



PUBLIC NOTICE

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

BUILDING STRONG®

APPLICATION FOR PERMIT C05 East Garden Grove Wintersburg Channel Widening Project

Public Notice/Application Number: SPL-2018-00099-ERS

Project: C05 East Garden Grove Wintersburg Channel Widening Project

Comment Period: July 9, 2018 through August 8, 2018

Project Manager: Eric Sweeney; 760-602-4837; Eric.R.Sweeney@usace.army.mil

Applicant

James Volz
Orange County Public Works
300 N. Flower Street
Santa Ana, California 92703
James.Volz@ocpw.ocgov.com

Location

The proposed project is located in East Garden Grove Wintersburg Channel within the city of Huntington Beach, Orange County, CA at approximately 33.717366, -118.017406 (Exhibit 1). The proposed project is located between Warner Avenue and 1,250 feet upstream of Goldenwest Street.

Activity

The proposed project would widen the East Garden Grove Wintersburg Channel from Warner Avenue to 1,250 feet upstream of Goldenwest Street for the purpose of accommodating 100-year flood events. The project would involve constructing two parallel rows of sheet pile walls across the existing levee backslopes on each side of the existing channel and filling the area between the sheet pile walls with soil cement (Exhibit 2). Excavators would be used to remove the existing earthen trapezoid sideslopes to expose the vertical sheet piles to channel flows, with the final invert grade elevation being equivalent to the current invert elevation within the channel. Removed soil would be placed in dump trucks and disposed of in uplands off-site. For further information, see the Additional Project Information section below.

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 drawings. We invite you to review today's Public Notice and provide views on the proposed work. By providing substantive, site-specific comments to the U.S. Army

Corps of Engineers (Corps) Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under section 404 of the Clean Water Act. Comments should be mailed to:

Department of the Army
U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division, Attn: Eric Sweeney
5900 La Place Court, Suite 100
Carlsbad, California 92008

Alternatively, comments can be sent electronically to: Eric.R.Sweeney@usace.army.mil.

The mission of the Corps Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible, and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable waters and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem functions and services.

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 U.S. Environmental Protection Agency (U.S. Environmental Protection Agency (USEPA)) Guidelines (40 C.F.R. part 230) as required by section 404(b)(1) of the Clean Water Act.

The Corps 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 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 (EIS) 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 EIS is not required for the proposed work.

Water Quality: Under Section 401 of the Clean Water Act, the applicant is required to obtain a Water Quality Certification (WQC) from the Santa Ana River Regional Water Quality Control Board (RWQCB). Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps prior to permit issuance. The applicant is currently pending issuance of the WQC by the Santa Ana River RWQCB.

Coastal Zone Management: The proposed project is not located within the California Coastal Commission's coastal zone. There is no evidence or indication from the California Coastal Commission that the project is inconsistent with their CZM plan.

Essential Fish Habitat: The Magnuson-Stevens Fisheries Conservation and Management Act (MSA), as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires Federal agencies to consult with the National Marine Fisheries Service (NMFS) on activities that may adversely affect Essential Fish Habitat (EFH).

The objective of the EFH assessment is to describe potential adverse effects to designated EFH for federally managed fisheries species within the proposed action area. The proposed project would occur within EFH for various federally managed fish species within the Coastal Pelagic Species and Pacific Coast Groundfish Fishery Management Plans.

Eelgrass and Caulerpa surveys of the project site were conducted by ICF on September 5, 2017. The biological survey reported that eelgrass is not present within the project area. The survey noted that the depth of water is too shallow to support eelgrass growth within the part of the channel in which the proposed work would occur. The survey also did not report the presence of Caulerpa at the project site.

The Corps has made a determination that the proposed project may adversely affect EFH. However, effects on EFH would be temporary and minimal because no eelgrass would be affected by the proposed project. There would also be no indirect effects to eelgrass as downstream flows would be maintained during project activities. With this Public Notice, the Corps requests initiation of consultation with NMFS for the proposed project.

Cultural Resources: The proposed project would not disturb any previously undisturbed (native) soils within the Permit Area. The proposed project would not excavate below the existing baseline of the channel. Soil would only be excavated from the sides of the channel and temporarily stockpiled within the channel invert. The final invert grade elevation would be the same as the existing grade elevation.

Preliminary application of Section 106 Criteria for Identification and Evaluation of Historic Properties (36 CFR 800.4[d]) indicates a finding of "no potential to cause effects" for the undertaking on resources listed on or eligible to be listed on the National Register of Historic Places pursuant to Section 106 of the National Historic Preservation Act.

Endangered Species: No federally listed species are known to be present within the immediate vicinity of the proposed project.

The proposed widening of East Garden Grove Wintersburg Channel would result in a 3.42-acre increase in soft-bottom estuarine stream area, which would provide enhanced habitat values for local wildlife. Following construction, Orange County Public Works (OCPW) would maintain the channel so that low-growing native vegetation would be allowed to persist throughout the widened invert.

The Bolsa Chica Ecological Reserve, located approximately one mile downstream of the proposed project area, is known to support federally listed species that include light-footed Ridgway's rail (*Rallus obsoletus levipes*), California least tern (*Sternula antillarum brown*), western snowy plover (*Charadrius alexandrinus nivosus*), and salt marsh bird's-beak (*Chloropyron maritimum ssp. Maritimum*). The reserve also supports critical habitat for western snowy plover. The proposed project would not be expected to affect

federally listed species or critical habitat within the reserve due to the distance between the project and reserve (approximately one mile) and because downstream flows would be maintained throughout the proposed activities.

Having evaluated the available species presence and habitat data for the proposed project area and considered the applicant's proposed minimization/avoidance measures, the Corps has preliminarily made a "no effect" determination for federally listed species and critical habitat pursuant to Section 7 of the Endangered Species Act.

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 (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). **There are no special aquatic sites within the proposed project area. Therefore, establishment of a basic project purpose is not necessary.**

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 purpose is to widen East Garden Grove-Wintersburg Channel to accommodate a 100-year flood event.**

Additional Project Information

Baseline Information: East Garden Grove-Wintersburg Channel is a largely barren earthen channel, with some low growing and larger weeds present along with occasional patches of bulrush sprouting along the water's edge. The channel is most inundated as it receives varying amounts of flow from stormwater sources. The project area is located in the lower part of the Seal Beach watershed, near the Huntington Bay ocean outlet. The project vicinity mostly consists of developed area that are highly disturbed and/or paved (residential structures, roadways, etc.).

Project Description: The proposed project would widen the East Garden Grove Wintersburg Channel from Warner Avenue to 1,250 feet upstream of Goldenwest Street for the purpose of accommodating 100-year flood events. The project would involve constructing two parallel rows of sheet pile walls across the existing levee backslopes

on each side of the existing channel and filling the area between the sheet pile walls with soil cement. Excavators would be used to remove the existing earthen trapezoid sideslopes to expose the vertical sheet piles to channel flows, with the final invert grade elevation being equivalent to the current invert elevation within the channel. Removed soil would be placed in dump trucks and disposed of in uplands off-site.

Temporary cofferdams would be placed at the upstream and downstream ends of the project to prevent flows from tidal inundation and urban runoff from reaching the project area. During placement of the coffer dams, downstream flows would be maintained by pumping water received upstream of the project area through PVC pipe around the project area, so that the water outlets downstream of the project area.

The proposed project would be constructed over an approximately 18-month period.

The proposed project would result in temporary impacts to approximately 15.21 acres (8,041 linear feet) of non-wetland waters of the United States (Exhibit 3).

Proposed Mitigation: The proposed mitigation may change as a result of comments received in response to this Public Notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

Proposed project impacts would be minimized as a result of the channel widening that would occur as a result of the proposed work. Widening of the channel would result in increased flood storage (100-year flood event) in addition to increasing the amount of estuarine habitat present by approximately 3.42 acres.

No compensatory mitigation would be required for the proposed project since all proposed impacts would be temporary and excavation would not change the current baseline elevation of the invert.

Proposed Special Conditions

The following list is comprised of proposed Permit Special Conditions, which are required of similar types of projects:

1. This permit is contingent upon the issuance of a Section 401 WQC by the RWQCB. The Permittee shall abide by the terms and conditions of the Section 401 WQC. The Permittee shall submit the Section 401 WQC to the Corps Regulatory Division (preferably via email) within two weeks of receipt from the issuing state agency. If the RWQCB fails to act on a request for certification within 60 days after receipt of a complete application, please notify the Corps so we may consider whether a waiver of water quality certification is warranted pursuant to 33 CFR 325.2(b)(1)(ii).

2. 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 photopoints) 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).
3. INTERFERENCE WITH NAVIGATION: The permitted activity shall not interfere with the right of the public to free navigation on all navigable waters of the United States as defined by 33 C.F.R. Part 329.
4. DISCHARGES: No earthwork is authorized by this LOP.
5. LIMITATIONS: No other modifications or work shall occur to the structure permitted herein.
6. CLEAN CONSTRUCTION PRACTICES: The Permittee shall discharge only clean construction materials suitable for use in the oceanic environment. The Permittee shall ensure no debris, soil, silt, sand, sawdust, rubbish, cement or concrete washings thereof, oil or petroleum products, hazardous/toxic/radioactive/munitions from construction or dredging or disposal 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.
7. U.S. COAST GUARD NOTIFICATION: To ensure navigational safety, the Permittee shall provide appropriate notifications to the U.S. Coast Guard as described below:

Commander, 11th Coast Guard District (dpw)
 TEL: (510) 437-2980
 Email: d11LNM@uscg.mil
 Website: <http://www.uscg.mil/dp/lnmrequest.asp>

U.S. Coast Guard, Sector LA-LB (COTP)
 Email: D11-DG-SectorLALB-WWM@uscg.mil

For projects in San Diego County:
 U.S. Coast Guard
 Sector San Diego, Attn: LTJG Briana Biagas
 2710 N. Harbor Dr.
 San Diego, California 92101
 Attn: Ports and Waterways Division
 Tel: (619) 278-7261
 Fax: (619) 278-7279
 Email: BRIANA.L.BIAGAS@uscg.mil

A. The Permittee shall notify the U.S. Coast Guard, Commander, 11th Coast Guard District (dpw) and the U.S. Coast Guard, Sector LA-LB (COTP) (contact information shown above), not less than 14 calendar days prior to commencing work and as project information changes. The notification shall be provided by email with at least the following information, transmitted as an attached Word or PDF file:

- 1) Project description including the type of operation (i.e. dredging, diving, construction, etc).
- 2) Location of operation, including Latitude / Longitude (NAD 83).
- 3) Work start and completion dates and the expected duration of operations. The Coast Guard needs to be notified if these dates change.
- 4) Vessels involved in the operation (name, size and type).
- 5) VHF-FM radio frequencies monitored by vessels on scene.
- 6) Point of contact and 24 -hour phone number.
- 7) Potential hazards to navigation.
- 8) Chart number for the area of operation.
- 9) Recommend the following language be used in the LNM: "Mariners are urged to transit at their slowest safe speed to minimize wake, and proceed with caution after passing arrangements have been made."

B. Permittee and its contractor(s) shall not remove, relocate, obstruct, willfully damage, make fast to, or interfere with any aids to navigation defined at 33 C.F.R. chapter I, subchapter C, part 66. Not less than 30 calendar days in advance of operating any equipment adjacent to any aids to navigation that require relocation or removal, the Permittee shall notify, in writing, the Eleventh U.S. Coast Guard District and the Corps Regulatory Division. Should any federal aids to navigation be affected by this project, the Permittee shall submit a request, in writing, to the Corps Regulatory Division as well as the U.S. Coast Guard, Aids to Navigation office (contact information provided above). The Permittee and its contractor(s) are prohibited from relocating or removing any aids to navigation until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.

C. Should the Permittee determine the work requires the temporary placement and use of private aids to navigation in navigable waters of the U.S., the Permittee shall submit a request in writing to the Corps Regulatory Division as well as the U.S. Coast Guard, Aids to Navigation office (contact information provided above). The Permittee is prohibited from establishing private aids to navigation in navigable waters of the U.S. until authorized to do so by the Corps Regulatory Division and the U.S. Coast Guard.

D. The COTP may modify the deployment of marine construction equipment or mooring systems to safeguard navigation during project construction. The Permittee shall direct questions concerning lighting, equipment placement, and mooring to the appropriate COTP.

8. **OBSTRUCTIONS:** 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 Regulatory Division, 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.
9. **COMMENCEMENT NOTIFICATION:** The Permittee shall notify the Corps Regulatory Division of the date of commencement of work in navigable waters of the United States no less than 14 calendar days prior to commencing work, and shall notify the Corps of the date of completion of operations at least five (5) calendar days prior to such completion.
10. **POST-CONSTRUCTION AS-BUILT SURVEY(S):** Within 30 calendar days of completion of the project authorized by this permit, the Permittee shall conduct a post-project survey indicating changes to structures and other features in navigable waters. The Permittee shall forward a copy of the survey, as well as a copy of this permit, to the Corps Regulatory Division (via email at: Regulatory.SPL@usace.army.mil) and to the National Oceanic and Atmospheric Administration (National Oceanic and Atmospheric Administration (NOAA)) for updating nautical charts (via email at: Chris.Libeau@noaa.gov). Post-project surveys/as-built plans should be provided electronically in two formats: .pts (xyz) and one of, .pdf, Computer-aided Design (CAD), or Geographic Information System (GIS). Include the following header metadata: project name, surveyor's name and company, area surveyed (acres), type of survey method, date of survey, geographic control points (for example: latitude/longitude, plane coordinates), geographic coordinate system (use NAD83), geographic projection, units (use U.S. Survey Feet), and tide gauge location. For all subsurface structures and dredge projects include elevation (z coordinate) datum indicated as a negative below MLLW, and also indicate the survey system and bin sizes as appropriate.

11. CAULERPA PRE-CONSTRUCTION SURVEY: A pre-construction survey of the project area for *Caulerpa taxifolia* (Caulerpa) shall be conducted in accordance with the Caulerpa Control Protocol (see <http://swr.nmfs.noaa.gov/hcd/caulerpa/ccp.pdf>) not earlier than 90 calendar days prior to planned construction and not later than 30 calendar days prior to construction. The results of this survey shall be furnished to the Corps Regulatory Division, NOAA Fisheries, and the California Department of Fish and Wildlife (California Department of Fish and Wildlife (CDFW)) at least 15 calendar days prior to initiation of work in navigable waters. In the event that Caulerpa is detected within the project area, the Permittee shall not commence work until such time as the infestation has been isolated, treated, and the risk of spread is eliminated as confirmed in writing by the Corps Regulatory Division, in consultation with NOAA Fisheries and CDFW.
12. EELGRASS PRE-CONSTRUCTION SURVEY: Prior to construction, a pre-project eelgrass survey should be conducted in accordance with the California Eelgrass Mitigation Policy (CEMP) (http://www.westcoast.fisheries.noaa.gov/publications/habitat/california_eelgrass_mitigation/Final_CEMP_October_2014/cemp_oct_2014_final.pdf) no earlier than 60 calendar days prior to planned construction. The results of the survey must be submitted to the Corps at least 15 calendar days prior to initiation of work in waters of the United States. If the pre-project survey demonstrates eelgrass presence within the project vicinity, post-project survey(s) must be conducted and any impacts to eelgrass mitigated in accordance with the CEMP.
13. No later than one month following completion of authorized work in waters of the U.S., the Permittee shall ensure all sites within waters of the U.S. subject to authorized, temporary impacts are restored to pre-project alignments, elevation contours, and conditions to the maximum extent practicable to ensure expeditious resumption of aquatic resource functions. No later than 45 calendar days following completion of authorized work in waters of the U.S., the Permittee shall submit a memorandum documenting compliance with this special condition.

For additional information, please contact Eric Sweeney at 760-602-4837 or via email at Eric.R.Sweeney@usace.army.mil. This Public Notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the Nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

**DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
5900 LA PLACE COURT, SUITE 100
CARLSBAD, CALIFORNIA 92008
<http://www.spl.usace.army.mil/missions/regulatory>**

Exhibit 1:

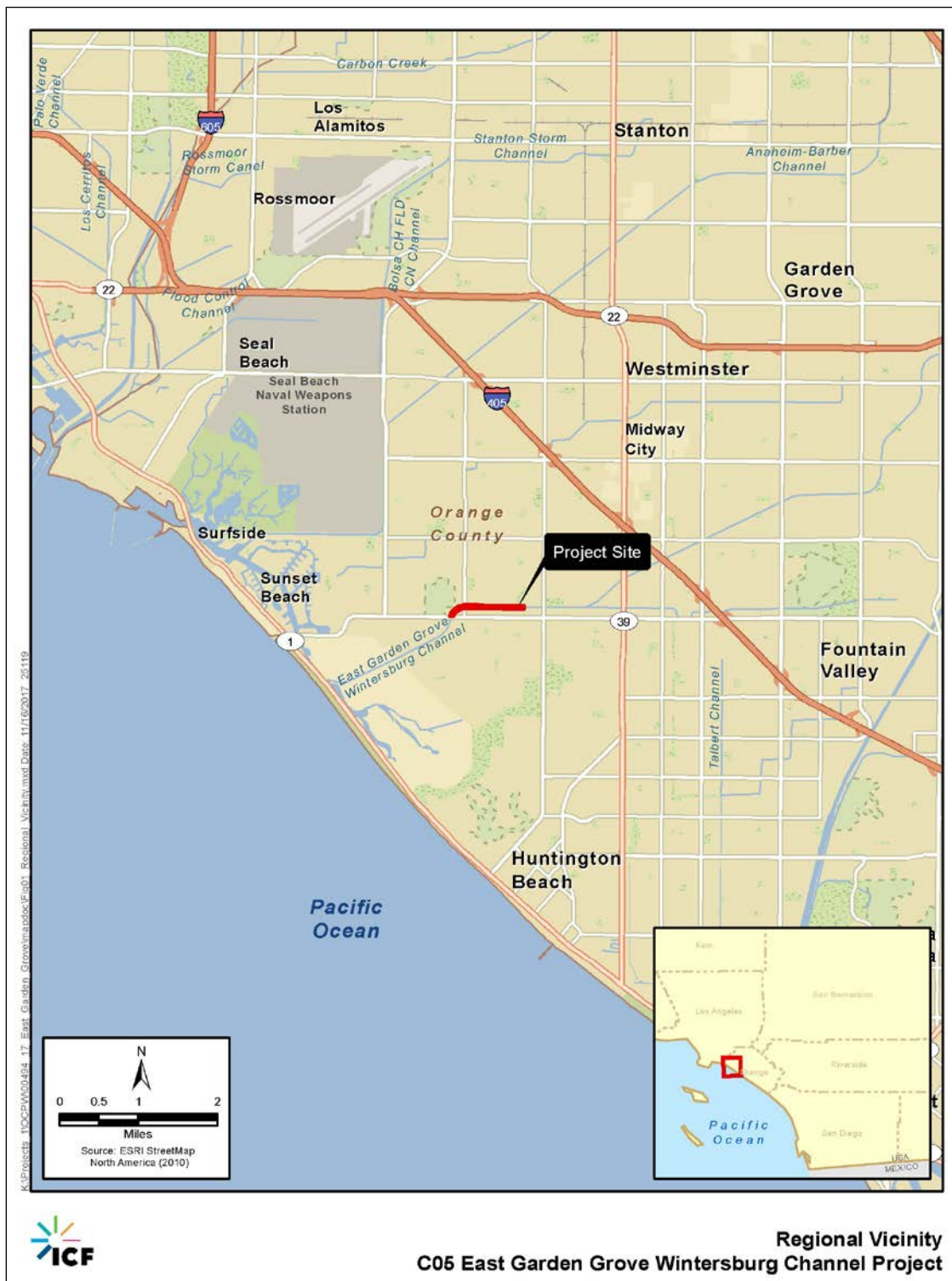
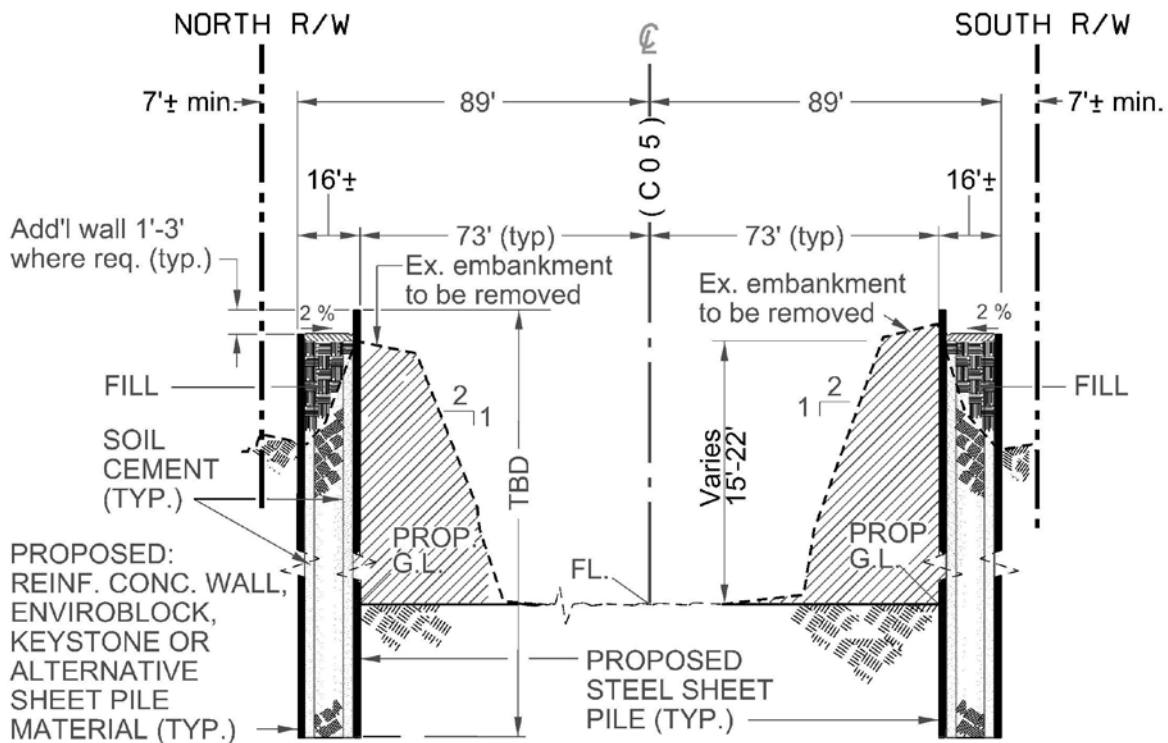


Exhibit 2:



TYPICAL SECTION

NTS

WARNER AVE. (STA. 101+56)
to
UPSTREAM OF EDWARDS ST. (STA. 151+23)

C05_exhibit.dgn

EAST GARDEN GROVE
WINTERSBURG CHANNEL
LEVEE PROTECTION (C05)

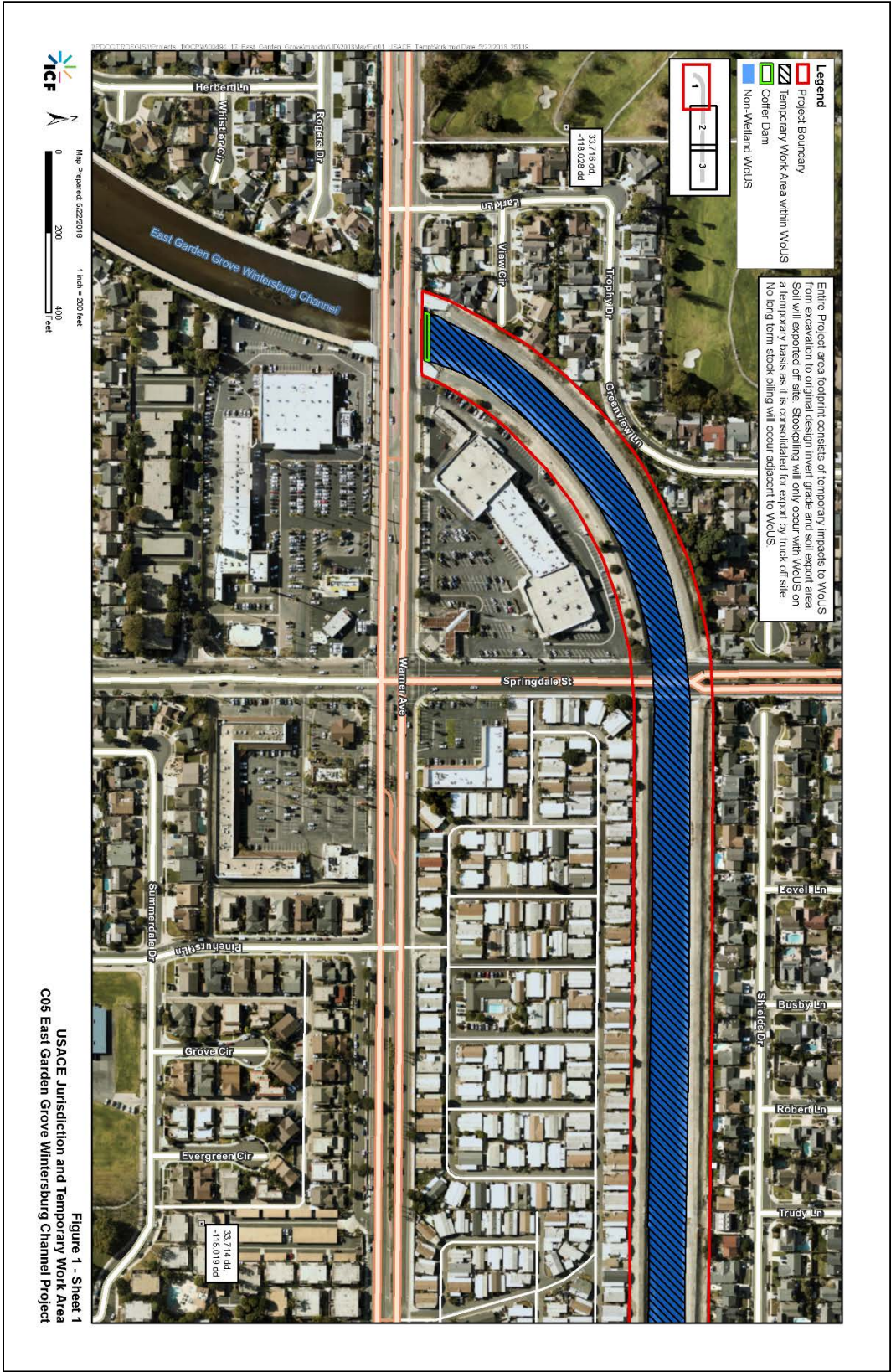
PREPARED BY: VH

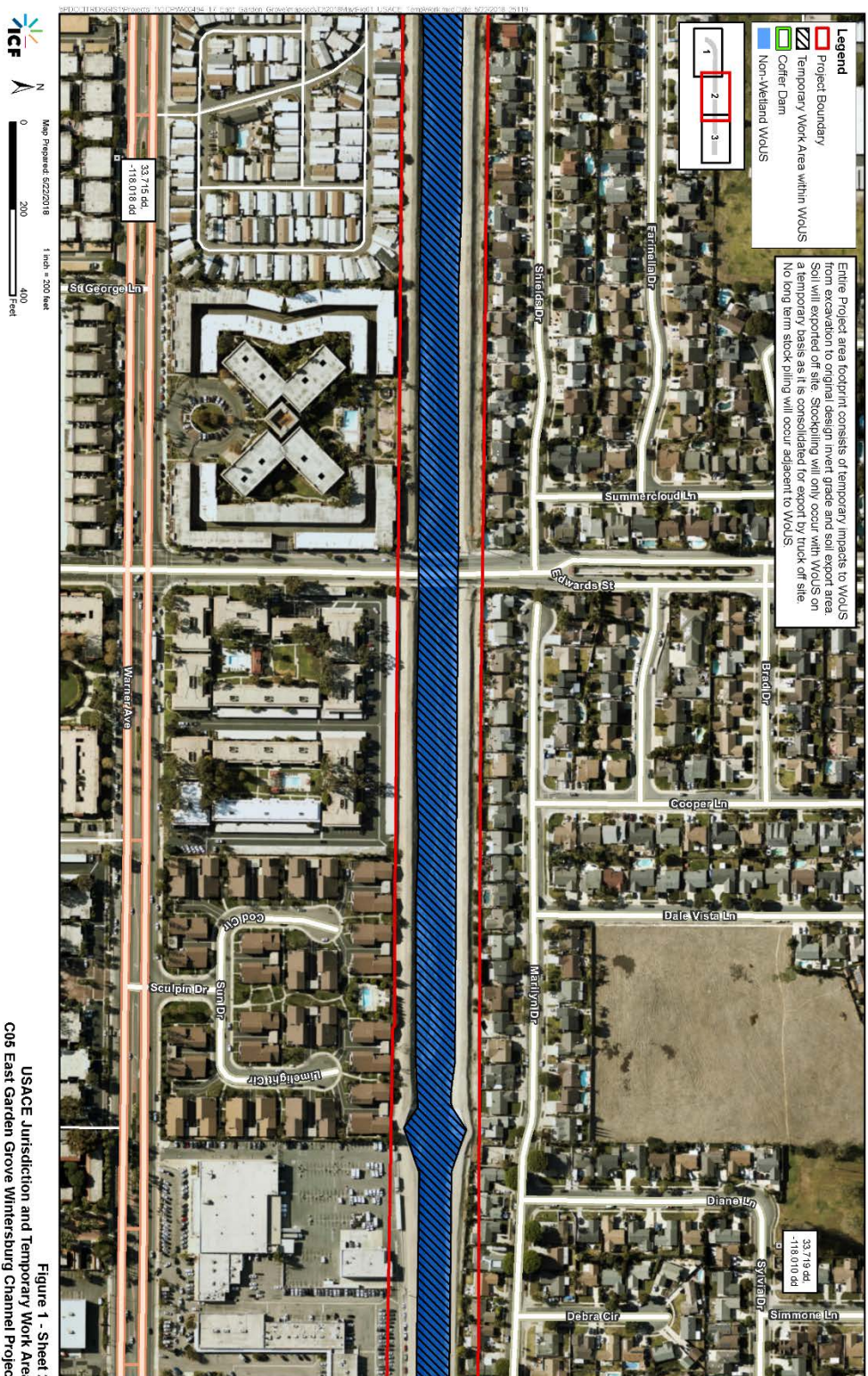
August 6, 2008

County of Orange
OC Public Works
Department
FLOOD CONTROL DESIGN



Exhibit 3:





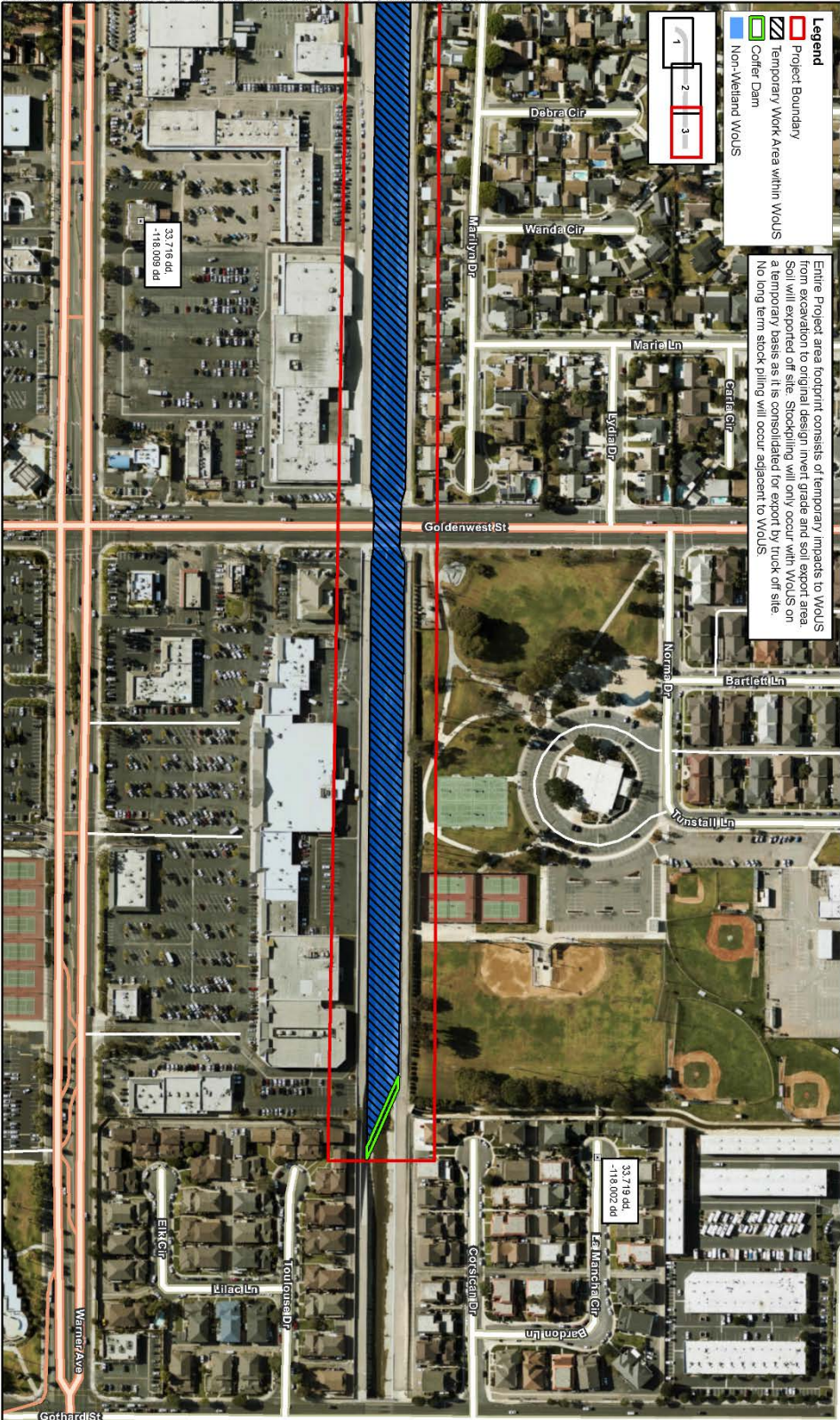


Figure 1 - Sheet 3
USACE Jurisdiction and Temporary Work Area
C05 East Garden Grove Wintersburg Channel Project