



**JURISDICTIONAL DELINEATION
FOR
ASSESSOR PARCEL NUMBERS
951-020-001, 951-020-002, 951-060-001, 951-060-002
COUNTY OF RIVERSIDE, CALIFORNIA**

Prepared for:

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MARCH 2021

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1.0 Introduction

Hernandez Environmental Services (HES) was contracted to prepare a Jurisdictional Delineation (JD) for Assessor's Parcel Numbers (APNs) 951-020-001, 951-020-002, 951-060-001, 951-060-002. The project site consists of approximately 18.14 acres located south of Rancho California Road, in unincorporated Riverside County, California.

1.1 Purpose

The purpose of this JD is to:

- Determine if any state or federal jurisdictional waters are present within the project site boundaries;
- Quantify any impacts to jurisdictional waters due to the proposed project, if possible;
- Determine if the project will require state or federal permits for impacts to jurisdictional waters; and,
- Recommend mitigation measures to offset impacts to state or federal jurisdictional waters.

1.2 Site Location

The project site is located southwest of the intersection of Rancho California Road and La Serena Way within unincorporated Riverside County, California. The project site consists of Riverside County APNs 951-020-001, 002, 951-060-001, and 002. Specifically, the project site is located within the *Bachelor Mountain* United States Geological Survey (USGS) 7.5' topographic quadrangle. The center point latitude and longitude for the project site are 33°31'17.2954" North and 117°05'07.4808" West (Figures 1 and 2).

1.3 Project Description

The proposed project includes the construction of a Class V winery, which will include a vineyard, wine production and storage facility, a special occasions and small restaurant and guest inn. The project also includes associated parking and infrastructure (Figure 3, *Site Plans*).

2.0 Regulatory Background

2.1 California Department of Fish and Wildlife Lake and Streambed Alteration Agreement

The California Department of Fish and Wildlife (CDFW) is responsible for conserving, protecting, and managing California's fish, wildlife, and native plant resources. To meet this responsibility, the California Fish and Game Code (F&GC), requires that the CDFW be consulted if a proposed development project has the potential to detrimentally effect a stream and thereby wildlife resources that depend on a stream for continued viability (F&GC Division 2, Chapter 5, section 1600-1616). A Section 1602 Lake or Streambed Alteration Agreement is required, should the CDFW determine that the proposed project may do one or more of the following:

- Substantially divert or obstruct the natural flow of any river, stream or lake;
- Substantially change or use any material from the bed, channel or bank of any river, stream, or lake; or
- Deposit debris, waste or other materials that could pass into any river, stream or lake.

For the purposes of clarification, a stream is defined by CDFW as “a body of water that flows perennially or episodically and that is defined by the area in which water currently flows, or has flowed, over a given course during the historic hydrologic regime, and where the width of its course can reasonably be identified by physical or biological indicators.” The historic hydrologic regime is defined as circa 1800 to the present (CDFW 2010).

2.2 United States Army Corps of Engineers Clean Water Act 404 Permit

The Clean Water Act (CWA) establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. Under Section 404 of the CWA, the United States Army Corps of Engineers (USACE) regulates the discharge of dredged or fill material into WUS, including wetlands. Section 404 requires a permit from the USACE or authorized state for the discharge of dredged or fill material into WUS, including wetlands.

On April 21, 2020, U.S. Environmental Protection Agency (EPA) and the USACE published the Navigable Waters Protection Rule in the Federal Register to finalize a revised definition of WUS under the CWA. The rule became effective on June 22, 2020. In this final rule, the agencies interpret the term WUS to encompass the following:

- The territorial seas and traditional navigable waters;
- perennial and intermittent tributaries that contribute surface water flow to such waters;
- certain lakes, ponds, and impoundments of jurisdictional waters; and,
- wetlands adjacent to other jurisdictional waters.

The final rule specifically clarifies that “waters of the United States” do not include the following:

- Groundwater, including groundwater drained through subsurface drainage systems;
- ephemeral features that flow only in direct response to precipitation, including ephemeral streams, swales, gullies, rills, and pools;
- diffuse stormwater runoff and directional sheet flow over upland;
- ditches that are not traditional navigable waters, tributaries, or that are not constructed in adjacent wetlands, subject to certain limitations;

- prior converted cropland;
- artificially irrigated areas that would revert to upland if artificial irrigation ceases;
- artificial lakes and ponds that are not jurisdictional impoundments and that are constructed or excavated in upland or non-jurisdictional waters;
- water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in non-jurisdictional waters for the purpose of obtaining fill, sand, or gravel;
- stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater runoff;
- groundwater recharge, water reuse, and wastewater recycling structures constructed or excavated in upland or in non-jurisdictional waters; and
- waste treatment systems.

For purposes of Section 404 of the CWA, the lateral limits of jurisdiction over non-tidal WUS extend to the ordinary high water mark (OHWM), in the absence of adjacent wetlands. Under 33 CFR 328.3(e), the USACE defines the term OHWM as “that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a 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.”

According to the EPA and USACE, “wetlands are 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.” Water saturation (hydrology) largely determines how the soil develops and the types of plant and animal communities living in and on the soil. Wetlands may support both aquatic and terrestrial species. The prolonged presence of water creates conditions that favor the growth of specially adapted plants (hydrophytes) and promote the development of characteristic wetland (hydric) soils. The EPA and the Corps use the 1987 Corps of Engineers Wetlands Delineation Manual and Regional Supplements to define wetlands for the CWA Section 404 permit program. To qualify for wetlands status, vegetation, soils, and hydrologic parameters must all be met.

For the purposes of this section, the term “fill” is defined as material placed in waters of the United States where the material has the effect of:

- Replacing any portion of a WUS with dry land; or
- Changing the bottom elevation of any portion of a WUS.

Examples of such fill material include, but are not limited to rock, sand, soil, clay, plastics, construction debris, wood chips, overburden from mining or other excavation activities, and materials used to create any structure or infrastructure in the WUS. The term fill material does not include trash or garbage.

The definition of “discharge of dredged material” is defined as any addition of dredged material into, including redeposit of dredged material other than incidental fallback within, the WUS. The term includes, but is not limited to, the following:

- The addition of dredged material to a specified discharge site located in WUS;
- The runoff or overflow, associated with a dredging operation, from a contained land or water disposal area; and
- Any addition, including redeposit other than incidental fallback, of dredged material, including excavated material, into WUS which is incidental to any activity, including mechanized land clearing, ditching, channelization, or other excavation.

The term discharge of dredged material does not include the following:

- Discharges of pollutants into WUS resulting from the onshore subsequent processing of dredged material that is extracted for any commercial use (other than fill). These discharges are subject to section 402 of the CWA even though the extraction and deposit of such material may require a permit from the Corps or applicable State.
- Activities that involve only the cutting or removing of vegetation above the ground (e.g., mowing, rotary cutting, and chain-sawing) where the activity neither substantially disturbs the root system nor involves mechanized pushing, dragging, or other similar activities that redeposit excavated soil material.
- Incidental fallback.

2.3 Regional Water Quality Control Board Clean Water Act /Porter-Cologne Act

The State Water Resources Control Board (State Water Board) and the Regional Water Quality Control Boards (RWQCB) (collectively Water Boards) have the authority to regulate discharges of dredged or fill material to waters of the state under Section 401 of the CWA and the Porter-Cologne Water Quality Control Act (Porter-Cologne). CWA Section 401 water quality certifications are issued to applicants for a federal license or permit for activities that may result in a discharge into WUS, including but not limited to the discharge or dredged or fill material (as defined in Section 2.2 above). Waste discharge requirements under Porter-Cologne are issued for discharges of dredged or fill material to waters of the state.

In accordance with Porter-Cologne (Water Code, § 13000 et seq.), the Water Boards are authorized to regulate discharges of waste, which includes discharges of dredged or fill material, that may affect the quality of waters of the state. The Water Code defines waters of the state broadly to include “any surface water or groundwater, including saline waters, within the boundaries of the state.” Waters of the state includes all WUS. On April 2, 2019, the State Water Board adopted State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State (Procedures), which contained a wetland definition and wetland delineation procedures. The Procedures state that “an area is wetland if, under normal circumstances, (1) the area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both; (2) the duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and (3) the area’s vegetation is dominated by hydrophytes or the area lacks vegetation.” The following wetlands are waters of the state:

1. Natural wetlands;
2. Wetlands created by modification of a surface water of the state;
3. Artificial wetlands that meet any of the following criteria:
 - a. Approved by an agency as compensatory mitigation for impacts to other waters of the state, except where the approving agency explicitly identifies the mitigation as being of limited duration;
 - b. Specifically identified in a water quality control plan as a wetland or other water of the state;
 - c. Resulted from historic human activity, is not subject to ongoing operation and maintenance, and has become a relatively permanent part of the natural landscape;
 - d. Greater than or equal to one acre in size, unless the artificial wetland was constructed, and is currently used and maintained, primarily for one or more of the following purposes (i.e., the following artificial wetlands are not waters of the state unless they also satisfy the criteria set forth in 2, 3a, or 3b):
 - i. Industrial or municipal wastewater treatment or disposal,
 - ii. Settling of sediment,
 - iii. Detention, retention, infiltration, or treatment of stormwater runoff and other pollutants or runoff subject to regulation under a municipal, construction, or industrial stormwater permitting program,
 - iv. Treatment of surface waters,
 - v. Agricultural crop irrigation or stock watering,

- vi. Fire suppression,
- vii. Industrial processing or cooling,
- viii. Active surface mining – even if the site is managed for interim wetlands functions and values,
- ix. Log storage,
- x. Treatment, storage, or distribution of recycled water, or
- xi. Maximizing groundwater recharge (this does not include wetlands that have incidental groundwater recharge benefits);
- xii. Fields flooded for rice growing.

All artificial wetlands that are less than an acre in size and do not satisfy the criteria set forth in 2, 3.a, 3.b, or 3.c are not waters of the state. If an aquatic feature meets the wetland definition, the burden is on the applicant to demonstrate that the wetland is not a water of the state.

3.0 Methodology

3.1 Literature Review

Prior to the site visit, a literature review was conducted to aid in determining the potential for the presence of drainages, wetlands and riparian vegetation on the project site. Project background documents, topographic maps, satellite imaging, soils maps, and land use maps were examined to establish an accurate project site location, project description, potential for onsite drainages and wetlands, records of on-site vegetation, watershed, soils, and surrounding land uses.

3.2 Field Survey

On October 20, 2020, HES conducted a field survey of the approximately 18.14-acre project site. Field surveys were conducted to delineate jurisdictional drainages and wetland resources associated with jurisdictional drainages. Global Positioning System (GPS) waypoints were taken to delineate specific state or federal waters and any other information that would be useful for the assessment of the project site.

Jurisdictional drainages were identified by looking for features such as a bed, bank or channel. Where riparian vegetation was present, the drip line of the outer edge of the vegetation was used as the measuring criteria. Furthermore, the presence of an OHWM was recorded. Where the presence of an OHWM was evident, a measurement was taken for the width of the OHWM and the measurement was recorded. Where changes in plant community composition were apparent, the area was examined for the possibility of wetlands. Whether or not adjacent to WUS, the potential wetland area was evaluated for the presence of the three wetland indicators: hydrology, hydric soils and hydrophytic vegetation.

4.0 Results

4.1 Environmental Setting

The site is located within unincorporated Riverside County, California. It is bordered by wineries to the north, southwest and west, residential development to the southeast, and a vacant lot to the east. Rancho California Road borders the project site to the north. The project site is primarily developed and disturbed by residential structures and previous agricultural use. The site is on a hillside with onsite elevations ranging from 1,269 feet above mean sea-level (AMSL) in the northwest portion of the site to 1,394 feet AMSL in the southeast portion of the site. The project site contains a disturbed ephemeral drainage, which crosses the northern portion of the site from east to west. The project site contains five different habitat types, including ruderal, disturbed coastal sage scrub, ornamental trees, ephemeral drainage and residential development.

4.2 Existing Hydrological Features

The 18.14-acre project area contains a disturbed ephemeral drainage dominated by non-native upland plant species. The drainage contains cement culverts, piping, and weed control fabric and has been heavily disturbed and altered by human activity. The onsite ephemeral drainage generally flows from east to west across the northern portion of the site. The ephemeral drainage measures approximately 984 linear feet in length.

4.3 Soils

The U.S. Department of Agriculture Natural Resources Conservation District's Web Soil Survey was consulted and indicates that the project site contains five soil types, including Arlington and Greenfield fine sandy loam (AtD2), 8 to 15 percent slopes, eroded; Gorgonio loamy sand (GhC), 0 to 8 percent slopes; Hanford coarse sandy loam (HcC), 2 to 8 percent slopes; Ramona and Buren loams (RnE3), 5 to 25 percent slopes, severely eroded; and Rough broken land (RuF). Refer to Appendix B, *Soils Map*. No soils classified as hydric were found to occur on the project site area.

4.4 Vegetation

The onsite disturbed ephemeral drainage is dominated by upland non-native vegetation, including black mustard (*Brassica nigra*) and foxtail barely (*Hordeum murinum*). The only riparian habitat occurring within the drainage are individual trees of red willow (*Salix laevigata*), mulefat (*Baccharis salicifolia*), and Fremont cottonwood (*Populus fremontii*) at the west end. Other species observed within the drainage include fiddleneck (*Amsinckia intermedia*) and California buckwheat.

4.5 Hydrology

The ephemeral drainages are part of the Water Quality Control Plan for the San Diego Basin which is administered by the San Diego RWQCB (Region 9). The onsite waters are within the Santa

Margarita Hydrologic Unit and Murrieta Hydrologic Area. The project area contains an unnamed tributary to Murrieta Creek which ultimately flow to the Santa Margarita River and into the Pacific Ocean.

4.6 Existing Wetlands

The project site contains no wetlands or vernal pools as defined by the 1987 Corps of Engineers Wetland Delineation Manual.

4.7 California Department of Fish and Wildlife Jurisdiction

The project site contains approximately 0.56 acres (984 linear feet) of ephemeral drainage that would be considered CDFW jurisdictional (Figure 4, *Jurisdictional Drainage Map*). The banks of the drainage are dominated by upland non-native vegetation with individual red willow trees, mulefat, and Fremont cottonwood trees at the west end. The project has been designed to avoid any direct or indirect impacts to the onsite CDFW jurisdictional stream (Figure 5, *Jurisdictional Drainages Impacts Map*).

4.8 Waters of the United States

A tributary, lake, pond, or impoundment of a jurisdictional water meets the definition of a WUS if it contributes surface water flow directly or indirectly to a traditional navigable water or territorial sea in a typical year. For a surface water channel like a river, stream, or ditch to meet the definition of WUS, the channel must be perennial or intermittent (i.e., flowing continuously year-round or flowing continuously during certain times of the year and more than in direct response to a single precipitation event) in a typical year. Under the Navigable Waters Protection Rule, ephemeral features and other excluded artificial and natural features are not jurisdictional and do not become jurisdictional even if they episodically convey surface water from upstream relatively permanent jurisdictional waters to downstream jurisdictional waters in a typical year, and thereby help maintain the jurisdictional status of the upstream waters.

Based upon this guidance, the onsite ephemeral drainage is not considered jurisdictional WUS, which are regulated by the USACE Sections 404 and 401 of the CWA.

4.9 Regional Water Quality Control Board Jurisdiction

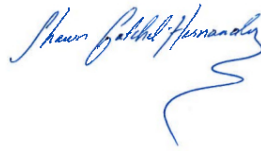
The project site contains approximately 0.56 acres (984 linear feet) of ephemeral drainage that would be considered waters of the state subject to Porter-Cologne (Figure 4, *Jurisdictional Drainage Map*). Beneficial uses for the onsite ephemeral drainages have been identified by the San Diego Quality Control Basin Plan as Municipal (MUN), Agriculture (AGR), Industrial Service Supply (IND), Industrial Process Supply (PROC), potentially for Water Contact Recreation (REC1), Non-Contact Water Recreation (REC2), Warm Freshwater Habitat (WARM), and Wildlife Habitat (WILD). The project has been designed to avoid any direct or indirect impacts to Waters of the State (Figure 5, *Jurisdictional Drainages Impacts Map*).

5.0 Recommendation

USACE, CDFW, and RWQCB jurisdictional waters are regulated by federal, state, and local governments under a no-net-loss policy, and all impacts are considered significant and should be avoided to the greatest extent possible. The project has been designed to avoid any direct or indirect impacts to jurisdictional waters and wetlands. However, should impacts to jurisdictional waters and wetlands result from project implementation, the project would require mitigation through habitat creation, enhancement, or preservation as determined by consultation with the regulatory agencies during the permitting process. Any impacts to CDFW jurisdictional waters would require a 1600 Streambed Alteration Agreement from the CDFW. Any impacts to WUS would require a Section 404 permit authorization from the USACE and a 401 State Water Quality Certification from the RWQCB. Should impacts to jurisdictional waters and wetlands result from project implementation, mitigation for impacts to jurisdictional resources will be addressed in a mitigation plan to be submitted for approval with the permit application packages.

6.0 Certification

***"CERTIFICATION:** I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this jurisdictional delineation, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief."*



DATE 03-26-2021 SIGNED

Project Manager

Fieldwork Performed By:

Shawn Gatchel-Hernandez

Principal Regulatory Specialist

7.0 References

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FIGURES



Figure 1

Location Map
APNs 951-020-001 951-020-002
951-060-001 & 951-060-002
Riverside County, California

Legend



Project Site Boundary (18.14 Acre)



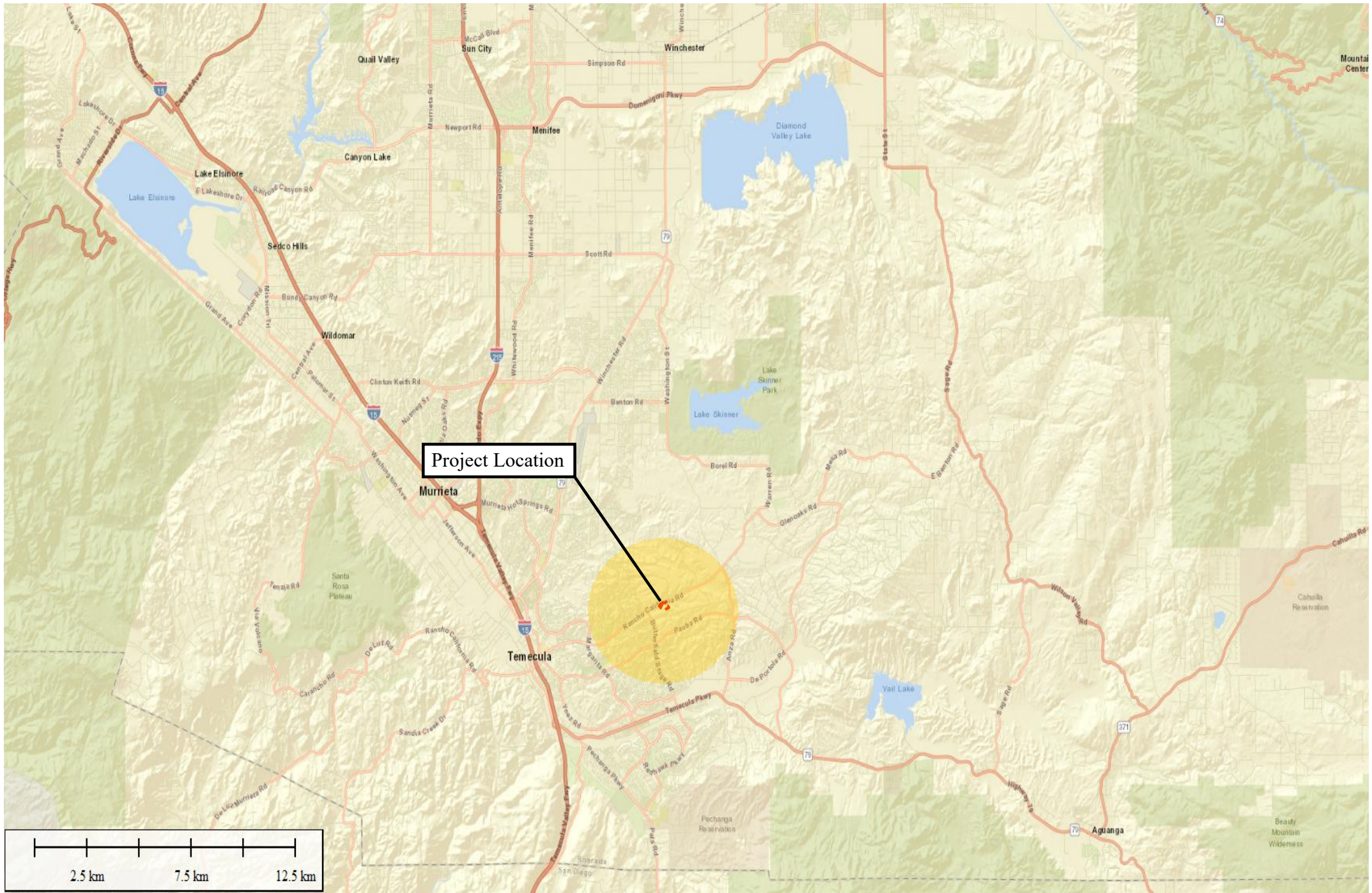
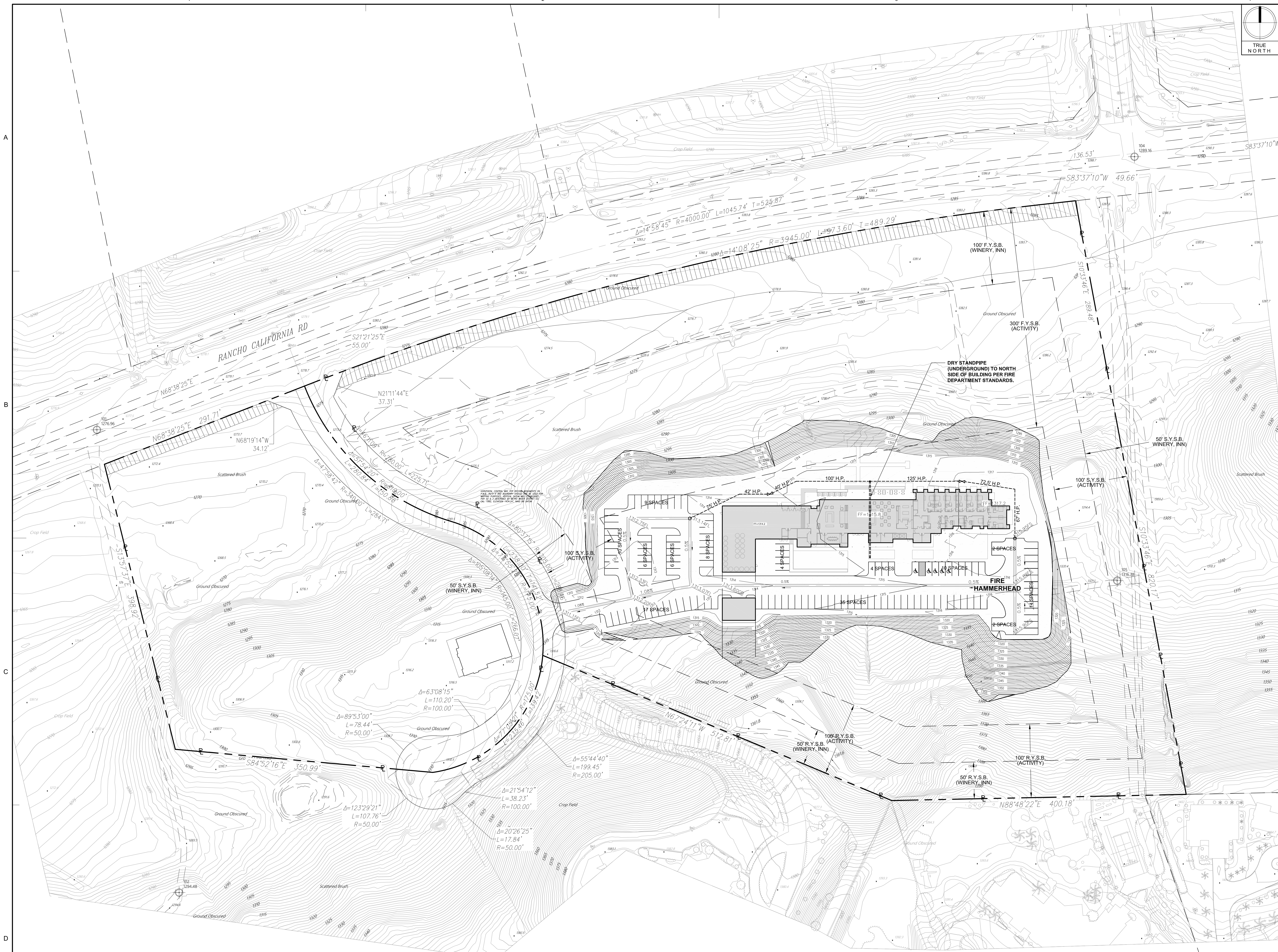


Figure 2
 Vicinity Map
 APNs 951-020-001 951-020-002
 951-060-001 & 951-060-002
 Riverside County, California

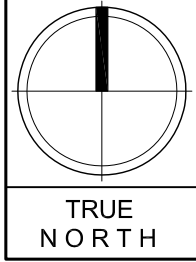
Legend

Project Site Boundary (18.14 Acres)



ARCHITECTURAL SITE PLAN
1" = 50'-0"

KEYNOTES



GENERAL NOTES

ARCHITECTURAL LEGEND

- 01 Doors
- A Windows
- 01 Keynote
- A Wall Type
- 01 Interior Elevation
- A-1 Storefront Elevation
- A-1 Building Elevation
- New Wall
- Existing Wall
- Demolition
- Insulation
- Overhead
- Centerline
- Property Line
- Revision

NOTE: NOT ALL SYMBOLS SHOWN ABOVE ARE USED IN THIS SET OF DRAWINGS.

Signature Date



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TEME WINERY
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REVISIONS	By

Date 2020.11.03
Scale 1" = 50'-0"
Drawn by BPB
Job No. 2005
Sheet Name ARCHITECTURAL SITE PLAN

AC-1

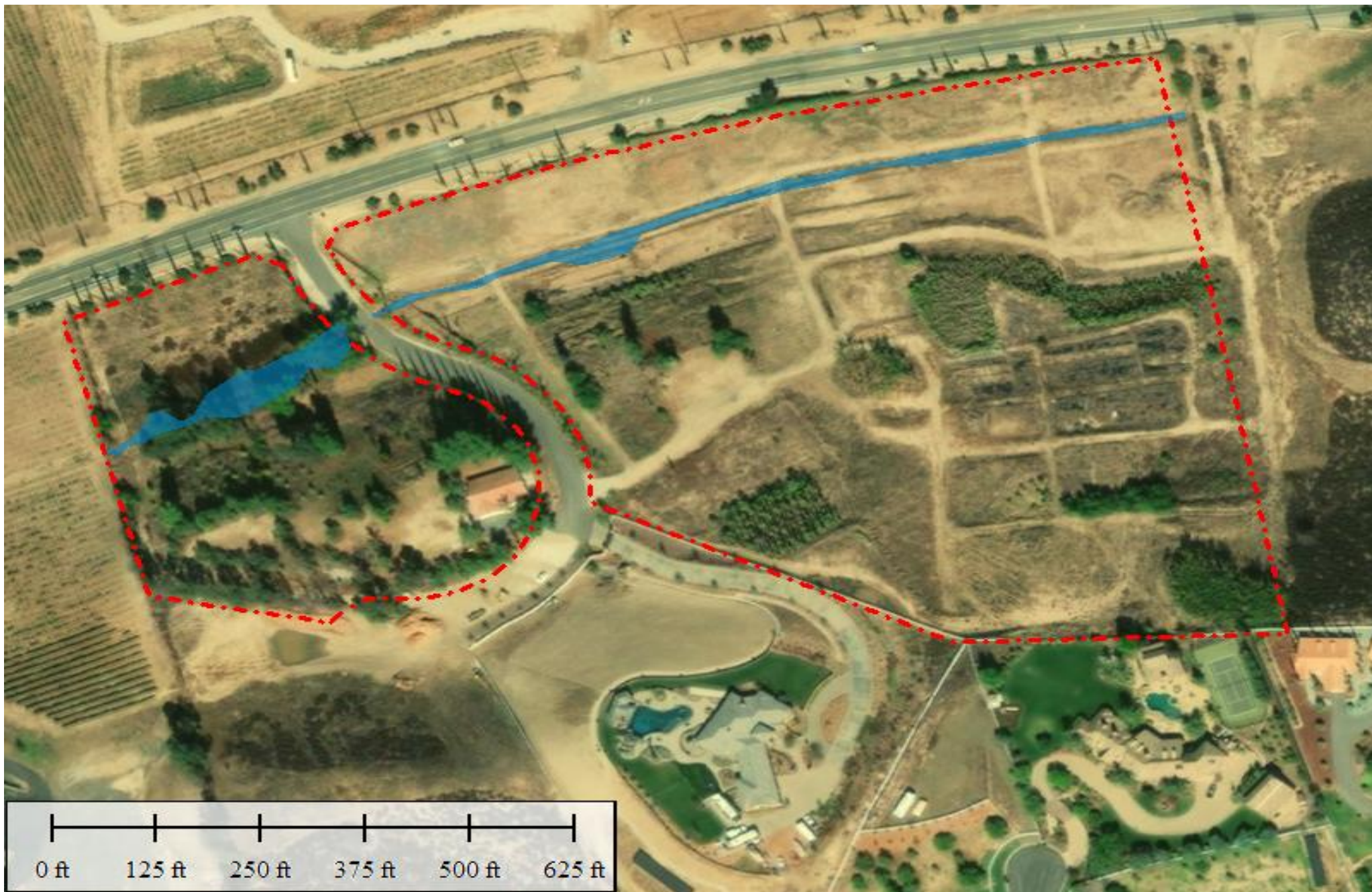


Figure 4

Jurisdictional Drainage Map
APNs 951-020-001 951-020-002
951-060-001 & 951-060-002
Riverside County, California

Legend



Project Site Boundary

CDFW Jurisdiction/Waters of the State (0.56 Acre)



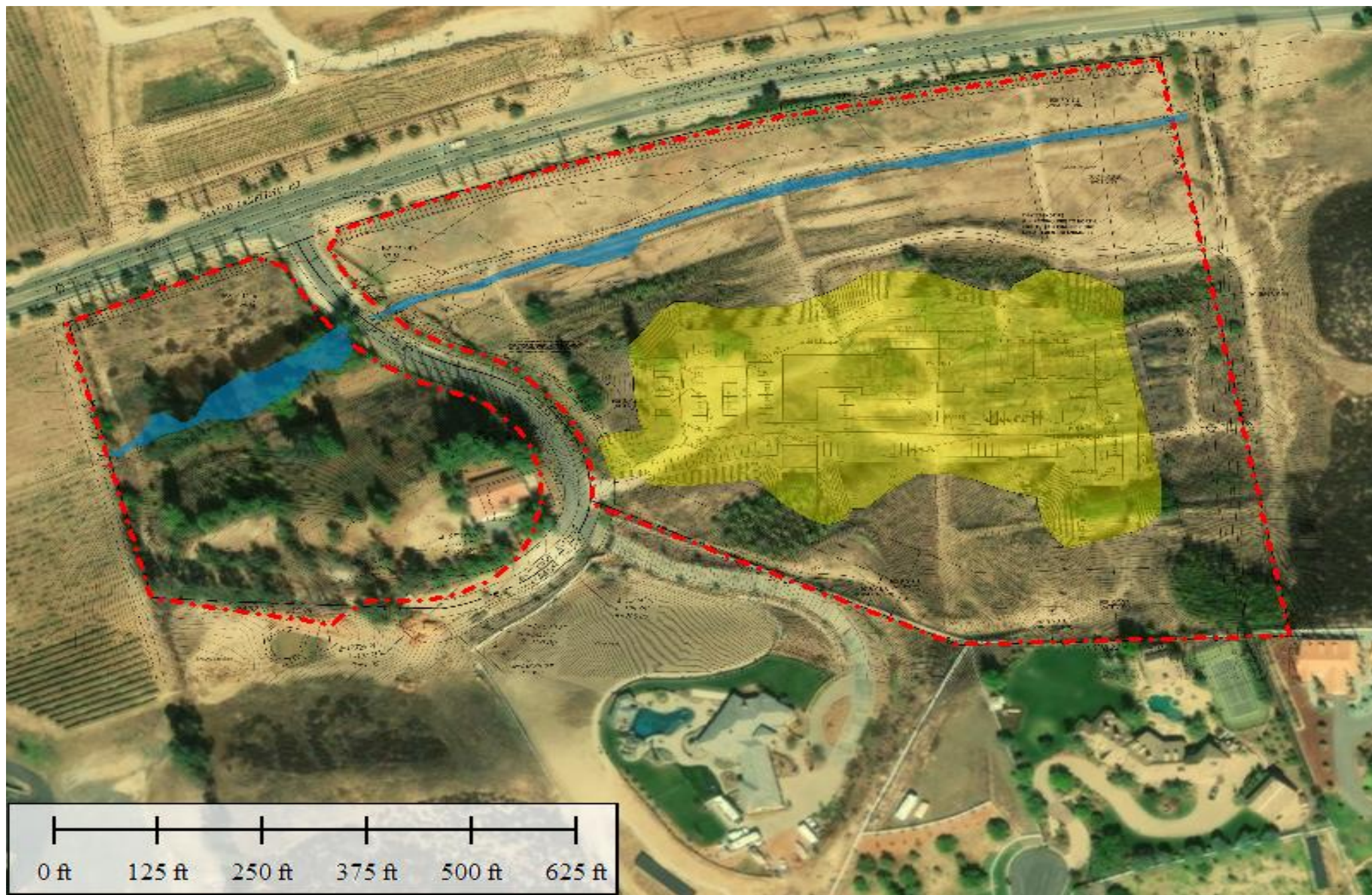


Figure 5

Jurisdictional Drainages Impacts Map
 APNs 951-020-001 951-020-002
 951-060-001 & 951-060-002
 Riverside County, California

Legend



Project Site Boundary



CDFW Jurisdiction/Waters of the State (0.56 Acre)



Project Impact Area



APPENDIX A



View of the west end of the ephemeral drainage on the project site.



View of cement culverts within the onsite ephemeral drainage.



View of the piping and weed control fabric within the onsite ephemeral drainage.

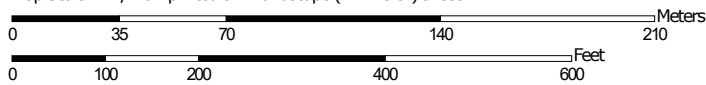
APPENDIX B

Soil Map—Western Riverside Area, California



Soil Map may not be valid at this scale.

Map Scale: 1:2,470 if printed on A landscape (11" x 8.5") sheet.



Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 11N WGS84



**Natural Resources
Conservation Service**

Web Soil Survey
National Cooperative Soil Survey

3/18/2020
Page 1 of 3

MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils

 Soil Map Unit Polygons

 Soil Map Unit Lines

 Soil Map Unit Points

Special Point Features



Blowout



Borrow Pit



Clay Spot



Closed Depression



Gravel Pit



Gravelly Spot



Landfill



Lava Flow



Marsh or swamp



Mine or Quarry



Miscellaneous Water



Perennial Water



Rock Outcrop



Saline Spot



Sandy Spot



Severely Eroded Spot



Sinkhole



Slide or Slip



Sodic Spot



Spoil Area



Stony Spot



Very Stony Spot



Wet Spot



Other



Special Line Features

Water Features



Streams and Canals

Transportation



Rails



Interstate Highways



US Routes



Major Roads



Local Roads

Background



Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:15,800.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL:

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Western Riverside Area, California

Survey Area Data: Version 12, Sep 16, 2019

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: May 15, 2018—Jun 25, 2018

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
AtD2	Arlington and Greenfield fine sandy loams, 8 to 15 percent slopes, eroded	2.6	13.0%
GhC	Gorgonio loamy sand, 0 to 8 percent slopes	0.0	0.0%
HcC	Hanford coarse sandy loam, 2 to 8 percent slopes	6.8	33.8%
RnE3	Ramona and Buren loams, 5 to 25 percent slopes, severely eroded	7.9	39.2%
RuF	Rough broken land	2.8	13.9%
Totals for Area of Interest		20.1	100.0%