



# PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS  
LOS ANGELES DISTRICT

BUILDING STRONG®

## APPLICATION FOR PERMIT Candlelight Project

**Public Notice/Application No.:** SPL-2015-00294-RAG

**Project:** Candlelight Project

**Comment Period:** October 1, 2015 through November 2, 2015

**Project Manager:** Rose Galer; 760-602-4835; [Rose.A.Galer@usace.army.mil](mailto:Rose.A.Galer@usace.army.mil)

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### Applicant

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### Contact

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San Diego, California 92104  
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### Location

The Candlelight Project (proposed project) is located in the City of San Diego, San Diego County, California. The project site is 1.1 miles east of Interstate 805, south of Otay Mesa Road, 1.4 miles north of the United States and Mexico border. The site is located on the USGS 7.5 minute Imperial Beach Quadrangle in Section 31, Township 18 South and Range 1 West and at latitude 32.56066N° and longitude -117.01913W°. The project is within the Otay Mesa Community Plan and portions of the site are within the Multiple Species Conservation Program (MSCP). Maps depicting the project location are enclosed.

### Activity

The project is a residential development with associated infrastructure on approximately 45 acres. The applicant proposes to permanently impact 0.41 acre of waters of the U.S. (WUS), which includes 0.13 acre of vernal pool wetlands, 0.05 acre (600 linear feet) of unvegetated ephemeral streambed and 0.23 acre of depressions (road pools) (see enclosed figures, Sheet 2). The current project design combines two previous development plans (Candlelight Village East [SPL-2005-01638] and Candlelight Villas West [SPL-2010-00131] that were described in Corps' Public Notices in 2005 and 2010. Both applications were subsequently withdrawn and Department of the Army permits were not issued.

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Interested parties are hereby notified an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawing(s). We invite you to review today's public notice and provide views on the proposed work. By providing substantive, site-specific comments to the 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  
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
REGULATORY DIVISION  
ATTN: ROSE GALER  
5900 LA PLACE COURT, SUITE 100  
CARLSBAD, CALIFORNIA 92008

Alternatively, comments can be sent electronically to: [Rose.A.Galer@usace.army.mil](mailto:Rose.A.Galer@usace.army.mil)

The mission of the U.S. Army Corps of Engineers 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 water 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 system 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 EPA Guidelines (40 CFR 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 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 (WQC), under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance.

**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 it would not affect coastal zone resources. After a review of the comments received on this public notice and in consultation with the California Coastal Commission, the Corps will make a final determination of whether this project affects coastal zone resources after review of the comments received on this Public Notice.

**Essential Fish Habitat**- No Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and no EFH is affected by the proposed project.

**Cultural Resources**- Smith and Meir prepared cultural resource reports for the project site in 2004 and 2005. Brian Smith & Associates updated the cultural resources information in 2010. In 2015, ASM Affiliates conducted an updated archeological record search and survey. All reports included a cultural resources inventory records search at the South Coastal Information Center (SCIC) and pedestrian surveys of the proposed project area to identify cultural resources that are eligible for listing on the California Register of Historical Resources (CRHR) or National Register of Historic Places (NRHP) under the California Environmental Quality Act (CEQA) or Section 106 of the National Historic Preservation Act (NHPA).

The applicant submitted a copy of the surveys and evaluation of cultural resources located within the project's Area of Potential Effects (APE) for review by the Corps for compliance with Section 106 of the National Historic Preservation Act. The Corps will determine whether the proposed activity will have any adverse effect on historic properties listed on, or determined eligible for listing in the National Register. The Corps will also consult with the State Historic Preservation Officer (SHPO) on the adequacy of the inventory of cultural resources located within the project's APE and the evaluation of those resources.

**Endangered Species**- A full range of biological field surveys was completed between 2004 and 2009 (HELIX 2009). Additional surveys were conducted by Alden in 2012 and 2015. Seven types of field surveys were conducted within the project limits: vegetation mapping, rare plant surveys, a jurisdictional

delineation, burrowing owl (BUOW; *Athene cunicularia*) surveys, and USFWS protocol-level presence/absence surveys for fairy shrimp (San Diego [*Branchinecta sandiegonensis*] and Riverside [*Streptocephalus woottoni*]), Quino checkerspot butterfly (*Euphydryas editha quino* (QCB)), and coastal California gnatcatcher (*Poliophtila californica californica* (CGAN)).

Surveys did not indicate the presence of QCB and the potential for the species to occur on-site is considered low. The BUOW has not been observed on the site since 2004; however, it is known to occur in the project vicinity and could occupy the site in the future. Surveys did indicate the presence of the federally endangered San Diego and Riverside fairy shrimp, and the federally threatened CAGN and their habitats. The projects, as proposed, would affect these species and habitats.

A USFWS Section 7 Consultation for the proposed project's impacts to federal listed species has been completed, and as a result of the consultation, the United States Fish and Wildlife Service (USFWS) issued a Biological Opinion (BO) on June 21, 2010 (FWS-SDG-08B0715-08F0817) which provided take authorization for the San Diego fairy shrimp, Riverside fairy shrimp, and CAGN.

The proposed project is within the limits of the project boundary addressed in the BO and would impact three fewer vernal pools (i.e., off-site pools 4, 5, and 6) than authorized in the BO. No changes to vernal pools and their associated listed species have occurred. Additionally, the BO contains a condition requiring preconstruction vernal pool surveys if construction does not occur within 2 years of issuance of the BO. If there are changes to impacts to listed vernal pool species, the BO and associated conservation measures would be amended accordingly through consultation with the USFWS.

**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).

The basic project purpose for the proposed project is to provide residential development and associated infrastructure. The basic project purpose is not water dependent; therefore, the applicant has the burden of rebutting the presumption that there is a less damaging alternative for the proposed activity that would not affect jurisdictional wetlands (§40 CFR 230.10(a)(3)).

**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 applicant's proposed overall project purpose is to construct approximately 475 multi-family residential units and related infrastructure.

### **Additional Project Information**

**Project description-** The applicant proposes to construct a residential subdivision located on a 44.9-acre site in



the Otay Mesa area of San Diego and includes parcel numbers (APNs) 645-080-0800, 645-060-3500, and 645-060-3200. The site would be subdivided into three multi-family residential lots and two open space/habitat preserve lots (Western and Eastern Preserves). Road access to the site would be provided by extending Caliente Avenue to the south as a 5-lane major road and creating Public Street “A” running east and west below Caliente Avenue as a two-lane collector road. The project also proposes creating a temporary cul-de-sac to the west of Public Street “A” and another off-site cul-de-sac at the east end of Public Street “A.” Internal circulation would be provided by private driveways throughout the project. Brush management is proposed, and the City would install a pedestrian trail along an existing dirt road within the Eastern Preserve. Two detention basins will be located onsite within Lots 3 and 4.

The proposed project would permanently impact a total of 0.41 acre of waters of the U.S., comprised of 0.13 acre of vernal pool wetlands, 0.23 acre of unvegetated road pools, and 0.05 acre (600 linear feet) of ephemeral drainages. Impacts would occur from the discharge of fill material in order to construct residential housing pads. Approximately 15,075 cubic yards of clean fill would be used.

### **Applicant’s Preliminary Alternatives Analysis**

The applicant’s designated agent prepared an informal alternatives analysis examining the proposed project and three alternatives: 1) No Build Alternative; 2) No Federal Action Alternative; and 3) the Basin Avoidance Alternative. Provided below is a brief description of these alternatives. Each will be analyzed by the Corps according to the overall project purpose.

### **Proposed Project**

The proposed project, as described above, would avoid the eastern drainage and vernal pools 4, 5, 6 and 7, along the southern border. Vernal pool number 1 is a large occupied basin in the northeast corner and would be preserved, although a portion of its watershed (0.35 acre) would be impacted. Of the existing 0.51 acre of jurisdictional habitat, the proposed project would avoid 0.10 acre comprised of road pools (0.01 acre) and vernal pools (0.09 acre). Detention basins and hydromodification areas have also been included to prevent discharges into adjacent MHPA areas.

<b>Table 1: Proposed Project Impacts to Corps Jurisdictional Areas (acre)</b>			
<b>Habitat</b>	<b>On Site</b>	<b>Off Site</b>	<b>Total</b>
<b>Wetlands</b>			
Vernal pool	0.12	0.01	<b>0.13</b>
<b>Non-wetland Waters of the U.S.</b>			
Drainage	0.05	0.00	<b>0.05</b>
Road pools	0.23	0.00	<b>0.23</b>
<b>TOTAL</b>	<b>0.40</b>	<b>0.01</b>	<b>0.41</b>

The site borders the MHPA on both the southwest and eastern portions and the project design avoids all MHPA areas. The MHPA in this portion of Otay Mesa provides connectivity between the Spring Canyon complex and Dennery Canyon to the north, and the project would expand the MHPA acreage with the addition of the Eastern (1.58 acres) and Western (15.76 acres) Preserves and is not expected to alter wildlife movement within the MHPA. The proposed project is depicted in the enclosed figures, Sheet 3, 4 and 5.

### **Alternative 1: No Build**

Under Alternative 1, the Corps would not issue a 404 permit and there would not be a discharge of fill into waters of the U.S. from the applicant’s proposed project. The project site would be designated as a Residential Medium (RM-2-5), multi-family residential zone, and thus the parcels are already zoned for development. Under this alternative, home sites and extension of Caliente Avenue would not be

constructed.

### **Alternative 2: No Federal Action**

Under Alternative 2, there would not be impacts to Corps jurisdictional waters. The entire 0.51 acre of Corps jurisdictional area, including a minimum fifty-foot buffer around all jurisdictional areas, would be preserved on-site. To avoid the western and eastern drainages and the basins and vernal pools, development of the site would be limited to 21.56 acres, which is 6.31 acres less than the Applicant's proposed project.

In order to accommodate the extension of Caliente Avenue and avoid on-site jurisdictional waters, Caliente Avenue would have to be realigned to the east of its approved alignment. That realignment would shift the road east onto the property to the north of Candlelight and leave a small pocket of land between Caliente Boulevard and the High School. Although the road would not be extended south of the Candlelight property, this alternative would eliminate contiguous development to the west of the central ephemeral drainage because vehicular access across the drainage would not be allowed without a permit. The enclosed figure, Sheet 6, depicts this alternative.

### **Alternative 3: Basin Avoidance**

Under this alternative, all water-holding basins with fairy shrimp and vernal pools (0.46 acre) would be avoided and a 50-foot buffer around each basin would be provided. The central ephemeral drainage (0.05 acre) would be still be impacted and would require a Corps 404 permit. Development of the site would be limited to 23.19 acres, which is 4.68 acres less than the Applicant's proposed project.

As described in alternative 2, in order to avoid all on-site basins and their watersheds, Caliente Avenue would have to be realigned. In order to avoid all the basins, Caliente Avenue would need to be realigned westerly of its existing alignment, which would directly impact an existing parking lot and detention basin on the San Ysidro High School site. This alternative would allow development of the central drainage and development in some areas of the western portion of the site, but would greatly reduce the developable area. The enclosed figure, Sheet 7, depicts this alternative.

<b>Table 2. Comparison of Project Alternatives (acres)</b>			
<b>Alternative</b>	<b>WUS Impact</b>	<b>Avoidance</b>	<b>Developable</b>
Proposed Project	0.41	0.09	27.7
No Build	0	0.51	0
No Federal Action	0	0.51	21.56
Basin Avoidance	0.05	0.46	23.19

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:

Avoidance: The proposed project has been designed to avoid impacts to vernal pool number 1, which supports San Diego fairy shrimp and is located in the northeastern portion of the site next to the City's planned open space preserve (MHPA). Vernal pool number 1 is the largest and highest quality vernal pool on-site. However, approximately 0.35 acre of its watershed would be directly impacted; therefore, vernal pool number 1 was included in the impact total. The proposed project will impact the low quality vernal pools and road pools due to site constraints and topography of the site. Impacts to vernal pools were assessed in the 2010 USFWS BO for the project.

**Minimization:** As described under “avoidance” above, the project has minimized impacts to the largest and highest quality vernal pool (#1) in the northeast portion of the site. The proposed project is designed such that all runoff from hardscape would be directed away from off-site pools ensuring that no contaminated water from project flows into these vernal pools or road pools. With protection of the vernal pool and road pool watersheds (as required by the City’s ESL regulations) and project design measures that direct runoff away from these sensitive resources, no indirect impacts due to a lack of sufficient preserved watershed are anticipated.

**Compensation:** The Corps will make the final determination on the need, type and amount of compensatory mitigation for the project, if a Department of the Army permit is issued. The applicant proposes mitigation on undeveloped land on the project site that supports sensitive species habitat, waters of the U.S. and waters of the State. Wetland impacts would be mitigated in-kind and achieve a “no net loss” of wetland function and value.

The USFWS BO for the project identified conservation measures for impacts to vernal pools with fairy shrimp, vernal pools without fairy shrimp, and road pools with fairy shrimp (USFWS 2010). Mitigation for vernal/road pool impacts would include:

- Preservation of VP 1 and enhancement of its associated watershed located in the Eastern Preserve Area; and
- Restoration of vernal pool habitat within the western portion of the site, and preservation of vernal pools in the Western Preserve Area (Sheets 2 and 3).

As proposed by the Applicant, impacts to waters of the U.S. would be mitigated through vernal pool preservation and restoration. The disturbed wetland habitat is of low quality and does not support any sensitive plant or animal species. As such, impacts to 0.02 acre of disturbed wetlands would be mitigated through restoration of 0.04 acre of vernal pool habitat, as called for in the BO. Impacts to 0.05 acre of an ephemeral drainage would be mitigated through restoration of 0.05 acre of vernal pool habitat on site, as called for in the BO.

**Proposed Special Conditions:** The Corps will make the final determination on the need and appropriateness of all Special Conditions of a Department of the Army permit, if issued.

For additional information please call Rose Galer of my staff at 760-602-4835 or via e-mail at [Rose.A.Galer@usace.army.mil](mailto:Rose.A.Galer@usace.army.mil). This public notice is issued by the Chief, Regulatory Division.



*Regulatory Program Goals:*

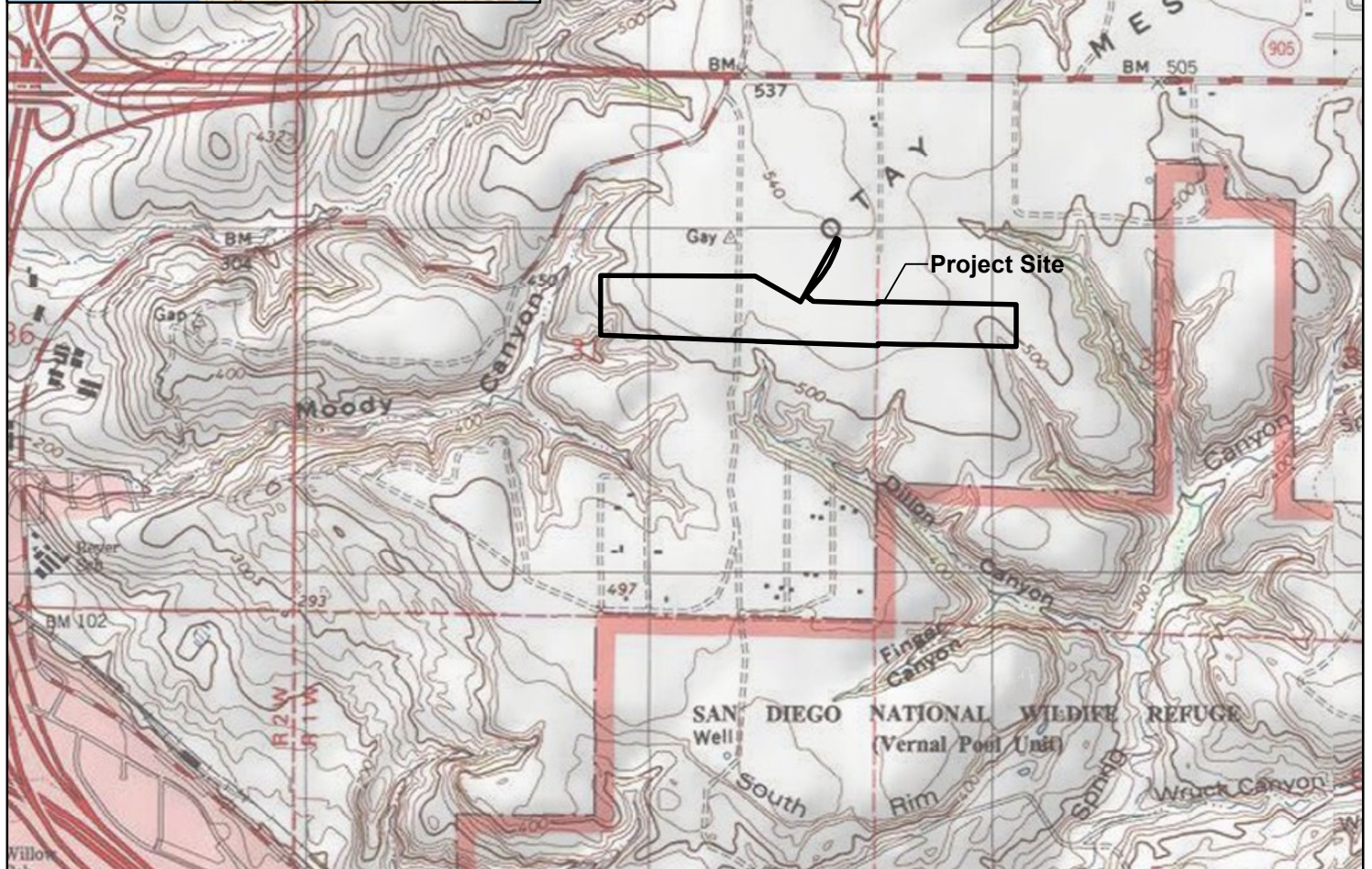
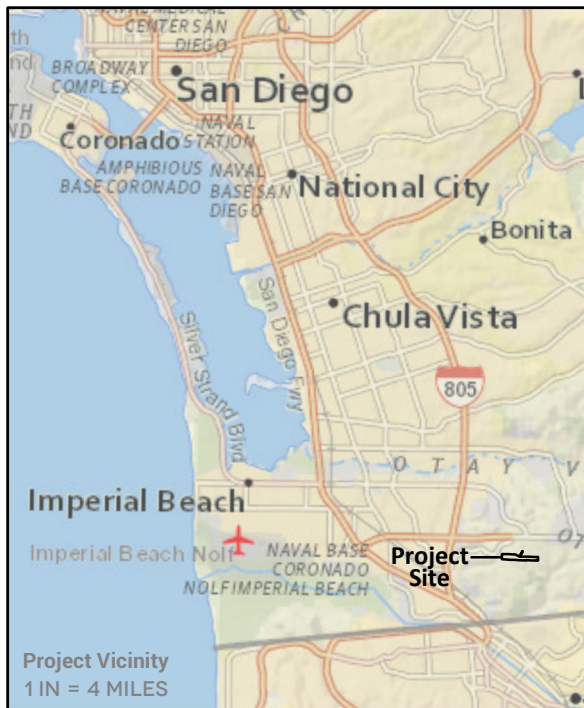
- To provide strong protection of the nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

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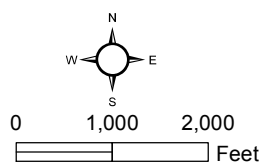
**DEPARTMENT OF THE ARMY  
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS  
5900 LA PLACE COURT, SUITE 100  
CARLSBAD, CALIFORNIA 92008**

[WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY](http://WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY)





Source: USGS Quadrangles (Imperial Beach, Otay Mesa);  
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**ALDEN**  
ENVIRONMENTAL, INC

**Sheet 1**

**Project Location**

CANDLELIGHT





Project Boundary

Sample Plot

Vernal Pool

Vernal Pool with Fairy Shrimp

Basin with Fairy Shrimp

Watershed

Non-wetland Waters of the U.S.

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W

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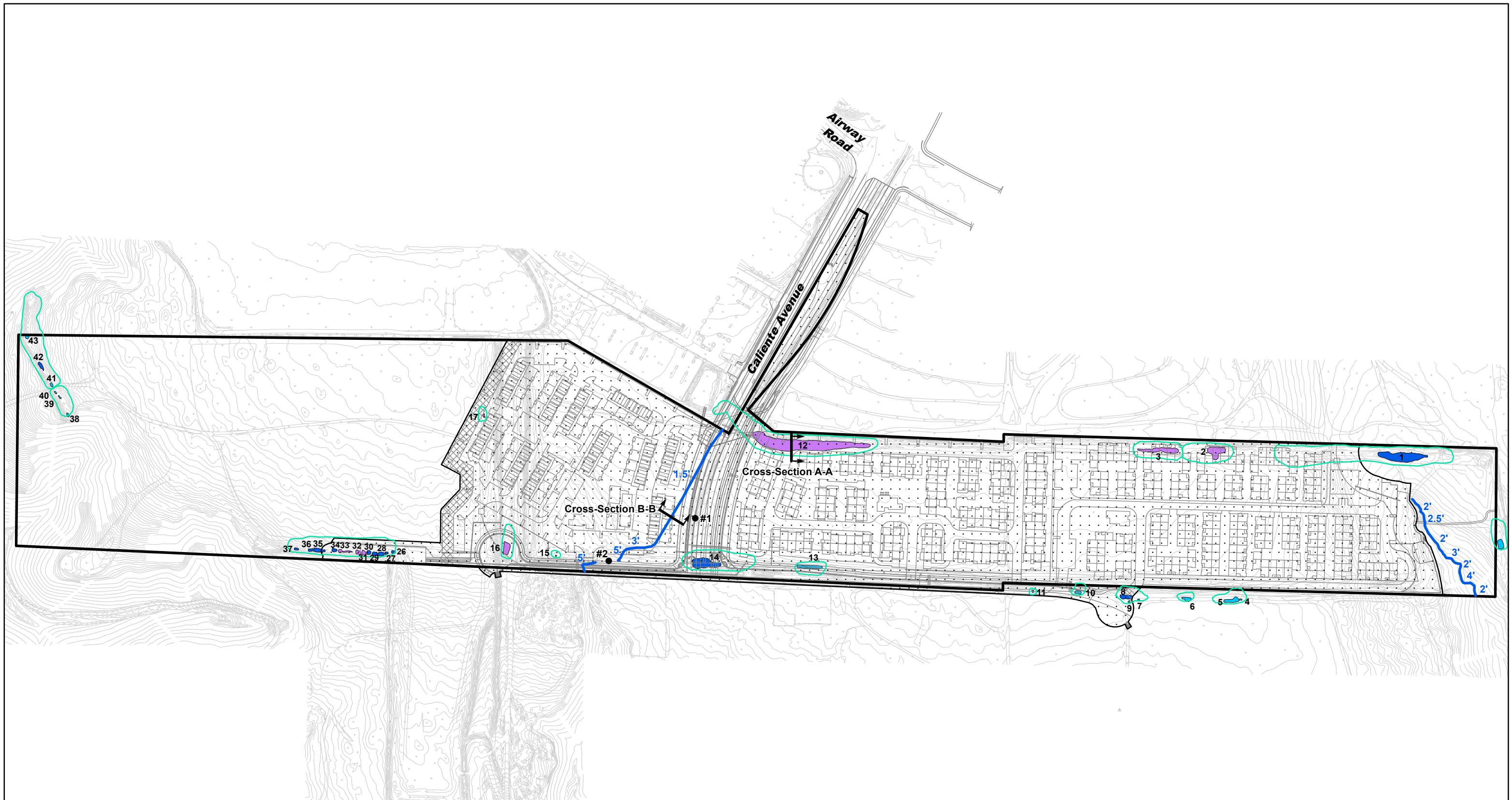
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Feet

ALDEN

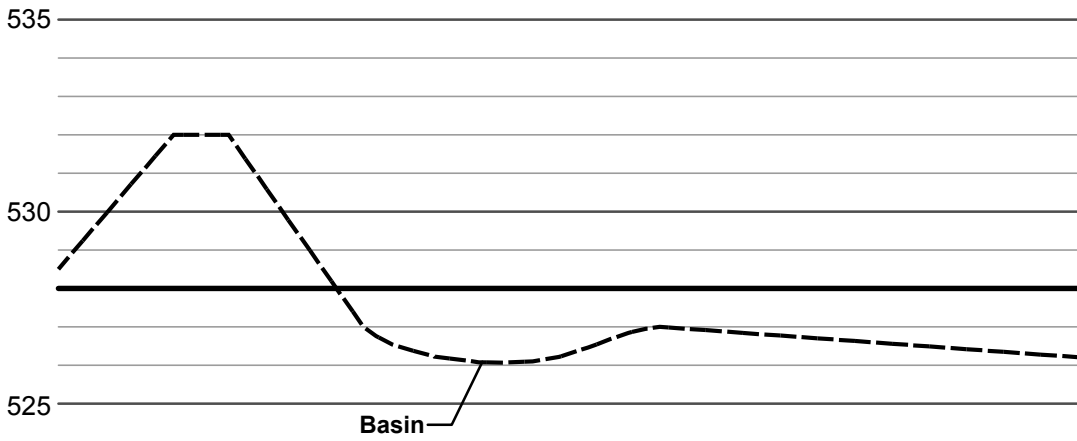
ENVIRONMENTAL, INC.





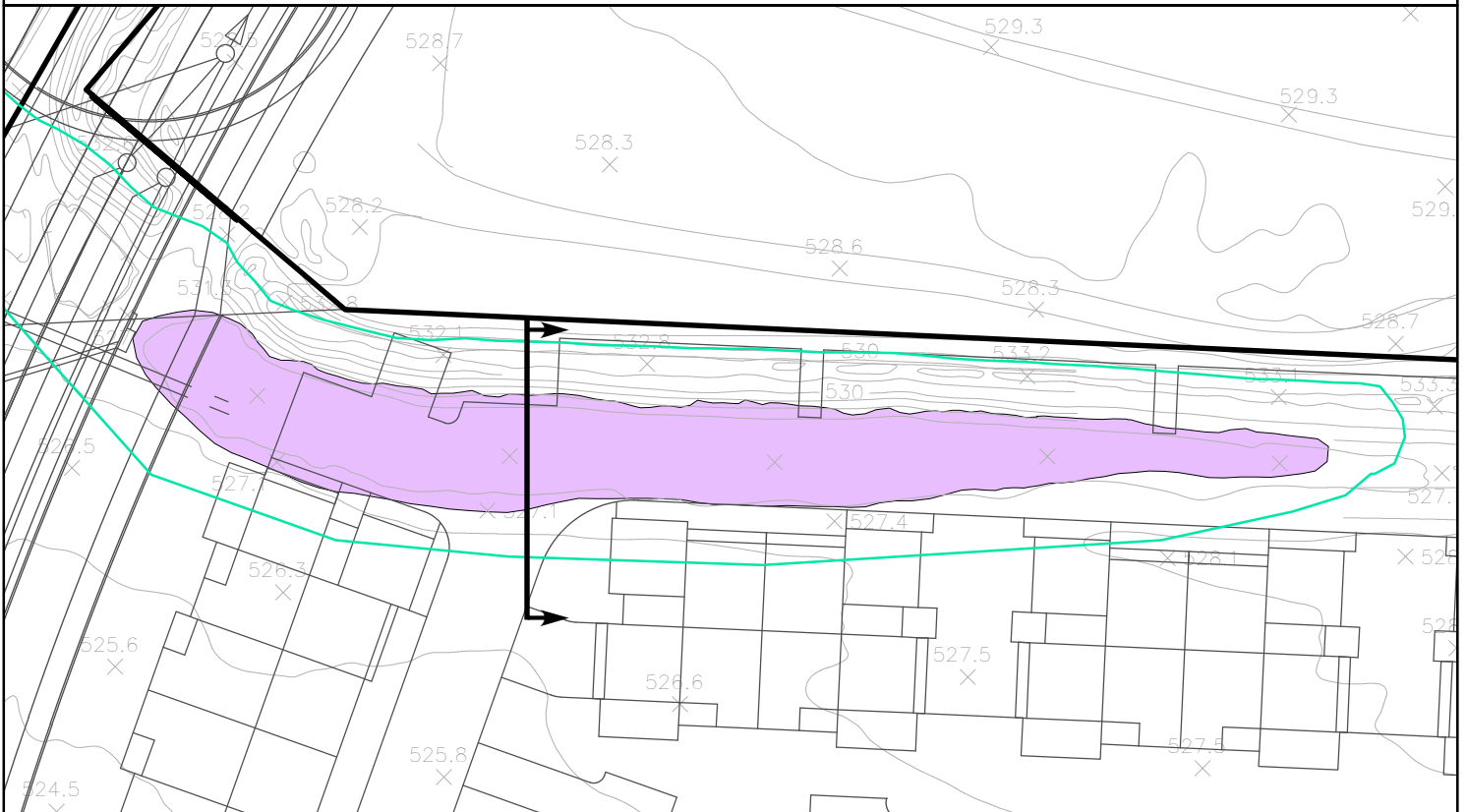
Project Boundary
 Project Impacts
 Sample Plot

Vernal Pool
 Vernal Pool with Fairy Shrimp
 Basin with Fairy Shrimp
 Watershed
 Non-wetland Waters of the U.S.

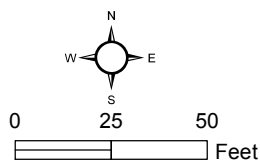


Horizontal Scale: 1" = 15'  
Vertical Scale: 1" = 5'

Existing Ground  
Proposed Ground



Project Boundary Basin with Fairy Shrimp  
Watershed

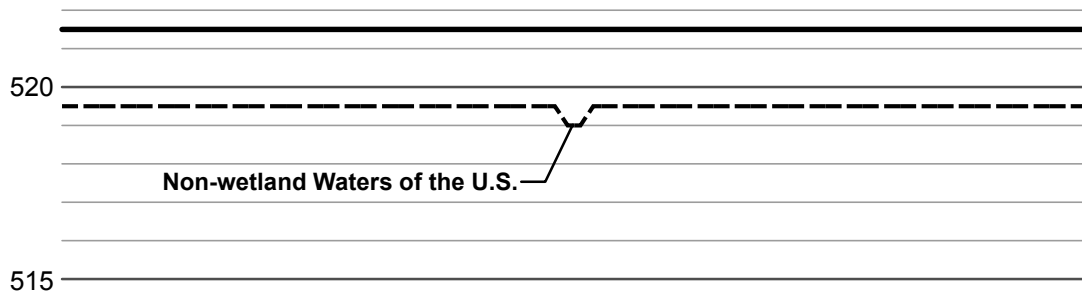


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**Sheet 4**

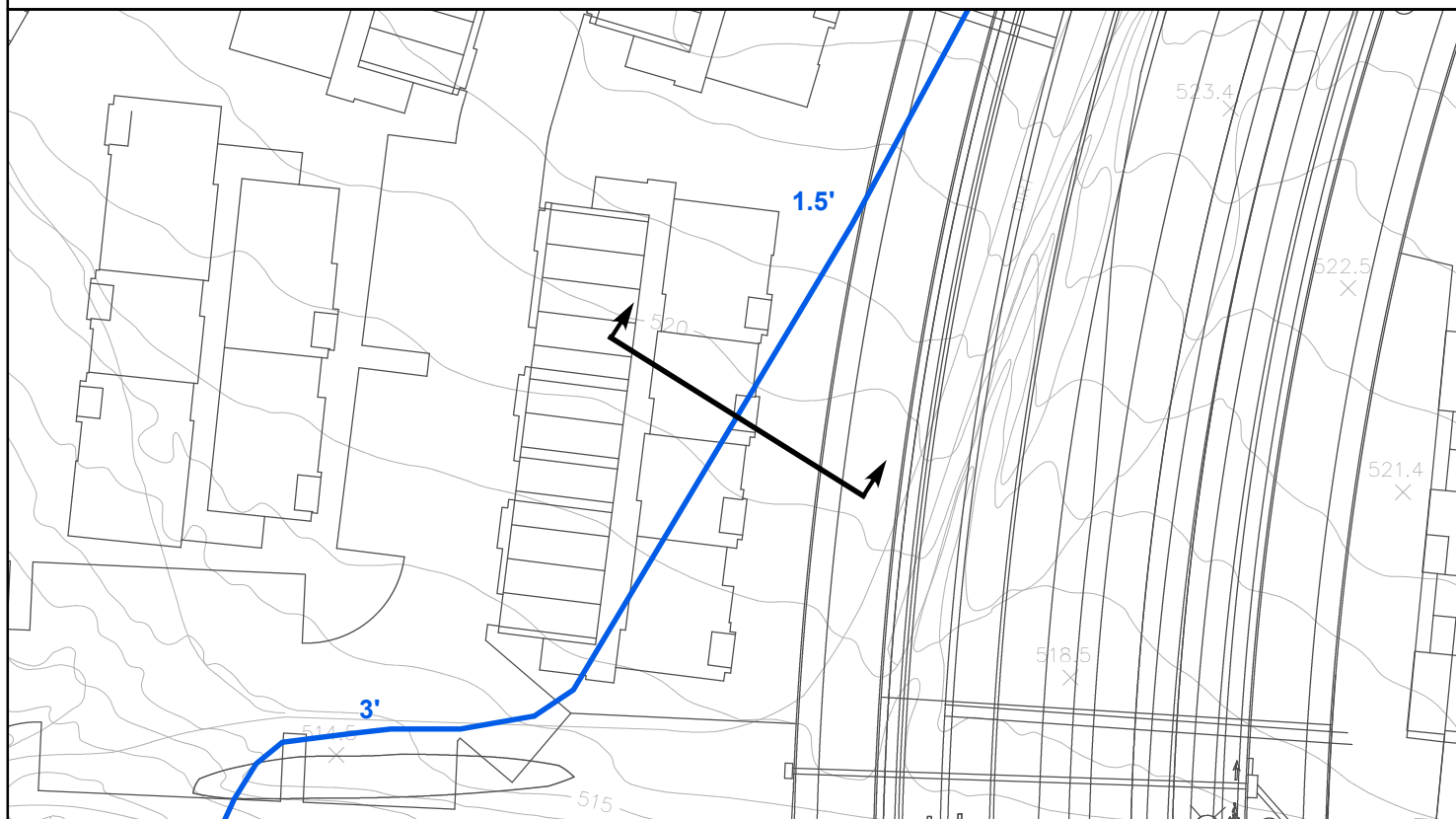
**Cross Section A-A  
through Vernal Pool**

CANDLELIGHT

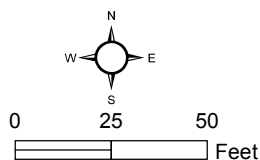


Horizontal Scale: 1" = 15'  
Vertical Scale: 1" = 5'

Existing Ground  
Proposed Ground



Project Boundary  
Non-wetland Waters of the U.S.



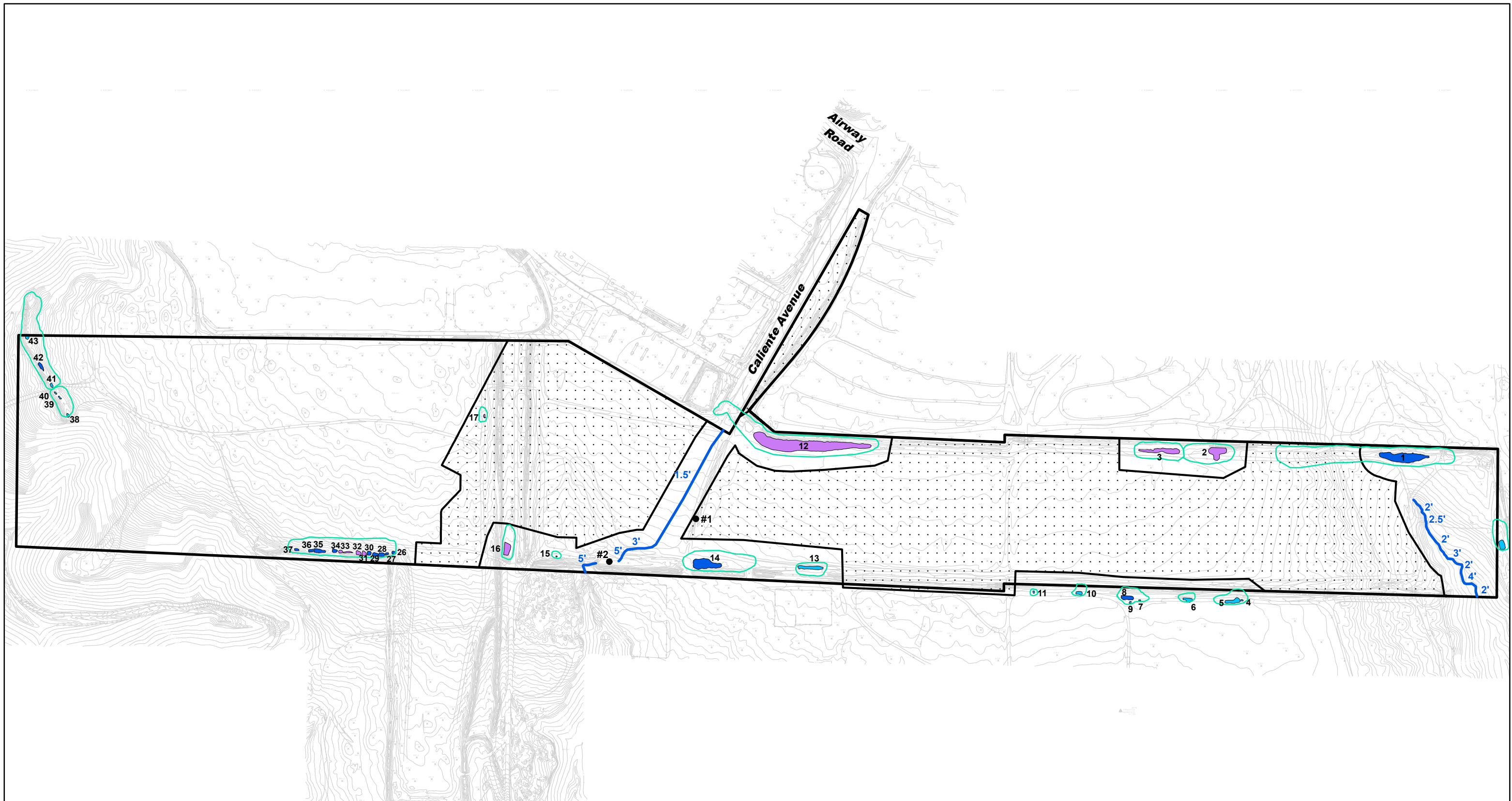
**ALDEN**  
ENVIRONMENTAL, INC.

**Sheet 5**

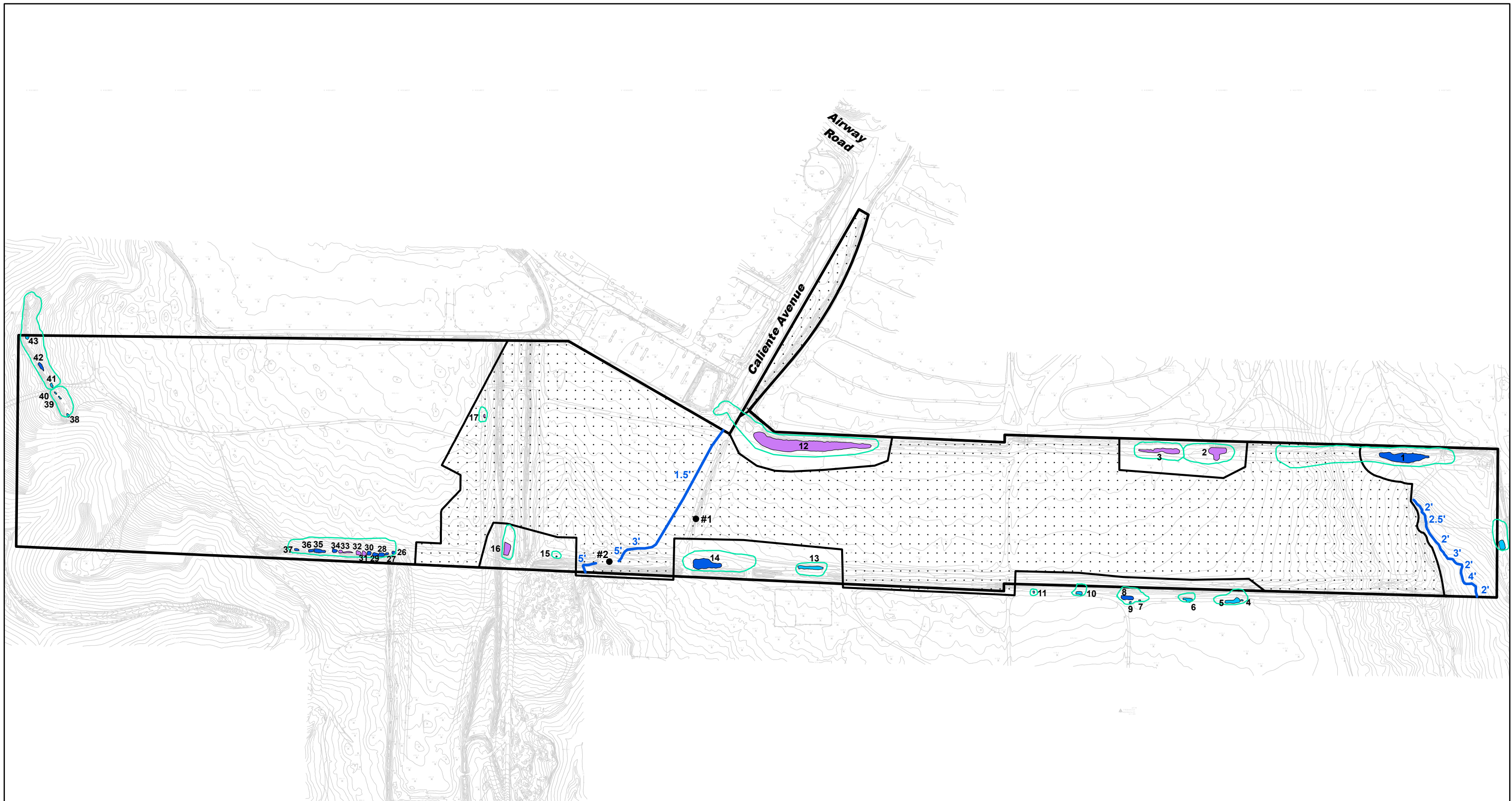
**Cross Section A-A  
through Central Drainage**

CANDLELIGHT





<p>○ Project Boundary</p> <p>○ Impacts - No Federal Action Alternative</p> <p>● Sample Plot</p>	<p>○ Vernal Pool</p> <p>● Vernal Pool with Fairy Shrimp</p> <p>● Basin with Fairy Shrimp</p> <p>○ Watershed</p> <p>~ Non-wetland Waters of the U.S.</p>
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<ul style="list-style-type: none"> <li> Project Boundary</li> <li> Impacts - Basin Avoidance Alternative</li> <li> Sample Plot</li> </ul>	<ul style="list-style-type: none"> <li> Vernal Pool</li> <li> Vernal Pool with Fairy Shrimp</li> <li> Basin with Fairy Shrimp</li> <li> Watershed</li> <li> Non-wetland Waters of the U.S.</li> </ul>
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