CAPACITY IMPROVEMENTS AT PALOS VERDE NORTH AND DAPPLEGRAY SCHOOL ENTRANCE

CITY OF ROLLING HILLS ESTATES, LOS ANGELES COUNTY, CALIFORNIA

BIOLOGICAL RESOURCES ASSESSMENT

Prepared For:

Willdan
13191 Crossroads Parkway North, Suite 405
Industry, California 91746
Contact: Christine Kudija, J.D., AICP, MLA

Prepared By:

ELMT Consulting
2201 N. Grand Avenue #10098
Santa Ana, California 92711
Contact: *Travis J. McGill*

September 2021

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The undersigned certify that the statements furnished in this report and exhibits present data and information required for this biological evaluation, and the facts, statements, and information presented is a complete and accurate account of the findings and conclusions to the best of our knowledge and beliefs.

Travis J. McGill
Director

Thomas J. McGill, Ph.D.
Managing Director

September 2021

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EXHIBITS

APPENDIX

Section 1 Introduction

This report contains the findings of ELMT Consulting's (ELMT) biological resources assessment for the Capacity Improvements Project at Palos Verde Drive North and Dapplegray School Entrance (project site, site) located in the City of Rolling Hills Estates, Los Angeles County, California. ELMT biologists Travis J. McGill and Jacob H. Lloyd Davies inventoried and evaluated the condition of the habitat within the boundaries of the site on June 24, 2021.

The field investigation was conducted to characterize existing site conditions and assess the probability of occurrence of special status[1] plant and wildlife species that could pose a constraint to project implementation. This report provides an assessment of the suitability of the on-site habitat to support special-status plant and wildlife species identified by the California Natural Diversity Database (CNDDB), as well as other electronic databases that show special-status species as potentially occurring on or within the general vicinity of the survey area.

1.1 PROJECT SITE LOCATION

The project site is generally located south of State Route 1, west of Interstate 110, northwest of the City of Rancho Palos Verdes, and west of County Route N7 in the City of Rolling Hills Estates, Los Angeles County, California (Exhibit 1, *Regional Vicinity*). The project site is depicted on the Torrance quadrangle of the United States Geological Survey (USGS) 7.5-minute topographic map series in unsectioned portions of Township 5 South, Range 14 West (Exhibit 2, *Site Vicinity*). Specifically, the project site is located within a public-right-of-way immediately north and south of the intersection of Palos Verdes Road North and the Dapplegray School Entrance (Exhibit 3, *Project Site*).

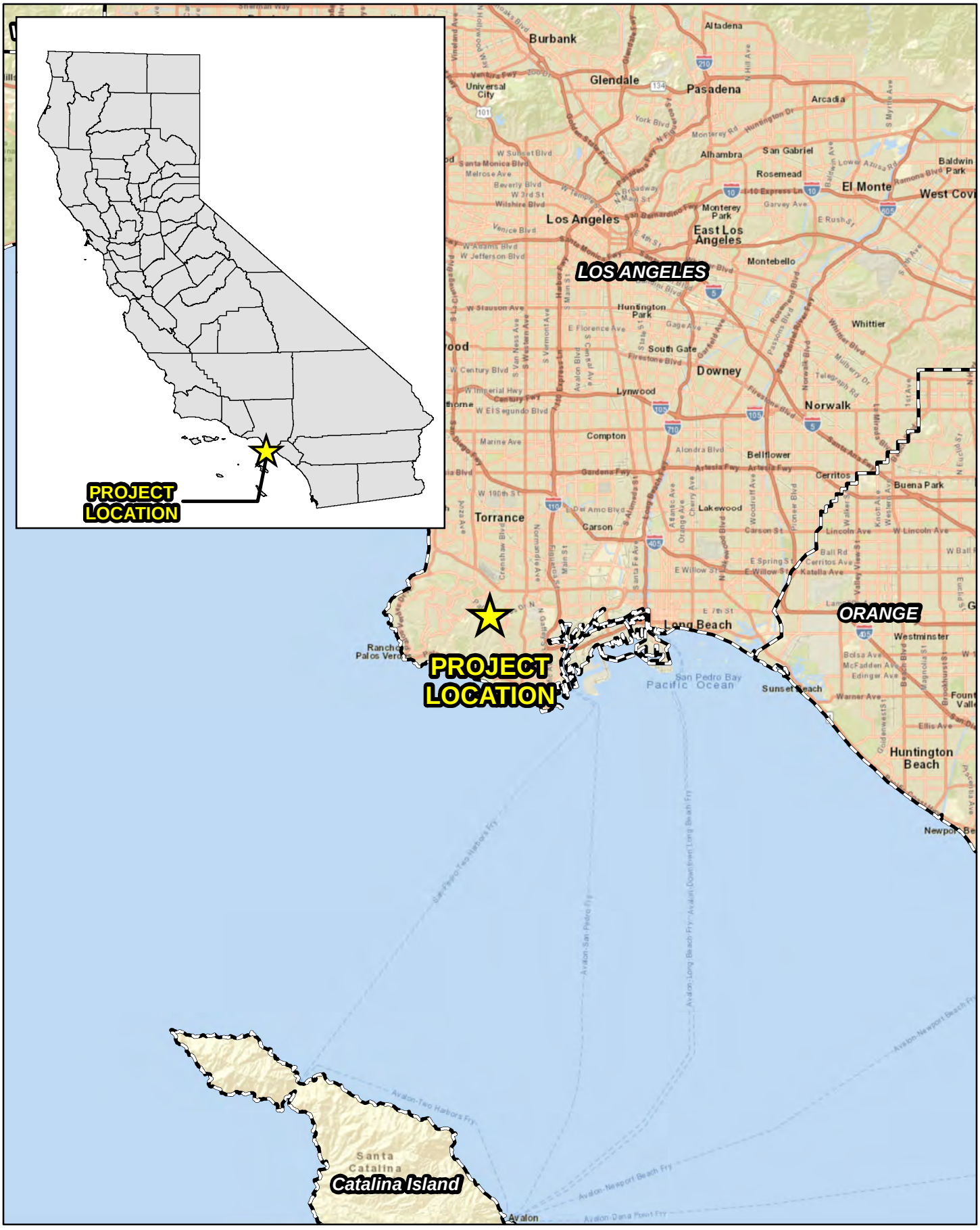
1.2 PROJECT DESCRIPTION

The project proposes the following improvements:

- Proposed additional lane in the eastbound and westbound directions.
- Redesign equestrian trail on the north side to accommodate street widening
- Proposed retaining walls for slope protection on the north and south sides.
- Redesign school access road to accommodate street widening.

Refer to Appendix A, *Site Plans*.

[1] As used in this report, "special-status" refers to plant and wildlife species that are federally or State listed, proposed, or candidates; plant species that have been designated a California Native Plant Society (CNPS) Rare Plant Rank; and wildlife species that are designated by the California Department of Fish and Wildlife (CDFW) as fully protected, species of special concern or watch list species.

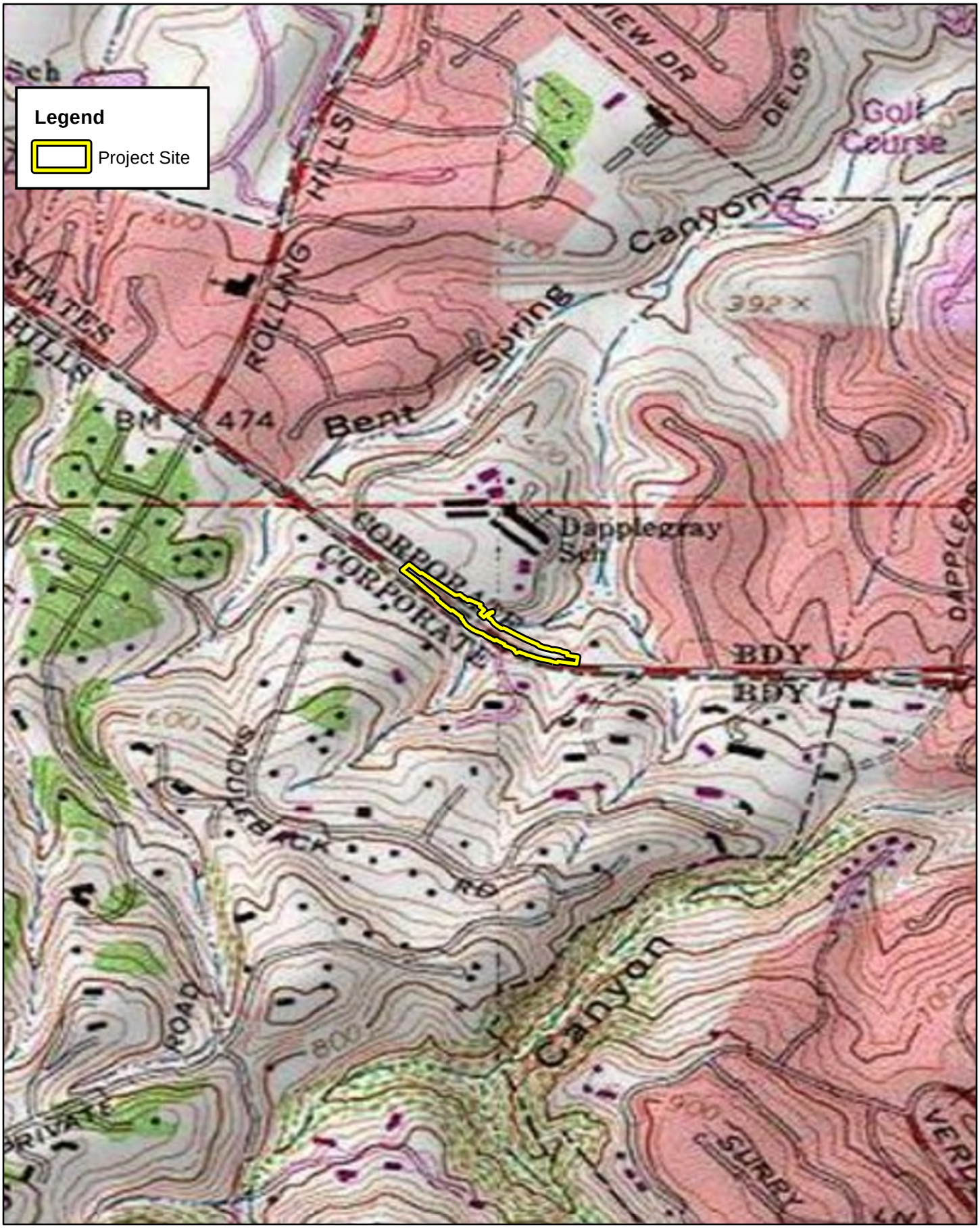


Source: World Street Map, Los Angeles County

Palo Verdes Drive North and Dapplegray School Entrance
Biological Resources Assessment

Regional Vicinity

Exhibit 1



Palo Verdes Drive North and Dapplegray School Entrance
Biological Resources Assessment

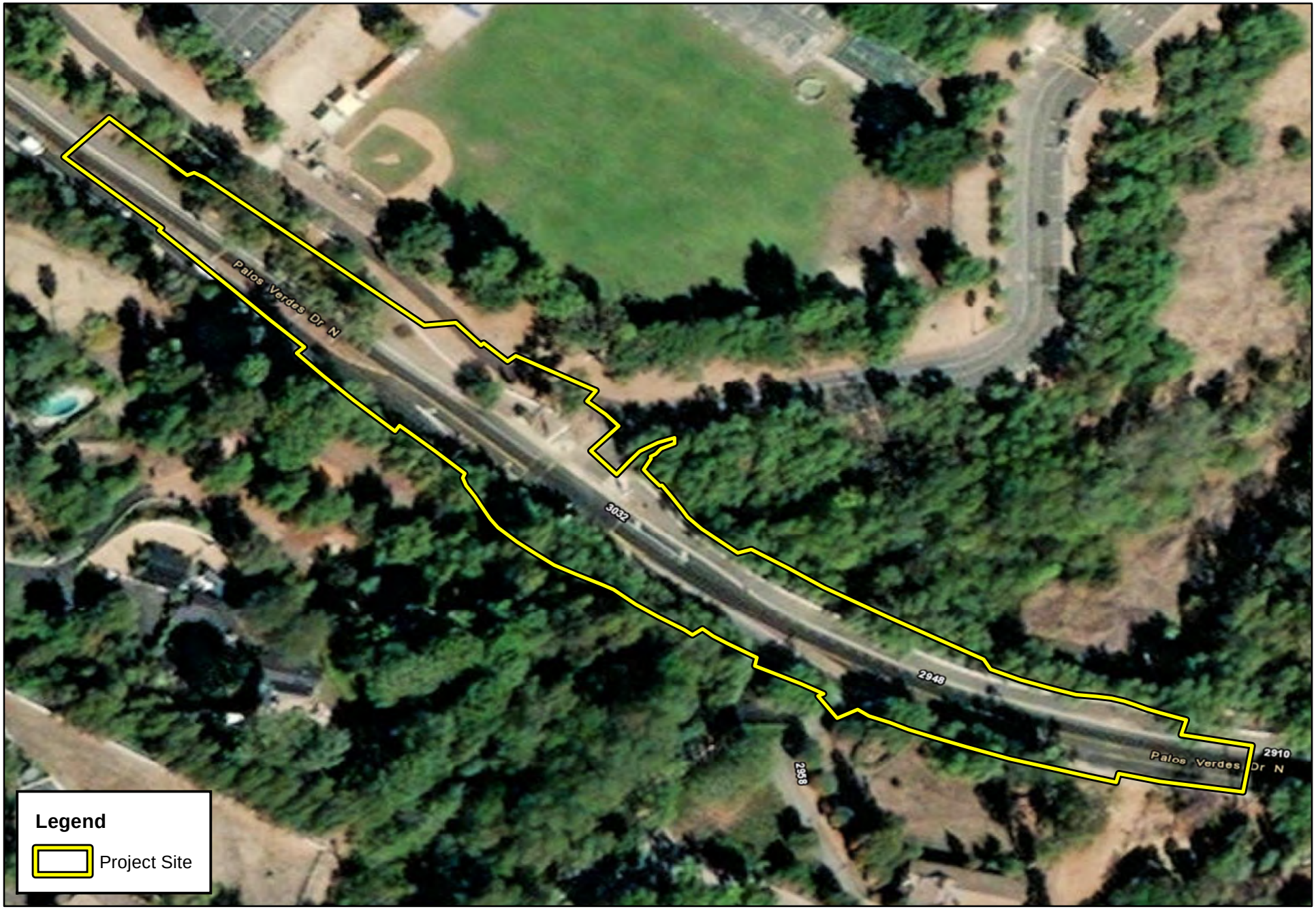
ELMT CONSULTING

0 500 1,000 2,000 Feet

Source: USA Topographic Map, Los Angeles County

Site Vicinity

Exhibit 2



Palo Verdes Drive North and Dapplegray School Entrance
Biological Resources Assessment

Project Site

ELMT CONSULTING

0 62.5 125 250 Feet

Source: ESRI Aerial Imagery, Los Angeles County

Exhibit 3

Section 2 Methodology

ELMT conducted a thorough literature review and records search to determine which special-status plant and wildlife species have the potential to occur on or within the general vicinity of the project site. In addition, a general habitat assessment and field investigation of the site was conducted and provided information on existing on-site conditions and the potential for special-status plant and wildlife species to occur.

2.1 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 QuickView Tool in the Biogeographic Information and Observation System (BIOS), CNDDB Rarefind 5, the California Native Plant Society (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants of California, Calflora Database, compendia of special-status species published by CDFW, and the U.S. 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 on the 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 – 2021);
- United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), Soil Survey[2];
- USFWS Critical Habitat designations for Threatened and Endangered Species;

2.2 HABITAT ASSESSMENT

ELMT biologists Travis J. McGill and Jacob H. Lloyd Davies evaluated the extent and conditions of the plant communities found within the boundaries of the project site on June 24, 2021. Plant communities identified on aerial photographs during the literature review were verified in the field by walking meandering transects through the on-site plant communities and along boundaries between plant communities. The plant communities were evaluated for their potential to support special-status plant and wildlife species. In addition, field staff identified any natural corridors and linkages that may support the

[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.

movement of wildlife through the area. Special attention was given to special-status habitats and/or undeveloped areas, which have higher potentials to support special-status plant and wildlife species.

All plant and wildlife species observed, as well as dominant plant species within each plant community, were recorded. 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 presence of potential jurisdictional drainage and/or wetland features were noted.

2.3 SOIL SERIES ASSESSMENT

Onsite and adjoining soils were researched prior to the field visit using the USDA NRCS Custom Soil Resource Report for Los Angeles County, Southeastern Part, California. In addition, a review of the local geological conditions and historical aerial photographs was conducted to assess the ecological changes and disturbances that have occurred on the project site.

2.4 PLANT COMMUNITIES

Plant communities were mapped using USGS 7.5-minute topographic maps and aerial photography. The plant communities were classified in accordance with Sawyer, Keeler-Wolf and Evens (2009), CDFW (2010) and Holland (1986), delineated on an aerial photograph, and then digitized into GIS Arcview. The Arcview application was used to compute the area of each plant community in acres.

2.5 PLANTS

Common plant species observed during the habitat assessment 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. In this report, scientific names are provided immediately following common names of plant species (first reference only).

2.6 WILDLIFE

Wildlife species detected during the habitat assessment by sight, calls, tracks, scat, or other sign were recorded during surveys in a field notebook. Field guides used to assist with identification of species during surveys included The Sibley Guide to Birds (Sibley 2014) for birds, A Field Guide to Western Reptiles and Amphibians (Stebbins 2003) for herpetofauna, and A Field Guide to Mammals of North America (Reid 2006). Although common names of wildlife species are standardized, scientific names are provided immediately following common names in this report (first reference only).

2.7 JURISDICTIONAL DRAINGES 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.

Section 3 Existing Conditions

3.1 LOCAL CLIMATE

Los Angeles County features a Mediterranean climate with warm, sunny, dry summers and cool, rainy, mild winters. Climatological data obtained for the nearby City of Rancho Palos Verdes in Los Angeles County indicates the average annual precipitation is 13.07 inches per year. Almost all the precipitation occurs in the months between November and March, with hardly any occurring between the months of May and October. The wettest month is January, with a monthly average total precipitation of 2.80 inches. The average maximum and minimum temperatures for the Palos Verdes Peninsula are 72.3 and 54.6 degrees Fahrenheit (F), respectively, with August being the hottest month (monthly average 71.8° F) and December being the coldest (monthly average 56.7° F). Temperatures during the site visits were in the mid- to high 70s (degrees Fahrenheit) with infrequent, light winds and little to no cloud cover.

3.2 TOPOGRAPHY AND SOILS

Onsite surface elevation ranges from approximately 460 to 470 feet above mean sea level. The site is linear in nature, following Palos Verdes Drive North which is generally oriented northwest to southeast, and onsite topography generally slopes from the northern and southern boundaries to Palos Verdes Drive North. Based on the USDA NRCS Web Soil Survey, the Project site is underlain by Dapplegray-Urban land-Lunada complex (22 to 55 percent slopes). Refer to Exhibit 4, *Soils*.

3.3 SURROUNDING LAND USES

The project site is located in a primarily developed area in the City of Rolling Hills Estates on the Rancho Palos Verdes Peninsula, approximately 0.6 miles west of the Palos Verde Reservoir, 0.5 miles southwest of the Rolling Hills Country Club, and immediately south of Dapplegray Elementary School. Land uses near the site consist almost entirely of residential developments, with institutional and commercial developments scattered throughout. In addition, several open space parks and recreational parks occur throughout the area. Most of the remaining undeveloped land in the area supports valleys and associated drainage features. The Pacific Ocean occurs approximately 4 miles to the east and 2.8 miles to the south.

Palo Verdes Drive North and Dapplegray School Entrance
Biological Resources Assessment

Soils

0 62.5 125 250 Feet

Source: ESRI Aerial Imagery, Soil Survey Geographic Database, Los Angeles County

Exhibit 4

Section 4 Discussion

4.1 SITE CONDITIONS

The proposed project site generally occurs along the paved road right-of-way and disturbed road shoulder of Palos Verdes Drive North. The proposed grading limits will extend slightly off the edge of the existing paved street in areas that primarily support disturbed slopes and non-native tree species.

4.2 VEGETATION

One (1) plant community, ornamental, was documented within the proposed limits of disturbance (Exhibit 5, *Vegetation*). In addition, the proposed project footprint contains two land cover types that are classified as disturbed and developed. The vegetation community and land cover types are described in further detail below.

4.2.1 Ornamental

The non-native plant community is located along the northern and southern boundaries of the proposed limits of disturbances along outside of the existing paved road right-of-way. This plant community is dominated by Peruvian pepper (*Schinus molle*), with Brazilian pepper (*Schinus terebinthifolius*), eucalyptus (*Eucalyptus ssp.*), Shamel ash (*Fraxinus uhdei*), and Italian stone pine (*Pinus pinea*) intermixed throughout. The understory of the plant community supports a mix of native early successional and non-native/invasive plant species. Common plant species found in the understory of include. mouse barley (*Hordeum murinum*), periwinkle (*Vinca minor*), smilo grass (*Stipa miliacea*), cheeseweed (*Malva parviflora*), prickly lettuce (*Lactuca serriola*), short-podded mustard (*Hirschfeldia incana*), wild oat (*Avena fatua*), ripgut brome (*Bromus diandrus*), fountain grass (*Pennisetum setaceum*), common sweet pea (*Lathyrus odoratus*), horseweed (*Erigeron bonariensis*), pigweed (*Chenopodium album*), and London rocket (*Sisymbrium irio*).

4.2.2 Disturbed

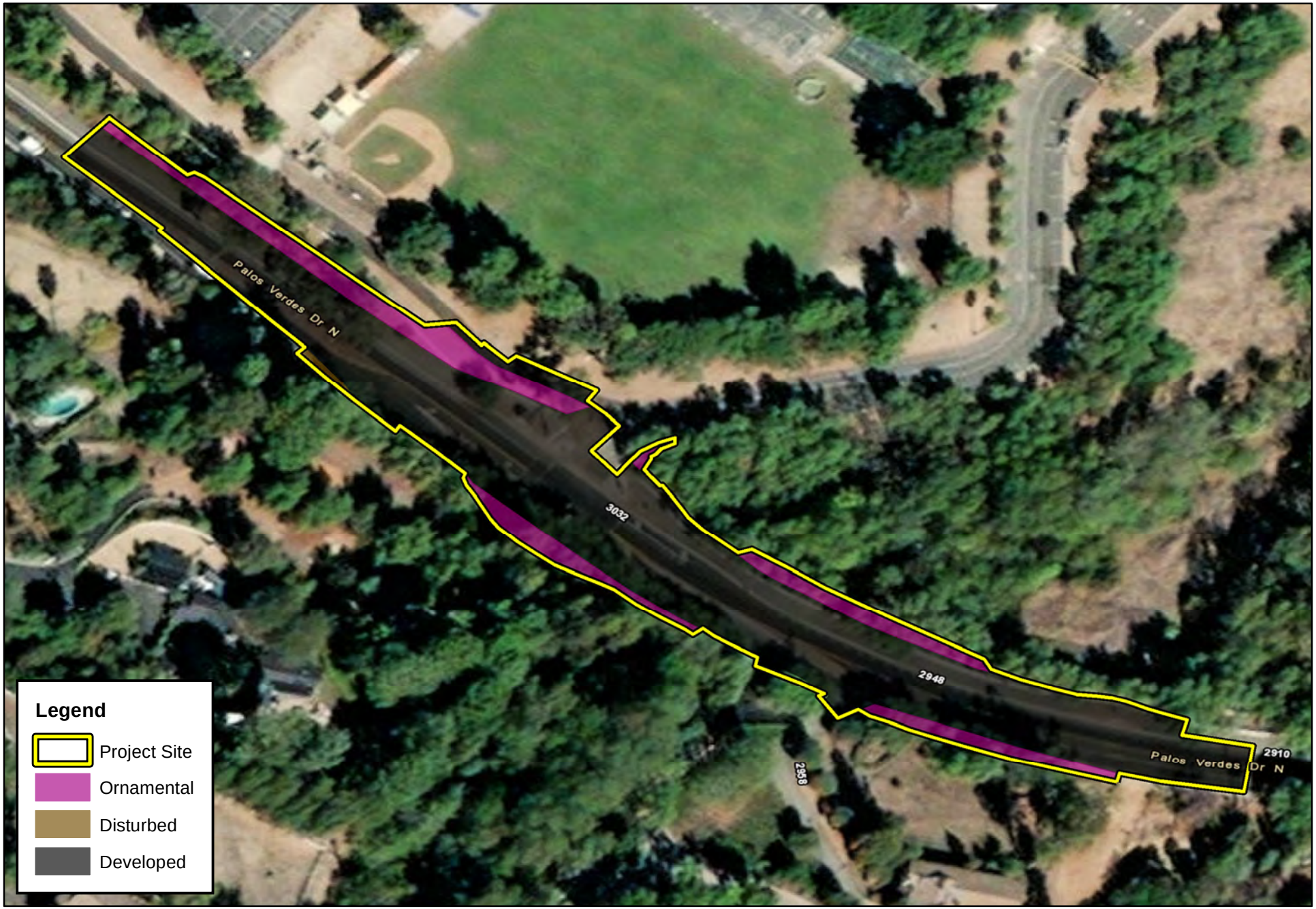
Disturbed areas are found along the boundary of the paved road. These areas are routinely exposed to anthropogenic disturbances from foot traffic and are generally devoid of vegetation and have been heavily disturbed/compacted.

4.2.3 Developed

Palos Verde Drive North bisects the entire project site from northwest to southeast. This paved road supports regular traffic for the adjacent residential areas and the greater Palos Verdes Peninsula.

4.3 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



Palo Verdes Drive North and Dapplegray School Entrance
Biological Resources Assessment

Vegetation

ELMT CONSULTING

0 62.5 125 250 Feet

Source: ESRI Aerial Imagery, Los Angeles County

Exhibit 5

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 survey was conducted. Wildlife detections were based on calls, songs, scat, tracks, burrows, and direct observation.

4.3.1 Fish

A single drainage feature that extends under Palos Verde Drive North that had minimal water within it during the field investigation. This drainage feature primarily conveys water flows following storm events and urban runoff. No fish were observed within this feature. Since this drainage feature does not have any upstream connectivity to a frequent water source, no naturally occurring fish species are expected to occur. The only fish species that may be expected to occur would be mosquitofish (*Gambusia affinis*), a small non-native species that is commonly introduced to aquatic systems as a vector control measure. No special-status fish species are expected to occur within the drainage feature.

4.3.2 Amphibians

The only hydrogeomorphic feature supported by the project site that is capable of providing suitable habitat for amphibian species is the single drainage feature that extends under Palos Verde Drive North. No amphibians were observed within this feature. Amphibian species adapted to extremely disturbed conditions that are capable of migrating via flows during storm events may be able to migrate from nearby areas. Common amphibian species that have the potential to occur onsite include western toad (*Anaxyrus boreas*) and chorus frog (*Pseudacris hypochondriaca*). No special-status amphibian species are expected to occur within the onsite drainage.

4.3.3 Reptiles

The plant communities supported by the project site provide minimal foraging and cover habitat for a variety of reptilian species adapted to urban environments. No reptilian species were observed during the field investigation. Common reptilian species that may be expected to occur include Great Basin fence lizard (*Sceloporus occidentalis longipes*), side-blotched lizard (*Uta stansburiana elegans*), San Diego alligator lizard (*Elgaria multicarinata webbii*).

4.3.4 Avian

The Project site provides suitable foraging, nesting, and cover habitat for a variety of resident and migrant bird species. Avian species identified during the habitat assessment included house finch (*Haemorhous mexicanus*), American crow (*Corvus brachyrhynchos*), red-shouldered hawk (*Buteo lineatus*), lesser goldfinch (*Spinus psaltria*), mourning dove (*Zenaida macroura*), Anna's hummingbird (*Calypte anna*), and California towhee (*Melozone crissalis*).

4.3.5 Mammals

The survey area provides marginal foraging and cover habitat for mammalian species adapted to routine disturbance and development. Mammalian species detected during the field investigation include feral domestic cat (*Felis catus*). Common mammalian species that could be expected to occur include pocket

gopher (*Thomomys bottae*), coyote (*Canis latrans*), opossum (*Didelphis virginiana*), and raccoon (*Procyon lotor*).

The trees within and immediately adjacent to the project footprint have the potential to provide minimal foraging and roosting habitat for common bat species known to occur in the area. Common bat species that my occur onsite include California myotis (*Myotis californicus*), Mexican free-tailed bat (*Tadarida brasiliensis*), and little brown bat (*Myotis lucifugus*). However, most of these bats roots in caves, rock crevices, buildings, and sometimes dead trees, and the ornamental plant species found in the area do not typically provide suitable habitat. None of the special-status bat species are expected to occur onsite.

4.3.6 Other

The ornamental trees along the northern and southern boundaries of the project site have the potential to provide suitable resting habitat for monarch butterflies (*Danaus plexippus*) during migration (October thru February/March). However, no milkweed (*Asclepias ssp.*), which is the host plant species for monarch butterfly larvae, was observed within or adjacent to the project footprint. The ornamental trees are not expected to support an overwintering population, and no known overwintering populations have been documented in the immediate vicinity of the project site.

4.4 NESTING BIRDS

No active nests or birds displaying nesting behavior were observed during the field survey, which was conducted during breeding season. The vegetation found on and surrounding the project 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.

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.

4.5 MIGRATORY CORRIDORS AND LINKAGES

Habitat linkages provide links 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, inadequate for others. Wildlife corridors are significant features for dispersal, seasonal migration, breeding, and foraging. Additionally, open space can provide a buffer against both human disturbance and natural fluctuations in resources.

Due to the existing nature of the Palos Verdes Peninsula, the majority of the surrounding area supports existing residential development permeated by a network of shallow valleys. One such valley occurs in the

southern portion of the project site; however, it is already bisected by Palos Verdes Drive North and will not be further impacted by project activities. In addition, the surrounding network of valleys offer local wildlife ample movement opportunities to nearby open spaces. As such, project activities are not expected to modify or compromise wildlife movement opportunities through the area or otherwise prevent the surrounding habitat from continuing to function as a corridor. It should be noted that the onsite drainage feature does not support a wildlife movement corridor/linkage, as the drainage flows through a culvert under the road that is not large enough to support wildlife movement opportunities.

4.6 JURISDICTIONAL AREAS

There are three key agencies that regulate activities within inland streams, wetlands, and riparian areas in California. The U.S. Army Corps of Engineers (Corps) Regulatory Branch regulates discharge of dredge and/or fill materials into "waters of the United States" 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 CDFW regulates alterations to streambed and associated plant communities pursuant to Section 1602 of the Fish and Game Code, and the Regional Water Quality Control Board (Regional Board) regulates discharges into surface waters pursuant to Section 401 of the CWA and the California Porter-Cologne Water Quality Control Act.

The USFWS NWI and the USGS National Hydrography Dataset were reviewed to determine if any blueline streams or riverine resources have been documented within or immediate surrounding the project site. Based on this review, one (1) riverine feature was documented on the project site. This riverine feature originates within a small canyon, south of Palos Verdes Drive North and flows southwest to northeast under Palos Verdes Drive North on the southern portion of the project site. No other features were identified as occurring within the boundary of the project.

A single unnamed drainage feature was observed extending southwest to northeast under Palos Verde Drive north that had minimal water within it during the field investigation. Surface flows within with these features are only provided by direct precipitation following from storm events and from urban runoff. The channel invert exhibits an earthen streambed consisting of a natural substrate with an even distribution of gravel and sand. Generally, the OHWM ranged from 2 to 4 feet in width and was observed via the following indicators: scour; debris lines; and standing water. Approximately 2-6 inches of water were observed in small pockets, north of Palos Verdes Drive North during the field survey, outside of the project footprint. The drainage feature is generally devoid of vegetation, with a large amount of leaf litter covering the drainage and understory of the Peruvian pepper tree stands.

Stormwater within the unnamed drainage feature continues to flow to the northeast and eventually ponds, approximately 0.60-mile northeast of the project site on the Rolling Hills Golf Course, with no apparent connection to downstream waters. The onsite drainage feature does not have a surface hydrologic connection to downstream waters of the United States and would not be considered jurisdictional by the Corps. However, the onsite drainage features will fall under the regulatory authority of the Regional Board as waters of the State, and CDFW as a jurisdictional streambed. Any impacts to onsite jurisdictional areas will require a Regional Board Report of Waste Discharge permit, and a CDFW Section 1602 Lake or Streambed Alteration Agreement prior to project implementation.

4.7 SPECIAL-STATUS BIOLOGICAL RESOURCES

The CNDDB Rarefind 5, CNDDB Quickview Tool in BIOS, and the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California was queried for reported locations of special-status plant and wildlife species as well as special-status plant communities in the Torrance USGS 7.5-minute quadrangle. One quadrangle was used due to the proximity of the site to quadrangle boundaries and regional topography. This habitat assessment evaluated the conditions of the habitat(s) within the boundaries of 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-one (21) special-status plant species and fifty-two (52) special-status wildlife species as having potential to occur within the Torrance USGS 7.5-minute quadrangle. No special-status plant communities were recorded as occurring within the Torrance 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 Appendix C.

4.7.1 Special-Status Plant Species

Twenty-one (21) special-status plant species have been recorded in the CNDDB and CNPS in the Torrance USGS 7.5-minute quadrangle (refer to Appendix C). No special-status plant species were observed on-site during the field investigation. The project site has been subjected to a heavy regime of disturbances from on-site and surrounding development. This sustained level of continuous disturbance has eliminated the naturally occurring plant communities that once occupied the project site. Therefore, none of special-status plant species are expected to occur and are presumed to be absent from the Project site.

4.7.2 Special-Status Wildlife Species

Fifty-two (52) special-status wildlife species have been reported by the CNDDB in the Torrance USGS 7.5-minute quadrangle (See Appendix C). No special-status wildlife species observed onsite during the field investigation. Based on habitat requirements for specific species and the availability and quality of on-site and adjacent habitats, it was determined that the proposed project site has a high potential to support Cooper's hawk (*Accipiter cooperii*), and a moderate potential to support monarch butterflies – California overwintering population (*Danaus plexippus* pop. 1) and rufous hummingbird (*Selasphorus rufus*). All other special-status wildlife species are presumed absent from the project site.

The trees along the northern and southern boundary of the project site provide suitable nesting and foraging habitat for Cooper's hawk and rufous hummingbird. Although not expected to occur, these trees, also provide marginal habitat for monarch butterfly overwintering populations/groves.

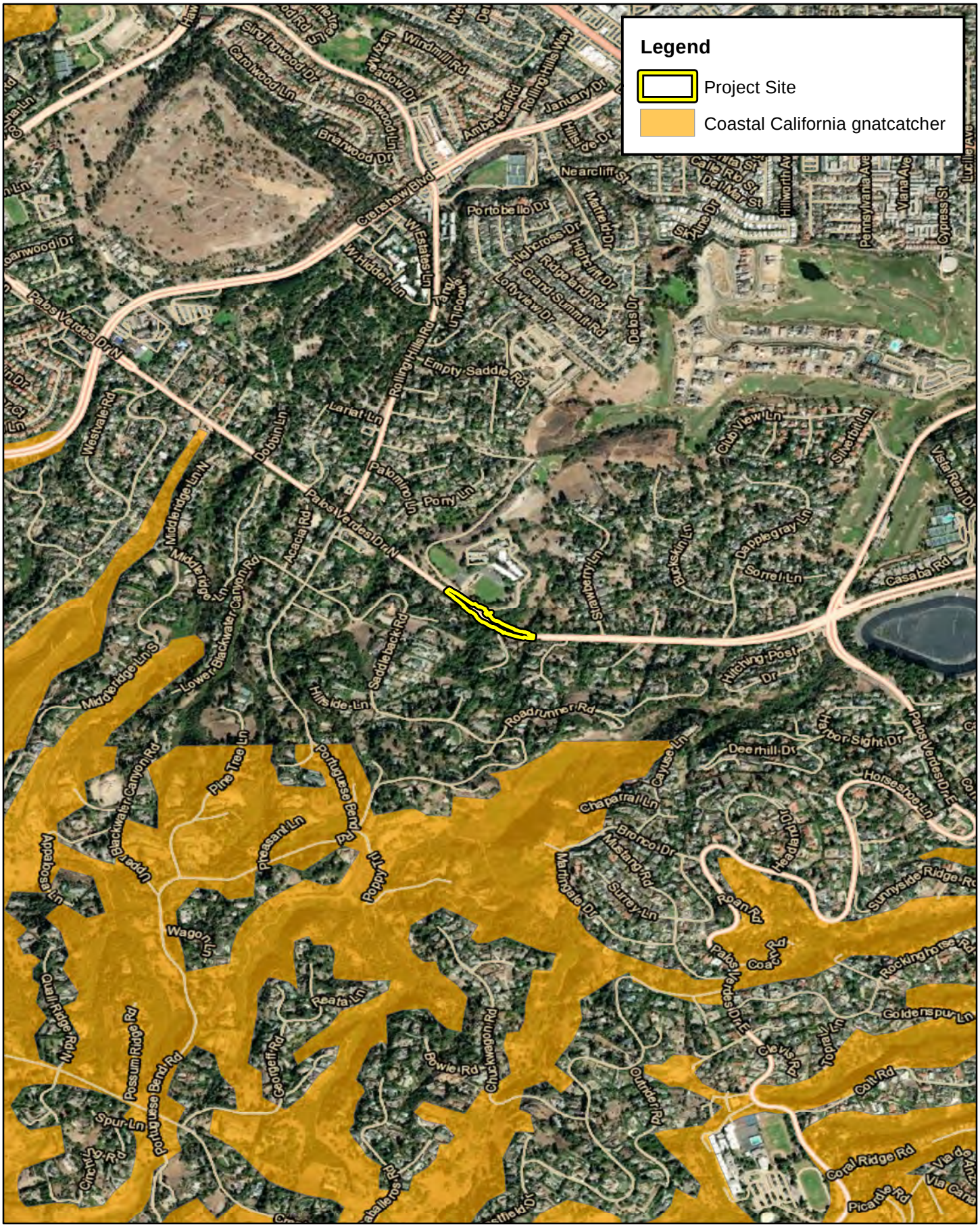
4.7.3 Special-Status Plant Communities

Per the CNDDB, no special-status plant communities have been recorded in the Torrance USGS 7.5-minute quadrangle. Based on the results of this habitat assessment, no special-status plant communities are present within the project site.

4.8 CRITICAL HABITAT

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

The project site is not located within designated any Critical Habitat (Exhibit 6, *Critical Habitat*). The nearest designated critical habitat to the site occurs approximately 0.4 miles south of the project site for coastal California gnatcatcher (*Polioptila californica californica*). This federally designated Critical Habitat is separated from the site by residential development. Therefore, no impacts to federally designated Critical Habitat will occur from implementation of the proposed project.



Palo Verdes Drive North and Dapplegray School Entrance
Biological Resources Assessment

Critical Habitat

Source: ESRI Aerial Imagery, USFWS Critical Habitat, Los Angeles County

Exhibit 6

Section 5 Conclusion and Recommendations

The discussion below provides a summary of survey results; avoidance and minimization efforts; direct, indirect, and cumulative Project impacts; and compensatory mitigation measures for each biological resource area required to be analyzed according to CEQA, based on Appendix G (Environmental Checklist Form) of the CEQA Guidelines:

***CEQA Threshold**: Would the proposed Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or the U.S. Fish and Wildlife Service?*

Special-Status Plant Species

No special-status plant species were observed during the field investigation. Based on habitat requirements for the identified special-status species, known species distributions, and the quality and availability of habitats present, it was determined that the project site does not have the potential to support any of the special-status plant species known to occur in the vicinity of the site. The proposed project will be confined to existing developed and disturbed areas, and areas that primarily support non-native vegetation. As a result, no impacts to special-status plant species are expected to occur. No additional surveys are recommended.

Special-Status Wildlife Species

Based on habitat requirements for specific species and the availability and quality of on-site and adjacent habitats, it was determined that the proposed project site has a high potential to support Cooper's hawk, and a moderate potential to support monarch butterflies – California overwintering population and rufous hummingbird. All other special-status wildlife species are presumed absent from the project site.

None of the aforementioned species are federally- or state-listed as endangered or threatened. In order to ensure impacts to Cooper's hawk and rufous hummingbird do not occur from implementation of the proposed project, a pre-construction nesting bird clearance survey, BIO-1 below, shall be conducted prior to project implementation. Additionally, to ensure impacts to a monarch – California overwintering population do not occur, a clearance survey, BIO-2 below, shall be conducted. With implementation of the pre-construction nesting bird clearance survey and monarch butterfly overwintering clearance survey impacts to the aforementioned special-status wildlife species will be less than significant and no mitigation will be required.

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: If vegetation removal will occur inside the peak overwintering season (between September 16th and March 14th), a pre-construction survey by a qualified Biologist shall be conducted within 72 hours prior to construction activities to ensure no overwintering populations of monarch are located within the proposed project footprint. If the Biologist does not find an overwintering population, 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 monarch overwintering populations shall occur.

If the Project site supports an overwintering grove/population of monarchs, the project applicant shall protect, manage, enhance, and restore potential overwintering habitat on the project site. A long-term Monarch Butterfly Overwintering Habitat Management Plan shall be prepared to protect, manage, enhance, and restore overwintering habitat.

CEQA Threshold: *Would the proposed Project have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?*

Riparian Habitat and Special-Status Natural Communities

A single unnamed drainage feature flows under Palos Verdes Drive North within the project footprint. Although not expected to be impacted, if the onsite drainage feature will be impacted from implementation of the proposed project, the City will need to obtain the following regulatory approvals prior to impacts occurring within the identified jurisdictional areas: Corps Approved Jurisdictional Determination, Regional Board Report of Waste Discharge, and/or CDFW Section 1602 Streambed Alteration Agreement (SAA).

Further, no sensitive habitats were identified within the project site. Thus, no sensitive natural communities will be impacted from project implementation.

CEQA Threshold: *Would the proposed Project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?*

Federally Protected Wetlands

A No inundated areas, or wetland features with obligate[3] plant species that would be considered wetlands as defined by Section 404 of the Clean Water Act occur within the proposed project footprint. As a result, implementation of the proposed project would not result in any impacts, or have substantial adverse effect on federally protected wetlands.

CEQA Threshold: *Would the proposed Project interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

Wildlife Corridors

Due to the existing nature of the Palos Verdes Peninsula, the majority of the surrounding area supports existing residential development permeated by a network of shallow valleys. One such valley occurs in the southern portion of the project site; however, it is already bisected by Palos Verdes Drive North and will not be further impacted by project activities. In addition, the surrounding network of valleys offer local wildlife ample movement opportunities to nearby open spaces. As such, project activities are not expected to modify or compromise wildlife movement opportunities through the area or otherwise prevent the surrounding habitat from continuing to function as a corridor. No impacts will occur to wildlife corridors from project implementation.

[3] Obligate Wetland (OBL)*:* Plants that almost always occur in wetlands.

CEQA Threshold: *Would the proposed Project conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

CEQA Threshold: *Would the proposed Project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan?*

Local, Regional, and State Plans

The project site is not located within an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state Habitat Conservation Plan. Therefore, impacts to any local, regional, or state habitat conservation plans are not expected to occur from development of the proposed project, and mitigation is not required.

Section 6 References

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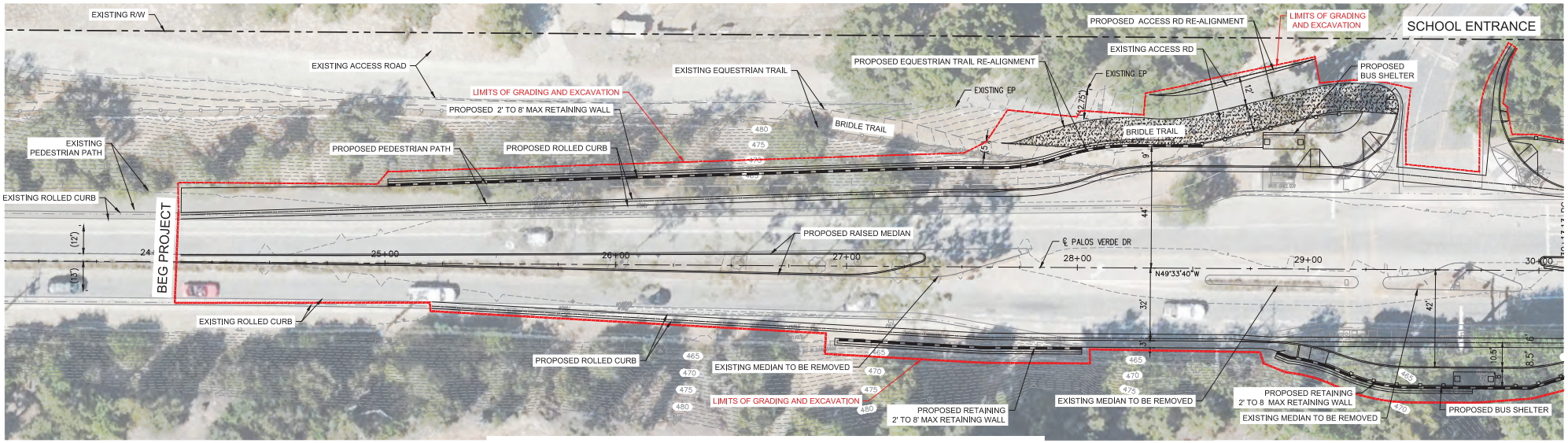
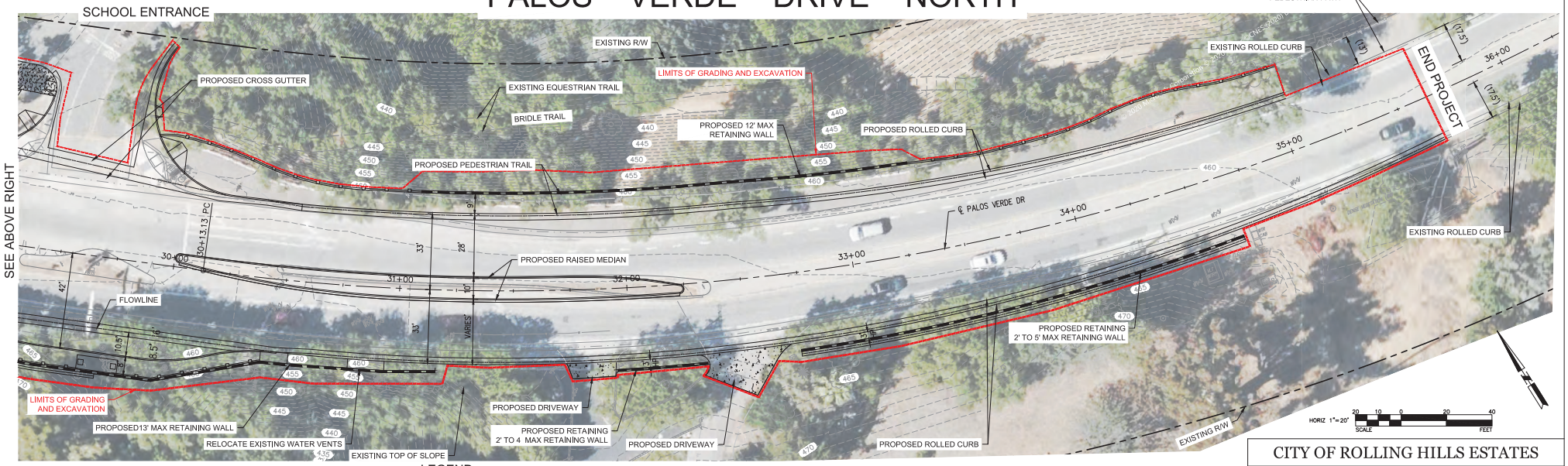
Appendix A Site Plans



PALOS VERDE DRIVE NORTH



GENERAL DESCRIPTION

1. PROPOSED ADDITIONAL LANE IN THE EASTBOUND AND WESTBOUND DIRECTIONS.
2. REDESIGN EQUESTRIAN TRAIL ON THE NORTH SIDE TO ACCOMMODATE STREET WIDENING.
3. PROPOSED RETAINING WALLS FOR SLOPE PROTECTION ON THE NORTH AND SOUTH SIDES.
4. REDESIGN SCHOOL ACCESS ROAD TO ACCOMMODATE STREET WIDENING.

LEGEND

- LIMITS OF GRADING AND EXCAVATION
- PROPOSED CURB
- EXISTING CENTERLINE
- PROPOSED RETAINING WALL
- RIGHT OF WAY
- PROPOSED FENCE

DRIVEWAY ENTRANCE

PLANS PREPARED BY:
WILLDAN Engineering — Comprehensive Innovative Trusted
13191 CROSSROADS PARKWAY NORTH
SUITE 405 INDUSTRY, CA 91746-3497
(562) 908-6200
UNDER THE SUPERVISION OF

BENCH MARK:
NO. _____ ELEV. _____
DATE ADJ. _____ QUAD. _____
NONE

NO.	REVISIONS DESCRIPTION	APP.	DATE

CITY OF ROLLING HILLS ESTATES

PRELIMINARY STREET IMPROVEMENT PLAN

LIMITS OF GRADING AND EXCAVATION

CAPACITY IMPROVEMENTS AT PALOS VERDE NORTH AND DAPPLEGRAY SCHOOL ENTRANCE

DRAWN BY: BR	SHT. 1 OF 1 SHTS.	EXHIBIT
DESIGNED BY: BR		
CHECKED BY: FW		

U:\110176 - RHE PVDN@DAPPLEGRAY ELM SCHOOL\900-PS&E\901-Plans\Concepts\110176 - ENVRO.dwg Aug 05, 21 - 2:59pm

Appendix B Site Photographs

Photograph 1: From the western limits of the project site looking east along Palos Verdes Drive North from the northern side of the street.

Photograph 2: From the western limits of the project site looking east along Palos Verdes Drive North from the southern side of the street.

Photograph 3: From the southern side of Palos Verdes Drive North looking west at the western portion of the proposed project.

Photograph 4: Looking at the intersection of Palos Verdes Drive North and the Dapplegray School entrance from the southern side of the street.

Photograph 5: From the eastern limits of the project site looking west along Palos Verdes Drive North from the southern side of the street.

Photograph 6: From the eastern limits of the project site looking west along Palos Verdes Drive North from the northern side of the street.

Photograph 7: Looking at the intersection of Palos Verdes Drive North and the Dapplegray School entrance from the northern side of the street.

Photograph 8: Equestrian trail on the northeast corner of the intersection of Palos Verdes Drive North and the Dapplegray School entrance, that separates the project site from the unnamed drainage feature that extends under Palos Verdes Drive North.

Photograph 9: View of the drainage feature on the south side of Palos Verdes Drive North.

Photograph 10: Another view of the drainage feature on the south side of Palos Verdes Drive North.

Photograph 11: View of the beginning portion of the drainage feature on the north side of Palos Verdes Drive North, north of the equestrian trail.

Photograph 12: Water ponding at the beginning of the drainage feature on the north side of Palos Verdes Drive North.

Photograph 13: Looking north along the drainage feature, north of, and outside of the project footprint.

Photograph 14: Dry portion of the drainage feature, north of the project site.

Appendix C Potentially Occurring Special-Status Biological Resources

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

Scientific Name Common Name	**Status**	**Habitat**	**Observed Onsite**	**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 and nesting habitat on and adjacent to the project site.
Agelaius tricolor tricolored blackbird	Fed: None CA: **THR**/SSC	Range is limited to the coastal areas of the Pacific coast of North America, from Northern California to upper Baja California. Can be found in a wide variety of habitat including annual grasslands, wet and dry vernal pools and other seasonal wetlands, agricultural fields, cattle feedlots, and dairies. Occasionally forage in riparian scrub habitats along marsh borders. Basic habitat requirements for breeding include open accessible water, protected nesting substrate (freshwater marsh dominated by cattails, willows, and bulrushes [*Schoenoplectus* sp.]), and either flooded or thorny or spiny vegetation and suitable foraging space providing adequate insect prey.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Aimophila ruficeps canescens southern California rufous-crowned sparrow	Fed: None CA: WL	Typically found between 3,000 and 6,000 feet in elevation. Breed in sparsely vegetated 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.** There is no suitable habitat 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.** There is no suitable habitat 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	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Ardea alba great egret	Fed: None CA: None	Yearlong resident throughout California, except for the high mountains and deserts. Feeds and rests in fresh, and saline emergent wetlands, along the margins of estuaries, lakes, and slow-moving streams, on mudflats and salt ponds, and in irrigated croplands and pastures.	No	**Presumed Absent.** There is no suitable habitat 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.** There is no suitable habitat within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed Onsite**	**Potential to Occur**
Athene cunicularia burrowing owl	Fed: None CA: SSC	Prefers habitat with short, sparse vegetation with few shrubs and well-drained soils in grassland, shrub steppe, and desert habitats. Primarily a grassland species, but it persists and even thrives in some landscapes highly altered by human activity. Occurs in open, annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. The overriding characteristics of suitable habitat appear to be burrows for roosting and nesting and relatively short vegetation with only sparse shrubs and taller vegetation.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Aythya americana redhead	Fed: None CA: SSC	Typically found in shallow freshwater lakes, ponds, and marshes.	No	**Presumed Absent.** There is no suitable habitat 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.** There is no suitable habitat within or adjacent to the project site.
Calypte costae Costa's hummingbird	Fed: None CA: None	Desert and semi-desert, arid brushy foothills and chaparral. A desert hummingbird that breeds in the Sonoran and Mojave Deserts. Departs desert heat moving into chaparral, scrub, and woodland habitats.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Campylorhynchus brunneicapillus sandiegensis coastal cactus wren	Fed: None CA: SSC	Found in arid and semi-arid habitats with a high occurrence of cactus and spiny trees. Nests almost exclusively in prickly pear and cholla cactus.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Charadrius montanus mountain plover	Fed: None CA: SSC	Found in short grasslands, freshly-plowed fields, newly-sprouting grain fields, and sometimes in sod farms. Prefers short vegetation or bare ground with flat topography, particularly grazed areas or areas with fossorial rodents.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Chlidonias niger black tern	Fed: None CA: SSC	Found at freshwater marshes and lakes and found along coastal waters in migration. For nesting favors fresh waters with extensive marsh vegetation and open water, also sometimes in smaller marshes and wet meadows. In migration found on larger lakes and along coast. Winters in tropical coastal regions, mostly just offshore or around salt lagoons and estuaries.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Cicindela hirticollis gravida sandy beach tiger beetle	Fed: None CA: None	Found in moist sand near the ocean, i.e. in swales behind dunes or upper beaches beyond normal high tides.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Cistothorus palustris clarkae Clark's marsh wren	Fed: None CA: SSC	Restricted to freshwater and brackish marshes dominated by bulrushes or cattails. Has a narrow distribution along the coast of southern California from Los Angeles basin south to the Mexican border.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Coccyzus americanus occidentalis western yellow-billed cuckoo	Fed: **THR** CA: **END**	In California, the breeding distribution is now thought to be restricted to isolated sites in Sacramento, Amargosa, Kern, Santa Ana, and Colorado River valleys. Obligate riparian species with a primary habitat association of willow-cottonwood riparian forest.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed Onsite**	**Potential to Occur**
***Danaus plexippus* pop. 1** monarch – California overwintering population	Fed: None CA: None	Occupies coastal sage scrub, non-native grassland, and disturbed habitats that support host plants (*Asclepias* spp.) required by the larval stage.	No	**Moderate.** Monarch are likely to forage over the site. The trees onsite have the potential to support an overwintering population, but an overwintering population has not been documented onsite. The majority of the trees will not be removed.
Dendrocygna bicolor fulvous whistling duck	Fed: None CA: SSC	Found in lowland marshes and swamps, rice fields, and flat country. Avoids wooded areas.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Diadophis punctatus modestus San Bernardino ringneck snake	Fed: None CA: None	Common in open, relatively rocky areas within valley-foothill, mixed chaparral, and annual grass habitats.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Egretta thula snowy egret	Fed: None CA: None	Widespread in California along shores of coastal estuaries, fresh and saline emergent wetlands, ponds, slow-moving rivers, irrigation ditches, and wet fields. In southern California, common yearlong in the Imperial Valley and along the Colorado River.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Eucyclogobius newberryi tidewater goby	Fed: **END** CA: None	Inhabits lagoons formed by streams meeting the ocean, where sand bars block limit oceanic currents, resulting in limited salinity. Prefer sandy bottoms near emergent vegetation beds.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Glaucopsyche lygdamus palosverdesensis Palo Verdes blue butterfly	Fed: **END** CA: None	Coastal sage scrub with a high occurrence of *Astragalus trichopodus lonchus* and *lotus scoparius*.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Glyptostoma gabrielense San Gabriel chestnut snail	Fed: None CA: None	Occupies humid spots in semiarid environs. Found on rocky hillsides beneath plant debris, in rock piles, woodrat nests, and spaces beneath logs, stumps, and boulders.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Hydroprogne caspia Caspian tern	Fed: None CA: None	Occurs near large lakes, coastal waters, beaches, and bays. Found on both fresh and salt water, favoring protected waters such as bays and lagoons, rivers, not usually foraging over open sea. Nests on open ground on islands, coasts.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Icteria virens yellow-breasted chat	Fed: None CA: SSC	Primarily found in tall, dense, relatively wide riparian woodlands and thickets of willows, vine tangles, and dense brush with well-developed understories. Nesting areas are associated with streams, swampy ground, and the borders of small ponds. Breeding habitat must be dense to provide shade and concealment. It winters south the Central America.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Lasionycteris noctivagans silver-haired bat	Fed: None CA: None	Silver-haired bats prefer temperate, northern hardwoods with ponds or streams nearby. The typical day roost for the bat is behind loose tree bark. Silver-haired bats appear to be particularly fond of willow, maple and ash trees (most likely due to the deeply fissured bark). Hollow snags and bird nests also provide daytime roosting areas for silver-haired bats. Less common daytime roosts include buildings, such as open sheds and garages.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed Onsite**	**Potential to Occur**
Microtus californicus stephensi south coast marsh vole	Fed: None CA: SSC	Inhabits grassland, wet coastal marshes, dry uplands, and Savannahs within coastal Los Angeles.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Neotoma lepida intermedia San Diego desert woodrat	Fed: None CA: SSC	Occurs in coastal scrub communities between San Luis Obispo and San Diego Counties. Prefers moderate to dense canopies, and especially rocky outcrops.	No	**Presumed Absent.** There is no suitable habitat 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.** There is no suitable habitat within or adjacent to the project site.
Passerculus sandwichensis beldingi Belding's savannah sparrow	Fed: None CA: **END**	Year-round resident of southern California coastal salt marsh habitats dominated by pickleweed.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Pelecanus occidentalis californicus California brown pelican	Fed: DL CA: DL; FP	Coastal areas, with nesting occurring on islands. Species found occasionally along Arizona's lakes and rivers. This species inhabits shallow inshore waters, estuaries and bays, avoiding the open sea. Its diet is comprised mostly of fish, causing great congregations in areas with abundant prey. Prey species include sardines and anchovies, but has been seen to take shrimps and carrion, and even nestling egrets. It regularly feeds by plunge-diving and is often the victim of kleptoparasites.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Perognathus longimembris pacificus 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.** There is no suitable habitat within or adjacent to the project site.
Phalacrocorax auritus double-crested cormorant	Fed: None CA: WL	Common yearlong resident in southern California. Occurs widely in freshwater and marine habitats along coastlines. Require open water where they can forage for schooling fish.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Phrynosoma blainvillii coast horned lizard	Fed: None CA: SSC	Found in a wide variety of vegetation types including coastal sage scrub, annual grassland, chaparral, oak woodland, riparian woodland and coniferous forest. The key elements of such habitats are loose, fine soils with a high sand fraction; an abundance of native ants or other insects; and open areas with limited overstory for basking and low, but relatively dense shrubs for refuge.	No	**Presumed Absent.** There is no suitable habitat 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.** There is no suitable habitat within or adjacent to the project site.
Pyrocephalus rubinus vermilion flycatcher	Fed: None CA: SSC	Occurs in a variety of open habitats including open woodland, clearings, desert scrub, savannah, agricultural land, golf courses, and recreational parks. The species tends to stay near water, often occurring in riparian vegetation characterized by cottonwoods (*Populus fremontii*), mesquite (*Prosopis* ssp.), willows (*Salix* ssp.), and sycamores (*Platanus* ssp.).	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed Onsite**	**Potential to Occur**
Rallus obsoletus levipes light-footed Ridgeway's rail	Fed: **END** CA: **END**; FP	Found in southern California in coastal salt marshes, especially those dominated by cordgrass.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Selasphorus rufus rufous hummingbird	Fed: None CA: None	During breeding, they are found in forests, on seed-tree harvest units, riparian shrub, and spruce-fir habitats. During the winter, it migrates to lowland stream bottoms, foothill brush land, seacoast and high mountain meadows.	No	**Moderate.** The trees on and adjacent to the project site support potential foraging and nesting opportunities.
Setophaga petechia yellow warbler	Fed: None CA: SSC	Nests over all of California except the Central Valley, the Mojave Desert region, and high altitudes and the eastern side of the Sierra Nevada. Winters along the Colorado River and in parts of Imperial and Riverside Counties. Nests in riparian areas dominated by willows, cottonwoods, sycamores, or alders or in mature chaparral. May also use oaks, conifers, and urban areas near stream courses.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Siphateles bicolor mohavensis Mohave tui chub	Fed: **END** CA: **END**; FP	Historically occurred throughout the Mojave River drainage. Only surviving natural populations occurs in Soda Spring at the Desert Studies Center near the town of Baker, Lark Seep on the China Lake Naval Weapons Center, Camp Cady, and at the Lewis Center for Educational Research in Apple Valley.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Spea hammondii western spadefoot	Fed: None CA: SSC	Prefers open areas with sandy or gravelly soils, in a variety of habitats including mixed woodlands, grasslands, coastal sage scrub, chaparral, sandy washed, lowlands, river floodplains, alluvial fans, playas, alkali flats, foothills, and mountains. Rainpools which do not contain bullfrogs, fish, or crayfish are necessary for breeding.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Sphyrapicus ruber red-breasted sapsucker	Fed: None CA: None	An uncommon to fairly common, yearlong or summer resident in openly wooded, mountainous parts of California. In southern California, an uncommon summer resident locally in the higher mountains. Preferred nesting habitats include montane riparian, aspen, montane hardwood-conifer, mixed conifer, and red fir, especially near meadows, clearings, lakes, and slow-moving streams.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Spizella breweri Brewer's sparrow	Fed: None CA: None	Habitats include sagebrush and brushy plains.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Sternula antillarum browni California least tern	Fed: **END** CA: **END**; FP	Feeds in shallow estuaries and lagoons, where small fish congregate. Nests on barren to sparsely-vegetated places near water, normally on sandy or gravelly substrates. Likely winters along the Pacific coast of South America.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Streptocephalus woottoni Riverside fairy shrimp	Fed: **END** CA: None	Freshwater crustacean that is found in vernal pools in the coastal California area.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Thamnophis hammondii two-striped garter snake	Fed: None CA: SSC	Occurs in or near permanent fresh water, often along streams with rocky beds and riparian growth up to 7,000 feet in elevation.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed Onsite**	**Potential to Occur**
***Thamnophis sirtalis* pop. 1** south coast gartersnake	Fed: None CA: SSC	Utilizes a variety of habitats including forests, mixed woodlands, grassland, chaparral, and farmlands. Often found near ponds, marshes, or streams.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Tryonia imitator mimic tryonia (=California brackishwater snail)	Fed: None CA: None	Occupies brackish and freshwater systems near coasts.		**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Vireo bellii pusillus least Bell's vireo	Fed: **END** CA: **END**	Primarily occupy Riverine riparian habitat that typically feature dense cover within 1 -2 meters of the ground and a dense, stratified canopy. Typically it is associated with southern willow scrub, cottonwood-willow forest, mule fat scrub, sycamore alluvial woodlands, coast live oak riparian forest, arroyo willow riparian forest, or mesquite in desert localities. It uses habitat which is limited to the immediate vicinity of water courses, 2,000 feet elevation in the interior.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
Xanthocephalus xanthocephalus yellow-headed blackbird	Fed: None CA: SSC	Occurs in freshwater emergent wetlands, and moist, open areas along croplands and mud flats of lacustrine habitats. Prefers to nest in dense wetland vegetation characterized by tules, cattails, or other similar plant species along the border of lakes and ponds.	No	**Presumed Absent.** There is no suitable habitat within or adjacent to the project site.
SPECIAL-STATUS PLANT SPECIES				
Aphanisma blitoides aphanisma	Fed: None CA: None CNPS: 1B.2	Grows in sandy or gravelly soils within coastal bluff scrub, coastal dune, and coastal scrub habitats. Found at elevations ranging from 3 to 1,000 feet. Blooming period is from February to June.	No	**Presumed Absent.** There is no suitable habitat within the project site.
Atriplex pacifica south coast saltscale	Fed: None CA: None CNPS: 1B.2	Found in coastal bluff scrub, coastal dunes, coastal scrub, and in playas. Found at elevations ranging from 0 to 459 feet. Blooming period is from March to October.	No	**Presumed absent.** No suitable habitat is present on-site.
Atriplex parishii Parish's brittlescale	Fed: None CA: None CNPS: 1B.1	Habitat types include chenopod scrub, playas, and vernal pools. Found at elevations ranging from 82 to 6,234 feet. Blooming period is from June to October.	No	**Presumed absent.** No suitable habitat is present on-site.
Atriplex serenana* var. *davidsonii Davidson's saltscale	Fed: None CA: None CNPS: 1B.2	Grows in alkaline soils within coastal bluff scrub and coastal scrub. Found at elevations ranging from 33 to 656 feet. Blooming period is from April to October.	No	**Presumed absent.** No suitable habitat is present on-site.
Calochortus catalinae Catalina mariposa-lily	Fed: None CA: None CNPS: 4.2	Grows in chaparral, cismontane woodland, coastal scrub, valley and foothill grassland. Found at elevations ranging from 49 to 2,297 feet. Blooming period is from February to June.	No	**Presumed Absent.** There is no suitable habitat within the project site.
Calystegia peirsonii Peirson's morning-glory	Fed: None CA: None CNPS: 4.2	Grows in chaparral, chenopod scrub, cismontane woodland, coastal scrub, lower montane coniferous forest, and valley and foothill grasslands. Found at elevations ranging from 98 to 4,921 feet. Blooming period is from April to June.	No	**Presumed absent.** No suitable habitat is present on-site.
Centromadia parryi* ssp. *australis southern tarplant	Fed: None CA: None CNPS: 1B.1	Occurs in marsh and swamp margins, vernally mesic valley and foothill grasslands, and vernal pool habitats. Grows in elevation from 0 to 1,578 feet. Blooming period ranges from May to November.	No	**Presumed absent.** No suitable habitat is present on-site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed Onsite**	**Potential to Occur**
Centromadia pungens* ssp. *laevis smooth tarplant	Fed: None CA: None CNPS: 1B1	Found in alkaline soils within chenopod scrub, meadows and seeps, playas, riparian woodland, valley and foothill grassland habitats. Found at elevations ranging from 0 to 2,100 feet. Blooming period is from April to September.	No	**Presumed absent.** No suitable habitat is present on-site.
Chloropyron maritimum* ssp. *maritimum salt marsh bird's-beak	Fed: **END** CA: **END** CNPS: 1B.2	Upper terraces and higher edges of coastal salt marshes where tidal inundation is periodic. Found at elevations ranging from 0 to 98 feet. Blooming period is from May to October.	No	**Presumed absent.** No suitable habitat is present on-site.
Convolvulus simulans small-flowered morning-glory	Fed: None CA: None CNPS: 4.2	Grows in clay soils within serpentinite seeps, chaparral, coastal scrub, valley and foothill grassland habitats. Found at elevations ranging from 98 to 2,297 feet. Blooming period is from March to July.	No	**Presumed absent.** No suitable habitat is present on-site.
Erysimum suffrutescens suffrutescent wallflower	Fed: None CA: None CNPS: 4.2	Grows within coastal bluff scrub, maritime chaparral, coastal dunes, and coastal scrub habitats. Found at elevations ranging from 0 to 490 feet. blooming period is typically from January to July and can extend through August.	No	**Presumed absent.** No suitable habitat is present on-site.
Isocoma menziesii* var. *decumbens decumbent goldenbush	Fed: None CA: None CNPS: 1B.2	Grows within chaparral and sandy, often disturbed areas within coastal scrub habitats. Found at elevations ranging from 30 to 450 feet. Blooming period is from April to November.	No	**Presumed absent.** No suitable habitat is present on-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 on-site.
Juncus acutus* ssp. *leopoldii Southwestern spiny rush	Fed: None CA: None CNPS: 4.2	Occurs in mesic coastal dunes, alkaline soils in meadows and seeps, and coastal salt marshes and swamps. Found at elevations ranging from 10 to 2,952 feet. Blooming period is typically from May to June and can begin as early as March.	No	**Presumed absent.** No suitable habitat is present on-site.
Lasthenia glabrata* ssp. *coulteri Coulter's goldfields	Fed: None CA: None CNPS: 1B.1	Prefers playas, vernal pools, and coastal salt marshes and swamps. Found at elevations ranging from 3 to 4,003 feet. Blooming period is from February to June.	No	**Presumed absent.** No suitable habitat is present on-site.
Nama stenocarpa mud nama	Fed: None CA: None CNPS: 2B.2	Grows along lake margins and riverbanks within marsh and swamp habitats. Found at elevations ranging from 16 to 1,640 feet. Blooming period is from January to July.	No	**Presumed absent.** No suitable habitat is present on-site.
Navarretia prostrata prostrate vernal pool navarretia	Fed: None CA: None CNPS: 2B.2	Found in mesic soils in coastal scrub, meadows and seeps, valley and foothill grasslands (alkaline), and vernal pools. Found at elevations ranging from 65 to 2,100 feet. Blooming period is from April to July.	No	**Presumed absent.** No suitable habitat is present on-site.
Pentachaeta lyonii Lyon's pentachaeta	Fed: **END** CA: **END** CNPS: 1B.1	Grows in rocky and clay soils within coastal scrub, valley and foothill grasslands, and openings in chaparral habitats. Found at elevations ranging from 100 to 2,260 feet. Blooming period is typically from March to August and can begin as early as February.	No	**Presumed absent.** No suitable habitat is present on-site.
Phacelia stellaris Brand's star phacelia	Fed: None CA: None CNPS: 1B.1	Occurs in coastal dunes and coastal sage scrub habitats. In western Riverside County this species is restricted to sandy benches along the Santa Ana River. Grows in elevations ranging from 3 to 1,312 feet. Blooming period is from March to June.	No	**Presumed absent.** No suitable habitat is present on-site.

Scientific Name Common Name	**Status**	**Habitat**	**Observed Onsite**	**Potential to Occur**
Suaeda esteroa estuary seablite	Fed: None CA: None CNPS: 1B.2	Grows within coastal salt marshes and swamps. Found at elevations ranging from 0 to 20 feet. Blooming period can range from May to January and is typically from July to October.	No	**Presumed absent.** No suitable habitat is present on-site.
Symphyotrichum defoliatum San Bernardino aster	Fed: None CA: None CNPS: 1B.2	Grows in cismontane woodland, coastal scrub, lower montane coniferous forest, meadows and seeps, marshes and swamps, valley and foothill grassland (vernally mesic). Can be found growing near ditches, streams, and springs within these habitats. Found at elevations ranging from 7 to 6,693 feet. Blooming period is from July to November.	No	**Presumed absent.** No suitable habitat is present on-site.

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

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

California Native Plant Society (CNPS)
California Rare Plant Rank
1A Plants Presumed Extirpated in California and Either Rare or Extinct Elsewhere
1B Plants Rare, Threatened, or Endangered in California and Elsewhere
2B Plants Rare, Threatened, or Endangered in California, but More Common Elsewhere
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

Appendix D Regulations

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

Federal Regulations

Endangered Species Act of 1973

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

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

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

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

Migratory Bird Treaty Act

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

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

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

State Regulations

California Environmental Quality Act (CEQA)

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

California Endangered Species Act (CESA)

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

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

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

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

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

Fish and Game Code

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

Native Plant Protection Act

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

California Native Plant Society Rare and Endangered Plant Species

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

California Rare Plant Rank

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

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

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

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

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

4- Plants of Limited Distribution - A Watch List

Threat Ranks

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

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

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

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

Federal Regulations

Section 404 of the Clean Water Act

Since 1972, the Corps and U.S. Environmental Protection Agency (EPA) have jointly regulated the filling of "waters of the U.S.," including wetlands, pursuant to Section 404 of the Clean Water Act (CWA). The Corps has regulatory authority over the discharge of dredged or fill material into the waters of the United States under Section 404 of the CWA. The Corps and EPA define "fill material" to include any "material placed in waters of the United States where the material has the effect of: (i) replacing any portion of a water of the United States with dry land; or (ii) changing the bottom elevation of any portion of the waters of the United States." Examples include, but are not limited to, sand, rock, clay, construction debris, wood chips, and "materials used to create any structure or infrastructure in the waters of the United States." 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 wetlands[1].

(iii) The territorial seas.

(iv) All impoundments of waters otherwise defined as waters of the United States under the definition.

(v) All tributaries[2] of waters identified in paragraphs (i) through (iii) mentioned above.

(vi) All waters adjacent[3] to a water identified in paragraphs (i) through (v) mentioned above, including wetlands, ponds, lakes, oxbows, impoundments, and similar waters.

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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 vernals 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) meantioned 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.