



13.7 Biological Constraints Survey/ Jurisdictional Delineation

February 11, 2013

Mr. Alan Ashimine
RBF Consulting
14725 Alton Parkway
Irvine, California 92618

VIA EMAIL
aashimine@rbf.com

Subject: Biological Constraints Survey for the Huntington Beach Gun Range Environmental Impact Report in the City of Huntington Beach, Orange County, California

Dear Mr. Ashimine:

This Letter Report presents the findings of a biological constraints survey for the Huntington Beach Gun Range Environmental Impact Report (EIR) (hereinafter referred to as the "project site") located in the City of Huntington Beach, Orange County, California (Exhibit 1). The purpose of the survey was to evaluate potential biological constraints on future development of the project site.

BonTerra Consulting Biologists Allison Rudalevige and Lindsay Messett conducted a general plant and wildlife survey and mapped vegetation on December 5, 2012. Prior to the surveys, the California Native Plant Society's (CNPS') Electronic Inventory of Rare and Endangered Vascular Plants of California (CNPS 2012) and the California Department of Fish and Wildlife's¹ (CDFW's) California Natural Diversity Database (CNDDDB) (CDFG 2012) were reviewed to identify special status plants, wildlife, and habitats known to occur in the vicinity of the project site; a list of special status species of interest to the U.S. Fish and Wildlife Service (USFWS) was also obtained. Database searches included the U.S. Geological Survey's (USGS') Anaheim, Los Alamitos, Newport Beach, and Seal Beach 7.5-minute quadrangles.

Vegetation was mapped on a 1 inch equals 160 feet (1"=160') scale color aerial. In the event the tree canopy covered another vegetation type (e.g., ornamental over a road), the vegetation was mapped as the corresponding vegetation type for the canopy. Nomenclature for vegetation types follows that of *The Habitat Classification System Natural Resources Geographic Information System (GIS) Project* (Gray and Bramlet 1992) and *A Manual of California Vegetation* (Sawyer, Keeler-Wolf, and Evens 2009).

PROJECT LOCATION AND DESCRIPTION

The approximate 3.62-acre project site is adjacent to Huntington Central Park north of Ellis Avenue, east of Goldenwest Street, south of Talbert Avenue, and west of Gothard Street (Exhibit 1). It is located on the USGS' Seal Beach 7.5-minute quadrangle (Exhibit 2). Topography on the project site is generally flat, with an earthen ditch along the western boundary of the project site. The elevation on the project

¹ The California Department of Fish and Game (CDFG) changed its name to the California Department of Fish and Wildlife (CDFW) effective January 1, 2013.



site ranges from approximately 50 to 60 feet above mean sea level (msl). Soils on the project site are mapped as *Xeralfic* arents (2 to 9 percent slopes) (Exhibit 3).

The proposed project consists of the remediation of existing lead contamination and the long-term development of an open space/park element of Huntington Central Park.

SURVEY RESULTS

Vegetation Types and Other Areas

Vegetation types and other areas on the project site consist of California brittle bush scrub/ruderal, mulefat scrub/ornamental, developed/ornamental, and developed (Exhibit 4). Representative site photographs are included as Attachment A.

California brittle bush scrub/ruderal vegetation occurs in the southern portion of the project site. This vegetation type is co-dominated by California brittlebush (*Encelia californica*) and the non-native black mustard (*Brassica nigra*). Other species present in this vegetation type include myoporum (*Myoporum laetum*), coyote brush (*Baccharis pilularis*), and California sagebrush (*Artemisia californica*). This vegetation type, particularly in the central portion of the project site, is heavily disturbed by debris from the former site usage and trash; in some areas the vegetation is growing up through asphalt.

Mulefat scrub/ornamental vegetation occurs within an earthen ditch along the western boundary of the project site. This vegetation type is co-dominated by mule fat (*Baccharis salicifolia*) and myoporum.

Developed/ornamental areas occur in the more northern portions of the project site. These areas represent a mix of derelict structures (e.g., walls), debris, asphalt or gravel roads, and overgrown (primarily ornamental) vegetation. Ornamental plant species observed in these areas include Peruvian pepper (*Schinus molle*), myoporum, gum (*Eucalyptus* sp.), and fan palm (*Washingtonia* sp.). Some scattered native species (e.g., coyote brush, mule fat, and California brittlebush) also occur in these areas.

Developed areas occur throughout the project site. They consist of derelict structures (e.g., walls and buildings) and asphalt or gravel roads. Debris (e.g., concrete, broken glass, trash) is present throughout these areas. Little to no vegetation grows in these areas.

Wildlife Habitat

No amphibian or reptile species were observed during the biological survey. Amphibian species expected to occur on or immediately adjacent to the project site include the western toad (*Anaxyrus boreas* [*Bufo boreas*]) and Baja California treefrog (*Pseudacris hypochondriaca* [*Hyla regilla*]). Reptile species expected to occur on the project site include western fence lizard (*Sceloporus occidentalis*), side-blotched lizard (*Uta stansburiana*), and gopher snake (*Pituophis catenifer*).

Bird species observed on the project site include osprey (*Pandion haliaetus*), red-tailed hawk (*Buteo jamaicensis*), Anna's hummingbird (*Calypte anna*), Allen's hummingbird (*Selasphorus sasin*), northern flicker (*Colaptes auratus*), Say's phoebe (*Sayornis saya*), American crow (*Corvus brachyrhynchos*), Bewick's wren (*Thryomanes bewickii*), blue-gray gnatcatcher (*Poliophtila caerulea*), song sparrow (*Melospiza melodia*), white-crowned sparrow (*Zonotrichia leucophrys*), house finch (*Carpodacus mexicanus*), and lesser goldfinch (*Spinus* [*Carduelis*])

psaltria). Northern shoveler (*Anas clypeata*) and pied-billed grebe (*Podilymbus podiceps*) were observed adjacent to the project site in Sully Miller Lake; western gull (*Larus occidentalis*) was observed flying over the site.

Mammal species, or their sign, that were observed on the project site were desert cottontail (*Sylvilagus audubonii*), California ground squirrel (*Spermophilus beecheyi*), and Botta's pocket gopher (*Thomomys bottae*). Bat species expected to occur on the project site include big brown bat (*Eptesicus fuscus*) and Brazilian free-tailed bat (*Tadarida brasiliensis*).

Wildlife Movement

In large open space areas where there are few or no man-made or naturally occurring physical constraints to wildlife movement, wildlife corridors may not yet exist. However, once open space areas become constrained and/or fragmented as a result of urban development or the construction of physical obstacles (e.g., roads and highways), the remaining landscape features or travel routes that connect the larger open space areas become corridors as long as they provide adequate space, cover, food, and water and do not contain obstacles or distractions (e.g., man-made noise, lighting) that would generally hinder wildlife movement.

The project site is a part of City property that includes human-modified open space in Huntington Central Park and Huntington Beach Sports Park. These areas primarily contain ornamental or landscaped vegetation, with some patches of remnant native vegetation. They adjoin open space in Bolsa Chica Ecological Reserve to the southwest; however, Edwards Street represents a movement barrier. These open space areas are located in a heavily urbanized landscape matrix and so are isolated from large, intact areas of natural open space. Regional wildlife movement opportunities for terrestrial species out of the area would be confined to the Santa Ana River, the East Garden Grove Wintersburg Channel, and the immediate coast. Therefore, regional wildlife movement is only expected for urban-tolerant wildlife species or birds. Because the project site is located on the eastern edge of the fragment of open space consisting of the parks and ecological reserve, development of the property is not expected to have a significant impact on wildlife movement.

Special Status Vegetation Types

In addition to providing an inventory of special status plant and wildlife species, the CNDDDB also provides an inventory of vegetation types that are considered special status by the State and federal resource agencies, academic institutions, and various conservation groups (e.g., the CNPS). Special status vegetation is ranked on a global (G) and statewide (S) basis according to its degree of imperilment. Local jurisdictions may also protect special status vegetation types through ordinances, codes, regulations, or planning policies.

Coastal Sage Scrub

Coastal sage scrub, as a whole, had declined by approximately 70 to 90 percent in its historic range in California by the mid-1990s (Noss and Peters 1995). This vegetation type supports many special status plant and wildlife species, and the ecological function of southern California's remaining coastal sage scrub continues to be threatened by habitat fragmentation, invasive non-native species, livestock grazing, off-highway vehicles, altered fire regime, and perhaps air pollution (O'Leary 1995; Allen et al. 2000). The coastal sage scrub vegetation type on the project site consists of California brittle bush scrub/ruderal vegetation. California brittle bush scrub is ranked as G4 S3. G4 communities are apparently secure and uncommon but not rare with some cause of long-term concern due to declines or other factors; S3 communities are

vulnerable and at moderate risk of extinction or elimination due to a restricted range, relatively few populations or occurrences, recent and widespread declines, or other factors (Faber-Langendoen et al. 2009). California brittle bush scrub on the project site has been degraded by the presence of ornamental species and would, therefore, not be considered as biologically valuable as undisturbed types.

Riparian

Riparian vegetation occurs along perennial or intermittent drainages that are typically subject to seasonal flooding. Most natural riparian vegetation in southern California has been lost or degraded by land use conversions to agricultural, urban, and recreational uses; channelization for flood control; sand and gravel mining; groundwater pumping; water impoundments; and various other changes. It is estimated that as much as 95 to 97 percent of historic riparian habitats in southern California have been lost (Faber et al. 1989). In general, riparian vegetation can provide important biological functions for an ecosystem (e.g., cover and water sources for wildlife; filtration of runoff water and groundwater recharge; and flood control and sediment stabilization). Riparian vegetation on the project site occurs along the earthen ditch on the south western edge of the property; it is comprised of mulefat scrub/ornamental vegetation. Mulefat scrub is ranked as G4 S4, meaning that it is apparently secure. Mulefat scrub on the project site has been degraded by the presence of ornamental species and would, therefore, not be considered as biologically valuable as undisturbed types.

Jurisdictional Areas

Drainages, which may include wetlands and “Waters of the U.S.”, are protected under Section 404 of the Clean Water Act (CWA) and are under the jurisdiction of the U.S. Army Corps of Engineers (USACE). “Waters of the U.S.” include navigable coastal and inland waters, lakes, rivers, streams and their tributaries; interstate waters and their tributaries; wetlands adjacent to such waters; intermittent streams; and other waters that could affect interstate commerce. A CWA Section 401 Water Quality Certification from the Regional Water Quality Control Board (RWQCB) is required before the USACE will issue a Section 404 permit. In addition, if drainages on the project site meet the criteria established by Section 1600 of the *California Fish and Game Code*, the CDFW may require a Streambed Alteration Agreement prior to any modification of the bed, bank, or channel of streambeds on the project site.

An assessment of the earthen ditch on the south western edge of the project site was made by RBF Consulting in 2008 and updated in 2013. They determined that the earthen ditch did not contain evidence of an ordinary high water mark or hydrology; therefore, it would not be under the jurisdiction of the USACE, the RWQCB, or the CDFW (RBF Consulting 2008; 2013). A written concurrence with these findings from the regulatory agencies (generally in the form of a Jurisdictional Determination letter) is recommended prior to impacting this ditch. Permits from the regulatory agencies would not be required if they concurred that the ditch is not jurisdictional.

Special Status Plant and Wildlife Species

Plants or wildlife may be considered “special status” due to declining populations, vulnerability to habitat change, or restricted distributions. Certain special status species have been listed as Threatened or Endangered under the State and/or Federal Endangered Species Acts.

Special Status Plants

Several special status plant species have been reported in the vicinity of the project site (CNPS 2012; CDFG 2012). Four of these species are federally and/or State-listed Threatened or Endangered species: Ventura Marsh milk-vetch (*Astragalus pycnostachyus* var. *lanosissimus*), salt marsh bird's-beak (*Chloropyron maritimum* ssp. *maritimum*), Gambel's water cress (*Nasturtium gambelii*), and California Orcutt grass (*Orcuttia californica*). None of these species are expected to occur on the project site due to lack of suitable habitat or because they are not currently known from the region.

In addition to species formally listed by the resource agencies, several species reported in the vicinity of the project site have a California Rare Plant Rank (CRPR) of 1B or 2 and may be considered constraints on development per Section 15380 of the California Environmental Quality Act (CEQA). There is marginal suitable habitat for southern tarplant (*Centromadia parryi* ssp. *australis*) on the project site. The presence of this species on the project site may represent a constraint on development, depending on the size of the population relative to populations in the region. The remaining species are not expected to occur on the project site due to the disturbed condition of the project site and lack of suitable habitat.

Although several species with a CRPR of 3 and 4 are also known from the vicinity, these species are not typically considered constraints to development.

Special Status Wildlife

Several special status wildlife species have been reported from the project vicinity. The following federally and/or State-listed Endangered or Threatened species have been reported from the vicinity of the project site: San Diego fairy shrimp (*Branchinecta sandiegonensis*), green turtle (*Chelonia mydas*), light-footed clapper rail (*Rallus longirostris levipes*), California black rail (*Laterallus jamaicensis coturniculus*), western snowy plover (*Charadrius alexandrinus nivosus*), California least tern (*Sternula antillarum browni*), western yellow-billed cuckoo (*Coccyzus americanus occidentalis*), bank swallow (*Riparia riparia*), coastal California gnatcatcher (*Polioptila californica californica*), Belding's savannah sparrow (*Passerculus sandwichensis beldingi*), and Pacific pocket mouse (*Perognathus longimembris pacificus*). Any impact on these species, if present, would be considered significant. There is limited, marginal suitable habitat for the coastal California gnatcatcher on the project site. This species is discussed below. The remaining species are not expected to occur on the project site due to the disturbed condition of the project site and lack of suitable habitat.

In addition to species formally listed by the resource agencies, multiple species reported in the vicinity of the project site may be considered constraints on development per Section 15380 of CEQA. The following California Species of Special Concern have limited potential to occur on the project site due to the presence of limited, marginal suitable habitat: orangethroat whiptail (*Aspidoscelis hyperythra*) and coast horned lizard (*Phrynosoma blainvillii*). The presence of these species on the project site is not expected to be a constraint on development due to the degraded nature of the project site and because development of the project site would not reduce regional populations of these species below self-sustaining levels.

Coastal California Gnatcatcher

The coastal California gnatcatcher is a federally listed Threatened species and a California Species of Special Concern. This subspecies is an obligate resident (occurs year-round) in coastal sage scrub habitat. This species has been reported immediately east of the project site

in coastal sage scrub (CDFG 2012). A limited amount of marginal suitable habitat for this species is present on the project site. Focused surveys would be required to determine the current presence or absence of this species on the project site. In the absence of focused surveys, presence must be assumed in sage scrub vegetation types.

On December 19, 2007, the USFWS published a final rule revising critical habitat for the coastal California gnatcatcher. This revised designation covers 197,303 acres of land in Ventura, Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties (USFWS 2007). The project site is not located in designated critical habitat for this subspecies.

OTHER CONSIDERATIONS

Nesting Raptors

Several raptor species (i.e., birds of prey) have potential to nest in the ornamental trees in and adjacent to the project site. If construction would occur during the raptor nesting season (i.e., February 1 to June 30), the loss of an active nest of any raptor species, including common raptor species, would be considered a violation of Sections 3503, 3503.5, and 3513 of the *California Fish and Game Code*.

Nesting Birds

The Migratory Bird Treaty Act (MBTA) protects the taking of migratory birds and their nests and eggs. Bird species protected under the provisions of the MBTA are identified by the List of Migratory Birds (50 *Code of Federal Regulations*, Section 10.13). Any impact on an active bird nest would be considered a violation of the MBTA.

Noise/Human Activity

Noise levels and human activity on the project site may increase over present levels during project construction and implementation. These temporary noise impacts have the potential to disrupt the foraging, nesting, roosting, and denning activities of a variety of wildlife species. Wildlife species startled or stressed by construction noise may disperse from the habitat near the project site. However, the project site is located adjacent to an active park that is heavily used by visitors. Therefore, most wildlife species on the project site are likely already acclimated to a high level of human activity and noise associated with park maintenance. The indirect noise impact would be considered adverse, but it would not be expected to represent a significant constraint on development of the project site.

Night Lighting

Development of the project site may increase the number of nighttime light and glare sources. This may result in an indirect impact on the open space habitat remaining adjacent to a proposed development. Night lighting may impact the behavioral patterns of nocturnal and crepuscular (i.e., active and dawn and dusk) wildlife adjacent to the lighted areas. Of greatest concern is the effect on small, ground-dwelling animals that use the darkness to hide from predators and on owls, which are specialized night foragers. Design and operational features should be in place to ensure that outdoor lighting is not directed toward adjacent open space. The indirect night lighting impact would be considered adverse, but would not be expected to represent a significant constraint on development of the project site.

Invasive Species

Landscaping proposed as part of a future development may include a variety of native and non-native plant species. After project implementation, a number of non-native plant species that are more adapted to urban environments could increase in population and displace native species in adjacent natural open space because of their ability to more effectively compete for resources. These plant species are often more adapted to a wider variety of growing conditions and can out-compete native plant populations for available nutrients, prime growing locations, and other resources. Because these plants reproduce so quickly and in such large amounts, they can quickly replace many native plant populations, resulting in lower species diversity, loss of areas suitable for breeding and/or foraging by wildlife species, changes in riparian ecosystem, and overall reduction in habitat values. The project site currently includes a large proportion of non-native species. Design and operational features should be in place to ensure that additional invasive exotic species are not included in the landscape plan for the future project. While the impact of invasive species would be considered adverse, it would not be expected to represent a significant constraint on development of the project site.

RECOMMENDATIONS

- Written concurrence with the negative findings of jurisdictional resources from the regulatory agencies (generally in the form of a Jurisdictional Determination letter) is recommended prior to impacting the earthen ditch on the project site.
- Focused surveys for special status plant species are recommended during the appropriate blooming period (generally spring/summer) to determine the presence or absence of special status species. If a special status plant species is observed, its rarity and abundance will be evaluated by the Project Biologist. If the finding is considered significant, then additional avoidance, minimization, or mitigation measures may be required.
- Focused surveys for the coastal California gnatcatcher are recommended to determine the presence or absence of this species on the project site. Survey protocol requires either (1) a minimum of six surveys be conducted between March 15 and June 30 or (2) a minimum of nine surveys be conducted between July 1 and March 14. If focused surveys determine that coastal California gnatcatcher is not present on the project site, then no further measures would be necessary. If focused surveys determine that the coastal California gnatcatcher is present on the project site, then the Project Applicant would need to consult with the USFWS on how to proceed.
- In order to avoid impacts on nesting birds and raptors (common or special status), vegetation clearing should be scheduled during the non-breeding season (generally between September 16 and February 14 for nesting birds; July 1 and January 31 for nesting raptors), to the extent practicable. If Project timing requires that vegetation clearing be conducted during the breeding season (generally between February 15 and September 15 for birds; February 1 and June 30 for raptors), a pre-construction survey (or multiple surveys) should be conducted by a qualified Biologist for nesting birds and/or raptors prior to disturbance to confirm the absence of active nests. If no active nests are found, no further measures would be necessary. If the Biologist finds an active nest, additional avoidance and/or minimization measures may be required.
- Night lighting should be directed away from open space areas and shielding should be incorporated in the final Project design to minimize the increase in ambient light in adjacent open space to the greatest extent practicable.

- Landscaping plans should be developed to incorporate the use of native plant species to the maximum extent practicable. The Project Applicant will work with a professional landscape architect and/or habitat restoration specialist that specializes in native habitats and the appropriate species for these types of areas. The plant palette should be consistent with the Orange County Fire Authority (OCFA) Fuel Modification Plans and Maintenance Program (OCFA 2011). Furthermore, to minimize the potential for invasive, exotic plant species to escape into natural open space areas adjacent to the project site, the plant palette should avoid the use of exotic plant species known to be highly invasive, for example, any species listed in the California Invasive Plant Council (Cal-IPC) Invasive Plant Inventory or the Federal Noxious Weed List.

Thank you for the opportunity to prepare this Letter Report. If you have any questions or comments, please contact Stacie Tennant at (714) 444-9199.

Sincerely,

BONTERRA CONSULTING



Ann M. Johnston
Principal, Biological Services



Stacie A. Tennant
Senior Project Manager, Biological Services

Enclosures: Exhibits 1, 2, 3, and 4.
Attachment A – Site Photographs

REFERENCES

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² As of January 1, 2013, the name of the California Department of Fish and Game (CDFG) has been changed to the "California Department of Fish and Wildlife".

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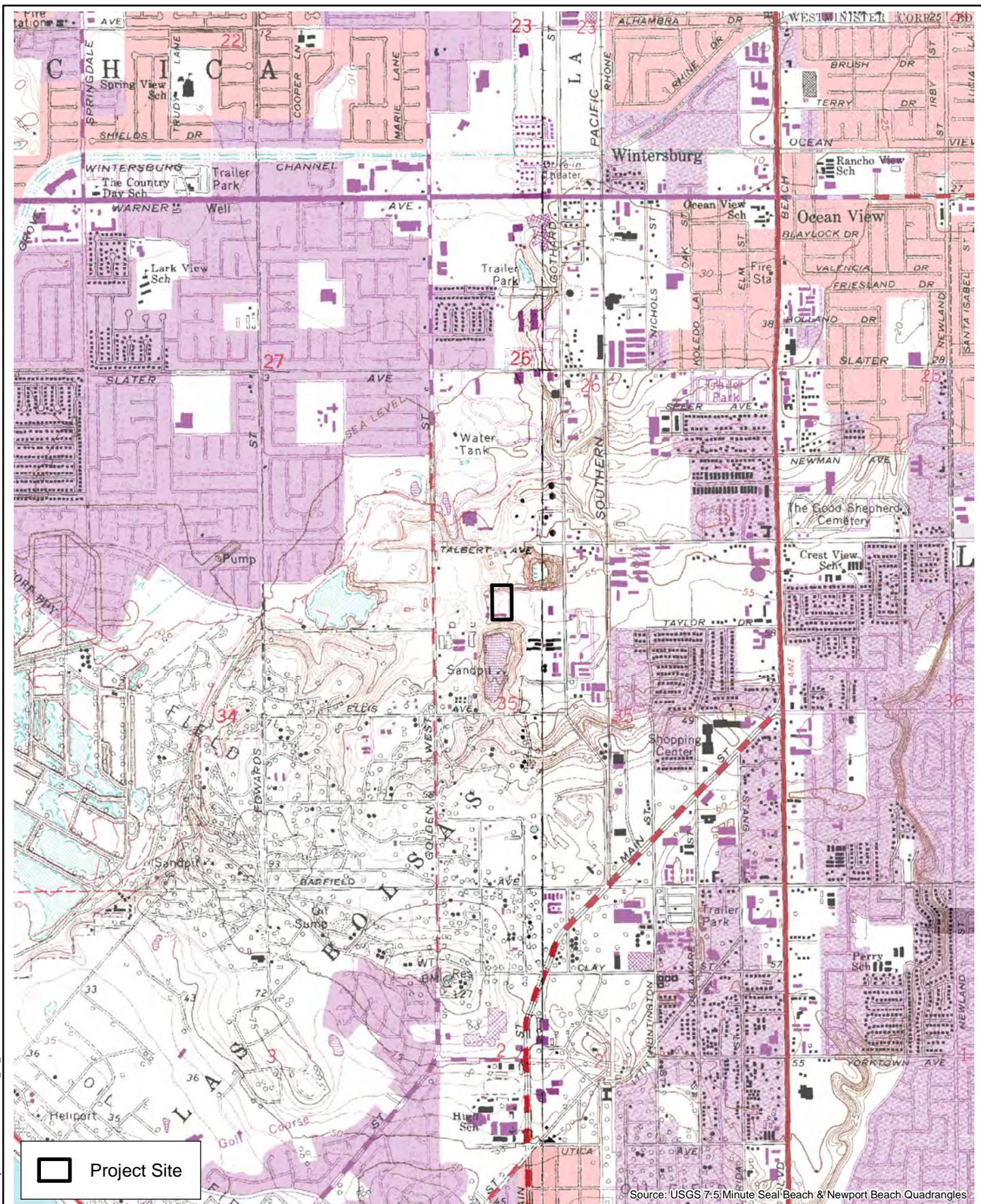
Project Location

Huntington Beach Gun Range EIR

Exhibit 1



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CONSULTING



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 Project Site

Source: USGS 7.5 Minute Seal Beach & Newport Beach Quadrangles

U.S. Geological Survey 7.5-minute Quadrangle
Huntington Beach Gun Range EIR

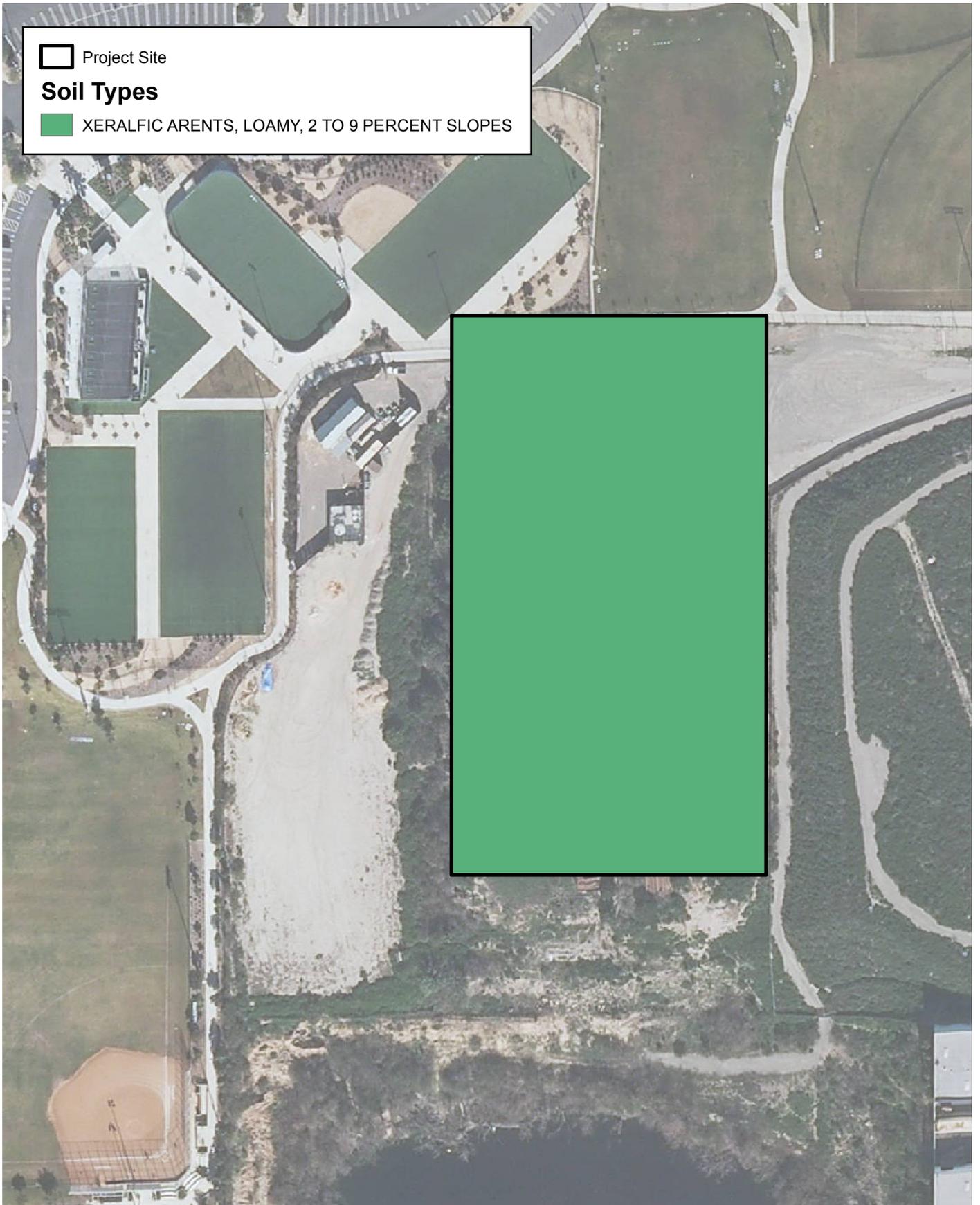
Exhibit 2



 Project Site

Soil Types

 XERALFIC ARENTS, LOAMY, 2 TO 9 PERCENT SLOPES



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Soil Types

Huntington Beach Gun Range EIR

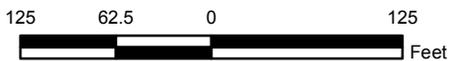


Exhibit 3

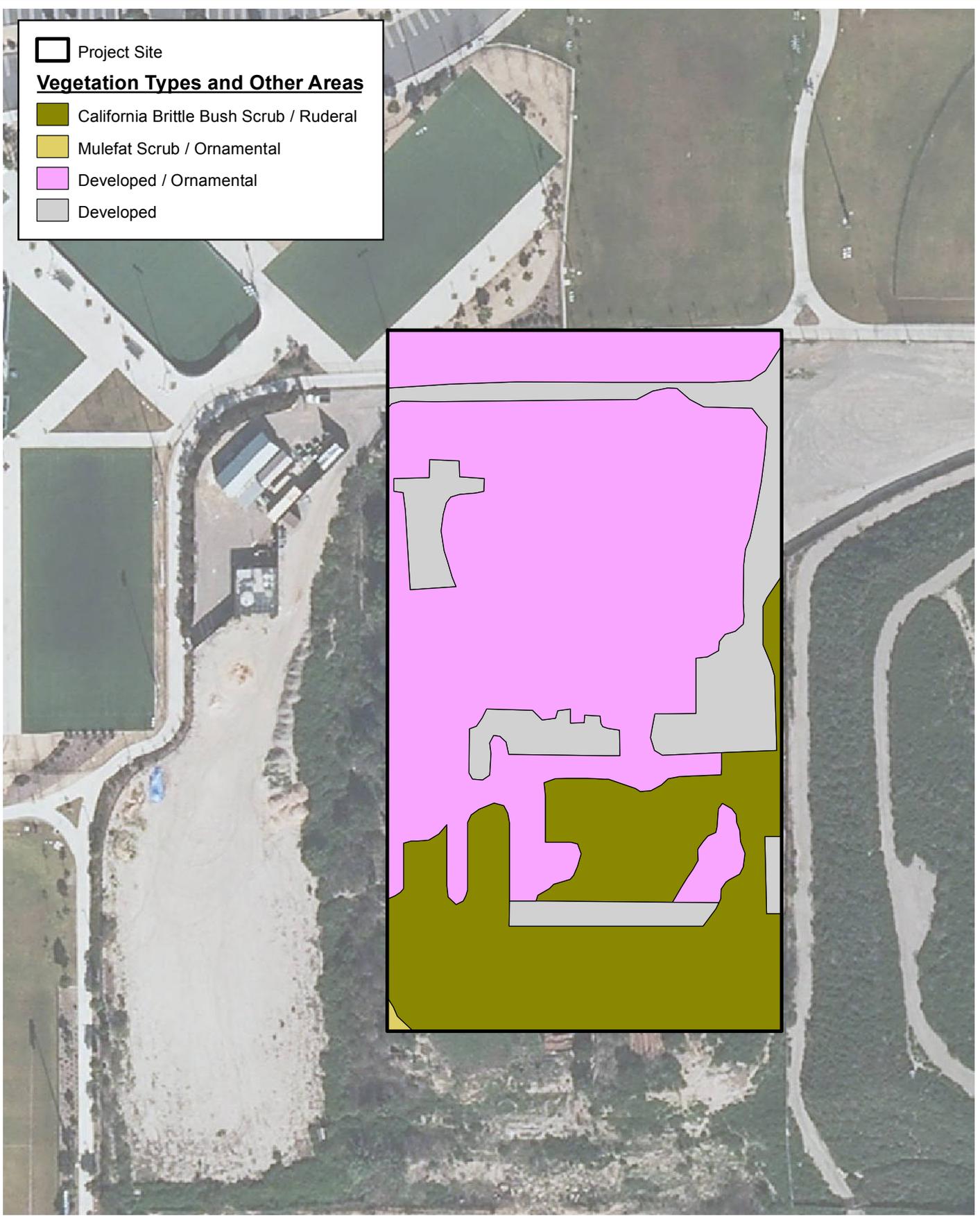
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 Project Site

Vegetation Types and Other Areas

-  California Brittle Bush Scrub / Ruderal
-  Mulefat Scrub / Ornamental
-  Developed / Ornamental
-  Developed



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Vegetation Types and Other Areas

Exhibit 4

Huntington Beach Gun Range EIR



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ATTACHMENT A
SITE PHOTOGRAPHS



California brittle bush scrub/ruderal in the center of the project site, facing west.



Mulefat Scrub/ornamental at the southern end of the project site, facing south.



Developed/ornamental area in the center of the project site, facing west.

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Site Photographs

Huntington Beach Gun Range EIR

Attachment A

Bonterra
CONSULTING



February 6, 2013

CITY OF HUNTINGTON BEACH

Attention: Mr. Ricky Ramos
2000 Main Street
Huntington Beach, CA 92648

SUBJECT: Delineation of Jurisdictional Waters Update for the Remediation and Reuse of the Former Gun Range within Huntington Central Park

Dear Mr. Ramos:

This delineation update was prepared for the City of Huntington Beach (City), in order to delineate the U.S. Army Corps of Engineers' (Corps), Regional Water Quality Control Board's (Regional Board), and California Department of Fish and Wildlife's (CDFW) jurisdictional authority within the Remediation and Reuse of the Former Gun Range within Huntington Central Park, located to the south of Talbert Avenue and west of Gothard Street, City of Huntington Beach, County of Orange, California. The fieldwork for this delineation update was conducted on February 5, 2013.

Site Conditions

One (1) earthen ditch was noted along the western boundary of the gun range facility. No water flow was noted within the boundaries of the project site during the site visit. While in the field, RBF staff looked for evidence of an ordinary high water mark (OHWM) and hydrology (i.e., erosional cut, drift and debris, sediment deposits); however, no evidence of hydrology was noted within the earthen ditch. The earthen ditch and slopes contained upland vegetation, including ngaio tree (*Myoporum laetum*), Peruvian peppertree (*Schinus molle*), tree tobacco (*Nicotiana glauca*), mustard (*Brassica nigra*), brittlebush (*Encelia californica*), coyote brush (*Baccharis pilularis*), castorbean (*Ricinus communis*), and Washington fan palm (*Washingtonia robusta*). However, mulefat (*Baccharis salicifolia*), a riparian species, was also noted in and surrounding the ditch. The ditch appeared to be disturbed, and contained debris and trash. No evidence of a streambed was noted and no culverts associated with the ditch were observed.

Recommendations

The earthen ditch along the western boundary of the gun range did not contain an OHWM and no additional evidence of hydrology was noted. Based on the results of the field observation, no Corps, Regional Board, or CDFW jurisdictional drainages or wetlands are located within the boundaries of the project site. Therefore, it will not be necessary to obtain regulatory agency approvals prior to project construction.

This letter presents RBF's best effort at determining the jurisdictional boundaries using the most up-to-date regulations, written policy, and guidance from the regulatory agencies. However, as with any jurisdictional delineation, only the regulatory agencies can make a final determination of jurisdiction. Generally, this would be a written concurrence in the form of a Jurisdictional Determination (JD) letter. Should a JD be requested, RBF can prepare a formal delineation report that can be submitted to the regulatory agencies.

Please do not hesitate to contact me at 949/330-4297 or Lsee@rbf.com should you have any questions or require further information.

Sincerely,

A handwritten signature in cursive script that reads "Lauren See".

Lauren See
Regulatory Specialist
Natural Resources/Regulatory Permitting