



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY

Los Angeles District Corps of Engineers
CORPS OF ENGINEERS LOS ANGELES DISTRICT
Regulatory Division, Carlsbad Field Office
6010 Hidden Valley Road, Suite 105
Carlsbad, California 92011

September 24, 2012

Regulatory Division

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Mr. Rob Rundle
San Diego Association of Governments
401 B Street, Suite 800
San Diego, California 92101

Dear Mr. Rundle:

This is in reply to your request (File No. SPL-2010-00215-MBS) dated September 7, 2012 to amend your Department of the Army (DA) Permit, issued to you on August 30, 2012 for the Sorrento to Miramar Curve Realignment Double Track Phase I project, to include additional work in waters of the United States (U.S.) as depicted in Figures 1-3. The proposed work would take place in the railroad Right-of-Way (ROW) west of Sorrento Valley Road and east of Soledad Canyon Creek within the City of San Diego, San Diego County, California (Latitude 32.88 N and Longitude -117.21 W).

Based on the information you have provided, the U.S. Army Corps of Engineers (Corps) has determined that your proposed activity complies with the enclosed terms and conditions of *Nationwide Permit (NWP) 14-Linear Transportation Projects* (enclosure 1).

Specifically, you are authorized to:

- Permanently impact 0.010 acre of southern willow scrub wetland waters and 0.030 acre of non-wetland waters and temporarily impact 0.160 acre of southern willow scrub wetland waters and 0.101 acre of non-wetland waters in association with the construction and installation of a second rail road track (Double Track) along the Los Angeles to San Diego Rail Corridor between Mile Post (MP) 249.8 and 251.0 and the replacement of Bridge 249.9;
- Install 6,300 linear feet of new Double Track between MP 249.8 and 251.0 (Figure 1, enclosure 2);
- Replace existing wood bridge 249.9 with a steel deck double track bridge within the existing alignment and to the west side of the existing wooden trestle bridge. Installation of the steel deck double track bridge will require two temporary construction access berms. One will be built on the west side of the existing Bridge 249.9 within Carroll Canyon Creek. The second construction access berm will be installed on the east side of the existing bridge within Carroll Canyon Creek. The temporary construction access berms will be constructed of imported

fill and have a 25-foot top width, with a slope of 2:1. Four 42-inch corrugated metal pipes will be utilized to allow the creek water to flow during construction. Bridge 249.9 will be 131 feet long and 33 feet wide and consist of three bridge bents and two bridge abutments;

- Install a crossover north of Bridge 249.9 and south of Sorrento Valley Boulevard;
- Install a 12-foot wide access road north of the existing single track along the project alignment;
- Install a temporary retaining wall and embankment to facilitate construction of a permanent retaining wall and temporary extension of an existing culvert at Station 352+20; and
- Relocate Control Point (CP) pines from its existing location north of Bridge 249.9 to MP 251.0.

Furthermore, you must comply with the following non-discretionary **Special Conditions**:

Pre-Construction

1. The Permittee shall implement a contractor education program to ensure that on-site personnel are informed of the biologically sensitive resources associated with the project site (approved project footprint) and compliance with all terms and conditions of NWP 14 and special conditions herein.
2. Prior to initiation of grading and project construction the Permittee shall provide written notification to the Corps. The notification shall include the following:
 - a. Corps File Number (SPL-2010-00215-MBS);
 - b. Name of company performing the work and on-site point of contact; and
 - c. Schedule for beginning and ending the project.
3. Prior to initiating construction the Permittee shall submit to the Corps a complete set of final detailed grading/construction plans showing all work and structures in waters of the U.S. All plans shall be in compliance with the Final Map and Drawing Standards for the Los Angeles District Regulatory Division dated September 15, 2010. All plan sheets shall be signed, dated, and submitted on paper no larger than 11x 17 inches. No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or e-mail), Corps approval of the final detailed grading/construction plans. The Permittee shall ensure that the project is built in accordance with the Corps-approved plans.
4. The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter avoided waters of the U.S. and riparian wetland/habitat areas shown on Figure 3a thru 3g (enclosure 2). Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

5. The Permittee shall temporarily impact no more than 0.26 acre of waters of the U.S. consisting of 0.16 acre of southern willow scrub and riparian scrub wetlands and 0.10 acre of non-wetland waters and permanently impact no more than 0.04 acre of waters of the U.S. consisting of 0.01 acre of southern willow scrub and riparian scrub wetlands and 0.03 acre of non-wetland waters as shown in enclosure 2.

Construction

6. 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 U.S. Therefore, the Permittee shall employ all Best Management Practices necessary to ensure that toxic materials, silt, debris, or excessive erosion do not enter waters of the U.S. during project construction. Upon completion of the activities authorized by this permit, any excess material or debris shall be removed from the work area and disposed of in an appropriate upland site.
7. The Permittee shall staff a qualified biologist on-site during project grading and construction in the vicinity of waters of the U.S. to ensure compliance with all requirements of this permit. The qualified biologist shall document compliance with the General and Special Conditions. The Permittee shall submit the biologist's name, address, telephone number, email address (if available), and work schedule on the project to the Corps a minimum of **fifteen (15) days** prior to the planned date of initiating impacts to waters of the U.S. authorized by this permit. The biologist/Permittee shall report any violation to Meris Bantilan-Smith of this office (760-602-4836) within one day of its occurrence.
8. The Permittee shall discharge only clean fill materials suitable for the activities permitted herein. Material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).
9. Water Quality Certification: The Permittee shall ensure that water quality is maintained by incorporating the terms and conditions of the Section 401 Water Quality Certification issued by the San Diego Regional Water Quality Control Board (Certification Number 10C-088) for your project, dated August 25, 2011 and amended on September 21, 2012. You must comply with the conditions specified in the Certification, as amended, as special conditions to this permit.
10. Coastal Zone Management Act: The Permittee shall implement and abide by the Consistency Certification (CC-052-10) dated December 6, 2010 and issued by the California Coastal Commission.
11. Endangered Species Act: This Corps permit does not authorize you to take any threatened or endangered species, in particular the least Bell's vireo (*Vireo bellii*

pusillus), coastal California gnatcatcher (*Polioptila californica californica*), southwestern willow flycatcher (*Empidonax traillii exstimus*), and San Diego fairy shrimp (*Branchinecta sandiegoensis*). In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). Pursuant to the U.S. Fish and Wildlife Service (USFWS) correspondence dated August 30, 2011 (FWS-SDG-03b0004-11I0170), including the required avoidance and minimization measures, the Corps has determined and the USFWS has concurred that your activity is not likely to adversely affect the above species. Your authorization under this Corps permit is conditional upon your compliance with all of the required avoidance and minimization measures, which are incorporated by reference in this permit (enclosure 3). Failure to comply with the required avoidance and minimization measures would constitute non-compliance with your Corps permit.

12. **Cultural Resources:** The Permittee shall be responsible for complying with the terms and mitigation measures described in the "*Memorandum of Agreement between the U.S. Army Corps of Engineers, Los Angeles District, and the California State Historic Preservation Officer Regarding the Sorrento to Miramar Double Track Project (Phase I), San Diego County, California*" for the life of this permit. The Permittee shall at all times maintain communication with Corps representatives during the course of mitigation measure implementation under this Memorandum of Agreement.

Mitigation

13. The Permittee will mitigate for permanent impacts to 0.01 acre of southern willow scrub wetlands and 0.03 acre of non-wetland waters of the U.S., through establishment of 0.03 acre of alkali marsh and 0.06 acre of non-wetland waters within the 12.3 acre Deer Canyon Mitigation Site as described in the approved conceptual Habitat Mitigation and Monitoring Plan (HMMP): "*Final Compensatory Wetland/Upland Mitigation Plan for Deer Canyon*" (dated May 2011, and prepared by California Department of Transportation District 11 (CALTRANS)). The Permittee shall complete site preparation and planting and initiate monitoring as described in the approved conceptual mitigation plan **concurrently** with impacts to waters of the U.S. The Permittee retains ultimate legal responsibility for meeting the requirements of the draft approved HMMP.
14. Within **45 calendar days** of complete installation of all mitigation, the Permittee shall submit to the Corps Regulatory Division a memo indicating the following:
 - a. Date(s) all mitigation was installed and monitoring was initiated;
 - b. Schedule for future mitigation monitoring, implementation and reporting pursuant to final, Corps-approved HMMP;
 - c. One copy of "as built" drawings of the mitigation site (all sheets must be signed, dated, to-scale, and no larger than 11 x 17 inches); and

- d. One copy of GIS data (polygons only) depicting the boundaries of all compensatory mitigation sites, as authorized in final HMMP. All GIS data and associated metadata shall be provided on a digital medium (CD or DVD) or via file transfer protocol (FTP), preferably using the Environmental Systems Research Institute (ESRI) shapefile format. GIS data for mitigation sites shall conform to the data dictionary, as specified in the current Map and Drawing Standards for the Los Angeles District Regulatory Division, and shall include a text file of metadata, including datum, projection, and mapper contact information.
15. The Permittee shall submit annual mitigation monitoring reports to the Corps by **August 31st** of each year. The reports shall include all monitoring measures outlined in the approved HMMP AND the following:
 - a. All figures in accordance with the Corps Final Map and Drawing Standards for the Los Angeles District Regulatory Division dated September 15, 2010;
 - b. Results of monitoring program compared to the success criteria outlined in the HMMP;
 - c. Identifying and mapping of any potential problem areas (i.e. areas not meeting success criteria) within the proposed mitigation site; and
 - d. All maintenance and/or remedial activities taken such as additional plantings, etc; all data sheets and field notes for all Qualitative measurements taken (per the HMMP) and reported in the Monitoring reports must be included as an appendix.
 16. The Permittee shall prepare and submit **concurrently** with impacts to waters of the U.S. a draft detailed long-term management, maintenance and monitoring plan for the Deer Canyon Mitigation site. The Permittee will submit the final Long-term Management Plan to the Corps within **60 days** of receiving approval of the draft plan. The Long-term Management Plan should include, but is not limited to, the following:
 - a. Long-term management needs;
 - b. Monitoring schedule;
 - c. Measures to prevent human and alien species encroachment;
 - d. Annual cost estimates; and
 - e. And contingency measures should problems occur.
 17. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition 13 will not be considered fulfilled until you have demonstrated compensatory mitigation project success (listed below) and have received written verification of that success from the Corps Regulatory Division. Detailed mitigation objectives, performance standards, and monitoring requirements are described in the approved May 2011 HMMP with key Year 5 success criteria outlined below.
 - a. A minimum of 5-years of maintenance and monitoring for the mitigation site has been completed;

- b. All water supplies used shall be shut off for a minimum of 2 years prior to sign off;
 - c. Alkali marsh cover shall be between 70-80 percent;
 - d. There shall be zero percent cover of perennial exotic species;
 - e. Cover of annual exotic species shall equal five percent or less within the wetland habitats;
 - f. Aboveground irrigation shall be removed;
 - g. The site shall show recruitment of five different native species;
 - h. Final California Rapid Assessment Method (CRAM) scores shall be within 10 percent of the CRAM scores for the reference site as approved by the Corps;
 - i. No substantial remedial activities shall occur within the wetland habitats during the last two years of monitoring;
 - j. At the end of the 5-year monitoring period, the monitored wetland habitat shall demonstrate wetland hydrology and hydric soil indicators based on the September 2008 *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0)*; AND
 - k. Riparian vegetation cover must meet the following Year 5 success criteria as outlined in Table 13 of the Final Compensatory Wetland/Upland Mitigation Plan for Deer Canyon in order to be deemed successful: 75-100% vegetation cover, 50-70% tree cover, 15-25% shrub cover, 10-40% herb cover, 0-25% open.
18. All temporary impact areas shall be restored to pre-construction conditions. The Permittee shall mitigate for temporary impacts to 0.16 acre of alkali marsh and riparian scrub wetland and 0.10 acre of non-wetland waters of the U.S., through enhancement of 0.26 acres of waters of the U.S. through the removal of non-native vegetation consisting mostly of giant reed (*Arundo donax*) as described in the draft approved revegetation plan: “*Conceptual Revegetation Plan for the Sorrento to Miramar Double Track – Phase I San Diego County, California*” (dated December 2010 and revised May 2011, and prepared by HDR Engineering, Inc.). Revegetation and enhancement activities shall be conducted and completed in accordance with this approved plan.

Post-Construction

19. Within **45 calendar days** of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps a post-project implementation memo indicating the following:
- a. As-built construction drawings with an overlay of waters of the U.S. that were impacted;
 - b. A summary of all project activities, which documents that authorized impacts to waters were not exceeded, and demonstrated compliance with all permit special conditions;
 - c. Summary of compliance status with each special condition of this permit (including any noncompliance previously occurred or currently occurring and corrective actions taken to achieve compliance);

- d. Color photographs taken at the project site before and after construction for those aspects directly associated with impacts to waters of the U.S.; and
- e. A completed Certification of Compliance Form (page 8 of this verification).

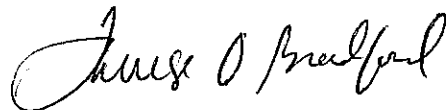
Your verification is valid through September 24, 2014. All NWP's will expire on March 18, 2017. It is incumbent upon you to remain informed of changes to the NWP's. A public notice of the change(s) will be issued when any of the NWP's are modified, reissued, or revoked. Furthermore, if you commence or are under contract to commence this activity before the date on which the relevant NWP is reissued, modified, or revoked, you will have twelve (12) months from the date of the reissuance, modification, or revocation of the NWP to complete the activity under the present terms and conditions of the relevant NWP.

A NWP does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or 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 our regulatory program. If you have any questions, please contact Meris Bantilan-Smith of my staff at 760-602-4836 or via e-mail at Meris.Bantilan-Smith@usace.army.mil.

Please be advised that you can now comment on your experience with Regulatory Division by accessing the Corps web-based customer survey form at: <http://per2.nwp.usace.army.mil/survey.html>.

Sincerely,



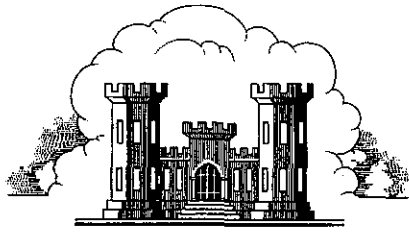
Therese O. Bradford
Chief, South Coast Branch

Enclosures

Enclosure 1: Nationwide Permit 14-Terms and Conditions

Enclosure 2: Project Figures

Enclosure 3: Informal Section 7 Consultation



LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH
DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *SPL-2010-00215-MBS*
Name of Permittee: *San Diego Association of Governments, Rob Rundle*
Date of Issuance: *September 24, 2012*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT
Regulatory Division, Carlsbad Field Office
ATTN: SPL-2010-00215-MBS
6010 Hidden Valley Road, Suite 105
Carlsbad, California 92011

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

Rob Rundle
San Diego Association of Governments

Date



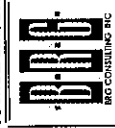
9/6/12

FIGURE 1

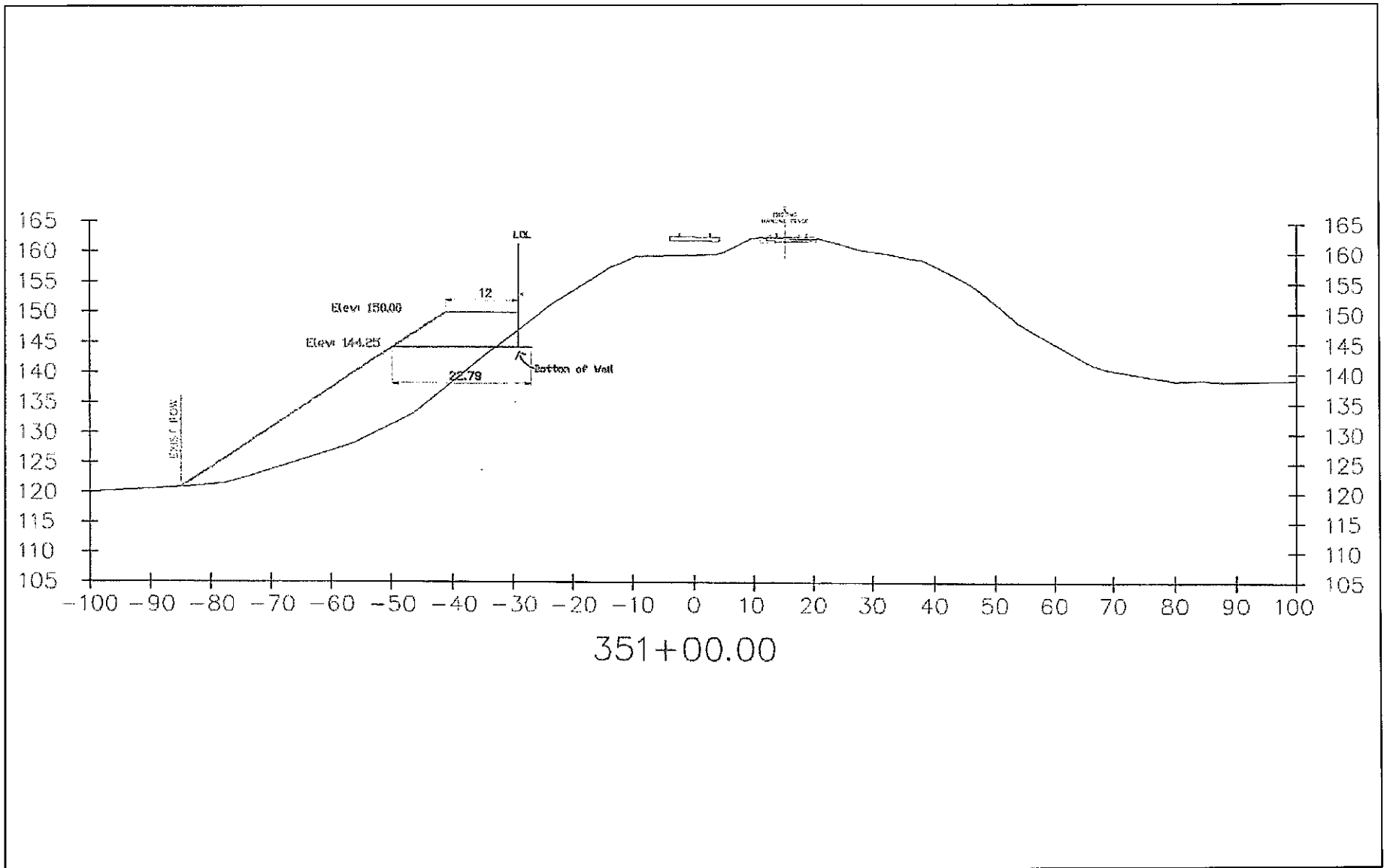
Sorrento to Miramar Phase 1

Retaining Wall 5L - Proposed New Footprint

SOURCE: ESR, 2012; SanGIS, 2012; David Evans and Associates, 2012



ENCLOSURE 2



SOURCE: Simon Wong Engineering, 2012

9/6/12

Sorrento to Miramar Phase 1

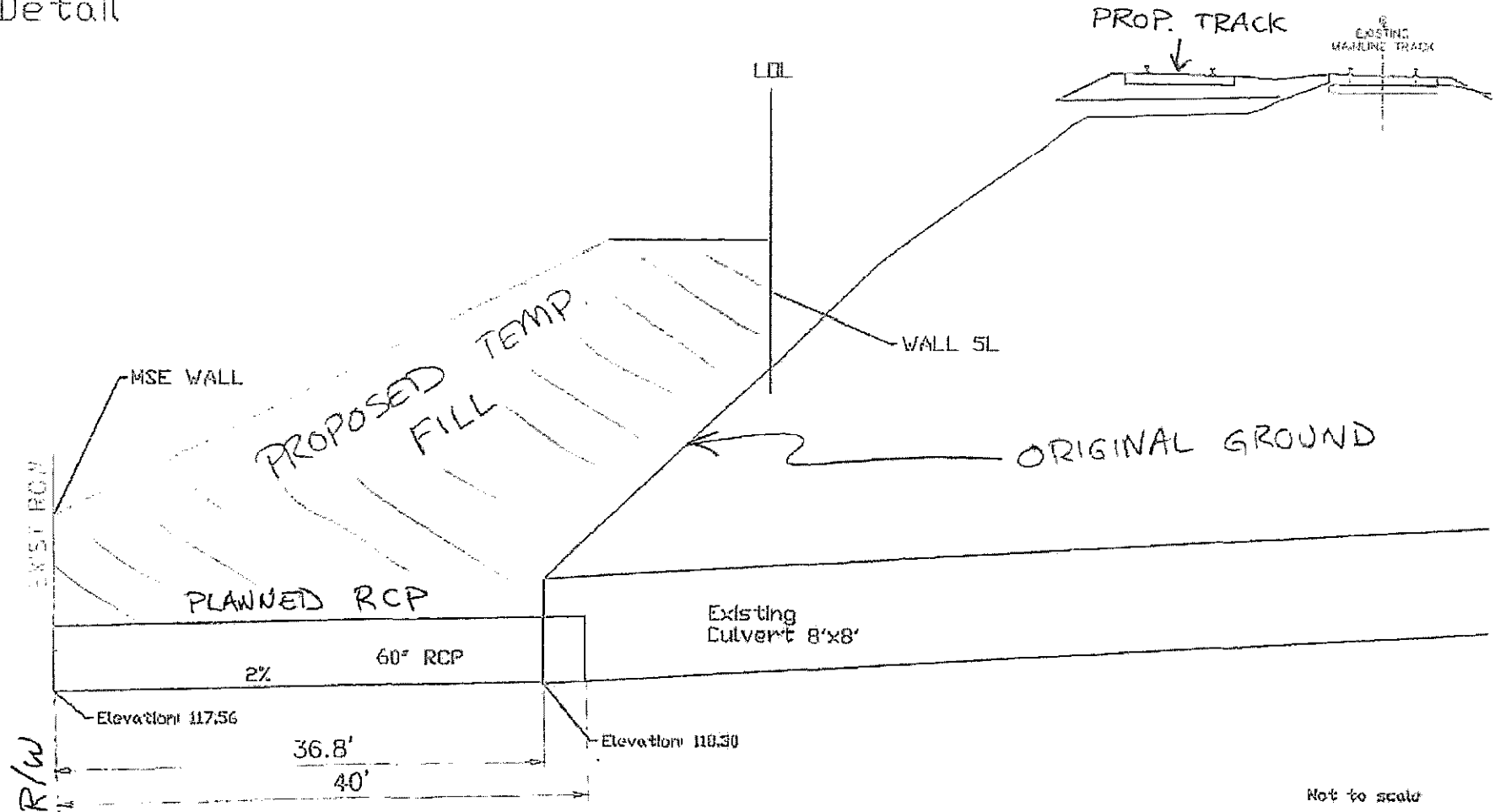
Cross-Section Through Proposed Temporary Fill Area

FIGURE

2



Existing Culvert Extension Detail



SOURCE: Simon Wong Engineering, 2012

9/6/12

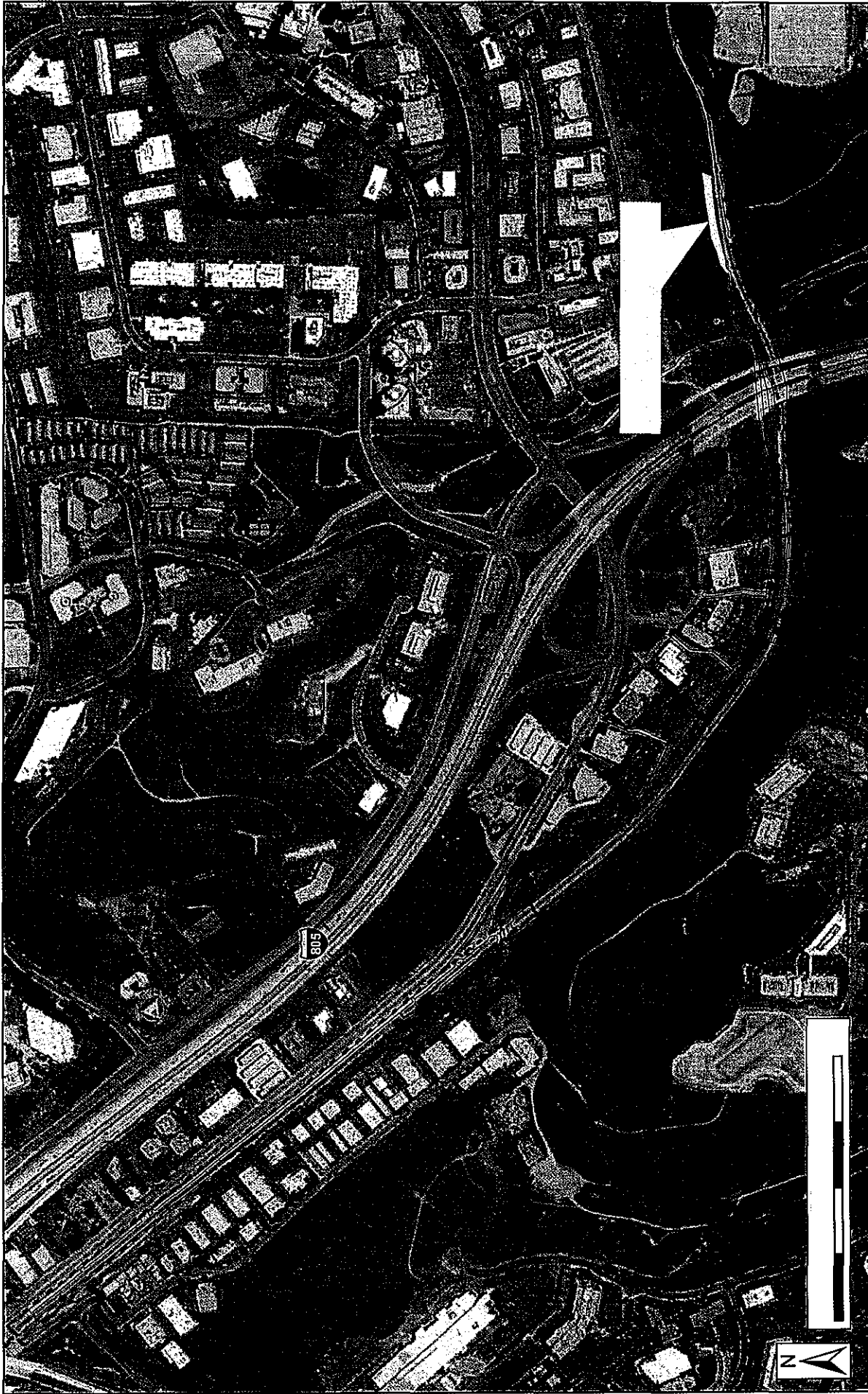
Sorrento to Miramar Phase 1

FIGURE

Cross-Section Through Proposed Culvert Extension

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SOURCE: ESRI, 2012; SanGIS, 2012; David Evans and Associates, 2012

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Sorrento to Miramar Phase 1





Proposed New Footprint - Project Location

Figure 4



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-  Southern Survey Area
-  Northern Survey Area
-  Coastal Commission Boundary
-  Bridge

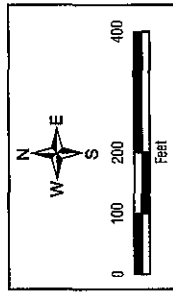
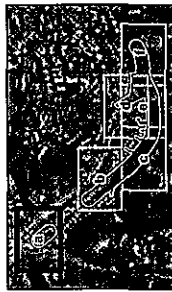
Regional and Vicinity Map

FIGURE 1

SANDAG | Sorrento to Miramar Double Track Phase I | BTR

Figure 5

- Survey Area**
- Southern Survey Area
- Northern Survey Area
- Jurisdictional Area**
- ADCOE Wetland
- Coastal Commission
- Waters of the US
- Project Components**
- Access Road Alternative (1-6)
- Staging Area (1-2)
- Right of Way
- Project Impacts**
- Permanent
- Temporary

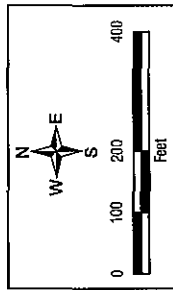


Impacts to USACE and CCC Jurisdictional Areas
FIGURE 7a
 SANDAG | Sorrento to Mikemat Double Track Phase I | BTR

Figure 7a

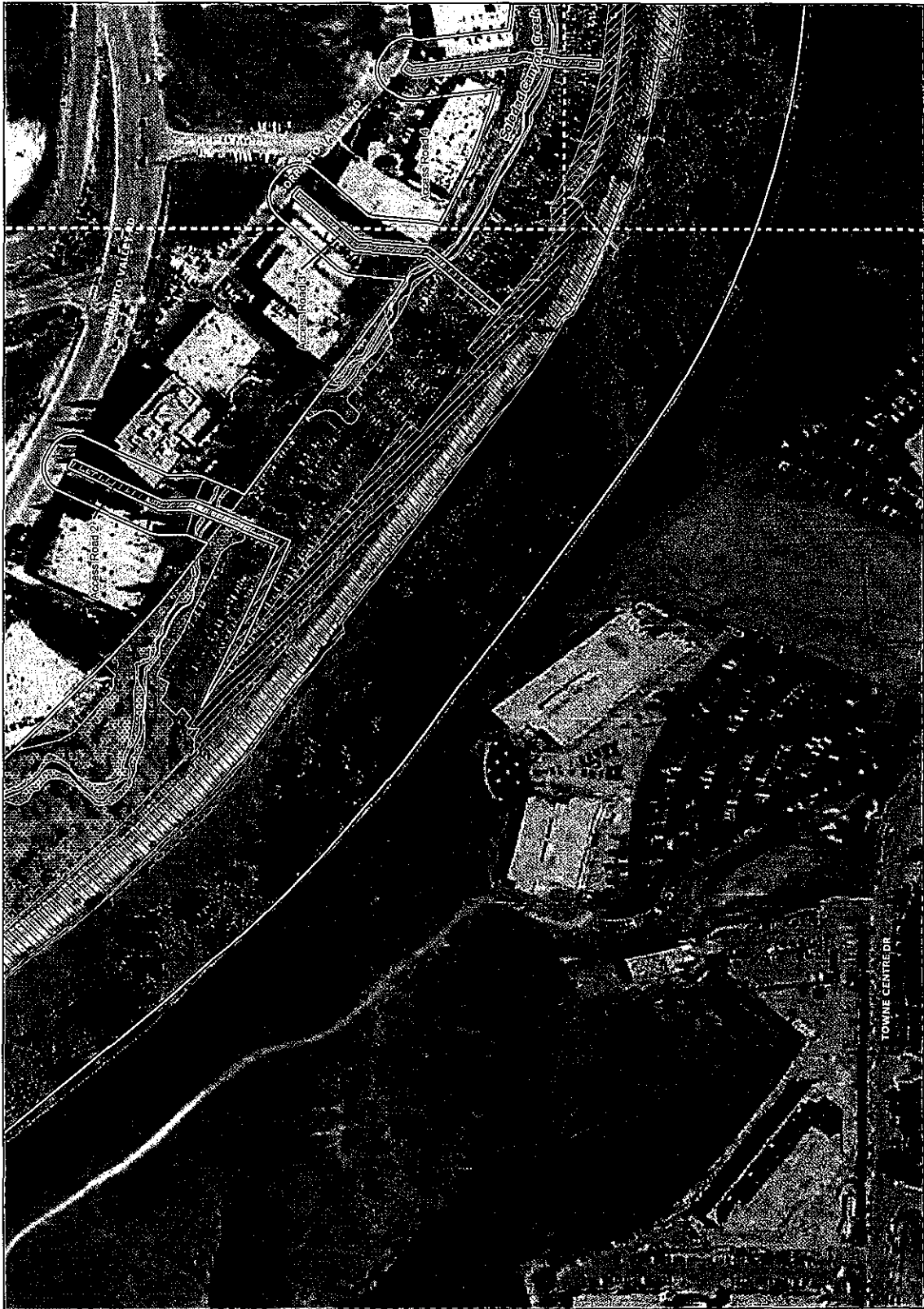


- Survey Area**
- Southern Survey Area
 - Northern Survey Area
- Jurisdictional Area**
- ACOE Wetland
 - Coastal Commission
 - Waters of the US
- Project Components**
- Access Road Alternative (1-9)
 - Staging Area (1-2)
 - Right of Way
- Project Impacts**
- Permanent
 - Temporary

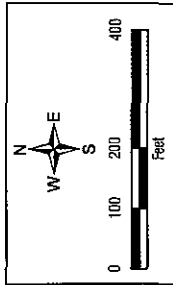
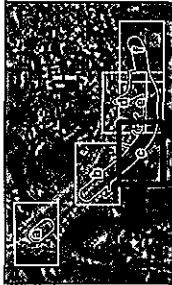


Impacts to USACE and CCC Jurisdictional Areas
 FIGURE 7b
 SANDAG | Sorento to Miramar Double Track Phase 1 | BTR

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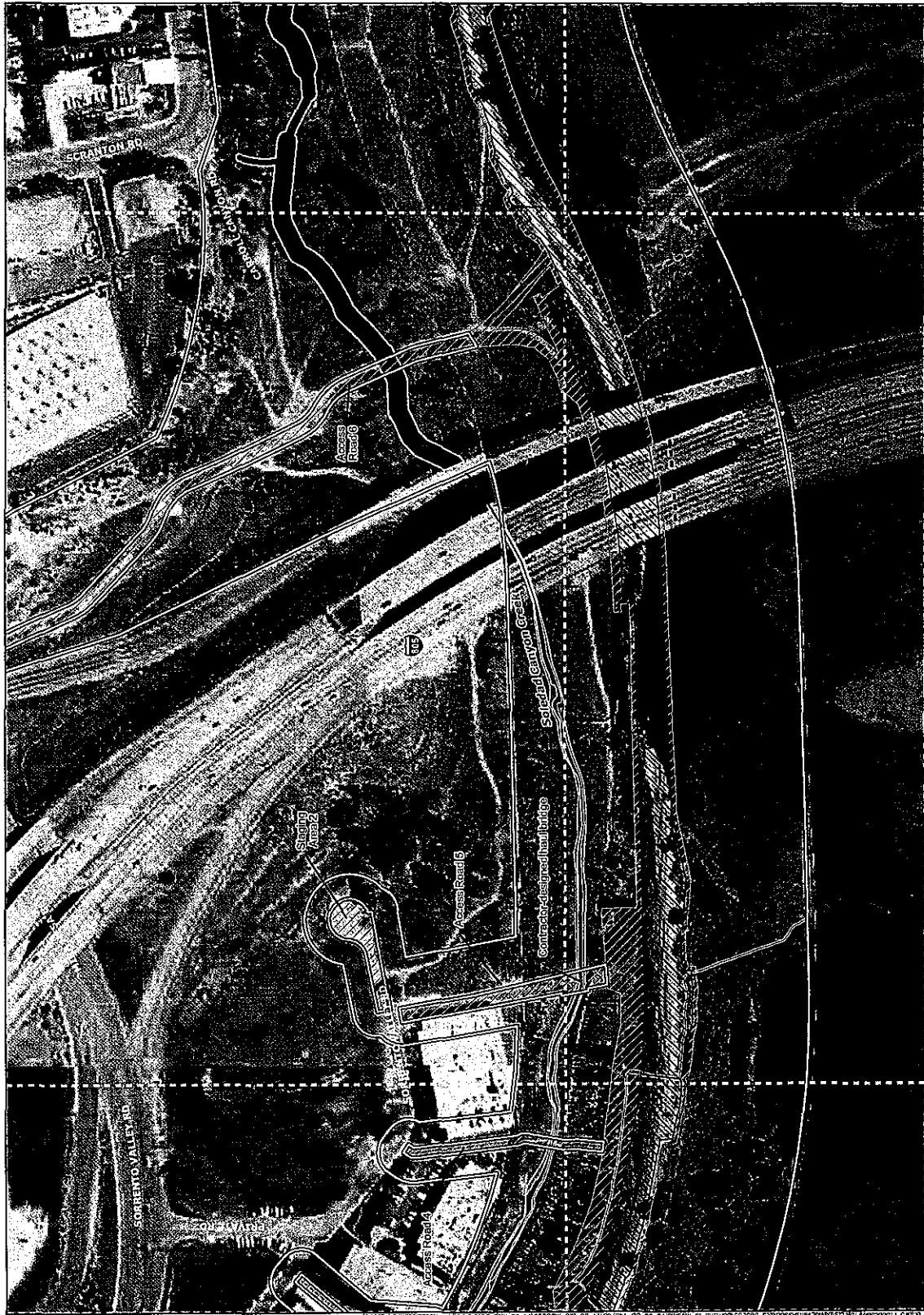


- Survey Area
 - Southern Survey Area
 - Northern Survey Area
- Jurisdictional Area
 - ACOE Wetland
 - Coastal Commission
 - Waters of the US
- Project Components
 - Access Road Alternative (1-6)
 - Staging Area (1-2)
 - Right of Way
- Project Impacts
 - Permanent
 - Temporary



Impacts to USACE and CCC Jurisdictional Areas
 FIGURE 7c
 SANDAG | Sorrento to Miramar Double Track Phase I (BTR)

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- Survey Area**
 - Southern Survey Area
 - Northern Survey Area
- Jurisdictional Area**
 - Access Road Alternative (1-6)
 - Staging Area (1-2)
 - Right of Way
- Project Impacts**
 - Permanent
 - Temporary



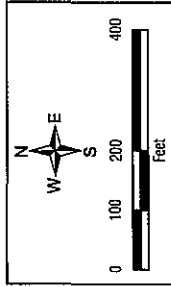
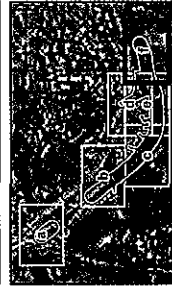
Impacts to USACE and CCC Jurisdictional Areas

FIGURE 7e
SANDAG | Scenario to Mirror Double Track Phase I | RTR

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- Survey Area**
- Southern Survey Area
- Northern Survey Area
- Jurisdictional Area**
- ACOE Wetland
- Coastal Commission
- Waters of the US
- Project Components**
- Access Road Alternative (1-5)
- Staging Area (1-2)
- Right of Way
- Project Impacts**
- Permanent
- Temporary



Impacts to USACE and CCC Jurisdictional Areas
 FIGURE 71
 SANDAG | Scenario to Miramar Double Track Phase I EIR

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