

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
SAN FRANCISCO BAY REGION**

**ORDER NO. R2-2010-0109**

**WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION  
FOR:**

**WAL-MART STORES, INC.  
WALTERS ROAD DEVELOPMENT PROJECT  
SUISUN CITY, SOLANO COUNTY**

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Regional Water Board), finds that:

1. Wal-Mart Stores, Inc., (Discharger) has applied to the Regional Water Board for authorization to construct a retail shopping center on a 20.8-acre site at the intersection of Highway 12 and Walters Road in Suisun City, Solano County (Project).
2. The Project, which will develop 20.14 acres of the site, is comprised of the following:
  - a. An 182,000 square foot supercenter with 879 parking stalls on 18.44 acres;
  - b. An 8,000 square foot restaurant with 69 parking stalls on 1.41 acres; and
  - c. Two stormwater detention basins totaling 12,850 square feet on 0.29 acres.
3. The Project site is a triangularly-shaped property located within the Suisun Marsh Watershed, with Highway 12 forming the southern boundary, Petersen Road forming the northern boundary and Walters Road forming the eastern boundary. A 1,100 linear feet unnamed stream bisects the Project site in a north to south direction. The unnamed stream is a tributary to Hill Slough, which enters the northern portion of Suisun Slough. The Project site is situated approximately 20 feet above sea level, with elevations decreasing slightly in a west to east direction. The Project site is comprised of three habitat types: non-native annual grasslands, stream, and seasonal wetlands.
4. There are approximately 2.996 acres of jurisdictional waters of the United States, including wetlands and a stream channel, on the Project site. The site's waters of the United States are comprised of:
  - a. 2.596 acres of seasonal wetlands; and
  - b. 0.4 acres (1,100 linear feet) stream channel with riparian/wetland vegetation.
5. The Project will result in the permanent fill of approximately 2.630 acres of the site's 2.996 acres of jurisdictional waters of the United States. This impact is comprised of the following:
  - a. 2.35 acres of wetlands; and
  - b. 0.28 acres (786 linear feet) of stream channel.
6. The Discharger filed an application for Water Quality Certification and Waste Discharge Requirements with the Regional Water Board on June 21, 2010. The application was subsequently completed by additional information submitted on July 9, 2010.
7. The Discharger has applied to the U.S. Army Corps of Engineers (Corps) for an individual permit under Section 404 of the Clean Water Act (33 U.S.C. § 1344). The Corps issued a

Public Notice for the Project on January 31, 2008, but has not issued a permit for the Project at this time.

8. A portion of the Project site is within critical habitat for the endangered vernal pool tadpole shrimp (*Lepidurus packardii*) and threatened vernal pool fairy shrimp (*Branchinecta lynchi*). In addition, waters on the Project site also provide for flood water attenuation, groundwater recharge, and water quality enhancement including the filtering of sediment and nutrients to downstream waters.
9. The Corps has initiated consultation with the United States Fish & Wildlife Service (USFWS) under the authority of Section 7 of Endangered Species Act regarding Project-related impacts to critical habitat. The USFWS has not yet issued a Biological Opinion for the Project.
10. The Project's stream channel conveys and provides attenuation and treatment of the upstream stormwater runoff, which includes the 11.75-acre Quail Glen Subdivision.
11. Development of the Project could increase pollutant load, the volume of stormwater discharged from the site, and the velocity and durations of the flows to the waters downstream including Hill Slough and Suisun Slough. Impacts to the beneficial uses of the stream and wetlands, as well as downstream waters, could result from the discharge of sediments and construction wastes during construction. In addition, the proposed structures and parking lots will indirectly impact beneficial uses through discharge of urban runoff pollutants (e.g., oil and grease, heavy metals, pathogens, nutrients, pesticides, etc.). The post-construction modification of the runoff hydrograph from the new development could cause an increase in peak flows downstream. Such changes in the runoff hydrograph can cause unnatural erosion, flooding, and deposition of sediments in the creek and otherwise impact water quality and beneficial uses of waters.

### ***Mitigation Plan***

12. To mitigate for the permanent fill of 2.35 acres of seasonal wetlands, the Discharger proposed to purchase 2.35 acres of credit of seasonal wetlands at the Elise Gridley Mitigation Bank in Solano County.
13. To mitigate for the permanent fill of 0.28 acres (786 linear feet) of stream channel, the Discharger proposes to create and/or restore a minimum of 1,572 linear feet of stream channel at an off-site parcel. The Discharger has not finalized the details of such mitigation; thus, provisions of this Order require the Discharger to submit detailed mitigation plans, for Regional Water Board approval, prior to starting any Project construction (i.e., site grading).

### ***Post-Construction Stormwater and Hydromodification Management***

14. The Discharger submitted a report titled, Stormwater Control Plan, dated October 6, 2008, on treatment of on-site stormwater associated with the new impervious surface. The Discharger is required to revise the Stormwater Control Plan to accurately reflect the current Project as defined in Finding 2. The Discharger also submitted a report titled, Post-Construction Stormwater Treatment for Off-site Run-on, dated May 26, 2010, and revised

June 16, 2010. Additional information on stormwater and hydromodification was provided in Avoided Wetlands Mitigation dated May 26, 2010. These reports include measures to address the Project's post-construction urban runoff impacts, as well as regulate flows to pre-development levels. The Discharger is required to monitor, inspect, and maintain these stormwater treatment measures in perpetuity.

15. The Discharger will also prepare and implement a site specific Stormwater Pollution Prevention Plan (SWPPP) for the Project in accordance with the requirements, provisions, limitations, and prohibitions of the General Construction Permit (2009-0009-DWQ) for discharges of stormwater associated with construction activity. Post-construction BMPs to treat stormwater runoff will be installed during construction and maintained in perpetuity after the site construction is complete.
16. The Regional Water Board has determined to regulate the proposed discharge of fill materials into waters of the State by issuance of Waste Discharge Requirements (WDRs) pursuant to Section 13263 of the California Water Code (CWC) and 23 CCR §3857, in addition to issuing certification pursuant to 23 CCR §3859. The Regional Water Board considers WDRs necessary to adequately address impacts and mitigation to beneficial uses of waters of the State from the Project, to meet the objectives of the California Wetlands Conservation Policy (Executive Order W-59-93), and to accommodate and require appropriate changes to the Project.
17. The Regional Water Board provided public notice of the application and this Order on August 23, 2010.
18. This Order is effective only if the Discharger pays all of the required fees conditioned under 23 CCR.

### ***Regulatory Framework***

19. The Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) is the Regional Water Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes implementation plans to achieve water quality objectives. The Basin Plan was duly adopted by the Regional Water Board and approved by the State Water Resources Control Board, Office of Administrative Law and the U.S. EPA, where required.
20. The wetlands and unnamed stream on the Project site are located with the Suisun Basin and are tributary to Hill Slough. The Basin Plan does not explicitly identify beneficial uses for these waters. However, the Basin Plan states that "[t]he beneficial uses of any specifically identified water body generally apply to all of its tributaries." Hill Slough is a tributary to Suisun Slough. Beneficial uses identified in the Basin Plan for Suisun Slough are as follows:
  - a. Navigation (NAV)
  - b. Water Contact Recreation (REC-1)
  - c. Non-contact Water Recreation (REC-2)
  - d. Warm Freshwater Habitat (WARM)
  - e. Wildlife Habitat (WILD)

f. Fish Spawning (SPWN)

21. The Basin Plan Wetland Fill Policy (policy) establishes that there is to be no net loss of wetland acreage and no net loss of wetland value when the project and any proposed mitigation are evaluated together, and that mitigation for wetland fill projects is to be located in the same area of the Region, whenever possible, as the project. The policy further establishes that wetland disturbance should be avoided whenever possible, and if not possible, should be minimized, and only after avoidance and minimization of impacts should mitigation for lost wetlands be considered.
22. The goals of the California Wetlands Conservation Policy (Executive Order W-59-93, signed August 23, 1993) include ensuring “no overall loss” and achieving a “...long-term net gain in the quantity, quality, and permanence of wetland acreage and values....” Senate Concurrent Resolution No. 28 states that “[i]t is the intent of the legislature to preserve, protect, restore, and enhance California’s wetlands and the multiple resources which depend on them for benefit of the people of the State.” Section 13142.5 of the CWC requires that the “highest priority shall be given to improving or eliminating discharges that adversely affect...wetlands, estuaries, and other biologically sensitive areas.”
23. This Order applies to the permanent fill and indirect impacts to waters of the State associated with the Project, which is comprised of the components listed in Finding 5. Construction of the Project will result in the permanent placement of fill in 2.63 acres of jurisdictional waters, including seasonal wetlands and a stream.
24. The Discharger has submitted a Clean Water Act section 404 Alternatives Analysis and supplemental information to show that appropriate effort was made to avoid and then to minimize wetland and stream disturbance, as required by the Basin Plan.
25. The California Environmental Quality Act (CEQA) requires all discretionary projects approved by public agencies to be in full compliance with CEQA, and requires a lead agency (in this case, the City of Suisun City) to prepare an appropriate environmental document for such projects. The City of Suisun prepared and certified the Environmental Impact Report for the Walters Road West Project (EIR) on January 10, 2008, State Clearinghouse No. 2006072026. The EIR found significant unavoidable visual, air, greenhouse, and noise impacts, which are beyond the jurisdictional purview of the Regional Water Board. The EIR also found that significant impacts related to the filling of the wetlands would be mitigated to less than significant levels upon the purchase of credits at a mitigation bank at a level sufficient to fully replace the functions and values of the wetlands and ensure no net loss of wetland habitat in terms of both acreage and functions and values or at a ratio no less than 1:1 ratio. The EIR also found that significant impacts to the stream would be mitigated to less than significant levels with the above wetlands mitigation. The EIR also found significant impacts related to hydrology and water quality from the Project but that they would all be mitigated to less than significant levels through the mitigation measures identified in the EIR such as compliance with requirements of construction and municipal stormwater permits. With respect to any impacts to critical habitats for the endangered vernal pool tadpole shrimp and threatened vernal pool fairy shrimp, the EIR concludes that there will be no impact if USFWS revises its critical habitat designation for the Project area, but that if it does not, the Discharger is required to mitigate the significant impact to less

than significant levels through the purchase of credits at an USFWS approved mitigation bank at a no less than 3:1 ratio for critical habitat wetlands preservation, 1:1 for critical habitat wetlands creation, and 1:1 critical habitat uplands preservation or other ratios determined by USFWS.

26. The Regional Water Board, as a responsible agency under CEQA, has considered the EIR, together with the record before the Regional Water Board, including public comments, and finds that the significant environmental impacts of the proposed activities, which are within the Regional Water Board's purview and jurisdiction, have been identified and mitigated to less than significant levels. Specifically, significant impacts from the wetland and stream fill and significant impacts to hydrology and water quality will be mitigated through the mitigation requirements set forth in the EIR and this Order. Further, changes have been incorporated into the Project (the Project now results in 0.246 acres less of wetland fill and 314 linear feet less in stream fill than was previously proposed by the Discharger and evaluated in the EIR), which lessen the impacts from the wetland and stream fill.
27. Pursuant to Title 23, California Code of Regulations sections 3857 and 3859, the Regional Water Board is issuing Waste Discharge Requirements and Water Quality Certification for the proposed Project.
28. The Regional Water Board has notified the Discharger and interested parties of its intent to issue Waste Discharge Requirements and Water Quality Certification for the Project.
29. The Regional Water Board, in a public meeting, heard and considered all comments pertaining to this Order.

IT IS HEREBY ORDERED that Wal-Mart Stores, Inc., in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted thereunder, shall comply with the following, pursuant to authority under CWC Sections 13263 and 13267:

**A. *Discharge Prohibitions***

1. The direct discharge of wastes, including rubbish, refuse, bark, sawdust, or other solid wastes into surface waters or at any place where they would contact or where they would be eventually transported to surface waters, including flood plains, is prohibited.
2. The discharge of floating oil or other floating materials from any Project activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
3. The discharge of silt, sand, clay, or other earthen materials from any Project activity in quantities sufficient to cause deleterious bottom deposits, turbidity, or discoloration in surface waters is prohibited.
4. The wetland and creek fill activities and mitigation construction subject to these requirements shall not cause a nuisance as defined in CWC §13050(m).

5. The discharge of decant water from the Project's fill sites, and stockpile or storage areas to surface waters or surface water drainage courses is prohibited, except as conditionally allowed following the submittal of a discharge plan or plans as described in the Provisions.
6. The groundwater in the vicinity of the Project shall not be degraded as a result of the placement of fill for the Project.
7. The discharge of materials other than stormwater, which are not otherwise regulated by a separate NPDES permit or allowed by this Order, to waters of the State is prohibited.
8. The discharge of drilling muds to waters of the State, or to where such muds could be discharged to waters of the State, is prohibited.
9. The discharge of earthen fill, construction material, concrete, aggregate, rock rip-rap, and/or other fill materials to waters of the State is prohibited, except as expressly allowed herein.

***B. Receiving Waters Limitations***

1. The discharge shall not cause the following conditions to exist in waters of the State at any place:
  - a. Floating, suspended, or deposited macroscopic particulate matter or foam in concentrations that cause nuisance or adversely affect beneficial uses;
  - b. Bottom deposits or aquatic growths to the extent that such deposits or growths cause nuisance or adversely affect beneficial uses;
  - c. Alteration of temperature, turbidity, or apparent color beyond present natural background levels;
  - d. Visible, floating, suspended, or deposited oil or other products of petroleum origin; and
  - e. Toxic or other deleterious substances to be present in concentrations or quantities which will cause deleterious effects on wildlife, waterfowl, or other aquatic biota, or which render any of these unfit for human consumption, either at levels created in the receiving waters or as a result of biological concentration.
2. The discharge shall not cause nuisance, or adversely affect the beneficial uses of the receiving water.
3. The discharge shall not cause the following limits to be exceeded in waters of the State at any one place within one foot of the water surface:
  - a. Dissolved Oxygen: 5.0 mg/L, minimum

The median dissolved oxygen concentration for any three consecutive months shall not be less than 80% of the dissolved oxygen content at saturation. When natural

factors cause concentrations less than that specified above, then the discharges shall not cause further reduction in ambient dissolved oxygen concentrations.

- b. Dissolved Sulfide: 0.1 mg/L, maximum
  - c. pH: The pH shall not be depressed below 6.5 nor raised above 8.5, nor caused to vary from normal ambient pH by more than 0.5 pH units.
  - d. Un-ionized Ammonia: 0.025 mg/L as N, annual median; and 0.16 mg/L as N, maximum
  - e. Nutrients: Waters shall not contain biostimulatory substances in concentrations that promote aquatic growths to the extent that such growths cause nuisance or adversely affect beneficial uses.
4. There shall be no violation of any water quality standard for receiving waters adopted by the Regional Water Board or the State Water Resources Control Board.

**C. Provisions**

- 1. The Discharger shall comply with all Prohibitions, Receiving Water Limitations and Provisions of this Order immediately upon adoption of this Order or as provided below.
- 2. The Discharger shall submit copies to the Regional Water Board of all necessary approvals and/or permits for the Project, including its associated mitigation, from applicable government agencies, including, but not limited to, the California Department of Fish and Game (CDFG), USFWS, and the Corps. Copies shall be submitted within 60 days after issuance of any permit or other approval.
- 3. In addition to the requirements of this Order, the Discharger shall comply with any other more stringent requirements imposed by the Corps, USFWS, and CDFG.
- 4. Construction shall not commence on any Project component until all required documents, reports, plans, and studies required in the Provisions associated with that component have been submitted to and found acceptable by the Executive Officer or the Regional Water Board in the case of the Final Mitigation and Monitoring Plan.

**Compensatory Mitigation**

- 5. Not later than 90 days prior to the start of construction (defined as site grading), the Discharger shall submit, acceptable to the Regional Water Board, a Final Mitigation and Monitoring Plan (Final MMP) that addresses the proposed off-site mitigation elements for the stream impacts. The Discharger shall comply with and implement the Final MMP. The Final MMP shall include the following:

- a. A proposal that will create and/or restore a minimum of 1,572 linear feet of stream channel and replace the impacted stream's ecosystem functions and values. The proposed channel shall have similar characteristics of the impacted stream with a defined channel and enough water flow for scour and sediment transport to occur. If preservation and restoration of an existing stream is proposed, a higher amount of linear feet will be required;
  - b. The proposed mitigation site must occur within the Regional Water Board's jurisdictional boundaries, as well as within Solano County;
  - c. A schedule providing for mitigation construction to commence prior to the start of Project construction. The schedule shall provide for all mitigation to be completed before construction is complete;
  - d. An irrigation and planting plans;
  - e. Provisions for use of native plant seeds/plantings and the avoidance of non-native vegetation;
  - f. A monitoring program that consists of:
    1. Establishment of performance criteria,
    2. Selection of performance indicators,
    3. Field sampling of performance indicators,
    4. Analysis of the field data,
    5. A remedial action plan,
    6. Annual reports submittals, and
    7. A minimum monitoring duration of 10 years - adequate to evaluate site performance;
  - g. If the proposed mitigation parcel will be grazed by livestock, a detailed grazing plan, including stocking rates, fencing plans for waterbodies and upland water sources shall be submitted;
  - h. Financial assurances adequate to ensure the construction, maintenance, monitoring, and preservation of the proposed mitigation and other measures. Detailed cost estimates to cover these activities shall be submitted, as well; and
  - i. A conservation easement or similar mechanism to provide in perpetuity for the protection of the mitigation area for the purposes of retaining the land in its natural and open-space condition.
6. As-built plans for the off-site mitigation site shall be prepared and submitted to the Regional Water Board within six weeks of the completion of mitigation site construction.
  7. Not later than 30 days prior to the start of any Project construction, the Discharger shall submit proof of purchasing 2.35 acres of wetland creation and/or restoration credits that met prescribed performance standards from the Elise Gridley Mitigation Bank or an approved mitigation bank in Solano County.

### ***Monitoring and Reporting***

8. All technical and monitoring reports required pursuant to this Order are being required pursuant to Section 13267 of the California Water Code. Failure to submit reports in accordance with schedules established by this Order or failure to submit a report of sufficient



technical quality acceptable to the Executive Officer may subject the Discharger to enforcement action pursuant to Section 13268 of the California Water Code.

9. Annual monitoring reports shall be submitted to the Regional Water Board by December 15 of each monitoring year and until the sites have met their performance standards and final success criteria and the Executive Officer has accepted in writing a notice of mitigation completion. The mitigation-monitoring period for off-site mitigation parcel shall be a minimum of ten years. Monitoring reports shall be prepared as described in Provision 5, and shall include assessment of all mitigation features with respect to performance criteria established in the Final MMP. Reports shall include methods used, locations sampled, representative photographs, results of monitoring, trends, reference weather conditions, recommendations, and implemented actions. For necessary remedial actions not taken prior to submittal of the report, an implementation schedule shall be provided. Annual reports shall also include the proposed annual grazing monitoring, including photographs, residual dry matter monitoring results, summaries of livestock stocking rates (or other appropriate measure of livestock grazing), analyses of trends over time, and all other information, as appropriate.

#### ***Electronic Reporting Format***

10. In addition to print submittals, all reports submitted pursuant to this Order must be submitted as electronic files in PDF format. The Regional Water Board has implemented a document imaging system, which is ultimately intended to reduce the need for printed report storage space and streamline the public file review process. Documents in the imaging system may be viewed, and print copied made, by the public, during file reviews conducted at the Regional Water Board's office. All electronic files, whether in PDF or spreadsheet format, shall be submitted via email (only if the file size is less than 3 MB) or on CD. CD submittals may be included with the print report.

#### ***Notice of Mitigation Completion***

11. Once the Discharger has determined that the mitigation has achieved the final success criteria specified in the Final MMP approved by the Regional Water Board, it shall submit a notice of mitigation completion (notice), acceptable to the Executive Officer. The notice shall include a description of the mitigation that has been determined to be successful, as well as proposed long-term funding and conservation mechanism to preserve the mitigation site in perpetuity. After acceptance of the notice in writing by the Executive Officer, the Discharger's submittal of annual mitigation monitoring reports is no longer required.

#### ***Stormwater Management***

12. The Discharger shall comply with the General Permit for Discharges of Storm Water Associated with Construction Activity (Construction General Permit Order 2009-0009-DWQ).
13. By November 12, 2010, the Discharger shall submit a revised Stormwater Control Plan, acceptable to the Executive Officer that accurately reflects the Project as permitted by this Order. The Discharger shall install the proposed post-construction stormwater and

hydromodification treatment measures during Project construction pursuant to the revised Stormwater Control Plan as approved and other reports identified in Finding 14. The Discharger shall submit as-built report within 60 days of the complete installation of the stormwater and hydromodification treatment measures. As part of the as-built report, the Discharger is required to submit a signed Stormwater Treatment Measures Maintenance Agreement between the Discharger and the City of Suisun to ensure monitoring, inspecting, and maintaining both the on-site and off-site treatment measures in perpetuity.

***Fees***

14. This Order combines Waste Discharge Requirements and Clean Water Act Section 401 Water Quality Certification provisions. The annual fee shall reflect this, and consist of the following:

The fee amount for the Waste Discharge Requirements portion shall be in accordance with the current fee schedule, per California Code of Regulations, Division 3, Chapter 9, Article 1, section 2200(a)(1), based on the discharge's Threat to Water Quality and Complexity rating of the Discharge to Land or Surface Waters, plus applicable surcharge(s). The Threat and Complexity rating shall be rated as 1A. After the initial year, this portion of the fee shall be billed annually to the Discharger. The fee payment shall indicate the Order number, WDID number, and the applicable season.

***General Provisions***

15. The Discharger shall comply with all the Prohibitions, Effluent and Receiving Water Limitations, and Provisions of this Order immediately upon adoption of this Order or as provided in this Order.
16. All reports pursuant to these Provisions shall be prepared by professionals registered in the State of California.
17. The Discharger shall immediately notify the Regional Water Board by telephone and e-mail whenever an adverse condition occurs as a result of this discharge. Such a condition includes, but is not limited to, a violation of the conditions of this Order, a significant spill of petroleum products or toxic chemicals, or damage to control facilities that would cause noncompliance. Pursuant to CWC §13267(b), a written notification of the adverse condition shall be submitted to the Regional Water Board within two weeks of occurrence. The written notification shall identify the adverse condition, describe the actions necessary to remedy the condition, and specify a timetable, subject to the modifications of the Regional Water Board, for the remedial actions.
18. Should discharges of otherwise uncontaminated ground water contaminated with suspended sediment be required from the Project site, where such discharges are not otherwise covered by an applicable NPDES permit, such discharges may be considered covered by the General Permit, following the submittal of a discharge/treatment plan, acceptable to the Executive Officer, at least 30 days prior to such a discharge.

19. The Discharger shall notify the Regional Water Board in writing at least 30 days prior to actual start date for the Project (i.e., prior to the start of grading or other construction activity for any Project component, including the creek and wetland mitigation components).
20. The Discharger shall at all times fully implement and comply with the engineering plans, specifications, and technical reports submitted with its application for water quality certification and the report of waste discharge, and as may subsequently be submitted to comply with this Order.
21. The Discharger is considered to have full responsibility for correcting any and all problems that arise in the event of a failure that results in an unauthorized release of waste or wastewater.
22. The discharge of any hazardous, designated or non-hazardous waste as defined in Title 23, Division 3, Chapter 15 of the California Administrative Code, shall be disposed of in accordance with applicable state and federal regulations.
23. The Discharger shall remove and relocate any wastes that are discharged at any sites in violation of this Order.
24. In accordance with CWC §13260, the Discharger shall file with the Regional Water Board a report of any proposed change in ownership or any material change in the character, location, or quantity of this waste discharge. Any proposed material change in the discharge requires approval by the Regional Water Board after a hearing under CWC §13263. Material change includes, but is not be limited to, all significant new soil disturbances, all proposed expansion of development, or any change in drainage characteristics at the Project site. For the purpose of this Order, this includes any proposed change in the boundaries of the area of wetland/waters of the State to be filled and mitigated.
25. The following standard conditions apply to this Order:
  - a. Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to CWC §13330 and 23 CCR §3867.
  - b. Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and 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 §3855(b) and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
  - c. Certification is conditioned upon total payment of any fee required pursuant to 23 CCR §3833 and owed by the Discharger.
26. The Discharger shall maintain a copy of this Order and all relevant plans and BMPs at the Project site so as to be available at all times to site operating personnel and agencies.

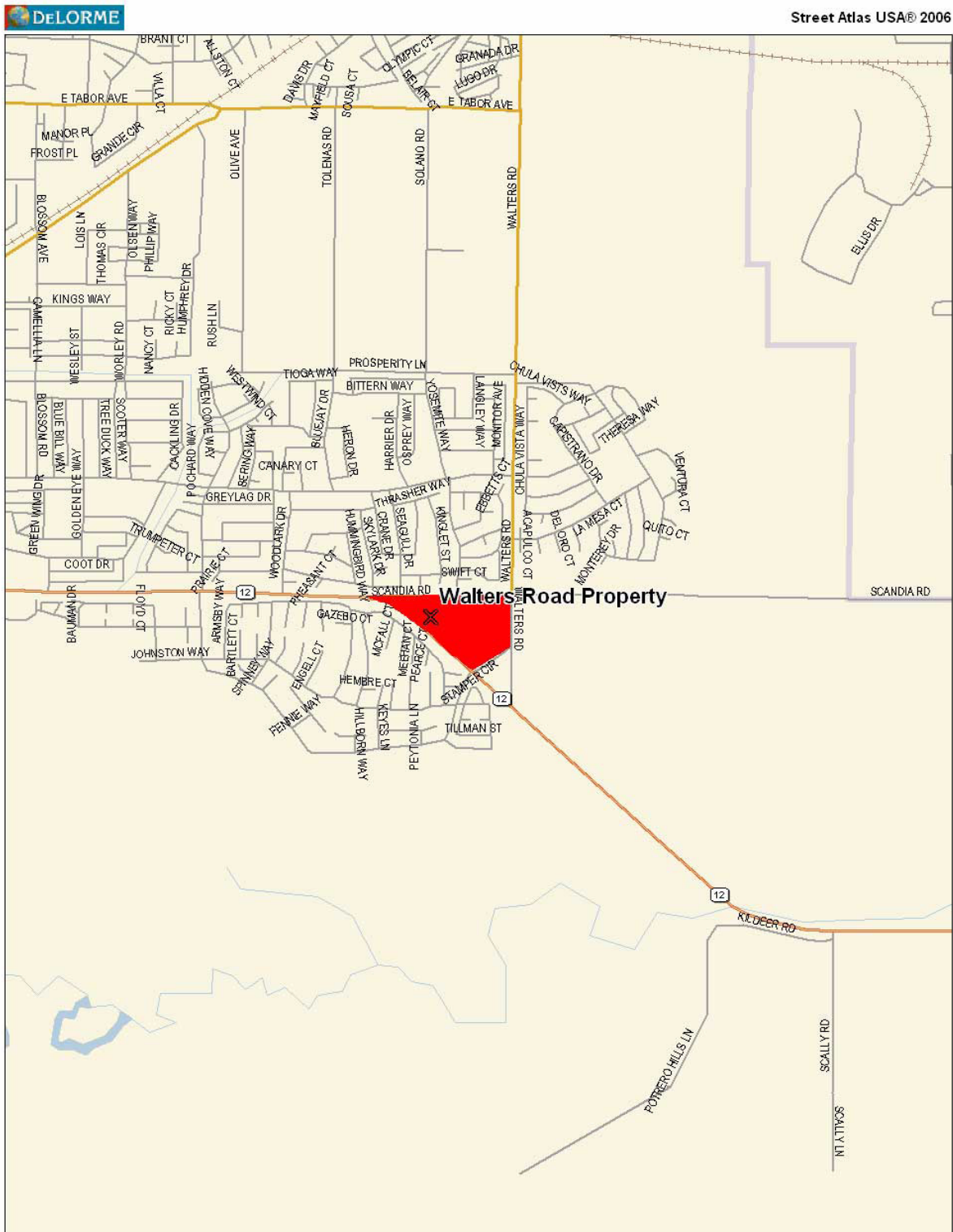
27. The Discharger shall permit the Regional Water Board or its authorized representatives at all times, upon presentation of credentials:
  - a. Entry onto Project premises, including all areas on which water body fill or water body mitigation is located or in which records are kept.
  - b. Access to copy any records required to be kept under the terms and conditions of this Order.
  - c. Inspection of any treatment equipment, monitoring equipment, or monitoring method required by this Order.
  - d. Sampling of any discharge or surface water covered by this Order.
28. This Order does not authorize commission of any act causing injury to the property of another or of the public; does not convey any property rights; does not remove liability under federal, state, or local laws, regulations or rules of other programs and agencies, nor does this Order authorize the discharge of wastes without appropriate permits from other agencies or organizations.
29. The Regional Water Board will consider rescission of this Order upon Project completion and the Executive Officer's acceptance of notices of completion of mitigation for all mitigation, creation, and enhancement projects required or otherwise permitted now or subsequently under this Order.
30. This Waste Discharge Requirements and Water Quality Certification is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to California Water Code Section 13330 and Title 23, California Code of Regulations, Section 3867.
31. The Regional Water Board may add to or modify the conditions of this Order, as appropriate, to implement any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or Section 303 of the Clean Water Act.
32. This Order is not transferable.

I, Bruce H. Wolfe, Executive Officer, do hereby certify that the foregoing is a full, complete and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region on October 13, 2010.

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Bruce H. Wolfe  
Executive Officer

Attachments: Figure 1: Vicinity Map  
Figure 2: USGS Quadrangle Map  
Figure 3: Wetlands Delineation Map  
Figure 4: Proposed Project Diagram



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**Figure 1. Project Vicinity**

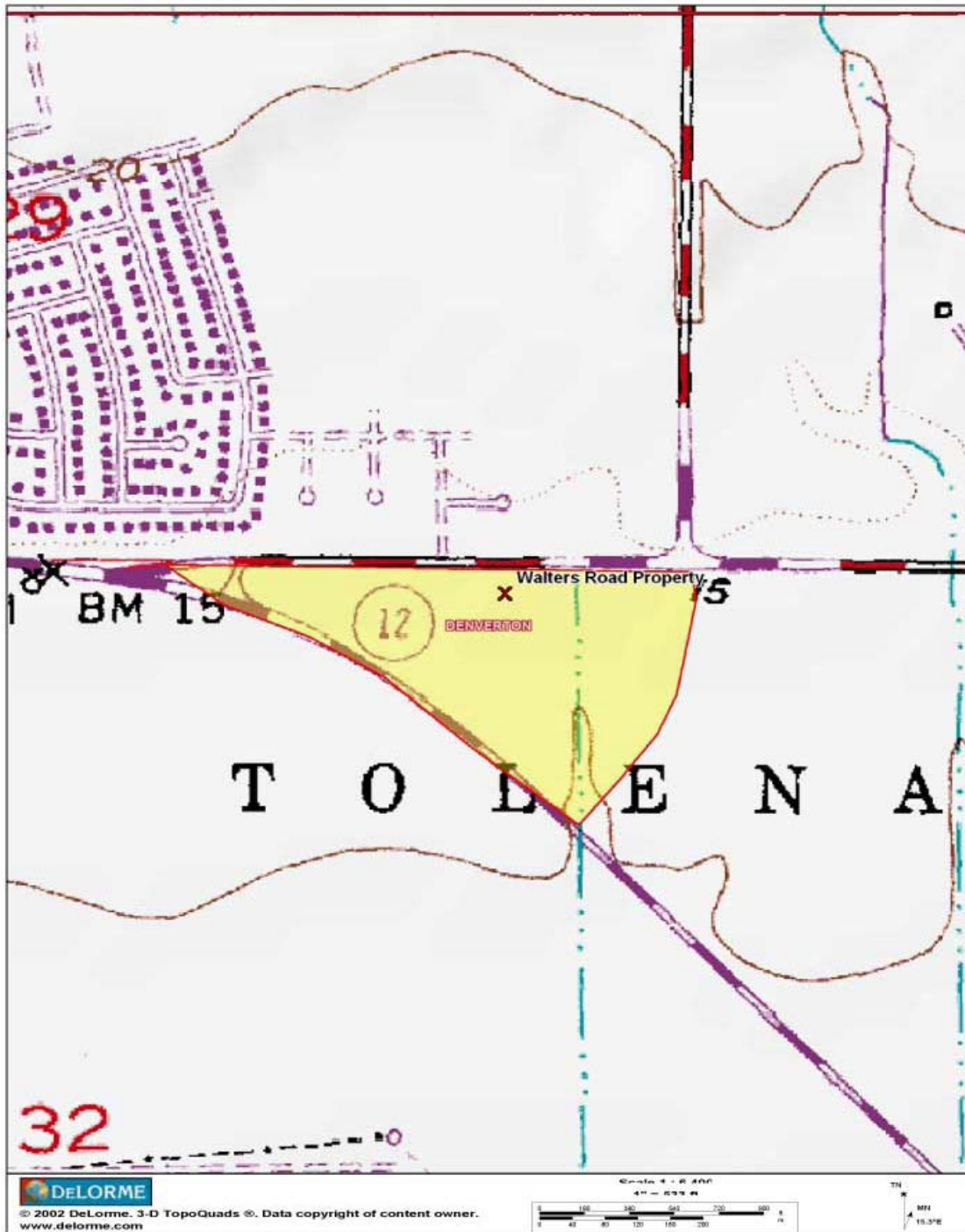


Figure 2: USGS Quadrangle Map

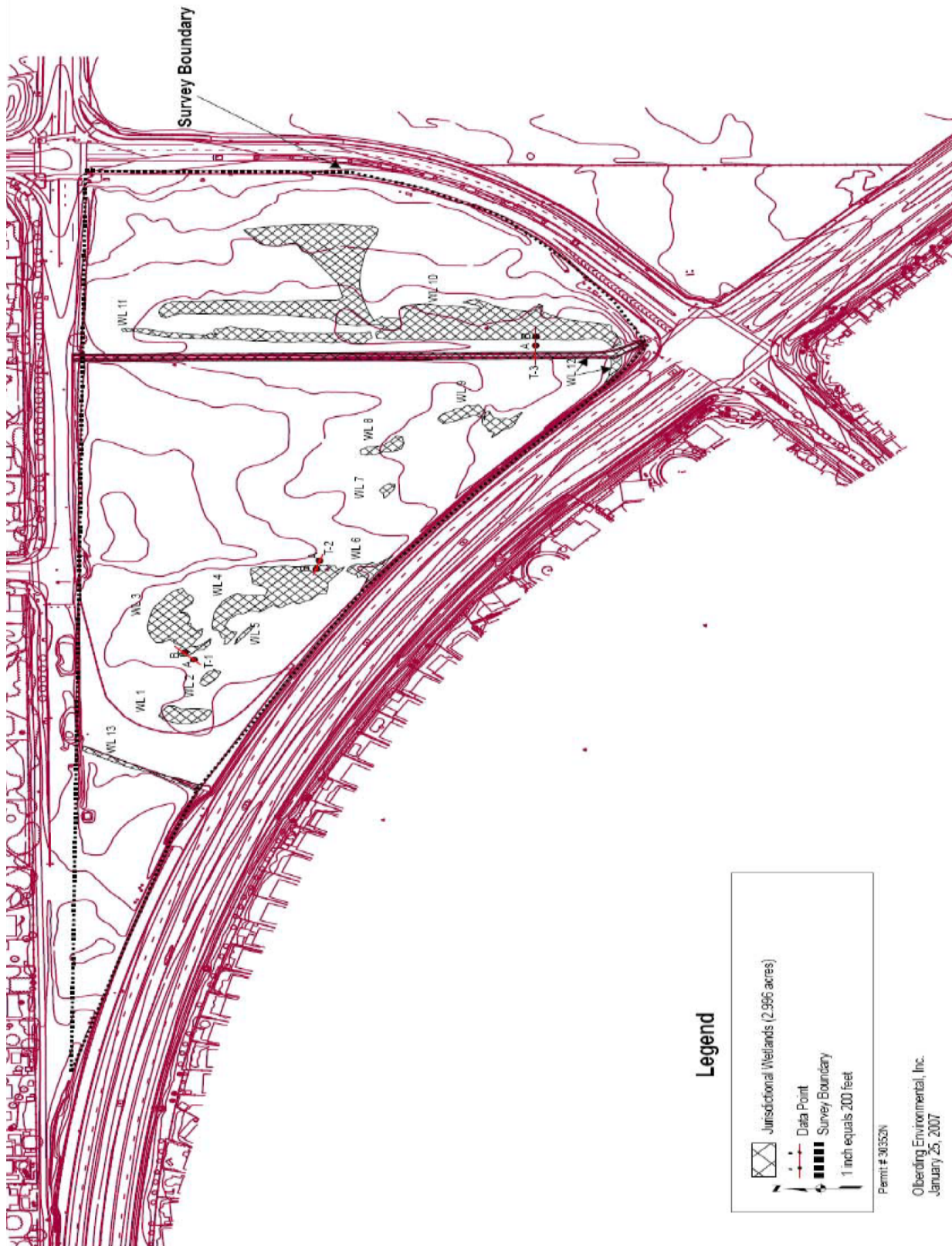


Figure 3: Wetlands Delineation Map



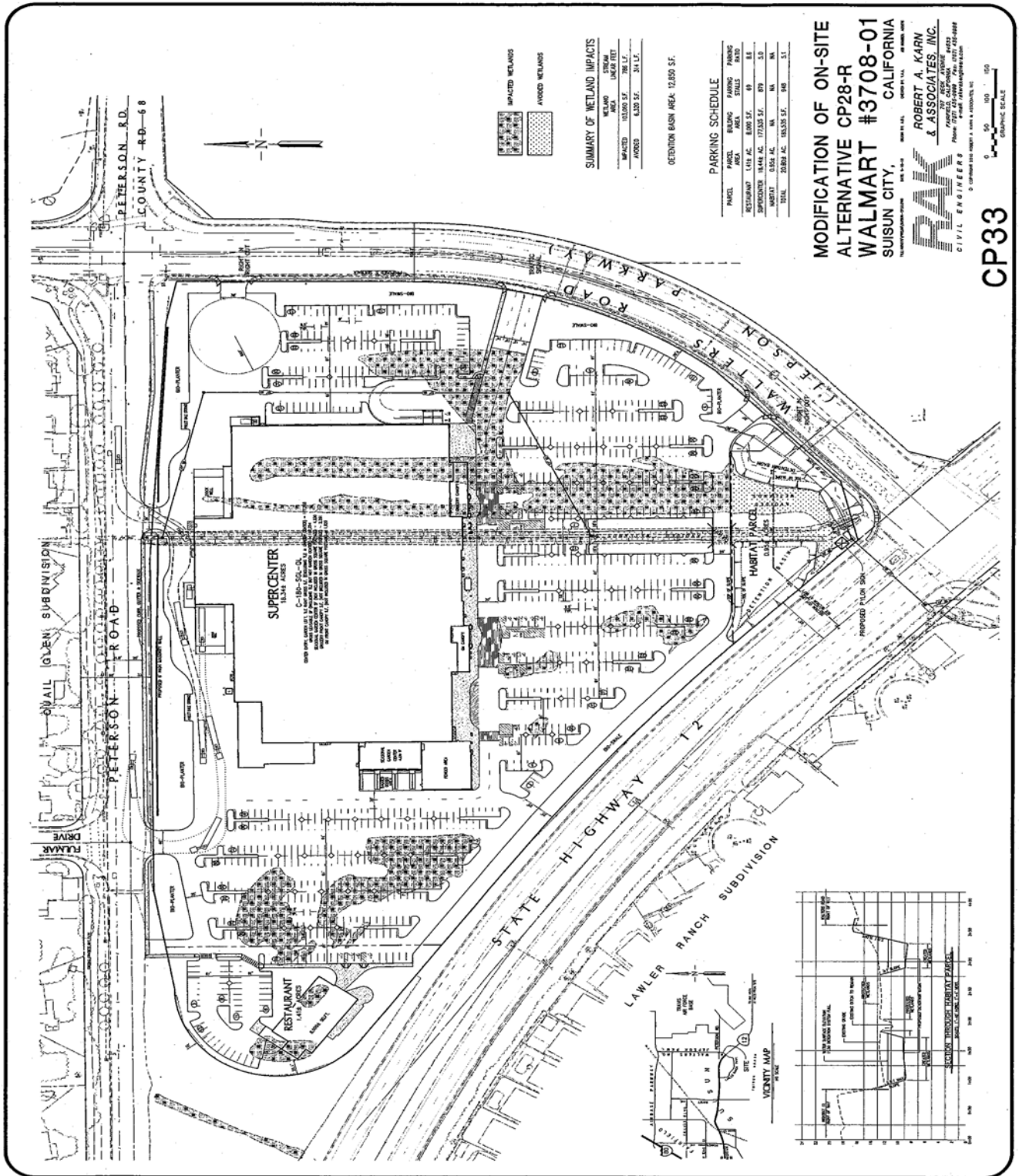


Figure 4: Proposed Project Diagram