

2.4.2 Wetlands and Other Waters

2.4.2.1 Regulatory Setting

Wetlands and other waters are protected under a number of laws and regulations. At the federal level, the Federal Water Pollution Control Act, more commonly referred to as the Clean Water Act (33 United States Code [U.S.C.] 1344), is the primary law regulating wetlands and surface waters. One purpose of the Clean Water Act is to regulate the discharge of dredged or fill material into waters of the United States, including wetlands. Waters of the United States include navigable waters, interstate waters, territorial seas, and other waters that may be used in interstate or foreign commerce.

Section 404 of the Clean Water Act establishes a regulatory program that is run by the U.S. Army Corps of Engineers with oversight by the U.S. Environmental Protection Agency. Certain permits require the identification of a “least environmentally damaging practicable alternative” to a proposed discharge that would have lesser effects on waters of the United States and not have any other significant adverse environmental consequences.

The Executive Order for the Protection of Wetlands (11990) also regulates the activities of federal agencies with regard to wetlands. Essentially, Executive Order 11990 states that a federal agency, such as the Federal Highway Administration and/or California Department of Transportation (Caltrans), as assigned, cannot undertake or provide assistance for new construction located in wetlands unless the head of the agency finds (1) that there is no practicable alternative to the construction and (2) the project includes all practicable measures to minimize harm. A Wetlands Only Practicable Alternative Finding must be made.

At the state level, wetlands and waters are regulated primarily by the State Water Resources Control Board, the Regional Water Quality Control Boards, and the California Department of Fish and Wildlife. The State Water Resources Control Board Procedures for Discharges of Dredged or Fill Material to Waters of the State defines waters of the State. Waters of the United States are a subset of waters of the State. In certain circumstances, the California Coastal Commission (or Bay Conservation and Development Commission or Tahoe Regional Planning Agency) may also be involved. Sections 1600 through 1607 of the California Fish and Game Code require any agency that proposes a project that will substantially divert or obstruct the natural flow, or substantially change the bed or bank, of a river, stream, or lake to notify the California Department of Fish and Wildlife before beginning construction. If the California Department of Fish and Wildlife determines that the project may substantially and adversely affect fish or wildlife resources, a Lake or Streambed Alteration Agreement will be required.

The Regional Water Quality Control Boards were established under the Porter-Cologne Water Quality Control Act (Porter-Cologne Act) to oversee water quality. Discharges under the Porter-Cologne Act are permitted by waste discharge requirements and may be required even when the discharge is already permitted or exempt under the Clean Water Act. In compliance with Section 401 of the Clean Water Act, the State Water Resources Control Board (for projects that span more than one water board region) and Regional Water Quality Control Boards also issue water quality certifications for activities that may result in a discharge to waters of the United States. This is most frequently required in tandem with a Clean Water Act Section 404 permit request.

2.4.2.2 Affected Environment

A Natural Environment Study (Minimal Impacts) was prepared for the Project in April 2025, which included a jurisdictional delineation of aquatic resources (see Appendix A of the NES) (Caltrans 2025).

The Biological Study Area (BSA) is in the Aliso-San Onofre watershed (hydrologic unit code [HUC] 18070301) and the Newport Bay watershed (HUC 18070204). Jurisdictional waters of the United States and waters of the State were found only outside of the potential impact area in the BSA (Figure 2.4.2-1). These features include the following:

- **Aliso Creek:** Located within the 500-foot buffer outside of the Project site. Aliso Creek is categorized as R4SBCx (riverine) and would be considered jurisdictional waters of the United States and waters of the State.
- **Feature 1:** An unvegetated concrete v-ditch in an area currently under construction. This feature is considered intermittent and would be considered non-wetland waters of the United States and waters of the State.
- **Feature 2:** A newly constructed basin that would be considered non-wetland waters of the United States and waters of the State.

In total, the BSA limits support approximately 11.53 acres of jurisdictional waters of the State and 6.94 acres of waters of the United States.

2.4.2.3 Environmental Consequences

Temporary Impacts

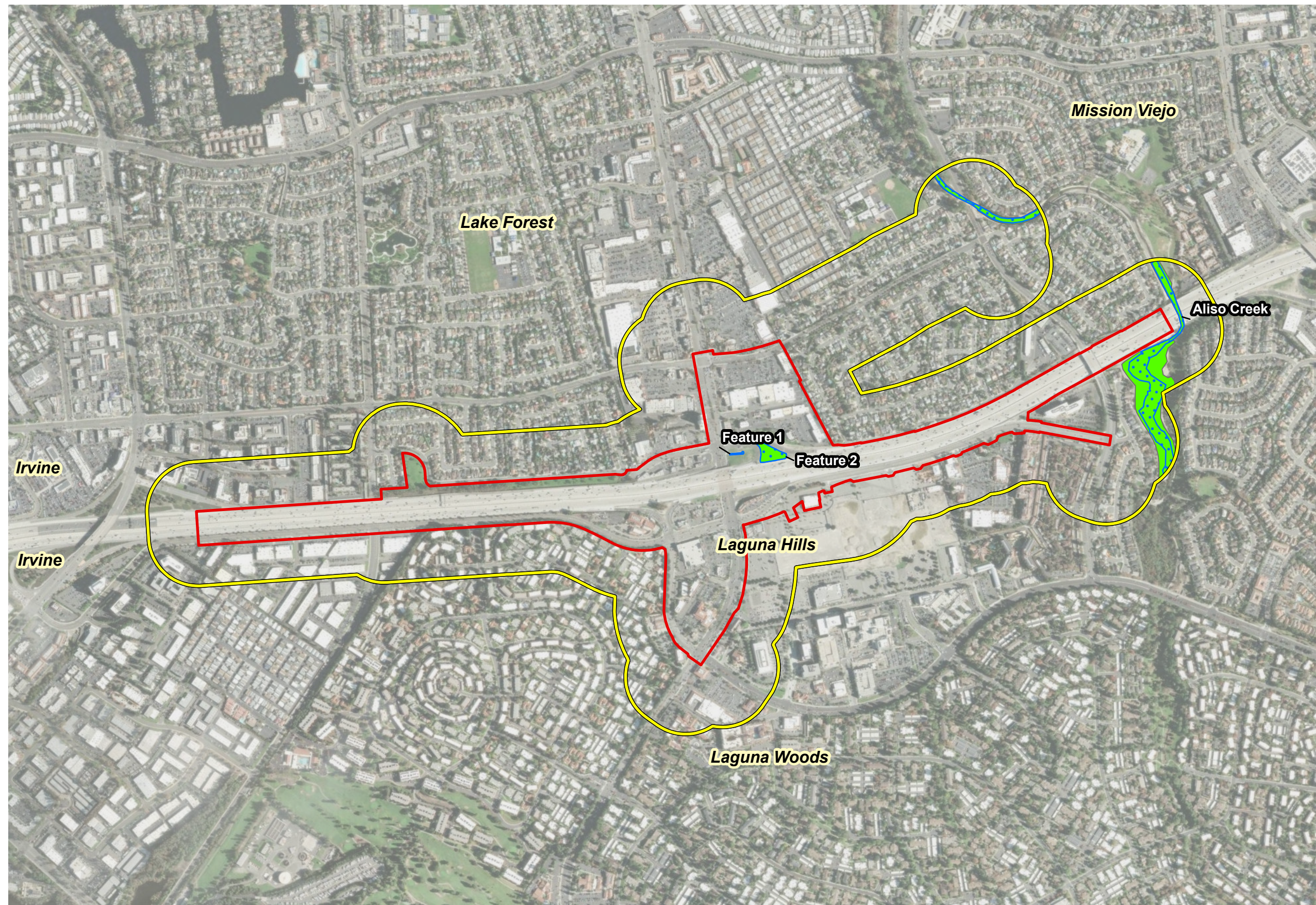
Build Alternatives

Build Alternative 1

The Project would not result in temporary direct or indirect impacts on jurisdictional waters. Aliso Creek is outside of the Project site and impact area. Features 1 and 2 (as described above in Section 2.4.2.2) are also outside of the impact area, and no impacts are anticipated.

Because no temporary impacts on waters of the United States or waters of the State are anticipated, a Section 404 permit, Section 401 water quality certification, or Section 1602 Lake or Streambed Alteration Agreement is not expected to be required.

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Legend

-  Environmental Study Limit
-  Jurisdictional Study Area

Source: VCS Environmental

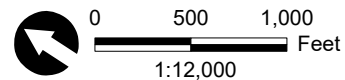


Figure 2.4.1-2

I-5 El Toro Road Interchange Project
Jurisdictional Waters Map

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Design Variation: Build Alternative 1a

The design variation considered under Build Alternative 1a is substantively similar to Build Alternative 1 and would not result in additional impacts on jurisdictional waters. Direct and indirect impacts on jurisdictional waters under Build Alternative 1a would be the same as described for Build Alternative 1.

Build Alternative 3

Build Alternative 3 would not result in any ground disturbance or other activities that would affect jurisdictional waters. As such, there would be no Project-related temporary impacts on jurisdictional waters.

No-Build Alternative

Under the No-Build Alternative, Interstate (I-) 5 would remain in its current condition and no improvements would be implemented. Therefore, there would be no Project-related temporary impacts on jurisdictional waters.

Permanent Impacts

Build Alternatives

Build Alternative 1

The Project would not result in permanent direct or indirect impacts on jurisdictional waters. Aliso Creek is outside of the Project site and the impact area. Features 1 and 2 (as described above in Section 2.4.2.2) are also outside of the impact area, and no impacts are anticipated.

Because no permanent impacts on waters of the United States or waters of the State are anticipated, a Section 404 permit, Section 401 water quality certification, or Section 1602 Lake or Streambed Alteration Agreement is not expected to be required.

Design Variation: Build Alternative 1a

The design variation considered under Build Alternative 1a is substantively similar to Build Alternative 1 and would not result in additional impacts on jurisdictional waters. Direct and indirect impacts on jurisdictional waters under Build Alternative 1a would be the same as described for Build Alternative 1.

Build Alternative 3

Build Alternative 3 would not result in any ground disturbance or other activities that would affect jurisdictional waters. As such, there would be no Project-related permanent impacts on jurisdictional waters.

No-Build Alternative

Under the No-Build Alternative, I-5 would remain in its current condition and no improvements would be implemented. Therefore, there would be no Project-related permanent impacts on jurisdictional waters.

2.4.2.4 Avoidance, Minimization, and/or Mitigation Measures

Although no impacts on wetlands or other waters are anticipated, the following avoidance and minimization measures would be implemented:

- BIO-1 Delineation of Environmentally Sensitive Areas (ESAs):** As described in Section 2.4.1, *Natural Communities*, this measure would protect jurisdictional features from construction activities.
- BIO-2 On-site Training:** As described in Section 2.4.1, *Natural Communities*, this measure would include training on the importance of protecting jurisdictional features.