April 27, 2022

Three Arch Investment Corporation, 1
Contact: David Michelson
17802 Lakeside Haven Drive
Cypress, TX 77433

SUBJECT: Biological Resources Assessment for an Approximately 30-Acre Project Site Located at the Northeast Corner of Mojave Drive and Amethyst Road in the City of Victorville, San Bernardino County, California

Introduction

This report contains the findings of ELMT Consulting's (ELMT) biological resources assessment for an approximately 30-acre Project Site at Northeast corner of Mojave Drive and Amethyst Road (Project, Project Site) in the City of Victorville, San Bernardino County, California. The field investigation was conducted by biologist Thomas J. McGill, Ph.D. on February 7, 2022, to document baseline conditions and assess the potential for special-status[1] plant and wildlife species to occur within the project site that could pose a constraint to implementation of the proposed project. Special attention was given to the suitability of the project site to support special-status plant and wildlife species identified by the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDB), and other electronic databases as potentially occurring in the general vicinity of the project site.

Project Location

The project site is a 30-acre site located in the northeast portion of the City of Victorville, east of Highway 395 and west of Interstate 15. The site is border by Amethyst Road to the west, Mojave Drive to the south and Tawny Ridge Lane (dirt road) to the north. The site is depicted on the Victorville quadrangle of the United States Geological Survey's (USGS) 7.5-minute map series within Section 12 of Township 5 North, Range 5 West. The project is located on undeveloped land with undeveloped land to the north and residential housing along the eastern boundary and on the southern side of Mojave Drive. An abandoned residential development that has been graded and installed infrastructure including a paved access road between the two projects—occur along the western boundary. The site itself is undeveloped but has been heavily impacted by historic land uses, including several dirt roads, illegal dumping and offroad vehicle activities. Refer to Exhibits 1-3 in Attachment A.

Project Description

Tentative Tract Map No. 20525 is a proposal to subdivide approximately 30.1 acres into 109 residential lots with a minimum lot size of 7,200 square feet and 5 lettered lots in the City of Victorville (See

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

Attachment B, *Site Plan*). Two water quality control basins will be installed at the northwest corner of the project site that will also be used for active recreational purposes. Ancillary actions include half-width road improvements, including curbs, gutters, and sidewalks along both Amethyst Road and Mojave Drive and Amethyst. Primary access will be provided to the Project via two access roads off Mojave Drive. Tawney Ridge Lane will be extended from its current location 1,203 feet west and 26' wide to intersect with Amethyst Road in order to provide secondary access for the Fire Department.

Development of TTM No. 20525 will include installation of a new sewer line, water lines and other underground utilities within the site to connect the new residences to these utilities. Landscaping will occur after development of the residential homes.

Methodology

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

Literature Review

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

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

- Google Earth Pro historic aerial imagery (1985-2021);
- United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), Soil Survey[2];
- USFWS Critical Habitat designations for Threatened and Endangered Species; and
- USFWS Endangered Species Profiles.

The literature review provided a baseline from which to inventory the biological resources potentially

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.

occurring within the project site. The CNDDB database was used, in conjunction with ArcGIS software, to locate the nearest recorded occurrences of special-status species and determine the distance from the project site.

Habitat Assessment/Field Investigation

Following the literature review, biologist Thomas J. McGill, Ph.D. inventoried and evaluated baseline biological conditions at the Project Site on February 7, 2022. Plant communities and land cover types identified on aerial photographs during the literature review were verified by walking meandering transects throughout the project site. In addition, aerial photography was reviewed prior to the site investigation to locate potential natural corridors and linkages that may support the movement of wildlife through the area. These areas identified on aerial photography were then walked during the field investigation.

Plant Communities

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

Plants

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

Wildlife

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

Jurisdictional Drainages and Wetlands

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

determine whether any hydrologic features and wetland areas have been documented on or within the vicinity of the project site.

Existing Site Conditions

The proposed project site is in an area that supports a mix of developed and undeveloped land in the City of Victorville. The site is bounded by undeveloped land on north side with residential housing along the eastern and southern boundaries. An abandoned residential development that has been graded and infrastructure installed, including a paved access road, occur along the western boundary. The site itself is undeveloped but has been heavily impacted by historic land uses, including several dirt roads, illegal dumping and offroad vehicle activities (See Attachment C *Site Photographs*).

Topography

The site is undeveloped and relatively flat. Site elevation ranges from approximately 2,905 feet above mean sea level in the northwest corner to 2,994 feet in the central western portion of the site. Most of the site is covered by a native Mojave Desert creosote scrub with evidence of human disturbances throughout the site.

Vegetation

Set in the high elevation desert of the Mojave plain, the principal vegetation community on the site is Mojave creosote bush scrub, characterized by an open canopy dominated by creosote bush *(Larrea tridentata)* with emergent western Joshua trees *(Yucca brevifolia)* and a relatively sparse ground cover (Sawyer and Keeler-Wolf 1995). A limited number of areas of the site are also classified as disturbed/bare soil. These areas are either existing dirt roads or other disturbance created by illegal trespass.

Creosote Bush Scrub

The creosote bush series (Sawyer and Keeler-Wolf, 1995) is one of the more common vegetation communities in the Mojave Desert. Creosote bush was the dominant shrub on the site, with lesser numbers of white bursage *(Ambrosia dumosa),* cholla *(Opuntia* spp.), *Ephedra* spp., California buckwheat *(Eriogonum fasciculatum),* cottonthorn *(Tetradymia stenolepis),* cheesebush *(Hymenoclea salsola),* indigo bush *(Psorothamnus arborescens),* peach thorn *(Lycium* cooperi)., and four-wing saltbush *(Atriplex canescens).* Western Joshua trees were also present on-site. All trees were less than 5-meter in height. Both the canopy and ground layers are open, often with interspersed areas of bare ground.

Wildlife

Plant communities provide foraging habitat, nesting/denning sites, and shelter from adverse weather or predation. This section provides a discussion of those wildlife species that were observed or are expected to occur within the project site. The discussion is to be used a general reference and is limited by the season, time of day, and weather conditions in which the field investigation was conducted. Wildlife detections were based on calls, songs, scat, tracks, burrows, and direct observation. The project site provides limited habitat for wildlife species except those adapted to a high degree of anthropogenic disturbances and development.

Fish

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

Amphibians

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

Reptiles

The survey area provides suitable foraging and cover habitat for local reptile species adapted to conditions within the Mojave Desert. The only reptilian species observed was western side-blotched lizard (*Uta stansburiana elegans*). Common reptilian species that could be expected to occur include Great Basin fence lizard (*Sceloporus occidentalis longipes*), Great basin gopher snake (*Pituophis catenifer deserticola*), red racer (*Coluber flagellum piceus*), and southwestern speckled rattlesnake (*Crotalus mitchellii pyrrhus*).

Birds

The project site provides suitable foraging and nesting habitat for bird species adapted to conditions within the Mojave Desert. Bird species detected during the field investigation include house finch (*Haemorhous mexicanus*), common raven (*Corvus corax*), red-tailed hawk (*Buteo jamaicensis*), mourning dove (*Zenaida macroura*), and white-crowned sparrow (*Zonotrichia leucophrys*).

Mammals

The survey area provides suitable foraging and cover habitat for mammalian species adapted to conditions within the Mojave Desert. Mammalian species detected during the field investigation include California ground squirrel (*Otospermophilus beecheyi*), and desert cottontail (*Sylvilagus audubonii*), and feral domestic cat (*Felis catus*). Common mammalian species that could be expected to occur include black-tailed jackrabbit (*Lepus californicus*) and coyote (*Canis latrans*).

Nesting Birds

No active nests or birds displaying nesting behavior were observed during the field survey, which was conducted outside of breeding season. The project site has the potential to provide minimal 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. A single raven nest was found within a Joshua tree.

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

Migratory Corridors and Linkages

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

According to the San Bernardino County General Plan, the project site has not been identified as occurring within a Wildlife Corridor or Linkage. As designated by the San Bernardino County General Plan Open Space Element, major open space areas documented in the vicinity of the project site include the Mojave River located approximately 5 miles east of the site. The site is separated from this identified regional wildlife corridors and linkages by existing development and roadways, and undeveloped land; however, there are no riparian corridors or creeks connecting the project site to these areas.

The undeveloped land in the immediate vicinity of the project site provides local wildlife movement opportunities for wildlife species moving through the area; however, the project site does not function as a major wildlife movement corridor or linkage. As such, implementation of the proposed project is not expected to have a significant impact to wildlife movement opportunities or prevent local wildlife movement through the area since there is ample habitat adjacent to the project site to support wildlife movement opportunities.

Jurisdictional Areas

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

The USFWS NWI and the USGS National Hydrography Dataset were reviewed to determine if any blueline streams or riverine resources have been documented on the project site. Based on this review, no blueline streams or riverine resources have been identified on the project site.

The project site does not support any discernible drainage courses, inundated areas, wetland features, or hydric soils that would be considered jurisdictional by the Corps, Regional Board, or CDFW. A query of the NWI database found no potential blueline streams, riverine, or other aquatic resources within or adjacent to the project site. Therefore, project activities will not result in impacts to Corps, Regional Board, or CDFW jurisdictional areas and regulatory approvals will not be required.

Special-Status Biological Resources

The CNDDB Rarefind 5 and the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California were queried for reported locations of special-status plant and wildlife species as well as special-

status natural plant communities in the Adelanto USGS 7.5-minute quadrangle. Only one quadrangle was queried due to the proximity of the site to quadrangle boundaries, regional topography, and conditions in the vicinity of the site. The habitat assessment evaluated the conditions of the habitat(s) within the boundaries of the project site to determine if the existing plant communities, at the time of the survey, have the potential to provide suitable habitat(s) for special-status plant and wildlife species.

The literature search identified one (1) special-status plant species and six (6) special-status wildlife species as having potential to occur within the Victorville USGS 7.5-minute quadrangle. No special-status plant communities were identified as having potential to occur within this quadrangle. Special-status plant and wildlife species were evaluated for their potential to occur within the project site based on habitat requirements, availability and quality of suitable habitat, and known distributions. Species determined to have the potential to occur within the general vicinity of the project site is presented in Attachment D *Potentially Occurring Special-Status Biological Resources*.

Special-Status Plants

According to the CNDDB and CNPS, one (1) special-status plant species have been recorded in the Victorville quadrangle (refer to Attachment D). Twenty (20) western Joshua trees were observed on-site during the field investigation and were inventoried during the site visit. The project site consists vacant, undeveloped land that has been subject to a variety of anthropogenic disturbances. Based on habitat requirements for specific special-status plant species and the availability and quality of habitats needed by each species, it was determined that the project site does not provide suitable habitat for any other special-status plant species known to occur in the area and, with the exception of the western Joshua tree, special-status plants are presumed to be absent.

Western Joshua Tree

The western Joshua tree was granted candidate status under the California Endangered Species Act on September 25, 2020. This species is endemic to the Mojave Desert and occupies an elevation range of 1,600 and 6,660 feet above mean sea level. This species is recognized in several vegetation communities in varying densities. Known occupied communities include sagebrush scrub, desert shrub, southwestern shrubsteppe, pinyon-juniper woodland, and desert grasslands. When this species is dominant in high densities, the occupied habitat may be classified as a Joshua tree woodland, although densities are typically low due to their extensive and competitive root systems. Mature size varies greatly due to irregular branching, and large individuals can exceed 40 feet in height. Like other large members of family Agavaceae, western Joshua trees grow slowly, with estimated growth rates ranging from 2.3 to 4.6 inches per year depending on individual age and conditions. Western Joshua trees are long-lived species, with most estimates of average lifespan ranging from 150 to 300 years, although some estimates exceed 700 years. The largest known western Joshua tree exceeds 60 feet in height and is an estimated 1,000 years old. Like other long-lived plant species, seed production occurs very slowly and irregularly, although rhizome production and clonal growth can occur. Western Joshua trees are only known to be pollinated by once species: the yucca moth (*Tegeticula synthetica*).

As a candidate endangered species, western Joshua trees have the same protection as listed species in the California Endangered Species Act. Joshua trees are also considered a significant resource under the CEQA and are a covered species under the Desert Plant Protection Act. In accordance with Section 2081 subdivision (b) of the California Fish and Game Code, removal of Joshua trees will require an Incidental

Take Permit (ITP) to be prepared and processed if the Joshua trees cannot be avoided.

Special-Status Wildlife

According to the CNDDB, six (6) special-status wildlife species have been reported in the Victorville quadrangle (refer to Attachment D). No special-status wildlife species were observed onsite during the field investigation. The project site has been subject to anthropogenic disturbances that have degraded the site. Based on habitat requirements for specific species and the availability and quality of onsite habitats, it was determined that the proposed project site has a moderate potential to provide suitable foraging habitat for Cooper's hawk (*Accipter cooperii*), and prairie falcon (*Falco mexicanus*); moderate foraging and nesting habitat for loggerhead shrike (*Lanius ludovicianus*) and burrowing owl (*Athene cunicularia*); and a low potential to support Le Conte's thrasher (*Toxostoma lecontei*) and desert tortoise (*Gopherus agassizii*).

Five of the aforementioned special-status wildlife species are not state or federally listed as threatened or endangered and do not require an Incidental Take Permit (ITP) from the wildlife agencies. Desert tortoise is both state and federally listed would require ITPs from both CDFW and USFWS, if present. A focused survey in 2005 found no evidence of desert tortoise on the Project Site or within the surrounding area and they are presumed absent from the site.

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

Critical Habitats

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

The project site is not located within federally designated Critical Habitat. Further, the nearest Critical Habitat designations is located approximately 5 miles east of the project site for southwestern willow flycatcher (*Empidonax traillii extimus*). Therefore, no impacts to federally designated Critical Habitat will occur from implementation of the proposed project.

San Bernardino County Development Code

Section 88.01.060 of the County of San Bernardino Development Code provides regulations for the removal or harvesting of specified desert native plants in order to preserve and protect the plants and to provide for the conservation and wise use of desert resources. The provisions are intended to coincide with the Desert Native Plants Act (Food and Agricultural Code Section 8001 et seq.) and the State Department of Food and Agriculture to implement and enforce the Act.

Pursuant to Section 88.01.060 of the Development Code, the following desert native plants or any part of them, except the fruit, shall not be removed except under a Tree or Plant Removal Permit:

1) The following desert native plants with stems two inches or greater in diameter or six feet or greater in height:
   (A) *Dalea spinosa* (smoke tree)
   (B) All species of the genus *Prosopis* (mesquites)
2) All species of the family *Agavaceae* (century plants, nolinas, yuccas)
3) Creosote Rings, 10 feet or greater in diameter
4) All Joshua trees (*Yucca brevifolia*)
5) Any part of any of the following species, whether living or dead:
   (A) *Olneya tesota* (desert ironwood)
   (B) All species of the genus *Prosopis* (mesquites)
   (C) All species of the genus *Cercidium* (palos verdes)

Based on the results of the field investigation, western Joshua trees are present and are protected by the San Bernardino County Development Code. A California Desert Native Plant permit will be required from San Bernardino County before development can occur.

Conclusion

Based literature review and field survey, and existing site conditions discussed in this report, implementation of the project will have no significant impacts on federally or State listed species known to occur in the general vicinity of the project site. A state candidate species, the western Joshua tree, was proposed for listing in 2020 but the Fish & Game Commission has not taken action on the listing. Instead, a new bill is being processed to the State Legislature that will create the Western Joshua Tree Protection Act and is anticipated to go into effect in later part of 2023. Permitting under the Western Joshua Tree Protection Act is expected to be implemented by local governments, cities and counties, and will require a simpler permitting process and drastically reduced mitigation fees. Until the Western Joshua Tree Protection Act is law and if the candidacy for Western Joshua Tree will remain in effect, any removal of the species prior to any ground disturbing activities would require that an ITP be processed through CDFW.

The project will have no effect on designated Critical Habitat, or regional wildlife corridors/linkage because none exists within the area. No jurisdictional drainage and/or wetland features were observed on the project site during the field investigation. With completion of the recommendations provided below, no impacts to year-round, seasonal, or special-status avian residents or special-status species will occur from implementation of the proposed project.

Recommendations

Western Joshua Tree Permits

Western Joshua trees are a protected species under State's California Desert Native Plant Protection Act, as well as San Bernardino County Development Code. Additionally, the species is proposed for listing under the California Endangered Species Act and was elevated to a candidate species by the Fish & Game Commission. However, the Commission has not taken action on the petition and a new bill is being processed to the State Legislature that will create the Western Joshua Tree Protection Act and is anticipated to go into effect in later part of 2023. Permitting under the Western Joshua Tree Protection Act is expected to be implemented by local governments, Cities and Counties, and will simplify the permitting process and require substantially reduced mitigation fees. It is recommended that the client continue it entitlement process with the City of Victorville and include appropriate language under CEQA acknowledging that the client will adhere to this new and pending process for mitigating impacts to western Joshua trees.

Migratory Bird Treaty Act and Fish and Game Code

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

If construction occurs between February 1st and August 31st, a pre-construction clearance survey for nesting birds should be conducted within three (3) days of the start of any vegetation removal or ground disturbing activities to ensure that no nesting birds will be disturbed during construction. The biologist conducting the clearance survey should document a negative survey with a brief letter report indicating that no impacts to active avian nests will occur. If an active avian nest is discovered during the pre-construction clearance survey, construction activities should stay outside of a no-disturbance buffer. The size of the no-disturbance buffer will be determined by the wildlife biologist and will depend on the level of noise and/or surrounding anthropogenic disturbances, line of sight between the nest and the construction activity, type and duration of construction activity, ambient noise, species habituation, and topographical barriers. These factors will be evaluated on a case-by-case basis when developing buffer distances. Limits of construction to avoid an active nest will be established in the field with flagging, fencing, or other appropriate barriers; and construction personnel will be instructed on the sensitivity of nest areas. A biological monitor should be present to delineate the boundaries of the buffer area and to monitor the active nest to ensure that nesting behavior is not adversely affected by the construction activity. Once the young have fledged and left the nest, or the nest otherwise becomes inactive under natural conditions, construction activities within the buffer area can occur.

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

Sincerely,

Thomas J. McGill, Ph.D.
Managing Director

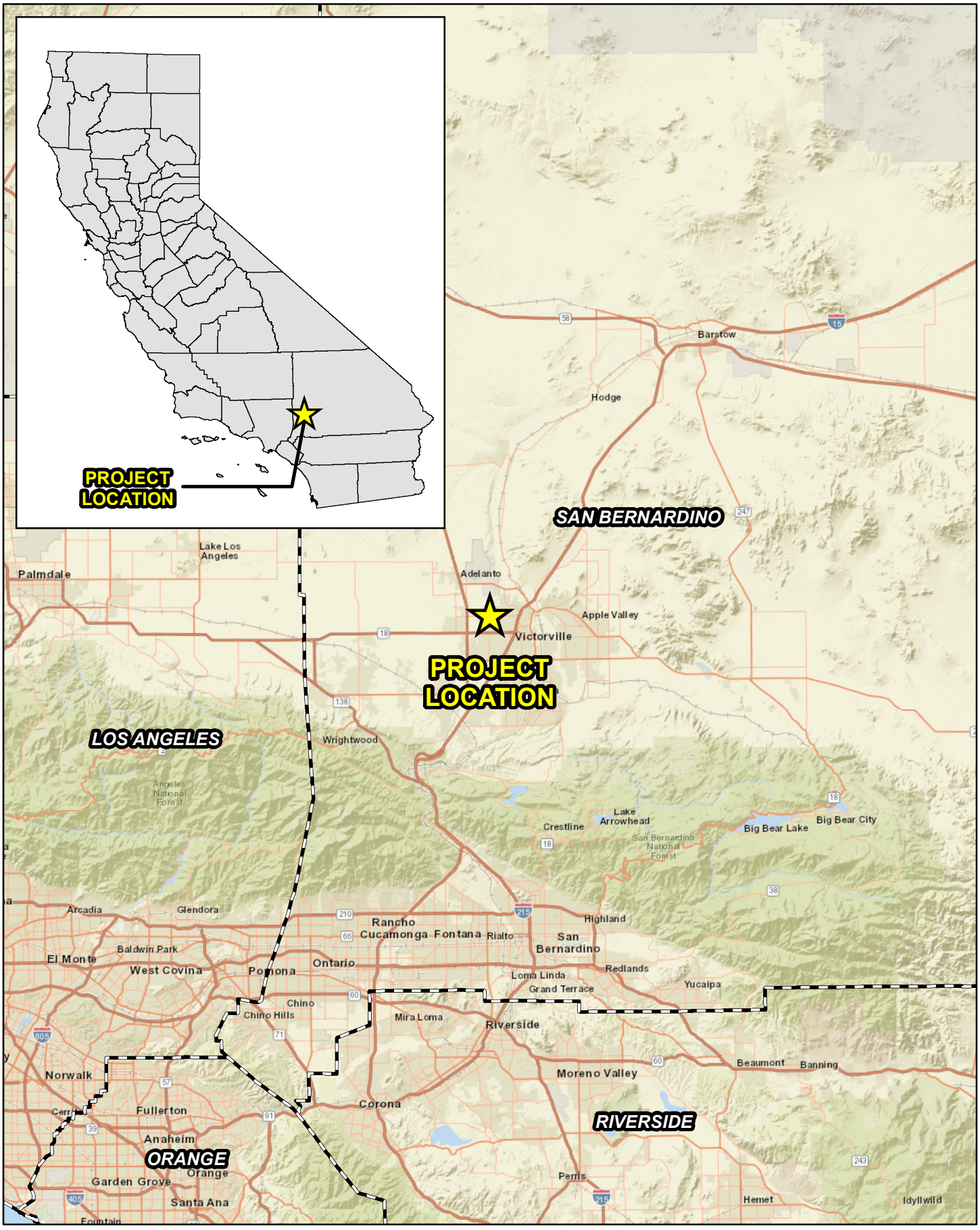
Travis J. McGill
Director

Attachments:

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

Attachment A

Project Exhibits



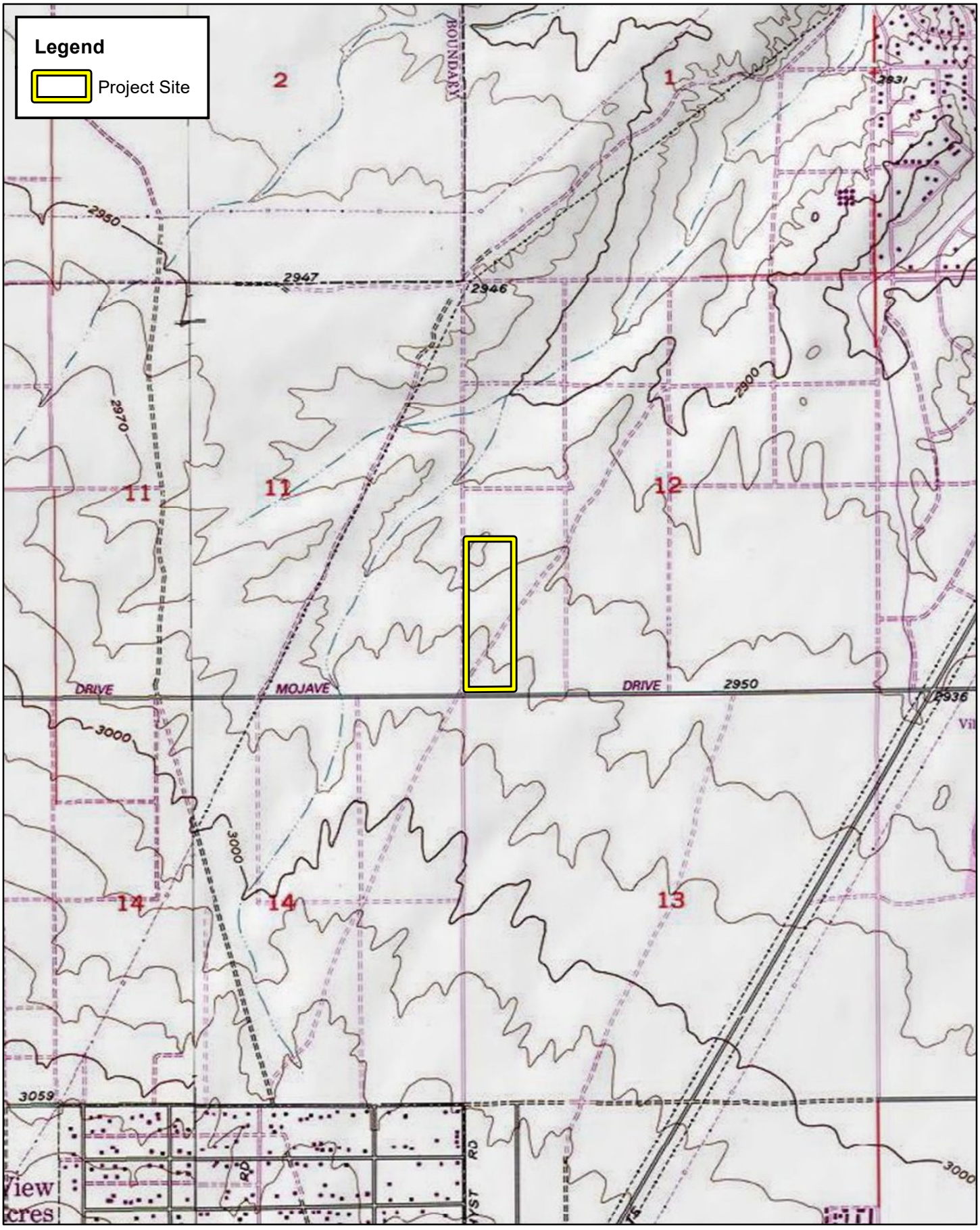
BIOLOGICAL RESOURCES ASSESSMENT

ELMT CONSULTING

Source: World Street Map, San Bernardino County

Regional Vicinity

Exhibit 1



ELMT CONSULTING

0 1,000 2,000 4,000 Feet

Source: USA Topographic Map, San Bernardino County

BIOLOGICAL RESOURCES ASSESSMENT

Site Vicinity

Exhibit 2

BIOLOGICAL RESOURCES ASSESSMENT

ELMT CONSULTING

0 62.5 125 250 Feet

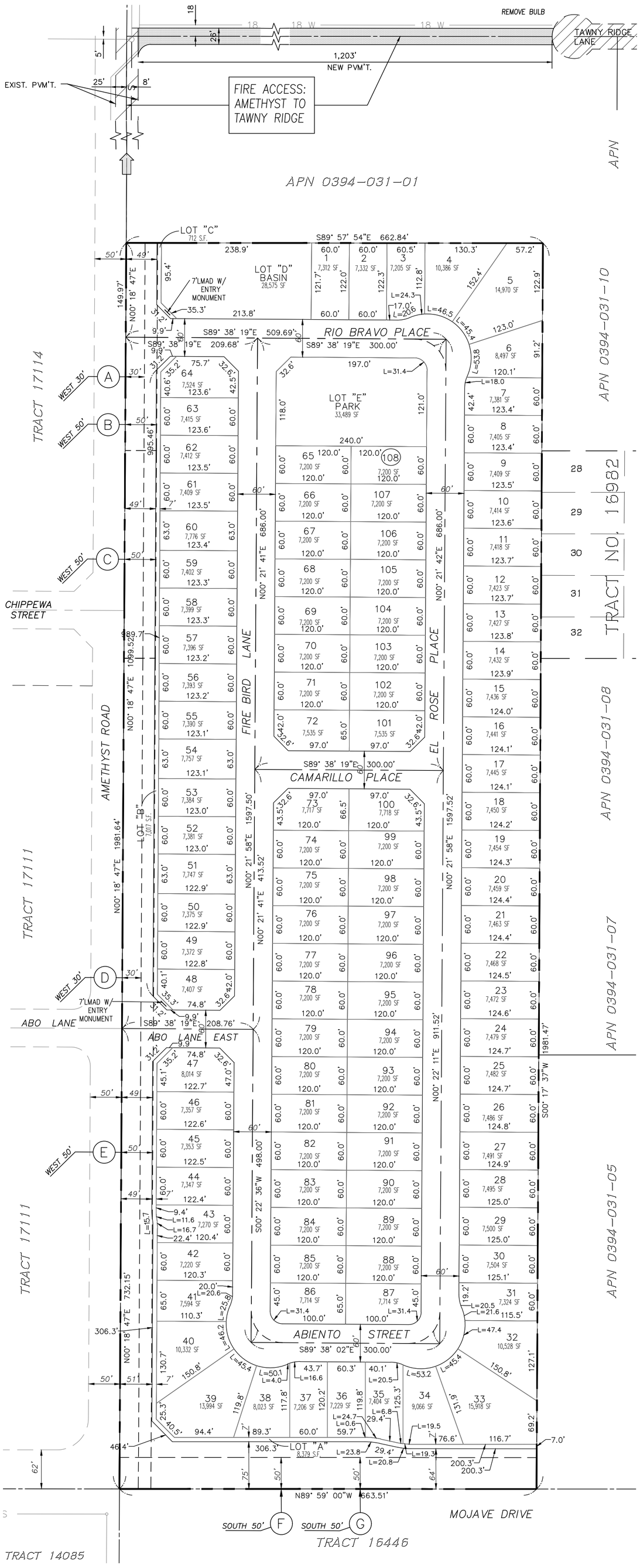
Source: Google Earth Aerial Imagery, San Bernardino County

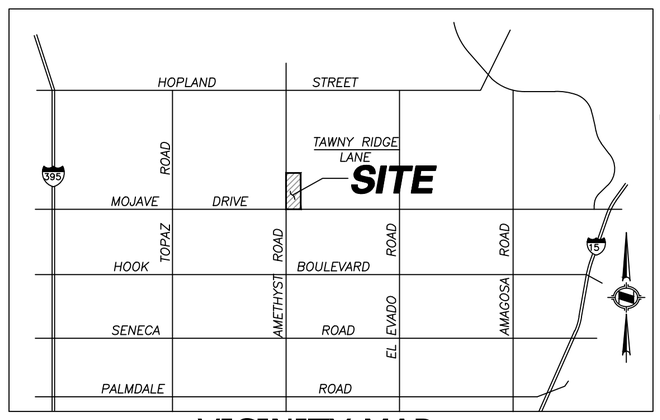
Project Site

Exhibit 3

Attachment B

Site Plan





VICINITY MAP

IN THE CITY OF VICTORVILLE,
COUNTY OF SAN BERNARDINO, CALIFORNIA

TENTATIVE TRACT MAP No. 20525

BEING THE WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 5 NORTH, RANGE 5 WEST, S.B.M., IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA ACCORDING TO THE OFFICIAL PLAT THEREOF. EXCEPTING THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 12.

LUDWIG ENGINEERING — DECEMBER 2022

PROJECT SUMMARY

1. GROSS ACREAGE: 30.1 ACRES
2. NET ACREAGE: 20.87 ACRES
3. PROPOSED DENSITY: 3.85 DU/AC
4. MINIMUM LOT AREA: 7,200 S.F.
5. AVERAGE LOT AREA: 7,692 S.F.
6. MINIMUM LOT DIMENSION FOR INTERIOR LOT: 60'x120'
7. MINIMUM LOT DIMENSION FOR CORNER LOT: 65'x120'

LAND USE SUMMARY

LOT No.	LAND USE	AREAS
A, B, C, D & E	LETTER LOTS (LMAD, PARK & BASIN)	1.80 ACRES
1-108	SINGLE FAMILY RESIDENTIAL LOTS	19.07 ACRES
ROADS	ROADS	9.23 ACRES
TOTAL		30.1 ACRES

EASEMENTS

(A) REFERS TO AN EASEMENT IN FAVOR OF IAN FREEBAIRN-SMITH FOR ROAD AND INCIDENTAL PURPOSES RECORDED DECEMBER 13, 1967 IN BOOK 6940, PAGE 679 OF OFFICIAL RECORDS.

(B) REFERS TO AN EASEMENT IN FAVOR OF THE CITY OF VICTORVILLE FOR PUBLIC ROAD, HIGHWAY AND INCIDENTAL PURPOSES RECORDED FEBRUARY 05, 1992 AS INSTRUMENT NO. 92-041866 OF OFFICIAL RECORDS.

(C) REFERS TO AN OFFER OF DEDICATION OF THE CITY OF VICTORVILLE FOR STREETS, HIGHWAYS, SEWER, DRAINAGE, PUBLIC UTILITIES AND INCIDENTAL PURPOSES RECORDED MAY 01, 1989 AS INSTRUMENT NO. 89-154377 OF OFFICIAL RECORDS.

(D) REFERS TO AN EASEMENT IN FAVOR OF GEMINI MANAGEMENT COMPANY FOR ROAD AND INCIDENTAL PURPOSES RECORDED DECEMBER 13, 1967 IN BOOK 7120, PAGE 464 OF OFFICIAL RECORDS.

(E) REFERS TO AN OFFER OF DEDICATION OF THE CITY OF VICTORVILLE FOR HIGHWAY, ROAD AND INCIDENTAL PURPOSES RECORDED OCTOBER 29, 1986 AS INSTRUMENT NO. 86-319270 OF OFFICIAL RECORDS.

(F) REFERS TO AN EASEMENT IN FAVOR OF THE CITY OF VICTORVILLE FOR PUBLIC ROAD, HIGHWAY AND INCIDENTAL PURPOSES RECORDED MARCH 24, 1992 AS INSTRUMENT NO. 92-125359 OF OFFICIAL RECORDS.

NOTES

1. AP MAP NOS. 0394-031-02, 0394-031-03 & 0394-031-04
2. EXISTING LAND USE: VACANT
3. PROPOSED LAND USE: RESIDENTIAL
4. EXISTING GENERAL PLAN: LOW DENSITY RESIDENTIAL
5. EXISTING ZONING: R-1T (4) SINGLE FAMILY TRANSITIONAL
6. PROPOSED ZONING: R-1T (4) SINGLE FAMILY TRANSITIONAL
7. STREETS: PUBLIC
8. LOTS 1-109. ARE SINGLE FAMILY RESIDENTIAL, LOTS D & E ARE BASIN & PARK
9. TOTAL LOTS: 109 NUMBERED LOTS AND 5 LETTERED LOTS
10. SCHOOL DISTRICTS: VICTOR ELEMENTARY SCHOOL DISTRICT AND VICTOR VALLEY UNION HIGH SCHOOL DISTRICT
11. THOMAS BROTHERS REFERENCE, SAN BERNARDINO 2005: PAGE 4295, G5 & G6
12. SETBACKS: FRONT YARD = 20'; SIDE YARD = 5'; STREET SIDE YARD = 10; REAR YARD = 20'
13. A 7 FOOT WIDE LMAD WILL BE DEDICATED ALONG AMETHYST ROAD AND MOJAVE DRIVE.

DATE 12-14-22
W.O. MI-0508
GROSS AREA 30.1 AC. +/-
CONTOUR INTERVAL 1'
TOTAL LOTS 108 NUMBERED, 5 LETTER

UTILITIES

WATER	CITY OF VICTORVILLE	(760) 245-6424
SEWER	CITY OF VICTORVILLE	(760) 955-5087
GAS	SOUTHWEST GAS CORPORATION	(760) 241-9321
ELECTRIC	SOUTHERN CALIFORNIA EDISON COMPANY	(800) 655-4555
TELEPHONE	VERIZON CALIFORNIA, INC.	(800) 483-5000
CABLE T.V.	CHARTER COMMUNICATION	(760) 241-7848

BENCHMARK

CITY OF VICTORVILLE B.M., V-214

BEING A 3" BRASS CAP IN SOUTH TOP OF CURB AT INTERSECTION OF MOJAVE DRIVE AND AMETHYST ROAD @ 2 FEET WEST OF SOUTHWEST BCR

ELEVATION: 2967.28

PREPARED FOR:

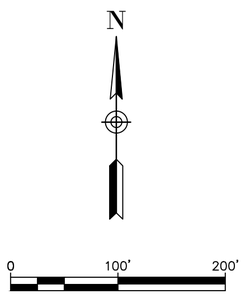
THREE ARCH INVESTMENT CORP.1
17802 LAKESIDE HAVEN DRIVE
CYPRESS, TEXAS, 77433
DAVID MICHELSON: (949)322-6983

PROPERTY OWNER:

1. *APN. 0394-031-02,03,04*
MOJAVE AMETHYST 40, L.P.
17802 LAKESIDE HAVEN DRIVE
CYPRESS, TX 77433

jeffrey martin ashbaker — DATE 01-17-23
JEFFREY MARTIN ASHBAKER, P.E. 91606

REGISTERED PROFESSIONAL ENGINEER — JEFFREY MARTIN ASHBAKER — No. 91606 — CIVIL — STATE OF CALIFORNIA

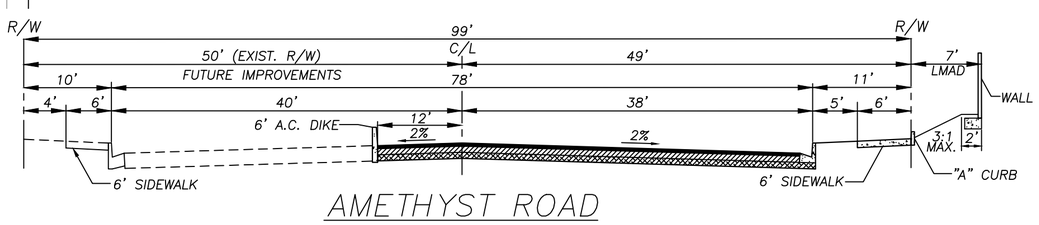


LOT SUMMARY TABLE

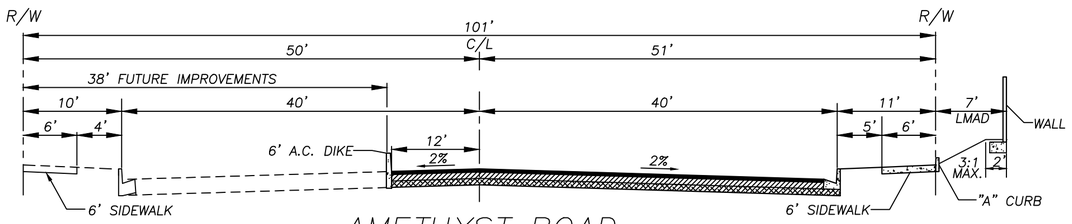
AREAS (7,200 S.F. MIN)

LOT NO.	GROSS SQ.FT	LOT NO.	GROSS SQ.FT	LOT NO.	GROSS SQ.FT	LOT NO.	GROSS SQ.FT
1	7,312	31	7,324	61	7,409	91	7,200
2	7,332	32	10,528	62	7,412	92	7,200
3	7,205	33	15,918	63	7,415	93	7,200
4	10,386	34	9,066	64	7,524	94	7,200
5	14,970	35	7,404	65	7,200	95	7,200
6	8,497	36	7,229	66	7,200	96	7,200
7	7,381	37	7,206	67	7,200	97	7,200
8	7,405	38	8,023	68	7,200	98	7,200
9	7,409	39	13,994	69	7,200	99	7,200
10	7,414	40	10,332	70	7,200	100	7,718
11	7,418	41	7,594	71	7,200	101	7,535
12	7,423	42	7,220	72	7,535	102	7,200
13	7,427	43	7,270	73	7,717	103	7,200
14	7,432	44	7,347	74	7,200	104	7,200
15	7,436	45	7,353	75	7,200	105	7,200
16	7,441	46	7,357	76	7,200	106	7,200
17	7,445	47	8,014	77	7,200	107	7,200
18	7,450	48	7,407	78	7,200	108	7,200
19	7,454	49	7,372	79	7,200	-	-
20	7,459	50	7,375	80	7,200	-	-
21	7,463	51	7,747	81	7,200	-	-
22	7,468	52	7,381	82	7,200	-	-
23	7,472	53	7,384	83	7,200	-	-
24	7,479	54	7,757	84	7,200	-	-
25	7,482	55	7,390	85	7,200	LETTER LOTS	
26	7,486	56	7,393	86	7,714	"A"	8,576
27	7,491	57	7,396	87	7,714	"B"	7,413
28	7,495	58	7,399	88	7,200	"C"	910
29	7,500	59	7,402	89	7,200	"D"	28,578
30	7,504	60	7,776	90	7,200	"E"	33,489

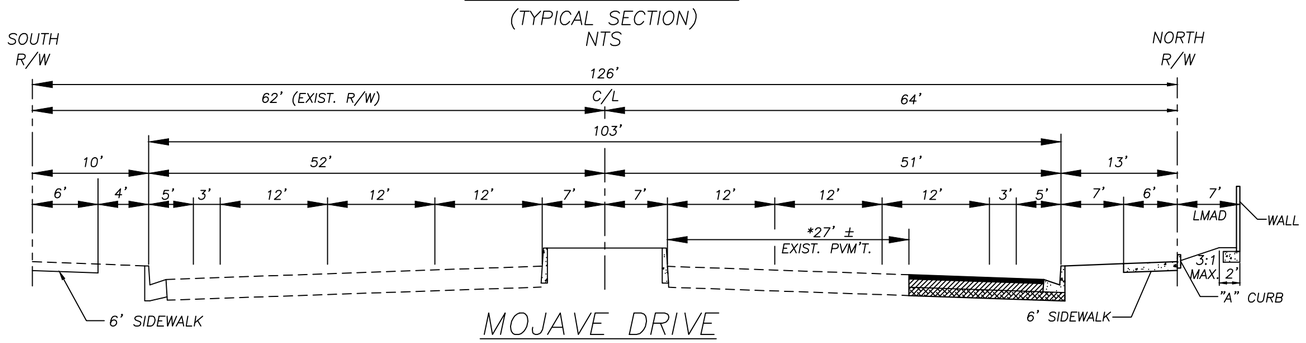
LOTS - 108	830,188 S.F.
LETTER LOTS - 5	78,966 S.F.
TOTAL LOTS - 113	908,956 S.F.
TOTAL	20.87 Acres
AVERAGE - RESIDENTIAL LOTS	7,692 S.F.



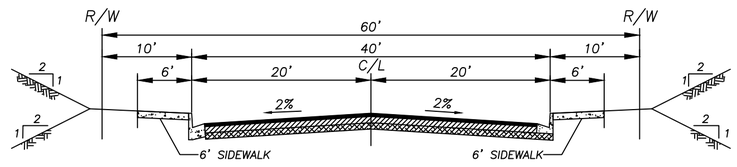
AMETHYST ROAD
(TYPICAL SECTION)
NTS



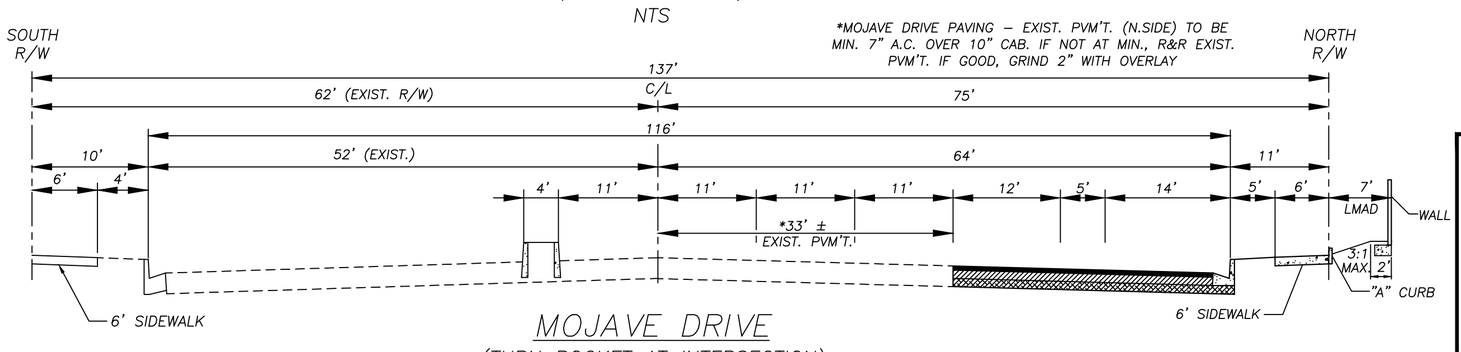
AMETHYST ROAD
(TRANSITION AT INTERSECTION)
NTS



MOJAVE DRIVE
(TYPICAL SECTION)
NTS



ABO LANE EAST, RIO BRAVO PLACE, FIRE BIRD LANE
ABIENTO STREET, CAMARILLO PLACE & EL ROSE PLACE
(PUBLIC)
NTS



MOJAVE DRIVE
(TURN POCKET AT INTERSECTION)
NTS

Ludwig Engineering ASSOCIATES, INC.
Civil Engineering • Surveying • Planning
109 East Third Street, San Bernardino, CA 92410, Phone: 909-884-8217, Fax: 909-889-0153
5890 Hwy. 95, Ste. B, Fort Mohave, AZ 88426, Phone: 928-768-1857, Fax: 928-768-7086
15252 Seneca Rd., Victorville, CA 92392, Phone: 760-951-7676, Fax: 760-241-0573
2126 McCulloch Blvd., Ste. 8, Lake Havasu City, AZ 86403, Phone: 928-680-6060, Fax: 928-854-6530

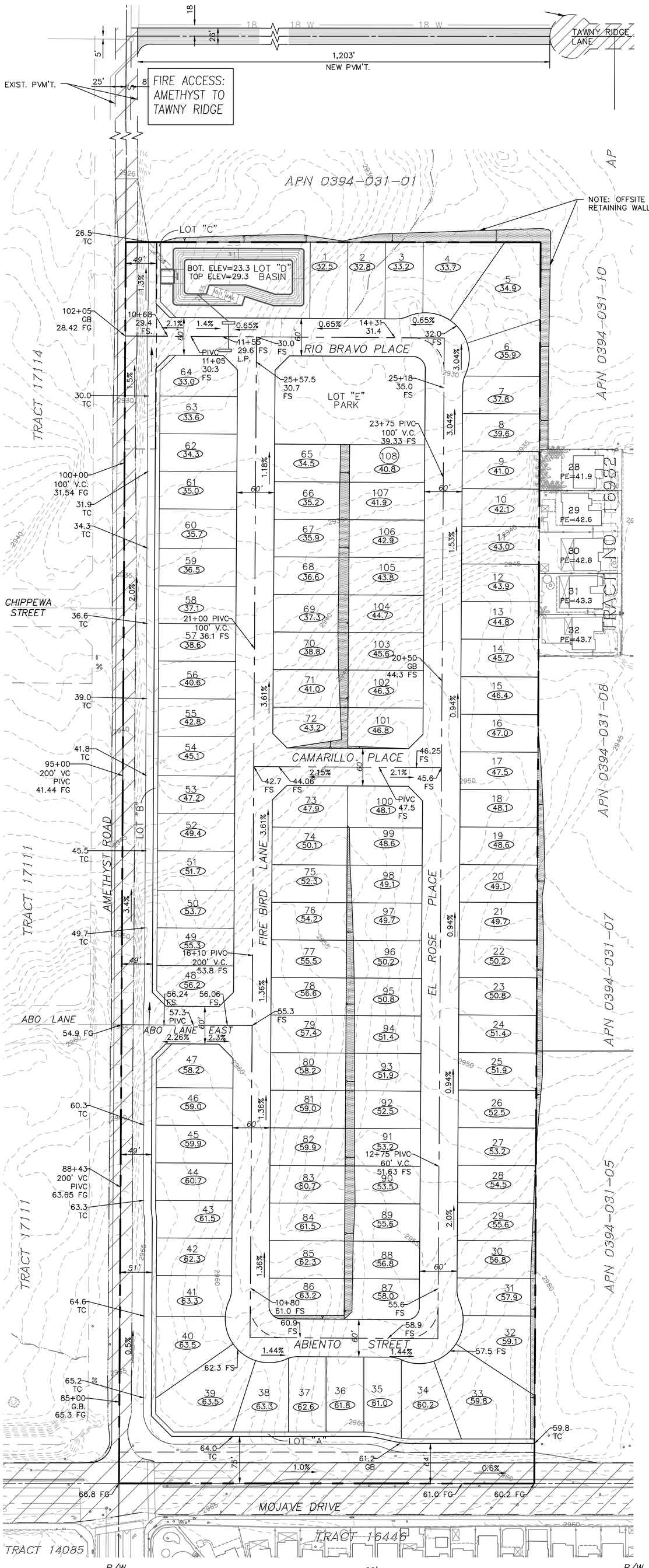
AMETHYST ROAD AND MOJAVE DRIVE

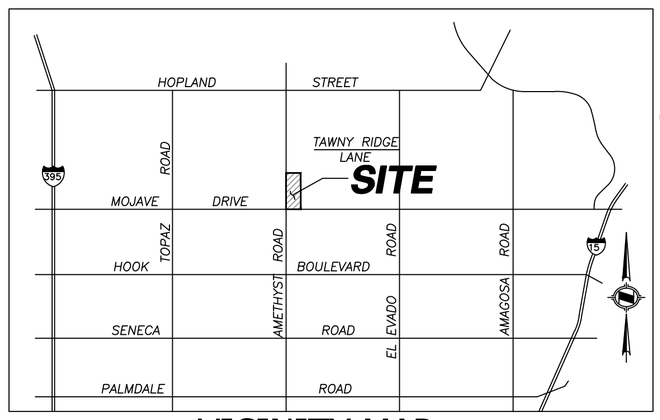
BOUNDARY & LOTTING
TTM NO. 20525

DATE: AUGUST 2022

SHEET 1 OF 3

PROJECT NUMBER
MI-0508





VICINITY MAP

IN THE CITY OF VICTORVILLE,
COUNTY OF SAN BERNARDINO, CALIFORNIA

TENTATIVE TRACT MAP No. 20525

BEING THE WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 5 NORTH, RANGE 5 WEST, S.B.M., IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA ACCORDING TO THE OFFICIAL PLAT THEREOF. EXCEPTING THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 12.

LUDWIG ENGINEERING — DECEMBER 2022

PROJECT SUMMARY

1. GROSS ACREAGE: 30.1 ACRES
2. NET ACREAGE: 20.87 ACRES
3. PROPOSED DENSITY: 3.85 DU/AC
4. MINIMUM LOT AREA: 7,200 S.F.
5. AVERAGE LOT AREA: 7,692 S.F.
6. MINIMUM LOT DIMENSION FOR INTERIOR LOT: 60'x120'
7. MINIMUM LOT DIMENSION FOR CORNER LOT: 65'x120'

LAND USE SUMMARY

LOT No.	LAND USE	AREAS
A, B, C, D & E	LETTER LOTS (LMAD, PARK & BASIN)	1.80 ACRES
1-108	SINGLE FAMILY RESIDENTIAL LOTS	19.07 ACRES
ROADS	ROADS	9.23 ACRES
TOTAL		30.1 ACRES

EASEMENTS

(A) REFERS TO AN EASEMENT IN FAVOR OF IAN FREEBAIRN-SMITH FOR ROAD AND INCIDENTAL PURPOSES RECORDED DECEMBER 13, 1967 IN BOOK 6940, PAGE 679 OF OFFICIAL RECORDS.

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DATE 8-24-22
W.O. MI-0508
GROSS AREA 30.1 AC. +/-
CONTOUR INTERVAL 1'
TOTAL LOTS 108 NUMBERED, 5 LETTER

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SEWER	CITY OF VICTORVILLE	(760) 955-5087
GAS	SOUTHWEST GAS CORPORATION	(760) 241-9321
ELECTRIC	SOUTHERN CALIFORNIA EDISON COMPANY	(800) 655-4555
TELEPHONE	VERIZON CALIFORNIA, INC.	(800) 483-5000
CABLE T.V.	CHARTER COMMUNICATION	(760) 241-7848

BENCHMARK

CITY OF VICTORVILLE B.M., V-214

BEING A 3" BRASS CAP IN SOUTH TOP OF CURB AT INTERSECTION OF MOJAVE DRIVE AND AMETHYST ROAD @ 2 FEET WEST OF SOUTHWEST BCR

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PREPARED FOR:

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CYPRESS, TEXAS, 77433
DAVID MICHELSON: (949)322-6983

PROPERTY OWNER:

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CYPRESS, TX 77433

Jeffrey Martin Ashbaker — DATE 01-17-23
JEFFREY MARTIN ASHBAKER, P.E. 91606

REGISTERED PROFESSIONAL ENGINEER — JEFFREY MARTIN ASHBAKER — No. 91606 — CIVIL — STATE OF CALIFORNIA

LOT SUMMARY TABLE

AREAS (7,200 S.F. MIN)

LOT NO.	GROSS SQ.FT	LOT NO.	GROSS SQ.FT	LOT NO.	GROSS SQ.FT	LOT NO.	GROSS SQ.FT
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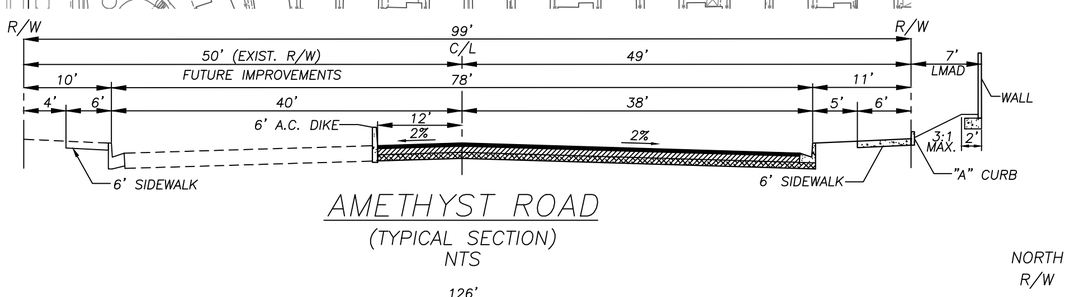
LOTS - 108 830,188 S.F.
LETTER LOTS - 5 78,966 S.F.
TOTAL LOTS - 113 909,154 S.F.
TOTAL 20.87 Acres
AVERAGE - RESIDENTIAL LOTS 7,692 S.F.

GRADING NOTES

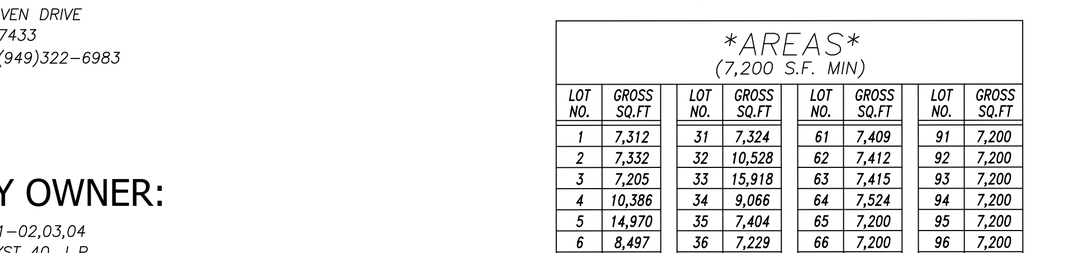
(XX.X) = PROPOSED PAD ELEVATION
G.B. = GRADE BREAK
PIVC = POINT OF INTERSECTION VERTICAL CURVE
F.G = FINISH GRADE
V.C. = VERTICAL CURVE
H.P. = HIGH POINT
INDICATES 2:1 SLOPE

APPROX. EARTHWORK QUANTITIES
CUT = 77,855 C.Y., FILL = 50,942 C.Y.

N
0 100' 200'



AMETHYST ROAD
(TYPICAL SECTION)
NTS



AMETHYST ROAD
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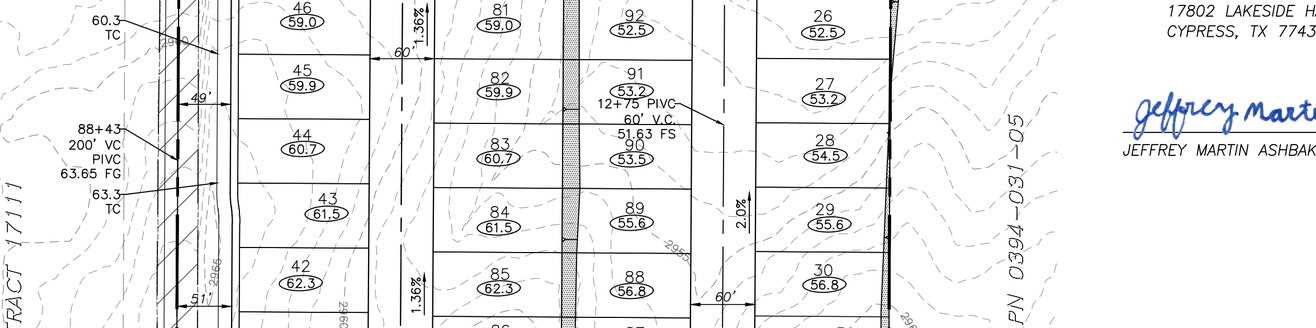
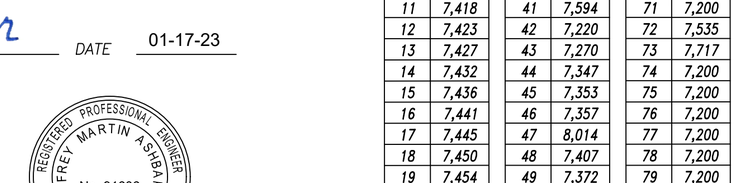
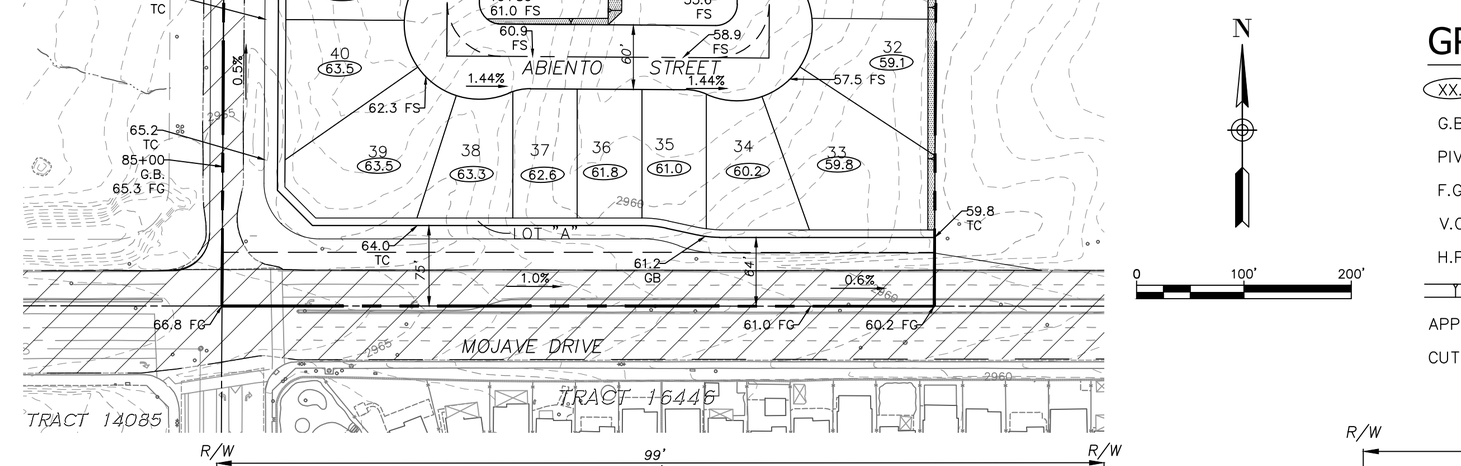


MOJAVE DRIVE
(TYPICAL SECTION)
NTS



ABO LANE EAST, RIO BRAVO PLACE, FIRE BIRD LANE
ABIENTO STREET, CAMARILLO PLACE & EL ROSE PLACE
(PUBLIC)
NTS



MOJAVE DRIVE
(TURN POCKET AT INTERSECTION)
NTS

Ludwig Engineering ASSOCIATES, INC.
Civil Engineering • Surveying • Planning

109 East Third Street
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Phone: 909-884-8217
Fax: 909-889-0153

5890 Hwy. 95, Ste. B
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15252 Seneca Rd.
Victorville, CA 92392
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Fax: 760-241-0573

2126 McCulloch Blvd., Ste. 8
Lake Havasu City, AZ 86403
Phone: 928-680-6060
Fax: 928-854-6530

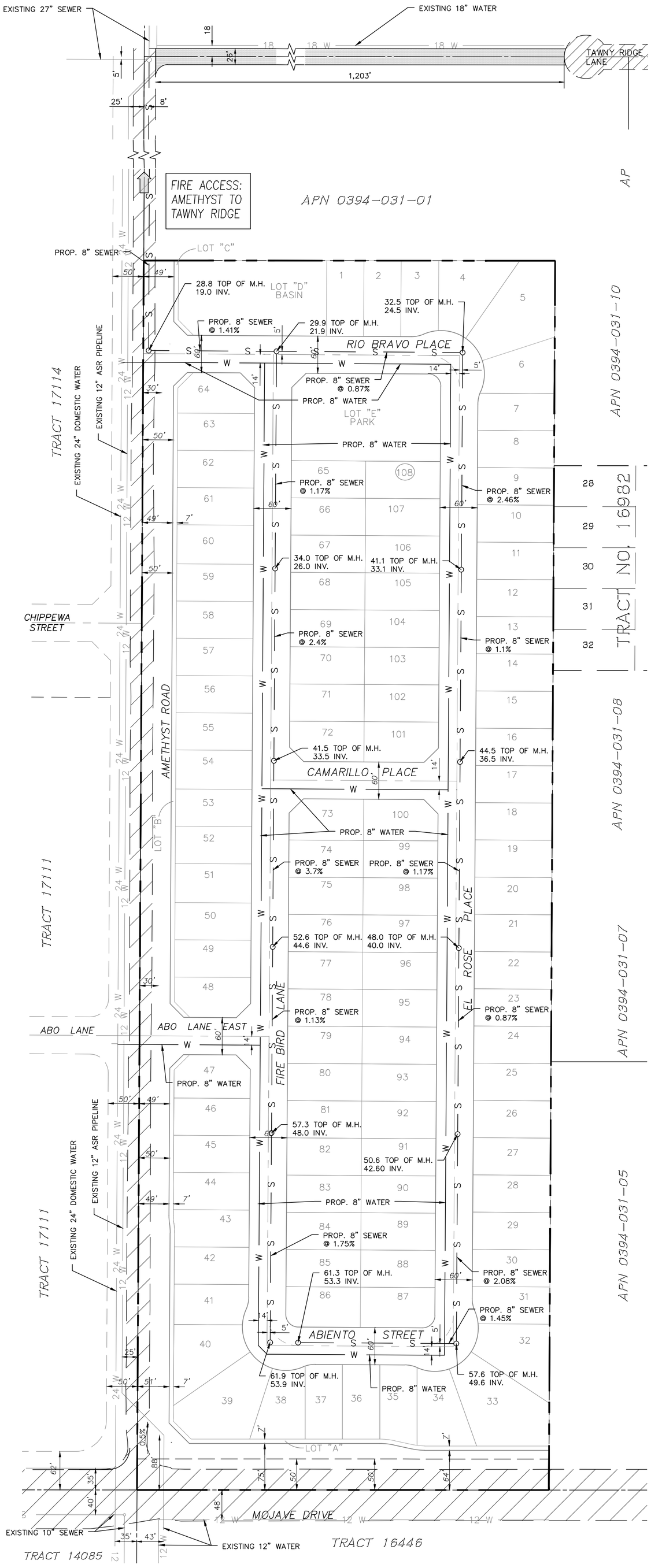
AMETHYST ROAD AND MOJAVE DRIVE

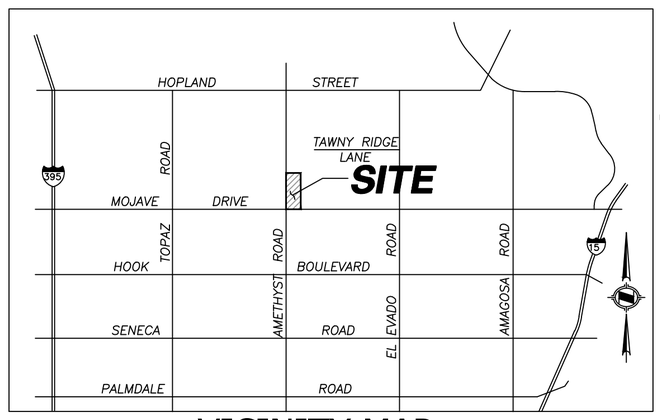
PRELIMINARY GRADING
TTM NO. 20525

DATE: AUGUST 2022

SHEET 2 OF 3

PROJECT NUMBER
MI-0508





VICINITY MAP

IN THE CITY OF VICTORVILLE,
COUNTY OF SAN BERNARDINO, CALIFORNIA

TENTATIVE TRACT MAP No. 20525

BEING THE WEST HALF OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 12, TOWNSHIP 5 NORTH, RANGE 5 WEST, S.B.M., IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA ACCORDING TO THE OFFICIAL PLAT THEREOF. EXCEPTING THE NORTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 12.

LUDWIG ENGINEERING — DECEMBER 2022

PROJECT SUMMARY

1. GROSS ACREAGE: 30.1 ACRES
2. NET ACREAGE: 20.87 ACRES
3. PROPOSED DENSITY: 3.85 DU/AC
4. MINIMUM LOT AREA: 7,200 S.F.
5. AVERAGE LOT AREA: 7,692 S.F.
6. MINIMUM LOT DIMENSION FOR INTERIOR LOT: 60'x120'
7. MINIMUM LOT DIMENSION FOR CORNER LOT: 65'x120'

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LOT No.	LAND USE	AREAS
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ROADS	ROADS	9.23 ACRES
TOTAL		30.1 ACRES

EASEMENTS

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(C) REFERS TO AN OFFER OF DEDICATION OF THE CITY OF VICTORVILLE FOR STREETS, HIGHWAYS, SEWER, DRAINAGE, PUBLIC UTILITIES AND INCIDENTAL PURPOSES RECORDED MAY 01, 1989 AS INSTRUMENT NO. 89-154377 OF OFFICIAL RECORDS.
(D) REFERS TO AN EASEMENT IN FAVOR OF GEMINI MANAGEMENT COMPANY FOR ROAD AND INCIDENTAL PURPOSES RECORDED DECEMBER 13, 1967 IN BOOK 7120, PAGE 464 OF OFFICIAL RECORDS.
(E) REFERS TO AN OFFER OF DEDICATION OF THE CITY OF VICTORVILLE FOR HIGHWAY, ROAD AND INCIDENTAL PURPOSES RECORDED OCTOBER 29, 1986 AS INSTRUMENT NO. 86-319270 OF OFFICIAL RECORDS.
(F) REFERS TO AN EASEMENT IN FAVOR OF THE CITY OF VICTORVILLE FOR PUBLIC ROAD, HIGHWAY AND INCIDENTAL PURPOSES RECORDED MARCH 24, 1992 AS INSTRUMENT NO. 92-125359 OF OFFICIAL RECORDS.

NOTES

1. AP MAP NOS. 0394-031-02, 0394-031-03 & 0394-031-04
2. EXISTING LAND USE: VACANT
3. PROPOSED LAND USE: RESIDENTIAL
4. EXISTING GENERAL PLAN: LOW DENSITY RESIDENTIAL
5. EXISTING ZONING: R-1T (4) SINGLE FAMILY TRANSITIONAL
6. PROPOSED ZONING: R-1T (4) SINGLE FAMILY TRANSITIONAL
7. STREETS: PUBLIC
8. LOTS 1-109. ARE SINGLE FAMILY RESIDENTIAL, LOTS D & E ARE BASIN & PARK
9. TOTAL LOTS: 109 NUMBERED LOTS AND 5 LETTERED LOTS
10. SCHOOL DISTRICTS: VICTOR ELEMENTARY SCHOOL DISTRICT AND VICTOR VALLEY UNION HIGH SCHOOL DISTRICT
11. THOMAS BROTHERS REFERENCE, SAN BERNARDINO 2005: PAGE 4295, G5 & G6
12. SETBACKS: FRONT YARD = 20'; SIDE YARD = 5'; STREET SIDE YARD = 10; REAR YARD = 20'
13. A 7 FOOT WIDE LMAD WILL BE DEDICATED ALONG AMETHYST ROAD AND MOJAVE DRIVE.

DATE 8-24-22
W.O. MI-0508
GROSS AREA 30.1 AC. +/-
CONTOUR INTERVAL 1'
TOTAL LOTS 108 NUMBERED, 5 LETTER

UTILITIES

WATER	CITY OF VICTORVILLE	(760) 245-6424
SEWER	CITY OF VICTORVILLE	(760) 955-5087
GAS	SOUTHWEST GAS CORPORATION	(760) 241-9321
ELECTRIC	SOUTHERN CALIFORNIA EDISON COMPANY	(800) 655-4555
TELEPHONE	VERIZON CALIFORNIA, INC.	(800) 483-5000
CABLE T.V.	CHARTER COMMUNICATION	(760) 241-7848

BENCHMARK

CITY OF VICTORVILLE B.M., V-214

BEING A 3" BRASS CAP IN SOUTH TOP OF CURB AT INTERSECTION OF MOJAVE DRIVE AND AMETHYST ROAD @ 2 FEET WEST OF SOUTHWEST BCR

ELEVATION: 2967.28

PREPARED FOR:

THREE ARCH INVESTMENT CORP.1
17802 LAKESIDE HAVEN DRIVE
CYPRESS, TEXAS, 77433
DAVID MICHELSON: (949)322-6983

PROPERTY OWNER:

1. APN. 0394-031-02,03,04
MOJAVE AMETHYST 40, L.P.
17802 LAKESIDE HAVEN DRIVE
CYPRESS, TX 77433

jeffrey martin ashbaker — DATE 01-17-23
JEFFREY MARTIN ASHBAKER, P.E. 91606

REGISTERED PROFESSIONAL ENGINEER — JEFFREY MARTIN ASHBAKER — No. 91606 — CIVIL — STATE OF CALIFORNIA

N

0 100' 200'

LEGEND

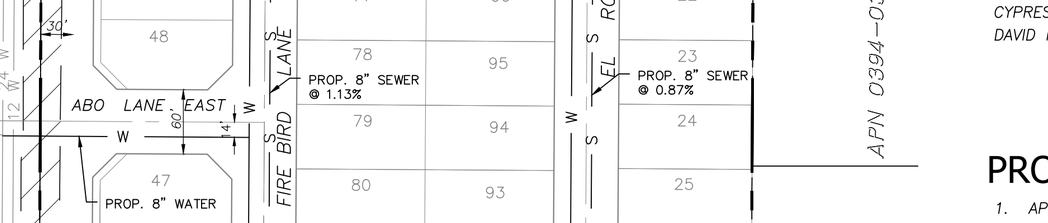
- EXIST. WATER
- EXIST. SEWER
- EXIST. CONTOURS
- PROP. WATER
- PROP. SEWER

LOT SUMMARY TABLE

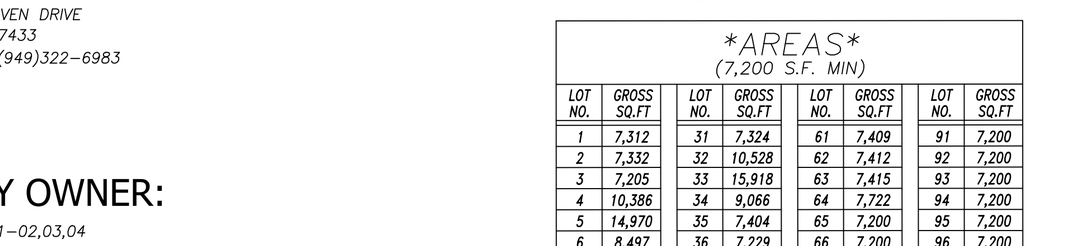
AREAS (7,200 S.F. MIN)

LOT NO.	GROSS SQ.FT	LOT NO.	GROSS SQ.FT	LOT NO.	GROSS SQ.FT	LOT NO.	GROSS SQ.FT
1	7,312	31	7,324	61	7,409	91	7,200
2	7,332	32	10,528	62	7,412	92	7,200
3	7,205	33	15,918	63	7,415	93	7,200
4	10,386	34	9,066	64	7,722	94	7,200
5	14,970	35	7,404	65	7,200	95	7,200
6	8,497	36	7,229	66	7,200	96	7,200
7	7,381	37	7,206	67	7,200	97	7,200
8	7,405	38	8,023	68	7,200	98	7,200
9	7,409	39	13,994	69	7,200	99	7,200
10	7,414	40	10,332	70	7,200	100	7,718
11	7,418	41	7,594	71	7,200	101	7,535
12	7,423	42	7,220	72	7,535	102	7,200
13	7,427	43	7,270	73	7,717	103	7,200
14	7,432	44	7,347	74	7,200	104	7,200
15	7,436	45	7,353	75	7,200	105	7,200
16	7,441	46	7,357	76	7,200	106	7,200
17	7,445	47	8,212	77	7,200	107	7,200
18	7,450	48	7,605	78	7,200	108	7,200
19	7,454	49	7,372	79	7,200	-	-
20	7,459	50	7,375	80	7,200	-	-
21	7,463	51	7,747	81	7,200	-	-
22	7,468	52	7,381	82	7,200	-	-
23	7,472	53	7,384	83	7,200	-	-
24	7,479	54	7,757	84	7,200	-	-
25	7,482	55	7,390	85	7,200	LETTER LOTS	
26	7,486	56	7,393	86	7,714	"A"	8,576
27	7,491	57	7,396	87	7,714	"B"	7,413
28	7,495	58	7,399	88	7,200	"C"	910
29	7,500	59	7,402	89	7,200	"D"	28,578
30	7,504	60	7,776	90	7,200	"E"	33,489

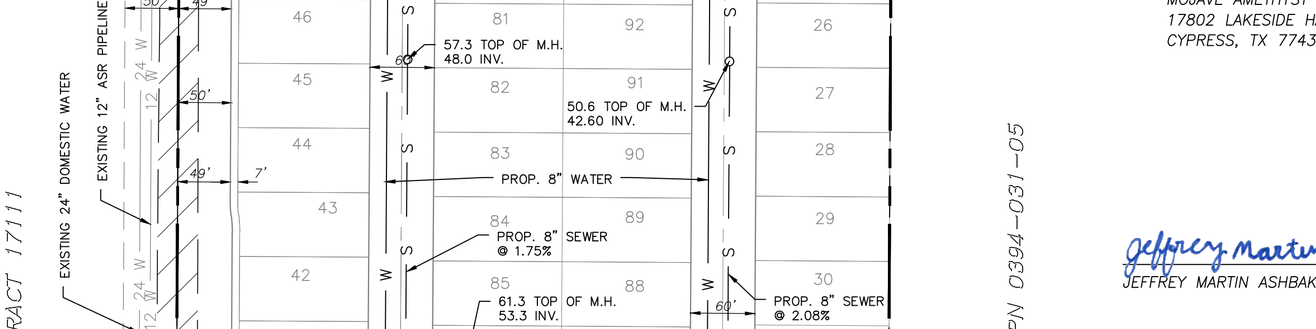
LOTS - 108 830,188 S.F.
LETTER LOTS - 5 78,966 S.F.
TOTAL LOTS - 113 909,154 S.F.
TOTAL 20.87 Acres
AVERAGE - RESIDENTIAL LOTS 7,692 S.F.



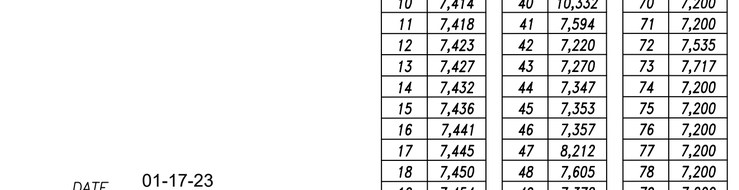
AMETHYST ROAD
(TYPICAL SECTION)
NTS



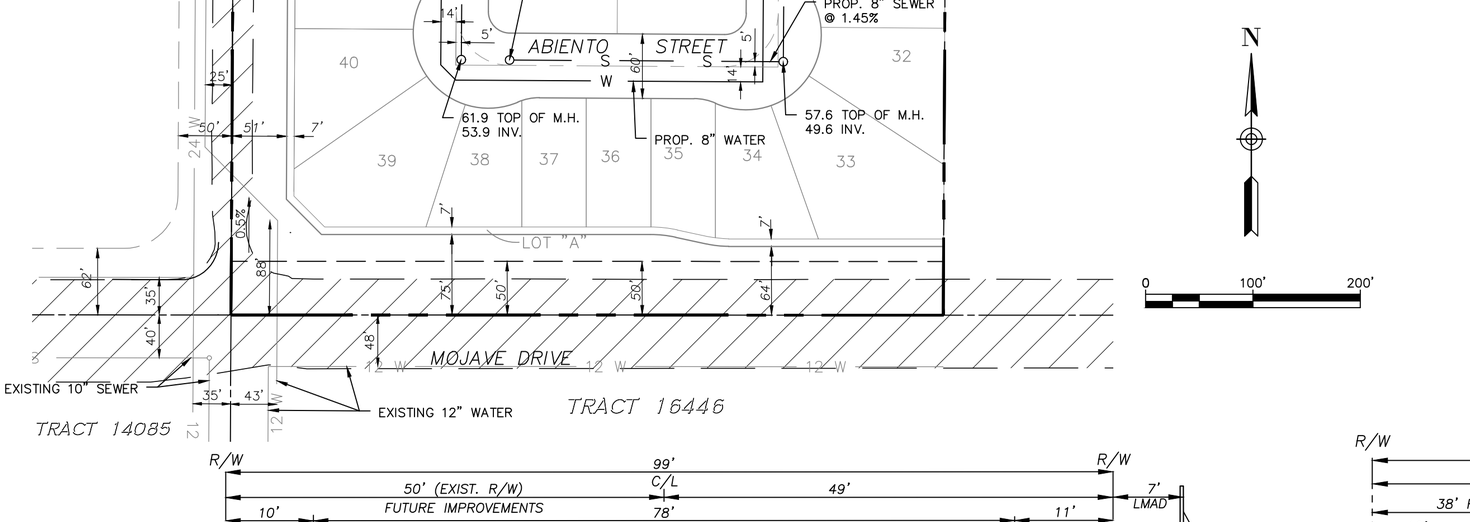
AMETHYST ROAD
(TRANSITION AT INTERSECTION)
NTS



MOJAVE DRIVE
(TYPICAL SECTION)
NTS



ABO LANE EAST, RIO BRAVO PLACE, FIRE BIRD LANE
ABIENTO STREET, CAMARILLO PLACE & EL ROSE PLACE
(PUBLIC)
NTS



MOJAVE DRIVE
(TURN POCKET AT INTERSECTION)
NTS

Ludwig Engineering ASSOCIATES, INC.
Civil Engineering • Surveying • Planning
109 East Third Street, San Bernardino, CA 92410, Phone: 909-884-8217, Fax: 909-889-0153
5890 Hwy. 95, Ste. B, Fort Mohave, AZ 88426, Phone: 928-768-1857, Fax: 928-768-7086
15252 Seneca Rd., Victorville, CA 92392, Phone: 760-951-7676, Fax: 760-241-0573
2126 McCulloch Blvd., Ste. 8, Lake Havasu City, AZ 86403, Phone: 928-680-6060, Fax: 928-854-6530

LUNA ROAD AND FREMONTIA ROAD

PRELIMINARY UTILITY PLAN TTM NO. 20525

DATE: AUGUST 2022

SHEET 3 OF 3

PROJECT NUMBER MI-0508

Attachment C

Site Photographs

Photograph 1. Western Joshua tree inside southern boundary.

Photograph 2. Western Joshua tree inside southern boundary.

Photograph 3. Western Joshua tree south-central portion of the site.

Photograph 4. Western Joshua tree in the south-central portion of the site.

Photograph 5. Western Joshua tree in the south-central portion of the site. Note residential housing along the site eastern boundary.

Photograph 6. Western Joshua tree in the south-central portion of the site.

Photograph 7. Western Joshua tree in the south-central portion of the site.

Photograph 8. Western Joshua tree in the north-central portion of the site.

Photograph 9. Western Joshua tree is in the north-central portion of the site.

Photograph 10. Western Joshua tree in the north-central portion of the site.

Photograph 11. Western Joshua tree in the north-central portion of the site. Note the dead main trunk on the ground.

Photograph 12. Western Joshua tree in the north-central portion of the site.

Photograph 13. Western Joshua tree in the north-central portion of the site.

Photograph 14. Western Joshua tree in the northern portion of the site.

Photograph 15. Western Joshua tree inside the northeast corner of the site.

Photograph 16. Western Joshua tree inside the northern boundary.

Photograph 17. Western Joshua tree in the center of the northern portion of the site.

Photograph 18. Western Joshua tree with clone along the western boundary in the norther portion.

Photograph 19. Western Joshua tree inside the northwest corner of the project site.

Photograph 20. Western Joshua tree along the central portion of the western boundary. Note the paved road that was constructed for the abandoned residential development seen at the left.

Attachment D

Potentially Occurring Special-Status Biological Resources

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

Scientific Name Common Name	**Status**	**Habitat Description**	**Observed On-site**	**Potential to Occur**
SPECIAL-STATUS WILDLIFE SPECIES				
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** The project site itself has undergone recent development, precluding the establishment of the species. No suitable burrows (>4 inches in diameter) were observed surrounding the project site.
Buteo swainsoni Swainson's hawk	Fed: None CA: **THR**	Typical habitat is open desert, grassland, or cropland containing scattered, large trees or small groves. Breeds in stands with few trees in juniper-sage flats, riparian areas, and in oak savannah in the Central Valley. Forages in adjacent grassland or suitable grain or alfalfa fields or livestock pastures.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Circus hudsonius northern harrier	Fed: None CA: SSC	Frequents meadows, grasslands, open rangelands, desert sinks, fresh and saltwater emergent wetlands; seldom found in wooded areas. Mostly found in flat, or hummocky, open areas of tall, dense grasses moist or dry shrubs, and edges for nesting, cover, and feeding.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Eremophilia alpestris actia California horned lark	Fed: None CA: WL	Inhabits open ground, generally avoiding areas with trees or bushes. May occur in a wide variety of situations that are sufficiently open such as short-grass prairies, extensive lawns (such as on airports or golf courses), plowed fields, stubble fields, beaches, lake flats, dry tundra, or high mountains.	No	**Moderate** Suitable nesting and foraging habitat is present adjacent to the project site. Species has been observed nearby.
Falco mexicanus prairie falcon	Fed: None CA: WL	Commonly occur in arid and semiarid shrubland and grassland community types. Also occasionally found in open parklands within coniferous forests. During the breeding season, they are found commonly in foothills and mountains which provide cliffs and escarpments suitable for nest sites.	No	**Low** Suitable foraging habitat is present adjacent to the project site. No suitable nesting habitat present within or adjacent to the site.
Gopherus agassizii Mojave Desert tortoise	Fed: **THR** CA: **THR**	Occurs in desert scrub, desert wash, and Joshua tree habitats with friable, sandy, well-drained soils for nest and burrow construction. Highest densities occur in creosote bush scrub with extensive annual wildflower blooms and succulents with little to no non-native plant species.	No	**Presumed Absent** Marginal habitat is present adjacent to the project site; however, no desert tortoises, sign, or burrows were observed during the habitat assessment.

Scientific Name Common Name	**Status**	**Habitat Description**	**Observed On-site**	**Potential to Occur**
Lanius ludovicianus loggerhead shrike	Fed: None CA: SSC	Prefers open habitats with bare ground, scattered shrubs, and areas with low or sparse herbaceous cover including open-canopied valley foothill hardwood, riparian, pinyon-juniper, desert riparian, creosote bush scrub, and Joshua tree woodland. Requires suitable perches including trees, posts, fences, utility lines, or other perches.	No	**High** Suitable foraging and nesting habitat is present adjacent to the project site.
Phrynosoma blainvillii coast horned lizard	Fed: None CA: SSC	Occurs in a wide variety of vegetation types including coastal sage scrub, annual grassland, chaparral, oak woodland, riparian woodland and coniferous forest. In inland areas, this species is restricted to areas with pockets of open microhabitat, created by disturbance (i.e. fire, floods, roads, grazing, fire breaks). The key elements of such habitats are loose, fine soils with a high sand fraction; an abundance of native ants or other insects; and open areas with limited overstory for basking and low, but relatively dense shrubs for refuge.	No	**Presumed Absent** No suitable habitat is present within or adjacent to the project site.
Spizella breweri Brewer's sparrow	Fed: None CA: None	Habitats include sagebrush and brushy plains.	No	**Presumed Absent** No suitable habitat is present within or adjacent to the project site.
Taxidea taxus American badger	Fed: None CA: SSC	Primarily occupy grasslands, parklands, farms, tallgrass and shortgrass prairies, meadows, shrub-steppe communities and other treeless areas with sandy loam soils where it can dig more easily for its prey. Occasionally found in open chaparral (with less than 50% plant cover) and riparian zones.	No	**Presumed Absent** No suitable habitat is present within the project site. Surrounding development likely precludes establishment of species within surrounding area.
Toxostoma lecontei Le Conte's thrasher	Fed: None CA: SSC	An uncommon to rare, local resident in southern California deserts from southern Mono Co. south to the Mexican border, and in western and southern San Joaquin Valley. Occurs primarily in open desert wash, desert scrub, alkali desert scrub, and desert succulent shrub habitats; also occurs in Joshua tree habitat with scattered shrubs.	No	**Presumed Absent** No suitable habitat is present within or adjacent to the project site.
Xerospermophilus mohavensis Mohave ground squirrel	Fed: None CA: **THR**	Restricted to the Mojave Desert in open desert scrub, alkali desert scrub, annual grassland, and Joshua tree woodland. Prefers sandy to gravelly soils and tends to avoid rocky areas. Occurs sympatrically with the white-tailed antelope squirrel.	No	**Presumed Absent** Recent disturbance and surrounding development likely preclude the establishment of this species within the project site. Species has not been observed nearby.
SPECIAL-STATUS PLANT SPECIES				
Canbya candida white pygmy-poppy	Fed: None CA: None CNPS: 4.2	Occurs on gravelly, sandy, granitic soils in Joshua tree woodland, Mojavean desert scrub, and pinyon and juniper woodland. Found at elevations ranging from 2,297 to 5,249 feet above mean sea level (msl). Blooming period is from March to June.	No	**Presumed Absent** There is no suitable habitat within or adjacent to the project site.

Scientific Name Common Name	**Status**	**Habitat Description**	**Observed On-site**	**Potential to Occur**
Chorizanthe spinosa Mojave spineflower	Fed: None CA: None CNPS: 4.2	Grows in alkaline or non-alkaline soils in chenopod scrub, Joshua tree woodland, Mojavean desert scrub, and playas. Found at elevations ranging from 20 to 4,265 feet. Blooming period is from March to July.	No	**Presumed Absent** There is no suitable habitat within or adjacent to the project site.
Loeflingia squarrosa* var. *artemisiarum sagebrush loeflingia	Fed: None CA: None CNPS: 2B.2	Grows in sandy soils within desert dunes, Great Basin scrub, and Sonoran desert scrub habitats. Blooming period is from April to May. Grows in elevation from 2,297 to 5,299 feet.	No	**Presumed absent.** No suitable habitat is present within or adjacent to the project site.
Muilla coronata crowned muilla	Fed: None CA: None CNPS: 4.2	Found in chenopod scrub, Joshua tree woodland, Mojavean desert scrub, and pinyon and juniper woodland habitats. Blooming period is from May to April. Grows in elevation from 2,198 to 6,430 feet.	No	**Presumed Absent** There is no suitable habitat within or adjacent to the project site.
Pediomelum castoreum Beaver dam breadroot	Fed: None CA: None CNPS: 1B.2	Occurs in sandy soils, washes, and roadcuts within Joshua tree woodland and Mojavean desert scrub. Found at elevations ranging from 2,000 to 5,000 feet. Blooming period is from April to May.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site.
Yucca brevifolia western Joshua tree	Fed: None CA: CE CNPS: N/A	Occurs in a variety of arid habitats within the Mojave Desert. Found at elevations ranging from 1,600 to 6,600 feet. Blooming period is from March to June.	Yes	**Presumed Absent** 20 western Joshua trees were observed onsite.

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

California Department of Fish and Wildlife (CA) - California
END – California Endangered
THR – California Threatened
CTHR – California Candidate Threatened
DL - Delisted
FP – California Fully Protected
SSC – California Species of Special Concern
WL – California Watch List
CE – Candidate Endangered

California Native Plant Society (CNPS) - *California Rare Plant Rank*
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
0.2- Moderately threatened in California
0.3- Not very threatened in California

Attachment E

Regulations

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

Federal Regulations

Endangered Species Act of 1973

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

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

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

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

Migratory Bird Treaty Act

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

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

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

State Regulations

California Environmental Quality Act (CEQA)

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

California Endangered Species Act (CESA)

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

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

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

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

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

Fish and Game Code

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

Native Plant Protection Act

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

California Native Plant Society Rare and Endangered Plant Species

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

California Rare Plant Rank

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

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

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

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

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

4- Plants of Limited Distribution - A Watch List

Threat Ranks

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

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

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

Local Regulations

San Bernardino County Development Code

Section 88.01.060 of the County of San Bernardino Development Code provides regulations for the removal or harvesting of specified desert native plants in order to preserve and protect the plants and to provide for the conservation and wise use of desert resources. The provisions are intended to coincide with the Desert Native Plants Act (Food and Agricultural Code Section 8001 et seq.) and the State Department of Food and Agriculture to implement and enforce the Act.

Pursuant to Section 88.01.060 of the Development Code, the following desert native plants or any part of them, except the fruit, shall not be removed except under a Tree or Plant Removal Permit:

1) The following desert native plants with stems two inches or greater in diameter or six feet or greater in height:

   (A) *Dalea spinosa* (smoke tree)
   (B) All species of the genus *Prosopis* (mesquites)

2) All species of the family *Agavaceae* (century plants, nolinas, yuccas)

3) Creosote Rings, 10 feet or greater in diameter

4) All Joshua trees

5) Any part of any of the following species, whether living or dead:

   (A) *Olneya tesota* (desert ironwood)
   (B) All species of the genus *Prosopis* (mesquites)
   (C) All species of the genus *Cercidium* (palos verdes)

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

In accordance with the Revised Definition of "Waters of the United States" (March 20, 2023), "waters of the United Sates" are defined as follows:

> The ''waters of the United States'' are defined in paragraph (a) of this rule:
>
> (1) traditional navigable waters, the territorial seas, and interstate waters;
>
> (2) impoundments of ''waters of the United States'';
>
> (3) tributaries to traditional navigable waters, the territorial seas, interstate waters, or impoundments when the tributaries meet either the relatively permanent standard or the significant nexus standard (''jurisdictional tributaries'');
>
> (4) wetlands adjacent to traditional navigable waters; wetlands adjacent to and with a continuous surface connection to relatively permanent paragraph impoundments or to jurisdictional tributaries when the jurisdictional tributaries meet the relatively permanent standard; and wetlands adjacent to impoundments or jurisdictional tributaries when the wetlands meet the significant nexus standard (''jurisdictional adjacent wetlands''); and
>
> (5) intrastate lakes and ponds, streams, or wetlands not identified in (1) through (4) above that meet either the relatively permanent standard or the significant nexus standard.

The ''relatively permanent standard'' means relatively permanent, standing or continuously flowing waters connected to traditional navigable waters, and waters with a continuous surface connection to such relatively permanent waters or to traditional navigable waters. The ''significant nexus standard'' means waters that, either alone or in combination with similarly situated waters in the region, significantly affect the chemical, physical, or biological integrity of traditional navigable waters, the territorial seas, or interstate waters.

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.