March 1, 2023

LOVETT INDUSTRIAL
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SUBJECT: Biological Resources Assessment for the Proposed Project Located at 13610 Yorba Avenue in Chino, San Bernardino County, California

Introduction

This report contains the findings of ELMT Consulting's (ELMT) biological resources assessment for the proposed project (project site or site) located at 13610 Yorba Avenue in the City of Chino, San Bernardino County, California. The field investigation was conducted by biologist Jacob H. Lloyd Davies on January 19, 2023 to document baseline conditions and assess the potential for special-status[1] plant and wildlife species to occur within the project boundaries that could pose a constraint to implementation of the proposed project. Special attention was given to the suitability of the habitat to support burrowing owl (*Athene cunicularia*), and other special-status plant and wildlife species identified by the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDB), and other electronic databases as potentially occurring in the general vicinity of the project site.

The site was also evaluated for its potential to support natural drainage features, ponded areas, and/or water bodies that have the potential to fall under the regulatory authority of the of the United States Army Corps of Engineers (Corps), Regional Water Quality Control Board (Regional Board), or California Department of Fish and Wildlife (CDFW) pursuant to Sections 401 and 404 of the Federal Clean Water Act (CWA), the California Porter-Cologne Water Quality Control Act, and Section 1600 *et seq.* of the Fish and Game Code.

Project Location

The project site is generally located south of State Route 60, north and east of State Route 71, and west of State Route 83 in the City of Chino, San Bernardino County, California. The project site is depicted on the Ontario quadrangle of the United States Geological Survey's (USGS) 7.5-minute topographic map series within an un-sectioned area of Township 2 South, Range 8 West. Specifically the site is located at 13610 Yorba Avenue in the City of Chino, and is bounded to the east by Yorba Avenue and to the south by Schaefer Avenue, and is located east of Ramona Avenue and south of Chino Avenue within Assessor's Parcel Number 1019-501-01 and 1019-511-07. Refer to Exhibits 1 thru 3 in Attachment A.

1 As used in this report, "special-status" refers to plant and wildlife species that are federally and State listed, proposed, or candidates; plant species that have been designated with a California Native Plant Society Rare Plant Rank; wildlife species that are designated by the CDFW as fully protected, species of special concern, or watch list species; and specially protected natural vegetation communities as designated by the CDFW.

Methodology

A literature review and records search were conducted to determine which special-status biological resources have the potential to occur on or within the general vicinity of the project site. In addition to the literature review, a general habitat assessment or field investigation of the project site was conducted. The field investigation was conducted to document existing conditions within the project site and assess the potential for special-status biological resources to occur.

Literature Review

Prior to conducting the field study, species and habitat information was gathered from the reports related to the specific project and relevant databases for the Ontario and Prado Dam USGS 7.5-minute quadrangles to identify species and habitats known to occur locally. These two quadrangles were queried due to existing on-site conditions, proximity of the project site to quadrangle boundaries, and regional topography. The literature review sources included:

- U.S. Fish and Wildlife (USFWS) threatened and endangered species occurrence GIS overlay;
- USFWS Designated Critical Habitat Maps;
- California Natural Diversity Database (CNDDB) *Rarefind 5*;
- International Union for Conservation of Naturae (IUCN);
- CNDDB Biogeographic Information and Observation System (BIOS);
- California Native Plant Society Electronic Inventory (CNPSEI) database;
- Calflora Database;
- United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), Soil Survey;
- USFWS National Wetland Inventory;
- Environmental Protection Agency (EPA) Water Program "My Waters" data layers;
- Google Earth Pro historic aerial imagery (1985-2022);
- San Bernardino County General Plan;
- USFWS Critical Habitat designations for Threatened and Endangered Species;
- USFWS National Wetlands Inventory (NWI); and

The literature review provided a baseline from which to inventory the biological resources potentially occurring on the subject property. The CNDDB database was used, in conjunction with ArcGIS software, to locate the nearest recorded occurrences of special-status species and determine the distance from the project site.

Field Investigation

ELMT biologist Jacob H. Lloyd Davies evaluated the conditions of the plant communities found within the boundaries of the project site on January 19, 2023. Plant communities identified on aerial photographs during the literature review were verified in the field. The plant communities were evaluated for their potential to support special-status plant and wildlife species. In addition, field staff identified any natural corridors and linkages that may support the movement of wildlife through the area.

The plant communities were evaluated for their potential to support special-status plant and wildlife species.

Plant communities were mapped using 7.5-minute USGS topographic base maps and aerial photography. The plant communities were classified in accordance with Sawyer, Keeler-Wolf and Evens (2009) and delineated on an aerial photograph, and then digitized into ArcGIS. The ArcGIS application was used to compute the area of each plant community in acres.

Common plant species observed during the field survey were identified by visual characteristics and morphology in the field and recorded in a field notebook. Unusual and less familiar plants were photographed in the field and identified in the laboratory using taxonomic guides. Taxonomic nomenclature used in this study follows the 2012 Jepson Manual (Hickman 2012). In this report, scientific names are provided immediately following common names of plant species (first reference only).

Wildlife species detected during field surveys by sight, calls, tracks, scat, or other sign were recorded during surveys in a field notebook. Field guides were used to assist with identification of wildlife species during the survey included The Sibley Field Guide to the Birds of Western North America (Sibley 2003), A Field Guide to Western Reptiles and Amphibians (Stebbins 2003), and A Field Guide to Mammals of North America (Reid 2006). Although common names of wildlife species are fairly well standardized, scientific names are provided immediately following common names in this report (first reference only). In addition, field staff identified any natural corridors and linkages that may support the movement of wildlife through the area.

Soil Series Assessment

On-site and adjoining soils were researched prior to the field investigation using the USDA NRCS Soil Survey for San Bernardino County, Southwestern Part. In addition, a review of the local geological conditions and historical aerial photographs was conducted to assess the ecological changes that the project site have undergone.

Jurisdictional Drainages and Wetlands

Aerial photography was reviewed prior to conducting a field investigation in order to locate and inspect any potential natural drainage features, ponded areas, or water bodies that may fall under the jurisdiction of the United States Army Corps of Engineers (Corps), Regional Water Quality Control Board (Regional Board), or CDFW. In general, surface drainage features indicated as blue-line streams on USGS maps that are observed or expected to exhibit evidence of flow are considered potential riparian/riverine habitat and are also subject to state and federal regulatory jurisdiction. In addition, ELMT reviewed jurisdictional waters information through examining historical aerial photographs to gain an understanding of the impact of land-use on natural drainage patterns in the area. The USFWS National Wetland Inventory (NWI) and Environmental Protection Agency (EPA) Water Program "My Waters" data layers were also reviewed to determine whether any hydrologic features and wetland areas have been documented on or within the vicinity of the project site.

Surrounding Land Uses and Site Conditions

The project site occurs in an area that has undergone a conversion from natural habitats into agriculture and then urban land uses in the City of Chino. The site is bounded to the north by vacant, undeveloped land; to the west by industrial development; to the south by Schaefer Avenue with industrial development beyond; and to the east by Yorba Avenue with more industrial development beyond. The site itself supports a mix

of defunct agricultural land, residential development, and commercial development.

Topography and Soils

The project site is relatively flat with no areas of significant topographic relief, and ranges in elevation from 674 to 689 feet above mean sea level. The site slopes slightly from the north to south. Based on the NRCS USDA Web Soil Survey[2], the project site is entirely underlain by Chino silt loam. Soils on-site have been mechanically disturbed and heavily compacted from historic land uses (i.e., historic agricultural activities and development, grading, materials stockpiling, vehicular traffic, and weed abatement activities). Refer to Exhibit 4, *Soils*, in Attachment A.

Vegetation

Due to historic and existing land uses, no native plant communities or natural communities of special concern were observed on or adjacent to the project site. The project site consists of a mix of defunct agricultural land, and residential and commercial development that has been subjected to a variety of anthropogenic disturbances including disking, grading, routine weed abatement activities, vehicular traffic, and on-site surrounding development. These disturbances have eliminated and/or greatly disturbed the natural plant communities that historically occurred within the immediate vicinity of the project site. Refer to Attachment B, *Site Photographs*, for representative site photographs. No native plant communities will be impacted from implementation of the proposed project.

The site supports two (2) land cover types that would be classified as developed and disturbed. Additionally, the site supports one (1) natural plant community that would be classified as nonnative grassland. Refer to Exhibit 5, *Vegetation* in Attachment A. This land cover type varies in vegetative density throughout the site according to the extent of weed abatement and primarily consists of non-native weedy/ruderal species and remnant ornamental trees from historic land uses. Plant species observed during the field investigation include cheeseweed (*Malva parviflora*), ryegrass (*Lolium multiflorum*), nettle-leaved goosefoot (*Chenopodiastrum murale*), bristly oxtongue (*Helminthotheca echioides*), prickly lettuce (*Lactuca seriola*), London rocket (*Sisymbrium irio*), Italian thistle (*Carduus pycnocephalus*), shepard's purse (*Capsella bursa-pastoris*), horehound (*Marrubium vulgare*), and white stemmed filaree (*Erodium moschatum*).

Additionally, the residential development located in the middle of the project site supports ornamental plant species such as blue fountain bamboo (*Fargesia nitida*), cypress (*Cupressus* spp.), Mexican fan palm (*Washingtonia robusta*), paperbark tree (*Melaleuca quinervia*), boxwood (*Buxus* sp.), banana yucca (*Yucca baccata*), Australian fig (*Ficus macrophylla*), and carrotwood tree (*Cupaniopsis anacardioides*).

Wildlife

Plant communities provide foraging habitat, nesting/denning site, and shelter from adverse weather or predation. This section provides a discussion of those wildlife species that were observed or are expected to occur within the project site. The discussion is to be used a general reference and is limited by the season, time of day, and weather conditions in which the field investigation was conducted. Wildlife detections

2 A soil series is defined as a group of soils with similar profiles developed from similar parent materials under comparable climatic and vegetation conditions. These profiles include major horizons with similar thickness, arrangement, and other important characteristics, which may promote favorable conditions for certain biological resources.

were based on calls, songs, scat, tracks, burrows, and direct observation. The project site provides limited habitat for wildlife species except those adapted to a high degree of anthropogenic disturbances and development.

Fish

No fish or hydrogeomorphic features (e.g., perennial creeks, ponds, lakes, reservoirs) that would provide suitable habitat for fish were observed on or within the vicinity of the project site. Therefore, no fish are expected to occur and are presumed absent from the project site.

Amphibians

No amphibians or hydrogeomorphic features (e.g., perennial creeks, ponds, lakes, reservoirs) that would provide suitable habitat for amphibian species were observed on or within the vicinity of the project site. Therefore, no amphibians are expected to occur and are presumed absent from the project site.

Reptiles

The project site provides limited foraging and cover habitat for reptile species adapted to a high degree of anthropogenic disturbance. No reptile species were observed during the field investigation. Common reptile species that may be expected to occur within the project site include western side-blotched lizard (*Uta stansburiana elegans*), Great Basin fence lizard (*Sceloporus occidentalis longipes*) and alligator lizard (*Elgaria multicarinata*). Due to the high level of anthropogenic disturbances on-site, and surrounding development, no special-status reptilian species are expected to occur within project site.

Birds

The project site provides limited foraging and nesting habitat for bird species adapted to a high degree of anthropogenic disturbance. Bird species detected during the field investigation include common raven (*Corvus corax*), bushtit (*Psaltriparus minimus*), black phoebe (*Sayornis nigricans*), lesser goldfinch (*Spinus psaltria*), yellow-rumped warbler (*Setophaga coronata*), killdeer (*Charadrius vociferus*), mourning dove (*Zenaida macroura*), house sparrow (*Passer domesticus*), red-tailed hawk (*Buteo jamaicensis*), rock pigeon (*Columba livia*), American pipit (*Anthus rubescens*), domestic chicken (*Gallus gallus*), and European starling (*Sturnus vulgaris*).

Mammals

The project site provides limited foraging and cover habitat for mammalian species adapted to a high degree of anthropogenic disturbance. Common mammalian species observed during the field investigation include coyote (*Canis latrans*), and domestic cat (*Felis catus*). Other common mammalian species that could be expected to occur include, opossum (*Didelphis virginiana*), and raccoon (*Procyon lotor*).

Nesting Birds

No active nests or birds displaying nesting behavior were observed during the field survey, which was conducted near the end of the bird nesting season. Although subjected to routine disturbance, the ornamental trees found on-site has the potential to provide suitable nesting habitat for year-round and seasonal avian residents, as well as migrating songbirds that could occur in the area that area adapted to urban

environments. Additionally, the open, disturbed habitat on-site also provides nesting opportunities for ground-nesting species such as killdeer (*Charadrius vociferus*). The project site supports tall vegetation and is surrounded by power lines, which provide suitable nesting opportunities for raptors and other avian species adapted to a high degree of human disturbance.

Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.5, 3511, and 3513 prohibit the take, possession, or destruction of birds, their nests or eggs). If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction.

Migratory Corridors and Linkages

Habitat linkages provide connections between larger habitat areas that are separated by development. Wildlife corridors are similar to linkages but provide specific opportunities for animals to disperse or migrate between areas. A corridor can be defined as a linear landscape feature of sufficient width to allow animal movement between two comparatively undisturbed habitat fragments. Adequate cover is essential for a corridor to function as a wildlife movement area. It is possible for a habitat corridor to be adequate for one species yet still inadequate for others. Wildlife corridors are features that allow for the dispersal, seasonal migration, breeding, and foraging of a variety of wildlife species. Additionally, open space can provide a buffer against both anthropogenic disturbance and natural fluctuations in resources.

According to the San Bernardino County General Plan, the project site has not been identified as occurring within a Wildlife Corridor or Linkage. As designated by the San Bernardino County General Plan Open Space Element, the nearest major open space areas documented in the vicinity of the project site lie approximately 3.31 miles to the south in association with Chino Hills State Park, and approximately 4.43 miles to the southeast in association with Prado Regional Park. The project site is separated from these open space areas by existing development, including State Routes 71 and 83.

The proposed project will be confined to existing areas that have been heavily disturbed and are isolated from regional wildlife corridors and linkages. In addition, there are no riparian corridors, creeks, or useful patches of steppingstone habitat (natural areas) within or connecting the site to a recognized wildlife corridor or linkage. As such, implementation of the proposed project is not expected to impact wildlife movement opportunities. Therefore, impacts to wildlife corridors or linkages are not expected to occur.

Jurisdictional Areas

There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The Corps Regulatory Branch regulates discharge of dredge or fill materials into “waters of the United States” pursuant to Section 404 of the Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Of the State agencies, the CDFW regulates alterations to streambed and bank under Fish and Wildlife Code Sections 1600 et seq., and the Regional Board regulates discharges into surface waters pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Control Act.

The project site does not support any discernible drainage courses, inundated areas, wetland features, or hydric soils that would be considered jurisdictional by the Corps, Regional Board, or CDFW. A query of

the NWI database found no potential blueline streams, riverine, or other aquatic resources within or adjacent to the project site. Therefore, project activities will not result in impacts to Corps, Regional Board, or CDFW jurisdictional areas and regulatory approvals will not be required.

Special-Status Biological Resources

The literature search identified thirty-one (31) special-status plant species, eighty-two (82) special-status, and five (5) special-status plant communities as having potential to occur within the Ontario and Prado Dam USGS 7.5-minute quadrangles. Special-status plant and wildlife species were evaluated for their potential to occur within the project site based on habitat requirements, availability and quality of suitable habitat, and known distributions. Species determined to have the potential to occur within the general vicinity of the project site is presented in *Table C-1: Potentially Occurring Special-Status Biological Resources*, provided in Attachment C.

Special-Status Plants

According to the CNDDB and CNPS, thirty-one (31) special-status plant species have been recorded in the Ontario and Prado Dam quadrangles (refer to Attachment C). No special-status plant species were observed on-site during the field investigation. The project site consists of defunct agricultural land and residential and commercial development that has been subject to a variety of anthropogenic disturbances from on-site historic agricultural activities and development, grading, stockpiling activities, vehicle access, and routine weed abatement activities, and is surrounded by existing development. These disturbances have eliminated the natural plant communities that once occurred on-site which has eliminated the ability of the habitat on the project site to provide suitable habitat for special-status plant species known to occur in the general vicinity. Based on habitat requirements for specific special-status plant species and the availability and quality of habitats needed by each species, it was determined that the project site do not provide suitable habitat for any of the special-status plant species known to occur in the area and all are presumed to be absent. No focused surveys are recommended.

Special-Status Wildlife

According to the CNDDB, eighty-two (82) special-status wildlife species have been reported in the Ontario and Prado Dam quadrangles (refer to Attachment C). No special-status wildlife species were observed on-site during the habitat assessment. The project site consists of vacant, undeveloped land that has been subject to a variety of anthropogenic disturbances from on-site historic agricultural activities and development, grading, stockpiling activities, vehicle access, and routine weed abatement activities, and is surrounded by existing development. These disturbances have eliminated the natural plant communities that once occurred on-site which has greatly reduced potential foraging opportunities for wildlife species.

Based on habitat requirements for specific species and the availability and quality of on-site habitats, it was determined that the proposed project site has a moderate potential to support Cooper's hawk (*Accipiter cooperii*) and California horned lark (*Eremophila alpestris actia*). It was further determined that the project site does not have the potential to support any of the other special-status wildlife species known to occur in the area since the site has been heavily impacted by on-site disturbances and surrounding development.

None of the aforementioned avian species are federally or state listed as endangered or threatened. In order

to ensure impacts to these species do not occur from implementation of the proposed project, a pre-construction nesting bird clearance survey shall be conducted prior to ground disturbance. With implementation of the pre-construction nesting bird clearance survey, impacts to these species will be less than significant and no mitigation will be required.

Based on regional significance, the potential occurrence of burrowing owl within the project site are described in further detail below:

Burrowing Owl

The burrowing owl is currently listed as a California Species of Special Concern. It is a grassland specialist distributed throughout western North America where it occupies open areas with short vegetation and bare ground within shrub, desert, and grassland environments. Burrowing owls use a wide variety of arid and semi-arid environments with well-drained, level to gently sloping areas characterized by sparse vegetation and bare ground (Haug and Didiuk 1993; Dechant et al. 1999). Burrowing owls are dependent upon the presence of burrowing mammals (such as ground squirrels) whose burrows are used for roosting and nesting (Haug and Didiuk 1993). The presence or absence of colonial mammal burrows is often a major factor that limits the presence or absence of burrowing owls. Where mammal burrows are scarce, burrowing owls have been found occupying man-made cavities, such as buried and non-functioning drainpipes, stand-pipes, and dry culverts. Burrowing mammals may burrow beneath rocks and debris or large, heavy objects such as abandoned cars, concrete blocks, or concrete pads. They also require open vegetation allowing line-of-sight observation of the surrounding habitat to forage as well as watch for predators.

No burrowing owls or recent sign (i.e., pellets, feathers, castings, or whitewash) was observed during the field investigation. Portions of the project site are unvegetated and/or vegetated with a variety of low-growing plant species that allow for line-of-sight observation favored by burrowing owls, but the site does not support any suitable burrows (>4 inches in diameter) capable of providing roosting and nesting opportunities. In addition, the site supports and is surrounded by buildings, trees, and utility poles which decrease the likelihood that burrowing owls would occur on the project site as these features provide perching opportunities for larger raptor species (i.e., red-tailed hawk [*Buteo jamaicensis*]) that prey on burrowing owls. Further, the project site is surrounded by existing development and is thoroughly isolated from nearby suitable habitats.

Based on the results of the field investigation, it was determined that the project site does not have potential to provide suitable habitat for burrowing owls and focused surveys are not recommended.

Special-Status Plant Communities

According to the CNDDB, five (5) special-status plant communities have been reported in the Ontario and Prado Dam USGS 7.5-minute quadrangles: Riversidean Alluvial Fan Sage Scrub. Based on the results of the field investigation, no special-status plant communities were observed onsite. Therefore, no special-status plant communities will be impacted by project implementation.

Critical Habitat

Under the federal Endangered Species Act, “Critical Habitat” is designated at the time of listing of a species

or within one year of listing. Critical Habitat refers to specific areas within the geographical range of a species at the time it is listed that include the physical or biological features that are essential to the survival and eventual recovery of that species. Maintenance of these physical and biological features requires special management considerations or protection, regardless of whether individuals or the species are present or not. All federal agencies are required to consult with the United States Fish and Wildlife Service (USFWS) regarding activities they authorize, fund, or permit which may affect a federally listed species or its designated Critical Habitat. The purpose of the consultation is to ensure that projects will not jeopardize the continued existence of the listed species or adversely modify or destroy its designated Critical Habitat. The designation of Critical Habitat does not affect private landowners, unless a project they are proposing is on federal lands, uses federal funds, or requires federal authorization or permits (e.g., funding from the Federal Highways Administration or a CWA Permit from the Corps). If a there is a federal nexus, then the federal agency that is responsible for providing the funding or permit would consult with the USFWS.

The project site is not located within federally designated Critical Habitat. The nearest Critical Habitat designation is located approximately 3.36 miles southeast of the site for least Bell's vireo (*Vireo bellii pusillus*). Refer to Exhibit 6, *Critical Habitat*, in Attachment A. Therefore, no impacts to federally designated Critical Habitat will occur from implementation of the proposed project.

Conclusion

Based literature review and field survey, and existing site conditions discussed in this report, implementation of the project will have no significant impacts on federally or State listed species known to occur in the general vicinity of the project site. Additionally, the project will have no effect on designated Critical Habitat, since there is no federal nexus, or regional wildlife corridors/linkage because none exists within the area. No jurisdictional drainage and/or wetland features were observed on the project site during the field investigation. No further surveys are recommended. With completion of the recommendations provided below, no impacts to year-round, seasonal, or special-status avian residents or special-status species will occur from implementation of the proposed project.

Recommendations

Migratory Bird Treaty Act and Fish and Game Code

Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.5, 3511, and 3513 prohibit the take, possession, or destruction of birds, their nests or eggs). In order to protect migratory bird species, a nesting bird clearance survey should be conducted prior to any ground disturbance or vegetation removal activities that may disrupt the birds during the nesting season.

If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the wildlife biologist and will depend on the level of noise and/or surrounding

anthropogenic disturbances, line of sight between the nest and the construction activity, type and duration of construction activity, ambient noise, species habituation, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. A biological monitor should be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.

Please do not hesitate to contact Tom McGill at (951) 285-6014 or tmcgill@elmtconsulting.com or Travis McGill at (909) 816-1646 or travismcgill@elmtconsulting.com should you have any questions regarding this proposal.

Sincerely,

Thomas J. McGill, Ph.D.
Managing Director

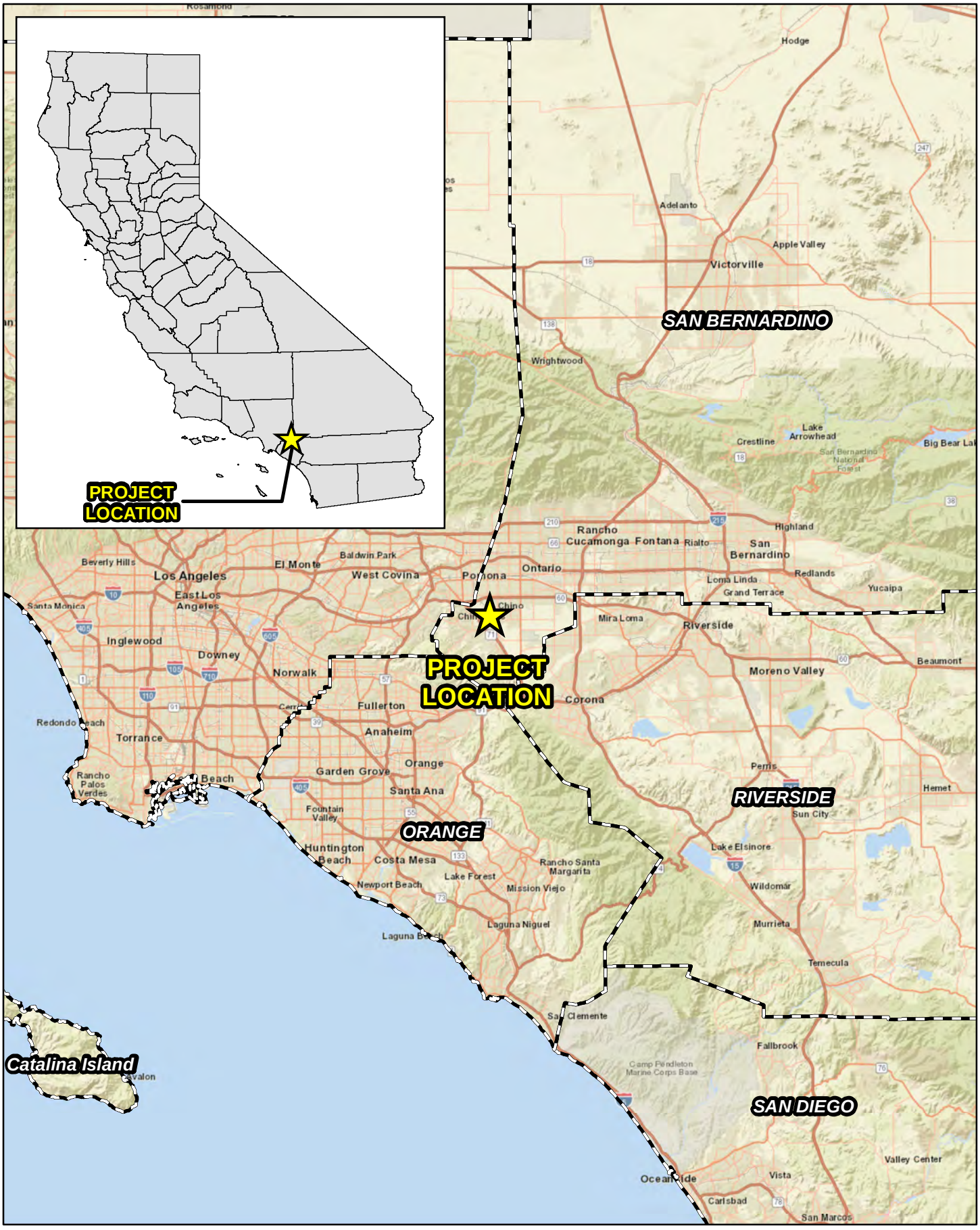
Travis J. McGill
Director

Attachments:

A. *Project Exhibits*
B. *Site Photographs*
C. *Potentially Occurring Special-Status Biological Resources*
D. *Regulations*

Attachment A

Project Exhibits



13610 YORBA AVENUE
BIOLOGICAL RESOURCES ASSESSMENT

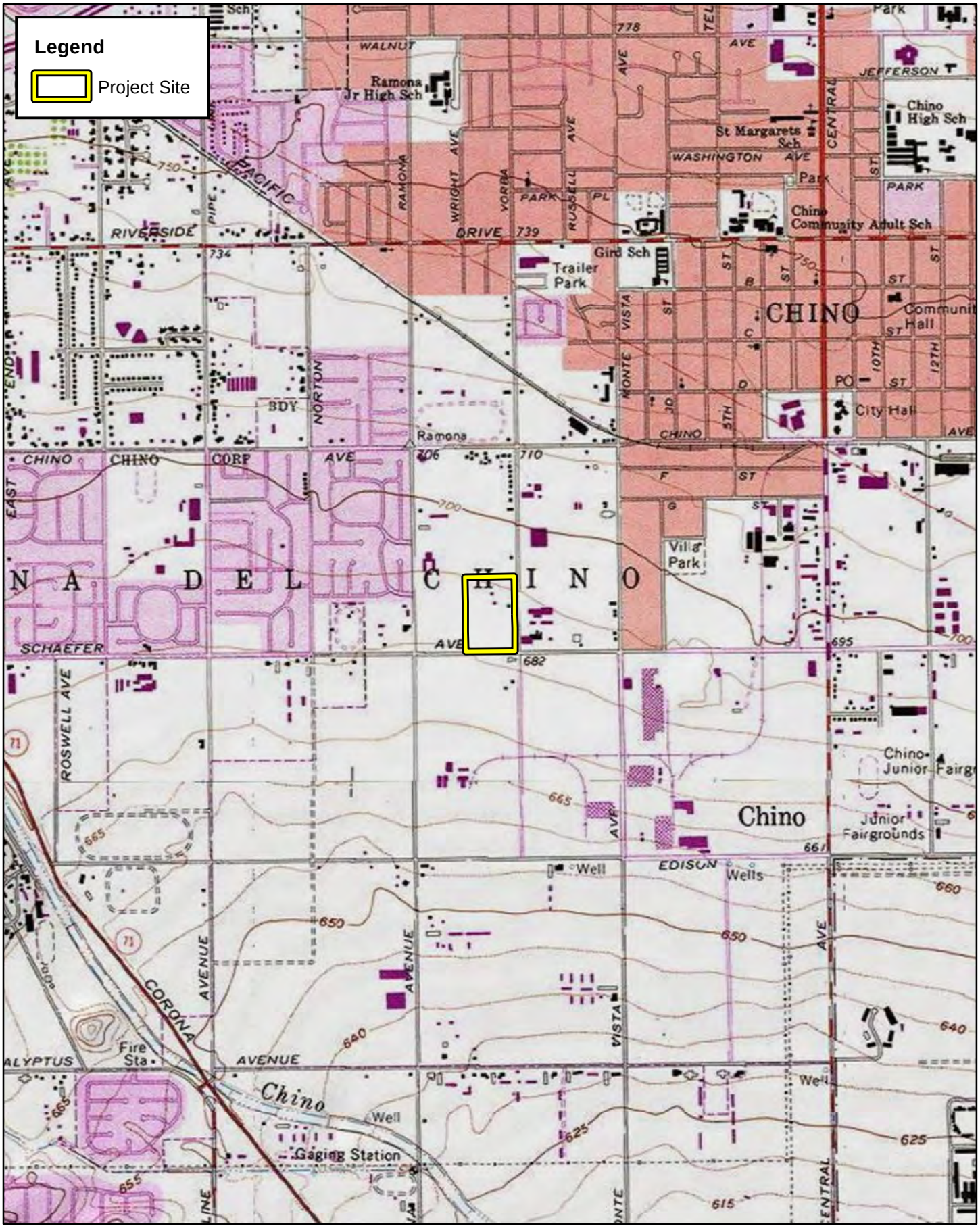
Regional Vicinity

ELMT CONSULTING

0 2.5 5 10 Miles

Source: World Street Map, San Bernardino County

Exhibit 1



13610 YORBA AVENUE
BIOLOGICAL RESOURCES ASSESSMENT

Site Vicinity

ELMT CONSULTING

0 1,000 2,000 4,000 Feet

Source: USA Topographic Map, San Bernardino County

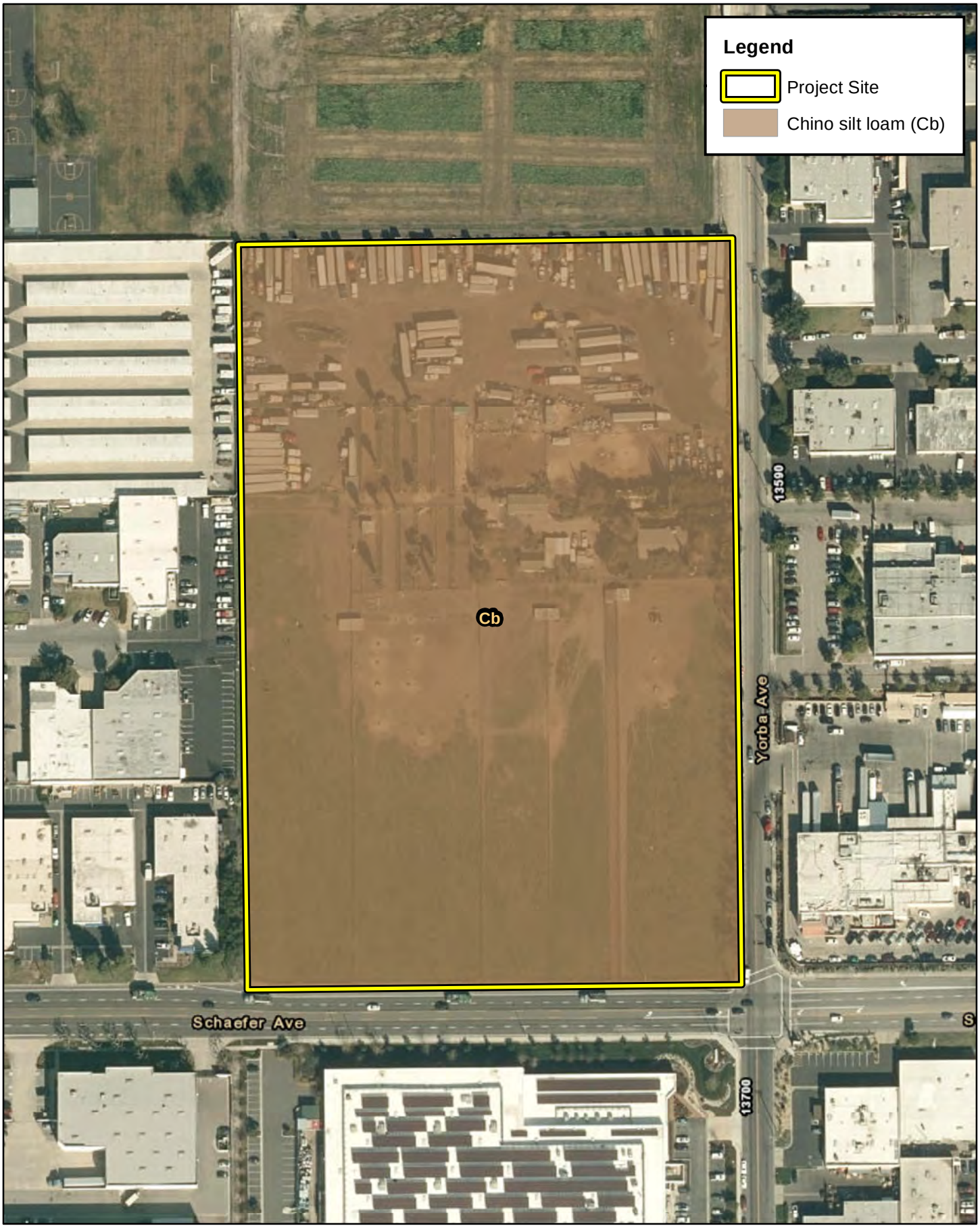
Exhibit 2

13610 YORBA AVENUE
BIOLOGICAL RESOURCES ASSESSMENT

Project Site

Source: ESRI Aerial Imagery, San Bernardino County

Exhibit 3



13610 YORBA AVENUE
BIOLOGICAL RESOURCES ASSESSMENT

ELMT CONSULTING

0 62.5 125 250 Feet

Source: ESRI Aerial Imagery, Soil Survey Geographic Database, San Bernardino County

Soils

Exhibit 4

13610 YORBA AVENUE
BIOLOGICAL RESOURCES ASSESSMENT

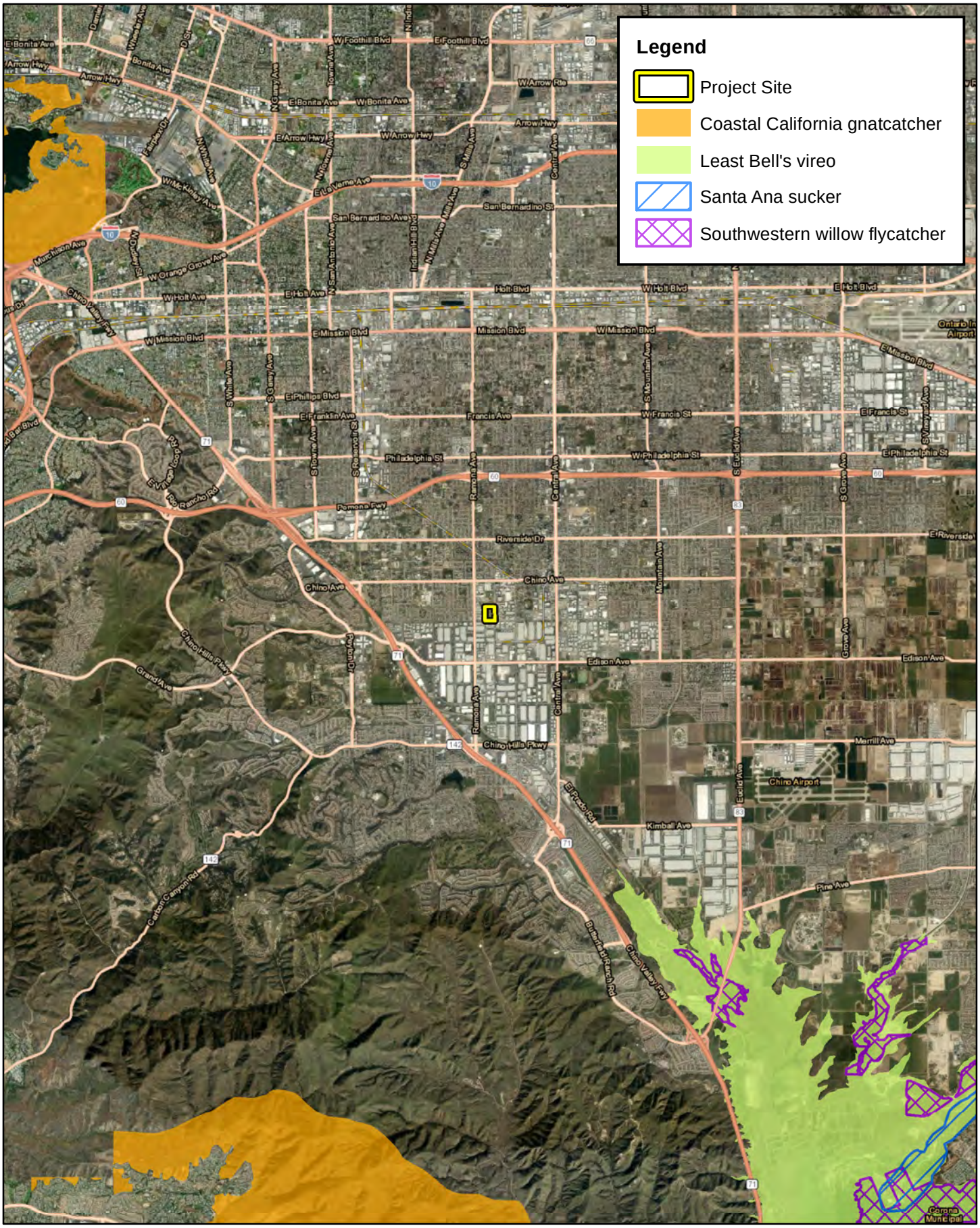
Vegetation

ELMT CONSULTING

0 62.5 125 250 Feet

Source: ESRI Aerial Imagery, San Bernardino County

Exhibit 5



13610 YORBA AVENUE
BIOLOGICAL RESOURCES ASSESSMENT

Critical Habitat

ELMT CONSULTING

0 0.5 1 2 Miles

Source: ESRI Aerial Imagery, USFWS Critical Habitat, San Bernardino County

Exhibit 6

Attachment B

Site Photographs

Photograph 1: From the southwest corner of the project site, looking north along the western boundary

Photograph 2: From the southwest corner of the project site, looking diagonally northeast through the middle of the site.

Photograph 3: From the southwest corner of the project site, looking east along the southern boundary.

Photograph 4: From the southeast corner of the project site, looking west along the southern boundary.

Photograph 5: From the southeast corner of the project site, looking diagonally northwest through the middle of the site.

Photograph 6: From the southeast corner of the project site, looking north along the eastern boundary.

Photograph 7: From the northeast corner of the project site, looking west along the northern boundary.

Photograph 8: From the northeast corner of the project site, looking diagonally southwest through the center of the site.

Photograph 9: From the northeast corner of the project site, looking south along the eastern boundary.

Photograph 10: From the northwest corner of the project site, looking east along the northern boundary.

Photograph 11: From the northwest corner of the project site, looking diagonally southeast through the center of the site.

Photograph 12: From the northwest corner of the project site, looking south along the western boundary.

Photograph 13 From the middle of the western boundary, looking east through the middle of the project site.

Photograph 14: From Yorba Avenue, looking west along a driveway leading to residential development located off the middle of eastern boundary of the project site.

Photograph 15: Depicting a swimming pool and surrounding development located in the middle of the project site.

Photograph 16: From the middle of the project site, looking north through existing residential development.

Attachment C

Potentially Occurring Special-Status Biological Resources

Table C-1: Potentially Occurring Special-Status Biological Resources

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
SPECIAL-STATUS WILDLIFE SPECIES				
Accipiter cooperii Cooper's hawk	Fed: None CA: WL	Common yearlong resident of California. Typically forages in broken woodland and habitat edges with dense stands of coast live oak (*Quercus agrifolia*), riparian deciduous, or other forest habitat near water. Usually nests in dense riparian areas, usually near streams.	No	**Moderate** The project site provides suitable foraging opportunities and nesting opportunities are present offsite along the project boundaries. This species is adapted to urban environments and occurs commonly.
Accipiter striatus sharp-shinned hawk	Fed: None CA: WL	Found in pine, fir and aspen forests. They can be found hunting in forest interior and edges from sea level to near alpine areas. Can also be found in rural, suburban and agricultural areas, where they often hunt at bird feeders. Typically found in southern California in the winter months.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Agelaius tricolor tricolored blackbird	Fed: None CA: **THR**	Prefers wetland and grassland habitats, wetlands, and active agricultural areas. Breeds and nests in marshes in cattails, bullrushes, and willows. Forages in irrigated pastures, dry rangeland.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Aimophila ruficeps canescens southern California rufous-crowned sparrow	Fed: None CA: WL	Typically found between 3,000 and 6,000 feet in elevation. Breed in sparsely vegetated scrubland on hillsides and canyons. Prefers coastal sage scrub dominated by California sagebrush (*Artemisia californica*), but they can also be found breeding in coastal bluff scrub, low-growing serpentine chaparral, and along the edges of tall chaparral habitats.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Ammodramus savannarum grasshopper sparrow	Fed: None CA: SSC	Occurs in grassland, upland meadow, pasture, hayfield, and old field habitats. Optimal habitat contains short- to medium-height bunch grasses interspersed with patches of bare ground, a shallow litter layer, scattered forbs, and few shrubs. May inhabit thickets, weedy lawns, vegetated landfills, fence rows, open fields, or grasslands.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Anniella stebbinsi southern California legless lizard	Fed: None CA: SSC	Occurs in sparsely vegetated habitat types including coastal sand dunes, chaparral, pine-oak woodland, desert scrub, open grassland, and riparian areas. Requires sandy or loose loamy substrates conducive to burrowing.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Anodonta californiensis California floater	Fed: None CA: None	Found in lakes and lake-like stream environments at low altitudes.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Antrozous pallidus pallid bat	Fed: None CA: SSC	Locally common species of low elevation in California. Occurs in grasslands, shrublands, woodlands, and forests from sea level up through mixed conifer forests. Most common in open, dry habitats with rocky areas for roosting.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Aquila chrysaetos golden eagle	Fed: None CA: WL	Occupies nearly all terrestrial habitats of the western states except densely forested areas. Favors secluded cliffs with overhanging ledges and large trees for nesting and cover. Hilly or mountainous country where takeoff and soaring are supported by updrafts is generally preferred to flat habitats. Deeply cut canyons rising to open mountain slopes and crags are ideal habitat.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Ardea alba great egret	Fed: None CA: None	Yearlong resident throughout California, except for the high mountains and deserts. Feeds and rests in fresh, and saline emergent wetlands, along the margins of estuaries, lakes, and slow-moving streams, on mudflats and salt ponds, and in irrigated croplands and pastures.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Ardea Herodias great blue heron	Fed: None CA: None	Fairly common all year throughout most of California, in shallow estuaries and fresh and saline emergent wetlands. Less common along riverine and rocky marine shores, in croplands, pastures, and in mountains about foothills.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Arizona elegans occidentalis California glossy snake	Fed: None CA: SSC	Occurs in a wide variety of habitat types including open desert, grasslands, shrublands, chaparral, and woodlands. Prefers areas where the soil is loose and sandy which allows for burrowing.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Artemisiospiza belli belli Bell's sparrow	Fed: None CA: WL	Generally prefers semi-open habitats with evenly spaced shrubs 1 – 2 meters in height. Dry chaparral and coastal sage scrub. Less common in tall dense, old chaparral.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Asio otus long-eared owl	Fed: None CA: SSC	Hunts mostly at night over grasslands and other open habitats. Nesting occurs in dense trees such as oaks and willows where it occupies stick nests of other species, particularly raptors or corvids.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Aspidoscelis hyperythra orange-throated whiptail	Fed: None CA: WL	Semi-arid brushy areas typically with loose soil and rocks, including washes, stream sides, rocky hillsides, and coastal chaparral. They are typically found in hot, dry, flat open spaces. Typically, they are seen on the ground running in open spots from bush to bush, but rarely climbing on rocks or vegetation.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Aspidoscelis tigris stejnegeri coastal whiptail	Fed: None CA: SSC	Found in a variety of ecosystems, primarily hot and dry open areas with sparse foliage - chaparral, woodland, and riparian areas.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Athene cunicularia burrowing owl	Fed: None CA: SSC	Primarily a grassland species, but it persists and even thrives in some landscapes highly altered by human activity. Occurs in open, annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. The overriding characteristics of suitable habitat appear to be burrows for roosting and nesting and relatively short vegetation with only sparse shrubs and taller vegetation.	No	**Presumed Absent** Portions of the project site provide line-of-sight opportunities favored by burrowing owls; however, no suitable burrows (>4 inches) were observed. In addition, the site supports and/or is surrounded by trees, structures, and utility poles that provide perching opportunities for large raptor species (i.e. red-tailed hawk [*Buteo jamaicensis*]) that prey on burrowing owls. In addition, existing on-site and adjacent land uses present significant routine disturbance.
Bombus crotchii Crotch bumble bee	Fed: None CA: None	Exclusive to coastal California east towards the Sierra-Cascade Crest; less common in western Nevada.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Bombus pensylvanicus American bumble bee	Fed: None CA: None	Prefers habitats in open farmland, prairies, and agricultural fields. Nests below grass or underground. Forages for pollen and nectar in meadows, parks, open fields, gardens, and sometimes forests.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Branta bernicula brant	Fed: None CA: SSC	Inhabits salt bays and estuaries and other coastal areas with protection from strong tidal events. Can also be found in freshwater lakes during their migration. Summers on the tundra along coastlines.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Buteo swainsoni Swainson's hawk	Fed: None CA: **THR**	Typical habitat is open desert, grassland, or cropland containing scattered, large trees or small groves. Breeds in stands with few trees in juniper-sage flats, riparian areas, and in oak savannah in the Central Valley. Forages in adjacent grassland or suitable grain or alfalfa fields or livestock pastures.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Calypte costae Costa's hummingbird	Fed: None CA: None	Desert and semi-desert, arid brushy foothills and chaparral. A desert hummingbird that breeds in the Sonoran and Mojave Deserts. Departs desert heat moving into chaparral, scrub, and woodland habitats.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Campylorhynchus brunneicapillus sandiegensis coastal cactus wren	Fed: None CA: SSC	The coastal population inhabits cactus scrub from southern Ventura County and southwestern San Bernardino County to northwestern Baja California.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Catostomus santaanae Santa Ana sucker	Fed: **THR** CA: None	Occur in the watersheds draining the San Gabriel and San Bernardino Mountains of southern California. Steams that Santa Ana Sucker inhabit are generally perennial streams with water ranging in depth from a few inches to several feet and with currents ranging from slight to swift.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Chaetodipus fallax fallax northwestern San Diego pocket mouse	Fed: None CA: SSC	Occurs in desert and coastal habitats in southern California, Mexico, and northern Baja California, from sea level to at least 1,400 meters above msl. Found in a variety of temperate habitats ranging from chaparral and grasslands to scrub forests and deserts. Requires low growing vegetation or rocky outcroppings, as well as sandy soils for burrowing.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Chaetura vauxi Vaux's swift	Fed: None CA: SSC	Prefers redwood and Douglas-fir habitats with nest-sites in large hollow trees and snags, especially tall, burned-out snags. Fairly common migrant throughout most of the state in April and May, and August and September.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Circus hudsonius northern harrier	Fed: None CA: SSC	Frequents meadows, grasslands, open rangelands, desert sinks, fresh and saltwater emergent wetlands; seldom found in wooded areas. Mostly found in flat, or hummocky, open areas of tall, dense grasses moist or dry shrubs, and edges for nesting, cover, and feeding.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Cistothorus palustris clarkae Clark's marsh wren	Fed: None CA: SSC	Breeding habitat includes marshes with tall vegetation such as cattails and bulrush. Winters in both freshwater and saltwater marshes and in brushy edges of ponds and thickets near wetlands and weedy agricultural canals.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Coccyzus americanus occidentalis western yellow-billed cuckoo	Fed: **THR** CA: **END**	In California, the breeding distribution is now thought to be restricted to isolated sites in Sacramento, Amargosa, Kern, Santa Ana, and Colorado River valleys. Obligate riparian species with a primary habitat association of willow-cottonwood riparian forest.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Contopus cooperi olive-sided flycatcher	Fed: None CA: SSC	Uncommon to common, summer resident in a wide variety of forest and woodland habitats below 9,000 ft. throughout California exclusive of the deserts, the Central Valley, and other lowland valleys and basins. Preferred nesting habitats include mixed conifer, montane hardwood-conifer, Douglas-fir, redwood, red fir, and lodgepole pine.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Coturnicops noveboracensis yellow rail	Fed: None CA: SSC	Lives in dense, grassy vegetated areas like marshes and meadows. Prefers to be concealed and is often highly camouflaged in its environment . Summers mostly in large, wet meadows or shallow marshes dominated by sedges and grasses.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Crotalus ruber red-diamond rattlesnake	Fed: None CA: SSC	Found from desert dense chaparral communities in the foothills (it avoids the mountains above around 4,000 feet), to warm inland mesas and valleys, all the way to the cool ocean shore. Most commonly associated with heavy brush and large rocks or boulders. Dense chaparral in the foothills, cactus or boulder associated coastal sage scrub, oak and pine woodlands, and desert slope scrub associations are known to carry populations of the northern red-diamond rattlesnake; however, chamise and red shank associations may offer better structural habitat for refuges and food resources for this species than other habitats.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Diadophis punctatus modestus San Bernardino ringneck snake	Fed: None CA: None	Common in open, relatively rocky areas within valley-foothill, mixed chaparral, and annual grass habitats.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Diplectrona californica California diplectronan caddisfly	Fed: None CA: None	Larvae of other *Diplectrona* species inhabit fast-flowing, cool streams in fixed retreats made from plant materials and spin attached silken capture nets which filter food particles from the water. Adults have been collected in May. Laevae Limited to San Bernardino County.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Dipodomys merriami parvus San Bernardino kangaroo rat	Fed: **END** CA: CE/SSC	Primarily found in Riversidean alluvial fan sage scrub (RAFSS) and sandy loam soils, alluvial fans and flood plains, and along washes with nearby sage scrub. May also occur at lower densities in Riversidean upland sage scrub, chaparral and grassland in uplands and tributaries in proximity to RAFSS habitat. Tends to avoid rocky substrates.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Egrettaq thula snowy egret	Fed: None CA: None	Widespread in California along shores of coastal estuaries, fresh and saline emergent wetlands, ponds, slow-moving rivers, irrigation ditches, and wet fields. In southern California, common yearlong in the Imperial Valley and along the Colorado River.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Elanus leucurus white-tailed kite	Fed: None CA: FP	Widespread in California along shores of coastal estuaries, fresh and saline emergent wetlands, ponds, slow-moving rivers, irrigation ditches, and wet fields. In southern California, common yearlong in the Imperial Valley and along the Colorado River.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Empidonax traillii willow flycatcher	Fed: None CA: **END**	Occurs in riparian woodlands in southern California. Typically requires large areas of willow thickets in broad valleys, canyon bottoms, or around ponds and lakes. These areas typically have standing or running water, or are at least moist.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Empidonax traillii extimus southwestern willow flycatcher	Fed: **END** CA: **END**	Occurs in riparian woodlands in southern California. Typically requires large areas of willow thickets in broad valleys, canyon bottoms, or around ponds and lakes. These areas typically have standing or running water, or are at least moist.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Emys marmorata western pond turtle	Fed: None CA: SSC	Found in ponds, lakes, rivers, streams, creeks, marshes, and irrigation ditches, with abundant vegetation, either rocky or muddy bottoms, in woodland, forest, and grassland. In streams, prefers pools to shallower areas. Logs, rocks, cattail mats, and exposed banks are required for basking. May enter brackish water and even seawater. Found at elevations from sea level to over 5,900 feet (1,800 m).	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Eremophila alpestris actia California horned lark	Fed: None CA: WL	Generally found in shortgrass prairies, grasslands, disturbed fields, or similar habitat types along the coast or in deserts. Trees are shrubs are usually scarce or absent. Generally rare in montane, coniferous, or chaparral habitats. Forms large flocks outside of the breeding season.	No	**Moderate** The project site provides suitable foraging and nesting habitat. Species has been observed nearby.
Eumops perotis californicus western mastiff bat	Fed: None CA: SSC	Primarily a cliff-dwelling species, roost generally under exfoliating rock slabs. Roosts are generally high above the ground, usually allowing a clear vertical drop of at least 3 meters below the entrance for flight. In California, it is most frequently encountered in broad open areas including dry desert washes, flood plains, chaparral, oak woodland, open ponderosa pine forest, grassland, and agricultural areas.	No	**Presumed Absent** The project site provides limited foraging habitat; however, no suitable roosting habitat is present.
Falco columbarius merlin	Fed: None CA: WL	Nest in forested openings, edges, and along rivers across northern North America. Found in open forests, grasslands, and especially coastal areas with flocks of small songbirds or shorebirds.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Falco mexicanus prairie falcon	Fed: None CA: WL	Commonly occur in arid and semiarid shrubland and grassland community types. Also occasionally found in open parklands within coniferous forests. During the breeding season, they are found commonly in foothills and mountains which provide cliffs and escarpments suitable for nest sites.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Falco peregrinus anatum American peregrine falcon	Fed: DL CA: DL; FP	Uncommon winter resident of the inland region of southern California. Active nesting sites are known along the coast north of Santa Barbara, in the Sierra Nevada, and in other mountains of northern California. Breeds mostly in woodland, forest, and coastal habitats. Riparian areas and coastal and inland wetlands are important habitats yearlong, especially in nonbreeding seasons.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Gila orcuttii arroyo chub	Fed: None CA: SSC	Warm streams of the Los Angeles Plain, which are typically muddy torrents during the winter, and clear quiet brooks in the summer, possibly drying up in places. They are found both in slow-moving and fast-moving sections, but generally deeper than 40 cm.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Gonidea angulata Western ridged mussel	Fed: None CA: None	Occurs on the benthos of streams, rivers, and lakes with substrates that vary from gravel to firm mud, and include at least some sand, silt or clay.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Haliaeetus leucocephalus bald eagle	Fed: DL CA: **END**	Found within a couple miles of the coast, bays, rivers, lakes, or other bodies of water. Breeds primarily in forested areas near large bodies of water. Typically nests in large, mature, easily accessible trees, but sometimes cliffs and man-made structures. Range extends from the Mexico border, through the U.S. and Canada.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Icteria virens yellow-breasted chat	Fed: None CA: SSC	Primarily found in tall, dense, relatively wide riparian woodlands and thickets of willows, vine tangles, and dense brush with well-developed understories. Nesting areas are associated with streams, swampy ground, and the borders of small ponds. Breeding habitat must be dense to provide shade and concealment. It winters south the Central America.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Ixobrychus exilis least bittern	Fed: None CA: SSC	Found in dense marshland ecosystems containing cattails and reeds, along the coast and inland. Prefers shallow waters in these areas, to navigate on foot, and generally stays close to, or hidden within, dense vegetation. Winters in saltwater, brackish, and freshwater wetlands in the coastal areas of their southernmost U.S. range.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Lanius ludovicianus loggerhead shrike	Fed: None CA: SSC	Common yearlong resident of California. Prefers open habitats with bare ground, scattered shrubs, and areas with low or sparse herbaceous cover. Requires suitable perches including trees, posts, fences, utility lines, or other perches.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Larus californicus California gull	Fed: None CA: WL	Require isolated islands in rivers, reservoirs and natural lakes for nesting, where predations pressures from terrestrial mammals are diminished. Uses both fresh and saline aquatic habitats at variable elevations and degrees of aridity for nesting and for opportunistic foraging.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Lasiurus xanthinus western yellow bat	Fed: None CA: SSC	Occurs in valley/foothill riparian, desert riparian, desert wash, and palm oasis habitats. Roosts under palm trees and feeds in, and near, palm oases and riparian habitats.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Laterallus jamaicensis coturniculus California black rail	Fed: None CA: **THR**/FP	Shallow marshes, and wet meadows; in winter, drier fresh-water and brackish marshes, as well as dense, deep grass.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Lepus californicus bennettii San Diego black-tailed jackrabbit	Fed: None CA: None	Found in diverse habitats, but primarily is found in arid regions supporting shortgrass habitats. Openness of open scrub habitat is preferred over dense chaparral.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Lynx rufus pallescens pallid bobcat	Fed: None CA: None	Found on the western edge of the great basin habitat in extreme northeast California. Live in a variety of habitats including forests, deserts, mountains, swamps, and farmland.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Myotis yumanensis Yuma myotis	Fed: None CA: SSC	Resides in moist and dry forests, riparian zones, grasslands, shrubsteppe, and deserts. Closely associated with rivers, streams, ponds, and lakes.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Nannopterum auritum double-crested cormorant	Fed: None CA: WL	Common yearlong resident in southern California. Occurs widely in freshwater and marine habitats along coastlines. Require open water where they can forage for schooling fish.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Neolarra alba white cuckoo bee	Fed: None CA: None	Found in dry, sandy areas (particularly deserts) in the American southwest near the host plants for *Perdita* bee species, of which it is a nest parasite.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Neotoma lepida intermedia San Diego desert woodrat	Fed: None CA: SSC	Occurs in coastal scrub communities between San Luis Obispo and San Diego Counties. Prefers moderate to dense canopies, and especially rocky outcrops.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Nycticorax nycticorax black-crowned night heron	Fed: None CA: None	Fairly common, yearlong resident in lowlands and foothills throughout most of California, including the Salton Sea and Colorado River areas, and very common locally in large nesting colonies. Feeds along the margins of lacustrine, large riverine, and fresh and saline emergent habitats and rarely, on kelp beds in marine sub tidal habitats. Nests and roosts in dense-foliaged trees and dense emergent wetlands.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Nyctinomops macrotis big free-tailed bat	Fed: None CA: SSC	Found in rugged and rocky terrain in arid landscapes. Located in desert shrub, woodland, and evergreen forest communities. Primarily associated with lowlands below 5,900 feet in the southwestern U.S. Roosts in crevices of high cliff faces.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Oncorhynchus mykiss irideus pop. 10 steelhead-southern California DPS	Fed: **END** CA: CE	The DPS includes all naturally spawned anadromous Coastal Rainbow trout populations downstream of natural and human-made barriers in streams from the Santa Maria River (San Luis Obispo County) to the Tijuana River on the U.S.-Mexico border. They are most abundant in the four largest watersheds in the northern portion of their range: the Santa Maria, Santa Ynez, Ventura, and Santa Clara rivers.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Pandion haliaetus osprey	Fed: None CA: WL	Remains close to still or slow-moving bodies of water including oceans, rivers, lakes, mangroves, coastal wetlands, lagoons, reefs, estuaries and marshes. Generally nests in high places, such as trees, power poles, or cliffs.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Pelecanus erythrorhynchos American white pelican	Fed: None CA: SSC	Locally common winter resident of southern California. Typically forage in shallow inland waters, such as open areas in marshes and along lake or river edges. Also occur in shallow coastal marine habitats.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Perognathus longimembris brevinasus Los Angeles pocket mouse	Fed: None CA: SSC	Occurs in lower elevation grasslands and coastal sage scrub communities in and around the Los Angeles Basin. Prefers open ground with fine sandy soils. May not dig extensive burrows, but instead will seek refuge under weeds and dead leaves instead.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Phrynosoma blainvillii coast horned lizard	Fed: None CA: SSC	Found in a wide variety of vegetation types including coastal sage scrub, annual grassland, chaparral, oak woodland, riparian woodland and coniferous forest. The key elements of such habitats are loose, fine soils with a high sand fraction; an abundance of native ants or other insects; and open areas with limited overstory for basking and low, but relatively dense shrubs for refuge.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Piranga rubra summer tanager	Fed: None CA: None	Breeds in open spaces of woodlands and forest edges. Prefers oaks and riparian woodlands of cottonwood and willow.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Plegadis chihi white-faced ibis	Fed: None CA: WL	Prefers to feed in fresh emergent wetland, shallow lacustrine waters, muddy ground of wet meadows, and irrigated or flooded partures and croplands. Nests in dense, fresh emergent wetland.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Polioptila californica californica coastal California gnatcatcher	Fed: **THR** CA: SSC	Common yearlong resident of southern California in sage scrub habitats that are dominated by California sagebrush (*Artemisia californica*). Prefers scrub habitat with more low-growing vegetation. Species generally occurs below 750 feet above mean sea level (msl) along the coast and below 1,500 feet above msl within inland regions.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Pyrocephalus rubinus vermilion flycatcher	Fed: None CA: SSC	Occupies desert riparian habitat, particularly cottonwoods, willows, mesquite, and other large desert riparian trees, in habitat adjacent to irrigated fields, irrigation ditches, pastures, and other open, mesic areas where it can forage.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Salvadora hexalepis virgultea coast patch-nosed snake	Fed: None CA: SSC	Inhabits semi-arid brushy areas and chaparral in canyons, rocky hillsides, and plains. Requires friable soils for burrowing.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Selasphorus rufus rufous hummingbird	Fed: None CA: None	During breeding, they are found in forests, on seed-tree harvest units, riparian shrub, and spruce-fir habitats. During the winter, it migrates to lowland stream bottoms, foothill brush land, seacoast and high mountain meadows.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Setophaga petechia yellow warbler	Fed: None CA: SSC	Nests over all of California except the Central Valley, the Mojave Desert region, and high altitudes and the eastern side of the Sierra Nevada. Winters along the Colorado River and in parts of Imperial and Riverside Counties. Nests in riparian areas dominated by willows, cottonwoods, sycamores, or alders or in mature chaparral. May also use oaks, conifers, and urban areas near stream courses.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Spea hammondii western spadefoot	Fed: None CA: SSC	Prefers open areas with sandy or gravelly soils, in a variety of habitats including mixed woodlands, grasslands, coastal sage scrub, chaparral, sandy washed, lowlands, river floodplains, alluvial fans, playas, alkali flats, foothills, and mountains. Rainpools which do not contain bullfrogs, fish, or crayfish are necessary for breeding.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Spinus lawrencei Lawrence's finch	Fed: None CA: None	Open woodlands, chaparral, and weedy fields. Closely associated with oaks. Nests in open oak or other arid woodland and chaparral near water.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Taricha torosa Coast Range newt	Fed: None CA: SSC	Resides in coastal areas. Found near small ponds, creeks, and seeps in woodlands and chaparral.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Taxidea taxus American badger	Fed: None CA: SSC	Primarily occupy grasslands, parklands, farms, tallgrass and shortgrass prairies, meadows, shrub-steppe communities and other treeless areas with sandy loam soils where it can dig more easily for its prey. Occasionally found in open chaparral (with less than 50% plant cover) and riparian zones.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Thamnophis hammondii two-striped garter snake	Fed: None CA: SSC	Occurs in or near permanent fresh water, often along streams with rocky beds and riparian growth up to 7,000 feet in elevation.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
***Thamnophis sirtalis* pop. 1** south coast gartersnake	Fed: None CA: SSC	Utilizes a variety of habitats including forests, mixed woodlands, grassland, chaparral, and farmlands. Often found near ponds, marshes, or streams.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Vireo bellii pusillus least Bell's vireo	Fed: **END** CA: **END**	Primarily occupy Riverine riparian habitat that typically feature dense cover within 1 -2 meters of the ground and a dense, stratified canopy. Typically it is associated with southern willow scrub, cottonwood-willow forest, mule fat scrub, sycamore alluvial woodlands, coast live oak riparian forest, arroyo willow riparian forest, or mesquite in desert localities. It uses habitat which is limited to the immediate vicinity of water courses, 2,000 feet elevation in the interior.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Xanthocephalus xanthocephalus yellow-headed blackbird	Fed: None CA: SSC	Uncommon yearlong resident of southern California throughout freshwater emergent wetlands, and moist, open areas along agricultural areas, and mudflats of lacustrine habitats. Prefers to nest in dense wetland vegetation characterized by cattails, tules, or other similar plant species along the border of lakes and ponds.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

SPECIAL-STATUS PLANT SPECIES				
Abronia villosa var. aurita chaparral sand-verbena	Fed: None CA: None CNPS: 1B.1	Grows in sandy soils in coastal sage scrub and in chaparral habitats. Grows in elevation from 262 to 5,249 feet. Blooming period ranges from January to September.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Astragalus brauntonii Braunton's milk-vetch	Fed: **END** CA: None CNPS: 1B.1	Restricted to carbonate soils of the foothills of the southern California mountains. Occurs in disturbed chaparral, coastal sage scrub, and closed-cone forests, and generally occurs at the top of knolls. Blooming period is from January to August.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Atriplex coulteri Coulter's saltbush	Fed: None CA: None CNPS: 1B.2	Grows in alkaline or clay soils within coastal bluff scrub, coastal dunes, coastal scrub, and valley and foothill grassland habitats. Found at elevations ranging from 10 to 1,510 feet. Blooming period is from March to October.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Berberis nevinii Nevin's barberry	Fed: **END** CA: **END** CNPS: 1B.1	Occurs on steep, north-facing slopes or in low-grade sandy washes in chaparral, cismontane woodland, coastal scrub, and riparian scrub. Found at elevations ranging from 951 to 5,167 feet. Blooming period is from March to June.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Calochortus catalinae Catalina mariposa-lily	Fed: None CA: None CNPS: 4.2	Grows in chaparral, cismontane woodland, coastal scrub, and valley and foothill grassland habitats. Found at elevations ranging from 49 to 2,297 feet. Blooming period is from March to June.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Calochortus plummerae Plummer's mariposa-lily	Fed: None CA: None CNPS: 4.2	Prefers openings in chaparral, foothill woodland, coastal sage scrub, valley and foothill grasslands, cismontane woodland, lower montane coniferous forest and yellow pine forest. Often found on dry, rocky slopes and soils and brushy areas. Can be very common after a fire. From 328 to 5,577 feet in elevation. Blooming period is from May to July.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Calochortus weedii var. intermedius intermediate mariposa-lily	Fed: None CA: None CNPS: 1B.2	Found in coastal and peninsular ranges, Grows in heavy rocky soils from sea level to 6,200 feet. Blooms from June to July.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Calystegia felix lucky morning-glory	Fed: None CA: None CNPS: 1B.1	Grows within meadows and seeps (sometimes alkaline) and riparian scrub (alluvial) habitats. Found at elevations ranging from 100 to 705 feet. Blooming period is from March to September.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Calystegia sepium ssp. binghamiae Santa Barbara morning-glory	Fed: None CA: None CNPS: 1A	Grows in coastal communities, especially coastal salt marsh, and wetland-riparian areas. Blooms from April to May.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Camissoniopsis lewisii Lewis' evening primrose	Fed: None CA: None CNPS: 3	Native to southern California and Baja California. Grows in coastal habitat and on grasslands of inland mountain ranges in sandy or clayish substrates below 1,000 feet. Blooms from March to June.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Centromadia pungens ssp. laevis smooth tarplant	Fed: None CA: None CNPS: 1B.1	Occurs in alkaline soils within chenopod scrub, meadows and seeps, playas, riparian woodland, and valley and foothill grassland habitats. Grows in elevation ranging from 0 to 2,100 feet. Blooming period ranges from April to September.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Cladium californicum California saw-grass	Fed: None CA: None CNPS: 2B.2	Found in meadows and seeps, marshes and alkaline swamps or freshwater habitats. Found at elevations ranging from 197 to 5,249 feet. Blooming period is from June to September.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Convolvulus simulans small-flowered morning glory	Fed: None CA: None CNPS: 4.2	Restricted to clay and serpentine substrates in annual grassland, coastal sage scrub, and chaparral communities within Arizona, California, and Baja California. Blooms from March to July.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Deinandra paniculata paniculate tarplant	Fed: None CA: None CNPS: 4.2	Typically found in vernally mesic, sometimes sandy soils in coastal scrub, valley and foothill grasslands, and vernal pools. Found at elevations ranging from 80 to 3,085 feet. Blooming period is from April to November.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Dodecahema leptoceras slender-horned spineflower	Fed: **END** CA: **END** CNPS: 1B.1	Chaparral, coastal scrub (alluvial fan sage scrub). Flood deposited terraces and washes. Found at elevations ranging from 1,181 to 2,690 feet. Blooming period is from April to June.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Dudleya multicaulis many-stemmed dudleya	Fed: None CA: None CNPS: 1B.2	Endemic to southern California, and mostly Orange County. Found along the coastal plain in heavy clay soils. Grows in coastal sage scrub, chaparral, and valley grassland communities. Blooms from April to July.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Eriastrum densifolium ssp. sanctorum Santa Ana River woollystar	Fed: **END** CA: **END** CNPS: 1B.1	Grows in sandy or gravelly soils within chaparral and coastal scrub habitat. Found at elevations ranging from 299 to 2,001 feet. Blooming period is from April to September.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Horkelia cuneata* var. *puberula mesa horkelia	Fed: None CA: None CNPS: 1B.1	Occurs on sandy or gravelly soils in chaparral, woodlands, and coastal scrub plant communities. Found at elevations ranging from 230 to 2,657 feet. Blooming period is from February to September.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Juglans californica southern California black walnut	Fed: None CA: None CNPS: 4.2	Found in chaparral, cismontane woodland, coastal scrub, and riparian woodland habitats. Found at elevations ranging from 164 to 2,953 feet. Blooming period is from March to August.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Juncus acutus* ssp. *leopoldii southwestern spiny rush	Fed: None CA: None CNPS: 4.2	Found in coastal dunes (mesic), meadows and seeps (alkaline seeps), and marshes and swamps (coastal salt). Found at elevations ranging from 0 to 3,115 feet. Blooming period is from May to July.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Lepidium virginicum* var. *robinsonii Robinson's pepper-grass	Fed: None CA: None CNPS: 4.3	Dry soils on chaparral and coastal sage scrub. Found at elevations ranging from 3 to 2,904 feet. Blooming period is from January to July.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Microseris douglasii ssp. platycarpha small-flowered microseris	Fed: None CA: None CNPS: 4.2	Grows in clay soils within cismontane woodland, coastal scrub, valley and foothill grasslands, and vernal pool habitats. Found at elevations ranging from 50 to 3,500 feet. Blooming period is from March to May.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site. **Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Mondardella australis ssp. jokerstii Jokerst's monardella	Fed: None CA: None CNPS: 1B.1	Found along the coast within dunes and coastal strand communities. Blooms from May to September.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Muhlenbergia californica California muhly	Fed: None CA: None CNPS: 4.3	Found in mesic, seeps, and streambanks within chaparral, coastal scrub, lower montane coniferous forest, and meadows and seeps. Found at elevations ranging from 328 to 6,562 feet. Blooming period is from June to September.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.

Muhlenbergia utilis aparego grass	Fed: None CA: None CNPS: 2B.2	Grows in wet habitats, including riverbanks and meadows, sometimes alkaline soils. Found at elevations ranging from 80 to 7,630 feet. Blooming period is from October to March.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Navarretia prostrata prostrate vernal pool navarretia	Fed: None CA: None CNPS: 1B.2	Found in mesic soils in coastal scrub, meadows and seeps, valley and foothill grasslands (alkaline), and vernal pools. Found at elevations ranging from 65 to 2,100 feet. Blooming period is from April to July.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Pseudognaphalium leucocephalum white rabbit-tobacco	Fed: None CA: None CNPS: 2B.2	Grows in sandy, gravelly soils within chaparral, cismontane woodland, coastal scrub, and riparian woodland habitats. Found at elevations ranging from 0 to 6,890 feet. Blooming period is from July to December.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Romneya coulteri Coulter's matilija poppy	Fed: None CA: None CNPS: 4.2	Grows in dry canyons, slopes, and sandy washes within chaparral and coastal sage scrub plant communities below 4000 feet. Can also be found in recently burned areas. Common as an ornamental choice in gardens and parks. Blooms from March to August.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Sidalcea neomexicana Salt Spring checkerbloom	Fed: None CA: None CNPS: 2B.2	Habitat includes chaparral, coastal scrub, lower montane coniferous forest, plays, and mojavean desert scrub. Found at elevations ranging from 49 to 5,020 feet. Blooming period is from March to June.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Symphyotrichum defoliatum San Bernardino aster	Fed: None CA: None CNPS: 1B.2	Grows in cismontane woodland, coastal scrub, lower montane coniferous forest, meadows and seeps, marshes and swamps, valley and foothill grassland (vernally mesic). Can be found growing near ditches, streams, and springs within these habitats. Found at elevations ranging from 7 to 6,693 feet. Blooming period is from July to November.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Thysanocarpus rigidus rigid fringepod	Fed: None CA: None CNPS: 1B.2	Occurs along rocky ridges, slopes and washes in woodland and chaparral plant communities. From 1,969 to 7,218 feet in elevation. Blooming period is from February to May.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
SPECIAL-STATUS PLANT COMMUNITIES				
California Walnut Woodland	CDFW Sensitive Habitat	Includes species such as live oak (*Quercus virginiana*), toyon (*Heteromeles arbutifolia*), and southern California black walnut (*Juglans californica*). Contains mostly shrubs and very few woody tree species with a dominant grass understory. Occurs in valleys and on south-facing slopes.	No	**Absent**
Riversidian Alluvial Fan Sage Scrub	CDFW Sensitive Habitat	Occur within broad washes of sandy alluvial drainages that carry rainfall runoff sporadically in winter and spring but remain relatively dry through the remainder of the year. Is restricted to drainages and floodplains with very sandy substrates that have a dearth of decomposed plant material. These areas do not develop into riparian woodland or scrub due to the limited water resources and scouring by occasional floods.	No	**Absent**
Southern Cottonwood Willow Riparian Forest	CDFW Sensitive Habitat	Dominated by cottonwood (*Populus* ssp.) and willow (*Salix* ssp.) trees and shrubs. Considered to be an early successional stage as both species are known to germinate almost exclusively on recently deposited or exposed alluvial soils.		**Absent**
Southern Sycamore Alder Riparian Woodland	CDFW Sensitive Habitat	Below 2,000 meters in elevation, sycamore and alder often occur along seasonally flooded banks; cottonwoods and willows also are often present. Poison-oak, mugwort, elderberry and wild raspberry may be present in the understory.		**Absent**

Southern Willow Scrub	CDFW Sensitive Habitat	Occurs on loose, sandy, or fine, gravelly alluvium deposited near stream channels during flood flows. Characterized by frequent flooding which prevents succession of riparian woodland or forest. Generally along stream banks, benches, slope seeps, rivers, broad drainages, and floodplains.		**Absent**

U.S. Fish and Wildlife Service (USFWS) - Federal
END - Federally Endangered
THR - Federally Threatened
DL - Delisted

California Department of Fish and Wildlife (CDFW) - California
END - State Endangered
CEND - State Candidate Endangered
SSC - Species of Special Concern
WL - Watch List
FP - Fully Protected

California Native Plant Society (CNPS)
California Rare Plant Rank
1A Plants Presumed Extirpated in California and Either Rare or Extinct Elsewhere
1B Plants Rare, Threatened, or Endangered in California and Elsewhere
2B Plants Rare, Threatened, or Endangered in California, but More Common Elsewhere
3 Plants about which we need more information
4 Plants of Limited Distribution – A Watch List

Threat Ranks
0.1 - Seriously threatened in California
0.2 - Moderately threatened in California
0.3 - Not very threatened in California

Attachment D

Regulations

Special status species are native species that have been afforded special legal or management protection because of concern for their continued existence. There are several categories of protection at both federal and state levels, depending on the magnitude of threat to continued existence and existing knowledge of population levels.

Federal Regulations

Endangered Species Act of 1973

Federally listed threatened and endangered species and their habitats are protected under provisions of the Federal Endangered Species Act (ESA). Section 9 of the ESA prohibits "take" of threatened or endangered species. "Take" under the ESA is defined as to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any of the specifically enumerated conduct." The presence of any federally threatened or endangered species that are in a project area generally imposes severe constraints on development, particularly if development would result in "take" of the species or its habitat. Under the regulations of the ESA, the United States Fish and Wildlife Service (USFWS) may authorize "take" when it is incidental to, but not the purpose of, an otherwise lawful act.

Critical Habitat is designated for the survival and recovery of species listed as threatened or endangered under the ESA. Critical Habitat includes those areas occupied by the species, in which are found physical and biological features that are essential to the conservation of an ESA listed species and which may require special management considerations or protection. Critical Habitat may also include unoccupied habitat if it is determined that the unoccupied habitat is essential for the conservation of the species.

Whenever federal agencies authorize, fund, or carry out actions that may adversely modify or destroy Critical Habitat, they must consult with USFWS under Section 7 of the ESA. The designation of Critical Habitat does not affect private landowners, unless a project they are proposing uses federal funds, or requires federal authorization or permits (e.g., funding from the Federal Highway Administration or a permit from the U.S. Army Corps of Engineers (Corps)).

If USFWS determines that Critical Habitat will be adversely modified or destroyed from a proposed action, the USFWS will develop reasonable and prudent alternatives in cooperation with the federal institution to ensure the purpose of the proposed action can be achieved without loss of Critical Habitat. If the action is not likely to adversely modify or destroy Critical Habitat, USFWS will include a statement in its biological opinion concerning any incidental take that may be authorized and specify terms and conditions to ensure the agency is in compliance with the opinion.

Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) (16 U.S. Government Code [USC] 703) makes it unlawful to pursue, capture, kill, possess, or attempt to do the same to any migratory bird or part, nest, or egg of any such bird listed in wildlife protection treaties between the United States, Great Britain, Mexico, Japan, and the countries of the former Soviet Union, and authorizes the U.S. Secretary of the Interior to protect and regulate the taking of migratory birds. It establishes seasons and bag limits for hunted species and protects migratory birds, their occupied nests, and their eggs (16 USC 703; 50 CFR 10, 21).

The MBTA covers the taking of any nests or eggs of migratory birds, except as allowed by permit pursuant to 50 CFR, Part 21. Disturbances causing nest abandonment and/or loss of reproductive effort (i.e., killing or abandonment of eggs or young) may also be considered "take." This regulation seeks to protect migratory birds and active nests.

In 1972, the MBTA was amended to include protection for migratory birds of prey (e.g., raptors). Six families of raptors occurring in North America were included in the amendment: Accipitridae (kites, hawks, and eagles); Cathartidae (New World vultures); Falconidae (falcons and caracaras); Pandionidae (ospreys); Strigidae (typical owls); and Tytonidae (barn owls). The provisions of the 1972 amendment to the MBTA protects all species and subspecies of the families listed above. The MBTA protects over 800 species including geese, ducks, shorebirds, raptors, songbirds and many relatively common species.

State Regulations

California Environmental Quality Act (CEQA)

The California Environmental Quality Act (CEQA) provides for the protection of the environment within the State of California by establishing State policy to prevent significant, avoidable damage to the environment through the use of alternatives or mitigation measures for projects. It applies to actions directly undertaken, financed, or permitted by State lead agencies. If a project is determined to be subject to CEQA, the lead agency will be required to conduct an Initial Study (IS); if the IS determines that the project may have significant impacts on the environment, the lead agency will subsequently be required to write an Environmental Impact Report (EIR). A finding of non-significant effects will require either a Negative Declaration or a Mitigated Negative Declaration instead of an EIR. Section 15380 of the CEQA Guidelines independently defines "endangered" and "rare" species separately from the definitions of the California Endangered Species Act (CESA). Under CEQA, "endangered" species of plants or animals are defined as those whose survival and reproduction in the wild are in immediate jeopardy, while "rare" species are defined as those who are in such low numbers that they could become endangered if their environment worsens.

California Endangered Species Act (CESA)

In addition to federal laws, the state of California implements the CESA which is enforced by CDFW. The CESA program maintains a separate listing of species beyond the FESA, although the provisions of each act are similar.

State-listed threatened and endangered species are protected under provisions of the CESA. Activities that may result in "take" of individuals (defined in CESA as; "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill") are regulated by CDFW. Habitat degradation or modification is not included in the definition of "take" under CESA. Nonetheless, CDFW has interpreted "take" to include the destruction of nesting, denning, or foraging habitat necessary to maintain a viable breeding population of protected species.

The State of California considers an endangered species as one whose prospects of survival and reproduction are in immediate jeopardy. A threatened species is considered as one present in such small numbers throughout its range that it is likely to become an endangered species in the near future in the

absence of special protection or management. A rare species is one that is considered present in such small numbers throughout its range that it may become endangered if its present environment worsens. State threatened and endangered species are fully protected against take, as defined above.

The CDFW has also produced a species of special concern list to serve as a species watch list. Species on this list are either of limited distribution or their habitats have been reduced substantially, such that a threat to their populations may be imminent. Species of special concern may receive special attention during environmental review, but they do not have formal statutory protection. At the federal level, USFWS also uses the label species of concern, as an informal term that refers to species which might be in need of concentrated conservation actions. As the Species of Concern designated by USFWS do not receive formal legal protection, the use of the term does not necessarily ensure that the species will be proposed for listing as a threatened or endangered species.

Fish and Game Code

Fish and Game Code Sections 3503, 3503.5, 3511, and 3513 are applicable to natural resource management. For example, Section 3503 of the Code makes it unlawful to destroy any birds' nest or any birds' eggs that are protected under the MBTA. Further, any birds in the orders Falconiformes or Strigiformes (Birds of Prey, such as hawks, eagles, and owls) are protected under Section 3503.5 of the Fish and Game Code which makes it unlawful to take, possess, or destroy their nest or eggs. A consultation with CDFW may be required prior to the removal of any bird of prey nest that may occur on a project site. Section 3511 of the Fish and Game Code lists fully protected bird species, where the CDFW is unable to authorize the issuance of permits or licenses to take these species. Pertinent species that are State fully protected by the State include golden eagle (*Aquila chrysaetos*) and white-tailed kite (*Elanus leucurus*). Section 3513 of the Fish and Game Code makes it unlawful to take or possess any migratory nongame bird as designated in the MBTA or any part of such migratory nongame bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the MBTA.

Native Plant Protection Act

Sections 1900–1913 of the Fish and Game Code were developed to preserve, protect, and enhance Rare and Endangered plants in the state of California. The act requires all state agencies to use their authority to carry out programs to conserve Endangered and Rare native plants. Provisions of the Native Plant Protection Act prohibit the taking of listed plants from the wild and require notification of the CDFW at least ten days in advance of any change in land use which would adversely impact listed plants. This allows the CDFW to salvage listed plant species that would otherwise be destroyed.

California Native Plant Society Rare and Endangered Plant Species

Vascular plants listed as rare or endangered by the CNPS, but which have no designated status under FESA or CESA are defined as follows:

California Rare Plant Rank

1A- Plants Presumed Extirpated in California and either Rare or Extinct Elsewhere

1B- Plants Rare, Threatened, or Endangered in California and Elsewhere

2A- Plants Presumed Extirpated in California, But More Common Elsewhere

2B- Plants Rare, Threatened, or Endangered in California, But More Common Elsewhere

3- Plants about Which More Information is Needed - A Review List

4- Plants of Limited Distribution - A Watch List

Threat Ranks

.1- Seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat)

.2- Moderately threatened in California (20-80% occurrences threatened / moderate degree and immediacy of threat)

.3- Not very threatened in California (<20% of occurrences threatened / low degree and immediacy of threat or no current threats known).

There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The Corps Regulatory Branch regulates activities pursuant to Section 404 of the Federal Clean Water Act (CWA) and Section 10 of the Rivers and Harbors Act. Of the State agencies, the CDFG regulates activities under the Fish and Game Code Section 1600-1616, and the Regional Board regulates activities pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Control Act.

Federal Regulations

Section 404 of the Clean Water Act

Since 1972, the Corps and U.S. Environmental Protection Agency (EPA) have jointly regulated the filling of "waters of the U.S.," including wetlands, pursuant to Section 404 of the Clean Water Act (CWA). The Corps has regulatory authority over the discharge of dredged or fill material into the waters of the United States under Section 404 of the CWA. The Corps and EPA define "fill material" to include any "material placed in waters of the United States where the material has the effect of: (i) replacing any portion of a water of the United States with dry land; or (ii) changing the bottom elevation of any portion of the waters of the United States." Examples include, but are not limited to, sand, rock, clay, construction debris, wood chips, and "materials used to create any structure or infrastructure in the waters of the United States."

The Pre-2015 Regulatory definitions are as follows:

> (a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
> (b)All interstate waters, including interstate "wetlands;"
> (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
>
> > (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes;
> > (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
> > (3) Which are used or could be used for industrial purposes by industries in interstate commerce;
>
> (d) All impoundments of waters otherwise defined as waters of the United States under this definition;
> (e) Tributaries of waters identified in paragraphs (1) – (4) of this definition;
> (f)The territorial sea; and
> (g) "Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) – (f) of this definition.

Section 401 of the Clean Water Act

Pursuant to Section 401 of the CWA, any applicant for a federal license or permit to conduct any activity which may result in any discharge to waters of the United States must provide certification from the State or Indian tribe in which the discharge originates. This certification provides for the protection of the

physical, chemical, and biological integrity of waters, addresses impacts to water quality that may result from issuance of federal permits, and helps insure that federal actions will not violate water quality standards of the State or Indian tribe. In California, there are nine Regional Water Quality Control Boards (Regional Board) that issue or deny certification for discharges to waters of the United States and waters of the State, including wetlands, within their geographical jurisdiction. The State Water Resources Control Board assumed this responsibility when a project has the potential to result in the discharge to waters within multiple Regional Boards.

State Regulations

Fish and Game Code

Fish and Game Code Sections 1600 et. seq. establishes a fee-based process to ensure that projects conducted in and around lakes, rivers, or streams do not adversely impact fish and wildlife resources, or, when adverse impacts cannot be avoided, ensures that adequate mitigation and/or compensation is provided.

Fish and Game Code Section 1602 requires any person, state, or local governmental agency or public utility to notify the CDFW before beginning any activity that will do one or more of the following:

(1) substantially obstruct or divert the natural flow of a river, stream, or lake;
(2) substantially change or use any material from the bed, channel, or bank of a river, stream, or lake; or
(3) deposit or dispose of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass into a river, stream, or lake.

Fish and Game Code Section 1602 applies to all perennial, intermittent, and ephemeral rivers, streams, and lakes in the State. CDFW's regulatory authority extends to include riparian habitat (including wetlands) supported by a river, stream, or lake regardless of the presence or absence of hydric soils and saturated soil conditions. Generally, the CDFW takes jurisdiction to the top of bank of the stream or to the outer limit of the adjacent riparian vegetation (outer drip line), whichever is greater. Notification is generally required for any project that will take place in or in the vicinity of a river, stream, lake, or their tributaries. This includes rivers or streams that flow at least periodically or permanently through a bed or channel with banks that support fish or other aquatic life and watercourses having a surface or subsurface flow that support or have supported riparian vegetation. A Section 1602 Streambed Alteration Agreement would be required if impacts to identified CDFW jurisdictional areas occur.

Porter Cologne Act

The California *Porter-Cologne Water Quality Control Act* gives the State very broad authority to regulate waters of the State, which are defined as any surface water or groundwater, including saline waters. The Porter-Cologne Act has become an important tool in the post SWANCC and Rapanos regulatory environment, with respect to the state's authority over isolated and insignificant waters. Generally, any person proposing to discharge waste into a water body that could affect its water quality must file a Report of Waste Discharge in the event that there is no Section 404/401 nexus. Although "waste" is partially defined as any waste substance associated with human habitation, the Regional Board also interprets this to include fill discharged into water bodies.