



PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT (CORPS)

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**APPLICATION FOR PERMIT
Tijuana River Valley Pilot Channel /
Smuggler's Gulch Maintenance Project**

Public Notice/Application No.: SPL-2009-00719-RRS

Project: City of San Diego Transportation & Storm Water Department/Tijuana River Valley Pilot and Smuggler's Gulch Channel Maintenance

Comment Period: June 29, 2017 through July 29, 2017

Project Manager(s): Robert Smith; (760) 602-4831; Robert.R.Smith@usace.army.mil

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Applicant

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Location

The project is located in the Tijuana River Valley Channel (i.e., Pilot Channel) and Smuggler's Gulch Channel, within the Tijuana River Valley Regional Park (TJRVRP) at 2310 Hollister Street in the City of San Diego, San Diego County, California (at: 32.5933772, -117.0840688).

Activity

The City has submitted an application to permanently discharge fill relating to ongoing flood control maintenance activities within 4.31 acres of Waters of the United States ("WUS") associated with the proposed Tijuana River Valley Pilot Channel and Smuggler's Gulch Channel Maintenance Project ("Project") as shown in the attached drawings. The project consists of four components: 1) dredging and excavation of the Pilot Channel (approximately 5,400 feet in length), 2) the northern and southern legs of the Smugglers Gulch Channel (2,900 feet in length), 3) two staging areas, and 4) access routes. These four activities are proposed for annual implementation every year for the duration of this ten year permit. For more information, please see information provided as part of this notice and the attached figures.

Interested parties are hereby notified 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 Corps Regulatory Division, you provide information that supports 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 of the Clean Water Act.

Comments should be mailed to:

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: Robert Smith (SPL-2009-00719-RRS)
Carlsbad Field Office
5900 La Place Court, Suite 100
Carlsbad, California 92008

Alternatively, comments can be sent electronically to: Robert.R.Smith@usace.army.mil.

The mission of the U.S. Army Corps of Engineers 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 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 of Engineers 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 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 (“RWQCB”). Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers 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. A 401 Certification was previously issued in 2009 (09C-077), for the maintenance activities conducted during 2009/10; this certification was subsequently amended to make various changes and corrections on the following dates: April 5, 2010, September 22, 2010, December 29, 2011, April 17, 2012, and February 11, 2013. The activities in the proposed Project are not significantly modified from the originally permitted activities in 2009. On April 14, 2017, the RWQCB amended the 2009 Certification to extend the term of the certification to coincide with the expiration date of the Section 404 permit. The applicant now seeks a new 10 year Section 401 water quality certification from the RWQCB.

Coastal Zone Management Act (CZMA)- The applicant has certified that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management Program. The District Engineer hereby requests the California Coastal

Commission's ("CCC") concurrence or non-concurrence. For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. The City is a Coastal Commission-approved agency for issuing a Coastal Development Permit ("CDP"). The City recently submitted a CDP Amendment application (CDP #A-6-NOC-11-086; submitted on May 8, 2017). The current CDP A-6-NOC-11-086 was then extended on June 22, 2017 and now expires on November 15, 2019. The Corps is currently coordinating with the CCC Federal Consistency office and local CCC office to allow for future conditioning of this ten year permit for the duration of the Corps ten year permit from 2019 to 2027 to meet all CZMA requirements.

Essential Fish Habitat- No Essential Fish Habitat (EFH), as defined by the Magnuson-Stevens Fishery Conservation and Management Act, occurs within the project area and no EFH is affected by the proposed project.

Cultural Resources- Six sites potentially eligible for listing in the National List of Historic Places are known to exist within the vicinity of the Project. The project shall not impact any of the known cultural sites. The geographic footprint for the project area has not changed, and no change is proposed to the impact area or maintenance methods. The current Area of Potential Effect (APE) has been previously disturbed by prior flood control and shot hole borer control activities and the Corps may deem that due to prior disturbance that there is no potential to cause an effect to any cultural resource. Therefore no consultation with the tribes or the State Historic Preservation Officer may be necessary due to the authorized/permitted activities in 2009 (SPL-2009-00719), in 2012, and in this permit action. The Project proposed in this public notice shall be compliant with the special conditions listed in the previous permits.

Endangered Species- Preliminary determinations indicate that the proposed Project activities may affect, but are not likely to adversely affect, the federally-listed endangered Ridgeway's rail (*Rallus obsoletus*) [formerly the light-footed clapper rail (*Rallus longirostris levipes*)], least Bell's vireo (*Vireo bellii pusillus*), and southwestern willow flycatcher (*Empidonax traillii extimus*). Formal consultation under Section 7 of the Endangered Species Act (ESA) with the U.S. Fish and Wildlife Service ("FWS") was completed on April 24, 2012, at which time FWS issued Biological Opinion ("BO") FWS-SDG-08B0600-10F0001. This BO stipulates specific conservation measures to be implemented in order to avoid, minimize, and offset potential adverse effects on least Bell's vireo and its designated critical habitat; FWS did not address the clapper rail in this BO secondary to a FWS not likely to adversely affect determination for this particular species. Historically, the FWS issued BOs and amendments in 1993 (1-6-93-F-35, amended on October 22, 1993) and 1998 (1-6-98-F-16, amended on January 27, 1998) for similar work in the proposed project areas in those years. Informal consultation with FWS was completed in 2003 resulting in conservation measure implementation to avoid adverse effects to listed species and critical habitat. In addition, the FWS issued a set of general conditions as part of the 2009 authorized/permitted activities (FWS-SDG-09B0600-10I0001). The project is just upstream of the FWS Tijuana National Wildlife Refuge (FWS NWR). The Corps may adopt the current BO and all subsequent amendments in order to ensure compliance with the ESA.

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

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 into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). The basic project purpose for the proposed Project is flood control channel maintenance. The Project is water dependent, because “flood control channel maintenance” cannot be done in uplands (i.e., not waters of the U.S., including wetlands).

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 is to reduce flooding risks to life and property in the Tijuana River Valley. The flooding risk is present currently and so part of the purpose is to alleviate that risk prior to the next rainy season as well as maintain the flood capacity of the City-maintained channels (i.e., Pilot Channel and Smuggler's Gulch) for an additional ten more years.

Additional Project Information

Specifically, the proposed Project will include four interrelated components as described below that will be implemented as needed according to the descriptions and restrictions described below for a period of ten years.

1. Pilot Channel. The Pilot Channel was created in 1993 as a permanent low flow channel by the City to divert water from the Northern Channel that was scoured and deepened during flooding in 1992-93. The proposed Project will include a combination of mechanized dry excavation and bucket fill and dredging of the Pilot Channel for a total 5,400 feet length. The channel is currently composed of loose sand clogged with trash, debris, tires, and vegetation. Depending on the results of City inspections, dredging or clearing may occur within all or some of the channel segments. Grading to re-construct the channel bank with compacted soil material may also occur as needed. No temporary or permanent structures will be built in the channel; the re-constructed channel bank will consist of compacted soil material. An estimated 15,000 cubic yards of material are proposed to be removed in the upcoming maintenance event and annually thereafter and disposed in upland areas.

The Pilot Channel extends in an east to west direction, beginning 100 feet east of the Hollister Street Bridge and ending 5,300 feet west of the bridge, prior to the property line between the City ownership and FWS NWR ownership, for a total of 5,400 foot length. The Project will include clearing and/or dredging within a 23 foot wide corridor centered on the channel (approximately 5 feet deep with a 15 foot wide channel bottom). Additional grading is expected to occur within an approximately 40 foot by 200 foot area of the Pilot Channel immediately west of the Hollister Street bridge to re-construct the channel bank in that location and prevent the backflow of storm water into the Northern Channel. Three equipment turnaround areas will be utilized; each will be approximately 30 feet wide along the channel by 25 feet deep. Two of the turnarounds were cleared in 2009-2010, with the additional third turnaround being cleared within an area of non-native vegetation adjacent to the Pilot Channel between

the confluence and Hollister Street at that time. The Pilot Channel has been maintained to as-built conditions to the maximum extent practicable during the 2013-2017 maintenance periods, but portions of the channel, particularly near Hollister Street Bridge, have not been recently excavated due to perennially saturated conditions.

2. Smuggler's Gulch. The portions of Smuggler's Gulch channel maintained by the City includes two sections (Northern and Southern Legs) totaling approximately 2,900 linear feet running northerly from Monument Road to the confluence with the Pilot Channel. The City also proposes cleaning the existing culverts under Monument Road and at the Disney Crossing. Dredging will be limited to a footprint approximately 20 feet wide for both the Northern and Southern Legs and will consist of dry excavation. This component was constructed many years ago and has been maintained periodically since that time, with clearing of the entire component occurring in 2013-2014, again in 2015-2016, and partial clearing occurring in 2016-2017.

3. Staging Areas. The City proposes to use two material and equipment staging areas (Staging Area B and Staging Area D); neither staging area would result in impacts to jurisdictional waters of the U.S. Earth-moving equipment will be stored on site during the Project duration. Fresh fill and dredge spoils will be stored and transferred to and from established BMP-fortified staging areas. Manual and mechanical separation may also occur to sort sediment, vegetation, trash, and tires. Staging Area B is east of Smuggler's Gulch and Staging Area D is located east adjacent to the South Bay International Wastewater Treatment Plant. The locations of each proposed staging area are described below.

Staging Area B is east of and adjacent to Smuggler's Gulch. There is a permanent earthen berm between this area and Smuggler's Gulch protecting it from flooding. Permanent gated access is from Monument Road. This area was initially used in 2001 and has been used since during each maintenance event by the City. No excavation or grading would be necessary in this area.

Staging Area D is located adjacent to the South Bay International Wastewater Treatment Plant on previously disturbed slopes and pads along Monument Road. This site is not near enough to the channel maintenance areas to function as the single staging area for the Project but would be used in conjunction with Staging Area B for staging equipment and spoil materials.

4. Access Routes. All construction access will be via existing paved roads, through staging areas, excavation areas, and turn-arounds with the exception of three off-road routes. One off-road access route runs east from Hollister Road, on the south side of the Hollister Street Bridge, providing access to the southern bank of the Pilot Channel, east of Hollister Street. Another route runs parallel to Smuggler's Gulch. The third leads south from an unnamed road that runs in the east-west direction between Hollister Street and Saturn Boulevard. All routes are pre-existing hard-packed dirt roads and are used as equestrian trails. The access route that runs from the existing trail east of Hollister Street to the Pilot Channel may require grading in order to be used by equipment. The route along Smuggler's Gulch includes an existing access ramp constructed in accordance with the 2009 authorized/permitted maintenance activities that will be maintained through the duration of the permit; this area is a 15 feet wide cut into the east bank of Smuggler's Gulch and extending approximately 75 feet long into the channel, north of the Disney Crossing.

Table 1
Impacts to CORPS-/RWQCB-Jurisdictional Vegetation Communities and Land Cover Types by Project Component

Vegetation Community	Impacts		
	*Pilot Channel	**Smuggler's Gulch	Total Acres
Open Channel	0.02	1.20	1.22
Open Water	2.92	0.13	3.05
Southern Riparian Forest	0.03	0	0.03
Mule Fat Scrub	0.01	0	0.01
Total	2.98	1.33	4.31

* Pilot Channel impacts include the channel clearing/excavation and maintenance of the three turnarounds and access ramp east of Hollister Street

** Smuggler's Gulch impacts include the channel clearing/excavation and maintenance of the access ramp

All impact areas have been previously impacted by permitted construction and maintenance activities and all required mitigation has been successfully implemented for past permits. The vegetation mapping above represents site conditions on February 27, 2015. The majority of the impacts proposed are to open channel/open water as these are areas where maintenance has occurred on an ongoing/as-needed basis since 2009. For the proposed Project the Pilot Channel, the access road east of Hollister Street, and the three turnarounds will impact a total of 2.98 acres, which is entirely in Corps jurisdiction and would mostly impact existing un-vegetated open channel/open water. Smuggler's Gulch will impact 1.33 acres, which is also entirely in Corps jurisdiction and would only impact existing un-vegetated open channel/open water. No jurisdictional impacts will occur in any of the staging areas. The total proposed impacts to Corps jurisdictional waters of the U.S. including wetlands are 4.31 acres.

Impacts within Smuggler's Gulch and the Pilot Channel are limited to equipment operation to clear vegetation and remove sediment to re-establish the channel bottom elevation.

5. Control of Shot Hole Borer Infestation: In 2015, the presence of polyphagous shot-hole borer (*Euwallacea* sp.; "PSHB") was documented within the Tijuana River Valley. The most extensive infestation appears to be between where the Tijuana River crosses the Mexico border into the United States to downstream of the Hollister Street bridge, where the majority of native riparian trees have died resulting in and an abundance of snags and downed deadwood. This area has become predominantly populated by dense stands of invasive species, including giant reed and castor bean. Additional measures have been instituted in accordance with current FWS guidance in order to prevent the spread of PSHB and promote long-term success of the mitigation sites. These measures include solarization of all cut biomass removed from the channel followed by mulching and subsequent off-site material disposal.

Mitigation

Mitigation for direct impacts to jurisdictional waters and wetlands has been ongoing for many years. Mitigation for emergency construction of the Pilot Channel (authorized under separate Corps permit #93-996-EW) was implemented and completed in 2001 through habitat creation of approximately nine acres of riparian habitat supporting least Bell's vireo; least Bell's vireo were documented on-site in 2013, 2015, and 2016 demonstrating that the site continues to meet agency-approved success criteria.

Based on RWQCB conditions of the 2009 maintenance permit, non-native exotic species were removed and maintained for a period of one year concluding in November 2010 within the project footprint. The current Corps permit and the current 401 water quality certification requires enhancement via implementation of an exotic invasive species control program targeting, in particular, giant reed (*Arundo donax*), castor bean (*Ricinus communis*), and salt cedar (*Tamarix ramosissima*). As mitigation for the current maintenance effort, a 4.31 acre "in-channel" mitigation area has been established within the maintenance site which has been maintained free of non-native exotic invasive species. An additional 4.74 acres, to include a 4.31 acre "out-of-channel" mitigation area and 0.43 acre contingency area, have also been established outside the maintenance site. The total mitigation currently required is 8.62 acres of exotic invasive species control. The contingency area is anticipated to receive ongoing exotic invasive species control throughout the required monitoring period to ensure minimum acreage requirements are met.

For additional information please call Robert Smith of my staff at (760) 602-4831 or via e-mail at Robert.R.Smith@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



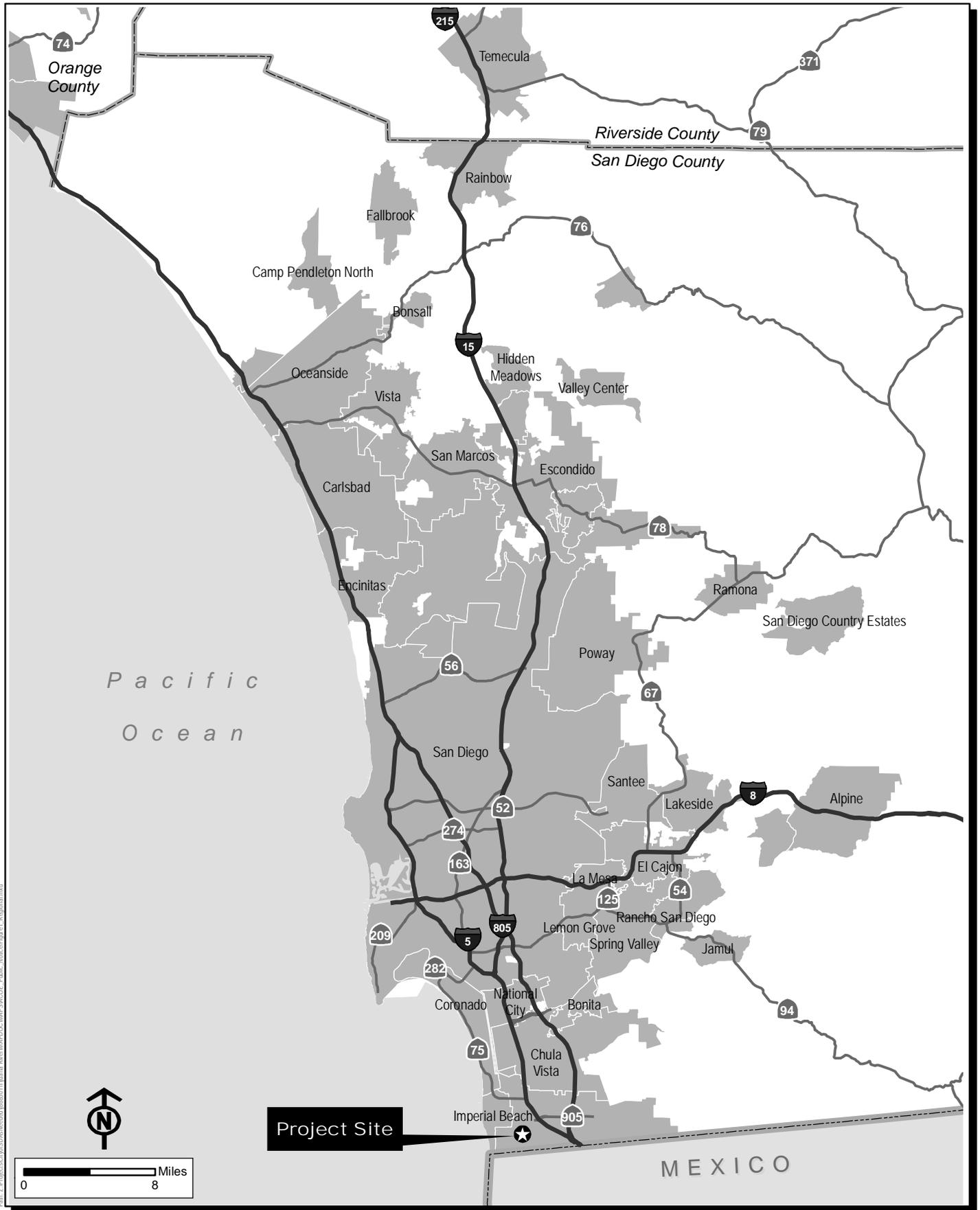
Regulatory Program Goals:

- 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.

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS

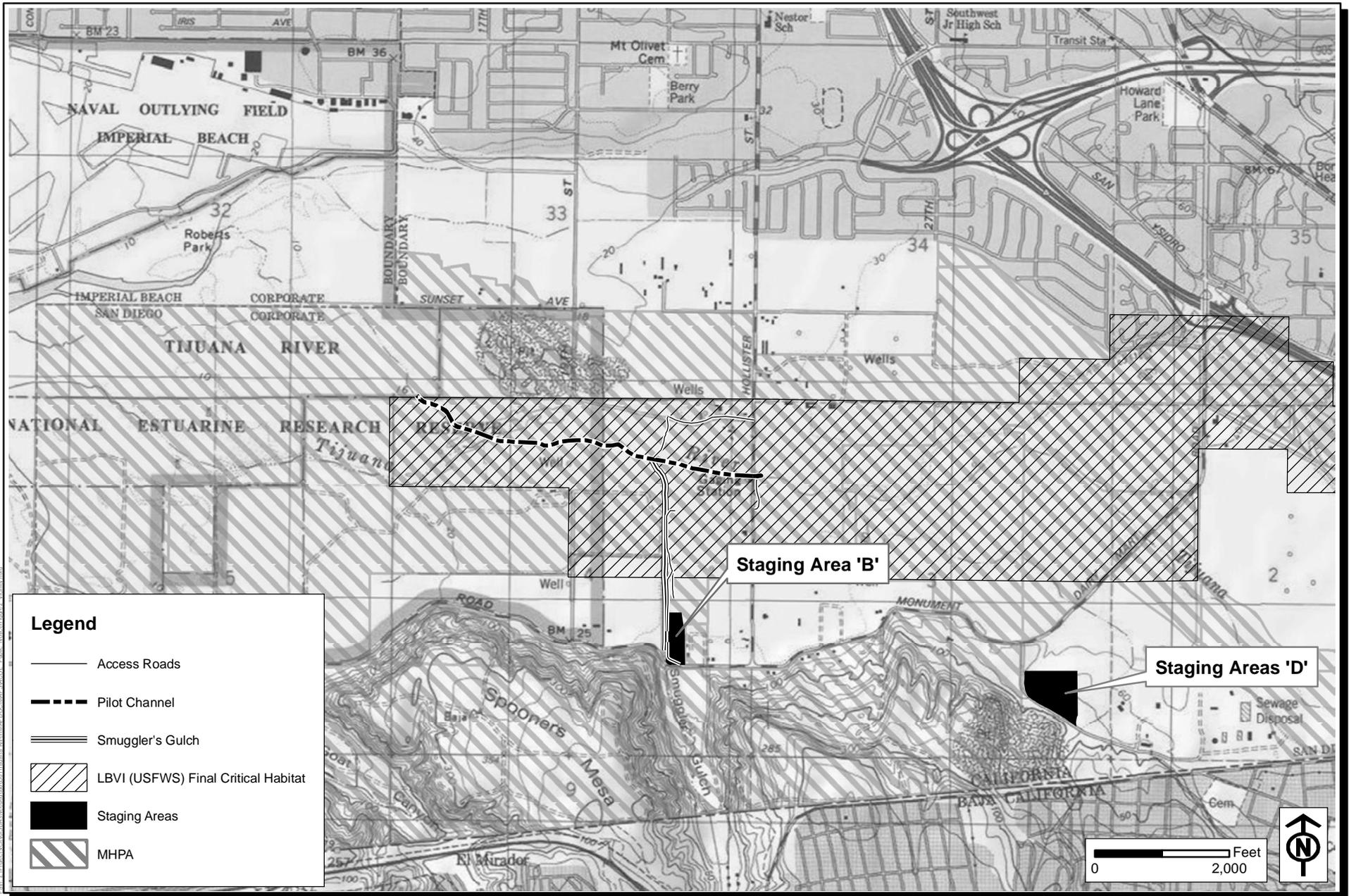
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Tijuana River Valley Channel Maintenance Project
Regional Map

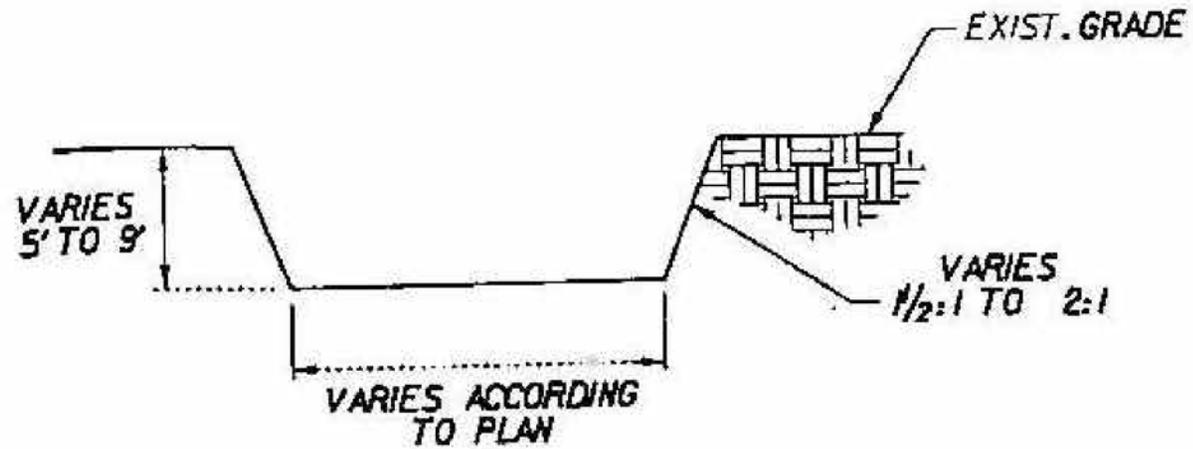
FIGURE
1



BASE MAP SOURCE: USGS 7.5 Minute Series, Imperial Beach Quadrangle

Tijuana River Valley Channel Maintenance Project
Vicinity Map

FIGURE
2



PILOT CHANNEL & SMUGGLER'S GULCH
TYPICAL CHANNEL CROSS SECTION