

PUBLIC NOTICE

**US Army Corps
of Engineers®**

APPLICATION FOR PERMIT

LOS ANGELES DISTRICT

Public Notice/Application No.: SPL-2007-964-YJC
Comment Period: October 29, 2007 through November 14, 2008
Project Manager: Jae Chung 213-452-3292 yong.j.chung@usace.army.mil

Applicant

Dean Kirk
The Irvine Company
550 Newport Center Drive
Newport Beach, California 92260

Contact

Thienan Ly
Glenn Lukos Associates, Inc.
29 Orchard
Lake Forest, California 92630

Location

In San Diego Creek in Irvine, Orange County, California (at: 33.643720 Lat, -117.748985 Long)

Activity

To discharge fill materials associated with the Planning Area 39 residential development (Exhibits 1-2). For more information see page 3 of this notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) . Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
ATTN: CESPL-RG-S-2007-964
P.O. Box 532711
Los Angeles, California 90053-2325

Alternatively, comments can be sent electronically to: yong.j.chung@usace.army.mil

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the EPA Guidelines (40 CFR 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A preliminary determination has been made that an environmental impact statement is not required for the proposed work.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant would be required to obtain water quality certification from the U.S. Environmental Protection Agency.

Coastal Zone Management- For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. This project is located outside the coastal zone and preliminary review indicates that it would not affect coastal zone resources. A final determination of whether this project affects coastal zone resources would be made by the Corps, in consultation with the California Coastal Commission, after review of the comments received on this Public Notice.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and this site is not listed. A cultural resources assessment for the project area was published on September 23, 2005. Cultural resources on the project site include the former Lion Country Safari animal park, a tenant farm house dating to the early 20th century, a previously

recorded archaeological site (CA-ORA-110) without any subsurficial deposits, and a few isolated artifacts. These resources were not unique historical resources. The preliminary determination is that these elements are not eligible for listing in the National Register of Historic Places.

Endangered Species- Preliminary determinations indicate that the proposed activity may affect federally listed endangered or threatened species, or their critical habitat. In 2006, biologists have documented ten pairs and two individual least Bell's vireo (*Vireo bellii pusillus*), a federally listed threatened species, within the project area. In addition, on the western side of the property along the property boundary within area proposed to be in open space, there are one pair and one individual California gnatcatchers (*Poliopotila californica californica*), a federally listed threatened species. The proposed work would result in direct and indirect impacts to the least Bell's vireo and its occupied habitat and indirect impacts to the coastal California gnatcatcher. Therefore, the Corps initiated consultation under Section 7 of the Endangered Species Act in a letter dated January 15, 2008.

Public Hearing- Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent. The basic project purpose for the proposed project is to construct housing. Constructing housing is not a water-dependent activity.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose for the proposed project is to construct about 3,700 homes within the City of Irvine.

Additional Project Information

In association with the 398-acre Planning Area 39 development, the applicant proposes to discharge dredge or fill materials into wetlands and other waters of the U.S., resulting in permanent impacts to 0.9 acre of waters of the U.S., including 0.77 acre of wetlands, and temporary impacts to 0.33 acre of waters of the U.S., including 0.33 acre of wetlands (Exhibits 3-5). As proposed, Planning Area 39 involves construction of 3,700 homes at medium-high density (0-25 dwelling units/acre) and associated facilities on 252 acres with 146 acres preserved as natural open space. Associated facilities include neighborhood parks and schools. Additional project details could be found in Environmental Impact Report No. 2005081099 covering the general plan amendment/zone change for Planning Areas 39 dated June 2006. The Corps published a public notice originally on November 1, 2007. Since then, the project has been revised to reduce impacts to waters of the U.S. This current public notice reflects these changes.

Baseline Settings- The project area consists of native and non-native habitats bisected by the San Diego Creek. On the east side of the San Diego Creek, the former Lion Country Safari and Wild Rivers theme parks represent most of the land uses with some agriculture along the eastern portion of the property along Irvine Center Drive. On the west side of the San Diego Creek, there are non-native and needlegrass grasslands.

The main aquatic resource on the project site is the San Diego Creek. San Diego Creek consists of 39.07 acres of wetlands, comprising mostly of southern willow scrub with pockets of freshwater marsh, southern sycamore woodland, and mulefat scrub. In addition, within tributaries to San Diego Creek, there is 0.25 acre of non-wetland waters of the U.S. vegetated by non-wetland mulefat scrub and southern willow scrub and upland ruderal species.

Within San Diego Creek are three grade control structures, installed with the development of the Lion Country Safari in the 1960s, before enactment of the Clean Water Act. These grade control structures require some additional maintenance due to the age of the structures. Although a good portion of the grade control structures consist of rock and other structures, the grade control structures were still mapped as wetlands.

San Diego Creek Watershed Special Area Management Plan - Planning Area 39 was one of the projects that was originally considered in the context of the San Diego Creek Watershed Special Area Management Plan (SAMP). As part of the initial discussions, the applicant agreed to remove all development on the west bank of San Diego Creek.

Impacts- The applicant initially proposed impacts to waters of the U.S. include permanent impacts to 2.06 acres of waters of the U.S., including 1.99 acres of wetlands, for trail crossings and recreational facilities, and temporary impacts to 2.05 acres of waters of the U.S., including 1.9 acre of wetlands, for remedial grading near the existing Verizon Amphitheater for its conversion to a public neighborhood park and for repair of the three grade control structures (Table 1). The initially proposed permanent impacts would have occurred from work associated with grading for construction of pads, roads, and infrastructure for a culverted trail crossing over San Diego Creek immediately south of Interstate 405 and from remedial grading along the east bank of San Diego Creek for construction of trails and water quality control basins. The initially proposed temporary impacts would have occurred from work associated with the remedial grading around the existing Verizon Amphitheater for its conversion to a public neighborhood park and for repair and rehabilitation of three grade control structures within San Diego Creek. Additional avoidance was accomplished through project redesign of the culverted trail crossing, pulling back of the development along the east bank of the San Diego Creek, decision to not rehabilitate the grade control structures, and redesign of the improvements to the Verizon Amphitheater, resulting in a decrease in permanent impacts by 1.22 acre of wetlands and temporary impacts by 1.66 acre of wetlands. The project will now temporarily impact 0.33 acre of wetland for the bike crossing, permanently impact 0.33 acre of wetland for the bike crossing, permanently impact 0.27 acre of waters of the U.S., including 0.25 acre of wetlands, for the improvements on the east bank, and permanently impact 0.25 acre of waters of the U.S., including 0.19 acre of wetlands, for the improvements at the Verizon Amphitheater (Exhibit 6).

Table 1. Impacts to waters of the U.S. at Planning Area 39.

	Permanent (acres)		Temporary (acres)	
	Waters of the U.S.	Wetlands	Waters of the U.S.	Wetlands
Initially Proposed	2.06	1.99	2.05	1.99
Revised Project	0.90	0.77	0.33	0.33
Change	-1.16	-1.22	-1.72	-1.66

Compensatory Mitigation- The proposed compensatory mitigation consists of enhancement of 4.66 acres of wetlands within San Diego Creek south of Interstate 405 followed by long-term

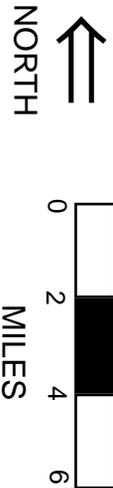
management of 35.55 acres of wetlands within San Diego Creek from Interstate 405 to Bake Parkway funded through a non-wasting endowment.

Proposed Special Conditions

None at this time.

For additional information please call Jae Chung of my staff at 213-452-3292. This public notice is issued by the Chief, Regulatory Division.

Adapted from USGS Santa Ana quadrangle



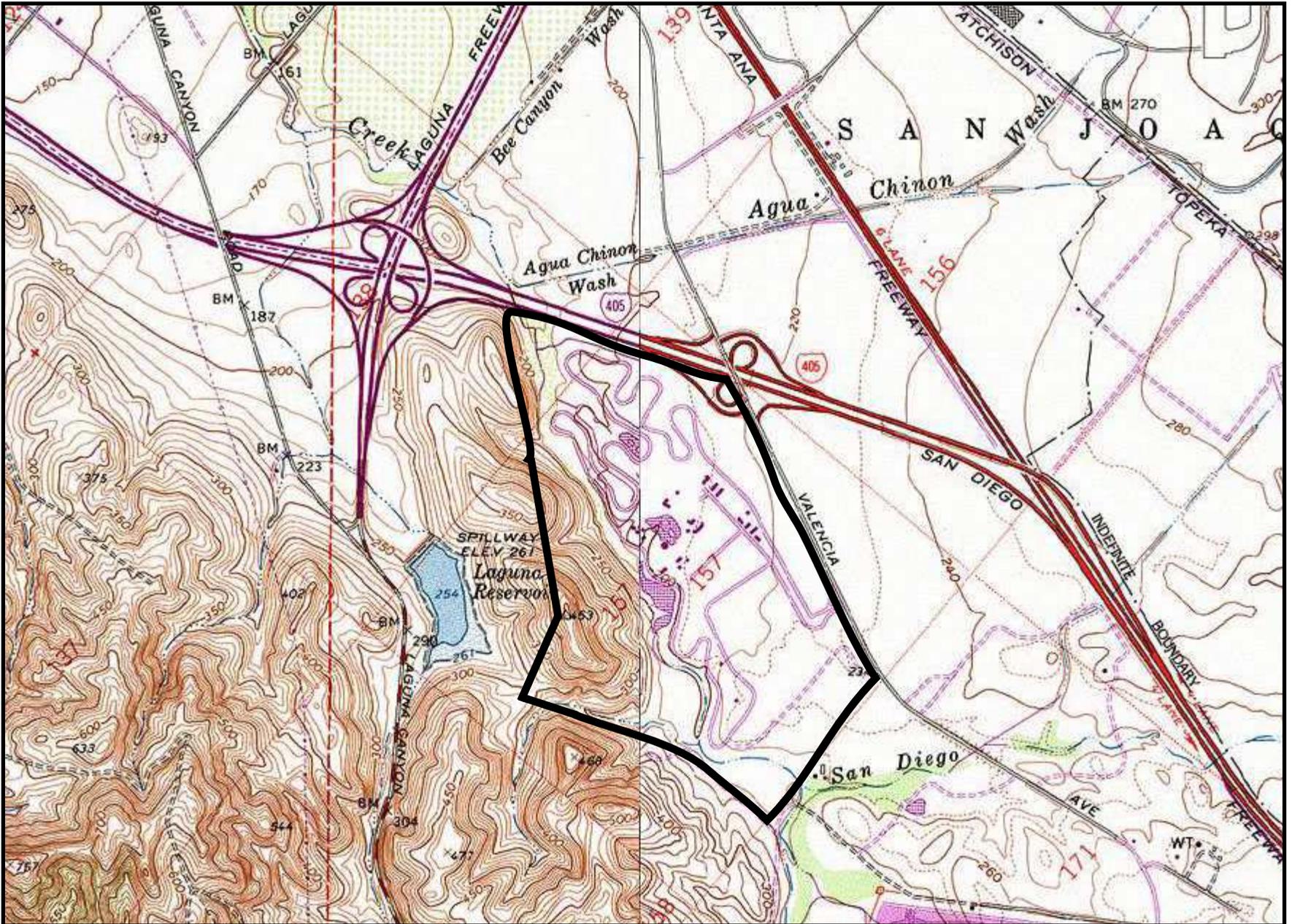
PLANNING AREA 39
Regional Map

GLENN LUKOS ASSOCIATES

Exhibit 1

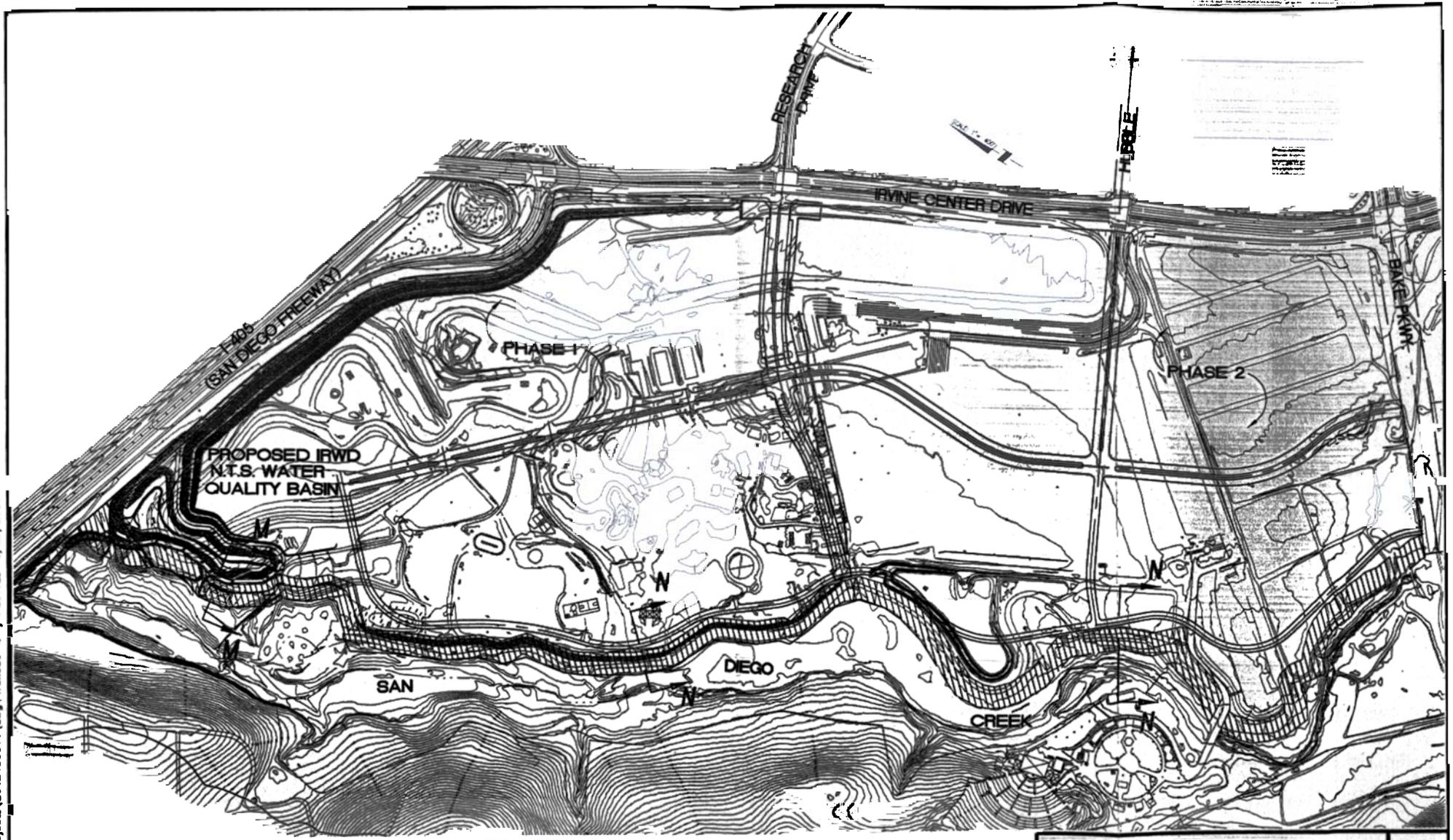


Adapted from USGS El Toro and Tusin quadrangles



PLANNING AREA 39
Vicinity Map

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 LIMITED USE AREA "A"

Exhibit 3
 PA 39 - LIMITED USE AREA "A"
 TYPICAL CROSS SECTIONS

SHEET
 1
 OF
 2

DRAWING: v:\projects\2012450611\dwg\prax0002.dwg PLOTTED: 4/13/2008 1:07 PM BY: Wittborn, Dor

I.R.W.D.
NTS BASIN
FLOW LINE

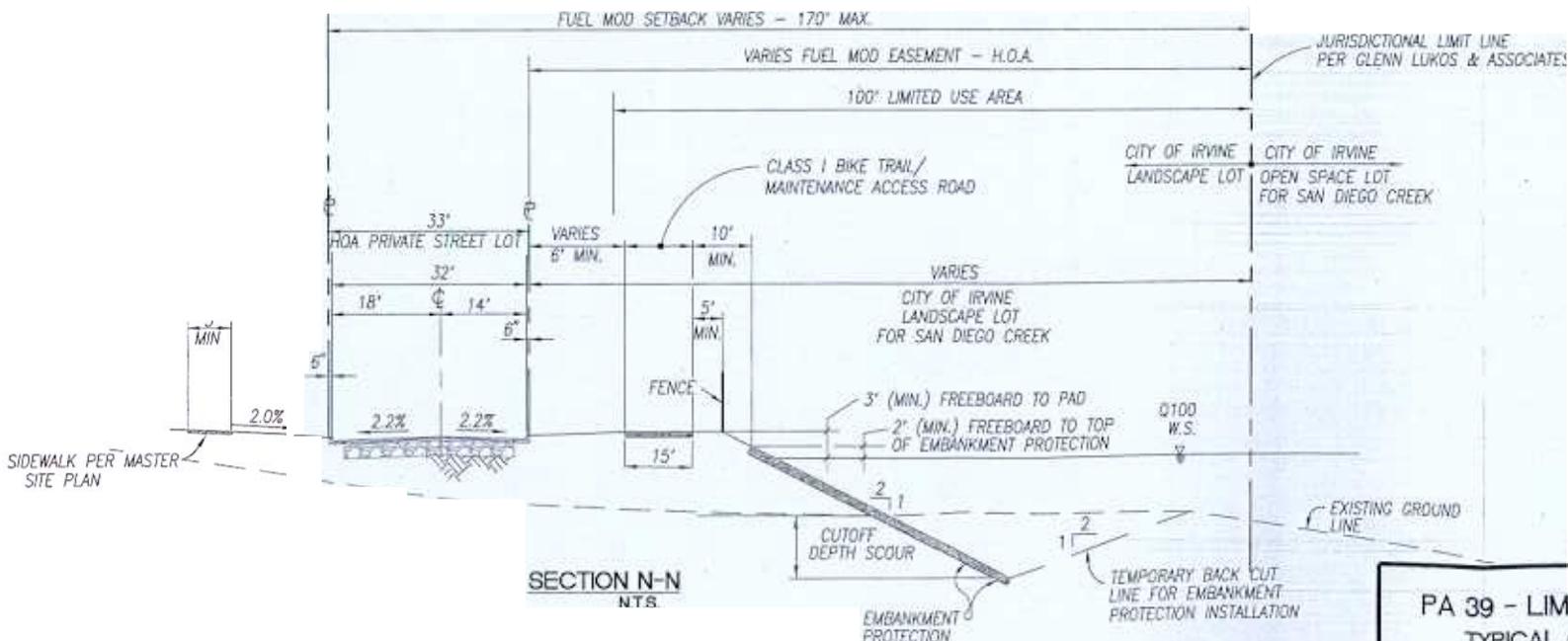
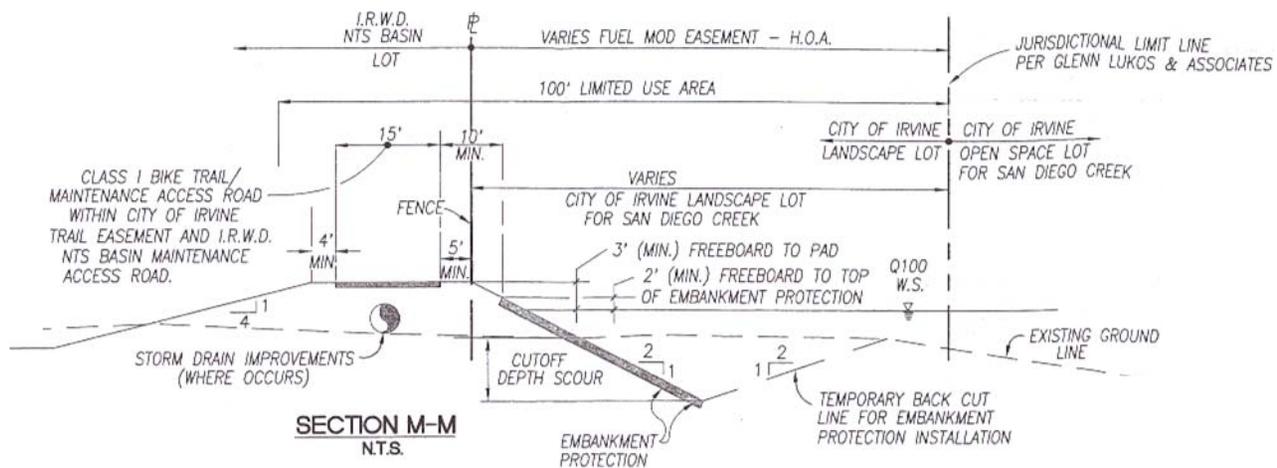
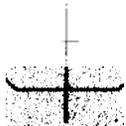
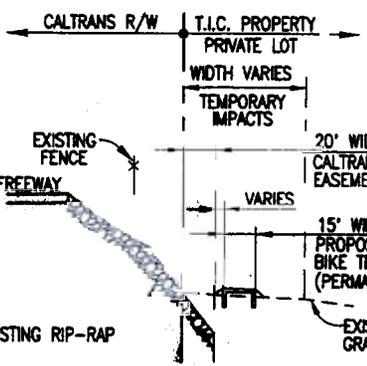
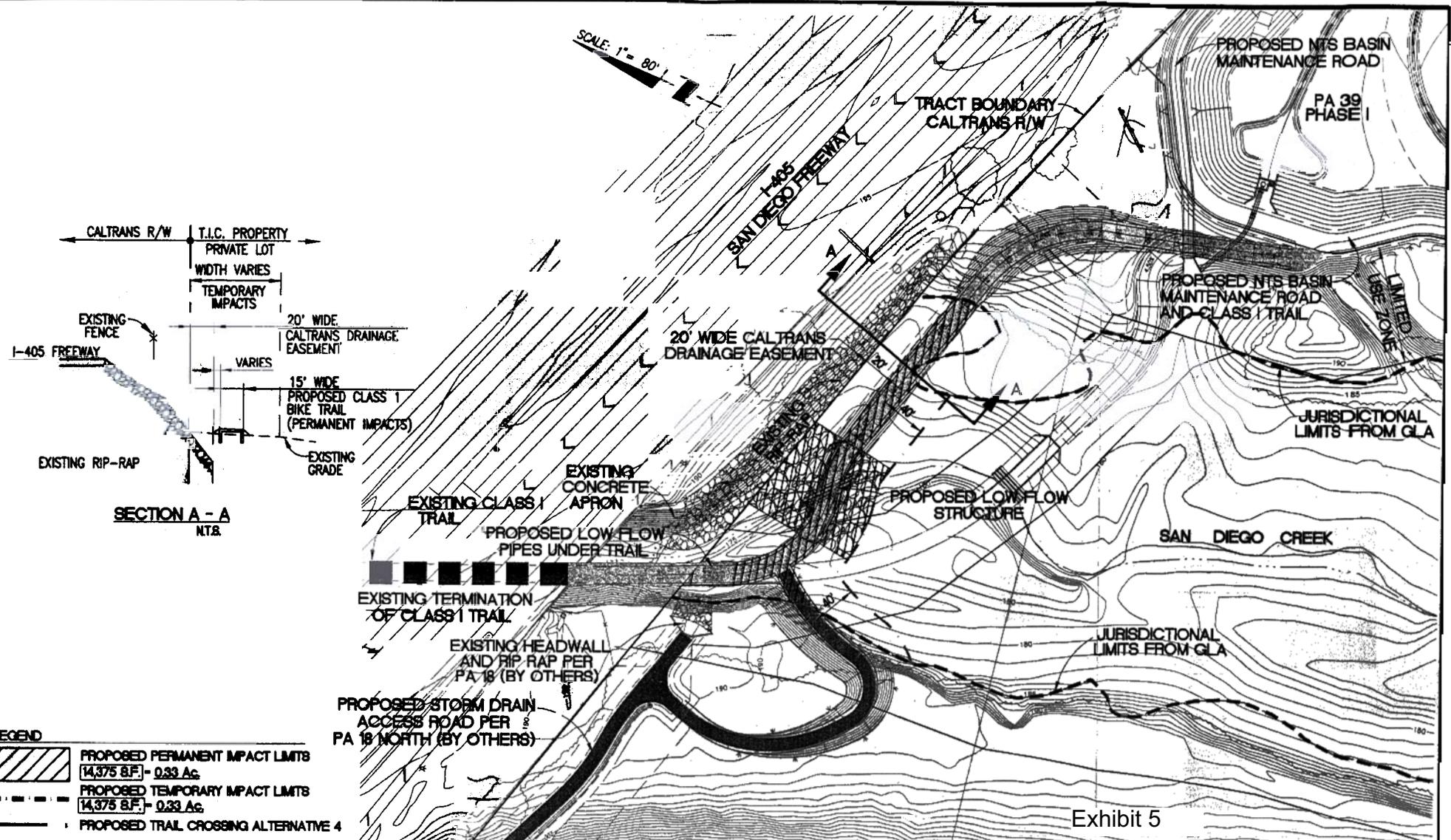


Exhibit 4

PA 39 - LIMITED USE AREA "A"
TYPICAL CROSS SECTIONS

SHEET
2
OF
2

SCALE: 1" = 80'



SECTION A - A
N.T.S.

- LEGEND**
- PROPOSED PERMANENT IMPACT LIMITS
(14,375 S.F.) = 0.33 Ac
 - PROPOSED TEMPORARY IMPACT LIMITS
(14,375 S.F.) = 0.33 Ac
 - PROPOSED TRAIL CROSSING ALTERNATIVE #4
 - EXISTING CLASS 1 TRAIL ALIGNMENT - CALTRANS
 - CONCEPT PUBLIC PEDESTRIAN TRAIL CONNECTION TO PA 18 NORTH
 - JURISDICTIONAL LIMITS FROM GLA
 - EXISTING PRIVATE STORM DRAIN MAINTENANCE ACCESS ROAD FROM PA 18 NORTH

Exhibit 5

<p>PREPARED BY:</p> <p>STANTEC CONSULTING INC. 19 TECHNOLOGY DRIVE IRVINE, CA 92618 949.923.6000</p>	<p>PREPARED FOR:</p> <p>THE IRVINE COMPANY 550 NEWPORT CENTER DRIVE NEWPORT BEACH, CALIFORNIA (949)720-2200</p>	<p>PA 39 - PHASE 1 DEVELOPMENT TRAIL CROSSING ALTERNATIVE #4 CLASS 1 TRAIL CONNECTION AT SAN DIEGO CREEK</p>	<p>DATE: 5/22/08</p> <p>SHEET 4 OF 4</p> <p>JOB NO. 2042450600</p>
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PLANNING AREA 39

Jurisdictional Determination/Impact Map

GLENN LUKOS ASSOCIATES

Exhibit 6



Legend

- Planning Area 39 Boundary
- Permanent Impact
- Temporary Impact
- Previously Permitted PA 18/Lake Forest and Bala Parkway Extension
- Corps Wetlands and CDFG Riparian
- Corps Non-Wetland Waters and CDFG Streambed
- CDFG Jurisdictional Only
- Width of Corps Water and CDFG Streambed in Feet (1')
- Data Station Locations (2000)
- Data Station Locations (2005)
- LBV Observation
 - Pair
 - Single



Permanent
0.33 ac (0.33W)
Temporary
0.33 ac (0.33W)

Permanent
0.05 ac

Permanent
0.02 ac

Permanent
0.05 ac (0.05W)

Permanent
0.20 ac (0.20W)

Permanent
0.06 ac

Permanent
0.11 ac (0.11W)

Permanent
0.08 ac (0.08W)

