



PUBLIC NOTICE

U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT

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APPLICATION FOR PERMIT Wash Plan Programmatic Permitting and Mitigation Program

Public Notice/Application No.: SPL-2021-00336-DLC

Project: San Bernardino Valley Water Conservation District - Wash Plan Programmatic Permitting and Mitigation Program

Comment Period: July 1, 2022 through July 31, 2022

Project Manager: Deanna Cummings; (213) 452-3002; Deanna.L.Cummings@usace.army.mil

Applicant

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Location

The Upper Santa Ana River Wash Habitat Conservation Plan (Wash Plan) area is generally located within the cities of Highland and Redlands within San Bernardino County, CA (Representative Latitude/Longitude: 34.099043°, -117.152621°). The Wash Plan area is situated at the confluence of four major drainages as they merge with the Santa Ana River: Santa Ana River, Mill Creek, Plunge Creek, and City Creek.

Activity

To issue a long-term standard individual permit (SIP) under Section 404 of the Clean Water Act for Upper Santa Ana River Wash Habitat Conservation Plan (HCP) Covered Activities. The San Bernardino Valley Water Conservation District (Conservation District) and certain HCP Participating Entities propose 20 construction projects and 7 maintenance projects (see attached Figures 1 - 6). For more information see Additional Project Information section below. The proposed SIP would provide a review and authorization process for implementing Wash Plan Covered Activities when they result in discharges of dredge or fill into Waters of the U.S. (WOTUS) and thus are subject to Section 404 regulations.

Submittal of Public Comments

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.

Please do not mail hard copy documents, including comments to any Regulatory staff. Instead, your comments should be submitted electronically to: Deanna.L.Cummings@usace.army.mil. Should you have any questions or concerns about the Corps' proposed action or our comment period, you may contact Deanna L. Cummings directly at (213) 452-3002.

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 or waiver, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board. The applicant has indicated they have applied for Section 401 certification. 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.

Coastal Zone Management- This project is located outside the coastal zone and preliminary review indicates it would not affect coastal zone resources. After a review of the comments received on this public notice and in consultation with the California Coastal Commission, the Corps will make a final determination of whether this project affects coastal zone resources after review of the comments received on this Public Notice.

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- The latest version of the National Register of Historic Places has been consulted and this site is not listed. This review constitutes the extent of cultural resources investigations by the District Engineer, who is otherwise unaware of the presence of such resources.

Endangered Species- Preliminary determinations indicate the proposed activity may affect federally-listed endangered or threatened species, or their critical habitat. A Section 10 Habitat Conservation Plan (HCP) has been finalized for the Project. A Federal Incidental Take Permit (ITP) was issued to the Conservation District in 2020 for Covered Activities; a State ITP is pending. The Conservation District and certain HCP Participating Entities now seek a Section 404 permit for the Covered Activities that are subject to USACE regulations. The proposed action to issue a Clean Water Act Section 404 SIP would apply to the same Covered Activities that were evaluated for the Federal ITP. The Corps will consult with USFWS to request extending to the SIP the take exemptions already provided to the Conservation District for the HCP.

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). Because no fills are proposed within special aquatic sites, identification of the basic project purpose is not necessary. 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 is to establish a programmatic Section 404 permitting process that authorizes unavoidable impacts to WOTUS for future projects identified as Covered Activities in the Upper Santa Ana River Wash HCP. The proposed projects include (1) new or expanded facilities planned in the Plan Area, and (2) activities related to the operations and maintenance of existing facilities or associated with new facilities to be constructed. The purpose and need of individual Covered Activities varies.

Additional Project Information

Baseline information-

The proposed issuance of a Clean Water Act Section 404 SIP will establish a programmatic process to authorize the Conservation District and five HCP Participating Entities (see below) for identified eligible activities (i.e., Wash Plan Covered Activities). The Wash Plan HCP provides for the ongoing use of land and mineral resources within the 4,892-acre Plan Area while maintaining the biological and hydrological resources therein in an environmentally sensitive manner. A Federal Incidental Take Permit (ITP) was issued to the Conservation District in 2020 for Covered Activities; a State ITP is pending. The Conservation District and the five HCP Participating Entities noted below now seek a programmatic Section 404 permit for their Covered Activities that are subject to USACE regulations. Among these entities, there are 27 Covered Activities that are anticipated to have unavoidable impacts to jurisdictional waters of the U.S. These include projects categorized as aggregate mining, water conservation, wells and water infrastructure, transportation, flood control, trails, habitat enhancement and monitoring, and agriculture.

In accordance with National Environmental Policy Act (NEPA) and California Environmental Quality Act (CEQA) requirements, the US Fish and Wildlife Service and the Conservation District prepared an Environmental Impact Statement (EIS)/Supplemental Environmental Impact Report (SEIR). The Record of Decision (ROD) and Notice of Determination (NOD) were certified on July 13, 2020, and July 8, 2020, respectively. Biology and Cultural Resources technical reports that supported the EIS/SEIR can also support USACE evaluation and consultations under the Endangered Species Act and National Historic Preservation Act.

Project description-

The activities are proposed by the San Bernardino Valley Water Conservation District (Conservation District) plus five of the Wash Plan HCP Participating Entities including, Cemex Inc., City of Highland, City of Redlands, East Valley Water District, and Robertson's Ready Mix. Planning among the projects is in different stages of development but would not exceed project area limits established in the Wash Plan HCP. The total acreage of jurisdictional waters within the entire Wash Plan Project area is 533 acres. Based on these worst-case project area limits and the Wash Plan Area-wide delineation that was conducted in 2020-2021, up to 9.00 acres of impacts to jurisdictional waters of the U.S. could occur, including 4.93 acres of permanent impacts and 4.07 acres of temporary impacts. All impacts would be to non-wetland waters of the U.S. Due to the total amount of permanent impacts to waters of the U.S. estimated, an SIP is required.

Direct impacts to waters of the U.S. would be mitigated within the Wash Plan area via floodplain enhancement projects along Plunge Creek and Santa Ana River and the Greenspot Levee Removal project. Through these projects, new wetlands and non-wetland waters will be created and the functioning of existing wetlands and non-wetland waters will be enhanced. These efforts will complement the preservation and long-term management of habitats identified in the Wash Plan HCP.

The Wash Plan describes 63 Covered Activities that received an Endangered Species Act ITP. A subset of these Covered Activities is expected to require a Section 404 permit due to unavoidable impacts to Waters of the US. The Conservation District and the following five HCP Participating Entities are requesting Section 404 authorization for their individual projects identified herein: Cemex Inc., City of Highland, City of Redlands, East Valley Water District, and Robertson's Ready Mix.

The Wash Plan covers two types of activities: (1) new or expanded facilities planned in the Plan Area, and (2) activities related to the operations and maintenance of existing facilities or associated with new facilities constructed as a Covered Activity.

The Covered Activities that are proposed by the Conservation District and the five HCP Participating Entities noted above have been subdivided into the following categories:

1. Aggregate Mining—the areas in which gravel and rock (aggregate) mining operations by Robertson's Ready-Mix and Cemex, Inc. will continue (existing mining) and expand (new mining) as delineated in this HCP and the land exchange between Conservation District and BLM.
2. Water Conservation—activities related to water management for the conservation/recharge or extraction of potable water from groundwater basins as part of the regional water supply.
3. Wells and Water Infrastructure—activities related to the creation of new wells and access roads and the maintenance of existing wells and access roads.
4. Transportation—activities related to the construction, operation, and maintenance of planned transportation facilities.
5. Flood Control—activities related to the construction of new flood control structures and the operation and maintenance of existing and new flood control facilities.
6. Habitat Enhancement and Monitoring—activities that support the restoration and maintenance of habitat values in the Wash.

The applicant will be required to demonstrate compliance with the EPA Guidelines (40 CFR Part 230) as required by Section 404 (b)(1) of the Clean Water Act through the consideration of less damaging alternatives.

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: The work area and scope would be limited to the proposed work areas proposed and the limits of construction and frequency and limits of maintenance would be restricted.

Minimization: The proposed project would minimize impacts to WOTUS through the following example measures. Other measures may be included as the permit program is developed.

The Wash Plan HCP established the following avoidance and minimization measures for work in streams and drainages and to manage runoff:

- Construction activity and access roads will be minimized to the extent practicable in all drainages, streams, pools, or other features that could be under the jurisdiction of the U.S. Army Corps of Engineers, State Water Resources Control Board, and/or California Department of Fish and Wildlife.
- When stream flows must be diverted for construction purposes, the diversions will be conducted using sandbags or other methods requiring minimal instream impacts. Silt fencing or other sediment trapping materials will be installed at the downstream end of construction activity to minimize the transport of sediments off site. Settling ponds where sediment is collected will be cleaned out in a manner that prevents the sediment from reentering the stream. Care will be exercised when removing silt fences, as feasible, to prevent debris or sediment from returning to the stream. Note that water-right-related water diversions that are conducted for water recharge purposes are exempt from this measure.
- Erodible fill material will not be deposited into water courses. Brush, loose soils, or other similar debris material will not be stockpiled within the stream channel or on its banks. Authorized fill material within water courses associated with construction and maintenance activities will be managed to prevent redistribution of materials into downstream areas. Proposed habitat restoration that may require placement of fill materials in water courses is exempt from this measure.
- Proposed projects near or within the mitigation lands or other natural areas will incorporate plans to ensure that runoff discharged is not altered in an adverse way when compared with existing conditions, which includes landscape irrigation. Stormwater systems will be designed to prevent the release of sediments, toxins, chemicals, petroleum products, exotic plant materials, or other elements that might degrade or harm biological resources or ecosystem processes within the mitigation lands.

In addition, the following measures are included as a means of avoiding and minimizing adverse impacts to hydrological resources that occur within the Plan Area:

- HYD MM-1 Minimization of Construction Activity in Waters – Construction activity and access roads will be minimized to the extent practicable in all drainages, streams, pools, or other features that could be under the jurisdiction of the USACE, State Water Board, and/or CDFW.
- HYD MM-2 Reduction of Runoff and Siltation and Pollution Prevention – When stream flows must be diverted for construction purposes, the diversions will be conducted using sandbags or other methods requiring minimal instream impacts. Silt fencing or other sediment trapping

materials will be installed at the downstream end of construction activity to minimize the transport of sediments off site. Settling ponds where sediment is collected will be cleaned out in a manner that prevents the sediment from reentering the stream. Care will be exercised when removing silt fences, as feasible, to prevent debris or sediment from returning to the stream. Note that water-right-related water diversions that are conducted for water recharge purposes are exempt from this measure.

Erodible fill material will not be deposited into water courses. Brush, loose soils, or other similar debris material will not be stockpiled within the stream channel or on its banks. Authorized fill within water courses associated with construction and maintenance activities will be managed to prevent redistribution of materials into downstream areas. Proposed habitat restoration that may require placement of fill materials in water courses is exempt from this measure.

Covered Activities near to or within the HCP Preserve or other natural areas will incorporate plans to ensure that runoff discharged is not altered in an adverse way when compared with existing conditions, which includes landscape irrigation. Stormwater systems will be designed to prevent the release of sediments, toxins, chemicals, petroleum products, exotic plant materials, or other elements that might degrade or harm biological resources or ecosystem processes within the HCP Preserve.

- HYD MM-3 Prevention of Water Pollution from Toxic Materials – Covered Activities within or adjacent to the HCP Preserve or other natural areas that use chemicals (herbicides, rodenticides, insecticides) or generate byproducts that are potentially toxic or may adversely affect wildlife and plant species, habitat, or water quality will incorporate measures to ensure that application of such chemicals does not result in any discharge to the HCP Preserve or other natural areas.

Equipment storage, fueling, and staging areas will be located on upland sites with minimal risks of direct drainage into the HCP Preserve or other natural areas. These designated areas will be located in such a manner as to prevent any runoff from entering sensitive habitat including riparian areas. Precautions will be taken to prevent the release of toxic substance into surface waters. Project-related spills of hazardous materials will be reported to appropriate entities—including but not limited to the applicable jurisdictional city or county, USFWS, CDFW, and RWQCB—and will be cleaned up immediately and contaminated soils removed to approved disposal areas.

Compensation: Mitigation within the Wash Plan area involves floodplain enhancement projects along Plunge Creek and Santa Ana River, and the Greenspot Levee Removal project. Through these projects, new wetlands and non-wetland waters will be created and the functioning of existing wetlands and non-wetland waters will be enhanced. The final mitigation plan will be developed with the USACE and other resource agencies during the review and processing of permits.

Proposed Special Conditions

Special conditions may be added to a Department of the Army permit when such conditions are necessary to satisfy legal requirements or to otherwise satisfy the public interest requirement. The need for permit special conditions will be considered during permit evaluation period. Any resulting permit special conditions will be directly related to the impacts of the proposal, appropriate to the scope and degree of those impacts, and reasonably enforceable.

For additional information please call Deanna Cummings of my staff at (213) 452-3002 or via e-mail at Deanna.L.Cummings@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.

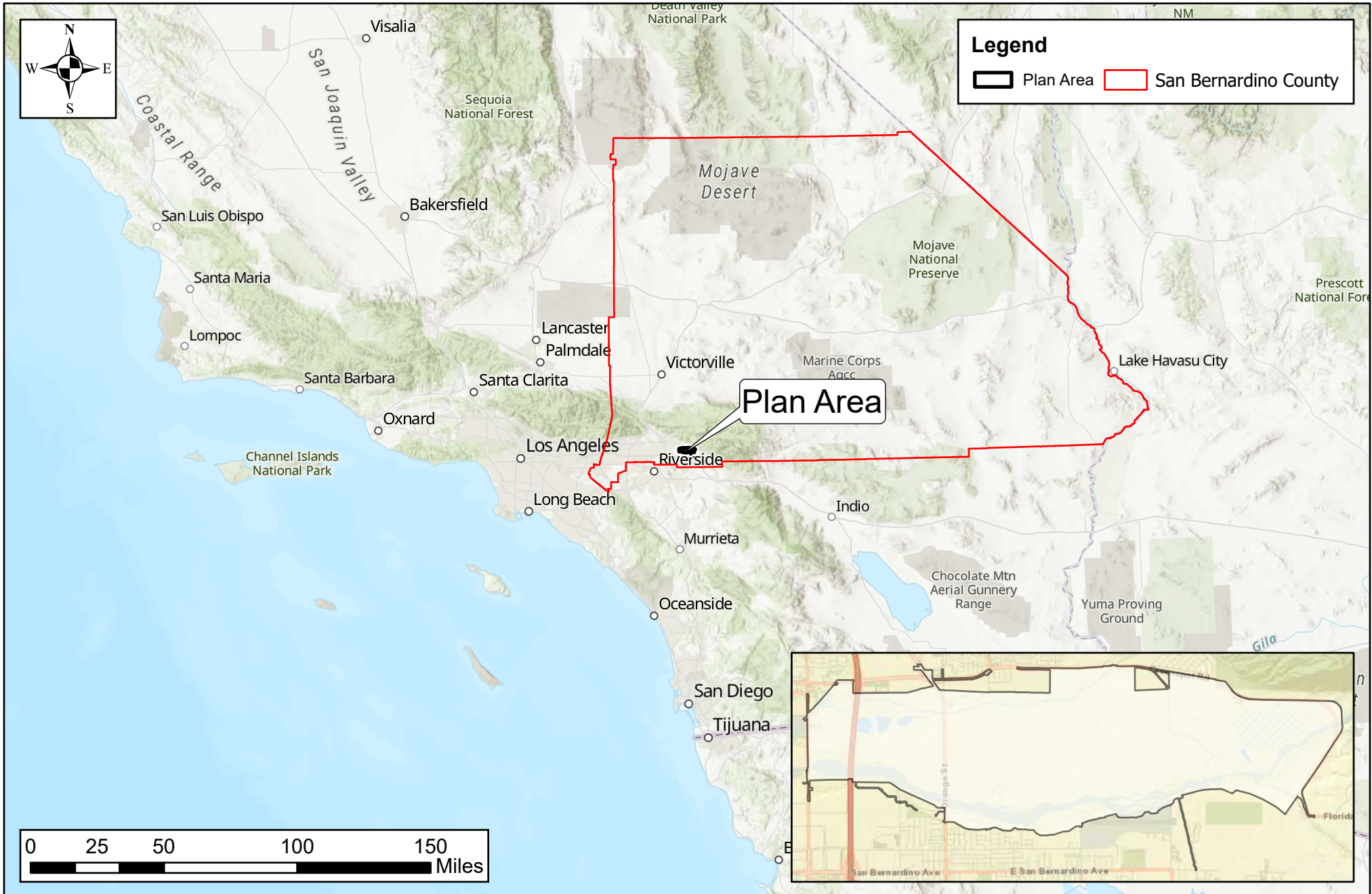
DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
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Wash Plan Regional Overview

Public Notice

Attachment A - Figure 1

Coordinate System:
NAD 1983 State Plane California V FIPS 0405 Feet
Projection: Lambert Conformal Conic
Datum: North American 1983
Source: SBVWCD, CASIL, SBVMWD
GIS Contact: Katelyn Scholte
March 24, 2022

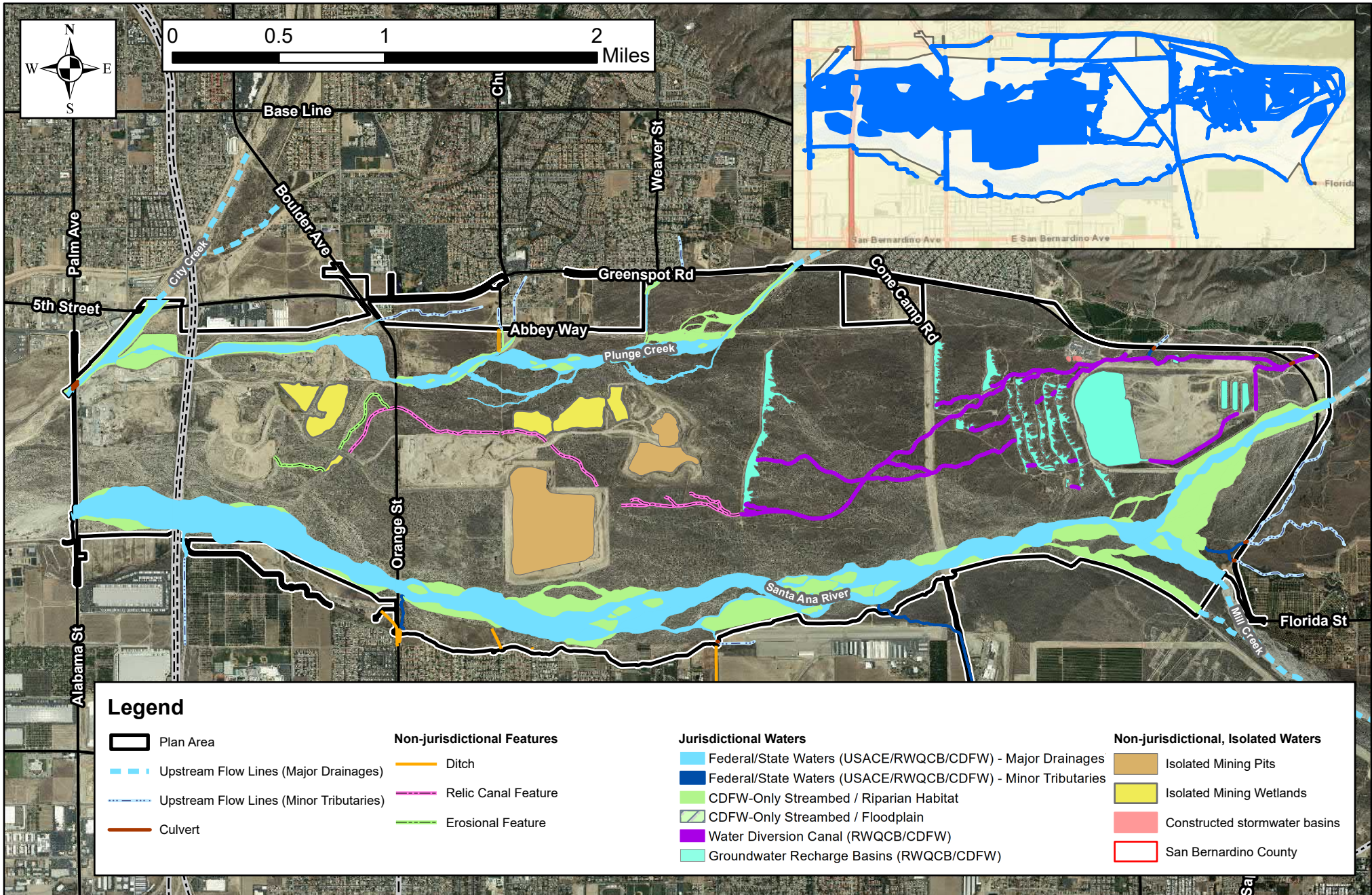


Wash Plan Area with JD Layers

Public Notice

Attachment A - Figure 2

Coordinate System:
NAD 1983 State Plane California V FIPS 0405 Feet
Projection: Lambert Conformal Conic
Datum: North American 1983
Source: SBVWCD, CASIL, SBVMWD
GIS Contact: Katelyn Scholte
April 4, 2022

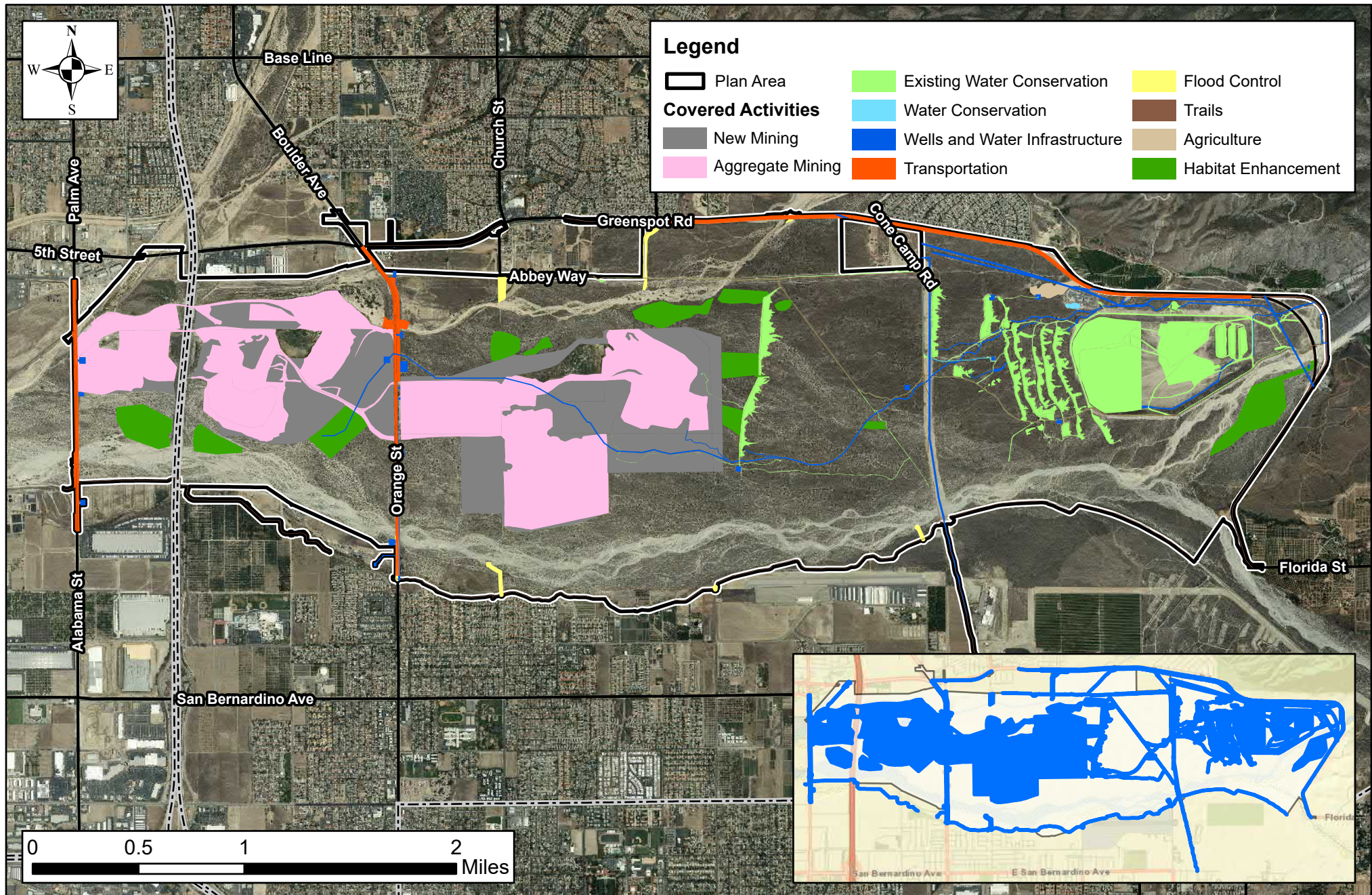


Wash Plan Proposed Projects Overview

Public Notice

Attachment A - Figure 3

Coordinate System:
NAD 1983 State Plane California V FIPS 0405 Feet
Projection: Lambert Conformal Conic
Datum: North American 1983
Source: SBVWCD, CASIL, SBVMWD
GIS Contact: Katelyn Scholte
March 24, 2022

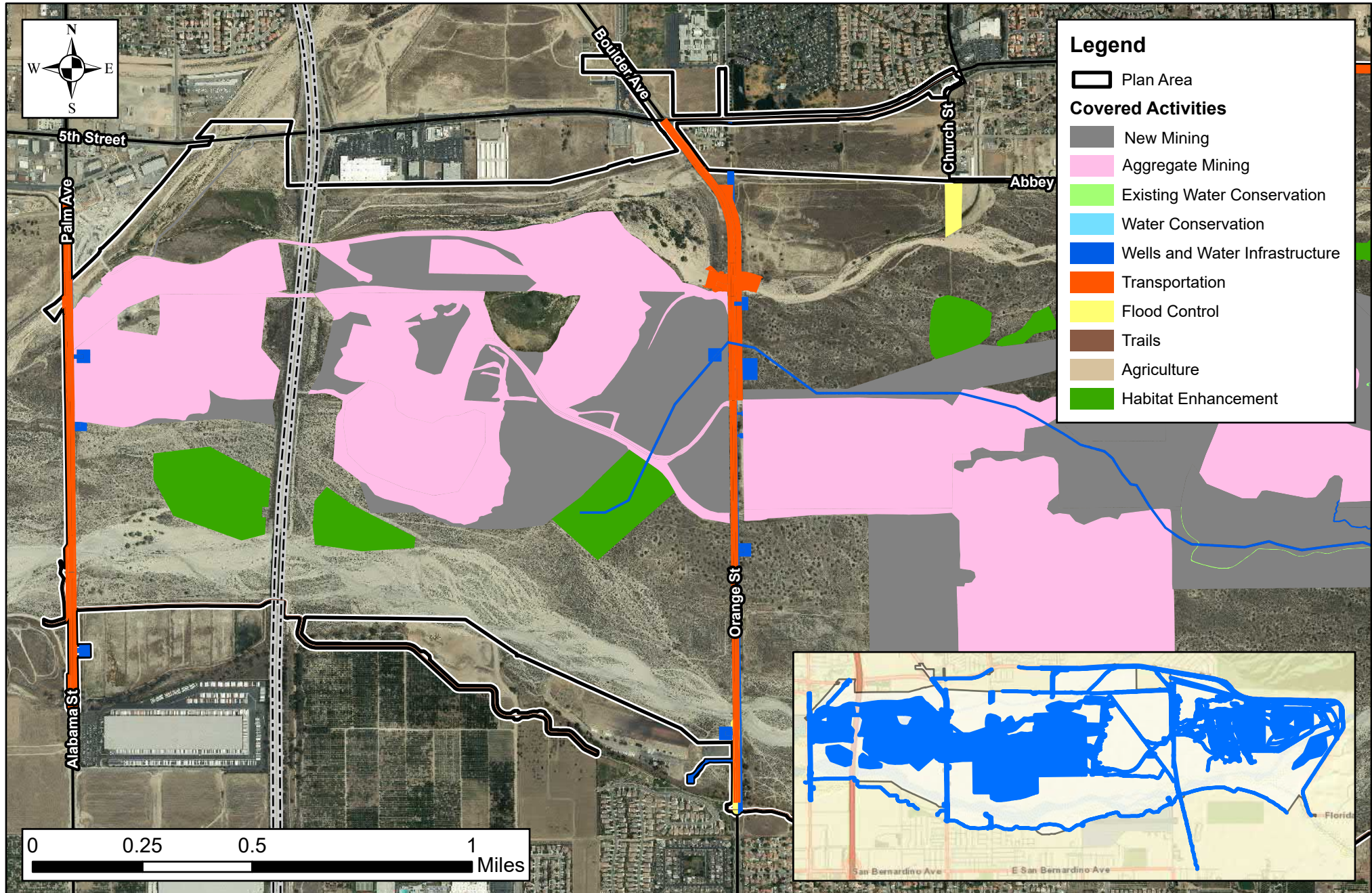


Wash Plan Proposed Projects (Western Area)

Public Notice

Attachment A - Figure 4

Coordinate System:
NAD 1983 State Plane California V FIPS 0405 Feet
Projection: Lambert Conformal Conic
Datum: North American 1983
Source: SBVWCD, CASIL, SBVMWD
GIS Contact: Katelyn Scholte
March 24, 2022

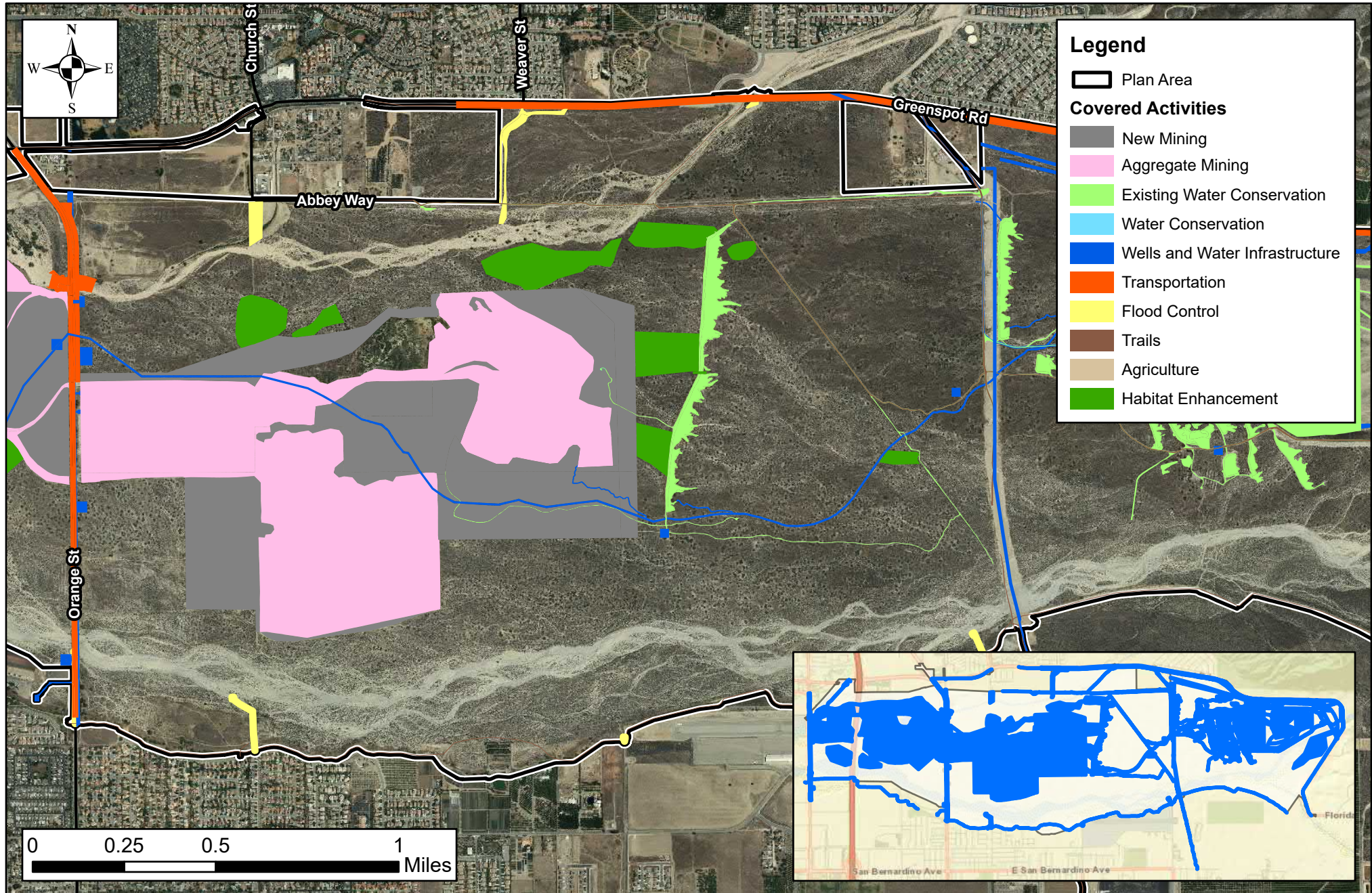


Wash Plan Proposed Projects (Central Area)

Public Notice

Attachment A - Figure 5

Coordinate System:
NAD 1983 State Plane California V FIPS 0405 Feet
Projection: Lambert Conformal Conic
Datum: North American 1983
Source: SBVWCD, CASIL, SBVMWD
GIS Contact: Katelyn Scholte
March 24, 2022



Wash Plan Proposed Projects (Eastern Area)

Public Notice

Attachment A - Figure 6

Coordinate System:
NAD 1983 State Plane California V FIPS 0405 Feet
Projection: Lambert Conformal Conic
Datum: North American 1983
Source: SBVWCD, CASIL, SBVMWD
GIS Contact: Katelyn Scholte
March 24, 2022

