

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 that 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 has 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 and 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 adopted 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 be the initial 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, 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;
 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. However, both of these entities intend to become Coordinating Entities, as described below, by executing Letters of Understanding with the Management Committee.

Coordinating Entities

The Monterey Peninsula Unified School District, the Pacific Grove Unified School District, and the Carmel Unified School District have 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 Districts to formalize this coordination. As of the date of preparation of this MRSWMP these Districts had contributed to the costs of preparing the Public Education and Outreach Program described in Appendix E, and the Public Participation and Involvement Program Described in Appendix F. In addition representatives from these Districts frequently attend the regular meetings of the MRSWMP Management Committee.

Similar Letters of Understanding regarding coordination on storm water activities have also been executed with the Pebble Beach Company and the City of Carmel-by-the-Sea.

Permit Boundary

The boundary of the area within which the MRSWMP will be carried out is as follows:

- For the participating entities that are incorporated cities, the MRSWMP will be 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 will be carried out 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.

For the cities there are 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 blowups of the Urbanized Area maps as 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. Some of the storm water discharges from some of the Participating Entities discharge into 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 nonterrestrial 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 Gardens Fish Refuge and Hopkins Marine Life Refuge ASBSs. A portion of the runoff from the City of Monterey flows into the Pacific Grove storm water system and is therefore also discharged into these ASBSs. The Participating Entities that have storm water discharges into ASBS will work with SWRCB and RWQCB staff to determine how to appropriately address runoff to ASBS, including whether or not these discharges should be subject to an exception to the ASBS discharge prohibition in the 2001 Ocean Plan. If an exception is granted, it is expected that there will be requirements issued with the exception, which the affected Participating Entities will incorporate into their Storm Water Management Programs. If an exception is not granted, those Participating Entities will pursue alternative means to address their ASBS runoff.

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 are required to implement all of the provisions of Attachment 4 to the General Permit. These include both the “Receiving Water Limitations” and the “Design Standards” set forth in Attachment 4.

Although not required to by the General Permit, the cities of Pacific Grove, Monterey 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. Resolution of the Petition by the SWRCB was pending as of the date of preparation of this MRSWMP. Depending on the outcome of the Petition, this requirement will be either be retained, modified, or deleted.

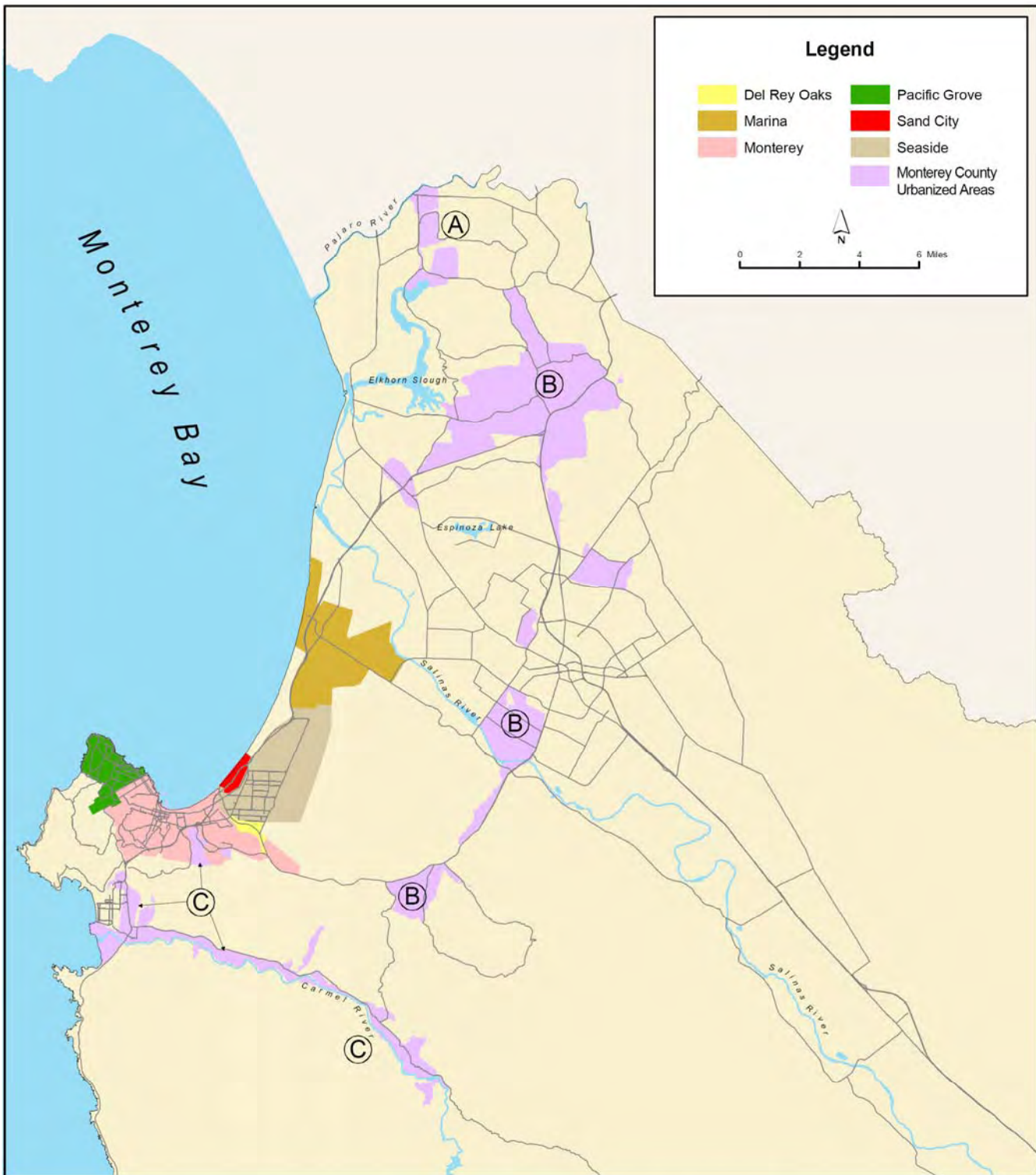


Figure 3-1. Permit Boundary for the Monterey Regional Storm Water Pollution Prevention Program

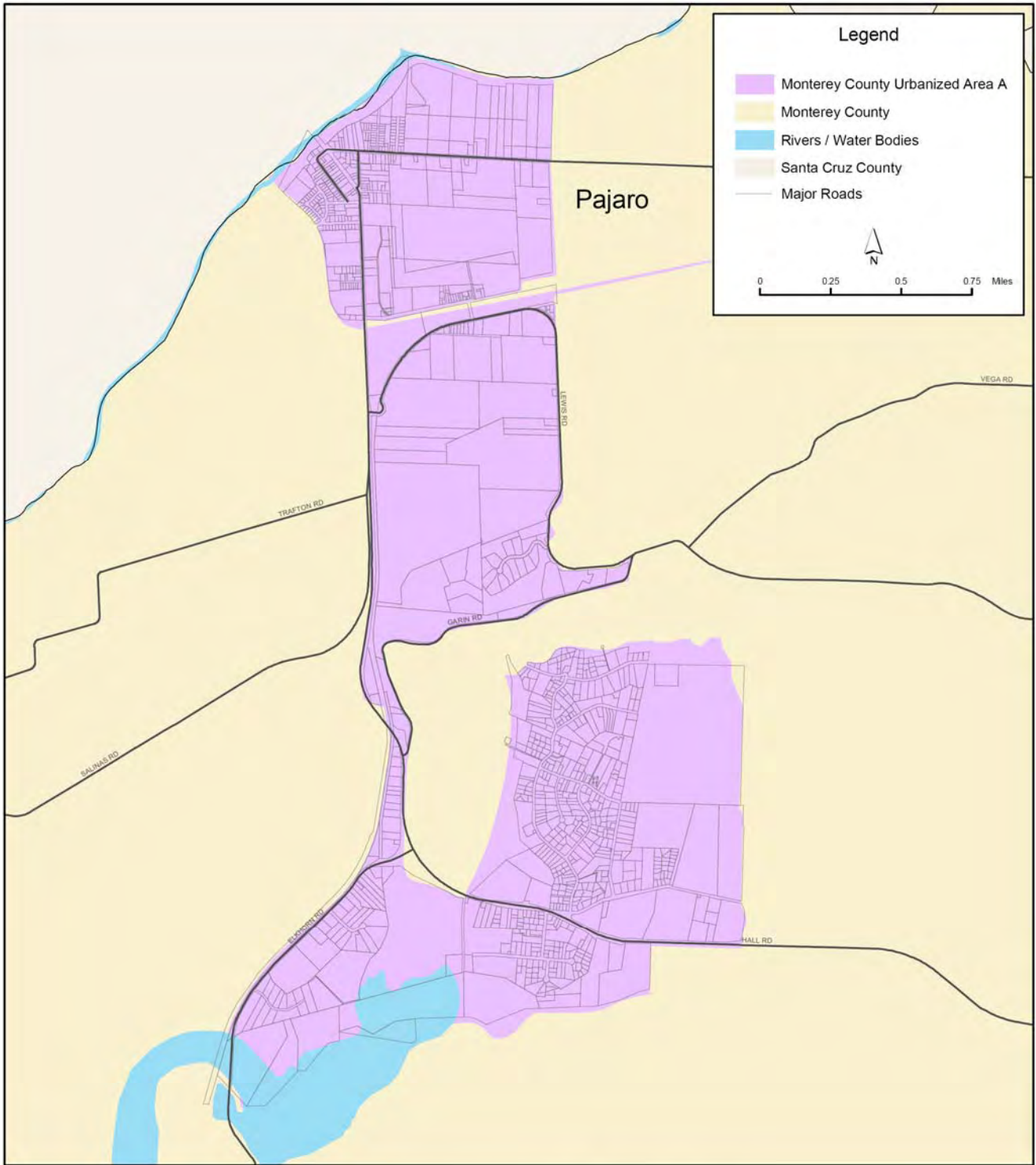


Figure 3-2. Monterey County Urbanized Area A

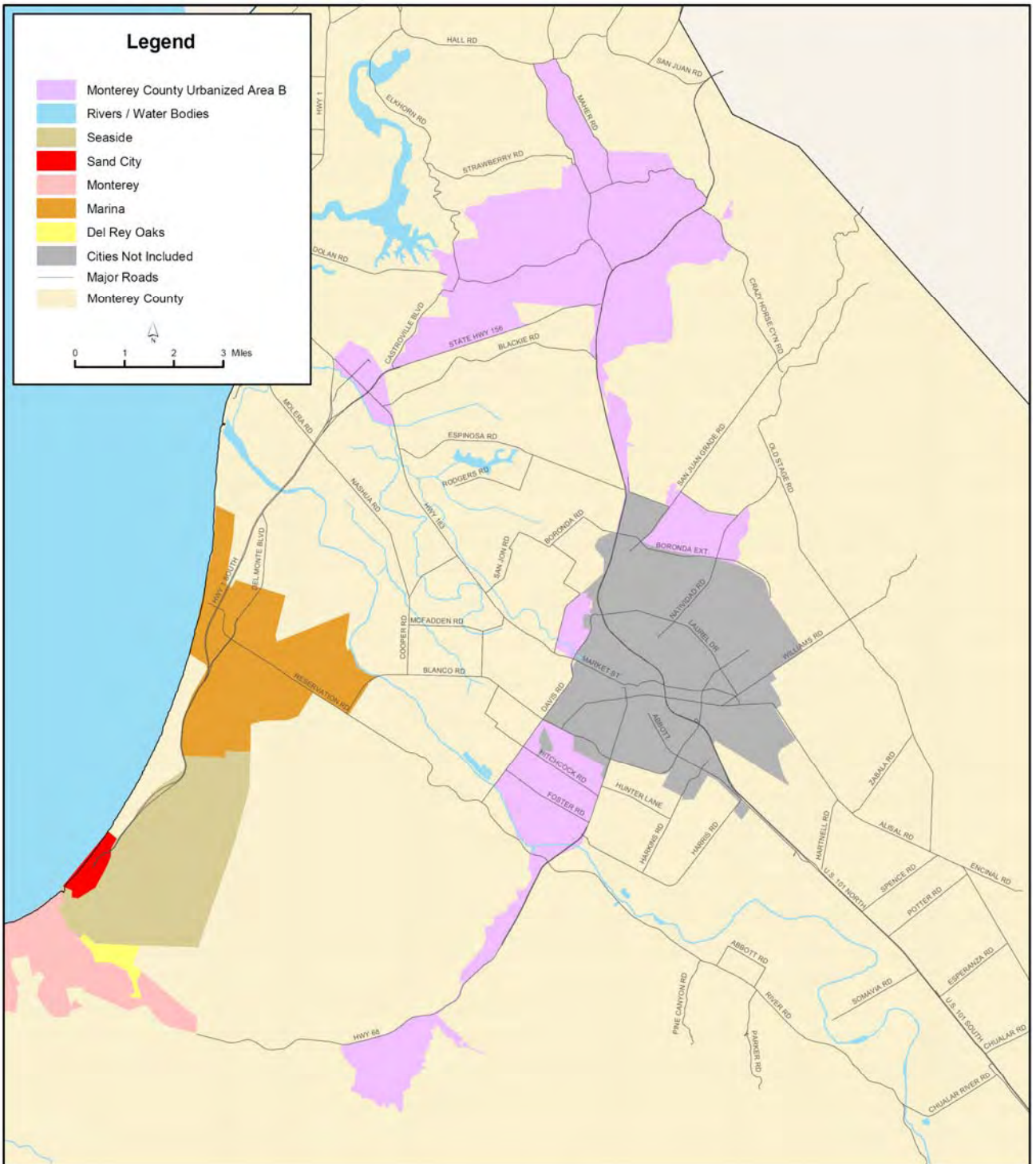


Figure 3-3. Monterey County Urbanized Area B

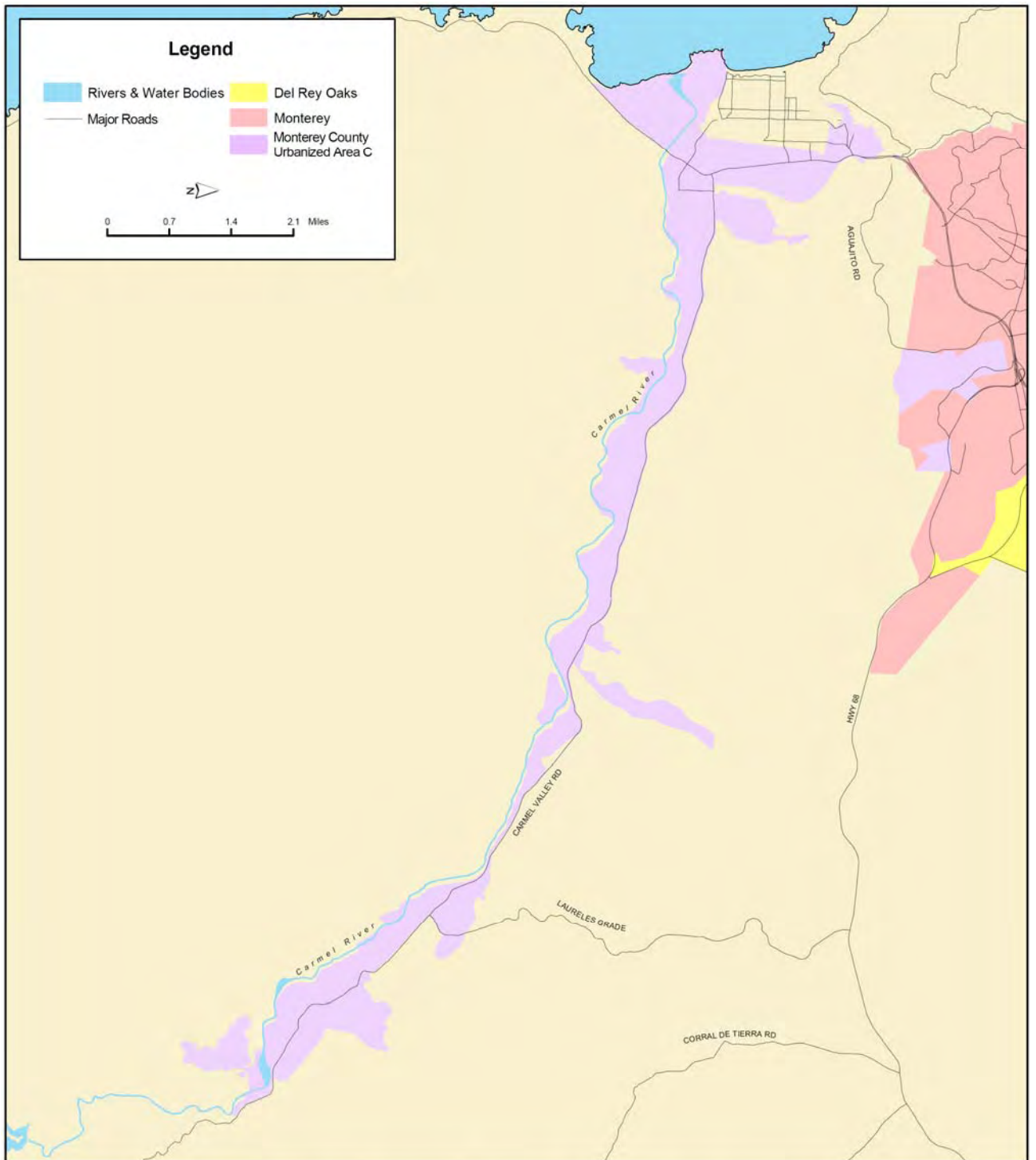


Figure 3-4. Monterey County Urbanized Area C