Appendix B-1

Biological Resources Assessment for the Shiloh Medical West Project and Associated Off-site Street Improvements Located in the City of Victorville, San Bernardino County, California

ELMT Consulting

February 27, 2024

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SUBJECT: Biological Resources Assessment for the Shiloh Medical West Project and Associated Off-site Street Improvements Located in the City of Victorville, San Bernardino County, California

Introduction

This report contains the findings of ELMT Consulting's (ELMT) biological resources assessment for the proposed Shiloh Medical West project and associated off-site street improvement area located in the City of Victorville, San Bernardino County, California. The field investigation was conducted by biologist Travis J. McGill on January 4, 2022, and a follow up survey was conducted by biologist Jacob H. Lloyd Davies on February 22, 2024, to document baseline conditions and assess the potential for special-status[1] plant and wildlife species to occur within the project site and off-site street improvement area that could pose a constraint to implementation of the proposed project. Special attention was given to the suitability of the project site and off-site street improvement area to support burrowing owl (*Athene cunicularia*), desert tortoise (*Gopherus agassizii*), western Joshua tree (*Yucca brevifolia*), and other 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 and off-site street improvement area are generally located north of State Route 18, east of United States Route 395, West of Interstate 15, and south of George Airforce Base in the City of Victorville, San Bernardino County, California. The site and off-site street improvement area are depicted on the Adelanto quadrangle of the United States Geological Survey's (USGS) 7.5-minute map series within Section 22 of Township 5 North, Range 5 West. Specifically, the project site itself is bounded to the south by Palmdale Road and north by Aster Road and is located within Assessor Parcel Number 3103-561-20, and the proposed off-site street improvement area are located within and along portions of Aster Road that occur between Cantina Street (western limits) and the northeast corner of the project site (eastern limits). Refer to Exhibits 1-3 in Attachment A.

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.

Project Description

The project proposes the development of a medical facility complex comprised of 2-story office/medical building, a family practice building, medical lab, pharmacy, and coffee shop with associated parking and infrastructure. In addition, the project includes off-site street improvements within Aster Road between Cantina Street and the northeast corner of the proposed complex. 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 and off-site street improvement area. 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 and off-site street improvement area. Previously recorded occurrences of special-status plant and wildlife species and their proximity to the project site and off-site street improvement area were determined through a query of the CDFW's QuickView Tool in the Biogeographic Information and Observation System (BIOS), CNDDB Rarefind 5, the California Native Plant Society's (CNPS) Electronic Inventory of Rare and Endangered Vascular Plants of California, Calflora Database, compendia of special-status species published by CDFW, and the United States Fish and Wildlife Service (USFWS) species listings.

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

- Google Earth Pro historic aerial imagery (1985-2023);
- United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS), Soil Survey[2];
- USFWS Critical Habitat designations for Threatened and Endangered Species; and
- USFWS Endangered Species Profiles.

The literature review provided a baseline from which to inventory the biological resources potentially occurring within the project site and off-site street improvement area. 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 and off-site street improvement area.

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.

Field Investigation

Following the literature review, biologist Travis J. McGill on January 4, 2022, and a follow up survey was conducted by biologist Jacob H. Lloyd Davies on February 22, 2024. The surveys were conducted to inventory and evaluate the condition of the habitat within a 200-foot buffer around the project site, where applicable, on February 22, 2024. Plant communities and land cover types identified on aerial photographs during the literature review were verified by walking meandering transects throughout the project site and off-site street improvement area. 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 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 and off-site street improvement area.

Existing Site Conditions

The proposed project site and off-site street improvement area are located in a primarily undeveloped area that supports pockets of mixed development in the City of Victorville. Development in the vicinity of the project includes tract neighborhoods, solar panel fields and associated substations, and commercial plazas. The site and off-site street improvement area are bounded to the north and east by undeveloped, vacant land; to the south by Palmdale Road (State Route 18) with undeveloped, vacant land and an electrical substation beyond; and to the west by undeveloped, vacant land, commercial development, and Cantina Street. The site and off-site street improvement area supports undeveloped, vacant land that supports natural plant communities and exists in varying degrees of degradation from historic and ongoing anthropogenic disturbances including regular light vehicular traffic, off-highway recreational vehicle use, illicit dumping, and surrounding development. Refer to Attachment C, *Site Photographs*, for representative site photographs.

Topography and Soils

On-site elevation ranges from approximately 3,108 to 3,116 feet above mean sea level and generally slopes from south to north, with no areas of topographic relief. Based on the NRCS USDA Web Soil Survey, the project site and off-site street improvement area are historically underlain by Cajon sand (0 to 2 percent slopes). The majority of soils on-site are relatively undisturbed, with the exception of soils underlying the northeast and southern portions of the site, which have been compacted and disturbed by anthropogenic disturbances such as illicit spoils dumping, vehicle access and parking, and adjacent development.

Vegetation

The project site supports one (1) plant community: creosote bush scrub. In addition, the site supports two (2) land cover types that would be classified as disturbed and developed (refer to Exhibit 4, *Vegetation* in Attachment A). The creosote bush scrub plant community supported by the project site and off-site street improvement area is dominated by creosote (*Larrea tridentata*) and supports an intermittent shrub cover with a herbaceous understory. Common plants supported in this plant community include burrowbush (*Ambrosia dumosa*), fiddleneck (*Amsinckia tessellata*), spiny saltbush (*Atriplex confertiflora*), California mustard (*Caulanthus lasiophyllus*), browneyes (*Chylismia claviformis*), silver cholla (*Cylindropuntia echinocarpa*), rubber rabbitbrush (*Ericameria nauseosa*), paperbag bush (*Scutellaria mexicana*), Indian hedge Mustard (*Sisymbrium orientale*), and western Joshua tree (*Yucca brevifolia*).

Disturbed areas supported within the project site and off-street improvement area are generally barren or support minimal weedy/early successional species that are adapted to growing in heavily disturbed and compacted soils and are tolerant of routine vehicular traffic.

Developed land generally encompass all buildings/structures, parks, and paved or otherwise impervious surfaces. Developed land supported within the boundaries of the project site and off-site street improvement area include existing sewer infrastructure (i.e., manholes), and areas where boundaries overlap with paved portions of Cantina Street, Palmdale Road, and adjacent development. Developed portions of the site and off-site street improvement area are maintained to be free of vegetation and do not provide suitable substrates for germination.

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 and off-site street improvement area. The discussion is to be used a general reference and is limited by the season, time of day, and weather conditions in which the field investigation was conducted. Wildlife detections were based on calls, songs, scat, tracks, burrows, and direct observation. The project site provides limited habitat for wildlife species except those adapted to a high degree of anthropogenic disturbances and development.

Fish

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

Amphibians

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

Reptiles

The project site and off-site street improvement area provide suitable foraging and cover habitat for local reptile species adapted to routine disturbance and proximity to development. Reptiles observed during the field investigation include Great Basin fence lizard (*Sceloporus occidentalis longipes*) and zebra-tailed lizard (*Callisaurus draconoides*). Other common reptilian species that could be expected to occur include western side-blotched lizard (*Uta stansburiana elegans*), Great Basin whiptail (*Aspidoscelis tigris tigris*), and Great basin gopher snake (*Pituophis catenifer deserticola*).

Birds

The project site and off-site street improvement area provide suitable foraging and nesting habitat for bird species adapted to routine disturbance and proximity to development. Avian species detected during the field investigation include black-throated sparrow (*Amphispiza bilineata*), verdin (*Auriparus flaviceps*), red-tailed hawk (*Buteo jamaicensis*), common raven (*Corvus corax*), house finch (*Haemorhous mexicanus*), house sparrow (*Passer domesticus*), Say's phoebe (*Sayornis saya*), yellow-rumped warbler (*Setophaga coronata*), Brewer's sparrow (*Spizella breweri*), European starling (*Sturnus vulgaris*), and mourning dove (*Zenaida macroura*).

Mammals

The project site and off-site street improvement area provide suitable foraging and cover habitat for mammalian species adapted to routine disturbance and proximity to proximity to development. Mammalian species detected during the field investigation include kangaroo rat (*Dipodomys* sp.), black-tailed jackrabbit (*Lepus californicus*), and California ground squirrel (*Otospermophilus beecheyi*). Other common mammalian species that could be expected to occur include white-tailed antelope ground squirrel (*Ammospermophilus leucurus*), coyote (*Canis latrans*), and desert cottontail (*Sylvilagus audubonii*).

Nesting Birds

No active nests were observed during the field investigation; however, breeding behaviors were observed in several avian species, including territorial displays and calls. One (1) remnant nest was observed within a silver cholla, likely associated with black-throated sparrows. Despite routine disturbance from on-site roads and adjacent developments, the project site provides suitable nesting habitat to avian species that utilize low-growing, dense shrubs for structural support and concealment. No raptors are expected to nest on-site due to lack of suitable nesting opportunities.

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 anthropogenic disturbance and natural fluctuations in resources.

According to the San Bernardino County General Plan, the project site and off-site street improvement area have not been identified as occurring within a Wildlife Corridor or Linkage. As designated by the San Bernardino County General Plan Open Space Element, the nearest major open space area documented in the vicinity of the project site and off-site street improvement area is the Mojave River, located approximately 6 miles to the east. The site and off-site street improvement area are separated from this identified regional wildlife corridors and linkages by existing development and roadways, and undeveloped land, and there are no riparian corridors or creeks connecting the project site or off-site street improvement area to these areas.

Undeveloped land adjacent to the project site and off-site street improvement area is generally limited and isolated from other open space nearby. As such, the site and off-site street improvement area are not

expected to contribute meaningfully to local wildlife movement through the area. Therefore, implementation of the proposed project is not expected to have a significant impact to wildlife movement opportunities or prevent local wildlife movement through the area.

Jurisdictional Areas

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

The USFWS NWI and the USGS National Hydrography Dataset were reviewed to determine if any blueline streams or riverine resources have been documented on the project site or off-site street improvement area. Based on this review, no blueline streams or riverine resources have been identified on the project site. However, during the field investigation, one (1) ephemeral drainage (Drainage A) was observed transecting the middle portion of the off-site street improvement area from south to north.

Drainage A originates at a box culvert beneath Palmdale Road approximately 560 feet south of the off-site street improvement area. Flows within Drainage A are conveyed northward across the width of the off-site street improvement area for approximately 36 feet across the width of off-site street improvement area. Once off-site, flows are conveyed north and northeast via braided channels and flood control infrastructure until terminating at the Mojave River.

Drainage A is an ephemeral drainage feature that is not a relatively permanent, standing, or continuously flowing body of water and, therefore, will not qualify as waters of the United States under the regulatory authority of the Corps (*Sackett v. EPA* (2022) 143 S. Ct. 1322, 1336). Further, no areas on the project site or off-site street improvement area qualify as Federal wetlands. However, the drainage feature will qualify was waters of the State and fall under the regulatory authority of the Regional Board and CDFW.

Special-Status Biological Resources

The CNDDB Rarefind 5 and the CNPS Electronic Inventory of Rare and Endangered Vascular Plants of California were queried for reported locations of special-status plant and wildlife species as well as special-status natural plant communities in the Adelanto USGS 7.5-minute quadrangle. Only one quadrangle was queried due to regional topography and conditions in the vicinity of the site and off-site street improvement area. The habitat assessment evaluated the conditions of the habitat(s) within the boundaries of the project site and off-site street improvement area 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 seven (12) special-status plant species and twelve (12) special-status wildlife species as having potential to occur within the Adelanto USGS 7.5-minute quadrangle. No special-status plant communities were identified as having potential to occur within this quadrangle. Special-status plant and wildlife species were evaluated for their potential to occur within the project site and off-site street improvement area 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 and off-site street improvement area are presented in Attachment D*: Potentially Occurring Special-Status Biological Resources*.

Special-Status Plants

According to the CNDDB and CNPS, seven (7) special-status plant species have been recorded in the Adelanto quadrangle (refer to Attachment D). The only special-status plant species observed during the field investigation was western Joshua tree. Based on the availability and quality of on-site habitats, habitat requirements for specific species, and general isolation of the site from nearby open spaces, it was determined that the project site and off-site street improvement area have a low potential to support white pygmy-poppy (*Canbya candida*), Mojave spineflower (*Chorizanthe spinosa*), Mojave monardella (*Monardella exilis*), crowned muilla (*Muilla coronata*). It was further determined that the site and off-site street improvement area do not have the potential to support any of the other special-status plant species known to occur in the area and all are presumed to be absent.

White pygmy-poppy, Mojave spineflower, Mojave monardella, and crowned muilla are not federally or state listed as endangered or threatened. Due to regional significance and legislated protections, western Joshua tree is discussed in further detail below.

Western Joshua Tree

The California Fish and Game Commission (Commission) designated the Western Joshua Tree as a candidate for listing under the California Endangered Species Act (CESA) in October 2020. This action afforded the Western Joshua Tree the same CESA protections as listed species, which means that removal of the desert trees was subject to fines and criminal penalties unless authorized by a "take" permit issued by the CDFW.

The new law, the Western Joshua Tree Conservation Act (WJTCA) via approval of Senate Bill No. 122, which became effective July 2023, streamlines the Western Joshua Tree take permit process and broadens the purposes for which a permit may be issued. A Western Joshua Tree may now be removed for any purpose, so long as a permit is obtained and the removal is fully mitigated, or alternatively, an in-lieu mitigation fee is paid. The table below summarizes the new rules for the area in which the project site is located.

Location	Mitigation Fees
Within the area bounded on the east and west by Interstate 5 and Interstate 15, respectively, and on the north and south by Highway 58 and Highways 138 and 18, respectively.	Full mitigation, or in-lieu fee as follows: • $1,000 per tree > 5 meters tall • $200 per tree 1 to 5 meters tall • $150 per tree < 1 meter tall

One (1) western Joshua tree was observed within the project site (1 to 5 meters in height) during the field investigation, and one (1) western Joshua tree was located within the proposed offsite street improvement area (1 to 5 meters in height). Additionally, six (6) western Joshua trees were observed within 50 feet of the off-site street improvement area. Based on existing site plans, the western Joshua tree supported within the project site will be avoided and will not be impacted by project activities, and the western

Joshua tree within the offsite street improvement area will be impacted. However, CDFW still may consider the avoided western Joshua within the proposed limits of disturbance impacted since it will be surrounded by development.

The western Joshua trees found within 50 feet of the off-site street improvement area will not be impacted.

Special-Status Wildlife

According to the CNDDB, twelve (12) special-status wildlife species have been reported in the Adelanto quadrangle (refer to Attachment D). One (1) special-status wildlife species, Brewer's sparrow, was observed during the field investigation. Based on the availability and quality of on-site habitats, habitat requirements for specific species, and general isolation of the site by industrial development, it was determined that the proposed project site and off-site street improvement area have a high potential to support California horned lark (*Eremophila alpestris actia*) and loggerhead shrike (*Lanius ludovicianus*); and a low potential to support burrowing owl (*Athene cunicularia*), Swainson's hawk (*Buteo swainsoni*), northern harrier (*Circus hudsonius*), prairie falcon (*Falco mexicanus*), and coast horned lizard (*Phrynosoma blainvillii*). It was further determined the site does not have potential to support any of the other special-status wildlife species known to occur in the area and all are presumed to be absent.

Of the aforementioned special-status wildlife species, only Swainson's hawk is federally listed as threatened; none of the other species are state or federally listed as threatened or endangered. Of the aforementioned avian species, only California horned lark, loggerhead shrike, and burrowing owl are expected to nest on-site. Swainson's hawk, northern harrier, and prairie falcon are not expected to nest on-site due to the lack of suitable nesting habitat/opportunities and the degree of regular disturbances associated with illegal dumping, off-highway recreational vehicle activities, and surrounding development. In order to ensure impacts to avian species do not occur from implementation of the proposed project, a pre-construction nesting bird clearance survey shall be conducted prior to ground disturbance. With implementation of the pre-construction nesting bird clearance survey, impacts to special-status avian species will be less than significant and no mitigation will be required.

Due to regional significance and/or listing status, the potential occurrence of burrowing owl (*Athene cunicularia*), desert tortoise (*Gopherus agassizii*), and Mohave ground squirrel (*Xerospermophilus mohavensis*) are discussed in further detail below.

Burrowing Owl

The burrowing owl is currently listed as a California Species of Special Concern. It is a grassland specialist distributed throughout western North America where it occupies open areas with short vegetation and bare ground within shrub, desert, and grassland environments. Burrowing owls use a wide variety of arid and semi-arid environments with well-drained, level to gently-sloping areas characterized by sparse vegetation and bare ground (Haug and Didiuk 1993; Dechant et al. 1999). Burrowing owls are dependent upon the presence of burrowing mammals (such as ground squirrels) whose burrows are used for roosting and nesting (Haug and Didiuk 1993). The presence or absence of colonial mammal burrows is often a major factor that limits the presence or absence of burrowing owls. Where mammal burrows are scarce, burrowing owls have been found occupying man-made cavities, such as buried and non-functioning drain pipes, stand-pipes, and dry culverts. Burrowing mammals may burrow beneath rocks

and debris or large, heavy objects such as abandoned cars, concrete blocks, or concrete pads. They also require open vegetation allowing line-of-sight observation of the surrounding habitat to forage as well as watch for predators.

No burrowing owls or recent sign (i.e., pellets, feathers, castings, or whitewash) were observed during the field investigation. Portions of the project site and off-site street improvement area are unvegetated and/or vegetated with a variety of low-growing plant species that allow for line-of-sight observation favored by burrowing owl. In addition, suitable burrows for roosting/nesting by burrowing owl were observed in the northern portion of the site and throughout the off-site street improvement area. However, the extent of illicit dumping within and surrounding the site and off-site street improvement area have degraded foraging habitat near suitable burrows, most of which occur in dumped spoils and fill dirt piles. Based on the results of the field investigation, it was determined that the project site and off-site street improvement area have a low potential to support burrowing owls and focused surveys are not recommended. However, out of an abundance of caution, a pre-construction burrowing owl clearance survey is recommended to be conducted prior to development to ensure burrowing owl remain absent from the project site and off-site street improvement area.

Desert Tortoise

The Mojave population of the desert tortoise inhabits areas north and west of the Colorado River in the Mojave Desert of California, Nevada, Arizona, and southwestern Utah, and in the Sonoran Desert in California. Throughout the majority of the Mojave Desert, desert tortoises occur most commonly on gentle sloping soils characterized by an even mix of sand and gravel and sparsely vegetated low-growing vegetation where there is abundant inter-shrub space. Typical habitat for the Mojave desert tortoise has been characterized as Mojavean desert scrub below 5,500 feet in elevation with a high diversity of perennial and ephemeral plants. The dominant shrub commonly associated with desert tortoise habitat is creosote bush; however, other shrubs including burrobush (*Ambrosia dumosa*), Mojave yucca, cheesebush (*Ambrosia salsola*), and Mojave prickly pear (*Opuntia mojavensis*) also provide suitable habitat. The desert tortoise spends 95 percent of its life underground and will opportunistically utilize burrows of various lengths, deep caves, rock and caliche crevices, or overhangs for cover. Therefore, a moderately friable soil is required to allow for burrow construction and ensure that burrows do not collapse.

No live desert tortoises, suitable burrows, or other sign were observed during the field investigation. The Creosote bush scrub plant community supported by the project site, off-site street improvement area, and adjacent undeveloped parcels provide limited foraging and burrowing habitat for desert tortoise; however, the contiguous open spaces surrounding the site and off-site street improvement area to the north and east are fragmented and thoroughly isolated from other suitable open space nearby. In addition, rampant dumping has reduced suitability of on-site habitats for this species. As such, the project site and off-site street improvement area were determined not to have potential to support desert tortoise. However, out of an abundance of caution, a pre-construction desert tortoise clearance survey is recommended to be conducted prior to development to ensure burrowing owl remain absent.

Mohave Ground Squirrel

The Mohave ground squirrel is endemic to the western Mojave Desert, California. It occupies portions of Inyo, Kern, Los Angeles, and San Bernardino counties in the western Mojave Desert. In general, the

species ranges from near Palmdale on the southwest to Lucerne Valley on the southeast, Olancha on the northwest and the Avawatz Mountains on the northeast (Gustafson 1993). The historical range of suitable habitat for this species has decreased by 10 to 16% due to urbanization and range-wide declines in trapping success over the last few decades suggesting that their populations are declining. This species was listed as threatened under the California Endangered Species Act in 1985.

The Mohave ground squirrel is a medium-sized ground squirrel that measures 8.3 to 9.1 inches (in; 21 to 23 centimeters; cm) in total length, 2.2 to 2.8 in (5.7 to 7.2 cm) in tail length, and 1.3 to 1.5 in (3.2 to 3.8 cm) in hind foot length (Hall 1981). The Mohave ground squirrel occupies all major desert scrub habitats in the western Mojave Desert. It has been observed in the following habitats described by Holland (1986) as:

- Mojave creosote scrub, dominated by creosote bush and burrobush,
- Desert saltbush scrub, dominated by various species of saltbush (*Atriplex*),
- Desert sink scrub, which is similar in composition to saltbush scrub, but is sparser and grows on poorly drained soils with high alkalinity,
- Desert greasewood scrub, with very sparse vegetation generally located on valley bottoms and dry lake beds,
- Shadscale scrub, which is dominated by *Atriplex confertifolia* and/or *A. spinescens,* and
- Joshua tree woodland, which includes Joshua trees widely scattered over a variety of shrub species (Gutafson 1993).

Mohave ground squirrel was not observed during the field investigation. Although a focused trapping survey was not performed, the habitat assessment conducted for this report and review of available information allowed ELMT to offer its professional opinion as to the presence or absence of this species within the proposed project footprint.

Three criteria are typically used in assessing potential impacts to the Mohave ground squirrel:

Criteria 1: Is the site within the range of the species?

Per the *Current Status of the Mohave Ground Squirrel: an update covering the period 2013-2020* (Leitner 2021) the project site and off-site street improvement area are located within the historic range of Mohave ground squirrel. Although the project site and off-site street improvement area are located within the historic range for Mohave ground squirrel, they are not located within any core areas, nor are they located within or immediately adjacent to any corridors or other known populations identified by Leitner.

Based on the data provided in *Current Status of the Mohave Ground Squirrel: an update covering the period 2013-2020* MGS have not been detected in the immediate vicinity of the project site or off-site street improvement area during protocol grid and regional surveys. Several areas in the vicinity of the project site and off-site street improvement area have been surveyed to protocol level and regionally on several occasions, yet all of the surveys have been negative for Mohave ground squirrel in the vicinity of the project site and off-site street improvement area. Per the *Current Status of the Mohave Ground Squirrel* Report trapping data, which provides more current data than the CNDDB, no MGS have been trapped in the areas surrounding the project site and off-site street improvement area.

Criteria 2: Is there native habitat with a relatively diverse shrub component?

There is native habitat with a relatively low diversity in shrub components within the project site and off-site street improvement area. The project site and off-site street improvement area support a creosote bush scrub plant community with a low-diversity shrub component that is not favored by Mohave ground squirrel. In addition, no spiny hopsage hoary saltbush, or winterfat were observed. These are species that are considered important forage for Mohave ground squirrel. Dr. Leitner postulated, based on trapping surveys in the southern portion of the Mohave ground squirrel range, that densities of < 24/ha for spiny hopsage and < 100/ha of winterfat on a site was considered poor forage and may be related to the absence of Mohave ground squirrel. Further, no wildlife corridors are expected to exist between the closest core MGS population and the project site and off-site street improvement area. The maximum documented movement of MGS is 3.9 miles (Harris and Leitner 2005). Therefore, while the site provides native habitat, the limited diversity shrub component and isolation from core populations reduces the potential for Mohave ground squirrel to occupy the project site and off-site street improvement area.

Criteria 3: Is the site surrounded by development and therefore isolated from potentially occupied habitat?

Based on the results of the field investigation, the creosote bush scrub community supported within the project site and off-site street improvement area occur adjacent to surrounding development including residentially trafficked roadways and structures. Further, the site and off-site street improvement area have been subject to routine disturbance from adjacent development, illegal dumping, off-highway recreational vehicle use, and regular light vehicle traffic.

Based on habitat requirements for Mohave ground squirrel, known distributions, site conditions, and regional trapping studies, it was determined this species is presumed absent from the project site and off-site street improvement area. No focused surveys are recommended.

Critical Habitats

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

The project site and off-site street improvement area are not located within federally designated Critical Habitat. Further, the nearest Critical Habitat designations is located approximately 5.2 miles to the northeast for southwestern willow flycatcher (*Empidonax traillii extimus*). Therefore, no impacts to federally designated Critical Habitat will occur from implementation of the proposed project.

Conclusion

Based literature review and field survey, and existing conditions discussed in this report, implementation of the proposed project will have no significant impacts on federally or State listed species known to occur in the general vicinity of the project site and off-site street improvement area. Further, no impacts to designated Critical Habitat or regional wildlife corridors/linkage will occur because none exist within the area. One (1) jurisdictional drainage, Drainage A, was observed traversing the middle portion of the off-site street improvement area, and will fall under the regulatory authority of the Regional Board and CDFW. No wetland features were observed. 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.

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

As part of the nesting bird clearance, it is recommended that a burrowing owl pre-construction clearance survey be conducted prior to any ground disturbance or vegetation removal activities to ensure that burrowing owls remain absent from the project site.

Pre-Construction Desert Tortoise Clearance Survey

A pre-construction clearance survey is recommended to be conducted thirty (30) days prior to ground disturbing activities in undeveloped areas to confirm the absence of desert tortoise within the boundaries of the survey area. Survey transects should be spaced at 10-meter (33-foot) intervals throughout the

undeveloped portions of the project area to provide 100 percent visual coverage and increase the likelihood of locating desert tortoise and/or sign. All burrows, if present, will be thoroughly inspected for the presence of desert tortoise or evidence of recent use using non-intrusive methods (i.e., mirror, digital camera). Burrow characteristics including class, shape, orientation, size, and evidence of deterioration will be recorded on field data sheets.

Although not anticipated, if desert tortoise are found on-site during the pre-construction clearance survey, coordination will need to occur with the USFWS and CDFW to determine if avoidance and minimization measures can be implemented to avoid any direct or indirect impacts to desert tortoise, or if "Take" permits will need to be obtained prepared and approved by the USFWS and CDFW.

Western Joshua Tree Incidental Take Permit

In total, one (1) western Joshua tree 1 to 5 meters in height will be directly impacted within the proposed off-site street improvement, and one western Joshua tree will be avoided onsite, but still may be considered impacted by CDFW. Impacts to the on-site Joshua trees will likely require a total mitigation fee of $400 to be paid into the Western Joshua Tree Mitigation Tree fund, and a Western Joshua Tree Incidental Take Permit to be prepared and processed.

Regulatory Approvals

Impacts to Drainage A will require a Corps Approved Jurisdictional Determination or Waiver, Regional Board CWA Section Report of Waste Discharge, and a CDFW Section 1602 Lake and Streambed Alteration Agreement prior to Project implementation.

Please do not hesitate to contact Travis McGill at (909) 816-1646 or travismcgill@elmtconsulting.com or Jacob H. Lloyd Davies at (714) 686-5960 or jhld@elmtconsulting.com should you have any questions.

Sincerely,

Travis J. McGill | Director

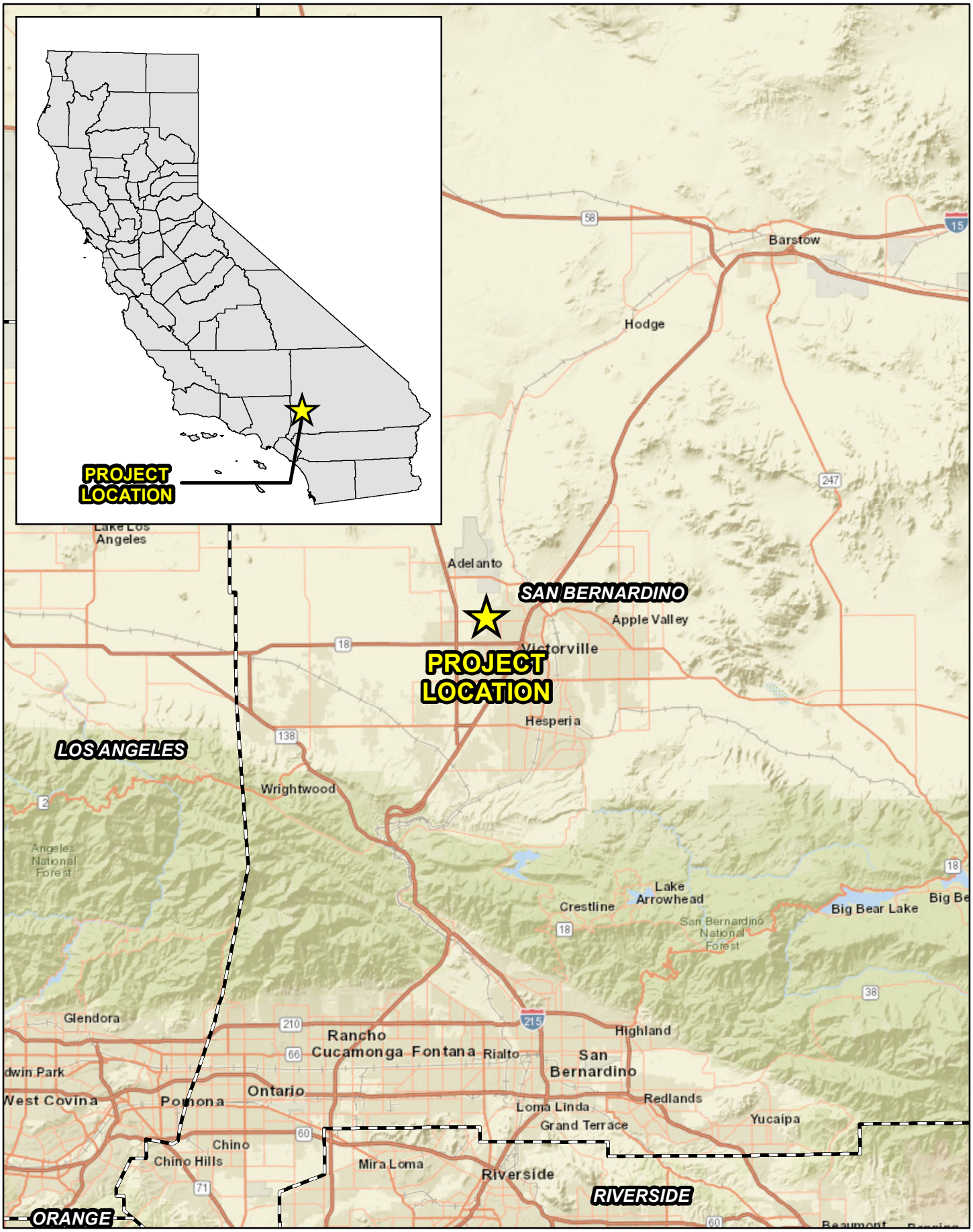
Jacob H. Lloyd Davies | Associate Biologist

Attachments:

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

Attachment A

Project Exhibits



ELMT CONSULTING

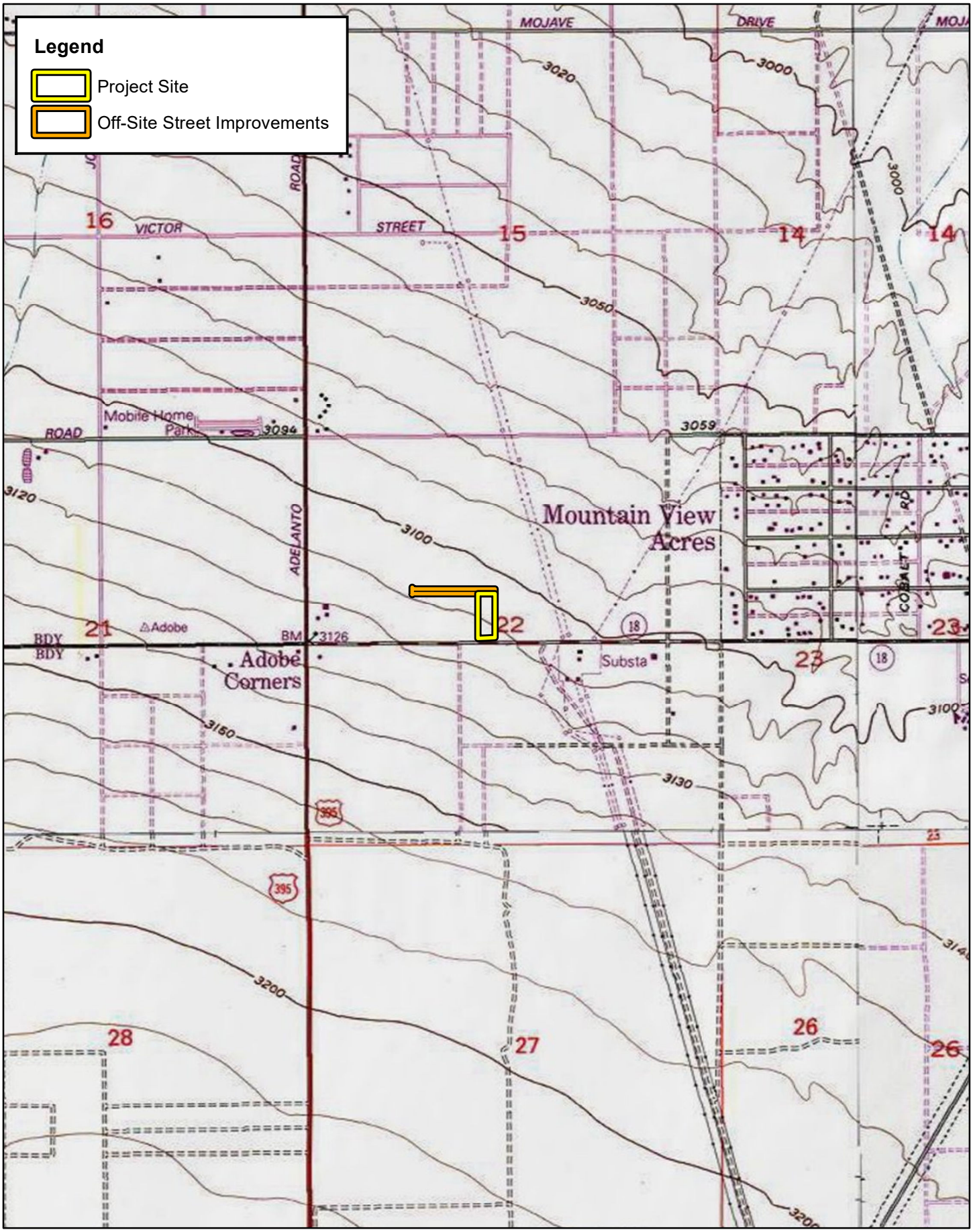
0 2.5 5 10 Miles

Source: World Street Map, San Bernardino County

SHILOH WEST MEDICAL OFFICES

Regional Vicinity

Exhibit 1



ELMT CONSULTING

0 1,000 2,000 4,000 Feet

Source: USA Topographic Map, San Bernardino County

SHILOH WEST MEDICAL OFFICES

Site Vicinity

Exhibit 2

ELMT CONSULTING

0 62.5 125 250 Feet

Source: ESRI Aerial Imagery, San Bernardino County

SHILOH WEST MEDICAL OFFICES

Project Site

Exhibit 3

ELMT CONSULTING

0 62.5 125 250 Feet

Source: Google Earth Aerial Imagery, San Bernardino County

SHILOH WEST MEDICAL OFFICES

Vegetation

Exhibit 4

Attachment B

Site Plan

SIGNAGE NOTE:

ALL PROPOSED SIGNAGE SHALL COMPLY WITH TITLE 18 AND REQUIRES SEPERATE SUBMITTAL, REVIEW, APPROVAL AND PERMIT OF THE PLANNING DEPARTMENT.

OWNERS SIGN COMPANY TO SUBMIT A MASTER SIGN PLAN FOR ALL SITE SIGNAGE INCLUDING BUT NOT LIMITED TO MONUMENT SIGNS, DIRECTIONS SIGNS, BUILDING SIGNS, AND TENANT SIGNS.

LANDSCAPING TABULATION:

A MINIMUM OF 3% OF PARKING LOT SURFACE AREA, EXCLUSIVE OF 5' WIDE FRONTAGE PLANTING, SHALL BE LANDSCAPED. ALL LANDSCAPING SHALL CONFORM TO CITY APPROVED DESIGN STANDARDS.

LANDSCAPE REQUIRED:	3% OF 71,485 S.F.= 2,145 S.F.
TOTAL LANDSCAPE PROVIDED:	18,978 S.F.
5' WIDE STREET FRONTAGE PER CITY STANDARD:	2,479 S.F.
INTERIOR LANDSCAPE:	7,993 S.F.
PERIMETER LANDSCAPE:	8,506 S.F.
TOTAL APPLIED TOWARD 3% REQUIREMENT:	16,499 S.F.

PARKING TABULATION

REQUIRED: ONE SPACE PER 200 S.F. OF GROSS BLDG. AREA (COMMERCIAL); ONE SPACE PER 100 S.F. OF GROSS BLDG. AREA (RESTAURANT) CREDIT-1 SPACE PER LINEAL FEET OF DRIVE THRU AREA, MAX CREDIT OF 2 SPACES

PHASE I-BLDG 'A'

PROPOSED AREA:	MEDICAL OFFICE - 6,267 S.F. LAB - 1,156 S.F. PHARMACY - 1,260 S.F. COMMON AREA - 149 S.F. (6,267 + 1,156 + 1,260 + 149) = 8,832 S.F. / 200 = 45 SPACES COFFEE SHOP - 1,279 S.F. /100 = 13-2 DRIVE THRU CREDIT = 11 SPACES
TOTAL PARKING REQUIRED:	56 SPACES
PROVIDED:	
STANDARD PARKING:	72 SPACES
ACCESSIBLE PARKING:	6 SPACES
TOTAL PARKING PROVIDED:	78 SPACES

REQUIRED: ONE SPACE PER 200 S.F. OF GROSS BLDG. AREA (COMMERCIAL)

PHASE 2-BLDG 'B'

PROPOSED AREA:	20,729 S.F. / 200 = 104
TOTAL PARKING REQUIRED:	104 SPACES
PROVIDED:	
STANDARD PARKING:	78 SPACES
ACCESSIBLE PARKING:	5 SPACES
TOTAL PARKING PROVIDED:	83 SPACES
TOTAL PARKING REQUIRED (PHASE 1&2):	160 SPACES
TOTAL PARKING PROVIDED (PHASE 1&2):	161 SPACES

SITE DATA:

GROSS AREA:	3.26 AC. (142,024 S.F.)
NET AREA:	3 AC. (130,774 S.F.)
PROPOSED BLDG. COVERAGE:	(21%) .69 AC. (30,111 S.F.)

BUILDING DATA:

PHASE I-BLDG 'A'

BUILDING AREA:	10,111 S.F.
CONSTRUCTION TYPE:	VB
HEIGHT:	28'-0"
FIRE SPRINKLER:	YES
OCCUPANCY:	B - BUSINESS
MAX. ALLOWABLE AREA:	UNLIMITED W/FIRE SPINKLER
BUILDING / LOT F.A.R.	10,111 S.F. / 130,774 S.F. = 8%

PHASE 2-BLDG 'B'

BUILDING AREA:	20,729 S.F.
CONSTRUCTION TYPE:	VB
HEIGHT:	44'-0"
FIRE SPRINKLER:	YES
OCCUPANCY:	B - BUSINESS
MAX. ALLOWABLE AREA:	UNLIMITED W/FIRE SPINKLER
BUILDING / LOT F.A.R.	30,840 S.F. / 130,774 S.F. = 24%
EXISTING ZONING:	C1 (NEIGHBORHOOD SERVICE COMMERCIAL)
PROPOSED SANITATION:	PUBLIC SEWER

LEGAL DESCRIPTION

APN: 3103-561-20-0-000

PARCEL 4 OF PARCEL MAP 2960, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 27 PAGE 5 OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY. EXCEPTING THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA BY GRANT DEED RECORDED AUGUST 13, 1992, AS INSTRUMENT NO. 92-335867, OFFICIAL RECORDS. ALSO EXCEPTING THEREFROM THE MINERALS OIL, GAS, AND OTHER HYDROCARBON SUBSTANCES LYING BELOW THE SURFACE OF SAID LAND.

PROJECT APPLICANT / OWNER

PAUL EARLE
12484 HESPERIA ROAD
VICTORVILLE, CA 92345
PHONE: (760) 810-2229
EMAIL: PEARLE@SHILOHMC.COM

PLANS PREPARED BY & AGENT

MARTINEZ + OKAMOTO ARCHITECTS, INC.
ROBERT A. MARTINEZ AIA, CASp
14467 PARK AVE
VICTORVILLE, CA. 92392
OFFICE: (760) 241-7858
FAX: (760) 241-7854

UTILITY COMPANIES

ELECTRIC
SO. CALIFORNIA EDISON
(EDISON INTERNATIONAL)
(800) 655-4555

GAS
SOUTHWEST GAS CORP.
13471 MARIPOSA ROAD
VICTORVILLE, CA
(800) 427-2200

TRASH
VICTORVILLE DISPOSAL
14343 CIVIC DR
VICTORVILLE, CA
(760) 245-8607

TELEPHONE
FRONTIER COMMUNICATIONS
16473 MOJAVE DR
VICTORVILLE, CA
(760) 264-4307

WATER
CITY OF VICTORVILLE
14343 CIVIC DR
VICTORVILLE, CA
(760) 955-5000

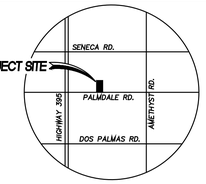
TV
CHARTER COMMUNICATIONS
16461 MOJAVE DRIVE
VICTORVILLE, CA
(760) 241-7848

GREEN BUILDING NOTES:

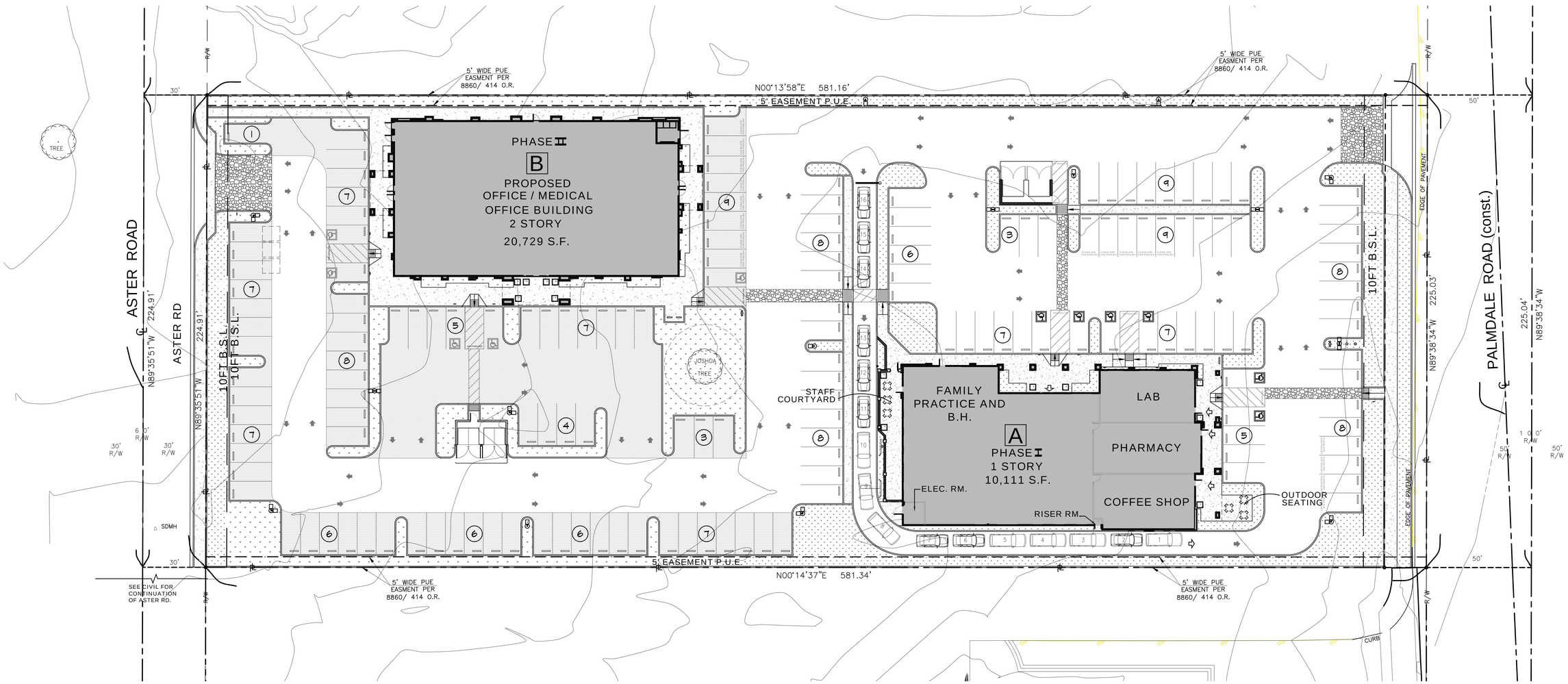
1. BUILDING IS TO HAVE SOLAR PANELS THROUGHOUT ROOF (SEPARATE SUBMITTAL)
2. TWO ELECTRIC VEHICLE CHARGING STATIONS
3. BICYCLE PARKING
4. DROUGHT TOLERANT LANDSCAPE
5. DRIP SYSTEM IRRIGATION
6. LOW FLOW WATER CLOSETS
7. LED LIGHTING
8. RECYCLING TRASH RECEPTACLE
9. SUN SHADES AT SOUTH STOREFRONT
10. WIND SCREENS AT FRONT ENTRY POINTS
11. SKYLIGHT FOR 1ST FLOOR TENANT

LEGEND:

- PROPERTY LINE
- STREET CENTER LINE
- (E) PUBLIC UTILITY EASEMENT
- PUBLIC ACCESSIBLE PATH OF TRAVEL
- LANDSCAPED AREA SEE NOTES
- CONCRETE
- STAMPED COLOR CONCRETE



VICINITY MAP:
CITY OF VICTORVILLE



OVERALL COMPLETED PHASING SITE PLAN

SCALE: 1"=20'-0"

N

REVISION	BY

SHILOH WEST MEDICAL
NEW CONSTRUCTION
PALMDALE RD.
VICTORVILLE, CA.

SHILOH MEDICAL CENTER

LICENSED ARCHITECT ROBERTO MARTINEZ No. C25113 EXP. 10/31/23 STATE OF CALIFORNIA

MARTINEZ + OKAMOTO architects, inc.
15467 SENECA ROAD, SUITE 203
VICTORVILLE, CA 92392
FAX: (760) 241-7854
BUS: (760) 241-7858

M:OA architects

OVERALL COMPLETED PHASING SITE PLAN

DATE:	11/18/22
SCALE:	AS SHOWN
DRAWN BY:	LH
JOB:	21-23
SHEET	SP1.0

Attachment C

Site Photographs

Photograph 1: From the northwest corner of the project site looking south along the western boundary.

Photograph 2: From the northwest corner of the project site looking east along the northern boundary.

Photograph 3: From the northeast corner of the project site looking west along the northern boundary.

Photograph 4: From the northeast corner of the project site looking south along the eastern boundary.

Photograph 5: From the southeast corner of the project site looking north along the eastern boundary.

Photograph 6: From the southeast corner of the project site looking west along the southern boundary.

Photograph 7: From the southwest corner of the project site looking east along the southern boundary.

Photograph 8: From the southwest corner of the project site looking north along the western boundary.

Photograph 9: From the eastern limits of the off-site street improvement area looking west.

Photograph 10: From the middle of the off-site street improvement area looking east.

Photograph 11: From the middle of the off-site street improvement area looking west.

Photograph 12: From Cantina Street looking east along the western limits of the off-site street improvement area.

Photograph 13: Looking south along Drainage A.

Attachment D

Potentially Occurring Special-Status Biological Resources

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

Scientific Name Common Name	**Status**	**Habitat Description**	**Observed On-site**	**Potential to Occur**
SPECIAL-STATUS WILDLIFE SPECIES				
Athene cunicularia burrowing owl	Fed: None CA: SSC	Prefers habitat with short, sparse vegetation with few shrubs and well-drained soils in grassland, shrub steppe, and desert habitats. Primarily a grassland species, but it persists and even thrives in some landscapes highly altered by human activity. Occurs in open, annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. The overriding characteristics of suitable habitat appear to be burrows for roosting and nesting and relatively short vegetation with only sparse shrubs and taller vegetation.	No	**Low** The project site and off-site street improvement area support line-of-sight opportunities favored by burrowing owls. Suitable burrows (>4 inches in diameter) are present.
Buteo swainsoni Swainson's hawk	Fed: None CA: **THR**	Typical habitat is open desert, grassland, or cropland containing scattered, large trees or small groves. Breeds in stands with few trees in juniper-sage flats, riparian areas, and in oak savannah in the Central Valley. Forages in adjacent grassland or suitable grain or alfalfa fields or livestock pastures.	No	**Low** Suitable foraging habitat is present within and surrounding the project site and off-site street improvement area. No suitable nesting opportunities are present.
Circus hudsonius northern harrier	Fed: None CA: SSC	Frequents meadows, grasslands, open rangelands, desert sinks, fresh and saltwater emergent wetlands; seldom found in wooded areas. Mostly found in flat, or hummocky, open areas of tall, dense grasses moist or dry shrubs, and edges for nesting, cover, and feeding.	No	**Low** Suitable foraging habitat is present within and surrounding the project site and off-site street improvement area. No suitable nesting habitat is present.
Eremophila alpestris actia California horned lark	Fed: None CA: WL	Generally found in shortgrass prairies, grasslands, disturbed fields, or similar habitat types along the coast or in deserts. Trees are shrubs are usually scarce or absent. Generally rare in montane, coniferous, or chaparral habitats. Forms large flocks outside of the breeding season.	No	**High** Suitable foraging and nesting habitat are present within and surrounding the project site and off-site street improvement area.
Falco mexicanus prairie falcon	Fed: None CA: WL	Commonly occur in arid and semiarid shrubland and grassland community types. Also occasionally found in open parklands within coniferous forests. During the breeding season, they are found commonly in foothills and mountains which provide cliffs and escarpments suitable for nest sites.	No	**Low** Suitable foraging habitat is present within and surrounding the project site and off-site street improvement area. No suitable nesting opportunities are present.

Scientific Name Common Name	**Status**	**Habitat Description**	**Observed On-site**	**Potential to Occur**
Gopherus agassizii Mojave desert tortoise	Fed: **THR** CA: **THR**	Occurs in desert scrub, desert wash, and Joshua tree habitats with friable, sandy, well-drained soils for nest and burrow construction. Highest densities occur in creosote bush scrub with extensive annual wildflower blooms and succulents with little to no non-native plant species.	No	**Presumed Absent** No desert tortoises, sign, or burrows were observed during the habitat assessment. Marginal foraging habitat is present within and surrounding the project site and off-site street improvement area. Adjacent and surrounding development have fragmented habitats in the vicinity of the site and excluded the site from more suitable areas.
Lanius ludovicianus loggerhead shrike	Fed: None CA: SSC	Prefers open habitats with bare ground, scattered shrubs, and areas with low or sparse herbaceous cover including open-canopied valley foothill hardwood, riparian, pinyon-juniper, desert riparian, creosote bush scrub, and Joshua tree woodland. Requires suitable perches including trees, posts, fences, utility lines, or other perches.	No	**High** Suitable foraging and nesting habitat are present within and surrounding the project site and off-site street improvement area.
Phrynosoma blainvillii coast horned lizard	Fed: None CA: SSC	Occurs in a wide variety of vegetation types including coastal sage scrub, annual grassland, chaparral, oak woodland, riparian woodland and coniferous forest. In inland areas, this species is restricted to areas with pockets of open microhabitat, created by disturbance (i.e. fire, floods, roads, grazing, fire breaks). The key elements of such habitats are loose, fine soils with a high sand fraction; an abundance of native ants or other insects; and open areas with limited overstory for basking and low, but relatively dense shrubs for refuge.	No	**Low** Suitable foraging and burrowing habitat are present within and surrounding the project site and off-site street improvement area. Routine dumping and other anthropogenic disturbances likely preclude this species from establishing on-site.
Spizella breweri Brewer's sparrow	Fed: None CA: None	Habitats include sagebrush and brushy plains.	Yes	**Present** Suitable foraging and nesting habitat are present within and surrounding the project site and off-site street improvement area. One (1) individual was observed in the middle portion of the off-site street improvement area.
Taxidea taxus American badger	Fed: None CA: SSC	Primarily occupy grasslands, parklands, farms, tallgrass and shortgrass prairies, meadows, shrub-steppe communities and other treeless areas with sandy loam soils where it can dig more easily for its prey. Occasionally found in open chaparral (with less than 50% plant cover) and riparian zones.	No	**Presumed Absent** Limited foraging and burrowing habitat is present within and adjacent to the project site and off-site street improvement area. Adjacent and surrounding development have fragmented habitats in the vicinity of the site and excluded the site from more suitable areas.

Scientific Name Common Name	**Status**	**Habitat Description**	**Observed On-site**	**Potential to Occur**
Toxostoma lecontei Le Conte's thrasher	Fed: None CA: SSC	An uncommon to rare, local resident in southern California deserts from southern Mono Co. south to the Mexican border, and in western and southern San Joaquin Valley. Occurs primarily in open desert wash, desert scrub, alkali desert scrub, and desert succulent shrub habitats; also occurs in Joshua tree habitat with scattered shrubs.	No	**Presumed Absent** There is no suitable habitat present within or adjacent to the project site and off-site street improvement area.
Xerospermophilus mohavensis Mohave ground squirrel	Fed: None CA: **THR**	Restricted to the Mojave Desert in open desert scrub, alkali desert scrub, annual grassland, and Joshua tree woodland. Prefers sandy to gravelly soils and tends to avoid rocky areas. Occurs sympatrically with the white-tailed antelope squirrel.	No	**Presumed Absent** Limited foraging and burrowing habitat is present. Routine disturbance precludes this species from establishing within or the project site and off-site street improvement area.
SPECIAL-STATUS PLANT SPECIES				
Canbya candida white pygmy-poppy	Fed: None CA: None CNPS: 4.2	Granitic, Gravelly, Sandy microhabitats within Joshua tree "woodland", Mojavean desert scrub, Pinyon and juniper woodland. Found at elevations ranging from 1970 to 4790 feet. Blooms in March-June.	No	**Low** Limited habitat is present within and adjacent to the project site and off-site street improvement area.
Chorizanthe spinosa Mojave spineflower	Fed: None CA: None CNPS: 4.2	Alkaline (sometimes) microhabitats within Chenopod scrub, Joshua tree "woodland", Mojavean desert scrub, Playas. Found at elevations ranging from 20 to 4265 feet. Blooms in March-July.	No	**Low** Limited habitat is present within and adjacent to the project site and off-site street improvement area.
Loeflingia squarrosa* var. *artemisiarum sagebrush loeflingia	Fed: None CA: None CNPS: 2B.2	Sandy microhabitats within Desert dunes, Great Basin scrub, Sonoran desert scrub. Elevation range is unknown; known from 2295 feet. Blooms in April-May.	No	**Presumed Absent** Limited habitat is present within and adjacent to the project site and off-site street improvement area. Historic disturbance and isolation of the site likely precludes this species from occurring.
Monardella exilis Mojave monardella	Fed: None CA: None CNPS: 4.2	Sandy microhabitats within Chenopod scrub, Desert dunes, Great Basin scrub, Joshua tree "woodland", Lower montane coniferous forest, Mojavean desert scrub, Pinyon and juniper woodland. Elevation range is unknown; known from 1970 feet. Blooms in April-September.	No	**Low** Limited habitat is present within and adjacent to the project site and off-site street improvement area.
Muilla coronata crowned muilla	Fed: None CA: None CNPS: 4.2	Chenopod scrub, Joshua tree "woodland", Mojavean desert scrub, Pinyon and juniper woodland. Elevation range is unknown; known from 2200 feet. Blooms in March-April(May).	No	**Low** Limited habitat is present within and adjacent to the project site and off-site street improvement area.

Scientific Name Common Name	**Status**	**Habitat Description**	**Observed On-site**	**Potential to Occur**
Pediomelum castoreum Beaver dam breadroot	Fed: None CA: None CNPS: 1B.2	Roadsides, Sandy, Washes microhabitats within Joshua tree "woodland", Mojavean desert scrub. Elevation range is unknown; known from 2000 feet. Blooms in April-May.	No	**Presumed Absent** Limited habitat is present within and adjacent to the project site and off-site street improvement area. Historic disturbance and isolation of the site likely precludes this species from occurring.
Yucca brevifolia western Joshua tree	Fed: None CA: CE CNPS: N/A	Occurs in a variety of arid habitats within the Mojave Desert. Found at elevations ranging from 1,600 to 6,600 feet. Blooming period is from March to June.	Yes	**Present** Suitable habitat is present within and adjacent to the project site and off-site street improvement area. One (1) individual was observed onsite,

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

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

California Native Plant Society (CNPS) - *California Rare Plant Rank*
1B Plants Rare, Threatened, or Endangered in California and Elsewhere
2B Plants Rare, Threatened, or Endangered in California, but More Common Elsewhere
4 Plants of Limited Distribution – A Watch List

Threat Ranks
0.2- Moderately threatened in California
0.3- Not very threatened in California

Attachment E

Regulations

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

Federal Regulations

Endangered Species Act of 1973

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

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

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

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

Migratory Bird Treaty Act

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

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

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

State Regulations

California Environmental Quality Act (CEQA)

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

California Endangered Species Act (CESA)

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

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

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

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

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

Fish and Game Code

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

Native Plant Protection Act

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

California Native Plant Society Rare and Endangered Plant Species

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

California Rare Plant Rank

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

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

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

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

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

4- Plants of Limited Distribution - A Watch List

Threat Ranks

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

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

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

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 Sates" 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.