

SUBMITTAL TO THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



ITEM  
3.21  
(ID # 9189)

**MEETING DATE:**

Tuesday, March 26, 2019

**FROM :** TLMA-TRANSPORTATION:

**SUBJECT:** TRANSPORTATION AND LAND MANAGEMENT AGENCY/ TRANSPORTATION

DEPARTMENT: Approve the Agreement for Sale of Credits from the Southwest Resource Management Association and the County of Riverside for the Santa Ana River Trail Improvements Project in the Chino Hills State Park. CEQA Finding of Nothing Further is Required. 2nd District. [\$41,000 - Parks District 100%]

**RECOMMENDED MOTION:** That the Board of Supervisors:

1. Approve the Agreement for Sale of Credits from the Southwest Resource Management Association and the County of Riverside for the Santa Ana River Trail Improvements Project, in the amount of \$41,000 for FY 18/19, and authorize the Chairman of the Board to execute the same.

**ACTION:**Policy


  
Patricia Romo, Director of Transportation 3/11/2019

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**MINUTES OF THE BOARD OF SUPERVISORS**

On motion of Supervisor Hewitt, seconded by Supervisor Jeffries and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Spiegel, Washington, Perez and Hewitt  
Nays: None  
Absent: None  
Date: March 26, 2019  
xc: Transp.

Keqia Harper  
Clerk of the Board  
By:   
Deputy

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

<b>FINANCIAL DATA</b>	<b>Current Fiscal Year:</b>	<b>Next Fiscal Year:</b>	<b>Total Cost:</b>	<b>Ongoing Cost</b>
<b>COST</b>	\$ 41,000	\$ 0	\$ 41,000	\$ 0
<b>NET COUNTY COST</b>	\$ 0	\$ 0	\$ 0	\$ 0
<b>SOURCE OF FUNDS:</b> County Parks District (100%). There are no General Funds used in this project.			<b>Budget Adjustment:</b> No	
			<b>For Fiscal Year:</b> 18/19	

**C.E.O. RECOMMENDATION:** Approve

**BACKGROUND:**

**Summary**

On December 4, 2018 (Agenda Item: 3.53), the Board of Supervisors awarded the contract for the Santa Ana River Trail multipurpose trail and bike lane project to Riverside Construction Company, Inc. The project limits are approximately one mile easterly of the Green River Golf Course to approximately one third of a mile west of the Prado Basin within the Chino Hills State Park. The improvements consist of installing a new asphalt concrete bike trail and a decomposed granite multipurpose trail. Additional improvements include the construction of a water crossing under the trail.

Construction permits from the United States Army Corps of Engineers, the Santa Ana Regional Water Quality Control Board and the California Department of Fish & Wildlife for impacts to streambeds were obtained prior to the start of construction. These permits required mitigation credits to be purchased from the Southwest Resource Management Association (SRMA) Santa Ana River Watershed In-Lieu Fee Program (ILFP). The SRMA is a governmental special district and the ILFP is the mechanism used to sell credits to offset impacts.

The mitigation funding agreement between the County and the SRMA provides for the purchase of 0.17 acres of enhancement credits in the amount of \$41,000. This agreement will satisfy the requirements of the environmental permits.

**Environmental Findings**

By minute order dated August 28, 2018 (Agenda Item: 3.73) the Board of Supervisors approved the Santa Ana River Trail Improvements Project after finding that the project was categorically exempt pursuant to the California Environmental Quality Act (CEQA) and filed a Notice of Exemption upon approval of the project. Therefore, the CEQA compliance has been completed and no further action is required.

**Impact on Residents and Businesses**

The purpose of this project is to improve the existing dirt trail by providing a defined usable and safe bike lane and multipurpose trail for multiple users (hikers, bicyclists and equestrians) and will contribute to the 110 mile Santa Ana River Trail.

**SUBMITTAL TO THE BOARD OF SUPERVISORS COUNTY OF RIVERSIDE,  
STATE OF CALIFORNIA**

Construction started in late February 2019 and is expected to be completed in March 2019.

**Additional Fiscal Information**

The funding for the credits, in the amount of \$41,000.00 will be funded with County Parks District funds. On March 22, 2011, Agenda Item 3.29, the Board of Supervisors approved the Agreement by and between Riverside County Transportation Department and Riverside County Regional Parks and Open-Space District for Bike Lane and Multi-Purpose Trail Improvements Services on the Santa Ana River Trail between North of Green River Golf Course and Prado Basin. In that agreement, County Parks District agreed to pay one hundred percent (100%) of the cost of the preparation of an environmental document and obtaining environmental clearance. The agreement was approved by the Board of Directors for the Riverside County Regional Parks and Open-Space District on October 5, 2010, Agenda Item 13.2. There are no General Funds being used for this project.

**Contract History and Price Reasonableness**

In order for the Santa Ana River Trail Improvement Project to be constructed, the project's streambed impacts must be mitigated through the purchase of credits available through the SRMA ILFP. The agreement will ensure that the County meets the regulatory requirements necessary in order to construct the project.

Project Number: C10642

**ATTACHMENTS:**

Agreement with the Southwest Resource Management Association (3 copies submitted for wet-signature).

  
\_\_\_\_\_  
Gregory L. Priamos, Director County Counsel      3/19/2019

CLERK'S COPY

to Riverside County Clerk of the Board, Stop 1010  
Post Office Box 1147, Riverside, Ca 92502-1147  
Thank you.

**AGREEMENT FOR SALE OF CREDITS FROM THE SOUTHWEST RESOURCE  
MANAGEMENT ASSOCIATION AND THE COUNTY OF RIVERSIDE FOR THE  
SANTA ANA RIVER TRAIL IMPROVEMENTS PROJECT**

This Agreement is entered into this 1st day of May 2019, by and between the Southwest Resource Management Association ("SRMA"), and the County of Riverside ("Project Proponent"). SRMA and the Project Proponent are sometimes referenced herein as "Party" or collectively as the "Parties." The Parties agree as follows:

RECITALS

A. SRMA is a cosponsor of the Santa Ana River Watershed In-Lieu Fee Program (the "Program"); and

B. The Program was approved by the Los Angeles District of the U.S. Army Corps of Engineers ("USACE"), Region IX of the U.S. Environmental Protection Agency ("USEPA"), and the California Regional Water Quality Control Board, Region 8 ("RWQCB") (jointly referred to as the Interagency Review Team (the "IRT") on July 26, 2012 and is currently in good standing with the IRT; and

C. SRMA has received approval from the IRT to sell Credits from the Program to offset impacts associated with resource-impacting projects; and

D. Project Proponent represents that the Project was subject only to a non-notifying USACE Nationwide Permit #14 & #33 with no offsite mitigation requirements (Attach Permits as Exhibit "A").

E. The Project Proponent is purchasing ILF Credits to offset impacts for converting an existing dirt trail into a combination bike land and multi-purpose trail. Project (the "Project"), located near the City of Corona within the northwestern edge of unincorporated Riverside County. The project site occurs within the site for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The project location can be found on the Prado Dam United States Geological Survey 7.5 minute topographic quadrangle map (33° 53' 14.00" N/ -117° 39' 38.17" W ("Impact Location").

G. Pursuant to the Offsite Water Quality Standards Mitigation Proposed on Page 13 of the Clean Water Action Section 401 Water Quality Standards Certification for the Santa Ana River Trail Project (SARWQCB Project No. 332018-13) dated November 28, 2018, the RWQCB is requiring Project Proponent to purchase 0.17 acres of Enhancement Credits to mitigate for impacts to Waters of the U.S. at the Impact Location caused by the Project, which is described in Exhibit B; and

H. SRMA also provides credit-based mitigation to assist project proponents in meeting mitigation requirements set forth in streambed alteration agreements and other permits issued by the California Department of Fish and Wildlife ("CDFW") (collectively, "CDFW Credits"); and

I. Pursuant to a California Department of Fish and Wildlife ("CDFW") Operation of

Law Letter dated November 19, 2018 (Notification No. 1600-2018-0090-R6) ("OpLaw Letter"), CDFW is requiring Project Proponent to "purchase 0.06 acre of off-site credits" to mitigate for impacts to waters of the state at the Impact Location caused by the Project. An letter from Scott Wilson of the CDFW clarified that enhancement credits would satisfy the OpLaw Letter. The OpLaw Letter along and Claire Ingles email are attached hereto in Exhibit "A;" and

J. Project Proponent desires to purchase from SRMA and SRMA desires to sell and convey to Project Proponent, the following:

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. Subject to the terms and conditions herein, SRMA agrees to sell to Project Proponent and Project Proponent agrees to purchase from SRMA 0.17 Enhancement ILF Credits from the Program, for the total purchase price of FORTY ONE THOUSAND AND NO/100's DOLLARS (\$41,000.00). The purchase price shall be paid by means acceptable to SRMA. The Parties shall mutually agree to a "Closing Date" by which the Credit sale transaction will be completed, which shall be no later than the execution of this Agreement. On the Closing Date, SRMA shall transfer to Project Proponent evidence that the ILF Credits and CDFW Credits have been allocated to the Project by Bill of Sale in the form attached as Exhibit C, and Project Proponent shall pay the purchase price specified above.

2. In the event Project Proponent has not delivered the Purchase Price to SRMA on or before the Closing Date, this Agreement shall automatically terminate without need for any further action by SRMA and SRMA shall have no further obligations to Project Proponent under this Agreement.

3. The sale and transfer herein is not intended as a sale or transfer to Project Proponent of a security, license, lease, easement, or possessory or non-possessory interest in real property, nor the granting of any interest of the foregoing.

4. Project Proponent shall have no obligation whatsoever by reason of this Agreement to support, pay, fix, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the mitigation property associated with ILF Credits or CDFW Credits sold, or the Program.

5. Project Proponent shall have no obligation whatsoever by reason of the purchase of the Credits to support, pay, fix, monitor, report on, sustain, continue in perpetuity, or otherwise be obligated or liable for the success or continued expense or maintenance in perpetuity of the mitigation property associated with Credits sold or the ILF Program. SRMA shall indemnify and hold harmless the County of Riverside, its respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (individually and collectively hereinafter referred to as Indemnitees") from any liability whatsoever based or asserted upon the purchase of the Credits or SRMA's obligation to achieve success criteria or for long-term maintenance of the mitigation property associated with the Credits sold or the ILF Program, arising out of or any relating to this Agreement, and also including but not limited to, property damage, bodily injury, or death, or any other element of any kind or nature whatsoever arising from the performance under this Agreement of SRMA, its

officers, employees, subcontractors, agents or representatives for a period of five (5) years following the execution of this Agreement; provided, however, that SRMA shall not be responsible to provide any additional mitigation services or Credits beyond those outlined in Section 1, above, even if CDFW, the RWQCB and/or USACE later modify their respective mitigation requirements. SRMA shall defend at its sole expense, all costs and fees including, but not limited to, attorney fees, cost of investigation, defense and settlements or awards, the Indemnitees, in any claim or action based upon the sale of Credits or SRMA's obligation for the success, continued expense or maintenance in perpetuity of the mitigation property associated with the Credits sold or the ILF Program.

6. The ILF Credits and CDFW Credits herein sold and conveyed to Project Proponent shall be non-transferable and non-assignable, and shall be used as compensatory mitigation only in connection with the Project. Any excess ILF Credits or CDFW Credits shall not be utilized for the benefit of any other project, nor shall they be traded or otherwise retained by SRMA for future use by the Project Proponent or any other person or entity.

7. All representations, warranties, and covenants embodied in this Agreement shall survive the transfer of the ILF Credits or CDFW Credits hereunder.

8. SRMA shall cooperate and assist Project Proponent by providing documentation required by the IRT, and other regulatory agencies to establish that the ILF Credits may be used to compensate for the Project's impacts described above. SRMA shall provide USACE with a Statement of Sale of ILF Credit in the form of the attached Exhibit D no later than 30 days after the Closing Date of a successful sale.

9. Any notice or other written communication given pursuant to this Agreement shall be delivered to the other Party by first class U.S. mail, certified or registered U.S. mail or facsimile mail with mailed copy as follows:

Project Proponent: Patricia Romo, Director of Transportation  
Riverside County Transportation Department  
3525 14<sup>th</sup> Street  
Riverside, CA 92502  
Telephone: (951) 955-6740  
Facsimile: (951) 955-3164

SRMA: Shelli Lamb, Chief Executive Officer  
4500 Glenwood Dr,  
Riverside, CA 92501-3042  
Telephone: (951) 300-284  
Facsimile: (951) 683-3814

Copy To: Shaye Diveley, General Counsel, SRMA  
Meyers Nave  
555 12th Street, Suite 1500  
Oakland, California 94607  
Telephone: (510) 808-2000

10. It is agreed that all understandings and agreements heretofore had between the Parties respecting the transactions contemplated by this Agreement are merged in this Agreement, which fully and completely expresses the agreement of the Parties. There are no representations, warranties, or agreements except as specified and expressly set forth herein, in the exhibits annexed hereto, or to be set forth in the instruments or other documents delivered or to be delivered hereunder.

11. Any corporation signing this Agreement, and each agent, officer, director, or employee signing on behalf of such corporation, but in his or her individual capacity, represents and warrants that said Agreement is duly authorized by and binding upon said corporation, duly adopted by its Board of Directors and transcribed in full in the minutes of said corporation. Any individual signing this Agreement on behalf of a partnership or business entity other than a corporation represents that such other entity has power and authority to enter into this Agreement, and by such person's act is bound hereby.

12. Except as otherwise expressly provided herein, the execution and delivery of this Agreement shall not be deemed to confer any rights upon, nor obligate any of the parties hereto, to any person or entity other than the parties hereto.

13. This Agreement may be executed in one or more counterparts. Each shall be deemed an original and all, taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement the day and year first above written,

SRMA:

By: 

ROY TAKENO, Chair

COUNTY OF RIVERSIDE:

By: 

KEVIN JEFFRIES

Board of Supervisors Chairman

FORM APPROVED COUNTY COUNSEL  
BY:  3/18/19  
DANIELLE D. MALAND DATE

ATTEST:

KEC/A R. HARPER, Clerk

By: 

DEPUTY

## EXHIBIT A





State of California – Natural Resources Agency  
**DEPARTMENT OF FISH AND WILDLIFE**  
Inland Deserts Region  
3602 Inland Empire Blvd., Suite C-220  
Ontario, CA 91764  
(909) 484-0167  
[www.wildlife.ca.gov](http://www.wildlife.ca.gov)

**EDMUND G. BROWN, Jr., Governor**  
**CHARLTON H. BONHAM, Director**



November 19, 2018

Mr. Russell Williams  
Riverside County Transportation Department  
3525 14<sup>th</sup> Street  
Riverside, CA 92501  
[ruwilla@RIVCO.org](mailto:ruwilla@RIVCO.org)

Dear Mr. Williams:

**Notification of Lake or Streambed Alteration No. 1600-2018-0090-R6, Santa Ana River Trails Project**

The California Department of Fish and Wildlife (CDFW) had until September 5, 2018, to submit a draft Lake or Streambed Alteration Agreement (Agreement) to you or inform you that an Agreement is not required. CDFW did not meet that date. As a result, by law, you may now complete the project described in your notification without an Agreement.

Please note that pursuant to Fish and Game Code section 1602(a)(4)(D), if you proceed with this project, it must be the same as described and conducted in the same manner as specified in the notification and any modifications to that notification received and approved by CDFW in writing prior to September 5, 2018. This includes completing the project within the proposed term and seasonal work period and implementing all avoidance and mitigation measures to protect fish and wildlife resources specified in the notification. If the term proposed in your notification has expired, you will need to re-notify CDFW before you may begin your project. Beginning or completing a project that differs in any way from the one described in the notification may constitute a violation of Fish and Game Code section 1602.

Your project is located within an unnamed drainage, tributary to the Santa Ana River, east of the railroad bisection of the Green River Golf Course and west of State Route 71, in the City of Corona, Riverside County; Assessor's Parcel Number: 101-120-005. Your project consists of creating a bike and multipurpose trail along an existing dirt trail, by placement of asphalt, concrete, and decomposed granite. The project will result in permanent impacts to 0.02 acre of streambed, and temporary impacts to 0.01 acre of streambed. You have proposed the following avoidance and minimization measures: implementing erosion control BMPs, performing pre-construction nesting bird surveys and avoiding disturbance during the breeding season of riparian-associated species, and implementing equipment storage and maintenance BMPs. You have proposed the following compensatory mitigation measures: provide sufficient funding to the Riverside-

*Conserving California's Wildlife Since 1870*

Russell Williams  
November 19, 2018  
Page 2 of 2

Corona Resource Conservation District for the enhancement of 0.06 acre of Fish and Game Code section 1602 resources within the Santa Ana River, and restore all temporary impact areas to pre-project contours. Your project term ends on March 14, 2019.

Also note that while you are entitled to complete the project without an Agreement, you are still responsible for complying with other applicable local, state, and federal laws. These include, but are not limited to, Fish and Game Code sections 2080 et seq. (species listed as threatened or endangered, or a candidate for listing under the California Endangered Species Act); section 1908 (rare native plants); sections 3511, 4700, 5050, and 5515 (fully protected species); section 3503 (bird nests and eggs); section 3503.5 (birds of prey); section 5650 (water pollution); section 5652 (refuse disposal into water); section 5901 (fish passage); section 5937 (sufficient water for fish); and section 5948 (obstruction of stream).

Finally, if you decide to proceed with your project without an Agreement, you must have a copy of this letter and your notification with all attachments available at all times at the work site.

If you have any questions regarding this matter, please contact Claire Ingel at (909) 484-3979 or [claire.ingel@wildlife.ca.gov](mailto:claire.ingel@wildlife.ca.gov).

Sincerely,

  
Scott Wilson  
Environmental Program Manager  
Inland Deserts Region

ec: California Department of Fish and Wildlife

Claire Ingel, Senior Environmental Scientist, Specialist  
Inland Deserts Region  
[claire.ingel@wildlife.ca.gov](mailto:claire.ingel@wildlife.ca.gov)

**From:** Ingel, Claire@Wildlife <Claire.Ingel@wildlife.ca.gov>  
**Sent:** Wednesday, January 23, 2019 9:30 AM  
**To:** SLamb@SRMA-CA.org  
**Subject:** RE: Santa Ana River Trails Project SAA 1600-2018-0090-R6

Hello Shelli:

Thank you for the email. I approve the County of Riverside providing funds to SRMA instead of RCRCD for the purchase of 0.17 acre of enhancement credits.

Thank you,

Claire Ingel  
CA Department of Fish and Wildlife  
Inland Deserts Region  
3602 Inland Empire Blvd., Suite C-220  
Ontario, CA 91764  
909-484-3979 (voice)  
909-481-2945 (fax)  
[claire.ingel@wildlife.ca.gov](mailto:claire.ingel@wildlife.ca.gov)

**From:** SLamb@SRMA-CA.org <SLamb@SRMA-CA.org>  
**Sent:** Wednesday, January 23, 2019 6:53 AM  
**To:** Ingel, Claire@Wildlife <Claire.Ingel@wildlife.ca.gov>  
**Cc:** Segovia, Frances <FSEGOVIA@RIVCO.ORG>  
**Subject:** Santa Ana River Trails Project SAA 1600-2018-0090-R6

Hi Claire:

I am working with the County of Riverside on SAA 1600-2018-0090-R6 and it states that sufficient funds will be provided to RCRCD for this project. SRMA is now a cosponsor of the RCRCD ILFP and it has been renamed the Santa Ana River Watershed ILFP. SRMA has the mitigation lands available to place the mitigation on as RCRCD has sold out of RCRCD mitigation for the time being. The mitigation land is on the mainstem of the Santa Ana River, next to RCRCD's mitigation land.

In order to move forward with providing mitigation assistance to the County of Riverside, would it be possible for you to provide me with an email that states that CDFW is OK with the County of Riverside providing funds to SRMA (instead of RCRCD) for the 0.17 enhancement credits.

If you need further information, please give me a call.

Thanks.

Shelli Lamb

Chief Executive Officer  
Southwest Resource Management Association  
4500 Glenwood Dr  
Riverside, CA 92501  
909-499-4904  
[slamb@SRMA-CA.org](mailto:slamb@SRMA-CA.org)

**Southwest**  
**Resource**  
**Management**  
**Association**



EDMUND G. BROWN JR.  
GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

**Santa Ana Regional Water Quality Control Board**

November 28, 2018

Mr. Russell Williams  
Riverside County Transportation Department  
3525 14<sup>th</sup> Street  
Riverside, CA 92501

[ruwillia@rivco.org](mailto:ruwillia@rivco.org)

Dear Mr. Williams:

**CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER FOR  
THE SANTA ANA RIVER TRAIL PROJECT (SARWQCB WDID # 332018-13)**

Enclosed please find a Clean Water Act Section 401 Water Quality Certification and Order authorized by Santa Ana Regional Water Quality Control Board Executive Officer, Hope A. Smythe. This Order is issued to you on behalf of the Riverside County Transportation Department for Santa Ana River Trail Project (Project). Attachments A through C of the Enclosure are also part of the Order.

This Order is issued in response to an application submitted by Riverside County Transportation Department for proposed Project discharge to waters of the State to ensure that the water quality standards for all waters of the State impacted by the Project are met. You may proceed with your Project according to the terms and conditions of the enclosed Order.

If you require further assistance, please contact me by phone at (951) 782-4963 or by email at [Claudia.Tenorio@waterboards.ca.gov](mailto:Claudia.Tenorio@waterboards.ca.gov). You may also contact David Woelfel, Chief of Regional Planning Programs Section, by phone at (951) 782-7960 or by email at [David.Woelfel@waterboards.ca.gov](mailto:David.Woelfel@waterboards.ca.gov).

Sincerely,

Claudia Tenorio  
Environmental Scientist  
Regional Planning Programs Section  
Santa Ana Regional Water Quality Control Board

Enclosures (1): Order for Santa Ana River Trail Project

WILLIAM RUH, CHAIR | HOPE A. SMYTHE, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

♻️ RECYCLED PAPER

Mr. Russell Williams  
SARWQCB WDID # 332018-13

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November 28, 2018

cc: [Via email only] (w/ enclosure):

U.S Army Corps of Engineers, Los Angeles Office- James E. Mace

U.S Environmental Protection Agency, Region 9- Wetlands Section

Megan Fitzgerald - [Fitzgerald.Megan@epa.gov](mailto:Fitzgerald.Megan@epa.gov)

Melissa Scianni - [Scianni.Melissa@epa.gov](mailto:Scianni.Melissa@epa.gov)

State Water Resource Control Board, Office of Chief Counsel - Teresita Sablan

State Water Resource Control Board, Division of Water Quality - Water Quality  
Certification Unit

ICF- Stephanie Gasca- [Stephanie.Gasca@icf.com](mailto:Stephanie.Gasca@icf.com)



EDMUND G. BROWN JR.  
GOVERNOR

MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## Santa Ana Regional Water Quality Control Board

### CLEAN WATER ACT SECTION 401 WATER QUALITY CERTIFICATION AND ORDER

**Effective Date:** November 28, 2018

**Program Type:** Fill/Excavation

**Project Type:** Roads and Highways

**Project:** Santa Ana River Trail Project (Project)

**Federal Permit:** United States Army Corps of Engineers (USACE) Nationwide Permit (NWP) 14, Linear Transportation Projects, and NWP 33, Temporary Construction Access, and Dewatering

**Applicant:** Riverside County Transportation Department

**Applicant Contact:** Russell Williams, Environmental Division Manager  
Riverside County Transportation Department  
3525 14th Street  
Riverside, CA 92501  
Phone: (951) 955-2016  
Email: [ruwillia@rivco.org](mailto:ruwillia@rivco.org)

**Applicant's Agent:** Stephanie Gasca, Senior Regulatory Compliance Specialist  
ICF  
1 Ada, Suite 100  
Irvine, CA 92618  
Phone: (949) 333-6621  
Email: [Stephanie.Gasca@icf.com](mailto:Stephanie.Gasca@icf.com)

**Water Board Staff:** Claudia Tenorio  
Environmental Scientist  
3737 Main Street, Suite 500  
Riverside, CA 92501  
Phone: (951) 782-4963  
Email: [Claudia.Tenorio@waterboards.ca.gov](mailto:Claudia.Tenorio@waterboards.ca.gov)

**Water Board Contact Person:**

If you have any questions, please call Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) staff listed above or (951) 782-4130 and ask to speak with the Regional Planning Programs Section Chief.

WILLIAM RUH, CHAIR | HOPE A. SMYTHE, EXECUTIVE OFFICER

3737 Main St., Suite 500, Riverside, CA 92501 | [www.waterboards.ca.gov/santaana](http://www.waterboards.ca.gov/santaana)

♻️ RECYCLED PAPER

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<b>Attachment A</b>	Project Map(s)
<b>Attachment B</b>	Report and Notification Requirements
<b>Attachment C</b>	Signatory Requirements



**I. Order**

This Clean Water Act (CWA) section 401 Water Quality Certification action and Order (Order) is issued at the request of Riverside County Transportation Department (herein after Permittee) for the Project. This Order is for the purpose described in the application submitted by the Permittee. The application was received on June 7, 2018. The application was deemed complete on June 28, 2018.

Santa Ana Water Board staff requested additional information necessary to supplement the contents of the complete application, and the Permittee responded to the request for supplemental information as summarized in Table 1.

Table 1: Record of Supplemental Application Information	
Date of Request for Supplemental Information	Date Requested Information Received.
6/28/2018	8/21/2018

**II. Public Notice**

The Santa Ana Water Board provided public notice of the application pursuant to California Code of Regulations, title 23, section 3858 from June 7, 2018 to the effective date of the Order. The Santa Ana Water Board did not receive any comments during the comment period.

**III. Project Purpose**

The Project would modify the Santa Ana River Trail and replace two existing washed-out 30-inch diameter culverts and associated riprap.

**IV. Project Description**

The proposed improvements to the existing Santa Ana River Trail include converting a section of an existing dirt trail that varies from 8 to 27 feet in width into a combination bike lane and multi-purpose trail with a total consistent width of approximately 18 feet with a one-foot dirt-lined shoulder on each side. The proposed Project site is approximately 0.82 mile long. Improvements to the trail would start approximately 1.0 mile northeast of the existing BNSF Railway train track that bisects the trail at the Green River Golf Course and would end 0.3 mile east of State Route (SR) 71. The proposed bike trail section of the bike lane would be approximately 12 feet wide and would consist of asphalt concrete. The multi-purpose trail section would be approximately 6 feet wide and would consist of decomposed granite. The construction would remain close to the existing grade of the original dirt trail.

As part of the trail construction, two existing washed-out 30-inch diameter culverts and associated riprap that traverse the trail would be replaced with a low water crossing consisting of a double 5-foot (width) by 2-foot (height) by 29.25-foot (length) precast reinforced concrete box culvert. The low water crossing would include the construction of a concrete dip section and the installation of headwalls, cutoff walls (to a maximum depth of 13.2 feet), and one-ton rock slope protection. The reinforced concrete box culvert would be designed to accommodate low water flows, up to a two-year flood event. Flows greater than a two-year flood event would flow over the low-water crossing. The proposed low water crossing would be designed to accommodate a 100-year flood event to protect the new trail. Temporary construction easements will be secured for the construction of the upstream cutoff wall.

Site access during construction would occur along a dirt access road between SR-71 and the east end of the Project boundary, with vehicles and personnel strictly limited to the existing dirt trail. Construction of the trail would occur between December 2018 and be completed before April 30, 2019, to minimize construction activities during the active nesting bird breeding season.

#### **V. Project Location**

The Project is located near the City of Corona within the northwestern edge of unincorporated Riverside County. The Project site occurs within the site for the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The Project location can be found on the Prado Dam U.S. Geological Survey 7.5-minute quadrangle map (33°53'14.00" N / -117°39'38.17" W). Maps showing the Project location are found in Attachment A of this Order.

#### **VI. Project Impact and Receiving Waters Information**

The Project is located within the jurisdiction of the Santa Ana Water Board. Receiving waters and groundwater potentially impacted by this Project are protected in accordance with the Water Quality Control Plan for the Santa Ana Basin (1995) and subsequent amendments (Basin Plan) and other plans and policies, which may be accessed online at: [http://www.waterboards.ca.gov/plans\\_policies/](http://www.waterboards.ca.gov/plans_policies/). The Basin Plan includes water quality standards, which consist of existing and potential beneficial uses of waters of the State, water quality objectives to protect those uses, and the State and federal antidegradation policies.

Receiving Water: Unnamed tributary to the Santa Ana River Reach 2 (Hydrologic Unit (801.11))

Existing or Potential Beneficial Uses: Agricultural Supply (AGR), Groundwater Recharge (GWR), Water Contact Recreation (REC1), Non-contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), Wildlife Habitat (WILD), Rare, Threatened, or Endangered Species (RARE), and Spawning, Reproduction, and Development (SPWN).

#### **VII. Description of Direct Impacts to Waters of the State**

Impacts will occur from discharge associated with the placement of a double precast concrete box culvert, soil, and riprap replacing the existing two 30-inch culverts and associated riprap. Potential impacts associated with construction of the proposed Project may include soil disturbance caused by construction equipment, inadvertent sediment resulting from replacing the culvert and placement of riprap, residual sediment from backfill and oil from equipment.

Total Project fill/excavation quantities for all impacts are summarized in Table 2. Permanent impacts are categorized as those resulting in a physical loss in area and also those degrading ecological condition only.

**Table 2: Total Project Fill/Excavation Quantity**

Aquatic Resource Type	Temporary Impact <sup>1</sup>			Permanent Impact					
				Physical Loss of Area			Degradation of Ecological Condition Only		
	Acres	CY <sup>2</sup>	LF	Acres	CY	LF	Acres	CY	LF
Stream Channel	0.01	--	624	0.01	--	313	--	--	--

#### VIII. Avoidance and Minimization

The Project was previously designed to be 2.4 miles long and extend farther west along the existing trail to SR-91. The Project is now reduced to the current extent of 0.82 mile. This reduction in Project design avoids crossing Aliso Canyon Creek and has prevented impacts to this drainage. Full avoidance of waters of the U.S., nevertheless, is not possible with the widening of the existing dirt trail because of the crossing at an unnamed tributary. However, the width of the trail at that crossing has been reduced from 25 feet in the original Project design to 18 feet (plus two feet of shoulder, one foot on each side) to minimize impacts.

#### IX. Compensatory Mitigation

The Permittee has agreed to provide compensatory mitigation described in section XIII. H. for permanent impacts. The Santa Ana Water Board finds that compensatory mitigation for impacts to the riverine section covered by the MSHCP will suffice for the authorized permanent impacts to the waters of the State. Temporary impacts shall be restored to pre-Project contours.

#### X. California Environmental Quality Act (CEQA)

Pursuant to the California Environmental Quality Act (CEQA), the Permittee filed a CEQA Guidelines section 15301 "Class 1" Categorical Exemption with Riverside County on May 1, 2013. The Permittee declares that the proposed Project entails existing public facilities when there is no expansion or a negligible amount of expansion. Sub section (c) applies to existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities. The Santa Ana Water Board has independently considered the Permittee's Categorical Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed Project are necessary to avoid or mitigate impacts to water quality to a less than significant level.

#### XI. Petitions for Reconsideration

Any person aggrieved by this action may petition the State Water Resources Control Board to reconsider this Order in accordance with California Code of Regulations, title 23, section 3867. A petition for reconsideration must be submitted in writing and received within thirty (30) calendar days of the issuance of this Order.

#### XII. Fees Received

An application fee of \$1,500.00 was received on June 7, 2018. The fee amount was determined as required by California Code of Regulations, title 23, sections 3833(b)(3) and 2200(a)(3) and was calculated as category A - Fill & Excavation Discharges (fee code 84) with the dredge and fill fee calculator.

<sup>1</sup> Includes only temporary direct impacts to waters of the State and does not include upland areas of temporary disturbance, which could result in a discharge to waters of the State.

<sup>2</sup> Cubic Yards (CY); Linear Feet (LF)

### **XIII. Conditions**

The Santa Ana Water Board has independently reviewed the record of the Project to analyze impacts to water quality and designated beneficial uses within the watershed of the Project. In accordance with this Order, the Permittee may proceed with the Project under the following terms and conditions:

#### **A. Authorization**

Impacts to waters of the State shall not exceed quantities shown in Table 2.

#### **B. Reporting and Notification Requirements**

The following section details the reporting and notification types and timing of submittals. Requirements for the content of these reporting and notification types are detailed in Attachment B, including specifications for photo and map documentation during the Project construction. Written reports and notifications shall be submitted using the *Reporting and Notification Cover Sheet* located in Attachment B and signed by the Permittee or an authorized representative.

##### **1. Project Reporting**

- a. **Annual Reporting:** The Permittee shall submit an Annual Report each year on the anniversary of the effective date. Annual reporting shall continue until a *Notice of Project Complete Letter* is issued to the Permittee.

##### **2. Project Status Notifications**

- a. **Commencement of Construction.** The Permittee shall submit a *Commencement of Construction Report* at least seven (7) days prior to start of initial ground disturbance activities.
- b. **Request for Notice of Completion of Discharges Letter.** The Permittee shall submit a *Request for Notice of Completion of Discharges Letter* following completion of active Project construction activities, including any required restoration and Permittee-responsible mitigation. This request shall be submitted to the Santa Ana Water Board staff within thirty (30) days following completion of all Project construction activities. Upon acceptance of the request, Santa Ana Water Board staff will issue to the Permittee a *Notice of Completion of Discharges Letter*, which will end the active discharge period and, if appropriate, associated annual fees.
- c. **Request for Notice of Project Complete Letter.** The Permittee shall submit a *Request for Notice of Project Complete Letter* when construction and any required post-construction monitoring is complete<sup>3</sup> and no further Project activities will occur. This request shall be submitted to Santa Ana Water Board staff within thirty (30) days following completion of all Project activities. Upon approval of the request, the Santa Ana Water Board staff will issue to the Permittee a *Notice of Project Complete Letter*, which will end the post discharge monitoring period and associated annual fees.

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<sup>3</sup> Completion of post-construction monitoring will be determined by Santa Ana Water Board staff and will be contingent on successful attainment of restoration and mitigation performance criteria.

### 3. Conditional Notifications and Reports

The following notifications and reports are required as appropriate.

- a. **Accidental Discharges of Hazardous Materials<sup>4</sup>.** Following an accidental discharge of a reportable quantity of a hazardous material, sewage, or an unknown material, the following applies (Wat. Code, § 13271):
- I. As soon as (A) the Permittee has knowledge of the discharge or noncompliance, (B) notification is possible, and (C) notification can be provided without substantially impeding cleanup or other emergency measures, then the Permittee shall:
    - first call – 911 (to notify local response agency)
    - then call – Office of Emergency Services (OES) State Warning Center at (800) 852-7550 or (916) 845-8911
    - lastly follow the required OES procedures as set forth in [http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill Booklet Feb2014 FINAL BW Acc.pdf](http://www.caloes.ca.gov/FireRescueSite/Documents/CalOES-Spill%20Booklet%20Feb2014%20FINAL%20BW%20Acc.pdf)
  - II. Following notification to OES, the Permittee shall notify Santa Ana Water Board, as soon as practicable (ideally within 24 hours). Notification may be via telephone, email, delivered written notice, or other verifiable means.
  - III. Within five (5) working days of notification to the Santa Ana Water Board, the Permittee shall submit an *Accidental Discharge of Hazardous Material Report*.
- b. **Violation of Compliance with Water Quality Standards.** The Permittee shall notify the Santa Ana Water Board of any event causing a violation of compliance with water quality standards. Notification may be via telephone, email, delivered written notice, or other verifiable means.
- i. Examples of noncompliance events include: lack of storm water treatment following a rain event, discharges causing a visible plume in a water of the State, and water contact with uncured concrete.
  - ii. This notification shall be followed within three (3) working days by submission of a *Violation of Compliance with Water Quality Standards Report* to the Santa Ana Water Board.
- c. **Modifications to Project.** Project modifications may require an amendment of this Order. The Permittee shall give advance notice to Santa Ana Water Board staff by submitting a *Modifications to Project Report*, if Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, State, or federal regulatory authority. The Permittee shall inform Santa Ana Water Board staff of any Project modifications that will

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<sup>4</sup> "Hazardous material" means any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. "Hazardous materials" include, but are not limited to, hazardous substances, hazardous waste, and any material that a handler or the administering agency has a reasonable basis for believing that it would be injurious to the health and safety of persons or harmful to the environment if released into the workplace or the environment. (Health & Saf. Code, § 25501.)

interfere with the Permittee's compliance with this Order. Notification may be made in accordance with conditions in the Certification Deviation section of this Order.

- d. **Transfer of Property Ownership.** This Order is not transferable in its entirety or in part to any person or organization except after notice to the Santa Ana Water Board in accordance with the following terms:
- i. The Permittee shall notify the Santa Ana Water Board by submitting a *Transfer of Property Ownership Report*, of any change in ownership or interest in ownership of the Project area. The Permittee and purchaser shall sign and date the notification and provide such notification to the Santa Ana Water Board at least ten (10) days prior to the transfer of ownership. The purchaser shall also submit a written request to the Santa Ana Water Board to be named as the permittee in a revised order.
  - ii. Until such time as this Order has been modified to name the purchaser as the permittee, the Permittee shall continue to be responsible for all requirements set forth in this Order.
- e. **Transfer of Long-Term Best Management Practices (BMPs) Maintenance.** If maintenance responsibility for post-construction BMPs is legally transferred, the Permittee shall submit to the Santa Ana Water Board a copy of such documentation and shall provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer or designer specifications. The Permittee shall provide such notification to the Santa Ana Water Board with a *Transfer of Long-Term BMP Maintenance Report* at least ten (10) days prior to the transfer of BMP maintenance responsibility.

**C. Water Quality Monitoring**

**1. General**

If surface water is present, continuous visual surface water monitoring shall be conducted to detect accidental discharge of construction related pollutants (e.g., oil, grease, turbidity plume, or uncured concrete).

**2. Accidental Discharges/Noncompliance**

Upon occurrence of an accidental discharge of hazardous materials or a violation of compliance with a water quality standard, Santa Ana Water Board staff may require water quality monitoring based on the discharge constituents and/or related water quality objectives and beneficial uses.

**D. Standards**

1. This Certification will remain valid until the USACE 2017 Nationwide Permits expire on March 18, 2022, or through an extended period beyond the expiration date that is authorized in writing by the USACE.
2. This Order is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Water Code section 13330 and California Code of Regulations, title 23, chapter 28, Article 6 commencing with sections 3867-3869, inclusive. Additionally, the Santa Ana Water Board reserves the right to suspend,

cancel, or modify and reissue this Order, after providing notice to the Permittee, if the Santa Ana Water Board determines: that the Project fails to comply with any of the conditions of this Order; or, when necessary to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.) or federal Clean Water Act section 303 (33 U.S.C. § 1313). For purposes of Clean Water Act section 401(d), the condition constitutes a limitation necessary to assure compliance with water quality standards and appropriate requirements of State law.

3. This Order is not intended and shall not be construed to apply to 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 subsection 3855(b) of chapter 28, title 23 of the California Code of Regulations, and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
4. This Order is conditioned upon total payment of any fee required under title 23 of the California Code of Regulations and owed by the Permittee.
5. In the event of any violation or threatened violation of the conditions of this Order, the violation or threatened violation shall be subject to any remedies, penalties, processes, or sanctions as provided for under State and federal law. For purposes of Clean Water Act, section 401(d), the applicability of any State law authorizing remedies, penalties, processes, 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 Order.

#### **E. General Compliance**

1. Failure to comply with any condition of this Order shall constitute a violation of the Porter-Cologne Water Quality Control Act and the Clean Water Act. The Permittee and/or discharger may then be subject to administrative and/or civil liability pursuant to Water Code section 13385.
2. If the conditions of this Order are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Santa Ana Water Board may require that the Permittee submit a *Report of Waste Discharge* and obtain *Waste Discharge Requirements*.
3. Permitted actions shall not cause a violation of any applicable water quality standards, including impairment of designated beneficial uses for receiving waters, as adopted in the Basin Plan and subsequent Basin Plan Amendments or in any applicable State Water Resources Control Board water quality control plan or policy. The source of any such discharge shall be eliminated as soon as practicable.
4. In response to a suspected violation of any condition of this Order, the Santa Ana Water Board may require the holder of this Order to furnish, under penalty of perjury, any technical or monitoring reports the Santa Ana Water Board deems appropriate, provided that the burden, including costs, of the reports bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. The additional monitoring requirements ensure that permitted discharges and activities comport with

any applicable effluent limitations, water quality standards, and/or other appropriate requirement of State law.

5. The Permittee shall, at all times, fully comply with engineering plans, specifications, and technical reports submitted to support this Order and all subsequent submittals required as part of this Order. The conditions within this Order and Attachments supersede conflicting provisions within Permittee submittals.
6. **Construction General Permit Requirement:** The Permittee shall maintain compliance with conditions described in, and required by, NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Order No. 2009-0009-DWQ; NPDES No. CAS000002) and any subsequent approvals.
7. This Order and all of its conditions contained herein continue to have full force and effect regardless of the expiration or revocation of any federal license or permit issued for the Project. For purposes of Clean Water Act, section 401(d), this condition constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements of State law.

**F. Administrative**

1. Signatory requirements for all document submittals required by this Order are presented in Attachment C of this Order.
2. This Order does not authorize any act that results in the taking of a threatened, endangered, or candidate species, or any act that is now prohibited or becomes prohibited in the future under either the California Endangered Species Act (Fish & G. Code, §§ 2050-2097) or the federal Endangered Species Act (16 U.S.C. §§ 1531-1544). If a "take" will result from any act authorized under this Order held by the Permittee, the Permittee shall obtain authorization for the take prior to any construction or operation of the portion of the Project that may result in a take. The Permittee is responsible for meeting all requirements of the applicable endangered species act for the Project authorized under this Order.
3. The Permittee shall grant Santa Ana Water Board staff or an authorized representative (including an authorized contractor acting as a Water Board representative), upon presentation of credentials and other documents as may be required by law, permission to:
  - a. Enter upon the Project or compensatory mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records are kept;
  - b. Have access to and copy any records that are kept and are relevant to the Project or the requirements of this Order;
  - c. Inspect any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Order;
  - d. Sample or monitor for the purposes of assuring Order compliance.
4. A copy of this Order shall be provided to any consultants, contractors, and subcontractors working on the Project. Copies of this Order shall remain at the Project



site for the duration of this Order. The Permittee shall be responsible for work conducted by its consultants, contractors, and any subcontractors.

5. A copy of this Order shall be available at the Project site(s) during construction for review by site personnel and agencies. All personnel performing work on the Project shall be familiar with the content of this Order and its posted location at the Project site.
6. Lake and Streambed Alteration Agreement – The Permittee shall submit a signed copy of the California Department of Fish and Wildlife's (CDFW) lake and streambed alteration agreement to the Santa Ana Water Board immediately upon execution and prior to any discharge to waters of the State.

#### **G. Construction**

##### **1. Good Site Management "Housekeeping"**

- a. A Storm Water Pollution Prevention Plan (SWPPP) shall be developed by the construction contractor prior to Project implementation. The SWPPP shall include measures to prevent sediment from entering the watercourse during construction.
- b. BMPs for effective perimeter control shall be in place at all times to control the discharge of pollutants from the Project site during construction. Construction waste shall be contained and protected against wind and exposure to storm water at all times, unless being actively handled. Chemical, fuel, and lubricant containers shall be kept closed and protected from damage or upset at all times, unless being actively used. Dirt and landscaping material stockpiles shall have effective erosion control BMPs in place to prevent their transport in storm water or directly into the channel and shall not be located in any waters of the U.S. Discharges of wastewater from the Project site are prohibited.
- c. Substances resulting from Project-related activities and that could be harmful to aquatic life shall not be discharged to soils or waters of the State. These substances include but are not limited to petroleum lubricants and fuels, cured and uncured cements, epoxies, paints and other protective coating materials, Portland cement concrete or asphalt concrete, and washings and cuttings thereof. All waste concrete shall be removed from the Project site.
- d. Motorized equipment shall not be maintained or parked in or near any stream crossing, channel, or lake margin in such manner that petroleum products or other pollutants from the equipment might enter these areas under any flow conditions. Vehicles shall not be driven or equipment shall not be operated on-site in waters of the State onsite, except as necessary to complete the proposed Project.

##### **2. Hazardous Materials**

During construction activities, the Permittee shall comply with local, State, and federal laws and regulations regarding the handling and storage of hazardous substances.

##### **3. Invasive Species and Soil Borne Pathogens**

BMPs to stabilize disturbed soils shall include the use of native plant species whenever feasible.

#### **4. Special Status Species**

- a. All vegetation removal activities shall be conducted outside of the active breeding season for birds (March 1 through June 30).
- b. Removal of foraging habitat for *Vireo bellii pusillus* (least Bell's vireo) is prohibited between March 15 and September 15.
- c. During construction the placement of equipment within a stream or on adjacent banks or adjacent upland habitats occupied by MSHCP Covered Species that are outside the Project boundary shall be avoided.
- d. Work shall be limited to 0.5 hour prior to sunrise to 0.5 hour after sunset. This minimizes potential indirect effects from artificial lighting on adjacent lands (including Chino Hills State Parks lands and MSHCP conservation lands).
- e. If construction were to occur at any time from February 15 through September 15, a qualified ornithologist shall conduct a nesting bird survey for least Bell's vireo at least three (3) days prior to any grading or construction activities.

#### **5. Storm Water**

The Project shall comply with the local regulations associated with the Santa Ana Water Board's Municipal Stormwater Permit issued to Riverside County and co-permittees under NPDES No. CAS618033 and Waste Discharge Requirements Order No. R8-2010-0033, and subsequent iterations thereof.

#### **H. Compensatory Mitigation for Permanent Impacts<sup>5</sup>**

##### **1. Purchase of Mitigation Credits by Permittee for Compensatory Mitigation**

- a. A copy of the fully executed agreement for the purchase of mitigation credits shall be provided to the Santa Ana Water Board ninety (90) days after the start of construction activities.
- b. The Permittee shall retain responsibility for providing the compensatory mitigation and long-term management until Santa Ana Water Board staff has received documentation of the credit purchase and the transfer agreement between the Permittee and the seller of credits.

##### **2. Total Required Compensatory Mitigation**

- a. The Permittee shall provide compensatory mitigation for the authorized permanent impact (0.01 acre) to the stream channel (waters of the State) at a ratio of 3:1 (mitigation: impact) for a total of 0.03 acre. The Permittee shall purchase 0.03 acre of enhancement credits through the Riverside-Corona Resource Conservation District (RCRCD) In-Lieu Fee Program for impacts to waters of the State.

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<sup>5</sup> Compensatory Mitigation is for permanent physical loss and permanent ecological degradation of a water of the State.

- b. Impacts on MSHCP jurisdiction of 0.02 acre of the riparian/riverine area that occurs within the CDFW jurisdictional unvegetated stream channel and waters of the U.S. shall be mitigated at a ratio of 3:1 (mitigation: impact) for a total of 0.06 acre. The mitigation for the area within the MSHCP shall be done off-site through the purchase of 0.06 acre of enhancement credits through the RCRC D In-Lieu Fee Program and

shall be coordinated to avoid duplicative mitigation (i.e., the 0.06 acre of enhancement credits includes the 0.03 acre identified in section XIII.H.2.a.).

- c. Permanent and temporary impacts on MSHCP riparian habitat that falls outside of the CDFW and waters of the U.S. jurisdictional streambed, bank, and associated riparian habitat shall be mitigated at a 2:1 ratio (mitigation: impact) for permanent impacts and at a 1:1 ratio (mitigation: impact) for temporary impacts through the RCRC D In-Lieu Fee Program. Therefore, total compensatory mitigation for permanent impacts of 0.04 acre of MSHCP habitat shall be 0.08 acre, and total mitigation for temporary impacts of 0.03 acre shall be 0.03 acre.
- d. The Permittee shall purchase a total of 0.17 acre of enhancement credits through the RCRC D In-Lieu Fee Program for total Project impacts, that include MSHCP, CDFW, and waters of the U.S. jurisdictional impacts. Table 3 summarizes the total compensatory mitigation required for Project impacts.

Table 3: Total Required Mitigation Quantity				
Resource Type	Impact Type	Impacted Acreage	Mitigation Ratio	Total Mitigation
Riverine (MSHCP and CDFW)	Permanent	0.02	3:1	0.06 (Includes mitigation for 0.01-acre impacts to waters of the State)
	Temporary	0.01	--	Regrade to pre-Project contours
Riparian MSHCP only	Permanent	0.04	2:1	0.08
	Temporary	0.03	1:1	0.03
Total		0.10	--	0.17

#### I. Certification Deviation

1. Minor modifications of Project locations or predicted impacts may be necessary as a result of unforeseen field conditions, necessary engineering re-design, construction concerns, or similar reasons. Some of these prospective Project modifications may have impacts on water resources. For purposes of this Certification, a *Certification Deviation* is a Project locational or impact modification that does not require an immediate amendment of the Order, because the Santa Ana Water Board has determined that any potential water resource impacts that may result from the change are sufficiently addressed by the Order conditions and the CEQA Findings. After the termination of construction, this Order will be formally amended to reflect all authorized Certification Deviations and any resulting adjustments to the amount of water resource impacts and required compensatory mitigation amounts.
2. A Project modification shall not be granted a *Certification Deviation* if it warrants or necessitates changes that are not addressed by the Order conditions such that the

Project no longer qualifies for a categorical exemption In this case, a supplemental environmental review and different Order will be required.

**XIV. Water Quality Certification**

I hereby issue the Order (SARWQCB WDID # 332018-13) for the *Santa Ana River Trail Project*. This Order certifies that any discharge from the referenced Project will comply with the applicable provisions of Clean Water Act 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), as long as all of the conditions listed in the Order are met.

This discharge is also regulated pursuant to State Water Board Water Quality Order No. 2003-0017-DWQ, which authorizes this Order to serve as Waste Discharge Requirements pursuant to the Porter-Cologne Water Quality Control Act (Wat. Code, § 13000 et seq.).

Except insofar as may be modified by any preceding conditions, all Order actions are contingent on: (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the conditions of this Order and the attachments to this Order; and (b) compliance with all applicable requirements of Statewide Water Quality Control Plans and Policies and the Santa Ana Water Board's Basin Plan and Policies.

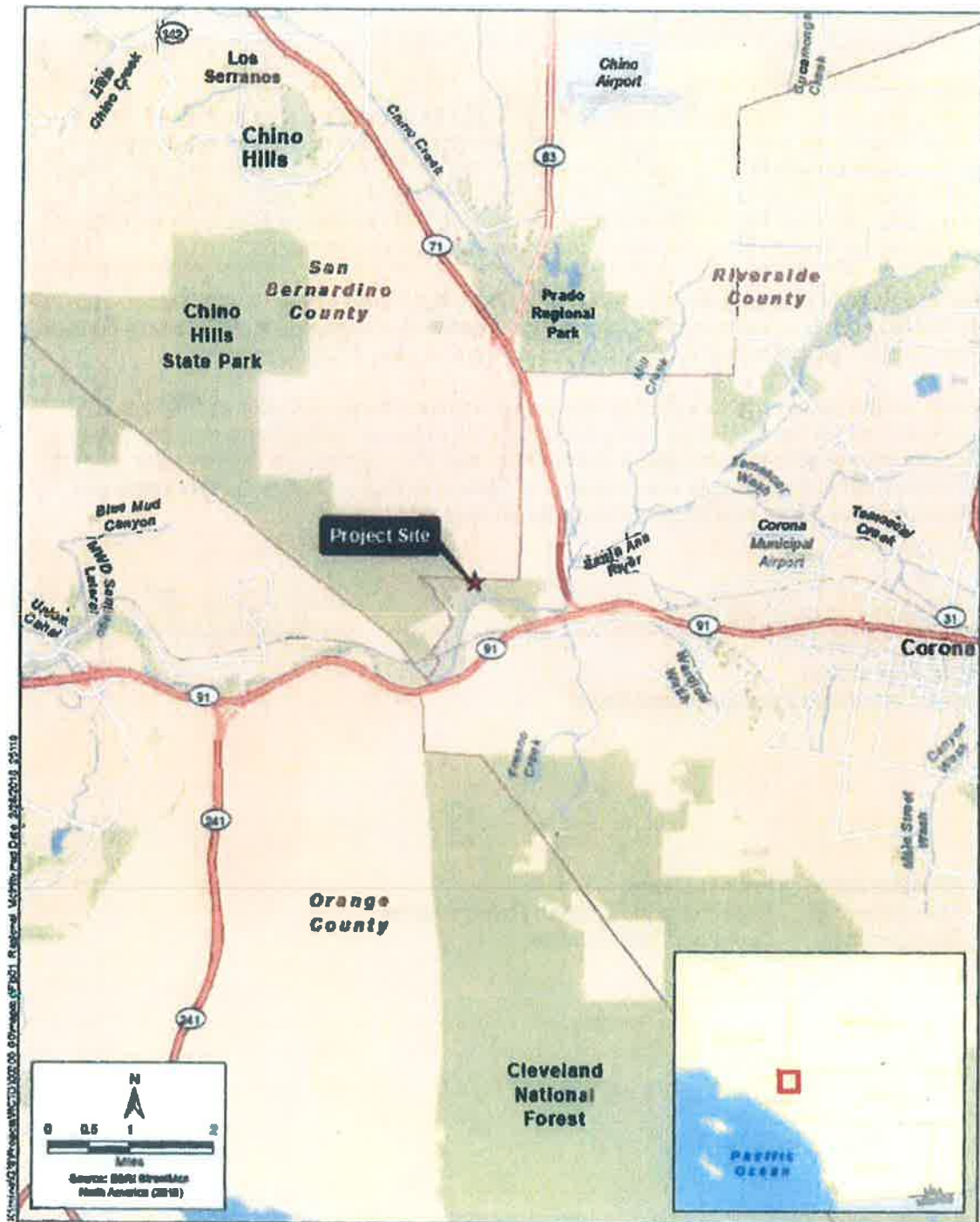


Hope A. Smythe  
Executive Officer  
Santa Ana Water Quality Control Board

Date



<b>Attachment A</b>	Project Map(s)
<b>Attachment B</b>	Report and Notification Requirements
<b>Attachment C</b>	Signatory Requirements



**Figure 1**  
**Regional Vicinity Map**  
**Santa Ana River Trail**





### Copies of this Form

In order to identify your Project, it is necessary to include a copy of the Project-specific Cover Sheet below with your report. Please retain for your records. If you need to obtain a copy of the Cover Sheet you may download a copy of this Order from [https://www.waterboards.ca.gov/santaana/water\\_issues/programs/401\\_certification](https://www.waterboards.ca.gov/santaana/water_issues/programs/401_certification) (go down to *Resources for Applicants* and select *Report and Notification Cover Sheet*).

### Report Submittal Instructions

1. Check the box on the *Report and Notification Cover Sheet* next to the report or notification you are submitting.
  - **Part A (Annual Report):** Submitted annually from the anniversary of Project effective date until a *Notice of Project Complete Letter* is issued.
  - **Part B (Project Status Notifications):** Used to notify the Santa Ana Water Board of the status of the Project schedule that may affect Project billing.
  - **Part C (Conditional Notifications and Reports):** Required on a case-by-case basis for accidental discharges of hazardous materials, violation of compliance with water quality standards, notification of in-water work, or other reports.
2. Sign the *Report and Notification Cover Sheet* and attach all information requested for the Report Type.
3. **Electronic Report Submittal Instructions:**
  - Submit signed Report and Notification Cover Sheet and required information via email to: [Claudia.Tenorio@waterboards.ca.gov](mailto:Claudia.Tenorio@waterboards.ca.gov) or other Santa Ana Water Board Certification staff.
  - Include in the subject line of the email:  
Subject: ATTN: Santa Ana River Trail Project; WDID # 332018-13; Reg. Measure ID: 421908 Report.

### Definition of Reporting Terms

1. **Active Discharge Period:** The active discharge period begins with the effective date of this Order and ends on the date that the Permittee receives a *Notice of Completion of Discharges Letter* or, if no post-construction monitoring is required, a *Notice of Project Complete Letter*. The Active Discharge Period includes all elements of the Project, including site construction and restoration, and any Permittee responsible compensatory mitigation construction.
2. **Request for Notice of Completion of Discharges Letter:** This request by the Permittee to the Santa Ana Water Board staff pertains to projects that have post construction monitoring requirements, e.g., if site restoration was required to be monitored for five (5) years following construction. Santa Ana Water Board staff will review the request and send a *Completion of Discharges Letter* to the Permittee upon approval. This letter will initiate the post-discharge monitoring period and a change in fees from the annual active discharge fee to the annual post-discharge monitoring fee.
3. **Request for Notice of Project Complete Letter:** This request by the Permittee to the Santa Ana Water Board staff pertains to projects that either have completed post-construction monitoring and achieved performance standards or have no post-construction monitoring requirements and no further Project

activities are planned. Santa Ana Water Board staff will review the request and send a *Project Complete Letter to the Permittee* upon approval. Termination of annual invoicing of fees will correspond with the date of this letter.

4. **Post-Discharge Monitoring Period:** The post-discharge monitoring period begins on the date of the *Notice of Completion of Discharges Letter* and ends on the date of the *Notice of Project Complete Letter* issued by the Santa Ana Water Board staff. The Post-Discharge Monitoring Period includes continued water quality monitoring or compensatory mitigation monitoring.
5. **Effective Date:** Date of Order issuance.

### Map/Photo Documentation Information

When submitting maps or photos, please use the following formats.

1. **Map Format Information:**

Preferred map formats of at least 1:24000 (1" = 2000') detail (listed in order of preference):

- **GIS shapefiles:** The shapefiles shall depict the boundaries of all Project areas and extent of aquatic resources impacted. Each shape should be attributed with the extent/type of aquatic resources impacted. Features and boundaries should be accurate to within 33 feet (10 meters). Identify datum/projection used and, if possible, provide map with a North American Datum of 1983 (NAD83) in the California Teale Albers projection in feet.
- **Google KML files** saved from Google Maps: My Maps or Google Earth Pro. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. Include URL(s) of maps. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Other electronic format** (CAD or illustration format) that provides a context for location (inclusion of landmarks, known structures, geographic coordinates, or USGS DRG or DOQQ). Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.
- **Aquatic resource maps** marked on paper **USGS 7.5-minute topographic maps** or **Digital Orthophoto Quarter Quads (DOQQ)** printouts. Maps shall show the boundaries of all Project areas and extent/type of aquatic resources impacted. If this format is used, include a spreadsheet with the object ID and attributed with the extent/type of aquatic resources impacted.

2. **Photo-Documentation:** Include a unique identifier, date stamp, written description of photo details, and latitude/longitude (in decimal degrees) or map indicating location of photo. Successive photos should be taken from the same vantage point to compare pre/post construction conditions.



### REPORT AND NOTIFICATION COVER SHEET

**Project:** Santa Ana River Trail Project  
**Permittee:** Russell Williams, Riverside County Transportation Department  
**SARWQCB WDID:** 332018-13  
**Reg. Meas. ID:** 421908 **Place ID:** 847966  
**Order Effective Date:** November 28, 2018

### Report Type Submitted

#### Part A - Project Reporting

Report Type 1 ☐ Annual Report

#### Part B - Project Status Notifications

Report Type 2 ☐ Commencement of Construction

Report Type 3 ☐ Request for Notice of Completion of Discharges Letter

Report Type 4 ☐ Request for Notice of Project Complete Letter

#### Part C - Conditional Notifications and Reports

Report Type 5 ☐ Accidental Discharge of Hazardous Material Report

Report Type 6 ☐ Violation of Compliance with Water Quality Standards Report

Report Type 7 ☐ In-Water Work/Diversions Water Quality Monitoring Report

Report Type 8 ☐ Modifications to Project Report

Report Type 9 ☐ Transfer of Property Ownership Report

Report Type 10 ☐ Transfer of Long-Term BMP Maintenance Report

"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."

Print Name <sup>1</sup>

Affiliation and Job Title

Signature

Date

**<sup>1</sup>STATEMENT OF AUTHORIZATION (include if authorization has changed since application was submitted)**

I hereby authorize \_\_\_\_\_ to act in my behalf as my representative in the submittal of this report, and to furnish upon request supplemental information in support of this submittal.

\_\_\_\_\_  
Permittee's Signature

\_\_\_\_\_  
Date

**\*This Report and Notification Cover Sheet must be signed by the Permittee or a duly authorized representative and included with all written submittals.**

## Part A – Project Reporting

<b>Report Type 1</b>	<b>Annual Report</b>
<b>Report Purpose</b>	Notify the Santa Ana Water Board staff of Project status during both the active discharge and post-discharge monitoring periods.
<b>When to Submit</b>	Annual reports shall be submitted each year by anniversary of effective date. Annual reports shall continue until a <i>Notice of Project Complete Letter</i> is issued to the Permittee.
<b>Report Contents</b>	<p>The contents of the annual report shall include the topics indicated below for each Project period. Report contents are outlined in Annual Report Topics below.</p> <p><u>During the Active Discharge Period</u></p> <ul style="list-style-type: none"> <li>• Topic 1: Construction Summary</li> <li>• Topic 2: Mitigation for Temporary Impacts Status</li> <li>• Topic 3: Compensatory Mitigation for Permanent Impacts Status</li> </ul> <p><u>During the Post-Discharge Monitoring Period</u></p> <ul style="list-style-type: none"> <li>• Topic 2: Mitigation for Temporary Impacts Status</li> <li>• Topic 3: Compensatory Mitigation for Permanent Impacts Status</li> </ul>
<b>Annual Report Topics (1-3)</b>	
<b>Annual Report Topic 1</b>	<b>Construction Summary</b>
<b>When to Submit</b>	With the annual report during the Active Discharge Period.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Project progress and schedule, including initial ground disturbance, site clearing and grubbing, road construction, site construction, and the implementation status of construction storm water best management practices (BMPs). If construction has not started, provide estimated start date and reasons for delay.</li> <li>2. Map showing general Project progress.</li> <li>3. If applicable: <ol style="list-style-type: none"> <li>a. Summary of Conditional Notification and Report Types 6 and 7 (Part C below).</li> <li>b. Summary of Certification Deviations. See Certification Deviation Attachment for further information.</li> </ol> </li> </ol>
<b>Annual Report Topic 2</b>	<b>Mitigation for Temporary Impacts Status</b>
<b>When to Submit</b>	With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Planned date of initiation and map showing locations of mitigation for temporary impacts to waters of the State and all upland areas of temporary disturbance that could result in a discharge to waters of the State.</li> </ol>

	2. If mitigation for temporary impacts has already commenced, provide a map and information concerning attainment of performance standards contained in the restoration plan.
<b>Annual Report Topic 3</b>	<b>Compensatory Mitigation for Permanent Impacts Status</b>
<b>When to Submit</b>	With the annual report during both the Active Discharge Period and Post-Discharge Monitoring Period.
<b>Report Contents</b>	<p><b>*If not applicable report N/A.</b></p> <p><b>Part A. Permittee Responsible</b></p> <ol style="list-style-type: none"><li>1. Planned date of initiation of compensatory mitigation site installation.</li><li>2. If installation is in progress, a map of what has been completed to date.</li><li>3. If the compensatory mitigation site has been installed, provide a final map and information concerning attainment of performance standards contained in the compensatory mitigation plan.</li></ol> <p><b>Part B. Mitigation Bank or In-Lieu Fee (ILF)</b></p> <ol style="list-style-type: none"><li>1. Status or proof of purchase of credit types and quantities.</li><li>2. Include the name of bank/ILF Program and contact information.</li><li>3. If ILF, location of project and type if known.</li></ol>

## Part B – Project Status Notifications

<b>Report Type 2</b>	<b>Commencement of Construction</b>
<b>Report Purpose</b>	Notify Santa Ana Water Board staff prior to the start of construction.
<b>When to Submit</b>	Must be received at least seven (7) days prior to start of initial ground disturbance activities.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Date of commencement of construction</li> <li>2. Anticipated date when discharges to waters of the State will occur.</li> <li>3. Project schedule milestones, including a schedule for onsite compensatory mitigation, if applicable.</li> </ol>

<b>Report Type 3</b>	<b>Request for Notice of Completion of Discharges Letter</b>
<b>Report Purpose</b>	Notify Santa Ana Water Board staff that post-construction monitoring is required and that active Project construction, including any mitigation and permittee responsible compensatory mitigation, is complete.
<b>When to Submit</b>	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project construction activities.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. Status of storm water Notice of Termination(s), if applicable.</li> <li>2. Status of post-construction storm water BMP installation.</li> <li>3. Pre- and post-photo documentation of all Project activity sites where the discharge of dredge and/or fill/excavation was authorized.</li> <li>4. Summary of Certification Deviation discharge quantities compared to initial authorized impacts to waters of the State, if applicable.</li> <li>5. An updated monitoring schedule for mitigation for temporary impacts to waters of the State and Permittee responsible compensatory mitigation during the post-discharge monitoring period, if applicable.</li> </ol>

<b>Report Type 4</b>	<b>Request for Notice of Project Complete Letter</b>
<b>Report Purpose</b>	Notify Santa Ana Water Board staff that construction and/or any post-construction monitoring is complete, or is not required, and no further Project activity is planned.
<b>When to Submit</b>	Must be received by Santa Ana Water Board staff within thirty (30) days following completion of all Project activities.
<b>Report Contents</b>	<b>Part A: Mitigation for Temporary Impacts</b> <ol style="list-style-type: none"> <li>1. A report establishing that the performance standards outlined in the restoration plan have been met for Project site upland areas of temporary disturbance that could result in a discharge to waters of the State.</li> <li>2. A report establishing that the performance standards outlined in the restoration plan have been met for restored areas of temporary impacts to waters of the State. Pre- and post-photo documentation of all restoration sites.</li> </ol>

	<p><b>Part B: Permittee Responsible Compensatory Mitigation</b></p> <ol style="list-style-type: none"><li>1. A report establishing that the performance standards outlined in the compensatory mitigation plan have been met.</li><li>2. Status on the implementation of the long-term maintenance and management plan and funding of endowment.</li><li>3. Pre- and post-photo documentation of all compensatory mitigation sites.</li><li>4. Final maps of all compensatory mitigation areas (including buffers).</li></ol> <p><b>Part C: Post-Construction Storm Water BMPs</b></p> <ol style="list-style-type: none"><li>1. Date of storm water <i>Notice of Termination(s)</i>, if applicable.</li><li>2. Report status and functionality of all post-construction BMPs.</li></ol>
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## Part C – Conditional Notifications and Reports

<b>Report Type 5</b>	<b>Accidental Discharge of Hazardous Material Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff that an accidental discharge of hazardous material has occurred.
<b>When to Submit</b>	Within five (5) working days following the date of an accidental discharge. Continue reporting as required by Santa Ana Water Board staff.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. The report shall include the <i>OES Incident/Assessment Form</i>, a full description and map of the accidental discharge incident (i.e., location, time and date, source, discharge constituent and quantity, aerial extent, and photo documentation). If applicable, the <i>OES Written Follow-Up Report</i> may be substituted.</li> <li>2. If applicable, any required sampling data, a full description of the sampling methods, including frequency/dates and times of sampling, equipment, locations of sampling sites.</li> <li>3. Locations and construction specifications of any barriers, including silt curtains or diverting structures and any associated trenching or anchoring.</li> </ol>

<b>Report Type 6</b>	<b>Violation of Compliance with Water Quality Standards Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff that a violation of compliance with water quality standards has occurred.
<b>When to Submit</b>	The Permittee shall report any event that causes a violation of water quality standards within three (3) working days of the noncompliance event notification to Santa Ana Water Board staff.
<b>Report Contents</b>	The report shall include: the cause; the location shown on a map; and the period of the noncompliance, including exact dates and times. If the noncompliance has not been corrected, include: the anticipated time it is expected to continue; the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; and any monitoring results, if required by Santa Ana Water Board staff.

<b>Report Type 7</b>	<b>In-Water Work and Diversions Water Quality Monitoring Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff of the completion of in-water work.
<b>When to Submit</b>	Within three (3) working days following the completion of in-water work. Continue reporting in accordance with the approved water quality monitoring plan.
<b>Report Contents</b>	As required by the approved water quality monitoring plan.

<b>Report Type 8</b>	<b>Modifications to Project Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff if the Project, as described in the application materials, is altered in any way or by the imposition of subsequent permit conditions by any local, State, or federal regulatory authority.
<b>When to Submit</b>	If Project implementation as described in the application materials is altered in any way or by the imposition of subsequent permit conditions by any local, State, or federal regulatory authority.
<b>Report Contents</b>	A description and location of any alterations to Project implementation. Identification of any Project modifications that will interfere with the Permittee's compliance with the Order.

<b>Report Type 9</b>	<b>Transfer of Property Ownership Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff of change in ownership of the Project or Permittee-responsible mitigation area.
<b>When to Submit</b>	At least ten (10) working days prior to the transfer of ownership.
<b>Report Contents</b>	<ol style="list-style-type: none"> <li>1. A statement that the Permittee has provided the purchaser with a copy of this Order and that the purchaser understands and accepts: <ol style="list-style-type: none"> <li>a. the Order's requirements and the obligation to implement them or be subject to administrative and/or civil liability for failure to do so; and</li> <li>b. responsibility for compliance with any long-term BMP<sup>1</sup> maintenance plan requirements in this Order.</li> </ol> </li> <li>2. A statement that the Permittee has informed the purchaser to submit a written request to the Santa Ana Water Board to be named as the permittee in a revised order.</li> </ol>

<b>Report Type 10</b>	<b>Transfer of Long-Term BMP Maintenance Report</b>
<b>Report Purpose</b>	Notifies Santa Ana Water Board staff of transfer of long-term BMP maintenance responsibility.
<b>When to Submit</b>	At least ten (10) working days prior to the transfer of BMP maintenance responsibility.
<b>Report Contents</b>	A copy of the legal document transferring maintenance responsibility of post-construction BMPs.

<sup>1</sup> Best Management Practices (BMPs) is a term used to describe a type of environmental or water pollution control.



### SIGNATORY REQUIREMENTS

*All Documents Submitted In Compliance With This Order  
Shall Meet The Following Signatory Requirements:*

1. All applications, reports, or information submitted to the Santa Ana Regional Water Quality Control Board (Santa Ana Water Board) shall be signed and certified as follows:
  - a) For a corporation, by a responsible corporate officer of at least the level of vice-president.
  - b) For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
  - c) For a municipality, or a State, federal, or other public agency, by either a principal executive officer or ranking elected official.
2. A duly authorized representative of a person designated in items 1.a through 1.c above may sign documents if:
  - a) The authorization is made in writing by a person described in items 1.a through 1.c above.
  - b) The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
  - c) The written authorization is submitted to the Santa Ana Water Board staff contact prior to submitting any documents listed in item 1 above.
3. Any person signing a document under this section shall make the following certification:

"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."



**DEPARTMENT OF THE ARMY**  
**LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS**  
**915 WILSHIRE BOULEVARD, SUITE 930**  
**LOS ANGELES, CALIFORNIA 90017**

December 21, 2018

Russell Williams, Environmental Division Planner  
Riverside County Transportation Department  
862 E Hospitality Ln  
Riverside, CA 92501

**DEPARTMENT OF THE ARMY NATIONWIDE PERMIT VERIFICATION**

Dear Mr. Williams

This letter supersedes the December 17, 2018 Nationwide Permit (NWP) Verification Letter issued in response to your request (Corps File No. SPL-2018-00392-LOB) for a Department of the Army permit for the Santa Ana River Trail Project located within the Santa Ana River Trail near Green River Golf Course in the City of Corona within Riverside County, California (Latitude 33.888054 °, Longitude -117.660682 °).

Because implementation of this project would result in a discharge of dredged and/or fill material into waters of the United States, a Department of the Army permit is required pursuant to section 404 of the Clean Water Act (33 U.S.C. 1344; 33 C.F.R. parts 323 and 330). I have determined your proposed project, if constructed as described in your application, would comply with Nationwide Permit (NWP) 14 – *Linear Transportation Projects* and NWP 33- *Temporary Construction, Access, and Dewatering*. Specifically, you are authorized (as shown on the enclosed figures) to conduct the following regulated activities:

1. Discharge permanent fill material into approximately 0.01 acre (624 linear feet) of non-wetland waters of the U.S. to:
  - a. Improve an existing 8- to 27-foot-wide dirt trail into a bike lane and multi-purpose trail (see enclosed drawings); and
  - b. Replace two existing 30-inch diameter culverts with a low water crossing consisting of a double 292 cubic foot precast reinforced concrete box culvert. The low water crossing would include the construction of a concrete dip section and the installation of headwalls, cutoff walls (to a maximum depth of 13.2 feet), and 1-ton rock slope protection (Drainage 1 downstream side only).
2. Temporarily discharge dredged or fill material into approximately 0.01 acre of non-wetland waters of the U.S. for construction access and staging equipment.

For this NWP verification letter to be valid, you must comply with all of the terms and conditions in Enclosure 1. Furthermore, you must comply with the non-discretionary Special Conditions listed below:

**Special Conditions:**

1. The Permittee shall abide by the terms and conditions of the section 401 WQC dated November 28, 2018.
2. The Permittee shall abide by the terms and conditions of the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) dated June 22, 2004.
3. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:
  - a. Date(s) work within waters of the U.S. was initiated and completed;
  - b. Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
  - c. Color photographs (including map of photo points) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S. such that the extent of authorized fills can be verified;
  - d. One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
  - e. Signed Certification of Compliance (attached as part of this permit package).
4. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Archaeology staff (Danielle Storey at 213-452-3845 OR Meg McDonald at 213-452-3849) and Corps Regulatory Division (Luis O. Betancourt-Massanet at 213-452-3375 or Stephanie Hall at 213-452-3410) within 24 hours. The Permittee shall immediately suspend all work in any area(s) within 100 feet of where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.
5. The Permittee shall discharge only clean construction materials in and along waters of the U.S. The Permittee shall ensure no debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, from construction shall be allowed to enter into or placed where it may be washed by rainfall or runoff into waters of the United States. Upon completion of the project authorized herein, any and all excess material or debris shall be completely removed from the work area and disposed of in an appropriate upland site.

This verification is valid through **March 18, 2022**. If on March 18, 2022, you have commenced or are under contract to commence the permitted activity, you will have an additional twelve (12) months to complete the activity under the present NWP terms and conditions. However, if I discover noncompliance or unauthorized activities associated with the permitted activity, I may request the use of discretionary authority in accordance with procedures in 33 C.F.R. § 330.4(e) and 33 C.F.R. §§ 330.5(c) or (d) to modify, suspend, or revoke this specific verification at an earlier date. Additionally, at the national level, the Chief of Engineers, any time prior to March 18, 2022, may choose to modify, suspend, or revoke the nationwide use of a NWP after following procedures set forth in 33 CFR § 330.5. It is incumbent upon you to comply with all of the terms and conditions of this NWP verification and to remain informed of any change to the NWPs.

A NWP does not grant any property rights or exclusive privileges. Additionally, it does not authorize any injury to the property, rights of others, nor does it authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in the regulatory program. If you have any questions, please contact Luis Betancourt-Massanet at 213-452-3845 or via e-mail at [Luis.O.BetancourtMassanet@usace.army.mil](mailto:Luis.O.BetancourtMassanet@usace.army.mil). Please help me to evaluate and improve the regulatory experience for others by completing the customer survey form at [http://corpsmapu.usace.army.mil/cm\\_apex/f?p=regulatory\\_survey](http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey).

Sincerely,

DAHL.KYLE.J  
.1273446261

Digitally signed by  
DAHL.KYLE.J.1273446261  
DN: cn=US, ou=U.S. Government,  
ou=DoD, ou=PKI, ou=USA,  
cn=DAHL.KYLE.J.1273446261  
Date: 2018.12.21 13:31:50 -08'00'

Kyle J. Dahl  
Team Lead, South Coast Branch  
Regulatory Division

Enclosures



**LOS ANGELES DISTRICT  
U.S. ARMY CORPS OF ENGINEERS**

**CERTIFICATE OF COMPLIANCE WITH  
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT**

**Permit Number:** *SPL-2018-00392-LOB*

**Name of Permittee:** *Riverside County Transportation Department (POC: Russell Williams)*

**Date of Issuance:** *December 21, 2018*

Upon completion of the activity authorized by this permit and the mitigation required by this permit, sign this certificate, and return it by **ONE** of the following methods;

1) Email a digital scan of the signed certificate to  
[Luis.O.BetancourtMassanet@usace.army.mil](mailto:Luis.O.BetancourtMassanet@usace.army.mil)

**OR**

2) Mail the signed certificate to  
U.S. Army Corps of Engineers  
ATTN: Regulatory Division (SPL-2018-00392-LOB)  
915 Wilshire Boulevard, Suite 930  
Los Angeles, California 90017

I hereby certify that the authorized work and any required compensatory mitigation has been completed in accordance with the NWP authorization, including all general, regional, or activity-specific conditions. Furthermore, if credits from a mitigation bank or in-lieu fee program were used to satisfy compensatory mitigation requirements I have attached the documentation required by 33 C.F.R. § 332.3(l)(3) to confirm that the appropriate number and resource type of credits have been secured.

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Signature of Permittee

---

Date



**Figure 1**  
**Regional Vicinity Map**  
**Santa Ana River Trail**





**Figure 2**  
**Project Location**  
**Santa Ana River Trail**





**Figure 4a**  
USACE/RWQCB Jurisdictional Water Resources Results and Impacts  
Santa Ana River Trail



Figure 4a  
USACE/RWQCB Jurisdictional Water Resources Results and Impacts  
Santa Ana River Trail



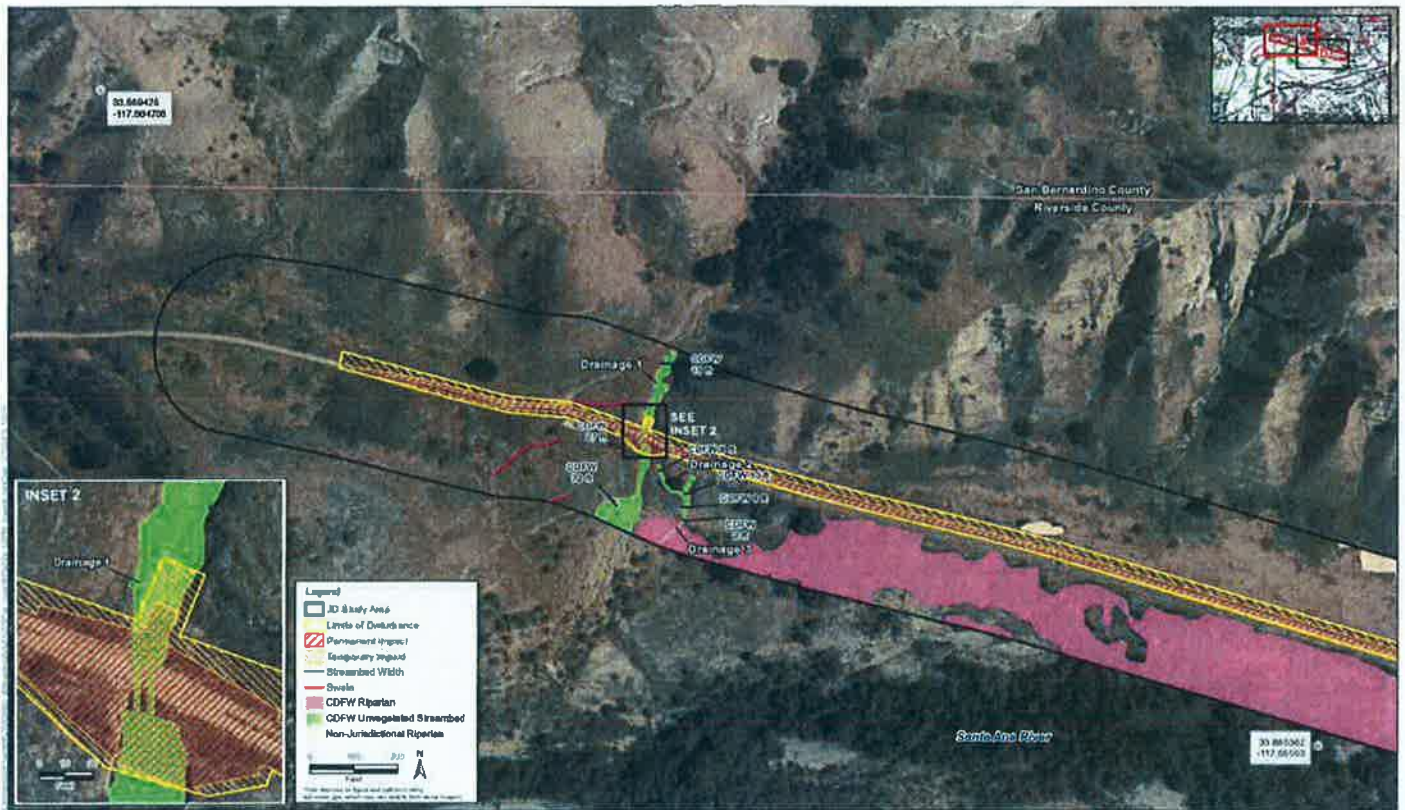


Figure 4b  
CDFW Jurisdictional Water Resources Results and Impacts  
Santa Ana River Trail



Figure 4b  
CDFW Jurisdictional Water Resources Results and Impacts  
Santa Ana River Trail

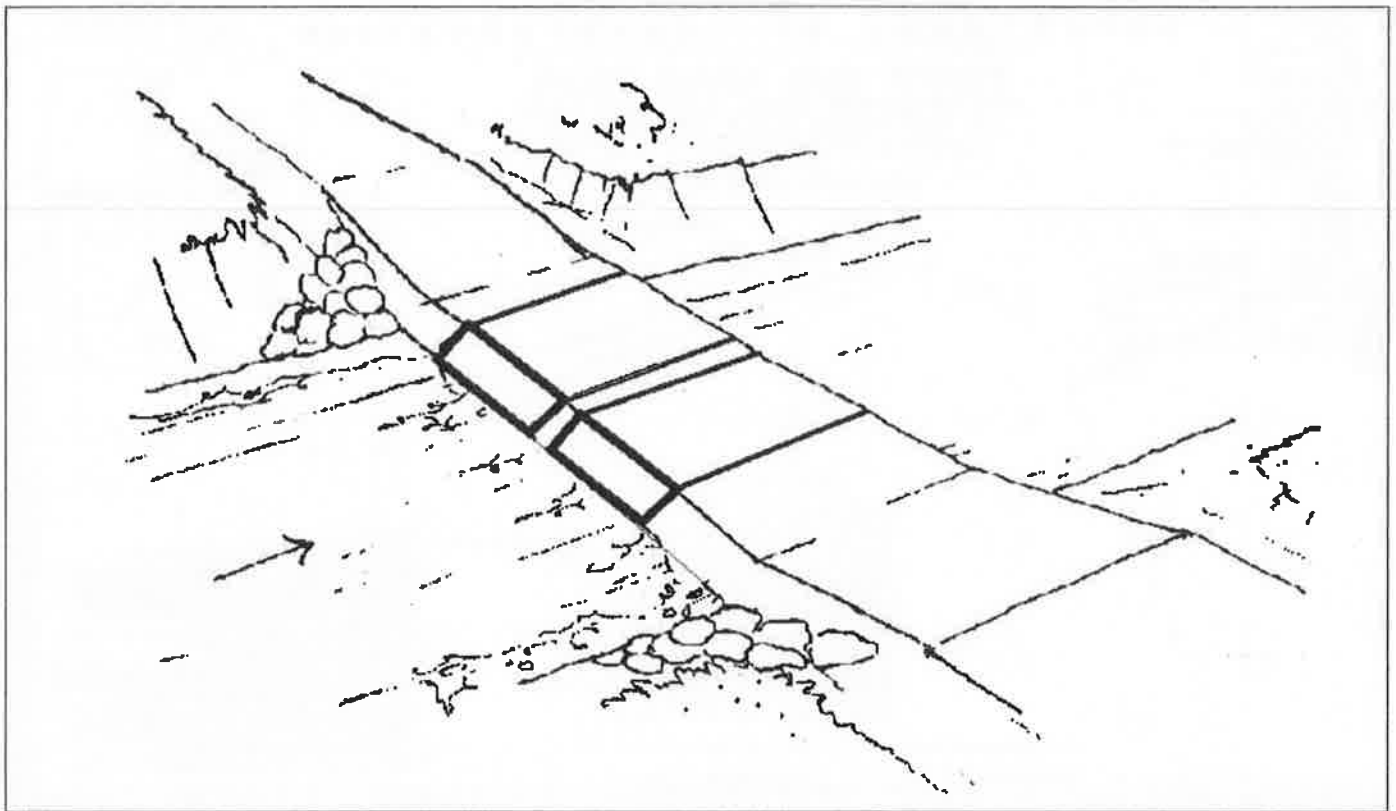


Figure 3  
Proposed Low Water Crossing/Culverts  
Santa Ana River Trail

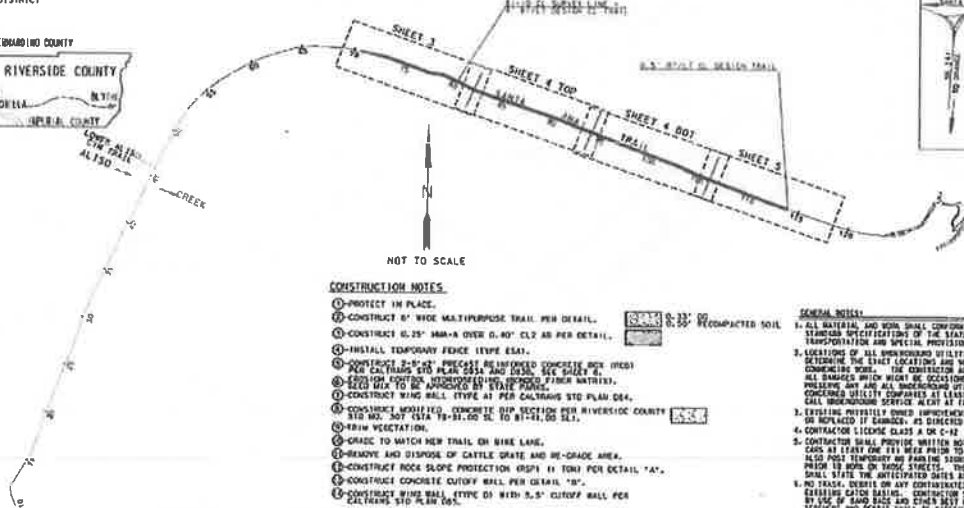
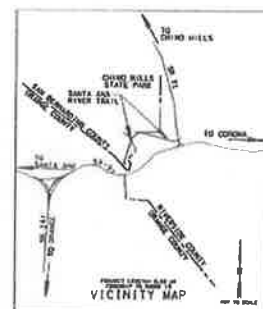
SHEET NO.	DESCRIPTION
1	TITLE SHEET
2 - 5	TYPICAL SECTIONS AND PLANS
6 - 7	PROFILES
8	DETAILS
9 - 11	BIKE LANE SIGNS AND STRIPING
12	TRAFFIC CONTROL PLAN

ACCD	ALBUQUERQUE COUNTY FLOOD CONTROL DISTRICT
SANPA	SANTA ANA WATERSHED PROJECT AUTHORITY
MWD	METROPOLITAN WATER DISTRICT
WFL	WATER LINE (EARTH)
BO	BLOCK OFF
AY	AIR VACUUM
M	MANWAY
ESA	ENVIRONMENTALLY SENSITIVE AREA
EMWD	EASTERN MUNICIPAL WATER DISTRICT
SL	SURVEY LINE
CL	CENTER LINE

**SANTA ANA RIVER TRAIL**  
**MULTIPURPOSE TRAIL AND BIKE LANE**  
**IN THE CHINO HILLS STATE PARK**  
**LENGTH OF PROJECT = 0.82 MI**

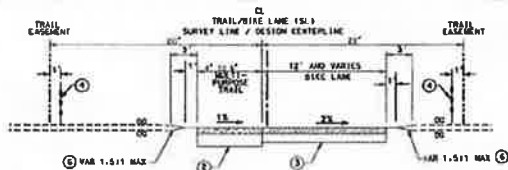
TO BE SUPPLEMENTED BY STANDARD PLANS DATED 2010,  
AND ROAD IMPROVEMENT STANDARDS DATED 12-20-2007

ENVIRONMENTALLY SENSITIVE AREA (ESA)  
SEE SPECIFICATIONS.

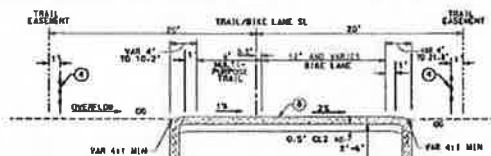


- ①-PROTECT IN PLACE.
- ②-CONSTRUCT 8" WIDE MULTIPURPOSE TRAIL PER DETAIL.
- ③-CONSTRUCT 12" MIN. DIA. OVER 0.40% CLS. AS PER DETAIL.
- ④-INSTALL EROSION-PROOF EARTH EASE.
- ⑤-CONSTRUCT 5'-6" W.C. PRECAST REINFORCED CONCRETE BOX (RCD) ON CALTRANS STD. PLAN 253A AND DRAIN. SEE NOTES 6.
- ⑥-INSTALL FORTIFICATION OF EROSION CONTROL.
- ⑦-SEEK TO BE APPROVED BY STATE PARKS.
- ⑧-CONSTRUCT WIDE BALL TYPE AT PER CALTRANS STD. PLAN 604.
- ⑨-CONSTRUCT MODIFIED CONCRETE BOX SECTION PER RIVERSIDE COUNTY TO MEET 307 STA 19+31.00 SL TO 31+11.00 SL.
- ⑩-GRASS WITH NEW TRAIL, ON BANK LAKE.
- ⑪-REMOVE AND DISPOSE OF CATTLE GRADE AND RE-GRADE AREA.
- ⑫-CONSTRUCT ROCK SLOPE PROTECTION (RSP) AT FORM PER DETAIL "A".
- ⑬-CONSTRUCT CONCRETE CUTOFF WALL PER DETAIL "B".
- ⑭-CONSTRUCT WIDE BALL TYPE AT WITH 5.5' CUTOFF WALL PER DET. LEAVE 5' SIDE AREA.

[illegible][illegible]



SANTA ANA TRAIL/BIKE LANE  
 STA 75+50.00 SL TO STA 79+51.00 SL  
 STA 81+10.00 SL OR STA 81+10.00 DESIGN CL TO STA 81+55.23 DESIGN CL  
 STA 105+00.00 DESIGN CL TO STA 114+00.00 DESIGN CL

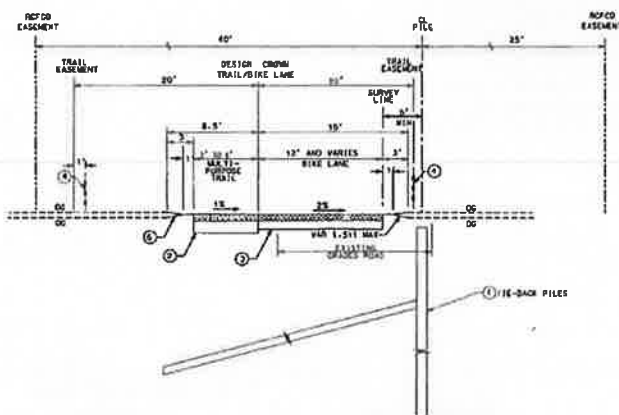


SANTA ANA TRAIL/BIKE LANE - CONCRETE DIP SECTION  
 STA 79+51.00 SL TO STA 81+51.00 SL  
 STA 80+54.60 SL TO STA 80+72.40 SL - LT SLOPE WALL  
 STA 80+28.30 SL TO STA 80+62.90 SL - RT SLOPE WALL

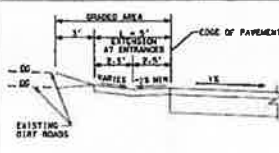
- NOTE:
1. THE EXISTING GRADES ROAD SHALL BE EXCAVATED TO A DEPTH OF 18" - THE UNDERLAYER MATERIAL SHALL BE SUBSTITUTED WITH 18" OF 1/2" CRUSHED AND RECOMPACTED TO 95%.
  2. FOR FURTHER DETAILS, SEE RIV. CO. STD DWG 307.



SANTA ANA TRAIL/BIKE LANE  
 STA 75+50.00 SL TO STA 75+50.00 SL



SANTA ANA TRAIL/BIKE LANE  
 STA 80+41.00 (CL) TO STA 105+00.00 (CL)



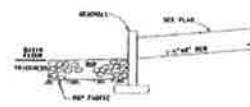
#### CONSTRUCTION NOTES

1. PROTECT IN PLACE.
2. CONSTRUCT 6" RIDE MULTIPURPOSE TRAIL PER DETAIL.
3. CONSTRUCT 0.25" HMA-A OVER 0.40" CL2 AS PER DETAIL.
4. INSTALL TEMPORARY FENCE (TYPE ESA).
5. EROSION CONTROL MEASURES SHALL BE INSTALLED PER RIVERSIDE COUNTY STD NO. 307.
6. CONSTRUCT MODIFIED CONCRETE DIP SECTION PER RIVERSIDE COUNTY STD NO. 307.

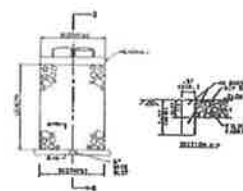
GC ENGINEERING	TYPICAL SECTION	SHEET NO.
APPROVED BY:	SANTA ANA RIVER MULTIPURPOSE TRAIL AND BIKE LANE	X-1
DATE: 12/14/14	NO SCALE	2 of 12



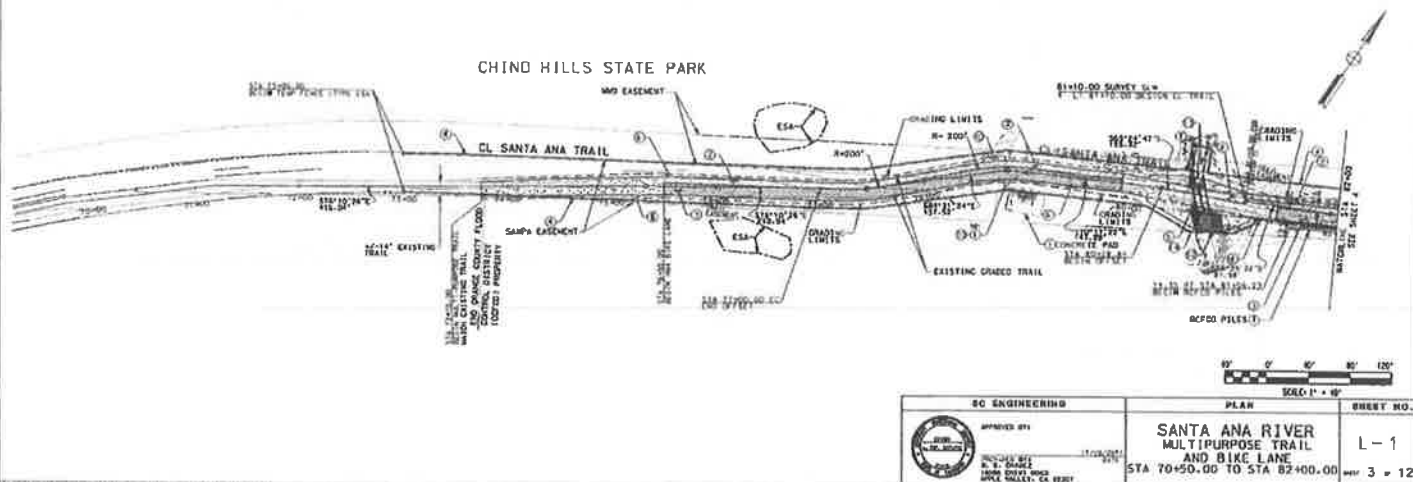
- ①-PROTECT IN PLACE.
- ②-CONSTRUCT 8' WIDE MULTIPURPOSE TRAIL PER DETAIL.
- ③-CONSTRUCT 0.25% MAX+ A OVER 0% MIN+ CL2 AS PER DETAIL. 0.25% RECOMPACT SOIL.
- ④-CONSTRUCT TEMPORARY FENCE TYPE GSE.
- ⑤-CONSTRUCT 12' HIGH PRECAST RC CONCRETE PER CALTRANS STD PLAN D&S AND DETAIL.
- ⑥-SEED MIX TO BE APPROVED BY STATE PARS.
- ⑦-CONSTRUCT WOOD WALL TYPE 4 AS PER CALTRANS STD PLAN D&S.
- ⑧-CONSTRUCT CONCRETE UNDER RAIL SECTION PER RIVERSIDE COUNTY STD PLAN STD ETRA 79781-00 TO 81741-00 STD.
- ⑨-GRADE TO MATCH HSB TRAIL OR BIAS LADE.
- ⑩-CONSTRUCT ROCK SLOPE PROTECTION (RSP) 11 TONS PER DETAIL "A".
- ⑪-CONSTRUCT CONCRETE EUTIFY WALL PER DETAIL "B".
- ⑫-CONSTRUCT WOOD WALL TYPE 53 WITH 3' CUT OFF WALL PER CALTRANS STD PLAN D&S.



DETAIL "A"



ROCK SLOPE PROTECTION  
NO. 1241

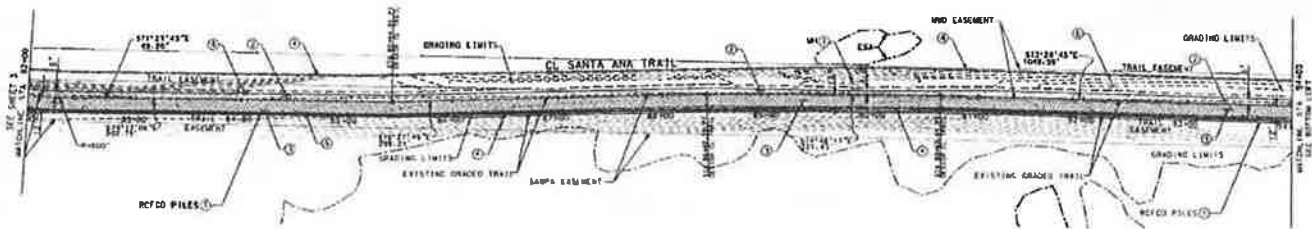


# CONSTRUCTION NOTES

1. PROTECT IN PLACE.
2. CONSTRUCT 6" WIDE MULTIPURPOSE TRAIL PER DETAIL.
3. CONSTRUCT 0.75' WIDE OVER & 40' C.S.P. AS PER DETAIL.
4. INSTALL TEMPORARY FENCE (TYPE E&A).
5. 12" x 12" x 8' E&A PILES (SEE MATRIX).
6. GRADE TO MATCH KEY TRAIL OR BIKE LANE.



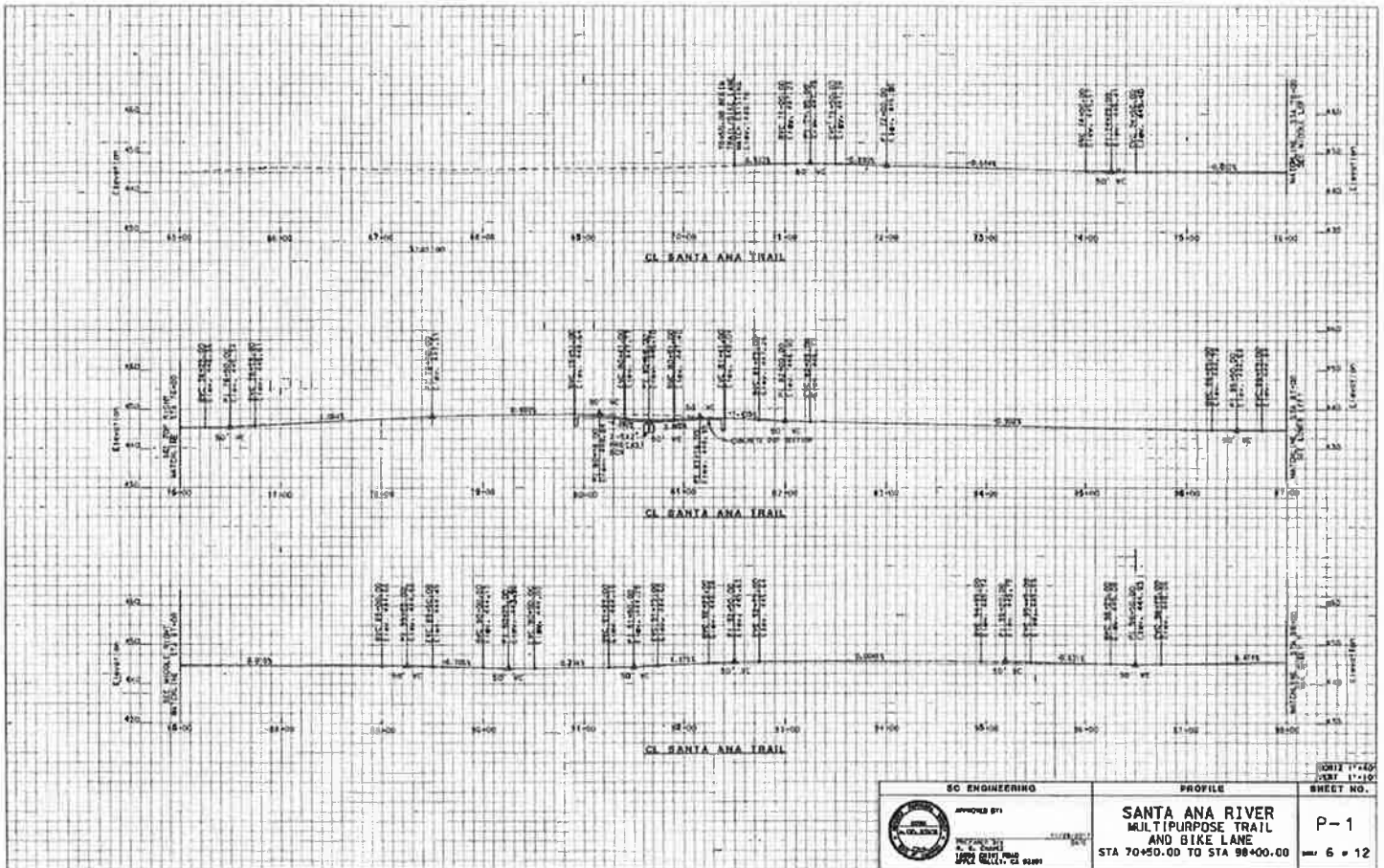
CHINO HILLS STATE PARK



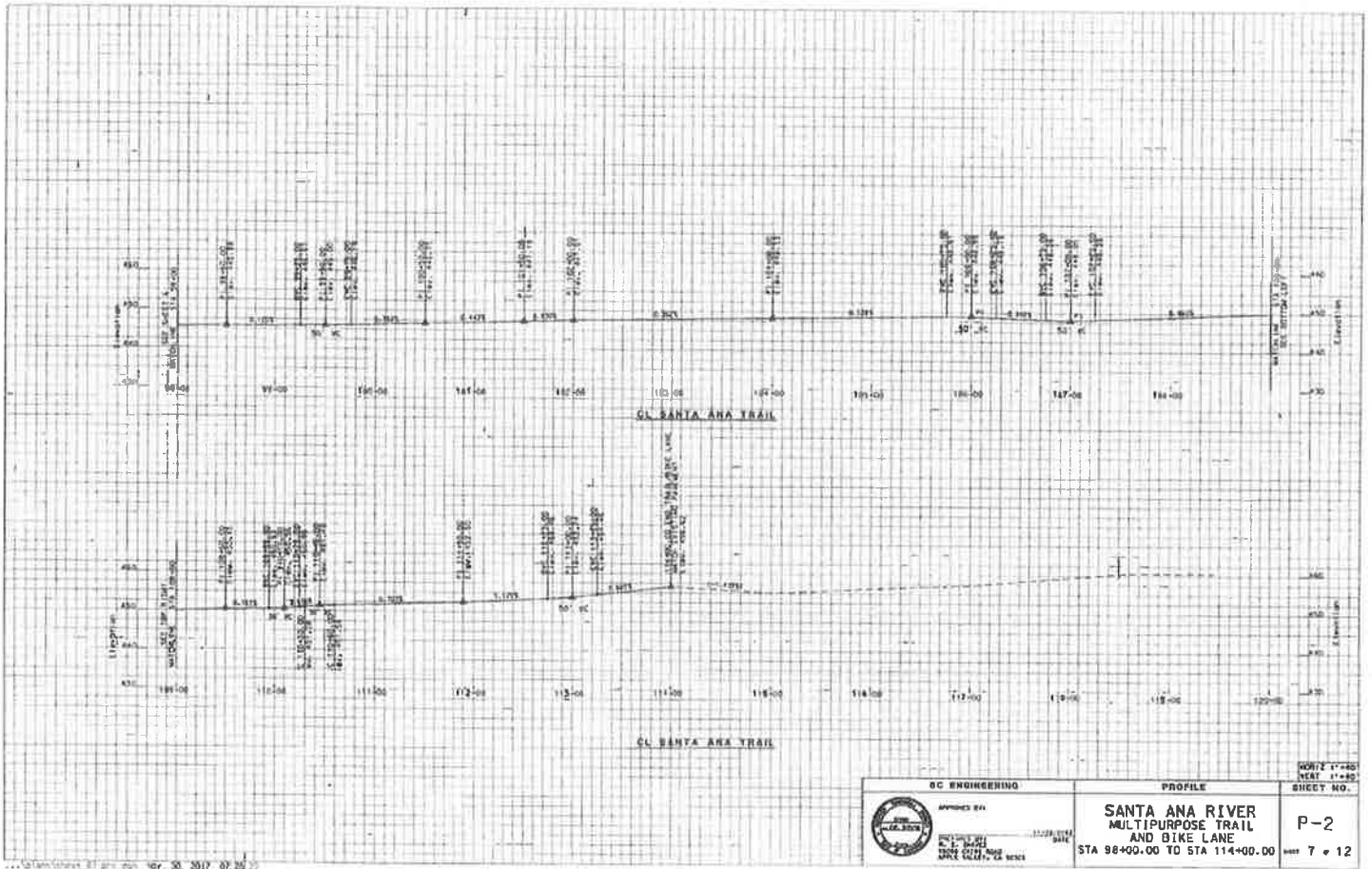
- ①-PROTECT IN PLACE
- ②-CONSTRUCT 0.25' WIDE MULTIPURPOSE TRAIL PER DETAIL.
- ③-CONSTRUCT 0.25' HMM-8 OVER 8.40' CL2 ASD PER DETAIL.
- ④-INSTALL TEMPORARY FENCE TYPE ESA.
- ⑤-LOOSELY COVER, UNDOING COVER, UNDOING FIBER MATRIX, REED NIT TO BE APPROVED BY STATE PARS.
- ⑥-CARE TO WATCH NEW TRAIL OR BIKE LANE.
- ⑦-REMOVE AND DISPOSE OF CATTLE CRATE AND RE-GRADE AREA.



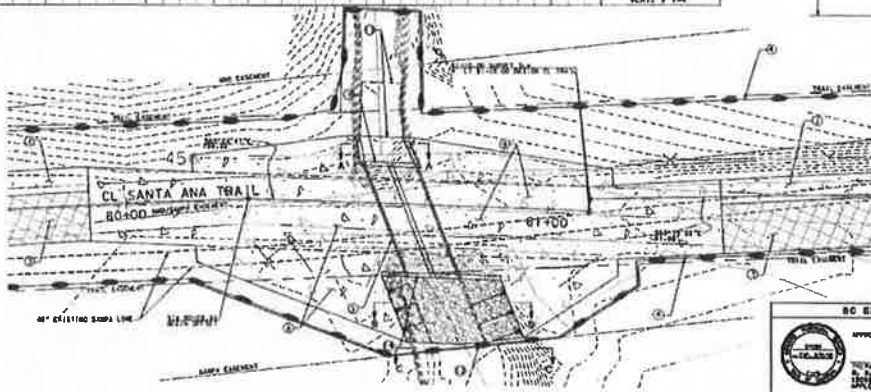
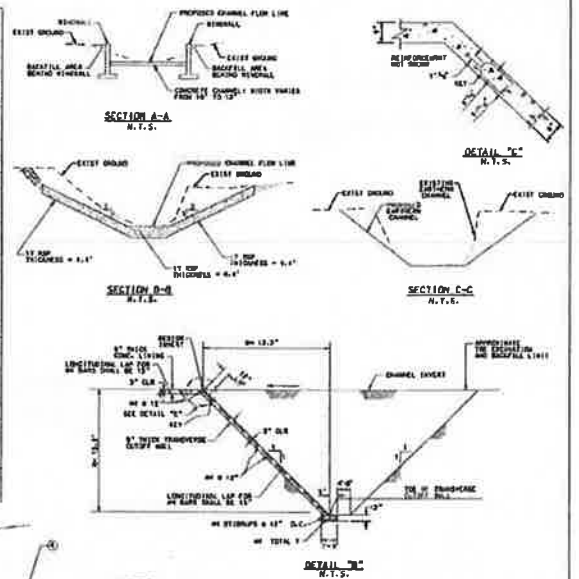
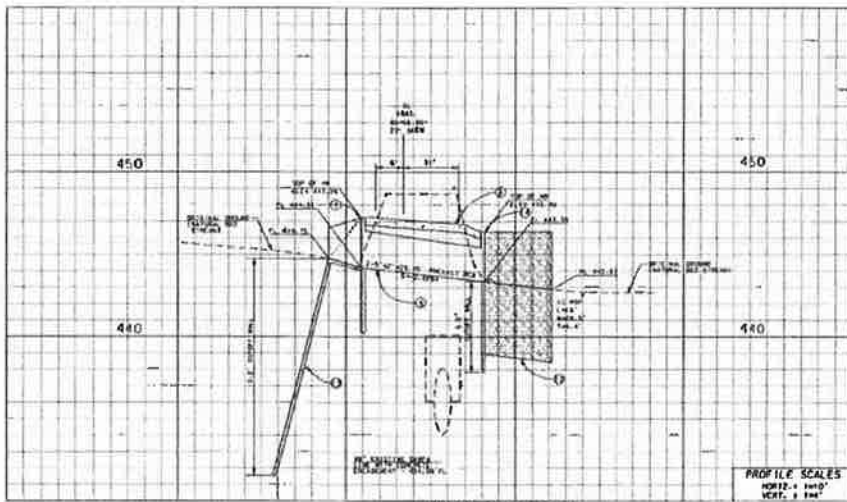
		SCALE: 1" = 40' SHEET NO.
BC ENGINEERING ADDRESS: 214 15100 151st St. B. S. Street Apple Valley, CA 91309	PLAN SANTA ANA RIVER MULTIPURPOSE TRAIL AND BIKE LANE STA 106+00.00 TO STA 114+00.00	L-3 5 = 12'



SC ENGINEERING		PROFILE	SHEET NO.
 APPROVED BY: PROJECT NO.: DATE:	SANTA ANA RIVER MULTIPURPOSE TRAIL AND BIKE LANE STA 70+00.00 TO STA 98+00.00	P-1	
		6 of 12	



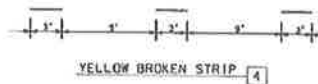
BC ENGINEERING 		PROFILE SANTA ANA RIVER MULTIPURPOSE TRAIL AND BIKE LANE STA 98+00.00 TO STA 122+00.00		NORTH NEXT SHEET NO.
APPROVED BY DATE		DATE		P-2 7 of 12



- CONSTRUCTION NOTES**
1. CONSTRUCT 6" WIDE MULTIPURPOSE TRAIL PER DETAIL.
  2. CONSTRUCT 0.25' WIDE OVER 0.40' ELZ AS PER DETAIL.
  3. INSTALL TEMPORARY FENCE TYPE ESAS.
  4. CONSTRUCT 12" PRECAST BOX CULVERT PER CALTRANS STD.
  5. CONSTRUCT WING WALL TYPE A1 PER CALTRANS STD. PLAN 084.
  6. CONSTRUCT MODIFIED CONCRETE DIP SECTION PER RIVERSIDE COUNTY DETAIL 7-1.
  7. CONSTRUCT ROCK SLOPE PROTECTION (RSP) 1:1 TYPICAL PER DETAIL 7-1.
  8. CONSTRUCT CONCRETE CUTOFF WALL PER DETAIL 10-1.
  9. CONSTRUCT WING WALL TYPE D1 WITH 5.0' CUT OFF WALL PER CALTRANS STD. PLAN 084.



DC ENGINEERING		GRAINAGE PLAN AND PROFILE	SHEET NO.
	APPROVED BY:	SANTA ANA RIVER MULTIPURPOSE TRAIL AND BIKE LANE	D-1
	DATE: 11/28/2011		
THE ENGINEER By: [Signature] SANTA ANA RIVER, CA 92707		SHEET 8 OF 12	

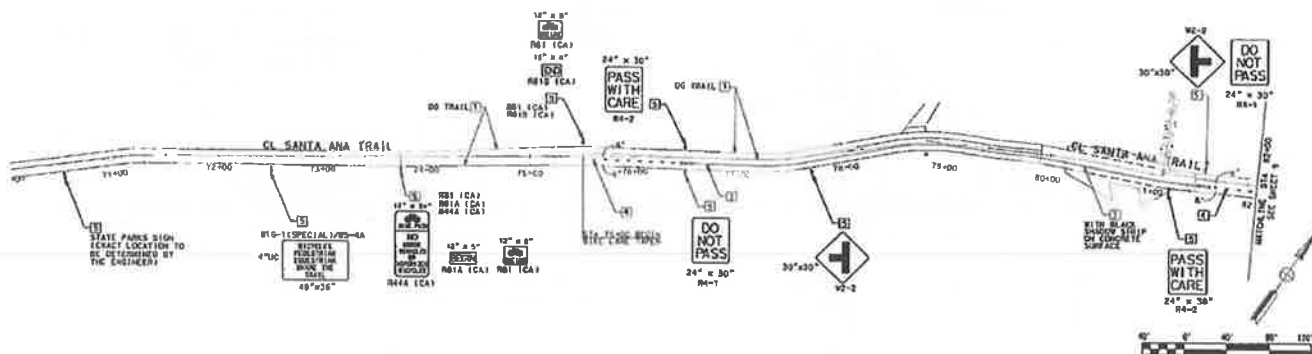


# LEGEND

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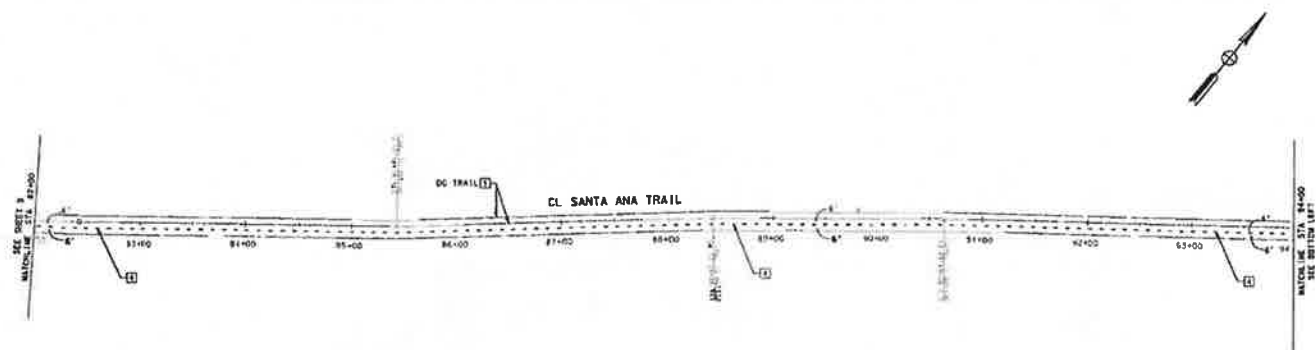
## STRIPING AND SIGNING NOTES

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- 
- 



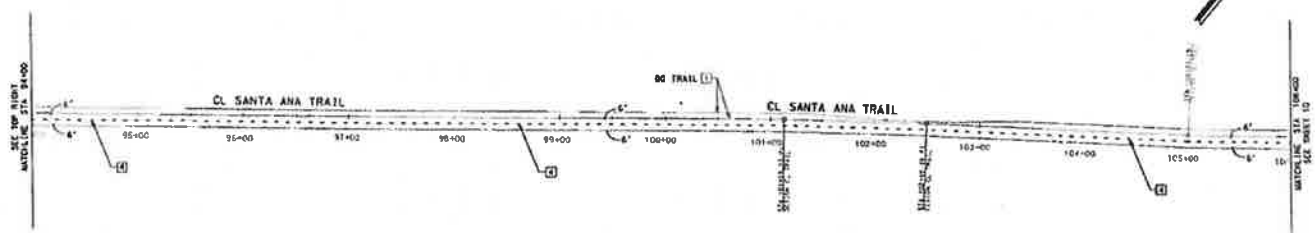
SD ENGINEERING	PAYMENT DELINEATION	SHEET NO.
	<p>SANTA ANA RIVER MULTIPURPOSE TRAIL AND BIKE LANE</p>	PD-1
<p>APPROVED BY:</p> <p>DESIGNED BY:</p> <p>DATE: JAN 10, 2011</p>	<p>STA 72+50.00 TO STA 82+00.00</p>	<p>9 of 12</p>



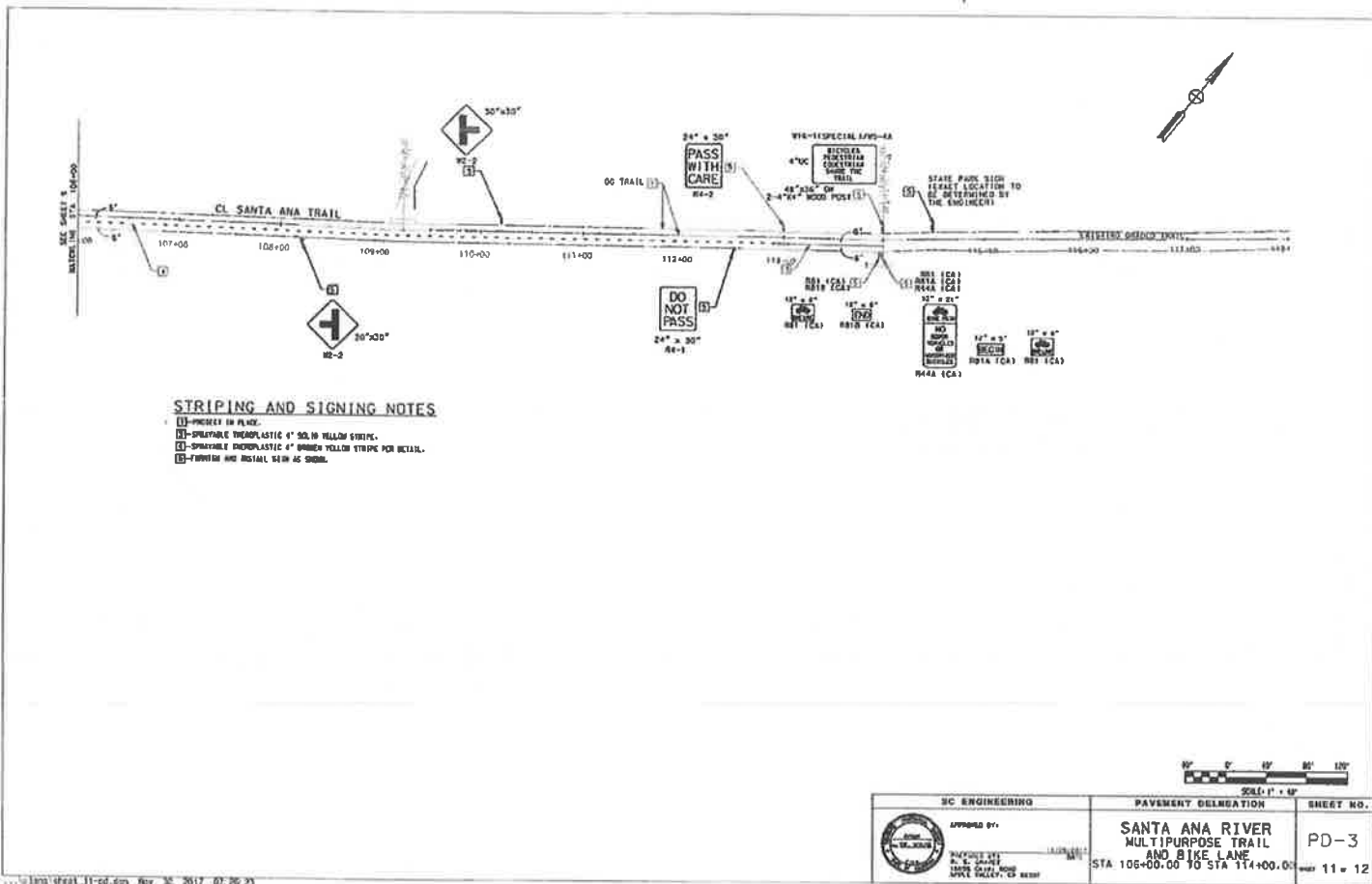


**STRIPING AND SIGNING NOTES**

- [1] - PROJECT IN PLACE.
- [2] - SPRINKLE THERMOPLASTIC 4" BROWN YELLOW STRIPE PER DETAIL.



SC ENGINEERING	PAVEMENT DELINEATION	SHEET NO.
 <p>HYPOKOS ETS P. O. BOX 100 1000 PINE HILL ROAD MOUNTAIN VIEW, GA 30057</p>	<p><b>SANTA ANA RIVER MULTIPURPOSE TRAIL AND BIKE LANE</b> STA 82+00.00 TO STA 106+00.00</p>	<p>PD-2 10 of 12</p>





**Enclosure 1: NATIONWIDE PERMIT NUMBER(S) NWP 14 Linear Transportation Projects and NWP 33 Temporary Construction, Access, and Dewatering**

**1. Nationwide Permit(s) NWP 14 Linear Transportation Projects and NWP 33 Temporary Construction, Access, and Dewatering Terms:**

14. **Linear Transportation Projects.** Activities required for crossings of waters of the United States associated with the construction, expansion, modification, or improvement of linear transportation projects (e.g., roads, highways, railways, trails, airport runways, and taxiways) in waters of the United States. For linear transportation projects in non-tidal waters, the discharge cannot cause the loss of greater than 1/2-acre of waters of the United States. For linear transportation projects in tidal waters, the discharge cannot cause the loss of greater than 1/3-acre of waters of the United States. Any stream channel modification, including bank stabilization, is limited to the minimum necessary to construct or protect the linear transportation project; such modifications must be in the immediate vicinity of the project. This NWP also authorizes temporary structures, fills, and work, including the use of temporary mats, necessary to construct the linear transportation project. Appropriate measures must be taken to maintain normal downstream flows and minimize flooding to the maximum extent practicable, when temporary structures, work, and discharges, including cofferdams, are necessary for construction activities, access fills, or dewatering of construction sites. Temporary fills must consist of materials, and be placed in a manner, that will not be eroded by expected high flows. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The areas affected by temporary fills must be revegetated, as appropriate. This NWP cannot be used to authorize non-linear features commonly associated with transportation projects, such as vehicle maintenance or storage buildings, parking lots, train stations, or aircraft hangars. Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if: (1) the loss of waters of the United States exceeds 1/10-acre; or (2) there is a discharge in a special aquatic site, including wetlands. (See general condition 32.) (Authorities: Sections 10 and 404) Note 1: For linear transportation projects crossing a single waterbody more than one time at separate and distant locations, or multiple waterbodies at separate and distant locations, each crossing is considered a single and complete project for purposes of NWP authorization. Linear transportation projects must comply with 33 CFR 330.6(d). Note 2: Some discharges for the construction of farm roads or forest roads, or temporary roads for moving mining equipment, may qualify for an exemption under section 404(f) of the Clean Water Act (see 33 CFR 323.4). Note 3: For NWP 14 activities that require pre-construction notification, the PCN must include any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings that require Department of the Army authorization but do not require pre-construction notification (see paragraph (b) of general condition 32). The district engineer will evaluate the PCN in accordance with Section D, *District Engineer's Decision*. The district engineer may require mitigation to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see general condition 23).

33. **Temporary Construction, Access, and Dewatering.** Temporary structures, work, and discharges, including cofferdams, necessary for construction activities or access fills or dewatering of construction sites, provided that the associated primary activity is authorized by the Corps of Engineers or the U.S. Coast Guard. This NWP also authorizes temporary structures, work, and discharges, including cofferdams, necessary for construction activities not otherwise subject to the Corps or U.S. Coast Guard permit requirements. Appropriate measures must be taken to maintain near normal downstream flows and to minimize flooding. Fill must consist of

materials, and be placed in a manner, that will not be eroded by expected high flows. The use of dredged material may be allowed if the district engineer determines that it will not cause more than minimal adverse environmental effects. Following completion of construction, temporary fill must be entirely removed to an area that has no waters of the United States, dredged material must be returned to its original location, and the affected areas must be restored to preconstruction elevations. The affected areas must also be revegetated, as appropriate. This permit does not authorize the use of cofferdams to dewater wetlands or other aquatic areas to change their use. Structures left in place after construction is completed require a separate section 10 permit if located in navigable waters of the United States. (See 33 CFR part 322.) Notification: The permittee must submit a pre-construction notification to the district engineer prior to commencing the activity if the activity is conducted in navigable waters of the United States (i.e., section 10 waters) (see general condition 32). The preconstruction notification must include a restoration plan showing how all temporary fills and structures will be removed and the area restored to pre-project conditions. (Authorities: Sections 10 and 404)

**2. General Conditions:** The following general conditions must be followed in order for any authorization by an NWP to be valid:

1. Navigation. (a) No activity may cause more than a minimal adverse effect on navigation.

(b) Any safety lights and signals prescribed by the U.S. Coast Guard, through regulations or otherwise, must be installed and maintained at the permittee's expense on authorized facilities in navigable waters of the United States.

(c) The permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structure or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.

2. Aquatic Life Movements. No activity may substantially disrupt the necessary life cycle movements of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. All permanent and temporary crossings of waterbodies shall be suitably culverted, bridged, or otherwise designed and constructed to maintain low flows to sustain the movement of those aquatic species. If a bottomless culvert cannot be used, then the crossing should be designed and constructed to minimize adverse effects to aquatic life movements.

3. Spawning Areas. Activities in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., through excavation, fill, or downstream smothering by substantial turbidity) of an important spawning area are not authorized.

4. Migratory Bird Breeding Areas. Activities in waters of the United States that serve as breeding areas for migratory birds must be avoided to the maximum extent practicable.

5. Shellfish Beds. No activity may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4 and 48, or is a shellfish seeding or habitat restoration activity authorized by NWP 27.

6. Suitable Material. No activity may use unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.). Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see section 307 of the Clean Water Act).

7. Water Supply Intakes. No activity may occur in the proximity of a public water supply intake, except where the activity is for the repair or improvement of public water supply intake structures or adjacent bank stabilization.

8. Adverse Effects From Impoundments. If the activity creates an impoundment of water, adverse effects to the aquatic system due to accelerating the passage of water, and/or restricting its flow must be minimized to the maximum extent practicable.

9. Management of Water Flows. To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, including stream channelization, storm water management activities, and temporary and permanent road crossings, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. The activity may alter the pre-construction course, condition, capacity, and location of open waters if it benefits the aquatic environment (e.g., stream restoration or relocation activities).

10. Fills Within 100-Year Floodplains. The activity must comply with applicable FEMA-approved state or local floodplain management requirements.

11. Equipment. Heavy equipment working in wetlands or mudflats must be placed on mats, or other measures must be taken to minimize soil disturbance.

12. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date. Permittees are encouraged to perform work within waters of the United States during periods of low-flow or no-flow, or during low tides.

13. Removal of Temporary Fills. Temporary fills must be removed in their entirety and the affected areas returned to pre-construction elevations. The affected areas must be revegetated, as appropriate.

14. Proper Maintenance. Any authorized structure or fill shall be properly maintained, including maintenance to ensure public safety and compliance with applicable NWP general conditions, as well as any activity-specific conditions added by the district engineer to an NWP authorization.

15. Single and Complete Project. The activity must be a single and complete project. The same NWP cannot be used more than once for the same single and complete project.

16. Wild and Scenic Rivers. (a) No NWP activity may occur in a component of the National Wild and

Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, unless the appropriate Federal agency with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation or study status.

(b) If a proposed NWP activity will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the permittee must submit a pre-construction notification (see general condition 32). The district engineer will coordinate the PCN with the Federal agency with direct management responsibility for that river. The permittee shall not begin the NWP activity until notified by the district engineer that the Federal agency with direct management responsibility for that river has determined in writing that the proposed NWP activity will not adversely affect the Wild and Scenic River designation or study status.

(c) Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency responsible for the designated Wild and Scenic River or study river (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service). Information on these rivers is also available at: <http://www.rivers.gov/>.

17. Tribal Rights. No NWP activity may cause more than minimal adverse effects on tribal rights (including treaty rights), protected tribal resources, or tribal lands.

18. Endangered Species. (a) No activity is authorized under any NWP which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized under any NWP which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the NWP activity. Indirect effects are those effects on listed species and critical habitat that are caused by the NWP activity and are later in time, but still are reasonably certain to occur.

(b) Federal agencies should follow their own procedures for complying with the requirements of the ESA. If pre-construction notification is required for the proposed activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect Federally-listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that might be affected by the proposed activity or that utilize the designated critical habitat that might be affected by the proposed activity. The district engineer will determine whether the proposed activity "may affect" or will have



“no effect” to listed species and designated critical habitat and will notify the non-Federal applicant of the Corps’ determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the activity, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification that the proposed activity will have “no effect” on listed species or critical habitat, or until ESA section 7 consultation has been completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(d) As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to the NWP.

(e) Authorization of an activity by an NWP does not authorize the “take” of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with “incidental take” provisions, etc.) from the FWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where “take” means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word “harm” in the definition of “take” means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

(f) If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed NWP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with the PCN required by paragraph (c) of this general condition. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed NWP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed NWP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed NWP activity or whether additional ESA section 7 consultation is required.

(g) Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the FWS and NMFS or their world wide web pages at <http://www.fws.gov/> or <http://www.fws.gov/ipac> and <http://www.nmfs.noaa.gov/pr/species/esa/> respectively.

19. Migratory Birds and Bald and Golden Eagles. The permittee is responsible for ensuring their action complies with the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. The permittee is responsible for contacting appropriate local office of the U.S. Fish and Wildlife Service to determine applicable measures to reduce impacts to migratory birds or eagles, including whether “incidental take” permits are necessary and available under the Migratory Bird Treaty Act or Bald and Golden Eagle Protection Act for a particular activity.

20. Historic Properties. (a) In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places,

the activity is not authorized, until the requirements of Section 106 of the National Historic Preservation Act (NHPA) have been satisfied.

(b) Federal permittees should follow their own procedures for complying with the requirements of section 106 of the National Historic Preservation Act. If pre-construction notification is required for the proposed NWP activity, the Federal permittee must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

(c) Non-federal permittees must submit a pre-construction notification to the district engineer if the NWP activity might have the potential to cause effects to any historic properties listed on, determined to be eligible for listing on, or potentially eligible for listing on the National Register of Historic Places, including previously unidentified properties. For such activities, the pre-construction notification must state which historic properties might have the potential to be affected by the proposed NWP activity or include a vicinity map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of, or potential for, the presence of historic properties can be sought from the State Historic Preservation Officer, Tribal Historic Preservation Officer, or designated tribal representative, as appropriate, and the National Register of Historic Places (see 33 CFR 330.4(g)). When reviewing pre-construction notifications, district engineers will comply with the current procedures for addressing the requirements of section 106 of the National Historic Preservation Act. The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted in the PCN and these identification efforts, the district engineer shall determine whether the proposed NWP activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects to historic properties or that NHPA section 106 consultation has been completed.

(d) For non-federal permittees, the district engineer will notify the prospective permittee within 45 days of receipt of a complete pre-construction notification whether NHPA section 106 consultation is required. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin the activity until section 106 consultation is completed. If the non-Federal applicant has not heard back from the Corps within 45 days, the applicant must still wait for notification from the Corps.

(e) Prospective permittees should be aware that section 110k of the NHPA (54 U.S.C. 306113) prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless

the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

21. Discovery of Previously Unknown Remains and Artifacts. If you discover any previously unknown historic, cultural or archeological remains and artifacts while accomplishing the activity authorized by this permit, you must immediately notify the district engineer of what you have found, and to the maximum extent practicable, avoid construction activities that may affect the remains and artifacts until the required coordination has been completed. The district engineer will initiate the Federal, Tribal, and state coordination required to determine if the items or remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

22. Designated Critical Resource Waters. Critical resource waters include, NOAA-managed marine sanctuaries and marine monuments, and National Estuarine Research Reserves. The district engineer may designate, after notice and opportunity for public comment, additional waters officially designated by a state as having particular environmental or ecological significance, such as outstanding national resource waters or state natural heritage sites. The district engineer may also designate additional critical resource waters after notice and opportunity for public comment.

(a) Discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, 44, 49, 50, 51, and 52 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, 38, and 54, notification is required in accordance with general condition 32, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The district engineer may authorize activities under these NWPs only after it is determined that the impacts to the critical resource waters will be no more than minimal.

23. Mitigation. The district engineer will consider the following factors when determining appropriate and practicable mitigation necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal:

(a) The activity must be designed and constructed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States to the maximum extent practicable at the project site (i.e., on site).

(b) Mitigation in all its forms (avoiding, minimizing, rectifying, reducing, or compensating for resource losses) will be required to the extent necessary to ensure that the individual and cumulative adverse environmental effects are no more than minimal.

(c) Compensatory mitigation at a minimum one-for-one ratio will be required for all wetland losses that exceed 1/10-acre and require pre-construction notification, unless the district engineer determines in writing that

either some other form of mitigation would be more environmentally appropriate or the adverse environmental effects of the proposed activity are no more than minimal, and provides an activity-specific waiver of this requirement. For wetland losses of 1/10-acre or less that require pre-construction notification, the district engineer may determine on a case-by-case basis that compensatory mitigation is required to ensure that the activity results in only minimal adverse environmental effects.

(d) For losses of streams or other open waters that require pre-construction notification, the district engineer may require compensatory mitigation to ensure that the activity results in no more than minimal adverse environmental effects. Compensatory mitigation for losses of streams should be provided, if practicable, through stream rehabilitation, enhancement, or preservation, since streams are difficult-to-replace resources (see 33 CFR 332.3(e)(3)).

(e) Compensatory mitigation plans for NWP activities in or near streams or other open waters will normally include a requirement for the restoration or enhancement, maintenance, and legal protection (e.g., conservation easements) of riparian areas next to open waters. In some cases, the restoration or maintenance/protection of riparian areas may be the only compensatory mitigation required. Restored riparian areas should consist of native species. The width of the required riparian area will address documented water quality or aquatic habitat loss concerns. Normally, the riparian area will be 25 to 50 feet wide on each side of the stream, but the district engineer may require slightly wider riparian areas to address documented water quality or habitat loss concerns. If it is not possible to restore or maintain/protect a riparian area on both sides of a stream, or if the waterbody is a lake or coastal waters, then restoring or maintaining/protecting a riparian area along a single bank or shoreline may be sufficient. Where both wetlands and open waters exist on the project site, the district engineer will determine the appropriate compensatory mitigation (e.g., riparian areas and/or wetlands compensation) based on what is best for the aquatic environment on a watershed basis. In cases where riparian areas are determined to be the most appropriate form of minimization or compensatory mitigation, the district engineer may waive or reduce the requirement to provide wetland compensatory mitigation for wetland losses.

(f) Compensatory mitigation projects provided to offset losses of aquatic resources must comply with the applicable provisions of 33 CFR part 332.

(1) The prospective permittee is responsible for proposing an appropriate compensatory mitigation option if compensatory mitigation is necessary to ensure that the activity results in no more than minimal adverse environmental effects. For the NWPs, the preferred mechanism for providing compensatory mitigation is mitigation bank credits or in-lieu fee program credits (see 33 CFR 332.3(b)(2) and (3)). However, if an appropriate number and type of mitigation bank or in-lieu credits are not available at the time the PCN is submitted to the district engineer, the district engineer may approve the use of permittee-responsible mitigation.

(2) The amount of compensatory mitigation required by the district engineer must be sufficient to ensure that the authorized activity results in no more than minimal individual and cumulative adverse environmental effects (see 33 CFR 330.1(e)(3)). (See also 33 CFR 332.3(f)).

(3) Since the likelihood of success is greater and the impacts to potentially valuable uplands are reduced, aquatic resource restoration should be the first compensatory mitigation option considered for permittee-responsible mitigation.

(4) If permittee-responsible mitigation is the proposed option, the prospective permittee is responsible for submitting a mitigation plan. A conceptual or detailed mitigation plan may be used by the district engineer to make the decision on the NWP verification request, but a final mitigation plan that addresses the applicable requirements of 33 CFR 332.4(c)(2) through (14) must be approved by the district engineer before the permittee begins work in waters of the United States, unless the district engineer determines that prior approval of the final mitigation plan is not practicable or not necessary to ensure timely completion of the required compensatory mitigation (see 33 CFR 332.3(k)(3)).

(5) If mitigation bank or in-lieu fee program credits are the proposed option, the mitigation plan only needs to address the baseline conditions at the impact site and the number of credits to be provided.

(6) Compensatory mitigation requirements (e.g., resource type and amount to be provided as compensatory mitigation, site protection, ecological performance standards, monitoring requirements) may be addressed through conditions added to the NWP authorization, instead of components of a compensatory mitigation plan (see 33 CFR 332.4(c)(1)(ii)).

(g) Compensatory mitigation will not be used to increase the acreage losses allowed by the acreage limits of the NWPs. For example, if an NWP has an acreage limit of 1/2-acre, it cannot be used to authorize any NWP activity resulting in the loss of greater than 1/2-acre of waters of the United States, even if compensatory mitigation is provided that replaces or restores some of the lost waters. However, compensatory mitigation can and should be used, as necessary, to ensure that an NWP activity already meeting the established acreage limits also satisfies the no more than minimal impact requirement for the NWPs.

(h) Permittees may propose the use of mitigation banks, in-lieu fee programs, or permittee-responsible mitigation. When developing a compensatory mitigation proposal, the permittee must consider appropriate and practicable options consistent with the framework at 33 CFR 332.3(b). For activities resulting in the loss of marine or estuarine resources, permittee-responsible mitigation may be environmentally preferable if there are no mitigation banks or in-lieu fee programs in the area that have marine or estuarine credits available for sale or transfer to the permittee. For permittee-responsible mitigation, the special conditions of the NWP verification must clearly indicate the party or parties responsible for the implementation and performance of the compensatory mitigation project, and, if required, its long-term management.

(i) Where certain functions and services of waters of the United States are permanently adversely affected by a regulated activity, such as discharges of dredged or fill material into waters of the United States that will convert a forested or scrub-shrub wetland to a herbaceous wetland in a permanently maintained utility line right-of-way, mitigation may be required to reduce the adverse environmental effects of the activity to the no more than minimal level.

24. Safety of Impoundment Structures. To ensure that all impoundment structures are safely designed, the district engineer may require non-Federal applicants to demonstrate that the structures comply with established state dam safety criteria or have been designed by qualified persons. The district engineer may also require documentation that the design has been independently reviewed by similarly qualified persons, and appropriate modifications made to ensure safety.

25. Water Quality. Where States and authorized Tribes, or EPA where applicable, have not previously certified compliance of an NWP with CWA section 401, individual 401 Water Quality Certification must be

obtained or waived (see 33 CFR 330.4(c)). The district engineer or State or Tribe may require additional water quality management measures to ensure that the authorized activity does not result in more than minimal degradation of water quality.

26. Coastal Zone Management. In coastal states where an NWP has not previously received a state coastal zone management consistency concurrence, an individual state coastal zone management consistency concurrence must be obtained, or a presumption of concurrence must occur (see 33 CFR 330.4(d)). The district engineer or a State may require additional measures to ensure that the authorized activity is consistent with state coastal zone management requirements.

27. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the Division Engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the state, Indian Tribe, or U.S. EPA in its section 401 Water Quality Certification, or by the state in its Coastal Zone Management Act consistency determination.

28. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3-acre.

29. Transfer of Nationwide Permit Verifications. If the permittee sells the property associated with a nationwide permit verification, the permittee may transfer the nationwide permit verification to the new owner by submitting a letter to the appropriate Corps district office to validate the transfer. A copy of the nationwide permit verification must be attached to the letter, and the letter must contain the following statement and signature:

"When the structures or work authorized by this nationwide permit are still in existence at the time the property is transferred, the terms and conditions of this nationwide permit, including any special conditions, will continue to be binding on the new owner(s) of the property. To validate the transfer of this nationwide permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below."

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(Transferee)

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(Date)

30. Compliance Certification. Each permittee who receives an NWP verification letter from the Corps must provide a signed certification documenting completion of the authorized activity and implementation of any required compensatory mitigation. The success of any required permittee-responsible mitigation, including the achievement of ecological performance standards, will be addressed separately by the district engineer. The

Corps will provide the permittee the certification document with the NWP verification letter. The certification document will include:

(a) A statement that the authorized activity was done in accordance with the NWP authorization, including any general, regional, or activity-specific conditions;

(b) A statement that the implementation of any required compensatory mitigation was completed in accordance with the permit conditions. If credits from a mitigation bank or in-lieu fee program are used to satisfy the compensatory mitigation requirements, the certification must include the documentation required by 33 CFR 332.3(l)(3) to confirm that the permittee secured the appropriate number and resource type of credits; and

(c) The signature of the permittee certifying the completion of the activity and mitigation.

The completed certification document must be submitted to the district engineer within 30 days of completion of the authorized activity or the implementation of any required compensatory mitigation, whichever occurs later.

31. Activities Affecting Structures or Works Built by the United States. If an NWP activity also requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers (USACE) federally authorized Civil Works project (a "USACE project"), the prospective permittee must submit a pre-construction notification. See paragraph (b)(10) of general condition 32. An activity that requires section 408 permission is not authorized by NWP until the appropriate Corps office issues the section 408 permission to alter, occupy, or use the USACE project, and the district engineer issues a written NWP verification.

32. Pre-Construction Notification. (a) Timing. Where required by the terms of the NWP, the prospective permittee must notify the district engineer by submitting a pre-construction notification (PCN) as early as possible. The district engineer must determine if the PCN is complete within 30 calendar days of the date of receipt and, if the PCN is determined to be incomplete, notify the prospective permittee within that 30 day period to request the additional information necessary to make the PCN complete. The request must specify the information needed to make the PCN complete. As a general rule, district engineers will request additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the district engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the district engineer. The prospective permittee shall not begin the activity until either:

(1) He or she is notified in writing by the district engineer that the activity may proceed under the NWP with any special conditions imposed by the district or division engineer; or

(2) 45 calendar days have passed from the district engineer's receipt of the complete PCN and the prospective permittee has not received written notice from the district or division engineer. However, if the permittee was required to notify the Corps pursuant to general condition 18 that listed species or critical habitat might be affected or are in the vicinity of the activity, or to notify the Corps pursuant to general condition 20 that the activity might have the potential to cause effects to historic properties, the permittee cannot begin the activity until receiving written notification from the Corps that there is "no effect" on listed species or "no potential to cause effects" on historic properties, or that any consultation required under Section 7 of the

Endangered Species Act (see 33 CFR 330.4(f)) and/or section 106 of the National Historic Preservation Act (see 33 CFR 330.4(g)) has been completed. Also, work cannot begin under NWP 21, 49, or 50 until the permittee has received written approval from the Corps. If the proposed activity requires a written waiver to exceed specified limits of an NWP, the permittee may not begin the activity until the district engineer issues the waiver. If the district or division engineer notifies the permittee in writing that an individual permit is required within 45 calendar days of receipt of a complete PCN, the permittee cannot begin the activity until an individual permit has been obtained. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Pre-Construction Notification: The PCN must be in writing and include the following information:

(1) Name, address and telephone numbers of the prospective permittee;

(2) Location of the proposed activity;

(3) Identify the specific NWP or NWP(s) the prospective permittee wants to use to authorize the proposed activity;

(4) A description of the proposed activity; the activity's purpose; direct and indirect adverse environmental effects the activity would cause, including the anticipated amount of loss of wetlands, other special aquatic sites, and other waters expected to result from the NWP activity, in acres, linear feet, or other appropriate unit of measure; a description of any proposed mitigation measures intended to reduce the adverse environmental effects caused by the proposed activity; and any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity, including other separate and distant crossings for linear projects that require Department of the Army authorization but do not require pre-construction notification. The description of the proposed activity and any proposed mitigation measures should be sufficiently detailed to allow the district engineer to determine that the adverse environmental effects of the activity will be no more than minimal and to determine the need for compensatory mitigation or other mitigation measures. For single and complete linear projects, the PCN must include the quantity of anticipated losses of wetlands, other special aquatic sites, and other waters for each single and complete crossing of those wetlands, other special aquatic sites, and other waters. Sketches should be provided when necessary to show that the activity complies with the terms of the NWP. (Sketches usually clarify the activity and when provided results in a quicker decision. Sketches should contain sufficient detail to provide an illustrative description of the proposed activity (e.g., a conceptual plan), but do not need to be detailed engineering plans);

(5) The PCN must include a delineation of wetlands, other special aquatic sites, and other waters, such as lakes and ponds, and perennial, intermittent, and ephemeral streams, on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters on the project site, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many wetlands, other special aquatic sites, and other waters. Furthermore, the 45 day period will not start until the delineation has been submitted to or completed by the Corps, as appropriate;



(6) If the proposed activity will result in the loss of greater than 1/10-acre of wetlands and a PCN is required, the prospective permittee must submit a statement describing how the mitigation requirement will be satisfied, or explaining why the adverse environmental effects are no more than minimal and why compensatory mitigation should not be required. As an alternative, the prospective permittee may submit a conceptual or detailed mitigation plan.

(7) For non-Federal permittees, if any listed species or designated critical habitat might be affected or is in the vicinity of the activity, or if the activity is located in designated critical habitat, the PCN must include the name(s) of those endangered or threatened species that might be affected by the proposed activity or utilize the designated critical habitat that might be affected by the proposed activity. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with the Endangered Species Act;

(8) For non-Federal permittees, if the NWP activity might have the potential to cause effects to a historic property listed on, determined to be eligible for listing on, or potentially eligible for listing on, the National Register of Historic Places, the PCN must state which historic property might have the potential to be affected by the proposed activity or include a vicinity map indicating the location of the historic property. For NWP activities that require pre-construction notification, Federal permittees must provide documentation demonstrating compliance with section 106 of the National Historic Preservation Act;

(9) For an activity that will occur in a component of the National Wild and Scenic River System, or in a river officially designated by Congress as a "study river" for possible inclusion in the system while the river is in an official study status, the PCN must identify the Wild and Scenic River or the "study river" (see general condition 16); and

(10) For an activity that requires permission from the Corps pursuant to 33 U.S.C. 408 because it will alter or temporarily or permanently occupy or use a U.S. Army Corps of Engineers federally authorized civil works project, the pre-construction notification must include a statement confirming that the project proponent has submitted a written request for section 408 permission from the Corps office having jurisdiction over that USACE project.

(c) Form of Pre-Construction Notification: The standard individual permit application form (Form ENG 4345) may be used, but the completed application form must clearly indicate that it is an NWP PCN and must include all of the applicable information required in paragraphs (b)(1) through (10) of this general condition. A letter containing the required information may also be used. Applicants may provide electronic files of PCNs and supporting materials if the district engineer has established tools and procedures for electronic submittals.

(d) Agency Coordination: (1) The district engineer will consider any comments from Federal and state agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the activity's adverse environmental effects so that they are no more than minimal.

(2) Agency coordination is required for: (i) all NWP activities that require pre-construction notification and result in the loss of greater than 1/2-acre of waters of the United States; (ii) NWP 21, 29, 39, 40, 42, 43, 44, 50, 51, and 52 activities that require pre-construction notification and will result in the loss of greater than 300 linear feet of stream bed; (iii) NWP 13 activities in excess of 500 linear feet, fills greater than one cubic yard per running foot, or involve discharges of dredged or fill material into special aquatic sites; and (iv) NWP 54

activities in excess of 500 linear feet, or that extend into the waterbody more than 30 feet from the mean low water line in tidal waters or the ordinary high water mark in the Great Lakes.

(3) When agency coordination is required, the district engineer will immediately provide (e.g., via e-mail, facsimile transmission, overnight mail, or other expeditious manner) a copy of the complete PCN to the appropriate Federal or state offices (FWS, state natural resource or water quality agency, EPA, and, if appropriate, the NMFS). With the exception of NWP 37, these agencies will have 10 calendar days from the date the material is transmitted to notify the district engineer via telephone, facsimile transmission, or e-mail that they intend to provide substantive, site-specific comments. The comments must explain why the agency believes the adverse environmental effects will be more than minimal. If so contacted by an agency, the district engineer will wait an additional 15 calendar days before making a decision on the pre-construction notification. The district engineer will fully consider agency comments received within the specified time frame concerning the proposed activity's compliance with the terms and conditions of the NWPs, including the need for mitigation to ensure the net adverse environmental effects of the proposed activity are no more than minimal. The district engineer will provide no response to the resource agency, except as provided below. The district engineer will indicate in the administrative record associated with each pre-construction notification that the resource agencies' concerns were considered. For NWP 37, the emergency watershed protection and rehabilitation activity may proceed immediately in cases where there is an unacceptable hazard to life or a significant loss of property or economic hardship will occur. The district engineer will consider any comments received to decide whether the NWP 37 authorization should be modified, suspended, or revoked in accordance with the procedures at 33 CFR 330.5.

(4) In cases of where the prospective permittee is not a Federal agency, the district engineer will provide a response to NMFS within 30 calendar days of receipt of any Essential Fish Habitat conservation recommendations, as required by section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act.

(5) Applicants are encouraged to provide the Corps with either electronic files or multiple copies of pre-construction notifications to expedite agency coordination.

### **3. Regional Conditions for the Los Angeles District:**

1. For all activities in waters of the U.S. that are suitable habitat for federally listed fish species, including designated critical habitat for such species, the permittee shall design all new or substantially reconstructed linear transportation crossings (e.g. roads, highways, railways, trails, bridges, culverts) to ensure that the passage and/or spawning of fish is not hindered. In these areas, the permittee shall employ bridge designs that span the stream or river, including pier- or pile-supported spans, or designs that use a bottomless arch culvert with a natural stream bed, unless determined to be impracticable by the Corps.
2. Nationwide Permits (NWP) 3, 7, 12-15, 17-19, 21, 23, 25, 29, 35, 36, or 39-46, 48-54 cannot be used to authorize structures, work, and/or the discharge of dredged or fill material that would result in the "loss" of wetlands, mudflats, vegetated shallows or riffle and pool complexes as defined at 40 CFR Part 230.40-45. The definition of "loss" for this regional condition is the same as the definition of "loss of waters of the United States" used for the Nationwide Permit Program. Furthermore, this regional condition applies only within the State of Arizona and within the Mojave and Sonoran (Colorado) desert regions of California. The desert regions in California are limited to four USGS Hydrologic Unit Code (HUC) accounting units (Lower Colorado -150301, Northern Mojave-180902, Southern Mojave-181001, and Salton Sea-181002).

3. When a pre-construction notification (PCN) is required, the Los Angeles District shall be notified in accordance with General Condition 32 using either the South Pacific Division PCN Checklist or a signed application form (ENG Form 4345) with an attachment providing information on compliance with all of the General and Regional Conditions. The PCN Checklist and application form are available at: <http://www.spl.usace.army.mil/Missions/Regulatory/PermitProcess.aspx>. In addition, unless specifically waived by the Los Angeles District, the PCN shall include:
  - a. A written statement describing how the activity has been designed to avoid and minimize adverse effects, both temporary and permanent, to waters of the United States;
  - b. Drawings, including plan and cross-section views, clearly depicting the location, size and dimensions of the proposed activity as well as the location of delineated waters of the U.S. on the site. The drawings shall contain a title block, legend and scale, amount (in cubic yards) and area (in acres) of fill in Corps jurisdiction, including both permanent and temporary fills/structures. The ordinary high water mark or, if tidal waters, the mean high water mark and high tide line, should be shown (in feet), based on National Geodetic Vertical Datum (NGVD) or other appropriate referenced elevation. All drawings shall follow the Updated Map and Drawing Standards for the South Pacific Division Regulatory Program (Feb 2016), or most recent update (available at the South Pacific Division website at: <http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences.aspx/>);
  - c. Numbered and dated pre-project color photographs showing a representative sample of waters proposed to be impacted on the project site, and all waters proposed to be avoided on and immediately adjacent to the project site. The compass angle and position of each photograph shall be documented on the plan-view drawing required in subpart b of this regional condition.
  - d. Delineation of aquatic resources in accordance with the current Los Angeles District's Minimum Standards for Acceptance of Aquatic Resources Delineation Reports (available at: <http://www.spl.usace.army.mil/Missions/Regulatory/Jurisdictional-Determination/>).
4. Submission of a PCN pursuant to General Condition 32 and Regional Condition 3 shall be required for specific regulated activities in the following locations:
  - a. All perennial waterbodies and special aquatic sites throughout the Los Angeles District as well as intermittent waters within the State of Arizona for any regulated activity that would result in a loss of waters of the United States. The definition of "loss of waters of the United States" for this regional condition is the same as the definition used for the Nationwide Permit Program.
  - b. All areas designated as Essential Fish Habitat (EFH) by the Pacific Fishery Management Council, and that would result in an adverse effect to EFH, in which case the PCN shall include an EFH assessment and extent of proposed impacts to EFH. EFH Assessment Guidance and other supporting information can be found at:

[http://www.westcoast.fisheries.noaa.gov/habitat/fish\\_habitat/efh\\_consultations.go.html](http://www.westcoast.fisheries.noaa.gov/habitat/fish_habitat/efh_consultations.go.html).

- c. All watersheds in the Santa Monica Mountains in Los Angeles and Ventura counties bounded by Calleguas Creek on the west, by Highway 101 on the north and east, and by Sunset Boulevard and Pacific Ocean on the south.
  - d. The Santa Clara River watershed in Los Angeles and Ventura counties, including but not limited to Aliso Canyon, Agua Dulce Canyon, Sand Canyon, Bouquet Canyon, Mint Canyon, South Fork of the Santa Clara River, San Francisquito Canyon, Castaic Creek, Piru Creek, Sespe Creek and the main-stem of the Santa Clara River.
  - e. The Murrieta and Temecula Creek watersheds in Riverside County, California for any regulated activity that would result in a loss of waters of the U.S. The definition of "loss of waters of the United States" for this regional condition is the same as the definition used for the Nationwide Permit Program.
  - f. All waterbodies designated by the Arizona Department of Environmental Quality as Outstanding Arizona Waters (OAWs), within 1600 meters (or 1 mile) upstream and/or 800 meters (1/2 mile) downstream of a designated OAW, and on tributaries to OAWs within 1600 meters of the OAW (see <http://www.azdeq.gov/index.html>).
  - g. All waterbodies designated by the Arizona Department of Environmental Quality as 303(d)-impaired surface waters, within 1600 meters (or 1 mile) upstream and/or 800 meters (1/2 mile) downstream of a designated impaired surface water, and on tributaries to impaired waters within 1600 meters of the impaired water (see <http://www.azdeq.gov/index.html>).
5. Individual Permits shall be required for all discharges of fill material in jurisdictional vernal pools, with the exception that discharges for the purpose of restoration, enhancement, management or scientific study of vernal pools may be authorized under NWP 5, 6, and 27 with the submission of a PCN in accordance with General Condition 32 and Regional Condition 3.
  6. Within the Murrieta Creek and Temecula Creek watersheds in Riverside County the use of NWPs 29, 39, 42 and 43, and NWP 14 combined with any of those NWPs shall be restricted. The loss of waters of the U.S. cannot exceed 0.25 acre. The definition of "loss of waters of the United States" for this regional condition is the same as the definition used for the Nationwide Permit Program.
  7. Individual Permits (Standard Individual Permit or 404 Letter of Permission) shall be required in San Luis Obispo Creek and Santa Rosa Creek in San Luis Obispo County for bank stabilization projects, and in Gaviota Creek, Mission Creek and Carpinteria Creek in Santa Barbara County for bank stabilization projects and grade control structures.
  8. In conjunction with the Los Angeles District's Special Area Management Plans (SAMPs) for the San Diego Creek Watershed and San Juan Creek/Western San Mateo Creek Watersheds in Orange County, California, the Corps' Division Engineer, through his discretionary authority has revoked the use of the following 26

selected NWP within these SAMP watersheds: 03, 07, 12, 13, 14, 16, 17, 18, 19, 21, 25, 27, 29, 31, 33, 39, 40, 41, 42, 43, 44, 46, 49, and 50. Consequently, these NWPs are no longer available in those watersheds to authorize impacts to waters of the United States from discharges of dredged or fill material under the Corps' Clean Water Act section 404 authority.

9. Any requests to waive the applicable linear foot limitations for NWPs 13, 21, 29, 39, 40 and 42, 43, 44, 51, 52, and 54, must include the following:
    - a. A narrative description of the affected aquatic resource. This should include known information on: volume and duration of flow; the approximate length, width, and depth of the waterbody and characters observed associated with an Ordinary High Water Mark (e.g. bed and bank, wrack line, or scour marks) or Mean High Water Line; a description of the adjacent vegetation community and a statement regarding the wetland status of the associated vegetation community (i.e. wetland, non-wetland); surrounding land use; water quality; issues related to cumulative impacts in the watershed, and; any other relevant information.
    - b. An analysis of the proposed impacts to the waterbody in accordance with General Condition 32 and Regional Condition 3;
    - c. Measures taken to avoid and minimize losses, including other methods of constructing the proposed project; and
    - d. A compensatory mitigation plan describing how the unavoidable losses are proposed to be compensated, in accordance with 33 CFR Part 332.
  10. The permittee shall complete the construction of any compensatory mitigation required by special condition(s) of the NWP verification before or concurrent with commencement of construction of the authorized activity, except when specifically determined to be impracticable by the Corps. When mitigation involves use of a mitigation bank or in-lieu fee program, the permittee shall submit proof of payment to the Corps prior to commencement of construction of the authorized activity.
4. **Further information:**
1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:
    - ( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).
    - (x) Section 404 of the Clean Water Act (33 U.S.C. 1344).
    - ( ) Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).
  2. Limits of this authorization.
    - (a) This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
    - (b) This permit does not grant any property rights or exclusive privileges.
    - (c) This permit does not authorize any injury to the property or rights of others.
    - (d) This permit does not authorize interference with any existing or proposed Federal project.
  3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- (a) Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
  - (b) Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
  - (c) Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
  - (d) Design or construction deficiencies associated with the permitted work.
  - (e) Damage claims associated with any future modification, suspension, or revocation of this permit.
4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
- (a) You fail to comply with the terms and conditions of this permit.
  - (b) The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
  - (c) Significant new information surfaces which this office did not consider in reaching the original public interest decision.
- Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.
6. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.
7. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition H below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
8. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

## **EXHIBIT B**

### **PROJECT DESCRIPTION**

The project is located near the City of Corona within the northwestern edge of unincorporated Riverside County. The proposed improvements to the existing Santa Ana River Trail will include converting a section of an existing dirt trail into a combination bike lane and multi-purpose trail. As part of the trail construction, two existing washed-out 30-inch diameter culverts and associated riprap that traverse the trail would be replaced with a low water crossing consisting precast reinforced concrete box culvert.



**EXHIBIT C**

**BILL OF SALE**

Contract No. 2019-01-22-03

In consideration of the payment of FORTY ONE THOUSAND and NO/100 DOLLARS (\$41,000), receipt of which is hereby acknowledged, SRMA does hereby recognize that the County of Riverside, (the "Project Applicant"), has acquired 0.17 Enhancement Credits from the In-Lieu Fee Program (the "Program").

SRMA, administrator of the Program, represents and warrants that it has good title to the credits, has good right to sell the same, and that they are free and clear of all claims, liens, or encumbrances.

DATED: May 1, 2019

By: Shelly Lany

Chief Executive Officer

**EXHIBIT D**

**Statement of Sale of Credit**

Exhibit D-1



May 1, 2019

U.S. Army Corps of Engineers  
Los Angeles District – Regulatory Division  
915 Wilshire Blvd.  
Los Angeles, CA 90017

Subject: Statement of Sale for 0.17 Enhancement Credits from the SRMA's In-Lieu Fee Program to Riverside County Transportation Department

The Southwest Resource Management Association has an agreement with the U.S. Army Corps of Engineers – Los Angeles District to operate an In-Lieu-Fee Program. This letter confirms the sale of 0.17 Enhancement Credits.

These credits are being used as compensatory mitigation for 0.08 acres of permanent impacts to MSHCP habitat and 0.03 mitigation for temporary impacts Waters of the United States as authorized by a Santa Ana Regional Water Quality Control Board Clean Water Act Section 401 Water Quality Standards Certification for the Santa Ana River Trails Project located near the City of Corona within the northwestern edge of Riverside County (SARWQCB File No. 332018-13) dated November 28, 2018.

By selling credits to the above permittee, SRMA is the party responsible for fulfilling the Offsite Water Quality Standards Mitigation Proposed in the 401 Certification.

Sincerely,

A handwritten signature in blue ink that reads "Shelli Lamb".

SHELLI LAMB  
Chief Executive Officer

cc: R.J. Van Sant, Project Manager/Biologist, Regulatory Division, U.S. Army Corps of Engineers, Carlsbad Field Office  
James Mace, Senior Project Manager, Regulatory Division, U.S. Army Corps of Engineers, Los Angeles District  
Marc Brown, Regional Planning Programs, Regional Water Quality Control Board-Santa Ana Region.  
Sarvy Mahdavi, Environmental Protection Specialist, Wetlands Regulatory Office, U.S. EPA, Region 9

# Southwest Resource Management Association

# RECEIPT

05-01-19  
Invoice #19-05-01-01

Southwest Resource  
Management Association  
4500 Glenwood Drive  
Riverside, CA 92501  
Phone 951-300-2844  
slamb@SRMA-CA.org

TO

Frances Segovia  
Riverside County  
Transportation Dept  
3525 14<sup>th</sup> St  
Riverside, CA 92501  
Phone 858-482-2186

Contact	Job	Payment Terms	Due Date
Frances Segovia	Santa Ana River Trails Project	Due on receipt	

Qty	Description	Unit Price	Line Total
0.17	Receipt of Check Number 0503822163 in the amount of \$41,000 for the purchase of 0.17 Enhancement Credits for SARWQCB 332018-13 and SAA 1600-2018-0090-R6 (Rev 4) for the project.	230,000	39,100
	additional insured and Adm costs for five years		1,900
Subtotal			41,000
Paid By Check #0503822163			41,000
Total Due			0

Make all checks payable to Southwest Resource Management Association

***Thank you for your business!***

**Check No.** 0503822163

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Taken	Paid Amount
Santa Ana River/2019	4/9/2019	00447687	41,000.00	0.00	41,000.00

*Santa Ana River Trail Project: Agreement for Sale of Credits*

<b>Vendor Number:</b> 0000228175	<b>Name</b> Southwest Resource Management		<b>Discounts</b> \$0.00	<b>Business Unit</b> TLARC
<b>DBF Customer #</b>	<b>Payment Handling Code</b>	<b>Gross Amount</b>	<b>Discounts Taken</b>	<b>Paid Amount</b>
	RW	\$41,000.00		\$41,000.00

DO NOT ACCEPT THIS CHECK UNLESS THE PINK LOCK & KEY ICONS FADE WHEN WARMED AND YOU CAN SEE CONNECTING DIAMONDS IN A DUAL-TONE TRUE WATERMARK WHEN HELD TO THE LIGHT



**County Vendor Warrant  
Clearing Fund**

**Riverside County Treasurer**  
of Riverside, California

**0503822163**

Void 6 Months from Date Issued

**UNION BANK**  
Government Services Division

11-49/1210

Date 04/24/2019

Pay Amount \$41,000.00\*\*\*

Pay \*\*\*\*FORTY-ONE THOUSAND AND XX / 100 DOLLAR\*\*\*\*

**To The Order Of**

SOUTHWEST RESOURCE MANAGEMENT  
ASSOCIATION  
4500 Glenwood Dr  
Riverside, CA 92501

*Paul Angelo*  
County Auditor-Controller

THIS CHECK CLEARS THROUGH POSITIVE PAYEE NAME ON FILE AT THE BANK

11050382216311 1212100049712 274001831311