PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS **BUILDING STRONG®**
LOS ANGELES DISTRICT

APPLICATION FOR PERMIT
San Elijo Lagoon Double Track

Public Notice/Application No.: SPL-2015-00852-MG
Project: San Elijo Lagoon Double Track Project
Comment Period: April 5, 2016 through May 5, 2016
Project Manager: Meris Guerrero; 760-602-4836; Meris.Guerrero@usace.army.mil

Applicant
Rob Rundle
San Diego Association of Governments
401 B St. Suite 800
San Diego, California 92101

Contact
Erich Lathers
BRG Consulting, Inc.
304 Ivy Street
San Diego, California 92101

Location
Within the cities of Encinitas and Solana Beach, San Diego County, CA (at: 33.0132, -117.2786) (Figures 1 and 2).

Activity
The San Elijo Lagoon Double Track project consists of constructing an additional 1.5 miles of a second main track (double tracking) adjacent to an existing track, replacing the existing timber Bridge 240.4 with a new concrete double track bridge, and widening and raising the railroad berm through San Elijo Lagoon to provide 100-year storm protection (see attached drawings). For more information see Additional Information section on Page 5.

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 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 and Section 10 of the Rivers and Harbors Act. Comments should be mailed to:

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
REGULATORY DIVISION
ATTN: SPL-2015-00852-MG
5900 LA PLACE COURT, SUITE 100
CARLSBAD, CALIFORNIA 92008

Alternatively, comments can be sent electronically to: Meris.Guerrero@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 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 Environmental Protection Agency (EPA) Guidelines (40 CFR 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 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. 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 submitted an application for Section 401 Water Quality Certification to the San Diego Regional Water Quality Control Board on November 20, 2015.

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 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 applicant submitted an application for a Federal Coastal Consistency Determination to the California Coastal Commission on November 20, 2015. The District Engineer hereby requests the California Coastal Commission's concurrence or non-concurrence.

Essential Fish Habitat- The Corps' preliminary determination indicates the proposed activity may adversely affect Essential Fish Habitat (EFH). Pursuant to Section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), the Los Angeles District hereby requests initiation of EFH consultation for the proposed project. This notice initiates the EFH consultation requirements of the Act. In order to comply with the Magnuson-Stevens Fishery Conservation and Management Act (MSA), pursuant to 50 CFR 600.920(e)(3), I am providing, enclosing, or otherwise identifying the following information:

1. Description of the proposed action: Refer to project description on Page 5 of this notice.

2. Onsite inspection information: Refer to baseline information on Page 5 of this notice.

3. Analysis of the potential adverse effects on EFH: Project implementation would temporarily impact approximately 1.90 acres of un-vegetated subtidal habitat and approximately 1.98 acres of intertidal open water/mudflat habitat, and permanently impact approximately 1.66 acres of intertidal open water/mudflat habitat. The habitat proposed for impact is highly disturbed. Specifically, the proposed permanent impacts to intertidal open water/mudflat habitat exists as a long, narrow, and shallow (<1 meter(m) deep) remnant strip of habitat separated from the remainder of the lagoon by an existing access road with only the narrow mouth at Bridge 240.4 providing connectivity to subtidal habitat.

Project construction would result in temporary, short-term impacts to EFH associated with grading operations, temporary work berm construction, and inlet bank stabilization (e.g., excavation, turbidity, sediment disruption). These activities would result in a temporary loss of subtidal habitat; however, fish passage into and out of the lagoon would be maintained.

Construction includes pile driving which would affect fish as a result of noise and vibration.

4. Proposed minimization, avoidance, and mitigation measures: Refer to Proposed Mitigation on

Page 7 of this notice. Additionally, the applicant has proposed to implement the following measures to reduce impacts to EFH:

a) For construction of the track embankment protection, the inlet channel would be realigned southward to maintain connectivity for fish passage, and multiple large diameter culverts will be placed in the construction work berm.
b) No lighting is proposed for culverts.
c) Appropriate Best Management Practices (BMPs) would be implemented to control sediment and erosion in accordance with the 2012-0006-DWQ Construction General Permit (CGP). The Storm Water Pollution and Prevention Plan (SWPPP) would include sediment and erosion control measures (e.g., fiber rolls, silt fences, turbidity curtains, compost socks, soil binders, or equivalent), storage of BMP materials on-site to provide adequate BMP deployment, provisions of the appropriate training for qualified personnel, implementation of appropriate good housekeeping measures, non-storm water management, and implementation of a construction site monitoring program.

5. Conclusions regarding effects of the proposed project on EFH: Project construction would temporarily impact approximately 1.90 acres of unvegetated subtidal habitat and approximately 1.98 acres of intertidal open water/mudflat habitat, and permanently impact approximately 1.66 acres of intertidal open water/mudflat habitat. The replacement of Bridge 240.4 would result in widening of the inlet channel and creation of intertidal habitat when the new concrete bridge is constructed in a longer configuration as compared to the existing bridge (Refer to page 6 for additional bridge details). Widening the inlet channel would promote tidal exchange, resulting in improved water quality. Overall, the project would result in a net increase in subtidal habitat due to the lengthening of the railroad bridge and removal of fill associated with the existing bridge abutments.

Therefore, it is my initial determination the proposed activity may adversely affect but would not have a substantial adverse impact on EFH or federally managed fisheries in California waters. My final determination relative to project impacts and the need for mitigation measures is subject to review by and coordination with NOAA Fisheries. If I do not receive written comments (regular mail or e-mail) within the 30-day notification period, I will assume concurrence by NOAA Fisheries with the proposed mitigation measures.

Cultural Resources- The latest version of the National Register of Historic Places has been consulted and these sites are not listed. The Project would therefore not result in adverse effects to historic properties under Section 106 of NHPA. This review constitutes the extent of cultural resources investigations by the District Engineer, and he is otherwise unaware of the presence of such resources. The Corps will initiate 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, and the evaluation of those resources in accordance with the National Historic Preservation Act (NHPA). The Corps would ensure that the proposed project would be in full compliance with Section 106 of the NHPA.

Endangered Species- The Corps determined the project may affect the federally listed endangered species, light-footed clapper rail (*Rallus longirostris ssp. levipes*), known to utilize habitat within the permit area of the proposed project. Therefore, pursuant to Section 7 of the Endangered Species Act of 1973, as amended, the Corps initiated formal consultation for the proposed project with the U.S. Fish and Wildlife Service on December 28, 2015.

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 to improve freight and passenger rail transportation efficiency. The project is not water dependent.

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 for the proposed project is to develop a faster, safer, and more reliable rail system that provides enhanced capacity in response to increased freight and passenger travel demand in the Los Angeles-San Diego-San Luis Obispo (LOSSAN) Rail Corridor in the cities of Solana Beach and Encinitas in northwestern San Diego County.

Additional Project Information

Baseline information- The study area supports wetlands and non-wetland waters of the U.S. subject to Corps jurisdiction and coastal wetlands subject to California Coastal Commission (CCC) regulation. The Federally endangered light-footed clapper rail occurs within the study area, which also includes habitat with potential to support federally threatened California gnatcatcher (*Polioptila californica californica*) and federally protected nesting migratory birds, and Critical Habitat for western snowy plover (*Charadrius alexandrinus* ssp. *nivosus*).

San Elijo Lagoon is mapped as EFH for Pacific groundfish (includes more than 82 species) and coastal pelagic fisheries (includes 4 finfish and squid) and as an estuarine Habitat Area of Particular Concern (HAPC). Subtidal habitat within the survey area is limited to soft-bottomed, primarily unvegetated channel. San Elijo Lagoon encompasses a minimal amount of subtidal habitat, so it is likely that the lagoon is currently not playing a critical role in sustaining nearshore fish populations. However, the connection of the protected open water and tidal channels in the lagoon to the open ocean may still play some role in supporting local fish populations. No submerged aquatic vegetation (SAV) occurs within the limits of the Project footprint. Limited to no eelgrass SAV occurs throughout the lagoon outside of the Project footprint.

Project description- The project consists of adding 1.5 miles of a second main track (double tracking) and the replacement of the existing timber Bridge 240.4 with associated track and signal improvements through the existing LOSSAN corridor. The proposed project would result in permanent impacts to 2.86 acres (including 1.21 acres of wetland) and temporary impacts to 5.23 acres (including 1.34 acres of wetland) waters of the U.S. Figures 7a through 7f depict the project footprint, which includes temporary and permanent impact areas necessary to construct the project. The project features are described below.

- Track Improvements – A second main track would be constructed from CP Cardiff in the north portion of the Project area to CP Craven in the south portion of the Project area. CP Craven would be

removed and a universal crossover consisting of four turnouts would take the place of the existing CP Cardiff. In order to accommodate the double track improvements through San Elijo Lagoon, additional track embankment, east of the existing embankment would be placed within the railroad Right of Way (ROW) at a higher elevation to accommodate a 100-year storm event. In addition, grading, retaining walls, utilities, and drainage improvements would be required at various points along the Project alignment and are included in the Project footprint (Figure 3a through 3f).

- Bridge Replacement – Bridge 240.4, a 308 foot long, single track timber trestle bridge built in the early 1940's would be replaced with a new double track concrete bridge that consists of eight (8) 42-foot spans, concrete girders supported by five (5) 2-foot diameter steel pipe piles. The total length of the new bridge is 336 feet. As part of the project, the in-water bridge footprint would be reduced through use of steel piles with longer bridge spans over the lagoon. The existing timber trestle wood pilings would be removed creating more visibility under the bridge as well as more open water and tidal flows than what currently exists. Replacement of Bridge 240.4 would result in expansion of Corps non-wetland waters and CCC wetlands when the new concrete bridge is constructed in a longer configuration as compared to the existing bridge. The new double track concrete bridge would be constructed in a single phase, offline from the existing bridge, to maintain rail service during construction and decrease the duration of construction over the San Elijo Lagoon inlet channel. To minimize duration of work within the San Elijo Lagoon, a temporary construction work berm would be constructed under and on either side of the proposed bridge to accommodate construction equipment and activities. The temporary construction work berm would be comprised of two parallel sheet pile walls connected with tie rods and filled with clean sand for stability and to facilitate vehicle movement. The temporary construction work berm would be in place for approximately 14 months. Multiple four-foot diameter pipes or culverts would be installed through the work berm area to maximize tidal exchange and limit changes in flow velocity that could prohibit fish passage or cause scour. A separate dry passageway would be provided for light-footed clapper rail to move up and over the work berm. Moveable fencing would be provided to keep light-footed clapper rail out of the work area during work periods and allow passage during non-work periods.

- Drainage Improvements - Include the following: Installation of an articulated concrete block (ACB) channel within the trackside ditch on the east side of the tracks between MP 239.37 to MP 239.74 (north of lagoon). A small portion of this ditch would be concrete-lined to avoid impacts to adjacent bluffs. An ACB channel would be installed within the drainage swale between San Elijo Avenue and the culvert at MP 239.70. The culvert at MP 239.70 would be replaced with a larger size culvert. The remaining culverts within the project limits at MP 239.87, MP 239.94, and MP 240.10 would be extended with similar sizing. The upstream opening of the culvert at MP 239.94 would be converted from an open connection to a closed direct connection to the two upstream pipes. At this location, curb and gutter would be added along San Elijo Avenue to improve drainage into the culvert at MP 239.94. A new drainage structure would be constructed to convey flows from the existing track ditch down to the lagoon elevation. An energy dissipater at the south end of the San Elijo Lagoon would be reconstructed in a new location within the project footprint due to placement of the new track embankment and drainage structure.

- Track Embankment Protection – Embankment protection could consist of various types, including but not limited to riprap and ACB. The Project includes track embankment protection on the west side of the track between the ocean inlet and Bridge 240.4. Embankment protection would also be installed around both Bridge 240.4 abutments, and 300 feet south of the bridge on the east side of tracks to protect the track from storm events, scour, and wave action. The embankment protection design also addresses projected mean sea level rise. The inlet channel embankment protection work consists of placing equipment in dry portions of the inlet channel bottom to excavate the lower half of the current berm, sort materials, and place the rip rap embankment protection. This phase of

construction is anticipated to take 4 to 6 months, and would occur at times of the year when the inlet channel naturally accumulates sediment. This sediment would be utilized as a working pad to create dry work areas and after completion of bank stabilization, would be dredged as part of the proposed San Elijo Lagoon Restoration Project. Riprap would be placed at or below the existing grade to the maximum extent feasible to avoid permanent loss of jurisdictional waters. Excess surface water would be pumped from one side of the channel to the other if necessary to maintain adequate working conditions while placing the riprap embankment protection within the inlet channel. Typical construction methods and equipment would be utilized, including a bulldozer and/or backhoe to move sand and soil within the temporary impact footprint within the inlet channel. Existing riprap would be salvaged and reused along the embankment, and sand and soil would be replaced in-kind as backfill.

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: Avoidance was accomplished through early consideration of alignment and bridge type alternatives with input from the resource agencies prior to selecting the proposed project. The applicant asserts that their design avoids impacts by utilizing the existing railroad berm to the fullest extent practicable to reduce impacts to wetlands. The applicant also proposes to utilize an existing SDG&E utility access road to avoid impacts associated with construction and use of a project-specific construction access road through the lagoon.

Minimization: Use of a construction berm for bridge construction and demolition of the existing wooden trestle bridge would reduce the duration of construction activities within the lagoon. The existing timber trestle wood pilings would be removed, creating more open water and tidal flows than what currently exists. Replacement of Bridge 240.4 would result in expansion of non-wetland waters when the new concrete bridge is constructed in a longer configuration. Overall, the in-water bridge footprint would be reduced through use of steel piles with longer bridge spans over the lagoon as compared to the existing bridge. Oversight by a project biologist, environmental awareness training to all personnel, fencing to contain work to permitted areas, and other BMPs would protect adjacent habitat and species, and ensure maintenance of water quality.

Compensation: The applicant has proposed to compensate for permanent impacts to 2.86 acres of waters of the U.S. through the Regional Lagoon Maintenance Program as identified in the SANDAG/Caltrans' Public Works Plan/Transportation and Resource Enhancement Program (PWP/TREP) Resource Enhancement Mitigation Program (REMP). The applicant has proposed to fund a non-wasting endowment plus a management fund that would be used to periodically open the mouth of Los Peñasquitos Lagoon, as necessary.

Proposed Special Conditions

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

For additional information please call Meris Guerrero of my staff at 760-602-4836 or via e-mail at 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.

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
5900 LA PLACE COURT, SUITE 100
CARLSBAD, CALIFORNIA 92008

WWW.SPL.USACE.ARMY.MIL/MISSIONS/REGULATORY

Figure 1. Project Location and Vicinity

Figure 2. USGS Topographic Map

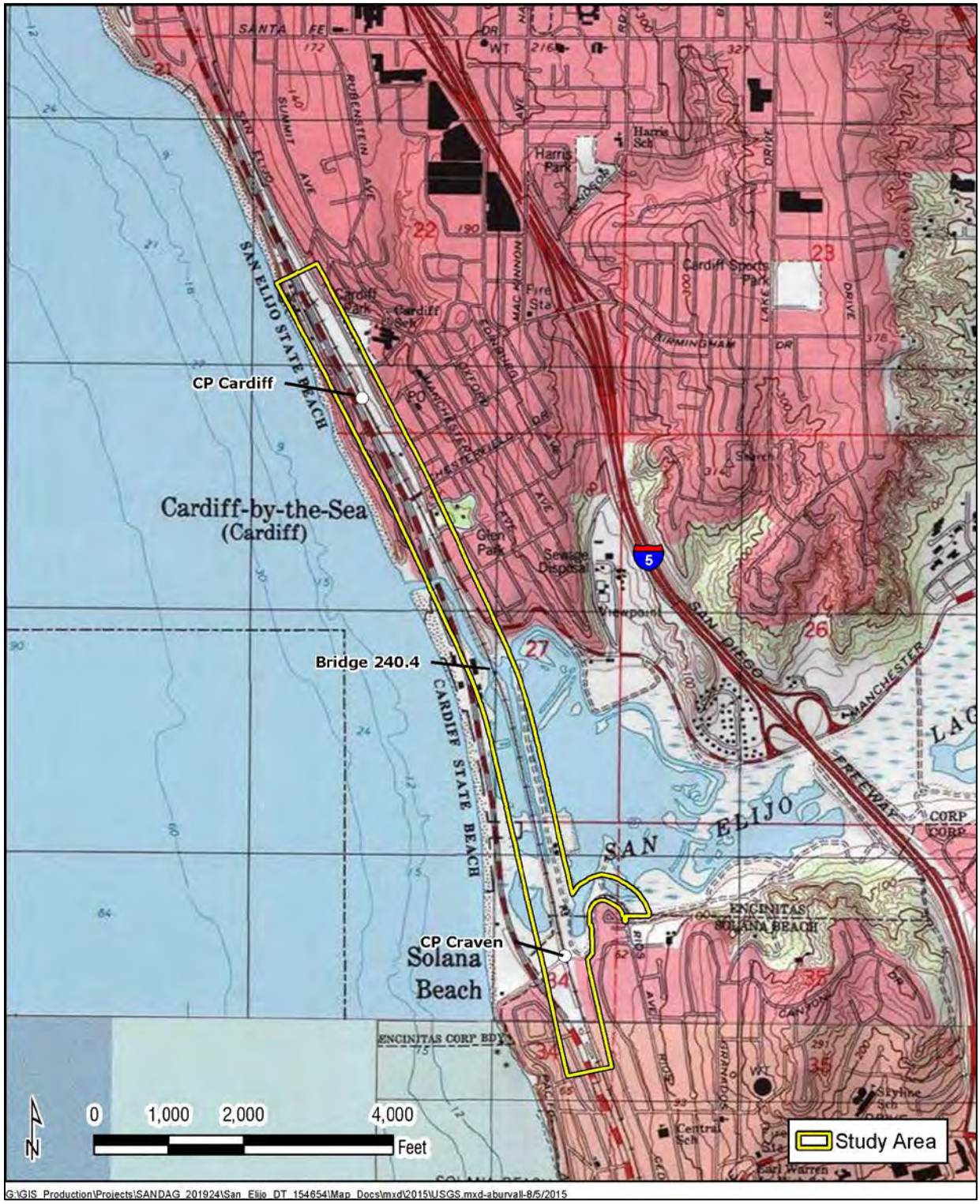

Figure 7a. USACE and CCC Jurisdictional Areas

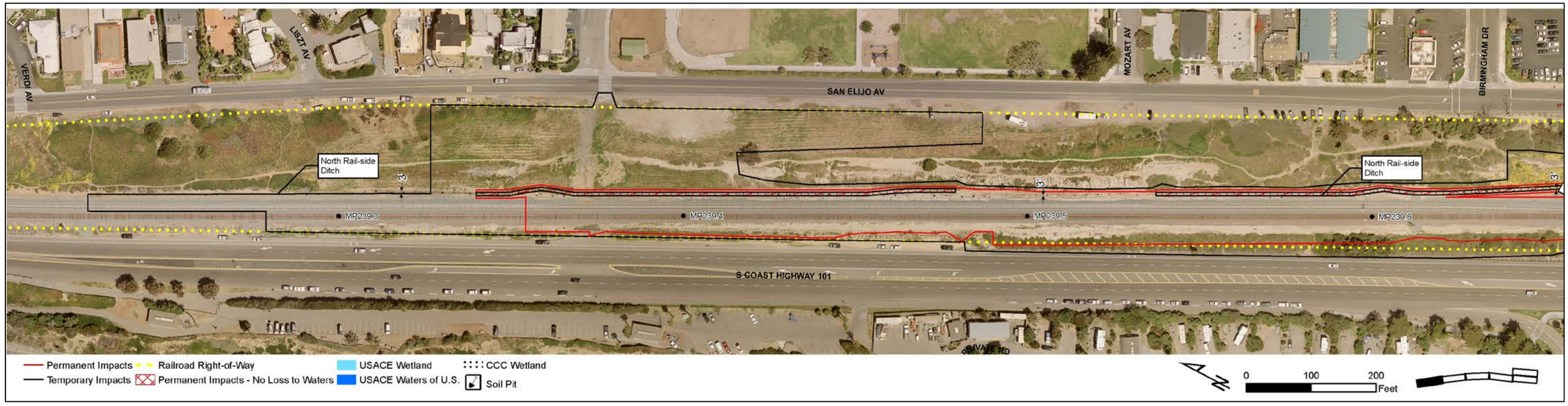

Figure 7b. USACE and CCC Jurisdictional Areas

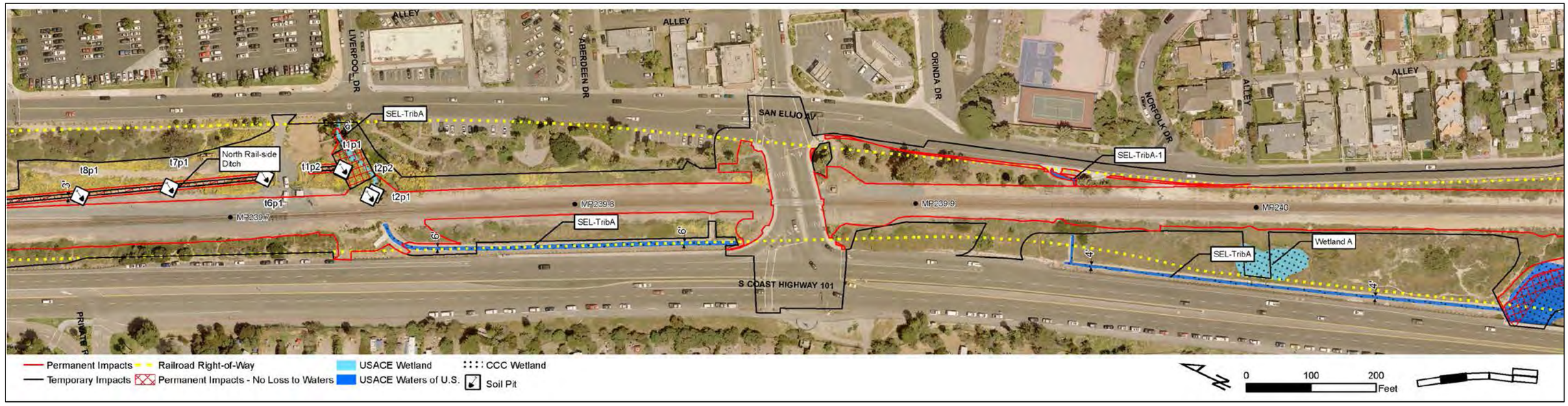

Figure 7c. USACE and CCC Jurisdictional Areas

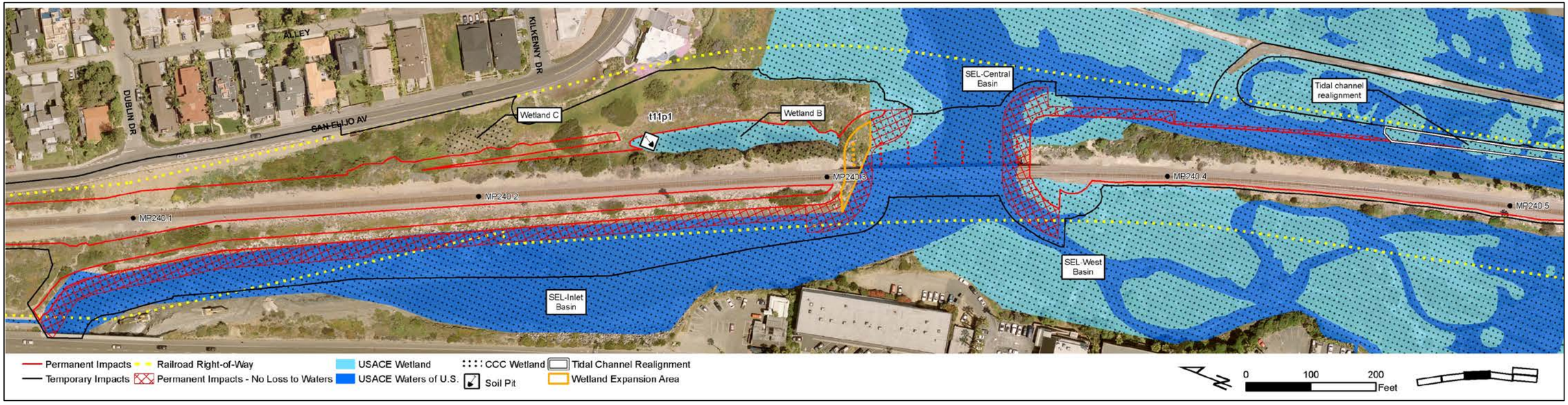

Figure 7d. USACE and CCC Jurisdictional Areas

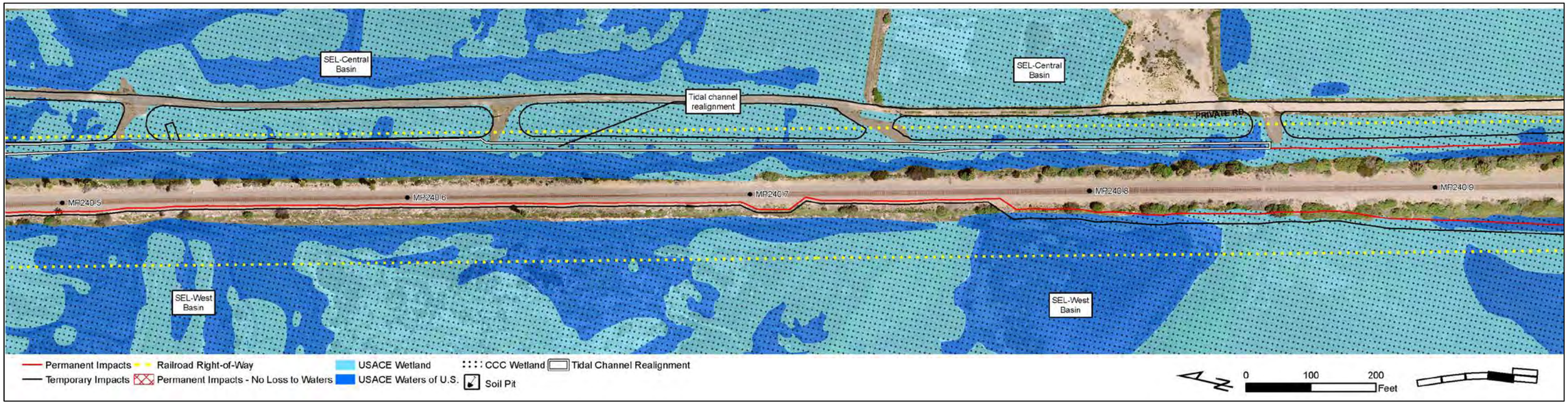

Figure 7e. USACE and CCC Jurisdictional Areas

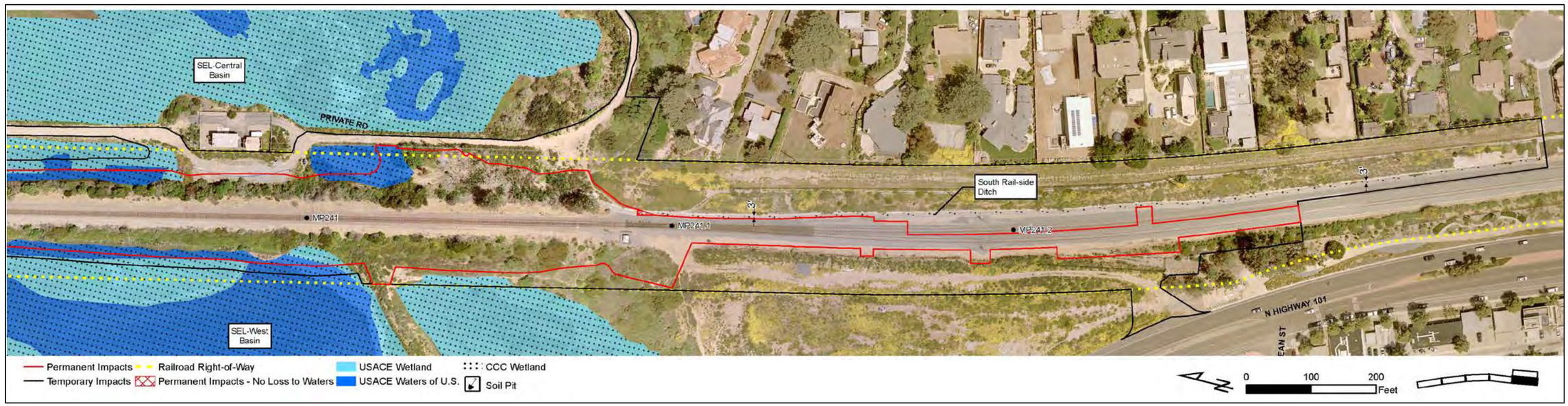

Figure 7f. USACE and CCC Jurisdictional Areas

Figure 3a. Project Footprint

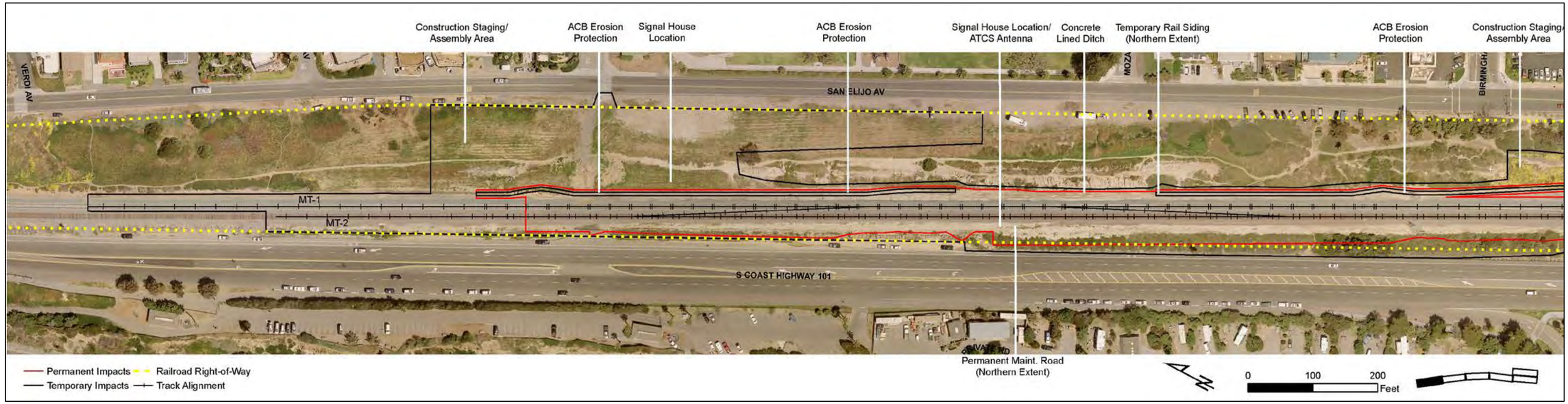

Figure 3b. Project Footprint

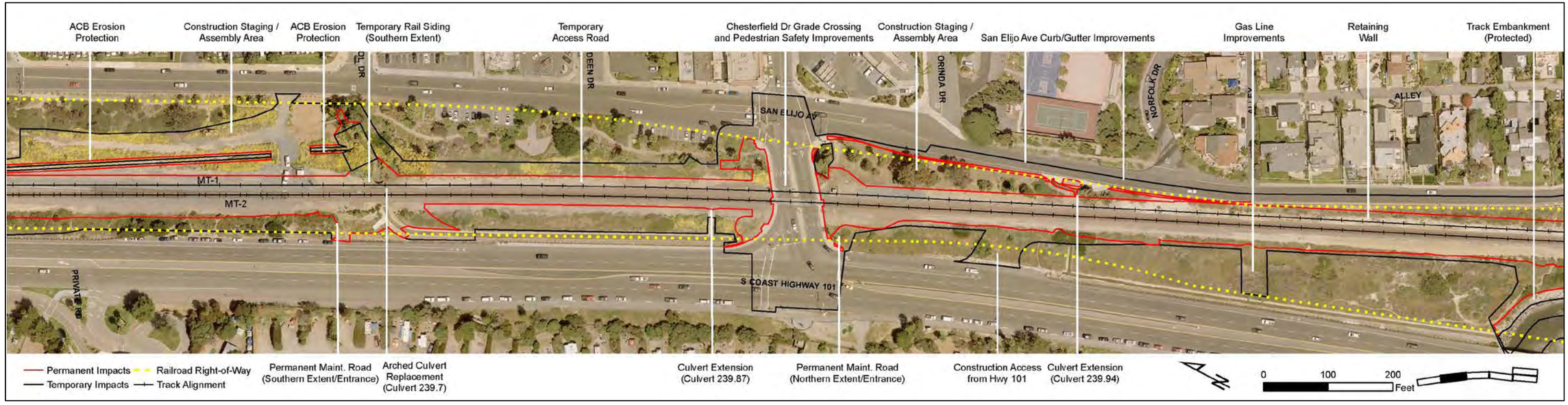

Figure 3c. Project Footprint

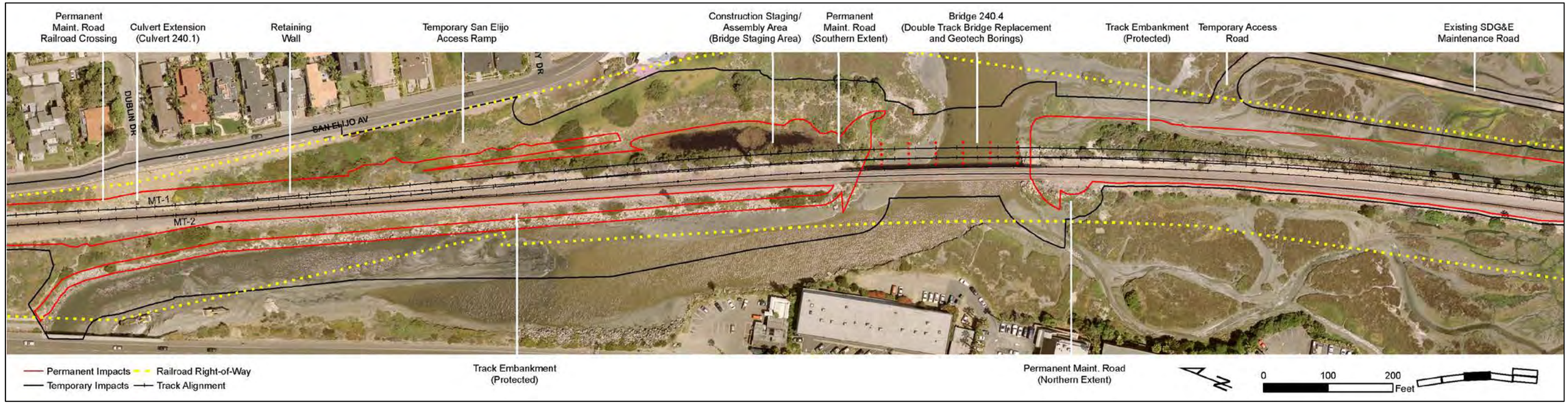

Figure 3d. Project Footprint

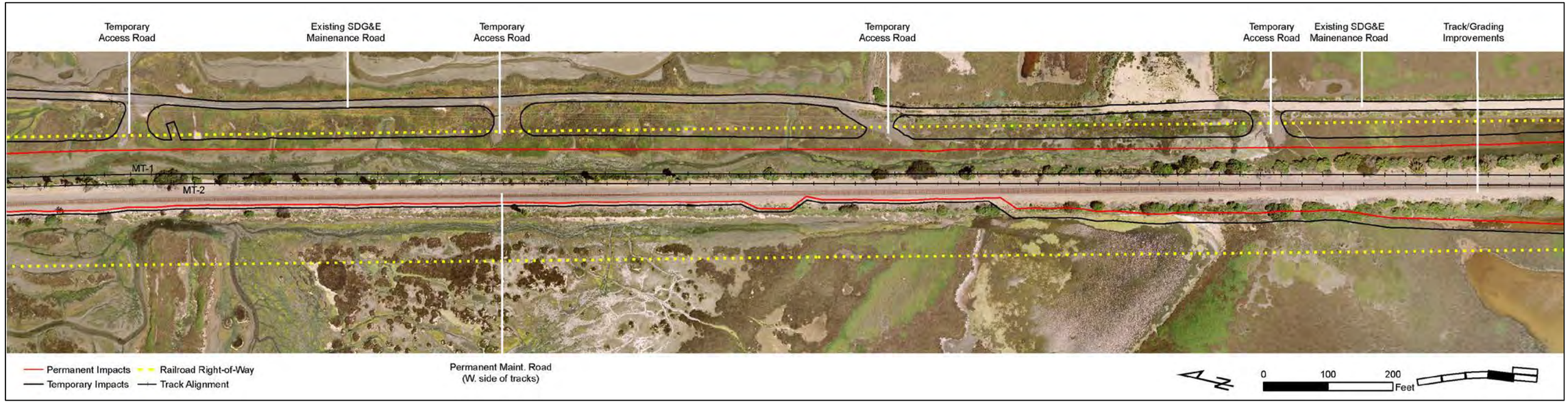

Figure 3e. Project Footprint

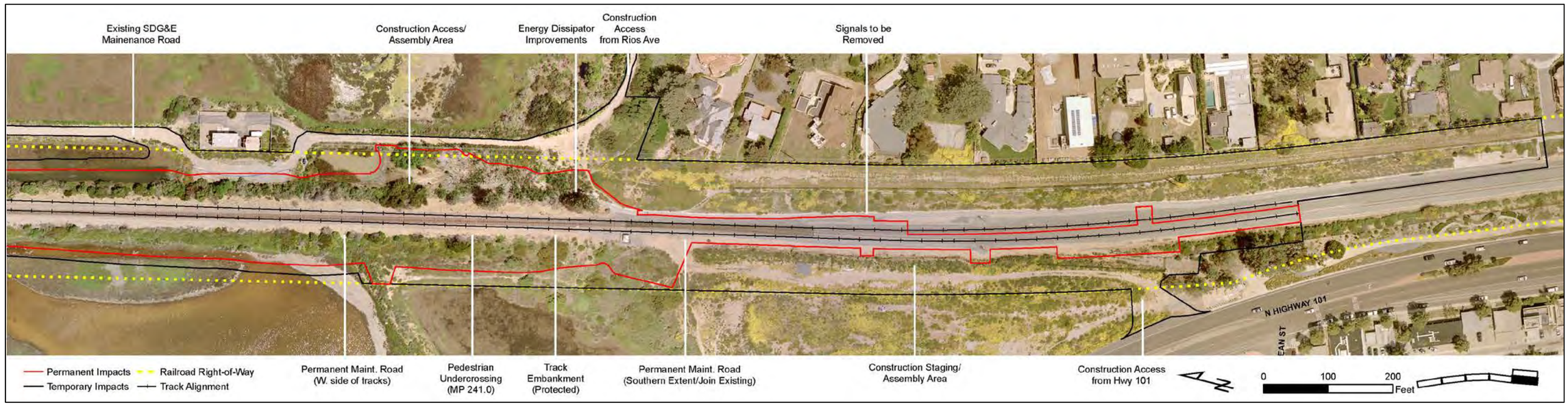

Figure 3f. Project Footprint