



# PUBLIC NOTICE

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

**BUILDING STRONG®**

**APPLICATION FOR PERMIT  
Atherton Residential Development**

**Public Notice/Application No.:** SPL-2012-00877-PJB

**Project:** Atherton Project

**Comment Period:** March 17, 2014 through April 14, 2014

**Project Manager:** Peggy Bartels; 760-602-4832; [Peggy.J.Bartels@usace.army.mil](mailto:Peggy.J.Bartels@usace.army.mil)

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**Applicant**

Steve Ludwig  
Atherton 124 Partners, LP  
20 Enterprise, Suite 320  
Aliso Viejo, California 92656

**Contact**

Barry Jones  
HELIX Environmental Planning, Inc  
7578 El Cajon Blvd Ste 200  
La Mesa, California 91941

**Location**

The proposed project site is located in an unincorporated portion of Riverside County, adjacent to the City of Temecula, California. The 66.7-acre project area is located approximately 3.25 miles west of Interstate 15 and 1.3 miles south of State Route 79 in portions of Township 8 South, Range 2 West, Section 22 on the U.S. Geological Survey 7.5-minute Pechanga quadrangle (Figures 1 and 2).

**Activity**

The proposed project would discharge fill material into 0.386 acre of waters of the U.S. in association with the construction of the Atherton Tract #32627 project, a single family residential development on approximately 66.7 acres in an unincorporated portion of Riverside County. The proposed development includes 118 single-family residences, infrastructure improvements, and one 3.3-acre detention basin, one 1.9 acre pad for a park, 13,030 square feet of linear park and 5 natural open space lots (Figure 5). For more information see page 3 of this notice.

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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). 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 Regulatory Division (Corps), you provide information that support 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(b)(1) of the Clean Water Act.

Comments should be mailed to:

U.S. Army Corps of Engineers  
Regulatory Division, Carlsbad Field Office  
Attn: SPL-2012-00877-PJB  
5900 La Place Court, Suite 100  
Carlsbad, California 92008

Alternatively, comments can be sent electronically to: [Peggy.J.Bartels@usace.army.mil](mailto:Peggy.J.Bartels@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 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 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 prior to permit issuance. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the U.S. Environmental Protection Agency; however, the proposed project is not located on Tribal lands.

**Coastal Zone Management**- This project is located outside the coastal zone and preliminary review indicates that 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.

**Essential Fish Habitat**- Preliminary determinations indicate the proposed activity would not adversely affect Essential Fish Habitat. Therefore, formal consultation under Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) is not required at this time.

**Cultural Resources**- The applicant has submitted an archaeological survey and evaluation of cultural resources report (Keller 2013) for compliance with Section 106 of the National Historic Preservation Act, as amended. The Corps will determine whether the proposed activity will have any adverse effects on listed historic properties or on potential historical properties eligible for listing in the National Register. In consultation with the State Historic Preservation Officer (SHPO), the Corps will ensure the proposed action complies with Section 106 of the National Historic Preservation Act, as amended, before making a permit decision for the proposed activity. As per Section 106 of the National Historic Preservation Act, as amended, Tribes will also be contacted to request their comments.

**Endangered Species**- A General Biological Habitat Assessment and focused burrowing owl (*Athene cunicularia*) survey were conducted on the project site in 2005. A jurisdictional delineation was conducted in 2012. During these biological surveys no Federal or state listed as threatened or endangered plant species were observed on site. However, no coastal California gnatcatcher (*Polioptila californica californica*; gnatcatcher) surveys were conducted, and there is potential suitable gnatcatcher habitat on the project site. Therefore, the Corps will not make an "effects determination" until a review of the potential suitable habitat is completed. Additionally, a gnatcatcher survey may need to be conducted to support the Corps' effects determination.

**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**

**Project description**- The proposed activity requires a Department of Army permit to discharge fill material into waters of the U.S., including wetlands in association with the construction of the 66.7-acre Atherton Tract #32627 project, a residential development consisting of 118 single-family residences, infrastructure improvements, a 3.3-acre detention basin, a 1.9 acre pad for a park, 13,030

square feet of linear park and 5 natural open space lots (Figure 5). The proposed residential lots are a minimum of 8,000 square feet. Proposed infrastructure improvements include internal roadways, improvements to existing dirt roads (Anza Road and Monte Verde Road), and utilities (sewer, water and stormdrain, etc.).

The Corps jurisdictional area is comprised of waters of U.S., including wetlands that occur within 5 unnamed ephemeral tributaries and one wetland that total 0.526 acres (Table 1). Permanent impacts to the streams total 0.386 acre and would result from the fill of waters of the U.S. for roads, building pads, circulation elements and detention/water quality basin construction (Table 1). A portion of Stream E and all of the wetlands would be avoided (Figure 7). No minimization of impacts to waters of the U.S. is proposed by the applicant.

Table 1. Summary of Ephemeral Waters of the U.S., including Wetlands on the Project Site				
Name	Waters of the US	Linear Feet	Acres Present on Project Site	Acres of Impacts
Stream A	Section 404	1,108	0.04	0.04
Stream B	Section 404	1,054	0.08	0.08
Stream C	Section 404	108	0.002	0.002
Stream D	Section 404	161	0.004	0.004
Stream E	Section 404	292	0.13	0.11
Stream F	Section 404	1,288	0.15	0.15
Wetland waters of the US	Section 404	N/A	0.12	0
<b>Total</b>			0.526	0.386

**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 in to a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). The basic project purpose for the proposed project is to construct residential housing. The project is not water dependent.

**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 residential housing within the Temecula, California area.

**Additional Project Information**

**Baseline information-** Vegetation communities found on site include non-native grassland, Riversidean sage scrub, southern willow scrub, disturbed and developed lands. Permanent impacts to ephemeral streams that are waters of the U.S. total 0.386 acre.

**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 applicant proposed that portions of Stream E and all the wetlands be avoided (Figure 7).

Minimization: The applicant has not proposed any minimization measures.

Compensation: The applicant proposed mitigation for impacts to 0.386 acre of waters of the U.S. at a ratio of 2:1. Mitigation is proposed to be on-site (Figure 10).

For additional information please call Peggy Bartels at 760-602-4832 or via e-mail at [Peggy.J.Bartels@usace.army.mil](mailto:Peggy.J.Bartels@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.

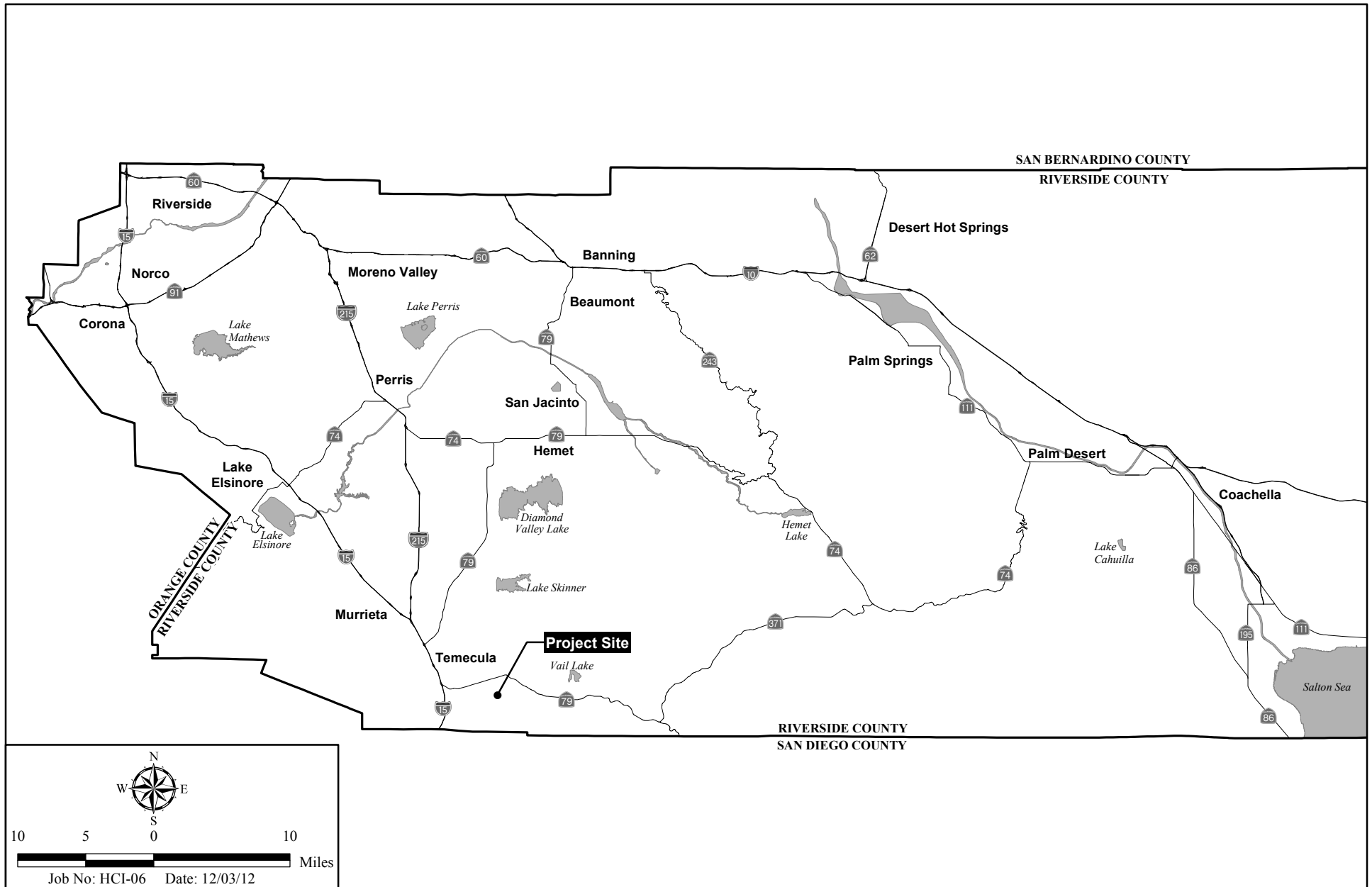
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**U.S. ARMY CORPS OF ENGINEERS – LOS ANGELES DISTRICT**

5900 La Place Court, Suite 100

Carlsbad, California 92008

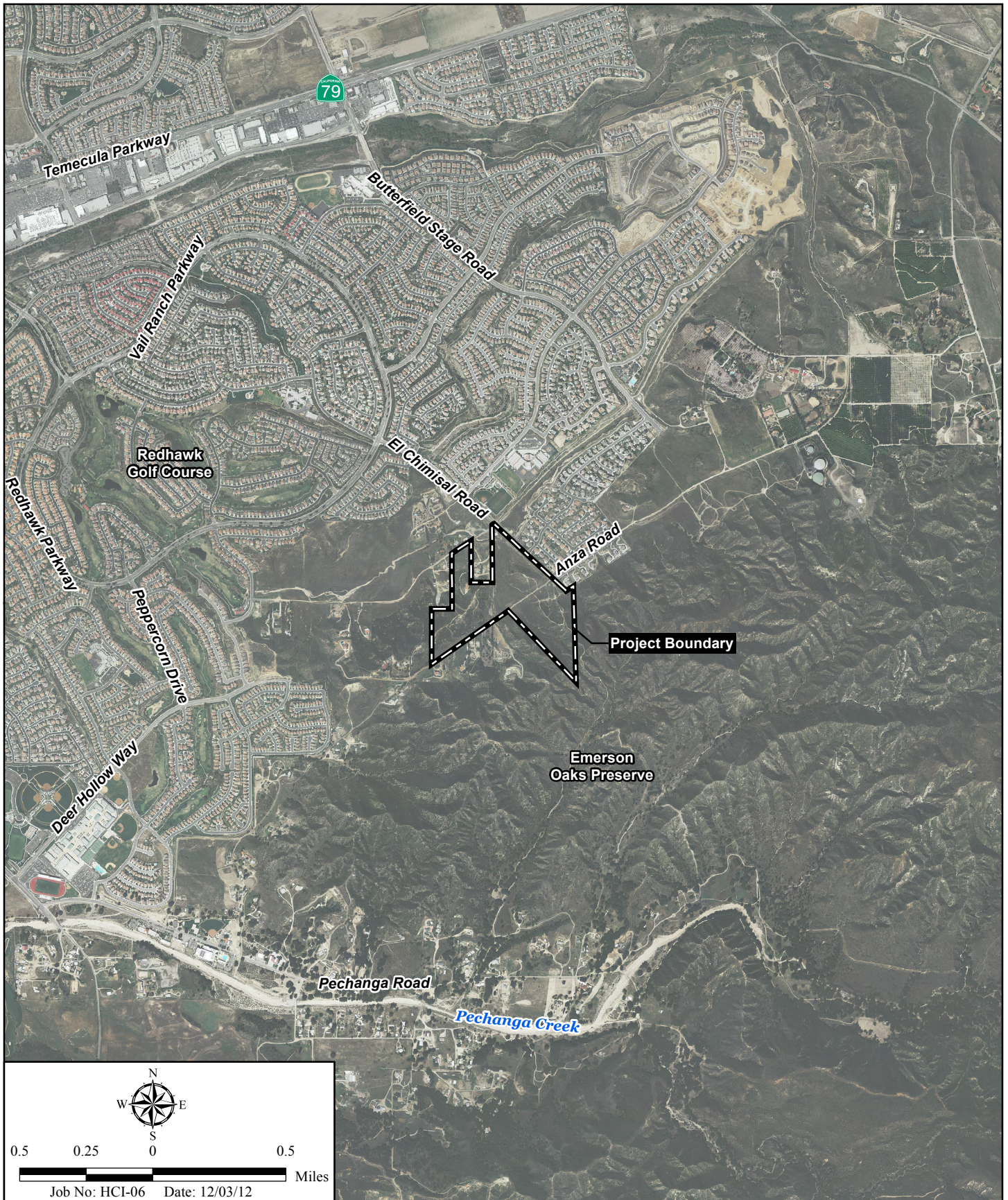
[WWW.SPL.USACE.ARMY.MIL](http://WWW.SPL.USACE.ARMY.MIL)



## Regional Location Map

ATHERTON

Figure 1



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## Aerial Photograph

ATHERTON

Figure 2

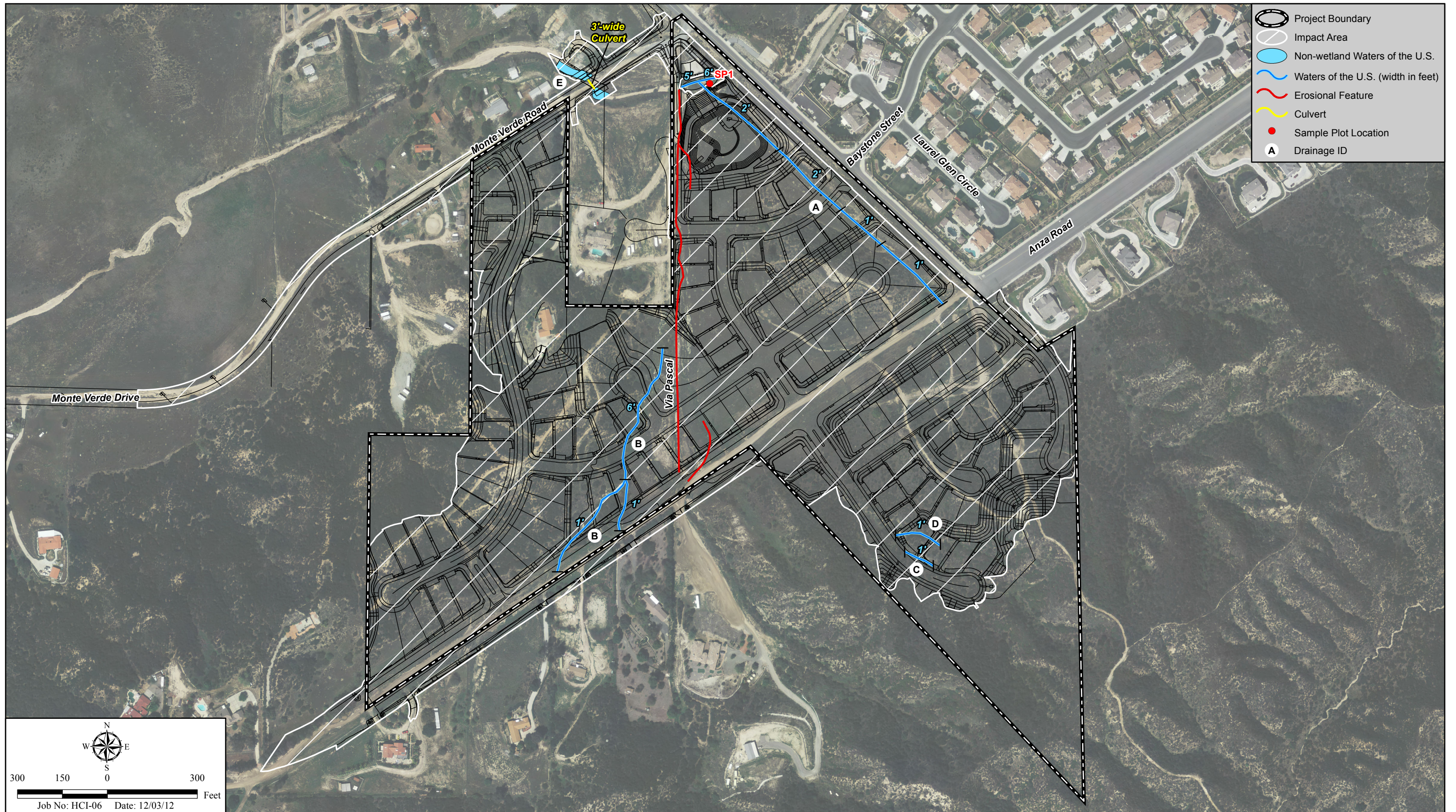


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### Proposed Mitigation Area

TERRACINA TRACT 31597 AND ATHERTON TRACT 32627

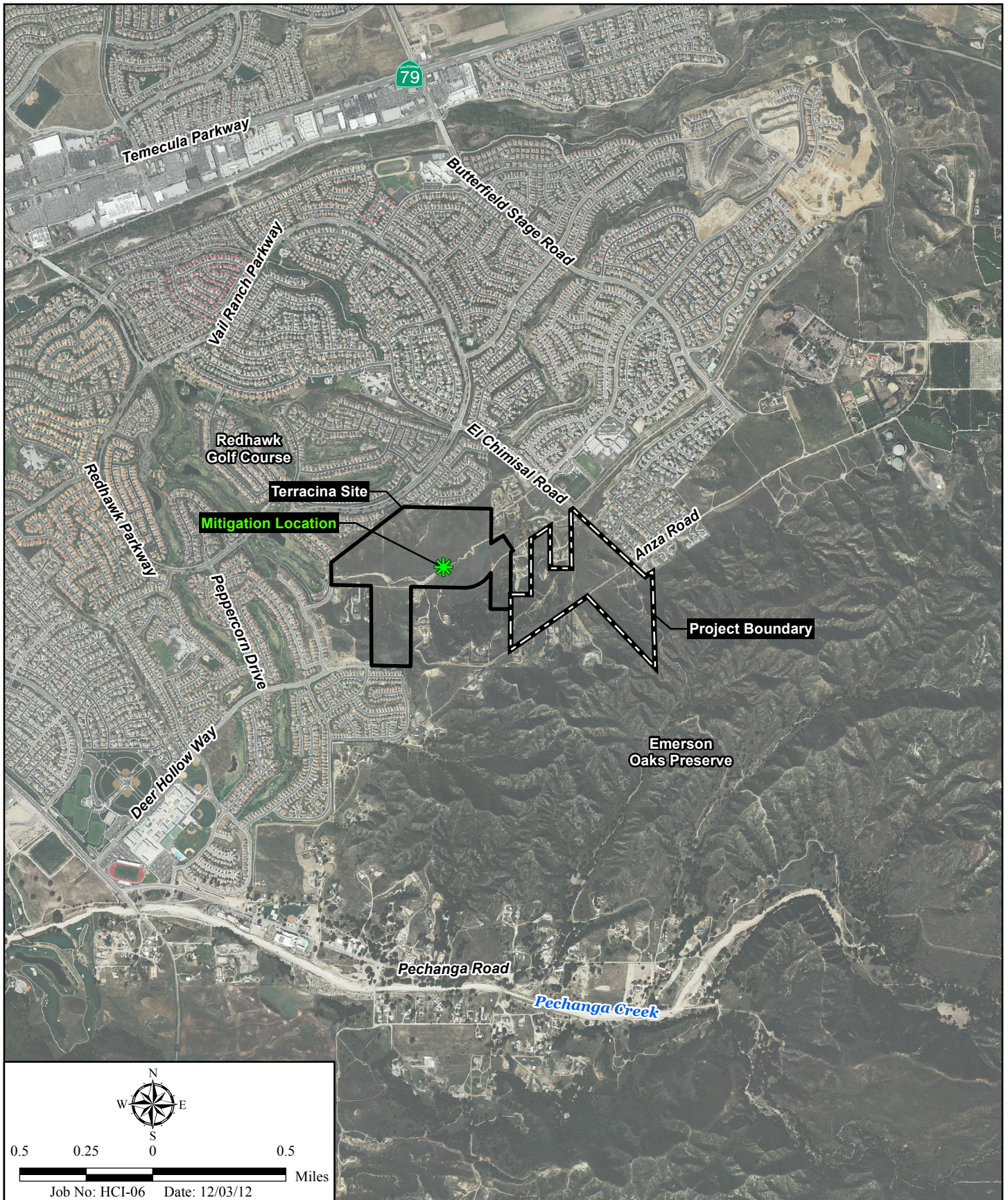




## USACE Project Effects

ATHERTON

Figure 7



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## Off-site Mitigation Location

ATHERTON

Figure 10