

Section 3

Regional Permit Organization

Memorandum of Agreement for the Monterey Regional Storm Water Pollution Prevention Program

As mentioned in Section 2, the EPA has delegated authority to the SWRCB to administer and enforce the Phase II NPDES permit process within California. In turn the SWRCB has delegated permitting authority to the California Regional Water Quality Control Board – Central Coastal Basin (RWQCB-CCB) to administer the NPDES permit process within the area this MRSWMP will be performed.

Since the Phase II Storm Water Regulations would affect most, if not all, of the member entities of the Monterey Regional Water Pollution Control Agency (MRWPCA), MRWPCA's Board of Directors directed its staff to determine if it could assist these entities in complying with these regulations.

A Working Group, comprised of public works representatives from each of MRWPCA's member entities, was formed in March 2000, and held a series of meetings. The purpose of the Working Group was to evaluate the feasibility and potential benefits of obtaining a Regional Permit, rather than individual entity permits, for those entities that would be subject to the Phase II permit requirements. The Working Group discussed and investigated a number of regional storm water permitting issues, and concluded that it would be mutually beneficial for the affected entities to band together and apply as co-permittees under a single General Permit.

To formalize this regional approach, in mid-2002 a "Memorandum of Agreement for the Monterey Regional Storm Water Pollution Prevention Program" was prepared and executed by the MRWPCA and by nine entities in the southern Monterey Bay area. The purpose of the Agreement was to create the administrative organization, responsibilities, and commitments to develop a regional storm water program and to cooperate to efficiently and economically comply with the Phase II NPDES requirements. The term of the Agreement commenced on the date the last permittee executed it in late 2002, and will terminate upon the expiration of the first NPDES Phase II storm water permit that is issued, unless this term is extended by the permittees.

The following are the key elements of the MRSWMP that have been developed under this Agreement:

- The purpose of the Program is to reduce pollution from storm water discharges and runoff. By doing this the Program is intended to fulfill the obligations of the Participating Entities with regard to EPA's Phase II Storm Water NPDES requirements, and is to be a collective effort with implementation of area-wide activities, designed to benefit all Participating Entities.

- A Management Committee was created to provide for overall Program coordination, review, and budget oversight, with respect to the NPDES Permit, and Bylaws were adopted. The Management Committee acts as the official management and oversight body for the Program, providing direction and guidance for the Program and the Program budget which will be reviewed and approved by the Management Committee for each fiscal year. The Management Committee establishes timelines and budgets for completion of Program tasks.
- Unless otherwise advised by the Program Attorney, meetings of the Management Committee, including any closed sessions with the Program Attorney, will be conducted in accordance with the "Brown Act" (Government Code Section 54950 et seq.). This provides the public the opportunity to participate in the development and conduct of the program.
- The Management Committee selected the MRWPCA to act as the Program Manager for the Program. As used in the Agreement, the term "Program Manager" has the same meaning as the term "Lead Agency" as defined in the Notice of Intent forms included in Appendix A. Although the MRWPCA itself is not required to be covered by a Phase II NPDES Permit, as Program Manager, the MRWPCA is responsible for Program management and administration, Regional Permit management, technical program management, and related duties. The MRWPCA is not responsible for providing program management services related to individual Permittee's permit programs, but may provide such services under separate contracts with any of the permittees.
- Each of the permittees will be responsible for performing the following duties on behalf of its own jurisdiction:
 - Comply with applicable NPDES Permit conditions within its jurisdictional boundaries
 - Participate in Management Committee meetings and other required meetings of the permittees
 - Implement its Community-Specific Program
 - Provide reports to the Program Manager for purposes of reporting, on a joint basis, compliance with applicable provisions of the NPDES Permit and the status of Program implementation
 - Individually address inter-agency issues, agreements or other cooperative efforts.

A complete copy of the Agreement is contained in Appendix B.

Participating Entities

The following entities are signatories to the Agreement and are participants in the Monterey Regional Storm Water Management Program:

City of Pacific Grove, a municipal corporation of the State of California;
 City of Monterey, a municipal corporation of the State of California;
 City of Seaside, a municipal corporation of the State of California;
 City of Sand City, a municipal corporation of the State of California;
 City of Del Rey Oaks a municipal corporation of the State of California;
 City of Marina, a municipal corporation of the State of California;
 City of Carmel-by the Sea, a municipal corporation of the State of California;
 County of Monterey, a political subdivision of the State of California.

The Pebble Beach Company and the City of Carmel-by-the-Sea were also signatories to the Agreement, but terminated their participation in early 2005, in accordance with Section 6.03 of this Agreement. Carmel-by-the-Sea subsequently returned as a full Participating Entity in 2006. On October 6, 2006 the City submitted its Notice of Intent to the RWQCB to be covered under the State's General Permit for MS4s, using the MRSWMP as the City's Storm Water Management Program, with certain supplemental language to incorporate the city into that program. The City received a Notice of Enrollment in May 2008 from the RWQCB for coverage for the City under the General Permit. Coverage became effective May 1, 2008. The Pebble Beach Company became a Coordinating Entity, as described below, by executing a Letter of Understanding with the Management Committee.

Coordinating Entities

The Pebble Beach Company, the Monterey Peninsula Unified School District, the Pacific Grove Unified School District, and the Carmel Unified School District all indicated their desire and intent to coordinate certain of their individual SWMP activities with those of the MRSWMP. These activities are expected to involve Minimum Control Measures 1 and 2 (Public Education and Outreach and Public Participation and Involvement). Letters of Understanding were executed by the Management Committee of the Monterey Regional Storm Water Pollution Prevention Program and each of these entities to formalize this coordination. Each of these entities contributes to the cost of preparing and implementing the Public Education and Outreach Program and the Public Participation and Involvement Program described in Appendix E. In addition, the Pebble Beach Company frequently attends the regular meetings of the MRSWMP Management Committee.

Permit Boundary

The boundary of the area within which the MRSWMP is being implemented is as follows:

- For the participating entities that are incorporated cities, the MRSWMP is carried out throughout the area bounded by its legal jurisdictional boundary, except within those areas over which the entity does not have jurisdiction. Such areas include, but are not limited to:
 - Federal Facilities including the U.S. Defense Language Institute, the U.S. Naval Postgraduate School and its facilities and housing areas, and the Ord Military Community at the former Fort Ord.
 - School districts including the Pacific Grove, Monterey Peninsula, and Carmel Unified School Districts
 - Colleges and universities including Monterey Peninsula College, California State University at Monterey Bay, and the University of California at Santa Cruz
 - Miscellaneous other facilities including the Monterey Peninsula Airport and the Monterey Fairgrounds
- For the County of Monterey, the MRSWMP is being implemented in the unincorporated areas of County jurisdiction which have been designated by the U.S.

Census Bureau as being “Urbanized Areas” and which are within the County’s legal jurisdictional boundary

- Figure 3-1 shows the geographic areas covered by the MRSWMP.

Applicability of Storm Water Pollution Prevention BMPs and Measurable Goals

Except as noted in the following sections titled “Areas of Special Biological Significance,” and “Applicability of General Permit Attachment 4 Requirements,” the BMPs and Measurable Goals will be applied to all of the areas described above, as shown in Figure 3-1.

Each City has legal descriptions of their jurisdictional boundaries. If necessary, these can be used to precisely determine the geographic extent of a city’s obligation to carry out the BMPs and Measurable Goals.

For the County, since there are no legal descriptions of the boundaries of the Urbanized Areas, the boundaries will be as shown in Figures 3-2 through 3-4, which are enlargements of the Urbanized Area maps provided by the U.S. Census Bureau. These maps have sufficient detail related to geographic features, such as roads, so that, if necessary, they can be used to precisely determine the geographic extent of the County’s obligation to carry out the BMPs and Measurable Goals. The BMPs and Measurable Goals of the MRSWMP will not be carried out in any other unincorporated areas of the County, since those areas are not subject to the requirements of the Phase II NPDES Program.

Areas of Special Biological Significance

On March 21, 1974, the State Water Resources Control Board (SWRCB), in Resolution No. 74-28, designated 31 Areas of Special Biological Significance (ASBS). Subsequently, the SWRCB designated three additional ASBS for a total of 34. Storm water from some of the Participating Entities discharges into an ASBS. Since 1983, the Ocean Plan has prohibited “waste” discharges to ASBS. Similar to previous versions of the Ocean Plan, the 2001 Ocean Plan (Resolution No. 2000-108) states: “Waste shall not be discharged to areas designated as being of special biological significance. Discharges shall be located a sufficient distance from such designated areas to assure maintenance of natural water quality conditions in these areas.”

Assembly Bill 2800, the Marine Managed Areas Improvement Act, was signed by former Governor Davis on September 8, 2000. This law added sections to the Public Resources Code (PRC) that are relevant to ASBS. Section 36700 (f) of PRC now defines a state water quality protection area as “a non-terrestrial marine or estuarine area designated to protect marine species or biological communities from an undesirable alteration in natural water quality, including, but not limited to, areas of special biological significance that have been designated by the State Water Resources Control Board through its water quality control planning process.” Section 36710 (f) of PRC states: “In a state water quality protection area point

source waste and thermal discharges shall be prohibited or limited by special conditions. Nonpoint source pollution shall be controlled to the extent practicable. No other use is restricted.” The classification of ASBS as State Water Quality Protection Areas (SWQPAs) went into effect on January 1, 2003 pursuant to section 36750 of PRC.

Section III (I)(1) of the 2001 Ocean Plan states: “The SWRCB may, in compliance with the California Environmental Quality Act, subsequent to a public hearing, and with the concurrence of the Environmental Protection Agency, grant exceptions where the SWRCB determines: a. The exception will not compromise protection of ocean waters for beneficial uses, and, b. The public interest will be served.”

Portions of the city of Pacific Grove discharge to the Pacific Grove ASBS. This ASBS contains the Pacific Grove State Marine Conservation Area and the Hopkins State Marine Reserve. A portion of the runoff from the City of Monterey flows into the Pacific Grove storm water system and is therefore also discharged into this ASBS. The city of Carmel-by-the-Sea discharges to the Carmel Bay ASBS. The Participating Entities that have storm water discharges into ASBS are working with SWRCB and RWQCB staff to determine how to appropriately address runoff to ASBS; each of these entities has been granted an exception by the SWRCB. The requirements imposed through the exceptions, once the “Special Protections for Discharges into ASBS” are adopted by the SWRCB, will be incorporated into their Storm Water Management Programs.

Applicability of General Permit Attachment 4 Requirements

Based on the high growth rate criteria contained in the SWRCB’s General Permit, the city of Sand City and the unincorporated communities of Prunedale and Castroville in Monterey County were required by the RWQCB’s Resolution No. R3-2006-007, adopted by the RWQCB on September 8, 2006, to implement all of the provisions of Attachment 4 to the General Permit. Because of their discharges to an ASBS, that same Resolution also required the city of Pacific Grove, portions of the city of Monterey, and the city of Carmel-by-the-Sea to implement these same provisions. These provisions include both the “Receiving Water Limitations” and the “Design Standards” set forth in Attachment 4.

Although not required by the General Permit, the cities of, Seaside, Del Rey Oaks, Marina, and the other portions Monterey County shown in Figures 3-1 through 3-4 (in addition to Prunedale and Castroville), will implement design standards similar to those set forth in Attachment 4.

Central Coastal Regional Water Quality Control Board Resolution No. R3-2006-0076, adopted September 8, 2006, includes the following directive on pages 5 and 6, under paragraph 2.a:

“2. Pursuant to Section G of the General Permit, the Monterey Permittees are required to amend the MRSWMP no later than October 31, 2006 to include the following provisions. Failure to make these revisions may subject the affected Monterey Permittees to enforcement action:

a. Modify the MRSWMP to list the actual MS4s or MS4 areas that are required to implement Attachment 4, whether based on Attachment 4 'high growth' criteria in the General Permit (Sand City, Prunedale, and Castroville), or based on discharge to an ASBS (Pacific Grove and the portions of the City of Monterey and the Monterey County area of Carmel Valley that flow to an ASBS)."

This requirement was imposed by the RWQCB over the objections of the Monterey Permittees, and a Petition for Review and Request for Stay of these requirements was subsequently filed with the SWRCB and denied.

Annual Reporting

Permit coverage for Carmel-by-the-Sea under the State's General Permit started on May 1, 2008, two years after permit coverage for the other Participating Entities of the MRSWMP began (September 8, 2006). Due to permit coverage, the City of Carmel-by-the-Sea now participates in the implementation of the BMPs and Measurable Goals contained in Table 4-1 of the MRSWMP on the same time schedule as the other Participating Entities. Each Participating Entity's Annual Report information is contained in a single MRSWMP Group Annual Report submitted to the RWQCB each year in November.

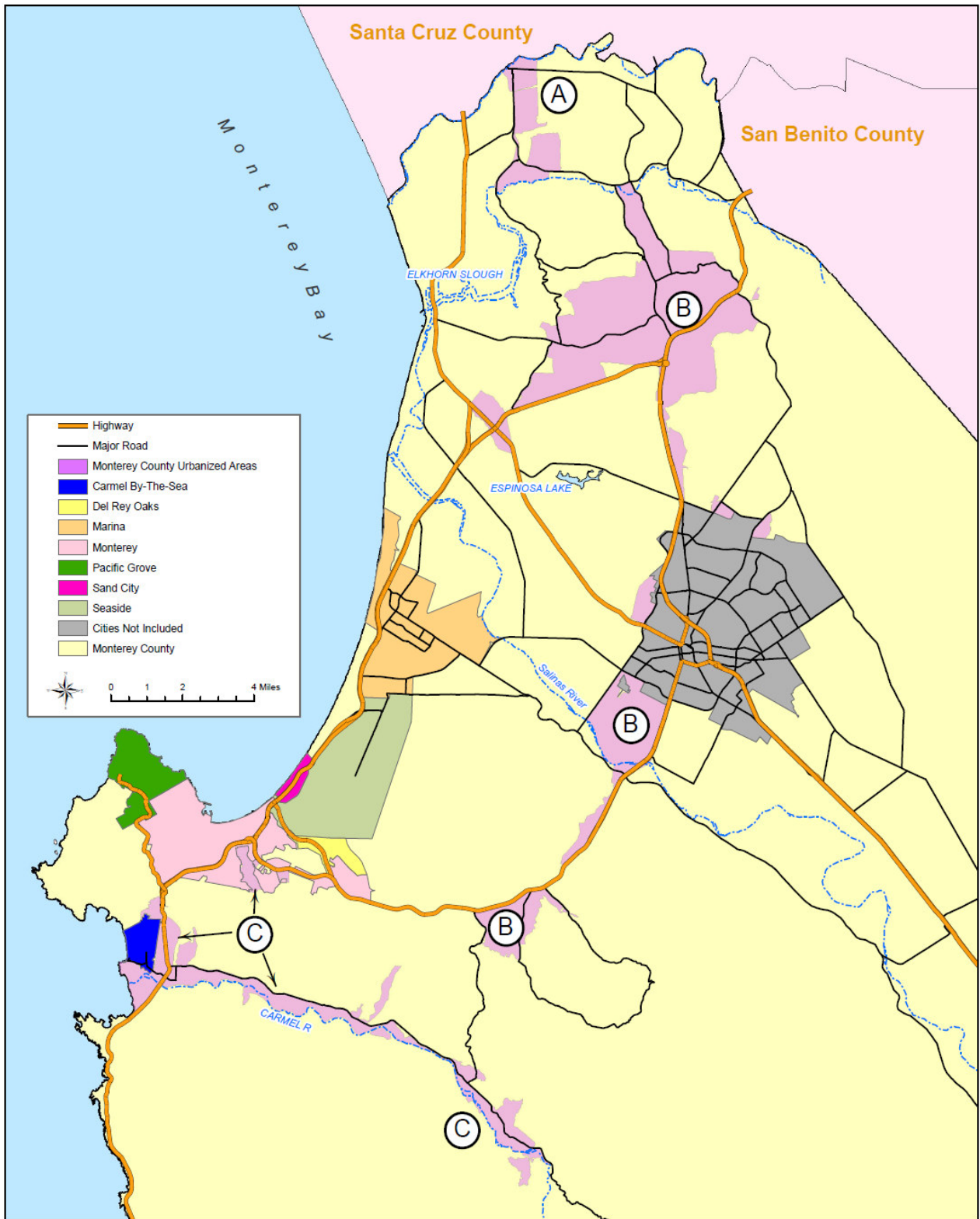


Figure 3-1 Permit Boundary for the Monterey Regional Storm Water Pollution Prevention Program

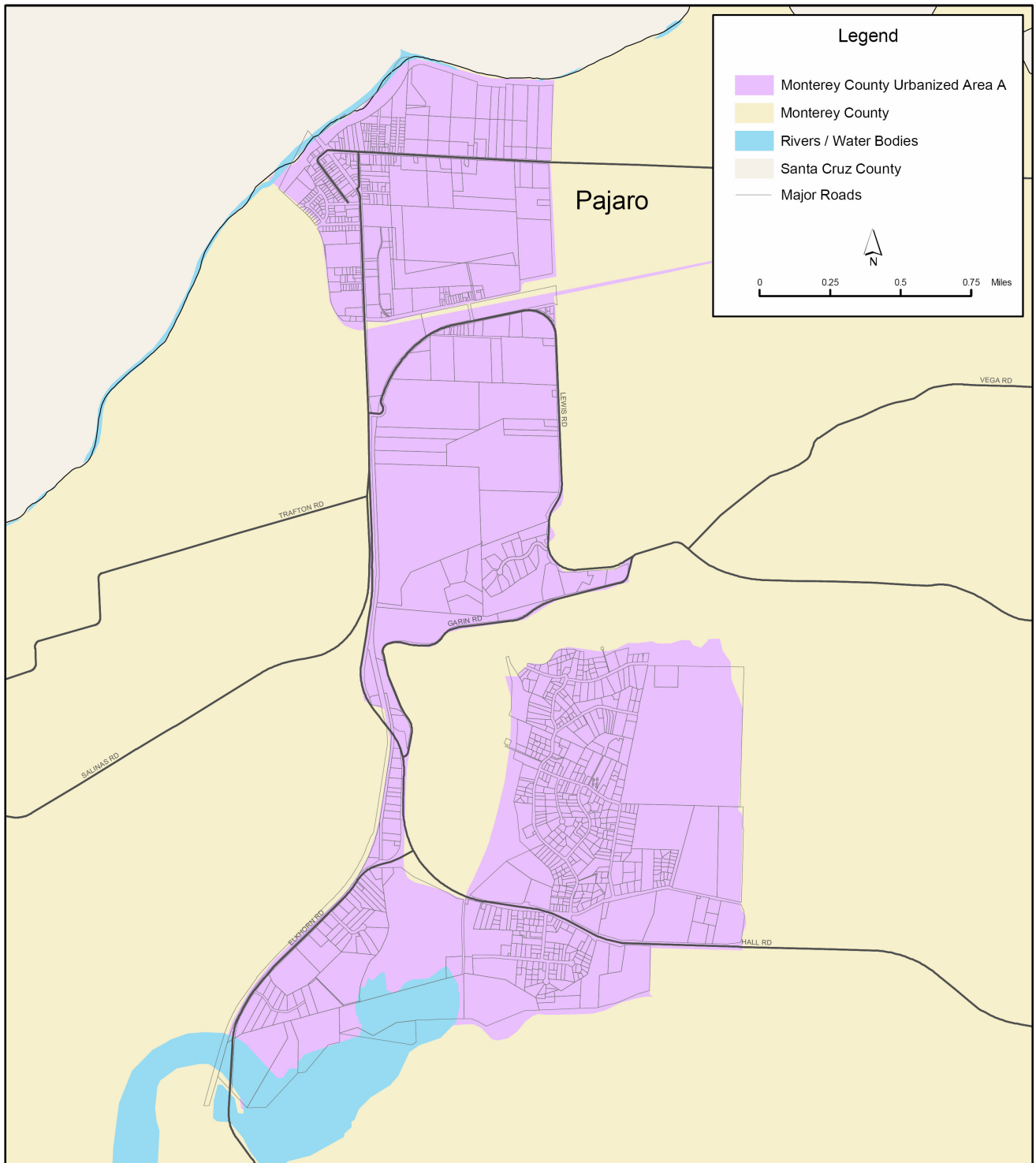


Figure 3-2. Monterey County Urbanized Area A

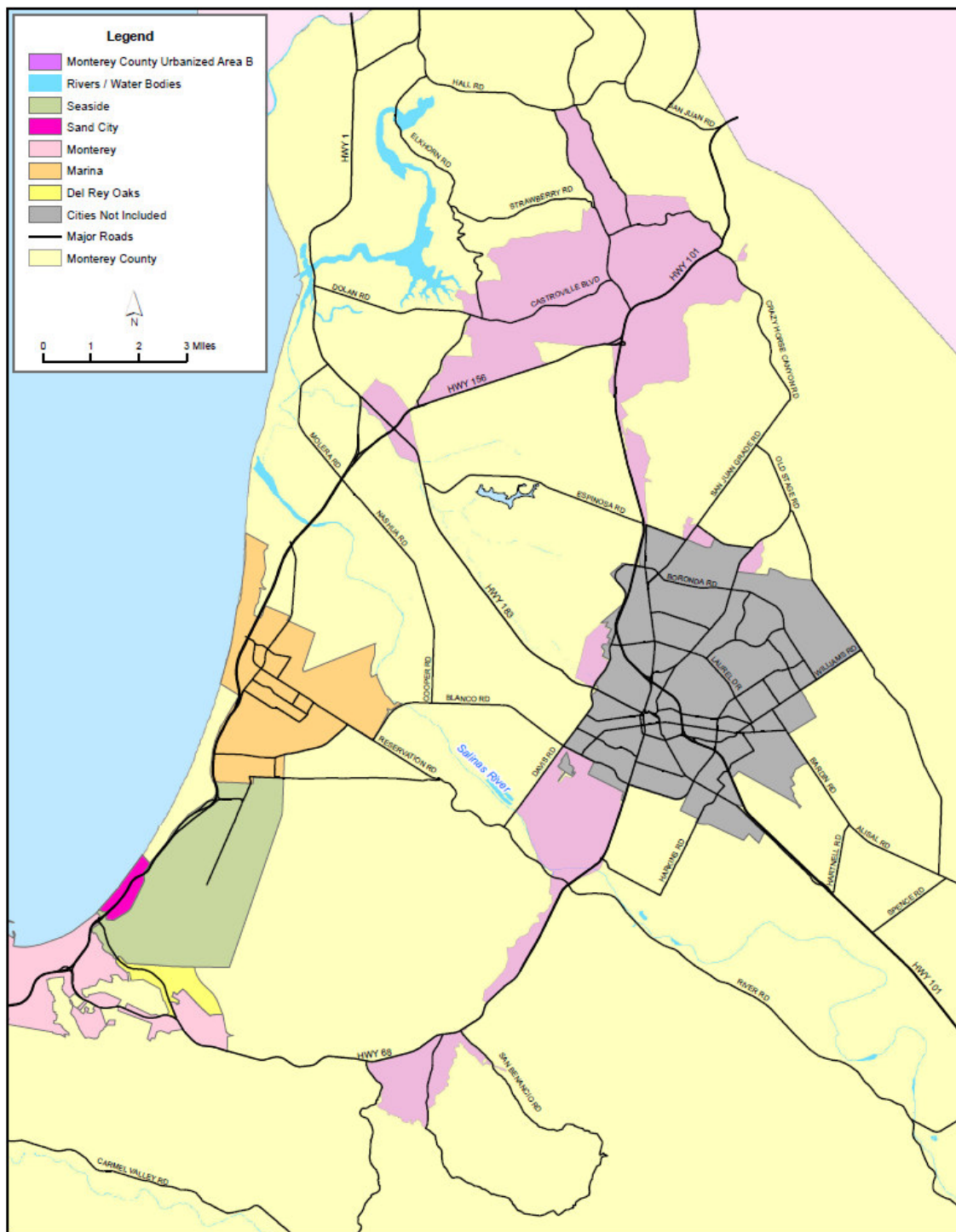


Figure 3-3. Monterey County Urbanized Area B

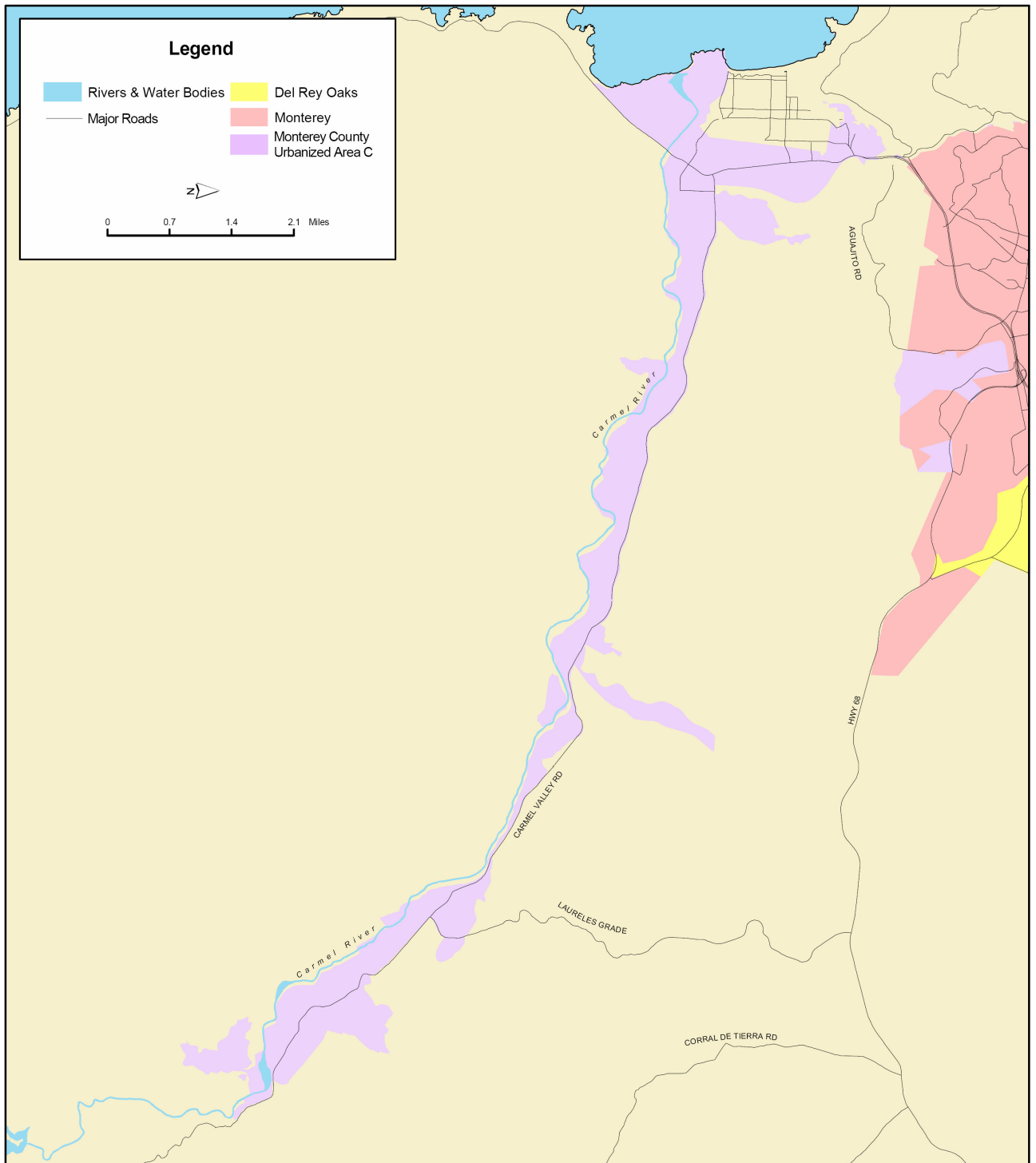


Figure 3-4. Monterey County Urbanized Area C