



CAA PLANNING

Memorandum

To: Colby Cataldi
 From: Shawna Schaffner
 Date: February 21, 2017
 Subject: Esperanza Hills – Additional Environmental Analysis

Introduction

This Memorandum is prepared on behalf of the County of Orange (County) for the Esperanza Hills Project PA120037 (Project) to analyze whether Revised Final Environmental Impact Report (RFEIR) 616 requires any further revisions due to changes in the Specific Plan since the Draft EIR was circulated for public review. The Applicant has revised the Specific Plan following direction received from the Board of Supervisors at a hearing on December 13, 2016. Following a court judgment and issuance of a writ of mandate concerning Final EIR 616 (FEIR 616), State Clearinghouse No. 2012121071, FEIR 616 was revised to reflect the court ruling.

I. Court Judgment, Subsequent County Review Process, and Refined Project Access

The County approved FEIR 616 on March 10, 2015 and approved various project entitlements including a General Plan Amendment, a Zone Change, and a Specific Plan on June 2, 2015. Following the County’s certification of FEIR 616 and the County’s approval of the Esperanza Hills project, a Petition for Writ of Mandate was filed in Orange County Superior Court (Case No. 30-2015-00797300-CU-TT-CXC) on July 7, 2015 by Protect Our Homes and Hills et al., challenging the adequacy of the FEIR, alleging approximately 30 separate deficiencies.

Judge William Claster issued a Statement of Decision on June 24, 2016 and finalized on July 22 (“Statement of Decision”), finding that 29 of the 30 issues raised were “without merit,” and deeming the EIR adequate on every issue but Greenhouse Gas (“GHG”) mitigation. The Court found that “the EIR impermissibly defers mitigation of impacts and arbitrarily limits the extent to which mitigation measures must be considered. . .” and that “the EIR is flawed insofar as it arbitrarily limits mitigation requirements to an additional 5% reduction in GHG emissions, fails to mandate analysis of all mitigation measures beyond the 5% level and does not require the adoption of all mitigation measures. (Statement of Decision, pp. 2-3, 39). A list of the petitioner’s issues and outcomes appears below in Table 1.

Table 1: Claims and Outcomes Comparison Table

Petitioner’s Claims	Reference	Outcome
1. EIR mischaracterized Chino Hills State Park acreage which affected wildlife movement, noise impacts, project design features	Opening Brief pp’s 5 - 8	Dismissed as meritless
2. EIR mischaracterized acreage not considered in project design features and construction noise not addressed	Opening Brief p. 7	Dismissed as meritless
3. EIR failed to analyze and avoid wildland fire hazards	Opening Brief p. 8	Dismissed as meritless

Petitioner's Claims	Reference	Outcome
4. Conclusions on fire impact mitigation on evacuation not supported by substantial evidence	Opening Brief p. 8 - 12	Dismissed as meritless
5. EIR failed to adequately analyze significant impacts to biological resources	Opening Brief p. 12 - 13	Dismissed as meritless
6. EIR fails to adequately analyze impacts to plants	Opening Brief p. 13	Dismissed as meritless
7. EIR fails to adequately analyze impacts to wildlife	Opening Brief p. 13 - 15	Dismissed as meritless
8. EIR improperly defers formulation of biological resource impact mitigation	Opening Brief p. 15 - 16	Dismissed as meritless
9. EIR impermissibly defers analysis for hazardous materials	Opening Brief p. 16-17	Dismissed as meritless
10. EIR impact conclusions are not supported by substantial evidence	Opening Brief p. 17 - 18	Dismissed as meritless
11. Formulation of GHG Mitigation is impermissibly deferred	Opening Brief p. 19 - 20	Court Issued Writ
12. GHG Performance Standard Used in EIR is unsupported by substantial evidence	Opening Brief p. 20 - 23	Dismissed as meritless
13. EIR fails to adequately map and identify secondary faults	Opening Brief p. 23 - 24	Dismissed – Petitioner abandoned argument
14. EIR fails to accurately identify landslides	Opening Brief p. 25 - 26	Dismissed – Petitioner abandoned argument
15. EIR failed to analyze full range of water needs	Opening Brief p. 26	Dismissed as meritless
16. EIR conclusions about sufficient water supplies are not supported by substantial evidence	Opening Brief p. 26	Dismissed as meritless
17. Project's access remains unresolved and potentially infeasible	Opening Brief p. 26 - 27	Dismissed as meritless
18. Project's access options are legally infeasible	Opening Brief p. 27 – 28	Dismissed as meritless
19. EIR failed to analyze inconsistencies with Yorba Linda General Plan	Opening Brief p. 28 - 29	Dismissed as meritless
20. EIR fails to adequately analyze Option 2B	Opening Brief p. 29 - 30	Dismissed as meritless
21. EIR fails to include a reasonable range of feasible alternatives	Opening Brief p. 30	Dismissed as meritless
22. EIR's Alternatives do not reduce the project's impacts overall	Opening Brief p. 30 - 33	Dismissed as meritless
23. Other alternatives were available that were not included	Opening Brief p. 31 - 32	Dismissed as meritless
24. EIR must evaluate a feasible alternative that does not go across Cielo Vista or City owned land	Opening Brief p. 34	Dismissed as meritless
25. EIR failed to analyze Esperanza Hills in conjunction with Cielo Vista	Opening Brief p. 35 - 39	Dismissed as meritless
26. EIR's cumulative analysis inadequate due to informational omissions concerning Cielo Vista	Opening Brief p. 39 – 40	Dismissed as meritless
27. Multiple EIR information deficiencies related to CHSP required revision and recirculation	Opening Brief p. 42	Dismissed as meritless
28. Additional changes in open space calculation, preferred access and evacuation required recirculation	Opening Brief p. 42 - 43	Dismissed as meritless
29. Option 2 Modified never analyzed in EIR	Reply Brief p. 15 - 18	Dismissed as not timely raised
30. GHG mitigation measures are infeasible	Reply Brief p. 11 - 13	Dismissed as meritless

The Court entered a Judgment and Writ on August 24, 2016 (“Judgment”), which ordered that the County vacate certification of the FEIR, adoption of the Mitigation Monitoring and Reporting Program and Findings of Fact/Statement of Overriding Considerations made in support of the Project, vacate all approvals of the Project, and revise the FEIR to resolve the deficiencies identified by the Court in its Statement of Decision. As noted in Table 1 above, the Court found fault only with the GHG mitigation portions of the FEIR (Claim No. 11) and all other provisions were dismissed as meritless and therefore deemed adequate.

To comply with the Court's Judgment and Writ, the Greenhouse Gas Emissions section of the FEIR (Section 5.6) was revised through a Revised Final EIR ("RFEIR") to incorporate 40 specific current GHG mitigation measures and project design features as new mitigation measures to achieve a 7.93% reduction in construction and operational greenhouse gas emissions. Moreover, the County's review of Yorba Linda Estates' compliance with the 40 GHG mitigation measures would occur *prior* to the issuance of a precise grading permit instead of *prior* to initial occupancy of any on-site facility. This 7.93% reduction is in addition to the anticipated 23.9% reduction resulting from state regulations developed in compliance with AB 32.

After review of the RFEIR and amended Specific Plan, which modified the proposed Access Option 1 as described in the Project description of the FEIR into Option 1 Modified, the County determined that no additional environmental review was required for the proposed modification to Access Option 1.

The County determined that recirculation of the RFEIR was not required because the Judgment rejected Petitioner's arguments that the FEIR required recirculation (Statement of Decision, pages 32-33) and because the revisions to the GHG section of the FEIR and applicable mitigation measures did not constitute new significant information that would demonstrate a new significant impact or a substantial increase in the severity of the impact.

The Planning Commission held two public hearings on the RFEIR, and Specific Plan, and other project entitlements proposed by the Applicant on October 26, 2016, and November 9, 2016. On November 9, 2016, the Planning Commission recommended approval of the RFEIR, the Specific Plan and other project entitlements.

A public hearing was held by the Board of Supervisors ("BOS") on December 13, 2016, to consider the RFEIR and project entitlements. On December 13, 2016, the BOS rescinded the 2015 Project approvals and de-certified the FEIR to comply with the court judgment. The BOS considered the RFEIR, but referred Specific Plan, containing the modifications to the Option 1 Modified access to the Planning Commission (PC) to: 1) project density, 2) Option 1 Modified and related bridge structure, or 3) secondary access via Aspen Way. The PC held a public hearing on the Project on January 11, 2017, received an Agenda Staff Report ("ASR") from County staff and took testimony from the public and the Applicant regarding Board direction.

Based on the PC meeting and input from County staff, the Applicant has now presented a further refined project access (referred to as Option 1A) with a much smaller bridge (compared to the previously proposed modifications to Option 1) located in nearly the same location as the Option 1 access analyzed in the FEIR. The larger bridge that was part of the originally proposed modifications to the Option 1 Modified proposal rejected by the BOS has been abandoned. The updated Specific Plan application was submitted for County consideration on January 30, 2017.

II. Environmental Analysis

Because the FEIR was de-certified on December 13, 2016, the County reviewed *California Code of Regulations*, Title 14, Chapter 3 (CEQA Guidelines) §15088.5 – Recirculation of an EIR Prior to Certification, to determine whether the Specific Plan revision to Option 1A constituted new information regarding requiring revisions to the RFEIR, and if revisions were required, whether recirculation was required. Section 15088.5 provides:

- 15088.5 (a) A lead agency is required to recirculate an EIR when significant new information is added to the EIR after public notice is given of the availability of the draft EIR for public review under Section 15087 but before certification. As used in this section, the term "information" can include changes in the project or environmental setting as well as additional data or other information. New information added to an EIR is not "significant" unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of

the project or a feasible way to mitigate or avoid such an effect (including a feasible project alternative) that the project's proponents have declined to implement. "Significant new information" requiring recirculation include, for example, a disclosure showing that:

- (1) A new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented.
 - (2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.
 - (3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the environmental impacts of the project, but the project's proponents decline to adopt it.
 - (4) The draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded. (*Mountain Lion Coalition v. Fish and Game Com.* (1989) 214 Cal.App.3d 1043)
- (b) Recirculation is not required where the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.
- (e) A decision not to recirculate an EIR must be supported by substantial evidence in the administrative record.

New information or project changes that do not require recirculation do not need to be added to the final EIR. (See *South County Citizens for Smart Growth v. County of Nevada* (2013) 221 Cal.App.4th 316, 329; *Western Placer Citizens for an Agric. & Rural Env't v. County of Placer* (2006) 144 Cal.App.4th 890, 899).

As noted above, the Judgment rejected Petitioners' arguments that recirculation was required on any portion of the FEIR, and all portions of the FEIR were deemed adequate with the exception of the GHG mitigation measures. The revised GHG mitigation measures and timing of compliance do not meet the criteria for recirculation under §15088.5 because no new environmental impacts result; the Court found the FEIR adequate with the exception of the GHG mitigation section (Claim No. 11 on Table 1); the 40 mitigation measures required in the REIR further reduce GHG emissions from the 5% the Court found to be the unacceptable minimum threshold to 7.93% through the incorporation of all feasible mitigation measures; and the Court found that the FEIR's analysis of feasible project alternatives was adequate (Statement of Decision, pages 30-34).

The Judgment found no deficiencies in the analysis of any of the access options, including Option 1, which it specifically referred to on pages 9 and 16 of the Statement of Decision, thereby deeming the analysis adequate. The analysis of Option 1 in the FEIR has not changed in the RFEIR. Revisions to the RFEIR or recirculation of the RFEIR would only be required for the Specific Plan for Option 1A under §15088.5 if a new significant environmental impact results from the changes to the project or from a new mitigation measure proposed to be implemented, or a substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance. As set forth below, Option 1A reduces environmental impacts as compared to the Option 1 access specifically identified in the FEIR, proposes no new mitigation measures other than the GHG mitigation measures previously discussed, and does not increase the severity of any environmental impact.

The revisions to the Greenhouse Gas Emissions section of the RFEIR and the implementation of Option 1A:

- Do not result in a new significant environmental impact, as no new environmental impacts will occur related to the amplification of mitigation measures in the GHG section of the REIR or implementation of Option 1A. Rather, identification of specific mitigation results in a reduction in total GHG emissions of 7.93% through the incorporation of all feasible mitigation measures as calculated by the CalEEMod computer model, which is above the 5% reduction for the menu of deferred mitigation provided by the FEIR; therefore these revisions do not demonstrate that a

greater environmental impact will occur. The Judge determined that the anticipated 5% reduction was an arbitrary limit established in the FEIR. In addition, the Judge considered the GHG mitigation to be deferred mitigation because, in part, a “menu” of available measures was provided rather than a mandate for specific mitigation measures. Therefore, the County has mandated implementation of specific mitigation measures to clarify how the reduction would be achieved. Mitigation Measures GHG-1 through GHG-40 respond to the Writ of Mandate requirement to correct the mitigation deferral deficiency identified by the Court by providing a more specific list of proposed mitigation to achieve a reduction in GHG emissions. The reduction based on the specific mitigation measures comes from the implementation of all feasible mitigation measures, which is greater than the 5% reduction for the menu of deferred mitigation provided by the FEIR; therefore these revisions do not demonstrate that a greater environmental impact will occur. In addition, Option 1A reduces impacts in the topical areas of air quality, noise and biological resources and results in the same or similar impacts in all other areas. Therefore, no new or more significant impacts will occur with Option 1A.

- Do not result in a substantial increase in the severity of an environmental impact requiring mitigation measures that reduce the impact because no new or more significant impacts would result from implementation of Mitigation Measures GHG-1 through GHG-40 or Option 1A. The GHG Mitigation Measures amplify and clarify proposed mitigation as required by the Court judgment and are based on current residential mitigation strategies suggested by the California Air Pollution Control Officers Association (“CAPCOA”) Quantifying Greenhouse Gas Mitigation Measures document (August 2010). Identifying and quantifying the CAPCOA mitigation measures resulted in a reduction of 7.93% based on the implementation of all feasible mitigation measures, which is greater than the 5% reduction for the menu of deferred mitigation provided by the FEIR; therefore these revisions do not demonstrate that a greater environmental impact will occur. Therefore, the GHG revisions result in a lessening of potential impacts and do not result in an increase in the severity of GHG emissions. As identified and discussed herein, the Option 1A access will reduce impacts in the areas of biological resources and geology and soils because less disturbance and grading will be required within Blue Mud Canyon and natural open space will be increased.
- Do not include a feasible project alternative or mitigation measure considerably different from others previously analyzed which the Project’s proponents declined to adopt. Mitigation Measures GHG-1 through GHG-40 clarify the specific mitigation intended for the reduction of GHG emissions, which will result in an reduction of 7.93% in GHG emissions (greater than the 5% reduction for the menu of deferred mitigation included in the FEIR, therefore showing that these revisions do not result in a greater environmental impact than previously analyzed). The Option 1A access is a variation of Option 1, which was fully analyzed in the RFEIR. Option 1A is not a considerably different alternative and will not require additional mitigation. Rather, the modified access will reduce the amount of grading and disturbance within the biologically sensitive area of Blue Mud Canyon, reduce grading impacts related to air quality, and decrease vehicular noise. All feasible mitigation measures have been incorporated in the RFEIR, and the Project proponent has agreed to adopt and implement the measures. In addition, all feasible project alternatives have been analyzed.
- Do not result in a draft EIR that is so fundamentally and basically inadequate that meaningful public review and comment were precluded. The RFEIR was updated to analyze the GHG reduction measures identified in CAPCOA as germane to residential projects. All relevant measures were detailed and analyzed for applicability to the proposed Project. The emissions reductions pertaining to the selected 40 Project-specific Mitigation Measures were then detailed in the RFEIR. The only changes to the RFEIR relate to GHG mitigation measures and clarification of information related to GHG emissions and mitigation measures. Four feasible access options were analyzed in the RFEIR, including Option 1, on which the Option 1A roadway is based. Option 1A does not alter or change the previous analysis and implementation of this alternative will reduce

environmental impacts. The conclusions of the RFEIR remain the same, which is that the Project will result in a significant impact in the area of GHG emissions. The public has been given an opportunity to review the RFEIR and to respond through the County's public hearing process which is duly noticed to all agencies and interested parties.

Therefore, in response to the Writ of Mandate, the County has required clarification and amplification of specific mitigation to achieve reductions in GHG emissions. The Project can provide a 7.93% reduction in GHG emissions, which is greater than the 5% reduction for the menu of deferred mitigation included in the FEIR and which demonstrates that these revisions do not result in a greater environmental impact. Option 1A will reduce impacts as detailed below. No changes to the Project, as analyzed in the FREIR, have occurred. No new or more severe impacts will result from the addition of specific mitigation measures and the RFEIR, as revised, does not meet the CEQA criteria for recirculation, nor does the minor change to the access configuration from Option 1 to Option 1A require revisions to the RFEIR.

III. Comparison of Option 1A and Option 1

Option 1A is substantially the same as the Option 1 analyzed in the FEIR. Both access configurations originate from Stonehaven Drive with emergency only access connecting from the western portion of the property and through the adjacent Cielo Vista project site. An exhibit entitled Option 1A – Option 1 Overlay, included herein as Attachment A, depicts the differences in the roadway alignment between each access configuration. The realigned access results in a road that is 4 feet wider than proposed with Option 1, increasing the width from 52 feet to 56 feet with 40 feet curb-to-curb, which is the same width as Stonehaven Drive. The entrance road access point from Stonehaven Drive has been moved 209 feet to the east to avoid conflict with residential driveways for existing homes on Stonehaven Drive. The length of the on-site portion of the main access road has decreased by approximately 0.01 mile from 0.70 mile to 0.69 mile, while the overall entrance road from Stonehaven Drive has increased from 0.80 mile to 0.85 mile. The turnabouts were redesigned with a wider turning radius to more easily accommodate large vehicles such as moving vans, and medians were added for traffic calming and safety. The grade on the fire apparatus access roadway connecting from the western portion of the property is less steep (12% vs. 15%) than those associated with Option 1; the 35-foot-high retaining walls through the Cielo Vista project have been reduced to 4 feet or less; and several retaining walls are eliminated under Option 1A.

The fire access roadway has been redesigned to provide additional fire protection to the lots to the west, situated behind lots 1 through 30, and to add another fire staging area and enter the Project in the middle of Planning Area 1, allowing more expedient access for emergency vehicles into the heart of the Project and providing additional separation from the main Project entry. The emergency access road would also provide a separate connection point to Via Del Agua/Stonehaven Drive, resulting in a secondary emergency connection for use at the discretion of OCFA.

Fuel modification has increased from 170 feet to 215 feet for some lots due to a review from OCFA in September 2016. The average lot sizes have decreased from 18,553 square feet to 17,545 square feet. Natural open space was increased by 8.9 acres, and lot lines were adjusted so that the HOA did not have to enter onto private lots to maintain fuel modification. Attachment A hereto shows an overlay of Option 1A over Option 1. The red areas depicted on the exhibit are areas that would have required grading under Option 1 but will not be graded under Option 1A.

Table 2 below provides a comparison of various Project components between Option 1A and Option 1 as analyzed in the RFEIR.

Table 2: Option 1A and Option 1 Comparison

Component	Option 1A	Option 1
Grading		
Off Site	13.25 acres	11.48 acres
On Site	318.68 acres	325.11 acres
Total Grading	331.93 acres	336.59 acres

Component	Option 1A	Option 1
Entrance Road Length		
Off Site	0.16 miles	0.10 miles
On Site	0.69 miles	0.70 miles
Total Road Length	0.85 miles	0.80 miles
Entrance Road from Stonehaven		
Right-of-Way	56 feet	52 feet
Curb-to-Curb	40 feet	40 feet
Safety Medians in Turns	Yes	No
Wider Turning Radius	Yes	No
Emergency Evacuation Road		
Goes into heart of PA 1	Yes	No
Gated	Yes	Yes
Maximum Grade	12%	15%
Max Retaining Wall Height on Cielo Vista	4 feet	35 feet
Protected by fuel break	Yes	No
Approved by OCFA	Yes	Yes
Fire Staging Areas	3	2
Maximum Fuel Modification Zone	215 feet	170 feet
Entrance Road Bridge – Blue Mud Canyon		
Type	Contech Prefab	Contech Prefab
Length	80 feet	75 feet
Construction Material	concrete	concrete
Width	85 feet	60 feet
Height	35 feet	25 feet
Cross Whittier Fault	No	No
Safety Median	Yes	No
Landscape on Bridge	Yes	No
Lots		
Average Size	17,545 sf	18,553 sf
Number	340	340
Building Pad Pl. Area 1	70 x 140	70 x 140
Building Pad Pl. Area 2	90 x 110	90 x 110
Minimum Lot distance to western property line	150 feet	100 feet
Open Space		
Natural Open Space	148.9 acres	140 acres
Total Open Space as %	62.4%	62.1%
Army Corps of Engineers		
Non-Wetland Perm	0.89 acre	0.90 acre
Wetland Perm	0.0 acre	0.0 acre
Temporary impact wetland	0.02 acre	0.02 acre
Temporary Impact Non-wetland	0.05 acre	0.007 acre
California Fish and Wildlife		
Unvegetated Stream	0.74 acre	0.74 acre
Riparian Habitat	1.15 acres	1.21 acres
Total Impact	1.89 acres	1.995 acres
Sensitive Habitat		
Blue Elderberry Woodland Permanent Impact	11.43 acres	11.67 acres
Cal Walnut Woodland Permanent Impact	0.36 acre	0.47 acre
Occupied Gnatcatcher	0.0 acre	0.0 acre
Least Bell's Vireo habitat	0.065 acre	0.065 acre
Mulefat scrub offsite	0.065 acre	0.065 acre
Black Willow riparian	0.0 acre	0.0 acre

Each environmental impact area analyzed in the RFEIR analyzes impacts as they relate to the differences between Option 1 and Option 1A.

1. **Bridge Comparison.** The Judgment found no deficiencies in the analysis of the Access Option 1 bridge over Blue Mud Canyon, despite challenges from Petitioners on wildfire hazard, evacuation, proximity to the Whittier Fault, and biological grounds. The Option 1A bridge is 35 feet high and spans 80 feet. The Option 1 bridge was 25 feet high and spanned 75 feet, but as shown on the overlay (Attachment B hereto), both bridges are in the same location over Blue Mud Canyon, but angled slightly differently, so there are no appreciable differences in environmental impact. The Option 1A bridge was expanded from 10 feet to 85 feet in width to accommodate decorative landscape elements on both sides as well as a sidewalk on one side of the street. Neither bridge would cross the Whittier Fault, and the Option 1A bridge is approximately 55 feet from the fault. Both access configurations include a bridge that will be constructed from pre-cast materials and include a decorative face.
2. **Emergency Access Roadway.** The Judgment found no deficiencies in the analysis of Access Option 1 fire apparatus access roadway through the Cielo Vista project, despite challenges from Petitioners on wildfire hazard, evacuation, and biological grounds. The emergency access road has been redesigned to provide additional fire protection to the lots to the west, situated behind lots 1 through 30, to add another fire staging area, and to enter the Project in the middle of Planning Area 1, providing more expedient access for emergency vehicles into the heart of the Project and additional separation from the main Project entry. The emergency access road would also provide a separate connection point to Via Del Agua/Stonehaven Drive, resulting in a secondary emergency connection for use at the discretion of OCFA.
3. **Aesthetics.** The aesthetics for Option 1 were not challenged by Petitioners, and the Judgment found no deficiencies in the analysis of the aesthetics of the Project with Option 1. View simulations and explanations for Option 1A are included herein as Attachment C. The Judgment found no deficiency in the FEIR's analysis on Option 1's effect on scenic vistas, effects on the existing visual character or quality of the site and its surroundings or sources of substantial light and glare. As analyzed in the RFEIR (Chapter 5.1 - Aesthetics), the SR-91 Freeway from the SR-55 Freeway to Weir Canyon Road is officially designated as a California Scenic Highway. The revision from Option 1 to Option 1A does not change the visibility of the Project from that vantage point. The change in height on the bridge from 25 feet to 35 feet will not obstruct views of the ridgelines or Chino Hills State Park, which are hundreds of feet higher than the bridge, and the bridge will not obstruct or impact views from Chino Hills State Park, as all trail vantage points are also hundreds of feet higher than the bridge. While CEQA does not require protection of views from private property, visibility of the Project from the west will be minimized by moving the lots 50 feet to the east, and the slight change in configuration on the entrance road and change in height on the bridge from 25 feet to 35 feet will not affect views from Dorinda. There will be no impact to scenic vistas beyond what was analyzed in the FEIR, so no changes are necessary in the RFEIR. Option 1A decreases visibility to the site by moving the lots to the west farther east by 50 feet, increases natural open space by 8.9 acres, provides for enhanced landscape near the entrance on Stonehaven Drive, and decreases permanent impacts to existing biological resources. The roadway realignment and the change in height on the bridge will not affect the existing visual character or quality of the site. The Option 1A bridge will have landscape features on both sides, enhancing the bridge appearance. Analysis of the Option 1 roadway was included in the RFEIR, and no new or more significant impacts will occur with Option 1A. No new sources of substantial light or glare are created by Option 1A. There will be no impact to light or glare beyond what was analyzed in the FEIR, and no changes are necessary in the RFEIR. Per CEQA Guidelines §15088.5, the Option 1A access roadway does not result in a new significant environmental impact, or increase the severity of an impact with respect to the RFEIR as analyzed.
4. **Air Quality.** The Judgment found no deficiencies in the FEIR's analysis on air quality regarding any access option, with the exception of the mitigation of GHG, as discussed above. Option 1A reduces overall grading for the Project by slightly less than 5 acres, as shown on Table 2, resulting in less disturbance from construction grading overall. The increase in the entrance road distance from 0.80

mile to 0.85 mile is not significant given the nominal 0.05-mile increase and because of the overall grading reduction. The change from Option 1 to Option 1A does not impact Air Quality beyond what was analyzed in the FEIR, and no changes are necessary in the RFEIR. Per CEQA Guidelines §15088.5, the Option 1A access roadway and the addition of GHG mitigation measures do not result in a new significant environmental impact or increase the severity of an impact, with respect to the RFEIR as analyzed.

5. **Biological Resources.** The Judgment found no deficiencies in the FEIR's analysis on biological issues for any access option, despite challenges by Petitioners on failure to analyze significant biological impacts, impacts to plants, impacts to wildlife (including gnatcatchers which the Statement of Decision referenced specifically related to Option 1 on page 16) and biological impacts to Chino Hills State Park. A review of biological impacts associated with Option 1A was prepared by Tony Bomkamp of Glenn Lukos Associates (February 1, 2017) and is included as Attachment D hereto.

Option 1A reduces permanent impacts to non-wetland waters within Army Corps of Engineers ("ACOE") jurisdiction by .01 acre, reduces impacts to CDFW riparian habitat by 0.06 acre, reduces total impact to CDFW jurisdictional lands by 0.06 acre, reduces permanent impacts to Blue Elderberry Woodland by 0.24 acre, and reduces permanent impact to California Walnut Woodland by 0.11 acre. Option 1A results in no new permanent impacts, and no change is required to the Habitat Mitigation and Monitoring Plan and the Native Plant Restoration Plan prepared by Glenn Lukos Associates dated April 2014 or the Native Plant Restoration Plan dated April 2014.

The County received a Coastal California Gnatcatcher Focused Survey protocol survey report dated July 8, 2016 ("CV Gnatcatcher Report") for the Cielo Vista property (Attachment E hereto). The information in the CV Gnatcatcher Report was analyzed in connection with this Project because Cielo Vista borders this Project to the west and the emergency access road and utility easements for this Project go through the Cielo Vista project. The CV Gnatcatcher Report identified 21.44 acres of suitable coastal sage scrub within the Cielo Vista project footprint and 13.48 acres of suitable coastal sage scrub within the project buffer for Cielo Vista. Figure 2 of Attachment E shows that none of the suitable coastal sage scrub within the buffer zone was located on the Project, so none of the on-site Project revisions from Option 1 to Option 1A are affected by the findings in the CV Gnatcatcher Report. The 50-foot easement for use as a fire apparatus access roadway and utility easement analyzed as part of Option 1 does not disturb any of the suitable coastal sage scrub located within the Cielo Vista project footprint, as identified on Figure 2 of Exhibit E (see Attachment F hereto). Therefore, the CV Gnatcatcher Report does not result in any new information regarding gnatcatchers or their critical habitat that affects the analysis for gnatcatchers identified in the FEIR for Option 1, and provides further support for the conclusions reached in the FEIR that the Project site lacks suitable coastal sage scrub habitat to support gnatcatchers and is not occupied by gnatcatchers.

The County also received a letter from Robert Hamilton, a licensed biologist, dated December 13, 2016, the day of the BOS hearing, asserting that the bridge area for previously proposed modifications to Option 1 (also known as "Option 1 Modified") contains suitable habitat for the gnatcatcher. Mr. Hamilton observed the site on December 12, 2016, and noted that he "was not able to closely inspect this area to determine the species composition ..." and observed that "scrub appears to be hard-hit not only by the fire several years ago, but also by the ensuing multi-year drought that has affected the entire region" (page 4). Mr. Hamilton did not note any observance of gnatcatchers on site, but recommended "that a new round of focused surveys for the California Gnatcatcher be conducted in at least the southwestern portion of the Project site, where the bridge is proposed" (page 6). The County also received a letter from the Center for Biological Diversity dated January 10, 2017, the day prior to the PC meeting on January 11, 2017, which referenced the Hamilton letter, which reiterated that California gnatcatchers have been documented "very close (within 1,300 feet) to the proposed Option 1 Modified bridge alignment in 2014 and 2016."

The County notes that the CV Gnatcatcher Report, a protocol survey performed in 2016, analyzed suitable coastal sage scrub within the buffer zone set forth on Exhibit 2 to Attachment E, which

included the Option 1 Modified bridge site as depicted on page 2 of Mr. Hamilton's report, and found no suitable habitat (Attachment F). Further, no report from any biologist has asserted that any suitable gnatcatcher habitat occurs where either the Option 1 or Option 1A bridge and roads are located, and there have been no gnatcatchers observed in Blue Mud Canyon at any time since the first protocol survey was done for the Project site in 1998.

Nonetheless, the County requested another inspection of the site by certified biologist Tony Bomkamp of Glenn Lukos Associates, the same firm that conducted focused gnatcatcher surveys for Esperanza Hills since 2006 and Cielo Vista in 2014. Mr. Bomkamp inspected the Esperanza Hills property to determine whether there was suitable coastal gnatcatcher habitat in Blue Mud Canyon and issued a January 31, 2017 report to the County, attached as Attachment G ("Bomkamp Report"). The Bomkamp Report states that the suite of coastal sage scrub species preferred by the gnatcatcher constitutes less than 1% of the total cover in Blue Mud Canyon, and is located on ground too steep to be preferred by the gnatcatcher. As such the original conclusions reached in the FEIR have not changed.

The FEIR concluded that the Project did not contain suitable gnatcatcher habitat, and the Judgment dismissed challenges to that analysis as meritless. The 2016 CV Gnatcatcher Report confirmed the finding that there was no suitable gnatcatcher habitat located on the Project within that area of Blue Mud Canyon where the Option 1 Modified bridge was to be located. The study area for the 2016 Gnatcatcher Report included a 500-foot buffer area that extended over the Project boundaries as shown in Attachment F hereto. The bridge location is identified and is outside the suitable habitat area. The Bomkamp Report reaffirmed those findings for the entirety of Blue Mud Canyon. Mr. Hamilton admitted that he was not able to closely inspect the Project site, and did not inspect the area affected by either Option 1 or Option 1A bridge, which is located 700 feet easterly from the previously proposed Option 1 Modified bridge.

For these reasons, the County concludes that there is no new information that indicates that the conclusions on gnatcatchers and gnatcatcher habitat set forth in the FEIR, which were affirmed by the Judgment, result in any new substantial environmental affects, or require any changes to the Biological Resources section of the FEIR. Since the RFEIR contains no changes on the biological analysis from the FEIR, no changes are necessary in the RFEIR. Per CEQA Guidelines §15088.5, the Option 1A access roadway and the addition of GHG mitigation measures do not result in a new significant environmental impact or increase the severity of an impact with respect to the RFEIR as analyzed.

6. **Cultural Resources.** Petitioners did not contest the conclusions in the FEIR, and the Judgment did not identify any deficiencies in the FEIR with respect to its analysis of cultural resources. Option 1A grading will result in grading of 5 acres fewer than Option 1 as detailed on Table 2. The reduced on-site grading footprint will have a reduced potential to uncover unknown resources during construction because less grading will occur, but mitigation was included in the FEIR to reduce potential impacts to less than significant if such resources are discovered. The RFEIR makes no changes to this section of the FEIR, and the implementation of Option 1A results in no additional impacts or substantial changes related to Cultural Resources so the RFEIR analysis and mitigation remains adequate.
7. **Geology and Soils.** Petitioners contested the findings of the FEIR with respect to geotechnical issues, but abandoned their arguments after receiving the response briefs, as noted on page 20 of the Statement of Decision, and the Judgment dismissed Petitioners' challenge, finding the FEIR adequate. Option 1A reduces overall grading, and the bridge is located in substantially the same location as the bridge for Option 1 (see Attachment A hereto). Both bridges lie north of the Whittier Fault. Implementation of Option 1A will not result in substantial changes requiring major revisions. Per CEQA Guidelines §15088.5, the Option 1A access roadway does not result in a new significant environmental impact or increase the severity of an impact with respect to the RFEIR related to Geology and Soils impacts, and the RFEIR, with mitigation as proposed, remains adequate.

- 8. Greenhouse Gas Emissions.** The Judgment found that the mitigation for GHG had to be revised from the FEIR (Table 1, Claim No. 11), and it has been revised as set forth above in Section III of this AEA. Option 1A will result in substantially the same levels of Greenhouse Gas Emissions as compared to Option 1, although it will result in a slight reduction of on-site grading quantities by approximately 5 acres. The reduction will not result in a significant change to potential GHG emissions as analyzed in the RFEIR (Chapter 5.6 - Greenhouse Gas Emissions). Additional information in the RFEIR related to GHG emissions merely amplifies and clarifies proposed mitigation as required by the Court Judgment and the Writ of Mandate discussed herein. Therefore, per CEQA Guidelines §15088.5, the addition of GHG mitigation measures and the Option 1A access roadway do not result in a new significant environmental impact or increase the severity of an impact with respect to the RFEIR in the area of GHG emissions, and the RFEIR will be adequate for GHG analysis.
- 9. Hazards and Hazardous Materials.** Petitioners challenged the FEIR on the issue of hazards and hazardous materials, and the Judgment dismissed their allegations as meritless. Option 1A does not result in any substantial changes to the Project design that would require a change in the hazards analysis. The Option 1A bridge is in substantially the same location as the Option 1 bridge, and the lots remain the same distance from oil wells. Fuel modification has been increased from 170 feet to 215 feet in some locations, and the redesigned emergency access road provides additional fuel modification for lots 1 through 30. A temporary 100-foot fuel modification zone is now required by OCFA immediately east of the Cielo Vista project. The emergency access road has been redesigned to enter the Project site at a more northerly location, and another fire staging area has been designed at the western border of the Project. Overall, Option 1A has less significant impact than Option 1 on hazards because of the increase in fuel modification and the extension of the emergency access road. Because no changes are required in the analysis of hazards due to the redesign to Option 1A from Option 1, which was found to be adequate by the Judgment, the analysis in the RFEIR remains adequate.
- 10. Hydrology and Water Quality.** Petitioners challenged the analysis in the FEIR on the issue of hydrology and water quality, and the Judgment dismissed all challenges regarding water, water supply, and hydrology as meritless. Option 1A results in no adverse change from Option 1 with respect to hydrology. An updated Water Quality Management Plan (“WQMP”) was submitted to the County on September 26, 2016. The updated WQMP identified no new or additional impacts due to implementation of Option 1A from Option 1. Per CEQA Guidelines §15088.5, the Option 1A access roadway does not result in a new significant environmental impact or increase the severity of an impact with respect to the RFEIR as analyzed. No substantial changes will occur and, therefore, the RFEIR analysis and mitigation measures remain adequate.
- 11. Land Use and Planning.** Petitioners challenged the analysis in the FEIR with regard to land use and planning, both with respect to consistency with the Yorba Linda General Plan and the County General Plan. The Judgment found that both challenges were meritless. Option 1A results in minor modifications to the design of Option 1 as set forth above, but does not change the character of the land use, the zoning, or the density. Per CEQA Guidelines §15088.5, the Option 1A access roadway and the addition of GHG mitigation measures do not result in a new significant environmental impact or increase the severity of an impact with respect to the RFEIR as analyzed. Therefore, the RFEIR analysis for Land Use and Planning remains consistent and adequate.
- 12. Noise.** Petitioners challenged the analysis in the FEIR with respect to noise as it related to Chino Hills State Park (“CHSP”), and the Judgment found the challenge to be meritless. Option 1A does not result in any modifications that would affect noise, as the number of lots remain the same, the access road remains in the same location, and the main access remains out to Stonehaven Drive, where noise measurements were conducted. Option 1A will not result in a significant new environmental impact or a substantial increase in the severity of an impact with regard to Noise. Per CEQA Guidelines §15088.5, the Option 1A access roadway and the addition of GHG mitigation measures do not result

in a new significant environmental impact or increase the severity of an impact with respect to the RFEIR as analyzed. Therefore, the RFEIR, with included mitigation measures, remains adequate.

13. **Population and Housing.** Petitioners did not challenge the FEIR’s analysis on population and housing, and the Judgment found no deficiencies with respect to this section of the FEIR. The analysis for Option 1A is identical to Option 1, and no changes are necessary. Per CEQA Guidelines §15088.5, the Option 1A access roadway and the addition of GHG mitigation measures do not result in a new significant environmental impact or increase the severity of an impact with respect to the RFEIR as analyzed. The RFEIR remains adequate in the area of Population and Housing.
14. **Public Services.** Petitioners did not challenge the Public Services analysis except for the availability of water and the ability of public safety agencies to adequately evacuate the area, and the Judgment found the challenges to be meritless. There will be no change to the analysis in the RFEIR, because no additional public services will be required with Option 1A. Per CEQA Guidelines §15088.5, the Option 1A access roadway and the addition of GHG mitigation measures do not result in a new significant environmental impact, increase the severity of an impact or result in new information not known with respect to the RFEIR as analyzed. Therefore, the RFEIR remains adequate in the area of Public Services.
15. **Recreation.** Petitioners did not challenge the FEIR’s analysis on Recreation, and the Judgment found no deficiencies with respect to this section of the FEIR. Option 1A increases natural open space but does not otherwise impact proposed recreation improvements or access to Chino Hills State Park. Per CEQA Guidelines §15088.5, the Option 1A access roadway does not result in a new significant environmental impact or increase the severity of an impact with respect to the RFEIR as analyzed. Therefore, the RFEIR remains adequate in the area of Recreation.
16. **Transportation and Traffic.** Petitioners challenged the FEIR’s analysis on transportation and traffic with respect to evacuation and consistency with the Yorba Linda General Plan on circulation, and the Judgment found these challenges to be meritless. Petitioners did not challenge the level of service on Stonehaven/Via Del Agua or any other traffic issues, and the Judgment found no deficiencies with respect to this section of the FEIR.

Option 1A will not change the Project traffic generation forecast or the distribution pattern compared to Option 1 as analyzed in the RFEIR. However, the Cielo Vista project was approved for 80 lots instead of 95 lots by the BOS on December 13, 2016, and the traffic impacts have been further reduced by the elimination of the 38 lots projected for the Bridle Hills property, which are no longer feasible due to grading considerations. At present, the level of service for Stonehaven Drive will remain at LOS A according to a traffic study and confirmed by the Public Works Director for the City of Yorba Linda, and at LOS A according to the traffic analysis by Linscott Law & Greenspan (traffic engineers) (“LLG”). Via Del Agua will continue to operate at a Level of Service (“LOS”) A, with the exception of a small section of Via Del Agua near Yorba Linda Boulevard, which will operate at a LOS B. The roadway capacities and the levels of service for Stonehaven Drive and Via Del Agua detailed in the LLG traffic study were reconfirmed by City of Yorba Linda Public Works Director/City Engineer Michael Wolfe during a Yorba Linda City Council meeting December 6, 2016.

Option 1A changes the roadway connection point from Stonehaven Drive by moving it 209 feet to the east to avoid direct alignment with the existing homes. Because the entrance to Stonehaven Drive will be located 209 feet closer to the Heatheridge Drive/Rockhampton Court intersection, which is a stop-controlled intersection, the County required a letter from LLG confirming that the relocation would not impact vehicle circulation or result in any new impacts not previously analyzed in the FEIR. The letter report is included herein as Attachment H. The analysis concludes that the 150+ foot separation between the intersection and the roadway connection is adequate and will not result in impacts to traffic circulation and that the Option 1A road configuration does not result in any new significant environmental effects related to traffic and does not change previous conclusions or analysis related to LOS, access, or circulation. Per CEQA Guidelines §15088.5, this roadway

realignment with nearly the same footprint as what was analyzed in the RFEIR does not result in a new significant environmental impact, increase the severity of an impact, or result in new information not known with respect to the RFEIR as analyzed.

- 17. Utilities and Service Systems.** Petitioners challenged water availability, and the Judgment dismissed the challenge as meritless and did not otherwise find any deficiencies in the FEIR with respect to this section. Option 1A may require less construction water due to the reduced grading on-site as set forth above, but will not otherwise result in any change in the utility and service system analysis in the FEIR. The expanded fuel modification area behind lots 1 through 30 will not result in additional water usage, as the expanded zones are not irrigated. Because the number of lots and the location of utility servicing lines remains the same, no new significant environmental impacts or increases in the severity of an impact will occur with Option 1A per CEQA Guidelines §15088.5 and, therefore, the RFEIR, which is identical to the FEIR on this section, remains adequate.

Conclusion Related to Option 1A

Prior to December 13, 2016, the County determined that the proposed changes to the Specific Plan to include Option 1 Modified, did not require recirculation or a supplemental CEQA document, for the reasons set forth herein and the Substantial Conformance Memorandum prepared by the County in September 2016.

The County analyzed the revisions in GHG reductions in the RFEIR and Specific Plan revision to Option 1A utilizing the criteria in CEQA Guidelines §15088.5 for recirculation of an EIR prior to certification and determined that the proposed changes did not require recirculation of or any amendment to the RFEIR for the reasons analyzed in this AEA.

Attachments

Included as attachments hereto are:

- Attachment A – Option 1A-Option 1 Grading Overlay Exhibit
- Attachment B – Bridge Comparison – Option 1 vs. Option 1A
- Attachment C – View Simulations and explanations of the view related to the proposed access roadway bridge.
- Attachment D – February 1, 2017 letter from Tony Bomkamp of Glenn Lukos Associates, which provides a review of the biological impacts associated with Option 1A.
- Attachment E – The Gnatcatcher Focused Survey dated July 8, 2016 and prepared for the Cielo Vista project.
- Attachment F – Figure 2 from CV Gnatcatcher Report with Option 1 Modified Bridge and Fire Apparatus Access Road Overlay for Esperanza Hills
- Attachment G – January 31, 2017 letter from Tony Bomkamp of Glenn Lukos Associates reviewing the Option 1A Bridge Location and Suitable Habitat for the Coastal California Gnatcatcher
- Attachment H – The Linscott Law & Greenspan evaluation of the re-aligned project access with respect to Heatheridge Drive/Rockhampton Court

DESIGN CONCEPT

THE DESIGN CONCEPT FOR ESPERANZA HILLS IS TO EMPHASIZE YOUR ARRIVAL TO AN EXCLUSIVE HIGH-END RESIDENTIAL COMMUNITY NESTLED IN ONE OF THE MOST PREMIER AND PRESTIGIOUS HILLTOP LOCATIONS IN YORBA LINDA.

THE STATELY SPANISH ARTICULATED GUARDHOUSE COMMANDS A LARGE ARRIVAL PLATEAU AT THE BASE OF A BOLD SLOPE WITH VIEW HOMES PERCHED HIGH ABOVE YOUR HEAVILY LANDSCAPED APPROACH OPENS UP AT ARRIVAL WITH STRONG EXPANSIVE VIEWS OF A CASCADING WATER RAPID ON YOUR LEFT AND A BROAD ARCHING SPANISH COLONNADE ON YOUR RIGHT BRIDGING ACROSS A WATER BODY OF DRAMATIC GEYSER FOUNTAINS. VIEWS THROUGH THE VINE LADEN COLONNADE REVEAL AN EXPANSIVE ASSOCIATION MAINTAINED CITRUS ORCHARD OR GRAPE VINEYARD BEYOND, PATHWAYS THROUGH, COMMUNITY STAGING AREA, A BABBLING BROOK, AND SPECIAL VIEWING LOCATIONS.

DRIVING THROUGH THE GATES, YOU ARE GREETED WITH A STRIKING DISPLAY OF WHITewater CASCADING DOWN THE OPPOSING SLOPE DISAPPEARING UNDER THE STREET BELOW. ALL STREETSCAPES, SLOPES, AND NEIGHBORHOOD PARKS WILL BE HARMONIOUSLY INTERWOVEN WITH THE NATURAL HILLSIDE BY UTILIZING AN ORGANIC USE OF CALIFORNIA OAKS, SYCAMORES, NATURAL SHRUBS AND GRASSES TO BUFFER HOMES AND REINFORCE VIEWS. PARKS AND TRAILS WILL ALSO BE USED TO PROMOTE NEIGHBORHOOD ACTIVITIES AND RESIDENT INTERFACE WITH THE NATURAL SITE AMENITIES INCLUDING CONNECTIONS TO REGIONAL TRAILS AND TOPOGRAPHIC HIGHLIGHTS.



**ESPERANZA HILLS
OPTION 1A - OPTION 1 OVERLAY**

- ORIGINAL OPTION 1 AREAS OF CHANGE

VICINITY MAP
NOT TO SCALE

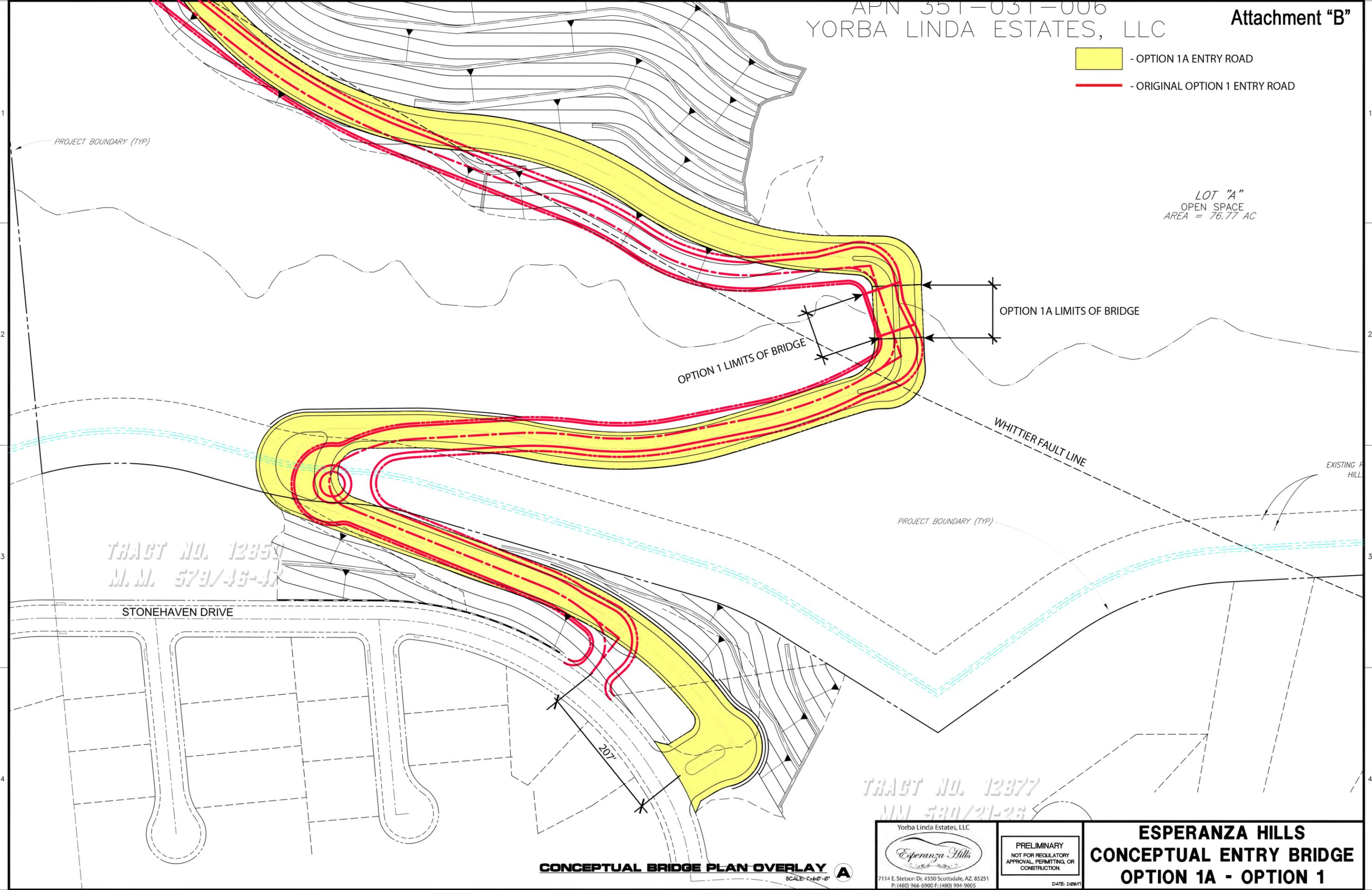


APN 351-031-006
YORBA LINDA ESTATES, LLC

Attachment "B"

-  - OPTION 1A ENTRY ROAD
-  - ORIGINAL OPTION 1 ENTRY ROAD

LOT "A"
OPEN SPACE
AREA = 76.77 AC



TRACT NO. 12359
M.M. 579/46-47

TRACT NO. 12377
M.M. 530/21-23

CONCEPTUAL BRIDGE PLAN OVERLAY 

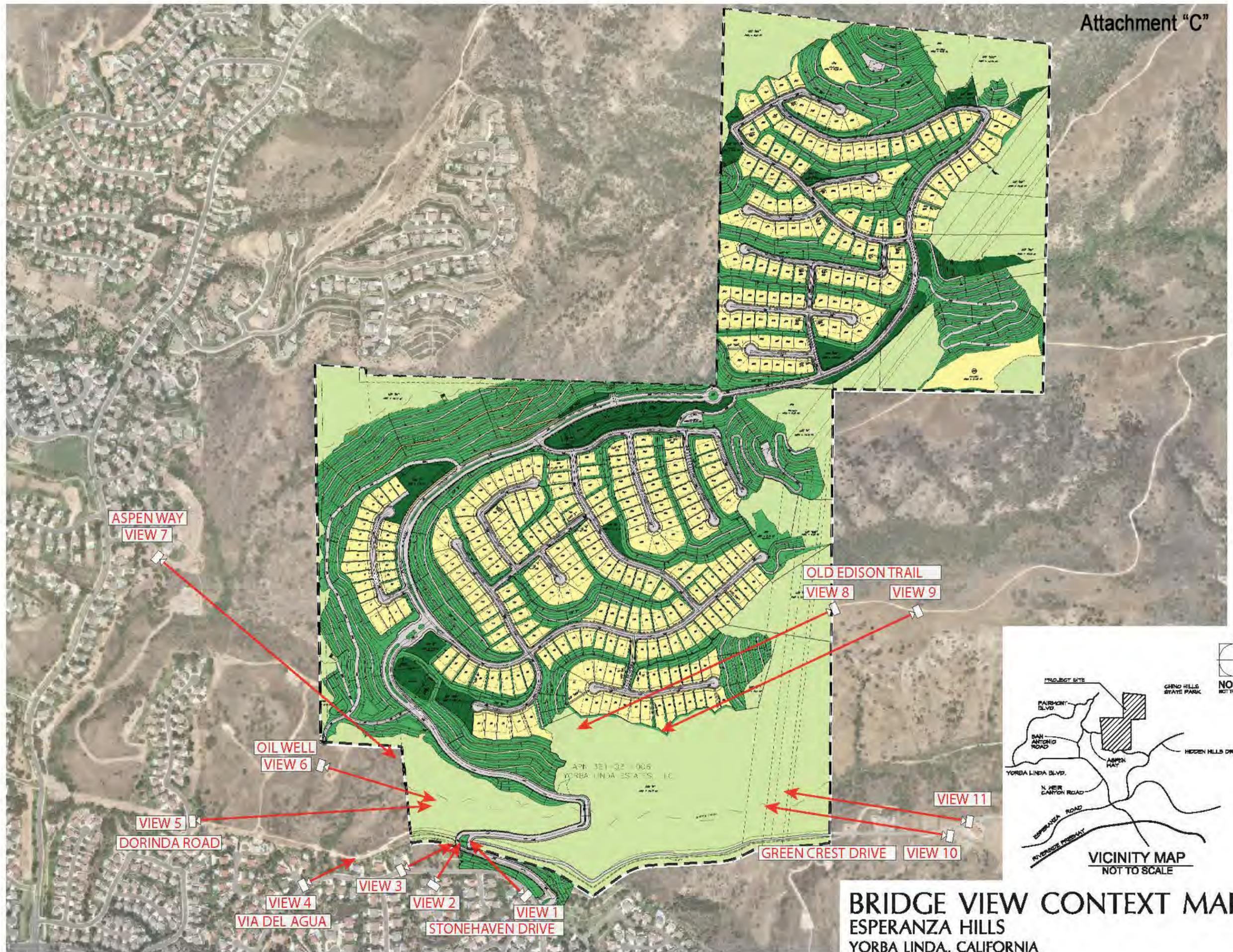
SCALE: 1"=60'-0"

Yorba Linda Estates, LLC

7114 E. Stetson Dr. #350 Scottsdale, AZ. 85251
P: (480) 966-6900 F: (480) 994-9005

PRELIMINARY
NOT FOR REGULATORY
APPROVAL, PERMITTING, OR
CONSTRUCTION.
DATE: 2/28/11

**ESPERANZA HILLS
CONCEPTUAL ENTRY BRIDGE
OPTION 1A - OPTION 1**



BRIDGE VIEW CONTEXT MAP
ESPERANZA HILLS
YORBA LINDA, CALIFORNIA

Bridge obscured by
hillside

VIEW 1

Bridge obscured by
hillside

VIEW 2



Bridge obscured by
hillside



VIEW 3





VIEW 4



VIEW 5



VIEW 6



Bridge obscured by hillside

VIEW 7



Bridge obscured by
hillside

VIEW 8



Bridge obscured by
hillside

VIEW 9

Bridge obscured by hillside

VIEW 10



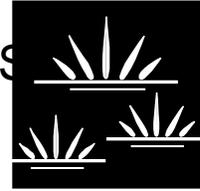
Bridge obscured by hillside

VIEW 11

MEMORANDUM

GLENN LUKOS ASSOCIATES

Regulatory Services



PROJECT NUMBER: 10500002ESPE

TO: Doug Wymore

FROM: Tony Bomkamp

DATE: February 1, 2017

SUBJECT: Comparison of Options 1 and 1A Yorba Linda Estates/Esperanza Hills Specific Plan, Located in Unincorporated Orange County, California

The purpose of this memorandum is to provide a comparison of impacts to special-status vegetation communities and areas subject to the jurisdiction of the U.S. Army Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act and the California Department of Fish and Wildlife (CDFW) pursuant to Section 1602 of the Fish and Game Code. The table below provides the comparison between Options 1 and 1A.

Resource	Option 1: Permanent Impacts	Option 1A Permanent Impacts	Difference
Blue Elderberry Woodland	11.67 acres	11.43 acres	0.24 acre reduction
California Walnut Woodland	0.47 acre	0.36 acre	0.11 acre reduction
Corps jurisdiction			
Non-Wetland Waters	0.90 acre	0.89 acre	0.01 acre reduction
Wetlands	0.0 acre	0.0 acre	No Change
CDFW Jurisdiction			
Unvegetated Stream	0.74 acre	0.74 acre	No Change
Riparian Habitat	1.21 acres	1.15 acres	0.06 acre reduction

As summarized in the above table, Option 1A is superior or neutral relative to all previously identified significant impacts to biological and jurisdictional resources, resulting in a reduction of impacts to Blue Elderberry Woodland and California Walnut Woodland. Similarly, impacts to Corps jurisdiction are reduced by 0.01 acre, while impacts to CDFW riparian habitat are reduced by 0.06 acre.

MEMORANDUM
October 24, 2016
Page 2

s: 1050-2_Option 1 v Option 1A_Memo_020117.docx

July 8, 2016

US Fish and Wildlife Service
2177 Salk Avenue, Ste. 250
Carlsbad, CA 92008
760•431•9440
Email: stacey_love@fws.gov

Attn: Ms. Stacey Love, Recovery Permit Coordinator

Subject: **REPORT TRANSMITTAL: COASTAL CALIFORNIA GNATCATCHER, FOCUSED SURVEY REPORT, CIELO VISTA RESIDENTIAL DEVELOPMENT, ORANGE COUNTY, CALIFORNIA - DATED JULY 2016**

Dear Ms. Love:

On July 3, 2016, Christine Harvey (TE-54716A-2) concluded presence/absence protocol surveys and a habitat assessment for coastal California gnatcatcher (*Polioptila californica californica*), Cielo Vista Project No. 38715, Orange County, California. Four California gnatcatchers were observed within 34.92 acres of suitable habitat on June 12, 2016 and subsequent surveys. Territory 1 was observed within the Project parcel but outside the Project footprint on June 12, 2016, June 19, 2016, June 26, 2016 and July 3, 2016. Territory 2 was observed within the Project parcel but outside the Project footprint on June 12, 2016 and June 26, 2016.

The following special status species were observed while conducting California gnatcatcher protocol surveys:

Nuttall's woodpecker was observed within the Project footprint the entire survey period.

Willow flycatcher was observed in southern willow scrub in the southeast portion of the Project footprint May 29, 2016.

Least Bell's vireo was observed within the project footprint in southern willow scrub in the southeast portion of the Project footprint on June 5, 2016, June 12, 2016, June 19, 2016, June 26, 2016 and July 3, 2016. Territory 1 pair was feeding, singing and scolding moving high to low in a south to north direction through the drainage. The male was observed defending territory, counter calling with an unmated male in adjacent Territory 2. Both territories utilize lush landscaped properties along the southern parcel boundary.

Yellow warbler was observed in southern willow scrub in the Project south buffer the entire survey period.

Yellow-breasted chat was observed within the project footprint in southern willow scrub near the Project footprint and another in southern willow scrub along the Project northwest buffer the entire survey period.

Southern California Rufous-crowned sparrow was observed at the Project southeast buffer and the Project northwest buffer on June 5, 2016, June 12, 2016, June 19, 2016, June 26, 2016 and July 3, 2016.

All observed special status species have been reported to the California Natural Diversity Database (CNDDDB).

Avian activity and diversity was moderate and common avian species expected to occur within coastal sage scrub were observed on a regular basis. Brown-headed cowbirds, which are nest parasites to California gnatcatcher and other avian species, were not observed in the vicinity of the project footprint during the surveys.

Attached you will find the *Cielo Vista Coastal California Gnatcatcher Focused Survey Report* followed by a hard copy submitted via USPS on July 8, 2016.

Please feel free to contact Christine Harvey at 619•249•2531 or charvey@leopoldbiological.com with any questions.

Respectfully,



Christine Harvey
Principal/Consulting Biologist
TE-54716A-2

cc: Stacey_love@fws.gov
esther.burkett@wildlife.ca.gov

**Coastal California Gnatcatcher
Focused Survey Report**

**Sage Development Group
Cielo Vista
Orange County, California**



Prepared for:

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and

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Prepared by:

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11160 Portobelo Drive
San Diego, CA 92124

July 2016

Cielo Vista California Gnatcatcher Focused Survey Report

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EXECUTIVE SUMMARY

On July 3, 2016, Christine Harvey (TE-54716A-2) concluded presence/absence protocol surveys and a habitat assessment for California gnatcatcher within the Cielo Vista project (Project) footprint and 500 foot buffer. The proposed community development would provide additional homes for the region. The project footprint and 500 foot buffer accounts for approximately 34.92 acres suitable coastal sage scrub. The following vegetation communities and habitats were identified and surveyed within the project parcel and 500 foot buffer (Sawyer, Keeler-Woolf and Evens, 2009):

- Coastal sage scrub
- Southern willow scrub
- Bushmallow scrub
- Coastal sage scrub (disturbed)
- Urban/developed land

Four California gnatcatchers were observed within 34.92 acres suitable habitat on June 12, 2016 and subsequent surveys. A summary of occupied California gnatcatcher territories follows:

- Territory 1 consisted of an adult male and an adult female observed contact calling and foraging in the Project parcel coastal sage scrub on June 12, 2016, June 19, 2016, June 26, 2016, July 3, 2016. Although the pair came within approximately 300 feet of the proposed work limits, they remained outside the project footprint. The pair's territory extends from the jurisdictional drainage west to the eastern terminus of Aspen Way south southeast to the drainage below 4545 Dorinda Road.
- Territory 2 consisted of an adult male and an adult female observed contact calling and foraging in the Project parcel coastal sage scrub on June 12, 2016 and June 26, 2016. The pairs contact calling was unsolicited. Although the pair came within approximately 35 feet of the project footprint, they were consistently observed remaining outside the proposed work limits. Their territory extends from the jurisdictional drainage east along the hillside below the proposed project's footprint northern boundary.
- Neither California gnatcatcher Territory 1 nor Territory 2 were within the Project footprint.

Avian activity and diversity was generally moderate during the surveys and common avian species expected to occur within coastal sage scrub were observed on a regular basis. Brown-headed cowbirds, which are a nest parasite to California gnatcatchers and other avian species, were not observed in the vicinity of the Project site over the course of the surveys. There were no mortality events to report.

The following special status species were observed while conducting California gnatcatcher protocol surveys:

- Nuttall's woodpecker was observed within the Project footprint the entire survey period.

- Willow flycatcher was observed in southern willow scrub in the southeast portion of the Project footprint on May 29, 2016. It was not observed after this date.
- Least Bell's vireo was observed within the project footprint in southern willow scrub in the southeast portion of the Project footprint during surveys June 5, 2016, June 12, 2016, June 19, 2016, June 26, 2016 and July 3, 2016. Territory 1 pair was feeding, singing and scolding moving high to low in a south to north direction through the drainage. The male was observed defending territory, counter calling with an unmated male in adjacent Territory 2. Both territories utilize lush landscaped properties along the southern parcel boundary.
- Yellow warbler was observed in southern willow scrub in the Project south buffer the entire survey period.
- Yellow-breasted chat was observed within the project footprint in southern willow scrub near the Project footprint and another in southern willow scrub along the Project northwest buffer the entire survey period.
- Southern California Rufous-crowned sparrow was observed at the Project southeast buffer and the Project northwest buffer on June 5, 2016, June 12, 2016, June 19, 2016, June 26, 2016 and July 3, 2016.

All observed special-status species have been reported to the California Natural Diversity Database (CNDDB).

A list of wildlife common to the area is provided in Appendix A.

INTRODUCTION

Purpose

This report presents the results of a habitat assessment and focused protocol surveys for the federally threatened coastal California gnatcatcher (*Polioptila californica californica*) (California gnatcatcher) (CAGN). The surveys were conducted to determine the presence/absence of California gnatcatchers for the proposed Cielo Vista project (Project), an 83-unit single family residential development plan. The Project is located east of San Antonio Road, south of Casino Ridge Road and North of Stonehaven Drive in the County of Orange adjacent to the City of Yorba Linda, California.

The parcel is bordered by Yorba Linda environs to the north, west and south, and Orange County open space to the east. The parcel consists of gentle slopes and southern riparian scrub (Figures).

Vegetation communities surrounding the Project site is described below:

- North of the Project site consists of coastal sage scrub and a jurisdictional drainage. Suitable California gnatcatcher habitat is present.
- East of the Project site consists of slopes and drainages containing suitable coastal sage scrub: California sagebrush (*Artemisia californica*), flat-topped buckwheat (*Eriogonum fasciculatum*), black sage (*Salvia mellifera*), and bush sunflower (*Encelia californica*). Suitable California gnatcatcher habitat is present.
- South of the Project site is urban/developed land. No suitable California gnatcatcher habitat is present.
- West of the Project site is primarily urban/developed land with suitable coastal sage scrub present west and northwest of Dorinda Road. Suitable California gnatcatcher habitat was present.

Background

The California gnatcatcher is a small, gray and black songbird that inhabits dry coastal slopes, washes, and mesas from coastal southern California to the tip of the Baja California Peninsula. Three subspecies are recognized. The northernmost nominate race, the California gnatcatcher is a resident of coastal sage scrub consisting predominately of *A. californica*, *E. fasciculatum*, *E. californica* and adjacent ecotonal habitats from southern Ventura County southward to northwestern Baja California, Mexico near El Rosario at approximately 30 degrees North latitude. It is generally found at elevations below 500 m and are less abundant in coastal scrub-chaparral transition areas and areas dominated by *S. mellifera*, white sage (*Salvia apiana*), or lemonadeberry (*Rhus integrifolia*) (Atwood and Bontrager 2001).

They nest in shrubs within coastal sage scrub from mid-February to August, and remain on their breeding territories throughout the year. California gnatcatchers will nest on steep or shallow slopes however; slope has a significant influence on nesting success. Nests have an increased success rate on slopes <19.9% slope and placed in *A. californica* (Grishaver 1998).

The species was originally described as distinct in 1881 but was subsequently lumped with the black-tailed gnatcatcher (*Polioptila melanura*) until Atwood (1988) concluded that it was specifically

distinct based on differences in ecology, behavior, and distribution. This finding was adopted by the American Ornithologist's Union (AOU 1989). In March 1993, the subspecies was listed as threatened by the U.S. Fish and Wildlife Service and species of special concern by the California Department of Fish and Wildlife (CDFW) (USFWS 1993, CDFW 2009). This was due to habitat loss and fragmentation occurring in conjunction with urban and agricultural development and brood parasitism by the brown-headed cowbird (*Molothrus ater*). Loss of historical habitat is estimated to be 70-90% (USFWS 1997).

HABITAT ASSESSMENT

Methods

Prior to commencing surveys, Leopold Biological Services (Leopold) senior biologist, Christine Harvey reviewed historic data on the California Natural Diversity Database (CDFW 2016), eBird database (eBird 2016), and project area and U.S. Geological Survey (USGS) topography maps to identify species specific survey areas. California gnatcatcher suitable habitat in surrounding environs was included in the review. Ms. Harvey walked the entire project site and 500 foot buffer including the perimeter and the middle where assessable.

Results

The parcel is successional recovering from the 2008 Freeway Complex Fire. The selected survey sites were based upon drainages and slopes containing coastal sage scrub, predominated by *A. californica*, *E. fasciculatum*, *E. californica* and *Salvia* spp. Suitable California gnatcatcher habitat was observed primarily within the southern portion of the biological survey area (BSA).

Habitats

The BSA accounts for approximately 34.92 acres suitable coastal sage scrub, approximately 13.48 acres suitable coastal sage scrub within the Project buffer and approximately 21.44 acres suitable coastal sage scrub within the project footprint. The following vegetation communities were identified and surveyed within the Project parcel and 500 foot buffer:

- Coastal sage scrub was predominately *E. fasciculatum*, *A. californica*, *S. mellifera*, and *E. californica* interspersed with chaparral bushmallow (*Malacothamnus fasciculatum*), locoweed (*Astragalus trichopodus*), *S. apiana*, California chicory (*Rafinesquia californica*), prickly pear (*Opuntia littoralis*), deerweed (*Acmispon glabe*), laurel sumac (*malosma laurina*), *R. integrifolia*, toyon (*Heteromeles arbutifolia*), and coyote brush (*Baccharis pilularis*) (Sawyer, Keeler-Woolf and Evens, 2009).
- Slopes enter jurisdictional drainages consisting of southern willow scrub primarily composed of arroyo willow (*Salix lasiolepis*), blue elderberry (*Sambucus nigra*), mule fat (*Baccharis salicifolia*), with an overstory of *S. lasiolepis* and black willow (*Salix goodingii*). The remaining understory vegetation consisted of bulrush (*Schoenoplectus acutus*), cattail (*Typha spp.*) and umbrella sedge (*Cyperus eragrostis*), poison-oak (*Toxicodendron diversilobum*) and wild cucumber (*Marah macrocarpa*) (Sawyer, Keeler-Woolf and Evens, 2009).
- Bushmallow scrub in post burn areas consisted primarily of *M. fasciculatum*, *A. californica* and *A. glaber* (Jones and Stokes Associates, 1993).

- Coastal sage scrub (disturbed) consisted of *A. californica*, *E. fasciculatum*, *M. laurina* and ruderal vegetation such as black mustard (*Brassica nigra*), barley (*Hordeum murinum*), fennel (*Foeniculum vulgare*), poison hemlock (*Conium maculatum*), Russian thistle (*Salsola australis*), castor bean (*Ricinus communis*), goldenbush (*Isocoma menziesii*), tree tobacco (*Nicotiana glauca*), and telegraph weed (*Heterotheca grandiflora*) (Sawyer, Keeler-Woolf and Evens, 2009).
- Urban/developed land is present within the parcel and 500 foot buffer. Yorba Linda environs border the parcel to the north, south and west. Oil wells are located in the southeast portion of the parcel (Sawyer, Keeler-Woolf and Evens, 2009).

SURVEY

Location

The approximate 80 acre parcel is located southeast of San Antonio Road and Casino Ridge Road, Yorba Linda, California. The Project footprint is approximately 33.62 acres with the remaining 46.38 acres as undeveloped.

Approximately 34.92 acres of suitable habitat was identified, mapped and surveyed within the Project footprint and 500 feet buffer. The selected survey sites were based upon drainages and slopes containing coastal sage scrub, predominated by *A. californica*, *E. fasciculatum*, *E. californica* and *Salvia* spp. (Table 2, Figures).

Method

On Wednesday, May 11, 2016, Christine Harvey (TE-54716A-2) submitted notification to Ms. Stacey Love, permit coordinator for the U.S. Fish and Wildlife Service Carlsbad office and Ms. Esther Burkett, permit coordinator for the California Department of Fish and Wildlife. The survey schedule and project maps were included.

Ms. Harvey, conducted six focused California gnatcatcher surveys pursuant to Coastal California Gnatcatcher (*Polioptila californica californica*) Presence/Absence Survey Protocol for a non-NCCP area related surveys described by (USFWS 1997, revised July) and in accordance with U.S. Fish and Wildlife Service (USFWS) recovery permit number 54716A-2 issued under section 10(a)(1)(A) of the Federal Endangered Species Act (FESA).

Surveys were conducted in a non-NCCP area and were completed at least one week apart (February 15 to August 30).

On each site visit, 34.92 acres of potentially suitable California gnatcatcher habitat were surveyed remaining well within the 80 acre per day limit. The surveys were conducted throughout the Project footprint and 500 foot buffer including the perimeter and the middle where assessable. Surveys were conducted during early morning hours between 6:00 a.m. and noon when birds were most active and weather conditions were optimal (Table 1).

The permittee slowly walked the survey area, stopping at approximate 30-meter intervals and waiting three minutes. If a gnatcatcher was not detected in the area, a tape-lure was sparingly played for no more than 10 seconds to solicit a response. Often times the California gnatcatcher will call without the

use of a tape lure. Ms. Harvey would wait three minutes for a response before advancing 30-meters. If California gnatcatchers were observed, age, sex, breeding status, and behavioral characteristics were recorded, if possible. The number and coordinates of all brown-headed cowbirds (*Molothrus ater*) were recorded and transmitted.

Standard practices and precautions were used to avoid and minimize injury or a mortality event and included: checking for predators/cowbirds before using a tape-lure, employing binoculars to perform the majority of observations from a safe distance, waiting until adults are out of the immediate area before indirectly approaching the nest, responding quickly and moving indirectly away from the nest, and taking a way point instead of flagging near a nesting site. The tape-lure was used to ensure no *P. californica* were in the area but was employed only as a last resort because this tool attracts the species away from their nest exposing adults and young to predation and interrupts parents caring for their eggs/young.

Table 1
SURVEY WEATHER CONDITIONS

Date	Time		Temperature (°F)		Wind Speed (mph)		Cloud Cover (%)	
	Begin	End	Begin	End	Begin	End	Begin	End
May 29	0645	1200	61	64	3	2	Fog	Fog
June 5	0645	1130	61	64	1	2	Fog	5%
June 12	0700	1230	64	67	0	1	Fog	Fog
June 19	0545	1030	65	84	1	1	Clear	2%
June 26	0700	1015	65	73	1	1	Clear	Clear
July 3	0645	1100	64	68	0	2	Fog	Clear

RESULTS

Four California gnatcatchers were observed in two adjacent territories on June 12, 2016 and subsequent surveys. A summary of California gnatcatcher territories follows:

- Territory 1 consisted of an adult male and adult female observed contact calling and foraging in Project parcel coastal sage scrub on June 12, 2016, June 19, 2016, June 26, 2016, and July 3, 2016. Although the pair came within approximately 300 feet of the proposed work limits, they remained outside the project footprint. The pair’s territory extends from the jurisdictional drainage west to the eastern terminus of Aspen Way south southeast to the drainage below 4545 Dorinda Road.
- Territory 2 consisted of an adult male and adult female observed contact calling and foraging in Project parcel coastal sage scrub on June 12, 2016 and June 26, 2016. The pairs contact calling was unsolicited. Although the pair came within approximately 35 feet of the project footprint, they were consistently observed outside the proposed work limits. Their territory extends from the jurisdictional drainage east along the hillside below the proposed project’s footprint northern boundary.
- Neither California gnatcatcher Territory 1 nor Territory 2 were within the Project footprint.

Avian activity and diversity was generally moderate during the surveys and common avian species expected to occur within coastal sage scrub were observed on a regular basis. Brown-headed cowbirds, which are a nest parasite to California gnatcatchers and other avian species, were not observed in the vicinity of the Project site over the course of the surveys. There were no mortality events to report.

A list of wildlife common to the area is provided in Appendix A.

The following special status species were observed while conducting California gnatcatcher protocol surveys:

- Nuttall's woodpecker (*Picoides nuttallii*), a USFWS – Bird of Conservation Concern, and American Bird Conservancy – U.S. Watchlist Bird of Conservation Concern, was observed within the Project footprint the entire survey period.
- Willow flycatcher (*Empidonax traillii*), a CDFW Endangered Species, was observed in southern willow scrub in the southeast portion of the Project footprint May 29, 2016. The bird was observed actively singing, calling and feeding in arroyo willow within the Project footprint near the southeast boundary.
- Least Bell's vireo (*Vireo bellii pusillus*), a USFWS and CDFW Endangered Species, was observed within the project footprint in southern willow scrub in the southeast portion of the Project footprint on June 5, 2016, June 12, 2016, June 19, 2016, June 26, 2016 and July 3, 2016. Territory 1 pair was feeding, singing and scolding moving high to low in a south to north direction through the drainage. The male was observed defending territory, counter calling with an unmated male in adjacent Territory 2. Both territories utilize lush landscaped properties along the southern parcel boundary.
- Yellow warbler (*Setophaga petechia*) is a CDFW Species of Special Concern, and was observed in southern willow scrub in the Project south buffer the entire survey period.
- Yellow-breasted chat (*Icteria virens*) is a CDFW Species of Special Concern, and was observed within the project footprint in southern willow scrub in the Project footprint and another in southern willow scrub along the Project northwest buffer the entire survey period.
- Southern California Rufous-crowned sparrow (*Aimophila ruficeps canescens*) is a CDFW Watch List Species, and was observed in the Project southeast buffer and the Project northwest buffer on June 5, 2016, June 12, 2016, June 19, 2016, June 26, 2016 and July 3, 2016.

All observed special status species have been reported to the CNDDDB.

Survey results are provided in Table 2 and Figures.

Table 2
SURVEY RESULTS

Date	Time Begin	End	Location Easting	UTM (11 N) Northing	Surveyors	Species	Species Age/Sex	Comments Territorial Behavior
May 29	0645	1200	429907	3750640	C HARVEY	WIFL	M	Singing/Calling
June 5	0645	1130	429875	3750601		LBV	1-M/1-F	Territory 1 - Sing/Scold Call
June 12	0700	1230	429595	3751187		CAGN	1-M/1-F	Territory 1 - Contact Call
			429662	3751085		CAGN	1-M/1-F	Territory 2 – Contact Call
			429871	3750547		LBV	M	Territory 2 – Counter Singing
			429875	3750601		LBV	1-M/1-F	Territory 1 – Counter Singing
June 19	0545	1030	429464	3751036		CAGN	1-M/1-F	Territory 1 - Contact Call
			429875	3750601		LBV	1-M/1-F	Territory 1 – Counter Singing
			429871	3750547		LBV	M	Territory 2 – Counter Singing
June 26	0700	1015	429636	3751076		CAGN	1-M/1-F	Territory 2 - Contact Calling
			429544	3751206		CAGN	1-F	Territory 1 - Calling/Foraging
			429875	3750601		LBV	1-M/1-F	Territory 1 – Counter/Contact Calling
			429871	3750547		LBV	1-M	Territory 2 – Counter Calling
July 3	0645	1100	429875	3750601		LBV	1-M/1-F	Territory 1 – Counter Calling
			429871	3750547		LBV	1-M	Territory 2 – Counter Calling
			429584	3751188		CAGN	1-M	Territory 1 – Singing/Calling

RECOMMENDATIONS

Considering California gnatcatchers are present within the parcel, the quality of the survey site’s coastal sage scrub, and its proximity to known breeding populations, additional surveys for California gnatcatcher should be conducted prior to any habitat disturbance.

In addition to protocol presence/absence surveys for California gnatcatcher, preconstruction nesting bird surveys for birds protected under the Migratory Bird Treaty Act (MBTA) should be conducted by a qualified biologist at the beginning and throughout the breeding season (generally defined as February 1 – September 15). A buffer should be established for active nests and will remain up until the project biologist reduces the buffer as instructed by the regulatory agency or the young have fledged.

Please feel free to contact Ms. Harvey at 619•249•2531 or charvey@leopoldbiological.com with any questions.

Respectfully,



Christine Harvey
Principal/Consulting Biologist
TE-54716A-2

CERTIFICATION

I hereby certify that the statements furnished in this report and in the attached exhibits present data and information required for this California gnatcatcher focused survey, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.



Signed: _____

Christine L. Harvey
Principal/Consulting Biologist
TE-54716A-2

Date: July 8, 2016

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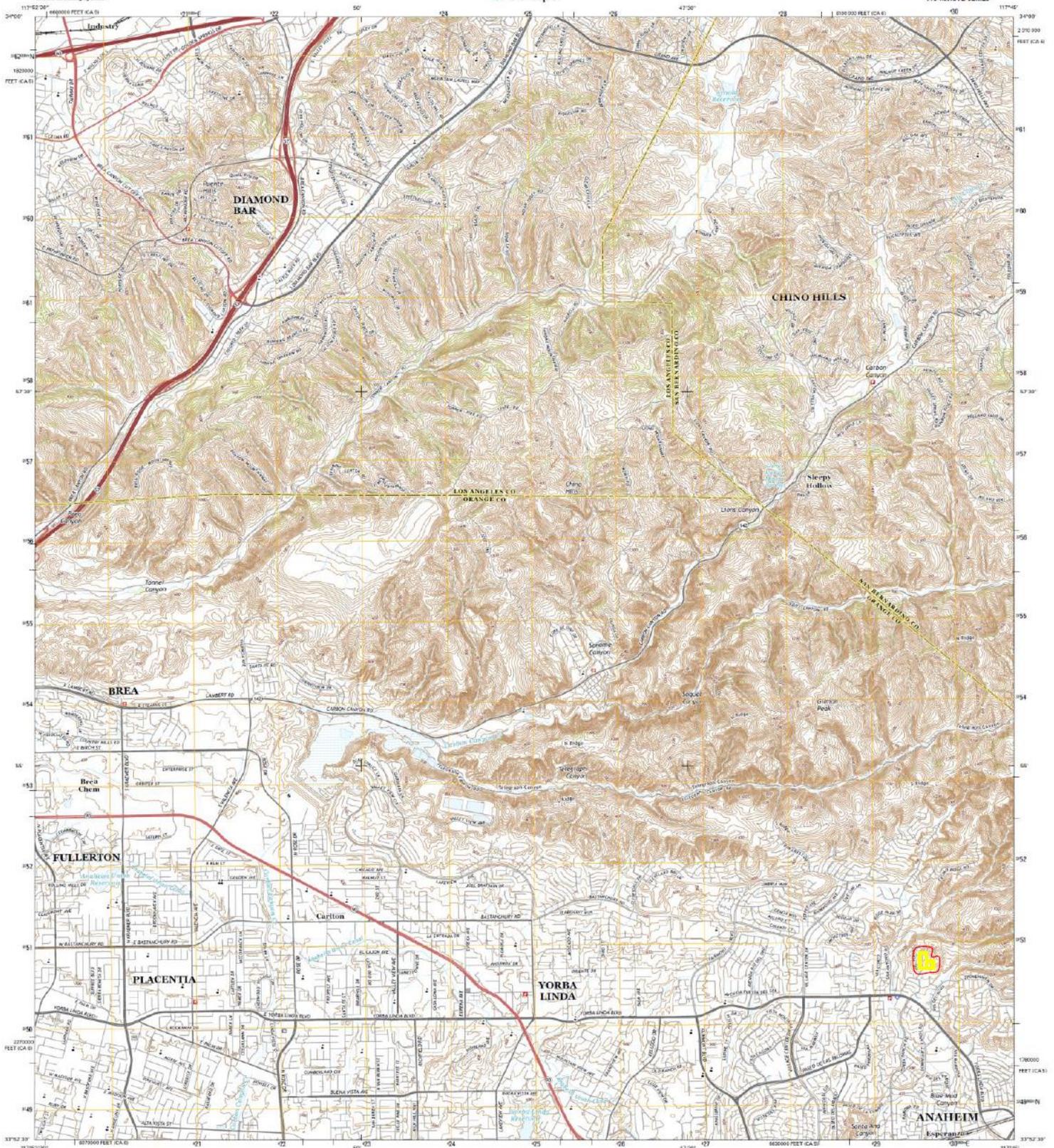
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U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY



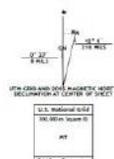
YORBA LINDA QUADRANGLE
CALIFORNIA
7.5-MINUTE SERIES



Produced by the United States Geological Survey
North American Datum of 1983 (NAD83)
World Geodetic System of 1984 (WGS84) Projection and
1:250,000 scale using the National Transverse Mercator Zone 11S
US 500-foot grid - California Coordinate System of 1983 (CCS83
4803)

This map is not a legal document. Boundaries may be
generalized for this map scale. Private lands, which give notice
of restrictions may not be shown. Obtain permission before
entering private lands.

Source: **MAP**, May 2002
Photo: **HEBE**, 02/03
Name: **HEBE**, 02/03
Planning: **HEBE**, 02/03
Cartography: **HEBE**, 02/03
Publication: **HEBE**, 02/03
Boundaries: **HEBE**, 02/03
Public Land Survey System: **BLM**, 2001



CONTOUR INTERVAL: 20 FEET
NORTH AMERICAN DATUM (NAD83) - DATUM OF 1983

This map was produced in conformance with the
National Geospatial Program US Topo Production Standards, 2011
A metadata file associated with this product is at www.usgs.gov

ROAD CLASSIFICATION

- Expressway
- Major Freeway
- Ramp
- Interstate Route
- US Route
- State Route
- Local Connector
- Local Road
- 4WG

Work Limits Survey Area

YORBA LINDA, CA



Figure 1 – Project location and vicinity



- Project Footprint
- Survey Area
- Parcel Boundary
- 500 Foot Buffer
- Least Bell's Vireo Territory 1 – 6/5, 6/12, 6/19, 6/26, 7/3/2016
- Least Bell's Vireo Territory 2 – 6/12, 6/19, 6/26, 7/3/2016
- Willow Flycatcher - 5/29/16
- California Gnatcatcher Territory 1 – 6/12/16, 7/03/16
- California Gnatcatcher Territory 1 – 6/19/16
- California Gnatcatcher Territory 1 – 6/26/16
- California Gnatcatcher Territory 2 – 6/12/16
- California Gnatcatcher Territory 2 – 6/26/16

Figure 2 – Survey area



- Least Bell's Vireo Territory 1
- Least Bell's Vireo Territory 2
- Willow Flycatcher

- California Gnatcatcher Territory 1
- California Gnatcatcher Territory 2

- Project Footprint
- 500 Foot Buffer
- Parcel Boundary

Figure 3 – Survey results

Appendix A
Agency Notification

Re: Notification for coastal California gnatcatcher surveys for Cielo Vista, Yorba Linda, California

charvey@leopoldbiological.com <charvey@leopoldbiological.com>

Wed, May 11, 2016
at 2:26 PM

To: Stacey Love <stacey_love@fws.gov>

Cc: "Esther@Wildlife Burkett" <Esther.Burkett@wildlife.ca.gov>, "Justin@Wildlife Garcia" <Justin.Garcia@wildlife.ca.gov>

Dear Ms. Love,

I'm writing to submit notification for coastal California gnatcatcher (*Poliophtila californica californica*) presence/absence surveys.

SWCA has retained permittee, Christine L. Harvey's services for California gnatcatcher presence/absence surveys. The proposed project site is approximately 80 acres, with less than 50% slated for development. The new single family residences will be constructed north of Yorba Linda Boulevard and east of Dorinda Road, Orange County, Yorba Linda, California (location map attached). The 2014 surveys identified one breeding pair and two juveniles in the southern portion of the biological survey area.

Ms. Harvey will conduct California gnatcatcher surveys pursuant to Coastal California Gnatcatcher (*Poliophtila californica californica*) Presence/Absence Survey Protocol described by USFWS 1997, revised July and in accordance with U.S. Fish and Wildlife Service recovery permit number TE-54716A-2 issued under section 10(a)(1)(A) of the Federal Endangered Species Act. Biologists Angelique Herman and Shirley Innecken will alternate accompanying Ms. Harvey.

Surveys will be conducted in non-NCCP area. We propose the standard survey protocol in non-NCCP area, six surveys, no more than 80 acres per day, one week apart. The survey schedule follows:

SURVEY	DATE
1	May 29
2	June 5
3	June 12
4	June 19
5	June 26
6	July 3

Ms. Christine Harvey holds FWS 10(a)(1)(A) permit TE-54716A-2. Please feel free to contact Ms. Harvey at (619) 249-2531 or charvey@leopoldbiological.com with any questions.

Respectfully,

Christine Harvey, Principal/Consulting Biologist

Leopold Biological Services

PO Box 421222

San Diego, CA 92142-1222

Tel: (619) 249-2531

Fax: (858) 256-0871

charvey@leopoldbiological.com

www.leopoldbiological.com



CIELO VISTA CAGN NOTIFY LTR MAY 12 2016.pdf

543K

Appendix B
Wildlife Compendium

Common Name	Scientific Name
Butterflies	Pieridae
Alfalfa Butterfly	<i>Colias eurytheme</i>
Common White	<i>Pontia protodice</i>
Butterflies	Hesperiidae
Common Checkered Skipper	<i>Pyrgus communis</i>
Reptile	Phrynosomatidae
Side-blotched Lizard	<i>Uta stansburiana</i>
Mammal	Didelphidae
Opposum	<i>Didelphis virginiana</i>
Mammal	Canidae
Coyote	<i>Canis latrans</i>
Mammal	Cervidae
Southern Mule Deer	<i>Odocoileus hemionus</i>
Mammal	Sciuridae
California Ground Squirrel	<i>Spermophilus beecheyi</i>
Mammal	Leporidae
Audubon's Cottontail	<i>Sylvilagus audubonii</i>
New World Vultures	Cathartidae
Turkey Vulture	<i>Cathartes aura</i>
Hawks, Kites, Eagles and Allies	Accipitridae
Cooper's Hawk	<i>Accipiter cooperii</i>
Red-tailed Hawk	<i>Buteo jamaicensis</i>
New World Quail	Odontophoridae
California Quail	<i>Callipepla californica</i>
Pigeons and Doves	Columbidae
Mourning Dove	<i>Zenaida macroura</i>
Cuckoos, Roadrunners & Anis	Cuculidae
Greater Roadrunner	<i>Geococcyx californianus</i>
Swifts	Apodidae
White-throated Swift	<i>Aeronautes saxatalis</i>
Hummingbirds	Trochilidae
Anna's Hummingbird	<i>Calypte anna</i>
Allen's Hummingbird	<i>Selasphorus sasin</i>
Woodpeckers and Allies	Picidae
Nuttall's Woodpecker	<i>Picoides nuttallii</i>
Caracaras and Falcons	Falconidae

American Kestrel	<i>Falco sparverius</i>
Tyrant Flycatchers	Tyrannidae
Willow Flycatcher	<i>Empidonax traillii</i>
Pacific-slope Flycatcher	<i>Empidonax difficilis</i>
Black Phoebe	<i>Sayornis nigricans</i>
Say's Phoebe	<i>Sayornis saya</i>
Ash-throated Flycatcher	<i>Myiarchus cinerascens</i>
Cassin's Kingbird	<i>Tyrannus vociferans</i>
Vireos	Vireonidae
Least Bell's Vireo	<i>Vireo bellii pusillus</i>
Hutton's Vireo	<i>Vireo huttoni</i>
Jays and Crows	Corvidae
Western Scrub-Jay	<i>Aphelocoma californica</i>
American Crow	<i>Corvus brachyrhynchos</i>
Swallows	Hirundinidae
Northern Rough-winged Swallow	<i>Stelgidopteryx serripennis</i>
Cliff Swallow	<i>Petrochelidon pyrrhonota</i>
Bushtits	Remizidae
Bushtit	<i>Psaltriparus minimus</i>
Wrens	Troglodytidae
House Wren	<i>Troglodytes aedon</i>
Bewick's Wren	<i>Thryomanes bewickii</i>
Gnatcatchers	Poliophtidae
Blue-gray Gnatcatcher	<i>Poliophtila caerulea</i>
California Gnatcatcher	<i>Poliophtila californica</i>
Sylviid Warblers	Sylviidae
Wrentit	<i>Chamaea fasciata</i>
Thrushes	Turdidae
Western Bluebird	<i>Sialia sialis</i>
Mockingbirds and Thrashers	Mimidae
California Thrasher	<i>Toxostoma redivivum</i>
Northern Mockingbird	<i>Mimus polyglottos</i>
Silky-Flycatchers	Ptilonotidae
Phainopepla	<i>Phainopepla nitens</i>
Wood-Warblers	Parulidae
Common Yellowthroat	<i>Geothlypis trichas</i>

Yellow Warbler	<i>Setophaga petechia</i>
Yellow-breasted Chat	<i>Icteria virens</i>
Emberizids	Emberizidae
So Cal Rufous-crowned Sparrow	<i>Aimophila ruficeps canescens</i>
Spotted Towhee	<i>Pipilo maculatus</i>
California Towhee	<i>Melospiza crissalis</i>
Song Sparrow	<i>Melospiza melodia</i>
Cardinals, Tanagers and Allies	Cardinalidae
Black-headed Grosbeak	<i>Pheucticus melanocephalus</i>
Blue Grosbeak	<i>Passerina caerulea</i>
Blackbirds	Icteridae
Hooded Oriole	<i>Icterus cucullatus</i>
Finches and Allies	Fringillidae
House Finch	<i>Haemorhous mexicanus</i>
Lesser Goldfinch	<i>Spinus psaltria</i>
Munias	Estrididae
Scaly-breasted Munia	<i>(Lonchura punctulata)</i>

Appendix C

Photographs



Photo 1 – Coastal Sage Scrub North Drainage



Photo 2 –Coastal Sage Scrub Northwest Project Footprint



Photo 3 – Southern Willow Scrub Willow Flycatcher Location



Photo 4 – Southern Willow Scrub



Photo 5 – Coastal Sage Scrub Drainage



Photo 6 – Southern Willow Scrub and Coastal Sage Scrub Yellow-breasted Chat Territory



Photo 7 – Coastal Sage Scrub California Gnatcatcher Territory 1



Photo 8 –Coastal Sage Scrub California Gnatcatcher Territory 1



Photo 9 – Coastal Sage Scrub Drainage California Gnatcatcher Territory 2



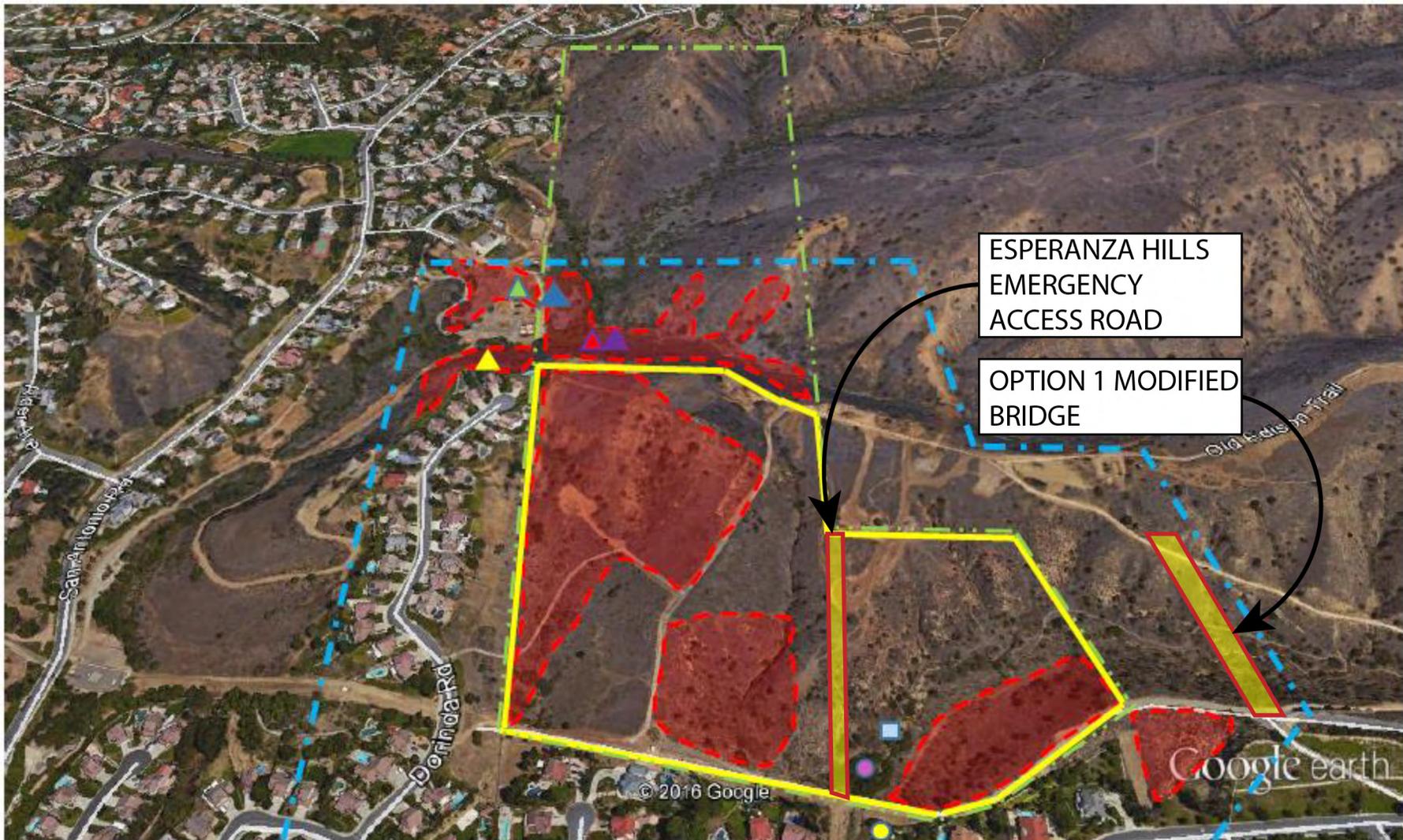
Photo 10 – Southern Willow Scrub Least Bell's Vireo Territory 1



Photo 11 – Urban/Developed - Least Bell's Vireo Territory 1 Frequenting Residential Adjacent to Jurisdictional Ephemeral Drainage



Photo 12 – Urban/Developed - Least Bell's Vireo Territory 2 Frequenting Residential Adjacent to Jurisdictional Ephemeral Drainage

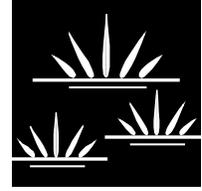


- | | | |
|-------------------|--|---|
| Project Footprint | Least Bell's Vireo Territory 1 – 6/5, 6/12, 6/19, 6/26, 7/3/2016 | California Gnatcatcher Territory 1 – 6/12/16, 7/03/16 |
| Survey Area | Least Bell's Vireo Territory 2 – 6/12, 6/19, 6/26, 7/3/2016 | California Gnatcatcher Territory 1 – 6/19/16 |
| Parcel Boundary | Willow Flycatcher - 5/29/16 | California Gnatcatcher Territory 1 – 6/26/16 |
| 500 Foot Buffer | | California Gnatcatcher Territory 2 – 6/12/16 |
| | | California Gnatcatcher Territory 2 – 6/26/16 |

Figure 2 – Survey area

GLENN LUKOS ASSOCIATES

Regulatory Services



January 31, 2017

Colby Cataldi
Deputy Director
OC Public Works/Development Services
300 N. Flower Street
Santa Ana, California 92703

Subject: Review of Option 1A Bridge Location and Suitable Habitat for the Coastal California Gnatcatcher, Esperanza Hills Project, Yorba Linda, Orange County, California

Dear Mr. Cataldi,

On January 30, 2017 I conducted a review of the of the Option 1A Bridge location to determine whether the area contains suitable habitat for the coastal California gnatcatcher. This site visit was prompted in part by assertions by Mr. Robert Hamilton in a December 13, 2016 letter: *Review of California Gnatcatcher Issues Esperanza Hills, Proposed Entry Bridge, Orange County, California*. The Option 1A bridge location is approximately 700 feet upstream of the bridge location that was the subject of Mr. Hamilton's letter.

The location of the Bridge currently proposed does not support the suite of coastal sage scrub species preferred by the coastal California gnatcatcher, which consists of low-growing shrubs (typically three to four feet in height) such as California sagebrush (*Artemisia californica*), California buckwheat (*Eriogonum fasciculatum*), and California encelia (*Encelia californica*). The bridge location supports a mosaic of tall shrubs, up to 12 feet in height with bush-mallow (*Malacothamnus fasciculatus*) accounting for approximately 35-percent of the cover, laurel sumac (*Malosma laurina*) about 30-percent of the cover, toyon (*Heteromeles arbutifolia*), Blue elderberry (*Sambucus nigra caerulea*), and California walnut (*Juglans californica*) each comprising about five-percent of the cover. Non-native grasses and ruderal vegetation dominated by Russian thistle (*Salsola tragus*) accounted for another ten-percent, with miscellaneous shrubs such as scrub oak comprising the remaining cover. California sagebrush was the only typical coastal sage scrub species present and accounted for less than one-percent cover. Exhibit 1 includes site photographs of the area currently proposed as the bridge location.

29 Orchard
Telephone: (949) 837-0404

■ Lake Forest

■ California 92630-8300
Facsimile: (949) 837-5834

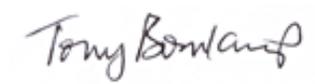
Colby Cataldi
Deputy Director
OC Public Works/Development Services
January 31, 2017
Page 2

It is also important to note that Blue Mud Canyon in the area between the bridge that was the subject of Mr. Hamilton's letter and the bridge as currently proposed supports very little California sagebrush, which occurs in a few small patches beginning about 300 feet west of the currently proposed bridge, and even these areas exhibit very marginal habitat for the coastal California gnatcatcher because most of the vegetation is tall, very similar to the area described for the currently proposed bridge above. Furthermore, the south side (north-facing slope) of Blue Mud Canyon is very steep, in many areas approaching 60 degrees or steeper, which is typically not suitable for the coastal California gnatcatcher. When these factors (vegetation composition and steep slope) are combined, the portion of Blue Mud Canyon on the Esperanza site in general exhibits very low potential for the coastal California gnatcatcher and the area of the currently proposed bridge exhibits even lower value habitat for the coastal California gnatcatcher.

If you have any further questions regarding this matter, please do not hesitate to contact me at (949) 837-0404 ext. 41.

Sincerely,

Tony Bomkamp

A handwritten signature in black ink that reads "Tony Bomkamp". The signature is written in a cursive style and is contained within a thin black rectangular border.

Glenn Lukos Associates
Senior Biologist

cc. Doug Wymore, Yorba Linda Estates, LLC



Photograph 1: Bush mallow dominated scrub at proposed bridge location looking southwest.



Photograph 2: Bush mallow dominated scrub at proposed bridge location looking southeast.



GLENN LUKOS ASSOCIATES

Exhibit 1

YORBA LINDA ESTATES

Site Photographs



January 27, 2017

Mr. Douglas Wymore, Esq.
Yorba Linda Estates, LLC
7114 East Stetson Drive, Suite 350
Scottsdale, AZ 85251

Engineers & Planners
Traffic
Transportation
Parking

LLG Reference: 2.13.3281.1

Subject: Site Access Evaluation for the Proposed Esperanza Hills Development
County of Orange, California

Linscott, Law & Greenspan, Engineers
2 Executive Circle
Suite 250
Irvine, CA 92614
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www.llgengineers.com

Dear Mr. Wymore:

Pasadena
Irvine
San Diego
Woodland Hills

Linscott, Law & Greenspan, Engineers (LLG) is pleased to submit this Site Access Evaluation for the proposed Esperanza Hills development located in the County of Orange. The proposed Esperanza Hills project site is located on approximately 469 acres of vacant land east of the terminus of Aspen Way and north of Stonehaven Drive in Unincorporated County of Orange. Project access is proposed along the east side of Stonehaven Drive approximately 150 feet north of Heatheridge Drive/Rockhampton Court, which is an all-way stop-controlled intersection. Based on our evaluation of the available sight distance at the proposed driveway combined with the relatively low speed by northbound vehicles departing the all-way stop intersection (i.e. Stonehaven Drive at Heatheridge Drive/Rockhampton Court), Project traffic will be able to safely access the Project site via the proposed access roadway without undue conflict or congestion.



We appreciate the opportunity to provide this site access evaluation. Should you have any questions, please call me at (949) 825-6175.

Very truly yours,
Linscott, Law & Greenspan, Engineers


Keil D. Maberry, P.E.
Principal



Attachments

- Philip M. Linscott, PE (1924-2000)
- Jack M. Greenspan, PE (Ret.)
- William A. Law, PE (Ret.)
- Paul W. Wilkinson, PE
- John P. Keating, PE
- David S. Shender, PE
- John A. Boarman, PE
- Clare M. Look-Jaeger, PE
- Richard E. Barretto, PE
- Keil D. Maberry, PE