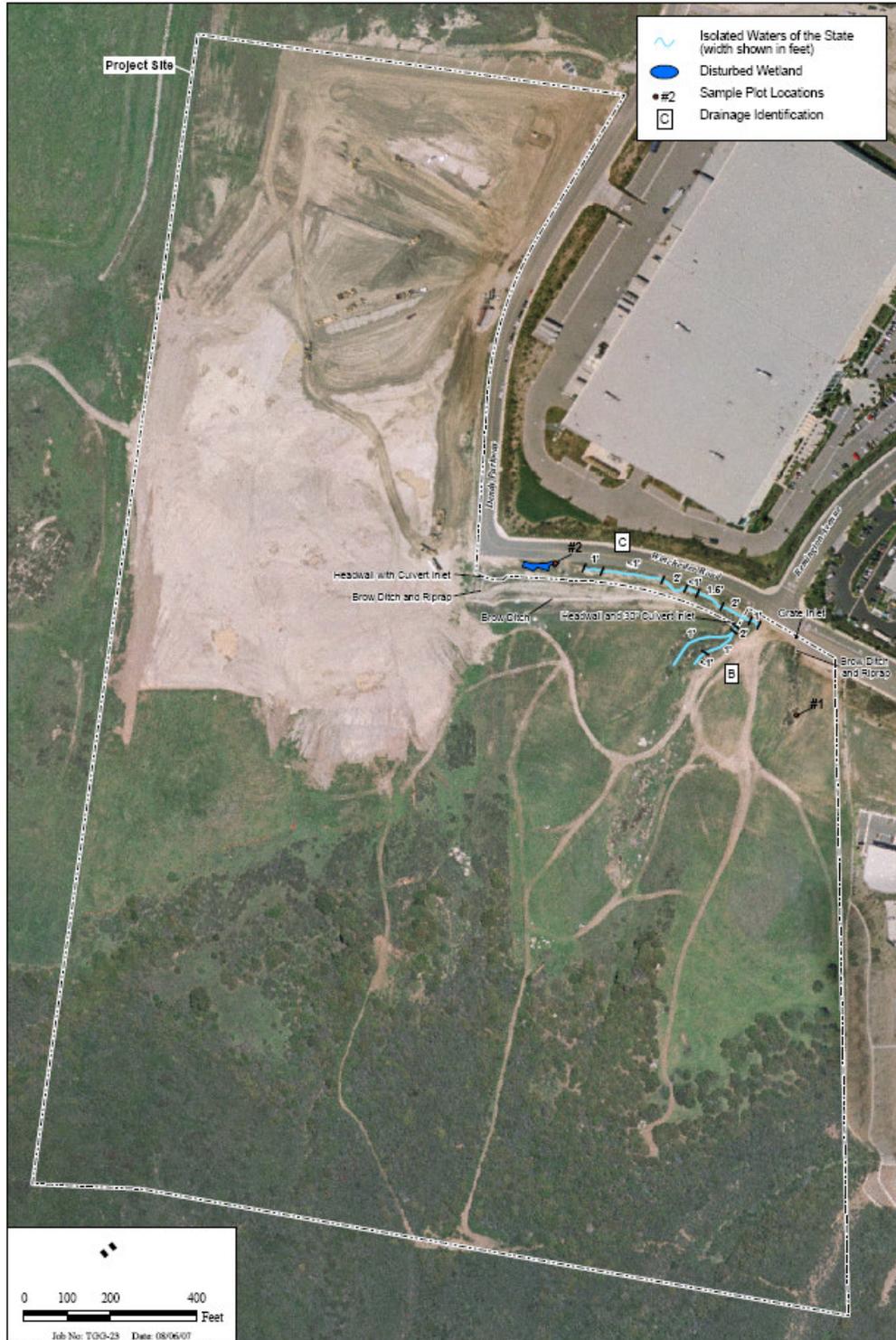
### ATTACHMENT 2 FEDERAL WATERS OF THE U.S.



Corps Jurisdictional Areas

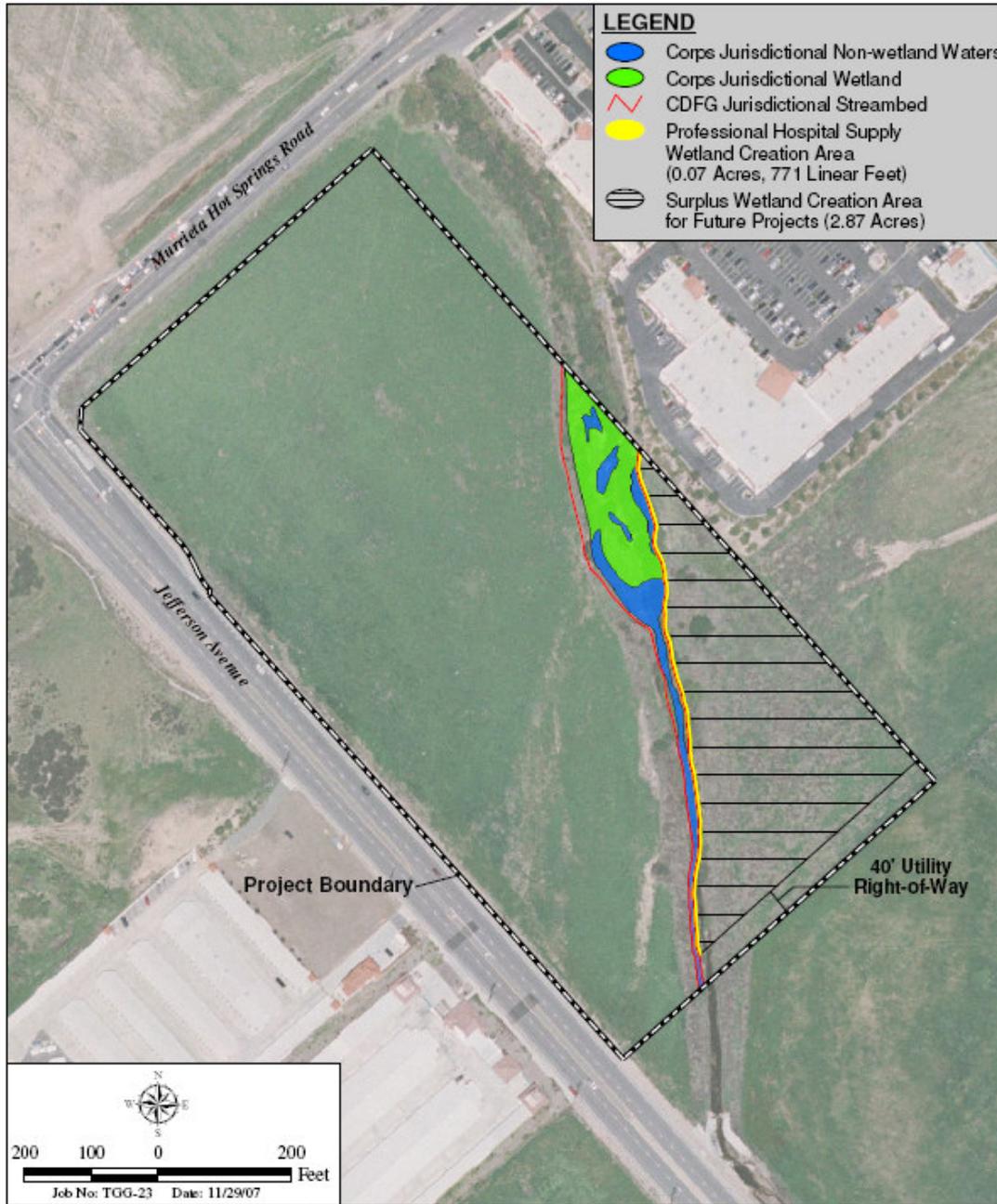
TEMECULA 84 PROJECT

### ATTACHMENT 3 NON-FEDERAL WATERS OF THE STATE



Isolated Waters/Jurisdictional Areas

### ATTACHMENT 4 MITIGATION SITE PLAN



### Project Allocation of Wetland Creation Areas

MURRIETA 18 MITIGATION PLAN



Figure 5