CHAPTER 1.0
INTRODUCTION

1.1 PROJECT SCOPE

A Special Area Management Plan (SAMP) is a voluntary watershed-level planning and permitting process involving local landowners and public agencies that seek permit coverage under the federal Clean Water Act Section 404 for future actions affecting jurisdictional Waters of the United States (U.S.). The purpose of a SAMP is to provide for reasonable economic development and the protection and long-term management of sensitive aquatic resources (biological and hydrological). To the extent feasible, federal Waters of the U.S., including wetlands, are avoided and unavoidable impacts are minimized and fully mitigated under the SAMP. The proposed San Juan Creek and Western San Mateo Creek Watersheds SAMP would provide a framework for permit coverage for the San Juan Creek Watershed and the western portion of the San Mateo Creek Watershed.

Local, state, and federal agencies, in cooperation with local landowners, have coordinated land use and natural resource conservation planning efforts to address future economic development within a portion of south Orange County within the San Juan Creek and Western San Mateo Creek Watersheds. This "coordinated planning process" consists of three separate planning processes which are underway and/or completed: (1) an amendment to Orange County's General Plan and Zone Change (GPA/ZC), (2) development of a SAMP, and (3) development of a Natural Community Conservation Plan/Master Streambed Alteration Agreement/Habitat Conservation Plan (NCCP/MSAA/HCP). A detailed description of the coordinated planning process is provided in subchapter 2.1 of this Environmental Impact Statement (EIS).

The SAMP is an important component of these planning efforts. The United States Army Corps of Engineers (USACE), Los Angeles District, has developed a comprehensive SAMP planning process to achieve a balance between reasonable economic development and aquatic resource conservation. SAMPs are intended for geographic areas of special sensitivity that are also under intense development pressure.

The three main goals of the SAMP process are to:

- Allow reasonable economic development through one or more proposed permitting procedures that provide regulatory predictability and incentives for comprehensive resource protection, management, and restoration over the long term.

- On a voluntary basis, establish an aquatic resources conservation program that includes preservation, restoration, and management of aquatic resources referred to hereafter as the "Aquatic Resources Conservation Program" (ARCP).

- Minimize individual and cumulative impacts of future projects within the SAMP watersheds by relating permitting for future activities to the SAMP Aquatic Resources Conservation Program, including studies prepared for the SAMP and the Southern Subregion Coordinated Planning Process.

Four elements of the SAMP process have been formulated to further and, to the maximum extent practicable, attain the above goals. The four primary elements of the SAMP process are as follows:

- ***Proposed Permitting Procedures*:** Three permitting procedures have been proposed as an integral part of the SAMP process. All three of the SAMP goals are addressed by the proposed permitting procedures, including (1) establishing permitting procedures that would provide regulatory predictability and incentives for comprehensive protection; restoration, and management of aquatic resources over the long term; (2) provisions for preservation, restoration, and management of aquatic resources on lands presently owned or otherwise potentially managed by permittees; and (3) minimization of individual and cumulative impacts of permitting for future activities.

- ***Aquatic Resources Preservation*:** In conjunction with the NCCP/MSAA/HCP and GPA/ZC, the other two components of the "coordinated planning process," a wide range of development/open space alternatives have been identified for environmental review. The SAMP process is intended to examine these alternatives in order to determine the extent to which these alternatives, in conjunction with already protected open space, would preserve significant aquatic resources (identified in connection with USACE and NCCP/MSAA/HCP studies) within the SAMP Study Area. Avoidance/minimization of impacts to aquatic resources would also be examined in conjunction with a Section 404 (b)(1) Guidelines review of permitting procedures. At the end of the SAMP process, aquatic resources recommended for permanent preservation would be identified. In this EIS, these areas are termed "Aquatic Resources Conservation Areas" (ARCAs).

- ***Aquatic Resources Restoration*:** The USACE Engineer Research Development Center (ERDC) has prepared a *Riparian Ecosystem Restoration Plan for San Juan and Western San Mateo Creek Watersheds* to provide a broad-scale restoration template. Area-specific restoration opportunities and measures would be identified under the Section 404 (b)(1) Guidelines review of proposed permitting procedures. Environmental review of this element in this EIS focuses on the consistency of alternative habitat reserve designs with the restoration recommendations and the extent to which specific habitat restoration measures can provide mitigation for impacts to aquatic resources that could potentially occur in connection with the proposed permitting procedures.

- ***Aquatic Resources Management*:** Where applicable, management of aquatic resources would be carried out in accordance with the SAMP Aquatic Resources Adaptive Management Program (ARAMP). Adaptive management and monitoring activities would be conducted primarily in areas proposed to be protected in conjunction with proposed permitting procedures as mitigation for impacts to aquatic resources subject to USACE jurisdiction (these management and monitoring activities are described in the Aquatic Resources Adaptive Management Program reviewed in this EIS). The NEPA alternatives analysis will review the extent to which the different development/open space alternatives are consistent with habitat management recommendations set forth in the NCCP Southern Planning Guidelines and the Draft Watershed and Sub-basin Planning Principles (Watershed Planning Principles) at both a watershed- and sub-basin scale.

The last three elements above comprise the Aquatic Resources Conservation Program.

This EIS provides environmental review for the following major federal action resulting from the SAMP process: Adoption of three permitting procedures for residential, commercial, industrial,

recreational, infrastructure, and maintenance needs within the SAMP Study Area. The Aquatic Resources Conservation Program is an outcome of the mitigation associated with the proposed permitting procedures.

Accordingly, the SAMP EIS includes an alternatives evaluation for the proposed permitting procedures based on the SAMP Purpose as defined in Chapter 3.0 of this EIS. Subchapter 1.4.2 and Chapter 3.0 identify the proposed permitting procedures for the SAMP Study Area and discuss them in detail in Chapter 8.0. Three proposed permitting procedures have been derived from the SAMP planning process. In addition, the SAMP process will identify aquatic resources will be identified for preservation, restoration, and management, and areas with aquatic resources where future activities would be allowed to occur, provided they meet specific criteria set forth in approvals granted under Section 404 of the Clean Water Act.

The SAMP process consists of four phases:

1. Phase I involves the USACE's identification and characterization of aquatic resources in the SAMP Study Area watersheds including (1) both planning-level and geographic-specific delineations of Waters of the U.S. subject to the Clean Water Act; and (2) a riparian ecosystem integrity analysis that ranks the functional integrity of aquatic habitat, water quality, and hydrology throughout the watersheds. The local project proponent, Rancho Mission Viejo, supplemented the USACE study products with a series of studies addressing hydrology, geomorphology, special needs of aquatic listed species, and slope wetlands which were prepared in conjunction with the coordinated planning process reviewed in subchapter 2.1. This phase of the SAMP process has been completed and is discussed in greater detail in Chapter 4.1.2 of this EIS.

2. Phase II involves the preparation and review of a series of watershed-scale development/open space alternatives formulated in conjunction with the GPA/ZC and NCCP/MSAA/HCP components of the coordinated planning process, as well as restoration, management, and proposed permitting procedures elements of the SAMP reviewed in this EIS. This EIS includes (1) a review of alternative development/open space designs to assess aquatic resource avoidance/minimization alternatives at a watershed scale; (2) an assessment of potential elements of an Aquatic Resources Conservation Program; (3) in conjunction with the review of proposed USACE Section 404 Individual Permit procedures, an evaluation of avoidance, minimization, and mitigation measures including area specific aquatic restoration and management actions in relation to development/open space alternatives selected for further review; and (4) an evaluation of the proposed permitting procedures capable of minimizing and mitigating impacts related to any Least Environmentally Damaging Practicable Alternative (LEDPA) selected in conjunction with the environmental review of one or more of the proposed permitting procedures. The proposed permitting procedures reviewed in this EIS are based upon and reviewed pursuant to (1) the Phase I studies referenced above; (2) SAMP Tenets and additional considerations set forth in the Southern Planning Guidelines and Watershed Planning Principles; and (3) the Section 404(b)(1) Guidelines applied to the three proposed permitting procedures where applicable.

3. Phase III involves finalizing this EIS, consideration of the approval of USACE Section 404 permits/permitting procedures and related mitigation programs including a preferred Aquatic Resources Conservation Program to be described in the final EIS.

4. Phase IV would involve the implementation of the three proposed permitting procedures as finalized in Phase III and the Aquatic Resources Conservation Program.

1.2 SAMP STUDY AREA

The SAMP Study Area covers the San Juan Creek Watershed and western portion of the San Mateo Creek Watershed in the southern portion of Orange County. The SAMP Study Area is depicted in its regional context and on an aerial on Figures 1-1 and 1-2, respectively. The SAMP Study Area includes portions of unincorporated Orange County and portions of the cities of Dana Point, Laguna Hills, Laguna Niguel, Mission Viejo, Rancho Santa Margarita, San Clemente, and San Juan Capistrano.

The San Juan Creek Watershed is approximately 177 square miles (113,000 acres) extending from the Cleveland National Forest in the Santa Ana Mountains to the Pacific Ocean at Doheny State Beach near Dana Point Harbor. Caspers Wilderness Park and San Mateo Wilderness Area lands are located adjacent to the Cleveland National Forest along the eastern boundary. The western area is highly urbanized encompassing portions of the cities of Mission Viejo and San Juan Capistrano and the planned community of Ladera Ranch. Urbanized areas in the northern portion of the San Juan Creek Watershed include the City of Rancho Santa Margarita. The southern portion of the San Juan Creek Watershed is bound by the cities of Dana Point and San Clemente. The major named streams in the San Juan Watershed include San Juan Creek, Bell Canyon Creek, Cañada Chiquita, Cañada Gobernadora, Verdugo Canyon Creek, Oso Creek Trabuco Creek, and Lucas Canyon Creek.

The entire San Mateo Creek Watershed is located in the southern portion of Orange County, the northern portion of San Diego County, and the western portion of Riverside County. The total San Mateo Creek Watershed is approximately 139 square miles (88,960 acres) and lies mostly within the Cleveland National Forest, the northern portion of the U.S. Marine Corps Base at Camp Pendleton (MCB Camp Pendleton), and ranch lands in south Orange County (Lang et al., 1998). The SAMP Study Area includes the western 23.6-square-mile portion of the San Mateo Creek Watershed within Orange County (approximately 17 percent of the watershed). Major named streams within the SAMP Study Area in the western portion of the San Mateo Watershed are Cristianitos Creek, Gabino Creek, La Paz Creek, and Talega Creek. Rancho Mission Viejo owns the majority of the remaining undeveloped land in the south-central portion of the San Juan Watershed, as well as almost all of the undeveloped land within the western portion of the San Mateo Creek Watershed just north of the City of San Clemente. The unincorporated, undeveloped Rancho Mission Viejo land in the two watersheds totals approximately 22,815 acres and is referred to as the “RMV Planning Area” (Figure 1-2). Details of the RMV Planning Area are provided in subchapter 2.3.

1.3 SAMP STUDY AREA AUTHORITY

In accordance with the study resolution adopted by the Committee on Public Works, House of Representatives, adopted May 8, 1964, the United States House of Representatives authorized the USACE, Los Angeles District, Regulatory Branch to initiate a SAMP in the San Juan Creek/Western San Mateo Creek Watersheds in 1999.

1.4 REGULATORY BASIS

1.4.1 FEDERAL LAWS, REGULATIONS, AND POLICIES RELATING TO AQUATIC, WETLAND, AND RIPARIAN RESOURCES

The Clean Water Act is the principal federal law that addresses protection and management of aquatic resources and water quality. The primary objectives of the Clean Water Act are to

"*restore and maintain the chemical, physical, and biological integrity of the Nation's waters*," and to make all surface waters *"fishable*" and "*swimmable*."

1.4.1.1 Waters of the United States

Under Section 404 of the Clean Water Act, the USACE regulates discharges of dredged or fill material into "Waters of the U.S.," including wetlands. Waters of the U.S. is defined 33 CFR 328.3 as:

- All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce.
- All interstate waters including interstate wetlands.
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams)...the use, degradation or destruction of which could affect interstate or foreign commerce.
- All impoundment of waters otherwise defined as Waters of the United States under the definition.
- Tributaries of waters defined in paragraphs (a) (1)-(4) of this Chapter.
- Territorial seas.
- Wetlands adjacent to waters identified above.

The USACE typically regulates as Waters of the U.S. any body of water displaying an "ordinary high water mark" (OHWM). USACE jurisdiction over non-tidal Waters of the U.S. extends laterally to the OHWM or beyond the OHWM to the limit of any adjacent wetlands, if they are present (33 Code of Federal Regulations (CFR) 328.4). The OHWM is defined as "*that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding area*" (33 CFR 328.3). Jurisdiction typically extends upstream to the point where the OHWM is no longer perceptible.

The USACE and the U.S. Environmental Protection Agency (EPA) define wetlands as follows: "*Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted to life in saturated soil conditions*." In order to be considered a "jurisdictional wetland" under Section 404, an area must possess three wetland characteristics: hydrophytic *vegetation*, hydric *soils*, and wetland *hydrology*. Each characteristic has a specific set of mandatory wetland criteria that must be satisfied in order for that particular wetland characteristic to be met. Several parameters may be analyzed to determine whether the criteria are satisfied.

Although "wetlands" are Waters of the U.S., this EIS distinguishes between wetlands and non-wetland Waters of the U.S. The term "wetland" is defined as regulated Waters of the U.S. that meet the hydrologic, hydrophytic vegetation, and hydric soils criteria outlined in the *Corps of Engineers Wetlands Delineation Manual* (Environmental Laboratory 1987). The term non-

wetland Waters of the U.S. refers to non-wetland waters regulated under Section 404 of the Clean Water Act.

1.4.1.2 SWANCC

The U.S. Supreme Court, in the *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (January 21, 2001) case, determined that the Clean Water Act did not extend to isolated waters/wetlands that were jurisdictional solely due to the Migratory Bird Rule of 1986. Merely providing habitat for migratory birds was not a sufficient connection to interstate commerce for inclusion under the Clean Water Act. Therefore, some isolated wetlands, especially vernal pools, may not be regulated by the USACE. Geographical jurisdictional determinations are made by the USACE on a project-by-project basis for wetlands in which adjacency (or proximity) to navigable waters is in question.

1.4.1.3 Section 404 (b)(1) Guidelines

The Section 404 (b)(1) Guidelines are substantive requirements of Section 404 of the Clean Water Act. Per the Section 404(b)(1) Guidelines, a permit may be issued for the LEDPA. The requirements for evaluating whether or not a particular alternative is the LEDPA is discussed in Chapter 8.0 of this EIS.

1.4.1.4 Section 401

The State Water Resources Control Board (SWRCB) has authority over wetlands through Section 401 of the Clean Water Act, as well as the Porter-Cologne Act, California Code of Regulations Section 3831, and California Wetlands Conservation Policy.

The Clean Water Act requires that an applicant for a Section 404 permit (to discharge dredged or fill material into Waters of the U.S.) first obtain a certificate from the appropriate state agency stating that the fill is consistent with the state's water quality standards and criteria. In California, the authority to either grant certification or waive the requirement for permits is delegated by the State Water Resources Control Board (SWRCB) to the nine Regional Water Quality Control Boards (RWQCBs). A request for certification or waiver is submitted to the regional board at the same time that an application is filed with the USACE. The RWQCB has 60 days to review the application and act on it.

1.4.1.5 Rivers and Harbors Act–Section 10

Section 10 of the Rivers and Harbors Act regulates activities in navigable Waters of the U.S. The term "navigable waters of the United States" as defined in the Code of Federal Regulations (33 CFR 329.4) includes those areas subject to the ebb and flow of the tide and/or are presently used, or have been used in the past, or may be susceptible for used to transport interstate or foreign commerce. A determination of navigability, once made, applies laterally over the entire surface of the water body, and is not extinguished by later actions or events which impede or destroy navigable capacity including filled, drained, diked, or developed lands that at one time were navigable.

A water body that was navigable in its natural or improved state, or that was susceptible to reasonable improvement, retains its character as "navigable in law" even though it is not presently used for commerce, or is presently incapable of such use because of changed conditions or the presence of obstructions. Non-use in the past does not prevent recognition of the potential for future use. Once having attained the character "navigable in law," the federal

authority remains in existence, and cannot be abandoned by administrative officers or court action. Any change to navigable waters, or changes to the surrounding environment that may alter the navigability of these waters (including aerial transmission lines over navigable waterways) are regulated by the USACE.

1.4.1.6 Executive Order 11990–No Net Loss

This order requires federal agencies to "…*avoid to the extent possible, the long- and short-term adverse impacts associated with the destruction or modification of wetlands and to avoid direct and indirect support of new construction in wetlands wherever there is a practicable alternative*…"

1.4.1.7 USACE Regulatory Guidance Letter 86-10—Special Area Management Plans

The USACE regularly publishes Regulatory Guidance Letters to clarify USACE regulations and policies. In 1986, the USACE published Regulatory Guidance Letter 86-10 regarding SAMPs. A SAMP is defined as "a comprehensive plan providing for natural resource protection and reasonable coastal-dependent economic growth containing a detailed and comprehensive statement of policies, standards and criteria to guide public and private uses of lands and waters; and mechanisms for timely implementation in specific geographic areas." Although originally conceptualized as a regulatory tool for the coastal zone, SAMPs have just as much applicability within inland areas. SAMPs address limitations inherent in traditional case-by-case review. As a result of a SAMP, developmental interests can plan with predictability and environmental interests are assured that individual and cumulative impacts are analyzed in the context of broad ecosystem needs. SAMPs result in an abbreviated permit processing procedures for specifically defined activities in pre-defined situations and restrictions on undesirable activities, preferably based on local land-use controls.

1.4.1.8 Executive Order 11988–Floodplains

This order requires federal agencies to "…*avoid to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development wherever there is a practicable alternative*…"

1.4.1.9 Executive Order 13112–Invasive Species

This order requires federal agencies to *"…use relevant programs and authorities to…detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; monitor invasive species populations accurately and reliably; provide for the restoration of native species and habitat conditions in ecosystems that have been invaded*…"

1.4.2 NEPA REQUIREMENTS

Under the National Environmental Policy Act (NEPA), all federal agencies must conduct NEPA review for "*major federal actions significantly affecting the quality of the human environment*" (42 USC Section 4332). Each federal agency has its own NEPA implementation rules that conform to 40 CFR. The NEPA scope of this EIS impact analysis follows the directives in 33 CFR 325 that requires the scope of an EIS to be limited to the impacts of the specific activities requiring a Section 404 Permit and only those portions of the project outside of Waters of the U.S. over which the USACE has sufficient control and responsibility to warrant federal

review. The USACE is also the lead agency for USACE's Section 404 permitting procedures resulting from the SAMP process and reviewed in this EIS pursuant to the Section 404(b)(1) Guidelines and other applicable criteria.

Information in this EIS is intended to (1) review alternatives to assess avoidance/minimization, (2) assess potential elements of the SAMP process as described in subchapter 1.1 of this EIS, (3) evaluate alternative mitigation approaches/measures, and (4) evaluate proposed permitting procedures capable of minimizing and mitigating impacts related to any LEDPA selected in conjunction with the environmental review of one or more of the proposed permitting systems.

As noted above, information in this EIS will be used to evaluate the establishment of three proposed permitting procedures that would be established concurrently with the approval of the SAMP. These three proposed future permitting procedures are summarized as follows and described in detail in Chapter 8.0 of this EIS:

1. Proposed Long-Term Individual Permits/Letters of Permission (LOP) procedures for long-term activities proposed by Rancho Mission Viejo and the Santa Margarita Water District on the RMV Planning Area in reliance on the SAMP and in conjunction with the review, approval, and implementation of an Aquatic Resources Conservation Program coordinated with the Southern Subregion NCCP/MSAA/HCP. The potential impacts and compliance with USACE regulatory requirements of proposed long-term Individual Permits will be addressed through this SAMP EIS review process. Figure 1-3 depicts the area where the LOP procedures would apply. Revocation of selected Nationwide Permits will be associated with the RMV Proposed Project and SMWD Proposed Project.

2. The proposed use of LOP Procedures for other future qualifying permit applicants whose potential impacts on the Waters of the U.S. would be assessed through reliance on the SAMP at future points in time. The potential use of the SAMP as the guidance document for identifying avoidance areas within the SAMP Study Area will be addressed through this SAMP EIS process (Figure 1-3). Revocation of selected Nationwide Permits will be associated with these other LOPs.

3. Potential establishment of a Regional General Permit (RGP) for certain limited activities and the suspension of selected Nationwide Permits for small-scale activities and ongoing maintenance activities within the SAMP Study Area but outside of the RMV Planning Area are also depicted on Figure 1-3. The potential impacts and compliance with USACE regulatory requirements of the RGP program will be addressed through this SAMP EIS process.

This EIS is intended to provide decision-makers, responsible agencies, and the public with sufficient information to assess potential environmental impacts and minimization and mitigation measures pursuant to USACE regulations applicable to the three proposed permitting procedures. NEPA requires that the lead agency review potential significant environmental impacts of all alternatives selected for review and to identify "*any preferred alternative or alternatives, if one or more exists, in the draft statement and identify such alternative in the final statement unless another law prohibits the expression of such a preference*" (40 CFR 1502.14). In addition to avoidance and minimization measures, mitigation measures are required to be addressed pursuant to 40 CFR 1502(f) and 1502.16(h).

1.5 PUBLIC OUTREACH

The USACE has prepared this EIS in coordination with other resource agencies, including the United States Fish and Wildlife Service (USFWS), EPA, the RWQCB, San Diego Regional Water Quality Control Board (San Diego RWQCB), and the California Department of Fish and Game (CDFG). Throughout the process, the USACE encouraged active participation by the County of Orange, other local governments and agencies, interested landowners and the general public.

1.5.1 SCOPING PROCESS

Issues raised by the agencies and public were identified through a scoping process and in the context of the Coordinated Planning Process discussed in subchapter 2.1 of this EIS. The purpose of scoping is to identify potential environmental issues and concerns regarding a proposed project. The scoping process for this EIS included public notification via the Federal Register, newspaper ad, mail to regulatory agencies, local jurisdictions, elected officials, public service providers, organizations, and special interest members of the public, and a public meeting on May 8, 2001. The USACE considered comments received during the scoping process in determining the scope of issues to be evaluated in this EIS.

As described below, two Notices of Intent (NOI) were prepared for the SAMP. The first NOI was issued in April 19, 2001, and is discussed further below. A second NOI was published on May 12, 2005 to explain certain changes to the SAMP (i.e., eliminating the MSAA and eliminating the need for an EIR as part of the SAMP) that have occurred since publication of the first NOI.

1.5.1.1 April 19, 2001 Notice of Intent

In accordance with NEPA requirements, an NOI to prepare a joint EIS/EIR with CDFG was published in the Federal Register on April 19, 2001. A copy of the NOI is included in Appendix A of this EIS. On April 19, 2001, the NOI was mailed to regulatory agencies, local jurisdictions, elected officials, public service providers, organizations, and special interest members of the public.

As part of this scoping process, the USACE and CDFG held a public meeting on May 8, 2001.

The comment period for the first NOI ended on May 18, 2001. The USACE and CDFG received ten comment letters from public agencies and eight comment letters from environmental and community groups, as listed below. A total of 131 letters, comments cards, and emails were received from the general public. Areas of concern that were raised in the scoping meeting and NOP responses letters are summarized below.[1]

Public Agency Comments

In its 2001 comment letter, the USFWS supported the development of a SAMP. The USFWS recommended that Section 7 endangered species consultation with the USACE (for the SAMP) be coordinated with the Section 7 consultation required for the Southern Subregion NCCP/HCP. USFWS also requested regular coordination with the USACE during the development of the SAMP.

[1] The reader should note that references to MSAA and EIR remain part of the summary of comments as this reflects comments made in 2001 when the MSAA was being processed with the SAMP.

The U.S. Geological Survey (USGS) recommended that the USACE review pertinent scientific literature on affected resources and species by using the USGS Biological Database.

The California Coastal Commission expressed its belief that some SAMP/MSAA activities could affect downstream resources in the coastal zone. As a result, the permittee(s) would need to submit a coastal consistency certification to the California Coastal Commission pursuant to the Coastal Zone Management Act. The California Coastal Commission also encouraged coordination with their staff during the preparation of the SAMP/MSAA and implementation of any subsequent permitting process.

Caltrans requested that the EIS/EIR examine possible effects of the project on the Southern Orange County Transportation Infrastructure Improvement Project (SOCTIIP) (previously referred to as the Foothill Transportation Corridor South project). It expressed its position that permittees under the SAMP/MSAA would be responsible for the costs of upgrading state highway drainage facilities affected by future projects, and that encroachment permits would be required for all such modifications.

The San Diego RWQCB requested the EIS/EIR address the following impacts: (1) effect on drainage patterns and new flow; (2) adverse effects on water quality, such as increased temperature, lowered dissolved oxygen, and stormwater pollutants; (3) effects on groundwater levels and flow patterns; and (4) loss or degradation of beneficial uses. The EIS/EIR should include mitigation measures for these impacts. Several permits and approvals from the San Diego RWQCB are required to implement projects under the SAMP/MSAA.

The San Juan Basin Authority requested that the SAMP/MSAA consider the ongoing and future actions under the San Juan Groundwater Management and Facility Plan, and the proposed conjunctive use program being developed by the Authority.

The County of Orange (County) requested that the preparation of the EIS/EIR be coordinated with the concurrent environmental documents addressing the same project area including (1) environmental document being prepared by the County and USFWS for the Southern Subregion NCCP, and (2) environmental document(s) being prepared by the County for land use permits and specific plan(s) for Rancho Mission Viejo. The County recommended that the same baseline data and alternatives be used in all documents. The County also recommended that the preparation of the SAMP/MSAA be coordinated with the USACE's ongoing development of the San Juan Creek Watershed Feasibility Study.

The County recommended that the SAMP/MSAA be compatible with the existing and future flood control facilities in the San Juan Creek Watershed. The SAMP/MSAA should consider sediment transport impacts, including channel bed aggradation and degradation, and beach sand. The EIS/EIR should address changes in peak discharge and total annual runoff due to the SAMP/MSAA, because they may affect downstream channels. Finally, the SAMP/MSAA should allow for maintenance and operation of County flood control facilities in the project area, without a requirement for mitigation and consistent with their original design specifications.

The County recommended that significant riparian areas be placed in "reserves," and that future reserves include Verdugo Canyon to Caspers Wilderness Park; southwestern slopes separating Bell Canyon from Cañada Gobernadora; and Arroyo Trabuco south of O'Neill Regional Park into San Juan Capistrano (excluding the now constructed Rancho Mission Viejo Arroyo Trabuco Golf Course). The County indicated it would accept these areas, in fee, as additions to their regional park system. Existing and future County hiking, horseback riding, and bicycle trails in the project area also needed to be considered.

The County indicated that it would also like the following water quality impacts to be addressed in the EIS/EIR: (1) the effect of stormwater runoff on the existing quality of receiving waters in and downstream of the project area; and (2) the effect of the project on impaired waters, including the fecal coliform impairment at the mouth of San Juan Creek. Identified mitigation for water quality impacts was (1) preparation of a Stormwater Pollution and Prevention Plan, per the requirements of the National Pollutant Discharge Elimination System (NPDES) Program; and (2) long-term post-construction management plan that includes maintenance on non-structural Best Management Practices (BMPs) consistent with the County's Drainage Area Management Plan (DAMP), New Development requirements.

The City of San Juan Capistrano and Capistrano Valley Water District requested that the EIS/EIR address the proposed SAMP's consistency with the District's plans for infrastructure and water supply development for both its domestic and non-domestic systems. The District also requested that its plans for infrastructure and water supply be included among the public projects proposed to be permitted based upon the SAMP/MSAA.

Environmental and Community Group Comments

The main issues identified by environmental and community groups were as follows:

- The project should evaluate SAMP/MSAA project-related impacts on surface and groundwater quality and public and private water supplies. The EIS/EIR should identify BMPs, mitigation measures, and water quality standards.

- SOCTIIP should be excluded from the SAMP/MSAA.

- The project should identify impacts to recreational uses and habitat at San Onofre Beach.

- The project should address impacts to biological resources including: critical habitat for endangered species, displacement, and relocation of wildlife, impacts to state-listed and unlisted species covered by NCCP, wetlands, and wildlife movement corridors.

- The project should identify impacts of land development on outdoor recreation, tourism, and nature preserves.

- The project should identify impacts of the SAMP/MSAA on air quality, traffic, noise, floodplains, aesthetics, social values, cultural and historic values, urban quality, and human health. These impacts should include a discussion of direct, indirect, and cumulative effects.

- The project should identify impacts of creek modification on flow rate, channel bed erosion, sediment transport, and beach sand supply.

- The EIS/EIR must consider potential impacts of USACE regulatory decisions on resources other than those regulated under the Clean Water Act. The EIS/EIR should evaluate consistency the SAMP with the requirements of Section 404 of the Clean Water Act, and include an analysis of consistency with the Section 404(b)(1) Guidelines.

- The EIS/EIR should include "non discharge alternatives." The SAMP/MSAA should prohibit the discharge of dredge or fill materials into wetlands.

General Public and Local Resident Comments

The main issues identified by general public and local residents were as follows:

- SAMP/MSAA could result in urban sprawl and could degrade the quality of life in local communities.
- The removal of open space in the project area could reduce water quality benefits of an undeveloped watershed, displace wildlife, remove a visual amenity, and reduce recreational opportunities.
- Land development in the project area could cause significant impacts on traffic, noise, water supply, public services, schools, and air quality.
- The project could result in the degradation of water quality at the ocean, particularly at the mouth of San Mateo Creek, Trestles Beach, and San Onofre State Beach Park.
- San Mateo Creek is a pristine creek and does not have water quality problems because it is undeveloped.
- Exclude SOCTIIP from the EIS/EIR because it is a separate project and deserves a focused environmental review and public participation process.
- The EIS/EIR should address project impacts on downstream sedimentation and natural beach replenishment, loss of open space, effects on existing nature preserves, increased crime rates as a result of increase population, reduced tourism due to degraded ocean water quality, and loss of open space.
- The EIS/EIR should address lead pollution from a skeet range in the San Mateo Creek Watershed.
- The EIS/EIR should address how a long-term Section 404 Permit issued by the USACE would be affected by future changes in laws related to water quality, wetlands, and endangered species.
- The EIS/EIR should consider the entire San Mateo Creek Watershed.

A summary of the written scoping comments, as well as the comments themselves, are included in Appendix A to this EIS. Concerns regarding environmental issues have been addressed in this EIS.

1.5.1.2 May 12, 2005 Notice of Intent

A second NOI was published on May 12, 2005 to explain that the document will only be a federal document (i.e., EIS) and not a joint federal and state document (i.e., EIS/EIR). The exclusion of the MSAA from the project eliminates the need for an EIR as part of the SAMP. This is a change from the original publication of the first NOI. Because a new scoping period was not started as a part of the revised NOI, additional public comment was not requested. The MSAA will be analyzed as a part of the NCCP/HCP EIS/EIR.