



# PUBLIC NOTICE

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

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## **NOTICE OF AVAILABILITY FOR A FINAL EIR/EIS**

**Public Notice/Application No.:** SPL-2009-00575-MG

**Project:** San Elijo Lagoon Restoration

**Comment Period:** February 26, 2016 through March 28, 2016

**Project Manager:** Meris Guerrero; 760-602-4836; [Meris.Guerrero@usace.army.mil](mailto:Meris.Guerrero@usace.army.mil)

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### **Applicant**

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P.O. Box # 230634  
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### **Contact**

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### **Location**

The San Elijo Lagoon is located along the Pacific coast between the cities of Solana Beach and Encinitas, extending inland to the community of Rancho Santa Fe, San Diego County, California (Latitude 33.00833°, Longitude -117.26667°; Figure 1).

### **Activity**

The San Elijo Lagoon Conservancy (the applicant) proposes to restore ecological functions of San Elijo Lagoon by increasing tidal influence through reconfiguring lagoon elevations via grading/dredging and modifying water flow into the lagoon via changes to lagoon channels. Restoration of the lagoon has the potential to generate approximately 920,000 cubic yards (cy) of excess material through dredging operations. Various options are available for disposal or reuse of that material (e.g., offshore ocean and/or upland placement or disposal, placement on the beach or nearshore, and reuse on-site), depending on its characteristics. These disposal and reuse options are shown in Figure ES-1. For more information see page 3 of this notice.

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Interested parties are hereby reminded that an application has been received for a Department of the Army (DA) permit for the activity described herein and shown on the attached drawings (the August 1, 2014 Public Notice for this project first notified the public that an application for a DA permit had been received and a Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) was available for public review). We are notifying members of the public, including all those who commented on the Draft EIR/EIS, the Final EIR/EIS is available for a 30-day review period. The Final EIR/EIS can be found on the San Elijo Lagoon Conservancy website (<http://sanelijo.org/restoration-documents>). All comments received during the review 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, Section 10 of the Rivers and Harbors Act, and potentially Section 103 of the Marine Protection, Research and Sanctuaries Act.

Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District  
Regulatory Division, Carlsbad Field Office  
ATTN: SPL-2009-00575-MG  
5900 La Place Court, Suite 100  
Carlsbad, California 92008

Alternatively, comments can be sent electronically to: [Meris.Guerrero@usace.army.mil](mailto:Meris.Guerrero@usace.army.mil).

The mission of the U.S. Army Corps of Engineers (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 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 U.S. Environmental Protection Agency (EPA) Guidelines (40 CFR Part 230) as required by Section 404(b)(1) of the Clean Water Act.

The Corps Regulatory Division 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 Regulatory Division 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. In this case, comments are used in the preparation of an EIS pursuant to the National Environmental Policy Act (NEPA). 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 determination has been made an EIS is required for the proposed work in waters of the U.S. The Draft EIR/EIS for the proposed San Elijo Lagoon Restoration Project was circulated for public comment on August 1, 2014, and comments on this document were accepted until September 29, 2014.

A Notice of Availability for the Final EIR/EIS is also being published in the Federal Register. The Final EIR/EIS for this project, which addresses several potentially significant issues, such as impacts to biological resources, visual resources, and traffic, can be found on the San Elijo Lagoon Conservancy website (<http://sanelijo.org/restoration-documents>).

**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. Section 401 requires any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps prior to permit issuance. The applicant will submit an application for 401 Water Quality Certification once the Final EIR/EIS is certified.

**Coastal Zone Management**- The applicant has certified the proposed activity would comply with and would be conducted in a manner consistent with the approved State Coastal Zone Management Program. For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act (CZMA) requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission the project is consistent with the State's Coastal Zone Management Plan. The applicant will submit an application for CZMA consistency certification once the Final EIR/EIS is certified.

**Essential Fish Habitat**- San Elijo Lagoon is designated as an estuarine Habitat Area of Particular Concern (HAPC). The Corps' preliminary determination indicates that the proposed lagoon restoration and material disposal/reuse activities may adversely affect essential fish habitat (EFH) for Pacific Groundfish and Coastal Pelagic species. Based on this determination and pursuant to Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Corps will initiate EFH consultation with the National Marine Fisheries Service (NMFS). The Corps has informally coordinated with NMFS throughout the environmental review process and would ensure that the proposed project would be in compliance with the MSA.

**Cultural Resources**- As part of the NEPA and DA Permit authorization process, the Corps is required to evaluate all cultural and historic resources within the Corps' scope of analysis in the project area. In July 2014, the Corps contacted the Native American Heritage Commission and received a list of Native American individuals/organizations that could have knowledge of cultural resources in the project area. In July 2014, letters were forwarded to all the individuals and organizations on the above list requesting any information or comments regarding the proposed

project area. The Corps is initiating, under separate cover, consultation with the State Historic Preservation Officer (SHPO) to determine the adequacy of the inventory of cultural resources located within the Project's Area of Potential Effect, the evaluation of those resources in accordance with the National Historic Preservation Act (NHPA), and our finding of no historic properties affected for the proposed undertaking. The Corps would ensure that the proposed project would be in compliance with Section 106 of the NHPA.

**Endangered Species**- The Corps has determined the proposed project may affect several federal-listed threatened or endangered species, including light-footed clapper rail (*Rallus longirostris levipes*), western snowy plover (*Charadrius alexandrinus nivosus*), California least tern (*Sternula antillarum browni*), southwestern willow flycatcher (*Empidonax traillii extimus*), least Bell's vireo (*Vireo bellii pusillus*), and coastal California gnatcatcher (*Polioptila californica californica*). The Corps has also determined the proposed project may affect designated critical habitat for coastal California gnatcatcher and western snowy plover. Based on this determination, formal consultation under Section 7 of the Endangered Species Act (ESA) will be required. The Corps has informally coordinated with the U.S. Fish and Wildlife Service throughout the environmental review process and would ensure that the proposed project would be in compliance with Section 7 of the ESA.

**Public Hearing**- No comment requesting a public hearing was received during the Draft EIR/EIS 45-day comment period. Two public meetings were conducted on August 19, 2014 at the La Colonia Community Center in Solana Beach and August 27, 2014 at the Encinitas Community Center in Encinitas. The public meetings consisted of a presentation about the proposed lagoon restoration, followed by an opportunity to ask questions and share ideas and concerns regarding the proposed project. No additional public hearings or meetings are scheduled for the proposed project.

### **Proposed Activity for Which a Permit is Required**

The San Elijo Lagoon Restoration Project has two components: the restoration of San Elijo Lagoon and the disposal or reuse of materials excavated as part of the restoration.

The proposed project, Alternative 1B – Refined, would restore San Elijo Lagoon with improved ecological functions and services by increasing tidal influence, modifying water flow into and out of the lagoon, and removing high nutrient sediments. The proposed lagoon restoration is separated into four areas: 1) east basin, east of Interstate-5 (I-5); 2) central basin, between railroad tracks and I-5; 3) west basin, between Coast Highway 101 and railroad tracks; and 4) coastal area, between Pacific Ocean and railroad tracks (Figure 2).

Alternative 1B – Refined would utilize low-pressure land-based earthmoving equipment as well as dredge equipment to minimize impacts to existing vegetation. Grading would occur in areas proposed for shallow grading/dredging (e.g., mudflats and low marsh adjacent to channels), while dredging would be limited to the creation of the overdredge pit located in the central basin and lagoon channels (Figure 10) (refer to page P-8 of the Final EIR/EIS for a detailed discussion of construction methods).

Under Alternative 1B – Refined (Figure 4), the main tidal channel would be extended and a mix of unvegetated (e.g., mudflats and secondary channels) and vegetated habitats created south of the main channel in the central basin. The main channel in the east basin would be widened to approximately 180 feet in order to convey fluvial flows out of the lagoon as well as tidal flows east of the proposed transitional area. The southern channel and secondary channels within the central basin would also be improved.

The main tidal channel would be redirected just west of I-5 and extended farther into the east basin. The channel in the east basin would be enlarged by approximately 160 feet, and the California Department of Fish and Wildlife (CDFW) dike and weir would be removed; combined, this would promote more tidal exchange east of I-5 and enhance the ability of freshwater flows to drain from the lagoon. The tidal prism of Alternative 1B – Refined would be substantially increased compared to existing conditions. Approximately 10 acres of transitional habitat above tidal elevations would be created to supplement the natural transitional habitat that extends around the perimeter of the lagoon. These areas would also offer refugia for anticipated future sea level rise conditions.

Alternative 1B – Refined would result in an increase in open water/tidal channels, low-marsh, mudflat, and created transitional habitat compared to existing conditions. Most of the increase in open water/tidal channels and mudflat habitat would occur in the central and east basins, and would result in a corresponding decrease in mid-marsh, salt panne, and freshwater/brackish marsh habitats.

Mudflat soils would consist of native soils lowered slightly in elevation or soils removed from shallow excavation and placed on top of the overdredge pit sand cap. The open freshwater ponds currently maintained by the CDFW weir would be converted to open water/tidal channels and low-marsh habitat.

Alternative 1B – Refined would involve creation of an overdredge pit, which would generate larger-grained material suitable for reuse within the littoral zone and provide disposal for fine-grained material associated with dredging/grading. It is anticipated that approximately 920,000 cy of material would be exported from the overdredge pit in the central basin for reuse. Approximately 300,000 cy of this sand material from the overdredge pit would be placed in the ocean nearshore, south of the existing inlet (Figure ES-1-3). The remainder of the material is proposed for beneficial reuse at the SO-5/SO-6 offshore stockpiling sites (outside littoral cell), nearshore (inside littoral cell) at Cardiff, and/or onshore (beach receiver sites) at Leucadia beach, Moonlight beach, Solana beach, or Torrey Pines beach. Alternative 1B – Refined would fill the former sewage settling pond in the central basin and cap it with sand and crushed shell for use as a nesting area.

Alternative 1B – Refined assumes bridge improvements at the I-5 crossing, as planned by Caltrans, which would result in the channel under the I-5 bridge being lengthened and deepened. The existing bridges at Coast Highway 101 and the NCTD railroad would remain in place, although the channels underneath would require deepening for improved hydraulics as part of the San Elijo Lagoon Double Track project, proposed by the San Diego Association of Governments. The existing Coast Highway 101 bridge structures would also be seismically retrofitted. Rock armoring would be installed at all three features, in compliance with the owners' design standards, to provide channel bank and bridge abutment protection and prevent undermining by increased tidal/fluvial flows.

Inlet maintenance for Alternative 1B – Refined would require the removal of approximately 40,000 cy annually, utilizing the same land-based approach and occurring in the same location as existing inlet management. That maintenance is anticipated to occur in spring (typically April) and require approximately 4 weeks.

### **Proposed Special Conditions**

The Corps permit would include the standard conditions for Section 10 activities, as well as for dredging, beach nourishment activities, and if applicable, ocean disposal of dredged sediments that have been coordinated with the U.S. EPA. Additionally, all appropriate and practicable conditions set forth in the Final EIR/EIS to minimize pollution or adverse effects to the aquatic ecosystem would be

included as part of the implementation of the proposed project or would be included in the Corps' final permit decision.

For additional information please call Meris Guerrero of my staff at 760-602-4836 or via e-mail at [Meris.Guerrero@usace.army.mil](mailto:Meris.Guerrero@usace.army.mil). This public notice is issued by the Chief, Regulatory Division.



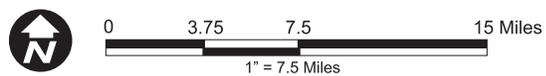
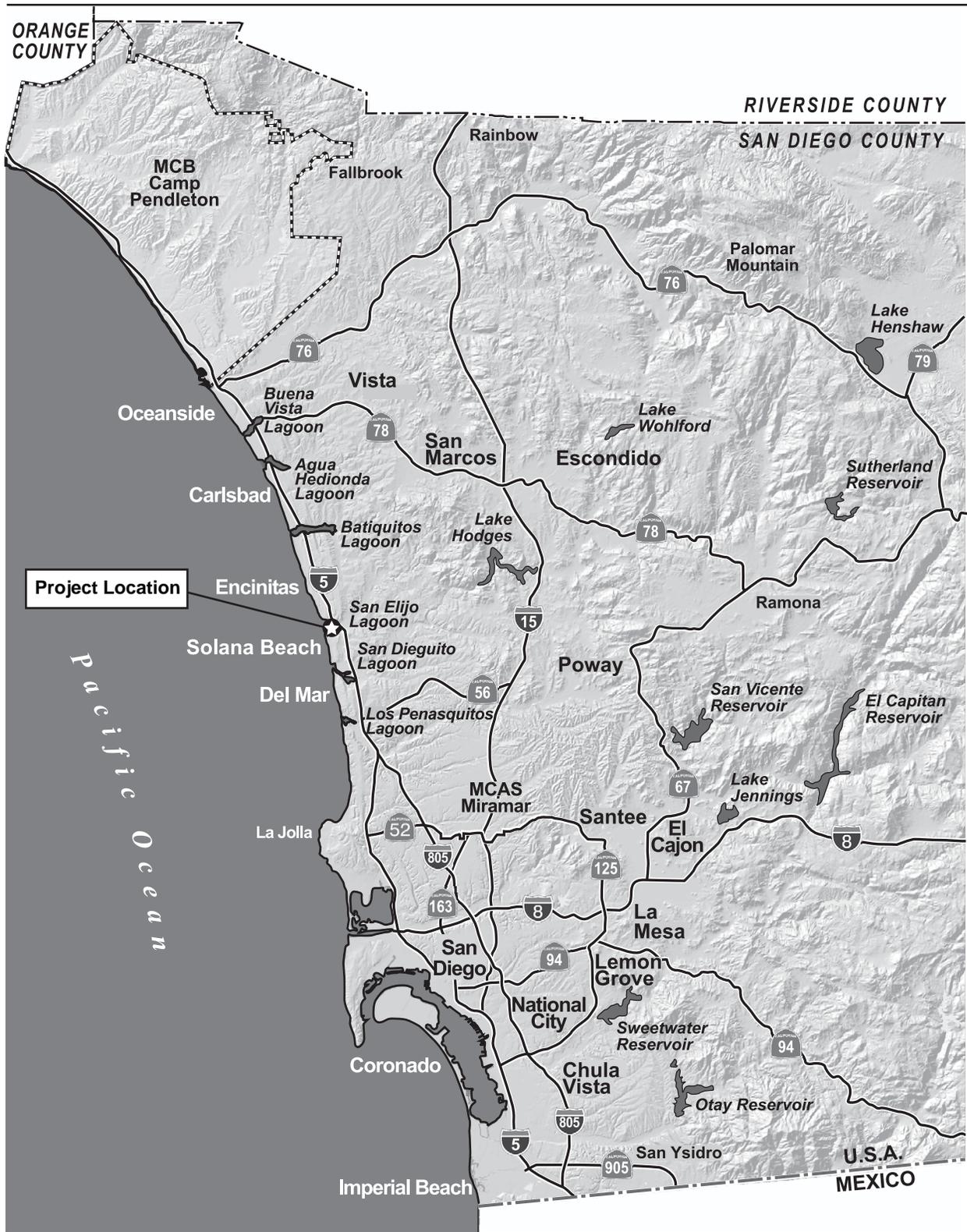
*Regulatory Program Goals:*

- 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.

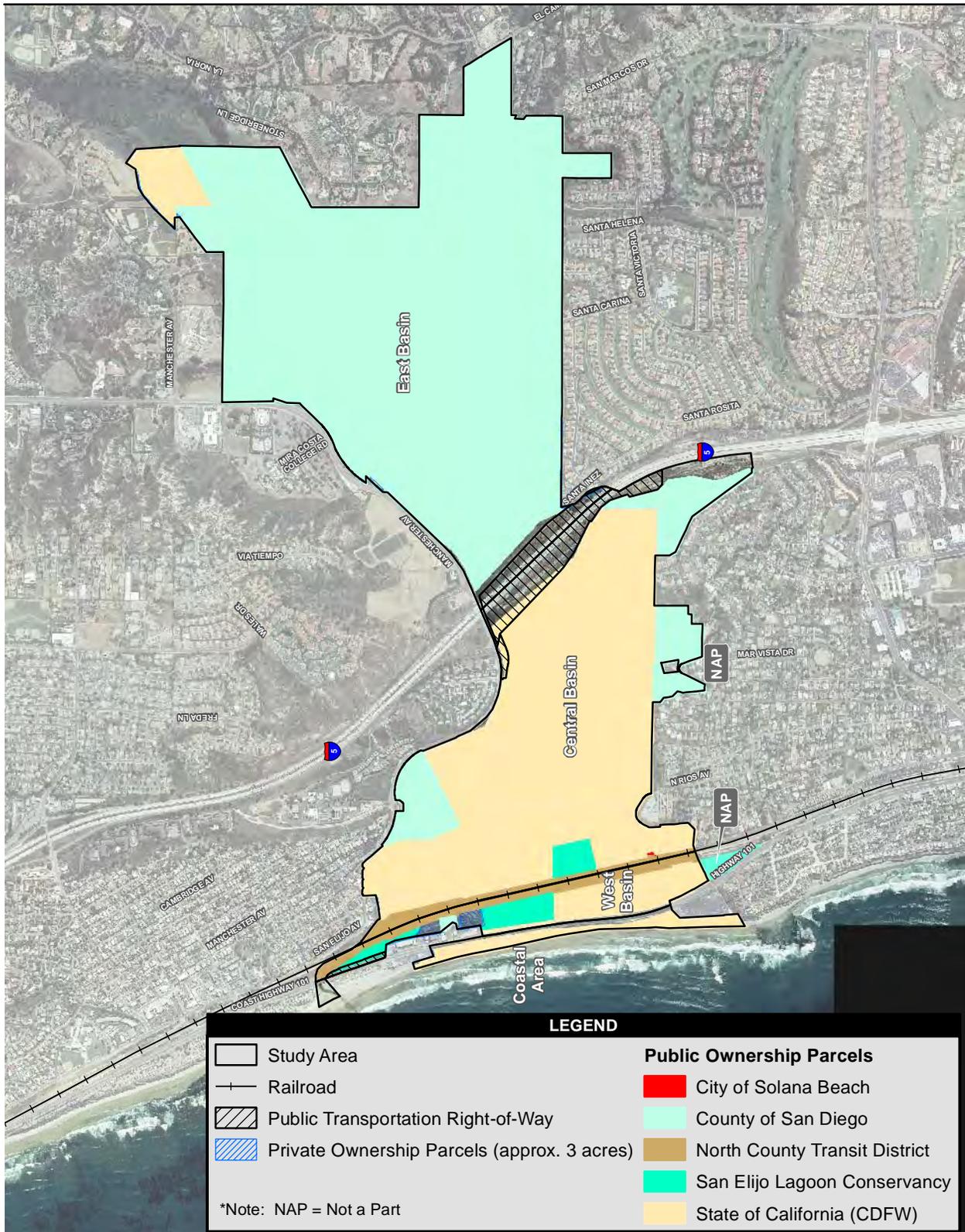
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**DEPARTMENT OF THE ARMY**  
**LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS**  
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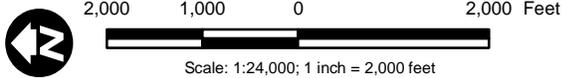
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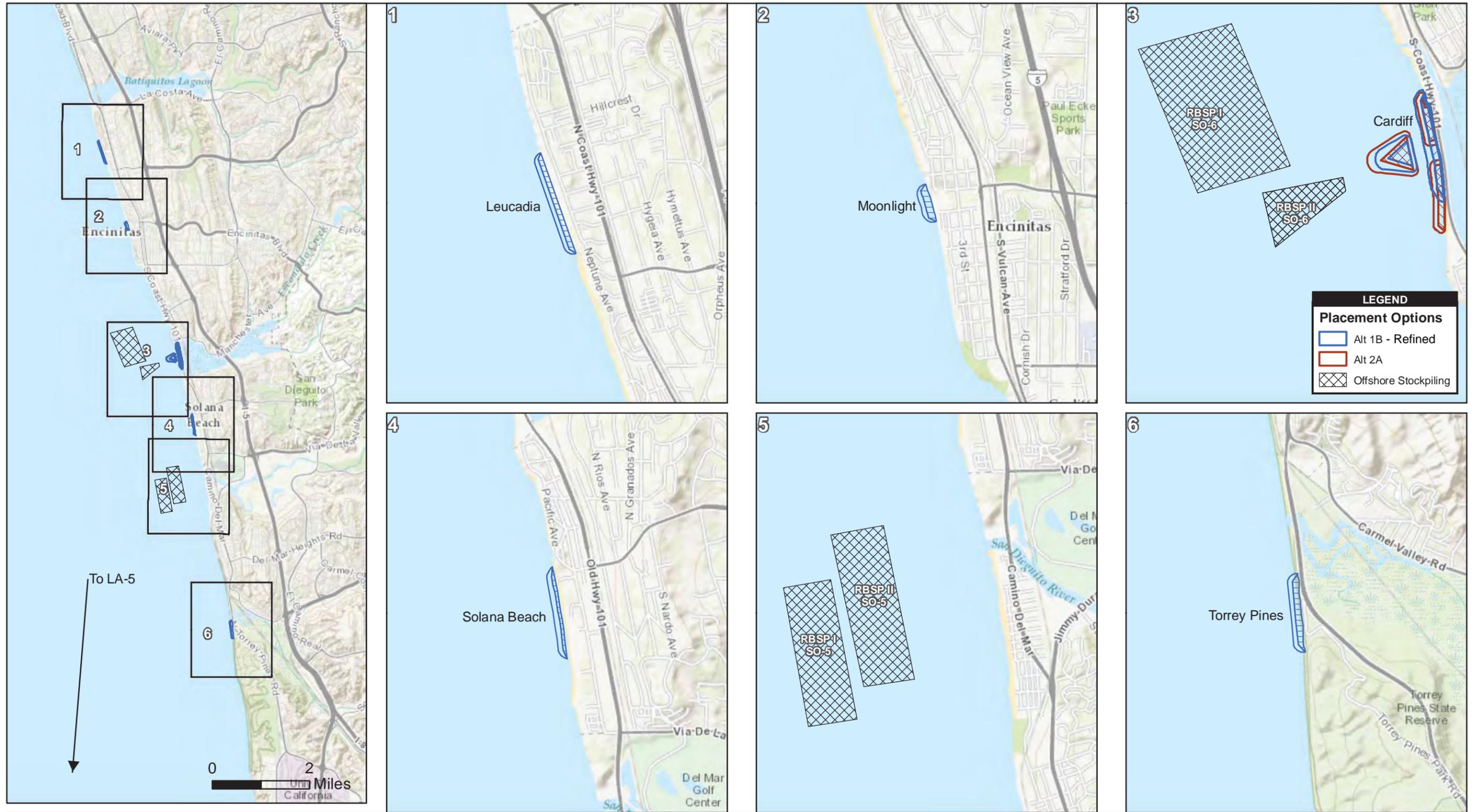
**Figure 1**  
**Regional Map**



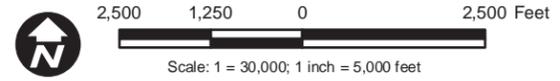
Source: SANDAG 2012; SanElijoConservancy; SanGIS; AECOM 2014



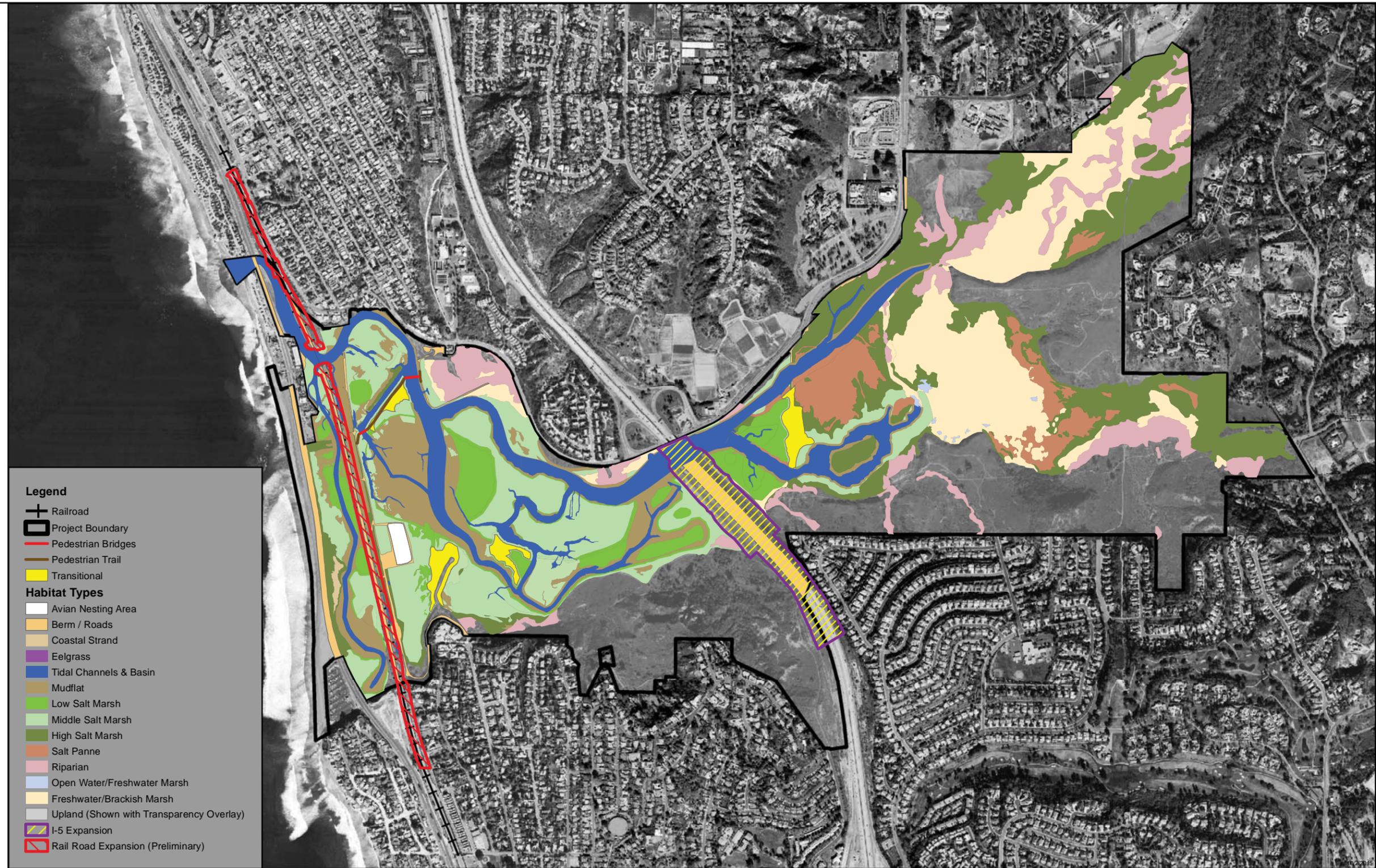
**Figure 2**  
**San Elijo Lagoon Restoration Project**  
**Study Area and Land Ownership**



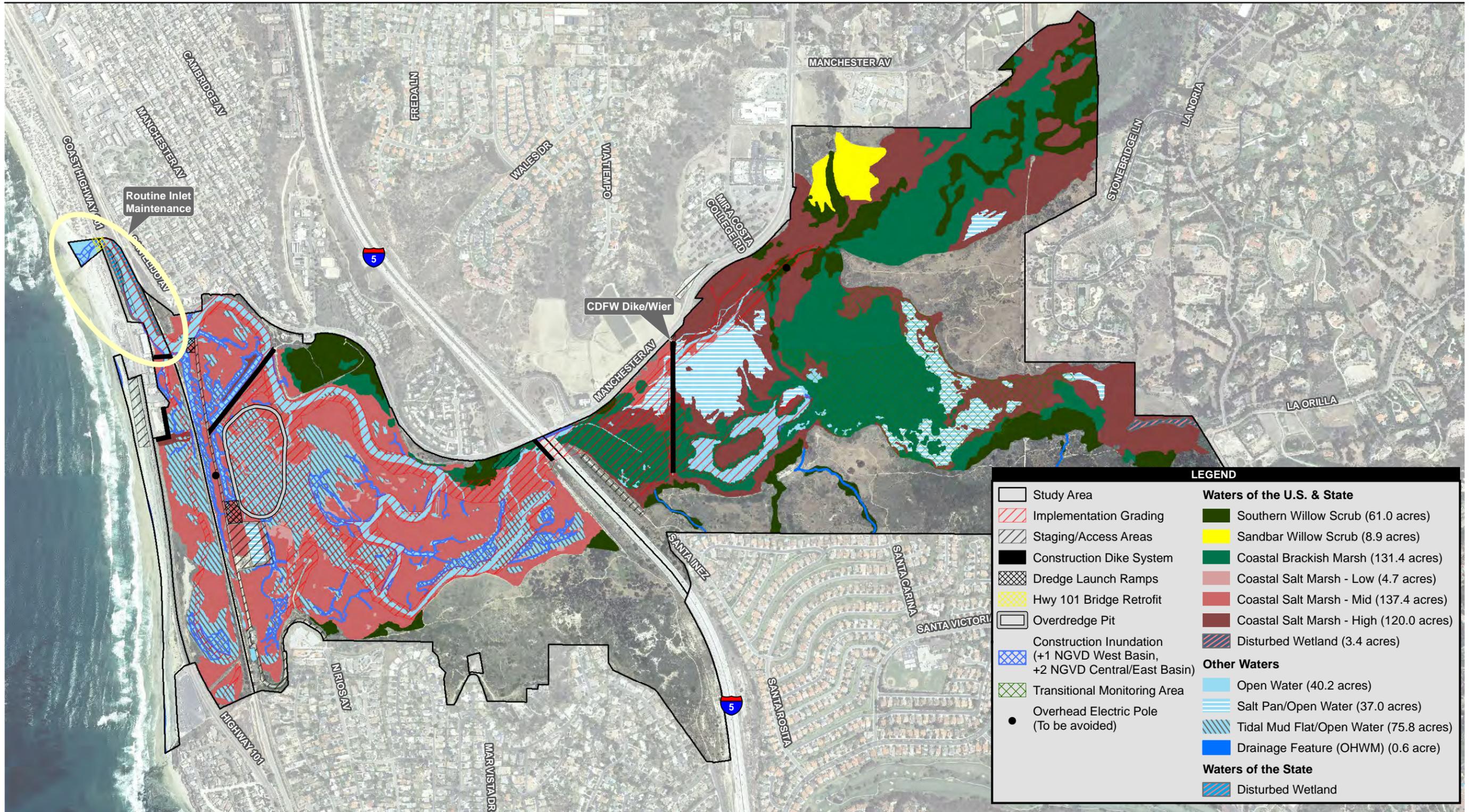
Source: Sources: Esri, DeLorme, NAVTEQ, TomTom, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), swisstopo, and the GIS User Community; SanGIS 2012; Moffatt/Nichol 2012



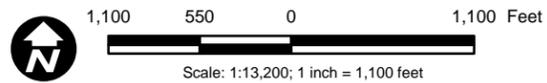
**Figure ES-1**  
**Potential Offsite Materials Placement Sites**



**Figure 4**  
**Alternative 1B - Refined**



Source: SANDAG 2012; MoffattNichol; AECOM 2013



Note: Alternative 1B - Refined would reduce inundation impacts by 85% compared to Alternative 1B. Approximately 20 acres would be inundated at different times during construction compared to 130 acres under Alternative 1B.

**Figure 10**  
**Jurisdictional Waters with Limits of Disturbance**  
**for Alternative 1B - Refined**