CALIFORNIA WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

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TENTATIVE Order No. R9-2025-0071

WASTE DISCHARGE REQUIREMENTS For The CITY OF CHULA VISTA

POGGI CANYON CHANNEL MAINTENANCE PROJECT SAN DIEGO COUNTY

The following Discharger is subject to waste discharge requirements as set forth in this Order:

Table 1. Discharger and Project Information

Discharger	City of Chula Vista
Name of Project	Poggi Canyon Channel Maintenance Project
Project Location	Poggi Canyon Creek Channel, adjacent to Olympic Parkway, between Brandywine Avenue and E Palomar Street City of Chula Vista, San Diego County, CA 91913
Discharger Mailing Address	City of Chula Vista 276 Fourth Avenue Chula Vista, CA 91913
Program	Fill/Excavation
Project Type	Non-Bioengineered Channel Maintenance
CIWQS Regulatory Measure ID No.	455889
CIWQS Place ID No. (PIN)	893566
CIWQS Party ID No.	8568
CIWQS Person ID No.	643820
WDID No.	9 000003958
San Diego Water Board Contact	Ariel Cutter, Environmental Scientist (619) 521-8052 Ariel.Cutter@waterboards.ca.gov

Table 2. Discharge Location and Description

Watershed	Otay River Watershed
Hydrologic Area Name, No.	Otay Valley Hydrologic Area, HA 910.20
Receiving Water(s)	Poggi Canyon Creek
Receiving Water Type(s)	Wetland
Latitude, Longitude (approximate center point)	32.61645, -117.00111
Discharge Description	Sediment and wetland vegetation
Permanent Impact Area and Length	0.69 acres and 550 linear feet
Temporary Impact Area and Length	None

Effective Date
The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) adopted this Order on November 12, 2025. This Order became effective upon adoption.

I, David W. Gibson, Executive Officer, do hereby certify that this Order with all attachments is a full, true, and correct copy of the Order adopted by the San Diego Water Board on November 12, 2025.

TENTATIVE
David W. Gibson, Executive Officer

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I. Findings

The San Diego Water Board finds:

A. Report of Waste Discharge

The City of Chula Vista (hereinafter Discharger) submitted a report of waste discharge application, including the application form and supporting information, for the Poggi Canyon Channel Maintenance Project (Project) on January 26, 2024. Additional information to complete the application was received on July 11, 2024. The application was deemed complete on July 31, 2024. The Discharger proposes to discharge fill material to waters of the State of California (State) associated with channel maintenance at the Project site.

B. Regulatory Authority and Reason for Action

By letter dated March 20, 2023, the U.S. Army Corps of Engineers (USACE) determined that the proposed Project activities are exempt from section 404 of the Clean Water Act (CWA). Therefore, a CWA section 404 permit is not required for the Project.

Surface waters affected by the Project are waters of the State, as defined by section 13050(e) of the California Water Code (Water Code). Waters of the State include, but are not limited to, wetlands and ephemeral, intermittent, and perennial stream channels, in all flow conditions, and which may be effluent dominated and seasonally dry. Waste discharges to these waters are subject to State regulation under division 7 of the Water Code (commencing with section 13000). Section 13260(a) of the Water Code requires that any person discharging waste or proposing to discharge waste within any region, other than to a community sewer system, which could affect the quality of the waters of the State, file a report of waste discharge. The discharge of dredged or fill material constitutes a discharge of waste that could affect the quality of waters of the State. Water Code section 13263(a) requires that waste discharge requirements (WDRs) be prescribed as to the nature of any proposed discharge, existing discharge, or material change in an existing discharge. Such WDRs must implement any relevant water quality control plans, taking into consideration beneficial uses to be protected, the water quality objectives reasonably required for those purposes, other waste discharges, the need to prevent nuisance, and the provisions of Water Code section 13241.

The San Diego Water Board developed the Order based on information submitted as part of the application and other available information, and in accordance with Water Code, division 7, and California Code of Regulations, title 23, division 3. The Order was issued pursuant to Water Code section 13263 and serves as WDRs for the discharge of dredge or fill material, including earthen wastes from Project construction activities to waters of the State. The WDRs are necessary to adequately address potential and anticipated impacts to waters of the State, and to implement and ensure compliance with applicable water quality control plans and policies described in Finding I.G of the Order.

C. Project Location

The Project is in Poggi Canyon Creek located adjacent to Olympic Parkway between Brandywine Avenue and E Palomar Street within the City of Chula Vista, San Diego County, California 91913. The Project's approximate center coordinates are latitude 32.61645, longitude -117.00111. A map showing the Project location is found in Attachment 5.

D. Project Description

The purpose of the Project is to provide long-term maintenance of 13 inlet/outlet facilities within Poggi Canyon Creek to maintain flood control. The existing channel was constructed to realign Poggi Canyon Creek as part of the Olympic Parkway Extension Project, authorized under Order No. 99C-013 (Place ID No. 885836). The Olympic Parkway Extension Project included the creation of onsite wetland aquatic resources and upland buffer habitat within the channel as mitigation for the proposed roadway's permanent fill. Maintenance areas associated with the inlets, outlets, and culverts were included as part of the channel design including access to each maintenance area. A conservation easement was placed over the mitigation area, which excludes all maintenance areas, easements, future roadway alignments, and other encumbrances from its boundary. While 16.01 acres of wetland habitat was required to provide mitigation for the Olympic Parkway Extension Project, a total of 23.32 acres were ultimately created within the realigned channel. The excess 7.31 acres within the conserved mitigation area includes 5.19 acres of jurisdictional wetland waters of the State and 2.12 acres of drop structures.

The Discharger proposes to implement the *Olympic Parkway Poggi Canyon Maintenance Plan* (Maintenance Plan) dated June 2024; to remove accumulated sediment and wetland vegetation from established maintenance areas upstream and downstream of each inlet and outlet structure as well as storm drain outlets, which enter various areas of the channel. The Maintenance Plan describes how maintenance will be done, what methods and equipment will be used, where access and staging areas are located for each site, and when maintenance is needed based on established criteria.

In total, the maintenance areas cover 0.92 acres along 799 linear feet of stream channel, consisting of 0.690 acres of concrete aprons where silt and vegetation will be removed, and 0.230 acres of earthen channel bottom where only vegetation will be cut and the trimmings removed. The areas and lengths of wetland aquatic resources in concrete and earthen bottom stream channel segments impacted and affected by maintenance activities are listed for each maintenance site as follows:

Maintenance Location	Concrete Bottom acres / linear feet	Earthen Bottom acres / linear feet	Total acres / linear feet
Site 1	0.020 / 33	0.062 / 44	0.082 / 77
Site 2	0.034 / 30	0	0.034 / 30
Site 3	0.070 / 47	0	0.070 / 47
Site 4	0.124 / 79	0	0.124 / 79
Site 5	0.058 / 36	0.032 / 33	0.090 / 69
Site 6	0.046 / 35	0	0.046 / 35
Site 7	0.063 / 36	0.073 / 80	0.136 / 116
Site 8	0.041 / 31	0	0.041 / 31
Site 9	0.039 / 30	0.024 / 36	0.063 / 66
Site 10	0.024 / 36	0.024 / 16	0.062 / 52
Site 11	0.059 / 70	0	0.059 / 70
Site 12	0.064 / 57	0	0.064 / 57
Site 13	0.034 / 30	0.015 / 40	0.049 / 70
Total	**0.690 / 550**	**0.230 / 249**	**0.920 / 799**

Maintenance activities in concrete bottom areas consist of removing accumulated sediment and freshwater marsh habitat using mechanized equipment and/or hand tools resulting in permanent ecological degradation impacts. Mechanized equipment that will be used within the stream channel may include a skip loader, Bobcat, excavator, and/or front-loader as indicated in the Maintenance Plan. Generally, the equipment will access the maintenance areas within the stream channel by using existing access ramps, by using an excavator from a staging area, or by lowering equipment directly onto the concrete apron. However, access to Sites 6 and 7 will require driving the equipment over earthen bottom and through jurisdictional wetland habitat. At these sites, rubber-tired equipment will be driven over wetland vegetation (i.e., freshwater marsh) at Site 7 to reach the concrete apron at this locale. The equipment will then be driven through the connecting box culvert to reach Site 6 to conduct the maintenance on the concrete pad at Site 6. Access through the box culvert was determined to be the superior alternative as it will avoid impacts to jurisdictional resources associated with creating an access road to Site 6. In addition, use of equipment within the channel was completely avoided for Sites 1, 10, 11, 12, and 13 by conducting the work only by hand or with the use of a vactor truck (staged above the channel) to remove silt outside wetland jurisdiction. If surface flow is present, gravel bags will be temporarily placed on the concrete apron for water diversion purposes.

Maintenance activities in the earthen bottom areas will include vegetation trimming using only hand tools such as weed whips, machetes, and chainsaws. Vegetation trimming is not considered a discharge of fill. No soil will be removed from the area. The trimming activity may include trimming the bottom six feet of individual trees when present within the maintenance area to allow for water to flow beneath their canopies.

Staging will be in designated staging areas/maintenance access paths located outside of aquatic resource areas. Staging areas will be used to perform debris loading into bins, stockpiles placement, and stationing front-loaders, dump trucks, haul vehicles, and vactor trucks. All debris will be hauled to the County landfill for proper disposal.

The total size of the entire area for all Project activities is 0.92 acres. Maintenance is expected to be conducted annually between September 16 and January 14 or when criteria defined in the Maintenance Plan are met.

Project activities will result in 0.69 acres of permanent ecological degradation impacts to aquatic resources under the jurisdiction of the San Diego Water Board. Those impacts will be mitigated with establishment of wetland aquatic resources as described below in Finding I.J of the Order.

E. California Environmental Quality Act Compliance

The California Department of Fish and Wildlife is the lead agency under the California Environmental Quality Act (CEQA) (Public Resources Code section 21000, et seq.) section 21067, and CEQA Guidelines (California Code of Regulations, title 14, section 15000 et seq.) section 15367, and has determined that the Project is categorically exempt.[1]

The San Diego Water Board is a responsible agency under CEQA (Public Resources Code section 21069; CEQA Guidelines section 15381). The San Diego Water Board has independently determined that the project is categorically exempt because the Project consists of maintenance of existing public or private structures involving no expansion of the existing use.[2]

As a responsible agency under CEQA, the San Diego Water Board will file a Notice of Exemption in accordance with CEQA Guidelines section 15062.

F. Water Quality Control Plans and Policies

The requirements contained in the Order are based on the requirements and authorities described in this section.

1. **Water Quality Control Plan.** The San Diego Water Board adopted the Water Quality Control Plan for the San Diego Basin (hereinafter Basin Plan) on September 8, 1994, that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for receiving waters and groundwater protected by the Basin Plan. Subsequent revisions to the Basin Plan have also been adopted by the San Diego Water Board and approved by the State Water Resources Control Board (State Water Board).

[1] 14 CCR § 15301

[2] 14 CCR § 15301

The Basin Plan is available at: https://www.waterboards.ca.gov/sandiego/water_issues/programs/basin_plan/.

This Order specifies WDRs that are necessary to adequately address effects on, and threats to, applicable water quality standards resulting from discharges attributed to the Project. Through compliance with the WDRs of this Order, the Project will not cause or contribute to an exceedance of State water quality standards.

2. **Anti-Degradation Policy.** The State Water Board established California's anti-degradation policy in State Water Board Resolution No. 68-16 (Policy) which requires that existing quality of waters be maintained unless degradation is justified based on specific findings. Minimal water quality degradation may be allowed under the Policy only if any change in water quality is consistent with the maximum benefit to the people of the State; the degradation will not unreasonably affect present and anticipated beneficial uses; and the degradation will not result in violation of any applicable Water Quality Control Plan. The Policy requires that discharges meet requirements that will result in the best practicable treatment or control to avoid pollution or a condition of nuisance.

   Consistent with the Policy, the Order ensures that degradation resulting from the Project activities will be minimized to the maximum extent feasible and has been offset by the functions and services provided by aquatic resources established within the current Poggi Canyon Creek, thus providing maximum benefit to the people of the State. The Order contains WDRs to ensure present and future beneficial uses are maintained for authorized impacts to waters of the State. The WDRs employ best practicable treatment and control of any discharges to ensure and verify that the highest level of water quality is maintained, consistent with the maximum benefit to the people of the State.

3. **No Net Loss Policy.** In 1993, the Governor of California issued the California Wetlands Conservation Policy (Executive Order W-59-93). Commonly referred to as the "No Net Loss Policy" for wetlands, the Executive Order requires state agencies to "ensure no overall net loss [of wetlands] and achieve a long-term net gain in the quantity, quality, and permanence of wetlands acreage and values in California in a manner that fosters creativity, stewardship and respect for private property."

   The Order meets the objectives of Executive Order W-59-93 by requiring that the Project first avoid, then minimize, and lastly compensate for adverse impacts on aquatic resources that cannot practicably be avoided or minimized. The Discharger has demonstrated that the proposed compensatory mitigation will offset the unavoidable and permitted Project impacts to wetland habitat because the mitigation

(1) is within the same water body, (2) possesses greater functions and services,[3] and (3) is sufficient to replace the lost aquatic resource functions, thereby achieving the goal of no net loss, and possibly net gain, of aquatic resources. The compensatory mitigation plan is sufficient to provide the San Diego Water Board with a reasonable assurance that replacement of the full range of lost aquatic resource(s) has been provided in perpetuity.

The Discharger has demonstrated that the Project will not contribute to a net loss of the overall abundance, diversity, and condition of aquatic resources in the Poggi Canyon Creek watershed. Based on these considerations, the Discharger's compliance with the terms and conditions of the Order will ensure that the Project meets applicable water quality standards for all waters of the State in HA 910.20.

4. **California Wetland Riparian Area Protection Policy.** In 2019, the State Water Board adopted the *State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State* (Procedures). The Procedures became effective May 28, 2020. The State Water Board adopted the Procedures to (1) strengthen protection of waters of the State that were no longer protected under the Clean Water Act due to U.S. Supreme Court decisions, (2) ensure consistency across the Water Boards in requirements for discharges of dredged or fill material into waters of the State, including wetlands, and (3) prevent losses in the quantity and quality of wetlands in California, where there have been especially profound historical losses of wetlands. The Procedures establish a definition of wetland waters of the State and wetland delineation procedures, and specify the requirements for submission, review, and approval of applications for activities that could result in the discharge of dredged or fill material to any waters of the State.

   The Order is consistent with the Procedures.

G. Receiving Waters Impacted by the Project

The Order authorizes unavoidable permanent impacts to Poggi Canyon Creek, a tributary to the Otay River within the Otay Hydrologic Unit (HU 910.00). Poggi Canyon Creek has the designated beneficial uses listed below in Table 1. Additionally, Poggi Canyon Creek is identified as impaired under the Clean Water Act Section 303(d) List of Water Quality Limited Segments, where water quality standards are not attained for pollutants listed below in Table 3.

[3] The proposed compensatory mitigation is wetland waters of the State that was originally established for the construction of Olympic Parkway and is more than the required mitigation for that project.

Table 3: Beneficial Uses and Impairments of Receiving Waters

Receiving Waters	Beneficial Uses	303(d) Impairing Pollutants
Poggi Canyon Creek (Otay Valley Hydrologic Area HA 910.20)	Existing beneficial uses: Agricultural Supply; Non-Contact Water Recreation; Warm Freshwater Habitat; Wildlife Habitat Potential beneficial uses: Industrial Service Supply; Contact Water Recreation	Listings for Poggi Canyon Creek: Nitrogen; Toxicity

H. Description of Impacts to Receiving Waters of the State

Project activities will not contribute to additional loading of pollutants identified in Table 3 above. The Discharger will only remove sediment and vegetation from existing concrete facilities and implement construction methods and best management practices to avoid and minimize impacts to water quality, including minimizing use of mechanized equipment, avoiding disturbance of soft bottom stream channel areas, and diverting dry weather flows around the work area.

Total direct impacts to Poggi Canyon Creek attributable to the Project are summarized in Table 4 below. Maps of the impact location(s) are found in Attachment 5.

Table 4: Project Fill/Excavation Quantity to Wetland

Impact Type	Acres	Cubic Yards	Linear Feet
Temporary Impacts	N/A	N/A	N/A
Permanent Impacts	0.69	N/A	550

N/A means not applicable.

Project activities will result in ecological degradation only because the channel maintenance will permanently remove the wetland habitat and their functions from the stream channel. Project activities will not create any indirect impacts to waters of the United States and/or waters of the State.

I. Avoidance and Minimization

The Discharger has demonstrated that the Project was designed to first avoid, then minimize, to the maximum extent practicable, impacts to waters of the United States and/or State.

The Discharger reports that the Project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to aquatic resources considering all potential practicable alternatives.

The Project qualifies as a Tier 2[4] project under the Procedures. The Discharger completed an alternatives analysis, and the Project is the least environmentally damaging practicable alternative.

Project avoidance and minimization measures implemented or planned by the Discharger include prioritizing work by hand or with a vactor truck placed in non-jurisdictional areas when possible, using existing access ramps, staging areas, and/or routes through box culvert for equipment access, using rubber-tired equipment when access through aquatic resource areas is necessary, using sandbags placed only on the concrete surfaces to divert flow around work areas when necessary, and limiting the work in earthen bottom areas to only vegetation trimming, including restricting ground disturbance/removal of sediment and tree trimming of the bottom six feet of existing trees present within the maintenance areas instead of complete tree removal.

J. Compensatory Mitigation

To offset adverse impacts to water quality, the Order requires, at a minimum, compensatory mitigation as described below.

[4] Tier 2 projects include any project that inherently cannot be located at an alternate location. Tier 2 projects shall provide an analysis of only on-site alternatives. For routine operation and maintenance of existing facilities, analysis of on-site alternatives is limited to operation and maintenance alternatives for the facility.

Table 5: Required Mitigation for Permanent Impacts

Aquatic Resource Type	Impacts	Mitigation Ratio[5]	Mitigation	Mitigation Method	Mitigation Type
Wetland	0.69 acres (550 LF)	1.33 : 1	0.92 acres	Establishment	PRM

LF means linear feet.
PRM means permittee-responsible mitigation.

Permittee-Responsible Compensatory Mitigation. The Discharger proposes to use an in-watershed wetland mitigation area from the previously established mitigation originally created within the realigned Poggi Canyon Creek Channel to offset the construction of the Olympic Parkway Extension. The 0.92-acre permittee-responsible mitigation area will be used to offset this Project's permanent ecological degradation of jurisdictional waters of the State. The mitigation area is within the conservation easement boundary and is excess of the road construction project's required compensatory mitigation.

The Poggi Canyon CM Mitigation Area (PIN 902743) is located on a segment of Poggi Canyon Creek and the approximate center readings are latitude 32.619461, longitude -117.00111.The mitigation area is 0.92 acres of earthen bottom jurisdictional wetland waters of the State and includes a mosaic of mature southern willow scrub and freshwater marsh habitat. This habitat includes a diverse array of trees reaching a height of approximately 25 feet and understory of freshwater marsh species, shrubs, and forbs. A buffer area consisting of mature coastal sage scrub habitat is included within the conservation easement boundary. The mitigation area provides moderate to high value for wildlife due to its plant diversity, structural stratification, and mature development. Its earthen substrate provides moderate to high value for wetland functions such as ground water recharge, flood storage, sediment/toxicant retention, and nutrient transformation.

K. Monitoring and Reporting Requirements

The Order includes monitoring and reporting requirements in Condition II.E of the Order pursuant to Water Code section 13267. These requirements are necessary to determine compliance with the Order for the protection of water quality and beneficial uses. The San Diego Water Board estimates that compliance with the monitoring and reporting requirements will cost approximately $45,171 to $83,116. The burden, including costs, of the required reports bears a reasonable relationship to the need for the reports and the benefits to be obtained from the reports.

[5] Mitigation ratio is the ratio of area mitigated to area impacted.

L. Fees Received

The Discharger has paid all required application fees for the Order in the amount of $18,360. The fee amount was determined by California Code of Regulations, title 23, sections 2200(a)(3) and 3833(b)(3) and was calculated as Category A, Fill and Excavation Discharges, using the dredge and fill fee calculator.

M. Executive Officer Delegation of Authority

The San Diego Water Board by prior resolution has delegated all matters that may legally be delegated to its Executive Officer to act on its behalf pursuant to Water Code section 13223. Therefore, the Executive Officer is authorized to act on the San Diego Water Board's behalf on any matter within this Order unless such delegation is unlawful under Water Code section 13223, or this Order explicitly states otherwise.

N. Public Notice

In accordance with the requirements of Water Code section 13167.5, the San Diego Water Board has notified the Discharger and interested agencies and persons of its intent to prescribe WDRs for the discharge and has provided them with an opportunity to submit their written comments and recommendations. The San Diego Water Board provided written responses to all timely received public comments on the Order. The San Diego Water Board has also provided an opportunity for the Discharger and interested agencies and persons to submit oral comments and recommendations at a public hearing.

O. Public Hearing

The San Diego Water Board, in a public meeting, heard and considered all comments pertaining to the discharge and the Order.

II. Conditions

THEREFORE, IT IS HEREBY ORDERED that, in order to meet the provisions contained in division 7 of the Water Code (commencing with section 13000) and regulations adopted thereunder, the Discharger must comply with the requirements in this Order.

A. Authorization of Project Impacts to Receiving Waters

The Discharger is authorized to implement the Project described in the Order and must not exceed the quantities of impacts to Poggi Canyon Creek shown in Table 4 of the Order. Impacts to waters of the State will be considered unauthorized discharges if they occur prior to the purchase of mitigation credits and/or the start of construction of proposed mitigation.

B. Project Conformance with Water Quality Control Plans or Policies

The Discharger must implement the Project in compliance with the following:

1. The Discharger must take all necessary measures to protect the receiving water beneficial uses identified in Finding I.G of the Order from potential Project impacts. All measures taken must be in accordance with water quality standards in the Basin Plan.

2. Notwithstanding any specific conditions in the Order, the Project must be constructed in a manner consistent with the Basin Plan and any other applicable water quality control plans or policies adopted or approved pursuant to the Porter-Cologne Water Quality Act (commencing with California Water Code Section 13000).

3. If at any time an unauthorized discharge to waters of the State occurs or monitoring indicates that the Project is violating, or threatens to violate, water quality objectives, the associated Project activities must cease immediately, and the San Diego Water Board must be notified in accordance with the standard provisions for reporting in Condition II.H of the Order. Associated Project activities may not resume without approval from the San Diego Water Board.

C. Discharge Prohibitions

The Discharger must comply with the following discharge prohibitions:

1. Prohibition No. 1. The discharge of waste to waters of the state in a manner causing, or threatening to cause a condition of pollution, contamination, or nuisance as defined in California Water Code section 13050, is prohibited.

2. Prohibition No. 2. The discharge of waste to land, except as authorized by WDRs or the terms described in California Water Code section 13264, is prohibited.

3. Prohibition No. 3. The discharge of pollutants or dredged or fill material to waters of the United States except as authorized by an NPDES permit or a dredged or fill material permit (subject to the exemption described in California Water Code section 13376) is prohibited.

4. Prohibition No. 7. The dumping, deposition, or discharge of waste directly into waters of the State, or adjacent to such waters in any manner which may permit waste being transported into the waters, is prohibited unless authorized by the San Diego Water Board.

5. Prohibition No. 14. The discharge of sand, silt, clay, or other earthen materials from any activity, including land grading and construction, in quantities which cause deleterious bottom deposits, turbidity or discoloration in waters of the State or which unreasonably affect, or threaten to affect, beneficial uses of such waters is prohibited.

D. Compensatory Mitigation Requirements

1. **Compensatory Mitigation Implementation**. The Discharger must fully and completely implement the compensatory mitigation described above in Finding I.J. of the Order.

2. **Temporary Impacts Restoration**. All areas of temporary impact must be restored to pre-project contours and re-vegetated with native species.

3. **Preservation Mechanism**. The Discharger indicates that a conservation easement has been recorded that provides protection in perpetuity for aquatic habitats, riparian areas, uplands, and buffers; and comprises the overall mitigation site. **Within 90 days from effective date of the Order**, the Discharger must submit proof of a completed final preservation mechanism in conformance with the following requirements:

    a. Long-term protection may be provided through real estate instruments such as conservation easements held by federal, state, or local resource agencies; the transfer of title to such entities; or by restrictive covenants. For government property, long-term protection may be provided through state or federal facility management plans or integrated natural resources management plans.

    b. The real estate instrument, management plan, or other mechanism providing long-term protection of mitigation site(s) must, to the maximum extent practicable, prohibit incompatible uses that might jeopardize the objectives of the compensatory mitigation. Where appropriate, multiple instruments recognizing compatible uses (e.g., fishing or grazing rights, recreation) may be used. The preservation mechanism must be adequate to demonstrate that the mitigation site will be maintained without future development or encroachment which could reduce the functions and values of the site for the variety of beneficial uses of waters of the United States and/or State that it supports. The legal limitation must prohibit, without exception, all residential, commercial, industrial, institutional, and transportation development, and any other infrastructure development that would not maintain or enhance the wetland and streambed functions and values of the sites. The preservation mechanism must clearly prohibit activities that would result in soil disturbance or vegetation removal, other than the removal of non-native vegetation. Other infrastructure development to be prohibited includes, but is not limited to, additional utility lines, maintenance roads, and areas of maintained landscaping for recreation.

4. **Mitigation Site Long-Term Management**. The existing compensatory mitigation site must be managed, protected, and maintained, in perpetuity, in conformance with the long-term management expectations and the final ecological success performance standards identified in the *Conceptual Wetland Mitigation Plan for the Olympic Parkway Extension, Chula Vista, California* (Mitigation Plan), dated February 1, 1999. The aquatic habitats, riparian areas, buffers, and uplands that comprise the mitigation site(s) must be protected in perpetuity from land-use and maintenance activities that may threaten water quality or beneficial uses within the mitigation area(s) in a manner consistent with the following requirements:

   a. Any maintenance activities on the mitigation site(s) that do not contribute to the success of the mitigation site(s) and enhancement of beneficial uses and ecological functions and services are prohibited.

   b. The mitigation site(s) must be maintained, in perpetuity, with no more than 5 percent cover of non-native plant species and no species presently rated by the California Invasive Plant Council as High or Moderate in conformance with the Mitigation Plan.

   c. If at any time a catastrophic natural event (e.g., fire, flood) damages the mitigation site(s), the Discharger must take prompt and appropriate action to assess, respond to, and ensure repair of the damage(s) including replanting, allowing natural recovery, and addressing any other deficiencies in the affected area(s). The San Diego Water Board may require additional monitoring by the Discharger to assess how the compensatory mitigation site(s) is responding to a catastrophic natural event.

   d. If changes in statute, regulation, or agency needs or mission results in an incompatible use on public lands originally set aside for the mitigation site(s), the Discharger must be responsible for providing alternative compensatory mitigation that is acceptable to the San Diego Water Board for any loss in functions resulting from the incompatible use prior to impacting the mitigation.

E. Monitoring and Reporting Requirements

1. **Receiving Water Visual Monitoring**. The Discharger must conduct continuous visual/sensory observations monitoring during all Project activities having the potential to discharge to and/or within receiving waters and demonstrate compliance with water quality objectives as described below. The receiving water visual monitoring documentation must be compiled and included in Annual Progress Reports as required in Condition II.E.2 of the Order.

a. **Parameters**. The following parameters[6] and construction best management practice status must be monitored:

   i. Floating particulates, suspended materials, and/or surface visible turbidity plume.

   ii. Grease, oil, sheen, odor, color, or any other significant discoloration of the water column and/or water surface.

   iii. Condition/effectiveness of construction best management practices.

b. **Field Documentation**. All observations must be performed and recorded throughout Project construction activities by a qualified biologist and/or environmental professional (see Attachment 3, Construction Best Management Practices, Bullet N). In addition to the records of monitoring information listed in Attachment 4, Standard Provision 4.e, field documentation of receiving waters visual monitoring must include, at a minimum, observations of the parameters listed above, and weather conditions, such as wind speed/direction, cloud cover, precipitation, etc. Photo documentation must be used in support of visual observations of water quality conditions and be conducted in accordance with guidelines posted at https://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation should include Global Positioning System coordinates for each of the photo points referenced.

c. **Response Actions**. If an exceedance of water quality objectives is observed and is determined to be associated with the Project's construction activity, response action(s) must be taken immediately to correct the situation. Response actions may include, but are not limited to, work stoppage until repairs of construction best management practices are completed, implementation of operational modifications, work stoppage due to the presence of a sheen/spill until it is cleaned up, and/or implementation of additional best management practices. Response actions include identifying the source of discharge causing such exceedance(s) and abating and/or cleaning up the discharge. Response actions, if needed, must be documented in the monitoring field notes/log.

[6] Chapter 3 of the Basin Plan presents the narrative and/or numerical water quality objectives related to these parameters.

2. **Annual Progress Reports**. The Discharger must submit Annual Progress Reports to the San Diego Water Board prior to **March 1 of each year following the issuance of the Order** and continue to provide the reports for each reporting period until the San Diego Water Board accepts the Project Completion Notification submitted by the Discharger. The reporting period for each Annual Progress Report is January 1 through December 31 of each year. Annual Progress Reports must be submitted even if Project activities are not conducted during the reporting period.

   Annual reports must contain the status and anticipated schedule for both the Project and compensatory mitigation site(s). Additional requirements for the contents of Annual Progress Reports are detailed in Attachment 2.

3. **Geographic Information System Data**. **Within 30 days of the start of the first maintenance event,** the Discharger must submit Geographic Information System (GIS) shape files and metadata that depict the boundaries of all Project areas and extent of aquatic resources impacted by the Project and the entire mitigation area, including extent and distribution of each aquatic resource and/or buffer area. Metadata should include information such as aquatic resource type, restoration type, areas, lengths, related permit information, and the like. For instructions on submitting GIS files, please contact the San Diego Water Board.

F. Project Status Notification Requirements

1. **Discharge Commencement Notification**. The Discharger must notify the San Diego Water Board in writing **at least 5 days prior to the start of each Project maintenance event**.

2. **Discharge Completion Notification**. The Discharger must notify the San Diego Water Board in writing **within 30 days of completing active maintenance activities for each Project maintenance event**. Submittal of the Notification does not obviate the Discharger's duty to comply with the requirements of the Order, pay any outstanding invoices of permit fees, or submit any outstanding required reports. The Notification must include:

   a. Dates of maintenance initiation and completion.

   b. Photo documentation of all areas of permanent and/or temporary impact showing before and after Project construction activities. Photo documentation must be conducted in accordance with guidelines posted at https://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation must include Global Positioning System coordinates for each of the photo locations referenced.

c. A list of all incidents of noncompliance (i.e., water quality standards exceedances, accidental discharge/spills, etc.) occurring during Project implementation, including the dates and times of each period of noncompliance and a summary of the steps taken to correct and resolve the noncompliance.

d. A statement, signed by the Discharger in accordance with Condition II.I.2 of the Order, that certifies the authorized activity and implementation of any required compensatory mitigation were conducted and completed in accordance with the Order, including any activity-specific or compensatory mitigation conditions.

3. **Project Completion Notification**. The Discharger must submit a Project Completion Letter when the Project is complete and no further Project activities will occur. This written notification must be submitted to the San Diego Water Board **within 30 days following completion of all Project activities**. Upon approval of the request, the San Diego Water Board will issue an Acceptance of Project Completion to the Discharger which will formally end the monitoring period and associated annual fees.

G. Construction Best Management Practices

The Discharger must implement best management practices, as described in Attachment 3, before, during, and after construction to prevent discharges from the Project causing or contributing to on-site or off-site erosion; creation of a condition of pollution, contamination, or nuisance; discharge of toxic pollutants; and/or damage to properties or waters of the United States and/or State.

H. Standard Provisions

The Discharger must comply with all standard provisions included in Attachment 4.

I. Document Submittal Requirements

1. **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."

2. **Document Signatory Requirements**. All applications, reports, or information submitted to the San Diego Water Board must be signed by a legally responsible person (LRP) representing the Discharger (or duly authorized representative, as described below). The LRP eligibility is as follows:

a. For a corporation, by a responsible corporate officer of at least the level of vice president.

b. For a partnership or sole proprietorship, by a general partner or proprietor, respectively.

c. For a municipality, or a state, federal, or other public agency, by either a principal executive officer or ranking elected official. This includes the chief executive officer of the agency or the senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Regional Administrators of the U.S. EPA).

d. A duly authorized representative may sign applications, reports, or information if the requirements for authorization listed below are met. 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.

   i. The authorization is made in writing by the Discharger's LRP.

   ii. The authorization specifies either an individual or position having responsibility for the overall operation of the regulated activity.

   iii. The written authorization is submitted to the San Diego Water Board Executive Officer.

3. **Electronic Document Submittal**. The Discharger must submit all reports and information required under the Order via e-mail to SanDiego@waterboards.ca.gov with the following information added to the end of the subject line: **"Order No. R9-2025-0071:893566:acutter**." Digital documents must not be password protected, and file share site links will not be accepted for purposes of document submittal to the Project's administrative record. Documents over 50 megabytes cannot be accepted via e-mail and must be placed on a flash drive and delivered to:

   San Diego Regional Water Quality Control Board
   Attn: Order No. R9-2025-0071, PIN 893566:acutter
   2375 Northside Drive, Suite 100
   San Diego, California 92108

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.

Application – means a written request, including a report of waste discharge, for authorization of any activity that may result in the discharge of dredged or fill material and is subject to the Order.

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 – means the restoration (re-establishment or rehabilitation), establishment, enhancement, and/or preservation of aquatic resources for the purposes of offsetting unavoidable adverse impacts which remain after all appropriate and practicable avoidance and minimization has been achieved.

Compensatory mitigation project – means compensatory mitigation implemented by the Discharger as a requirement of the Order (i.e., permittee-responsible mitigation), or by a mitigation bank or an in-lieu fee program.

Condition – means the relative ability of an aquatic resource to support and maintain a community of organisms having a species composition, diversity, and functional organization comparable to reference aquatic resources in the region.

Credit – means a unit of measure (e.g., s functional or areal measure or other suitable metric) representing the accrual or attainment of aquatic functions at a compensatory mitigation site. The measure of aquatic functions is based on the resources restored, established, enhanced, or preserved.

Direct impact – is an impact that occurs within an aquatic resource or its riparian area, and that occurs at the same time as the project. Direct impacts can be either temporary or permanent.

Discharge of dredged or fill material – has the same meanings as they are used in the federal Clean Water Act and Code of Federal Regulations (CFR), title 40, section 232.2, but (1) shall include discharges to waters of the State that are not waters of the U.S. and (2) any demonstrations described in CFR, title 40, section 232.2(3)(i) shall be made to the permitting authority instead of the USACE or U.S. EPA. Placement of dredged or fill material in a manner that could not affect the quality of waters of the State is not considered a discharge of dredged or fill material.

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

Dredging – means the removal of sediment in deeper water to increase depth, typically to facilitate navigation.

Ecological degradation –is when an impact degrades the condition and function of an aquatic resource. Ecological degradation can occur without physical loss of aquatic resources and have a short- or long-term effect.

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.

Excavation – means the removal of sediment or soils in shallow waters or under no-flow conditions where impacts to beneficial uses are best described by the area of the discharge. It is done for purposes other than navigation.

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.

Functions – means the physical, chemical, and biological processes that occur in ecosystems.

Impact – means an adverse effect on an aquatic resource caused by the discharge of dredged or fill material. Adverse effects may be the physical loss of area, ecological degradation of the aquatic resource, or both.

Indirect impact – is a reasonably foreseeable impact outside of the direct impact area that will have an adverse effect on an aquatic resource. Indirect impacts can be either temporary or permanent.

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

LEDPA – means the least environmentally damaging practicable alternative. The determination of practicable alternatives shall be consistent with the State Supplemental Dredge or Fill Guidelines, section 230.10(a).

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 the Order.

Order – means waste discharge requirements or waivers of waste discharge requirements.

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

Permanent impact – means a permanent change to an aquatic resource, including changing it to a non-aquatic resource, changing the bottom elevation of an aquatic resource, or by constructing or placing structures within it. Permanent impacts can cause physical loss of area and/or ecological degradation.

Permittee-responsible mitigation – means an aquatic resource restoration, establishment, enhancement, and/or preservation activity undertaken by the permittee (or an authorized agent or contractor to provide compensatory mitigation for which the permittee retains full responsibility.

Physical loss – means the permanent change of an aquatic resource to a non-aquatic habitat type or permanent change of the bottom elevation of the aquatic resource. Physical loss always includes ecological degradation.

Project – means the whole of an action that includes a discharge of dredged or fill material to waters of the U.S. and/or State.

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.

Services – means the benefits that human populations receive from functions that occur in ecosystems.

Start of project construction – For the purpose of the Order, "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.

Temporal loss – means the time lag between the loss of aquatic resource functions caused by the permitted impacts and the replacement of aquatic resource functions at the compensatory mitigation site. Higher compensation ratios may be required to compensate for temporal loss.

Temporary impact – means an impact that is restored to pre-project conditions through natural ecological processes or active restoration. Temporary impacts are therefore not considered a physical loss of area or degradation of ecological condition requiring compensatory mitigation.

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 aquatic areas. In a watershed, uplands comprise the landscape 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.

Waters of the State – means any surface water or groundwater, including saline waters, within the boundaries of the state.

Watershed – means a land area that drains to a common waterway, such as a stream, lake, estuary, wetland, or ultimately the ocean.

ATTACHMENT 2 – Annual Progress Report Requirements

The reporting period for each Annual Progress Report is January 1 through December 31 of each year. Annual Progress Reports must be submitted even if Project discharge activities have not started or did not occur during the reporting period, in which case only the reason for the delay, if applicable, and the anticipated schedule for Project commencement must be reported. Annual Progress Reports must be submitted even if Project maintenance is complete and no additional maintenance is planned. Annual Progress Reports must include, at a minimum, the following:

1. **Project Status and Compliance**.

    a. A summary description of Project maintenance activities completed during the reporting period, including the dates of active Project maintenance.

    b. The status and anticipated schedule for completion of in-progress maintenance activities, including the installation and operational status of construction best management practices for water quality protection.

    c. A description of any Project maintenance delays encountered or anticipated that will affect the schedule for completion of in-progress maintenance activities.

    d. Photo documentation of the Project's maintenance activities that occurred during the reporting period, including all areas of permanent impact before, during, and after maintenance, and construction best management practices, including stream water diversions, implemented at the Project site. Photo documentation must be conducted in accordance with guidelines posted at https://www.waterboards.ca.gov/sandiego/water_issues/programs/401_certification/docs/401c/401PhotoDocRB9V713.pdf. In addition, photo documentation must include Global Positioning System coordinates for each photo location.

    e. A description of each of the following: each incident of noncompliance (i.e., water quality standards exceedances, accidental discharge/spills, etc.) occurring during the annual reporting period and its cause; the period of the noncompliance including exact dates and times; 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.

    f. Anticipated schedule to perform future maintenance events.

2. **Records of Monitoring**. Provide the following information in monitoring reports, as relevant:

    a. The names, qualifications, and affiliations of individuals who performed the monitoring, sampling, analyses, and otherwise contributed to the report.

    b. The date, exact place, and time of monitoring.

    c. The analytical techniques and/or methods used.

3. **Results of Construction Monitoring**. Provide the following reporting:

    a. Receiving water visual monitoring reports. In accordance with Condition II.E.1 of the Order, the Discharger must submit receiving water visual monitoring reports that include the following, at a minimum:

        i. The records of monitoring information listed as items 2.a through c of this Attachment.

        ii. A description and discussion of the receiving water monitoring performed, observations recorded, and response actions taken.

        iii. Copies of records, field notes/logs, and/or photo documentation of the visual observations.

ATTACHMENT 3 – Construction Best Management Practices

The Discharger must implement the following best management practices:

A. **Approval to Commence Construction**. The Discharger must 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 Discharger must educate all personnel on the requirements in the Order, pollution prevention measures, spill response measures, and best management practice implementation and maintenance measures.

C. **Spill Containment Materials**. The Discharger 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 Discharger must, as applicable, obtain coverage under and comply with the requirements of State Water Board's Water Quality Order No. 2022-0057-DWQ, the *General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activity*, (General Construction Stormwater Permit) and any reissuance. If Project construction activities do not require coverage under the General Construction Stormwater Permit, the Discharger must develop and implement a runoff management plan (or equivalent construction best management practice plan) to prevent the discharge of sediment and other pollutants during construction activities.

E. **Waste Management**. Except for discharges permitted under the Order, the Discharger must properly manage, store, treat, and dispose of waste, trash, organic or earthen material, and other construction debris from Project activities in accordance with applicable federal, State, and local laws and regulations. The storage, handling, treatment, or disposal of waste must not create conditions of pollution, contamination, or nuisance as defined in California Water Code section 13050. Waste management must be implemented to avoid or minimize exposure of waste to precipitation or stormwater runoff. Direct discharge of waste 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. Upon Project completion, all Project-generated waste and debris must be removed from the Project site(s) for disposal at an authorized disposal site in compliance with federal, State, and local laws and regulations.

F. **Upstream and Downstream Erosion**. Discharges of concentrated flow during construction or after Project completion must not cause or contribute to upstream or downstream erosion or damage to properties or stream habitat.

G. **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 components used in direct contact with surface water must be steam cleaned prior to use. All equipment using gas, oil, hydraulic fluid, or other petroleum products must be inspected for leaks prior to use and must be monitored for leakage. Stationary equipment (e.g., motors, pumps, generator, etc.) must be positioned over drip pans or other types of containment.

H. **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 stormwater runoff flows. Pollutants discharged to areas within a stream diversion must be removed at the end of each workday or sooner if rain is predicted.

I. **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.

J. **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 Discharger must implement and maintain best management practices 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 https://www.cal-ipc.org/plants/inventory/.

K. **Hazardous Materials**. Except as authorized by the Order, 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. Best management practices must be implemented to prevent such discharges during each Project activity involving hazardous materials.

L. **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 best management practices 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 the State Water Board's Water Quality Order No. 2013-0002--DWQ, the *Statewide General National Pollution Discharge Elimination System (NPDES Permit for Residual Aquatic Discharges to Waters of the United States*

from Algae and Aquatic Weed Control Applicators as amended), and any subsequent reissuance as applicable.

M. **Limits of Disturbance**. The Discharger must 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.

N. **On-site Qualified Biologist and/or Environmental Professional**. The Discharger must designate an on-site qualified biologist and/or other qualified environmental professional to monitor Project construction activities within and/or adjacent to waters of the United States and/or State to ensure compliance with the requirements of the Order, including conducting and documenting receiving water visual observations and appropriate response actions taken, if needed, as required under Condition II.E. of the Order. The on-site biologist and/or environmental professional must be given authority to stop all work on site if a violation of the Order occurs or has the potential to occur. All records, field logs, and/or field notes created by the on-site biologist and/or environmental professional for the purpose of documenting observations, water quality measurements, and/or response actions during Project activities must be submitted with the Annual Progress Reports.

ATTACHMENT 4 – Standard Provisions

The Discharger must comply with the following standard provisions:

1. Compliance

a. Duty to Comply. The Order is subject to remand, amendment, or vacatur by judicial or administrative adjunction, including review pursuant to California Water Code section 13330 and California Code of Regulations, title 23, section 3867 et seq.

b. Duty to Comply. The Discharger must comply with all conditions and requirements of the Order. Any Order noncompliance constitutes a violation of the California Water Code and is grounds for enforcement action or Order termination, revocation and reissuance, or modification.

c. Property Rights. The Order does not convey any property rights of any sort, or any exclusive privilege.

d. Property or Private Rights. The issuance of the Order does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.

e. Project Modification. The Discharger must submit any significant change to the Project to the San Diego Water Board for prior review and written approval. Significant changes would include any change that would have any material effect on the findings, conclusions, or conditions of the Order. Without the San Diego Water Board's review and prior approval of the significant change to the Project, the change will be considered a violation of the Order.

f. Project Conformance with Application. All water quality protection measures and best management practices described in the report of waste discharge are incorporated by reference into the Order as if fully stated herein. Notwithstanding any more specific conditions in the Order, the Discharger must construct, implement, and comply with all water quality protection measures and best management practices described in the application and supplemental information. The conditions within the Order shall supersede conflicting provisions within the application form and supplemental information submitted as part of this action.

g. Inspection and Entry. The Discharger must allow the San Diego Water Board or the State Water 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:

i. Enter upon the Project or Compensatory Mitigation premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the Order.

ii. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the Order.

iii. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the Order.

iv. Sample, monitor, and photograph, at reasonable times, for the purpose of assuring Order compliance, or as otherwise authorized by California Water Code, any substances, or parameters at any location.

2. Permit Administration

a. Term of Order. The Order shall expire five (5) years from the date of issuance of the Order if Project discharge activities authorized by this Order have not started.

b. Payment of Fees. The Order is conditioned upon total payment of any fee required under California Code of Regulations, title 23, sections 3830 et seq. and owed by the Discharger.

3. Permit Actions

a. Transfers. The Order is not transferable in its entirety or in part to any person or organization except after notice to the San Diego Water Board is provided in accordance with the terms listed below. Upon properly noticed transfers of responsibility, the transferee assumes responsibility for compliance with the Order and references in the Order to the Discharger will be interpreted to refer to the transferee as appropriate. Transfer of responsibility does not necessarily relieve the Discharger of the Order in the event that a transferee fails to comply.

i. Transfer of Property Ownership. The Discharger must notify the San Diego Water Board of any change in Project area ownership. Notification of change in ownership must include, but not be limited to, a statement that the Discharger has provided the purchaser with a copy of the Order and that the purchaser understands and accepts the Order 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.**

ii. Transfer of Mitigation Responsibility. Any notification of transfer of responsibilities to satisfy the mitigation requirements set forth in the Order 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 an 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 California Water Code section 13385(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.**

iii. Transfer of Post-Construction Best Management Practice Maintenance Responsibility. The Discharger assumes responsibility for the inspection and maintenance of all post-construction structural best management practices until such responsibility is legally transferred to another entity. At the time maintenance responsibility for post-construction best management practices is legally transferred, the Discharger 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 best management practice maintenance plan that complies with manufacturer specifications. The Discharger must provide such notification to the San Diego Water Board **within 10 days of the transfer of best management practice maintenance responsibility.**

b. Permit Changes. The Order may be modified, revoked and reissued, or terminated for cause including but not limited to situations that follow, below. The filing of a request by the Discharger for modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any Order condition.

i. Violation of any term or condition of the Order.

ii. Monitoring results indicating that continued Project activities could violate water quality objectives or impair the beneficial uses of receiving waters identified in Finding I.G of the Order.

iii. Obtaining the Order by misrepresentation or failure to disclose fully all relevant facts.

iv. A change in any condition that requires either a temporary or permanent reduction or elimination of the authorized discharge.

v. 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.

4. Monitoring

a. Representative Monitoring. Samples and measurements taken for the purpose of monitoring under the Order must be representative of the monitored activity.

b. Monitoring Instruments. All monitoring instruments and devices, which are used by the Discharger to fulfill the prescribed monitoring program, must be properly maintained and calibrated as necessary to ensure their continued precision and accuracy.

c. **Certified Laboratory**. All laboratory analyses must be performed in a laboratory certified to perform such analyses under the State Water Board's Environmental Laboratory Accreditation Program or a laboratory approved by the San Diego Water Board.

d. **USEPA Test Procedures**. Monitoring must be conducted according to USEPA test procedures approved under Title 40, Code of Federal Regulations (CFR), Part 136, Guidelines Establishing Test Procedures for Analysis of Pollutants Under the Clean Water Act as amended, unless other test procedures have been specified in the Order.

e. **Records of Monitoring Information**. Records of monitoring information must include the following when appropriate:

   i. The date, exact place, and time of sampling or measurements.

   ii. The individual(s) who performed the sampling, measurements, and analyses.

   iii. The analytical techniques or methods used.

   iv. The results of such analyses.

f. **Records Retention**. The Discharger must retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by the Order, and records of all data used to complete the application for the Order. Records must be maintained for a minimum of five years from the date of the sample, measurement, report, or application. This period may be extended during the course of any unresolved litigation regarding this Project or when requested by the San Diego Water Board.

g. **Modifications to Monitoring and Reporting**. The San Diego Water Board may modify the monitoring program at any time during the term of the Order and may reduce or increase the number of parameters to be monitored, the locations monitored, the frequency of monitoring, or the number and size of samples collected.

5. Reporting

a. **Duty to Report**. The submittal of information required under the Order, or in response to a suspected violation of any condition of the Order, is required pursuant to California Water Code section 13383. Monitoring and reporting costs are reasonable and necessary to evaluate compliance with the Order and water quality and other impacts. Civil liability may be administratively imposed by the San Diego Water Board for failure to submit information pursuant to California Water Code section 13385.

b. **Duty to Provide Information**. The Discharger must 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 the Order or to determine compliance.

c. **Anticipated Noncompliance**. The Discharger must 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 the Order.

d. **Twenty-Four Hour Non-Compliance Reporting**. The Discharger must report any noncompliance which may endanger human health or the environment. Any such information must be provided orally to the San Diego Water Board **within 24 hours** of the time the Discharger becomes aware of the circumstances. A written submission must also be provided within five days of the time the Discharger becomes aware of the circumstances. The written submission must 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.

6. Notifications to Discharger

a. **Enforcement Notification**. In the event of any violation or threatened violation of the conditions of the Order, the violation or threatened violation shall be subject to any remedies, penalties, process or sanctions as provided for under State law.

b. **Petitions**. Any person aggrieved by this action of the San Diego Water Board may petition the State Water Board to review the action in accordance with the California Code of Regulations, title 23, sections 3867 et seq. The State Water Board must receive the petition no later than 5:00 p.m. 30 days after the effective date of this Order. Copies of the law and regulations applicable to filing petitions may be found at https://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

ATTACHMENT 5 – Project Maps

Figure 2: Local Settings Map

Figure 4: Project Impacts Map to Jurisdictional Resources

Site 1 Figure: Site 1 – Inlet Culvert East of Brandywine Avenue

Site 2 Figure: Site 2 – Outlet Culvert West of Poggi Canyon Detention Basin

Site 3 Figure: Site 3 – Inlet Culvert at West End of Poggi Canyon Detention Basin

Site 4 Figure: Site 4 – Outlet Culvert at East End of Poggi Canyon Detention Basin

Site 5 Figure: Site 5 – Inlet Culvert to Poggi Canyon Detention Basin

Site 6 Figure: Site 6 – Outlet Culvert West of Heritage Road

Site 7 Figure: Site 7 – Inlet Culvert East of Heritage Road

Site 8 Figure: Site 8 – Outlet Culvert Near Otay Ranch High School

Site 9 Figure: Site 9 – Inlet Culvert Near Otay Ranch High School

Site 10 Figure: Site 10 – Outlet Culvert West of La Media Road

Site 11 Figure: Site 11 – Inlet Culvert East of La Media Road

Site 12 Figure: Site 12 – Outlet Culvert West of East Palomar Street

Site 13 Figure: Site 13 – Inlet Culvert East of East Palomar Street

Figure 5: As-built Jurisdictional Wetland Types and Proposed Mitigation Area

Figure 6: Proposed Mitigation Area

Local Settings Map

Olympic Parkway Maintenance Mitigation Plan

Aerial Source: Bing 2023

Created on June 6, 2024

Figure 2

Merkel & Associates, Inc.

Project Impacts Map to Jurisdictional Resources

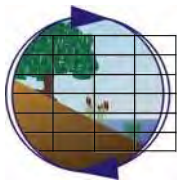
Olympic Parkway Maintenance Mitigation Plan

Aerial Source: ESRI 2022

Created on June 6, 2024

Figure 4

Merkel & Associates, Inc.



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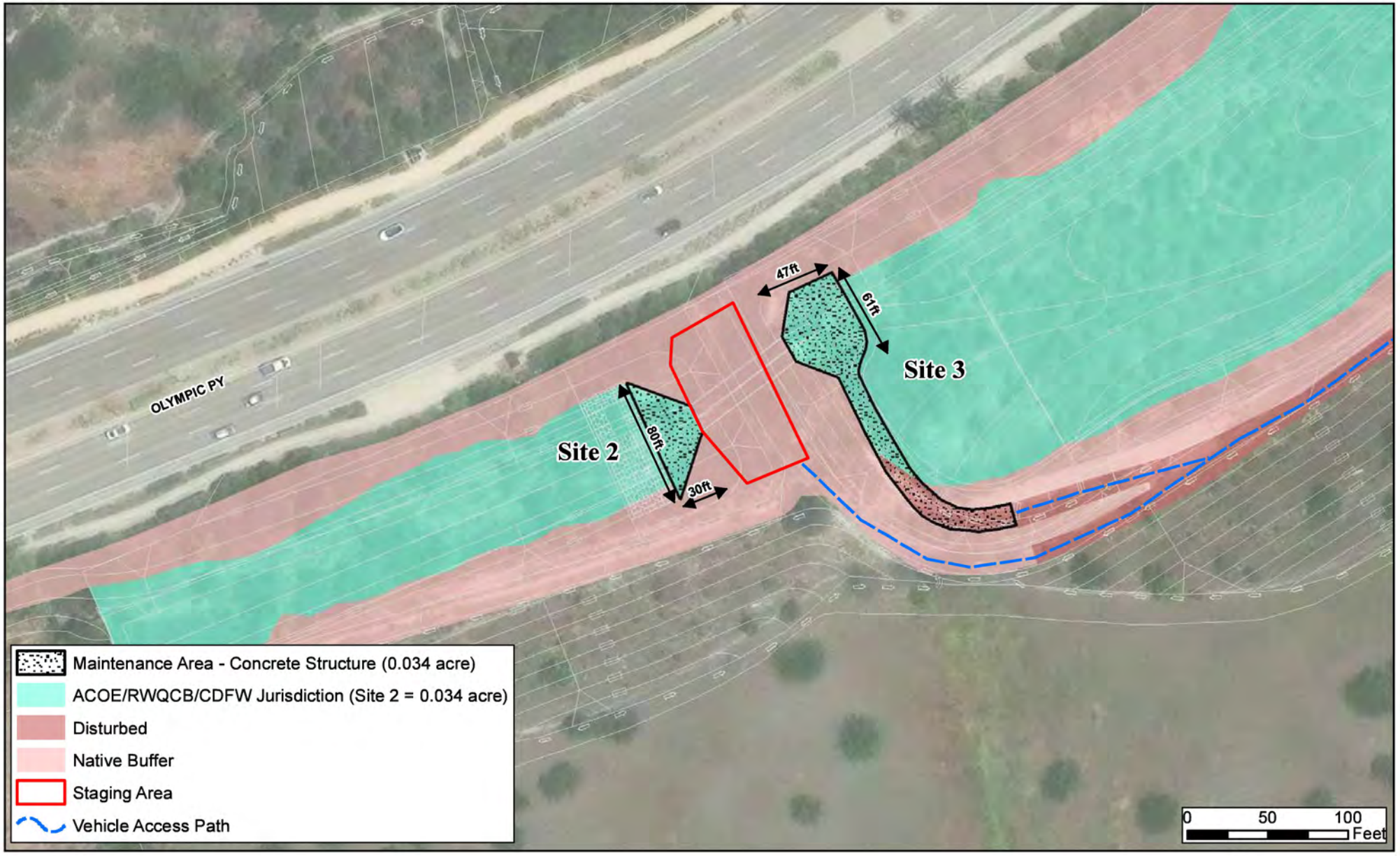
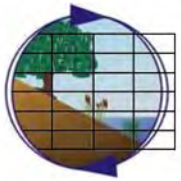
Site 1 - Inlet Culvert East of Brandywine Avenue

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 1

M&A #22-032-01





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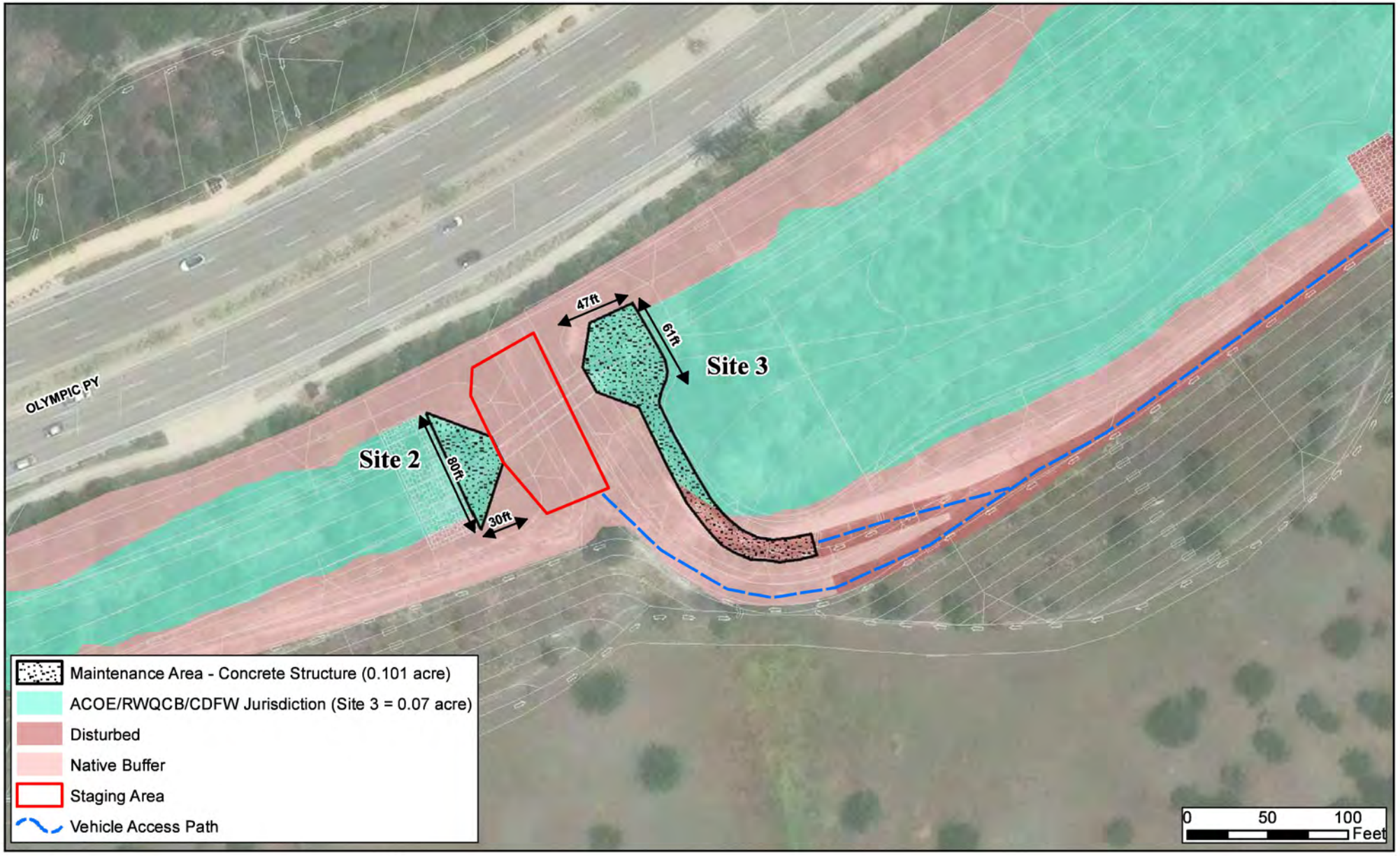
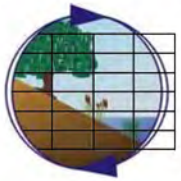
Site 2 - Outlet Culvert West of Poggi Canyon Detention Basin

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 2

Merkel & Associates, Inc.





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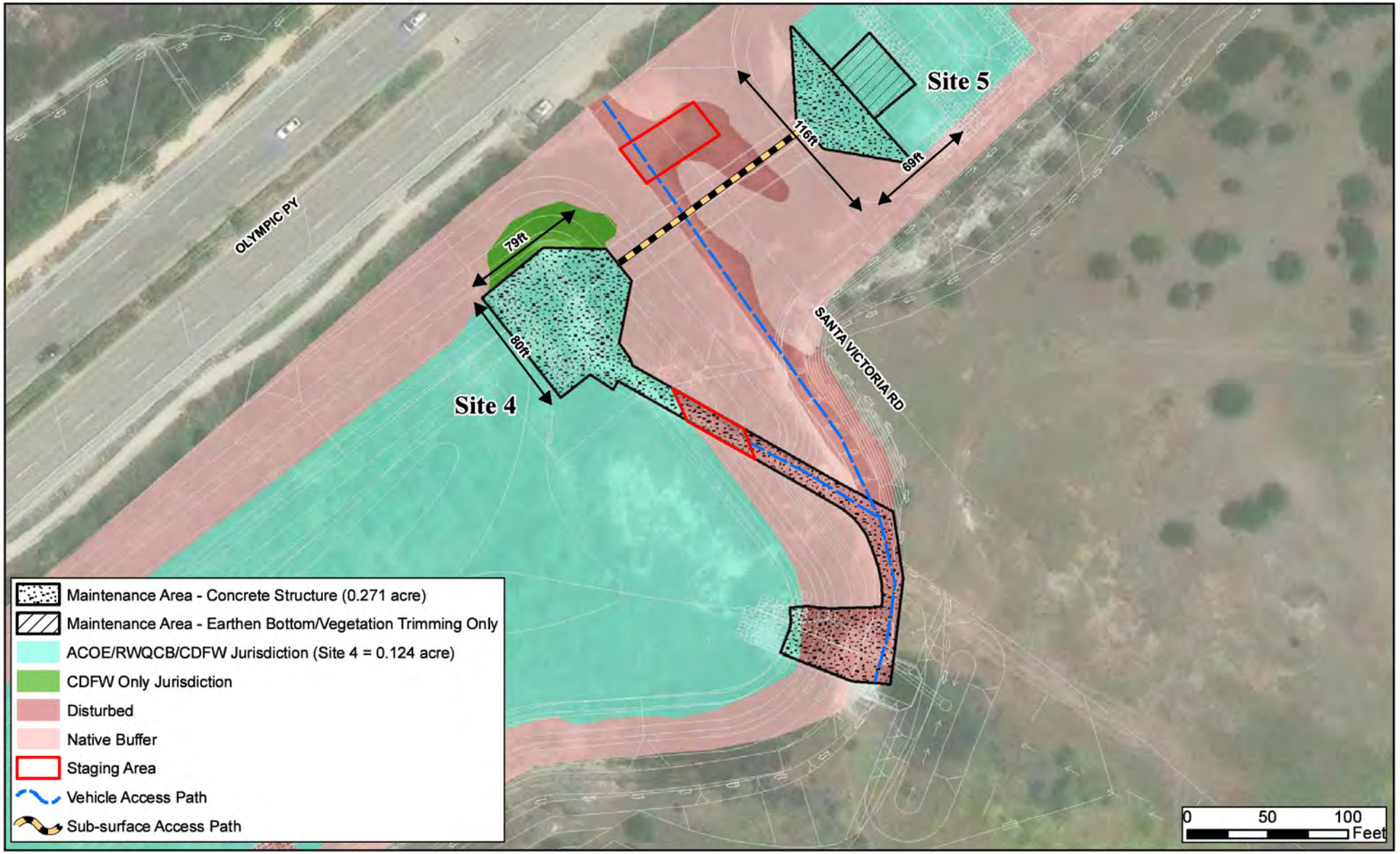
Site 3 - Inlet Culvert at West End of Poggi Canyon Detention Basin

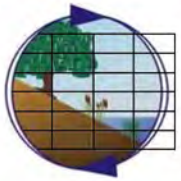
Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 3

Merkel & Associates, Inc.

M&A #22-032-01





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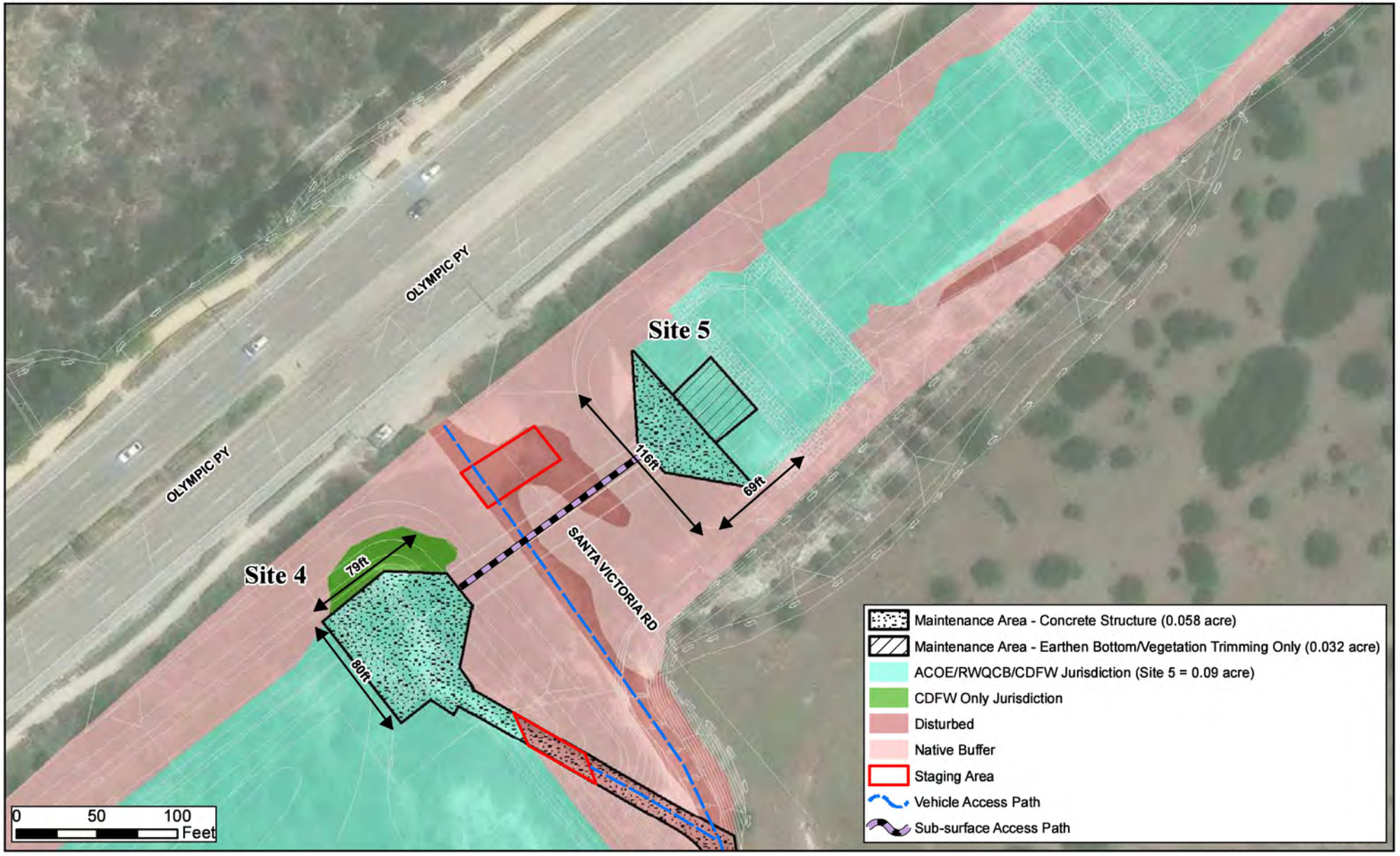
Site 4 - Outlet Culvert at East End of Poggi Canyon Detention Basin

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 4

Merkel & Associates, Inc.

M&A #22-032-01

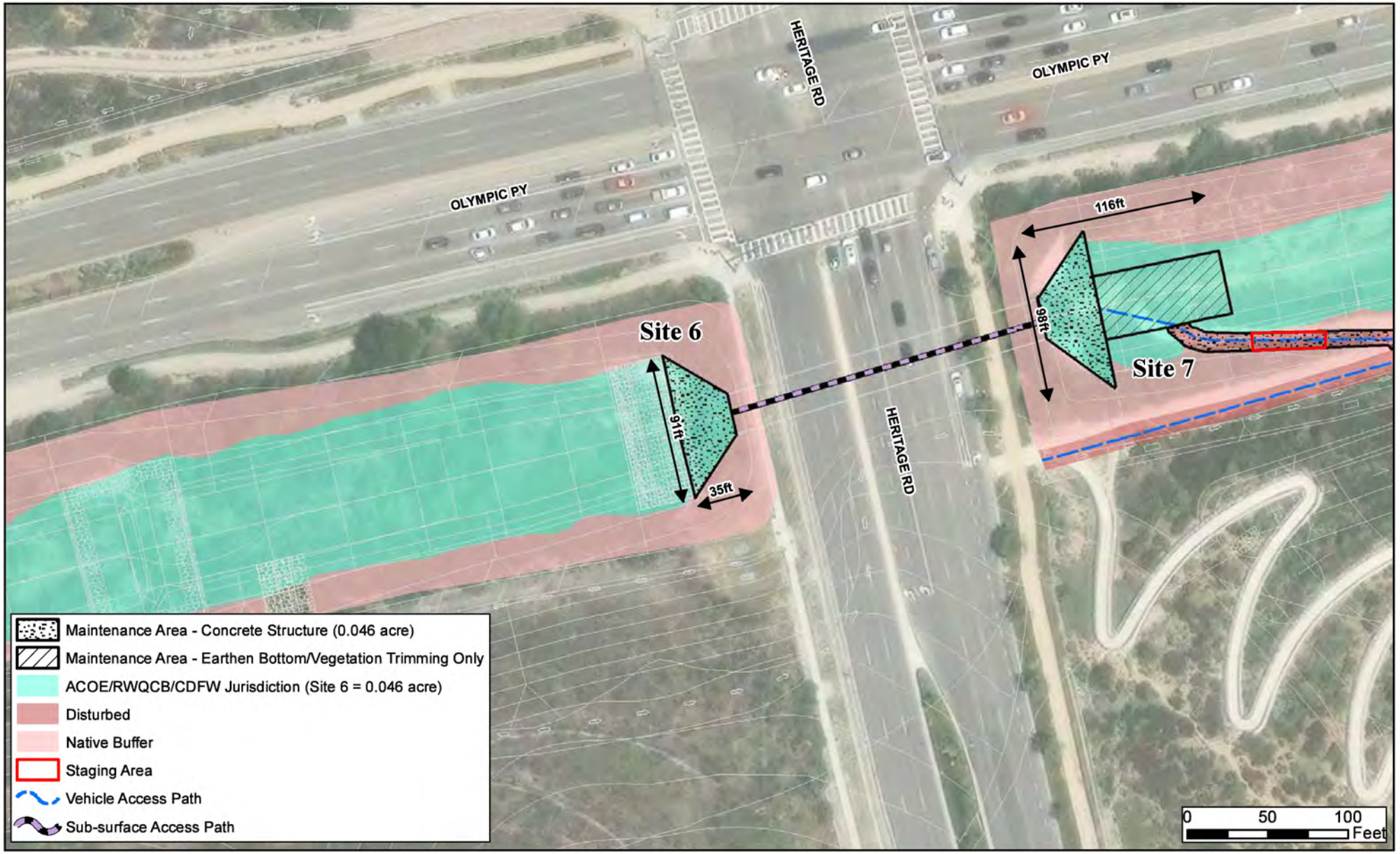


Site 5 - Inlet Culvert to Poggi Canyon Detention Basin

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 5

Merkel & Associates, Inc.



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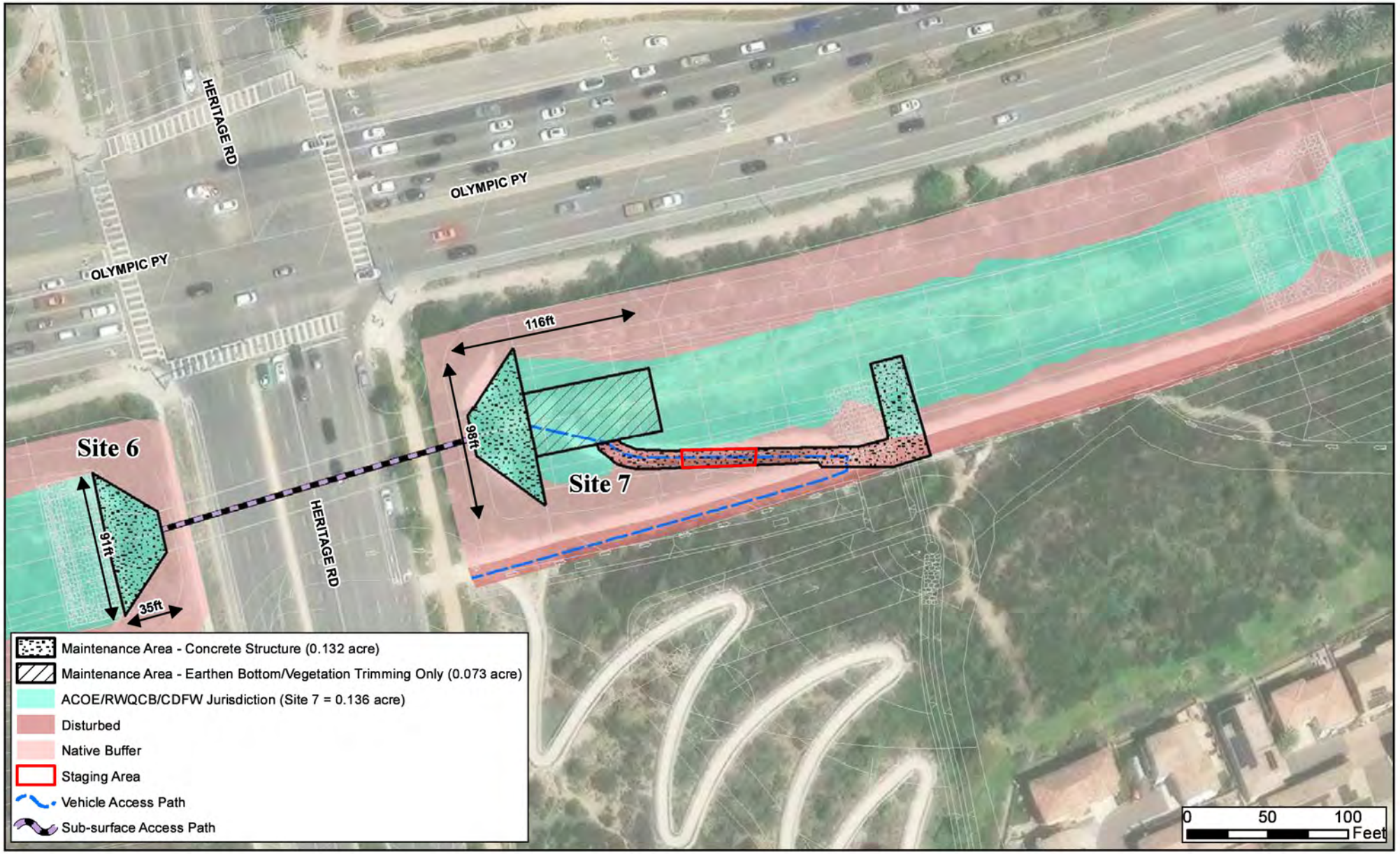
Site 6 - Outlet Culvert West of Heritage Road

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 6

Merkel & Associates, Inc.

M&A #22-032-01



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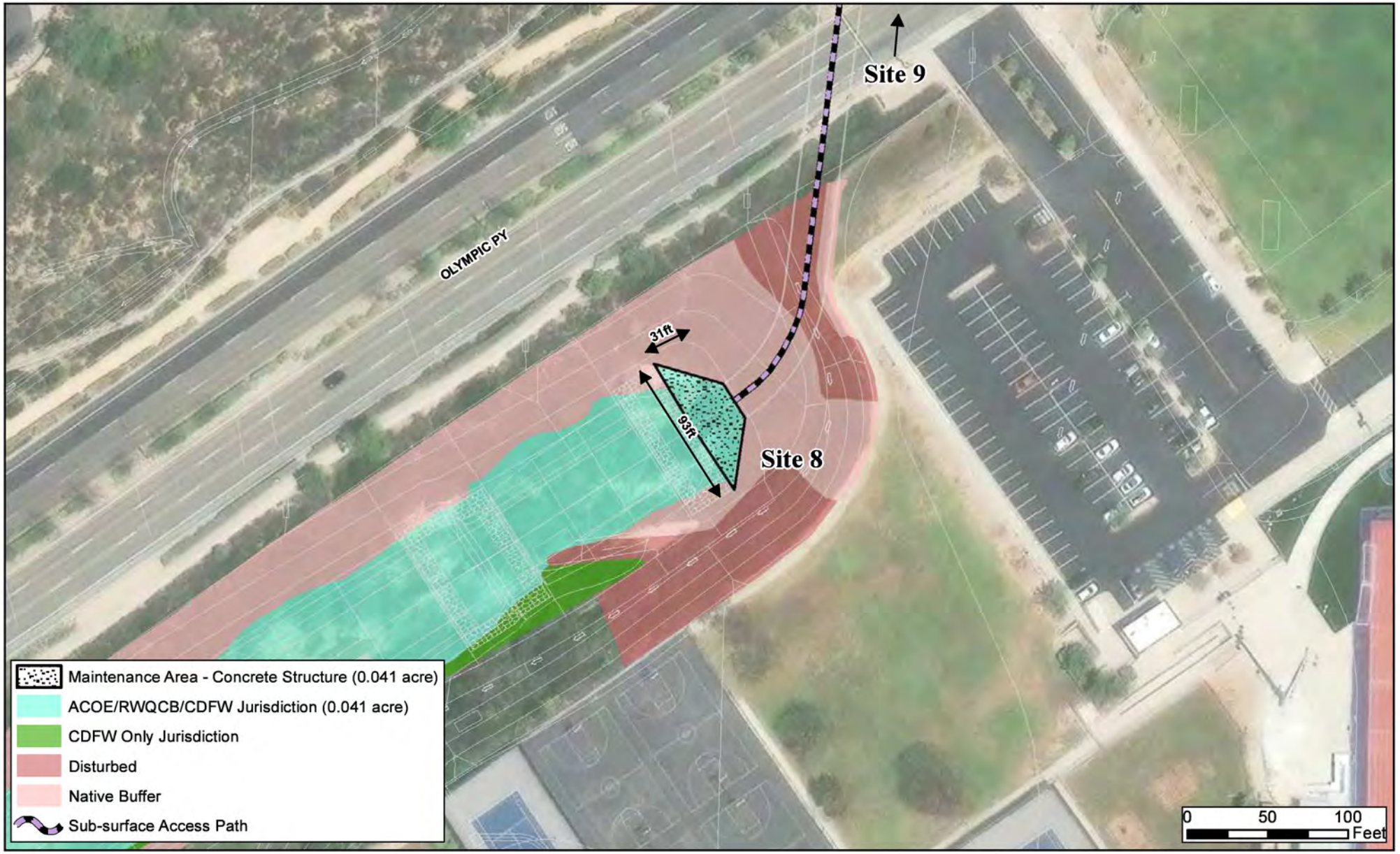
Site 7 - Inlet Culvert East of Heritage Road

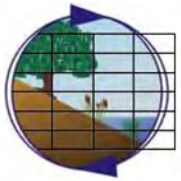
Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 7

Merkel & Associates, Inc.

M&A #22-032-01





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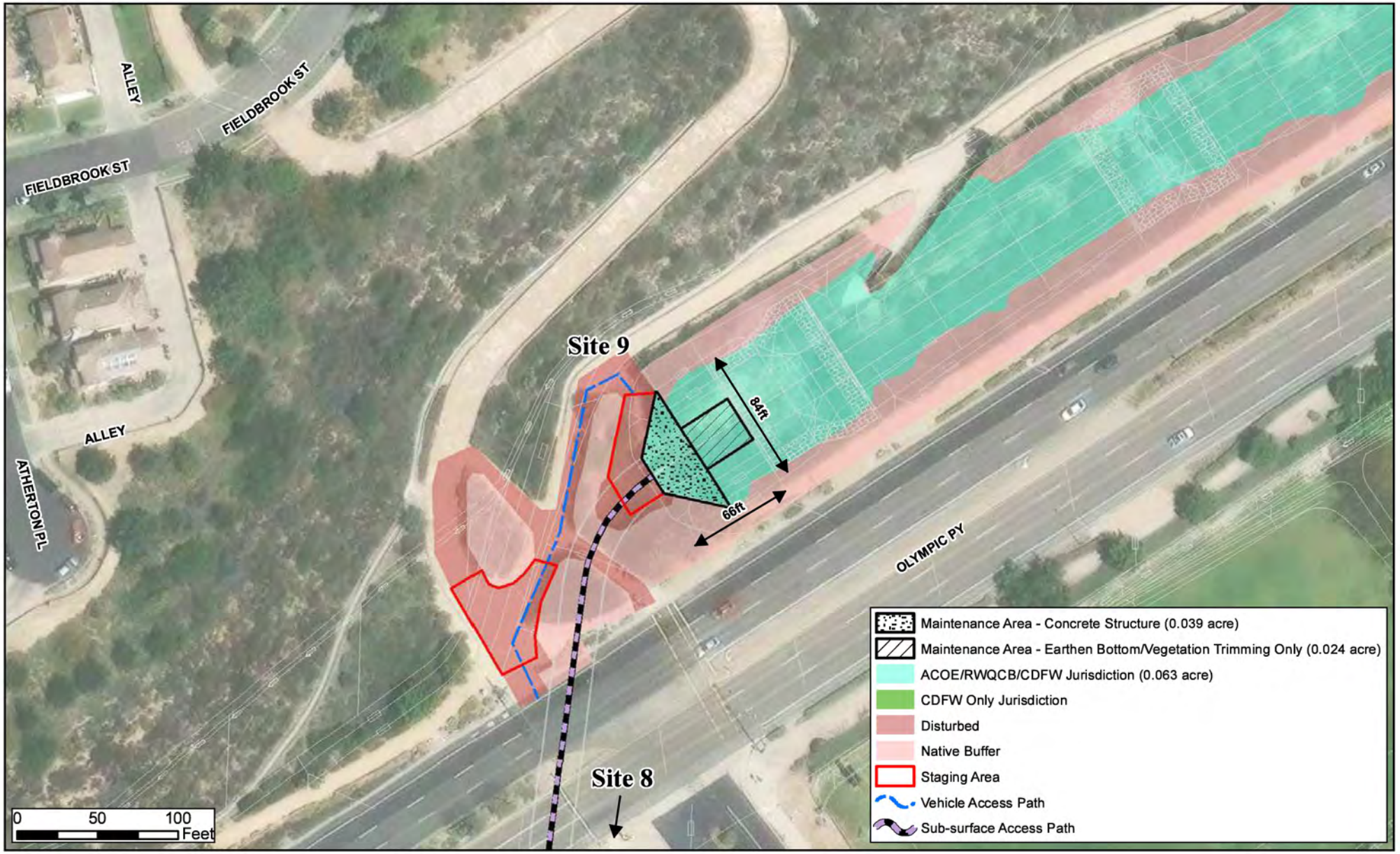
Site 8 - Outlet Culvert Near Otay Ranch High School

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 8

Merkel & Associates, Inc.



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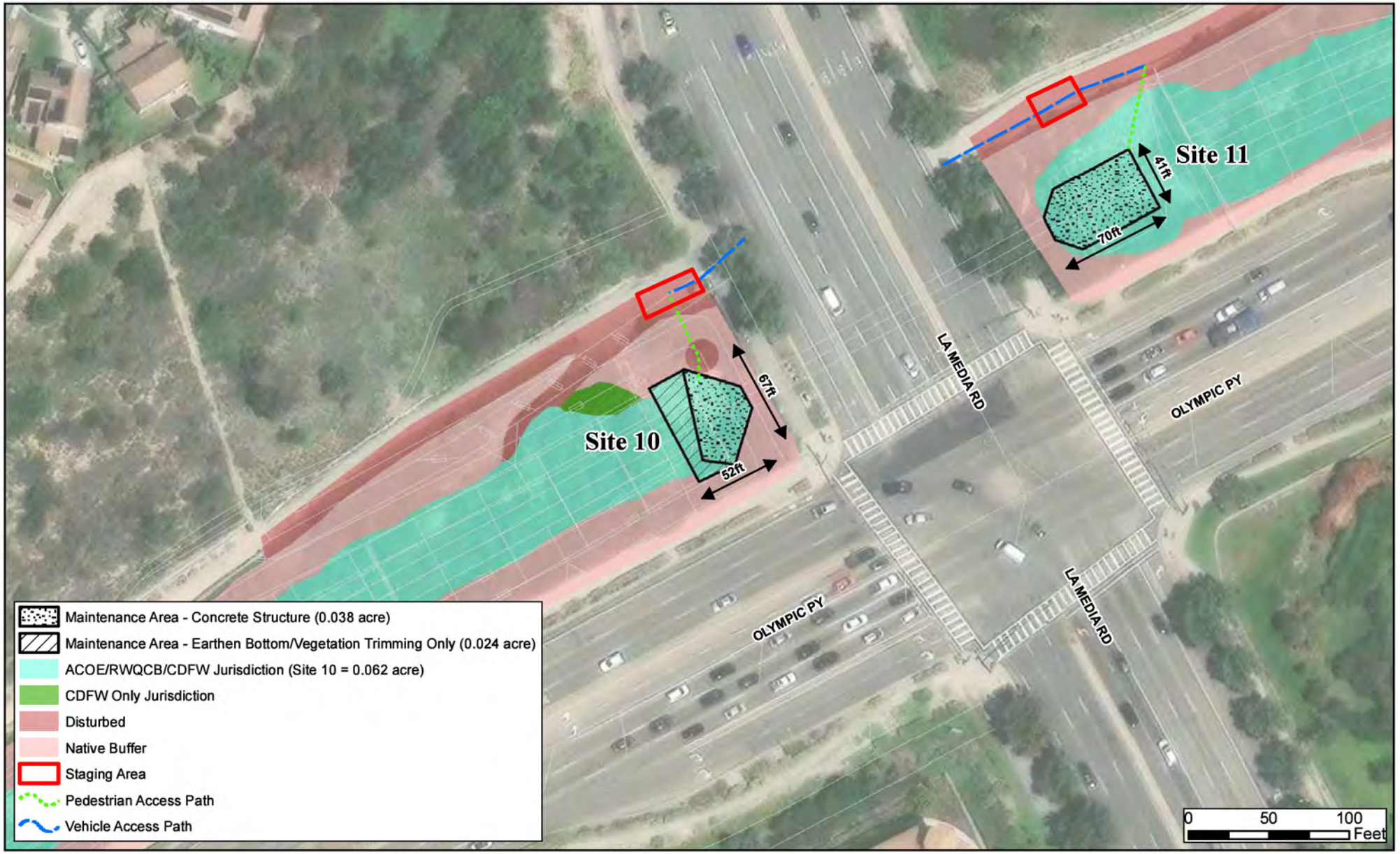
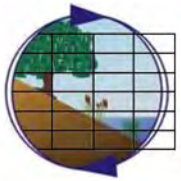
Site 9 - Inlet Culvert Near Otay Ranch High School

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 9

M&A #22-032-01





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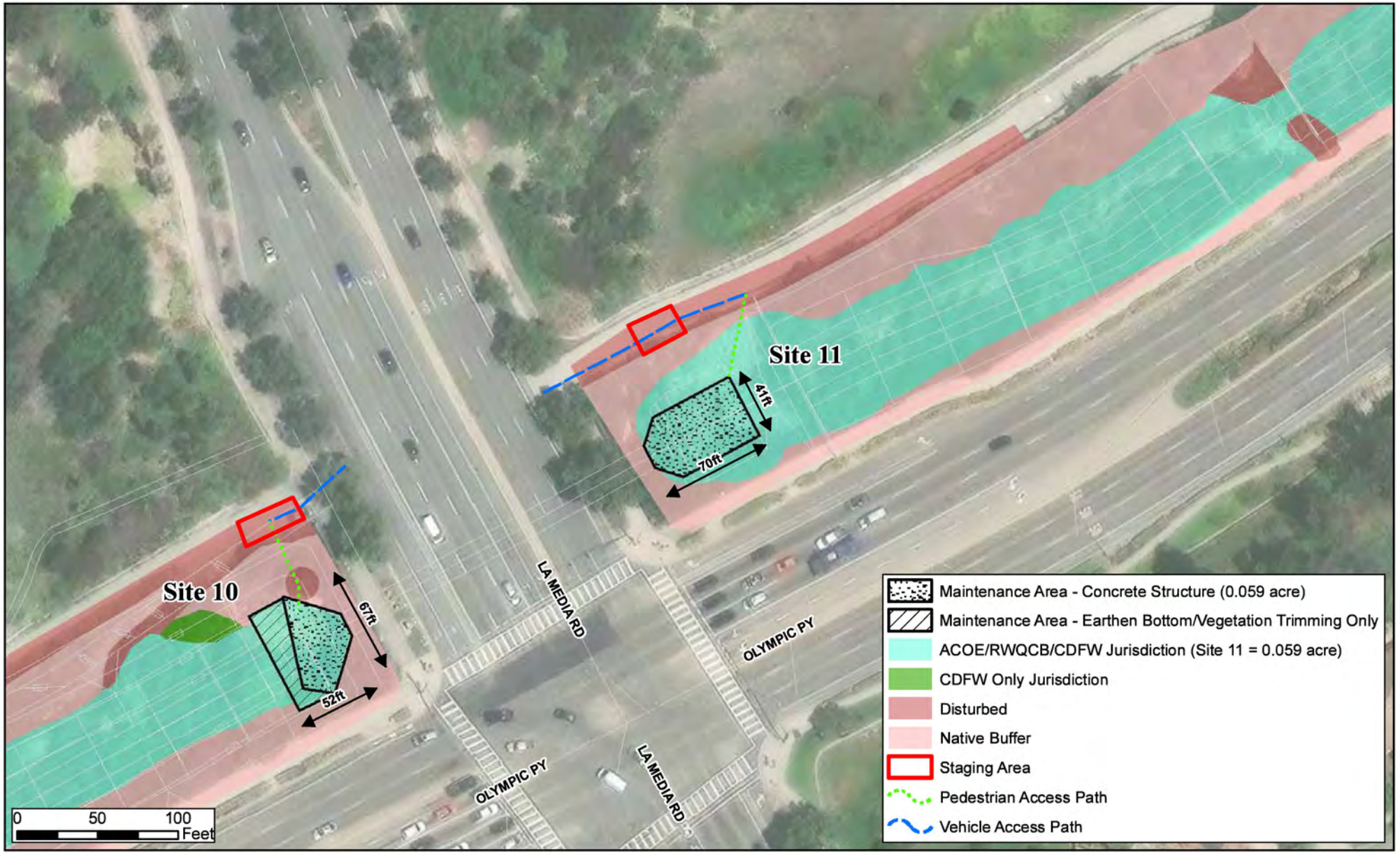
Site 10 - Outlet Culvert West of La Media Road

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 10

Merkel & Associates, Inc.



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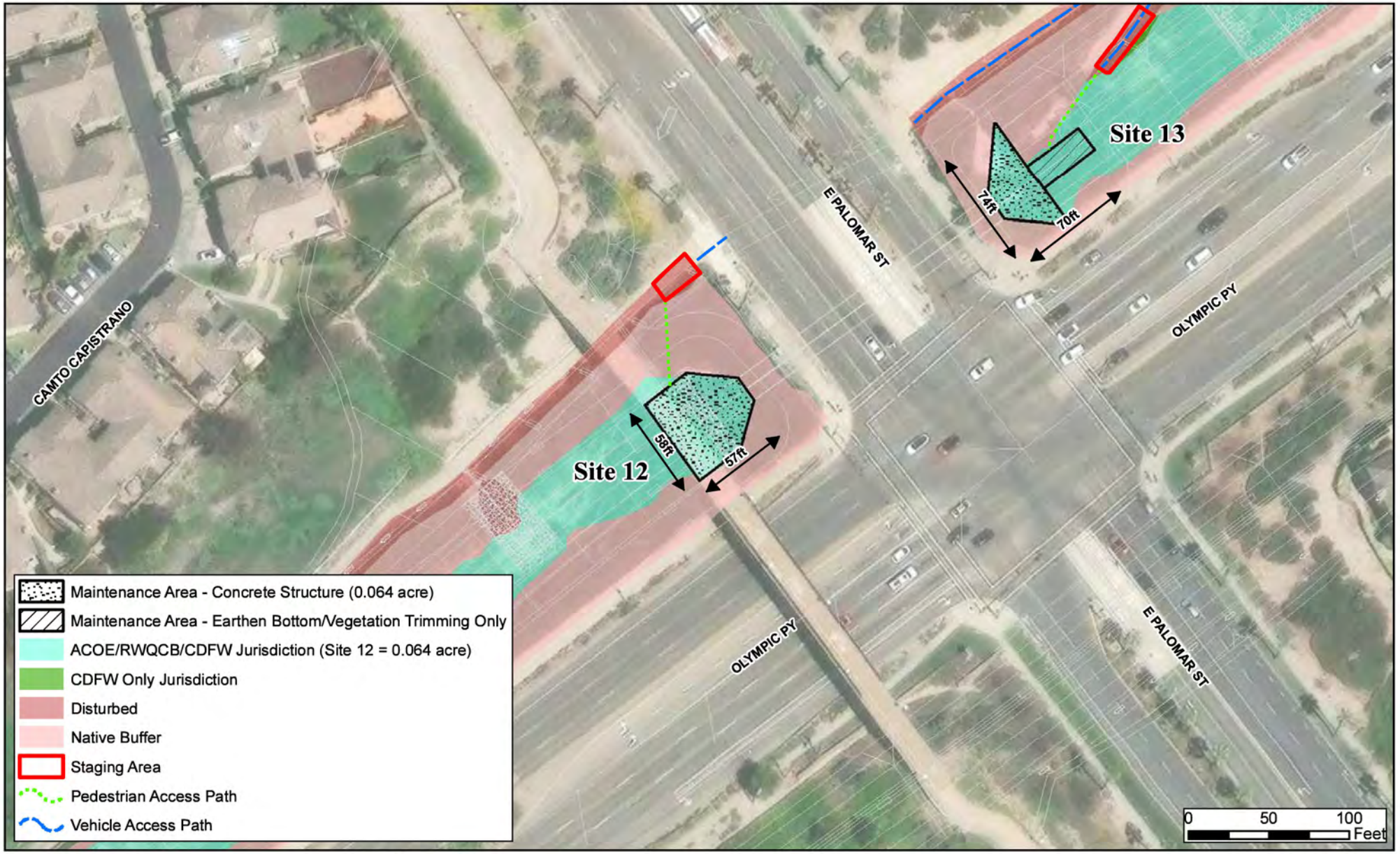
Site 11 - Inlet Culvert East of La Media Road

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 11

Merkel & Associates, Inc.

M&A #22-032-01



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Site 12 - Outlet Culvert West of East Palomar Street

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 12

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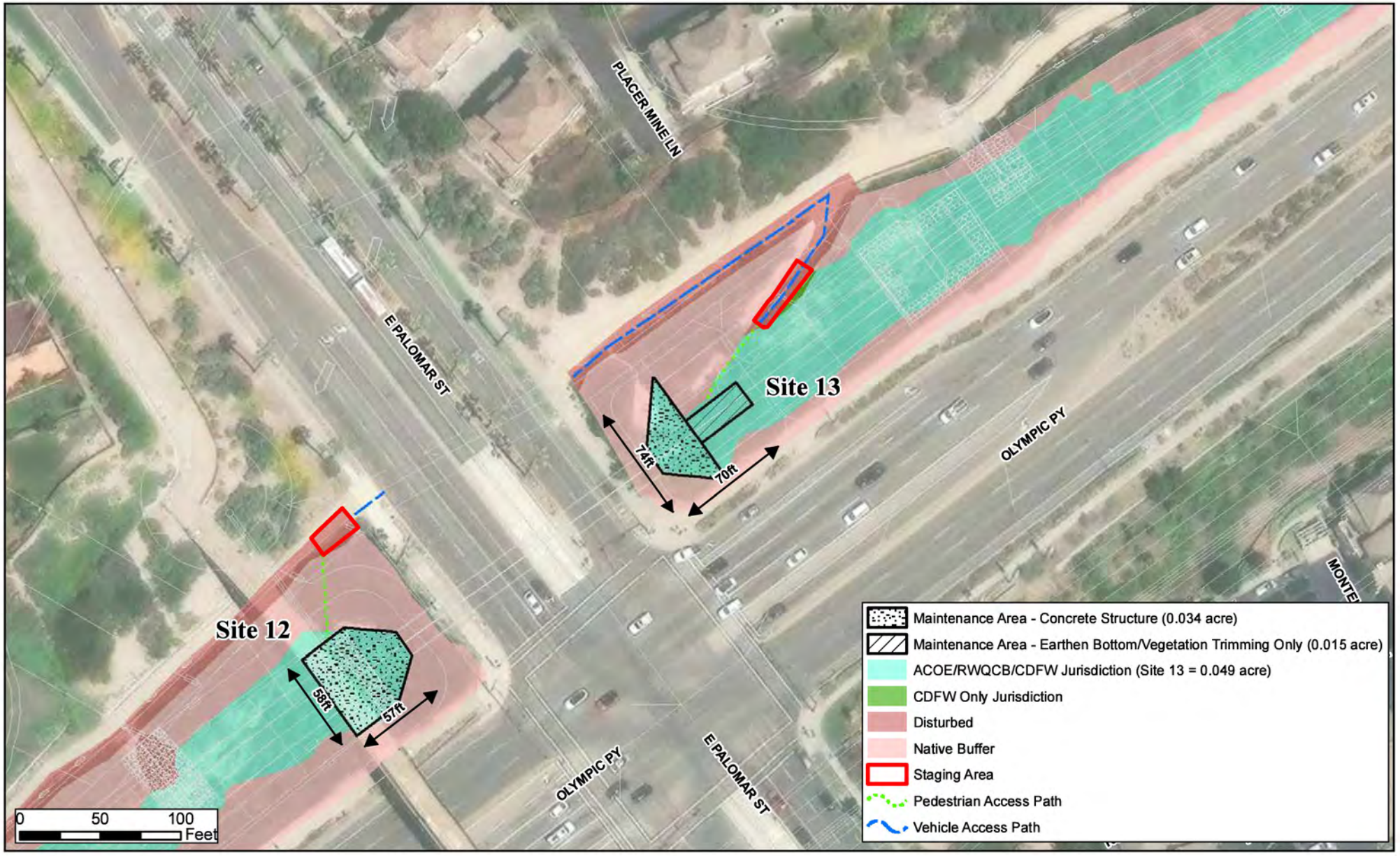
M&A #22-032-01



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Site 13 - Inlet Culvert East of East Palomar Street

Olympic Parkway Poggi Canyon Channel Maintenance Plan

Site 13

Merkel & Associates, Inc.

As-built Jurisdictional Wetland Types and Proposed Mitigation Area

Olympic Parkway Maintenance Mitigation Plan

Aerial Source: ESRI 2022

Created on June 6, 2024

Figure 5

Merkel & Associates, Inc.

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Proposed Mitigation Area

Olympic Parkway Maintenance Mitigation Plan

Aerial Source: ESRI 2022

Created on June 6, 2024

Figure 6

Merkel & Associates, Inc.