



PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT**

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**APPLICATION FOR PERMIT
San Diego Creek Reach I Operations and Maintenance Project**

Public Notice/Application Number: SPL-2016-00160-ERS

Project: San Diego Creek Reach I Routine Operations and Maintenance Project

Comment Period: November 29, 2016 through December 29, 2016

Project Manager: Eric Sweeney; 213-452-3002; Eric.R.Sweeney@usace.army.mil

Applicant

James Volz
Orange County Public Works (OCPW)
300 North Flower Street
Santa Ana, California 92703
714-647-3904

Location

The proposed project is located in San Diego Creek within the city of Irvine, Orange County, California at approximately 33.651504, -117.852138. The proposed project would be located between Jamboree Road and Campus Drive. The project location and surrounding vicinity is shown in Exhibits 1-3.

Activity

The proposed project would remove up to 93,698 cubic yards of sediment and vegetation within sediment retention Basin 1 of San Diego Creek Reach 1 (between Jamboree Road and Campus Drive) to restore the capacity of Basin 1 to less than 50% capacity. In addition, the proposed work would remove approximately 50,000 cubic yards of sediment and vegetation from all non-basin channel sections within San Diego Creek Reach 1 to restore flood capacity. For more information, please see page 5 of this Public Notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawings. We invite you to review today's Public Notice and provide views on the proposed work. By providing substantive, site-specific comments to the U.S. Army Corps of Engineers (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
U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division, Attn: Eric Sweeney
915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017

Alternatively, comments can be sent electronically to: Eric.R.Sweeney@usace.army.mil.

The mission of the Corps 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 waters 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 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 U.S. Environmental Protection Agency (USEPA) Guidelines (40 C.F.R. part 230) as required by section 404(b)(1) of the Clean Water Act.

The 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. Any comments received will be considered by the Corps 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 (EIS) 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 that an EIS is not required for the proposed work.

Water Quality: Under section 401 of the Clean Water Act, the applicant is required to obtain a Water Quality Certification from the Santa Ana Regional Water Quality Control Board (RWQCB). Section 401 requires that any applicant for an individual section 404 permit provide proof of water quality certification to the Corps prior to permit issuance. The applicant has submitted an application with the Santa Ana RWQCB for a section 401 Water Quality Certification.

Coastal Zone Management: The proposed project is located within the California coastal zone. The applicant is working with the California Coastal Commission to obtain a Coastal Development Permit that would verify the project's consistency with the State's Coastal Zone Management Plan.

Essential Fish Habitat (EFH): The Magnuson-Stevens Fisheries Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 104-267), requires Federal agencies to consult with the National Marine Fisheries Service (NMFS) on activities that may adversely affect EFH. The objective of the EFH assessment is to describe potential adverse effects to designated EFH for federally managed fisheries species within the proposed action area. The proposed project would occur within EFH for various federally managed fish species within the Coastal Pelagic Species and Pacific Coast Groundfish Fishery Management Plans.

Eelgrass and Caulerpa surveys of the project site were conducted by MBC Applied Environmental Sciences on June 15, 2016. Depth ranged from zero to three feet within the survey area, with the substrate consisting of clays, silts, and unconsolidated sediments. Dominant fauna included mussels in the lower section, near Jamboree Road. The survey did not find any eelgrass or Caulerpa at the project site.

The Corps has determined the proposed project may adversely affect EFH. The Corps will initiate abbreviated consultation with NMFS after issuance of this Public Notice.

Cultural Resources: No sites listed or eligible for listing on the National Register of Historic Places would be affected by the proposed project. In addition, the proposed project would not result in disturbance to any previously undisturbed soils. Because the project would remove sediment within San Diego Creek to baseline contours, there would be no potential for impacts to undiscovered cultural resources.

Application of section 106 Criteria for Identification and Evaluation of Historic Properties (36 CFR 800.4[d]) indicates a finding of "no potential to cause effects" on historic properties for the undertaking on resources listed on or eligible for listing on the National Register of Historic Places pursuant to section 106 of the National Historic Preservation Act.

Endangered Species: Federally-listed species potentially occurring within the Corps' action area include California least tern (*Sternula antillarum browni*) (tern), southwestern willow flycatcher (*Empidonax traillii extimus*) (flycatcher), Ridgway's rail (*Rallus obsoletus*) (rail), least Bell's vireo (*Vireo bellii pusillus*) (vireo), and coastal California gnatcatcher (*Polioptila californica californica*) (gnatcatcher). The Corps' action area consists of the entire project site.

Available observational data for federally listed species within the Corps' action area is summarized as follows:

- The California Natural Diversity Database reported that 18 vireos (13 breeding adults and five juveniles) were observed within the action area in 2013.
- The report entitled "Results of a Coastal California Gnatcatcher Survey for the San Diego Creek Reach I Operations and Maintenance Project, Orange County, California," dated August 11, 2016, reported six gnatcatchers and one tern within the action area. The tern was observed flying over the action area.
- The report entitled "Results of the Least Bell's Vireo and Southwestern Willow Flycatcher Surveys for the San Diego Creek Reach I Operations and Maintenance Project, Orange County, California" dated August 23, 2016, reported seven vireos within the action area. Of these, all seven vireos were observed within the direct effects area. Within the action area, tern were observed foraging.
- The report entitled "Biological Assessment Report, San Diego Creek Channel, Reach I Operations and Maintenance Project, Orange County, California," did not report any observations of federally listed species within the Corps' action area.

There is no designated critical habitat for any federally listed species within the Corps' action area. However, 5.11 acres of suitable habitat for gnatcatcher would be removed, consisting of habitat types that include chenopod scrub (3.26 acres), coastal sage scrub (0.10 acre), disturbed chenopod scrub (1.46 acres), and ruderal/coastal sage scrub (0.29 acre).

In addition, 16.80 acres of suitable habitat for vireo would be removed, consisting of habitat types that include mule fat scrub (5.82 acres), ruderal/mule fat scrub (3.04 acres), and southern willow scrub (7.94 acres).

The Corps will initiate formal consultation with the U.S. Fish and Wildlife Service following issuance of this Public Notice pursuant to section 7 of the Endangered Species Act.

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 purpose of the proposed project is flood risk management.

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 purpose of the proposed project is to restore the sediment retention capacity of Basin 1 of San Diego Creek Reach I to below 50% of its baseline design capacity as required by a sediment Total Maximum Daily Load (TMDL) placed on San Diego Creek by the Regional Water Quality Control Board. The overall purpose also includes restoring and maintaining the flood capacity of the non-basin channel sections of San Diego Creek Reach I.

Additional Project Information

Baseline Information: San Diego Creek is an urban waterway that flows 16 miles across the San Diego Creek watershed, beginning at its headwaters in Laguna Woods and emptying into Upper Newport Bay. The proposed project area would be located at the downstream limit of San Diego Creek between Jamboree Road and Campus Drive. Vegetation present within the project area consists primarily of chenopod scrub, coastal brackish marsh, coastal freshwater marsh, coastal sage scrub, disturbed chenopod scrub, disturbed southern coastal salt marsh, mule fat scrub, ruderal/alkali meadow, ruderal/coastal sage scrub, ruderal/mule fat scrub, ruderal/southern coastal salt marsh, southern coastal salt marsh, and southern willow scrub. Along the southern bank of San Diego Creek within the project area, OCPW maintains a 40-foot-wide vegetated corridor, consisting mostly of mule fat scrub and southern willow scrub.

Project Description: The proposed project would involve the removal of accumulated sediment and vegetation in Reach I of San Diego Creek, which runs approximately 7,000 linear feet between Jamboree Road and Campus Drive. The project would restore sediment retention capacity within the Basin 1 facility as described in OCPW's Operations and Maintenance Manual for maintaining San Diego Creek Channel between Upper Newport Bay and the I-405 Freeway. The project would also restore and maintain the flood capacity of non-basin channel sections by removing up to 50,000 cubic yards of material from these non-basin areas. The proposed project would remove a maximum of 93,698 cubic yards of material to restore the capacity of the Basin 1 facility to 50% of its maximum capacity as required by a sediment TMDL placed on San Diego Creek by the Regional Water Quality Control Board. Vegetation management and sediment removal in the channel areas is necessary to prevent excessive vegetation growth that would substantially reduce the channel's flood capacity.

The proposed project would result in temporary impacts to approximately 25.8 acres of non-wetland waters of the United States and temporary impacts to approximately 5.61 acres of wetland waters of the United States (Exhibits 4a-4c).

Vegetation and sediment removal would be performed by hand crews using manual and power tools as well as heavy equipment such as excavators, front end loaders, haul trucks, and compactor trucks. Equipment and personnel would access the channel using the service road shown in Exhibits 5a-5c with temporary ramps used to access work areas from the service road as necessary. If part of the channel cannot be accessed using the service road, equipment and personnel would access the area by travelling along the invert. Equipment and personnel would enter the service road using the gates located along Jamboree Road, MacArthur Boulevard, and Campus Drive (Exhibit 5a-5c).

Vegetation and sediment removed from San Diego Creek would be stockpiled outside of the stream for drying in the locations shown in Exhibit 5a-5c. Once dry, sediment would be hauled both to local landfills for disposal as well as to a facility where it would be processed for future use.

Proposed Mitigation: The proposed mitigation may change as a result of comments received in response to this Public Notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation

sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

Avoidance: OCPW would avoid permanent impacts to waters of the United States by dredging only accumulated sediments and vegetation within San Diego Creek. Bottom elevations of affected waters of the United States would be restored naturally as sediment re-accumulates in Basin 1 and non-basin channel sections, making the proposed impacts temporary.

Minimization: OCPW would implement appropriate standard Best Management Practices (BMPs) during project sediment removal activities to minimize impacts to waters of the United States. These would include the following:

- OCPW would not perform sediment removal during or immediately after a storm event to prevent excessive sediment from impacting adjacent waters.
- The contractor would install silt fencing within appropriate locations to reduce sediment transport to the channel area. A silt fence is a temporary sediment barrier consisting of filter fabric stretched across and attached to supporting posts; it is entrenched and (depending upon the strength of fabric used) supported with plastic or wire mesh fence. Silt fences trap sediment by intercepting and detaining small amounts of sediment-laden runoff from disturbed areas to promote sedimentation behind the fence.

Compensation: Compensatory mitigation was already required for vegetation and sediment removal work that occurred in Reach I as part of the San Diego Creek Emergency Project (SPL-2004-00370). Therefore, no additional compensatory mitigation has been proposed.

Proposed Special Conditions

Special Conditions would be required based on public notice comments and environmental considerations.

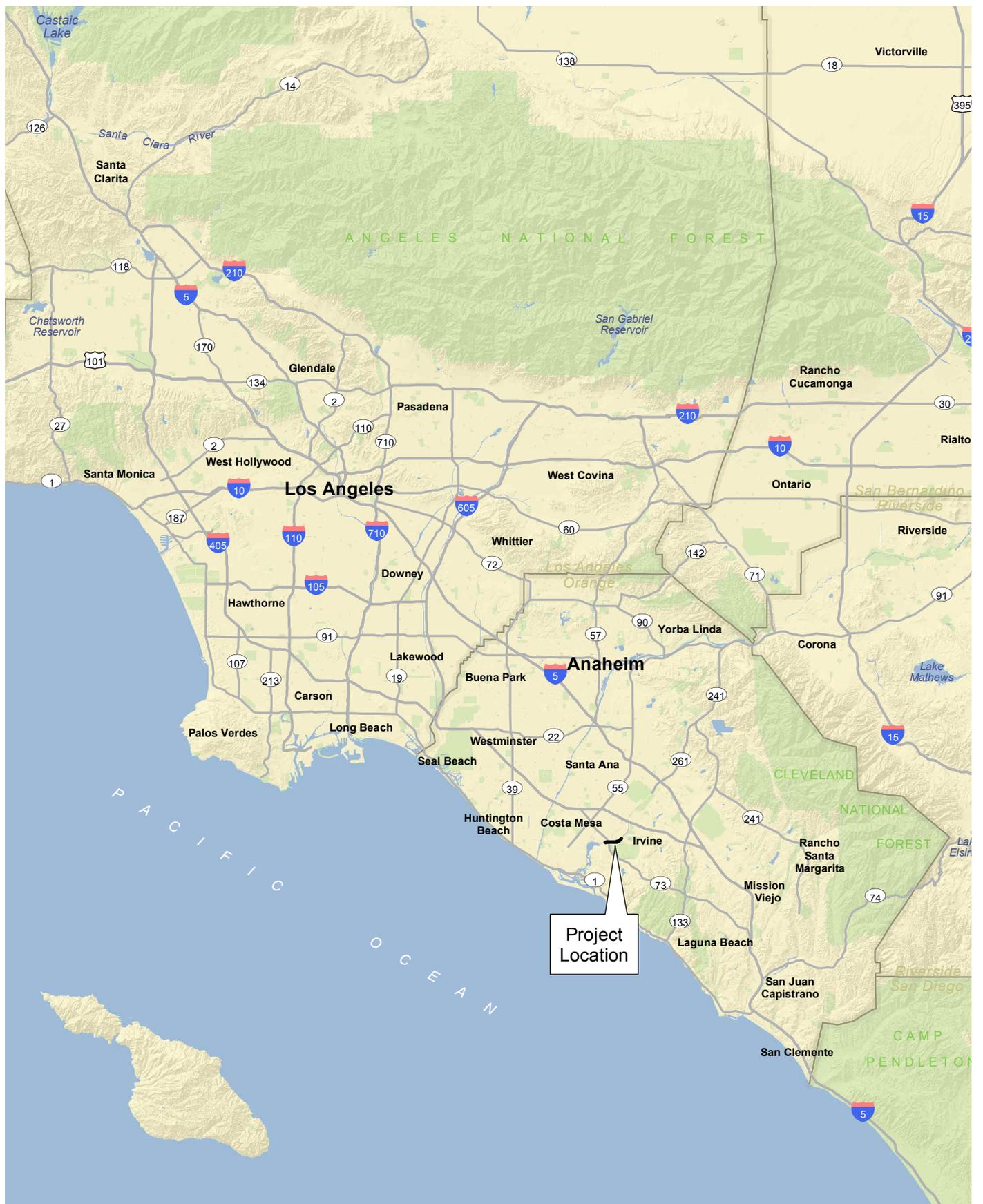
For additional information, please contact Eric Sweeney at 213-452-3002 or via email at Eric.R.Sweeney@usace.army.mil. This Public Notice is issued by the Chief, Regulatory Division.



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
915 Wilshire Boulevard, Suite 930
Los Angeles, California 90017
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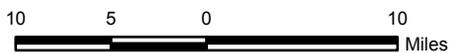


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Regional Location

San Diego Creek Reach I Operations and Maintenance Program

Exhibit 1



Bonterra
PSOMAS

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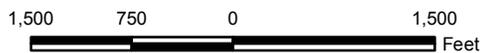


Aerial Source: ESRI

Local Vicinity

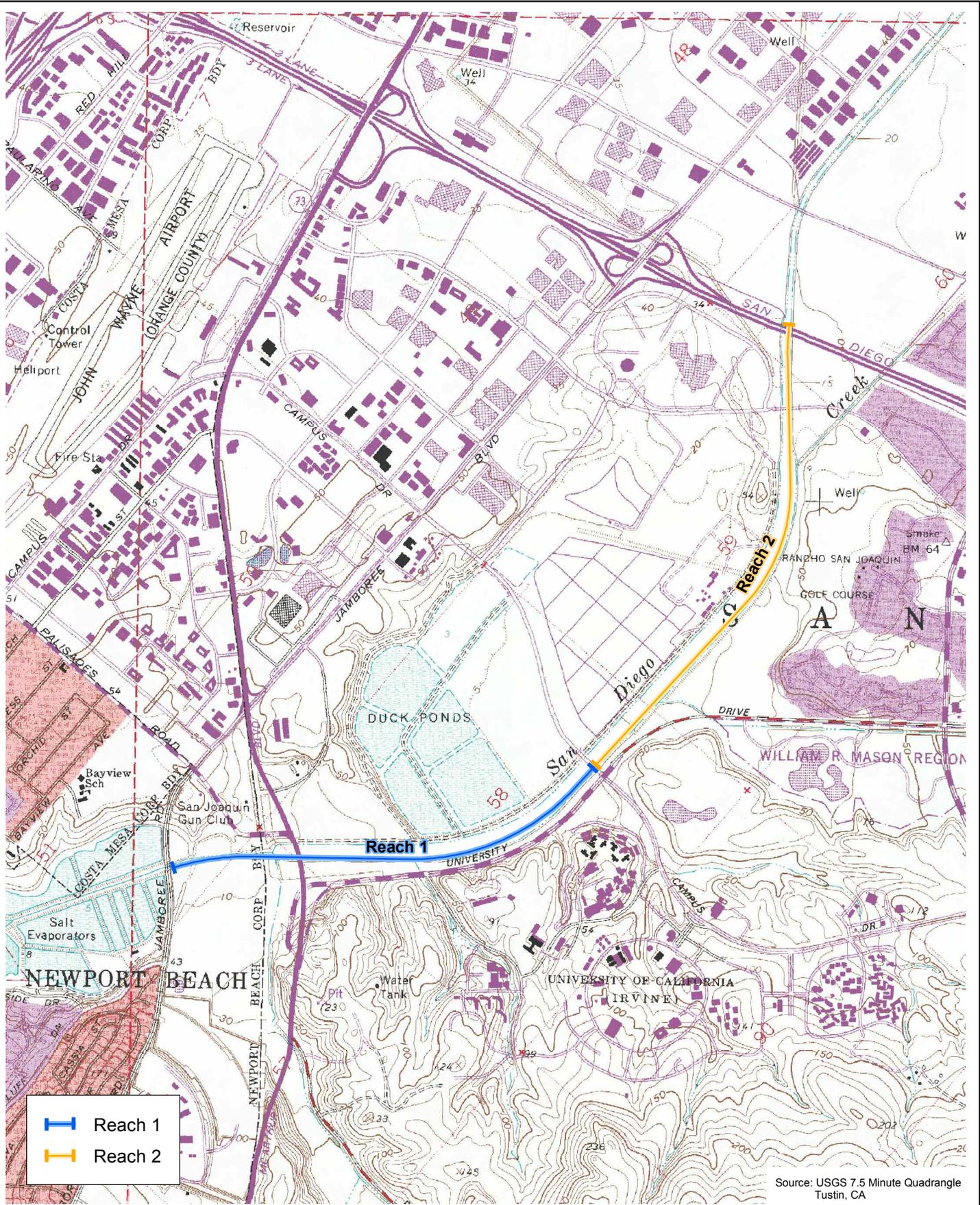
Exhibit 2

San Diego Creek Reach 1 Operations and Maintenance Program



Bonterra
PSOMAS

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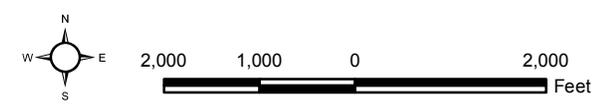


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USGS 7.5-Minute Digital Quadrangle

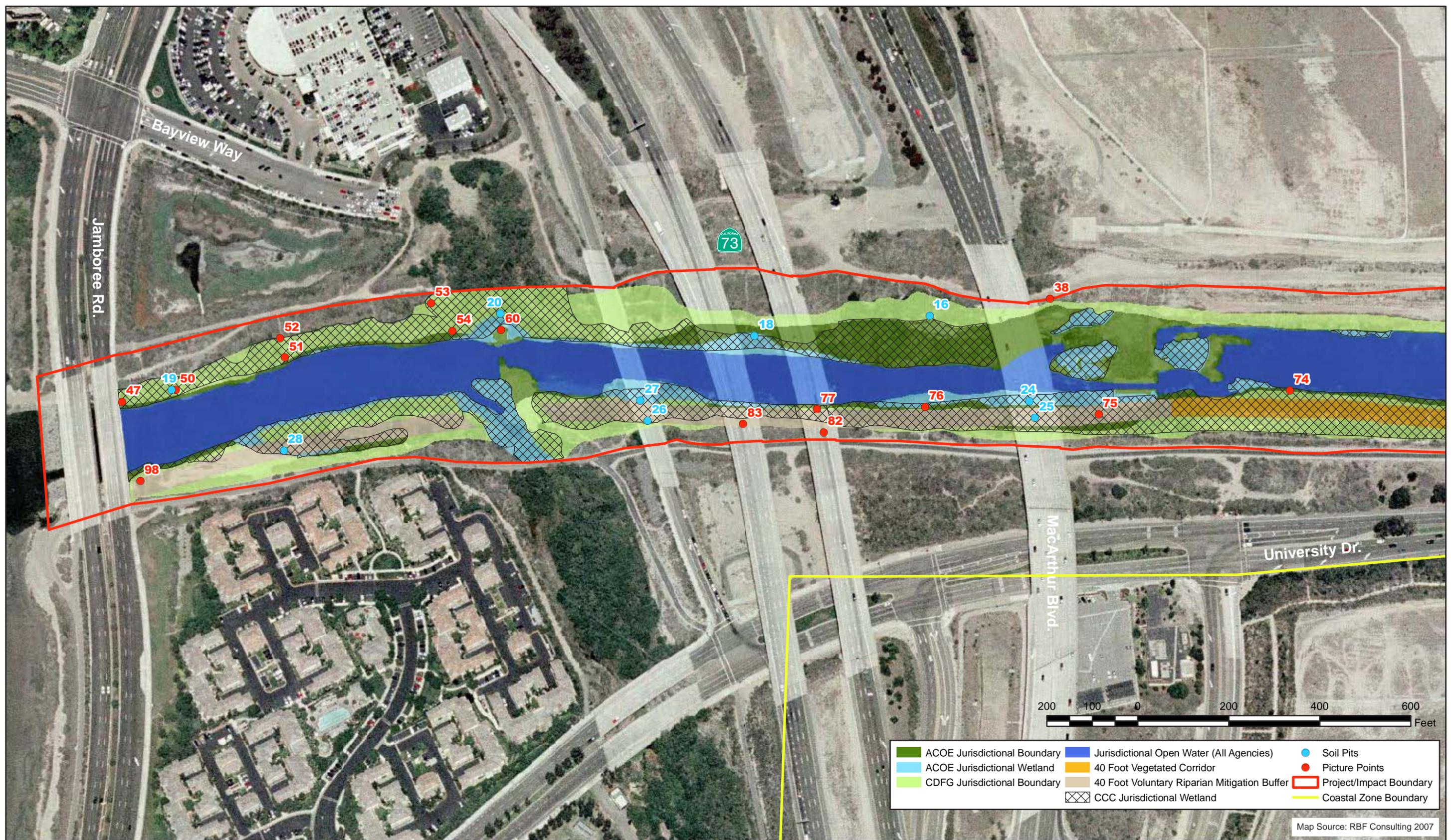
Exhibit 3

San Diego Creek Reach I Operations and Maintenance Program



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Jurisdictional Delineation

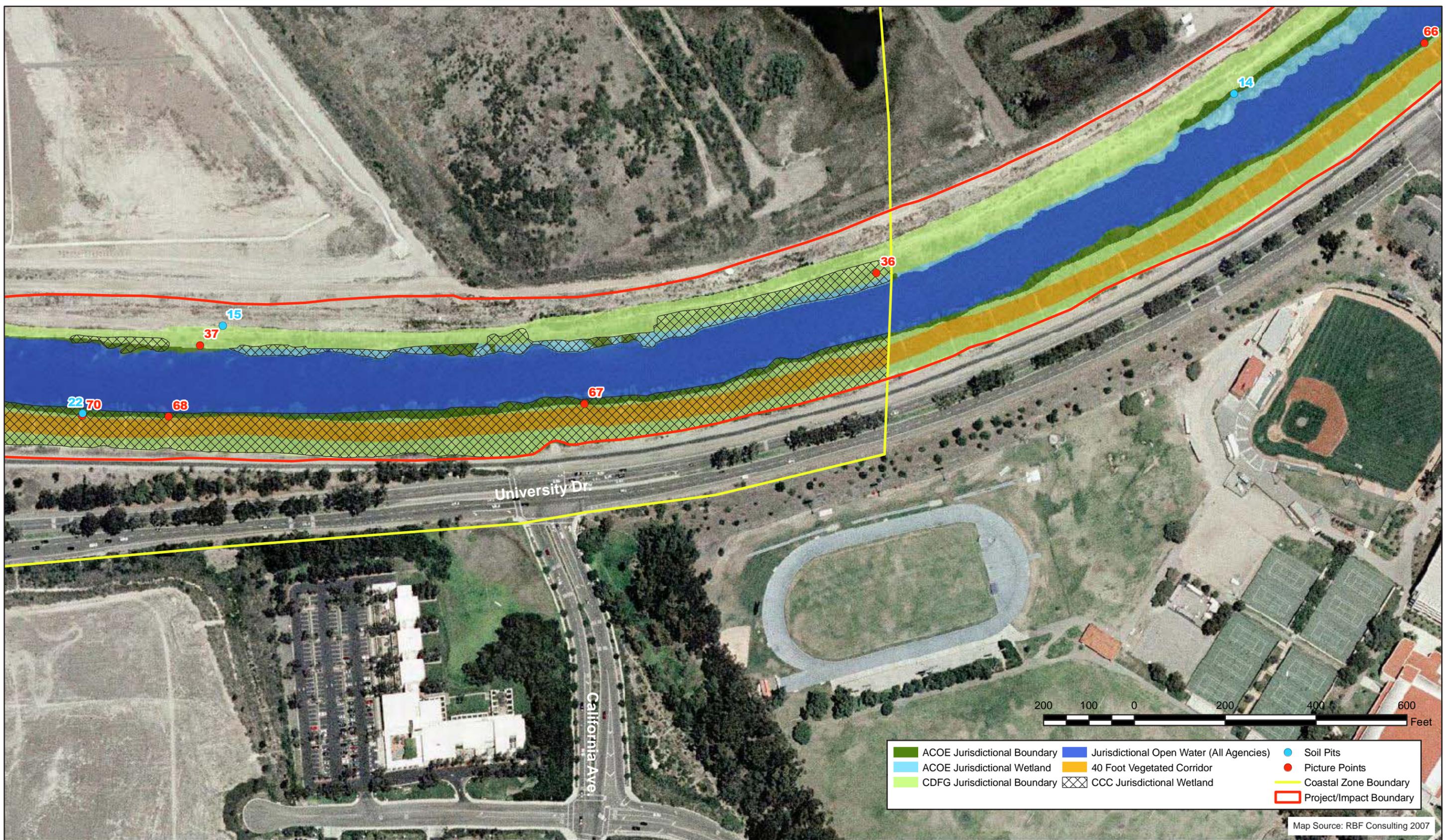
San Diego Creek Reach I Operations and Maintenance Program



Exhibit 4a



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Jurisdictional Delineation

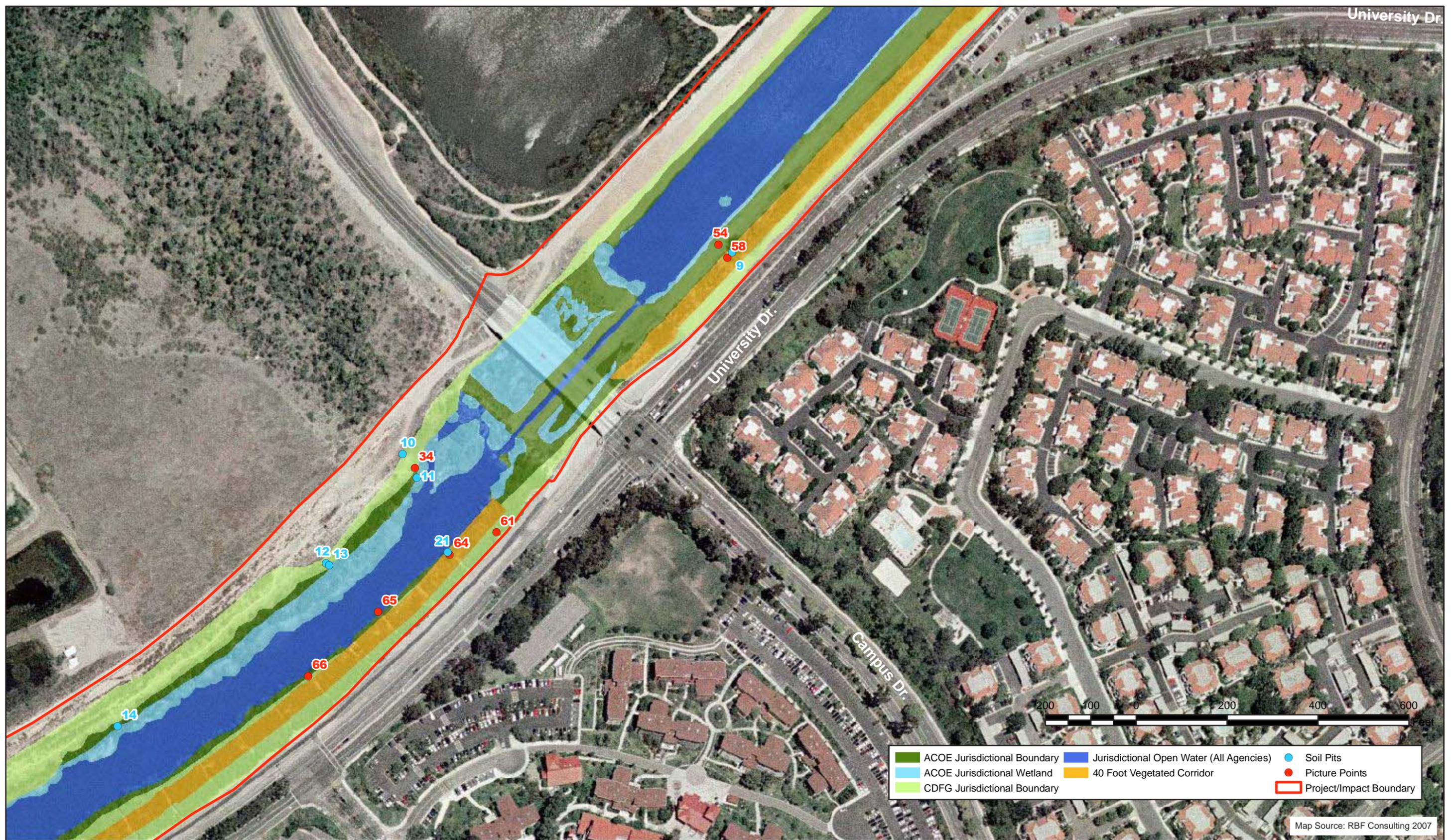
San Diego Creek Reach I Operations and Maintenance Program



Exhibit 4b



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Jurisdictional Delineation

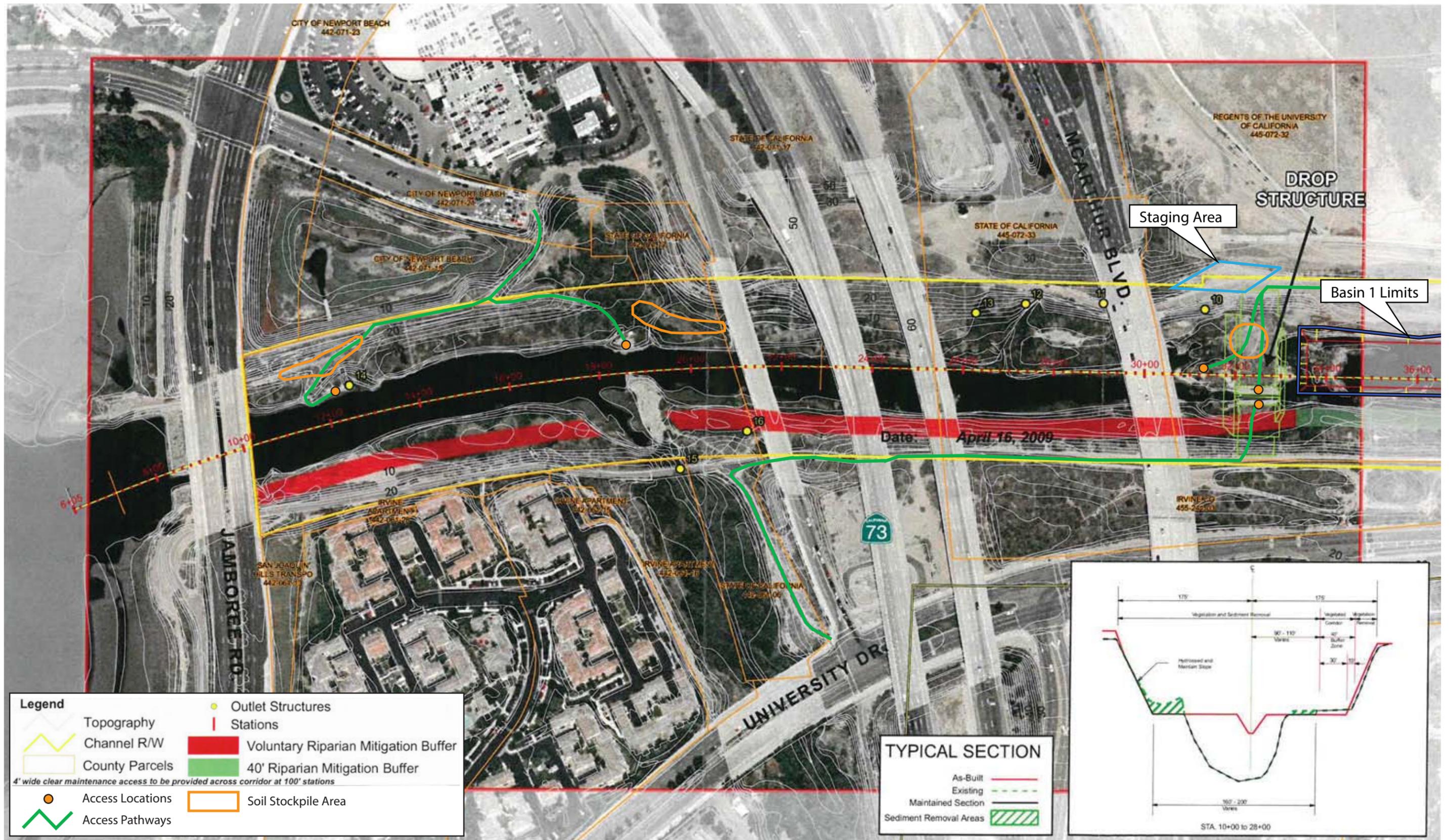
San Diego Creek Reach I Operations and Maintenance Program



Exhibit 4c



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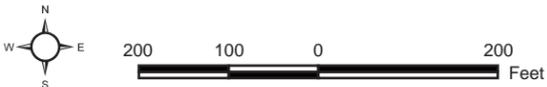


Source: RBF Consulting 2009

San Diego Creek O&M Manual Upper Newport Bay to 405 Freeway

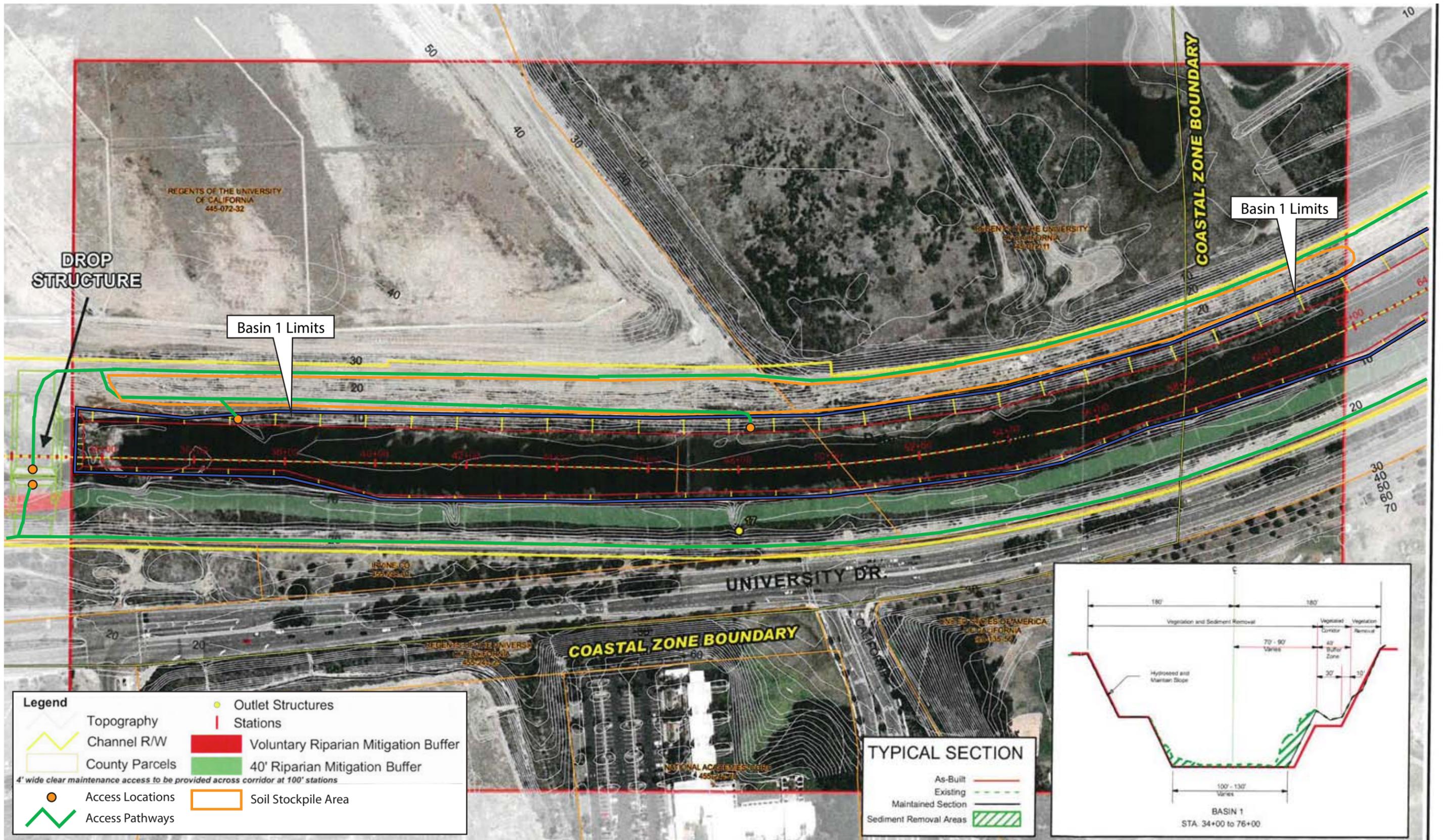
San Diego Creek Reach I Operations and Maintenance Project

Exhibit 5a



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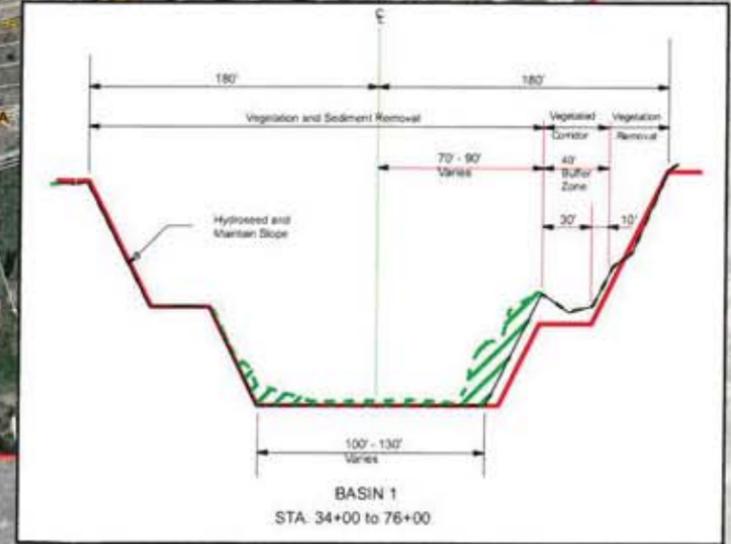


Legend

- Topography
- Channel R/W
- County Parcels
- 4' wide clear maintenance access to be provided across corridor at 100' stations
- Outlet Structures
- Stations
- Voluntary Riparian Mitigation Buffer
- 40' Riparian Mitigation Buffer
- Access Locations
- Access Pathways
- Soil Stockpile Area

TYPICAL SECTION

- As-Built
- Existing
- Maintained Section
- Sediment Removal Areas

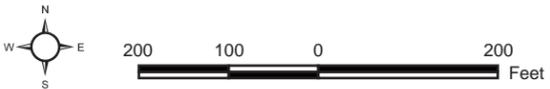


Source: RBF Consulting 2009

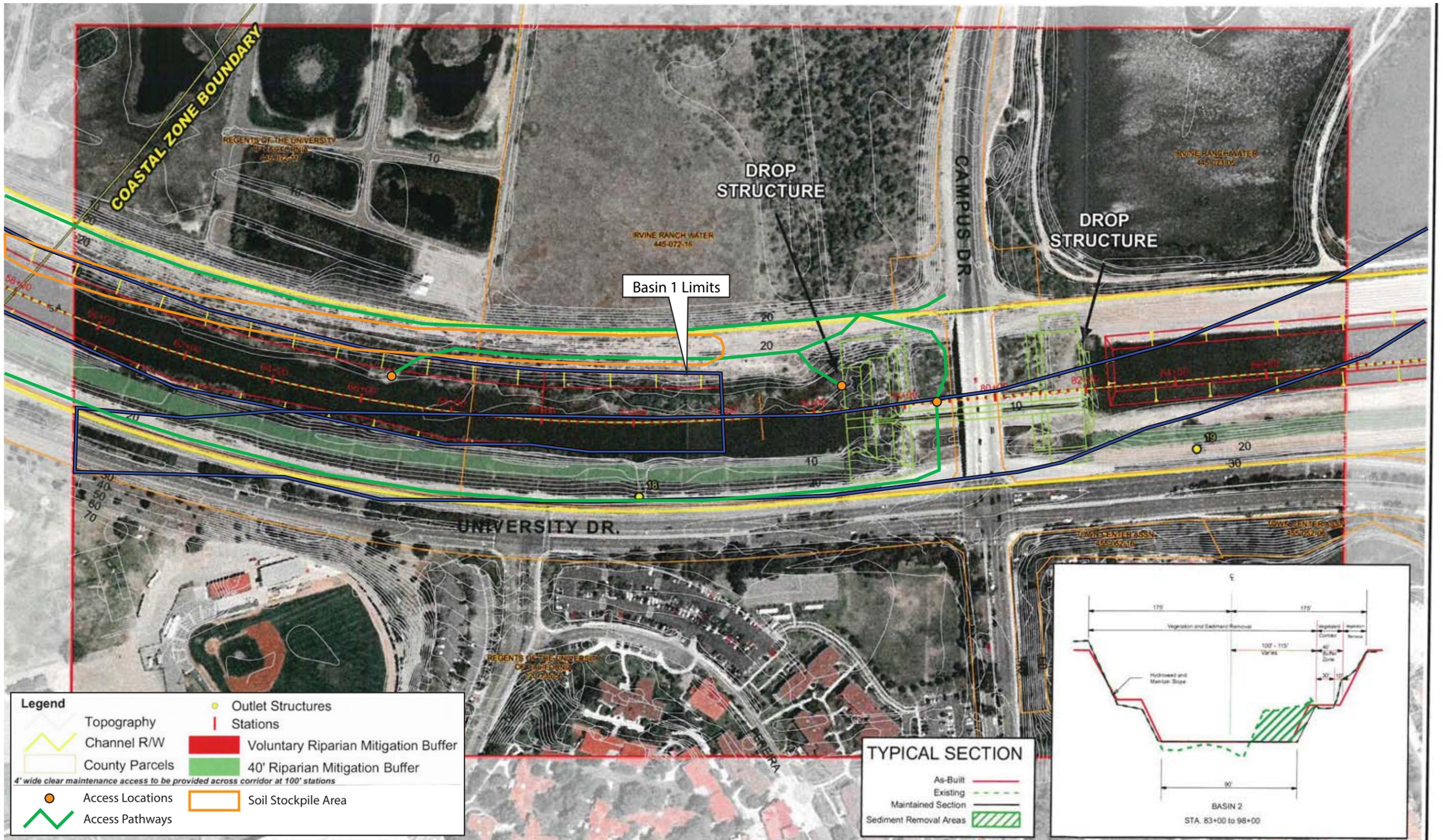
San Diego Creek O&M Manual Upper Newport Bay to 405 Freeway

San Diego Creek Reach I Operations and Maintenance Project

Exhibit 5b



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Source: RBF Consulting 2009

San Diego Creek O&M Manual Upper Newport Bay to 405 Freeway

San Diego Creek Reach I Operations and Maintenance Project

Exhibit 5c

