

SCOPING REPORT

Special Management Area Plan (SAMP) for the San Juan Creek and Western San Mateo Creek Watersheds Orange County, California

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1.0 INTRODUCTION

The proposed action is a large-scale planning effort by the Corps of Engineers (Corps). The Corps will prepare a Special Area Management Plan (SAMP), which will describe an approach and set of actions to preserve, enhance, and restore aquatic resources, while allowing reasonable and responsible economic activities and development within the watersheds. Key objectives of the SAMP include: (1) evaluate the extent and condition of existing aquatic resources; (2) develop a comprehensive management plan and reserve program to preserve and enhance existing aquatic resources; and (3) identify alternative land development scenarios in the context of the aquatic resource management actions and reserve designs.

The action area includes the San Juan Creek watershed and northern portions of the San Mateo Creek watershed located in southern Orange County, California. The San Juan Creek watershed is located in southern Orange County and encompasses about 176 square miles. It contains mostly undeveloped land used primarily for agricultural purposes. There are numerous aquatic resources in the watershed, including creeks, seeps, vernal pools, alkali meadows, freshwater marshes, and riparian wetlands. The northern San Mateo Creek watershed is located adjacent to the San Juan Creek watershed and encompasses about 19 square miles. It contains similar environmental conditions.

Based on the SAMP, the Corps will identify potential areas and/or activities suitable for coverage under a streamlined, programmatic permitting process under Section 404 of the Clean Water Act. These regulated activities would include residential, commercial, industrial, recreational development; public infrastructure such as roads and utilities; and maintenance of public facilities.

The SAMP will be developed in close coordination with other agencies, including the U.S. Fish and Wildlife Service, U.S. Environmental Protection Agency, and National Marine Fisheries Service. The SAMP will consider the conservation strategies and reserve program being developed for upland threatened and endangered species as part of the Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) for the Southern Subregion of Orange County.

An Environmental Impact Statement (EIS) will be prepared by the Corps to evaluate the impacts of the SAMP and various alternatives. The Corps will carefully consider all comments received during scoping in determining the scope of analysis and technical studies for the EIS.

2.0 PUBLIC NOTICES AND SCOPING MEETING

The Corps published a Notice of Intent (NOI) in the Federal Register on April 19, 2001. A copy of the NOI is provided in Appendix A. The Corps also issued a Public Notice concerning the proposed EIS on April 18, 2001. A copy of the Public Notice is provided in Appendix A. The Public Notice was mailed to agencies, organizations, and individuals on the distribution list maintained by the Corps Regulatory Branch. This notice provided a brief description of the proposed federal and state actions, and a request for comments on the scope of the EIS and specific issues to be addressed.

The Corps conducted a public scoping meeting on May 8th at the San Juan Community Center in San Juan Capistrano. The meeting was announced in the NOI and the Public Notice.

The scoping meeting was conducted in an open house format, in which members of the public were invited to view displays describing the SAMP and environmental review process. A brief presentation was provided by the Corps staff, following by a one-on-one question and answer period. Court reporters were present to receive verbal comments by individuals. Corps staff was stationed at tables to meet with the public and receive verbal comments, and to answer questions. Comment forms were provided to the meeting attendees. Written comments were received at the meeting, as well as through the mail.

A total of 131 people signed the meeting attendance sheet.

3.0 PUBLIC NOTICES AND SCOPING MEETING

The Corps received ten letters of comment from public agencies and eight letters from environmental and community groups, as listed below. Copies of these letters are provided in Appendix C. A total of 131 letters, comment cards, and e-mails were received from the general public. Lists of the individuals submitting comments are provided in Appendix B.

Public Agencies:

1. US Fish and Wildlife Service, Carlsbad Fish and Wildlife Office
2. U.S. Department of the Interior, U.S. Geological Survey
3. Governor's Office of Planning and Research – State Clearinghouse
4. California Coastal Commission
5. California Department of Transportation – District 12
6. California Regional Water Quality Control Board – San Diego Region
7. County of Orange – Planning and Development Services Department
8. San Juan Basin Authority
9. Capistrano Valley Water District and City of San Juan Capistrano
10. City of Mission Viejo

Environmental and Community Groups:

1. Center for Biological Diversity
2. Friends of the Foothills
3. Conservation Biology Institute
4. Sierra Club, Angeles Chapter
5. Natural Resources Defense Council (NRDC)
6. Orange Coast Watch
7. Rancho Mission Viejo Land Conservancy
8. California Trails and Greenway Foundation

3.1 PUBLIC AGENCIES

A summary of the key comments by public agencies is provided below.¹

U.S. Fish and Wildlife Service supports the development of a SAMP. It recommends that the Section 7 endangered species consultation with the Corps regarding the SAMP should be coordinated with the Section 7 consultation required for the Southern Subregion NCCP/HCP. USFWS also requests regular coordination with the Corps as the SAMP is being developed.

¹ 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.

U.S. Geological Survey recommends that the Corps review pertinent scientific literature on affected resources and species in the project area by using the USGS Biological Data Base.

The California Coastal Commission notes that some activities that may be authorized under the SAMP/MSAA could affect downstream resources in the coastal zone, and as such, the permittee(s) would need to submit a coastal consistency certification to the Commission pursuant to the Coastal Zone Management Act. The Commission encourages the Corps to coordinate with the Commission staff during the preparation of the SAMP and implementation of any subsequent permitting process.

Caltrans requests that the EIS/EIR address examine possible effects of the project on the Foothill Transportation Corridor. In addition, Caltrans notes that permittees under the SAMP/MSAA are responsible for the costs of upgrading state highway drainage facilities affected by future projects, and that encroachment permits are required for all such modifications.

The California Regional Water Quality Control Board requests that the EIS/EIR address the following impacts: (1) effect on drainage patterns and 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 the above impacts. The Board also notes that several permits and approvals from the Board would be required to implement projects under the SAMP/MSAA.

The San Juan Basin Authority requests 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 latter would include groundwater recharge facilities in the project area for recharge by stream runoff and imported reclaimed water.

The County of Orange (County) requests that the preparation of the EIS/EIR be coordinated with the concurrent environmental documents addressing the same project area: (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 recommends that the same baseline data and alternatives be used in all documents.

The County also recommends that the preparation of the SAMP/MSAA be coordinated with the Corps' ongoing development of the San Juan Creek Watershed Feasibility Study.

The County recommends 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, 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 recommends 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 future golf course by Rancho Mission Viejo). The County will accept these areas, in fee, as additions to their regional park system.

The County has a large number of existing and future hiking, horseback riding, and bicycle trails in the project area that need to be considered.

The County requests that the following water quality impacts be addressed in the EIS/EIR: (1) effect of stormwater runoff on the existing quality of receiving waters in and downstream of the project area; and (2) effect of the project on impaired waters, including the fecal coliform impairment at the mouth of San Juan Creek.

The County recommends that mitigation for water quality impacts include: (1) preparation of a Stormwater Pollution and Prevention Plan, per the requirements of NPDES; and (2) long-term post-construction management plan that includes maintenance of non-structural Best Management Plans (BMPs) consistent with the County’s Drainage Area Management Plan, New Development requirements. The County requests that the EIS/EIR address the need to incorporate structural BMPs, as defined in the County DAMP.

The City of San Juan Capistrano and the Capistrano Valley Water District requests that 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 requests that its plans for infrastructure and water supply be included among the public projects proposed to be permitted based upon the SAMP/MSAA.

The City of Mission Viejo had no comments on the scope of the EIS/EIR at this time.

3.2 ENVIRONMENTAL AND COMMUNITY ORGANIZATIONS

Key comments by environmental and community organizations are listed below.

Center for Biological Diversity requests that the EIS/EIR address: (1) impacts from development within the SAMP project area outside the Corps jurisdictional areas which would not occur “but for” the SAMP 404 permit; and (2) cumulative effects of the SAMP on the cactus ferruginous pygmy owl.

Friends of the Foothills provided the following comments applicable to the EIS/EIR:

1. The Foothill-South Toll Road Project should be excluded from the SAMP/MSAA environmental document, as it is a separate project.
2. The EIS/EIR should analyze all alternatives including the “no project alternative” and excluding certain areas from development, etc.

3. The impacts of non-point source pollution associated with the project should be evaluated, including effects on stream water quality, groundwater quality, and recreational uses and habitat at San Onofre State Beach Park. Water quality impacts include increased pathogens, trash, fertilizer, toxic substances, and non-native aquatic species.
4. The EIS/EIR should analyze impacts of creek modification on flow rate, channel bed erosion, sediment transport, and beach sand supply
5. Wetlands should be excluded from any future programmatic 404 permit process.
6. The EIS/EIR should identify alternatives that avoid wetlands, and mitigation measures that reduce impacts to wetlands.
7. The EIS/EIR should include an analysis of floodplain values, including loss of flood control capacity due to creek bed and landform modifications.
8. The impacts of land development on existing landslide and mud debris flow hazards should be addressed.
9. Impacts of the SAMP/MSAA on critical habitat for endangered species, such as the southern steelhead trout, should be addressed. The effects of the project on wildlife should also be evaluated, including possible displacement and relocation of species and disruption of wildlife corridors.
10. The impacts of land development due to the SAMP/MSAA on outdoor recreation and tourism should be addressed, as well as impact on nearby natural preserves.
11. The impacts of the SAMP/MSAA on air quality, traffic, and noise should be addressed.
12. The EIS/EIR should include data to demonstrate the effectiveness of any recommended water quality BMP.

The Conservation Biology Institute provided the following comments:

1. The EIS must consider the potential impacts of Corps regulatory decisions on resources other than those regulated under the Clean Water Act.
2. If allowable development and mitigation requirements are to be coordinated with the NCCP plan, then the SAMP and EIR must also address potential impacts to state-listed and unlisted species that are covered by the NCCP plan. A discussion should be provided in the SAMP describing how the regulatory process of the SAMP will be integrated with the NCCP process.

3. The SAMP/MSAA should evaluate riparian ecosystem functions at the watershed scale rather than at a scale of individual creeks or reaches.

The Natural Resources Defense Council provided the following comments:

1. The EIS/EIR should analyze the full range of the potential significant impacts on the environment, including, but not limited to impacts on ecosystems, natural resources, aesthetic and social values, cultural and historic resources, urban quality, and human health. These impacts include direct, indirect, and cumulative effects.
2. The EIS/ER should consider a range of potential impacts far more comprehensive than those identified in the scoping notice, including effect on traffic, air quality, noise, recreation, groundwater, and local economy.
3. The EIS/EIR should evaluate consistency of the SAMP with the requirements of Section 404 of the Clean Water Act, and include an analysis of the consistency with EPA's 404(b)(1) Guidelines.
4. The EIS/EIR should address impacts to the following site-specific and downstream aquatic resources, water quality, and water quantity throughout the San Juan Creek and San Mateo Creek watersheds to the surf zone and ocean: pathogens, heavy metals, organic compounds, and salinity;
5. Sedimentation; suspended particulates and turbidity; surface water quality flow regime, current patterns, and water circulation and normal water level fluctuations; substrate characteristics; and cumulative and secondary effects on aquatic ecosystem and organisms.
6. The EIS/EIR should address wildlife impacts to fish, crustaceans, mollusks, and other aquatic organisms in the food web, other resident and transient wildlife, including mammals, birds, reptiles, and amphibians, breeding and nesting areas, escape cover, travel corridors and preferred food sources.
7. The EIS/EIR should include impacts to all special aquatic sites, particularly wetlands.
8. The EIS/EIR should consider impacts to the following: public and private water supplies consisting of surface water and ground water; recreational and commercial fisheries consisting of harvestable fish, crustaceans, shellfish and other aquatic organisms used by humans; water related recreation for both amusement and recreation; aesthetics associated with the aquatic ecosystem and; parks, national and historic monuments, national seashores, wilderness areas, research sites, and similar preserves designated under federal and state laws or local ordinances.
9. The EIS/EIR should evaluate impacts on recreation at San Onofre State Beach Park generally, and the Trestles in particular.

10. The EIS/EIR should include a “no discharge alternative” – that is, the SAMP/MSAA would prohibit discharge of dredge or fill material into wetlands. The proposed development activities in the watershed are not water dependent, and as such, this alternative may be required.
11. The SAMP/MSAA should exclude any discharge activities which could have more than a minimal adverse environmental effect if the Corps is to utilize a general 404 permit for activities addressed in the SAMP/MSAA.
12. The EIS/EIR should address growth-inducing impacts of the project, and should include mitigation measures for all significant impacts.

The Orange Coast Watch requests that the EIS/EIR include a rigorous analysis of the impacts of stormwater on coastal water quality. While the EIS/EIR should identify BMPs at mitigation measure, it should also identify the water quality standards that must be achieved for each BMP. The EIS/EIR should also evaluate the changes in flow volume to the ocean. The total discharge from the watersheds should not increase by using off-stream retention measures.

Rancho Mission Viejo Land Conservancy requests that the Foothill-South Toll Road be excluded from the SAMP/MSAA. The EIS/EIR should address all water quality impacts, such as sediment deposition, changes in flow, chemical pollution, and increased water temperature. It should address impacts to sensitive wildlife species such as the arroyo toad, western pond turtle, least Bell’s vireo, southwestern willow flycatcher, steelhead trout, and tidewater goby. The EIS/EIR should also address impacts to mountain lions and wildlife movement corridors.

3.3 GENERAL PUBLIC AND LOCAL RESIDENTS

There were a wide variety of comments by the general public. Many of the comments were identical to those of public agencies (see above), and are therefore, not repeated here.

Several comments were expressed repeatedly by the general public. There was a general concern that the SAMP/MSAA would result in urban sprawl that would degrade the quality of life in local communities. Many expressed concern about removing the open space in the project area, which could reduce water quality benefits of an undeveloped watershed, displace wildlife, remove a visual amenity, and reduce recreational opportunities. In addition, there was a concern that land development in the project area would cause significant impacts on traffic, noise, water supply, public services and schools, and air quality. Finally, there were numerous concerns expressed about degradation of water quality at the ocean, and in particular, at the mouth of San Mateo Creek, Trestles Beach, and San Onofre State Beach Park. Many people are concerned about the current level of ocean pollution and how it affects beach use. They view San Mateo Creek as a relatively pristine creek that does not have water quality problems because it is undeveloped.

A large number of people requested that the Foothill Toll Road be excluded from the EIS/EIR, as it is a separate project that deserves a focused environmental review and public participation process.

The EIS/EIR should address impacts of the project on downstream sedimentation and natural beach replenishment, the loss of open space, effects on existing nature preserves (e.g., Audubon Starr Preserve, Rancho Mission Viejo Land Conservancy), increased crime rates as a result of the increase in population, and reduced tourism due to degraded ocean water quality and less open space.

One commenter was unclear how the SAMP/MSAA would consider existing aggregate mining operations in the project area – would they be “grandfathered” in the future programmatic permit?

The EIS/EIR should address lead pollution from a skeet range in the San Mateo Creek watershed.

The EIS/EIR should consider the entire San Mateo Creek watershed.

The EIS/EIR should address how a long-term 404 permit issued by the Corps would be affected by future changes in laws and regulations related to water quality, wetlands, and endangered species.