



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT
PUBLIC NOTICE

Project: Line M Channel Box Culvert Project

Regulatory Branch
333 Market Street
San Francisco CA 94105

NUMBER: 29305S DATE: APRIL 24, 2006
RESPONSE REQUIRED BY: MAY 24, 2006

PROJECT MANAGER: Holly Costa

PHONE: 415-977-8438

Email: holly.n.costa@usace.army.mil

1. **INTRODUCTION:** The City of Union City (34009 Alvarado Niles Road, Union City, California, 94587-4497) has applied for a U.S. Army Corps of Engineers (Corps) permit for construction of a box culvert in Alameda County Flood Control District Zone 5 Line M Channel (Line M). This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. Section 1344).

2. **PROPOSED PROJECT:**

Project Site: The project will be located east of Decoto Road, directly northeast of the Union City BART Station and Union Pacific Railroad (UPRR) right of way, between two properties known as the Pacific Gas and Electric (PG&E) property (Assessor's Parcel number 087-19-004-2) and the former Pacific States Steel Corporation (PSSC) property (Assessor's Parcel number 087-17-001), in the City of Union City, Alameda County, California. Coordinates for the site are approximately 37° 35' 27"N, 122° 00' 53"W (WGS84/NAD83), USGS Newark Quad (1:24K Series).

The site is currently undeveloped. Line M is a concrete-lined trapezoidal channel running in a generally westerly direction from Mission Boulevard, crossing the project site at a sharp turn heading north to south between the two UPRR lines and crossing Alvarado Niles Boulevard, then turning west to discharge into Alameda Creek, which outlets into the San Francisco Bay. Approximately 300 linear feet of Line M upstream of the project site and 200 linear

feet downstream of the project site are already culverted for railroad crossings.

Project Description: As shown in the attached drawings, the applicant proposes to construct a reinforced concrete box culvert, enclosing Line M between the UPRR tracks (Niles Subdivision) to the east and UPRR tracks (Oakland Subdivision) to the west between the former PG&E site and the PSSC site in Union City. This would increase the developable area on the site for high-density residential and mixed-use development adjacent to the existing Union City BART station, provide the City with the opportunity to construct useable open space with a multi-use path, and eliminate a potential safety hazard of a deep, open channel in a high-density residential area. The project would also provide for storm water filtration on the top of the box culvert.

Development of the PSSC property was mandated by a court order to provide funding for the medical pensions of retired PSSC steelworkers. The Pacific States Steel Corporation operated a plant in Union City that shut down in 1978, leaving a parcel of contaminated land and a bankrupt medical plan for retired steelworkers and their dependents. The pensioners filed a class action in the United States District Court for the Northern District of California. The steelworkers won the lawsuit and the federal court took control of the PSSC property and appointed two "special masters" to manage the affairs of the PSSC. These masters were charged

specifically to remove the environmental contamination, develop the site and pay off the debts of the corporation, including the medical pension owed to the steelworkers. Unable to accomplish the court's orders, the two special masters were removed and in 1999, Gruen Gruen + Associates (GGA) was appointed as the new Court Overseer to clean up and develop the site to comply with the Judge's orders. GGA prepared and submitted to the court the "2003 Amended and Restated Reorganization Plan," which identified the strategy, "Essential Agreements," and financing to clean up the PSSC site, prepare plans for site development, and use revenue from the site in order to carry out the court's decree. An order was issued by the court on June 13, 2003 approving the plan. The "Essential Agreements" that became effective under the judge's order include:

- Land use approvals from Union City to construct 219 townhouses and 116 single family units;
- An "Owner Participation Agreement" with PSSC, Union City and the Community Redevelopment Agency, whereby the Redevelopment Agency was obligated to purchase the former PG&E site and construct 11th Street, which provides access to the former PSSC site, and with subsequent agreements, to improve the drainage for both the PSSC site and PG&E site, since the Line M Channel is currently at capacity.
- An approved "Remedial Design and Implementation Plan" from the Department of Toxic Substances Control, which was the cleanup plan for the PSSC site;
- A contract with Envirocon for the remediation of the PSSC property; and
- An agreement with KB Homes to purchase the residential portion of the property.

Under the terms of the "Owner Participation Agreement," the Community Redevelopment Agency of Union City entered into negotiations with PG&E to purchase the 30-acre former PG&E pipe yard adjacent

to the PSSC site. The PG&E property had extensive environmental contamination. Union City's purchase of the PG&E site was contingent upon PG&E's completion of an acceptable remediation program and the concurrence of both the federal judge overseeing the bankruptcy of PG&E and the California Public Utilities Commission. The former PG&E property is zoned Station Mixed Use Commercial and is within Union City's Intermodal Station District.

The proposed construction involves removing 490 linear feet of concrete-lined open channel and replacing it with double 12 foot wide by 10 foot high reinforced concrete box culverts. The culvert would consist of two sections, a 300-foot length upstream of the existing 11th Street crossing and a 190-foot length downstream of the crossing to the existing 8 foot diameter reinforced concrete pipe under the UPRR track (Oakland Subdivision).

Union City is currently working with the Corps, the California Department of Fish and Game and the Regional Water Quality Control Board to finalize mitigation ratios, cost of mitigation, and other details of a Mitigation Plan. Off-site compensatory mitigation is proposed at the Castro Valley Creek Daylighting project site. The Castro Valley Creek Daylighting project involves daylighting and restoring approximately 275 linear feet of the Castro Valley Creek that was culverted in the 1980s as part of private development on the site. In addition, 700 linear feet upstream of the culvert would be enhanced.

Purpose and Need: The basic purpose of this project is to increase the flood capacity of Line M. The proposed project would increase the channel's capacity to accommodate the 100-year flood event. The overall need for this project is to accommodate the projected increase of runoff from the development of the PG&E and PSSC properties.

Impacts: The project will result in approximately 1707 cubic yards (cy) of fill into 490 linear feet (0.31 acre) of Corps jurisdictional waters and wetlands, in addition to a previously permitted placement of 731

cy of fill into 210 linear feet (0.13 acre) of Corps jurisdictional waters.

3. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations, 40 C.F.R. Parts 1500-1508, and Corps' Regulations, 33 C.F.R. Part 230 and Part 325, Appendix B. Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

Endangered Species Act of 1973 (ESA): Section 7 of the Endangered Species Act requires formal consultation with the U.S. Fish and Wildlife Service (FWS) and/or the National Marine Fisheries Service (NMFS) if a Corps permitted project may adversely affect any Federally listed threatened or endangered species or its designated critical habitat. No threatened or endangered species or habitat are located within or near the project area.

Magnuson-Stevens Fisheries Conservation and Management Act: NMFS and several interagency fisheries councils have designated specific water bodies as Essential Fish Habitat (EFH) in accordance with the Magnuson-Stevens Fisheries Conservation and Management Act. Coordination with the NMFS in regard to EFH will be initiated concurrently with the ESA consultation, if necessary. Barriers downstream of the project site prevent anadromous fish from entering the project area.

Clean Water Act of 1972 (CWA):

a. Water Quality: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State water quality certification before a Corps permit may be issued. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California, 94612, by the close of the comment period of this Public Notice.

b. Alternatives: Evaluation of this proposed activity's impact includes application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office under the guidelines and it was determined that the proposed project is water or wetland dependent.

National Historic Preservation Act of 1966 (NHPA): Based on a review of survey data on file with various City, State and Federal agencies, no historic or archeological resources are known to occur in the project vicinity. If unrecorded resources are discovered during construction of the project, operations will be suspended until the Corps completes consultation with the State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act.

4. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

5. CONSIDERATION OF COMMENTS: The Corps of Engineers 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, 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 in the proposed activity.

6. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting Holly Costa of our office at telephone 415-977-8438 or E-mail: holly.n.costa@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

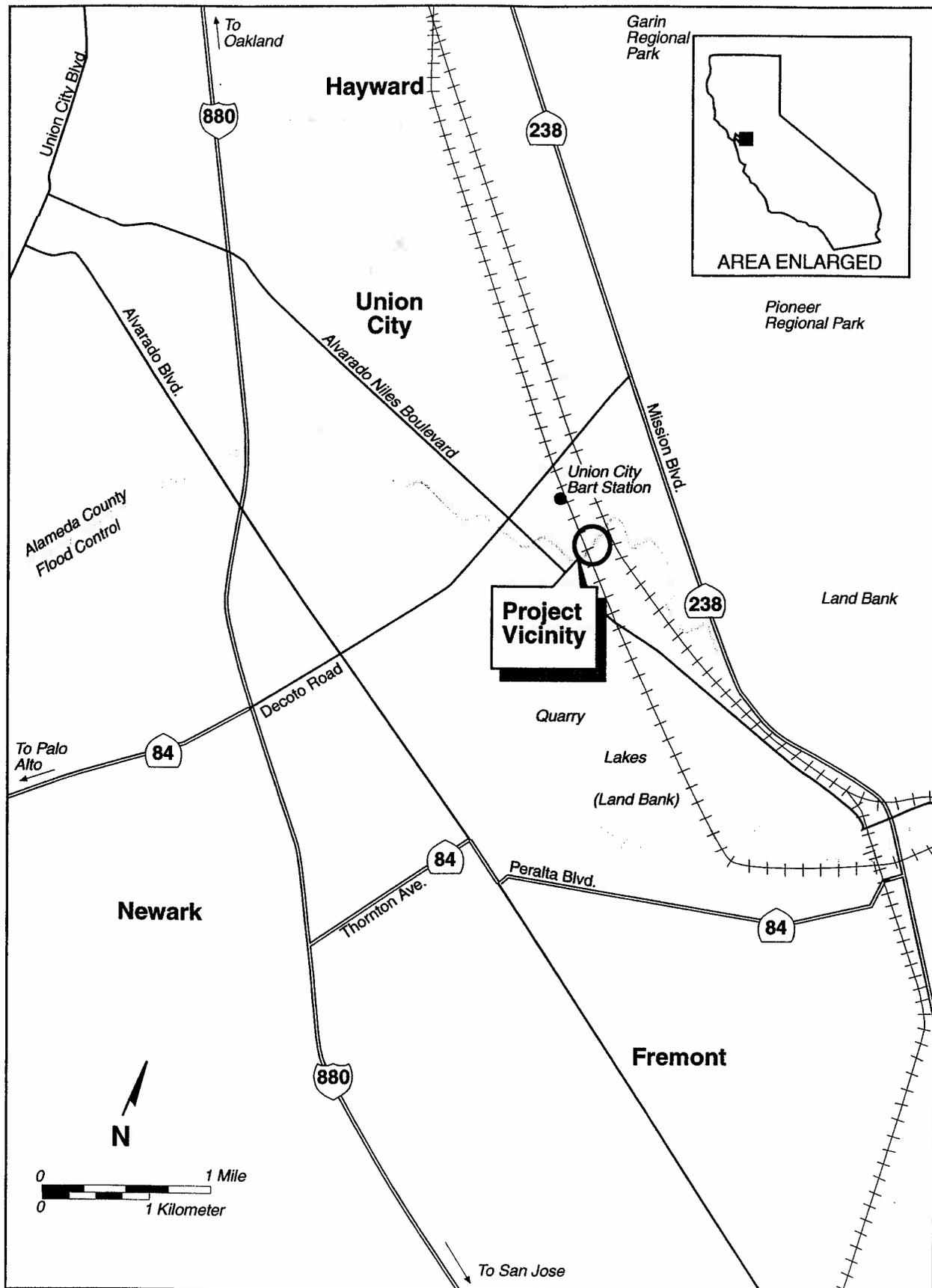


Figure 1. Project Vicinity Map

*Line M Channel Box Culvert Extension
Union City*

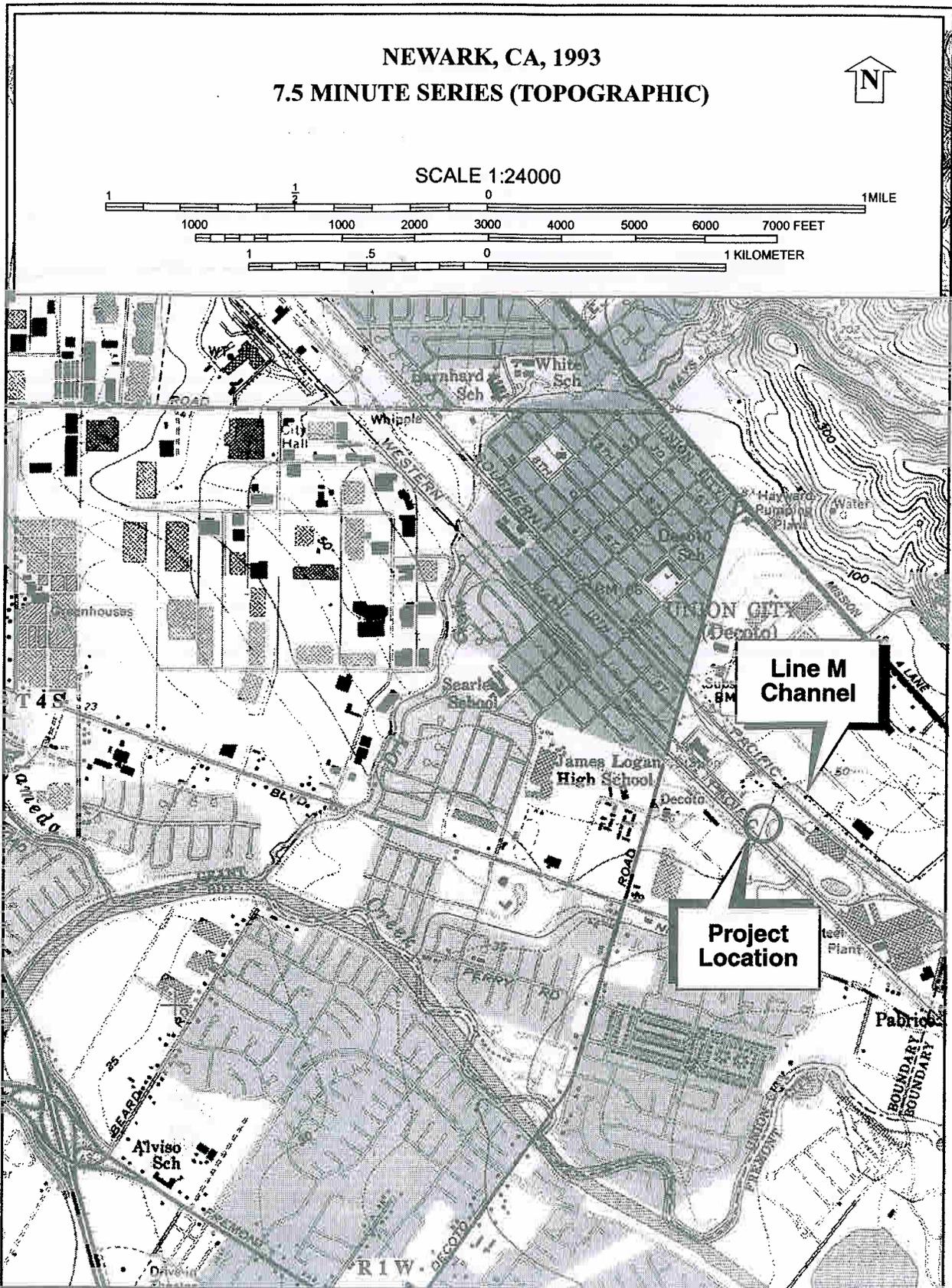


Figure 2. Project Location Map

- Line M Channel Box Culvert Extension
 Union City



CONTENT

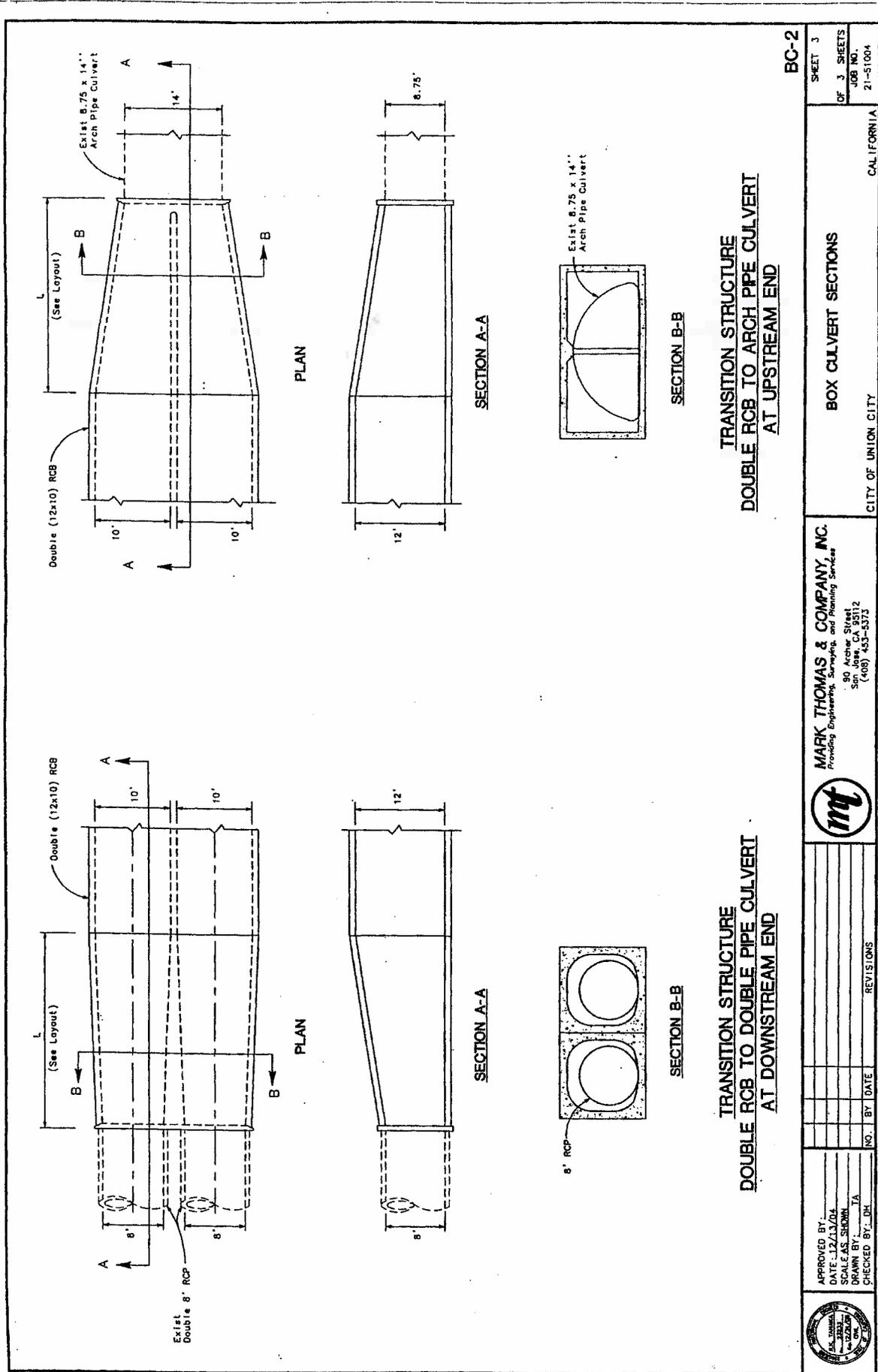
Union City Intermodal Station

Prepared for the City of Union City by KOMA Design Group in association with ARFP, Larkin Fish, Fols 2, Posa and PRCQ, D

REVISED 2008

Figure 5. Union City Box Culvert Extension Project. Union City Intermodal Station Context.

Line M Channel Box Culvert Extension
Union City



APPROVED BY: _____ DATE: 12/13/04 SCALE: AS SHOWN DRAWN BY: TA CHECKED BY: DH	NO. BY DATE REVISIONS		MARK THOMAS & COMPANY, INC. <i>Providing Engineering, Surveying, and Planning Services</i> 90 Archer Street San Jose, CA 95112 (408) 453-5372	CITY OF UNION CITY CALIFORNIA	BOX CULVERT SECTIONS	SHEET 3
						OF 3 SHEETS

Figure 7. Union City Box Culvert Extension Project. Box Culvert Sections.

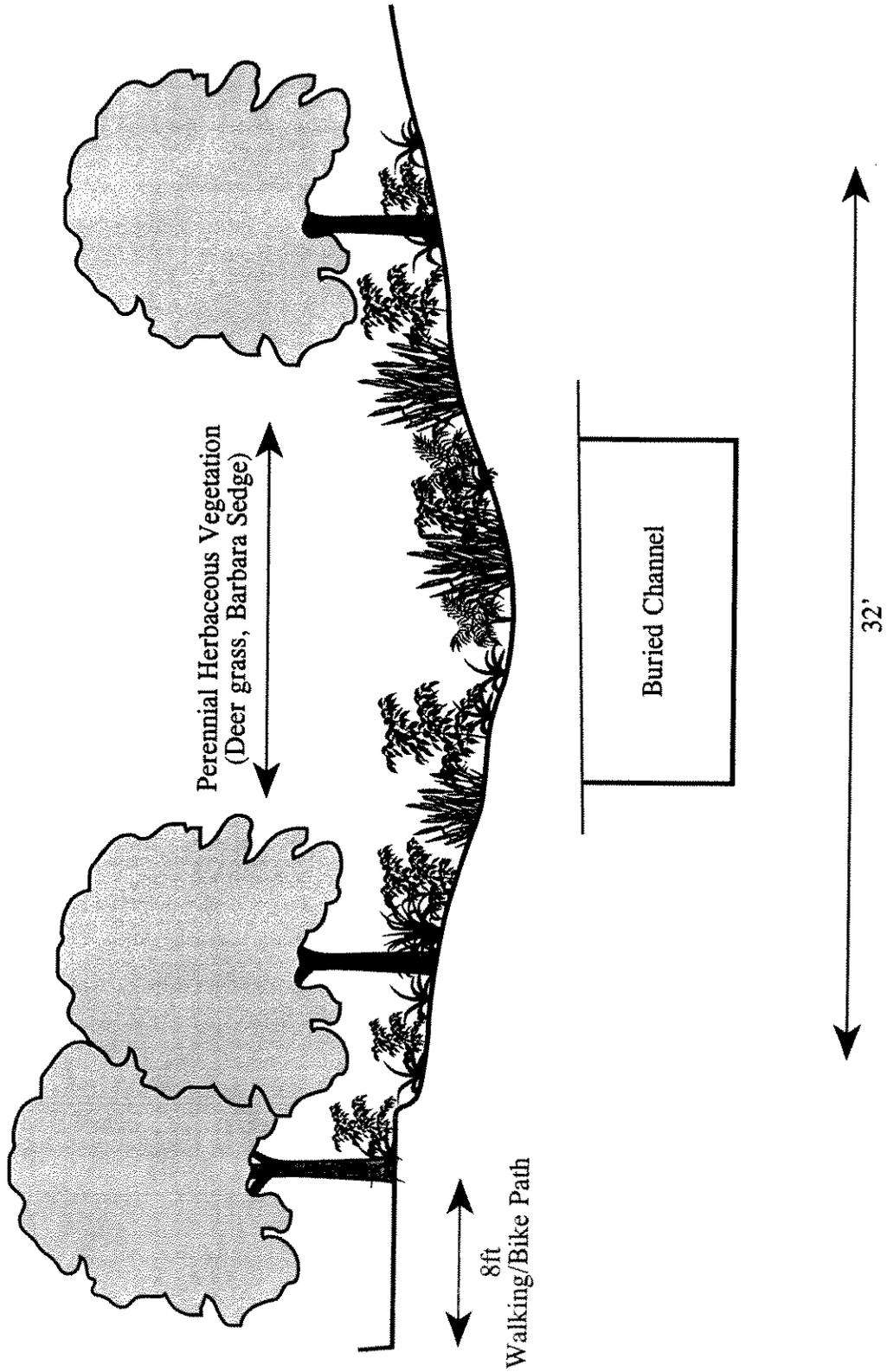


Figure 8. Conceptual Cross Section of Proposed Box Culvert, Line M Channel, Union City, Ca

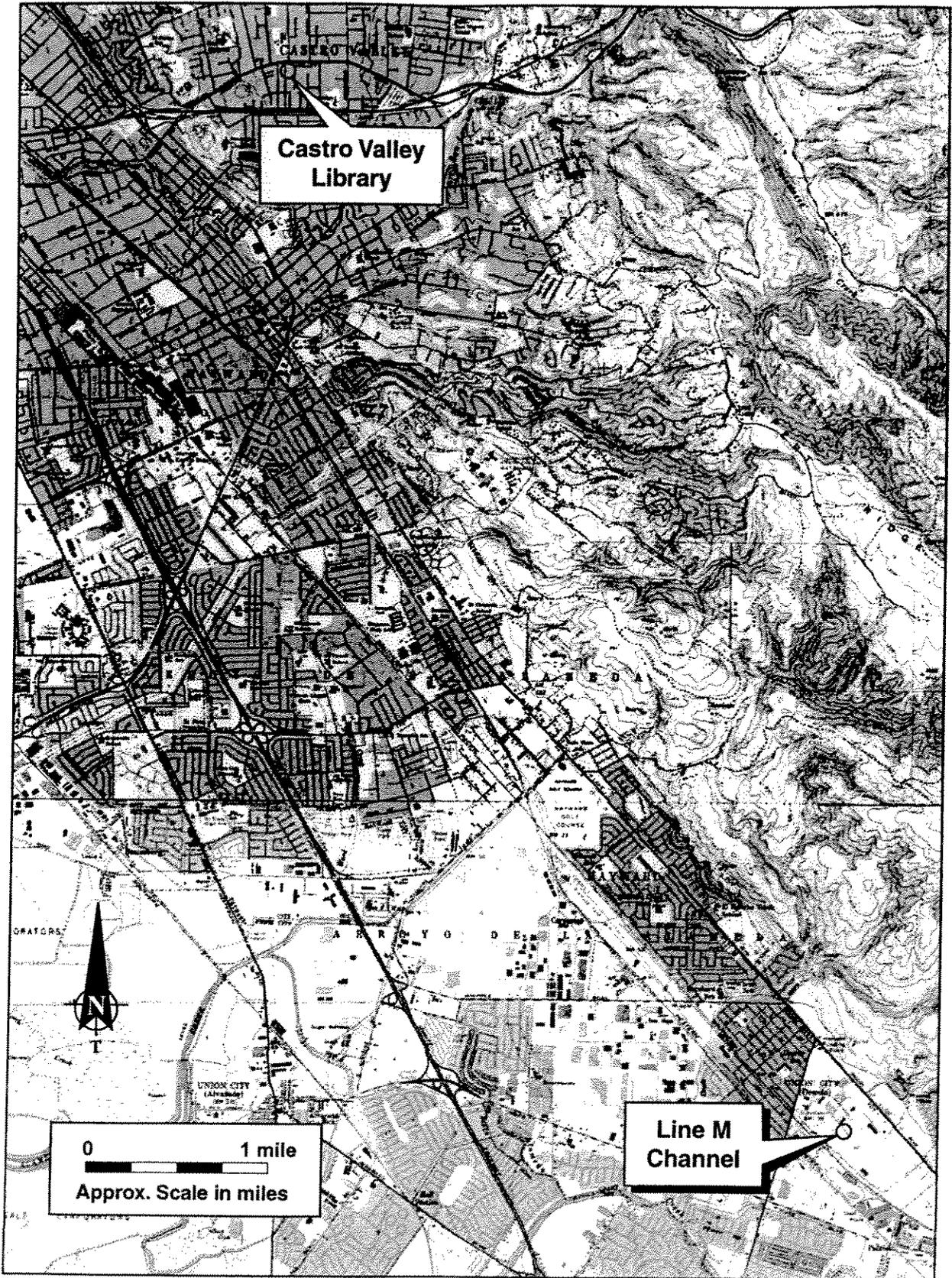
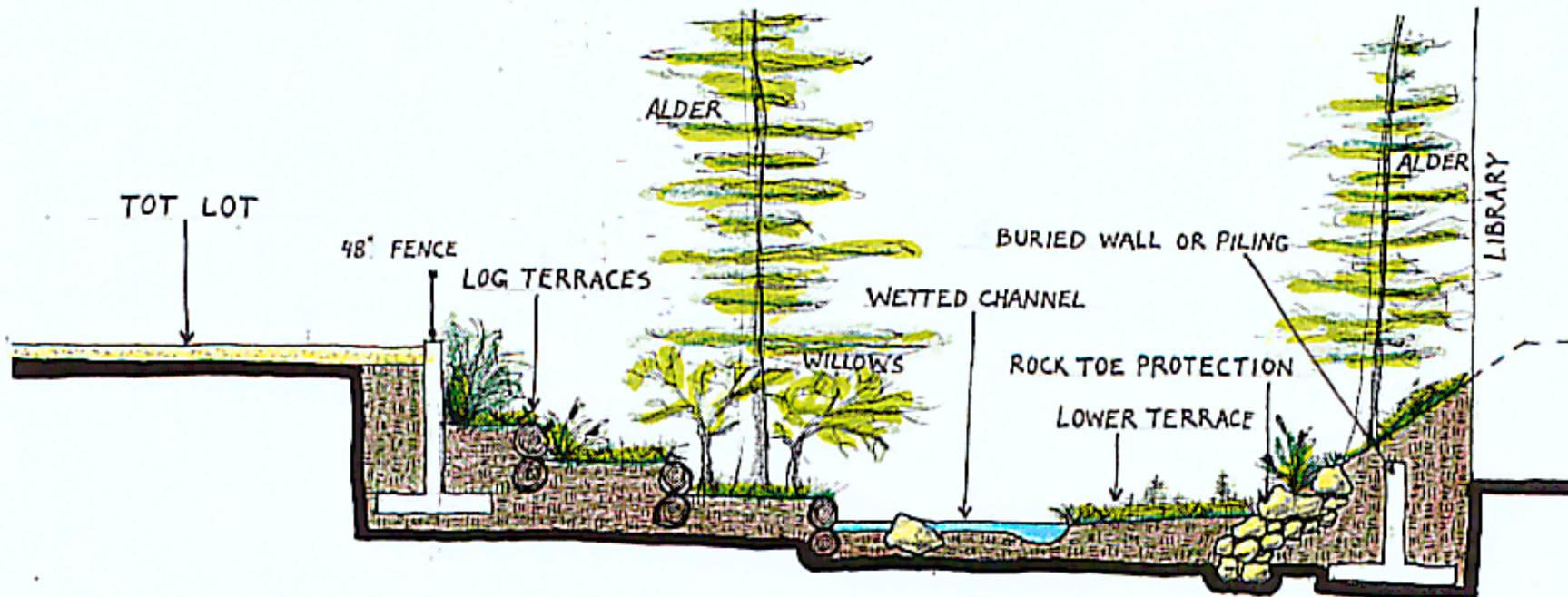
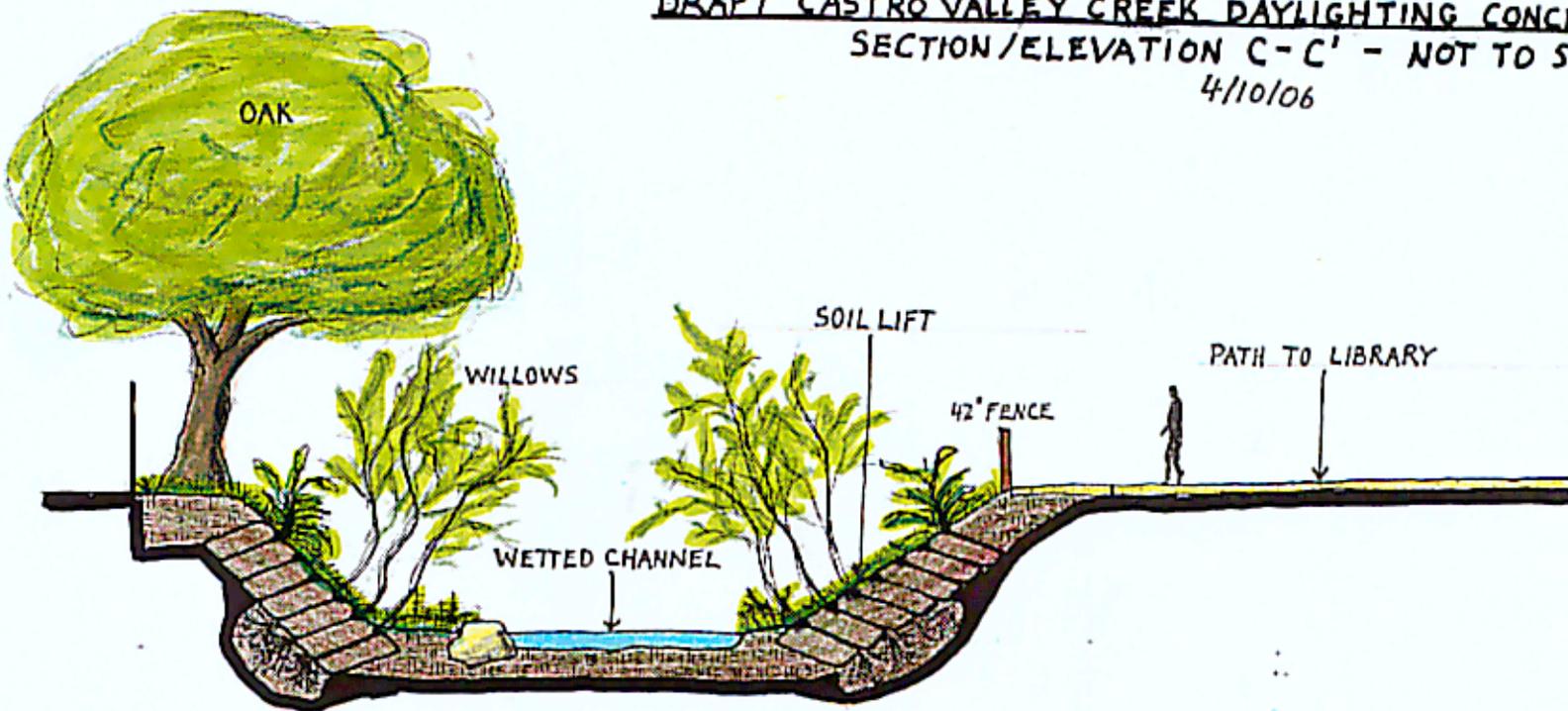


Figure 9. Location of Castro Valley Creek Daylighting Project Site



DRAFT CASTRO VALLEY CREEK DAYLIGHTING CONCEPTUAL PLAN
SECTION/ELEVATION C-C' - NOT TO SCALE
 4/10/06



DRAFT CASTRO VALLEY CREEK DAYLIGHTING CONCEPTUAL PLAN
SECTION/ELEVATION A-A' - NOT TO SCALE
 4/10/06