

Appendix B
Biological Resources Assessment



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SUBJECT: Biological Resources Assessment for the Plant F20 Water Storage Project Located in the City of Fontana, San Bernardino County, California

Introduction

This report contains the findings of ELMT Consulting's (ELMT) biological resources assessment for the Plant F20 Water Storage Project (project, project site) located in the City of Fontana, San Bernardino County, California. The assessment was conducted by biologist Jacob H. Lloyd Davies on May 20, 2022, to document baseline conditions and assess the potential for special-status¹ plant and wildlife species to occur within the project site that could pose a constraint to implementation of the proposed project. Special attention was given to the suitability of the project site to support special-status plant and wildlife species identified by the California Department of Fish and Wildlife's (CDFW) California Natural Diversity Database (CNDDB), and other electronic databases as potentially occurring in the general vicinity of the project site.

Project Location

The project site is generally located south of Interstate 10, west of Interstate 215, north of State Route 60, and east of Interstate 10 in the City of Fontana, San Bernardino County, California. The site is depicted on the Fontana quadrangle of the United States Geological Survey's (USGS) 7.5-minute map series within section 35 of Township 1 South, Range 6 West. Specifically, the project site is located at 15151 Long View Road within Assessor Parcel Number (APN) 0237-411-17 and a portion of APN 0237-411-15. Refer to Exhibits 1-3 in Attachment A.

Project Description

Fontana Water Company ("Fontana Water") is a division of the San Gabriel Valley Water Company. The City of Fontana owns an expansive open space area (approximately 176 acres), consisting of Assessor's Parcel Number (APN 0237-411-15) at the terminus of Long View Drive in the Jurupa Hills in the Southridge Village Specific Plan (Specific Plan). Fontana Water is in process to purchase a 1.0-acre portion of APN 0237-411-15. Fontana Water plans to construct two potable water reservoir tanks that will serve the community of Southridge Village together with the existing Plant F20 Reservoir located on a 0.8-acre

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.

parcel (APN 0237-411-17). The project site includes the existing 3.42-million-gallon (MG) Plant F20 Reservoir (South) (approximately 148 feet in diameter and 40 feet high), along with the newly acquired vacant 1.0-acre portion of APN: 0237-411-15.

The Project consists of the installation and operation of two new 1.13 MG reservoirs (Plant F20 Reservoirs (East) and (West)) to be used for potable water services within Fontana Water's service area. The proposed reservoir Plant F20 Reservoir (East) and Plant F20 Reservoir (West) would be located contiguous to the existing Plant F20 Reservoir (South). The Plant F20 Reservoir (East) and Plant F20 Reservoir (West) would be constructed of welded steel, measuring 74 feet in diameter and 40 feet in height. Additionally, the portion of the existing access road located within the newly acquired 1.0-acre portion of land would be subject to a slight adjustment. The road adjustment would be limited to realignment west of the existing paved roadway to allow for adequate service and emergency vehicle access.

Plant F20 Reservoir (East) and Plant F20 Reservoir (West) will be located just northwest of Plant F20 Reservoir (South). The Project would allow the Fontana Water to meet necessary water storage required for the community to meet existing water demands for domestic uses, fire suppression, and emergency needs. As previously noted, the new Plant F20 Reservoir (East) and Reservoir (West) would allow for Plant F20 Reservoir (South) to be taken out of service when required for routine maintenance. Refer to Attachment B, *Site Plan*.

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), CNDDDB Rarefind 5, the California Native Plant Society's (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants of California, Calflora Database, compendia of special-status species published by CDFW, and the United States Fish and Wildlife Service (USFWS) species listings.

All available reports, survey results, and literature detailing the biological resources previously observed on or within the vicinity of the project site was 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 Survey²;
- USFWS Critical Habitat designations for Threatened and Endangered Species; and
- USFWS Endangered Species Profiles.

The literature review provided a baseline from which to inventory the biological resources potentially occurring within the project site. The 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 Jacob H. Lloyd Davies inventoried and evaluated the condition of the habitat within the project on May 20, 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.

Soil Series Assessment

On-site and adjoining soils were researched prior to the field investigation using the USDA NRCS Soil Survey for San Bernardino County, California. In addition, a review of the local geological conditions and historical aerial photographs was conducted to assess the ecological changes that the project site has undergone.

Plant Communities

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

Plants

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

Wildlife

Wildlife species detected during the field investigation by sight, calls, tracks, scat, or other sign were

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.

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 project site occurs along a ridge of the northern slopes of the Jurupa Hills in an area that has undergone a transition from natural habitats to agricultural land in the early decades of the 1900’s and urban development in the latter decades of the 1900’s. Due to variable topography of the area, land in close proximity to the site remains largely undisturbed relative to the urbanized areas that occur in the lowland areas surrounding the mountain range. At present, the project site is bounded in all directions by undeveloped open space with a network of access roads and trails permeating throughout. Beyond adjacent open space, the site is further surrounded by residential developments to the east and west and industrial and residential developments to the north. Undeveloped open space in proximity to the site varies from undisturbed to heavily disturbed based on proximity to existing access roads and trails, as these areas are routinely impacted by off-highway recreational vehicle use, mountain biking, and hiking activities. The site itself supports developed land associated with the existing reservoir and driveway and undeveloped, vacant land.

Access to the project site is provided via an asphalt concrete paved access road to the existing Plant F20 Reservoir along the southwest side of the proposed development area. An unpaved dirt road is located adjacent to the north and west sides of the proposed development area. Numerous dirt trails trend through the project site. The project site is currently only accessible through a gated access driveway bounded by chain link fencing.

Topography and Soils

On-site elevation range from approximately 1,180 to 1,215 feet above mean sea level. On-site topography is generally flat with the exception of the north and northwest boundaries, which extend beyond the ridgeline that supports the majority of the site. The project site consists of a north/northwest trending large

gravel/boulder-strewn ridge and rock and boulder out-crops. Drainage is by sheet flow to the north/northwest. Overall, the site generally slopes south to north.

Based on the NRCS USDA Web Soil Survey, the site is only underlain by Cienega-Rock outcrop complex (30 to 50 percent slopes, MLRA 20). Refer to Exhibit 4, *Soils*, in Attachment A. Soils on-site have been mechanically disturbed and heavily compacted from decades of anthropogenic disturbance (i.e., development and ongoing use of existing reservoir and driveway, off-highway recreational vehicle use, and hiking).

Vegetation

One plant community is supported within the project site: Riversidean sage scrub. In addition, the site supports two (2) land-cover types that would be classified as disturbed and developed (refer to Exhibit 5, *Vegetation*, in Attachment A). The majority of the site supports developed land that supports the existing reservoir, paved driveway, and associated infrastructure; and undeveloped land that has been subjected to considerable anthropogenic disturbance from historic and ongoing land uses. Refer to Attachment C, *Site Photographs*, for representative site photographs.

The northern portion of the site supports a Riversidean sage scrub plant community that has been fragmented and altered by historic and ongoing land uses. On-site development and disturbance have contributed to high species heterogeneity within site boundaries, resulting in a lower overall diversity and dominance by relatively fast-growing woody perennial species such as California buckwheat (*Eriogonum fasciculatum*) and brittlebush (*Encelia farinosa*). Other common plant species observed within the project site include chamise (*Adenostoma fasciculatum*), California sagebrush (*Artemisia californica*), black sage (*Salvia mellifera*), dodder (*Cuscuta californica*), deerweed (*Acmispon glaber*), common cryptantha (*Cryptantha intermedia*), Mediterranean mustard (*Hirschfeldia incana*), filaree (*Erodium* spp.), tocalote (*Centaurea melitensis*), and non-native grasses (*Bromus* spp. & *Eragrostis cilianensis*).

Disturbed portions of the site are routinely impacted by weed abatement activities, off-highway recreation vehicle use and cycling and hiking activities. As such, these areas tend to be unvegetated or support hardy weedy/early successional species, primarily non-native species. Common plant species observed in the disturbed portions of the site include Mediterranean mustard, tocalote, and non-native grasses. In addition, several ornamental trees are present along the boundary of the existing reservoir, including pine (*Pinus* sp.) and gum tree (*Eucalyptus* sp.).

Developed land supported by the project site includes the existing reservoir and paved access road. In accordance with maintenance standards, these are maintained to be free of vegetation, but may support especially hardy, fast-growing species such as deerweed, Mediterranean mustard, filaree, and non-native grasses.

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 as a general reference and is limited by the season, time of day, and weather conditions in which the field investigation was conducted. Wildlife detections were based on calls, songs, scat, tracks, burrows, and direct observation. The project site provides limited

habitat for wildlife species except those adapted to a high degree of anthropogenic disturbances and development.

Fish

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

Amphibians

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

Reptiles

The project site and surrounding open space provide suitable foraging and cover habitat for local reptile species. The only reptile species observed during the field investigation was Great Basin fence lizard (*Sceloporus occidentalis longipes*). Common reptilian species that could be expected to occur include granite spiny lizard (*Sceloporus orcutti*), western side-blotched lizard (*Uta stansburiana elegans*), San Diego alligator lizard (*Elgaria multicarinata webbiai*), and San Diego gophersnake (*Pituophis catenifer annectens*).

Birds

The project site and surrounding open space provide suitable foraging and nesting habitat for local avian species. Avian species observed during the field investigation include house finch (*Haemorhous mexicanus*), California towhee (*Melospiza crissalis*), northern mockingbird (*Mimus polyglottos*), Cooper's hawk (*Accipiter cooperii*), bushtit (*Psaltirparus minimus*), savannah sparrow (*Passerculus sandwichensis*), turkey vulture (*Cathartes aura*), Anna's hummingbird (*Calypte anna*), California quail (*Callipepla californica*), and red-tailed hawk (*Buteo jamaicensis*).

Mammals

The project site and surrounding open space provides suitable foraging and cover habitat for local mammalian species. Mammalian species detected during the field investigation include pocket gopher (*Thomomys bottae*), coyote (*Canis latrans*), and California ground squirrel (*Otospermophilus beecheyi*). Other common mammalian species that could be expected to occur on-site include desert cottontail (*Sylvilagus audubonii*), and virginia opossum (*Didelphis virginiana*).

Nesting Birds

No active nests or birds displaying nesting behavior were observed during the field survey, which was conducted during the breeding season. Although subjected to routine disturbance, the Riversidean sage scrub, ornamental trees, and structures present on and adjacent to the site have the potential to provide suitable nesting habitat for year-round and seasonal avian residents, as well as migrating songbirds that could occur in the area.

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

Migratory Corridors and Linkages

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

According to the San Bernardino County General Plan, the project site has not been identified as occurring within a Wildlife Corridor or Linkage. As designated by the San Bernardino County General Plan Open Space Element, major open space areas documented in the vicinity of the project site include the Santa Ana River, located approximately 5 miles to the southeast.

The proposed project occurs within the Jurupa Hills, a primarily undeveloped area supporting largely contiguous natural plant communities and multiple designated open spaces including the Southridge Village Open Space Reserve, which occurs approximately 400 feet to the northwest of the site, and the Martin Tudor Jurupa Hills Regional Park, which occurs approximately 1 mile to the east beyond open space and a residential neighborhood. While the project site is immediately surrounded almost entirely by existing open space, the site itself is largely composed of existing development and disturbed land, and the Riversidean Sage Scrub plant community supported in the northern portion of the site has been impacted by historic and ongoing disturbances such that it has become fragmented and altered in comparison to surrounding open space. As such, existing wildlife movement is expected to be able to occur in the immediate area and impacts to wildlife corridors or linkages are not expected to occur.

Jurisdictional Areas

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

No discernible drainage courses, inundated areas, or wetland features/obligate plant species that would be considered jurisdictional by the United States Army Corps of Engineers (Corps), Regional Water Quality Control Board (Regional Board), or CDFW were observed within the proposed project site. Based on the proposed site plan, 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 CNDDDB Rarefind 5 and the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California were queried for reported locations of special-status plant and wildlife species as well as special-status natural plant communities in the Fontana USGS 7.5-minute quadrangle. The habitat assessment evaluated the conditions of the habitat(s) within the boundaries of the project site to determine if the existing plant communities, at the time of the survey, have the potential to provide suitable habitat(s) for special-status plant and wildlife species.

The literature search identified fifteen (15) special-status plant species, forty-seven (47) special-status wildlife species, and one (1) special-status plant communities as having potential to occur within the Fontana USGS 7.5-minute quadrangle. Special-status plant and wildlife species were evaluated for their potential to occur within the project site based on habitat requirements, availability and quality of suitable habitat, and known distributions. Species determined to have the potential to occur within the general vicinity of the project site is presented in Attachment D: *Potentially Occurring Special-Status Biological Resources*.

Special-Status Plants

According to the CNDDDB and CNPS, fifteen (15) special-status plant species have been recorded in the Fontana quadrangle (refer to Attachment D). No special-status plant species were observed on-site during the habitat assessment. The project site has been subject to anthropogenic disturbances from ongoing land uses and on-site and surrounding development. These disturbances have diminished, if not eliminated, the suitability of the habitat to support special-status plant species known to occur in the general vicinity of the project site. However, the areas immediately bordering the project site primarily support Riversidean sage scrub communities that have the potential to provide suitable habitat for some special-status plant species known to occur in the area. Based on habitat requirements for specific special-status plant species and the availability and quality of on-site habitats, it was determined that the project site has a low potential to support Plummer's mariposa-lily (*Calochortus plummerae*), paniculate tarplant (*Deinandra paniculata*), and southern California black walnut (*Juglans californica*). It was further determined that the site does not have potential to support any of the special-status plant species known to occur in the area and all are presumed to be absent from the project site.

None of the aforementioned special-status plant species determined to have the potential to occur are federally or state listed as threatened or endangered. While the Riversidean sage scrub plant community supported by the project site has been fragmented and altered by historic and ongoing land uses and on-site and surrounding development, these species are adapted to mild disturbance and are known to occur near the site. As such, these species were all determined to have a low potential to occur on-site. Given the limited scale of project impacts to potentially suitable habitat for these species, no significant impacts to these species are expected, if present. No surveys related to these species are recommended.

Special-Status Wildlife

According to the CNDDDB, forty-seven (47) special-status wildlife species have been reported in the Fontana quadrangle (refer to Attachment D). The only special-status wildlife species observed during the field

investigation were Cooper's hawk. The project site has been subject to anthropogenic disturbances from ongoing land uses and on-site and surrounding development. These disturbances have diminished, if not eliminated, potential foraging and nesting/denning opportunities for local wildlife species. However, the areas immediately bordering the project site primarily support Riversidean sage scrub communities that have the potential to provide suitable habitat for some special-status plant species known to occur in the area. Based on habitat requirements for specific species and the availability and quality of onsite habitats, it was determined that the proposed project site has a high potential to support Cooper's hawk (*Austur cooperii*) and sharp-shinned hawk (*Accipiter striatus*); and moderate potential to support red-diamond rattlesnake (*Crotalus ruber*) and coastal California gnatcatcher (*Poliopitila californica californica*); and a low potential to support southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*), Bell's sparrow (*Artemisiospiza belli belli*), orangethroat whiptail (*Aspidoscelis hyperthra*), coastal whiptail (*Aspidoscelis tigris stejnegeri*), and coast horned lizard (*Phrynosoma blainvillii*). It was further determined that the project site does not provide suitable habitat for any of the other special-status wildlife species known to occur in the area.

Of the aforementioned species, only coastal California gnatcatcher is federally listed as threatened. None of the other species are state or federally listed as endangered or threatened. The majority of local avian species are not expected to nest on-site due to the lack of suitable nesting opportunities. In order to ensure impacts to special-status 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 such species will be less than significant and no mitigation will be required.

Due to regional concern, listing status, and documentation in close proximity to the project site, Cooper's hawk and coastal California gnatcatcher is discussed in further detail below.

Cooper's Hawk

Cooper's hawk is a California Watch List Species. It is a medium-sized raptor native to North America that commonly inhabits woodland, riparian, and suburban environments throughout California. This species occurs in a wide variety of habitats including oak woodlands, mixed riparian forests, eucalyptus groves, coniferous forests, and urban areas with mature trees. Cooper's hawks are generally associated with habitats that provide dense tree cover for nesting and open areas for foraging. In southern California, this species occurs from sea level to montane habitats exceeding 8,000 feet in elevation.

The Cooper's hawk ranges throughout much of the continental United States, southern Canada, and northern Mexico. In California, it is a year-round resident in many regions, although some northern populations migrate south during winter months. Cooper's hawks breed between March and August, with peak nesting activity generally occurring from April through July. Nests are typically constructed in dense stands of mature trees, often near watercourses or woodland edges.

Suitable habitat for Cooper's hawk is typically characterized by mature trees and woodland habitats that provide nesting substrate, perching opportunities, cover, and adequate prey availability. Riparian woodlands and oak woodland habitats are particularly valuable due to their structural complexity and abundance of prey species. Urban and suburban landscapes containing mature ornamental trees may also support nesting Cooper's hawks.

The project site provides suitable foraging habitat for Cooper's hawk but does not support tall trees that have the potential to provide suitable nesting opportunities for Cooper's hawk. With implementation of a pre-construction nesting bird clearance survey, impacts to Cooper's hawk would be less than significant through the implementation of this practice.

Coastal California Gnatcatcher

California gnatcatcher is a federally threatened species with restricted habitat requirements, being an obligate resident of sage scrub habitats that are dominated by California sagebrush. This species generally occurs below 750 feet elevation in coastal regions and below 1,500 feet inland. According to J. Atwood and J. Bolsinger (1992), 99% of all California gnatcatcher observations are in areas with elevations below 950 feet. There are reported occurrences of California gnatcatcher at 1,600 feet elevation (500 meters).

California gnatcatcher ranges from Ventura County south to San Diego County and northern Baja California and is less common in sage scrub with a high percentage of tall shrubs. It prefers habitat with more low-growing vegetation. California gnatcatchers breed between mid-February and the end of August, with peak activity from mid-March to mid-May. Population estimates indicate that there are approximately 1,600 to 2,290 pairs of coastal California gnatcatcher remaining. Declines are attributed to loss of sage scrub habitat due to development, as well as cowbird nest parasitism.

California gnatcatcher are ground and shrub-foraging insectivores. They feed on small insects and other arthropods. A California gnatcatcher's territory is highly variable in size and seems to be correlated with distance from the coast, ranging from less than 1 ha to over 9 ha. In a 1998 study, biologist Patrick Mock concluded that California gnatcatcher in the inland region require a larger territory than those on the coast in order to meet the nutritional requirements needed for survival and breeding.

The Primary Constituent Elements (PCEs)³ essential to support the biological needs of foraging, reproducing, rearing of young, intra-specific communication, dispersal, genetic exchange, or sheltering for California gnatcatcher that were surveyed for include:

1. Dynamic and Successional sage scrub Habitats and Associated Vegetation (Riversidean Coastal Sage Scrub, Coastal Sage-Chaparral Scrub, etc.) that provide space for individual and population growth, normal behavior, breeding, reproduction, nesting, dispersal and foraging; and
2. Non-sage scrub habitats such as chaparral, grassland, and riparian areas, in proximity to sage scrub habitats have the potential to provide linkages to help with dispersal, foraging and nesting.

The Riversidean sage scrub supported by the project site, while fragmented and altered by historic and ongoing disturbances, provides suitable foraging habitat for California gnatcatcher. Given the aforementioned increased heterogeneity and decreased species evenness of the on-site Riversidean sage scrub, the project site itself is not expected to provide the dynamic and successional required by California gnatcatcher for nesting purposes. Since project activities will not impact plant communities that provide

³ Specific elements of physical and biological features that provide for a species' life-history process and are essential to the conservation of the species.

suitable nesting opportunities for California gnatcatcher, no long-term impacts to suitable nesting habitat are expected. A pre-construction nesting bird clearance survey focusing on California gnatcatcher should be conducted prior to ground disturbing activities to ensure no California gnatcatcher are nesting within 500 feet of the project site. With the completion of a pre-construction nesting bird clearance survey, impacts to California gnatcatcher will be less than significant and no mitigation will be required.

Special-Status Plant Communities

According to the CNDDDB, one (1) special-status plant communities has been reported in the Fontana USGS 7.5-minute quadrangles: Riversidean Alluvial Fan Sage Scrub. Based on the results of the field investigation, Riversidean Alluvial Fan Sage Scrub does not occur within or adjacent to the project site. Therefore, no special-status plant communities will be impacted from project implementation.

Critical Habitat

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

The project site is located within federally designated Critical Habitat for coastal California gnatcatcher (*Poliophtila californica californica*). Refer to Exhibit 6, *Critical Habitat*, in Attachment A. While coastal California gnatcatcher was not observed within site boundaries during the field investigation, the Jurupa Hills are known to support small populations of gnatcatcher in areas with denser Riversidean sage scrub. As mentioned above, the fragmented Riversidean sage scrub supported on-site provides limited foraging habitat for coastal California gnatcatcher but is unlikely to provide suitable nesting opportunities due to the limited plant species diversity and small stature of the dominant species. Since the project proponent is a private water district and no federal nexus is present, a Section 7 consultation with the USFWS would not be required for loss or adverse modification of Critical Habitat.

Conclusion

Based on the 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. The project site occurs within federally designated Critical Habitat for coastal California gnatcatcher. Due to the degraded nature of on-site habitats compared to habitat

surrounding the site, coastal California gnatcatcher is not expected to nest within site boundaries. Since the project does not bear a federal nexus, consultation with the USFWS under Section 7 of the Endangered Species Act will not be required for the project. No jurisdictional drainage and/or wetland features were observed on the project site during the field investigation. No further surveys are recommended. With completion of the recommendations provided below, no impacts to year-round, seasonal, or special-status avian residents or special-status species will occur from implementation of the proposed project.

Recommendations

Migratory Bird Treaty Act and Fish and Game Code

Nesting birds are protected pursuant to the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (Sections 3503, 3503.5, 3511, and 3513 prohibit the take, possession, or destruction of birds, their nests or eggs). In order to protect migratory bird species, a nesting bird clearance survey should be conducted prior to any ground disturbance or vegetation removal activities that may disrupt the birds during the nesting season. Project activities including, but not limited to, vegetation removal, ground disturbance, and construction and demolition shall occur outside of the bird breeding season (typically September 1 through January 31), if practicable.

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 nesting bird pre-construction survey shall be conducted on foot inside the project footprint, including a 300-foot buffer (500 feet for raptors and special-status species), and in inaccessible areas (e.g., private lands) from afar using binoculars to the extent practicable. The survey shall be conducted by a biologist familiar with the identification of avian species known to occur in southern California plant communities, including coastal California gnatcatcher.

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



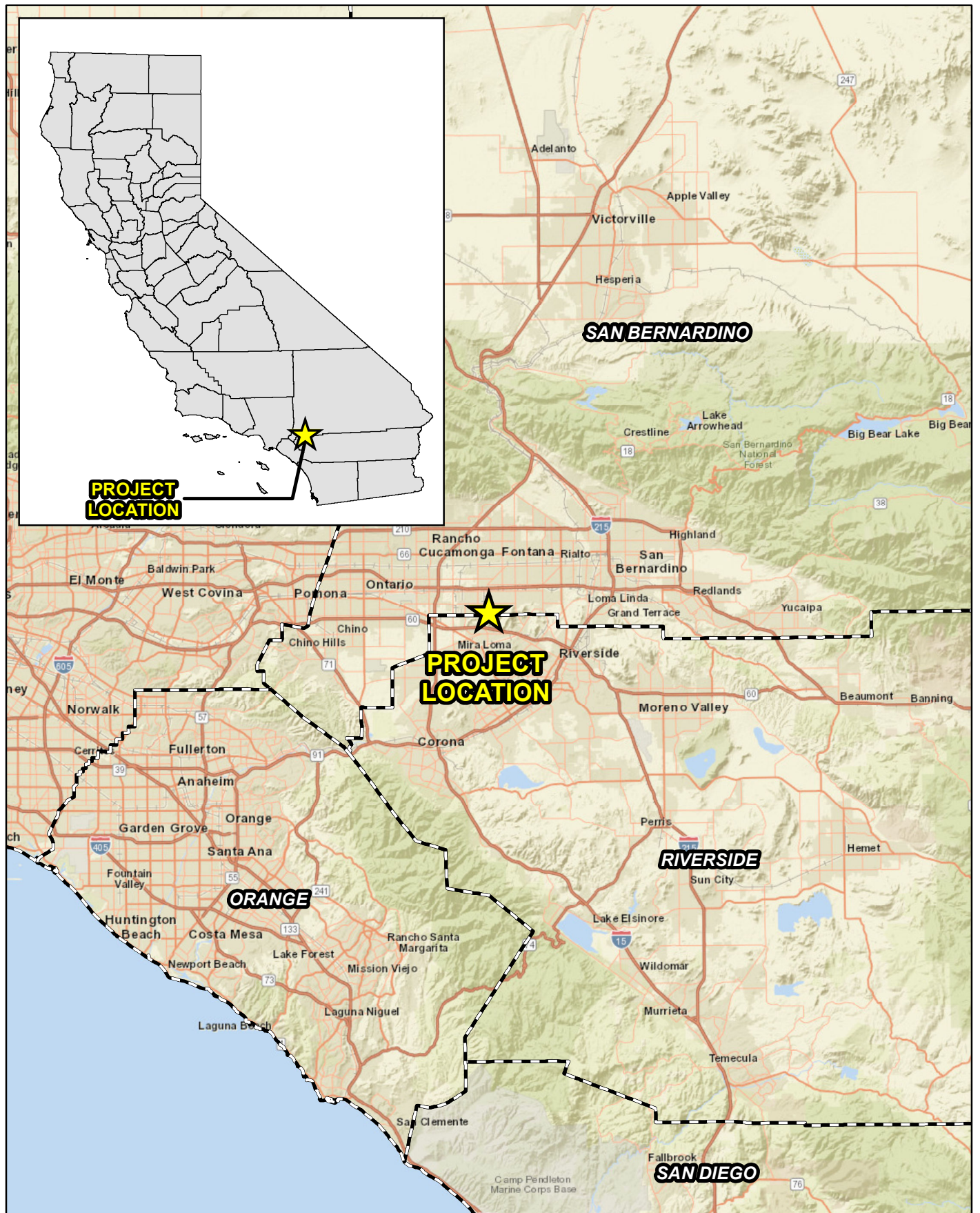
Travis J. McGill
Director

Attachments:

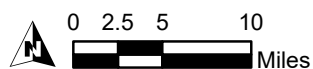
- A. *Project Exhibits*
- B. *Site Plan*
- C. *Site Photographs*
- D. *Potentially Occurring Special-Status Biological Resources*
- E. *Regulations*

Attachment A

Project Exhibits

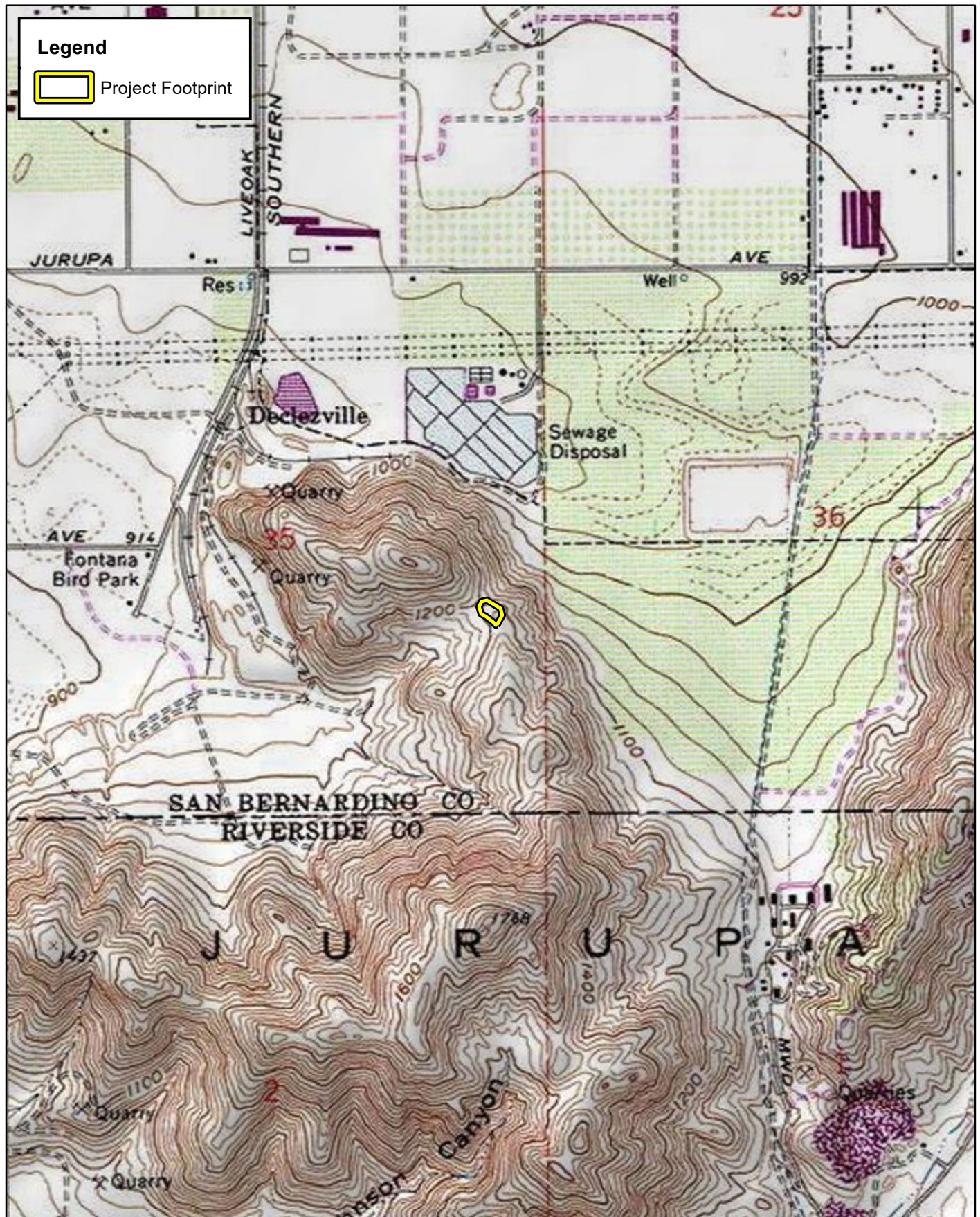


PLANT F20 WATER STORAGE PROJECT
BIOLOGICAL RESOURCES ASSESSMENT
Regional Vicinity



Source: World Street Map, San Bernardino County

Exhibit 1



PLANT F20 WATER STORAGE PROJECT
BIOLOGICAL RESOURCES ASSESSMENT



Source: USA Topographic Map, San Bernardino County

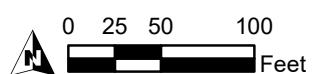
Site Vicinity

Exhibit 2



PLANT F20 WATER STORAGE PROJECT
BIOLOGICAL RESOURCES ASSESSMENT

Project Site

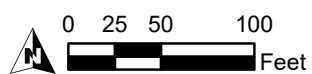


Source: ESRI Aerial Imagery, San Bernardino County

Exhibit 3



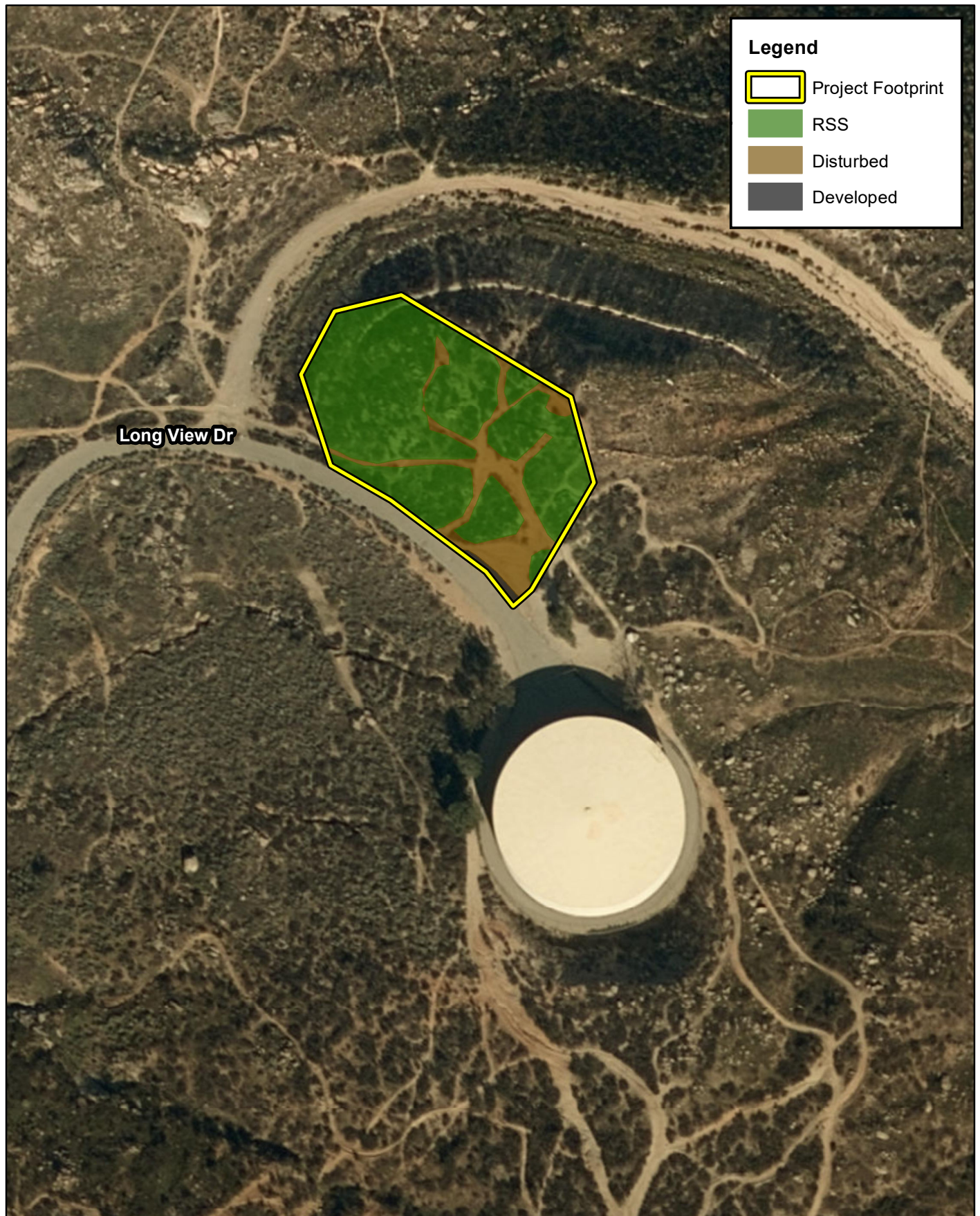
PLANT F20 WATER STORAGE PROJECT
BIOLOGICAL RESOURCES ASSESSMENT



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

Soils

Exhibit 4



PLANT F20 WATER STORAGE PROJECT
BIOLOGICAL RESOURCES ASSESSMENT
Vegetation



PLANT F20 WATER STORAGE PROJECT
BIOLOGICAL RESOURCES ASSESSMENT
Critical Habitat

Attachment B

Site Plan

1. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY UNDERGROUND SERVICE ALERT OF SOUTHERN CALIFORNIA (USA) TO MAKE ARRANGEMENTS TO HAVE ALL KNOWN UTILITY FACILITIES MARKED 48 HOURS PRIOR TO BEGINNING CONSTRUCTION ON THIS PROJECT.

THE USA TICKET NUMBER MUST BE FURNISHED TO AND APPROVED BY SAN GABRIEL VALLEY WATER COMPANY INSPECTOR BEFORE AUTHORIZATION WILL BE GIVEN TO START THE WORK.

- [illegible]

SAN GABRIEL VALLEY WATER COMPANY
PLANT F20
WATER STORAGE PROJECT

SHEET	DESCRIPTION
1	COVER, LOCATION AND VICINITY MAPS
2	PROPOSED SITE PLAN
3	PROPOSED SITE IMPROVEMENTS
4	PROPOSED SITE SECTIONS

PROPOSED MAIN	_____	CHARLINK FENCE	— X — X —
EXISTING MAIN	_____	PROP. W. FENCE &	— ○ — ○ —
ULTIMATE HW	_____	PLASTER	— — — —
EDGE OF PAVEMENT	_____	FLOWLINE	— — — —
	_____	BRICKWORKLINE (NO.)	— — — —

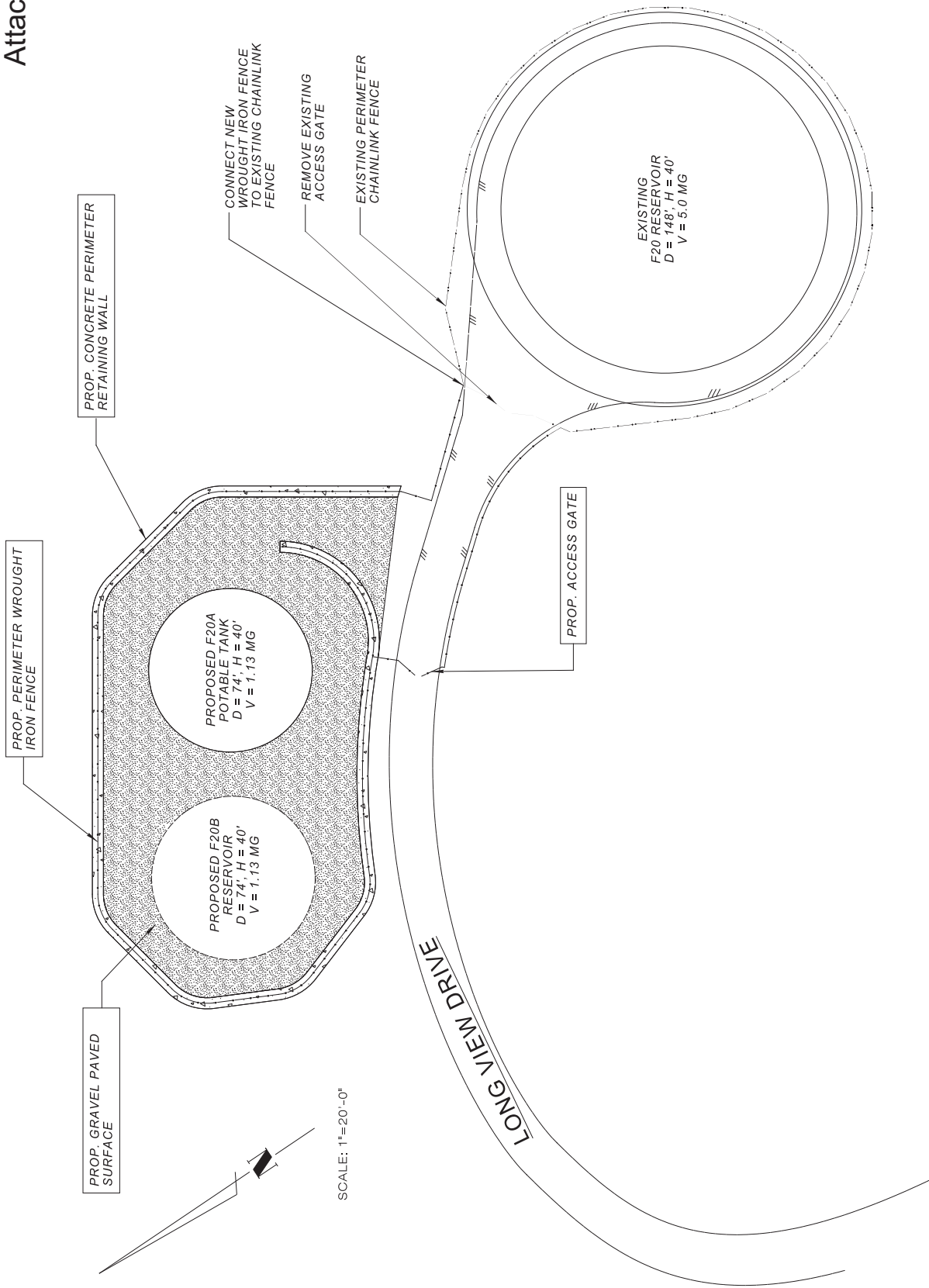
Underground Service Alert

Call: TOLL FREE
1-800-422-4133

TWO WORKING DAYS
BEFORE DIGGING

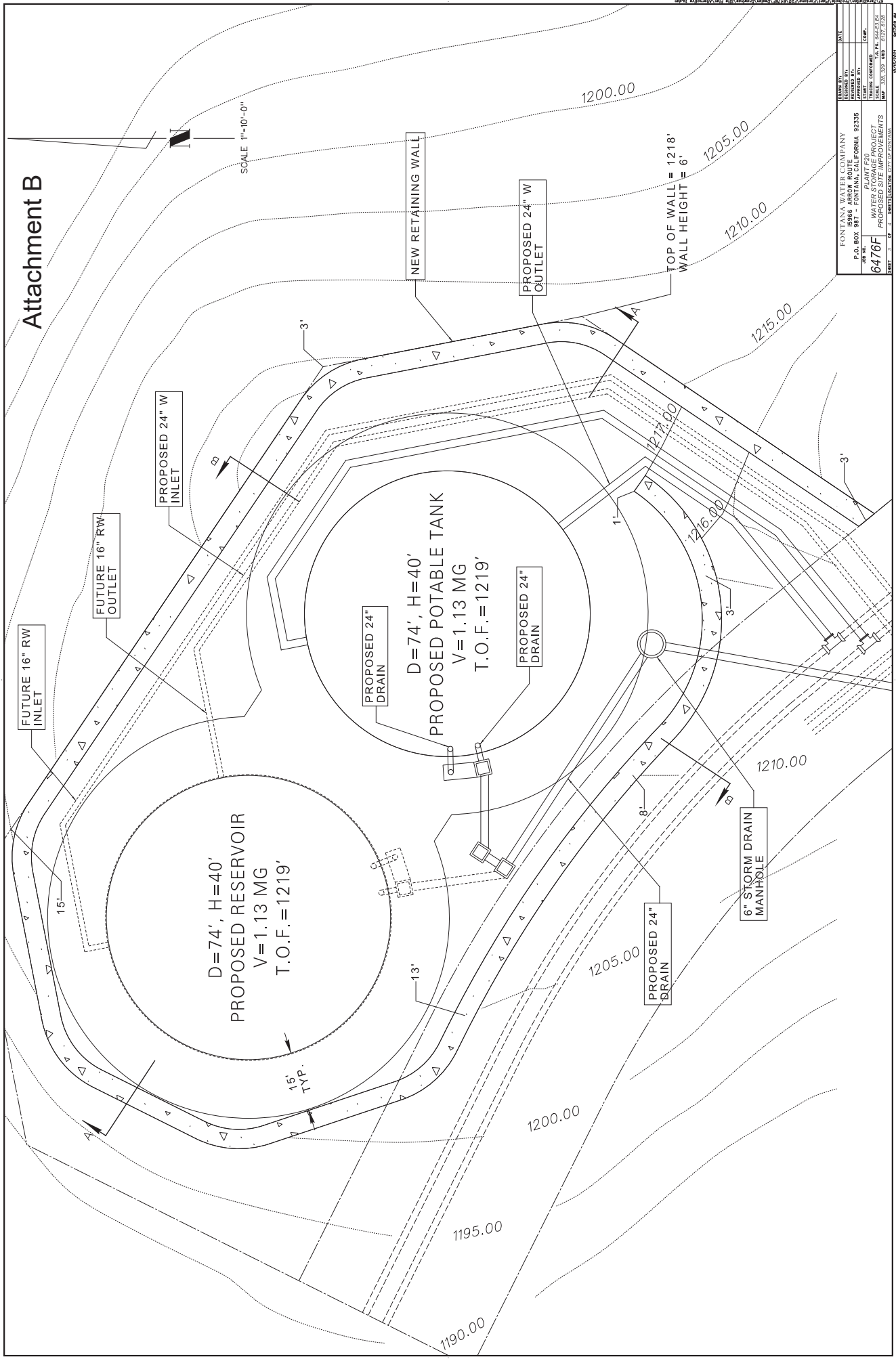
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Attachment B



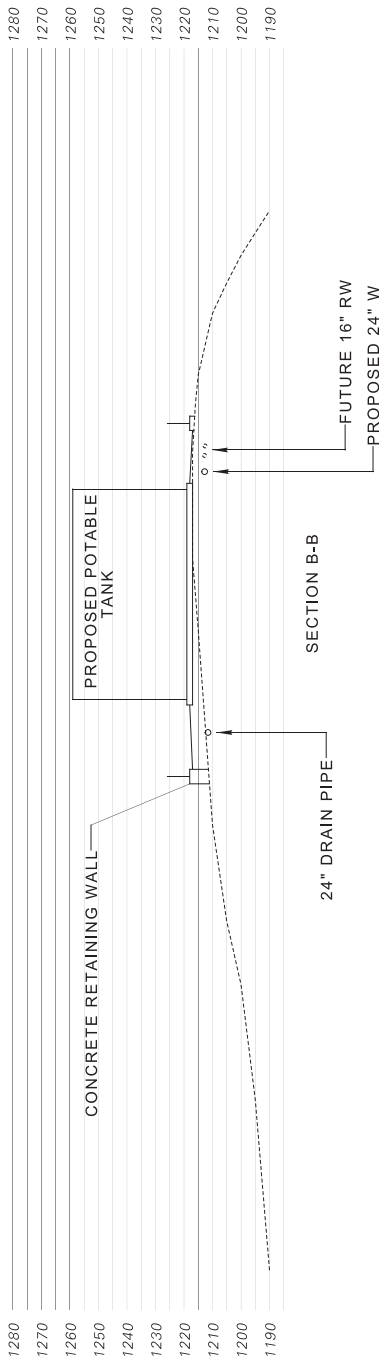
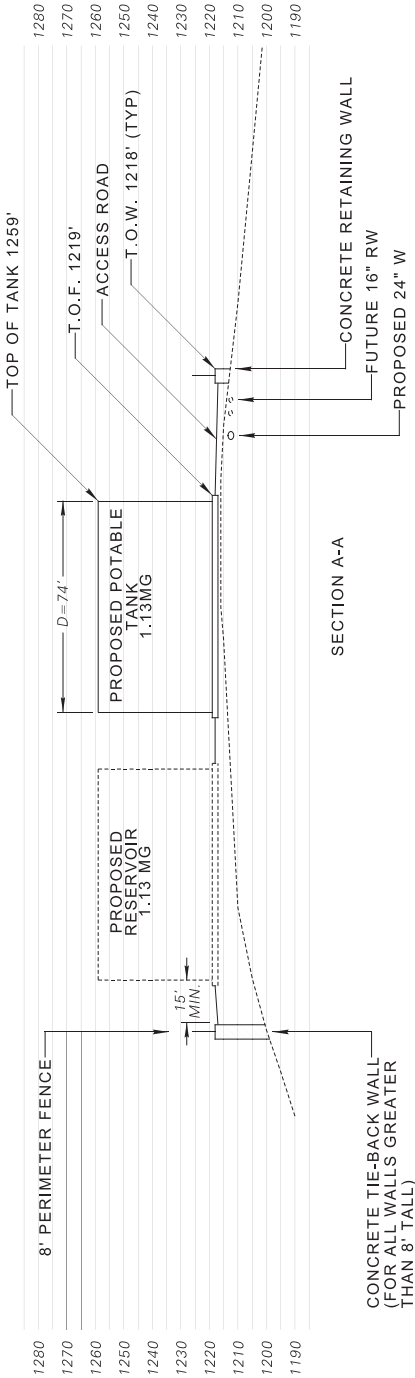
FONTANA WATER COMPANY		DATE	8/19/2021
P.O. BOX 587 - FONTANA, CALIFORNIA 92335		ISSUED BY	8/19/2021
6476F		ISSUED BY	8/19/2021
WATER STORAGE PROJECT		START	8/19/2021
SCALE: 1" = 20' - 0"		END	8/19/2021
SHEET 2 OF 3		PROJECT NO.	2019-0001
SHEET 2 OF 3		PROJECT NO.	2019-0001

Attachment B



DATE	10/12/2021
DESIGNED BY	PLANT F20
CHECKED BY	PLANT F20
APPROVED BY	PLANT F20
SCALE	AS SHOWN
PROJECT	WATER STORAGE PROJECT
SHEET	6476F
TITLE	PROPOSED WATER STORAGE PROJECT
LOCATION	FONTANA, CALIFORNIA 92335
CLIENT	FONTANA WATER COMPANY
PROJECT NO.	P.O. BOX 987
DATE	10/12/2021

Attachment B



FONTANA WATER COMPANY		DESIGNED BY	DATE
P.O. BOX 987 - FONTANA, CALIFORNIA 92335		ISSUED BY	
PLANT F20		START	
WATER STORAGE PROJECT		END	
SHEET 6476F		SCALE	AS SHOWN
CONTRACT		NO.	1277-RTD
PROJECT		NO.	1277-RTD
DRAWN BY		DATE	07/27/2011

Attachment C

Site Photographs



Photograph 1: Looking southeast towards the eastern half of the existing reservoir within the southern portion of the project site.



Photograph 2: Looking southwest towards the western half of the existing reservoir within the southern portion of the project site.



Photograph 3: Looking northeast towards the eastern half of the existing reservoir within the southern portion of the project site.



Photograph 4: Looking northwest towards the western half of the existing reservoir within the southern portion of the project site.



Photograph 5: Looking southeast across the northern portion of the project site.



Photograph 6: Looking south across the northern portion of the project site.



Photograph 7: Looking northwest across the northern portion of the project site.



Photograph 8: From the southeast corner of the project site looking north across both portions. The northern portion supports a mixture of disturbed land and fragmented natural habitats.

Attachment D

Potentially Occurring Special-Status Biological Resources

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

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
SPECIAL-STATUS WILDLIFE SPECIES				
<i>Accipiter cooperii</i> Cooper's hawk	Fed: CA: None WL	Common yearlong resident of California. Typically forages in broken woodland and habitat edges with dense stands of coast live oak (<i>Quercus agrifolia</i>), riparian deciduous, or other forest habitat near water. Usually nests in dense riparian areas, usually near streams.	Yes	Present Suitable foraging habitat is present within and surrounding the project site. Suitable nesting opportunities occur nearby in tall trees.
<i>Accipiter striatus</i> sharp-shinned hawk	Fed: CA: None WL	Found in pine, fir and aspen forests. They can be found hunting in forest interior and edges from sea level to near alpine areas. Can also be found in rural, suburban and agricultural areas, where they often hunt at bird feeders. Typically found in southern California in the winter months.	No	High Suitable foraging habitat is present within and surrounding the project site. This species does not nest in the region.
<i>Agelaius tricolor</i> tricolored blackbird	Fed: CA: None THR/SSC	Range is limited to the coastal areas of the Pacific coast of North America, from Northern California to upper Baja California. Can be found in a wide variety of habitat including annual grasslands, wet and dry vernal pools and other seasonal wetlands, agricultural fields, cattle feedlots, and dairies. Occasionally forage in riparian scrub habitats along marsh borders. Basic habitat requirements for breeding include open accessible water, protected nesting substrate (freshwater marsh dominated by cattails, willows, and bulrushes [<i>Schoenoplectus</i> sp.]), and either flooded or thorny or spiny vegetation and suitable foraging space providing adequate insect prey.	No	Presumed Absent There is no suitable riparian habitat present within or adjacent to the project site.
<i>Aimophila ruficeps canescens</i> southern California rufous-crowned sparrow	Fed: CA: None WL	Typically found between 3,000 and 6,000 feet in elevation. Breed in sparsely vegetated scrubland on hillsides and canyons. Prefers coastal sage scrub dominated by California sagebrush (<i>Artemisia californica</i>), but they can also be found breeding in coastal bluff scrub, low-growing serpentine chaparral, and along the edges of tall chaparral habitats.	No	Low There is limited foraging habitat present within the project site. Suitable foraging and nesting habitat are present in open space nearby.
<i>Anniella stebbinsi</i> southern California legless lizard	Fed: CA: None SSC	Occurs in sparsely vegetated habitat types including coastal sand dunes, chaparral, pine-oak woodland, desert scrub, open grassland, and riparian areas. Requires sandy or loose loamy substrates conducive to burrowing.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. Suitable sandy or loose loamy soils and sparsely vegetated habitats necessary for burrowing and cover are absent or highly limited.

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Aquila chrysaetos</i> golden eagle	Fed: CA: None FP/WL	Occupies nearly all terrestrial habitats of the western states except densely forested areas. Favors secluded cliffs with overhanging ledges and large trees for nesting and cover. Hilly or mountainous country where takeoff and soaring are supported by updrafts is generally preferred to flat habitats. Deeply cut canyons rising to open mountain slopes and crags are ideal habitat.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks secluded cliffs, large nesting trees, and the hilly or mountainous terrain with strong updrafts that are typically required for nesting, cover, and soaring.
<i>Ardea alba</i> great egret	Fed: CA: None None	Yearlong resident throughout California, except for the high mountains and deserts. Feeds and rests in fresh, and saline emergent wetlands, along the margins of estuaries, lakes, and slow-moving streams, on mudflats and salt ponds, and in irrigated croplands and pastures.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. Suitable wetland, open water, or irrigated habitats used for foraging and resting are absent.
<i>Ardea herodias</i> great blue heron	Fed: CA: None None	Fairly common all year throughout most of California, in shallow estuaries and fresh and saline emergent wetlands. Less common along riverine and rocky marine shores, in croplands, pastures, and in mountains about foothills.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. Shallow estuaries, emergent wetlands, and other aquatic foraging habitats are absent.
<i>Arizona elegans occidentalis</i> California glossy snake	Fed: CA: None SSC	Occurs in a wide variety of habitat types including open desert, grasslands, shrublands, chaparral, and woodlands. Prefers areas where the soil is loose and sandy which allows for burrowing.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks loose, sandy soils that allow for burrowing and does not provide suitable open habitat conditions favored by the species
<i>Artemisospiza belli belli</i> Bell's sparrow	Fed: CA: None WL	Generally prefers semi-open habitats with evenly spaced shrubs 1 – 2 meters in height. Dry chaparral and coastal sage scrub. Less common in tall, dense, mature chaparral.	No	Low Limited habitat is present within the project site. Suitable habitat is present in the surrounding area.
<i>Aspidoscelis hyperythra</i> orangethroat whiptail	Fed: CA: None WL	Semi-arid brushy areas typically with loose soil and rocks, including washes, streambeds, rocky hillsides, and coastal chaparral.	No	Low Limited habitat is present within the project site. Suitable habitat is present in the surrounding area.
<i>Aspidoscelis tigris stejnegeri</i> coastal whiptail	Fed: CA: None SSC	Found in a variety of ecosystems, primarily hot and dry open areas with sparse foliage - chaparral, woodland, and riparian areas.	No	Low Limited habitat is present within and surrounding to the project site.

<i>Scientific Name</i> Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Athene cunicularia</i> burrowing owl	Fed: None CA: CE	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 While disturbed portions of the project site support line-of-sight opportunities favored by burrowing owl, no suitable burrows (>4 inches) were observed in these areas. In addition, numerous perching opportunities for predators of burrowing owls are present on-site.
<i>Bombus crotchii</i> Crotch bumble bee	Fed: None CA: CE	Exclusive to coastal California east towards the Sierra-Cascade Crest; less common in western Nevada. Found in open grassland and scrub habitats and is adapted to semi-natural habitats surrounded by intensely modified landscapes. Food plants include <i>Asclepias</i> , <i>Chaenactis</i> , <i>Lupinus</i> , <i>Medicago</i> , <i>Phacelia</i> , and <i>Salvia</i> .	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks suitable open grassland or scrub habitat and does not support sufficient flowering plant resources needed to provide forage for the species. No suitable burrows were present.
<i>Bombus pensylvanicus</i> American bumble bee	Fed: None CA: None	Prefers habitats in open farmland, prairies, and agricultural fields. Nests below grass or underground. Forages for pollen and nectar in meadows, parks, open fields, gardens, and sometimes forests.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks open farmland, prairie, or meadow habitats and does not provide suitable nesting substrates or sufficient floral resources to support the species.
<i>Botaurus lentiginosus</i> American bittern	Fed: None CA: None	Often breed in shallow wetlands dominated by tall emergent vegetation, including cattail marshes, wet meadows, bogs, and shrubby marshes and occasionally hayfields.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks shallow wetlands with tall emergent vegetation, such as marshes or wet meadows, required for breeding and foraging.
<i>Buteo swainsoni</i> 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. The site lacks open grassland or cropland with scattered large trees or small groves and does not provide suitable adjacent foraging habitat such as pasture or agricultural fields.

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Calypte costae</i> Costa's hummingbird	Fed: CA: None None	Desert and semi-desert, arid brushy foothills and chaparral. A desert hummingbird that breeds in the Sonoran and Mojave Deserts. Departs desert heat moving into chaparral, scrub, and woodland habitats.	No	Presumed Absent The site consists of Riversidean sage scrub but is highly disturbed and adjacent to development, limiting habitat quality and reducing its suitability for regular use by the species.
<i>Catostomus santaanae</i> Santa Ana sucker	Fed: CA: THR SSC	Occur in the watersheds draining the San Gabriel and San Bernardino Mountains of southern California. Steams that Santa Ana Sucker inhabit are generally perennial streams with water ranging in depth from a few inches to several feet and with currents ranging from slight to swift.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks perennial stream habitat with flowing water and suitable depths and currents required to support the species.
<i>Chaetodipus fallax fallax</i> northwestern San Diego pocket mouse	Fed: CA: None None	Occurs in desert and coastal habitats in southern California, Mexico, and northern Baja California, from sea level to at least 1,400 meters above msl. Found in a variety of temperate habitats ranging from chaparral and grasslands to scrub forests and deserts. Requires low growing vegetation or rocky outcroppings, as well as sandy soils for burrowing.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks suitable sandy soils for burrowing and sufficient low-growing vegetation or rocky cover, and existing disturbance and nearby development reduce habitat suitability for the species.
<i>Chaetura vauxi</i> Vaux's swift	Fed: CA: None SSC	Prefers redwood and Douglas-fir habitats with nest-sites in large hollow trees and snags, especially tall, burned-out snags. Fairly common migrant throughout most of the state in April and May, and August and September.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks large hollow trees or snags suitable for nesting and does not provide appropriate forest habitat to support regular use by the species.
<i>Cicindela tranquebarica viridissima</i> greenest tiger beetle	Fed: CA: None None	Normally occurs in sand flats along streams but can occur in sandy areas with active irrigation. Known from a few small colonies within the Santa Ana River watershed.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks sandy streamside flats or actively irrigated sandy areas and is outside the limited known colony locations within the Santa Ana River watershed.

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Circus hudsonius</i> northern harrier	Fed: CA: None 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. The site lacks extensive open grasslands, meadows, or wetland habitats with tall, dense vegetation and does not provide the flat, open conditions typically used by the species for foraging and nesting.
<i>Coleonyx variegatus abbotti</i> San Diego banded gecko	Fed: CA: None SSC	Occurs in coastal and cismontane southern California from interior Ventura County south, although it is absent from the extreme outer coast. It is uncommon in coastal scrub and chaparral, most often occurring in granite or rocky outcrops in these habitats.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. Disturbed site conditions combined with the species' uncommon occurrence in coastal sage scrub and chaparral likely preclude its presence.
<i>Contopus cooperi</i> olive-sided flycatcher	Fed: CA: None SSC	Uncommon to common, summer resident in a wide variety of forest and woodland habitats below 9,000 ft throughout California exclusive of the deserts, the Central Valley, and other lowland valleys and basins. Preferred nesting habitats include mixed conifer, montane hardwood-conifer, Douglas-fir, redwood, red fir, and lodgepole pine.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks forested or woodland habitats with mature conifer or mixed hardwood-conifer vegetation and does not provide the structural conditions typically used by the species for breeding and foraging.
<i>Crotalus ruber</i> red-diamond rattlesnake	Fed: CA: None SSC	It can be found from the desert, through dense chaparral in the foothills (it avoids the mountains above around 4,000 feet), to warm inland mesas and valleys, all the way to the cool ocean shore. It is most commonly associated with heavy brush with large rocks or boulders. Dense chaparral in the foothills, cactus or boulder associated coastal sage scrub, oak and pine woodlands, and desert slope scrub associations are known to carry populations of the northern red-diamond rattlesnake; however, chamise and red shank associations may offer better structural habitat for refuges and food resources for this species than other habitats.	No	Moderate Limited habitat is present within the project site. Suitable habitat is present in the surrounding area. This species is reported as occurring nearby.
<i>Diadophis punctatus modestus</i> San Bernardino ringneck snake	Fed: CA: None None	Common in open, relatively rocky areas within valley-foothill, mixed chaparral, and annual grass habitats.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks intact valley-foothill, chaparral, or annual grassland habitats needed to support this species.

<i>Scientific Name</i> Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Dipodomys merriami parvus</i> San Bernardino kangaroo rat	Fed: CA: END END	Primarily found in Riversidean alluvial fan sage scrub (RAFSS) and sandy loam soils, alluvial fans and flood plains, and along washes with nearby sage scrub. May also occur at lower densities in Riversidean upland sage scrub, chaparral and grassland in uplands and tributaries in proximity to RAFSS habitat. Tends to avoid rocky substrates.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks sandy alluvial soils, washes, and Riversidean alluvial fan sage scrub habitat and is characterized by rocky substrates that are typically avoided by the species.
<i>Dipodomys simulans</i> Dulzura kangaroo rat	Fed: CA: None None	Relatively common in chaparral, coastal sage scrub, Riversidean alluvial fan sage scrub, and peninsular juniper woodland habitats with sandy and gravelly soils. Sometimes found in forests of pine, oak and fir.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks sandy or gravelly soils and does not provide intact chaparral, coastal sage scrub, or alluvial fan habitats typically used by the species.
<i>Egretta thula</i> snowy egret	Fed: CA: None None	Widespread in California along shores of coastal estuaries, fresh and saline emergent wetlands, ponds, slow-moving rivers, irrigation ditches, and wet fields. In southern California, common yearlong in the Imperial Valley and along the Colorado River.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks aquatic and wetland features such as estuaries, ponds, slow-moving waters, or wet fields that are typically used by the species for foraging.
<i>Elanus leucurus</i> white-tailed kite	Fed: CA: None FP	Widespread in California along shores of coastal estuaries, fresh and saline emergent wetlands, ponds, slow-moving rivers, irrigation ditches, and wet fields. In southern California, common yearlong in the Imperial Valley and along the Colorado River.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks open foraging areas such as grasslands or agricultural fields and does not contain wetland or open landscapes typically used by the species for hunting.
<i>Empidonax traillii</i> willow flycatcher	Fed: CA: None END	A rare to locally uncommon, summer resident in wet meadow and montane riparian habitats (2,000 to 8,000 ft) in the Sierra Nevada and Cascade Range. Most often occurs in broad, open river valleys or large mountain meadows with lush growth of shrubby willows.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks wet meadow or montane riparian habitat with dense shrubby willows and does not provide the broad, moist valley conditions typically used by the species for breeding.

<i>Scientific Name</i> Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Eremophila alpestris actia</i> California horned lark	Fed: None CA: WL	Occurs in meadows, grasslands, open fields, prairie, and alkali flats. This subspecies is typically found in coastal regions.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks open, flat meadows or grassland habitats and does not provide the sparsely vegetated conditions typically used by the species for foraging and nesting.
<i>Eugnosta busckana</i> Busck's gallmoth	Fed: None CA: None	Found primarily in coastal sand dune habitats across California.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. No coastal sand dunes are present within the project site.
<i>Eumops perotis californicus</i> western mastiff bat	Fed: None CA: SSC	Primarily a cliff-dwelling species, roost generally under exfoliating rock slabs. Roosts are generally high above the ground, usually allowing a clear vertical drop of at least 3 meters below the entrance for flight. In California, it is most frequently encountered in broad open areas including dry desert washes, flood plains, chaparral, oak woodland, open ponderosa pine forest, grassland, and agricultural areas.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks suitable high cliff faces with exfoliating rock slabs and sufficient vertical drop needed for roosting and does not provide the broad, open landscape conditions typically used by the species.
<i>Falco columbarius</i> merlin	Fed: None CA: WL	Nest in forested openings, edges, and along rivers across northern North America. Found in open forests, grasslands, and especially coastal areas with flocks of small songbirds or shorebirds.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks open forest edges and coastal habitats and does not provide the conditions typically used by the species.
<i>Gila orcuttii</i> arroyo chub	Fed: None CA: SSC	Warm streams of the Los Angeles Plain, which are typically muddy torrents during the winter, and clear quiet brooks in the summer, possibly drying up in places. They are found both in slow-moving and fast-moving sections, but generally deeper than 40 cm.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks perennial or seasonal stream channels with sufficient depth, flow, and aquatic conditions required to support the species.

<i>Scientific Name</i> Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Icteria virens</i> yellow-breasted chat	Fed: CA: None SSC	Primarily found in tall, dense, relatively wide riparian woodlands and thickets of willows, vine tangles, and dense brush with well-developed understories. Nesting areas are associated with streams, swampy ground, and the borders of small ponds. Breeding habitat must be dense to provide shade and concealment. It winters south the Central America.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks tall, dense riparian woodland or willow thick habitat with a well-developed understory and associated wet features needed to support breeding by the species.
<i>Lanius ludovicianus</i> loggerhead shrike	Fed: CA: None SSC	Common yearlong resident of California. Prefers open habitats with bare ground, scattered shrubs, and areas with low or sparse herbaceous cover. Requires suitable perches including trees, posts, fences, utility lines, or other perches.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. Although the species can occur in open habitats, site disturbance and adjacency to development has reduced habitat quality and availability of suitable foraging areas, shrub structure, and perches needed to support the species.
<i>Larus californicus</i> California gull	Fed: CA: None WL	Require isolated islands in rivers, reservoirs and natural lakes for nesting, where predations pressures from terrestrial mammals are diminished. Uses both fresh and saline aquatic habitats at variable elevations and degrees of aridity for nesting and for opportunistic foraging.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks open water features and isolated island nesting habitat required by the species.
<i>Lasius xanthinus</i> western yellow bat	Fed: CA: None SSC	Occurs in valley/foothill riparian, desert riparian, desert wash, and palm oasis habitats. Roosts under palm trees and feeds in, and near, palm oases and riparian habitats.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks palm oases and riparian habitat with suitable roosting and foraging conditions.
<i>Lepus californicus bennettii</i> San Diego black-tailed jackrabbit	Fed: CA: None None	Occupies many diverse habitats, but primarily is found in arid regions supporting short-grass habitats, agricultural fields, or sparse coastal scrub.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks extensive short-grass, agricultural, or sparse coastal scrub habitat, and disturbed conditions reduce habitat quality for supporting the species.
<i>Nannopterum auritum</i> double-crested cormorant	Fed: CA: None WL	Common yearlong resident in southern California. Occurs widely in freshwater and marine habitats along coastlines. Require open water where they can forage for schooling fish.	No	Presumed Absent There is no suitable riparian habitat present within or adjacent to the project site.

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Neotarra alba</i> white cuckoo bee	Fed: None CA: None	Found in dry, sandy areas (particularly deserts) in the American southwest near the host plants for <i>Perdita</i> bee species, of which it is a nest parasite.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks dry, sandy substrate and associated host plants.
<i>Nycticorax nycticorax</i> black-crowned night heron	Fed: None CA: None	Found in a variety of wetland habitats including marshes, swamps, ponds, lakes and coastal areas. Known to nest in colonies and build stick nests, often over water	No	Presumed Absent There is no suitable riparian habitat present within or adjacent to the project site.
<i>Nyctinomops femorosaccus</i> pocketed free-tailed bat	Fed: None CA: SSC	Often found in pinyon-juniper woodlands, desert scrub, desert succulent shrub, desert riparian, desert wash, alkali desert scrub, Joshua tree, and palm oasis.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks desert scrub, pinyon-juniper, palm oasis, or desert wash habitats and does not provide suitable roosting or foraging conditions for the species.
<i>Oncorhynchus mykiss irideus</i> pop. 10 steelhead – southern California DPS	Fed: END CA: CE	Found in permanent coastal streams from San Diego to the Smith River.	No	Presumed Absent There is no suitable riparian habitat present within or adjacent to the project site.
<i>Pandion haliaetus</i> osprey	Fed: None CA: WL	Associated strictly with large, fish-bearing waters, primarily in ponderosa pine through mixed conifer habitats. Uses large trees, snags, and dead-topped trees in open forest habitats for cover and nesting. Requires open, clear waters for foraging and uses rivers, lakes, reservoirs, bays, estuaries, and surf zones.	No	Presumed Absent There is no suitable riparian habitat present within or adjacent to the project site.
<i>Phrynosoma blainvillii</i> coast horned lizard	Fed: None CA: SSC	Found in a wide variety of vegetation types including coastal sage scrub, annual grassland, chaparral, oak woodland, riparian woodland and coniferous forest. The key elements of such habitats are loose, fine soils with a high sand fraction; an abundance of native ants or other insects; and open areas with limited overstory for basking and low, but relatively dense shrubs for refuge.	No	Low Limited habitat is present within the project site. Suitable habitat is present in the surrounding area.
<i>Poliopitila californica californica</i> coastal California gnatcatcher	Fed: THR CA: SSC	Common yearlong resident of southern California in sage scrub habitats that are dominated by California sagebrush (<i>Artemisia californica</i>). Prefers scrub habitat with more low-growing vegetation. Species generally occurs below 750 feet above mean sea level (msl) along the coast and below 1,500 feet above msl within inland regions.	No	Moderate Limited habitat is present within the project site. Suitable habitat is present in the surrounding area.
<i>Pyrocephalus rubinus</i> vermillion flycatcher	Fed: None CA: SSC	Occupies desert riparian habitat, particularly cottonwoods, willows, mesquite, and other large desert riparian trees, in habitat adjacent to irrigated fields, irrigation ditches, pastures, and other open, mesic areas where it can forage.	No	Presumed Absent There is no suitable riparian habitat present within or adjacent to the project site.

<i>Scientific Name</i> Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Rhaphiomidas terminatus abdominalis</i> Delhi Sands flower-loving fly	Fed: END CA: None	DSF habitat is limited to areas that include Delhi fine sand, an aeolian (wind-deposited) soil type. The highest density of DSF have been found in habitat that includes a variety of plants including California buckwheat, California croton, deerweed, and telegraph weed.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks Delhi fine sand soils and associated aeolian habitat required to support the species.
<i>Setophaga petechia</i> yellow warbler	Fed: None CA: SSC	Nests over all of California except the Central Valley, the Mojave Desert region, and high altitudes and the eastern side of the Sierra Nevada. Winters along the Colorado River and in parts of Imperial and Riverside Counties. Nests in riparian areas dominated by willows, cottonwoods, sycamores, or alders or in mature chaparral. May also use oaks, conifers, and urban areas near stream courses.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks riparian woodland with willows or other mature riparian trees and does not provide the moist, stream-associated nesting habitat typically used by the species.
<i>Spea hammondi</i> western spadefoot	Fed: PT CA: SSC	Prefers open areas with sandy or gravelly soils, in a variety of habitats including mixed woodlands, grasslands, coastal sage scrub, chaparral, sandy washed, lowlands, river floodplains, alluvial fans, playas, alkali flats, foothills, and mountains. Rainpools which do not contain bullfrogs, fish, or crayfish are necessary for breeding.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks sandy or gravelly soils and seasonal rainpools required for breeding, and disturbed conditions further reduce habitat suitability for supporting the species.
<i>Spinus lawrencei</i> Lawrence's goldfinch	Fed: None CA: None	Open woodlands, chaparral, and weedy fields. Closely associated with oaks. Nests in open oak or other arid woodland and chaparral near water.	No	Presumed Absent There is no suitable riparian habitat present within or adjacent to the project site.
<i>Taxidea taxus</i> American badger	Fed: None CA: SSC	Primarily occupy grasslands, parklands, farms, tallgrass and shortgrass prairies, meadows, shrub-steppe communities and other treeless areas with sandy loam soils where it can dig more easily for its prey. Occasionally found in open chaparral (with less than 50% plant cover) and riparian zones.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site.
<i>Vireo bellii pusillus</i> least Bell's vireo	Fed: END CA: END	Primarily occupy Riverine riparian habitat that typically feature dense cover within 1 -2 meters of the ground and a dense, stratified canopy. Typically it is associated with southern willow scrub, cottonwood-willow forest, mule fat scrub, sycamore alluvial woodlands, coast live oak riparian forest, arroyo willow riparian forest, or mesquite in desert localities. It uses habitat which is limited to the immediate vicinity of water courses, 2,000 feet elevation in the interior.	No	Presumed Absent There is no suitable riparian habitat present within or adjacent to the project site.
SPECIAL-STATUS PLANT SPECIES				

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Arenaria paludicola</i> marsh sandwort	Fed: END CA: END CNPS: 1B.1	Grows mainly in wetlands and freshwater marshes in arid climates. The plant can grow in saturated acidic bog soils and soils that are sandy with a high organic content. Found at elevations ranging from 33 to 558 feet. Blooming period is from May to August.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The project site occurs outside of the known elevation range for this species.
<i>Calochortus plummerae</i> Plummer's mariposa-lily	Fed: None CA: None CNPS: 4.2	Prefers openings in chaparral, foothill woodland, coastal sage scrub, valley and foothill grasslands, cismontane woodland, lower montane coniferous forest and yellow pine forest. Often found on dry, rocky slopes and soils and brushy areas. Can be very common after a fire. From 328 to 5,577 feet in elevation. Blooming period is from May to July.	No	Low Limited habitat is present within the project site. Suitable habitat is present in the surrounding area. This species is reported as occurring nearby.
<i>Chloropyron maritimum</i> ssp. <i>maritimum</i> salt marsh bird's-beak	Fed: END CA: END CNPS: 1B.2	Upper terraces and higher edges of coastal salt marshes where tidal inundation is periodic. Found at elevations ranging from 0 to 99 feet. Blooming period is from May to October.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The project site occurs outside of the known elevation range for this species.
<i>Chorizanthe parryi</i> var. <i>parryi</i> Parry's spineflower	Fed: None CA: None CNPS: 1B.1	Occurs on sandy and/or rocky soils in chaparral, coastal sage scrub, and sandy openings within alluvial washes and margins. Found at elevations ranging from 951 to 3,773 feet. Blooming period is from April to June.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks suitable sandy or alluvial wash openings with intact chaparral or coastal sage scrub conditions needed to support the species.
<i>Deinandra paniculata</i> paniculate tarplant	Fed: None CA: None CNPS: 4.2	Typically found in vernal mesic, sometimes sandy soils in coastal scrub, valley and foothill grasslands, and vernal pools. Found at elevations ranging from 82 to 3,084 feet. Blooming period is from April to November.	No	Low Limited habitat is present within the project site. Suitable habitat is present in the surrounding area. This species is reported as occurring nearby.
<i>Eriastrum densifolium</i> ssp. <i>sanctorum</i> Santa Ana River woollystar	Fed: END CA: END CNPS: 1B.1	Grows in sandy or gravelly soils within chaparral and coastal scrub habitat. Found at elevations ranging from 299 to 2,001 feet. Blooming period is from April to September.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks suitable soil conditions needed to support the species.
<i>Horkelia cuneata</i> var. <i>puberula</i> mesa horkelia	Fed: None CA: None CNPS: 1B.1	Occurs on sandy or gravelly soils in chaparral, woodlands, and coastal scrub plant communities. Found at elevations ranging from 230 to 2,657 feet. Blooming period is from February to September.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks suitable soil conditions needed to support the species.
<i>Juglans californica</i> southern California black walnut	Fed: None CA: None CNPS: 4.2	Found in chaparral, cismontane woodland, coastal scrub, and riparian woodland habitats. Found at elevations ranging from 164 to 2,953 feet. Blooming period is from March to August.	No	Low Suitable habitat is present within and surrounding the project site. This conspicuous species was not observed during the field investigation.

Scientific Name Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Lepidium virginicum</i> var. <i>robinsonii</i> Robinson's pepper-grass	Fed: None CA: None CNPS: 4.3	Dry soils on chaparral and coastal sage scrub. Found at elevations ranging from 3 to 2,904 feet. Blooming period is from January to July.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. Disturbed site conditions reduce habitat quality and likely preclude the establishment of suitable chaparral or coastal sage scrub habitat needed to support the species.
<i>Lycium parishii</i> Parish's desert-thorn	Fed: None CA: None CNPS: 2B.3	Habitats include coastal scrub and Sonoran desert scrub. Found at elevations ranging from 443 to 3,281 feet. Blooming period is from March to April.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks intact coastal scrub or Sonoran desert scrub habitat with appropriate soil and vegetation conditions needed to support the species.
<i>Malacothamnus parishii</i> Parish's bush-mallow	Fed: None CA: None CNPS: 1A	Grows in chaparral and coastal scrub habitats. Found at elevations ranging from 1,001 to 1,493 feet. Blooming period is from June to July.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks intact chaparral or coastal scrub habitat with suitable soil and vegetation conditions needed to support the species.
<i>Monardella pringlei</i> Pringle's monardella	Fed: None CA: None CNPS: 1A	Prefers sandy soils within coastal scrub habitat. Found at elevations ranging from 984 to 1,312 feet. Blooming period is from May to June.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks intact coastal scrub habitat with suitable soil and vegetation conditions needed to support the species.
<i>Senecio aphanactis</i> chaparral ragwort	Fed: None CA: None CNPS: 2B.2	Found in sometimes alkaline soils in chaparral, cismontane woodland, and coastal scrub. Found at elevations ranging from 425 to 2,165 feet. Blooming period is from January to April.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks intact chaparral, cismontane woodland, or coastal scrub habitat with suitable soil conditions needed to support the species.

<i>Scientific Name</i> Common Name	Status	Habitat	Observed On-site	Potential to Occur
<i>Sphenopholis obtusata</i> prairie wedge grass	Fed: CA: CNPS: None None 2B,2	Prefers cismontane woodland, meadows and seeps. Found at elevations ranging from 984 to 6,562 feet. Blooming period is from April to July.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks cismontane woodland, meadow, or seep habitats with persistent moisture conditions needed to support the species.
<i>Symphotrichum defoliatum</i> San Bernardino aster	Fed: CA: CNPS: None None 1B,2	Grows in cismontane woodland, coastal scrub, lower montane coniferous forest, meadows and seeps, marshes and swamps, valley and foothill grassland (vernally mesic) habitats. Can be found growing near ditches, streams, and springs within these habitats. Found at elevations ranging from 7 to 6,693 feet. Blooming period is from July to November.	No	Presumed Absent There is no suitable habitat present within or adjacent to the project site. The site lacks mesic habitats such as meadows, seeps, marshes, or stream- and spring-associated environments needed to support the species.
SPECIAL-STATUS PLANT COMMUNITIES				
Riversidian Alluvial Fan Sage Scrub	CDFW Sensitive Habitat	Occur within broad washes of sandy alluvial drainages that carry rainfall runoff sporadically in winter and spring, but remain relatively dry through the remainder of the year. Is restricted to drainages and floodplains with very sandy substrates that have a dearth of decomposed plant material. These areas do not develop into riparian woodland or scrub due to the limited water resources and scouring by occasional floods.	No	Absent

U.S. Fish and Wildlife Service (USFWS) -**Federal**

END - Federally Endangered
 THR - Federally Threatened
 PT - Proposed Threatened

California Department of Fish and**Wildlife (CDFW) - California**

END - State Endangered
 THR - State Threatened
 CE - State Candidate Endangered
 SSC - Species of Special Concern
 WL - Watch List
 FP - Fully Protected

California Native Plant Society (CNPS)**California Rare Plant Rank**

1A Plants Presumed Extirpated in California
 and Either Rare or Extinct Elsewhere
 1B Plants Rare, Threatened, or Endangered
 in California and Elsewhere
 2B Plants Rare, Threatened, or Endangered
 in California, but More Common
 Elsewhere
 4 Plants of Limited Distribution – A
 Watch List

Threat Ranks

0.1 - Seriously threatened in California
 0.2 - Moderately threatened in California
 0.3 - Not very threatened in California

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, nolinias, 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”; Conforming (September 8, 2023), “waters of the United States” are defined as follows:

(a) *Waters of the United States* means:

(1) Waters which are:

- (i) Currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- (ii) The territorial seas; or
- (iii) Interstate waters;

(2) Impoundments of waters otherwise defined as waters of the United States under this definition, other than impoundments of waters identified under [paragraph \(a\)\(5\)](#) of this section;

(3) Tributaries of waters identified in paragraph (a)(1) or (2) of this section that are relatively permanent, standing or continuously flowing bodies of water;

(4) Wetlands adjacent to the following waters:

- (i) Waters identified in [paragraph \(a\)\(1\)](#) of this section; or
- (ii) Relatively permanent, standing or continuously flowing bodies of water identified in paragraph (a)(2) or (a)(3) of this section and with a continuous surface connection to those waters;

(5) Intrastate lakes and ponds not identified in paragraphs (a)(1) through (4) of this section that are relatively permanent, standing or continuously flowing bodies of water with a continuous surface connection to the waters identified in paragraph (a)(1) or (a)(3) of this section

(b) The following are not “waters of the United States” even where they otherwise meet the terms of [paragraphs \(a\)\(2\)](#) through [\(5\)](#) of this section:

(1) Waste treatment systems, including treatment ponds or lagoons, designed to meet the requirements of the Clean Water Act;

(2) Prior converted cropland designated by the Secretary of Agriculture. The exclusion would cease upon a change of use, which means that the area is no longer available for the production of agricultural commodities. Notwithstanding the determination of an area's status as prior converted

cropland by any other Federal agency, for the purposes of the Clean Water Act, the final authority regarding Clean Water Act jurisdiction remains with EPA;

(3) Ditches (including roadside ditches) excavated wholly in and draining only dry land and that do not carry a relatively permanent flow of water;

(4) Artificially irrigated areas that would revert to dry land if the irrigation ceased;

(5) Artificial lakes or ponds created by excavating or diking dry land to collect and retain water and which are used exclusively for such purposes as stock watering, irrigation, settling basins, or rice growing;

(6) Artificial reflecting or swimming pools or other small ornamental bodies of water created by excavating or diking dry land to retain water for primarily aesthetic reasons;

(7) Waterfilled depressions created in dry land incidental to construction activity and pits excavated in dry land for the purpose of obtaining fill, sand, or gravel unless and until the construction or excavation operation is abandoned and the resulting body of water meets the definition of waters of the United States; and

(8) Swales and erosional features (e.g., gullies, small washes) characterized by low volume, infrequent, or short duration flow.

(c) In this section, the following definitions apply:

(1) *Wetlands* means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

(2) *Adjacent* means having a continuous surface connection

(3) *High tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

(4) *Ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(5) *Tidal waters* means those waters that rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by hydrologic, wind, or other effects.

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.