



California Regional Water Quality Control Board San Diego Region



Linda S. Adams
Acting Secretary for
Environmental Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
Recipient of the 2004 Environmental Award for Outstanding Achievement from USEPA

Edmund G. Brown Jr.
Governor

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[http:// www.waterboards.ca.gov/sandiego](http://www.waterboards.ca.gov/sandiego)

June 8, 2011

Certified Mail – Return Receipt Requested
Article Number: 7010 1060 0000 4952 7624

Arturo Jacobo, Project Manager
California Department of Transportation
4050 Taylor Street
Mail Station D1
San Diego, CA 92110

In reply refer to:
764728 : mporter

Dear Mr. Jacobo:

**SUBJECT: CLEAN WATER ACT SECTION 401 WATER
QUALITY CERTIFICATION NO. 11C-024
DEER CANYON MITIGATION SITE TEMPORARY STREAM CROSSING**

Enclosed is the Clean Water Act Section 401 Water Quality Certification for discharges to Waters of the U.S. and acknowledgment of enrollment under State Water Resources Control Board Order No. 2003-017-DWQ for the Deer Canyon Mitigation Site Temporary Stream Crossing project (Project). A description of the project and project location can be found in the project information sheet, location map, and site maps which are included as Attachments 1 through 4.


Any petition for reconsideration of this Certification must be filed with the State Water Resources Control Board within 30 days of certification action (23 CCR § 3867). If no petition is received, it will be assumed that you have accepted and will comply with all the conditions of this Certification.

Failure to comply with all conditions of this Certification may subject you to enforcement actions by the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), including administrative enforcement orders requiring you to cease and desist from violations, or to clean up waste and abate existing or threatened conditions of pollution or nuisance; administrative civil liability in amounts of up to \$10,000 per day per violation; referral to the State Attorney General for injunctive relief; and, referral to the District Attorney for criminal prosecution.

California Environmental Protection Agency

In the subject line of any response, please include the requested **"In reply refer to:"** information located in the heading of this letter. For questions pertaining to the subject matter, please contact Mike Porter at (858) 467-2726 or mporter@waterboards.ca.gov.

Respectfully,


DAVID W. GIBSON
Executive Officer

Enclosures:

Clean Water Act Section 401 Water Quality Certification No. 11C-024 for Deer Canyon Mitigation Site Temporary Stream Crossing project, with four attachments.

E-copies: Refer to Attachment 2 of Certification 11C-024 for the Distribution List.

Tech Staff Info & Use	
File No.	11C-024
WDID	9000002250
Reg. Measure ID	378241
Place ID	764728
Party ID	7222
Person ID	526363



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Action on Request
for
Clean Water Act Section 401 Water Quality Certification
and
Waste Discharge Requirements
for
Discharge of Dredged and/or Fill Materials

PROJECT: Deer Canyon Mitigation Site Temporary Stream Crossings
Certification Number 11C-024

APPLICANT: Mr. Arturo Jacobo
Project Manager
California Department of Transportation
4050 Taylor Street
Mail Station D1
San Diego, CA 92110

CIWQS
Reg. Meas: 378241
Place: 764728
Party: 7222
WDID: 9 000002250

ACTION:

<input checked="" type="checkbox"/> Order for Low Impact Certification	<input type="checkbox"/> Order for Denial of Certification
<input type="checkbox"/> Order for Technically-conditioned Certification	<input type="checkbox"/> Waiver of Waste Discharge Requirements
<input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017 DWQ	<input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004 DWQ

California Environmental Protection Agency

The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.

Recycled Paper



PROJECT DESCRIPTION:

The proposed project is the construction of the Deer Canyon Mitigation site. The Deer Canyon Mitigation site will provide compensatory mitigation for the proposed impacts from I-5/Genessee Avenue Interchange, the I-805 Managed Lanes, Carroll Canyon Road Extension, and Sorrento to Miramar Phase I (railroad double tracking) projects. (These projects have not been permitted nor built.) The Deer Canyon Mitigation site will provide for the establishment of approximately 12.3-acres of wetlands and 11.3-acres of riparia. The Deer Canyon Mitigation site also provides approximately 15.1-acres of upland habitat mitigation. The portion of the Deer Canyon Mitigation site that requires Clean Water Act section 401 and 404 permits will be for two temporary crossings in Deer Canyon Creek. The temporary crossings will be constructed with two culverts and 80-yds (0.01-acre) of fill. The crossings will cause 0.01-acre and 30-linear feet of temporary, combined impacts. The crossings are needed to allow vehicles and equipment access to both sides of the creek to allow the construction of the mitigation site that will flank the creek. After construction, the temporary crossings will be removed and the stream will be restored.

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I. STANDARD CONDITIONS:

The following three standard conditions apply to all Certification actions, except as noted under Condition 3 for denials (Action 3).

- A. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the California Water Code and section 3867 of Title 23 of the California Code of Regulations (23 CCR).
- B. This Certification action is not intended and must not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to 23 CCR subsection 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. The validity of any non-denial Certification action (Actions 1 and 2) must be conditioned upon total payment of the full fee required under 23 CCR section 3833, unless otherwise stated in writing by the certifying agency.

II. ADDITIONAL CONDITIONS: GENERAL

- A. Water Quality Certification No. 11C-024 (Certification) is only valid if the project begins no later than 5 (five) years from the date of issuance. If the project has not begun within 5 years from the date of issuance, then this Certification expires.
- B. The California Department of Transportation must comply with the requirements of State Water Resources Control Board Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material that have Received State Water Quality Certification*. These General Waste Discharge Requirements are accessible at:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/go_wdr401regulated_projects.pdf.
- C. The California Department of Transportation must comply with the requirements of State Water Resources Control Board Water Quality Order No. 99-06-DWQ, NPDES No. CAS000003, the *NPDES Permit for Statewide Storm Water Permit and Waste Discharge Requirements (WDRs) for the State of California, Department of Transportation (Caltrans), July 1999*.

- D. The California Department of Transportation must, at all times, fully comply with the engineering plans, specifications and technical reports submitted to the California Regional Water Quality Control Board, San Diego Region (San Diego Water Board), to support this Certification and all subsequent submittals required as part of this Certification and as described in Attachment 1. The conditions within this Certification must supersede conflicting provisions within such plans submitted prior to the Certification action. Any modifications thereto, would require notification to the San Diego Water Board and reevaluation for individual Waste Discharge Requirements and/or Certification amendment.
- E. During construction, the California Department of Transportation must maintain a copy of this Certification at the project site so as to be available at all times to site personnel and agencies.
- F. The California Department of Transportation must permit the San Diego Water Board or its authorized representative at all times, upon presentation of credentials:
1. Entry onto project premises, including all areas on which wetland fill or wetland mitigation is located or in which records are kept.
 2. Access to copy any records required to be kept under the terms and conditions of this Certification.
 3. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Certification.
 4. Sampling of any discharge or surface water covered by this Order.
- G. In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation must be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
- H. In response to a suspected violation of any condition of this Certification, the San Diego Water Board may require the holder of any permit or license subject to this Certification to furnish, under penalty of perjury, any technical or monitoring reports the San Diego Water Board deems appropriate, provided that the burden, including costs, of the reports must

bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

- I. In response to any violation of the conditions of this Certification, the San Diego Water Board may add to or modify the conditions of this Certification as appropriate to ensure compliance.

III. ADDITIONAL CONDITIONS: CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. Prior to the start of the project, and annually thereafter, the California Department of Transportation must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response, and Best Management Practices (BMPs) implementation and maintenance.
- B. The California Department of Transportation must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.
- C. The treatment, storage, and disposal of wastewater during the life of the project must be done in accordance with waste discharge requirements established by the San Diego Water Board pursuant to CWC § 13260.
- D. Discharges of concentrated flow during construction or after completion must not cause downstream erosion or damage to properties or stream habitat.
- E. Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or the State or placed in locations that may be subjected to storm flows. Pollutants discharged to areas within a stream diversion area must be removed at the end of each work day or sooner if rain is predicted.
- F. All surface waters, including ponded waters, must be diverted away from areas undergoing grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of water quality objectives of the receiving waters. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.

- G. All areas that will be left in a rough graded state must be stabilized no later than one week after completion of grading. The California Department of Transportation and subsequent owners, are responsible for implementing and maintaining BMPs to prevent erosion of the rough graded areas to prevent flow from this area from causing negative impacts to beneficial uses. After completion of grading, all areas must be revegetated with native species appropriate for the area. The revegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be found online at <http://www.cal-ipc.org/ip/inventory/weedlist.php>.
- H. Substances hazardous to aquatic life including, but not limited to, petroleum products, raw cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each project activity involving hazardous materials.
- I. Removal of vegetation must occur by hand, mechanically, or using EPA approved herbicides deployed using applicable BMPs to prevent impacts to Beneficial Uses of waters of the State. Use of aquatic pesticides must be done in accordance with State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, and any subsequent reissuance as applicable. Removal of vegetation must occur outside of the avian nesting season (March 15 - August 31).

IV. NOTIFICATION REQUIREMENTS:

- A. The California Department of Transportation must notify the San Diego Water Board within **24 hours** of any unauthorized discharge, including hazardous or toxic materials, to waters of the United States and/or State; measures that were implemented to stop and contain the discharge; measures implemented to clean-up the discharge; the volume and type of materials discharged and recovered; and additional best management practices (BMPs) or other measures that will be implemented to prevent future discharges.
- B. This Certification is not transferable in its entirety or in part to any person except after notice to the Executive Officer of the San Diego Water Board in accordance with the following terms.
 - 1. Transfer of Property Ownership: the California Department of Transportation must notify the San Diego Water Board of any change in ownership of the project area. Notification of change in ownership

must include, but not be limited to, a statement that the California Department of Transportation has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification to the Executive Officer of the San Diego Water Board **within 10 days of the transfer of ownership.**

2. **Transfer of Mitigation Responsibility:** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in Section D of this Certification must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13385, subdivision (a). Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the California Department of Transportation will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the California Department of Transportation of this Certification in the event that a transferee fails to comply.

Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the California Department of Transportation will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the California Department of Transportation of this Certification in the event that a transferee fails to comply.

- C. The California Department of Transportation must notify the San Diego Water Board in writing at least **5 days** prior to the actual commencement of dredge, fill, and discharge activities.

V. REPORTING REQUIREMENTS:

- A. Within **30 days** of project completion, the California Department of Transportation shall submit a final (as-built) report that contains the following:
 - 1. Date of mitigation construction completion.
 - 2. Dates of removal of the two culverts and when the streambed was restored to pre-project conditions.
 - 3. Final topography and planting palettes on figures no larger than 11"X17."
 - 4. Geographic Information System polygons that show the mitigation areas and the culverts' impacts.
- B. All information requested in this Certification is pursuant to California Water Code (CWC) section 13267. Civil liability may be administratively imposed by the San Diego Water Board for failure to furnish requested information pursuant to CWC section 13268
- C. All reports and information submitted to the San Diego Water Board must be submitted in both hardcopy and electronic format. The preferred electronic format for each report submission is one file in PDF format that is also Optical Character Recognition (OCR) capable.
- D. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:
 - 1. For a corporation, by a responsible corporate officer of at least the level of vice president.
 - 2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
 - 3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
 - 4. A duly authorized representative may sign applications, reports, or information if:
 - a. The authorization is made in writing by a person described above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.

- c. The written authorization is submitted to the San Diego Water Board Executive Officer.
- E. All applications, reports, or information submitted to the San Diego Water Board must be signed and certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

- F. The California Department of Transportation must submit reports required under this Certification, or other information required by the San Diego Water Board, to:

Executive Officer
California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification No. 11C-024
9174 Sky Park Court, Suite 100
San Diego, California 92123

VI. CEQA FINDINGS:

- A. The State of California Department of Transportation is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq.) and filed a Categorical Exemption on May 18, 2011, for the Deer Canyon Mitigation Plan. The State of California Department of Transportation has determined the project will not have a significant effect on the environment and mitigation measures were made a condition of the project.
- B. The San Diego Water Board has reviewed the lead agency's Categorical Exemption and also finds that the project as proposed will not have a significant effect on the environment and therefore determines that issuance of this Certification is consistent with the Categorical Exemption.

VII. PUBLIC NOTIFICATION OF PROJECT APPLICATION:

- A. On March 23, 2011, receipt of the project application was posted on the San Diego Water Board web site to serve as appropriate notification to the public. No public comments were received.

VIII. SAN DIEGO WATER BOARD CONTACT PERSON:

Mike Porter
California Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123
858-467-2726 and mporter@waterboards.ca.gov

IX. WATER QUALITY CERTIFICATION:

I hereby certify that the proposed discharge from the **Deer Canyon Mitigation Site Temporary Stream Crossings** (Certification No. 11C-024) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)*," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicants' project description and/or on the attached Project Information Sheet, and (b) on compliance with all applicable requirements of the Water Quality Control Plan for the San Diego Basin Region (9) (Basin Plan).



DAVID W. GIBSON
Executive Officer
Regional Water Quality Control Board

6/8/2011
Date

- Attachments:
1. Project Information
 2. Distribution List
 3. Location Map(s)
 4. Site Map(s)

**ATTACHMENT 1
PROJECT INFORMATION**

Applicant: California Department of Transportation

Applicant Representative: Arturo Jacobo, Project Manager
California Department of Transportation
District 11
4050 Taylor Street
Mail Station D1
San Diego, CA 92110
Telephone: 619-688-6816
Facsimile: 619-688-6866
Email: arturo_jacobo@dot.ca.gov

Project Name: Deer Canyon Mitigation Site Temporary Stream Crossings

Project Location: Deer Canyon, Carmel Valley, approximately 1000-feet south of SR-56, City of San Diego, central-coastal San Diego County.

Latitude: 32.9505° N Longitude: -117.1870°W

Type of Project: Mitigation site construction.

Need for Project: Provides compensatory mitigation for the future I-805 Managed Lanes, Carroll Canyon Road Extension, and Sorrento to Miramar Phase I (railroad double tracking) projects.

Project Description: The proposed project is the construction of the Deer Canyon Mitigation site. The Deer Canyon Mitigation site will provide compensatory mitigation for the proposed impacts from I-5/Genessee Avenue Interchange, the I-805 Managed Lanes, Carroll Canyon Road Extension, and Sorrento to Miramar Phase I (railroad double tracking) projects. (These projects have not been permitted nor built.) The Deer Canyon Mitigation site will provide for the establishment of approximately 12.3-acres of wetlands and 11.3-acres of riparia. The Deer Canyon Mitigation site also provides

approximately 15.1-acres of upland habitat mitigation. The portion of the Deer Canyon Mitigation site that requires Clean Water Act section 401 and 404 permits will be for two temporary crossings in Deer Canyon Creek. The temporary crossings will be constructed with two culverts and 80-yds (0.01-acre) of fill. The crossings will cause 0.01-acre and 30-linear feet of temporary, combined impacts. The crossings are needed to allow vehicles and equipment access to both sides of the creek to allow the construction of the mitigation site that will flank the creek. After construction, the temporary crossings will be removed and the stream will be restored.

Federal
Agency/Permit:

U.S. Army Corps of Engineers §404, NWP 33 -
Ms. Stephanie Hall

Other Required
Regulatory Approvals:

California Department of Fish and Game Streambed
Alteration Agreement - Mr. Tim Dillingham

California Coastal Commission, Coastal Development Permit -
Mr. Gabriel Buhr.

California
Environmental Quality
Act (CEQA)
Compliance:

Categorical Exemption for the Deer Canyon Mitigation Plan,
State of California Department of Transportation, May 18,
2011.

Receiving Water:

Deer Canyon Creek (a tributary to Carmel Valley Creek),
Penasquitos hydrologic unit, Miramar Reservoir hydrologic
area (906.10).

Affected Waters of the
United States and
State:

Temporary:
Streambed 0.01-acre, 30-linear feet

Dredge Volume:

None

Related Projects
Implemented/to be
Implemented by the
Applicant(s):

None disclosed other than the transportation projects for
which this mitigation will be constructed.

Compensatory
Mitigation:

Restoration of the temporary impacts to the streambed.

Best Management
Practices (BMPs):

Proposed Construction BMPs are described in Deer Canyon
Mitigation Site Temporary Stream Crossings application,
dated March 21, 2011. Proposed BMPs include:

Fiber rolls.
Stabilized construction entrances/exits.
Hydroseeding.
Mulch.
Bonded fiber matrix.

Public Notice:

March 23, 2011.

Fees:

Total Due: \$688.00
Total Paid: \$688.00 Check No. 082-929813

CIWQS:

Regulatory Measure: 378241
Place: 764728
Party: 7222

ATTACHMENT 2
DISTRIBUTION LIST

Ms. Stephanie Hall
U.S. Army Corps of Engineers, Regulatory Branch
Los Angeles District
915 Wilshire Blvd.
Suite 1101
Los Angeles, CA 90017
Stephanie.J.Hall@spl01.usace.army.mil

Ms. Joanna Gibson
California Department of Fish and Game
Inland Deserts Region
3602 Inland Empire Blvd
Ontario, CA 91764
tdillingham@dfg.ca.gov

U.S. EPA, OWOW, Region 9
75 Hawthorne Street
San Francisco, CA 94105
R9-WTR8-Mailbox@epa.gov

State Water Resources Control Board, Division of Water Quality
401 Water Quality Certification and Wetlands Unit
P.O. Box 100
Sacramento, CA 95812-0100
Stateboard401@waterboards.ca.gov

Certification No. 11C-024

ATTACHMENT 3

LOCATION MAP(S)



Legend

- Deer Canyon Mitigation Site
- I-5/Genesee Interchange Project
- I-805 North Managed Lanes Project
- Carroll Canyon Road Extension
- LOSSAN S2HP1

Figure 1. Project Location



ATTACHMENT 4

SITE FIGURE(S)

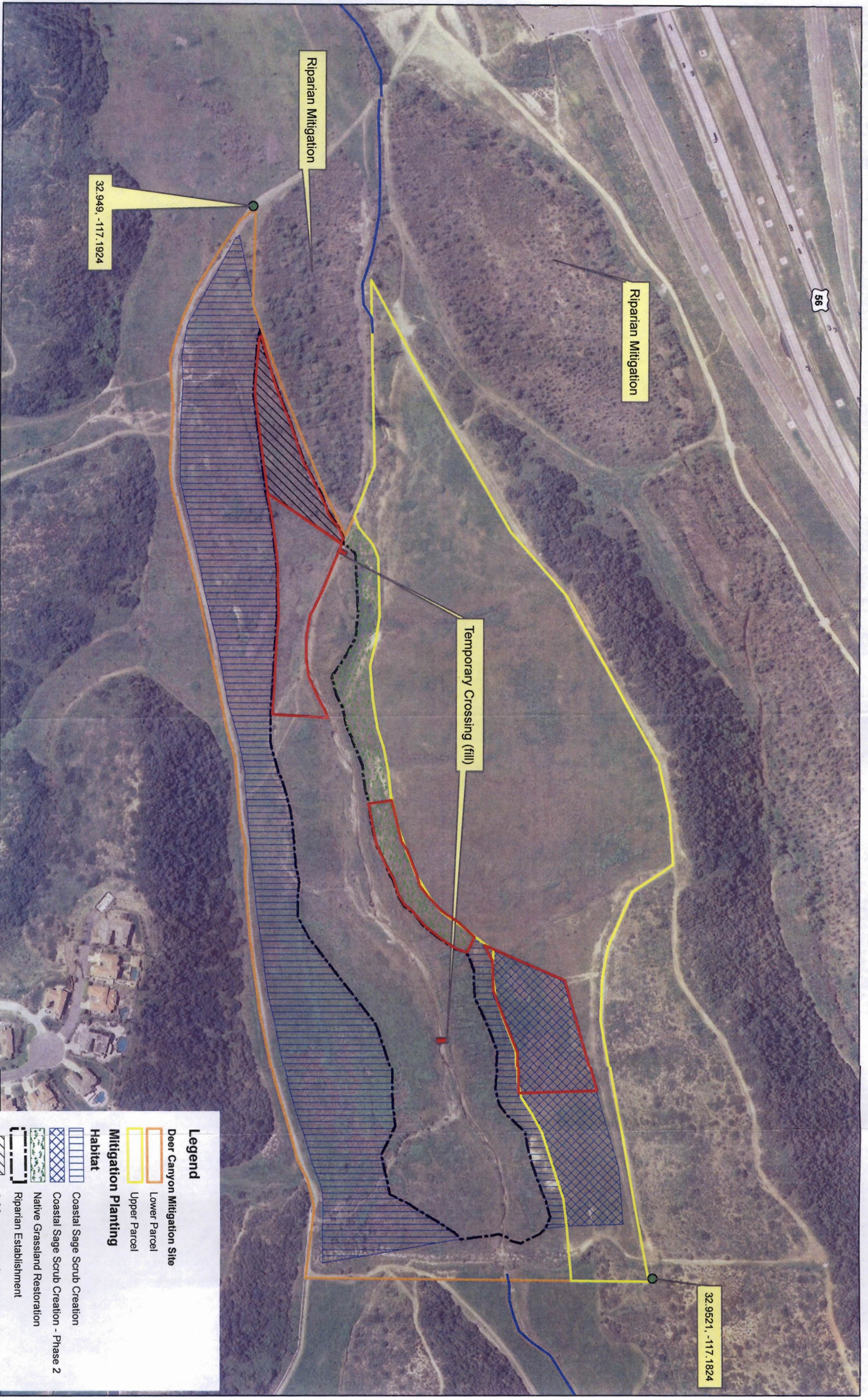


Figure 6. Deer Canyon Mitigation Site

Legend

Deer Canyon Mitigation Site

- Lower Parcel
- Upper Parcel

Mitigation Planting

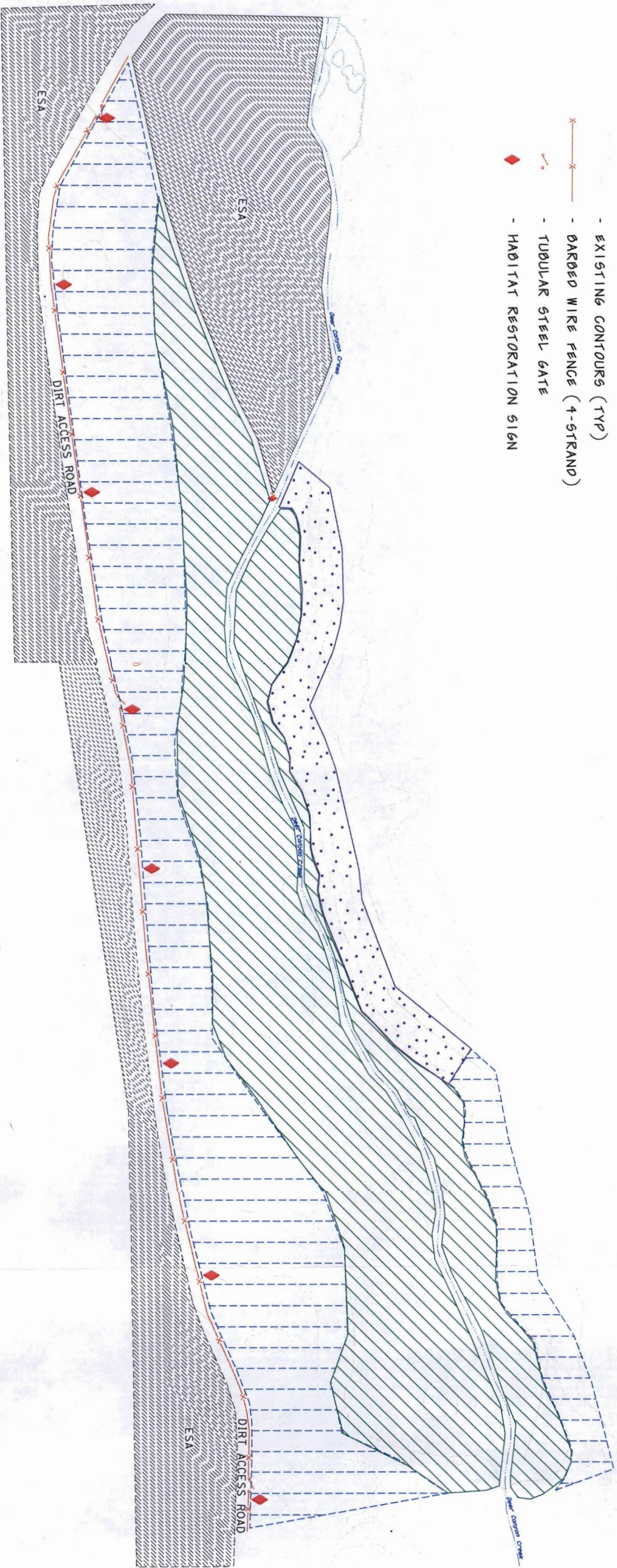
- Coastal Sage Scrub Creation
- Coastal Sage Scrub Creation - Phase 2
- Native Grassland Restoration
- Riparian Establishment
- 0.96 acre marsh
- LOSSAN Mitigation Areas

Habitat



LEGEND

- WESTLAND PLANTING AREA (12.28 ACRES)
- COASTAL SAGE SCRUB PLANTING AREA (12.14 ACRES)
- NATIVE GRASSLAND SEEDING AREA (2.18 ACRES)
- ENVIRONMENTALLY SENSITIVE AREA (ESA)
NO WORK OR EQUIPMENT STORAGE TO OCCUR IN THIS AREA
- EXISTING CONTOURS (TYP)
- BARBED WIRE FENCE (4-STRAND)
- TUBULAR STEEL GATE
- HABITAT RESTORATION SIGN



DEER CANYON MITIGATION

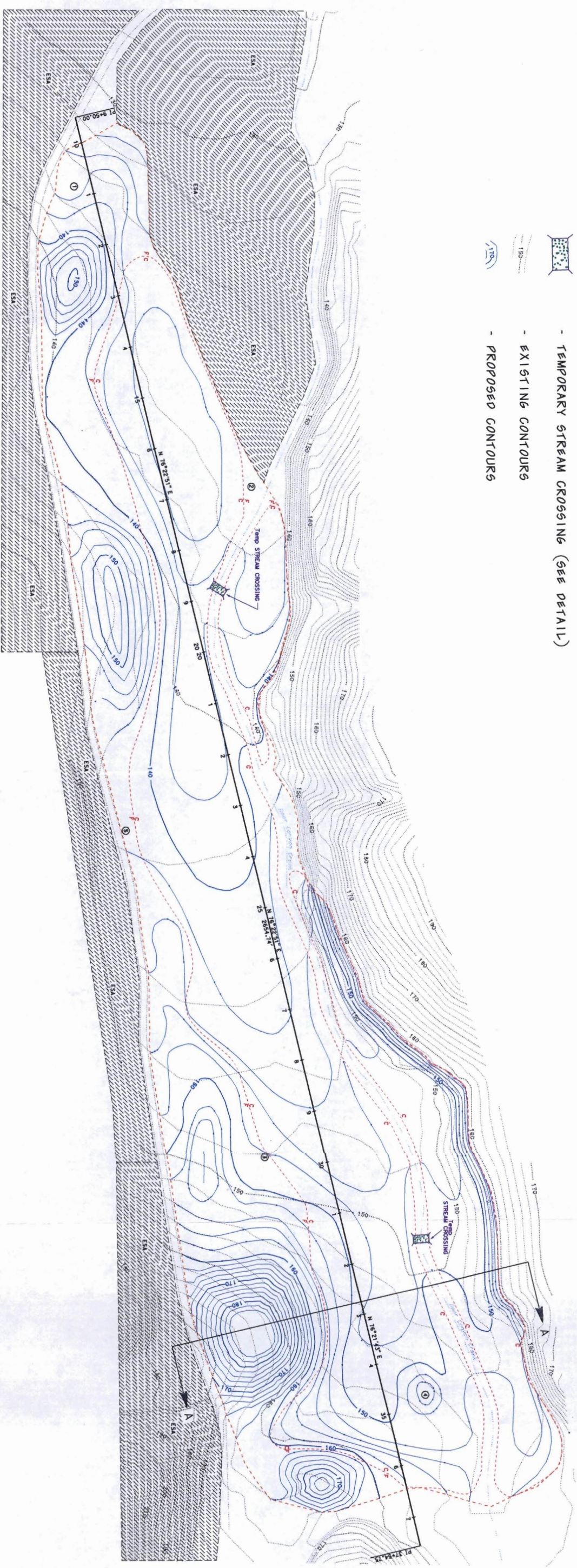
CONCEPTUAL PLANTING PLAN

1100020036

FIGURE 7

LEGEND

- ⊗ - MONITORING WELL
- ▨ - ENVIRONMENTALLY SENSITIVE AREA
- TEMPORARY STREAM CROSSING (SEE DETAIL)
- EXISTING CONTOURS
- PROPOSED CONTOURS



DEER CANYON MITIGATION

CONCEPTUAL GRADING PLAN

FIGURE 8

1100020036