

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

2375 Northside Drive, Suite.100, San Diego, CA 92108
Phone (619) 516-1990 • Fax (619) 516-1994
<http://www.waterboards.ca.gov/sandiego/>

Clean Water Act Section 401 Water Quality Certification
and Waste Discharge Requirements
for Discharge of Dredged and/or Fill Materials

**PROJECT: Outlet Maintenance Program Project
Certification Number R9-2017-0087
WDID: 9000003176**

| |
|--|
| Reg. Meas. ID: 413328 Place ID: 835350 Party ID: 551427 Person ID: 524862 |
|--|

**APPLICANT: Orange County Parks
13042 Old Myford Road
Irvine, CA 92602**

ACTION:

| | |
|---|---|
| <input type="checkbox"/> Order for Low Impact Certification | <input type="checkbox"/> Order for Denial of Certification |
| <input checked="" type="checkbox"/> Order for Technically-conditioned Certification | <input type="checkbox"/> Enrollment in Isolated Waters Order No. 2004-004-DWQ |
| <input checked="" type="checkbox"/> Enrollment in SWRCB GWDR Order No. 2003-017-DWQ | |

PROJECT DESCRIPTION

An application dated May 22, 2017 was submitted by Orange County Parks (hereinafter Applicant), for Water Quality Certification pursuant to section 401 of the Clean Water Act (United States Code (USC) Title 33, section 1341) for the proposed Outlet Maintenance Program Project (Project). The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) deemed the application to be complete on August 11, 2017. The Applicant proposes to discharge dredged or fill material to waters of the United States and/or State associated with construction activity at the Project site. The Applicant has also applied for a Clean Water Act section 404 permit from the United States Army Corps of Engineers for the Project (USACE File No. SPL-2010-00849-SME).

The Project is located at multiple sites in Orange County, California. The Project center readings of each location are as follows:

- Aliso Creek Ocean Outlet (AC Outlet) at latitude 33.51056 and longitude -117.75194;
- Poche County Beach Outlet (PB Outlet) at latitude 33.44109 and longitude -117.64513;
- Capistrano Beach Outlet No.1 (CB Outlet) at latitude 33.45388 and longitude -117.66648.

The Applicant has paid all required application fees for this Certification in the amount of \$7,450.00. On an annual basis, the Applicant shall also pay all active discharge fees and post discharge monitoring fees, as appropriate¹. On August 16, 2017, the San Diego Water Board provided public notice of the Project application pursuant to California Code of Regulations, title 23, section 3858 by posting information describing the Project on the San Diego Water Board's web site and providing a period of twenty-one days for public review and comment. No comments were received.

The Applicant proposes to conduct reoccurring maintenance activities in non-wetland, tidal waters of the United States and/or State at the AC Outlet, PB Outlet, and CB Outlet. The outlet maintenance regime includes semi-annual outlet maintenance events as well as minor weekly, biweekly, or monthly events, as needed. Impacts will occur to unvegetated sandy beach. Activities at each location will occur as follows:

AC Outlet

Semi-annual maintenance entails grading and excavation of approximately 37,000 cubic yards of sediment deposited in the channel outlet (approximately 200 linear feet) to increase hydraulic capacity in the area parallel to the rock revetment located on the south side of the outlet. The semi-annual maintenance will impact approximately 0.42-acre at the mouth of the creek and disposal of excavated sand and related earthwork will occur on the adjacent beach in an approximately 0.3-acre area above the high tide line, but could be within the cut-off meandering stream course after the straightened outlet is established. Boulders and rock riprap will be retrieved and replaced during these maintenance events. Excavation and grading activities will be conducted using a bulldozer or front loader.

PB Outlet

Semi-annual maintenance activities will typically occur in the fall before the wet season and in the spring before the summer recreation season. These maintenance activities will include excavation of sediment deposits at the end of the outlets, discharge of excavated sediment onto the adjacent beached above the high tide line, and grading to prepare the adjacent beach areas for recreational use. Semi-annual maintenance at the PB Outlet would include grading of an approximately 0.179-acre area and excavation of approximately 960 (+/- 192) cubic yards of sediment deposited within the PB Outlet. The discharge of excavated sediment and related earthwork would occur on the beach adjacent to the PB Outlet in an approximately 0.576-acre area above the high tide line.

¹ The Applicant shall pay an annual active discharge fee each fiscal year or portion of a fiscal year during which discharges occur until the regional water board or the State Water Resources Control Board (State Water Board) issues a Notice of Completion of Discharges Letter to the discharger. Dischargers shall pay an annual post-discharge monitoring fee each fiscal year or portion of a fiscal year commencing with the first fiscal year following the fiscal year in which the regional water board or State Water Board issued a Notice of Completion of Discharges Letter to the discharger, but continued water quality monitoring or compensatory mitigation monitoring is required. Dischargers shall pay the annual post-discharge monitoring fee each fiscal year until the regional water board or the State Water Board issues a Notice of Project Complete Letter to the discharger. Additional information regarding fees can be found electronically at the following location:
http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/dredgefillcalculator.xlsx

CB Outlet

Semi-annual maintenance activities will typically occur in the fall before the wet season and in the spring before the summer recreation season. These maintenance activities will include excavation of sediment deposits at the end of the outlets, discharge of excavated sediment onto the adjacent beach areas above the high tide line, grading to prepare the adjacent beach areas for recreational use, and backfilling of the CB Outlet to prevent ponding. Fall semi-annual maintenance at the CB Outlet will include grading of an approximately 0.103-acre area and excavation of approximately 486 (+/- 97) cubic yards of sediment deposited within the CB Outlet. The discharge of excavated sediment and related earthwork will occur on the beach adjacent to the CB Outlet to prevent ponding and improve beach-related recreational opportunities. Backfilling will occur over an approximately 0.13-acre area (which is inclusive of the 0.103-acre area described above) with the discharge of approximately 243 (+/- 97) cubic yards of sediment from the beach directly adjacent to the CB Outlet.

Maintenance of the AC, PB, and CB Outlets have been ongoing under previous authorizations from the San Diego Water Board and the State Water Resources Control Board.

The Project application includes a description of the design objective, operation, and degree of treatment expected to be attained from equipment, facilities, or activities (including construction and post-construction BMPs) to treat waste and reduce runoff or other effluents which may be discharged. Compliance with the Certification conditions will help ensure that construction and post-construction discharges from the Project will not cause on-site or off-site downstream erosion, damage to downstream properties, or otherwise damage stream habitats in violation of water quality standards in the *Water Quality Control Plan for the San Diego Basin (9)* (Basin Plan).

Project construction will result in maximum recurring temporary impacts of 0.73 acre (265 linear feet) of ocean waters of the United States and/or State. The Applicant reports that the Project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impacts to aquatic resources considering all potential practicable alternatives, such as the potential for alternate available locations, designs, reductions in size, configuration or density.

Additional Project details are provided in Attachments 1 through 3 of this Certification.

TABLE OF CONTENTS

| | | |
|--------------|--|-----------|
| I. | STANDARD CONDITIONS | 5 |
| II. | GENERAL CONDITIONS..... | 5 |
| III. | CONSTRUCTION BEST MANAGEMENT PRACTICES..... | 8 |
| IV. | POST-CONSTRUCTION BEST MANAGEMENT PRACTICES..... | 12 |
| V. | PROJECT IMPACTS AND COMPENSATORY MITIGATION | 13 |
| VI. | MONITORING AND REPORTING REQUIREMENTS..... | 13 |
| VII. | NOTIFICATION REQUIREMENTS | 16 |
| VIII. | CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE | 18 |
| IX. | SAN DIEGO WATER BOARD CONTACT PERSON..... | 18 |
| X. | WATER QUALITY CERTIFICATION | 19 |

Attachments:

1. Definitions
2. Project Location Maps
3. Project Site Plans

I. STANDARD CONDITIONS

Pursuant to section 3860 of title 23 of the California Code of Regulations, the following three standard conditions apply to all water quality certification actions:

- A. This Certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to section 13330 of the Water Code and chapter 28, article 6 (commencing with title 23, section 3867), of the California Code of Regulations.
- B. This Certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility and requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent Certification application was filed pursuant to California Code of Regulations title 23, section 3855 subdivision (b), and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- C. This Certification action is conditioned upon total payment of any fee required under title 23, chapter 28 (commencing with section 3830) of California Code of Regulations and owed by the applicant.

II. GENERAL CONDITIONS

- A. **Term of Certification.** Water Quality Certification No. R9-2017-0087 (Certification) shall expire upon a) the expiration or retraction of the Clean Water Act section 404 (33 USC Title 33, section 1344) permit issued by the U.S. Army Corps of Engineers for this Project, or b) five (5) years from the date of issuance of this Certification, whichever occurs first.
- B. **Duty to Comply.** The Applicant must comply with all conditions and requirements of this Certification. Any Certification noncompliance constitutes a violation of the Water Code and is grounds for enforcement action or Certification termination, revocation and reissuance, or modification.
- C. **General Waste Discharge Requirements.** The requirements of this Certification are enforceable through Water Quality Order No. 2003-0017-DWQ, *Statewide General Waste Discharge Requirements for Discharges of Dredged or Fill Material that have Received State Water Quality Certification* (Water Quality Order No. 2003-0017-DWQ). This provision shall apply irrespective of whether a) the federal permit for which the Certification was obtained is subsequently retracted or is expired, or b) the Certification is expired. Water Quality Order No. 2003-0017-DWQ is accessible at:

http://www.waterboards.ca.gov/water_issues/programs/cwa401/docs/generalorders/gowdr401regulated_projects.pdf.

- D. Project Conformance with Application.** All water quality protection measures and BMPs described in the application and supplemental information for water quality certification are incorporated by reference into this Certification as if fully stated herein. Notwithstanding any more specific conditions in this Certification, the Applicant shall construct, implement and comply with all water quality protection measures and BMPs described in the application and supplemental information. The conditions within this Certification shall supersede conflicting provisions within the application and supplemental information submitted as part of this Certification action.
- E. Project Conformance with Water Quality Control Plans or Policies.** Notwithstanding any more specific conditions in this Certification, the Project shall be constructed in a manner consistent with the Basin Plan, California Ocean Plan, and any other applicable water quality control plans or policies adopted or approved pursuant to the Porter Cologne Water Quality Act (Division 7, commencing with Water Code Section 13000) or section 303 of the Clean Water Act (33 USC section 1313). The Basin Plan and Ocean Plan are accessible at:
- Basin Plan
http://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/index.shtml
- Ocean Plan
http://www.waterboards.ca.gov/water_issues/programs/ocean/docs/cop2015.pdf
- F. Project Modification.** The Applicant must submit any changes to the Project, including Project operation, which would have a significant or material effect on the findings, conclusions, or conditions of this Certification, to the San Diego Water Board for prior review and written approval. If the San Diego Water Board is not notified of a significant change to the Project, it will be considered a violation of this Certification.
- G. Certification Distribution Posting.** During Project construction, the Applicant must maintain a copy of this Certification at the Project site. This Certification must be available at all times to site personnel and agencies. A copy of this Certification shall also be provided to any contractor or subcontractor performing construction work, and the copy shall remain in their possession at the Project site.
- H. Inspection and Entry.** The Applicant must allow the San Diego Water Board or the State Water Resources Control Board, and/or their authorized representative(s) (including an authorized contractor acting as their representative), upon the presentation of credentials and other documents as may be required under law, to:
1. Enter upon the Project or Compensatory Mitigation site(s) premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this Certification;
 2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this Certification;

3. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this Certification; and
 4. Sample or monitor, at reasonable times, for the purposes of assuring Certification compliance, or as otherwise authorized by the Clean Water Act or Water Code, any substances or parameters at any location.
- I. **Enforcement Notification.** In the event of any violation or threatened violation of the conditions of this Certification, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law. For purposes of section 401(d) of the Clean Water Act, the applicability of any State law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this Certification.
- J. **Certification Actions.** This Certification may be modified, revoked and reissued, or terminated for cause including but not limited to the following:
1. Violation of any term or condition of this Certification;
 2. Monitoring results indicate that continued Project activities could violate water quality objectives or impair the beneficial uses of the Pacific Ocean, unnamed drainage at Capistrano (Capo) Beach, Aliso Creek, Prima Deshecha Creek, or their tributaries;
 3. Obtaining this Certification by misrepresentation or failure to disclose fully all relevant facts;
 4. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge; and
 5. Incorporation of any new or revised water quality standards and implementation plans adopted or approved pursuant to the Porter-Cologne Water Quality Control Act or section 303 of the Clean Water Act.
- The filing of a request by the Applicant for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Certification condition.
- K. **Duty to Provide Information.** The Applicant shall furnish to the San Diego Water Board, within a reasonable time, any information which the San Diego Water Board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this Certification or to determine compliance with this Certification.
- L. **Property Rights.** This Certification does not convey any property rights of any sort, or any exclusive privilege.

- M. **Petitions.** Any person aggrieved by this action of the San Diego Water Board may petition the State Water Resources Control Board (State Water Board) to review the action in accordance with the California Code of Regulations, title 23, sections 3867 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Certification. Copies of the law and regulations applicable to filing petitions may be found on the Internet at: http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

III. CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. **Approvals to Commence Construction.** The Applicant shall not commence Project construction until all necessary federal, State, and local approvals are obtained.
- B. **Personnel Education.** Prior to the start of the Project, and annually thereafter, the Applicant must educate all personnel on the requirements in this Certification, pollution prevention measures, spill response measures, and BMP implementation and maintenance measures.
- C. **Spill Containment Materials.** The Applicant must, at all times, maintain appropriate types and sufficient quantities of materials on-site to contain any spill or inadvertent release of materials that may cause a condition of pollution or nuisance if the materials reach waters of the United States and/or State.
- D. **General Construction Storm Water Permit.** Prior to start of Project construction, the Applicant must, as applicable, obtain coverage under, and comply with, the requirements of State Water Resources Control Board Water Quality Order No. 2009-0009-DWQ, the *General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activity*, (General Construction Storm Water Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Storm Water Permit, the Applicant must develop and implement a runoff management plan (or equivalent construction BMP plan) to prevent the discharge of sediment and other pollutants during construction activities.
- E. **Water Quality Management.** At a minimum, the Applicant must implement the *Ocean Outfall Maintenance Water Quality Monitoring Plan for the County of Orange OC Community Resources (OC Parks) & OC Public Works*, dated March 2014 to monitor and prevent the discharge of sediment and other pollutants causing or contributing to violations of water quality standards during construction activities.
- F. **Waste Management.** The Applicant must properly manage, store, treat, and dispose of wastes in accordance with applicable federal, state, and local laws and regulations. Waste management shall be implemented to avoid or minimize exposure of wastes to precipitation or storm water runoff. The storage, handling, treatment, or disposal of waste shall not create conditions of pollution, contamination or nuisance as defined in Water Code section 13050. Upon Project completion, all Project generated debris, building materials, excess material, waste, and trash shall be removed from the Project site(s) for disposal at an authorized landfill or other disposal site in compliance with federal, state and local laws and regulations.

- G. **Sediment Placement.** Sediment shall not be deposited in a location that may cause significant adverse effects to aquatic life, fish, shellfish, or wildlife or may harm the beneficial uses of the receiving waters.
- H. **Turbidity Control.** Sediment shall be removed, disposed, and handled in a manner that will not cause sustained, significant turbidity increases in the Pacific Ocean, unnamed drainage at Capistrano (Capo) Beach, Aliso Creek, Prima Deshecha Creek, or their tributaries. If post-project turbidity is increased for more than one hour over pre-project turbidity, or if visual monitoring indicates that a sediment plume is persisting in the ocean longer than 30 minutes following a maintenance activity, the Applicant shall stop work and implement appropriate management measures to reduce Project related turbidity prior to the next maintenance dredging or excavation activity.
- I. **Waste Management.** Except for a discharge permitted under this Certification, the dumping, deposition, or discharge of trash, rubbish, unset cement or asphalt, concrete, grout, damaged concrete or asphalt, concrete or asphalt spoils, wash water, organic or earthen material, steel, sawdust or other construction debris waste from Project activities directly into waters of the United States and or State, or adjacent to such waters in any manner which may permit its being transported into the waters, is prohibited.
- J. **Downstream Erosion.** Discharges of concentrated flow during construction or after Project completion must not cause downstream erosion or damage to properties or stream habitat.
- K. **Construction Equipment.** All equipment must be washed prior to transport to the Project site and must be free of sediment, debris, and foreign matter. All equipment used in direct contact with surface water shall be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products shall be inspected for leaks prior to use and shall be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) shall be positioned over drip pans or other types of containment.
- L. **Process Water.** Water containing mud, silt, or other pollutants from equipment washing or other activities, must not be discharged to waters of the United States and/or State or placed in locations that may be subjected to storm water runoff flows. Pollutants discharged to areas within a stream diversion must be removed at the end of each work day or sooner if rain is predicted.
- M. **Surface Water Diversion.** All surface waters, including ponded waters, must be diverted away from areas of active grading, construction, excavation, vegetation removal, and/or any other activity which may result in a discharge to the receiving water. Diversion activities must not result in the degradation of beneficial uses or exceedance of the receiving water quality objectives. Any temporary dam or other artificial obstruction constructed must only be built from materials such as clean gravel which will cause little or no siltation. Normal flows must be restored to the affected stream immediately upon completion of work at that location.

- N. **Re-vegetation and Stabilization.** All areas that have 14 or more days of inactivity must be stabilized within 14 days of the last activity. The Applicant shall implement and maintain BMPs to prevent erosion of the rough graded areas. After completion of grading, all areas must be re-vegetated with native species appropriate for the area. The re-vegetation palette must not contain any plants listed on the California Invasive Plant Council Invasive Plant Inventory, which can be accessed at <http://www.cal-ipc.org/ip/inventory/>.
- O. **Hazardous Materials.** Except as authorized by this Certification, substances hazardous to aquatic life including, but not limited to, petroleum products, unused cement/concrete, asphalt, and coating materials, must be prevented from contaminating the soil and/or entering waters of the United States and/or State. BMPs must be implemented to prevent such discharges during each Project activity involving hazardous materials.
- P. **Trash and Anthropogenic Debris.** The excavated material and ponded water associated with berm maintenance and breaching will be free of trash and anthropogenic debris. The Applicant will be responsible for the collection and disposal of trash and debris during the semi-annual and minor maintenance activities. Trash and debris will be disposed in compliance with local, state, and federal regulations.
- Q. **Vegetation Removal.** Removal of vegetation must occur by hand, mechanically, or through application of United States Environmental Protection Agency (USEPA) approved herbicides deployed using applicable BMPs to minimize adverse effects to beneficial uses of waters of the United States and/or State. Discharges related to the application of aquatic pesticides within waters of the United States must be done in compliance with State Water Resources Control Board Water Quality Order No. 2004-0009-DWQ, the *Statewide General National Pollution Discharge Elimination System Permit for the Discharge of Aquatic Weed Control in Waters of the United States*, and any subsequent reissuance as applicable.
- R. **Limits of Disturbance.** The Applicant shall clearly define the limits of Project disturbance to waters of the United States and/or State using highly visible markers such as flag markers, construction fencing, or silt barriers prior to commencement of Project construction activities within those areas.
- S. **On-site Qualified Biologist.** The Applicant shall designate an on-site qualified biologist to monitor Project construction activities within or adjacent to waters of the United States and/or State to ensure compliance with the Certification requirements. The biologist shall be given the authority to stop all work on-site if a violation of this Certification occurs or has the potential to occur. Records and field notes of the biologist's activities shall be kept on-site and made available for review upon request by the San Diego Water Board.
- T. **Beneficial Use Protection.** The Applicant must take all necessary measures to protect the beneficial uses of waters of the Pacific Ocean, unnamed drainage at Capistrano (Capo) Beach, Aliso Creek, Prima Deshecha Creek, or their tributaries. This

Certification requires compliance with all applicable requirements of the Basin Plan and Ocean Plan. If at any time, an unauthorized discharge to surface waters (including rivers or streams) occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities shall cease immediately and the San Diego Water Board shall be notified in accordance with Notification Requirement VII.A of this Certification. Associated Project activities may not resume without approval from the San Diego Water Board.

- U. **Groundwater Dewatering.** If groundwater dewatering is required for the Project, the Applicant shall enroll in and comply with the requirements of San Diego Water Board Order No. R9-2008-0002 NPDES No. CAG919002, *General Waste Discharge Requirements For Groundwater Extraction Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters within the San Diego Region Except for San Diego Bay* or its successor permit.
- V. **Western snowy plover.** From March 1 through September 30, no construction or maintenance activities authorized under this Certification will be conducted within 300 feet of breeding Western snowy plovers. The Western snowy plover (*Charadrius alexandrinus nivosus*) is a federally threatened and State species of concern that has the potential to occur in the project area. The on-site qualified biologist shall document the presence or absence of breeding Western snowy plovers.
- V. **Grunion.** California grunion is a State managed species and the intertidal zone at the disposal sites are potential spawning habitat. To the greatest extent possible, the Applicant must avoid shoreline fill activities during the grunion spawning season (March 15 – August 31). If shoreline disposal activities must occur during grunion spawning season, the Applicant must conduct a preconstruction survey of potential grunion spawning habitat at each proposed beach disposal site.
1. The preconstruction survey must be conducted by a biological monitor no more than one month prior to the expected start date of the shoreline dredged material disposal activities and must include photo documentation.
 2. The biological monitor shall determine whether the shoreline discharge areas are unsuitable for use as spawning habitat for grunion. Unsuitable habitat includes cobble beaches, beaches that are inundated during high tides to the extent that no beach above the high tide water mark is available for grunion spawning, beaches that do not have enough sand substrate for the grunion to bury eggs, and beaches with no historic grunion runs.

If shoreline disposal activities occur during grunion spawning season between March 15 – August 31 and suitable grunion habitat is located in the proposed shoreline disposal area, the Applicants must avoid and minimize potential impacts to grunion by complying with the following conditions:

3. Shoreline dredged material disposal activities that entail sand disturbance seaward of the semilunar high tide line may be conducted on the day before the first date of a predicted run series. This day constitutes a narrow window of time during which egg

nests and developing larvae are unlikely to be present in the sand; larvae from the previous run series likely would have been flushed by the previous night's high tide, and new eggs likely won't be deposited for at least 24 hours. As an example, mechanized equipment could be used on July 8, 2017, which is the day before the first date of the predicted run series that starts July 9 (the predicted four-day run series is July 9, 10, 11, and 12 according to the DFW website, <https://www.wildlife.ca.gov/fishing/ocean/grunion#28352306-2017-runs>).

4. To conduct dredged material disposal activities beyond the dates in item V.3. above, a biological monitor, must survey for the presence of adult grunion during the predicted grunion runs prior to the disposal activities. Monitoring must be done on all four nights of the predicted run series, except that if grunion are observed spawning within the work area or a 10-yard buffer area between the grunion spawn site and the work area on a given night, the presence of egg nests may be assumed and surveys on subsequent nights are not required. For example, if grunion are observed in the work area or the 10-yard buffer and the work area, on night 1, then monitoring on nights 2, 3, and 4 would not be required. If grunion are not observed within the work area or the 10-yard buffer on night 1, then night 2 would be surveyed and so forth.
5. Monitoring must occur from the time of the high tide to two hours following the tide, or until the grunion stop running, whichever is later. For each night of monitoring, recorded information must include the time period monitored, grunion run time and duration, approximate grunion density within the work area and 10-yard buffer, and approximate grunion density in a broader area (i.e., within approximately 50 yards up-coast or 50 yards down-coast of the work area).
6. If grunion spawning is observed within the work area or the 10-yard buffer on any night of a four-day run series, then spawning areas must be clearly marked and avoided by heavy equipment and machinery until after the egg incubation period (i.e., until the day before the first date of the next predicted run, as described).
7. If grunion spawning is not observed within the work area or 10-yard buffer on all four nights of a predicted run series, then the absence of egg nests and incubation activity near the work area may be assumed and, if needed, project activity that entails sand disturbance may be conducted seaward of the semilunar high tide line up to and including the day before the date of the next predicted run.
8. Where the shoreline discharge area is currently unsuitable for use as spawning habitat for grunion, beach disposal may occur in the designated areas without a biological monitor.

IV. POST-CONSTRUCTION BEST MANAGEMENT PRACTICES

- A. **Post-Construction Discharges.** The Applicant shall not allow post-construction discharges from the Project site to cause or contribute to on-site or off-site erosion or damage to properties or stream habitats.

V. PROJECT IMPACTS AND COMPENSATORY MITIGATION

- A. **Project Impact Avoidance and Minimization.** The Project must avoid and minimize adverse impacts to waters of the United States and/or State to the maximum extent practicable.
- B. **Project Impacts and Compensatory Mitigation.** Unavoidable Project impacts to Pacific Ocean, unnamed drainage at Capistrano (Capo) Beach, Aliso Creek, Prima Deshecha Creek, or their tributaries within the San Juan Watershed must not exceed the type and magnitude of impacts described in the table below:

| | Impacts (acres) | Impacts (linear ft.) | Mitigation for Impacts (acres) | Mitigation Ratio (area mitigated :area impacted) | Mitigation for Impacts (linear ft.) | Mitigation Ratio (linear feet mitigated :linear feet impacted) |
|--------------------------------------|------------------------|-----------------------------|---------------------------------------|---|--|---|
| Temporary Impacts¹ | | | | | | |
| Ocean | 0.73 | 265 | NA | NA | NA | NA |

1. Recurring temporary impacts.

- C. **Compensatory Mitigation.** Impacts are limited to unvegetated sandy beach. The Project will restore sand based marine habitat and recreational opportunities. Therefore, no compensatory mitigation is required.
- D. **Temporary Project Impact Areas.** The Applicant must restore all areas of temporary impacts and all other areas of temporary disturbance which could result in a discharge or a threatened discharge of pollutants to waters of the United States and/or State. The Applicant must implement all necessary BMPs to control erosion and runoff from areas associated with the Project.

VI. MONITORING AND REPORTING REQUIREMENTS

- A. **Representative Monitoring.** Samples and measurements taken for the purpose of monitoring under this Certification shall be representative of the monitored activity.
- B. **Monitoring Reports.** Monitoring results shall be reported to the San Diego Water Board at the intervals specified in section VI of this Certification.
- C. **Monitoring and Reporting Revisions.** The San Diego Water Board may make revisions to the monitoring program at any time during the term of this Certification and may reduce or increase the number of parameters to be monitored, locations monitored, the frequency of monitoring, or the number and size of samples collected.

- D. Records of Monitoring Information.** Records of monitoring information shall include:
1. The date, exact place, and time of sampling or measurements;
 2. The individual(s) who performed the sampling or measurements;
 3. The date(s) analyses were performed;
 4. The individual(s) who performed the analyses;
 5. The analytical techniques or methods used; and
 6. The results of such analyses.
- E. Discharge Commencement Notification.** The Applicant must notify the San Diego Water Board in writing **at least 5 days prior to** the start of Project maintenance activities.
- F. Geographic Information System Data.** The Applicant must submit Geographic Information System (GIS) shape files of the Project impact sites within 30 days of the start of project maintenance activities. All impact site shape files must be polygons. Two GPS readings (points) must be taken on each line of the polygon and the polygon must have a minimum of 10 points. GIS metadata must also be submitted.
- G. Annual Project Progress Reports.** The Applicant must submit annual Project progress reports describing status of BMP implementation and compliance with all requirements of this Certification to the San Diego Water Board prior to **March 1** of each year following the issuance of this Certification. Annual Project Progress Reports must be submitted even if Project construction has not begun. The monitoring period for each Annual Project Progress Report shall be January 1st through December 31st of each year. Annual Project Progress Reports must include, at a minimum, the following:
1. **Project Status and Compliance Reporting.** The Annual Project Progress Report must include the following Project status and compliance information:
 - a. The names, qualifications, and affiliations of the persons contributing to the report;
 - b. The status, progress, and anticipated annual schedule for Project maintenance activities; including estimates of the volume of material dredged and excavated during each channel maintenance event;
 - c. Estimates of the volume of material deposited within receiving waters and on the beach above the high tide line for each channel maintenance event;
 - d. A description of each incident of noncompliance during the annual monitoring period and its cause, the period of the noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is

expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance;

- e. Water quality monitoring data required under section III.E of this Certification; and
- f. For each channel maintenance event, appropriately trained personnel shall take photographs from established photo points to show conditions immediately before and immediately after maintenance activities. At least one photo point must provide an overview of the project in relation to permanent landmark(s) and the shoreline. Photo-documentation must be done in reasonable accordance with guidance at:
http://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/StreamPhotoDocSOP.pdf, including the use of Geographic Positioning System (GPS) coordinates for each of the photo points referenced. Each month, appropriately trained personnel shall inspect the channel to assess the physical condition and determine if re-construction or repair is needed to maintain the function in directing flow. Photo-documentation shall be incorporated into an assessment of physical condition and function in the annual monitoring report;

H. Reporting Authority. The submittal of information required under this Certification, or in response to a suspected violation of any condition of this Certification, is required pursuant to Water Code section 13267 and 13383. Civil liability may be administratively imposed by the San Diego Water Board for failure to submit information pursuant to Water Code sections 13268 or 13385.

I. Electronic Document Submittal. The Applicant must submit all reports and information required under this Certification in electronic format via e-mail to SanDiego@waterboards.ca.gov. Documents over 50 megabytes will not be accepted via e-mail and must be placed on a disc and delivered to:

California Regional Water Quality Control Board
San Diego Region
Attn: 401 Certification No. R9-2017-0087:835350:dbradford
2375 Northside Drive, Suite 100
San Diego, California 92108

Each electronic document must be submitted as a single file, in Portable Document Format (PDF), and converted to text searchable format using Optical Character Recognition (OCR). All electronic documents must include scanned copies of all signature pages; electronic signatures will not be accepted. Electronic documents submitted to the San Diego Water Board must include the following identification numbers in the header or subject line: Certification No. R9-2017-0087: 835350:dbradford.

J. **Document Signatory Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be signed as follows:

1. For a corporation, by a responsible corporate officer of at least the level of vice president.
2. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.
3. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official.
4. A duly authorized representative may sign applications, reports, or information if:
 - a. The authorization is made in writing by a person described above.
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.
 - c. The written authorization is submitted to the San Diego Water Board Executive Officer.

If such authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the Project, a new authorization satisfying the above requirements must be submitted to the San Diego Water Board prior to or together with any reports, information, or applications, to be signed by an authorized representative.

K. **Document Certification Requirements.** All applications, reports, or information submitted to the San Diego Water Board must be certified as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

VII. NOTIFICATION REQUIREMENTS

A. **Twenty Four Hour Non-Compliance Reporting.** The Applicant shall report any noncompliance which may endanger health or the environment. Any such information shall be provided orally to the San Diego Water Board within **24 hours** from the time the Applicant becomes aware of the circumstances. A written submission shall also be provided within five days of the time the Applicant becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected; the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The

San Diego Water Board, or an authorized representative, may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

- B. Hazardous Substance Discharge.** Except as provided in Water Code section 13271(b), any person who, without regard to intent or negligence, causes or permits any hazardous substance or sewage to be discharged in or on any waters of the State, shall as soon as (a) that person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the County of Orange, in accordance with California Health and Safety Code section 5411.5 and the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State toxic disaster contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.17), and immediately notify the State Water Board or the San Diego Water Board of the discharge. This provision does not require reporting of any discharge of less than a reportable quantity as provided for under subdivisions (f) and (g) of section 13271 of the Water Code unless the Applicant is in violation of a Basin Plan prohibition.
- C. Oil or Petroleum Product Discharge.** Except as provided in Water Code section 13272(b), any person who without regard to intent or negligence, causes or permits any oil or petroleum product to be discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, shall, as soon as (a) such person has knowledge of the discharge, (b) notification is possible, and (c) notification can be provided without substantially impeding cleanup or other emergency measures, immediately notify the California Office of Emergency Services of the discharge in accordance with the spill reporting provision of the State oil spill contingency plan adopted pursuant to Government Code Title 2, Division 1, Chapter 7, Article 3.7 (commencing with section 8574.1). This requirement does not require reporting of any discharge of less than 42 gallons unless the discharge is also required to be reported pursuant to Clean Water Act section 311, or the discharge is in violation of a Basin Plan prohibition.
- D. Anticipated Noncompliance.** The Applicant shall give advance notice to the San Diego Water Board of any planned changes in the Project or the Compensatory Mitigation project which may result in noncompliance with Certification conditions or requirements.
- E. Transfers.** This Certification is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board in accordance with the following terms:
- 1. Transfer of Property Ownership:** The Applicant must notify the San Diego Water Board of any change in ownership of the Project area. Notification of change in ownership must include, but not be limited to, a statement that the Applicant has provided the purchaser with a copy of the Section 401 Water Quality Certification and that the purchaser understands and accepts the certification requirements and the obligation to implement them or be subject to liability for failure to do so; the seller and purchaser must sign and date the notification and provide such notification

to the San Diego Water Board **within 10 days of the transfer of ownership.**

2. **Transfer of Mitigation Responsibility:** Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in this Certification must include a signed statement from an authorized representative of the new party (transferee) demonstrating acceptance and understanding of the responsibility to comply with and fully satisfy the mitigation conditions and agreement that failure to comply with the mitigation conditions and associated requirements may subject the transferee to enforcement by the San Diego Water Board under Water Code section 13385, subdivision (a). Notification of transfer of responsibilities meeting the above conditions must be provided to the San Diego Water Board **within 10 days of the transfer date.**
3. **Transfer of Post-Construction BMP Maintenance Responsibility:** The Applicant assumes responsibility for the inspection and maintenance of all post-construction structural BMPs until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction BMPs is legally transferred the Applicant must submit to the San Diego Water Board a copy of such documentation and must provide the transferee with a copy of a long-term BMP maintenance plan that complies with manufacturer specifications. The Applicant must provide such notification to the San Diego Water Board **within 10 days** of the transfer of BMP maintenance responsibility.

Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with this Certification and references in this Certification to the Applicant will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the Applicant of responsibility for compliance with this Certification in the event that a transferee fails to comply.

VIII. CALIFORNIA ENVIRONMENTAL QUALITY ACT COMPLIANCE

- A. The Orange County Parks is the lead agency under the California Environmental Quality Act (Public Resources Code section 21000, et seq., (CEQA)), and promulgated Notice of Exemptions on August 18, 2006 and October 26, 2010 under CEQA Guidelines Title 14, California Code of Regulations. The San Diego Water Board has determined the project is categorically exempt from CEQA pursuant to CEQA Guidelines section 15301.

IX. SAN DIEGO WATER BOARD CONTACT PERSON

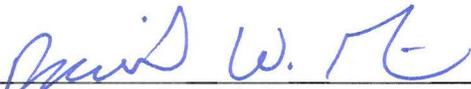
Darren Bradford, Environmental Scientist
Telephone: (619) 521-3356
Email: darren.bradford@waterboards.ca.gov

X. WATER QUALITY CERTIFICATION

I hereby certify that the proposed discharge from the **Outlet Maintenance Program** (Certification No. R9-2017-0087) will comply with the applicable provisions of sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act. This discharge is also regulated under State Water Board Order No. 2003-0017-DWQ, "*Statewide General Waste Discharge Requirements for Dredged or Fill Discharges that have Received State Water Quality Certification (General WDRs)*," which requires compliance with all conditions of this Water Quality Certification. Please note that enrollment under Order No. 2003-017-DWQ is conditional and, should new information come to our attention that indicates a water quality problem, the San Diego Water Board may issue individual waste discharge requirements at that time.

Except insofar as may be modified by any preceding conditions, all Certification actions are contingent on (a) the discharge being limited to, and all proposed mitigation being completed in strict compliance with, the applicants' Project description and/or the description in this Certification, and (b) compliance with all applicable requirements of the Basin Plan.

I, David W. Gibson, Executive Officer, do hereby certify the forgoing is a full, true, and correct copy of Certification No. R9-2017-0087 issued on October 18, 2017.



DAVID W. GIBSON
Executive Officer
San Diego Water Board

18 October 2017
Date

ATTACHMENT 1

DEFINITIONS

Activity - when used in reference to a permit means any action, undertaking, or project including, but not limited to, construction, operation, maintenance, repair, modification, and restoration which may result in any discharge to waters of the state.

Buffer - means an upland, wetland, and/or riparian area that protects and/or enhances aquatic resource functions associated with wetlands, rivers, streams, lakes, marine, and estuarine systems from disturbances associated with adjacent land uses.

California Rapid Assessment Method (CRAM) - is a wetland assessment method intended to provide a rapid, scientifically-defensible and repeatable assessment methodology to monitor status and trends in the conditions of wetlands for applications throughout the state. It can also be used to assess the performance of compensatory mitigation projects and restoration projects. CRAM provides an assessment of overall ecological condition in terms of four attributes: landscape context and buffer, hydrology, physical structure and biotic structure. CRAM also includes an assessment of key stressors that may be affecting wetland condition and a "field to PC" data management tool (eCRAM) to ensure consistency and quality of data produced with the method.

Compensatory Mitigation Project - means compensatory mitigation implemented by the Applicant as a requirement of this Certification (i.e., applicant -responsible mitigation), or by a mitigation bank or an in-lieu fee program.

Discharge of dredged material – means any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the waters of the United States and/or State.

Discharge of fill material – means the addition of fill material into waters of the United States and/or State.

Dredged material – means material that is excavated or dredged from waters of the United States and/or State.

Ecological Success Performance Standards – means observable or measurable physical (including hydrological), chemical, and/or biological attributes that are used to determine if a compensatory mitigation project meets its objectives.

Enhancement – means the manipulation of the physical, chemical, or biological characteristics of an aquatic resource to improve a specific aquatic resource function(s). Enhancement results in the gain of selected aquatic resource function(s), but may also lead to a decline in other aquatic resource function(s). Enhancement does not result in a gain in aquatic resource area.

Establishment – means the manipulation of the physical, chemical, or biological characteristics present to develop an aquatic resource that did not previously exist. Creation results in a gain in aquatic resource area.

Fill material – means any material used for the primary purpose of replacing an aquatic area with dry land or of changing the bottom elevation of a water body.

Isolated wetland – means a wetland with no surface water connection to other aquatic resources.

Mitigation Bank – means a site, or suite of sites, where resources (e.g., wetlands, streams, riparian areas) are restored, established, enhanced, and/or preserved for the purpose of providing mitigation for impacts authorized by this Certification.

Preservation - means the removal of a threat to, or preventing the decline of, aquatic resources by an action in or near those aquatic resources. This term includes activities commonly associated with the protection and maintenance of aquatic resources through the implementation of appropriate legal and physical mechanisms. Preservation does not result in a gain of aquatic resource area or functions.

Re-establishment - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/ historic functions to a former aquatic resource. Re-establishment results in rebuilding a former aquatic resource and results in a gain in aquatic resource area and functions.

Rehabilitation - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural/ historic functions to a degraded aquatic resource. Rehabilitation results in a gain in aquatic resource function, but does not result in a gain in aquatic resource area.

Restoration - means the manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural/historic functions to a former or degraded aquatic resource. For the purpose of tracking net gains in aquatic resource area, restoration is divided into two categories: re-establishment and rehabilitation.

Start of Project Construction - For the purpose of this Certification, "start of Project construction" means to engage in a program of on-site construction, including site clearing, grading, dredging, landfilling, changing equipment, substituting equipment, or even moving the location of equipment specifically designed for a stationary source in preparation for the fabrication, erection or installation of the building components of the stationary source within waters of the United States and/or State.

Uplands - means non-wetland areas that lack any field-based indicators of wetlands or other aquatic conditions. Uplands are generally well-drained and occur above (i.e., up-slope) from nearby aquatic areas. Wetlands can, however, be entirely surrounded by uplands. For example, some natural seeps and constructed stock ponds lack aboveground hydrological connection to other aquatic areas. In the watershed context, uplands comprise the landscape matrix in which aquatic areas form. They are the primary sources of sediment, surface runoff, and associated chemicals that are deposited in aquatic areas or transported through them.

Water quality objectives and other appropriate requirements of state law – means the water quality objectives and beneficial uses as specified in the appropriate water quality control plan(s); the applicable provisions of sections 301, 302, 303, 306, and 307 of the Clean Water Act; and any other appropriate requirement of state law.

Orange County Parks
Outlet Maintenance Program Project
Certification No. R9-2017-0087

ATTACHMENT 2
PROJECT LOCATION MAPS

Figure 1 – Project Vicinity Map

Figure 2 – Project Location Map(s): Aliso Creek; Capistrano (Capo) Beach;
Poche Beach



Legend

★ Project Location



Figure 1
Project Vicinity Map



Legend

 Work Area

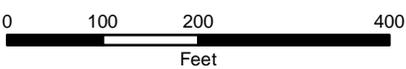
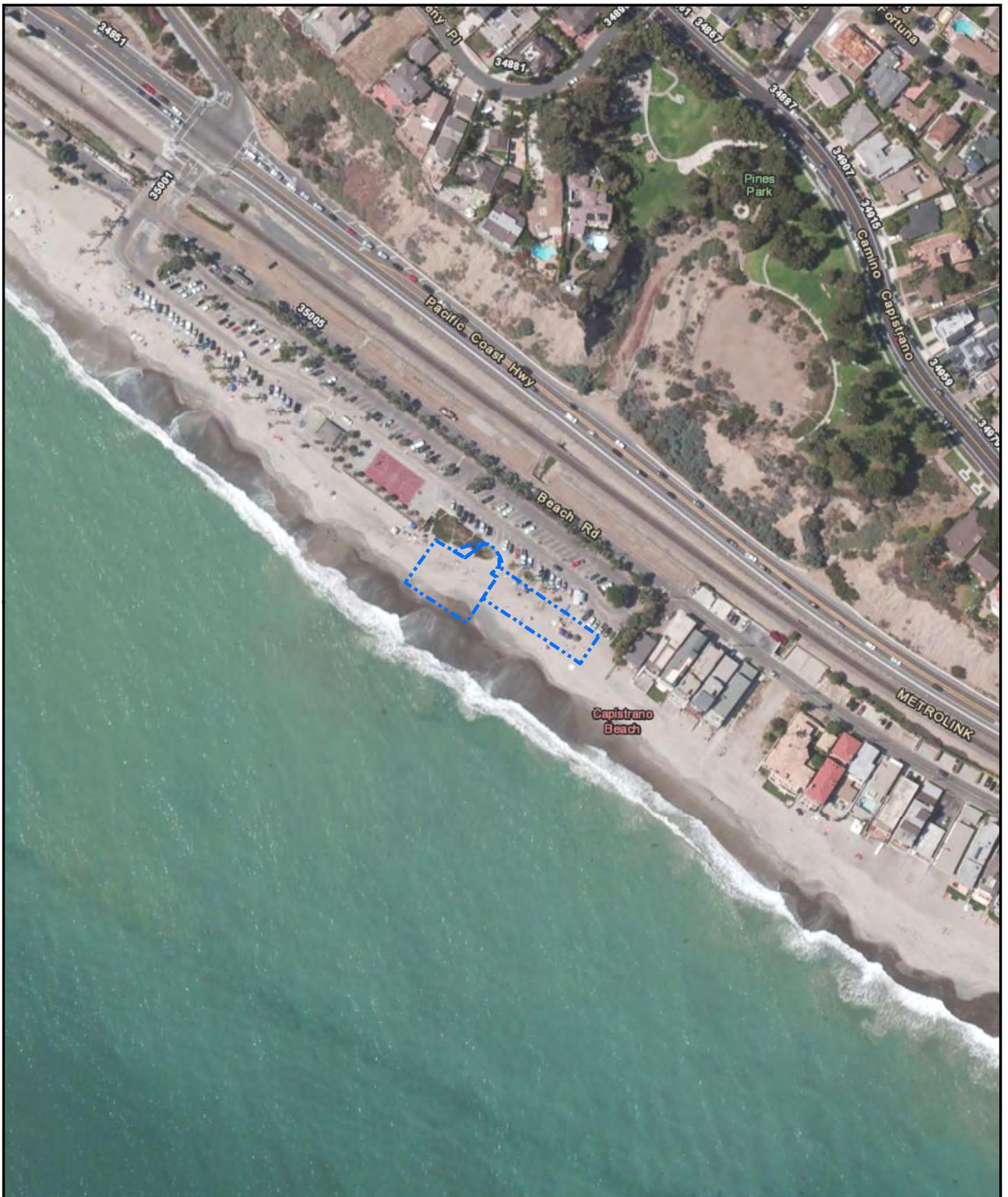


Figure 2
 Project Location Map
 Aliso Creek



Legend

 Work Area

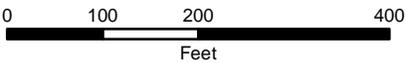
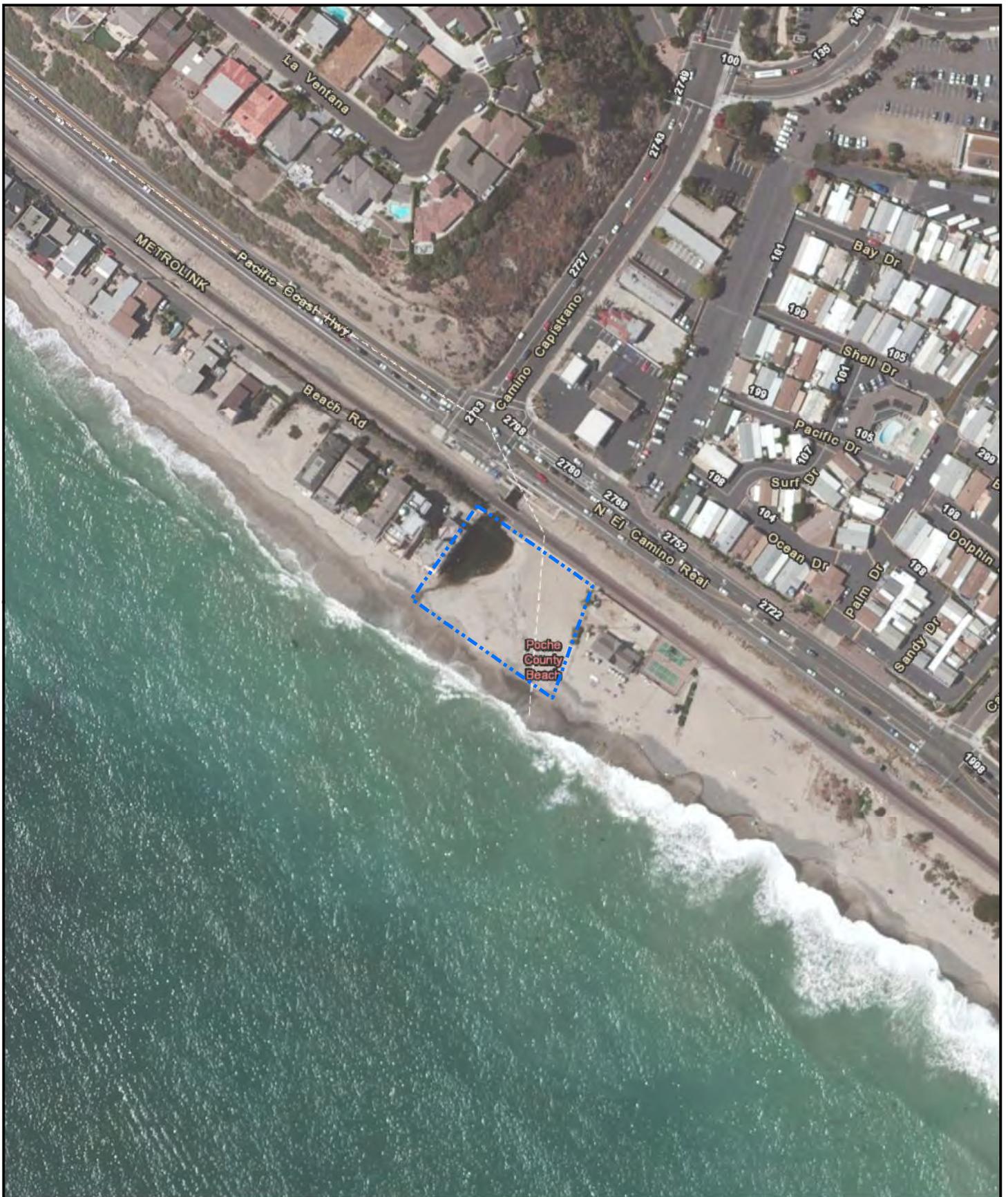


Figure 2
Project Location Map
Capo Beach



Legend

 Work Area

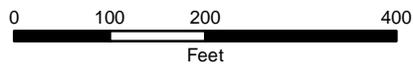


Figure 2
Project Location Map
Poche

Orange County Parks
Outlet Maintenance Program Project
Certification No. R9-2017-0087

**ATTACHMENT 3
PROJECT SITE PLANS**

Exhibit 4 – Aliso Creek Outlet Maintenance Jurisdictional Map
Figure 4a – Poche Beach Outlet Project Impact Map
Figure 4b – Capistrano Beach Outlet No. 1 Project Impact Map



K:\Irvine\GIS\Projects\OC_Parks\00337_10\mapdoc\USACE_permit\2012\Jan\Fig04a_project_impacts_PB.mxd Date: 1/4/2012 19:16

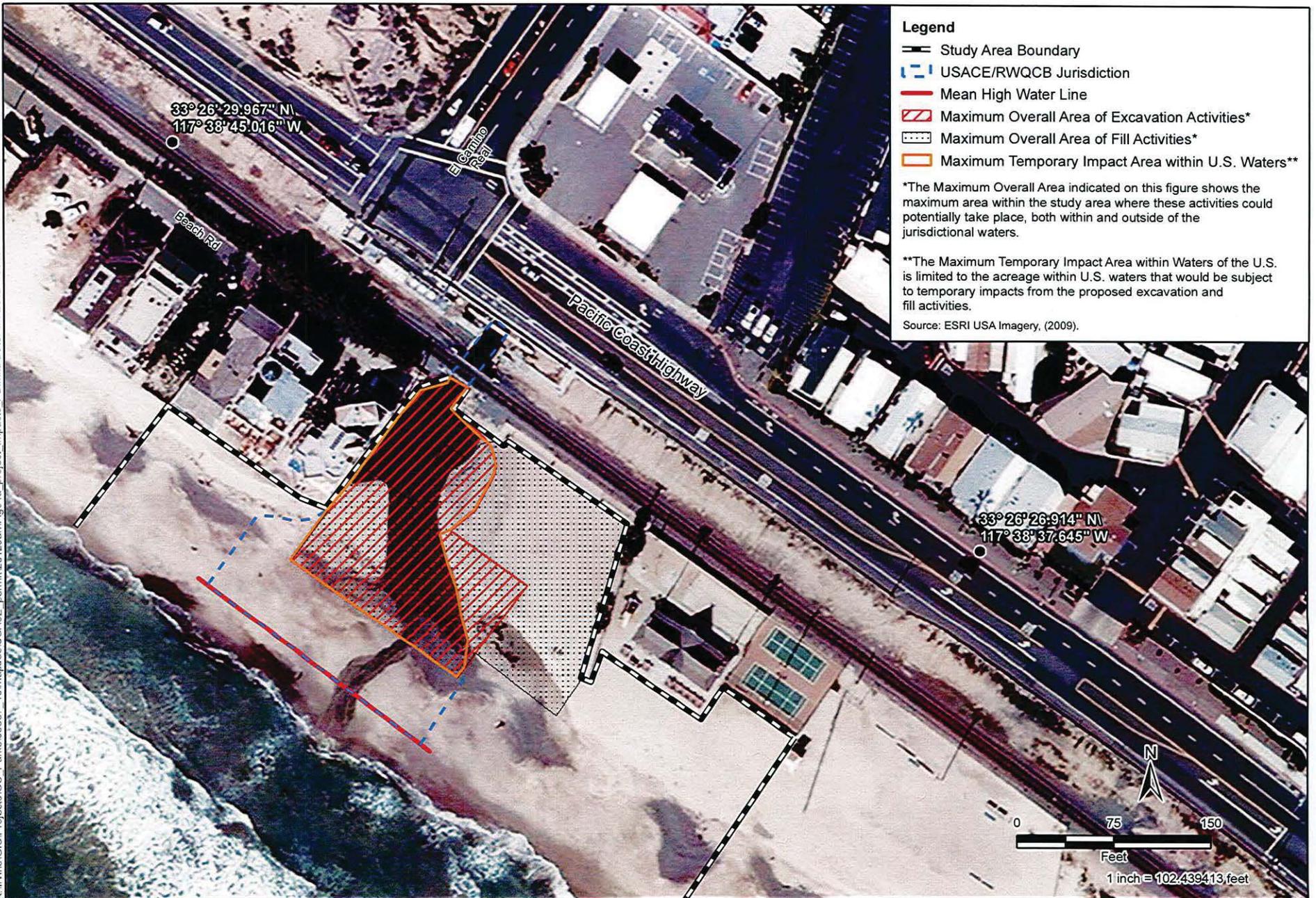


Figure 4a
Project Impact Map
Poche Beach Outlet
Ocean Outlet Maintenance

K:\Irvine\GIS\Projects\OC_Parks\00337_10\mapdoc\USACE_permit\2011\Nov\Fig04b_project_impacts_CB.mxd SS (11-14-11)

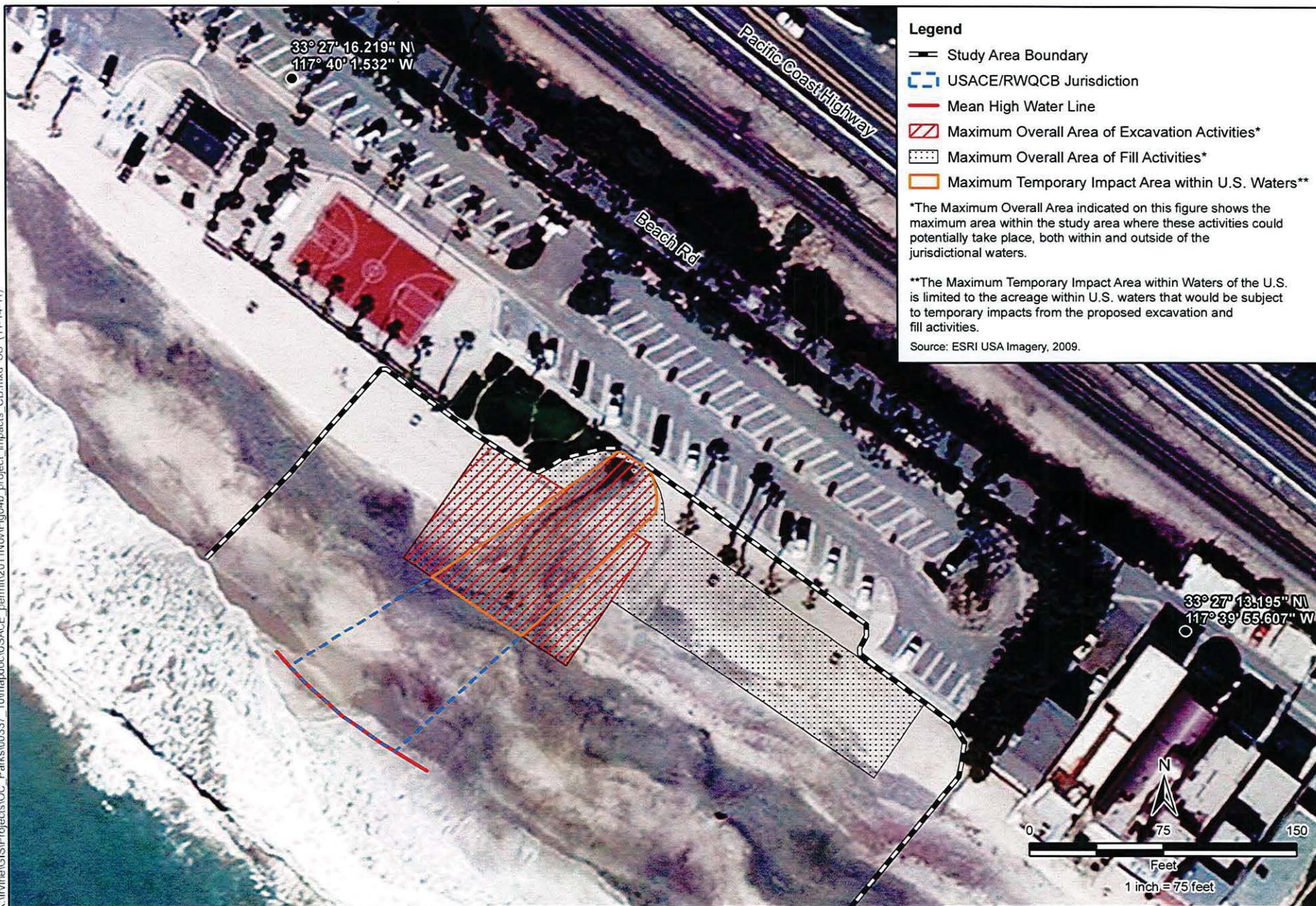


Figure 4b
Project Impact Map
Capistrano Beach Outlet No. 1
Ocean Outlet Maintenance