

Appendix B

Habitat Assessment and MSHCP



May 4, 2021

KIMLEY-HORN

Attention: *Kari Cano*

3880 Lemon Street, Suite 420

Riverside, California 92501

SUBJECT: Habitat Assessment for Proposed Fontana Square Project Located on the Northwest Corner of the Intersection of Citrus Avenue and South Highland Avenue in the City of Fontana, San Bernardino County, California

Introduction

This report contains the findings of ELMT Consulting's (ELMT) habitat assessment for the proposed Fontana Square Project (project, project site) located on the northwest corner of the intersection of Citrus Avenue and South Highland Avenue in the City of Fontana, San Bernardino County, California. The habitat assessment was conducted by biologist Travis J. McGill on April 4, 2021 to document baseline conditions and assess the potential for special-status¹ plant and wildlife species to occur within the project site that could pose a constraint to implementation of the proposed project. Special attention was given to the suitability of the project site 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 of Interstate 210, east of Interstate 15, north of Interstate 10 and west of Interstate 215 in the City of Fontana, San Bernardino County, California. The site is depicted on the Devore quadrangle of the United States Geological Survey's (USGS) 7.5-minute map series within section 36 of Township 1 North, Range 6 West. Specifically, the site is bordered by S. Highland Avenue along its southern boundary, Citrus Avenue along its eastern boundary, State Route 210 along its northern boundary, and Catawba Avenue along its western boundary. Refer to Exhibits 1-3 in Attachment A.

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.

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.

Literature Review

Prior to conducting the field investigation, 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), CNDDDB 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 Survey²;
- USFWS Critical Habitat designations for Threatened and Endangered Species; and
- USFWS Endangered Species Profiles.

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

Habitat Assessment/Field Investigation

Following the literature review, biologists Travis J. McGill and Jacob H. Lloyd Davies inventoried and evaluated the condition of the habitat within the project on April 4, 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.

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

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.

historical aerial photographs was conducted to assess the ecological changes that the project site has 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 laboratory using taxonomic guides. Taxonomic nomenclature used in this study follows the 2012 Jepson Manual (Hickman 2012). In this report, scientific names are provided immediately following common names of plant species (first reference only).

Wildlife

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 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.

Existing Site Conditions

The proposed project site is located in a partially developed area in the City of Fontana. The site is bounded to the north by State Route 210, to the west by Citrus Avenue and undeveloped land, to the south by residential developments, and to the east by commercial and residential developments. The majority of the project site is undeveloped with the southern boundary of the site supporting remnant building foundations.

The project site is separated from Interstate 210 and Caltrans right-of-way by a chain-link fence along its northern boundary.

Topography and Soils

The project site is located at an approximate elevation of 1,500 feet above mean sea level with no areas of topographic relief. There are a few elevated areas (mounds) onsite from soil/material stockpiling. Based on the NRCS USDA Web Soil Survey, the project site is historically underlain by Soboba gravelly loamy sand (0 to 9 percent slopes). Refer to Exhibit 4, *Soils*, in Attachment A. Soils on-site have been mechanically disturbed and compacted from historic agricultural activities, stockpiling activities, and on-site and surrounding development.

Vegetation

Due to historic and existing land uses, no native plant communities or natural communities of special concern were observed on or adjacent to the project site. The project site consists of a mixture of developed and undeveloped land that was historically used for agricultural purposes, supported housing developments, and has undergone routine weed abatement. These disturbances have eliminated the natural plant communities that once occurred on and surrounding the project site. Refer to Attachment C, *Site Photographs*, for representative site photographs. The project site consists one (1) vegetation community, non-native grassland, and two (2) land cover types that would be classified as disturbed and developed (refer to Exhibit 5, *Vegetation*, in Attachment A).

Non-Native Grassland

The non-native grassland community is dominated by non-native grasses such as ripgut brome (*Bromus diandrus*), wild oat (*Avena fatua*), and long-beaked filaree (*Erodium botrys*) and other weedy/early successional species. Other plant species observed in the non-native grassland community include Spanish lotus (*Acmispon americanus*), puncture vine (*Tribulus terrestris*), tumbling pigweed (*Amaranthus albus*), western ragweed (*Ambrosia psilostachya*), doveweed (*Croton capitatus*), sun cups (*Camissoniopsis bistorta*), tacolote (*Centaurea melitensis*), Jimson weed (*Datura stramonium*), fiddleneck (*Amsinckia* sp.), and common cryptantha (*Cryptantha intermedia*). This plant community is found on the southern half of the project site that historically supported residential developments.

Disturbed

Disturbed land occurs in the northern half of the project site. These areas have been subject to a routine soil/material stockpiling activities, which continue to persist onsite. These areas support minimal non-native/ruderal plant species.

Developed

The northwest boundary of the project site supports developed land in the form of an existing asphalt road, and on the southeast corner of the site in the form of a concrete walkway.

Wildlife

Plant communities provide foraging habitat, nesting/denning sites, 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 provides limited habitat for wildlife species except those adapted to a high degree of anthropogenic disturbances and development.

Fish

No fish or hydrogeomorphic features (e.g., creeks, ponds, lakes, reservoirs) with frequent sources of water that would support populations of 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., creeks, ponds, lakes, reservoirs) with frequent sources of water that would support populations of amphibians were observed on or within the vicinity of the project site. Therefore, no amphibians are expected to occur and are presumed absent from the project site.

Reptiles

The project site provides marginal foraging and cover habitat for a limited variety of reptile species adapted to a high degree of anthropogenic disturbance. The only reptile species observed during the field investigation was western side-blotched lizard (*Uta stansburiana elegans*). Common reptilian species adapted to a high degree of human disturbance that could potentially occur on-site include and great basin fence lizard (*Sceloporus occidentalis longipes*) and San Diego alligator lizard (*Elgaria multicarinata webbii*).

Birds

The project site provides suitable foraging and nesting habitat for a variety of bird species adapted to a high degree of anthropogenic disturbance. Bird species detected during the field investigation include northern mockingbird (*Mimus polyglottos*), Say's phoebe (*Sayornis saya*), house finch (*Haemorhouse mexicanus*), lesser goldfinch (*Spinus psaltria*), Cassin's kingbird (*Tyrannus vociferans*), bushtit (*Psaltriparus minimus*), mourning dove (*Zenaida macroura*), rock pigeon (*Columbia liva*), and western meadowlark (*Sturnella neglecta*).

Mammals

The project site provides marginal foraging and cover habitat for a mammalian species adapted to a high degree of anthropogenic disturbance. The only mammalian species detected during the field investigation was desert cottontail (*Sylvilagus audubonii*). Common mammalian species adapted to a high degree of human disturbance that could potentially occur on-site include opossum California ground squirrel (*Otospermophilus beecheyi*), opossum (*Didelphis virginiana*), and raccoon (*Procyon lotor*).

Nesting Birds

No active nests or birds displaying nesting behavior were observed during the field survey, which was conducted 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 the Lytle Creek Wash, located approximately 3.4 miles to the northeast.

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

Jurisdictional Areas

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

No jurisdictional drainage and/or wetland features were observed on the project site during the habitat assessment that would be considered jurisdictional by the Corps, Regional Board, or CDFW. A query of the NWI database found on potential blue-line streams, riverine, or other aquatic resources within or adjacent to the project site. Project implementation will not result in any impact to jurisdictional resources.

Special-Status Biological Resources

The CNDDDB 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. Only one quadrangle was queried since the project site is surrounded by existing development, and does not connect with any natural areas or native plant communities in the region. 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.

The literature search identified twenty (20) special-status plant species, forty-one (41) 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 is presented in Attachment D: *Potentially Occurring Special-Status Biological Resources*.

Special-Status Plants

According to the CNDDDB and CNPS, twenty (20) special-status plant species have been recorded in the Devore quadrangle (refer to Attachment D). No special-status plant species were observed on-site during the habitat assessment. The majority of the project site has been subject to anthropogenic disturbances from historic agricultural activities, soil/material stockpiling, and surrounding development. These disturbances have reduced the suitability of the habitat to support special-status plant species known to occur in the general vicinity of the project site. 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 are presumed to be absent from the project site. No focused surveys are recommended.

Special-Status Wildlife

According to the CNDDDB, forty-one (41) special-status wildlife species have been reported in the Devore quadrangle (refer to Attachment D). 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 and is surrounded by existing development. 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 low potential to provide suitable habitat for Cooper's hawk (*Accipiter cooperii*), burrowing owl, California horned lark (*Eremophila alpestris actia*), prairie falcon (*Falco mexicanus*), and loggerhead shrike (*Lanius ludovicianus*). 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) was 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. Further, no suitable burrows (>4 inches) were observed during the field investigation. In addition, tall fences, powerlines, and ornamental trees surround the project site 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 provide suitable habitat for burrowing owls and focused surveys are not recommended. However, a pre-construction burrowing owl clearance survey shall 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 and State listed as endangered, is one of several kangaroo rat species in its range known to occur in the area. San Bernardino kangaroo rat historically ranged from the San Bernardino Valley in San Bernardino County, to southwest Perris, Bautista Canyon, and Murrieta Hot Springs in Riverside County, with at least 25 separate localities identified. Currently, populations of the San Bernardino kangaroo rat are limited to seven widely separated locations in San Bernardino and Riverside Counties, four of which (City Creek, Etiwanda, Reche Canyon, and South Bloomington) support only small, remnant populations. The Santa Ana River, Lytle and Cajon washes, and the San Jacinto River

support the largest extant concentrations of San Bernardino kangaroo rat and the largest areas of habitat for this species (approximately 3,200 acres total) (USFWS 2009).

San Bernardino kangaroo rat is found primarily on sandy and loamy sand substrates, where they can readily excavate simple, shallow burrows. This is almost exclusively associated with RAFSS habitats, a relatively uncommon desert-influenced plant community in southern California that develops on alluvial fans and floodplains subjected to scouring and deposition (USFWS 2009). Adjacent upland habitat provide refuge for San Bernardino kangaroo rat during flood events. Animals occupying this refugia habitat are able to repopulate core habitat areas within the floodplain following major flood events. 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).

The project site and surrounding area are no longer exposed to fluvial processes needed to maintain the intermediate RAFSS habitat that would be required for long-term San Bernardino kangaroo rat conservation. The site has been isolated from the influences of the alluvial fans extending out of the San Gabriel Mountains since the late 1950s from the construction of Interstate 15, construction of Interstate 210, and channelization of the drainages extending out of the San Gabriel Mountains for flood control purposes. Further, the project site is not located within federally designated Critical Habitat for San Bernardino kangaroo rat.

Due to the history of agricultural use, including the removal of native habitat and several decades of farming/manipulating native soils, the loss of fluvial scouring due to flood control activities, and isolation from known occupied habitat, the project site no longer supports native RAFSS habitat. Further the site is no longer accessible to San Bernardino kangaroo rat due to the fragmentation and isolation of the project site from native habitats from on the San Gabriel alluvial fans. No sign of San Bernardino kangaroo rat use was found within the project site or neighboring areas. San Bernardino kangaroo rat is presumed absent, and no further studies are recommended.

Special-Status Plant Communities

According to the CNDDDB, 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 Habitats

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 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 Clean Water Act Permit from the United States Army Corps of Engineers). If there is a federal nexus, then the federal agency that is responsible for providing the funding or permit would consult with the USFWS.

The project site is not located within federally designated Critical Habitat. The nearest designated Critical Habitat is located approximately 0.5 mile north of the project site for San Bernardino kangaroo rat. Therefore, the loss or adverse modification of Critical Habitat from site development will not occur and consultation with the USFWS for impacts to Critical Habitat will not be required for implementation of the proposed project.

Conclusion

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

Recommendations

Migratory Bird Treaty Act and Fish and Game Code

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

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

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

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

Sincerely,



Thomas J. McGill, Ph.D.
Managing Director



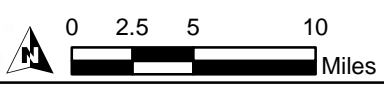
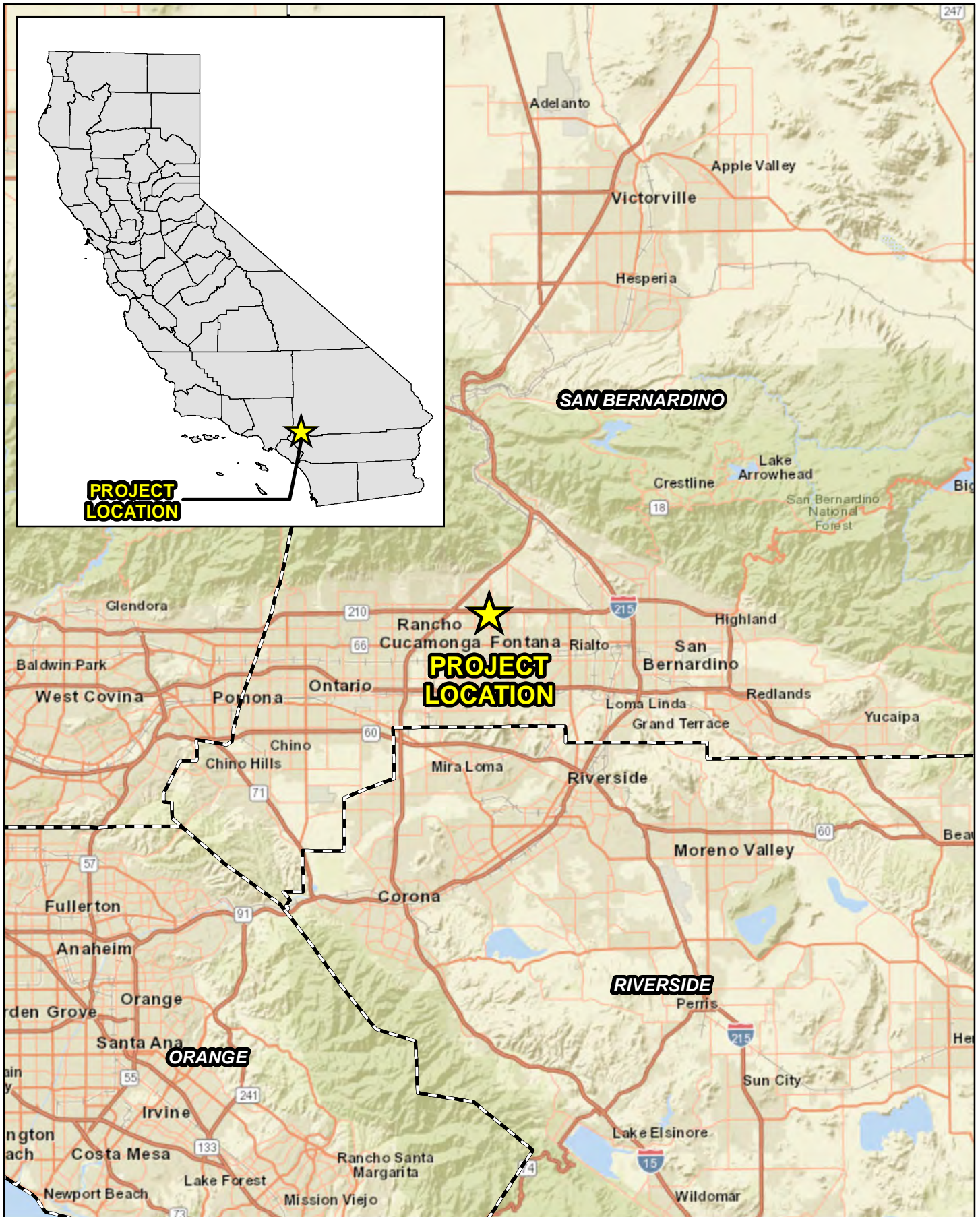
Travis J. McGill
Director

Attachments:

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

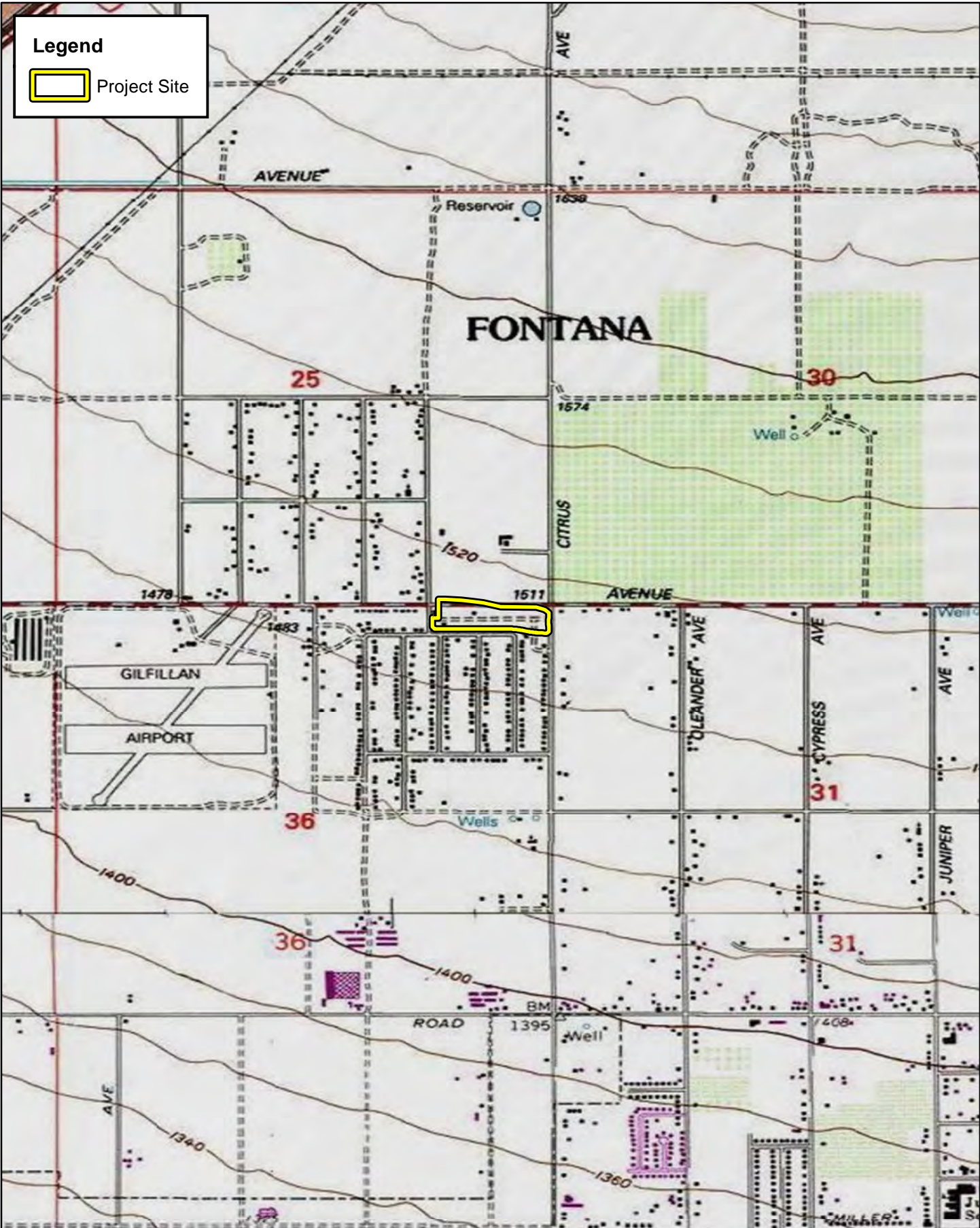
Attachment A

Project Exhibits



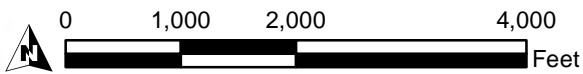
Source: World Street Map, San Bernardino County

FONTANA SQUARE
HABITAT ASSESSMENT
Regional Vicinity



Legend

 Project Site



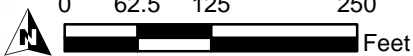
Source: USA Topographic Map, San Bernardino County

FONTANA SQUARE
HABITAT ASSESSMENT
Site Vicinity



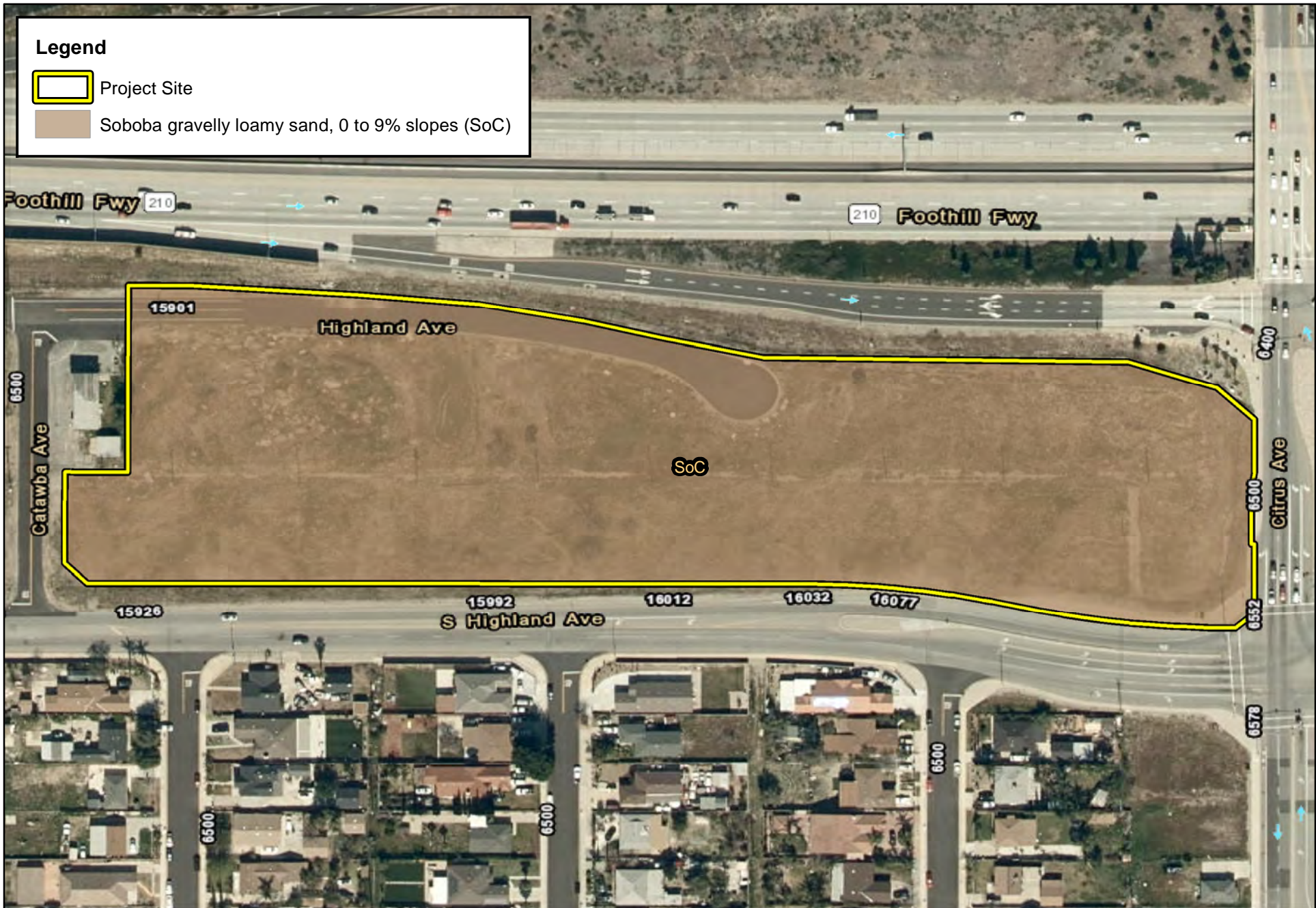
Legend

Project Site



Source: ESRI Aerial Imagery, San Bernardino County

FONTANA SQUARE
HABITAT ASSESSMENT
Project Site



Legend

- Project Site
- Soboba gravelly loamy sand, 0 to 9% slopes (SoC)



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

FONTANA SQUARE
HABITAT ASSESSMENT
Soils



Legend

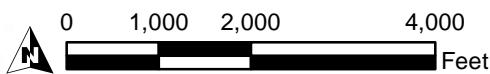
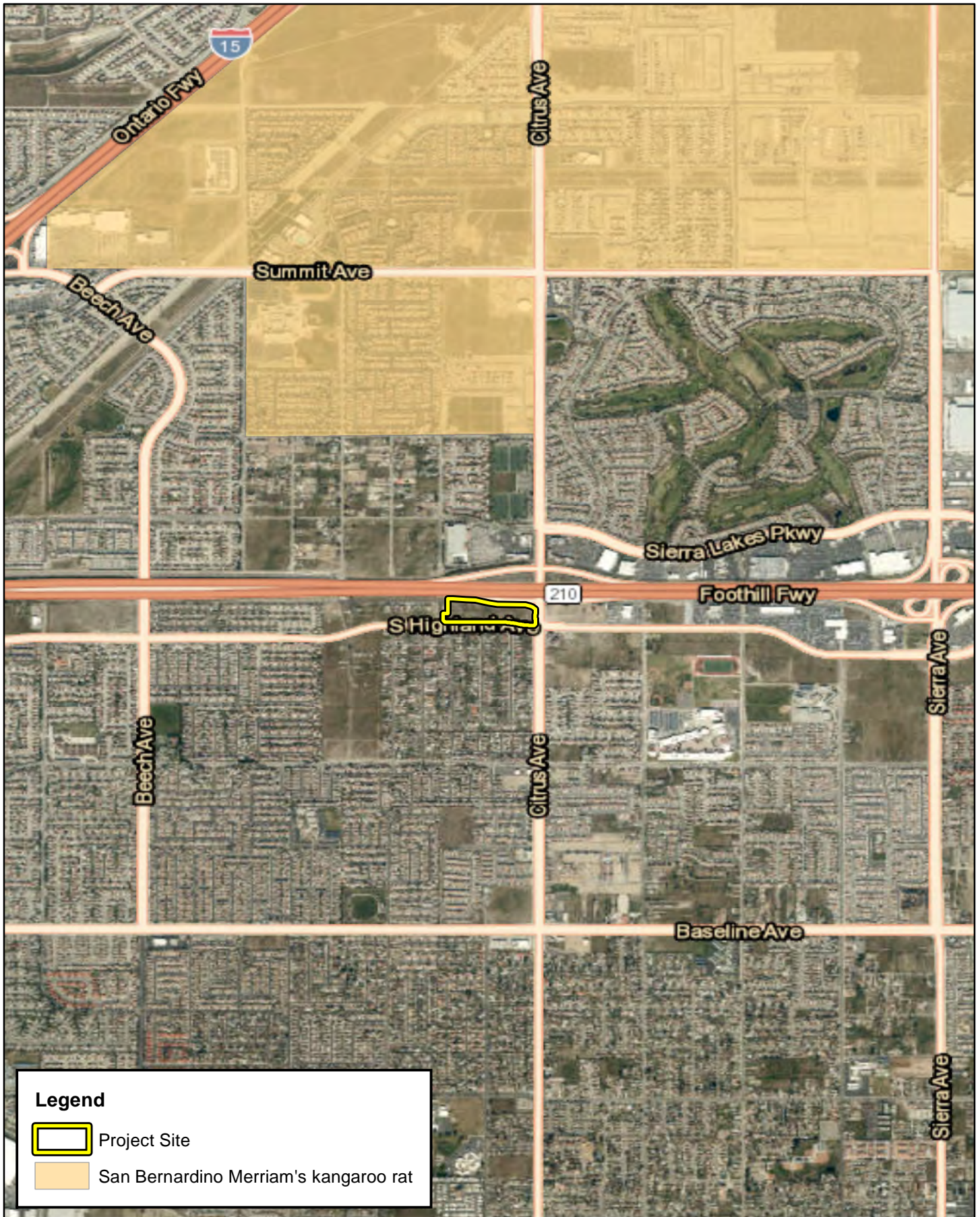
- Project Site
- NNG
- Disturbed
- Developed





Source: ESRI Aerial Imagery, San Bernardino County

FONTANA SQUARE
 HABITAT ASSESSMENT
Vegetation

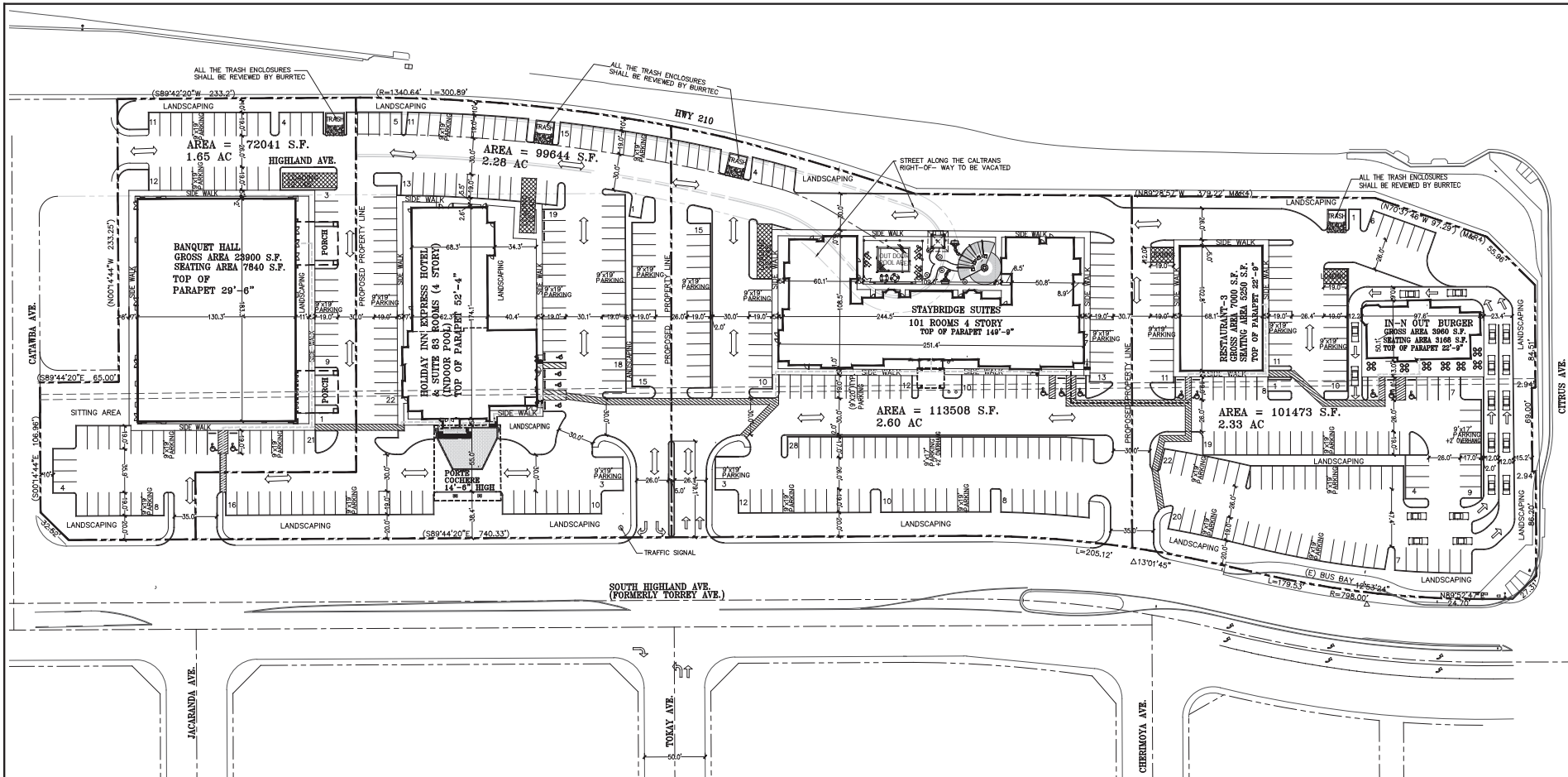


Source: ESRI Aerial Imagery, USFWS Critical Habitat, San Bernardino County

FONTANA SQUARE
HABITAT ASSESSMENT
Critical Habitat

Attachment B

Site Plan



PROJECT DATA

ASSESSOR'S PARCEL NUMBER : 0228-301-01, 228-301-02, 0228-301-03, 0228-301-04, 0228-301-05, 0228-301-06, 0228-301-07, 0228-301-08, 0228-301-20, 0228-301-21, 0228-301-22, 0228-301-23, 0228-301-33, 0228-301-34, 0228-301-35, 0228-301-36, 0228-301-37, 0228-301-38, 0228-301-39, 0228-301-40, 0228-301-41, 0228-141-42, 0228-301-43, 0228-301-44, 0228-301-45, 0228-301-46, 0228-301-47, 0228-301-48, 0228-301-49, 0228-301-51 AND 0228-301-52.

ADDRESS : FONTANA SQUARE
NWC CITRUS & SO. HIGHLAND AVE.
FONTANA, CALIFORNIA

EXISTING/PROPOSED : C-G, GENERAL COMMERCIAL

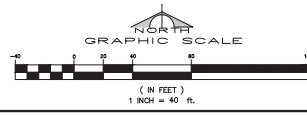
GENERAL PLAN : C-2, GENERAL COMMERCIAL

JURISDICTION : SAN BERNARDINO COUNTY

LOT COVERAGE :
TOTAL AREA OF SITE : 386666 S.F. (8.87 AC)
PROVIDED LANDSCAPE AREA : 71830 SQ.FT (16.68%)
BUILDINGS FOOTPRINT : 239004+140064+192464+7000+3960+68114 S.F.(17.71%)
TOTAL PAVED AREA : 244596 SQ.FT (63.61%)

PARKING ANALYSIS

- PARKING FOR HOLIDAY INN EXPRESS 83 ROOM HOTEL (1 SPACE:1 ROOM)
PARKING REQUIRED : 83 SPACES
+ PARKING FOR EMPLOYEES : 7 SPACES
- PARKING FOR STAYBRIDGE SUITES 101 ROOM 4 STORY HOTEL
TOTAL PARKING REQUIRED : 101 SPACES
+ PARKING FOR EMPLOYEES : 7 SPACES
- PARKING FOR BANQUET HALL (1/40 @ 7840 NET SEATING SQ.FT.)
TOTAL PARKING REQUIRED : 196 SPACES
- PARKING REQUIRED FOR IN-N-OUT: 1/75 @ 3168 NET SEATING SQ.FT.
TOTAL PARKING REQUIRED : 43 SPACES
- PARKING FOR RESTAURANT-3 : 1 SPACE : 100 SQ.FT @ 5250 NET SQ.FT.
TOTAL PARKING REQUIRED : 53 SPACES
GROSS PARKING REQUIRED : 490 SPACES
GROSS PARKING PROVIDED : 482 SPACES
LOADING REQUIRED : 5 SPACES
LOADING PROVIDED : 5 SPACES (3 TRUCK+2VAN)
ACCESSIBLE PARKING REQUIRED : 10 SPACES
ACCESSIBLE PARKING PROVIDED : 14 SPACES



REVISIONS
REVISION ISSUE
DATED

ACE Design LLC
1024 Iron Point Road, Suite 1046
Fontana, CA 92330
Phone: (702) 396-5113, Fax: (702) 446-6155
Land Planning • Civil Engineering • Architectural Design • Structural Engineering

SITE PLAN
FONTANA SQUARE
NWC CITRUS & SO. HIGHLAND AVE.
FONTANA, CALIFORNIA

PROJECT
TITLE

DATE: 10/19/2019
JOB: 19-03
DWG BY: HS
CHK BY: MG

A1.0.0
SHEET
1 OF 2

REGISTERED PROFESSIONAL ENGINEER
NO. 10107
DATE 09/16/2010
CIVIL
STATE OF CALIFORNIA

Attachment C

Site Photographs



Photograph 1: From the middle of the northern boundary looking west along the existing paved road.



Photograph 2: From the existing road looking southeast at the disturbed northern boundary of the site.



Photograph 3: From the northeast corner of the site looking west along the northern boundary.



Photograph 4: View of the disturbed northeast corner of the site.



Photograph 5: From the middle of the eastern boundary looking at the existing telephone poles in the middle of the site.



Photograph 6: From the middle of the southern boundary looking east at the non-native grassland.



Photograph 7: From the southwest corner of the site looking east along the southern boundary.



Photograph 8: From the southwest corner of the site looking north along the western boundary.



Photograph 9: View of the soil/material stockpiles on the northern boundary.



Photograph 10: Debris piles on the northern boundary.

Attachment D

Potentially Occurring Special-Status Biological Resources

Potentially Occurring Special-Status Biological Resources

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
SPECIAL-STATUS WILDLIFE SPECIES				
<i>Accipiter cooperii</i> 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	Low. There is minimal foraging habitat onsite, but no suitable nesting opportunities are present.
<i>Aimophila ruficeps canescens</i> 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 (<i>Artemisia californica</i>), 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 on-site.
<i>Anniella pulchra</i> 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 on-site.
<i>Anniella stebbinsi</i> 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 on-site.
<i>Aquila chrysaetos</i> 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	Presumed absent. No suitable habitat is present on-site.
<i>Ardea alba</i> 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 on-site.
<i>Arizona elegans occidentalis</i> 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 on-site.
<i>Artemisospiza belli belli</i> 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 on-site.

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Aspidoscelis tigris stejnegeri</i> 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 on-site.
<i>Athene cunicularia</i> 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. Marginal foraging habitat on-site. No suitable burrows (>4 inches in diameter) were observed.
<i>Batrachoseps gabrieli</i> 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 on-site.
<i>Bombus crotchii</i> 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 on-site.
<i>Buteo regalis</i> 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 on-site.
<i>Calypte costae</i> 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 on-site.
<i>Chaetodipus fallax fallax</i> 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 on-site.
<i>Chaetodipus fallax pallidus</i> 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 on-site.

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Circus hudsonius</i> northern harrier	Fed: None CA: SSC	Frequents meadows, grasslands, open rangelands, desert sinks, fresh and saltwater emergent wetlands; seldom found in wooded areas. Mostly found in flat, or hummocky, open areas of tall, dense grasses moist or dry shrubs, and edges for nesting, cover, and feeding.	No	Presumed absent. No suitable habitat is present on-site.
<i>Dipodomys merriami parvus</i> 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 on-site.
<i>Dipodomys simulans</i> 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 on-site.
<i>Elanus leucurus</i> 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 on-site.
<i>Eremophila alpestris actia</i> 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 and shrubs are usually scarce or absent. Generally rare in montane, coniferous, or chaparral habitats. Forms large flocks outside of the breeding season.	No	Low. There is minimal foraging habitat onsite, but no suitable nesting opportunities are present.
<i>Falco mexicanus</i> 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 onsite, but no suitable nesting opportunities are present.
<i>Icteria virens</i> 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 on-site.
<i>Lanius ludovicianus</i> 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	Low. There is minimal foraging habitat onsite, but no suitable nesting opportunities are present.
<i>Lepus californicus bennettii</i> 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 on-site.

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Microtus californicus mohavensis</i> 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 on-site.
<i>Neotoma lepida intermedia</i> 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 on-site.
<i>Nyctinomops femorosaccus</i> 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 on-site.
<i>Pandion haliaetus</i> 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 on-site.
<i>Perognathus longimembris brevinasus</i> 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 on-site.
<i>Perognathus longimembris pacificus</i> Pacific pocket mouse	Fed: END CA: SSC	Occurs on loose sandy soils that support sparse coastal sage scrub, grassland, and ruderal habitats.	No	Presumed absent. No suitable habitat is present on-site.
<i>Phrynosoma blainvillii</i> 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 on-site.
<i>Polioptila californica californica</i> coastal California gnatcatcher	Fed: THR CA: SSC	Obligate resident of sage scrub habitats that are dominated by California sagebrush (<i>Artemisia californica</i>). 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 on-site.

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Rana muscosa</i> 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 on-site.
<i>Rhinichthys osculus ssp. 3</i> 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 on-site.
<i>Salvadora hexalepis virgultea</i> 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 on-site.
<i>Setophaga petechia</i> 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 on-site.
<i>Spinus lawrencei</i> 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 on-site.
<i>Strix occidentalis occidentalis</i> 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 on-site.
<i>Taxidea taxus</i> 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 on-site.
<i>Vireo bellii pusillus</i> 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 on-site.

SPECIAL-STATUS PLANT SPECIES				
<i>Ambrosia monogyra</i> 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 on-site.
<i>Calochortus plummerae</i> 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 on-site.
<i>Chorizanthe parryi</i> var. <i>parryi</i> 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 on-site.
<i>Chorizanthe xanti</i> var. <i>leucotheca</i> 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 on-site.
<i>Cryptantha incana</i> 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 on-site.
<i>Dodecahema leptoceras</i> 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 on-site.
<i>Eriastrum densifolium</i> ssp. <i>sanctorum</i> 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 on-site.
<i>Galium jepsonii</i> 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 on-site.
<i>Galium johnstonii</i> 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 on-site.
<i>Horkelia cuneata</i> var. <i>puberula</i> 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 on-site.

<i>Juglans californica</i> 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 on-site.
<i>Lilium humboldtii</i> ssp. <i>ocellatum</i> 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 on-site.
<i>Lilium parryi</i> 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 on-site.
<i>Lycium parishii</i> 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 on-site.
<i>Malacothamnus parishii</i> 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 on-site.
<i>Monardella saxicola</i> 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 on-site.
<i>Opuntia basilaris</i> var. <i>brachyclada</i> short-joint beavertail	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 on-site.
<i>Quercus durata</i> var. <i>gabrieleensis</i> 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 on-site.
<i>Senecio astephanus</i> 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 on-site.
<i>Streptanthus bernardinus</i> 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 on-site.

CDFW SENSITIVE HABITATS				
Riversidean 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 E

Regulations

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

Federal Regulations

Endangered Species Act of 1973

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

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

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

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

Migratory Bird Treaty Act

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

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

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

State Regulations

California Environmental Quality Act (CEQA)

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

California Endangered Species Act (CESA)

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

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

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

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

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

Fish and Game Code

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

Native Plant Protection Act

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

California Native Plant Society Rare and Endangered Plant Species

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

California Rare Plant Rank

- 1A- Plants Presumed Extirpated in California and either Rare or Extinct Elsewhere
- 1B- Plants Rare, Threatened, or Endangered in California and Elsewhere

- 2A- Plants Presumed Extirpated in California, But More Common Elsewhere
- 2B- Plants Rare, Threatened, or Endangered in California, But More Common Elsewhere
- 3- Plants about Which More Information is Needed - A Review List
- 4- Plants of Limited Distribution - A Watch List

Threat Ranks

- .1- Seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat)
- .2- Moderately threatened in California (20-80% occurrences threatened / moderate degree and immediacy of threat)
- .3- Not very threatened in California (<20% of occurrences threatened / low degree and immediacy of threat or no current threats known).

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

Federal Regulations

Section 404 of the Clean Water Act

Since 1972, the Corps and U.S. Environmental Protection Agency (EPA) have jointly regulated the filling of “waters of the U.S.,” including wetlands, pursuant to Section 404 of the Clean Water Act (CWA). The Corps has regulatory authority over the discharge of dredged or fill material into the waters of the United States under Section 404 of the CWA. The Corps and EPA define “fill material” to include any “material placed in waters of the United States where the material has the effect of: (i) replacing any portion of a water of the United States with dry land; or (ii) changing the bottom elevation of any portion of the waters of the United States.” Examples include, but are not limited to, sand, rock, clay, construction debris, wood chips, and “materials used to create any structure or infrastructure in the waters of the United States.” In order to further define the scope of waters protected under the CWA, the Corps and EPA published the Clean Water Rule on June 29, 2015. Pursuant to the Clean Water Rule, the term “waters of the United States” is defined as follows:

- (i) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide.
- (ii) All interstate waters, including interstate wetlands¹.
- (iii) The territorial seas.
- (iv) All impoundments of waters otherwise defined as waters of the United States under the definition.
- (v) All tributaries² of waters identified in paragraphs (i) through (iii) mentioned above.
- (vi) All waters adjacent³ to a water identified in paragraphs (i) through (v) mentioned above, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.

¹ The term *wetlands* means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

² The terms *tributary* and *tributaries* each mean a water that contributes flow, either directly or through another water (including an impoundment identified in paragraph (iv) mentioned above), to a water identified in paragraphs (i) through (iii) mentioned above, that is characterized by the presence of the physical indicators of a bed and banks and an ordinary high water mark.

³ The term *adjacent* means bordering, contiguous, or neighboring a water identified in paragraphs (i) through (v) mentioned above, including waters separated by constructed dikes or barriers, natural river berms, beach dunes, and the like.

- (vii) All prairie potholes, Carolina bays and Delmarva bays, Pocosins, western vernal pools, Texas coastal prairie wetlands, where they are determined, on a case-specific basis, to have a significant nexus to a water identified in paragraphs (i) through (iii) mentioned above.
- (viii) All waters located within the 100-year floodplain of a water identified in paragraphs (i) through (iii) mentioned above and all waters located within 4,000 feet of the high tide line or ordinary high water mark of a water identified in paragraphs (i) through (v) mentioned above, where they are determined on a case-specific basis to have a significant nexus to a waters identified in paragraphs (i) through (iii) mentioned above.

The following features are not defined as “waters of the United States” even when they meet the terms of paragraphs (iv) through (viii) mentioned above:

- (i) Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the Clean Water Act.
- (ii) Prior converted cropland.
- (iii) The following ditches:
 - (A) Ditches with ephemeral flow that are not a relocated tributary or excavated in a tributary.
 - (B) Ditches with intermittent flow that are not a relocated tributary, excavated in a tributary, or drain wetlands.
 - (C) Ditches that do not flow, either directly or through another water, into a water of the United States as identified in paragraphs (i) through (iii) of the previous section.
- (iv) The following features:
 - (A) Artificially irrigated areas that would revert to dry land should application of water to that area cease;
 - (B) Artificial, constructed lakes and ponds created in dry land such as farm and stock watering ponds, irrigation ponds, settling basins, fields flooded for rice growing, log cleaning ponds, or cooling ponds;
 - (C) Artificial reflecting pools or swimming pools created in dry land;
 - (D) Small ornamental waters created in dry land;
 - (E) Water-filled depressions created in dry land incidental to mining or construction activity, including pits excavated for obtaining fill, sand, or gravel that fill with water;
 - (F) Erosional features, including gullies, rills, and other ephemeral features that do not meet the definition of a tributary, non-wetland swales, and lawfully constructed grassed waterways; and
 - (G) Puddles.
- (v) Groundwater, including groundwater drained through subsurface drainage systems.
- (vi) Stormwater control features constructed to convey, treat, or store stormwater that are created in dry land.

- (vii) Wastewater recycling structures constructed in dry land; detention and retention basins built for wastewater recycling; groundwater recharge basins; percolation ponds built for wastewater recycling; and water distributary structures built for wastewater recycling.

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.