

**Biological Assessment Letter Report
for the
First Harley Knox II
(7 Parcel)
Development Project**

City of Perris

Prepared For:

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1.0 INTRODUCTION

This report documents the findings of an evaluation of biological resources conducted by BLUE for the seven (7) parcel First Harley Knox Property as well as the area assessed for offsite improvements, located within Harley Knox Boulevard and Indian Avenue, including the existing developed parcel located at 480 Harley Knox Boulevard (Project). The proposed Project includes the development of these parcels, over the approximately 26.55 onsite acres (totaling approximately 36.5 acres, including the offsite infrastructure improvements), in the City of Perris, County of Riverside, California. The proposed offsite impacts to existing developed/disturbed area are for infrastructure improvements to Harley Knox Boulevard (offsite from the SE corner), infrastructure improvements to Indian Avenue and the drainage connection to the flood control channel (offsite from the NE corner). The Project is bound to the south and east by development and infrastructure (Harley Knox Boulevard on the southern boundary and Indian Avenue along the eastern boundary) and disturbed area/farm land to the north and west. Adjacent to the northern property line is a regional flood control channel (flowing east).

The Project site is located within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) Mead Valley Area Plan and is comprised of a total of 26.55 acres. The Project site is not located within any MSHCP designated Criteria Areas or Subunits. As such, the Project site is not subject to Cell Criteria compliance under the MSHCP. The Project footprint does not fall within any Public/Quasi-Public (PQP) or other MSHCP Conserved Lands.

The Biological Study Area (BSA) includes the subject Project parcels, plus a 100-foot buffer. This includes all proposed offsite impacts. The BSA is located within the United States Geological Survey (USGS) 7.5-minute Perris Topographic Map. The Project falls within the San Bernardino Meridian, Section 7, SE ¼ of SW ¼ of Section 7 on the Perris, CA 7.5-minute topographic quadrangle map (USGS 2018) in the city of Perris, at an approximate elevation of 1,475 feet. Onsite, the Project BSA is composed of maintained agricultural land and developed area, including paved and maintained ornamental plantings in the parking area. Offsite, to the north and west is historic agricultural use and disturbed vegetation with generally flat undeveloped terrain that receives frequent weed abatement (i.e., chain flail mowing, disking). The surrounding land use, offsite, consists of the northern flood control channel, industrial development, agricultural fields, and development infrastructure.

The intended use of this document is to disclose and evaluate habitat conditions and determine the potential for occurrence of common and special-status species and their habitats within survey area limits pursuant to the MSHCP. Special-status species refers to any species that has been afforded special protection by federal, state, or local resource agencies (e.g., U.S. Fish and Wildlife Service [USFWS], California Department of Fish and Game [CDFW]) or resource conservation organizations (e.g., California Native Plant Society [CNPS]). The term “special-status species” excludes those avian species solely identified under Section 10 of the Migratory Bird Treaty Act (MBTA) for federal protection.

2.0 METHODS

Prior to beginning the field survey and protocol wetland delineation, a literature review was completed to determine locations and types of biological resources having the potential to exist within the region, including: California Natural Diversity Data Base (CNDDDB), USFWS Critical Habitat Mapper and File data [USFWS 2023], the MSHCP Transportation and Land Management Agency Geographic Information Services Database and Riverside

County Integrated Plan Conservation Summary Report Generator was also reviewed (County of Riverside).

In addition to utilizing on-line databases and mapping tools, the Perris topographic map was reviewed to determine the locations of any potential special aquatic resource areas (e.g., wetlands or other Waters of the United States or Waters of the State) under regulatory jurisdiction of the US Army Corps of Engineers (USACE), CDFW, and Regional Water Quality Control Board (RWQCB), and Riparian/Riverine habitats prior to beginning field surveys of the BSA. Additionally, the United States Department of Agriculture Natural Resources Conservation Service (USDA-NRCS) on-line Web Soil Survey tool (NRCS 2015) and Figure 2-4 of the MSHCP were reviewed to determine the types and percent cover of soils within the BSA.

Lands within the BSA that were potentially suspected of being potential special aquatic resource and Riparian/Riverine habitats were then assessed by visual observation during the field survey. No potential special aquatic resource areas and riparian/riverine habitats were not observed and additional further evaluation is not required.

Michael Jefferson, senior qualified BLUE biologist, conducted the pedestrian-based biological surveys to observe, document, and evaluate vegetation, plant and wildlife resources and determine the potential for occurrence of special-status habitat, plant and wildlife species. Approximately 100-foot-wide meandering transects were utilized to provide visual coverage of the BSA.

Vegetation community type descriptions were based on observed dominant vegetation composition and derived from the criteria and definitions of vegetation classification systems (Holland, 1986; Sawyer and Keeler-Wolf, 1995; Sawyer et al., 2009). Plants were identified in the field to the lowest taxonomic level sufficient to determine positive identity and status. Plants of uncertain identity were subsequently identified using taxonomic keys, and scientific and common species names were recorded according to Baldwin (2012).

The presence of a wildlife species was based on direct observation or wildlife sign (e.g., tracks, burrows, nests, scat, or vocalization). Field data compiled for wildlife species included scientific name, common name, and evidence of sign when no direct observations were made. Wildlife of uncertain distinctiveness was documented and subsequently identified from field guides and related literature (Burt and Grossenheider, 1980; Halfpenny, 2000; Sibley, 2000; Elbroch, 2003; and Stebbins, 2003).

The BSA was also assessed for its potential to support special-status species, based on habitat suitability comparisons with reported occupied habitats.

The following definitions were used to determine the need for subsequent surveys and to assess project-related effects to special-status species:

- Absent (A): No habitat occurs within the survey area and no further surveys are necessary
- Habitat Present (HP): Habitat is present within the survey area
- Present (P): The species was observed within the survey area during the survey
- Critical Habitat (CH): The survey area is located within designated critical habitat

JURISDICTIONAL DELINEATION METHODS

2.1 Jurisdictional Delineation Field Surveys

BLUE senior qualified biologist Michael Jefferson conducted the protocol wetland delineation to evaluate the extent of jurisdictional features subject to the City, the ACOE, the RWQCB and the CDFW. The limits of WoUS and Waters of the State were recorded in the field areas using aerial maps and Google earth.

2.2.1 Delineating Waters of the U.S.

2.2.1.1 Non-wetlands

Federal (ACOE) and State (RWQCB) jurisdiction over a non-wetland waters of the U.S. extends to the ordinary high-water mark (OHWM), defined in 33 C.F.R. § 328.3 as the line established by fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of the soil, destruction of terrestrial vegetation, or the presence of litter and debris. In the Arid West region of the United States, waters are variable and include ephemeral, intermittent and perennial channel forms. Delineation methods and data sheets were completed in accordance with *A Field Guide to the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States* (ACOE 2008) the *Updated Datasheet for the Identification of the Ordinary High Water Mark (OHWM) in the Arid West Region of the Western United States* (ACOE 2010) and 2020 ACOE Navigable Waters Protection Rule.

2.2.1.2 Wetlands

The climate of the region drastically influences the hydrology, channel-forming processes, and distribution of OHWM indicators such that delineations can be inconsistent (over space and time) and problematic. The dynamics of arid channel forms and the transitory nature of traditional OHWM indicators in arid environments render the limit of the active floodplain the only reliable and repeatable feature in terms of OHWM delineation (Lichvar and McColley 2008). This was supported by recent additional research in *Vegetation and Channel Morphology Responses to Ordinary High Water Discharge Events in Arid West Stream Channels* (Lichvar et al. 2009). To determine the extent of potential jurisdictional wetlands on a project site, the Army Corps of Engineers Wetlands Delineation Manual (ACOE 1987) and Regional Supplement to the Army Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0) (ACOE 2008b) was used as a guide for identifying wetland characteristics. The following three indicators are must all be present to be defined as a wetland:

1. Hydrology, providing permanent or periodic inundation by groundwater or surface water;
2. Hydrophytic vegetation; and
3. Hydric soils.

To be considered a wetland, an area must exhibit at least minimal hydric conditions within these three parameters. Wetland data pits were not required to be sampled because these parameters were not met within the developed footprint of the flood control channel.

Wetland Hydrology

Wetland hydrology indicators are classified into four groups:

- **Group A – Observation of Surface Water or Saturated Soils:** This group is based on the direct observation of surface water or saturated soils.

- **Group B – Evidence of Recent Inundation:** This group consists of evidence that the site is subject to flooding or ponding, although the inundation may not be recent. Indicators include water marks, drift deposits, sediment deposits, and similar characteristics.
- **Group C – Evidence of Recent Soil Saturation:** This group consists of indirect evidence of recent soil saturation. Indicators include oxidized rhizospheres around living roots and the presence of reduced iron and sulfur in the soil profile.
- **Group D – Evidence from Other Site Conditions or Data:** This group consists of soil and vegetation features that indicate current rather than historic hydric conditions. The presence of wetland hydrology is assessed at each location where the wetland criteria are met. Data recorded include the extent of surface flows, depth of inundation, depth to saturated soils, and depth to free water in the soil test pit.

Hydrophytic Vegetation

Hydrophytic plants grow partially or completely in water and are indicators of wetland environments. Hydrophytic vegetation occurs only in areas where frequent or sustained inundations are sufficient to produce soil saturation that exerts a controlling influence on plant species. These periodic events must occur for sufficient duration to result in reduced oxygen soil conditions. Wetlands are characterized by communities of plants, so that the occurrence of individual hydrophytic species in an area otherwise dominated by uplands species is insufficient to characterize the area as a wetland. In arid environments, specific indicator species are important in identification of wetlands (e.g., halophytes and phreatophytes are associated with many wetland settings in the arid west), but in general, the totality of plant species growing on a site is of greater importance than the presence or absence of particular indicator species. Species that are indicators of wetlands have been classified in the National Wetland Plant List (Lichvar et al. 2018). Frequency of a species occurrence in wetlands has been divided into the following five categories.

1. **Obligate Wetland (OBL):** Occurs almost always (estimated probability >99%) under natural conditions in wetlands.
2. **Facultative Wetland (FACW):** Usually occurs in wetlands (estimated probability 67%– 99%) but occasionally found in non-wetlands.
3. **Facultative (FAC):** Equally likely to occur in wetlands or non-wetlands (estimated probability 34%– 66%).
4. **Facultative Upland (FACU):** Usually occurs in non-wetlands (estimated probability 67%–99%) but occasionally found in wetlands (estimated probability 1%–33%).
5. **Obligate Upland (UPL):** Occurs in wetlands in another region but occurs almost always (estimated probability >99%) under natural conditions in non-wetlands in the region specified.

The ACOE considers species that fall into the OBL, FACW, and FAC categories as being positive indicators of wetland vegetation. The prevalent vegetation that occurs in a wetland may be associated with more than one community and is characterized by the dominant species. A dominance test (Indicator 1) is the basic hydrophytic vegetation indicator and is used to determine the dominant species of a given plant community. The 50/20 Rule is used to determine wetland status by examining the species that dominate a community. This method involves identifying the species type that makes up at least 50% of the stratum of the community, and then identifying a

second species type that makes up at least 20% of the stratum. This method should be applied in every wetland determination. Although some plant communities cannot be characterized by the dominance test, most wetlands in the Arid West have plant communities that will pass the dominance test, and therefore this test provides a sufficient indicator in most situations. If the plant community passes the dominance test for wetland species, then the vegetation is characterized as hydrophytic and no further vegetation analysis is required.

The prevalence index (Indicator 2) is used when the vegetation fails the dominance test, but hydric soils and wetland hydrology are present. The prevalence index weighs all of the plant species in a community, rather than just the dominant species. The prevalence index is a weighted-average wetland indicator status of the plant species in a sampling plot. Each indicator status is given a numeric code (OBL = 1, FACW = 2, FAC = 3, FACU = 4, and UPL = 5) and is weighted by the percent cover. Hydrophytic vegetation is present if the prevalence index is 3.0 or less.

Plant morphological adaptations (Indicator 3) can be used to distinguish certain wetland plant communities in the Arid West in the presence of hydric soils and wetland hydrology. Some hydrophytes develop easily recognized physical characteristics due to their adaptation to wetland conditions. Common morphological adaptations include adventitious roots and shallow root systems developed on or in the upper layers of the soil. This indicator is applied when the wetland morphological adaptations are found on 50% or more of the FACU species present.

Hydric Soils

The National Technical Committee for Hydric Soils defines a hydric soil as “a soil that formed under conditions of saturation, flooding, or ponding long enough during the growing season to develop anaerobic conditions in the upper part” (U.S. Department of Agriculture 2006). Soils that are sufficiently wet because of artificial measures are included in the concept of hydric soils. This classification includes soils that were historically hydric but have since become non-hydric as a result of artificial modification of the hydrologic system that originally created the hydric soil. Some series, designated as hydric, have phases that are not hydric, depending on water table, flooding, and ponding characteristics.

Hydric soils are identified using soil indicators presented in the Regional Supplement to the ACOE of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0) (ACOE 2008b) and the Field Indicators of Hydric Soils in the United States, Version 8.2, 2018 (NRCS 2018). Indicators of non-sandy hydric soils include an organic composition that is greater than 50% (formed in oversaturated conditions where the decomposition of plant debris is inhibited and slowly accumulates), the presence of sulfides in the soil composition that emanate a strong sulfur odor, and soils with peraquic (groundwater always at or near the soil surface) moisture regimes. The soil coloration produced by soil components is also an indicator that can be used to identify hydric soils while performing field observations. Gleyed soils are produced when reduced oxygen soil environment result in the pronounced chemical reduction of iron, manganese, and other elements, thereby producing grayish, bluish, and greenish soil colors. Mineral hydric soils that are saturated for substantial periods of the growing season (but not long enough to produce gleyed soils) will have bright mottles (marked with spots of contrasting colors) and a dark coloration matrix (the portion of the soil that makes up more than 50% of the composition that has the predominant color). In some mineral hydric soils, mottling may be absent and only the dark coloration occurs.

The coloration of the soil samples, matrix, and mottles is assessed using the Munsell Soil Color Charts (Munsell 2009). The Munsell Color System is the field and laboratory standard for classifying soil color, rocks, and archaeological specimens. The system has three components: hue (a specific color), value (lightness and darkness), and chroma (color intensity). Samples of these components are arranged in books of color chips, each of which is labeled to indicate the assigned value of each of these components. The soil sample is viewed through an aperture below each chip to compare and contrast the coloration until a best-match determination is made.

2.2.2 Delineating Waters of the State of California

2.2.2.1 Regional Water Quality Control Board

Evaluation of jurisdiction under the RWQCB traditionally followed guidance from Section 401 of the CWA, and generally consists of the same jurisdictional areas as ACOE. In addition, the wetland delineation procedures were followed per the “State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State” (April 2019).

2.2.2.2 California Department of Fish and Wildlife Jurisdiction

CDFW jurisdiction typically includes water features with a defined bed and bank. Evaluation of potentially jurisdictional areas followed the guidance of relevant CDFW materials and standard practices by CDFW personnel. CDFW jurisdiction was delineated by measuring the outer width and length boundaries of potentially jurisdictional areas, consisting of the greater of either the top of bank measurement or the extent of associated riparian or wetland vegetation.

2.2.3 Delineating Wetlands Defined under the Municipal Code

Focus of field surveys for wetlands defined by the city focused on naturally occurring wetland vegetation communities, hydric soils and wetland hydrology. The Municipal Code was followed to define the limits of city defined wetlands.

2.2.4 Limitations

This report describes the delineated features, existing conditions and expected jurisdictional status within the Project. The information and results included herein document the investigation, best professional judgment, and conclusions of BLUE. It is correct and complete to the best of our knowledge. However, all jurisdictional determinations should be considered preliminary until reviewed and approved by the regulatory agencies.

2.3 SUMMARY OF REGULATIONS

There are four primary agencies that regulate activities within creeks, wetlands and riparian areas in California. The U.S. Army Corps of Engineers Regulatory Program regulates activities pursuant to Section 404 of the Federal Clean Water Act (CWA).

The State Water Resources Control Board (SWRCB), administered by the Riverside Regional Water Quality Control Board regulates activities pursuant to Section 401 of the Federal CWA and the California Porter-Cologne Water Quality Control Act of 1969 (California Water Code). The CDFW regulates activities within streambeds, lakes, and wetlands pursuant to Division 2, Chapter 6, Section 1600 of the Fish and Game Code.

Any project that involves disrupting or otherwise working within a creek, wetland or riparian area may require permits from the City, ACOE, RWQCB and/or the CDFW before any work can commence.

The ACOE will not issue its authorization until the RWQCB completes the Section 401 permit. Application to the CDFW for a 1600 Agreement and the RWQCB for a Section 401 permit both require submittal of a valid California Environmental Quality Act (CEQA) document, with the City being the lead agency. A site development permit from the City would be required.

2.3.1 Waters of the US

The Army Corps of Engineers and the Environmental Protection Agency (EPA) have issued a set of guidance documents detailing the process for determining Clean Water Act (CWA) jurisdiction over waters of the U.S. under the 2020 ACOE Navigable Waters Protection Rule (2020 Rule). This supersedes all previous court decisions and rules. The EPA and ACOE issued this Rule in January of 2020 and is in full effect at the time of this report preparation and is utilized for determining the jurisdiction over waters of the United States under the CWA. The complete set of guidance documents, summarized as key points below, were used to collect relevant data for evaluation to determine ACOE jurisdiction over the project limits.

The 2020 Rule redefines “Waters of the United States” (WoUS) so that it includes only four simple categories of jurisdictional waters and provides clear exclusions for many water features that traditionally have not been regulated. The significant nexus test is no longer in effect. These four categories protect the nation’s navigable waters and the core perennial and intermittent tributary systems that flow into those waters.

(1) Territorial seas and traditional navigable waters (TNWs) [Category (a)(1)]

The 2020 Rule regulates territorial seas and traditional navigable waters include large rivers and lakes and tidally-influenced waterbodies used in interstate or foreign commerce.

(2) Tributaries [Category (a)(2)]

The 2020 Rule regulates tributaries include perennial and intermittent rivers and streams that contribute surface flow to traditional navigable waters in a typical year. These tributaries must have perennial or intermittent flow. Ephemeral drainages are no longer regulated under the 2020 Rule. Tributaries can connect to a traditional navigable water or territorial sea in a typical year either directly or through other WoUS, through channelized non-jurisdictional surface waters, through artificial features (including culverts and spillways), or through natural features (including debris piles and boulder fields). Ditches are to be considered tributaries only where they satisfy the flow conditions of the perennial and intermittent tributary definition and either were constructed in or relocate a tributary or were constructed in an adjacent wetland and contribute perennial or intermittent flow to a traditional navigable water in a typical year.

(3) Lakes, ponds, and impoundments of jurisdictional waters [Category (a)(3)]

Lakes, ponds, and impoundments of jurisdictional waters are jurisdictional where they contribute surface water flow to a traditional navigable water or territorial sea in a typical year either directly or through other WoUS through channelized non-jurisdictional surface waters, through artificial features (including culverts and spillways)

or through natural features (including debris piles and boulder fields). Lakes, ponds, and impoundments of jurisdictional waters are also jurisdictional where they are flooded by a WoUS in a typical year.

(4) Adjacent wetlands [Category (a)(4)]

Wetlands that physically touch other jurisdictional waters are “adjacent wetlands”. This includes marshland habitats in tidal estuaries.

Wetlands separated from a WoUS by only a natural berm, bank or dune are also “adjacent.” Wetlands inundated by flooding from a WoUS in a typical year are “adjacent.” Wetlands that are physically separated from a jurisdictional water by an artificial dike, barrier, or similar artificial structure are “adjacent” so long as that structure allows for a direct hydrologic surface connection between the wetlands and the jurisdictional water in a typical year, such as through a culvert, flood or tide gate, pump, or similar artificial feature.

An adjacent wetland is jurisdictional in its entirety when a road or similar artificial structure divides the wetland, as long as the structure allows for a direct hydrologic surface connection through or over that structure in a typical year.

The ACOE generally takes jurisdiction within rivers and streams to the "ordinary high water mark (OHWM)," determined by erosion, the deposition of vegetation or debris, and changes in vegetation or soil characteristics.

The 2020 also outlines what are not WoUS. The following waters/features are not jurisdictional under the 2020 Rule:

- Waterbodies that are not included in the four categories of WoUS listed above.
- Groundwater, including groundwater drained through subsurface drainage systems, such as drains in agricultural lands.
- Ephemeral features, including ephemeral streams, swales, gullies, rills, and pools.
- Diffuse stormwater run-off and directional sheet flow over upland.
- Many farm and roadside ditches.
- Prior converted cropland retains its longstanding exclusion, but is defined for the first time in the 2020 Rule. The agencies are clarifying that this exclusion will cease to apply when cropland is abandoned (i.e., not used for, or in support of, agricultural purposes in the immediately preceding five years) and has reverted to wetlands.
- Artificially irrigated areas, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease.
- Artificial lakes and ponds, including water storage reservoirs and farm, irrigation, stock watering, and log cleaning ponds, constructed or excavated in upland or in non-jurisdictional waters.
- Water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in non-jurisdictional waters for the purpose of obtaining fill, sand, or gravel.
- Stormwater control features excavated or constructed in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater run-off.

- Groundwater recharge, water reuse, and wastewater recycling structures, including detention, retention and infiltration basins and ponds, that are constructed in upland or in non-jurisdictional waters
- Waste treatment systems have been excluded from the definition of WoUS since 1979 and will continue to be excluded under the 2020 Rule.

2.2 California Department of Fish and Wildlife Jurisdiction

Pursuant to Division 2, Chapter 6, Section 1602 of the Fish and Game Code, CDFW regulates all diversions, obstructions, or changes to the natural flow or bed, channel or bank of any river, stream, or lake which supports fish or wildlife. A notification of a Lake or Streambed Alteration Agreement must be submitted to CDFW for “any activity” that may substantially change the bed, channel, or bank of any river, stream, or lake.” In addition, CDFW has jurisdiction over riparian habitats associated with watercourses. Jurisdictional waters are delineated by the outer edge of riparian vegetation or at the top of the bank of a stream or lake, whichever is wider. CDFW jurisdiction does not include tidal areas or isolated resources. The CDFW reviews proposed actions, and if necessary, submits to the applicant a proposal that includes measures to protect affected fish and wildlife resources. The final proposal that is mutually agreed upon by CDFW and the applicant is the Lake or Streambed Alteration Agreement (LSAA).

2.3 Regional and State Water Quality Control Board Jurisdiction

The SWRCB together with the local RWQCB are the principal state agency with primary responsibility for the coordination and control of water quality. In Riverside County, the Riverside Regional Water Quality Control Board regulates water quality activities, pursuant to Section 401(a)(1) of the federal CWA as well as the Porter Cologne Water Quality Control Act (Porter-Cologne) (Water Code Section 13260). Section 401 of the CWA specifies that certification from the State is required for any applicant requesting a federal license or permit to conduct any activity including but not limited to the construction or operation of facilities that may result in any discharge into navigable waters. The certification shall originate from the State in which the discharge originates or will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable water at the point where the discharge originates or will originate. Any such discharge will comply with the applicable provisions of Sections 301, 302, 303, 306, and 307 of the CWA.

In April 2019, the SWRCB adopted a “State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State” (Procedures). The Procedures consist of four major elements for State-regulated wetlands: 1) a wetland definition; 2) wetland delineation procedures; 3) a framework for determining if a feature that meets the wetland definition is a water of the state; and 4) procedures for the submittal, review and approval of applications for Water Quality Certifications and Waste Discharge Requirements for dredge or fill activities. In adopting the Procedures, the State Water Board directed staff to develop implementation guidance for potential applicants.

2019 New Wetland Definition and Procedures

In 2019, the SWRCB issued “New Wetland Definition and Procedures of 2019” (Procedures) for redefining State “wetlands” was enacted to ensure State waters are protected, clarifying the State definition of a “wetland”. In April 21, 2020 the SWRCB issued the “Implementation Guidance for the State Wetland Definition and Procedures for Discharges of Dredged or Fill Material to Waters of the State” , providing guidance for implementing the 2019

Procedures. The wetland definition and delineation methods set forth in the Procedures apply to wetlands only, and not to non-wetland Waters of the State.

Wetland Waters of the State

The Procedures define an area as wetland as follows - An area is wetland if, under normal circumstances:

- (1) The area has continuous or recurrent saturation of the upper substrate caused by groundwater, or shallow surface water, or both;
- (2) The duration of such saturation is sufficient to cause anaerobic conditions in the upper substrate; and
- (3) The area's vegetation is dominated by hydrophytes or the area lacks vegetation.

This modified three-parameter definition is similar to the federal definition in that it identifies three wetland characteristics that determine the presence of a wetland: wetland hydrology, hydric soils and hydrophytic vegetation. Unlike the federal definition however, the Procedures' wetland definition allows for the presence of hydric substrates as a criteria for wetland identification (not just wetland soils) and wetland hydrology for an area devoid of vegetation (less than 5% cover) to be considered a wetland. However, if any vegetation is present then the ACOE delineation procedures would apply to the vegetated component (i.e., hydrophytes must dominate). When determining the boundary of wetlands (vegetated or not) applicants can rely on Part II of the 1987 ACOE Manual that provides information that is sufficient to determine wetland boundaries for compliance with the Procedures.

The ACOE definition refers to "saturated soil conditions," whereas the Procedures' definition refers to saturated substrate leading to "anaerobic conditions in the upper substrate" which is a more inclusive term. Both of these descriptions define conditions that would lead to dominance of hydrophytes, if the site is vegetated. The Procedures definition refers to "continuous or recurrent saturation of the upper substrate." Continuous saturation describes hydrological conditions that are perennial or tend to persist for at least twelve months. Recurrent saturation describes hydrological conditions that persist for less than twelve months. Hydrological conditions may be periodic and sustained regularly (i.e., tidewater) or episodic and intermittent, (i.e., vernal pools). In order for the recurrent saturation to support the development of anaerobic conditions, the substrate must become, and remain, saturated for a duration of 14 days during an annual cycle.

Waters of the State

California Code of Regulations, title 23, section 3831(w) states that " *[a]ll waters of the United States are also 'Waters of the State.'*" The regulation reflects the SWRCB intent to include a broad interpretation of Waters of the US into the definition of Waters of the State. Waters of the State includes features that have been determined by the U.S. EPA or the ACOE to be WoUS in an approved jurisdictional determination; WoUS identified in an aquatic resource report certified by the ACOE upon which a permitting decision was based; and features that are consistent with any *current or historic* final judicial interpretation of WoUS or any *current or historic* federal regulation defining WoUS. Because the interpretation of waters of the U.S. in place at the time section 3831(w) was adopted was broader than any post-Rapanos or post-SWANCC regulatory definitions that incorporated more limitations into the scope of federal jurisdiction, it is consistent with the SWRCB's intent to include both historic and current definitions of Waters of the US into the SWRCB's wetland jurisdictional framework. A wetland will continue to be protected when it has been regulated in the past as a WoUS regardless of any subsequent changes

in federal regulations. The inclusion of both current and historic definitions of WoUS ensures regulatory stability in an area that has otherwise been in flux. Like the other categories of the SWRCB's wetland jurisdictional framework, the status as a WoUS may only be used to establish that a wetland qualifies as a Water of the State. It cannot be used to exclude a wetland from qualifying as a Water of the State. Thus, wetlands that are categorically excluded from qualifying as a WoUS may nevertheless qualify as Waters of the State under another jurisdictional category.

Jurisdictional Framework

The jurisdictional framework is intended to exclude small (less than an acre) artificially-created, temporary features, such as tire ruts or other transient depressions caused by human activity from regulation, while still capturing smaller, naturally-occurring features, such as seasonal wetlands and small vernal pools that may be outside of federal jurisdiction. All artificial wetlands that are less than an acre in size and do not satisfy the criteria listed in section II.2, II.3.a, II.3.b, or II.3.c are not Waters of the State. Note that this jurisdictional framework applies only to features meeting the technical definition of a wetland.

If an aquatic feature does not meet the definition of a wetland, it may nonetheless be a different type of aquatic feature that may still be regulated as a non-wetland Water of the State (e.g., lakes, streams, and ocean waters). The Procedures do not include guidance for jurisdictional determinations for other Waters of the State. Non-wetland Waters of the State typically follow ACOE regulations, however under the 2020 Rule, ephemeral drainages are excluded. No regulatory guidance has been issued by the SWRCB regarding the delineation of ephemeral drainages, however, until further notice the use of the OHWM will be used to delineate such resources.

Porter-Cologne Act

In the Porter-Cologne, the Legislature declared that the "State must be prepared to exercise its full power and jurisdiction to protect the quality of the waters in the State from degradation..." (California Water Code Section 13000). Porter-Cologne grants the Boards the authority to implement and enforce the water quality laws, regulations, policies and plans to protect the groundwater and surface waters of the State. It is important to note that enforcement of the State's water quality requirements is not solely the purview of the Boards and their staff. Other agencies [e.g., CDFW] have the ability to enforce certain water quality provisions in state law.

The Porter Cologne Act requires "any person discharging waste, or proposing to discharge waste, within any region that could affect the Waters of the State to file a report of discharge (an application for waste discharge requirements (WDRs))" (Water Code § 13260(a)(1)). Discharge of fill material into Waters of the State which does not fall under the jurisdiction of the ACOE pursuant to Section 404 of the CWA may require authorization through application for WDRs or through waiver of WDRs.

3.0 RESULTS

BLUE biologist Mike Jefferson conducted the general and upland biological surveys over the BSA on January 10, 2022; beginning at 9:30 and ending at 10:40. Weather conditions during the surveys included 20% clear skies, with temperatures ranging from 63° to 65° Fahrenheit, and winds from 1 to 3 miles per hour. A second biological site survey for the developed parcel was conducted on March 8, 2023; beginning at 10:10 and ending at 10:40. Weather conditions during the surveys included 10% clear skies, with temperatures ranging from 56° to 58°

Fahrenheit, and gusts of wind from 5 to 10 miles per hour. The completed jurisdictional wetland delineation survey by qualified senior biologist Mike Jefferson was completed on April 14, 2024; beginning at 1610 and ending at 1650. Weather conditions during the surveys included 100% cloud cover, with temperatures ranging from 62° to 61° Fahrenheit, and gusts of wind from 5 to 10 miles per hour. No measurable precipitation was recorded in the prior 7 days.

3.1 VEGETATION COMMUNITIES/LAND COVER TYPES

As noted, two vegetation community/land cover types were observed within the BSA. Offsite, the existing road infrastructure and onsite, Developed Area and Agricultural/Disturbed area (Table 1; Figure 4). No natural (un-maintained) native plant species were observed onsite.

Table 1: On-Site Vegetation

Community Type	Onsite Acres	Offsite Acres	Total
Developed	4.1	9.95	14.05
Agricultural/Disturbed	22.45	0.0	22.45
Total	26.55	9.95	36.5

Communities/Land Cover Types Observed

3.1.1 Urban/Developed

Developed and semi-urban areas contain numerous and varied horticultural plantings located within landscaping, residential yards, active-use parklands, and golf courses. In the older, urbanized portions of the City, tall exotic plantings, such as eucalyptus trees (*Eucalyptus sp.*) with allelopathic toxins that tend to inhibit understory growth, form well developed, and dense woodlands. Occasionally, other planted woodlands such as introduced pines, ash, and elm are present. Disturbed areas are typically located adjacent to urbanization and contain a mix of primarily weedy species, including non-native forbs, annuals, and grasses, usually found pioneering on recently disturbed soils. Characteristic weedy species include prickly sow thistle (*Sonchus asper*), common sow thistle (*Sonchus oleraceus*), bristly ox-tongue (*Picris echioides*), Russian thistle (*Salsola tragus*), giant reed, hottentot-fig (*Carpobrotus edulis*), wild lettuce (*Lactuca serriola*), tree tobacco (*Nicotiana glauca*), castor-bean (*Ricinus communis*), pampas grass, smooth cat’s-ear (*Hypochoeris glabra*), red-stem filaree (*Erodium cicutarium*), short-beak filaree (*Erodium brachycarpum*) and white-stem filaree (*Erodium moschatum*). These urban lands do not typically contain native vegetation or provide essential habitat connectivity; and therefore, tend to have reduced biological value.

Onsite, a total of approximately 4.1 acres of Urban/Developed habitat was observed. Onsite, this developed parcel is comprised of an existing large office structure, paved parking with ornamental Sycamore and Pepper trees as well as planters dominated by maintained/irrigated creeping rosemary and non-native/exotic turf species.

Offsite, within the mapped disturbed and developed portion of the BSA adjacent to the flood control channel, Indian Street and Harley Knox Boulevard, are proposed infrastructure improvements (Project Plans, attached). The offsite improvements include the connection of the Project to the flood control channel to the north, improvement of Indian Street to the east and Harley Knox Boulevard frontage off of the SE corner.

3.1.2 Agricultural/Disturbed

Developed and semi-urban areas contain numerous and varied horticultural plantings located within landscaping, residential yards, active-use parklands, and golf courses. In the older, urbanized portions of the City, tall exotic plantings, such as pepper and eucalyptus trees (*Eucalyptus* sp.) with allelopathic toxins that tend to inhibit understory growth, form well developed, and dense woodlands.

Occasionally, other planted woodlands such as introduced pines, ash, and elm are present. Disturbed areas are typically located adjacent to urbanization and contain a mix of primarily weedy species, including non-native forbs, annuals, and grasses, usually found pioneering on recently disturbed soils. Characteristic weedy species include prickly sow thistle (*Sonchus asper*), common sow thistle (*Sonchus oleraceus*), bristly ox-tongue (*Picris echioides*), Russian thistle (*Salsola tragus*), giant reed, hottentot-fig (*Carpobrotus edulis*), wild lettuce (*Lactuca serriola*), tree tobacco (*Nicotiana glauca*), castor-bean (*Ricinus communis*), pampas grass, smooth cat's-ear (*Hypochoeris glabra*), red-stem filaree (*Erodium cicutarium*), short-beak filaree (*Erodium brachycarpum*) and white-stem filaree (*Erodium moschatum*). These urban lands do not typically contain native vegetation or provide essential habitat connectivity; and therefore, tend to have reduced biological value.

Onsite, Agricultural/Disturbed lands (22.45 acres) are the dominant habitat within the BSA. These areas are farmed currently, or in the recent past, and are actively utilized/maintained. The plant community is dominated by typical non-native weedy species, non-native invasive grass grasses, *erodium* spp., Russian thistle (*Salsola tragus*) and prickly lettuce (*Lactuca serriola*); all non-native species.

3.2 PLANT AND WILDLIFE SPECIES

Plant and wildlife species observed onsite were typical of developed and disturbed habitats. All plant and wildlife species observed onsite are listed in Table 2 and Table 3, respectively.

Table 2: Plant Species Observed Onsite

Species	Common Name
<i>Erodium cicutarium</i> *	Red-stem erodium
<i>Rosmarinus officinalis</i> 'Prostratus'	Creeping Rosemary
<i>Platanus occidentalis</i>	American Sycamore
<i>Salsola tragus</i> *	Russian thistle
<i>Schinus mole</i> *	Pepper Tree
<i>Tamarix</i> spp.	Salt Cedar
* non-native species	

Table 3: Wildlife Species Observed within the Survey Area

Scientific Name	Common Name
Birds	
Columbidae	Pigeons and Doves
<i>Columba livia</i>	rock dove (pigeon)
Corvidae	Jays and Crows
<i>Corvus corax</i>	common raven
Mammals	
<i>Sylvilagus sp.</i>	rabbit (sign)

3.2.1 SPECIAL-STATUS PLANTS

Eleven special-status plant species have been reported to occur within the Perris quadrangle (CDFW 2019, CNPS 2023, County of Riverside 2003). Three species are designated with federal and/or state listing status: San Jacinto Valley crowscale (*Atriplex coronata var. notatior*), thread-leaved brodiaea (*Brodiaea filifolia*), and spreading navarretia (*Navarretia fossalis*).

Due to the highly disturbed, developed and maintained nature of the property, all eleven special-status plant species were determined to have an “Absent” potential for occurrence within the survey area and no further survey is necessary to determine presence or absence of those species.

3.2.2 SPECIAL-STATUS WILDLIFE

Fifteen special-status wildlife species have been reported to occur within the Perris quadrangle (Appendix C) (CDFW 2015, County of Riverside 2003). Three species, Stephens’ kangaroo rat (*Dipodomys stephensi*), coastal California gnatcatcher (*Polioptila californica californica*) and least Bell’s vireo (*Vireo belli pusillus*) are listed as federally and/or state threatened or endangered.

Due to the disturbed, developed and maintained nature of the property, all fifteen special-status wildlife species were determined to have an “Absent” potential for occurrence within the BSA and no further survey is necessary to determine presence or absence of these species.

3.2.3 WESTERN RIVERSIDE COUNTY MULTIPLE SPECIES HABITAT CONSERVATION PLAN (MSHCP)

The BSA and Project site is located within the Mead Valley Area Plan outside of any MSHCP designated Criteria Cells or Cell Groups (Table 4) (County of Riverside, 2012a). The Project is not subject to Cell Criteria compliance under the MSHCP. The Project site does not include any MSHCP Conserved Lands or PQP lands. Public and private development projects that are carried out within the Mead Valley Area Plan, but outside of the Criteria Areas and Public/Quasi-Public Lands (e.g., such as this Project), are permitted under the MSHCP subject to compliance with MSHCP policies that apply outside Criteria Areas.

Due to the numerous mammal burrows onsite, a burrowing owl assessment was completed according to the Burrowing Owl Survey Instructions for the Western Riverside County Multiple Species Habitat Conservation Plan

Area (County of Riverside 2006).

No burrowing owls or burrowing owl sign was observed. Due to the location (surrounded by developed area, not adjacent to quality habitat) as well as the active use and maintenance of the developed area and farmed land, no burrowing owls are expected to occur onsite.

3.2.4 RIPARIAN/RIVERINE

Section 6.1.2 of the MSHCP defines Riparian/Riverine areas as “lands which contain Habitat dominated by trees, shrubs, persistent emergents, or emergent mosses and lichens, which occur close to or which depend upon soil moisture from a nearby fresh water source; or areas with fresh water flow during all or a portion of the year.” Riparian/Riverine areas as defined by the MSHCP are not present within the survey area and will not be impacted by the Project.

No MSHCP defined riparian/riverine features were observed within the survey area.

3.2.5 VERNAL POOL AND FAIRY SHRIMP

Vernal pools, vernal swales, alkali scalds or flats, or other seasonal wet habitats were not identified within the BSA during field surveys conducted in January by a qualified biologist.

The BSA lacks suitable habitat for fairy shrimp species or other vernal pool species, including plants.

3.3 JURISDICTIONAL AQUATIC RESOURCES

The BSA does not contain any jurisdictional special aquatic resource areas such as waters, wetlands or areas under the regulatory jurisdiction of the USACE, CDFW, and RWQCB.

The identified flood control channel to the north of the property is a part of the larger developed and maintained stormwater infrastructure system through the city. The non-natural, maintained, soft-bottom flood control channel supports no hydrophytic vegetation and conveys the collected ephemeral storm-water flows from the surrounding impervious areas in the area to the east. As a result, proposed impacts within the flood control channel slope and basin (offsite, N, from the NE corner) would not be considered a significant jurisdictional wetland/waters impact.

4.0 CONCLUSIONS

No sensitive jurisdictional, riparian/riverine, upland vegetation and/or special aquatic resource areas were discovered within the BSA, and within the proposed on and offsite Project footprint, and none are expected to be impacted by the potential Project.

The literature review and field assessment data confirm that no special-status species currently utilize the BSA. The BSA lacks suitable habitat that would typically support special-status species or receive state or federal Endangered Species Act (ESA) protections. Consequently, there is no reasonable presumption of adverse impact to any special status species or their habitats as a result of Project implementation.

No Narrow Endemic Plant Species/Criteria Area plant species were observed on site during the habitat assessment. Due to the lack of habitat as a result of the property being developed, these species are not expected to occur on site. The BSA supports no riparian/riverine/vernal pool habitats or species associated with these habitat types.

Suitable habitat for burrowing owl was present; no potential burrows were observed (observed mammal burrows are mouse size - too small) within the survey area; no direct observations or burrowing owl sign (feathers, pellets, fecal material, prey remains, etc.) were made during the site assessment.

Burrowing owl has historically been observed in the project vicinity; however, no evidence of burrowing owl was observed within the survey area. The nearest previously-documented burrowing owl occurrences were located approximately 2 miles northwest of the BSA and were observed in 2001, and five burrowing owl were observed downstream in the flood control channel in 2009 (CDFW 2015). An additional occurrence of three burrowing owls located approximately 3 miles south of the BSA was observed in 2007.

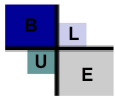
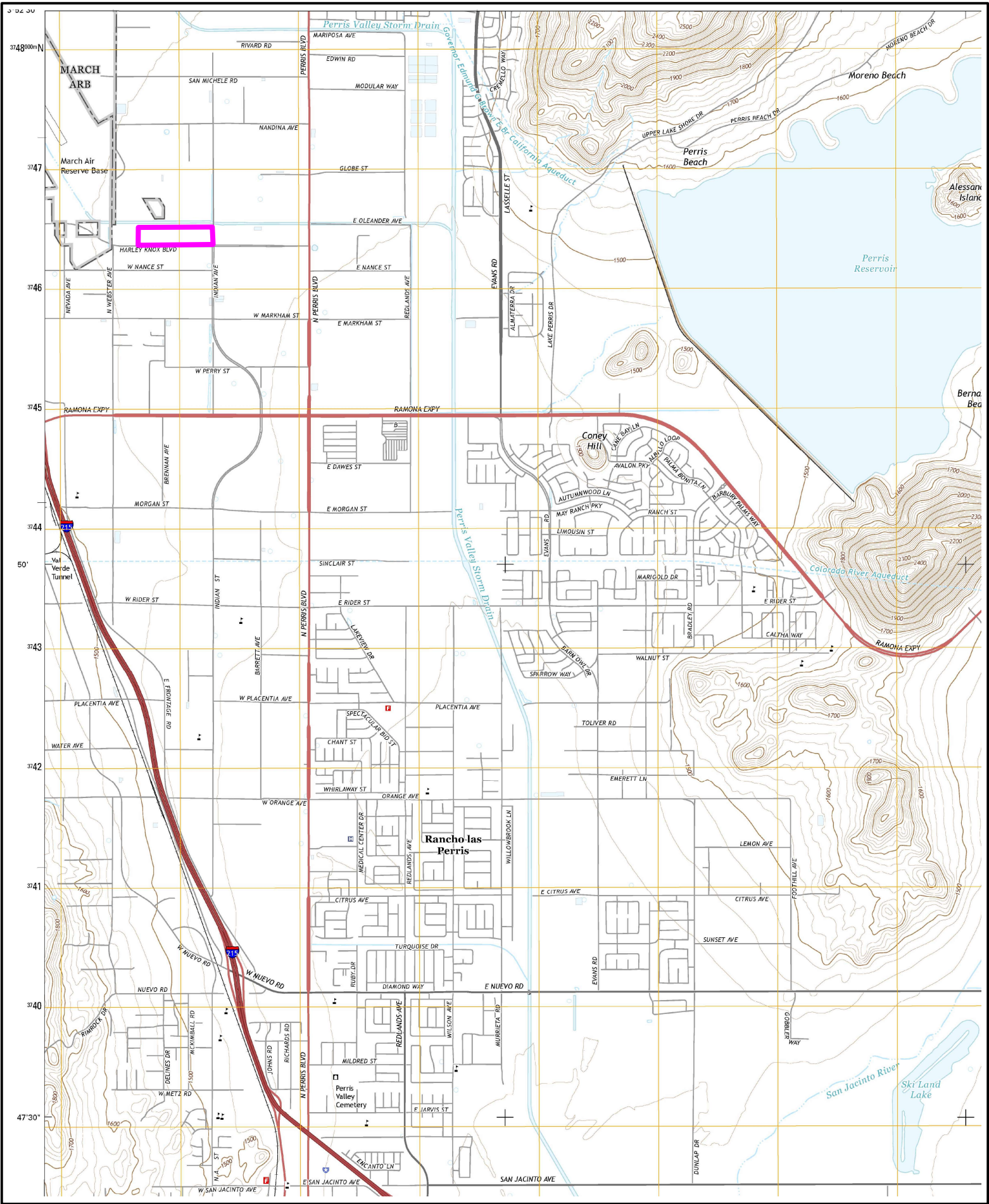
Although no burrowing owl was observed, they could potentially inhabit the survey area in areas that were previously determined to be unoccupied. Per MSHCP Section 6.3.2, this Project site is within a mandatory Burrow Survey Area and is obligated to survey for burrowing owls during the environmental review process as indicated in the MSHCP "Additional Survey Needs and Procedures." As such, a pre-construction protocol survey for burrowing owls following the Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area (County of Riverside 2006) should be conducted to determine whether burrowing owls are subsequently occupying the survey area.

Surveys must be conducted within at least 30-days prior to any ground disturbance.

MM Bio 1: In order to avoid a potentially significant impact to potentially occurring burrowing owls, a pre-activity field survey (following the Burrowing Owl Survey Instructions for the Western Riverside Multiple Species Habitat Conservation Plan Area; County of Riverside 2006) shall be conducted and findings report will be completed and provided to City of Perris.

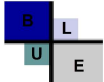
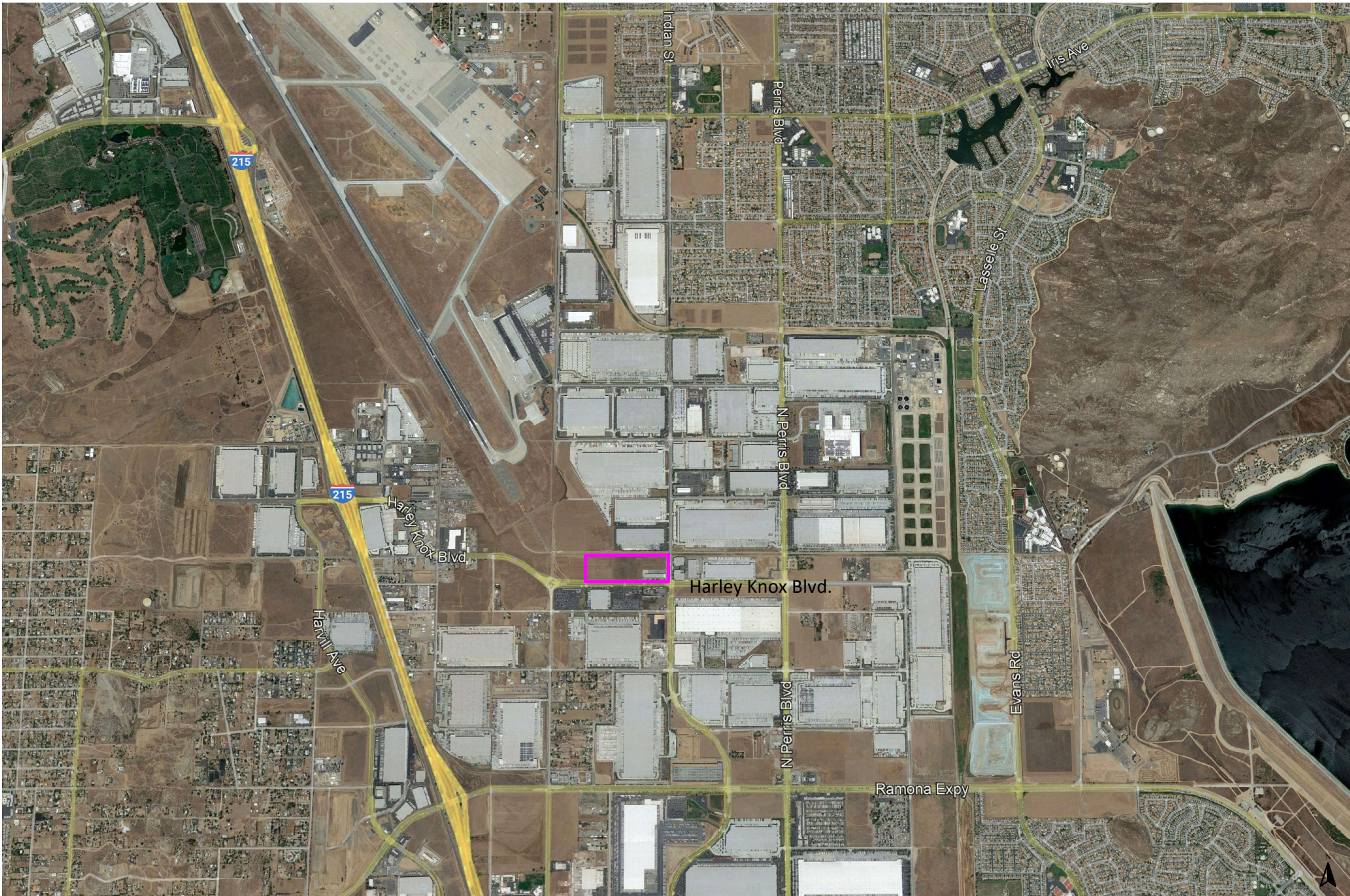
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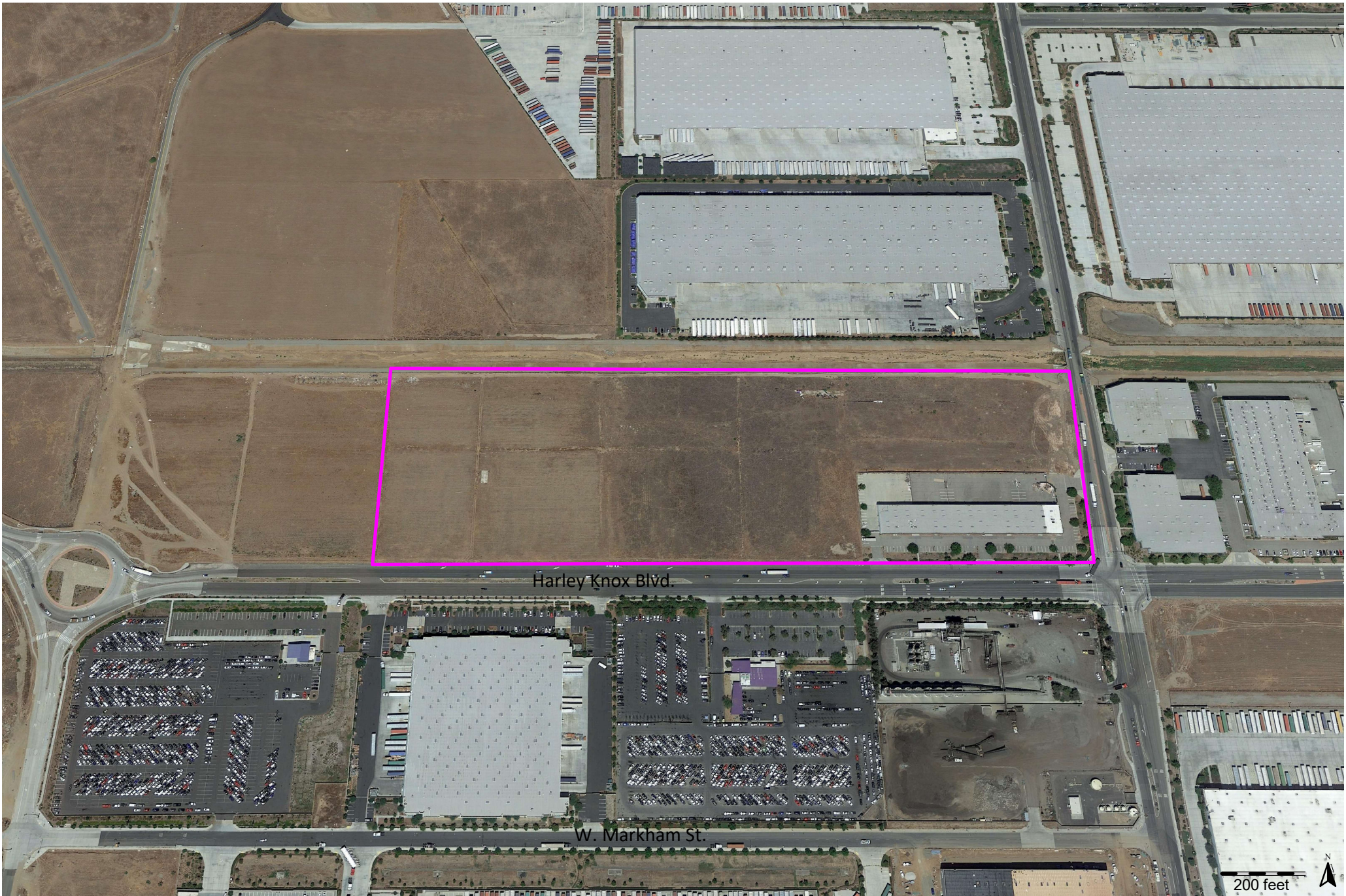
 Property

FIGURE 1
USGS Topo
Project Location



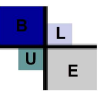
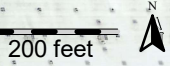
 Property

FIGURE 2
Regional Location
Map



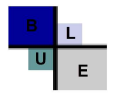
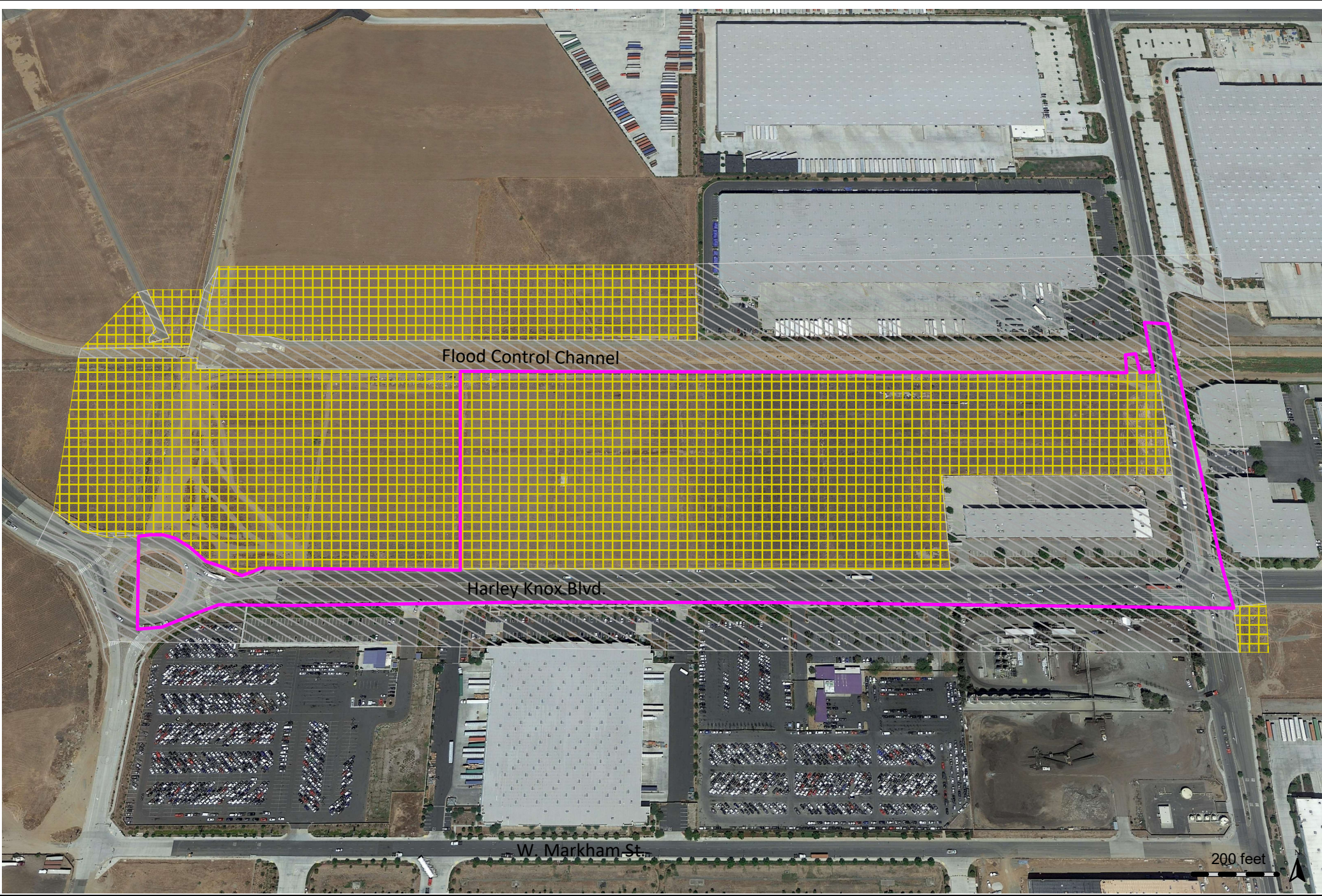
Harley Knox Blvd.

W. Markham St.



 Property

FIGURE 3
Property Aerial



-  Property
-  Agricultural/Disturbed
-  Developed

FIGURE 4
Vegetation Map



Photograph 1 Northern Property Line, NW Corner. Looking East. Maintained Agricultural Area



Photograph 2 Eastern 1/3rd, Looking West - Agricultural Area and Non-Native Trees



Photograph 3 SE Corner. Looking North. Developed Area and Ornamental Plantings



Photograph 4 Southern Property Line, Looking West. Developed Area and Maintained Ornamental Plantings



Photograph 5 NE Corner. Looking West. Developed Flood Control Channel (maintained)



Photograph 6 NE Corner. Looking East at Flood Control Channel Box Under Indian Avenue