



SPECIAL PUBLIC NOTICE

APPLICATION FOR PERMIT

LOS ANGELES DISTRICT

Public Notice/Application No.: SPL-2011-00893-MBS

Comment Period: October 19 through November 19, 2011

Project Manager: Meris Bantilan-Smith, 760-602-4836; Meris.Bantilan-Smith@usace.army.mil

Applicant

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Contact

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Location

The proposed San Diego Municipal In-lieu Fee Program ("Program") seeks to rehabilitate and enhance ecological sustainability of watersheds from their headwaters to the Pacific Ocean. The Program facilitates a holistic, watershed approach to aquatic resource management in seven watersheds delineated in the Water Quality Control Plan For The San Diego Basin (9) prepared by the California Regional Water Quality Control Board. Those watersheds are: Otay, Peñasquitos, Pueblo San Diego, San Diego, San Dieguito, Sweetwater and Tijuana Hydrologic Units (HUs) in San Diego County, California (Figures 1 and 2).

It provides compensatory mitigation for temporary impacts associated with the maintenance of storm water facilities. Public projects eligible for the proposed Program would have only temporary impacts to aquatic resources. Projects that result in a permanent loss of wetland or non-wetland waters of the U.S. are not eligible for this Program. This Program cannot mitigate for any permanent loss of waters.

Activity

The review of a prospectus from the City of San Diego Transportation Storm Water Department (proposed Program sponsor) associated with the development of the San Diego Municipal In-lieu Fee Program for compensatory mitigation for Department of the Army (DA) permits. For more information see page 2 of this notice.

Interested parties are hereby notified that a prospectus has been received from City of San Diego (City), Transportation Storm Water Department for a proposed in-lieu fee program (ILFP) to provide compensatory mitigation for DA permits. Interested parties are invited to provide their

views on the proposed prospectus, which will become a part of the record and will be considered in the decision to authorize or not authorize the proposed in-lieu fee program. Comments should be mailed to:

U.S. ARMY CORPS OF ENGINEERS, LOS ANGELES DISTRICT
Regulatory Division, Carlsbad Field Office
ATTN: SPL-2011-00893-MBS
6010 Hidden Valley Road, Suite 105
Carlsbad, California 92011

Alternatively, comments can be sent electronically to: Meris.Bantilan-Smith@usace.army.mil

Evaluation Factors

The decision whether to authorize the Program 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 Environmental Protection Agency (EPA) Guidelines (40 C.F.R. Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The U.S. Army Corps of Engineers (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. The District Engineer (DE) will review the comments received in response to this notice and make a written initial evaluation as to the potential of the proposed ILFP to provide compensatory mitigation. 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, if applicable, 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. In addition, all comments will be distributed to the members of the Interagency Review Team (IRT) and the sponsor within 15 days of the close of the comment period. The DE and the IRT members will also have the opportunity to comment to the sponsor. After considering comments from the DE, the IRT, and the public, if the City chooses to proceed with establishment of the ILFP, the City will prepare a draft instrument and submit it to the DE.

Background

On April 10, 2008, the Corps and the EPA published the Final Rule on Compensatory Mitigation for Losses of Aquatic Resources ("Mitigation Rule"), that went into effect on June 9, 2008. The Mitigation Rule replaced most previous guidance concerning compensatory mitigation.

Consistent with the requirements of the rule at 33 CFR § 332.8(d), the City has submitted a

prospectus to the Corps for the purpose of establishing and managing an ILFP consistent with the mitigation rule. The Corps seeks comments from interested parties on the prospectus. This public notice provides a summary of the ILFP prospectus submitted by the City. The full prospectus may be obtained from the Corps by contacting Meris Bantilan-Smith at 760-602-4836 or Meris.Bantilan-Smith@usace.army.mil, or by viewing the prospectus at the following website:

http://www.spl.usace.army.mil/regulatory/2011-893_City_of_SD_ILFP_Prospectus.pdf

Need for the ILFP

There is a need for maintenance activities to maximize the effectiveness of municipal storm water systems that provide public safety and protection of property through the conveyance and treatment of storm water and urban runoff. The storm water facilities include open flood control channels (concrete and/or earthen) created specifically for the conveyance of storm water. Natural creeks and streams are also included in the storm water system and are maintained when maintenance would be necessary to restore storm water conveyance capacities to prevent property damage and protect life during periods of high storm water runoff. Maintenance activities shall be conducted in accordance with Best Management Practices (BMPs), as defined by the State Water Resources Control Board, to be implemented during facility maintenance which balance the need for flood risk management while maintaining, to the greatest degree possible, the aesthetic, biological, and ecological values of the storm water facilities.

Storm water maintenance activities temporarily affect habitat within the facilities as well as the functions and services they provide, so compensatory mitigation is required. There are few wetland Mitigation Banks and no ILFPs within the Service Area and opportunities for compensatory mitigation are severely limited. Consequently there is a critical need for an ILFP to provide compensatory mitigation for routine storm water facility maintenance by the municipalities and the County.

The Program is technically feasible because invasive plants are present, they degrade aquatic resources throughout the Service Area and there are effective methods to remove and control those destructive plants. Invasive plants do extensive damage to private property and aquatic natural resources. They contribute to flood damage, are a fire risk, and degrade native habitat. They tend to spread aggressively in a downstream direction. Many landowners have expressed a need for assistance in controlling invasive plants. Landowners have been overwhelmed by the cost and permitting issues related to removing invasive plants. The ILFP will provide weed removal and control services at no cost to landowners. Landowners who participate will offer some form of commitment to guarantee access to the site and continued support of the removal of invasives.

The Agencies involved in the Program development include the: Corps, San Diego Regional Water Quality Control Board, California Department of Fish and Game, and U.S. Environmental Protection Agency.

The Program would be available to all cities and the county that lie within the Service Area and are members of San Diego Association of Governments (SANDAG) including: Chula Vista, Coronado, Del Mar, El Cajon, Imperial Beach, La Mesa, Lemon Grove, National City, Poway, San Diego, Santee, Solana Beach, and the County of San Diego (Figures 1 and 2).

The current extent of the target invasive species throughout the Service Area is shown in Figure 3. The ILFP focuses on watershed enhancement from headwaters to the Pacific Ocean by the removal of invasive, non-native vegetation including *Arundo* (*Arundo donax*), *Tamarix* (*Tamarix ramosissima*), castor bean (*Ricinus communis*), *Eucalyptus* (*Eucalyptus* spp.), Canary Island fan palms and Mexican fan palms starting at the eastern edge or headwaters of all drainages within the seven watersheds.

This Program is intended to provide compensatory mitigation for temporary impacts that result from the maintenance of storm water facilities. The ILFP will provide watershed-wide removal of invasive vegetation and supplemental planting of native hydrophytic plants as needed. The management measures include initial treatments, re-treatments, biomass reduction, and replanting as needed.

Sites must be ecologically suitable for providing the desired aquatic resource functions. In determining the ecological suitability of the compensatory mitigation project site, the Program will consider, to the extent practicable, the following factors:

- Hydrological conditions, soil characteristics, and other physical and chemical characteristics;
- Watershed-scale features, such as aquatic habitat diversity, habitat connectivity, and other landscape scale functions;
- The size and location of the compensatory mitigation site relative to hydrologic sources (including the availability of water rights) and other ecological features;
- Compatibility with adjacent land uses and watershed management plans;
- Reasonably foreseeable effects the compensatory mitigation project will have on ecologically important aquatic or terrestrial resources; and
- Cultural sites, or habitat for federally- or state-listed threatened and endangered species.

Objectives

The aquatic resource goals of the Program are to remove invasive, non-native vegetation from the streams throughout seven San Diego watersheds (Figures 1 – 3) and thereby enhance the functions and services of those ecosystems. The Program would provide compensatory mitigation for wetlands and other aquatic resources affected by municipal maintenance of storm water facilities and related infrastructure by providing a funding source for wetland and/or riparian rehabilitation, enhancement, and preservation within the seven southern watersheds within San Diego County (Figure 1). The Program is watershed-based and seeks to restore and enhance ecological sustainability of the watersheds from their headwaters to the Pacific Ocean. It provides mitigation for temporary impacts resulting from the maintenance of storm water facilities.

The primary purpose of the Program is to serve as a mitigation option for storm water maintenance for municipalities throughout San Diego County. Funds generated through the Program would be used for wetland and/or riparian rehabilitation, enhancement, and preservation of wetlands and other aquatic resources and would replace functions and services of aquatic resources and associated habitats that have been degraded or destroyed as a result of activities conducted in compliance with or in violation of section 404 of the Clean Water Act of 1972 and/or section 10 of the River and Harbor Act of 1899.

Rehabilitation projects funded under this Program would mitigate for temporary impacts to waters of the U.S. authorized under permits for storm water maintenance activities. The Program provides a voluntary, alternative compensatory mitigation option that would result in better-designed and managed aquatic resource restoration projects. The Program facilitates a holistic,

watershed approach to aquatic resource management in San Diego County, California, by allocating money to mitigation projects with the greatest opportunity for long-term ecological benefit.

The goal of this Program is to remove invasive species from drainages throughout the seven watersheds (Figures 1 and 2), to enhance the functions and services of waters and to retard the further downstream spread and colonization of wetlands by those target species. The Program aims to, at a minimum, replace aquatic functions and services provided by the affected jurisdictional areas. The context of the restoration site (in terms of buffers, corridors, adjacent land uses, etc.) would remain the same as the pre-project condition. However, the overall functions and services of the restored drainages would be increased.

Service Area

The Service Area is based on the watersheds or HUs delineated in the *Water Quality Control Plan For The San Diego Basin (9)* prepared by the California Regional Water Quality Control Board (Figures 1 and 2).

Eligible public projects must have only temporary impacts to aquatic resources. Projects that result in a permanent loss of wetland or non-wetland waters of the U.S. are not eligible for this Program. This Program cannot mitigate for any permanent loss of waters.

Establishment and Operation of the Program

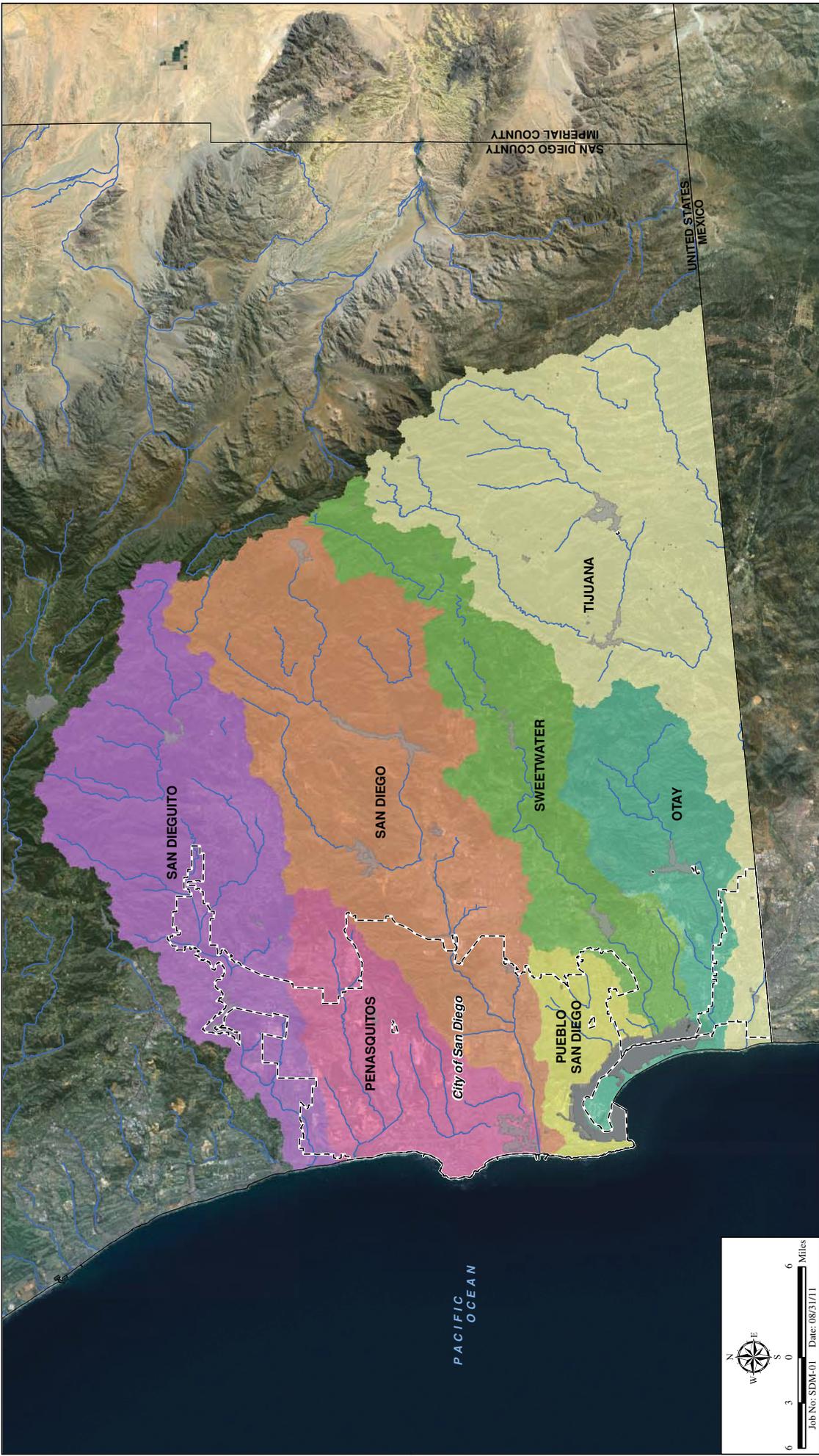
The City is taking the lead to develop the Program with the permitting agencies. The County of San Diego and all SANDAG-member cities within the Service Area may participate in the Program. The Program may also rely on Watershed Sponsors, most likely non-profit organizations, to help identify and coordinate mitigation projects. The City, SANDAG, or another entity may serve as the Program Administrator.

Qualifications of the Sponsor

The City of San Diego, Transportation Storm Water Department provides essential public works and public health services by maintaining the storm water conveyance system for the purpose of reducing flood risk. It implements Best Management Practices (BMPs) and maintenance protocols during maintenance activities to avoid and/or minimize effects to environmental resources.

The City recognizes the need for the Program to provide compensatory mitigation for the effects of maintenance of public infrastructure so it is leading the effort to establish an ILFP.

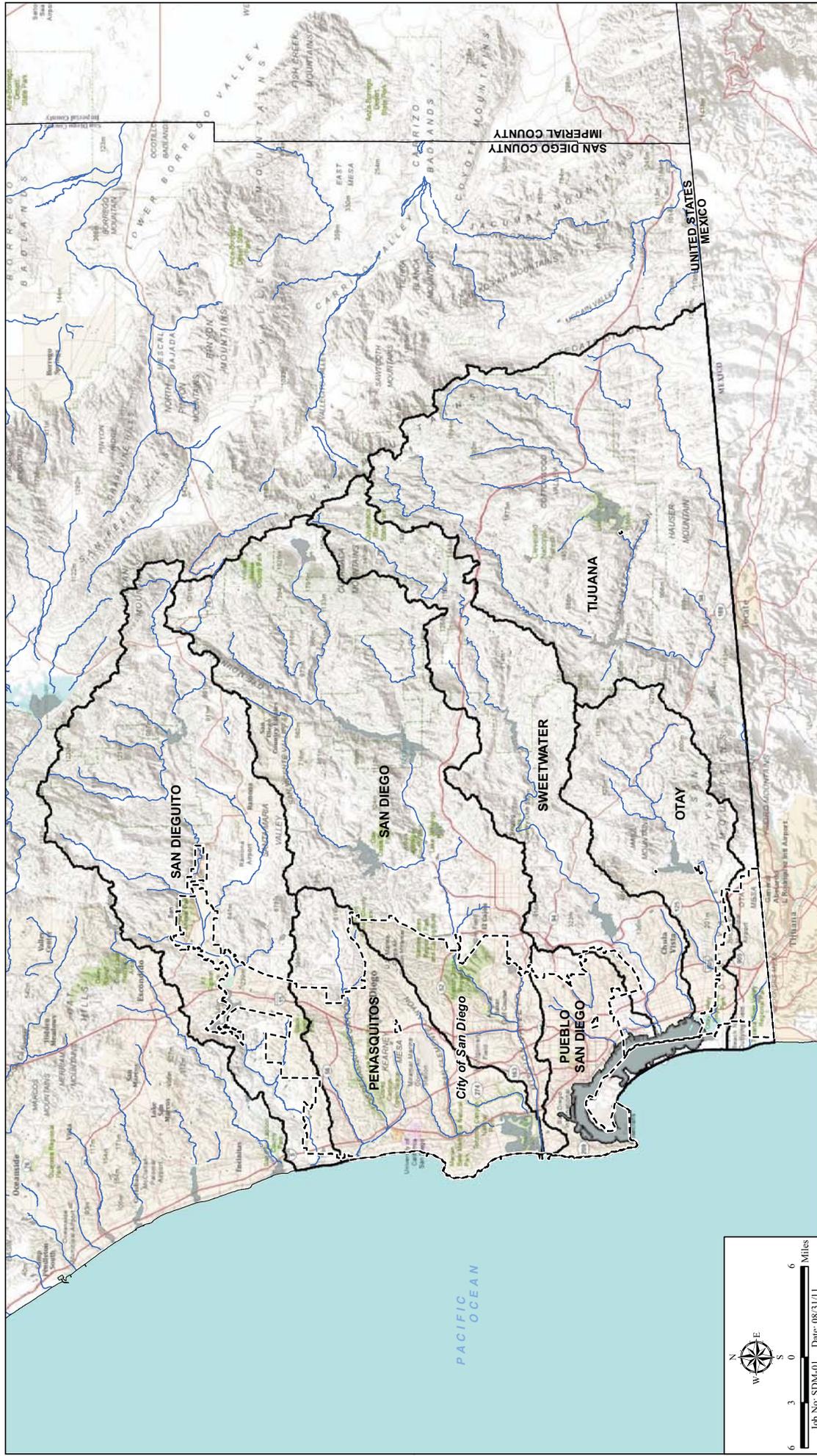
For additional information please call Meris Bantilan-Smith at 760-602-4836 or via e-mail at Meris.Bantilan-Smith@usace.army.mil.



San Diego Watersheds

SAN DIEGO MUNICIPAL ILFP

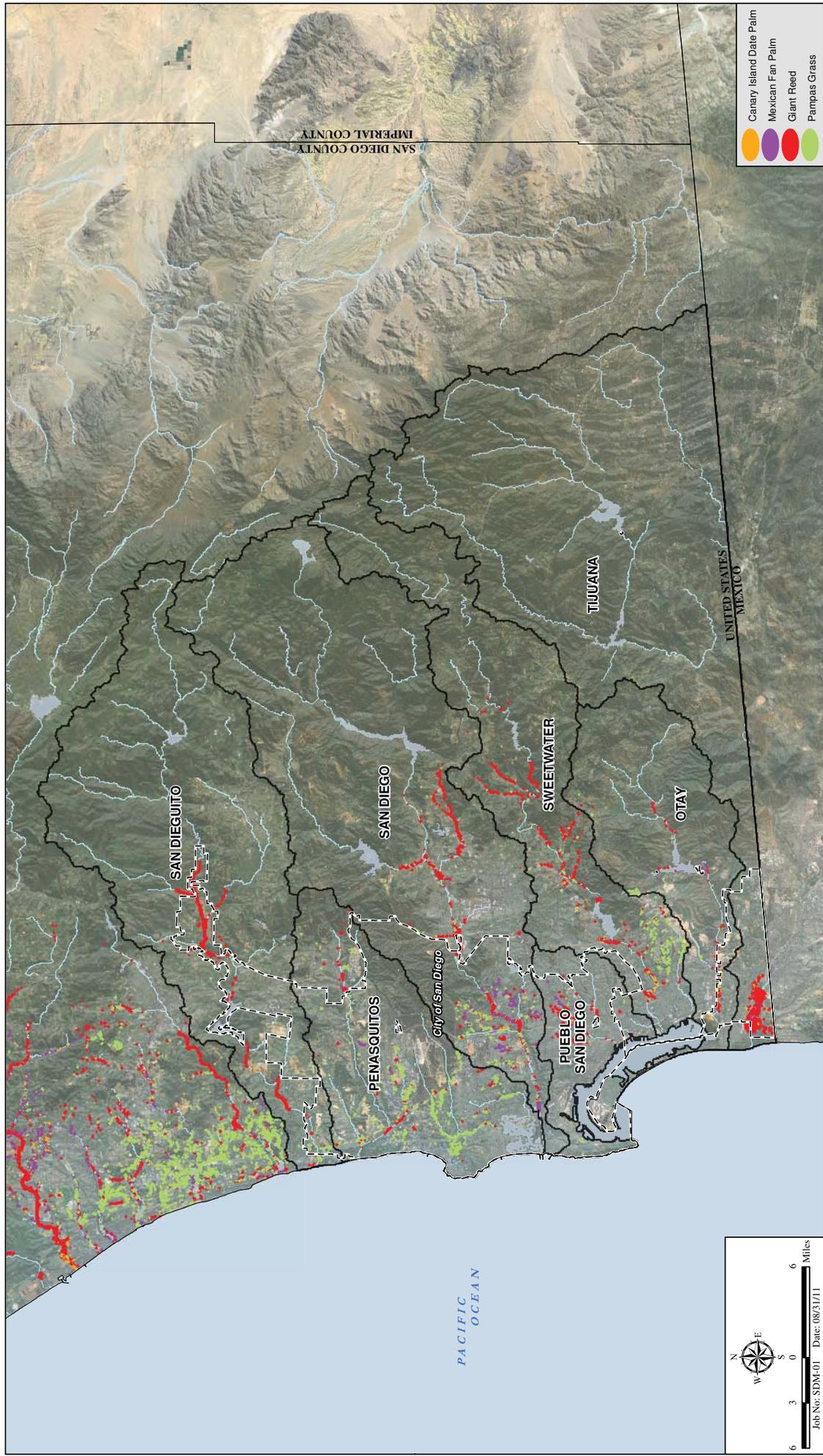
Figure 1



Service Area

SAN DIEGO MUNICIPAL ILFP

Figure 2



Invasive Species in San Diego Watersheds

SAN DIEGO MUNICIPAL ILFP

Figure 3