

WESTERN JOSHUA TREE CENSUS

**CITY OF ADELANTO, CALIFORNIA
Tentative Tract Map 20436
APN: 0459-132-34**

Prepared for:

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Prepared by:

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Project No: #2023-151 JT

January 30, 2024

TITLE PAGE

Date Report Prepared: January 30, 2024

Field Work Completed: January 4, 2024

Report Title: Western Joshua Tree Census

Project Location: Adelanto, California
Tentative Tract Map 20436
APN: 0459-132-34
NW Corner: 34.58303896°, -117.43157903°
NE Corner: 34.58300001°, -117.42939589°
SW Corner: 34.57953000°, -117.43159601°
SE Corner: 34.57948798°, -117.42940099°

Datum of Coordinates: World Geodetic System 1984 (WGS 84)

Prepared for: Christopher J. Connors
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1.0 SUMMARY

At the request of the project proponent, RCA Associates, Inc. surveyed a 20-acre (approximate) property located on the Northeast corner of Bartlett Avenue and Rhode Island Street in the City of Adelanto, California (APN: 0459-132-34) (Figures 1 and 2). The properties corners are marked in figure 3 and coordinates are displayed on the title page under location. The property site is located in Section 29, Township 6 North, Range 5 West (USGS Adelanto, CA 7.5-minute quadrangle).

The purpose of the survey was to evaluate the western Joshua trees present on the site to determine possible impacts to the population and to calculate approximate mitigation measures prior to site clearing activities. This report provides the results of the Western Joshua Tree Census performed on January 4, 2024. Following completion of the survey, RCA Associates, Inc. prepared this Western Joshua Tree Census to assist the project proponent with future planning regarding the possible relocation or removal of any Joshua trees and applying for an Incidental Take Permit (ITP). Information on the Joshua trees is provided in Section 4.0. The State of California's Fish and Game Code 1927 states the requirements of the Western Joshua Tree Conservation Act. The requirements of code 1927 are provided in Appendix B.

Based on the results of the background data search it was determined that the project site is located within the reduced fee mitigation area for the Western Joshua Tree Conservation Act. Results of the field investigations yielded that there are 77 Joshua trees which occur within the boundaries of the property and 8 Joshua trees that occur within a 15-meter buffer surrounding the property (Figures 3 and 4). Based on the evaluation and analysis of each tree on-site it was determined that 15 (19.48%) Joshua trees were less than 1 meter in height, 56 (72.73%) Joshua trees were 1 meter or greater but less than 5 meters in height, and 6 (7.79%) Joshua trees were 5 meters or greater in height. A summary of the mitigation fees is located in Table 4-1 and the GPS locations and information on each tree are provided in Table 4-2-1 & 4-2-2.

2.0 INTRODUCTION AND PROJECT LOCATION

The area surveyed is located on the Northeast corner of Bartlett Avenue and Rhode Island Street in the City of Adelanto, California. Vacant land borders the property to the east and south across Bartlett Avenue. An existing housing development borders the site to the north and a school is located adjacent to the west. The biological resources on the site consist of a desert scrub community typical of the area which include Joshua tree (*Yucca brevifolia*), rubber rabbitbrush (*Ericameria nauseosa*), fiddleneck (*Amsinckia tessellata*), kelch grass (*Schismus barbatus*), white bursage (*Ambrosia dumosa*), California buckwheat (*Eriogonum fasciculatum*), and red brome (*Bromus rubens*).

Joshua trees occur throughout the Mojave Desert in Southern California and are typically found at an elevation of 400 to 1,800 meters (~1,200 to ~5,400 feet). Joshua trees within the western portion of the Mojave Desert typically receive more annual precipitation during “normal” years; consequently, cloning occurs more often resulting in numerous trunks sprouting from the same root system (Rowland, 1978). Joshua tree habitats provide habitat for a variety of wildlife species including desert woodrats (*Neotoma* sp.) and night lizards (*Xantusia* sp.) both of which utilize the base of the trees. A variety of birds also utilize Joshua trees for nesting such as hawks, common ravens, and cactus wrens. CDFW consider Joshua tree woodlands as areas that support relatively high species diversity and as such are considered to be a sensitive desert community. Joshua trees are also considered a significant resource under the California Environmental Quality Act (CEQA) and are included in the Desert Plant Protection Act, Food and Agricultural Code (80001 – 80006).

3.0 METHODOLOGIES

Pedestrian surveys were walked throughout the site and biologists from RCA Associates, Inc. evaluated each Joshua tree to determine the height, life stage, and a general health assessment. Each Joshua tree within the project boundaries received a metal numbered tag which was affixed on the north side of each tree for orientation purposes if future transplanting is required by CDFW. A piece of flagging was affixed to each tree while taking pictures to indicate the tree/trunk of focus. Photos of each tree can be obtained by request by contacting CDFW. The precise location, data and assessment of each tree was recorded using a Juniper Systems Cedar CT8X2 GPS tablet running Uinta software. A Nikon Forestry Pro II rangefinder was utilized to determine the extent of the property boundaries, buffer zone and accurate tree height. Those Joshua trees which occur on the property site are presented in Table 4-2-1 and the locations are provided in Figure 3. A 15-meter (~50 ft) is recommended as part of the census area surrounding the project site but was not physically walked and surveyed on foot due to landowner permission not being obtained. Trees that fall within the 15-meter (~50 foot) buffer were assessed from the property's boundary. Data on each tree within the buffer can be found in table 4-2-2 and the locations are provided in figure 4. A KML with geographic data on the positions of all trees will be provided to help locate trees in projects with significant tree density and for future mapping.

4.0 RESULTS

A total of 77 Joshua trees occur within the boundaries of the property and 8 Joshua trees occur within the 15-meter (~50 foot) buffer (Figures 3). Based on the evaluation and analysis of each tree within the boundaries of the property it was determined that 15 (19.48%) Joshua trees were less than 1 meter in height, 56 (72.73%) Joshua trees were 1 meter or greater but less than 5 meters in height, and 6 (7.79%) Joshua trees were 5 meters or greater in height. A summary of the mitigation fees for on-site trees is located in Table 4-1 and the GPS locations and information on each tree are provided in Table 4-2-1. Data gathered on the 8 western Joshua trees located off-site can be found in table 4-2-2.

Table 4-1: Summary of mitigation fees for on-site trees based on “Western Joshua Tree Conservation Act Mitigation Fee Map”
[\(https://experience.arcgis.com/experience/40690ac231124bccb07cbce42fc95ebd/\)](https://experience.arcgis.com/experience/40690ac231124bccb07cbce42fc95ebd/)

Reduced Mitigation Fees (within blue area) [See Section 1927.3 (d)]:		Number of trees per Size Class (A, B or C)	Approximate Cost per Size Class (A, B or C)
(A) Trees less than 1 meter in height - \$150		15	\$2,250
(B) Trees 1 meter or greater but less than 5 meters in height - \$200		56	\$11,200
(C) Trees 5 meters or greater in height - \$1,000		6	\$6,000
Total number of trees		77	
Approximate total mitigation cost			\$19,450
Standard Fees (anywhere in State, outside blue area) [See Section 1927.3 (e)]:			
(A) Trees less than 1 meter in height - \$340		N/A	N/A
(B) Trees 1 meter or greater but less than 5 meters in height - \$500		N/A	N/A
(C) Trees 5 meters or greater in height - \$2,500		N/A	N/A
Total number of trees		N/A	N/A
Approximate mitigation cost		N/A	N/A

Table 4-2-1: Western Joshua Tree Census table showing on-site Joshua trees. (Note: The GPS locations of the Joshua trees are provided below along with the height and a general health assessment.) (Note: The JT numbers correspond to the tag numbers placed on the Joshua trees.)

Total Number of Joshua Trees On-site	Number of Live Joshua Trees On-site	Number of Dead Joshua Trees On-site	Number of Size Class "A" Joshua Trees	Number of Size Class "B" Joshua Trees	Number of Size Class "C" Joshua Trees	Number of Joshua Trees Off-site
77	60	17	15	56	6	8

Joshua Tree	Latitude (WGS 84)	Longitude (WGS 84)	Live or Dead	Height of Tree (meters)	Size Class	Mature Tree (Branched)	Flowering or Fruiting Stage (flowers, fruits, or none)	Impact to Tree (removal, trim, relocation, other or none)	Will project activities be within 15 meters of tree	Relocation	Additional Notes
JT 1000	34.58245267	-117.4296892	Live	5	C	Yes	None	Removal	Yes	Not Applicable	
JT 2767	34.57970533	-117.4308805	Dead	1.5	B	No	None	Removal	Yes	Not Applicable	
JT 2768	34.5798845	-117.4308578	Dead	3.9	B	No	None	Removal	Yes	Not Applicable	
JT 2769	34.579594	-117.43127	Live	3.9	B	Yes	None	Removal	Yes	Not Applicable	
JT 2770	34.57969967	-117.431307	Live	4.2	B	Yes	None	Removal	Yes	Not Applicable	

Joshua Tree	Latitude (WGS 84)	Longitude (WGS 84)	Live or Dead	Height of Tree (meters)	Size Class	Mature Tree (Branched)	Flowering or Fruiting Stage (flowers, fruits, or none)	Impact to Tree (removal, trim, relocation, other or none)	Will project activities be within 15 meters of tree	Relocation	Additional Notes
JT 2771	34.57997017	-117.431306	Live	3	B	No	None	Removal	Yes	Not Applicable	
JT 2772	34.579986	-117.4313092	Live	6.8	C	Yes	None	Removal	Yes	Not Applicable	
JT 2773	34.58024133	-117.4307697	Live	1.5	B	No	None	Removal	Yes	Not Applicable	
JT 2774	34.58035967	-117.430902	Live	3.1	B	Yes	None	Removal	Yes	Not Applicable	
JT 2775	34.58043017	-117.4308732	Live	3.6	B	Yes	None	Removal	Yes	Not Applicable	
JT 2776	34.58044367	-117.431081	Live	5.9	C	Yes	None	Removal	Yes	Not Applicable	
JT 2777	34.5804945	-117.431174	Live	3.8	B	Yes	None	Removal	Yes	Not Applicable	
JT 2778	34.58051017	-117.431181	Live	3.8	B	Yes	None	Removal	Yes	Not Applicable	
JT 2779	34.5805275	-117.431039	Live	5	C	Yes	None	Removal	Yes	Not Applicable	
JT 2780	34.58064433	-117.4310248	Live	3.7	B	Yes	None	Removal	Yes	Not Applicable	
JT 2781	34.58065167	-117.4313587	Dead	3.6	B	No	None	Removal	Yes	Not Applicable	

Joshua Tree	Latitude (WGS 84)	Longitude (WGS 84)	Live or Dead	Height of Tree (meters)	Size Class	Mature Tree (Branched)	Flowering or Fruiting Stage (flowers, fruits, or none)	Impact to Tree (removal, trim, relocation, other or none)	Will project activities be within 15 meters of tree	Relocation	Additional Notes
JT 2782	34.58091133	-117.4312067	Live	3.8	B	Yes	None	Removal	Yes	Not Applicable	
JT 2783	34.58108	-117.4312175	Live	4.8	B	Yes	None	Removal	Yes	Not Applicable	
JT 2784	34.58106383	-117.4309538	Live	2.9	B	Yes	None	Removal	Yes	Not Applicable	
JT 2785	34.581055	-117.4309578	Live	0.3	A	No	None	Removal	Yes	Not Applicable	
JT 2786	34.5811685	-117.4307555	Live	3.9	B	Yes	None	Removal	Yes	Not Applicable	
JT 2787	34.581021	-117.4306585	Dead	1.3	B	No	None	Removal	Yes	Not Applicable	
JT 2788	34.58107517	-117.4306888	Dead	3.6	B	No	None	Removal	Yes	Not Applicable	
JT 2789	34.58107433	-117.4306892	Live	0.7	A	No	None	Removal	Yes	Not Applicable	
JT 2790	34.5810765	-117.430695	Live	0.7	A	No	None	Removal	Yes	Not Applicable	
JT 2791	34.58107633	-117.4306997	Live	0.7	A	No	None	Removal	Yes	Not Applicable	
JT 2792	34.58108133	-117.4307045	Live	0.2	A	No	None	Removal	Yes	Not Applicable	

Joshua Tree	Latitude (WGS 84)	Longitude (WGS 84)	Live or Dead	Height of Tree (meters)	Size Class	Mature Tree (Branched)	Flowering or Fruiting Stage (flowers, fruits, or none)	Impact to Tree (removal, trim, relocation, other or none)	Will project activities be within 15 meters of tree	Relocation	Additional Notes
JT 2793	34.581076	-117.4307053	Live	0.2	A	No	None	Removal	Yes	Not Applicable	
JT 2794	34.58108883	-117.4307095	Live	0.2	A	No	None	Removal	Yes	Not Applicable	
JT 2795	34.58115917	-117.430639	Dead	1.5	B	No	None	Removal	Yes	Not Applicable	
JT 2796	34.58143033	-117.4311062	Live	1.6	B	Yes	None	Removal	Yes	Not Applicable	Lower branches
JT 2797	34.58151017	-117.430958	Dead	2.1	B	No	None	Removal	Yes	Not Applicable	
JT 2798	34.58200483	-117.4307928	Live	4.4	B	No	None	Removal	Yes	Not Applicable	
JT 2799	34.58184983	-117.4310097	Dead	1.2	B	No	None	Removal	Yes	Not Applicable	
JT 2800	34.58193233	-117.431243	Dead	0.6	A	No	None	Removal	Yes	Not Applicable	
JT 2801	34.58221083	-117.4310832	Live	4.3	B	Yes	None	Removal	Yes	Not Applicable	
JT 2802	34.5823775	-117.430954	Dead	2.1	B	No	None	Removal	Yes	Not Applicable	
JT 2803	34.58269133	-117.4310693	Dead	0.7	A	No	None	Removal	Yes	Not Applicable	

Joshua Tree	Latitude (WGS 84)	Longitude (WGS 84)	Live or Dead	Height of Tree (meters)	Size Class	Mature Tree (Branched)	Flowering or Fruiting Stage (flowers, fruits, or none)	Impact to Tree (removal, trim, relocation, other or none)	Will project activities be within 15 meters of tree	Relocation	Additional Notes
JT 2804	34.5827015	-117.4310633	Live	1.7	B	No	None	Removal	Yes	Not Applicable	
JT 2805	34.5826975	-117.4310545	Live	2	B	Yes	None	Removal	Yes	Not Applicable	Lower branches
JT 2806	34.58244033	-117.4306115	Live	3.3	B	No	None	Removal	Yes	Not Applicable	
JT 2807	34.58243067	-117.430611	Live	3.7	B	Yes	None	Removal	Yes	Not Applicable	
JT 2808	34.58243067	-117.4304417	Live	2.1	B	Yes	None	Removal	Yes	Not Applicable	Lower branches
JT 2809	34.582684	-117.43025	Live	3.3	B	Yes	None	Removal	Yes	Not Applicable	
JT 2810	34.58267583	-117.4302312	Dead	0.7	A	No	None	Removal	Yes	Not Applicable	
JT 2811	34.58283167	-117.4302032	Live	3.5	B	Yes	None	Removal	Yes	Not Applicable	
JT 2812	34.58297183	-117.4303293	Live	7.7	C	Yes	None	Removal	Yes	Not Applicable	
JT 2923	34.58240633	-117.4298973	Live	3.1	B	Yes	None	Removal	Yes	Not Applicable	
JT 2924	34.58255567	-117.4297528	Live	4.6	B	Yes	None	Removal	Yes	Not Applicable	

Joshua Tree	Latitude (WGS 84)	Longitude (WGS 84)	Live or Dead	Height of Tree (meters)	Size Class	Mature Tree (Branched)	Flowering or Fruiting Stage (flowers, fruits, or none)	Impact to Tree (removal, trim, relocation, other or none)	Will project activities be within 15 meters of tree	Relocation	Additional Notes
JT 2925	34.58262683	-117.4294877	Dead	3.1	B	No	None	Removal	Yes	Not Applicable	
JT 2926	34.58264467	-117.4296448	Dead	2	B	No	None	Removal	Yes	Not Applicable	
JT 2927	34.58269567	-117.4297975	Live	3.8	B	Yes	None	Removal	Yes	Not Applicable	Lower branch
JT 975	34.57954917	-117.4304148	Live	3.3	B	Yes	None	Removal	Yes	Not Applicable	
JT 976	34.5797015	-117.4299618	Live	2.9	B	Yes	None	Removal	Yes	Not Applicable	
JT 977	34.57967217	-117.4297428	Dead	3.4	B	No	None	Removal	Yes	Not Applicable	
JT 978	34.58011883	-117.4295557	Live	3.8	B	Yes	None	Removal	Yes	Not Applicable	Lower branch
JT 979	34.58013133	-117.4295487	Live	0.3	A	No	None	Removal	Yes	Not Applicable	
JT 980	34.580722	-117.4303165	Live	3.9	B	Yes	None	Removal	Yes	Not Applicable	Lower branch
JT 981	34.58074033	-117.4303053	Live	0.1	A	No	None	Removal	Yes	Not Applicable	
JT 982	34.58074133	-117.4303022	Live	0.2	A	No	None	Removal	Yes	Not Applicable	

Joshua Tree	Latitude (WGS 84)	Longitude (WGS 84)	Live or Dead	Height of Tree (meters)	Size Class	Mature Tree (Branched)	Flowering or Fruiting Stage (flowers, fruits, or none)	Impact to Tree (removal, trim, relocation, other or none)	Will project activities be within 15 meters of tree	Relocation	Additional Notes
JT 983	34.580738	-117.4302987	Live	0.2	A	No	None	Removal	Yes	Not Applicable	
JT 984	34.580801	-117.4302347	Live	2.3	B	No	None	Removal	Yes	Not Applicable	
JT 985	34.580811	-117.4295672	Live	2.6	B	No	None	Removal	Yes	Not Applicable	
JT 986	34.5812875	-117.4299012	Live	3.7	B	Yes	None	Removal	Yes	Not Applicable	
JT 987	34.58130817	-117.430217	Live	4	B	Yes	None	Removal	Yes	Not Applicable	
JT 988	34.5810415	-117.4304543	Live	3.9	B	Yes	None	Removal	Yes	Not Applicable	
JT 989	34.58154533	-117.4301197	Live	2.1	B	No	None	Removal	Yes	Not Applicable	
JT 990	34.581498	-117.4299803	Live	4	B	Yes	None	Removal	Yes	Not Applicable	
JT 991	34.5817405	-117.4299363	Live	4.2	B	Yes	None	Removal	Yes	Not Applicable	
JT 992	34.58169083	-117.429556	Dead	0.7	A	No	None	Removal	Yes	Not Applicable	
JT 993	34.58198933	-117.429668	Dead	1.2	B	No	None	Removal	Yes	Not Applicable	

Joshua Tree	Latitude (WGS 84)	Longitude (WGS 84)	Live or Dead	Height of Tree (meters)	Size Class	Mature Tree (Branched)	Flowering or Fruiting Stage (flowers, fruits, or none)	Impact to Tree (removal, trim, relocation, other or none)	Will project activities be within 15 meters of tree	Relocation	Additional Notes
JT 994	34.58192683	-117.4299567	Live	3.9	B	Yes	None	Removal	Yes	Not Applicable	
JT 995	34.58213367	-117.4300908	Live	3.8	B	Yes	None	Removal	Yes	Not Applicable	
JT 996	34.5822785	-117.4301653	Live	3.1	B	Yes	None	Removal	Yes	Not Applicable	
JT 997	34.58227017	-117.4300827	Live	3.3	B	Yes	None	Removal	Yes	Not Applicable	
JT 998	34.5822145	-117.4298843	Live	2.7	B	Yes	None	Removal	Yes	Not Applicable	
JT 999	34.58229917	-117.4295763	Live	5.4	C	Yes	None	Removal	Yes	Not Applicable	

Table 4-2-2: Western Joshua Tree Census table showing off-site Joshua trees. (Note: The GPS locations of the Joshua trees are provided below along with the height and a general health assessment.) (Note: Thes Joshua trees in this table were marked visually and no metal tag was affixed to the trees.)

Joshua Tree	Latitude (WGS 84)	Longitude (WGS 84)	Live or Dead	Height of Tree (meters)	Size Class	Mature Tree (Branched)	Flowering or Fruiting Stage (flowers, fruits, or none)	Impact to Tree (removal, trim, relocation, other or none)	Will project activities be within 15 meters of tree	Relocation	Additional Notes
Offsite JT 1	34.58313167	-117.4299592	Live	6.6	C	Yes	None		Yes	Not Applicable	
Offsite JT 2	34.58312256	-117.4299411	Live	4.9	B	Yes	None		Yes	Not Applicable	
Offsite JT 3	34.5830519	-117.429872	Live	4.8	B	Yes	None		Yes	Not Applicable	
Offsite JT 4	34.58306404	-117.4297687	Live	5.7	C	Yes	None		Yes	Not Applicable	
Offsite JT 5	34.58306377	-117.4296601	Live	5.2	C	Yes	None		Yes	Not Applicable	
Offsite JT 6	34.58307895	-117.4295223	Live	7.4	C	Yes	None		Yes	Not Applicable	
Offsite JT 7	34.58099133	-117.4292835	Live	0.8	A	No	None		Yes	Not Applicable	
Offsite JT 8	34.58088317	-117.4292612	Live	2.2	B	No	None		Yes	Not Applicable	

5.0 CONCLUSIONS

The site is located within the reduced mitigation fee area by CDFW for the Western Joshua Tree Conservation Act. A total of 77 Joshua trees occur within the boundaries of the property and 8 Joshua trees occur within the 15-meter buffer surrounding the site. (Figures 3 and 4). As stated above, based on the evaluation and analysis of each tree on-site it was determined that 15 (19.48%) Joshua trees are less than 1 meter in height and are categorized under size class “A”. There are 56 (72.73%) Joshua trees 1 meter or greater but less than 5 meters in height categorized under size class “B”. There are 6 (7.79%) Joshua trees 5 meters or greater in height categorized under size class “C”. As indicated in Table 4-1, the majority of Joshua trees are less than 5 meters in height.

As of July 10, 2023, California legislature passed and signed the Western Joshua Tree Conservation Act (WJTCA, Senate Bill 122) into effect listing the western Joshua tree (*Yucca brevifolia*) as a candidate endangered species. The WJTCA authorizes CDFW to oversee the various permitting processes dealing with mitigation and/or removal of western Joshua trees. Therefore, any attempt to remove a Joshua tree from its current position will require a California Endangered Species Act Incidental Take Permit (CESA, ITP) or a Western Joshua Tree Conservation Act Incidental Take Permit (WJTCA, ITP). CDFW is the lead agency in the decision making of the projects forward progress pertaining to western Joshua trees.

6.0 REFERENCES

- Brittingham, S. and W. Lawrence. 2000. Facilitation of *Yucca brevifolia* Recruitment by Mojave Desert Shrubs. *Western North American Naturalist* 60(4), pp. 374-383.
- City of Hesperia. 1990. Native Desert Vegetation Ordinance, Municipal Code: Chapter 16.24.
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- Holland, Robert F. 1986 Preliminary Description of the Terrestrial Natural Communities of California. Prepared for the California Natural Diversity Data Base. California Department of Fish and Game. Sacramento, California. 160 pp.
- Johnson, H. 1976 vegetation and Plant Communities of Southern California Deserts- a functional view. In Symposium proceedings: Plant communities of Southern California. June Latting, editor. California Native Plant Society, Spec. No. 2 Berkeley, CA.
- Munz, Philip A. 1974. A Flora of Southern California. University of California Press, Berkeley, California. 1086 pp.
- SB 122, Committee on Budget and Fiscal Review. Public resources trailer bill. SEC 5, Chapter 11.5. Western Joshua Tree Conservation Act.

7.0 CERTIFICATION

I hereby certify the statements furnished above and in the attached exhibits, present the data and information required for this Joshua tree survey and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief. Fieldwork conducted for this survey was performed by Ryan D. Hunter and Brian S. Bunyi.

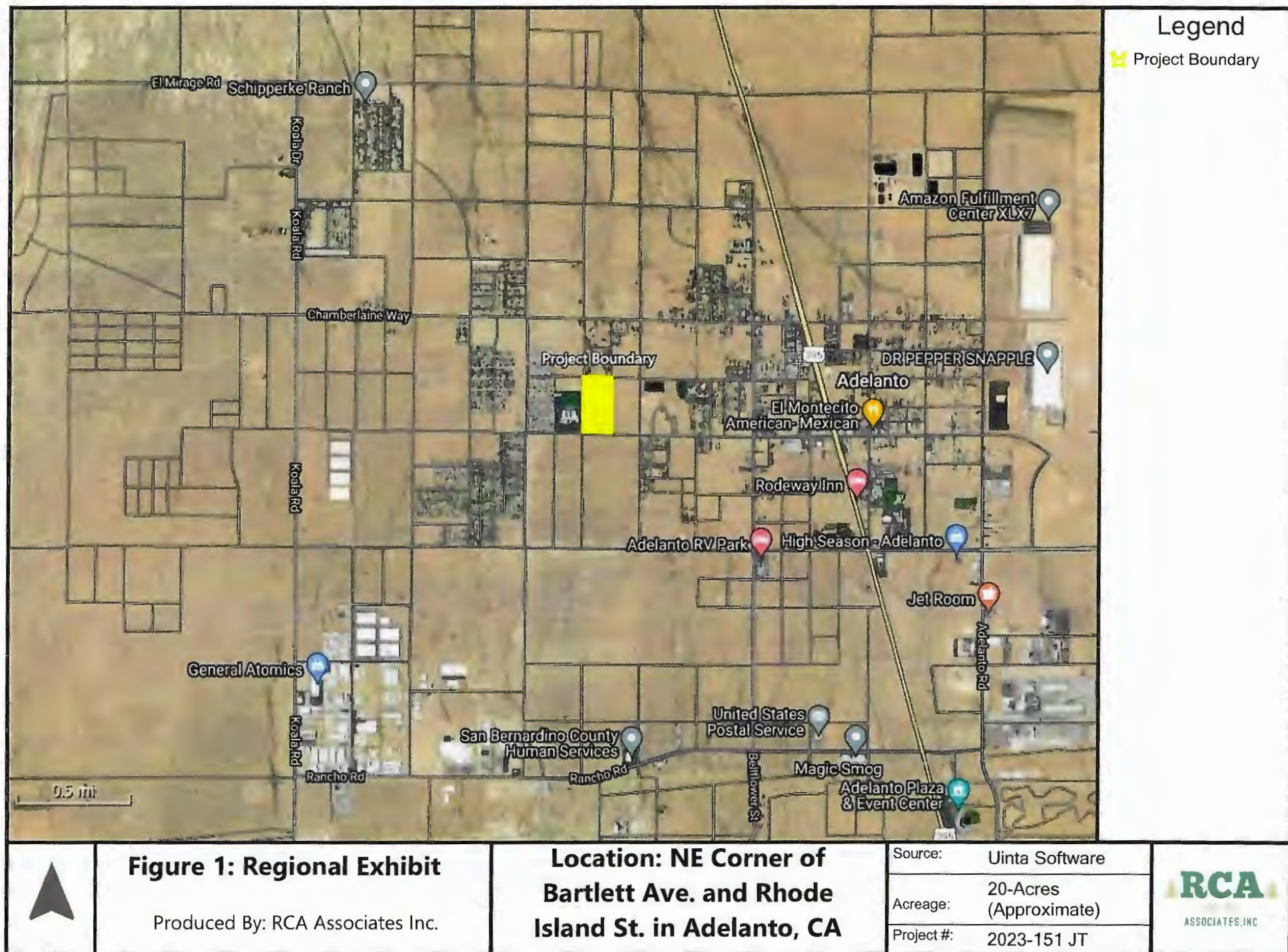
Date: January 30, 2024, Signed: *Ryan D. Hunter*
Brian S. Bunyi

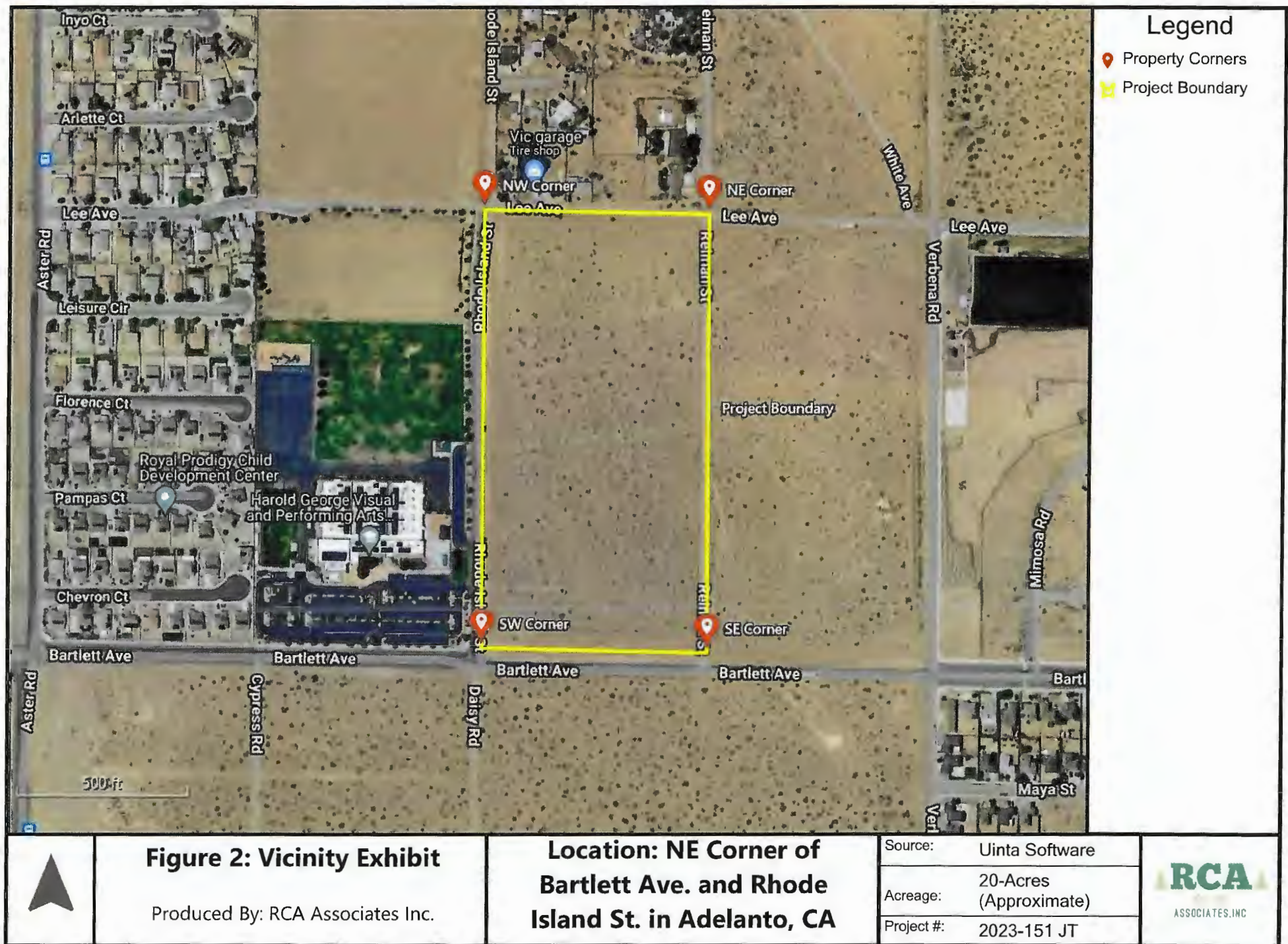
Field Work Performed by: Ryan D. Hunter
Principal Environmental Scientist & Wildlife Biologist

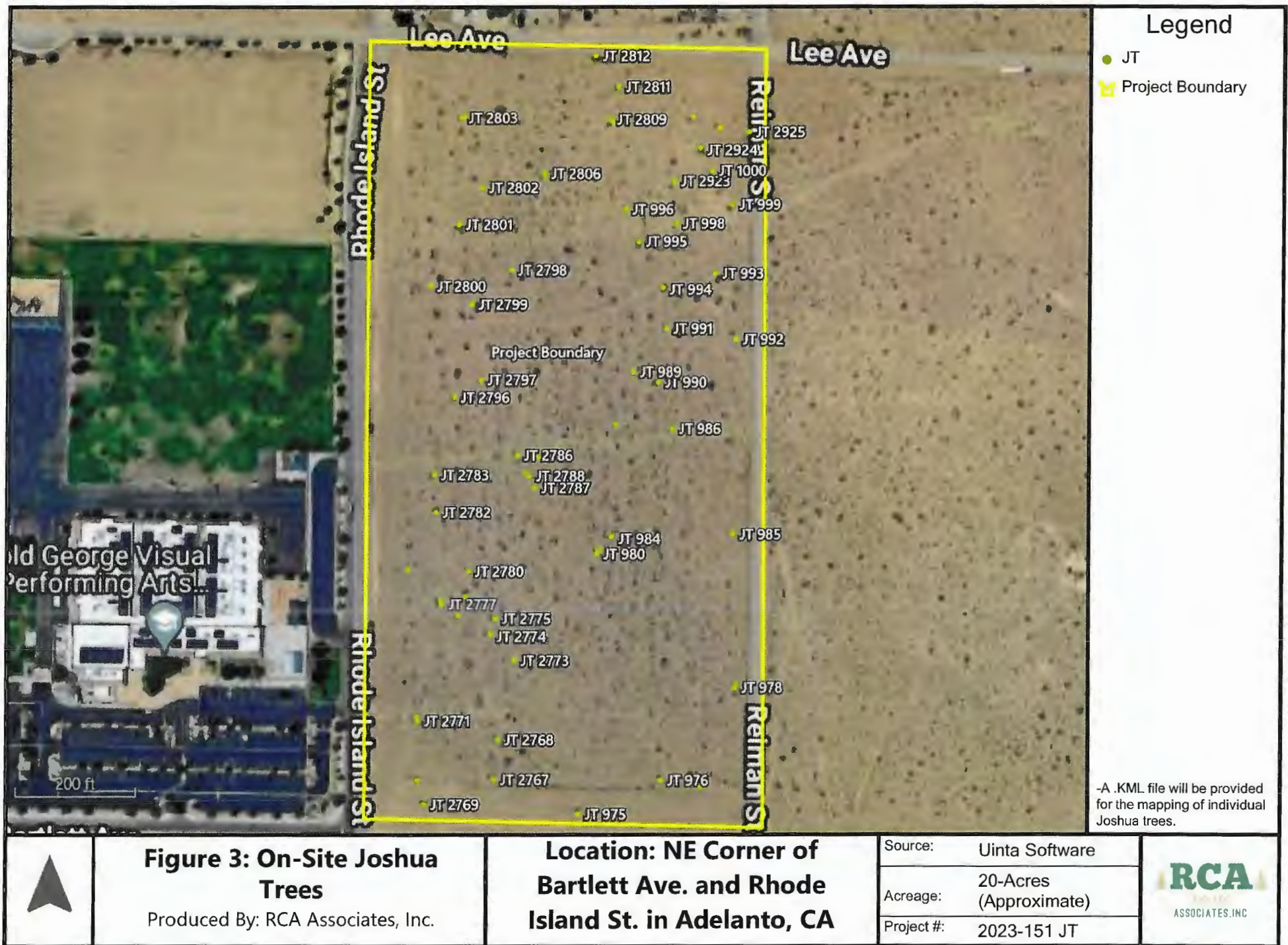
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APPENDIX A

Figures









**Figure 4: Off-site Joshua Trees
in 50 Ft Buffer**

Produced By: RCA Associates, Inc.

**Location: NE Corner of
Bartlett Ave. and Rhode
Island St. in Adelanto, CA**

Source:	Uinta Software
Acreage:	20-Acres (Approximate)
Project #:	2023-151 JT

RCA
ASSOCIATES, INC.

APPENDIX B

**California Department of Fish and Game Code
1927**

**FISH AND GAME CODE - FGC**

DIVISION 2. DEPARTMENT OF FISH AND WILDLIFE [700 - 1958] (*Heading of Division 2 amended by Stats. 2015, Ch. 154, Sec. 21.*)

CHAPTER 11.5. Western Joshua Tree Conservation Act [1927 - 1927.12] (*Chapter 11.5 added by Stats. 2023, Ch. 51, Sec. 5.*)

1927. This chapter shall be known, and may be cited as, the Western Joshua Tree Conservation Act.

(*Added by Stats. 2023, Ch. 51, Sec. 5. (SB 122) Effective July 10, 2023. Conditionally operative pursuant to Section 1927.2.*)

1927.1. For purposes of this chapter, the following definitions apply:

- (a) "Accessory structure" means a subordinate structure, the use of which is incidental to an existing or contemporaneously constructed single-family residence, including, an accessory dwelling unit, addition to an existing single-family residence, garage, carport, swimming pool, patio, greenhouse, storage shed, gazebo, septic tank, sewer connection, solar panels, fence, or gravel or paved driveway.
- (b) "California Endangered Species Act" means the act established pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3.
- (c) "Conserve" or "conservation" means to use, and the use of, methods and procedures that are necessary to bring species listed pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 to the point at which the measures provided pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 are no longer necessary, and for species that are not listed to maintain or enhance the condition of the species so that listing will not become necessary.
- (d) "Dead western Joshua tree" means a western Joshua tree that meets at least one of the following criteria:
 - (1) Has not burned and has no green leaves, no new growth on the main stem, and no basal sprouts.
 - (2) Has partially or fully burned at least 18 months prior and otherwise satisfies paragraph (1).
 - (3) Has fallen and is completely detached from its roots or has fallen and its roots are no longer in contact with the soil.
- (e) "Desert native plant specialist" means an arborist certified by the International Society of Arborists, or an individual with at least five years of professional experience with relocation or restoration of native California desert vegetation.
- (f) "Fee" means the elective fee described in subdivisions (d) and (e) of Section 1927.3, which is to be deposited into the fund.
- (g) "Fund" means the Western Joshua Tree Conservation Fund as described in Section 1927.5.
- (h) "Multifamily residence" means an apartment building, rowhouse, town house, condominium, or manufactured building that consists of two or more attached dwelling units designed for occupancy by two or more families living independently of one another.

(i) "Public works project" means a project involving the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(j) "Relocated" or "relocation" means the removal of a living western Joshua tree and a sufficient portion of its root mass from the ground and transplanting it.

(k) "Single-family residence" means a single detached building that has been, or will be, constructed and used as living facilities, including provisions for sleeping, eating, cooking, and sanitation, as required by the California Building Standards Code, for not more than one household.

(l) "Western Joshua tree" means *Yucca brevifolia*, an evergreen, tree-like plant that has been treated as a member of the asparagus family (*Asparagaceae*).

(Added by Stats. 2023, Ch. 51, Sec. 5. (SB 122) Effective July 10, 2023. Conditionally operative pursuant to Section 1927.2.)

1927.2. (a) No person or public agency shall import into this state, export out of this state, or take, possess, purchase, or sell within this state, a western Joshua tree or any part or product of the tree, except as authorized pursuant to any of the following, as applicable:

(1) This chapter.

(2) The California Endangered Species Act.

(3) The Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3).

(b) During any period in which the western Joshua tree has been designated by the commission as a candidate for listing under the California Endangered Species Act, any person or public agency seeking a take authorization for the western Joshua tree may obtain a take authorization as provided by the California Endangered Species Act or by electing to pay the fees set forth in Section 1927.3.

(c) (1) This chapter is a change in state law, within the meaning of paragraph (1) of subdivision (c) of Section 2075.5, that has a direct and significant impact on the commission's determination as to whether the petitioned action is warranted. Pursuant to subdivision (c) of Section 2075.5, the commission shall reopen the administrative record for the commission's determination for the purpose of assessing the impact of the conservation program established by this chapter.

(2) In making the assessment described in paragraph (1), the commission shall consider all of the following:

(A) The effectiveness of any conservation measures funded through expenditures of fees by the department pursuant to Section 1927.5.

(B) The conservation plan developed by the department and approved by the commission pursuant to Section 1927.6.

(C) Any annual reports submitted to the commission by the department pursuant to Section 1927.7.

(D) Any recommendations submitted to the commission by the department pursuant to subdivision (a) of Section 1927.8.

(E) The fee adjustments, if any, adopted by the department pursuant to subdivision (b) of Section 1927.8.

(F) An updated status review to be submitted to the commission by the department no later than January 1, 2033, unless the commission directs the department to submit the updated status review sooner.

(d) If the commission determines that listing the western Joshua tree as endangered or threatened pursuant to the California Endangered Species Act is not warranted, this chapter shall remain operative and the authorization of take of a western Joshua tree shall be pursuant to this chapter.

(e) If the commission determines that listing the western Joshua tree as endangered or threatened pursuant to the California Endangered Species Act is warranted, this chapter shall become inoperative and the authorization of take of a western Joshua tree shall only be pursuant to Chapter 1.5 (commencing with Section 2050) of Division 3 or pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3).

(f) Upon the approval of a natural community conservation plan that provides for the conservation of the western Joshua tree as a covered species, the authorization of take of a western Joshua tree for any project or activity covered by the plan shall only be pursuant to Chapter 10 (commencing with Section 2800) of Division 3.

(g) The provisions of the Native Plant Protection Act (Chapter 10 (commencing with Section 1900)), and the California Desert Native Plants Act (Division 23 (commencing with Section 80001) of the Food and Agricultural Code), shall not apply to the western Joshua tree.

(h) This section shall not preclude the department from authorizing, by permit or memorandum of understanding, the taking, possession, purchase, or sale within the state of a western Joshua tree to aid the conservation and recovery of the western Joshua tree, or entering into memoranda of understanding with California Native American tribes to provide for the taking and possession of western Joshua trees for tribal cultural purposes, or as otherwise required by applicable law.

(i) Any authorization issued by the department pursuant to Section 2081 or 2084, before the enactment of this chapter, to import, export, take, possess, purchase, or sell a western Joshua tree shall be valid and remain in effect after the enactment of this chapter pursuant to the terms of the authorization.

(Added by Stats. 2023, Ch. 51, Sec. 5. (SB 122) Effective July 10, 2023.)

1927.3. (a) The department may authorize, by permit, the taking of a western Joshua tree if all of the following conditions are met:

(1) The permittee submits to the department for its approval a census of all western Joshua trees on the project site, including size information and photographs, that categorize the western Joshua trees according to the following size classes:

(A) Less than one meter in height.

(B) One meter or greater but less than five meters in height.

(C) Five meters or greater in height.

(2) The permittee avoids and minimizes impacts to, and the taking of, the western Joshua tree to the maximum extent practicable. Minimization may include trimming, encroachment on root systems, relocation, or other actions that result in detrimental but nonlethal impacts to a western Joshua tree.

(3) The permittee mitigates all impacts to, and taking of, the western Joshua tree. The measures required to meet this obligation shall be roughly proportional in extent to the impact of the authorized taking of the species. When various measures are available to meet this obligation, the measures required shall maintain the permittee's objectives to the greatest extent possible. All required measures shall be capable of successful implementation. The permittee shall ensure adequate funding to implement the mitigation measures. In lieu of completing the mitigation obligation on its own, the permittee may elect to satisfy this mitigation obligation by paying fees, pursuant to the fee schedule in subdivision (d) or (e), for deposit into the fund.

(4) (A) The department may include permit conditions that require the permittee to relocate one or more of the western Joshua trees. If relocation is required, the permittee shall implement measures to assist the survival of relocated trees, and to comply with any other reasonable measures required by the department to facilitate the successful relocation and survival of the western Joshua trees. These relocation measures shall include, but are not limited to, all of the following:

(i) A requirement that the relocated western Joshua tree is placed in a location and with proper orientation to improve its survival.

(ii) A requirement that western Joshua trees are relocated at a time that maximizes their survival when feasible.

(iii) A requirement that a desert native plant specialist be onsite to oversee relocation.

(B) The department may limit relocation to certain size classes of trees.

(C) By July 1, 2024, the department shall adopt guidelines and relocation protocols, based on the best available science, to relocate western Joshua trees successfully. The department shall consult with desert

native plant specialists as part of the development of these guidelines and relocation protocols. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the development, adoption, or amendment of guidelines and relocation protocols pursuant to this subparagraph.

(b) For purposes of this section, each western Joshua tree stem or trunk arising from the ground shall be considered an individual tree requiring mitigation, regardless of its proximity to any other western Joshua tree stem or trunk.

(c) The department may enter into an agreement with any county or city to delegate to the county or city the ability to authorize the taking of a western Joshua tree associated with developing single-family residences, multifamily residences, accessory structures, and public works projects concurrent with its approval of the project, if all of the following conditions are met:

(1) The county or city adopts an ordinance that requires as a condition of any approval or permit issued under the authority of an agreement entered into pursuant to this subdivision satisfaction of the requirements of this chapter.

(2) Except as provided otherwise in this subdivision, the county or city ensures that the permittee satisfies all of the requirements of subdivision (a) of this section.

(3) The project will take no more than 10 individual western Joshua trees on the project site where the project proponent proposes to construct a single-family residence, multifamily residence, or accessory structure, or no more than 40 individual western Joshua trees on the project site on which a public agency proposes to undertake a public works project. Before authorizing the take of more than 20, but no more than 40, individual western Joshua trees for a public works project, the county or city shall obtain the department's written concurrence that the project has avoided and minimized the take of western Joshua trees to the maximum extent practicable.

(4) The county or city shall collect any fees for permits issued and remit them quarterly to the fund as directed by the department.

(5) The county or city entering into an agreement pursuant to this subdivision may impose a reasonable fee to cover the administrative costs of issuing the permit.

(6) (A) The department retains express authority to suspend or revoke the county or city's take authorization in the event the department determines the county or city has violated the terms of the agreement, or this chapter, the county or city fails to implement or enforce the terms of the agreement or this chapter, or the department determines that the local population of western Joshua trees within, or in the vicinity of, that county or city needs further protection. The county or city shall conduct an annual assessment of the status of the local population within the county or city and submit the assessment to the department. The department shall determine if the population needs further protection to provide for the conservation of the species.

(B) The department shall adopt standardized survey and assessment methods for the annual assessment required pursuant to subparagraph (A), including requiring that a desert native plant specialist conduct the assessment. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the development, adoption, or amendment of standardized survey and assessment methods pursuant to this subparagraph.

(7) The county or city shall be required to submit to the department quarterly reports documenting the number of permits issued, photographs and other evidence demonstrating that take and other impacts were avoided and minimized to the maximum extent practicable, the number and size class of western Joshua trees authorized to be taken, the number of western Joshua trees encroached upon, the number of western Joshua trees lethally removed, the number and location of western Joshua trees relocated, the amount of fees collected, and other information required by the department in the agreement.

(d) Any person or public agency receiving a take authorization pursuant to this chapter for a project that meets the criteria set forth in paragraph (1) may elect, in lieu of satisfying the mitigation obligation provided for in paragraph (3) of subdivision (a), to pay fees in the amounts provided in paragraph (2) for deposit into the fund.

(1) (A) Any project in the area bounded by the intersection of Highway 99 and Highway 58, then east along

Highway 58 to the intersection of Interstate 15, then north along Interstate 15 to the intersection of Highway 247, then south along Highway 247 to the intersection of Highway 18, then west along Highway 18 to the intersection of Highway 138, then west and north along Highway 138 to the intersection of Interstate 5, then north along Interstate 5 to the intersection of Highway 99, then north along Highway 99 to Highway 58.

(B) Any project receiving a permit issued by a county or city pursuant to an agreement with the department pursuant to subdivision (c), regardless of location.

(2) (A) One thousand dollars (\$1,000) for each western Joshua tree five meters or greater in height.

(B) Two hundred dollars (\$200) for each western Joshua tree one meter or greater but less than five meters in height.

(C) One hundred fifty dollars (\$150) for each western Joshua tree less than one meter in height.

(e) Any person or public agency receiving a take authorization pursuant to this chapter for a project that meets the criteria set forth in paragraph (1) may elect, in lieu of satisfying the mitigation obligation provided for in paragraph (3) of subdivision (a), to pay fees in the amounts provided in paragraph (2) for deposit into the fund.

(1) (A) Notwithstanding paragraph (1) of subdivision (d), any project within two miles of Joshua Tree National Park, or any unit of the state park system.

(B) Any project that does not meet the criteria set forth in paragraph (1) of subdivision (d).

(2) (A) Two thousand five hundred dollars (\$2,500) for each western Joshua tree five meters or greater in height.

(B) Five hundred dollars (\$500) for each western Joshua tree one meter or greater but less than five meters in height.

(C) Three hundred forty dollars (\$340) for each western Joshua tree less than one meter in height.

(f) Upon request, the department may authorize a reduction in the amount of the fees prescribed by subdivisions (d) and (e) for any western Joshua tree conserved by a project proponent through the acquisition of compensatory habitat mitigation land otherwise required by law for the project.

(g) (1) The permittee shall bear responsibility for implementing measures to assist the survival of western Joshua trees relocated pursuant to paragraph (4) of subdivision (a).

(2) Unless specifically required by written agreement, a landowner that agrees in writing to allow western Joshua trees to be relocated onto land it owns shall not be liable for the continued survival of the western Joshua trees, shall not be required to manage or maintain the translocated western Joshua trees, and shall not be required to change existing land use practices, provided that the land use practices do not result in the taking, possession, sale, or further translocation of the western Joshua trees.

(Added by Stats. 2023, Ch. 51, Sec. 5. (SB 122) Effective July 10, 2023. Conditionally operative pursuant to Section 1927.2.)

1927.4. (a) The department may issue a permit to authorize either the removal or trimming of dead western Joshua trees or the trimming of live western Joshua trees.

(1) Upon receipt of a permit and payment of any applicable administrative fees, a property owner or its agent may remove a detached dead western Joshua tree or the detached limb of a western Joshua tree. All other removals and all trimming of western Joshua trees authorized by permits issued pursuant to this subdivision shall be completed by a desert native plant specialist.

(2) The department may issue permits pursuant to this section, without payment of fees or other mitigation, provided that the dead western Joshua trees or any limbs to be removed meet one of the following:

(A) Have fallen over and are within 30 feet of a structure.

(B) Are leaning against an existing structure.

(C) Create an imminent threat to public health or safety.

(3) A property owner seeking a permit pursuant to this subdivision shall submit a permit request to the department on a form to be provided by the department that requires the following information:

(A) The name, telephone number, mailing address, and email address of the property owner seeking the permit.

(B) The street address of the property on which the western Joshua trees to be removed or trimmed are located. If no street address is available, the property owner shall include the assessor's parcel number.

(C) Photographs of the western Joshua trees that visually depict the dead trees or the trees to be trimmed and that demonstrate that the western Joshua tree meets one or more of the requirements of paragraph (2).

(D) A signed attestation from the property owner or signed certification by a desert native plant specialist that the tree meets the definition of a dead western Joshua tree.

(4) (A) Within 30 days of receipt of a request for a permit pursuant to subparagraph (A) or (B) of paragraph (2), the department shall either issue a permit allowing for the removal or trimming, or deny the request if the request does not demonstrate a permit can be issued pursuant to this section.

(B) Within 10 days of receipt of a request for a permit pursuant to subparagraph (C) of paragraph (2), the department shall either issue a permit allowing for the removal or trimming, or deny the request if the request does not demonstrate a permit can be issued pursuant to this section.

(C) If the department issues a permit, it shall provide the property owner 60 days in which to complete the removal or trimming. The department may extend this 60-day period in writing at its discretion.

(D) If the department denies the permit request, the property owner may resubmit the request with additional information and photographs. Resubmissions pursuant to this subdivision shall be processed as new permit requests.

(5) Within 30 days of completing the removal or trimming of one or more western Joshua trees in accordance with a permit issued pursuant to this section, the property owner shall submit, by mail or email, photographs of the site at which the western Joshua trees were removed or trimmed pursuant to the permit.

(b) The department may enter into an agreement with any county or city to delegate to the county or city the ability to authorize the removal or trimming of dead western Joshua trees or the trimming of live western Joshua trees, provided that the county or city ensures that all permits issued satisfy the requirements of subdivision (a). The county or city shall be required to submit to the department quarterly reports documenting the number of permits issued, the number and size class of western Joshua trees authorized to be removed or trimmed, and any other information specified in the agreement with the department. A county or city entering into an agreement pursuant to this subdivision may impose a reasonable fee to cover the administrative costs of issuing the permit.

(c) (1) The department retains express authority to suspend or revoke an agreement with any county or city to delegate to the county or city the ability to authorize the removal or trimming of dead western Joshua trees or the trimming of live western Joshua trees in the event the department determines the county or city has violated the terms of the agreement or this chapter, the county or city fails to implement or enforce the terms of the agreement or this chapter, or the local population of western Joshua trees within, or in the vicinity of, that county or city needs further protection. A county or city that has entered into an agreement with the department shall conduct an annual assessment of the status of the local population of western Joshua trees within the county or city and submit the assessment to the department. The department shall determine if the population needs further protection to provide for the conservation of the species.

(2) The department shall adopt standardized survey and assessment methods for the annual assessment required pursuant to paragraph (1), including requiring that a desert native plant specialist conduct the assessment. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code shall not apply to the development, adoption, or amendment of standardized survey and assessment methods pursuant to this paragraph.

(Added by Stats. 2023, Ch. 51, Sec. 5. (SB 122) Effective July 10, 2023. Conditionally operative pursuant to Section 1927.2.)

1927.5. (a) The Western Joshua Tree Mitigation Fund, created by the commission pursuant to Section 749.10 of Title 14 of the California Code of Regulations, is hereby continued in existence by this chapter, and is renamed the Western Joshua Tree Conservation Fund. Notwithstanding Section 13340 of the Government Code, any moneys in the fund are continuously appropriated to the department solely for the purposes of acquiring, conserving, and managing western Joshua tree conservation lands and completing other activities to conserve the western Joshua tree.

(b) All fees remitted to the department pursuant to this chapter shall be deposited into the fund.

(c) The fund may also receive other funding to support the conservation of the western Joshua tree.

(Added by Stats. 2023, Ch. 51, Sec. 5. (SB 122) Effective July 10, 2023. Conditionally operative pursuant to Section 1927.2.)

1927.6. (a) The department shall develop and implement a western Joshua tree conservation plan in collaboration with the commission, governmental agencies, California Native American tribes, and the public. The conservation plan shall incorporate a description of management actions necessary to conserve the western Joshua tree and objective, measurable criteria to assess the effectiveness of such actions. The conservation plan shall also include guidance for the avoidance and minimization of impacts to western Joshua trees and protocols for the successful relocation of western Joshua trees. The department shall present a complete draft conservation plan at a public meeting of the commission, for its review and approval, by December 31, 2024. The commission shall take final action on the conservation plan by June 30, 2025. The department and commission shall, if necessary, periodically update the conservation plan to ensure the conservation of the species.

(b) When developing the conservation plan, the department shall consult with California Native American tribes, include co-management principles in the plan, provide for the relocation of western Joshua trees to tribal lands upon a request from a tribe, and ensure traditional ecological knowledge is incorporated into the plan.

(c) The department, pursuant to Section 1927.5, shall use any fees deposited into the fund for the purpose of addressing threats to the western Joshua tree, including, but not limited to, acquiring, conserving, and managing western Joshua tree conservation lands. Acceptable expenditures from the fund may include, but are not limited to, land acquisition or conservation easement costs, monitoring costs, restoration costs, transaction costs, costs of endowments for land management or easement stewardship consistent with Chapter 4.6 (commencing with Section 65965) of Division 1 of Title 7 of the Government Code and Part 7 (commencing with Section 18501) of Division 9 of the Probate Code, and other reasonable expenditures to implement the conservation plan. The department shall prioritize actions and acquiring and managing lands that are identified as appropriate for western Joshua tree conservation in any department-approved conservation plan, including, but not limited to, the conservation plan required by subdivision (a), a regional conservation assessment, a regional conservation investment strategy, or a conceptual area protection plan.

(d) (1) The department may retain one or more consultants to assist in locating, acquiring, conserving, and managing conservation lands and completing other mitigation actions to implement subdivision (c).

(2) Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of the Public Contract Code, Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code, Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, Part 5.5 (commencing with Section 14600) of Division 3 of Title 2 of the Government Code, and Division 13 (commencing with Section 21000) of the Public Resources Code shall not apply to any action by the department to implement subdivision (c).

(Added by Stats. 2023, Ch. 51, Sec. 5. (SB 122) Effective July 10, 2023. Conditionally operative pursuant to Section 1927.2.)

1927.7. (a) Beginning in 2025, by January 31 of each calendar year, the department shall submit an annual report to the commission and the Legislature assessing the conservation status of the western Joshua tree, including, but not limited to, by detailing the number of permits issued, the number and size class of western Joshua trees authorized to be taken, the number of western Joshua trees lethally removed, the number and location of western Joshua trees relocated, the number and location of acres of western Joshua tree woodlands developed, the type, scope, and scale of mitigation measures undertaken by permittees, the number and location of acres of western Joshua tree woodlands conserved, the quality of the acres conserved, the amount of fees paid, the amount of all expenditures from the fund, the projects and actions funded by expenditures from