Appendix B – Biological Resources Report

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ENVIRONMENTAL CONSULTANTS

February 8, 2019

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RE: Biological Technical Report for the City of Avalon Five Corners Project

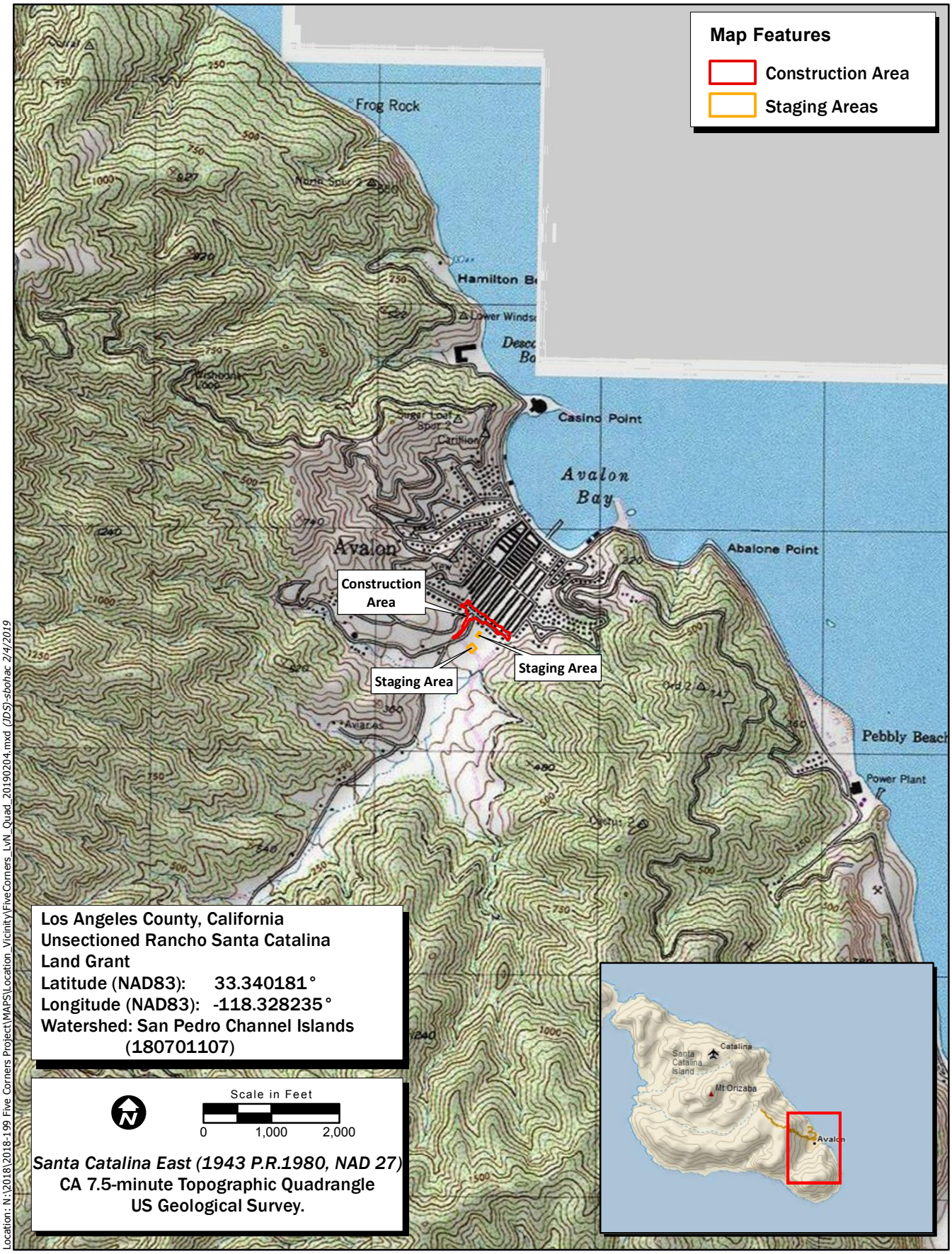
This report documents the results of a records search and site visit conducted by ECORP Consulting, Inc. for the City of Avalon Five Corners Project (Proposed Project). The Proposed Project is located within the City of Avalon (City), on Santa Catalina Island (Figure 1. *Project Location and Vicinity*). Santa Catalina Island is located approximately 20 miles off of the coast of Los Angeles and is considered within Los Angeles County. The Proposed Project is intended to address operational and safety deficiencies at the "Five Corners" intersection, which serves as a crossroads within the City of Avalon for residents and visitors traveling between the beach and downtown commercial area.

PROJECT LOCATION AND DESCRIPTION

The Proposed Project is located within the City on the southeast side of Santa Catalina Island. The Project area comprises a segment of Tremont Street generally between Summer Avenue to the northwest and Clemente Avenue to the southeast and the cluster of intersections including Sumner Avenue, Country Club Drive and Avalon Canyon Road. The Biological Study Area (BSA, Figure 2. *Biological Survey Area*), which encompasses the area of Project impact and staging (Construction Area), plus a 200-foot buffer is within the U.S. Geological Survey (USGS) Santa Catalina East (1943 P.R. 1980, NAD 27) CA 7.5-minute Topographic Quadrangle. This land has been in private ownership since before California joined the United States. It is therefore not part of the Township and Range system, which is a survey of federal lands.

The Five Corners intersection is an angled four-way stop in close proximity to many frequented locations, including Avalon Elementary and High schools, City of Avalon Fire Department, City Hall, and the Catalina Island Medical Center. The current design of the intersection presents a safety risk due to its awkward configuration, failure to meet current traffic design standards, and lack of adequate and safe pedestrian and Americans with Disabilities (ADA) access.

The Project consists of the construction of two "dual mini-roundabout" intersections, new sidewalk segments to close existing gaps, and construction of six pedestrian crossings. All construction work will take place in the existing right-of-way (ROW). Vehicles and equipment will be staged within the Construction Area and two designated areas within an existing lot currently used for equipment staging and storage (see Figure 2). No ROW would be acquired.



Location: N:\2018\2018-199 Five Corners Project\MAPS\Location_Vicinity\FiveCorners_LvN_Quad_20190204.mxd (JDS)-sbohac 2/4/2019

Map Date: 2/4/2019

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Figure 1. Project Location and Vicinity

2018-199 Five Corners Project

Figure 2
Biological Survey Area (BSA)

Map Features

- Construction Area
- Staging Area
- Biological Survey Area (BSA)
- Photo Point

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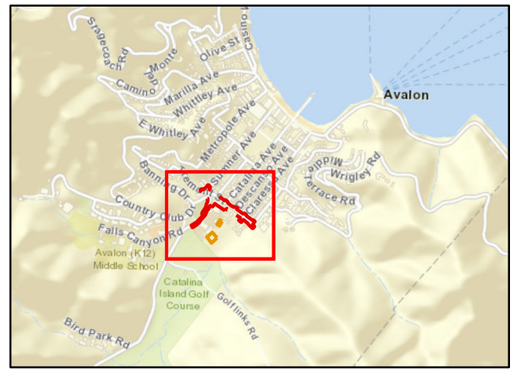

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Location: N:\2018\2018-199 Five Corners Project\MAPS\Aerial_Maps\FiveCorners_BSA_20190204.mxd (SAB)-sbohac 2/8/2019

2018-199 Five Corners Project

Scale in Feet
0 120

Photo Source: 2013, USGS

Map Date: 2/8/2019

The Build Alternative would include new sidewalk segments installed on the south side of the Study Area between the western leg of Tremont Street and Country Club Avenue, between Country Club Avenue and Avalon Canyon Road, along the east side of Avalon Canyon Road between Tremont Street and the western terminus of the City Hall complex, and along the eastern leg of Tremont Street. On-street parking would also be constructed along the eastern leg of Tremont Street and along Avalon Canyon Road. A new sidewalk would be constructed along Tremont Avenue on the north side of the Study Area between Catalina Avenue and Eucalyptus Avenue. A new bus stop would also be constructed in this segment. New sidewalk legs would be constructed between the crosswalk termini and the adjacent sidewalks. New crosswalks would also connect all new sidewalk segments. New hardscape and landscape improvements would be incorporated along the roundabout perimeter to integrate the new facilities into the existing environment. A new 19-space paved parking lot would be constructed at the southeast corner of the Tremont Avenue and Avalon Canyon Road intersection. The parking stalls would be designed to accommodate low-speed vehicles (i.e., Autoette, golf cart). The stalls would not be designed for full size vehicles.

Removal of existing vegetation would be required along the Study Area perimeter to accommodate new construction. These species are comprised of various types of palm trees, eucalyptus trees, California pepper trees and ornamental shrubs. Where feasible, mature palm trees that are located in the disturbance area will be replanted as part of the landscaping improvements. No sensitive plants, animals or their habitat would be affected by the improvements.

Installation of the improvements along the south side of Tremont Street and along the west side of Avalon Canyon Road would require removal of an 18-inch-tall rock stem wall adjacent to the street, an elevated dirt fill area and stacked concrete wall located adjacent to an existing storm channel. The storm channel feature along Tremont Street is part of an extensive open-channel, concrete-lined (i.e., bottom and sides) drainage system that conveys flows from northwest of Avalon Canyon Road southeast to a concrete lined segment of Avalon Creek located southeast of Clemente Avenue. The channel segment along Tremont Street is in parts concrete-lined and is part of the series of improvements in the watershed to convey storm flows and minimize flooding during storm events. This channel segment would be graded, filled, and improved to match adjacent grade. All stormwater would be channeled into a concrete box culvert constructed under Tremont Street with discharge into a reconstructed channel segment along Tremont Street then into the existing concrete-lined segment of Avalon Creek located east of the study area.

Above ground electrical utilities within the Study Area would be placed underground to more efficiently utilize the existing ROW.

The construction of an all-weather gravel pad on the southwest side of Tremont Street (within the Construction Area) is proposed for use as a staging and materials storage area. The proposed pad is 50 feet by 150 feet and will remain open and unvegetated. Additional equipment and materials storage is proposed on two disturbed areas outside of the Construction Area. One would be approximately 2,800 square feet and generally located south of City Hall property. The other would be 7,200 square feet and located on property owned by the Island Company behind the Los Angeles County Fire Department

station located at 420 Avalon Canyon Road. The area would be temporarily leased to the City for use as a staging area.

The entire Construction Area totals ±2.16 acres. Construction of the Proposed Project is expected to begin in August 2019 and be completed in May 2020.

Under the No Build Alternative, roadway improvements associated with the Proposed Project would not be constructed. There would be no change in existing traffic patterns and over time, existing traffic management would continue to be outdated, resulting in the perpetuation of existing safety issues, as well as traffic congestion and delay. The No Build Alternative does not meet the purpose of or need for the project. There would be no cost associated with this alternative.

PROJECT PURPOSE

The City proposes the construction of two "dual mini-roundabout" intersections, new sidewalk segments to close existing gaps, and six pedestrian crossings. Improvements would also extend southwest along Avalon Canyon Road generally to the south end of the City Hall and Fire Station complex and southeast along Tremont Street to just west of the Catalina Avenue intersection. The purpose of the mini roundabouts is to channelize and calm traffic and provide shorter, safer, and more convenient pedestrian crossings. The design is expected to reduce user confusion and create a more comfortable pedestrian and bicycle environment. The roundabouts would be a low-profile design to channelize vehicles around them and accommodate mounting by longer vehicles like fire trucks, school buses and delivery trucks.

Under current conditions, the Five Corners intersection is awkwardly configured, does not meet current traffic design standards, and lacks adequate and safe pedestrian and ADA access. The intersections that comprise this area are located so close to one another that the location is perceived as one intersection by motorists and pedestrians. Thus, it essentially operates as a five-legged all-way stop-controlled intersection with an elongated section that results in long diagonal movements by the majority of vehicles. In addition to vehicle use, there is significant pedestrian activity in this area. Pedestrians use a variety of routes through the intersection depending on the destination, level of vehicle activity and areas of traffic congestion. Some use crosswalks, while others cross in non-designated pedestrian areas where traffic movement is uncontrolled. Approximately 55 percent of the intersection frontage has no sidewalks, which contributes to confusion navigating Five Corners for both motorists and pedestrians.

The two roundabouts would eliminate the stop-controlled intersections and facilitate continuous traffic circulation. To improve pedestrian safety, new sidewalk segments would be installed on the southern, eastern, and western sides of the study area and crosswalks would be installed to connect all sidewalk segments. On-street parking designed to accommodate low speed vehicles (i.e., Autoette, golf cart) and a new bus stop would also be constructed. New hardscape and landscape improvements would be incorporated along the roundabout perimeter to integrate the new facilities into the existing environment.

REGULATORY REQUIREMENTS

Federal

The U.S. Army Corps of Engineers (USACE) jurisdiction pursuant to the federal Clean Water Act (CWA) Section 404 regulates discharges of dredged or fill material into waters of the United States. These waters include wetlands and non-wetland bodies of water that meet specific criteria as outlined in the guidelines provided in the USACE 1987 Manual (Environmental Laboratory 1987) and its Regional Supplements such as the Wetland Delineation Manual: Arid West Region (USACE 2008**).** The definition of Waters of the U.S. currently enforced in California is defined through the Clean Water Rule (CWR) at 40 Code of federal Regulations 230.3. Wetlands, as defined under CWA Section 404, must meet three specific criteria through scientific sampling: hydrophytic vegetation, hydric soils, and wetland hydrology.

Waters found to be isolated and not subject to CWA regulation are often still regulated by the Regional Water Quality Control Board (RWQCB) under the State Porter–Cologne Water Quality Control Act (Porter–Cologne Act). The RWQCB has regulatory authority over Waters of the U.S. pursuant to CWA Section 401 and Waters of the State pursuant to the Porter–Cologne Act. The USACE cannot issue authorization for fill or discharge into Waters of the U.S. without a Certification of Water Quality from the RWQCB. Isolated non-navigable waters and wetlands excluded from USACE jurisdiction are also subject to RWQCB authority as Waters of the State, and any discharge of waste (the RWQCB considers fill to be waste) may require a Report of Waste Discharge and may be subject to Waste Discharge Requirements (WDR) by the RWQCB.

The federal Endangered Species Act (ESA) states, in Section 7(a)(2), that a federal agency that permits, licenses, funds, or otherwise authorizes a project activity must consult with the U. S. Fish and Wildlife Service (USFWS) to ensure that its actions would not jeopardize the continued existence of any listed species or destroy or adversely modify critical habitat that may be affected by the project.

The Migratory Bird Treaty Act (MBTA) protects all migratory birds, including their eggs and young. The MBTA is enforced by USFWS, and potential constraints to species protected under this law may be evaluated by USFWS during the consultation process. If any trees, shrubs, or other vegetation that could support nesting bird species would be removed during the typical nesting season (i.e., February 15 to August 31), preconstruction nest surveys are required to determine if birds are actively nesting within the BSA. Any work that could affect active bird nests, as determined by a qualified biologist, would have to be avoided until the young have left the nest.

State

The California ESA is administered by CDFW and prohibits the take of plant and animal species identified as either threatened or endangered in the State of California by the Fish and Game Commission (Fish and Game Code § 2050–2097). "Take" means to hunt, pursue, catch, capture, or kill or attempt to hunt, pursue, catch, capture, or kill. California ESA §§ 2091 and 2081 allow CDFW to authorize exceptions to the prohibition of take of the state-listed threatened or endangered plant and animal species for purposes such as public and private development. CDFW requires formal consultation to ensure that these actions

would not jeopardize the continued existence of any listed species or destroy or adversely modify critical habitat.

California Fish and Game Code §1602 requires any person, state, or local government agency, or public utility proposing a project that may affect a river, stream, or lake to notify CDFW before beginning the project. If activities will result in the diversion or obstruction of the natural flow of a stream; substantially alter its bed, channel, or bank; impact riparian vegetation; or adversely affect existing fish and wildlife resources, then a Streambed Alteration Agreement is required. A Lake or Streambed Alteration Agreement lists the CDFW conditions of approval relative to the project, and it serves as an agreement between an applicant and CDFW.

California Fish and Game Code § 3503 include provisions to protect the nests and eggs of birds, mirroring protections under the MBTA. Sections 3511, 4700, 5050, and 5515 include provisions to protect fully protected species, such as (1) prohibiting take or possession "at any time" of the species listed in the statute, with few exceptions; (2) stating that "no provision of this code or any other law shall be construed to authorize the issuance of permits or licenses to "take" the species; and (3) stating that no previously issued permits or licenses for take of the species "shall have any force or effect" for authorizing take or possession. CDFW cannot authorize incidental take of "fully protected" species when activities are proposed in areas inhabited by those species.

METHODS

Prior to performing the field survey, existing databases and documentation were reviewed to characterize the biological conditions of the BSA. This included accessing the most recent records of sensitive species and habitat occurrences within the California Natural Diversity Database (CNDDB, CDFW 2018) and the California Native Plant Society Electronic Inventory (CNPSEI, California Native Plant Society 2018), as well as 2018 aerial photos. Biologists searched for CNDDB and CNPSEI records within the boundaries depicted on USGS 7.5-minute Santa Catalina East topographic quadrangle, in which the Project is situated, plus the surrounding two topographic quadrangles, including Catalina South, and Santa Catalina North. The CNDDB and CNPSEI contain records of reported occurrences of federal- or state-listed endangered, threatened, proposed endangered or threatened species, California Species of Special Concern, and/or other special-status species or habitat that may occur within or in the vicinity of the BSA.

A biological survey of the BSA was conducted by Margaret Bornyasz and Jessie Dubus on October 4, 2018. Ms. Bornyasz is a Senior Biologist and Regulatory Specialist with more than 20 years of professional experience. Ms. Bornyasz has conducted similar surveys throughout Southern California in several cities and counties. She has also conducted focused surveys for special-status plant and wildlife species across the southern California region. Jessie Dubus is an Environmental Scientist with approximately four years of experience conducting technical research and studies in support of the California Environmental Quality Act (CEQA) and performing analyses pursuant to CEQA and the National Environmental Policy Act.

The entire BSA was walked in order to characterize the biological and physical resources present. Data collected included vegetation communities, plant, and wildlife species present, and presence of features potentially jurisdictional to state or federal regulatory agencies. Field surveys were conducted to ground truth from the biological literature search. Incidental plant and animal species noted in the BSA were

recorded during the site visits and are noted in this report. Photographs were taken to document the existing conditions at the time of the survey. This survey included an assessment for all potentially-occurring species within the BSA.

SURVEY LIMITATIONS

The BSA includes a 200-foot buffer around the area of impact. Due to the nature of the Proposed Project along an urban roadway, and because some adjacent properties were private residences, some areas within the BSA were fenced. A combination of on-the-ground surveys and visual assessment of the adjacent properties was conducted in the field; however, in areas where a wall or solid fence was present, it was not possible to fully assess adjacent properties. The walls and fences in the BSA bordered developed, dense residential areas that are devoid of native habitats. All native habitats were accessible for survey.

The field survey was conducted during a rain event with approximately 0.4 inch of rainfall throughout the day, and rainfall from the day before totaled approximately 0.09 inch. Survey conditions were favorable for assessing the BSA habitats to determine the potential for occurrence of sensitive biological resources, and to characterize the drainage systems and plant communities. These conditions may have limited incidental wildlife observations.

Focused surveys, such as those that require specific protocols (e.g., sensitive plants), were not conducted as part of the study.

RESULTS

Photographs taken during the site visit are provided in Attachment A and photo locations are depicted on Figure 2. A total of 19.2 acres were estimated to be included within the BSA. Areas within the proposed construction and staging areas were categorized into either developed or disturbed habitat types. Approximately 19 acres of the BSA contained developed and disturbed habitat and the remaining 0.2 acre (on the backslopes of the hillside in the southeasternmost section) consisted of Island Chaparral habitat buffered from the Construction Area by a row of dense eucalyptus. Developed areas include a mixture of paved areas associated with the roadway, local streets, municipal developments (such as City Hall, City of Avalon Fire Station and a public playground), and other developed areas (i.e., adjacent residential and other structures within the buffer). Disturbed areas include dirt access roads, golf course, and landscaping with ornamental trees. Included below is a more detailed discussion of the physical and biological attributes observed for the BSA.

Study Area

The BSA includes a 200-foot buffer around the proposed roadway improvement area and the construction staging areas. The proposed roadway improvement area begins at the intersection of Tremont Street and Sumner Avenue and extends east along Tremont Street to Clemente Avenue and approximately 420 feet south on Avalon Canyon Road, just north of the intersection between Avalon Canyon Road and Falls Canyon Road. The temporary construction staging areas are located in an existing dirt lot currently used for equipment storage southeast of the intersection.

Physical Conditions

As depicted in Figure 3. *Natural Resources Conservation Service Soil Types*, four soil series are mapped within the BSA (National Resource Conservation Service [NRCS] 2018):

- 450 - Urban land-Xerorthents, landscaped, association 0 to 8 percent slopes
- 454 - Typic Argixerolls-Calcic Haploxerolls-Urban land complex, 2 to 8 percent slopes, landscaped
- 451 - Nauti, landscaped-Urban land complex, 8 to 30 percent slopes
- 400 - Oboship-Nauti-Bosun complex, 50 to 75 percent slopes

Urban land-Xerorthents, landscaped, association (0 to 8 percent slopes) and Typic Argixerolls-Calcic Haploxerolls-Urban land complex (2 to 8 percent slopes, landscaped) consist mostly of deep, well-drained soils that have formed from pavement, buildings, and human-transported materials over alluvium. These soils are typically associated with golf courses and urban land and have low runoff potential. Soils in these series are not considered hydric.

Nauti, landscaped-Urban land complex (8 to 30 percent slopes) occurs in a small portion of the BSA. Nauti soil series mostly consists of moderately deep, excessively drained soils formed from Quartz-diorite. It is typically associated with hills and has a very high runoff potential. Soils in this series are not considered hydric.

Oboship-Nauti-Bosun complex, 50 to 75 percent slopes occurs in a small portion of the BSA. This area could consist of either of the three series. Bosun series mostly consists of somewhat excessively drained soils that formed in materials weathered from quartz-diorite porphyry. Bosun soils are on side slopes of interfluves on hills and mountains on islands. The Oboship series consists of deep, well-drained soils that formed in materials weathered from dioritic rock. Oboship soils are also on side slopes of interfluves of dissected hills and mountains on offshore islands. Soils mapped in this complex are not considered hydric. The area mapped with Oboship-Nauti-Bosun complex is the only area in the BSA that supports a native plant community.

Biological Conditions

The BSA is dominated by highly developed urban landscape with low biological value. On the backslopes of the hillside in the southeastern-most section of the BSA, Nonnative Woodland/Island Chaparral habitat exists. A disturbed vegetation designation indicates a location that is actively maintained to be free of vegetation or that has compacted to such a degree that vegetation is very sparse. Developed areas include landscaped areas, buildings, and paved areas. Vegetation within these areas consists mainly of nonnative and ornamental tree and shrub species. This includes golf courses and sports fields vegetated by frequently mowed nonnative grass species. Areas considered disturbed/developed within the BSA include existing roadways and buildings, the golf course on the southeast portion of the BSA, and rows of ornamental trees.

Figure 3
Natural Resources Conservation Service Soil Types

Map Features

- Construction Area
- Staging Area
- Biological Survey Area (BSA)

Series Number - Series Name

- 400 - Oboship-Nauti-Bosun complex, 50 to 75 percent slopes
- 450 - Urban land-Xerorthents, landscaped, association 0 to 8 percent slopes
- 451 - Nauti, landscaped-Urban land complex, 8 to 30 percent slopes
- 454 - Typic Argixerolls-Calcic Haploxerolls-Urban land complex, 2 to 8 percent slopes, landscaped

Natural Resources Conservation Service (NRCS) Soil Survey Geographic (SSURGO) Database for Los Angeles, CA

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Location: N:\2018\2018-199 Five Corners Project\MAPS\Soils_and_Geology\Soils\FiveCorners_Soils_20190204.mxd (SAB) sbohac 2/4/2019

2018-199 Five Corners Project

Scale in Feet
0 150

Photo Source: 2013 USGS

Map Date: 2/4/2019

The dominant plant species within the BSA are ornamental landscaped plants, including eucalyptus (*Eucalyptus* sp.), Peruvian pepper tree (*Schinus molle*), and various exotic pine tree or palm tree species. Where landscaping has not been planted, such as the disturbed equipment staging lot southeast of Tremont Street, ground cover is typically dominated by bare ground with ruderal species establishing, including nonnative grasses and forbs such as ripgut brome (*Bromus diandrus*), cheeseweed (*Malva parviflora*), and slender wild oat (*Avena barbata*).

The Nonnative Woodland/Island Chaparral habitat included a dense cover of eucalyptus with a blend of Island Chaparral habitat further upslope. Island Chaparral typically occurs on north- and east-facing slopes draining toward the channel or in protected arroyos and canyons of the Pacific slope, such as upper Avalon Canyon and Pebbly Beach. It is often mixed with grassland, coastal sage scrub, and nonnative scrub and woodlands.

Due to the isolated nature of Santa Catalina Island, some animal species that generally occur in mainland urban areas are absent. Common animal species expected to occur within urbanized environments on Santa Catalina Island include rock pigeon (*Columbia livia*), house finch (*Carpodacus mexicanus*), and house sparrow (*Passer domesticus*), along with more generalist species such as the common raven (*Corvus corax*). Reptile and amphibian species that are expected to occur within this environment include southern alligator lizard (*Elgaria multicarinata*) and Baja California treefrog *(Pseudacris hypochondriaca hypochondriaca*). There are other less noticeable species such as bat and swallow species that can roost or nest in urban environments, but typically require specific habitat that is absent from the BSA. Some otherwise uncommon bird species, such as raptor species, will regularly migrate through urban environments. House sparrows, rock pigeons, mourning dove (*Zenaida macroura*), acorn woodpecker (*Melanerpes formicivorus*) and European starlings (*Sturnus vulgaris*) were recorded in the BSA. Several mule deer (*Odocoileus hemionus*) were observed during the survey in disturbed and developed areas.

No aquatic habitats were observed within the BSA. The concrete storm drain parallel to Tremont Street flows in response to rain events and does not provide persistent habitat for aquatic species.

Ripgut brome, slender wild oat, cheeseweed and black mustard (*Brassica nigra*), considered exotic/invasive by the California Invasive Plant Council, were observed. No substantial populations of invasive wildlife have been documented in the BSA.

Species of Special Concern

Special-status plant and wildlife species reported for the region in the literature review or for which suitable habitat occurs within the survey area were assessed for their potential to occur based on the standardized guidelines. The majority of the BSA consists of developed and disturbed area that would not typically support populations of special status species. The BSA does contain a small area of native endemic habitat that could support special-status plants and wildlife, however the Proposed Project Construction Area and Staging Areas and areas directly adjacent to these consist of Developed and Disturbed. Environmentally sensitive habitat areas are protected against any significant project-influenced

disruption of habitat values by distance and the dense eucalyptus woodland habitat that buffers native habitat upslope.

There is a cluster of historic record points for multiple special status species occurrences at a location in or near Avalon Channel, close to the golf course, and just outside of the BSA boundary in the southernmost area of the map. Per the general notes in CNDDB for species in this cluster, they are mapped by CNDDB in the general vicinity of Avalon based on vague collection data for specimens dating back to 1880 through early 1900's that reference the collection or observation was made at one of the following: Ridge S of Avalon," "Avalon, S of Wrigley Jr. Home," "In Canyon South Of The School, Avalon," and "500 Ft Elevation near Avalon". The occurrence points were not specific to the location at which CNDDB has mapped them.

Special-status plants were evaluated for their potential to occur within the Proposed Project Construction Area and Staging Areas where impacts could occur. No special-status plant species have been previously recorded in the Proposed Project area and none were detected or determined to have potential to occur in the Proposed Project area. Special-status plants are presumed absent from the Proposed Project area due to the lack of suitable habitat and/or other conditions such as soil or elevation. Attachment B provides a complete list of special status plant species evaluated and the justification for their potential to occur.

Special-status wildlife were evaluated for their potential to occur within a broader area, which includes the Proposed Project Construction Area and Staging Areas and a buffer, where direct or indirect impacts could occur, and from which species could migrate into impact areas. No special-status animal species have been previously recorded in these areas and they are presumed absent from the Proposed Project Construction Area and Staging Areas due to the lack of suitable habitat. Attachment B provides a complete list of special status wildlife species evaluated and the justification for their potential to occur.

Jurisdictional Wetlands and Waterways

The BSA is located within the Santa Catalina Island-Frontal San Pedro Channel Watershed, specifically in the Santa Catalina Island subwatershed area (Hydrologic Unit Code #180701070002). Storm channel features were observed in the BSA, along and parallel to Tremont Street, and are part of an extensive open-channel, concrete-lined (i.e., bottom and sides) drainage system that conveys stormwater runoff from northwest of Avalon Canyon Road southeast and drains to a concrete-lined segment of Avalon Creek located southeast of Clemente Avenue. The channel segment along Tremont Street is not concrete-lined for its full length, but is part of the series of constructed improvements in the watershed to convey storm flows. Avalon Creek, a blue-line stream, and its associated tributaries have historically been maintained and continue to receive flow from natural areas in the watershed. The Pacific Ocean is located 0.3 mile northeast of the BSA.

Under the CWR, all waters and features identified as excluded are not considered and will not be ''Waters of the U.S.,'' even if they otherwise fall within one of the categories identified as regulated within other sections of the rule. For example, a ditch that is excluded under CWR paragraph (b)(3)(i) or (b)(3)(ii) is not jurisdictional even when the ditch connects directly or through another water to a traditional navigable water, interstate water, or the territorial seas. The segment of the storm channel within the Construction

Area was excavated wholly in uplands, drains only developed uplands, has less than perennial flow, and thus excluded as "Waters of the U.S."

The California Fish and Game code does not address jurisdiction over activities in or near manmade waterways. In practice, this has been based on the value of those waterways to fish and wildlife. The channel segments within the proposed Construction Area are manmade and do not support fish, aquatic insects, or riparian vegetation. There are no riparian or aquatic resources in portions of the channel upslope that could serve as source material for habitat to develop in this downslope segment.

The stormwater conveyance system, including the segments within the Proposed Project area, are considered municipal separate storm sewer systems (MS4s) and regulated under National Pollutant Discharge Elimination System permits and associated stormwater management programs. These features are also considered Waters of the State as defined in Porter-Cologne Water Quality Control Act and State Water Code § 13000 et seq. The Proposed Project as described herein has the potential to impact an MS4 feature, a Report of Waste Discharge may be required for WDR assignment by the RWQCB.

DISCUSSION

The vegetation/habitat communities in the Proposed Project Construction and Staging Areas are not considered to be sensitive by the City, or by state or federal agencies; therefore, impacts to natural resources are not anticipated. The stormwater channels associated with the project are excluded from CWA regulations under the CWR. Species regulated by the ESA are presumed absent from the site.

There is habitat for nesting birds and raptors within and in the vicinity of the Proposed Project area. With implementation of avoidance measures described below, direct, and indirect impacts to nesting birds and raptors can be avoided.

The stormwater conveyance segments within the Proposed Project area are MS4 channels and meet the definitions of Waters of the State, which are currently regulated by the RWQCB under the WDR program. It is also recommended that the Project verify with state agencies, the regulatory status of the channels with respect to Section 1602 of the California Fish and Game Code.

RECOMMENDED MEASURES

The following measures are also recommended to avoid or otherwise minimize impacts to biological resources:

1. Project disturbance limits shall be clearly identified prior to construction activities and restricted to the minimal size necessary to complete the Proposed Project.

2. If nighttime construction is necessary, all lighting used will be of the lowest illumination necessary for Project construction, selectively placed, and directed at the immediate work area and away from nearby native habitats. Light glare shields should be used to reduce the extent of illumination into sensitive habitats.

3. To avoid impacts to breeding birds, it is recommended that vegetation clearing/grubbing and construction activities occur outside of the bird/raptor breeding season (between September 16

and January 31). If construction cannot be planned to occur outside of this season (February 1 to September 15), a pre-construction nesting bird survey should be conducted by a qualified biologist. If nesting raptors/birds are found within 500 feet of construction activities, an appropriately sized no-work buffer zone (in consultation with CDFW/USFWS, as appropriate) should be established around the active nest until a qualified biologist determines the nest is no longer active. Construction may not occur within the no-work buffer zone area until the biologist determines that the buffer is no longer necessary (e.g., nest becomes inactive).

4. Regardless of time of year, within three days prior to commencement of construction activities (including staging of equipment, clearing and grubbing) a qualified biologist shall perform a pre-construction survey for sensitive biological resources within 500 feet of the Proposed Project area and verify disturbance limits have been clearly identified. Biological monitoring may be necessary throughout project duration if a sensitive biological resource is identified during the pre-construction survey with potential for direct or indirect impacts from the Project,

5. A qualified biological monitor shall be present during initial clearing and grubbing activities. As appropriate, the biologist may relocate animal species offsite to appropriate habitat and in compliance with any applicable federal, state, and local regulations pertaining to relocation activities.

6. A qualified biological monitor shall train contractors and construction personnel expected to be in the Project impact areas on the biological resources associated within the Project and avoidance and minimization measures being implemented as part of the Project and document that training is implemented.

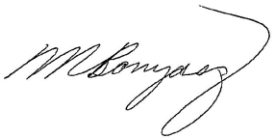
7. The Project site shall be kept as clear of debris as possible. All food-related trash items will be enclosed in sealed containers and regularly removed from the site. All spoils and materials (including grubbed vegetation) will be disposed of properly.

8. Trenches or bore holes shall not be left open if they cannot be backfilled that same day. If a trench or bore-hole cannot be backfilled, placement of a wood plank with minimum dimensions of two-inches-thick by six-inches-wide should be placed in a manner that an animal can climb out of the hole or trench. If an animal becomes trapped in a hole or trench, a qualified biologist should be contacted immediately to relocate the animal.

9. Erosion and sediment control measures and Best Management Practice should be implemented in accordance with the approved Stormwater Pollution Prevention Plan for the Proposed Project for protection of water quality and biological resources.

If you have any questions concerning this letter report, please contact me at (858) 279-4040.

Sincerely,



Margaret Bornyasz
Senior Ecologist/Regulatory Specialist

Attachments:

Attachment A: Site Survey Photos

Attachment B: Rare Plant and Wildlife Potential for Occurrence Table

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