

**PALOMAR ENERGY PROJECT (01-AFC-24)  
CEC STAFF DATA REQUEST NUMBER 21**

**Technical Area: Biological Resources**

**Response Date: April 8, 2002**

**REQUEST:**

Please reconcile the contradictory statements presented in Section 5.4.1.3 of the AFC regarding the jurisdictional nature of wetlands within the entire ERTC industrial park site and Palomar site.

**RESPONSE:**

The first AFC statement cited in the comment that refers to “a number of areas on the ERTC industrial park site as non-jurisdictional waters of the United States” is incorrect. The second statement from the AFC that “these ephemeral channels constitute federal and State of California jurisdictional waters” is correct. In other words, the ERTC industrial park site, including Planning Area 1 (the Palomar site) does contain jurisdictional waters. See the Jurisdictional Wetland Delineation Report, prepared after submittal of the AFC, contained in Attachment 22-1 for a description of jurisdictional waters found within the ERTC site.