Appendix C-1

Habitat Assessment

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SUBJECT: Habitat Assessment for the Ventana Specific Plan Project Located in the City of Fontana, San Bernardino County, California

Introduction

This report contains the findings of ELMT Consulting's (ELMT) habitat assessment for the Ventana at Duncan Canyon Specific Plan Project Site (project site or site) located in the City of Fontana, San Bernardino County, California. The habitat assessment was conducted by biologist Jacob H. Lloyd Davies on June 3, 2021 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*), San Bernardino kangaroo rat (*Dipodomys merriami parvus*) 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.

Project Location

The project site is generally located south and east of Interstate 15, north of State Route 210, and west of Interstate 215 in the City of Fontana, San Bernardino County, California. The project site is depicted on the Devore quadrangle of the United States Geological Survey's (USGS) 7.5-minute topographic map series within and Sections 13 and 24 of Township 1 North, Range 6 West. Specifically, the project site is composed of two portions, northern and southern, which are transected by Duncan Canyon Road. The northern portion is bounded to the north and west by Interstate 15, to the east by Citrus Avenue, and to the south by Duncan Road. The southern portion is bounded to the north by Duncan Canyon Road, to the east by Citrus Avenue, to the south by a Southern California Edison utility easement and undeveloped, vacant land, and the west by Lytle Creek Road and Interstate 15. The project site is located within Assessor Parcel Numbers 1107-262-04, -05, -06, -07, and -08, and 0226-075-35, -38, -45, and -46. 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.

Project Description

The Ventana at Duncan Canyon Specific Plan governs the development of approximately 105 acres, north and south of Duncan Road, immediately east of Interstate 15 in north Fontana. The Specific Plan includes ten planning areas comprised of commercial and residential uses.

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 to document existing conditions and assess the potential for special-status biological resources to occur within the project site.

Literature Review

Prior to conducting the habitat assessment, a literature review and records search was conducted for special-status biological resources potentially occurring on or within the vicinity of the project site. Previously recorded occurrences of special-status plant and wildlife species and their proximity to the project site were determined through a query of the CDFW's QuickView Tool in the Biogeographic Information and Observation System (BIOS), CNDDB Rarefind 5, the California Native Plant Society's (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants of California, Calflora Database, compendia of special-status species published by CDFW, and the United States Fish and Wildlife Service (USFWS) species listings.

All available reports, survey results, and literature detailing the biological resources previously observed on or within the vicinity of the project site were reviewed to understand existing site conditions and note the extent of any disturbances that have occurred within the project site that would otherwise limit the distribution of special-status biological resources. Standard field guides and texts were reviewed for specific habitat requirements of special-status and non-special-status biological resources, as well as the following resources:

- Google Earth Pro historic aerial imagery (1985-2020);
- United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), Soil Survey[2]
- USFWS Critical Habitat designations for Threatened and Endangered Species;
- USFWS Endangered Species Profiles; and
- USFWS National Wetlands Inventory.

The literature review provided a baseline from which to inventory the biological resources potentially occurring within the project site. 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.

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.

Habitat Assessment/Field Investigation

Following the literature review, biologist Jacob H. Lloyd Davies inventoried and evaluated the condition of the habitat within the project site on June 3, 2021. Plant communities and land cover types identified on aerial photographs during the literature review were verified by walking meandering transects throughout the project site. In addition, aerial photography was reviewed prior to the site investigation to locate potential natural corridors and linkages that may support the movement of wildlife through the area. These areas identified on aerial photography were then walked during the field investigation.

All plant and wildlife species observed, as well as dominant plant species within each plant community, were recorded. Plant species observed during the field investigation were identified by visual characteristics and morphology in the field. Unusual and less familiar plant species were photographed during the field investigation and identified in the laboratory using taxonomical guides. Wildlife detections were made through observation of scat, trails, tracks, burrows, nests, and/or visual and aural observation. In addition, site characteristics such as soil condition, topography, hydrology, anthropogenic disturbances, indicator species, condition of on-site plant communities and land cover types, and presence of potential jurisdictional drainage and/or wetland features were noted.

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, California. 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.

Plant Communities

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), delineated on an aerial photograph, and then digitized into GIS Arcview. The Arcview application was used to compute the area of each plant community and/or land cover type in acres.

Plants

Common plant species observed during the field investigation 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 office 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

Wildlife species detected during the field investigation 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 well standardized,

scientific names are provided immediately following common names in this report (first reference only).

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.

Topography and Soils

The project site is relatively flat with minimal topographic relief, with the exception of a small hill in the northeast corner of the southern portion that was formed by soils stockpiling, and ranges in elevation from approximately 1,675 to 1,840 feet above mean sea level. Generally, the project site slopes from northeast to southwest. Based on the NRCS USDA Web Soil Survey, the project site is underlain by the following soil units: Hanford coarse sandy loam (2 to 9 percent slopes) and Tujunga gravelly loamy sand (0 to 9 percent slopes). Refer to Exhibit 4, *Soils* in Attachment A. Soils on-site have been mechanically disturbed and heavily compacted from historic land uses (i.e., historic agricultural activities, grading, illegal dumping, soils stockpiling, and weed abatement activities).

Existing Site Conditions

The project site occurs in an area that is undergoing a conversion from natural habitats into residential, commercial, and institutional land uses in the northern portion of the City of Fontana east of Interstate 15 and north of State Route 210. Immediate land uses surrounding the site include a Southern California Edison utility easement and undeveloped, vacant land to the south and paved roads and highways to the west, north, and east. Beyond these land uses, the site is further surrounded by undeveloped, vacant land to the north; undeveloped, vacant land and residential development to the east and south, and undeveloped, vacant land residential development, and a sports park to the west.

Prior to conducting the field investigation, ELMT reviewed current and historical aerial photographs (1985-2020) of the project site as available from Google Earth Pro Imaging (Version 7.3.4.8248). Per the review of aerial photographs, the project site appears to consist primarily of vacant/undeveloped land and disturbed areas that have been subject to various anthropogenic disturbances. The site has remained virtually unchanged since 2009, when various structures associated with historic agricultural activities were removed from the northwest corner of the southern portion.

Vegetation

Due to existing land uses, no native plant communities of special concern were observed on or adjacent to

the project site. The project site consists of vacant, undeveloped land that have been subject to a variety of anthropogenic disturbances. The project site has been subject to disturbances associated with surrounding development and routine weed abatement activities. 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 projects site supports two (2) vegetation communities: non-native grassland and eucalyptus row. In addition, the site also supports two (2) land cover types that would be classified as disturbed and developed. Early successional/ruderal and non-native weedy plant species compose a majority of the project site as a result of routine weed abatement activities.

The non-native grassland community occurs throughout the project site. This community is dominated by non-native grasses, including slender wild oat (*Avena barbata*), ripgut brome (*Bromus diandrus*), and cheatgrass (*Bromus tectorum*). Other plant species observed in this community include telegraph weed (*Heterotheca grandiflora*), western ragweed (*Ambrosia psilostachya*), doveweed (*Croton setigerus*), rod wire lettuce (*Stephanomeria virgata*), Mediterranean mustard (*Hirschfeldia incana*), red-stemmed filaree (*Erodium cicutarum*), Russian thistle (*Salsola tragus*), jimsonweed (*Datura wrightii*), common sunflower (*Helianthus annuus*), flax-leaved horseweed (*Erigeron bonariensis*), Pomona milkvetch (*Astragalus pomonensis*), and lambs quarters (*Chenopodium album*). Several eucalyptus (*Eucalyptus* sp.) rows are present, remnant from historic agricultural activities, on the northeast portion of the project site.

Disturbed land refers to unpaved or dirt areas that are routinely exposed to continuous anthropogenic disturbances and typically do not comprise a plant community. Surface soils within these areas are generally devoid of vegetation or support primarily non-native and ruderal/weedy plant species and have been heavily disturbed/compacted from anthropogenic disturbances. Some disturbed areas on-site also support small, isolated populations California buckwheat (*Eriogonum fasciculatum*), California sagebrush (*Artemisia californica*), castor (*Ricinus communis*), and mulefat (*Baccharis salicifolia*). Disturbed areas encompass site boundaries that occur adjacent to roads, the southwest corner of the northern portion of the site, a dirt access road, and a large area in the southern portion of the site that formerly supported fill dirt stockpiles associated with surrounding development. During the field investigation, this area supported truck/trailer parking and swathes of debris dumping.

Developed land refers to paved or otherwise impermeable land. Developed land on-site includes paved sidewalks along adjacent roads, and access roads in the western portion of the site. These areas are generally devoid of vegetation.

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 were based on calls, songs, scat, tracks, burrows, and direct observation. The project site provide 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 on the project site and are presumed absent.

Reptiles

The project site provides marginal foraging and cover habitat for reptilian species adapted to a high degree of human disturbance. The only reptilian species observed during the field investigation was Great Basin fence lizard (*Sceloporus occidentalis longipes*). Common reptilian species adapted to a high degree of anthropogenic disturbance that may be expected to occur on-site include alligator lizard (*Elgaria multicarinata*) and western fence lizard (*Sceloporus occidentalis*). and gopher snake (*Pituophis catenifer annectens*). 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 foraging habitat for bird species adapted to a high degree of human disturbance. Bird species detected during the field investigation included house finch (*Haemorhous mexicanus*), American crow (*Corvus brachyrhynchos*), mourning dove (*Zenaida macroura*), western meadowlark (*Sturnella neglecta*), red-tailed hawk (*Buteo jamaicensis*), and peregrine falcon (*Falco peregrinus*).

Mammals

The project site provides marginal habitat to mammalian species adapted to a high degree of anthropogenic disturbance. Mammalian species detected during the field investigation were pocket gopher (*Thomomys* sp.), and California ground squirrel (*Otospermophilus beecheyi*). Common mammalian species that could be expected to occur within the project site include desert cottontail (*Sylvilagus audubonii*), opossum (*Didelphis virginiana*), and coyote (*Canis latrans*).

Nesting Birds

No active nests or birds displaying nesting behavior were observed during the field survey, which was conducted during breeding season. Although subjected to routine disturbance, the ornamental vegetation 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. (*Charadrius vociferans*). No raptors are expected to nest on-site due to lack of suitable nesting opportunities.

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 human 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, major open space areas documented in the vicinity of the project site include Lytle Creek, located approximately 1.5 miles to the northeast, and is separated from the project site by existing development.

The proposed project will be confined to existing disturbed areas and is surrounded by development and disturbed areas which have removed natural plant communities from the surrounding area. The project site is isolated from regional wildlife corridors and linkages and there are no riparian corridors, creeks, or useful patches of steppingstone habitat (natural areas) within or connecting the project site to any identified wildlife corridors or linkages. As a result, implementation of the proposed project will not disrupt or have any adverse effects on any migratory corridors or linkages in the surrounding area.

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 has been effectively cut off from the historic fluvial flow patterns and scouring regimes of Lytle Creek and flows exiting out of the San Gabriel Mountains due to the construction of the Interstate 15 freeway, and developments north of the project site which have disrupted the natural flood regime within the area, resulting in poor quality habitats onsite.

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. 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 CNDDB Rarefind 5 and the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California were queried for reported locations of special-status plant and wildlife species as well as special-status natural plant communities in the Devore USGS 7.5-minute quadrangle. The habitat assessment evaluated the conditions of the habitat(s) within the boundaries of the project site to determine if the existing plant communities, at the time of the survey, have the potential to provide suitable habitat(s) for special-status plant and wildlife species. Only one quadrangle was searched since the project site are located near the middle of the quadrangle and is surrounding be existing development.

The literature search identified twenty (20) special-status plant species, forty-three (43) special-status wildlife species, and three (3) special-status plant communities as having potential to occur within the Devore USGS 7.5-minute quadrangle. 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 are presented in *Table C-1: Potentially Occurring Special-Status Biological Resources*, provided in Attachment C.

Special-Status Plants

According to the CNDDB and CNPS, twenty (20) special-status plant species have been recorded in the Devore quadrangle (refer to Attachment C). No special-status plant species were observed onsite during the habitat assessment. The project site consists of vacant, undeveloped land that has been subject to a variety of anthropogenic disturbances from historic agricultural activities, surrounding development and routine weed abatement activities. These disturbances have eliminated the natural plant communities that once occurred onsite which has removed 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 does not provide suitable habitat for any of the special-status plant species known to occur in the area and they are presumed to be absent. No focused surveys are recommended.

Special-Status Wildlife

According to the CNDDB, forty-three (43) special-status wildlife species have been reported in the Devore quadrangle (refer to Attachment C). No special-status wildlife species were observed onsite during the habitat assessment. The project site consists of vacant, undeveloped land that has been subject to a variety of anthropogenic disturbances from historic agricultural activities, surrounding development, and routine weed abatement activities. These disturbances have eliminated the natural plant communities that once occurred onsite which has reduced potential foraging and nesting/denning opportunities for wildlife species.

Based on habitat requirements for specific species and the availability and quality of onsite habitats, it was determined that the proposed project site has a high potential to provide suitable habitat for Cooper's hawk (*Accipiter cooperii*) and California horned lark (*Eremophila alpestric actia*); and a low potential to provide suitable habitat for great egret (*Ardea alba*), burrowing owl, northern harrier (*Circus hudsonius*), and prairie falcon (*Falco mexicanus*). Further it was determined that the project site does not provide suitable habitat

for any of the other special-status wildlife species known to occur in the area since the project site have been heavily disturbed from onsite disturbances and surrounding development.

None of the aforementioned species are federally or state listed as endangered or threatened. In order to ensure impacts to the aforementioned 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 the aforementioned species will be less than significant and no mitigation will be required.

Based on regional significance, the potential occurrence of burrowing owl and San Bernardino kangaroo rat within the project site is 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) were observed during the field investigation. The project site is unvegetated and/or vegetated with a variety of low-growing plant species that allow for line-of-sight observation favored by burrowing owls. In addition, several suitable burrows (>4 inches in diameter) capable of providing roosting and nesting opportunities were observed among dirt spoils piles in the northwest corner of the southern portion of the site. However, the site supports and is surrounded by tall trees and electrical poles and towers, 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.

Based on the results of the field investigation, it was determined that the project site has a low potential to support burrowing owl. A pre-construction burrowing owl clearance survey is recommended to be conducted prior to development to ensure burrowing owl remain absent from the project site.

San Bernardino Kangaroo Rat

The San Bernardino kangaroo rat, federally listed as endangered, is one of several kangaroo rat species in its range. The Dulzura, the Pacific kangaroo rat (*Dipodomys agilis*) and the Stephens kangaroo rat (*Dipodomys stephensi*) occur in areas occupied by the San Bernardino kangaroo rat, but these other species have a wider habitat range. The habitat of the San Bernardino kangaroo rat is described as being confined to pioneer and intermediate Riversidean Alluvial Fan Sage Scrub (RAFSS) habitats, with sandy soils

deposited by fluvial (water) rather than Aeolian (wind) processes. Burrows are dug in loose soil, usually near or beneath shrubs.

The San Bernardino kangaroo rat is one of three subspecies of the Merriam's kangaroo rat. The Merriam's kangaroo rat is a widespread species that can be found from the inland valleys to the deserts. The subspecies known as the San Bernardino kangaroo, however, is confined to inland valley scrub communities, and more particularly, to scrub communities occurring along rivers, streams and drainages. Most of the drainages have been historically altered as a result of flood control efforts and the resulting increased use of river resources, including mining, off-road vehicle use and road and housing development. This increased use of river resources has resulted in a reduction in both the amount and quality of habitat available for the San Bernardino kangaroo rat. The past habitat losses and potential future losses prompted the emergency listing of the San Bernardino kangaroo rat as an endangered species (USFWS, 1998a). PCE's are physical or biological features essential to the conservation of a species for which its designated critical habitat is based on. Examples of PCE's include food, water, space for individual and population growth, cover or shelter, etc. The PCEs essential to support the biological needs of foraging, reproducing, rearing of young, intra-specific communication, dispersal, genetic exchange, or sheltering for San Bernardino kangaroo rat are:

1. River, creek, stream, and wash channels; alluvial fans, flood plains, flood benches and terraces; and historic braided channels that are subject to dynamic geomorphological and hydrological processes;
2. Alluvial sage scrub and associated vegetation such as coastal sage scrub and chamise chaparral with a moderately open canopy;
3. Soil series consisting of sand, sandy loam, or loam within its geographical range; and
4. Upland areas proximal to flood plains containing suitable habitat (land adjacent to alluvial fan that provides Refugia).

San Bernardino kangaroo rat is known to occur within Lytle Creek. The project site consists of vacant, heavily disturbed land with compacted soils that have been disturbed from previous land uses. Field sign for kangaroo rat, including San Bernardino kangaroo rat, is distinctive and readily noted in the field. No sign (e.g., San Bernardino kangaroo rat characteristic burrows, dusting baths, and/or tail drags) were observed on the project site. Additionally, the project site no longer is subject to the hydrologic influence of Lytle Creek due to the channelization of Lytle Creek and San Sevaine Creek for flood control purposes.

As noted above, the project site and surrounding areas have not been exposed to fluvial processes associated with Lytle Creek since the mid-1950s when the Interstate-15 Freeway was constructed, and the upper reaches of Lytle Creek were channelized. Sheet flooding during storm events is needed to scour pioneer and intermediate RAFSS habitats that historically occupied in the area. Scouring maintains the openness needed by San Bernardino kangaroo rat, less than 50% cover, and deposits sandy soils needed by San Bernardino kangaroo rat for burrowing. Over the last 65 to 70 years, the RAFSS habitat that once occupied this area in North Fontana has matured or senesced to mature RAFSS communities that have subsequently type converted into an *Adenostoma fasciculatum* alliance. The project site consists of vacant, undeveloped land that has been subject to a variety of anthropogenic disturbances from historic agricultural activities, surrounding development, and routine weed abatement activities. Currently the project site supports a non-native grassland plant community with disturbed and developed areas. No RAFSS habitats occur onsite.

The project site is not subject to dynamic geomorphological and hydrological processes needed to scour and reset the onsite habitats back to pioneer or intermediate RAFSS habitats. Further, the project site no longer receives sand or sandy loam soils from scouring events needed by San Bernardino kangaroo rat for burrowing. Instead, the site supports compact and rocky soils.

Based on these conditions, it was determined that the project site does not provide the requisite habitat elements needed by San Bernardino kangaroo rat to be present. Therefore, it was determined that San Bernardino kangaroo rat is presumed absent from the project site. No focused surveys are recommended.

Special-Status Plant Communities

According to the CNDDB, three (3) special-status plant communities have been reported in the Devore USGS 7.5-minute quadrangle: Riversidean Alluvial Fan Sage Scrub, southern riparian forest, and Southern Sycamore Alder Riparian Woodland. 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.

In 2002 the USFWS designated Critical Habitat for San Bernardino kangaroo rat, and the project site was included within the designated area. Subsequently, in 2008 the USFWS reduced the boundaries of their previously designated Critical Habitat which removed the project site from designation. The lack of the needed habitat features within the project site, as well as in north Fontana, prompted USFWS to remove the Critical Habitat designation in this area. Finally, at the beginning of 2011 the original (2002) designated Critical Habitat was reinstated by a federal district court ruling which overturned the reduced (2008) designated Critical Habitat. Currently the project site is located within designated Critical Habitat Unit 2, Lytle Creek/Cajon Wash. Refer to Exhibit 6, *Critical Habitat* in Attachment A. However, since the project does not have a federal nexus, a Section 7 consultation with the USFWS would not be required for loss or adverse modification of Critical Habitat. If a federal nexus does occur, a Section 7 Consultation will have to be initiated with USFWS.

North Fontana Conservation Program

The North Fontana Conservation Program (previously referred to as the North Fontana Interim Multiple Species Habitat Conservation Plan) was prepared to address lands in north Fontana and the listed and special-status species that have the potential to occur on these lands. To adequately mitigate for the loss of sensitive habitats, as required by the California Environmental Quality Act (CEQA), a tiered development mitigation fee was created for new development in north Fontana. The mitigation fee is based on the quality of the habitat on the development site and a site's potential to support SBKR, coastal California gnatcatcher, or other special-status species occurring in the vicinity. The mitigation fee is charged for each acre of land proposed for development based on the habitat quality rating.

The North Fontana Conservation Program mitigation fee areas (habitat quality ratings) were overlain over the project site boundaries in ArcGIS in order to calculate the acreage of impacts to the various habitat qualities occurring on the project site. From this, the mitigation fee for the proposed projects were calculated. Based on the North Fontana Conservation Program,

The project site is located within one (1) habitat quality (or mitigation fee types): "Unsuitable Habitat" (refer to Exhibit 7, *North Fontana Conservation Program Fee Map* in Attachment A). Approximately 91.82 acres of "Unsuitable Habitat" were identified within the project site that would be developed. "Unsuitable Habitat" is mitigation in the North Fontana Conservation Program at a cost of $1,035.00 per acre totaling an estimated $95,033.70 of mitigation costs for the loss of "Unsuitable Habitat" within the project site. Refer to Table 1 below:

Table 1: Habitat Qualities and Mitigation Fees

Habitat Qualities	Mitigation Fee (per acre)	Unsuitable Habitat within Project Boundary	Total Mitigation Fee
Unsuitable Habitat	$1,035.00	91.82	$95,033.70
	TOTALS	**91.82**	**$95,033.70**

City of Fontana Tree Ordinance

Chapter 28.61-.75 of the Fontana Municipal Code (or Code) addresses tree protection, maintenance, and replacement policies. It outlines the definition of a "heritage tree", "significant tree", and "specimen tree" and the procedures necessary to replacing them within a property. As stated in the City's Code, "Except as provided in section 28-65, no person shall remove or cause the removal of any heritage, significant or specimen tree unless a tree removal permit is first obtained."

Heritage tree means any tree which:

1. Is of historical value because of its association with a place, building, natural feature or event of local, regional or national historical significance as identified by city council resolution; or
2. Is representative of a significant period of the city's growth or development (windrow tree, European Olive tree); or
3. Is a protected or endangered species as specified by federal or state statute; or
4. Is deemed historically or culturally significant by the city manager or his or her designee because of size, condition, location or aesthetic qualities.

Windrow means a series of trees (minimum of four), usually a variety of *eucalyptus*, planted in a closely spaced line no more than ten feet apart to provide a windbreak for the protection of property and/or agricultural crops.

Significant tree means any tree that is one of the following species:

Genus/species Common name

- Southern California black walnut (*Juglans californica)*
- Coast live oak (*Quercus agrifollia*)
- Deodora cedar (*Cedrus deodora*)
- California (western) sycamore (*Platanus racemose*)
- London plane (*Platanus acerifolia*)

Specimen tree is defined as a mature tree (which is not a heritage or significant tree) which is an excellent example of its species in structure and aesthetics and warrants preservation, relocation or replacement as provided in sections 28.66, 28.67 and 28.68. Specimen trees shall not include any tree located on a private parcel of property of less than one acre zoned for residential use.

Tree Survey Results

A total of 154 trees were identified on the project site during the tree inventory within the windrows on the northeastern boundary of the project site, all composed of a single distinct species river gum (*Eucalyptus camaldulensis*). No trees onsite were native to California. Due to the poor maintenance and landscaping, only 66 (43%) of the trees onsite are in fair to good health and can be preserved. However, 121 of the 154 trees (79%) onsite were arranged within existing windrows qualifying them as Heritage Trees under the City of Fontana Tree Ordinance. No other trees onsite have any other special designations. A tree removal permit will need to be acquired from the City to remove these trees from the project site.

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 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 of the California Fish and Game Code prohibit the take, possession, or destruction of birds, their nests or eggs). In order to protect migratory bird species, a

nesting bird clearance survey shall be conducted prior to any ground disturbance or vegetation removal activities that may disrupt the birds during the nesting season.

BIO-1: All construction activities shall comply with the federal Migratory Bird Treaty Act of 1918 (MBTA) and California Fish and Game Code Sections 3503, 3511 and 3513. The MBTA governs the taking and killing of migratory birds, their eggs, parts, and nests and prohibits the take of any migratory bird, their eggs, parts, and nests. Compliance with the MBTA shall be accomplished by completing the following:

Construction activities involving vegetation removal shall be conducted between September 1 and January 31. If construction occurs inside the peak nesting season (between February 1 and August 31), a pre-construction survey by a qualified Biologist shall be conducted within 72 hours prior to construction activities to identify any active nesting locations. If the Biologist does not find any active nests, the construction work shall be allowed to proceed. The biologist conducting the clearance survey shall document a negative survey with a report indicating that no impacts to active avian nests shall occur.

If the Biologist finds an active nest within the pre-construction survey area and determines that the nest may be impacted, the Biologist shall delineate an appropriate buffer zone around the nest. The size of the buffer shall be determined by the Biologist and shall be based on the nesting species, its sensitivity to disturbance, expected types of disturbance, and location in relation to the construction activities. These buffers are typically 300 feet from the nests of non-listed species and 500 feet from the nests of raptors and listed species. Any active nests observed during the survey shall be mapped on an aerial photograph. Only construction activities (if any) that have been approved by a Biological Monitor shall take place within the buffer zone until the nest is vacated. The Biologist shall serve as a Construction Monitor when construction activities take place near active nest areas to ensure that no inadvertent impacts on these nests occur. Results of the pre-construction survey and any subsequent monitoring shall be provided to the Property Owner/Developer and the City. The monitoring report shall summarize the results of the nest monitoring, describe construction restrictions currently in place, and confirm that construction activities can proceed within the buffer area without jeopardizing the survival of the young birds.

BIO-2: Pre-Construction Burrowing Owl Clearance Survey. A burrowing owl pre-construction clearance survey shall be conducted prior to any ground disturbance or vegetation removal activities to ensure that burrowing owls remain absent from the project site. In accordance with the CDFW's *Staff Report on Burrowing Owl Mitigation* (CDFW 2012), two (2) pre-construction clearance surveys shall be conducted 14 – 30 days and 24 hours prior to any ground disturbance or vegetation removal activities.

City of Fontana Municipal Code 28.61-.75

A total of 121 trees were identified on the project site during the tree inventory that meet the minimum requirements for inclusion as a heritage tree. A tree removal permit will need to be acquired from the City for any heritage trees removed as part of the proposed project.

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

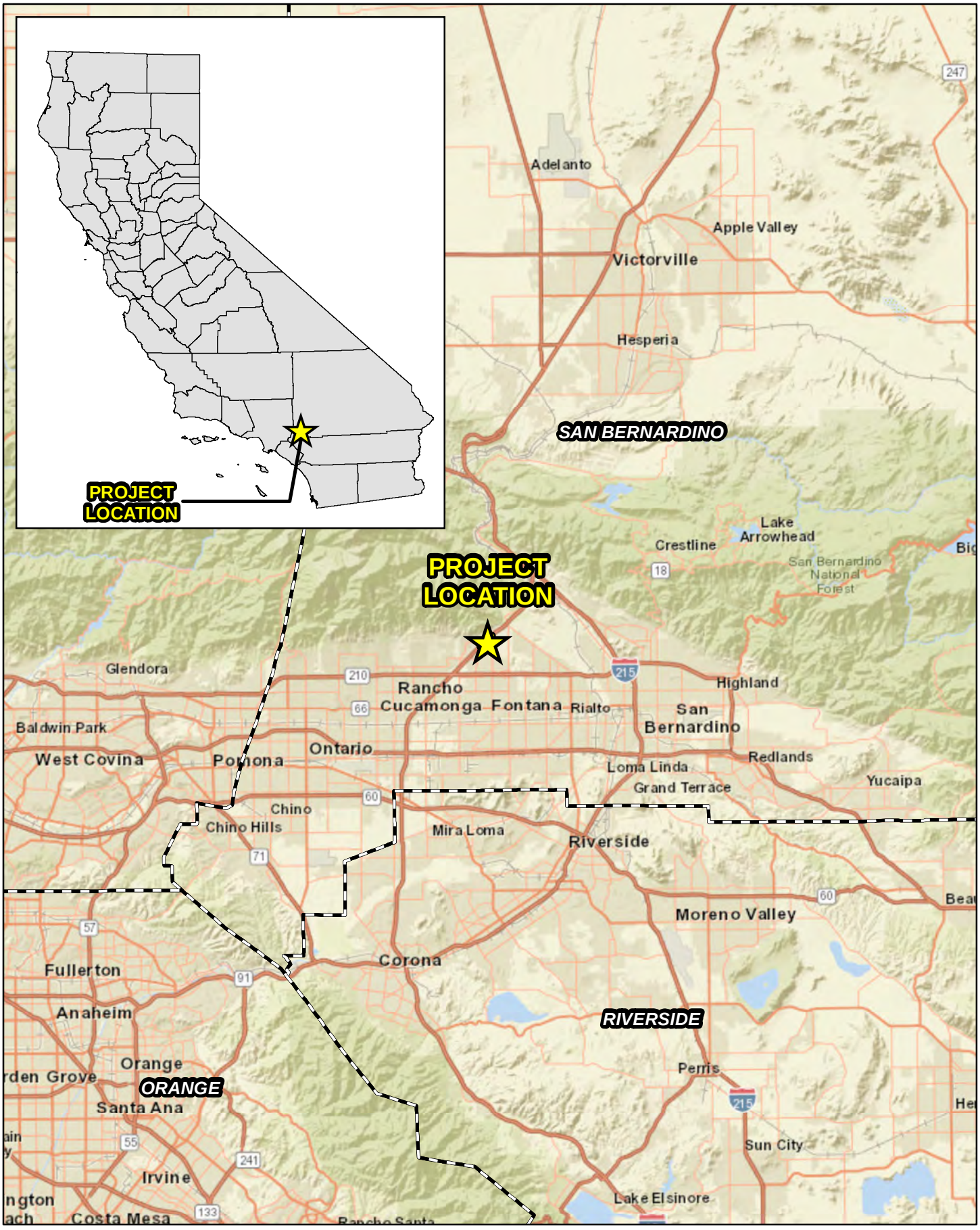
Travis J. McGill
Director

Attachments:

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

Attachment A

Project Exhibits

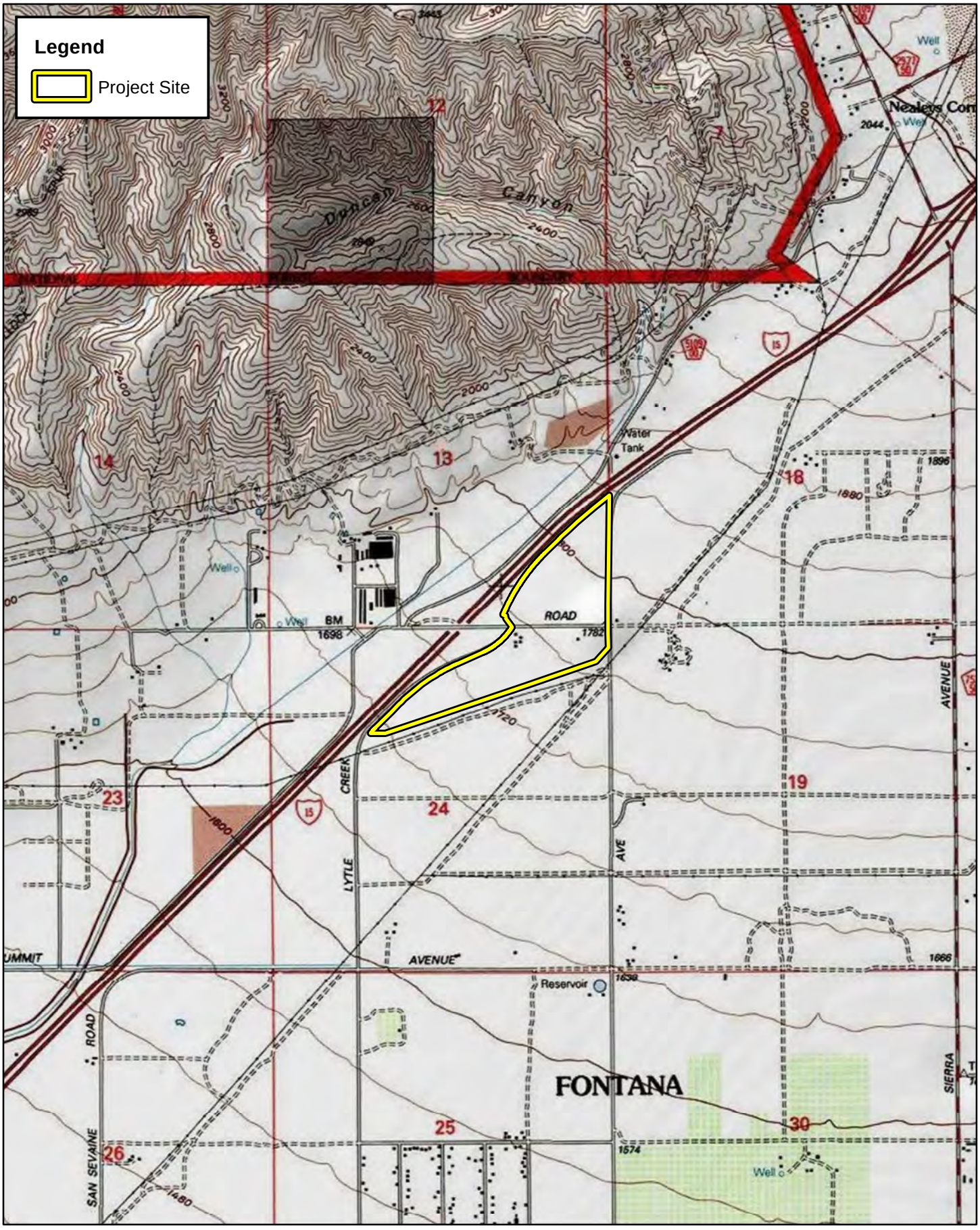


Source: World Street Map, San Bernardino County

VENTANA SPECIFIC PLAN
HABITAT ASSESSMENT

Regional Vicinity

Exhibit 1



VENTANA SPECIFIC PLAN
HABITAT ASSESSMENT

Site Vicinity

ELMT CONSULTING

0 1,000 2,000 4,000 Feet

Source: USA Topographic Map, San Bernardino County

Exhibit 2

VENTANA SPECIFIC PLAN
HABITAT ASSESSMENT

Project Site

ELMT CONSULTING

0 500 1,000 2,000 Feet

Source: ESRI Aerial Imagery, San Bernardino County

Exhibit 3

VENTANA SPECIFIC PLAN
HABITAT ASSESSMENT

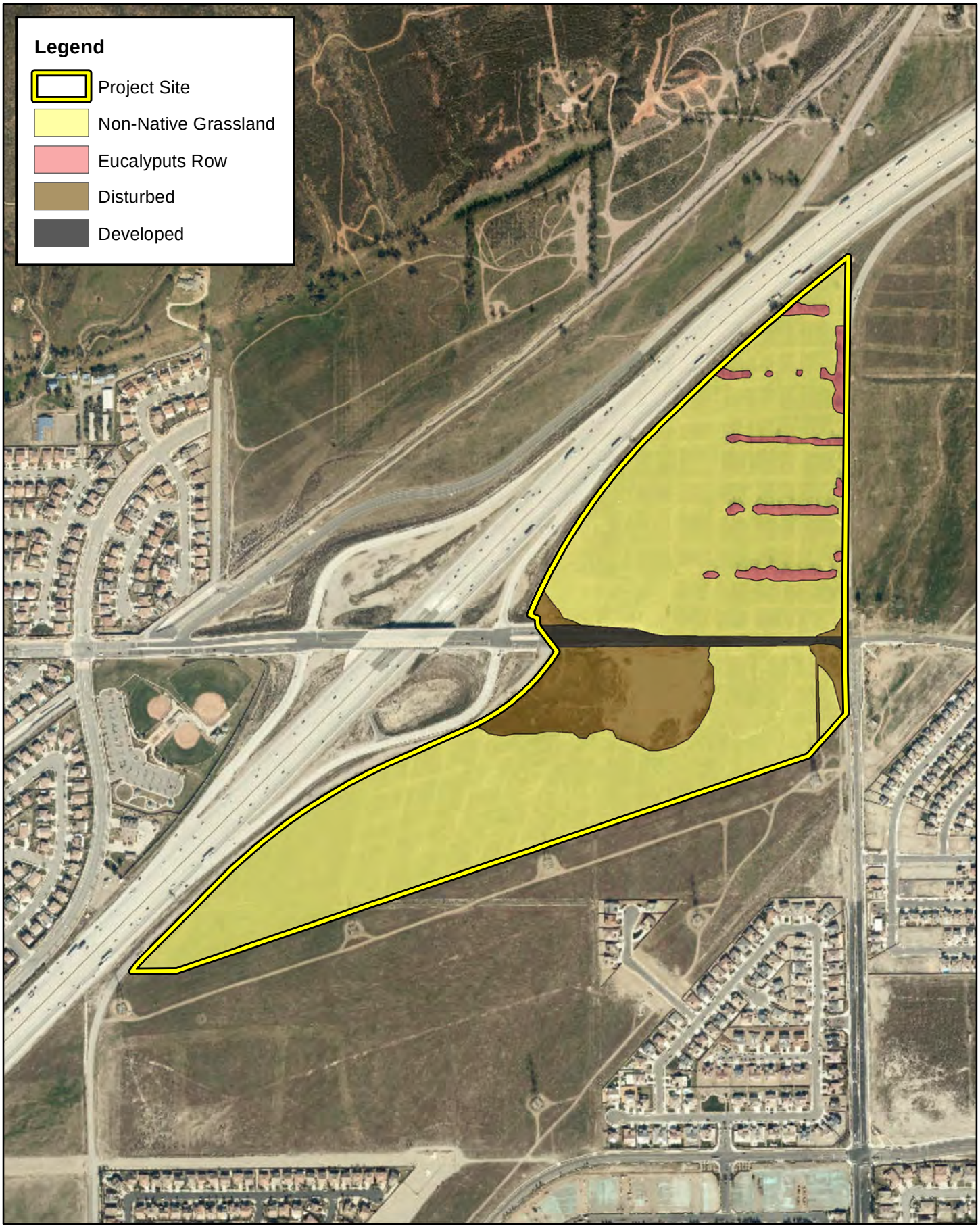
Soils

ELMT CONSULTING

0 500 1,000 2,000 Feet

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

Exhibit 4



ELMT CONSULTING

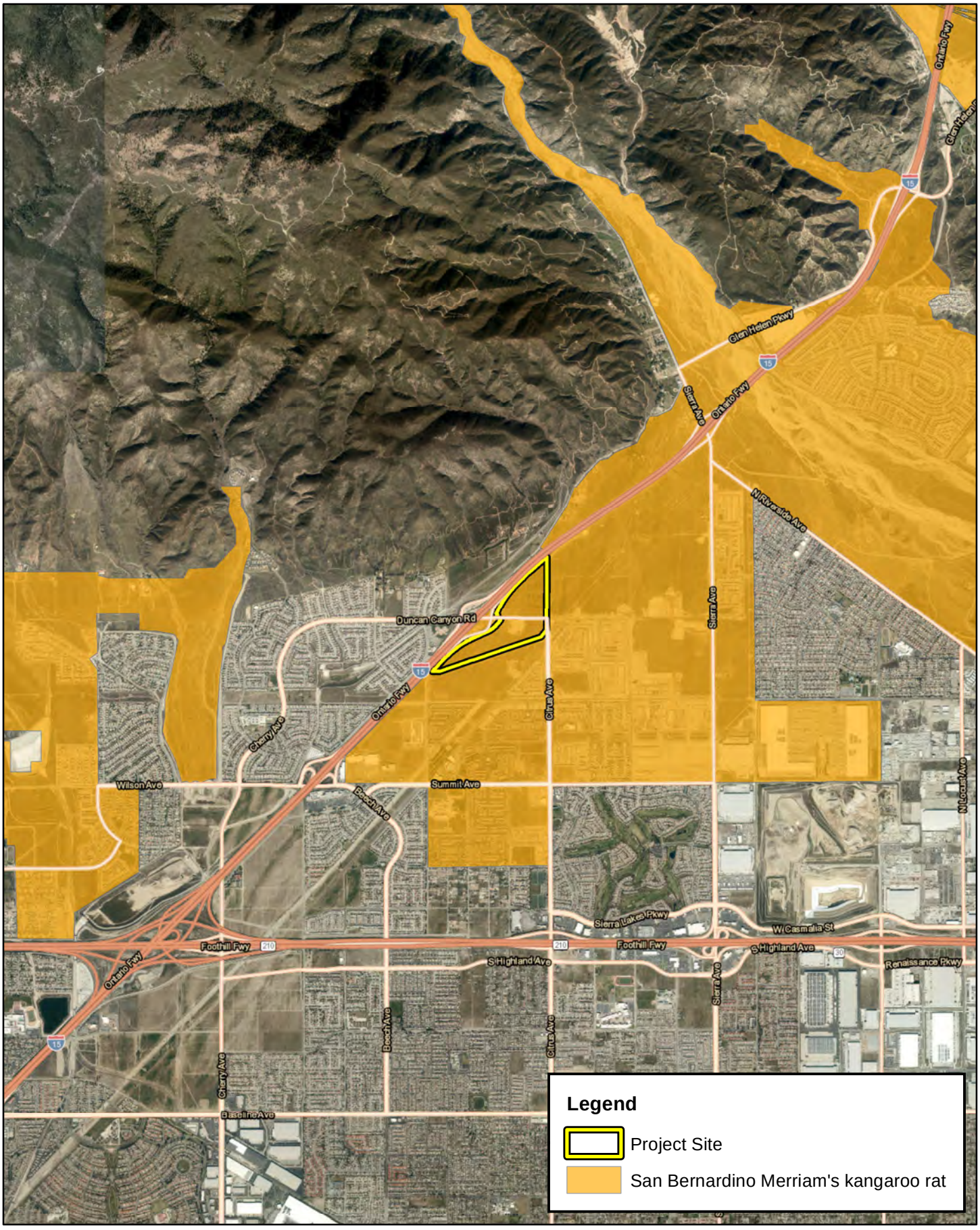
0 500 1,000 2,000 Feet

Source: ESRI Aerial Imagery, San Bernardino County

VENTANA SPECIFIC PLAN
HABITAT ASSESSMENT

Vegetation

Exhibit 5



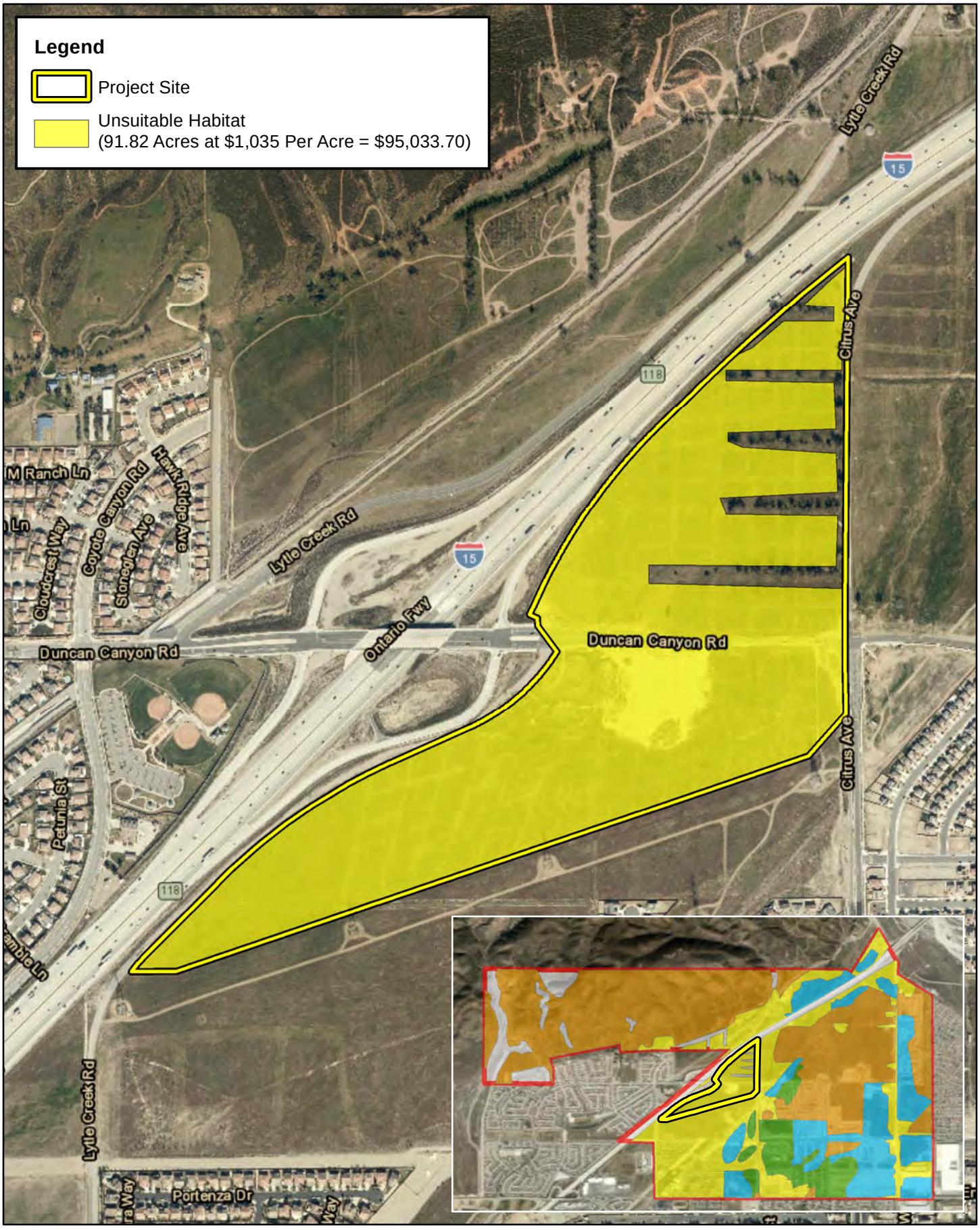
0 0.5 1 2 Miles

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

VENTANA SPECIFIC PLAN
HABITAT ASSESSMENT

Critical Habitat

Exhibit 6



VENTANA SPECIFIC PLAN
HABITAT ASSESSMENT

North Fontana Conservation Program Fee Map

Source: ESRI Aerial Imagery, San Bernardino County

Exhibit 7

Attachment B

Site Photographs

Photograph 1: From the northeast corner of the northern portion of the project site looking southwest along the western boundary.

Photograph 2: From the northeast corner of the northern portion of the project site looking south along the eastern boundary.

Photograph 3: From the southeast corner of the northern portion of the project site looking north along the eastern boundary.

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

Photograph 5: From the southwest corner of the northern portion of the project site looking east along the southern boundary.

Photograph 6: From the southwest corner of the northern portion of the project site looking north along the eastern boundary.

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

Photograph 8: From the northeast corner of the southern portion of the project site looking south along the eastern boundary.

Photograph 9: From the southeast corner of the southern portion of the project site looking north.

Photograph 10: From the southeast corner of the southern portion of the project site looking west along the southern boundary.

Photograph 11: From the southwest corner of the southern portion of the project site looking northeast.

Photograph 12: From the middle of the eastern boundary of the southern portion of the project site looking northeast.

Photograph 13: Heavily disturbed land in the southern portion of the project site.

Photograph 14: Looking west towards the western half of the southern portion of the project site.

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	Generally found in forested areas up to 3,000 feet in elevation, especially near edges and rivers. Prefers hardwood stands and mature forests but can be found in urban and suburban areas where there are tall trees for nesting. Common in open areas during nesting season.	No	**High**. There is suitable foraging habitat throughout the site. The eucalyptus trees onsite provide suitable nesting opportunities onsite. This species is adapted to urban environments and occurs commonly.
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 shrublands on hillsides and canyons. Prefers coastal sage scrub dominated by California sagebrush (*Artemisia californica*) but can also be found breeding in coastal bluff scrub, low-growing serpentine chaparral, and along the edges of tall chaparral habitats.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Anniella stebbinsi southern California legless lizard	Fed: None CA: SSC	Occurs primarily in areas with sandy or loose loamy soils under sparse vegetation of beaches, chaparral, or pine-oak woodland; or near sycamores, oaks, or cottonwoods that grow on stream terraces. Often found under or in the close vicinity of logs, rocks, old boards, and the compacted debris of woodrat nests.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Anniella pulchra northern California legless lizard	Fed: None CA: SSC	Occurs primarily in areas with sandy or loose loamy soils under sparse vegetation of beaches, chaparral, or pine-oak woodland; or near sycamores, oaks, or cottonwoods that grow on stream terraces. Often found under or in the close vicinity of logs, rocks, old boards, and the compacted debris of woodrat nests.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Aquila chrysaetos golden eagle	Fed: None CA: FP; 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	**Low.** The project site provides minimal foraging opportunities. No suitable nesting opportunities onsite.
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.** No suitable habitat is present within or adjacent to the project site.
Ardea herodias great blue heron	Fed: None CA: None	Forages along streams, marshes, lakes, and meadows. Nests colonially in tall trees (typically *Eucalyptus* sp.), on cliffsides, or in isolated spots in marshes.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
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.** No suitable habitat is present within or adjacent to the project site.
Artemisiospiza belli belli Bell's sage sparrow	Fed: None CA: WL	Occurs in chaparral dominated by fairly dense stands of chamise. Also found in coastal sage scrub in south of range.	No	**Presumed absent.** No suitable habitat is 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 such as chaparral, woodland, and riparian areas.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
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	**Low.** The project site provides line-of-sight opportunities favored by burrowing owls. Suitable burrows (>4 inches in diameter) are present in the northwest corner of the southern portion of the site. However, the site supports and is surrounded by tall trees and electrical towers that provide perching opportunities for predators of burrowing owl.
Batrachoseps gabrieli San Gabriel slender salamander	Fed: None CA: None	Known from select localities in the San Gabriel Mountains and the Mt. Baldy area of Los Angeles County and the western end of the San Bernardino Mountains in San Bernardino Co., with an elevation range of 1,200- 5,085 feet. Occurs on talus slopes surrounded by a variety of conifer and montane hardwood species, including bigcone spruce, pine, white fir, incense cedar, canyon live oak, black oak, and California laurel.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Bombus crotchii Crotch bumble bee	Fed: None CA: CE	Exclusive to coastal California east towards the Sierra-Cascade Crest; less common in western Nevada.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Buteo regalis ferruginous hawk	Fed: None CA: WL	Occurs primarily in open grasslands and fields, but may be found in sagebrush flats, desert scrub, low foothills, or along the edges of pinyon-juniper woodland. Feeds primarily on small mammals and typically found in agricultural or open fields.	No	**Presumed absent.** No suitable habitat is 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.** No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
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.** No suitable habitat is present within or adjacent to the project site.
Chaetodipus fallax pallidus pallid San Diego pocket mouse	Fed: None CA: SSC	Occurs in sandy herbaceous areas, usually in association with rocks or coarse gravel in desert wash, desert scrub, desert succulent scrub, and pinyon-juniper communities.	No	**Presumed absent.** No suitable habitat is 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	**Low.** The project site provides minimal foraging opportunities. No suitable nesting opportunities onsite.
Dipodomys merriami parvus San Bernardino kangaroo rat	Fed: **END** CA: CE; SSC	Primarily found in Riversidian alluvial fan sage scrub and sandy loam soils, alluvial fans and flood plains, and along washes with nearby sage scrub. May occur at lower densities in Riversidian upland sage scrub, chaparral and grassland in uplands and tributaries in proximity to Riversidian alluvial fan sage scrub habitats. Tend to avoid rocky substrates and prefer sandy loam substrates for digging of shallow burrows.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Dipodomys simulans Dulzura kangaroo rat	Fed: None CA: None	Relatively common in chaparral, coastal sage scrub, Riversidean alluvial fan sage scrub, and peninsular juniper woodland habitats.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Elanus leucurus white-tailed kite	Fed: None CA: FP	Occurs in low elevation, open grasslands, savannah-like habitats, agricultural areas, wetlands, and oak woodlands. Uses trees with dense canopies for cover. Important prey item is the California vole.	No	**Presumed absent.** No suitable habitat is 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	**High**. There is suitable foraging and nesting habitat present within the project site
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	**Low.** There is minimal foraging habitat throughout the site, but no nesting opportunities onsite.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
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.** No suitable habitat is present within or adjacent to the project site.
Lanius ludovicianus loggerhead shrike	Fed: None CA: SSC	Often found in broken woodlands, shrublands, and other habitats. Prefers open country with scattered perches for hunting and fairly dense brush for nesting.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Lepus californicus bennettii San Diego black-tailed jackrabbit	Fed: None CA: SSC	Occurs 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.** No suitable habitat is present within or adjacent to the project site.
Microtus californicus mohavensis Mohave river vole	Fed: None CA: SSC	Found in moist habitats including meadows, freshwater marshes and irrigated pastures in the vicinity of the Mojave River. Suitable habitat it associated with ponds and irrigation canals along with the Mojave River proper. Alfalfa fields may also provide habitat.	No	**Presumed absent.** No suitable habitat is 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.** No suitable habitat is 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.** No suitable habitat is present within or adjacent to the project site.
Nyctinomops femorosaccus pocketed free-tailed bat	Fed: None CA: SSC	Often found in pinyon-juniper woodlands, desert scrub, desert succulent shrub, desert riparian, desert wash, alkali desert scrub, Joshua tree, and palm oasis.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Oncorhynchus mykiss irideus pop. 10 steelhead – southern California DPS	Fed: **END** CA: None	Found in permanent coastal streams from San Diego to the Smith River.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Pandion haliaetus osprey	Fed: None CA: WL	Associated strictly with large, fish-bearing waters, primarily in ponderosa pine through mixed conifer habitats. Uses large trees, snags, and dead-topped trees in open forest habitats for cover and nesting. Requires open, clear waters for foraging and uses rivers, lakes, reservoirs, bays, estuaries, and surf zones.	No	**Presumed absent.** No suitable habitat is 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 will seek refuge under weeds and dead leaves instead.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Phrynosoma blainvillii coast horned lizard	Fed: None CA: SSC	Occurs in a wide variety of vegetation types including coastal sage scrub, annual grassland, chaparral, oak woodland, riparian woodland and coniferous forest. In inland areas, this species is restricted to areas with pockets of open microhabitat, created by disturbance (i.e. fire, floods, roads, grazing, fire breaks). 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.** No suitable habitat is present within or adjacent to the project site.
Polioptila californica californica coastal California gnatcatcher	Fed: **THR** CA: SSC	Obligate resident of sage scrub habitats that are dominated by California sagebrush (*Artemisia californica*). This species generally occurs below 750 feet elevation in coastal regions and below 1,500 feet inland. Ranges from the Ventura County, south to San Diego County and northern Baja California and it is less common in sage scrub with a high percentage of tall shrubs. Prefers habitat with more low-growing vegetation.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Rana muscosa southern mountain yellow-legged frog	Fed: **END** CA: **END**; WL	Occurs in lower elevation habitats characterized by rocky streambeds and wet meadows, while higher elevation habitats include lakes, ponds, and streams. Occupy streams in narrow, rock-walled canyons. Often found along rock walls or vegetated banks and always within a few feet of the water.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Rhinichthys osculus* ssp. *3 Santa Ana speckled dace	Fed: None CA: SSC	Requires permanent flowing streams within summer water temperatures of 17 – 20 degrees Celsius. Inhabits shallow cobble and gravel riffles and small streams that flow through steep, rocky canyons with chaparral covered walls.	No	**Presumed absent.** No suitable habitat is 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.** No suitable habitat is present within or adjacent to the project site.
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.** No suitable habitat is 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.** No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Strix occidentalis occidentalis California spotted owl	Fed: None CA: SSC	Breeds and roosts in forests and woodland with large old trees and snags, high basal areas of trees and snags, dense canopies, multiple canopy layers, and downed woody debris. Large old trees are key as they provide nest sites and cover from weather.	No	**Presumed absent.** No suitable habitat is 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.** No suitable habitat is 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.** No suitable habitat is present within or adjacent to the project site.
SPECIAL-STATUS PLANT SPECIES				
Ambrosia monogyra singlewhorl burrobush	Fed: None CA: None CNPS: 2B.2	Found in sandy soils within chaparral and Sonoran desert scrub habitat. Found at elevations ranging from 33 to 1,640 feet. Blooming period is from August to November.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site. The project site occurs outside of the known elevation range for this species.
Calochortus plummerae Plummer's mariposa-lily	Fed: None CA: None CNPS: 4.2	Prefers openings in chaparral, foothill woodland, coastal sage scrub, valley 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. Found at elevations ranging from 459 to 6,299 feet. Blooming period is from May to July.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Chorizanthe parryi* var. *parryi Parry's spineflower	Fed: None CA: None CNPS: 1B.1	Occurs on sandy and/or rocky soils in chaparral, coastal sage scrub, and sandy openings within alluvial washes and margins. Found at elevations ranging from 951 to 3,773 feet. Blooming period is from April to June.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Chorizanthe xanti var. leucotheca white-bracted spineflower	Fed: None CA: None CNPS: 1B.2	Found in sandy or gravelly soils within coastal scrub (alluvial fans), Mojavean desert scrub, pinyon and juniper woodland habitats. Found at elevations ranging from 984 to 3,937 feet. Blooming period is from April to June.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Cryptantha incana Tulare cryptantha	Fed: None CA: None CNPS: 1B.3	Occurs in lower montane coniferous forest (gravelly or rocky). Found at elevations ranging from 4,692 to 7,054 feet above msl. Blooming period is from June to August.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site. The project site occurs outside of the known elevation range for this species.
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.** No suitable habitat is present within or adjacent to the project site.
Eriastrum densifolium* ssp. *sanctorum Santa Ana River woollystar	Fed: **END** CA: **END** CNPS: 1B.1	Found in sandy soil in association with mature alluvial scrub. Ideal habitat appears to be a terrace or bench that receives overbank deposits every 50 to 100 years. Cryptogamic crusts are frequently present in occupied areas. Found at elevations ranging from 299 to 2,001 feet. Blooming period is from April to September.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Galium jepsonii Jepson's bedstraw	Fed: None CA: None CNPS: 4.3	Found in granitic, rocky or gravelly soils within lower montane coniferous forest and upper montane coniferous forest habitats. Found at elevations ranging from 5,052 to 8,202 feet above msl. Blooming period is from July to August.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site. The project site occurs outside of the known elevation range for this species.
Galium johnstonii Johnston's bedstraw	Fed: None CA: None CNPS: 4.3	Found in granitic, rocky or gravelly soils within lower montane coniferous forest and upper montane coniferous forest habitats. Found at elevations ranging from 5,052 to 8,202 feet. Blooming period is from July to August.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site. The project site occurs outside of the known elevation range for this species.
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.** No suitable habitat is 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.** No suitable habitat is present within or adjacent to the project site.
Lilium humboldtii* ssp. *ocellatum ocellated humboldt lily	Fed: None CA: None CNPS: 4.2	Found in openings within chaparral, cismontane woodland, coastal scrub, lower montane coniferous forest, and riparian woodland habitats. Found at elevations ranging from 98 to 5,906 feet in elevation. Blooming period is from March to August.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed On-site**	**Potential to Occur**
Lilium parryi lemon lily	Fed: None CA: None CNPS: 1B.2	Prefers lower montane coniferous forest, riparian forests, upper montane coniferous forests, meadows and seeps. Found at elevations ranging from 4,003 to 9,006 feet. Blooming period is from July to August.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site. The project site occurs outside of the known elevation range for this species.
Lycium parishii Parish's desert-thorn	Fed: None CA: None CNPS: 2B.3	Habitats include coastal scrub and Sonoran desert scrub. Found at elevations ranging from 443 to 3,281 feet. Blooming period is from March to April.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Malacothamnus parishii Parish's bush-mallow	Fed: None CA: None CNPS: 1A	Species is presumed extinct. Habitats include coastal scrub and chaparral. Found at elevations ranging from 1,000 to 1,495 feet. Blooming period is from June to July.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site. The project site occurs outside of the known elevation range for this species.
Monardella saxicola rock monardella	Fed: None CA: None CNPS: 4.2	Found in rocky, usually serpentinite, soils within closed-cone coniferous forest, chaparral, and lower montane coniferous forest habitats. Found at elevations ranging from 1,640 to 5,906 feet. Blooming period is from June to September.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Opuntia basilaris var. brachyclada short-joint beavertial	Fed: None CA: None CNPS: 1B.2	Habitats include chaparral, Joshua tree woodland, Mojavean desert scrub, pinyon and juniper woodlands. Found at elevations ranging from 1,394 to 5,906 feet. Blooming period is from April to August.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Quercus durata* var. *gabrielensis San Gabriel oak	Fed: None CA: None CNPS: 4.2	Grows in chaparral and cismontane woodland habitats. Found at elevations ranging from 1,476 to 3,280 feet. Blooming period is from April to May.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Senecio astephanus San Gabriel ragwort	Fed: None CA: None CNPS: 4.3	Grows in chaparral, cismontane woodland, and coastal scrub habitat. Found at elevations ranging from 49 to 2,625 feet. Blooming period is from January to April.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Streptanthus bernardinus Laguna Mountains jewelflower	Fed: None CA: None CNPS: 4.3	Grows in chaparral and lower montane coniferous forest on clay or decomposed granite soils. It is sometimes found in disturbed areas such as streamsides or roadcuts. From 4,724 to 8,202 feet in elevation. Blooming period is from May to August.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site. The project site occurs outside of the known elevation range for this species.

CDFW SENSITIVE HABITATS				
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**. This plant community was not observed on-site.
Southern Riparian Forest	CDFW Sensitive Habitat	Dense riparian forests found along streams and rivers. Characteristic plant species include western sycamore, cottonwood, and many other wetland plants.	No	**Absent**. This plant community was not observed on-site.
Southern Sycamore Alder Riparian Woodland	CDFW Sensitive Habitat	Occurs below 2,000 meters in elevation, sycamore and alder often occur along seasonally-flooded banks; cottonwoods and willows are also often present. Poison oak, mugwort, elderberry and wild raspberry may be present in understory.	No	**Absent**. This plant community was not observed on-site.

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

California Department of Fish and Wildlife (CDFW) - California
END- California Endangered
THR- California Threatened
CE - Candidate Endangered
FP- California Fully Protected
SSC- California Species of Concern
WL- Watch List

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
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).

Local

North Fontana Conservation program

The North Fontana Conservation Program (previously referred to as the North Fontana Interim Multiple Species Habitat Conservation Plan) was prepared to address lands in north Fontana and the listed and special-status species that have the potential to occur on these lands. To adequately mitigate for the loss of sensitive habitats, as required by the CEQA, a tiered development mitigation fee was created for new development in north Fontana. The mitigation fee is based on the quality of the habitat on the development site and a site's potential to support san Bernardino kangaroo rat, coastal California gnatcatcher, or other special-status species occurring in the vicinity. The mitigation fee is charged for each acre of land proposed for development based on the habitat quality rating.

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 EPA have jointly regulated the filling of waters of the United States, including wetlands, pursuant to Section 404 of the 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, the placement of sand, rock, clay, construction debris, wood chips, and "materials used to create any structure or infrastructure in the waters of the United States."

In April of 2020, the Corps and the EPA provided a new definition for *waters of the United States* [Federal Register, Vol. 85, No. 77 (April 21, 2020)] which encompass:

- The territorial seas and traditional navigable waters;
- Perennial and intermittent tributaries that contribute surface water flow to such waters;
- Certain lakes, ponds, and impoundments of jurisdictional waters; and
- Wetlands adjacent to other jurisdictional waters.

Additionally, the new definition identifies 12 categories of those waters and features that are excluded from the definition of ''waters of the United State, such as features that only contain water in direct response to rainfall (e.g., ephemeral features), groundwater, many ditches, prior converted cropland, and waste treatment systems. The final rule excludes from the definition of ''waters of the United States'' all waters or features not mentioned above. In addition to this general exclusion, the final rule specifically clarifies that waters of the United States do not include the following:

- Groundwater, including groundwater drained through subsurface drainage systems;
- Ephemeral features that flow only indirect response to precipitation, including ephemeral streams, swales, gullies, rills, and pools;
- Diffuse stormwater runoff and directional sheet flow over upland;
- Ditches that are not traditional navigable waters, tributaries, or that are not constructed in adjacent wetlands, subject to certain limitations;
- Prior converted cropland;
- Artificially irrigated areas that would revert to upland if artificial irrigation ceases;
- Artificial lakes and ponds that are not jurisdictional impoundments and that are constructed or excavated in upland or non-jurisdictional waters;

- Water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in non jurisdictional waters for the purpose of obtaining fill, sand, or gravel;
- Stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater runoff;
- Groundwater recharge, water reuse, and wastewater recycling structures constructed or excavated in upland or in non-jurisdictional waters; and
- Waste treatment systems.

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.