DEPARTMENT OF THE ARMY
REGIONAL GENERAL PERMIT NUMBER 74
FOR
MAINTENANCE ACTIVITIES
WITHIN
SPECIAL AREA MANAGEMENT PLAN AREAS
IN ORANGE COUNTY, CALIFORNIA

PERMITTEE: Individuals, public and private entities, and government agencies seeking authorization for activities to occur within the boundaries of the San Diego Creek Watershed, the San Juan Creek, and Western San Mateo Creek Watersheds, Orange County, California

PERMIT NUMBER: SPL-2010-01022-ERS

ISSUING OFFICE: Los Angeles District

ISSUANCE DATE: August 3, 2020

Note: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official acting under the authority of the commanding officer.

After you receive written approval that your project complies with the terms and conditions of this RGP from this office, you are authorized to perform work in accordance with the General Conditions specified below and any project-specific conditions.

PROJECT DESCRIPTION:

The District Engineer (DE) of the U.S. Army Corps of Engineers, Los Angeles District, hereby issues Regional General Permit (RGP) No. 74. RGP 74 authorizes discharges of dredged or fill material resulting in temporary impacts up to ½ acre of jurisdictional waters of the United States ("waters of the U.S.") in eligible areas, no more than 1/10 acre of which may be vegetated with native riparian and/or wetland vegetation. No permanent impacts of waters of the U.S., including impacts from fills, flooding, excavation beyond a Corps Regulatory Division-approved maintenance baseline, or drainage are permitted under this RGP.

Definitions:

1. **Temporary Impact**: Minor impacts to aquatic resources that occur for a short-duration during authorized activities wherein, following completion of the permitted work, the affected aquatic resources are completely restored to pre-construction elevations and contours, conditions and functionality.

2. **Permanent Impact**: Permanent impacts are discharges dredged or fill material that permanently change an aquatic area to dry land, increase the bottom elevation of a waterbody, or permanently change the use of a waterbody (Federal Register, Vol. 82, No. 4, p. 2006).

3. **Maintenance Baseline:** The maintenance baseline is a description of the physical characteristics (e.g., depth, width, length, location, configuration, or design flood capacity, etc.) of a flood control project within which maintenance activities are normally authorized by NWP 31, which will no longer available for use in this Watershed. The definition of baseline maintenance as defined in NWP 31 (82 FR 1991) applies here. The district engineer will approve the maintenance baseline of flood control channels and flood control basins based on the approved or constructed capacity of the flood control facility, whichever is smaller, including any areas where there are no constructed channels, but which are part of the facility. The prospective permittee will provide documentation of the physical characteristics of the flood control facility (which will normally consist of as-built or approved drawings) and documentation of the approved and constructed design capacities of the flood control facility. If no evidence of the constructed capacity exists, the approved capacity will be used. The documentation will also include best management practices to ensure that the adverse environmental impacts caused by the maintenance activities are no more than minimal, especially in maintenance areas where there are no constructed channels. (The Corps may request maintenance records in areas where there has not been recent maintenance.) Revocation or modification of the final determination of the maintenance baseline can only be done in accordance with 33 CFR 330.5. This RGP cannot be used until the district engineer approves the maintenance baseline and determines the need for mitigation and any activity-specific conditions. Once determined, the maintenance baseline will remain valid for any subsequent reissuance of this RGP. This RGP does not authorize maintenance of a flood control facility that has been abandoned. A flood control facility will be considered abandoned if it has operated at a significantly reduced capacity without needed maintenance being accomplished in a timely manner. A flood control facility will not be considered abandoned if the prospective permittee is in the process of obtaining other authorizations or approvals required for maintenance activities and is experiencing delays in obtaining those authorizations or approvals.

Eligible Activities: The temporary discharge of dredged or fill material into waters of the U.S. associated with the following activities may be authorized under this RGP:

1. Repair, rehabilitation, and replacement of currently serviceable outfall structures, utility lines, pump stations, bank stabilization structures, concrete flood control structures, weirs,

drop structures, grade stabilizers, at-grade road crossings, culverts, bridges, pilings, and piers;

2. Temporary construction activities and installation of temporary cofferdams, water diversion structures, and access roads; and

3. Removal of accumulated sediment in flood control channels and basins (debris, retention, and detention) to restore the facility to maintenance baselines and within its design capacity.

RGP Application Processing Procedures: When the applicant has assembled the information required for a complete application, the application shall undergo the following steps:

1. The applicant will provide this office with a complete application. This office will review the applicant's submission and assign an action ID number.

2. Within seven (7) calendar days, the Corps will determine if the application is complete. If an application is incomplete, within seven (7) calendar days, the Corps will notify the applicant of the needed information items and the applicant will be required to resubmit.

3. This RGP would allow a permittee to commence work in eligible areas 15 days after the Corps receives proper written notification. Upon receipt of a complete notification and within the 15-day notification period, the Corps may verify the activity with a letter and add any project special conditions. If the Corps provides no response within 15 days after complete notification, the project proponent may assume Corps' approval of the work. (See General Condition No. 4 for Notification requirements).

PROJECT LOCATION/ELIGIBLE AREAS:

Areas eligible for the use of this Regional General Permit (RGP) are limited to jurisdictional waters of the U.S. located within selected areas of the San Diego Creek Watershed Special Area Management Plan (SAMP) area and the San Juan Creek/Western San Mateo Creek Watershed SAMP area, in Orange County, California, as described in General Condition No. 3 below. The San Diego Creek Watershed SAMP area includes portions of the cities of Santa Ana, Orange, Tustin, Laguna Hills, Newport Beach, Irvine, Lake Forest, Laguna Woods, and unincorporated areas of Orange County. The San Juan Creek/Western San Mateo Creek Watershed SAMP area includes portions of the cities of Mission Viejo, Rancho Santa Margarita, San Juan Capistrano, Dana Point, and Laguna, and unincorporated areas of Orange County.

ADDITIONAL INFORMATION:

RGP 74 is one part of the permitting frameworks developed for the Corps' two Special Area Management Plans (SAMPs) in Orange County, California: the San Diego Creek Watershed SAMP and the San Juan Creek/Western San Mateo Creek Watersheds SAMP. Specifically, the

SAMP permitting frameworks include this RGP 74 and Clean Water Act section 404 letter of permission procedures in combination with the use of selected nationwide permits and standard individual permits. The SAMP permitting frameworks consider the type of regulated activity, permanency of impacts, and location of proposed activity within the SAMP Watersheds, that is, whether the activity would affect sensitive aquatic resources also identified in the SAMPs as aquatic resource integrity areas. Watershed-specific mitigation policies apply within the SAMP Watersheds.

GENERAL CONDITIONS:

1. **Expiration:** RGP 74 will expire five years from the date of its authorization, on **August 3, 2025.** Further reauthorizations of the RGP will be contingent upon compliance with permit conditions, including the provision of notifications. Failure to comply with these conditions could result in the suspension or revocation of the permit prior to its expiration date, or its non-renewal.

2. **Impact Limits:** The RGP authorizes up to ½ acre of temporary impacts, of which up to ⅒ acre may be vegetated by predominantly native riparian and/or wetland vegetation. Non-native riparian and/or wetland vegetation does not count to the ⅒-acre threshold. For facilities with an established maintenance baseline, more than ⅒ acre of native riparian and/or wetland vegetation may be removed only if the work is consistent with the established maintenance baseline.

3. **Eligible Areas:** The RGP shall be available for use in jurisdictional areas located outside of sensitive aquatic resources identified as SAMP aquatic resource integrity areas (Figures 2 through 8 for San Diego Creek Watershed; Figure 10 for San Juan Creek Watershed/Western San Mateo Creek Watershed).

4. **Notification:** The permittee must provide the Corps with prior notification for each separate maintenance activity at each site. A complete notification includes the following information:
   a. Name, address and telephone numbers of the applicant, and appropriate point of contact and their address and phone number;
   b. Project description of proposed activities;
   c. A delineation of special aquatic sites and other waters of the United States on the project site. Wetland delineations must be prepared in accordance with the current method required by the Corps. The permittee may ask the Corps to delineate the special aquatic sites and other waters of the United States, but there may be a delay if the Corps does the delineation, especially if the project site is large or contains many waters of the United States. Furthermore, the 15-day period will not start until the delineation has been submitted to or completed by the Corps, where appropriate;
   d. Project plans that shall include a pre-project site description that is adequate to document resource conditions at the site and provide a comparison of pre- and post-project

conditions;

e. Pre-project photographs of the project site
f. A site location map and view of the project showing areas and acreage to be impacted, including any areas with native riparian and/or wetland vegetation; submit on 8.5" x 11" sheets;
g. Location coordinates: latitude/longitude or UTM's;
h. Volume, type and source of material to be temporarily placed into waters of the United States;
i. Total area of waters of the United States to be directly and indirectly affected; and
j. Proposed project schedule.
k. Notification requirements for activities potentially affecting endangered species, essential fish habitat, or historic properties as identified in General Conditions 19, 20, and 21, respectively.

5. **Soil Erosion and Siltation Controls:** Appropriate erosion and siltation controls such as siltation or turbidity curtains, sedimentation basins, and/or hay bales or other means designed to minimize turbidity in the watercourse, shall be used and maintained in effective operating condition during project implementation. Projects are exempted from implementing controls if site conditions preclude their use, or if site conditions are such that the proposed work would not increase turbidity levels above the background level existing at the time of the work. All exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be stabilized at the earliest practicable date to preclude additional damage to the project area through erosion or siltation and no later than November of the year the work is conducted to avoid erosion from storm events.

6. **Equipment:** If personnel would not be subjected to additional, potential hazardous conditions, heavy equipment working in or crossing wetlands must be placed on temporary construction mats (timber, steel, geotextile, rubber, etc.), or other measures must be taken to minimize soil disturbance such as using low pressure equipment. Temporary construction mats shall be removed promptly after construction.

7. **Suitable Material:** No discharge of dredged or fill materials into jurisdictional waters may consist of unsuitable materials (e.g., trash, debris, car bodies, asphalt, etc.) and material discharged must be free from toxic pollutants in toxic amounts (per section 307 of the Clean Water Act).

8. **Management of Water Flows:** To the maximum extent practicable, the pre-construction course, condition, capacity, and location of open waters must be maintained for each activity, except as provided below. The activity must be constructed to withstand expected high flows. The activity must not restrict or impede the passage of normal or high flows, unless the primary purpose of the activity is to impound water or manage high flows. To the maximum extent practicable, the activity must provide for the retention of excess flows from the site and for the maintenance of surface flow rates from the site similar to pre-project conditions, while

not increasing water flows from the project site, relocating water, or redirecting water flow beyond pre-project conditions.

9. **Removal of Temporary Fills:** Any temporary fills must be removed in their entirety and the affected areas returned to their pre-existing conditions, including any native riparian and/or wetland vegetation. If an area impacted by such temporary fill is considered likely to naturally reestablish native riparian and/or wetland vegetation within two years to a level similar to pre-project or pre-event conditions, the permittee will not be required to restore the riparian and/or wetland vegetation. However, Exotic Species Management may be required to prevent the establishment of invasive exotic vegetation. (See General Condition 14).

10. **Preventive Measures:** Measures must be adopted to prevent potential pollutants from entering the watercourse. Within the project area, construction materials, and debris, including fuels, oil, and other liquid substances, shall be stored in a manner as to prevent any runoff from entering jurisdictional areas.

11. **Staging of Equipment:** Staging, storage, fueling, and maintenance of equipment must be located outside of the waters in areas where potential spilled materials will not be able to enter any waterway or other body of water.

12. **Fencing of Project Limits**: The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas shown on attached Figure 1. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil, or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

13. **Avoidance of Breeding Season:** With regard to federally listed avian species, avoidance of breeding season requirements shall be those specified in the Federal Endangered Species Act section 7 consultation for the RGP (See General Condition 19). For all other avian species, initial vegetation clearing in waters of the U.S. must occur between September 15 and March 15, which is outside the breeding season. Work in waters may occur during the breeding season between March 15 and September 15, in accordance with the Department's WSAA Process and a signed agreement with conditions prescribing procedures for grading of mitigation sites or biological surveys and time restrictions.

14. **Exotic Species Management:** Exotic Species Management: All giant reed (*Arundo donax*), salt cedar (*Tamarix spp.*), and castor bean (*Ricinus communis*) , in addition to other invasive non-native plants categorized as ""High" on the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory (http://www.cal-ipc.org/ip/inventory/index.php#categories), must be removed from the affected area and ensure that the affected area remains free from these invasive, non-native species for a period of five years from completion of the project.

15. **Site Inspections:** The Corps shall be allowed to inspect the site at any time during and immediately after project implementation. In addition, compliance inspections of all mitigation sites shall be allowed at any time.

16. **Posting of Conditions:** A copy of the RGP General Conditions shall be included in all bid packages for the project and be available at the work site at all times during periods of work and must be presented upon request by any Corps or other agency personnel with a reasonable reason for making such a request.

17. **Water Quality:** An individual section 401 water quality certification must be obtained (see 33 C.F.R. §330.4(c)).

18. **Coastal Zone Management:** An individual California state coastal zone management consistency concurrence must be obtained or waived where the project may affect the Coastal Zone (see 33 CFR 330.4(d)).

19. **Endangered Species**:
    a. No activity is authorized which is likely to directly or indirectly jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act (ESA), or which will directly or indirectly destroy or adversely modify the critical habitat of such species. No activity is authorized which "may affect" a listed species or critical habitat, unless ESA section 7 consultation addressing the effects of the proposed activity has been completed. Direct effects are the immediate effects on listed species and critical habitat caused by the activity. Indirect effects are those effects on listed species and critical habitat that are caused by the RGP activity and are later in time, but still are reasonably certain to occur.
    b. Federal agencies should follow their own procedures for complying with the requirements of the ESA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation has not been submitted, additional ESA section 7 consultation may be necessary for the activity and the respective federal agency would be responsible for fulfilling its obligation under section 7 of the ESA.
    c. Non-federal permittees shall notify the district engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or if the project is located in designated critical habitat, and shall not begin work on the activity until notified by the district engineer that the requirements of the ESA have been satisfied and that the activity is authorized. For activities that might affect federally listed endangered or threatened species or designated critical habitat, the pre-construction notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical

habitat that may be affected by the proposed work. The district engineer will determine whether the proposed activity "may affect" or will have "no effect" to listed species and designated critical habitat, and will notify the non-Federal applicant of the Corps' determination within 45 days of receipt of a complete pre-construction notification. In cases where the non-Federal applicant has identified listed species or critical habitat that might be affected or is in the vicinity of the project, and has so notified the Corps, the applicant shall not begin work until the Corps has provided notification the proposed activities will have "no effect" on listed species or critical habitat, or until ESA Section 7 consultation has been completed.

d. As a result of formal or informal consultation with the FWS or NMFS the district engineer may add species-specific permit conditions to RGPs.

e. Authorization of an activity by an RGP does not authorize the "take" of a threatened or endangered species as defined under the ESA. In the absence of separate authorization (e.g., an ESA section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the USFWS or the NMFS, the Endangered Species Act prohibits any person subject to the jurisdiction of the United States to take a listed species, where "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. The word "harm" in the definition of "take" means an act which actually kills or injures wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding or sheltering.

f. If the non-federal permittee has a valid ESA section 10(a)(1)(B) incidental take permit with an approved Habitat Conservation Plan for a project or a group of projects that includes the proposed RGP activity, the non-federal applicant should provide a copy of that ESA section 10(a)(1)(B) permit with their pre-construction notification. The district engineer will coordinate with the agency that issued the ESA section 10(a)(1)(B) permit to determine whether the proposed RGP activity and the associated incidental take were considered in the internal ESA section 7 consultation conducted for the ESA section 10(a)(1)(B) permit. If that coordination results in concurrence from the agency that the proposed RGP activity and the associated incidental take were considered in the internal ESA section 7 consultation for the ESA section 10(a)(1)(B) permit, the district engineer does not need to conduct a separate ESA section 7 consultation for the proposed RGP activity. The district engineer will notify the non-federal applicant within 45 days of receipt of a complete pre-construction notification whether the ESA section 10(a)(1)(B) permit covers the proposed RGP activity or whether additional ESA section 7 consultation is required.

g. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the USFWS and NMFS or their world wide web pages at http://www.fws.gov/carlsbad/ and http://www.nmfs.noaa.gov/pr/species/esa/, respectively.

h. Activities within the San Diego Creek Watershed authorized under this RGP shall comply with the following applicable conservation measures resulting from the Corps

informal Section 7 consultation (FWS-OR-08B0392-08I0418) for the RGP and LOP Procedures within the San Diego Creek Watershed to ensure the activity will not adversely affect federally listed species:

i. Removal of habitat for coastal California gnatcatcher (*Polioptila californica californica*; gnatcatcher) within non-Reserve areas of the Orange County Central-Coastal Natural Communities Conservation Planning Subregional Plan/Habitat Conservation Plan (NCCP/HCP) will follow the Construction and Minimization Measures for the NCCP/HCP, or the Orange County Southern Subregion NCCP/HCP;

ii. Removal of suitable habitat for the gnatcatcher and construction work within 300 feet of suitable habitat for the gnatcatcher will occur outside the gnatcatcher breeding season between February 15 and August 15. If work is necessary within 300 feet of suitable habitat for gnatcatcher during the breeding season, a qualified biologist will perform protocol surveys in the area to determine whether any nesting gnatcatchers are present. If nests are absent, work will continue. If a nest is present, the permittee shall notify the Corps, the Department, and the Service of the location of the nest, a 300-foot buffer around the nest will be clearly demarcated, and the area avoided until the nest is abandoned. A biological monitor with authority to stop construction will be present onsite during breeding-season construction to ensure the limits of construction do not encroach into suitable gnatcatcher habitat or within 300 feet of a nesting gnatcatcher;

iii. Removal of suitable habitat for the least Bell's vireo (LBV) and construction work within 300 feet of suitable habitat for the LBV will occur outside the LBV breeding season between March 15 and September 15. If work is necessary within 300 feet of suitable LBV habitat during the breeding season, a qualified biologist will perform protocol surveys in the area to determine whether any nesting LBVs are present. If nests are absent, work will continue. If a nest is present, the permittee shall notify the Corps, the Department, and the Service of the location of the nest, a 300-foot buffer around the nest will be clearly demarcated, and the area avoided until the nest is abandoned. A biological monitor with authority to stop construction will be present onsite during breeding-season construction to ensure the limits of construction do not encroach into suitable LBV habitat or within 300 feet of a nesting LBV;

iv. Removal of suitable habitat for the southwestern willow flycatcher (flycatcher) and construction work within 300 feet of suitable habitat for the flycatcher will occur outside the flycatcher breeding season between May 15 and July 31. If work is necessary within 300 feet of suitable flycatcher habitat during the breeding season, a qualified biologist will perform protocol surveys in the area to determine whether any nesting flycatchers are present. If nests are absent, work will continue. If a nest is present, the permittee shall notify the Corps, the Department, and the Service of the location of the nest, a 300-foot buffer around the nest will be clearly demarcated, and the area avoided until the nest is

abandoned. A biological monitor with authority to stop construction will be present onsite during breeding-season construction to ensure the limits of construction do not encroach into suitable flycatcher habitat or within 300 feet of a nesting flycatcher; and

v. If vernal pools are observed within a proposed project site under the RGP, vernal pool/fairy shrimp protocol surveys will be performed and the permittee shall notify the Corps, the Department, and the Service of the results prior to initiating any ground disturbance.

20. **Essential Fish Habitat:** A pre-construction notification shall be submitted to the Corps Regulatory Division for any activity that may result in impacts to eelgrass (*Zostera marina*). In tidally influenced areas, a pre-construction eelgrass survey shall be conducted in accordance with the California Eelgrass Mitigation Policy (CEMP) (http://www.westcoast.fisheries.noaa.gov/publications/habitat/california_eelgrass_mitigation/Final CEMP October 2014/cemp_oct_2014_final.pdf) and submitted to the Corps Regulatory Division and NMFS before project-related activities commence. In addition, a pre-construction Caulerpa (*Caulerpa taxifolia*) survey shall be conducted in accordance with the Caulerpa Control Protocol (http://www.westcoast.fisheries.noaa.gov/publications/habitat/caulerpa_taxifolia/caulerpa_control_protocol_4_.pdf) and submitted to the Corps Regulatory Division and NMFS before project-related activities commence. No work shall be conducted until a Notice to Proceed is issued by the Corps Regulatory Division. If the pre-construction eelgrass survey demonstrates eelgrass presence within the project vicinity, a post-project survey shall be conducted and impacts to eelgrass mitigated in accordance with the CEMP. In the event that Caulerpa is detected within the project area, the Permittee shall not commence work until such time as the infestation has been isolated, treated, and the risk of spread is eliminated as confirmed in writing by the Corps Regulatory Division, in consultation with NMFS and CDFW.

21. **Historic Properties:**

a. In cases where the district engineer determines that the activity may have the potential to cause effects to properties listed, or eligible for listing, in the National Register of Historic Places (Register), the activity is not authorized, until the requirements of Section 106 of the NHPA have been satisfied.

b. Federal permittees should follow their own procedures for complying with the requirements of section 106 of the NHPA. Federal permittees must provide the district engineer with the appropriate documentation to demonstrate compliance with those requirements. The district engineer will verify that the appropriate documentation has been submitted. If the appropriate documentation is not submitted, then additional consultation under section 106 may be necessary. The respective federal agency is responsible for fulfilling its obligation to comply with section 106.

c. Non-federal permittees must submit with their pre-construction notification information on historic properties that may be affected by the proposed work or include a vicinity

map indicating the location of the historic properties or the potential for the presence of historic properties. Assistance regarding information on the location of or potential for the presence of historic resources can be sought from the SHPO or Tribal Historic Preservation Officer (THPO), as appropriate, and the Register (see 33 C.F.R. §330.4(g)). The district engineer shall make a reasonable and good faith effort to carry out appropriate identification efforts, which may include background research, consultation, oral history interviews, sample field investigation, and field survey. Based on the information submitted and these identification efforts, the district engineer shall determine whether the proposed activity has the potential to cause effects on the historic properties. Section 106 consultation is not required when the district engineer determines that the activity does not have the potential to cause effects on historic properties (see 36 CFR 800.3(a)). Section 106 consultation is required when the district engineer determines that the activity has the potential to cause effects on historic properties. The district engineer will conduct consultation with consulting parties identified under 36 CFR 800.2(c) when he or she makes any of the following effect determinations for the purposes of section 106 of the NHPA: no historic properties affected, no adverse effect, or adverse effect. Where the non-Federal applicant has identified historic properties on which the activity might have the potential to cause effects and so notified the Corps, the non-Federal applicant shall not begin the activity until notified by the district engineer either that the activity has no potential to cause effects or that NHPA section 106 consultation has been completed.

d. If NHPA section 106 consultation is required, the district engineer will notify the non-Federal applicant that he or she cannot begin work until section 106 consultation is completed.

e. Prospective permittees should be aware that section 110k of the NHPA [54 U.S.C. 306113] prevents the Corps from granting a permit or other assistance to an applicant who, with intent to avoid the requirements of section 106 of the NHPA, has intentionally significantly adversely affected a historic property to which the permit would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the Corps, after consultation with the Advisory Council on Historic Preservation (ACHP), determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. If circumstances justify granting the assistance, the Corps is required to notify the ACHP and provide documentation specifying the circumstances, the degree of damage to the integrity of any historic properties affected, and proposed mitigation. This documentation must include any views obtained from the applicant, SHPO/THPO, appropriate Indian tribes if the undertaking occurs on or affects historic properties on tribal lands or affects properties of interest to those tribes, and other parties known to have a legitimate interest in the impacts to the permitted activity on historic properties.

22. **Mitigation Policy:** Compensatory mitigation will not be necessary unless required through General Conditions 12, 17, 18, 19, 20, or 21. Should compensatory mitigation be required within the San Diego Creek Watershed, it shall be performed in conformance with the Mitigation Framework for the San Diego Creek Watershed SAMP, as described in the Special Public Notice for the LOP procedures (Corps, March 7, 2008), revised LOP procedures (August 2020), and Corps SAMP document (December 2009) for the San Diego Creek Watershed SAMP. Should compensatory mitigation be required within the San Juan Creek/Western San Mateo Creek Watersheds, it shall be performed in conformance with the Mitigation Framework for the San Juan Creek/Western San Mateo Creek Watersheds SAMP, as described in the Special Public Notice for the LOP procedures (Corps, November 21, 2005), and revised LOP procedures (August 2020), for areas outside of the Rancho Mission Viejo Planning Area.

ACTIVITY-SPECIFIC SPECIAL CONDITIONS: For each project, additional activity-specific permit Special Conditions may be included as necessary.

COMPLIANCE: The use and implementation of RGP 74 for Corps permit applications is contingent on compliance with the terms and conditions of the RGP. Should a permittee become non-compliant with permit conditions, the Corps may suspend, revoke, or modify the permit authorization for that permittee and assess administrative penalties. Pursuant to section 309(g) of the Clean Water Act, the Corps is able to levy Class I Administrative Penalties of up to $22,321, per violation of a permit condition, to a maximum of $55,801.

FURTHER INFORMATION:

1. Congressional Authorities. You have been authorized to undertake the activity described above pursuant to:

   (X) Section 10 of the River and Harbor Act of 1899 (33 U.S.C. 403).
   (X) Section 404 of the Clean Water Act (33 U.S.C. 1344).

2. Limits of this authorization.

   a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
   b. This permit does not grant any property rights or exclusive privileges.
   c. This permit does not authorize any injury to the property or rights of others.
   d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
d. Design or construction deficiencies associated with the permitted work.
e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data. The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

   a. You fail to comply with the terms and conditions of this permit.
   b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
   c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

   Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give you favorable consideration to a request for an extension of this time limit.

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.

Corice Farrar Digitally signed by FARRAR.CORICE.JEAN.1251907028 Date: 2020.08.03 17:05:57 -07'00'

3 Aug 2020

Corice J. Farrar
Chief, South Coast Branch
Regulatory Division

DATE

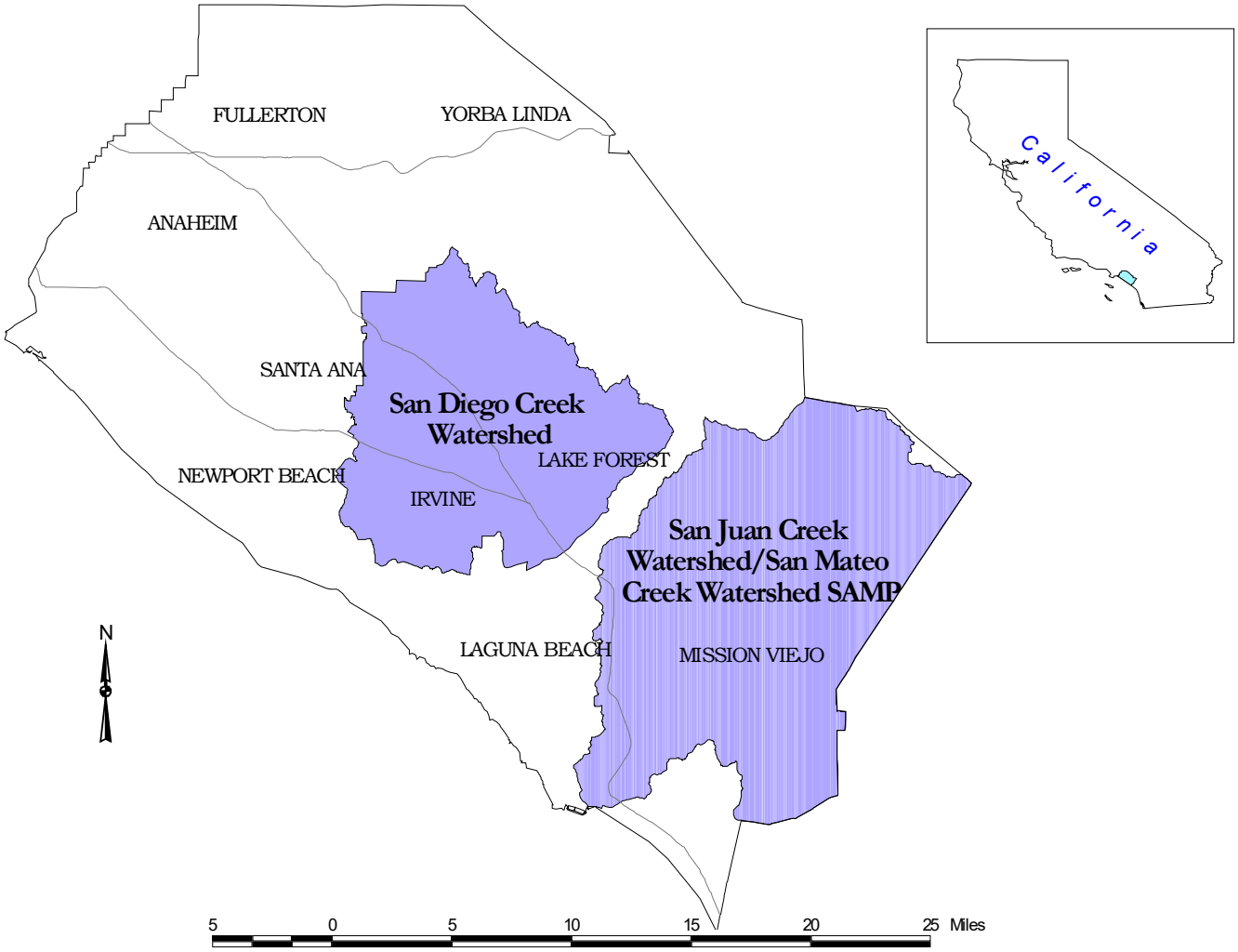

Figure 1. The Special Area Management Plan study areas for the watersheds of San Diego Creek, San Juan Creek, and parts of San Mateo Creek in Orange County, California.

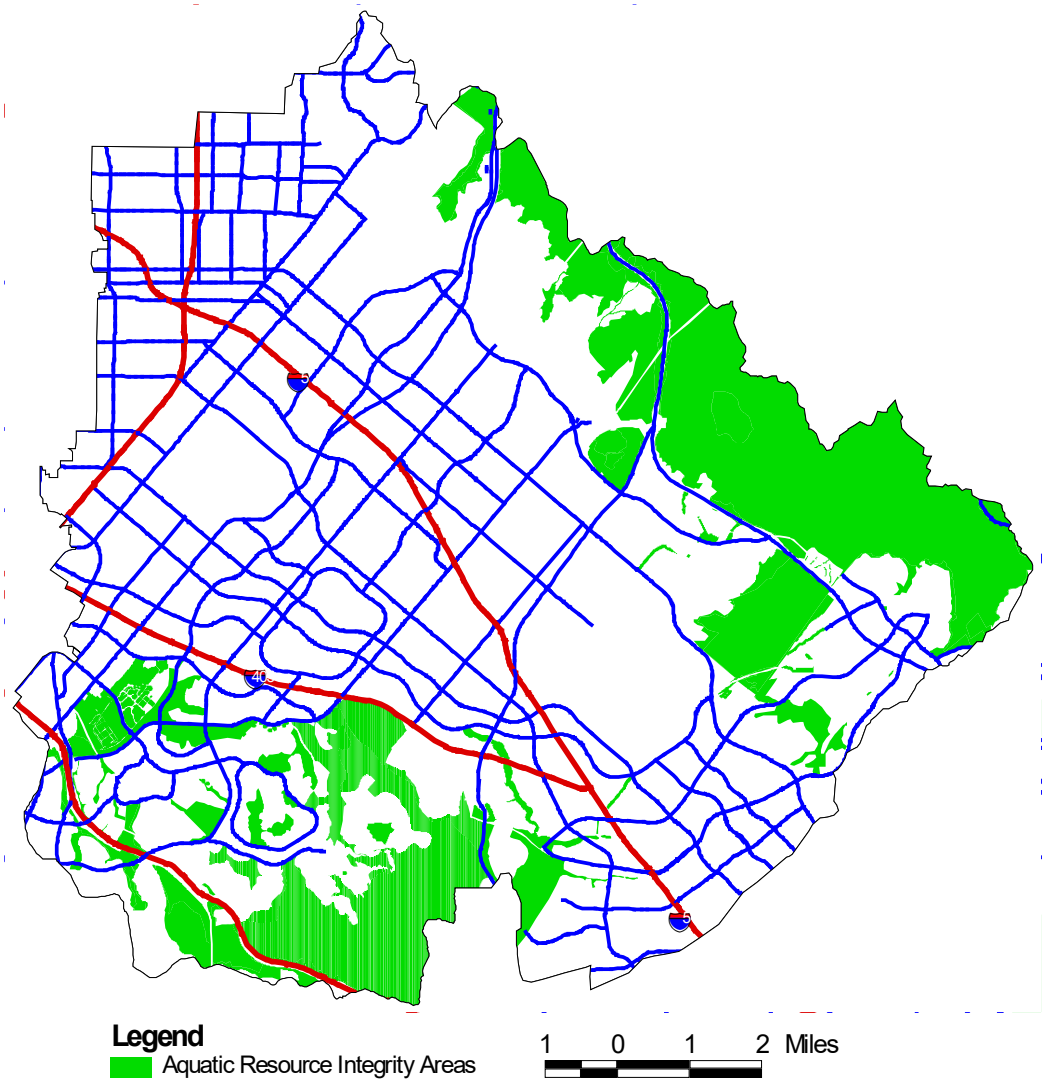

Figure 2. San Diego Creek Watershed showing SAMP aquatic resource integrity areas.

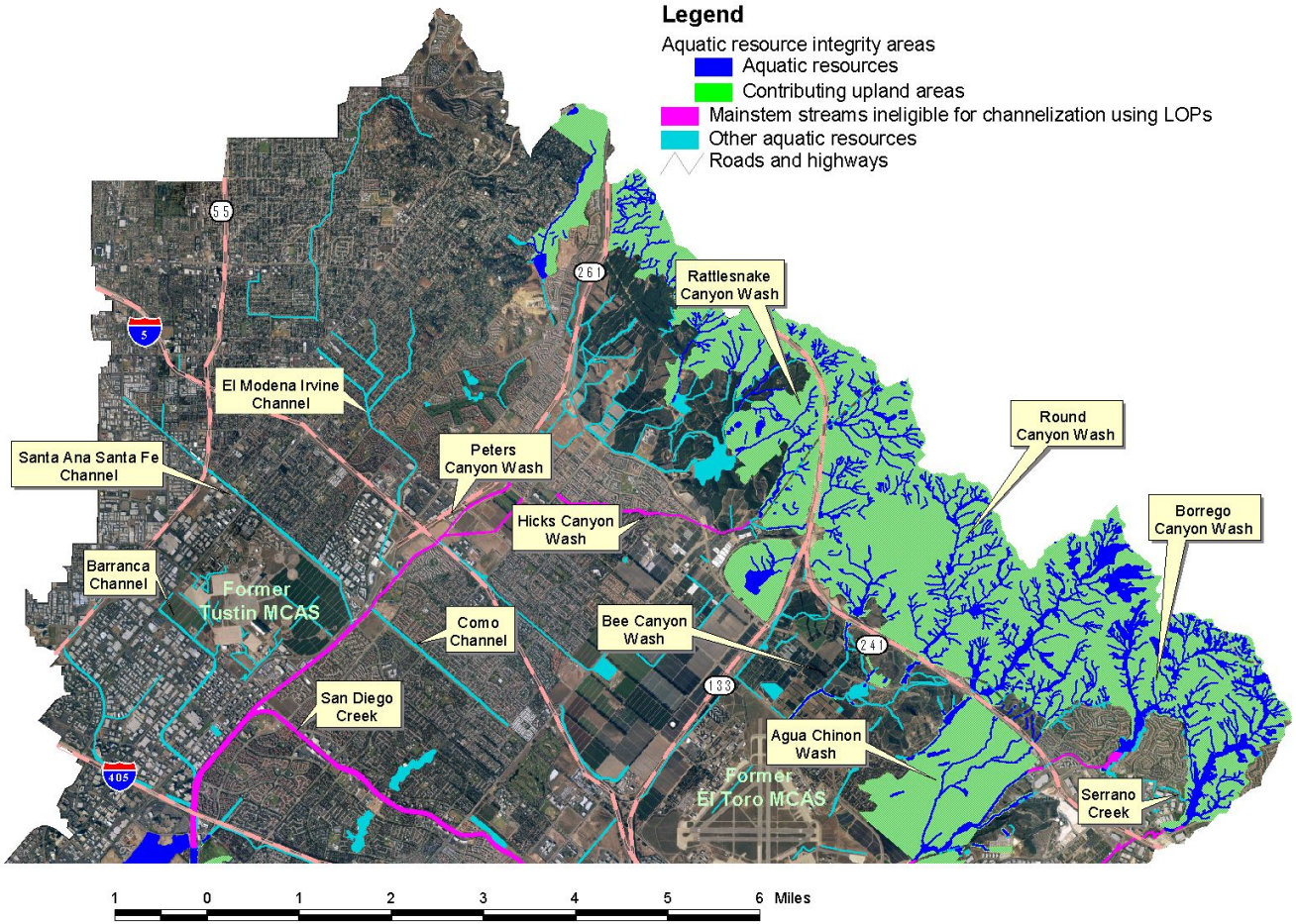

Figure 3. Depiction of the northern portion of the San Diego Creek Watershed with the SAMP permitting framework overlaid. RGP would be eligible for use in jurisdictional waters located outside the aquatic resource integrity areas. See Figures

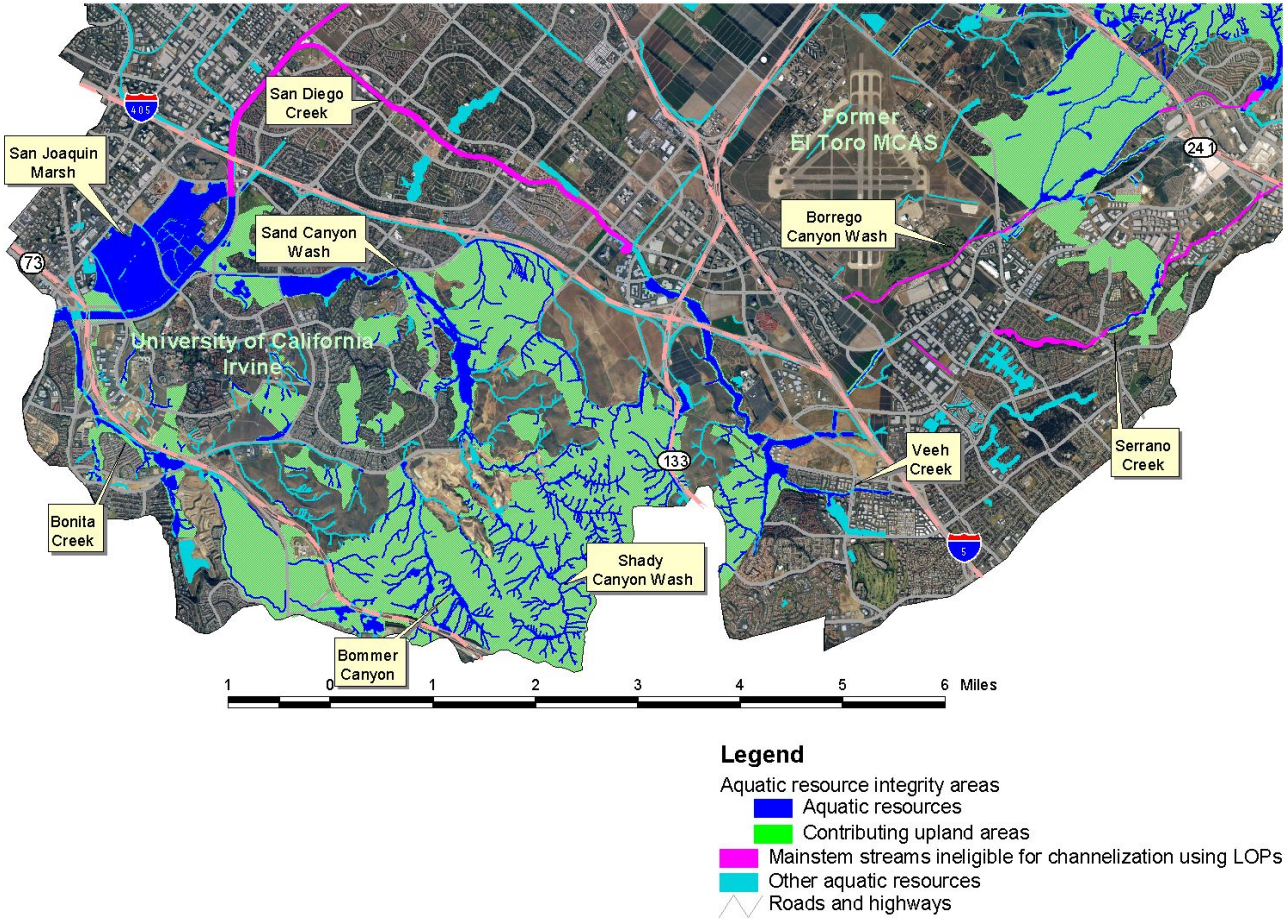

Figure 4. Depiction of the southern portion of the San Diego Creek Watershed with the SAMP permitting framework overlaid. RGP would be eligible for use in jurisdictional waters located outside the aquatic resource integrity areas.

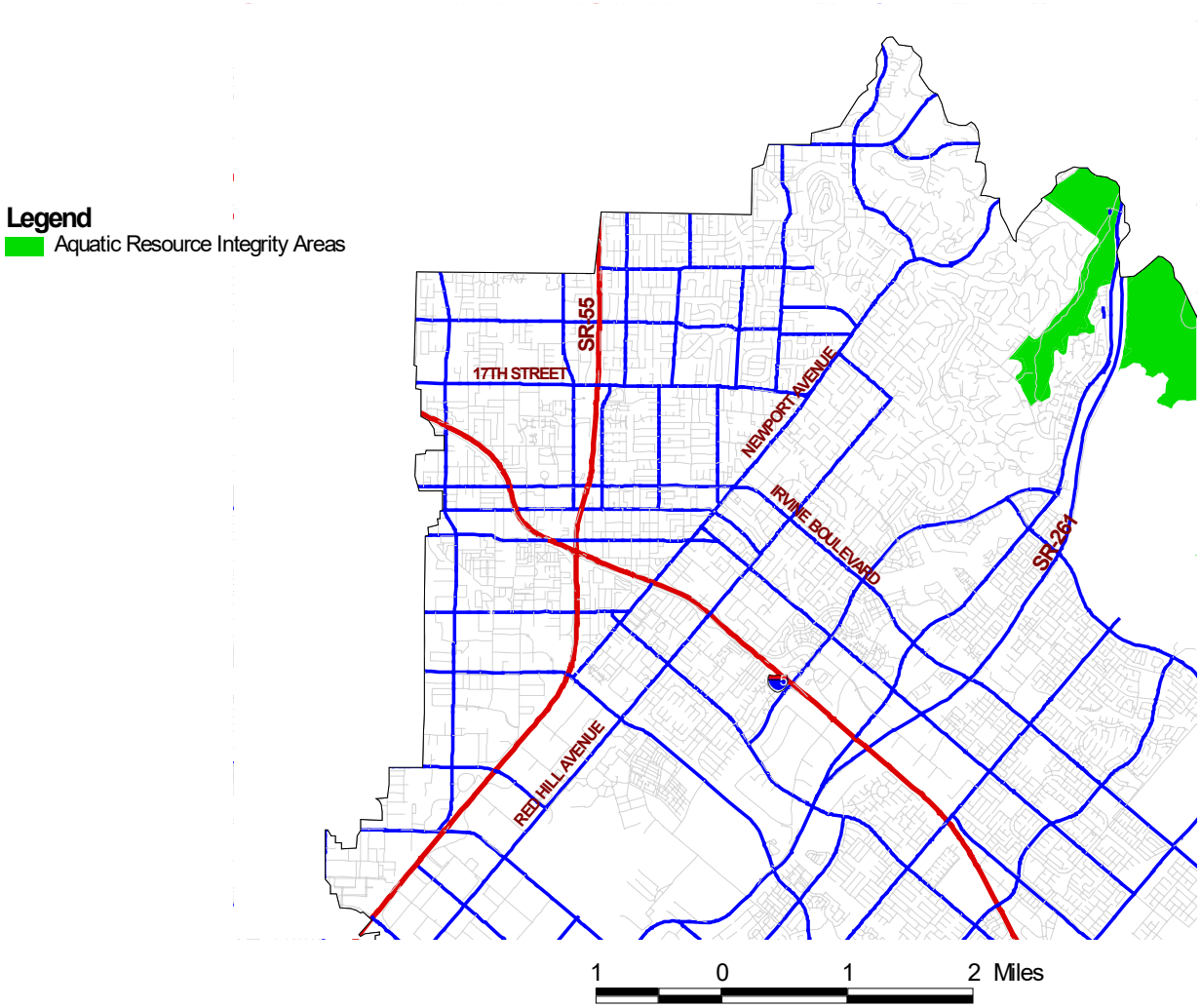

Figure 5. Aquatic resource integrity areas in the northwestern portion of the San Diego Creek Watershed.

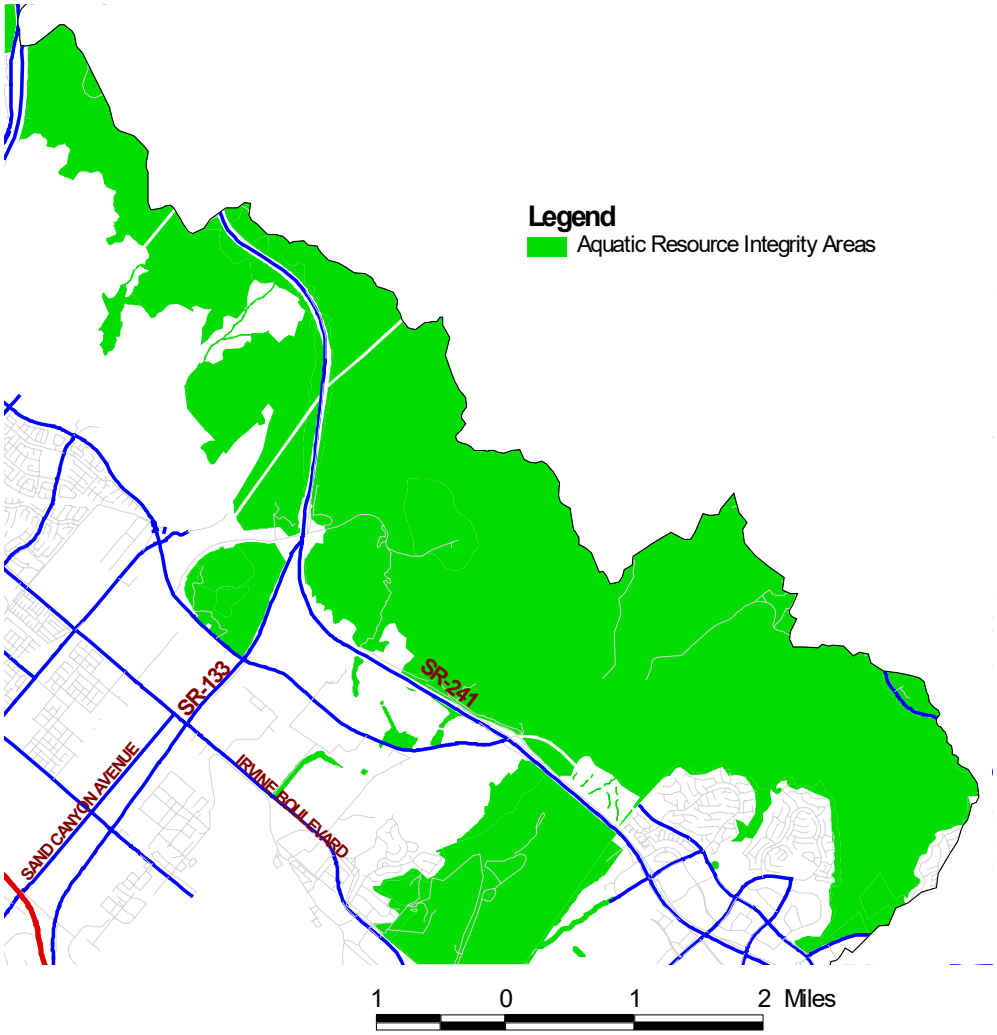

Figure 6. Detail of the aquatic resource integrity areas in the northeastern portion of the San Diego Creek Watershed.

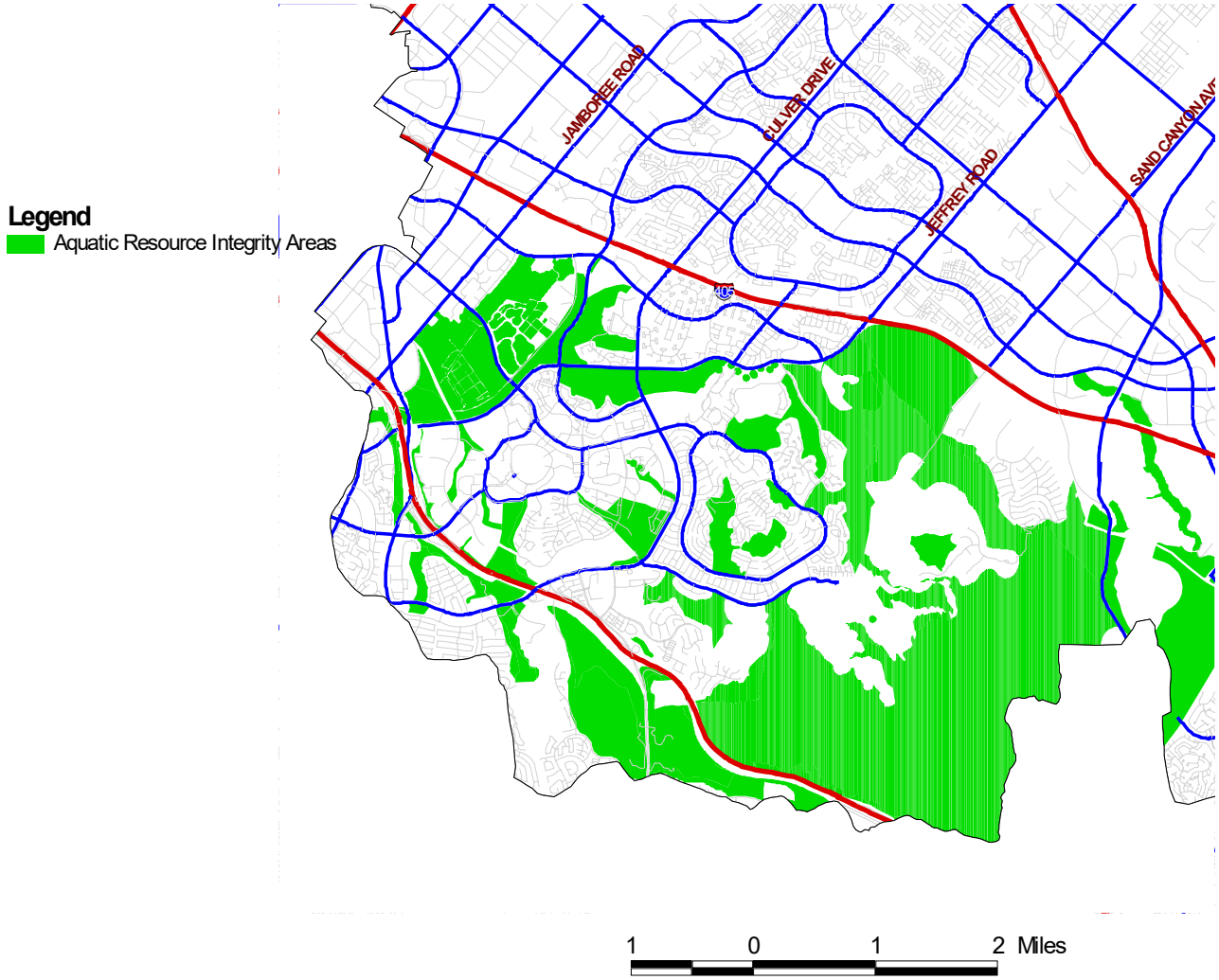

Figure 7. Detail of the aquatic resource integrity areas in the southwestern portion of the San Diego Creek Watershed.

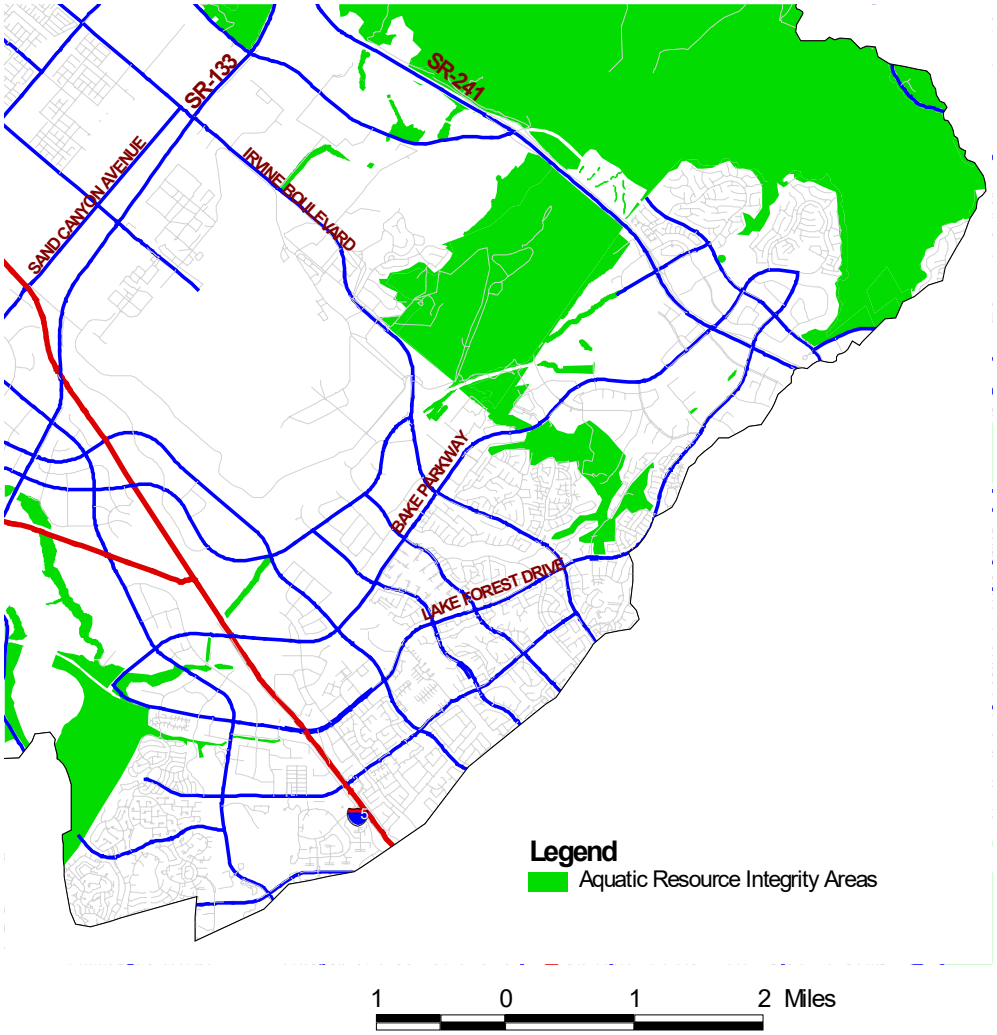

Figure 8. Detail of the aquatic resource integrity areas in the eastern portion of the San Diego Creek Watershed.

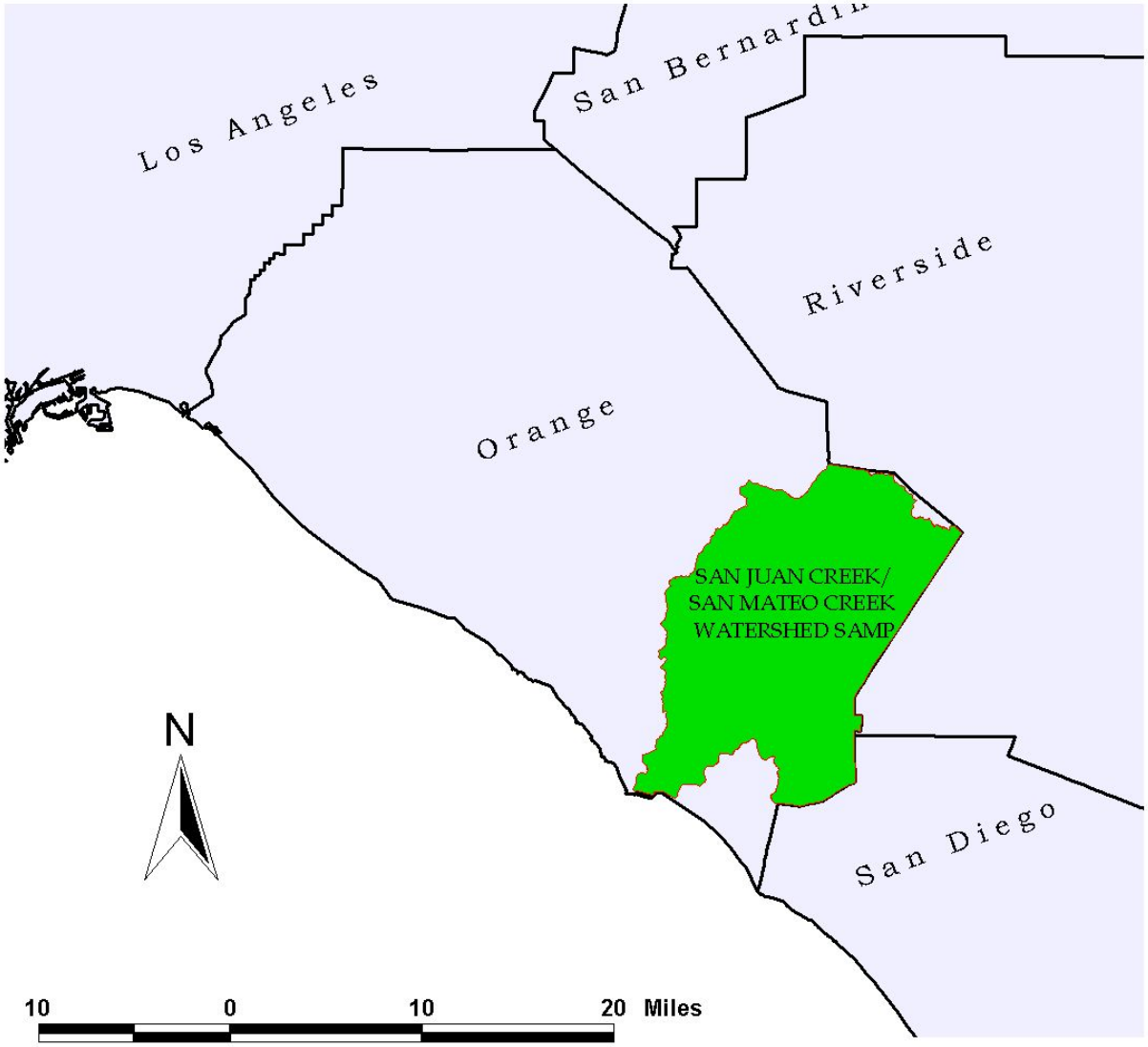

Figure 9. Location of the San Juan Creek/Western San Mateo Creek Watersheds SAMP in Orange County, California.

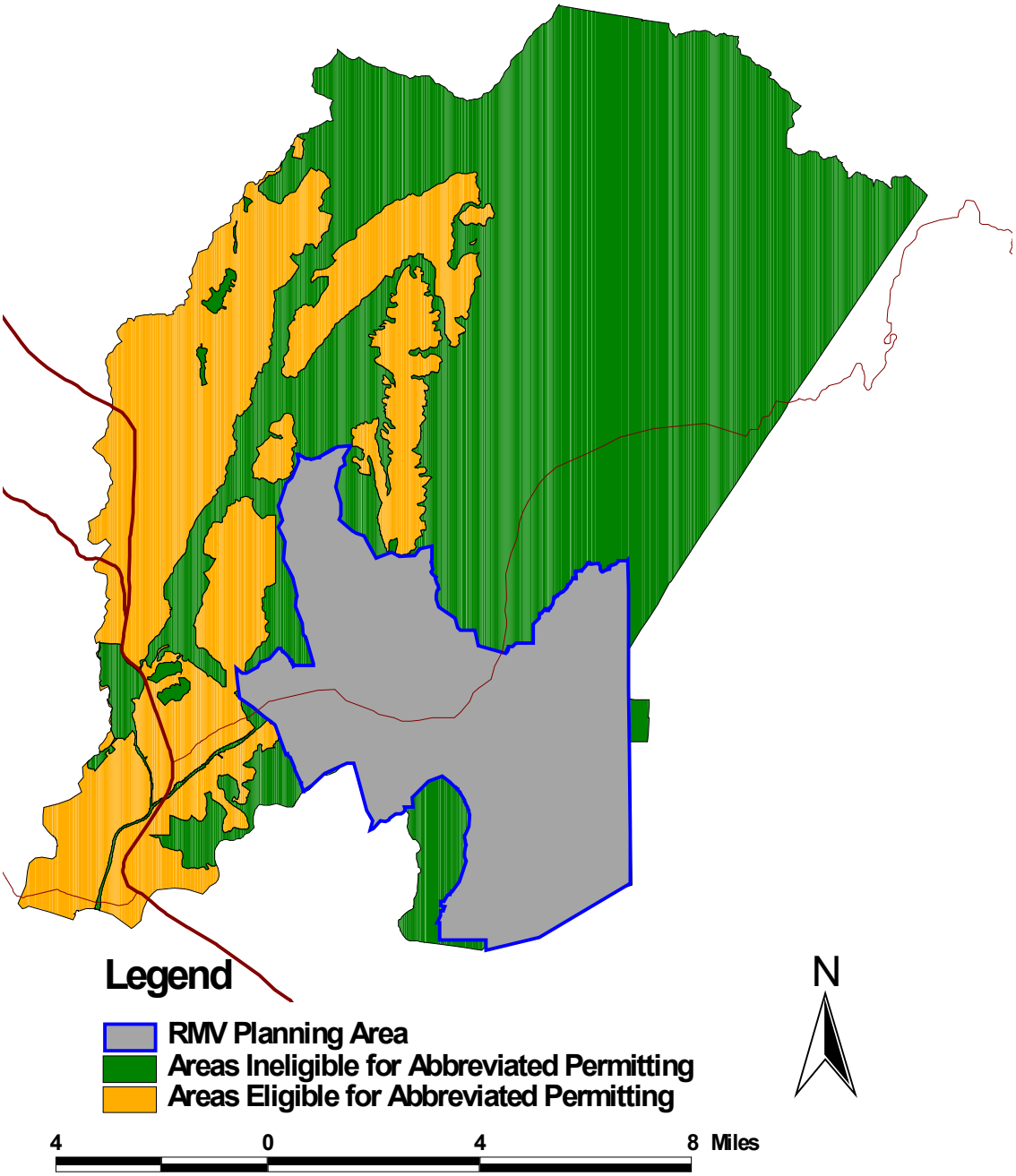

Figure 10. Areas eligible for RGP 74 within San Juan Creek/Western San Mateo Creek Watersheds SAMP in Orange County, California shown as "areas eligible for abbreviated permitting". (RMV = Rancho Mission Viejo)