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County of Santa Barbara
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PETER BARKER; and
JAMES MORLEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, individuals,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

VERIFIED PETITION FOR WRIT OF MANDATE

Assigned to:
Department:

Petitioners CHRISTOPHER ANDERSON, ROSS BAGDASARIAN, PETER BARKER, and JAMES MORLEY (collectively, "Petitioners") hereby complains of Respondents COUNTY OF SANTA BARBARA and BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY (collectively, "Respondents") and allege as follows:

INTRODUCTION

1. Hot Springs Canyon is a serene, stunningly gorgeous area tucked into the foothills of the Santa Ynez Mountains above the village of Montecito. A public hiking trail passes through the canyon, beginning on East Mountain Drive, then traversing through the riparian habitat along Hot Springs Creek, oak woodlands, and chaparral. Natural hot springs are also accessible approximately 1.5 miles up the trail. Currently, there are approximately eight parking spaces at the trail head, with another 10 cars commonly parked illegally on the embankment on Riven Rock Road, just feet from the environmentally sensitive creek.

2. On February 7, 2022, the County sent letters to three homeowners on East Mountain Drive, who are adjacent to the trailhead, announcing a "Hot Springs Trailhead Parking Design & Construction Project." (See Exhibits 3-5.) These letters are the first phase of the County's project to add as many as 62 additional parking spaces—thereby increasing the number of people who can park at the trail at any given time by up to 444%—near the trailhead to Hot Springs Canyon. Yet, the County has not even considered whether the environmental impact the addition of any parking spaces, much less the 62 that are contemplated, must be studied as required by the California Environmental Quality Act ("CEQA"). The County has not even held a hearing or allowed any public comment on this project.

3. The potential adverse impacts to the sensitive habitat—an area deemed to be of "specific biological importance"—are manifest. Hot Springs Canyon is home to special-status wildlife species including southern California steelhead, California red-legged frog, coast range newt, southwestern pond turtle, two-striped garter snake, and Cooper's hawk. Hot Springs Canyon is also home to four special-status plant species (Plummer's baccharis, ocellated Humboldt lily, umbrella larkspur and Ojai fritillary), and other biologically valuable plant species (coast live oak woodland, arroyo willow thickets, western sycamore woodland, California bay forest, Santa Barbara

honey suckle, black-flowered figwort and late-flowered mariposa lily). If, on average, each car brings two hikers to the trail, the 62 new parking spaces would add an additional 124 hikers at any given time, conservatively bringing a thousand more hikers over an average week. Such an increase in foot traffic on the trail undeniably satisfies the threshold required to perform a CEQA analysis: whether the project *may* cause, at the very least, a reasonably foreseeable *indirect* physical change in the environment. See *California Bldg. Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 382-383.

4. Nor has the County considered, as also required by CEQA, the impacts to the community's ability to evacuate the East Mountain Drive/upper Hot Springs Road/Riven Rock neighborhoods during the next sundowner winds-driven wildfire. In fact, the County is rushing to add these parking spaces before the late-May release of the comprehensive wildfire evacuation report from the Montecito Fire Protection District. Local fire officials believe that this $80,000 report will conclude that, even without the County's additional 62 spaces, not all residents would be able to safely evacuate in the event of a wind-driven fire such as the 2008 Tea Fire in Montecito (13 injuries, one critical; 210 homes destroyed within several hours) or the 2018 Camp Fire in Paradise, California (85 civilian fatalities, including seven trapped in their cars while evacuating, and 12 injured civilians and five injured firefighters; 18,000 structures mostly destroyed within first four hours). Adding the 62 cars to what would already be a chaotic evacuation raises significant life safety considerations the County is ignoring.

5. The County's February 7, 2022 letters demanded that the homeowners remove any improvements in the public right of way by April 8, 2022, or the County will remove them, charge the homeowners for the work, and assess fines. Petitioners are informed and believe that the County intends to make similar demands over time on other neighbors adjacent to East Mountain Drive until it has established the 62 additional parking spaces. Whether the County will make these demands immediately or piece-meal in a misguided attempt to avoid its CEQA obligations is unknown. What is known is that once the County has scraped the right of way bare, the project and the impact to this sensitive area will be a *fait accompli*—people can begin parking on the cleared land right away, and it will be difficult, if not impossible, to limit the parking and fix the environmental damage, wildfire

risk, and evacuation risk caused by the County's short-sighted project.

6. The County's actions failed to follow the law, lack substantial evidence in support, and constitute prejudicial abuses of discretion. For these reasons, the County's decision to approve the Project should be set aside and a Writ of Mandate issued to compel the County to reconsider its decision in accordance with the law.

PARTIES

7. Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morley each own property and live in the affected area of East Mountain Drive in Montecito, adjacent or close to Hot Springs Trail. They will each be directly impacted and injured in fact if the proposed Project is exempted or otherwise not required to comply with the rule of law, including but not limited to the preparation of, and required public process for, an Initial Study and an Environmental Impact Report for the proposed Project.

8. Respondent County of Santa Barbara is a political subdivision of the State of California, and a municipal entity. Respondent Board of Supervisors of Santa Barbara County is the governing body of the County and is named in its official capacity to ensure the ability to effectuate the relief sought or otherwise ordered by the Court in this case.

JURISDICTION AND VENUE

9. The Santa Barbara Superior Court has jurisdiction over this action pursuant to California Constitution, Article VI, section 10; Public Resources Code section 21168.5; and Code of Civil Procedure section 1085.

10. Venue is proper in Santa Barbara County because an action "[a]gainst a public officer . . . for an act done by the officer . . . in virtue of the office . . ." is properly brought in "the county in which the cause, or some part of the cause, arose, . . .", and here the cause arose in Santa Barbara County. (Code Civ. Proc., § 393, subd. (b).)

11. Petitioners have performed all conditions precedent to the filing of this Petition. Petitioners had no opportunity to object to the Project or raise Respondents' noncompliance with CEQA prior to the Project's approval because there was no public hearing or other opportunity to raise such objections, and because Respondents failed to give the notice required by law. (Pub.

Resources Code, § 21177, subd. (e).) Petitioners complied with Public Resources Code section 21167.7 and Code of Civil Procedure section 388 by mailing a copy of this Petition to the California Attorney General, a true and correct copy of which is attached hereto as Exhibit 1. Petitioners further complied with Public Resources Code section 21167.5 by mailing a written notice of commencement of this action to Respondents prior to filing this Petition, a true and correct copy of which is attached hereto as Exhibit 2.

STATUTORY BACKGROUND

12. CEQA is California's seminal environmental statute. It requires an Environmental Impact Report ("EIR") as the "primary means" to ensure public agencies "take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state." (Pub. Resources Code, § 21001, subd. (a).) CEQA's purpose is to identify the significant environmental effects of a proposed project and evaluate ways of avoiding or minimizing those effects. (*Id.* at §§ 21002; 21002.1, subd. (a); 21061.) The lead agency must adopt feasible mitigation measures or alternatives that substantially lessen the project's significant environmental impacts, or explain why other considerations override this mandate. (*Id.* at § 21002; Cal. Code Regs., tit. 14, § 15002, subd. (a)(3).)

13. As explained in *California Bldg. Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, CEQA requires a three-step process:

> First, the public agency must determine whether a proposed activity is a "project," *i.e.*, an activity that is undertaken, supported, or approved by a public agency and that "*may cause* either a direct physical change in the environment, or a *reasonably foreseeable indirect physical change* in the environment."
>
> Second, if the proposed activity is a project, the agency must next decide whether the project is exempt from the CEQA review process . . . . If the agency determines the project is not exempt, it must then decide whether the project may have a significant environmental effect. And where the project will not have such an effect, the agency must adopt a negative declaration . . . .
>
> Third, if the agency finds the project may have a significant effect on the environment, it

must prepare an EIR before approving the project. Given the statute's text, and its purpose of informing the public about *potential* environmental consequences, . . . an EIR is required even if the project's ultimate effect on the environment is far from certain. . . . [An] EIR is required whenever it can be *fairly argued* on the basis of substantial evidence that the project may have significant environmental impact, regardless of whether other substantial evidence supports the opposite conclusion.

(*Id.* at pp. 382-383 (emphases added).)

14. An agency's failure to proceed in the manner required by law, where an evidentiary hearing was not held, is an abuse of discretion subject to reversal by issuance of a writ of mandate. (Code Civ Proc., § 1085; Pub. Resources Code, § 21168.5; *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 467-468.) "Whether the agency failed to proceed in a manner required by law is a question of law. A court determines de novo whether the agency complied with CEQA's procedural requirements, scrupulously enforce[ing] all legislatively mandated CEQA requirements." (*Id.* at p 468, quotes omitted.) Courts "interpret CEQA to afford the most thorough possible protection to the environment that fits reasonably within the scope of its text." (*California Bldg. Industry Assn.*, *supra*, 62 Cal.4th at p. 381.)

THE PROJECT'S ENVIRONMENTAL SETTING

15. While many areas of Montecito have been subject to substantial human development, Hot Springs Canyon remains home to a treasure trove of sensitive biological resources. The Montecito Community Plan[1] states that the "Mountain sub-area," which includes Hot Springs Canyon and adjacent areas, contains "chaparral, riparian vegetation and oak woodland, [and] several sensitive plants have been identified in the area." (Plan at p. 42.) Hot Springs Creek, in particular, contains "undisturbed riparian vegetation." (*Ibid.*) The Plan further identifies the riparian corridor along Hot Springs Creek as an area of "specific biological importance." (Plan at p. 100.)

16. Hot Springs Creek is mapped as an Environmentally Sensitive Habitat Area (ESH), which "is applied to areas with unique natural resources and/or sensitive animal or plant species,

[1] Available at https://cosantabarbara.app.box.com/s/40p7iwk8zixzuujte847rk620psduve7.

where existing and potential development and other activities may despoil or eliminate the resources." (Montecito Land Use and Development Code[2] section 35.428.040.) Areas designated as ESH require the utmost environmental protection. The ESH overlay zone "is intended to 1. Protect and preserve specified areas in which plant or animal life or their habitats are either rare or especially valuable because of their role in the ecosystem, and that could be easily disturbed or degraded by human activities and developments; and 2. Ensure that each project permitted in the overlay zone is designed and carried out in a manner that will provide maximum protection to sensitive habitat areas." (*Ibid.*, emphasis added.) It's commonly known that Hot Springs Canyon is home to special-status wildlife species including southern California steelhead, California red-legged frog, coast range newt, southwestern pond turtle, two-striped garter snake, and Cooper's hawk. The Hot Springs Canyon plant habitat include four special-status species—Plummer's baccharis, ocellated Humboldt lily, umbrella larkspur and Ojai fritillary—as well as coast live oak woodland, arroyo willow thickets, western sycamore woodland, California bay forest, Santa Barbara honeysuckle, black-flowered figwort and late-flowered mariposa lily. These wildlife and plant resources in Hot Springs Canyon are protected under U.S., California, and Santa Barbara County laws and regulations, including: (a) *Federal*—the Endangered Species Act, the Migratory Bird Treaty Act, the Clean Water Act; the U.S. Department of Agriculture Environmental Compliance Fish and Wildlife Policy Regulation 9500-4, (b) *California*—California Endangered Species Act, Native Plant Protection Act, Lake and Streambed Alteration Program, and CEQA, and (c) *Santa Barbara County*—Environmental Thresholds and Guidelines Manual, including Oak Tree Protection and Stream and Riparian Habitat Protection, and the Montecito Community Plan.

17. Hot Springs Canyon retains these protected biological resources, in part, because the area is extremely rural and difficult to access. According to the Montecito Community Plan, in the "Mountain sub-area": "The average slope of the area is in excess of 40 percent; fire hazard is extreme, and public road access and availability of public services is extremely limited." (Plan at p. 42.)

[2] Available at https://cosantabarbara.app.box.com/s/gddjgafaocsoadlgg3t8lgca8zgkl670.

18. The extreme fire hazard in the Montecito area—amplified by intensive climate change in the western U.S. within the last decade—is well-documented. As noted in the Montecito Fire Department's *Montecito Community Wildfire Protection Plan*[3], "Montecito and its surrounding area has an extensive history of catastrophic wildfires that have been costly in terms of fatalities and injuries, damage and loss of multiple structures, and extremely high fire suppression and fire rehabilitation costs." (Protection Plan at p. 6.) Montecito Fire's 2021 *Fire Station Location Study Community Risk Assessment/Standards of Cover*[4] confirms that Montecito is a "4" ("Very High," the highest rating possible) for the probability of adverse wildfire impact on humans, property, and businesses. (Study at p. 218.) In 2008, "sundowner" winds drove the Tea Fire—started by 10 college students who jumped a locked gate in Montecito to start a bonfire and party—through the area at such a high speed that many residents were unable to evacuate in time. (See https://en.wikipedia.org/wiki/Tea_Fire.) Roughly 800 people sheltered for their lives in the gymnasium at Westmont College, while the fire burned to within 10 feet of the structure. As noted, the fire ultimately destroyed 210 homes and injured 13 persons, one critically. The Tea Fire burn area has since been fully revegetated, to what fire officials term "human ignition levels," and conditions are ripe for a similar catastrophic fire event to occur.

19. The fire risk in Montecito is exacerbated by its narrow, winding roads and lack of infrastructure to speed an evacuation. Montecito Fire's *Wildfire Protection Plan* notes:

> Montecito presents significant challenges for evacuation due to the transportation system within and adjacent to the District and the speed and intensity in which wildfires in the area burn. As stated in Citygate's 2014 report, Montecito has significant access and egress impediments that can adversely affect emergency response times and evacuations very quickly. This is due to narrow roads, winding roads, steep roads, vegetation encroachment on roads, gates, bridges, addresses not clearly visible from the property access point, speed-reducing features such as bulb-outs, roundabouts, and speed bumps, unlit roads and intersections, and unlit street signage.
> A wildfire in the WUI is extremely dangerous, but compound this event with additional factors such as human behavior, population density, limited and overloaded transportation routes, vulnerable and mobility-limited populations, businesses'

[3] Available at https://s3.amazonaws.com/siteninja/multitenant/assets/21201/files/original/Montecito_CWPP_Final.pdf.

[4] Available at https://s3.amazonaws.com/siteninja/multitenant/assets/32154/files/original/Fire_Station_Location_Study_Community_Risk_Assessment_Standards_of_Cover.pdf

> employees, visitors, and the evacuation of animals makes the task of evacuation exponentially complex. The lead-time required to conduct mass evacuations during a wildfire event in Santa Barbara County is often very short and immediate.

(Protection Plan at p. 95.)

20. Parking in the area near the trailhead for Hot Springs Trail is very limited. The dirt parking area at the trailhead itself currently accommodates around eight cars or less, depending on how the cars are parked. Visitors have also begun parking illegally on the embankment between Hot Springs Creek and Riven Rock Road, mere feet above the creek's environmentally sensitive habitat. It is illegal and environmentally damaging to park along the embankment, but the County historically has not enforced a restriction. Visitors have typically been able to fit approximately 10 cars along the embankment. Thus, assuming there is an average of two people associated with each car, there is a maximum of approximately 36 persons on Hot Springs Trail from adjacent parking at any given time under current adjacent parking conditions.

THE PROJECT

21. The County's proposed Project is to create up to 62 additional parking spaces in the vicinity of the Hot Springs trailhead. The 62 additional parking space figure has been confirmed by First District County Supervisor Das Williams, County Public Works Director Scott McGolpin, and other County representatives, in multiple conversations with Petitioners' legal counsel and with the Montecito Fire Protection District. At maximum use, and assuming a conservative average of two persons are associated with each vehicle, the Project would result in approximately 124 *additional* persons on Hot Springs Trail at any given time, upwards of 1,000 additional hikers per week.

22. The County proposes to create these parking spaces by demolishing vegetation, mature oak and sycamore trees, decorative sandstone curbs and boulders, protective asphalt curbs installed by the County, and other improvements from the public right-of-way that lines both sides of East Mountain Drive. In many cases, these improvements to the right-of-way have been in place for decades, some with encroachment permits the County says it will now revoke, and some attached to recognized historic structures. The property owners (including Petitioners) have spent substantial money and effort in creating and maintaining the improvements for decades. These improvements are an important contributing factor to the bucolic, rural character of the area, and East Mountain

Drive in particular, as reflected in the Montecito Community Plan.

23. The County has already sent certified demand letters to at least three neighborhood residents, notifying them that they must clear all improvements in the public right of way by April 8, 2022, otherwise the County will demolish the improvements itself, charge the homeowners for the work, and assess fines. (See Exhibits 3-5.) In addition to the three homeowners receiving letters, County representatives have confirmed their intention with Petitioner's counsel to demolish improvements and create new parking spaces in front of four additional homes with East Mountain Drive frontage near the trailhead. For one of those homes, with lengthy frontage on East Mountain Drive, County representatives told Petitioner's counsel that the County will revoke the decades-old encroachment permit and destroy mature oaks that the County approved decades ago within the right of way. Once the improvements in the right of way are gone, the Project will effectively be complete—people will be able to park there immediately.

24. The County is attempting to complete its Project without any of the formal environmental review, public notice, and comment that are required by CEQA and constitutional due process. The Project is substantially certain to result in significant environmental impacts by more than quadrupling the number of persons in Hot Springs Canyon from adjacent parking at any given time. This dramatic increase is sure to impact the environmentally sensitive habitat area along the creek, including the endangered native wildlife and plant species present. This dramatic increase is certain to create additional fire safety hazards by taxing the area's already overwhelmed infrastructure and limited exit routes in case of a fire-related evacuation. Native plants will be trampled and protected animal species will be disturbed in their sensitive habitat, and trash will be left behind along the trail or by the creek bed at the hot springs. And when the next wind-driven wildfire breaks out (a virtually certain eventuality), the additional visitors to the trailhead will be forced to evacuate via the two-lane Hot Springs Road—through *four* choke points identified on Montecito Fire Protection District's Evacuation Map—alongside the area's hundreds of residents, employees, and contractors. At the same time as such outbound evacuation, incoming fire engines and other public safety apparatus will be racing up Hot Springs Road. Based on recent experience and statements from the Montecito Fire Protection District, that route is already inadequate to

evacuate the area's residents alone. Even without the additional cars, not everyone will be able to get out in the event of an emergency evacuation from a fire fanned by the frequent and fast-moving sundowner winds, as with the Tea Fire.

25. The Project will also cause biological and aesthetic impacts by removing mature specimens of protected tree species and other improvements to the public right of way, replacing well-established vegetation with the scraped parking spaces along a substantial portion of a scenic road. Yet the County has charged ahead with its Project without conducting any CEQA review of these potential impacts.

THE COUNTY'S APPROVAL OF THE PROJECT

26. The CEQA statute of limitations to challenge an agency's approval of a project runs from the date the agency "approves" the project. "'Approval' means the decision by a public agency *which commits the agency to a definite course of action* in regard to a project intended to be carried out by any person." (Cal. Code Regs., tit. 14, § 15352, subd. (a); see also *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 965 ["The agency commits to a definite course of action [and therefore 'approves' a project within the meaning of the Guidelines] not simply by being a proponent or advocate of the project, but by agreeing to be legally bound to take that course of action"].) The requirement that "approval" occurs when the agency commits to a definite course of action is fundamental to CEQA. Otherwise,

> citizen groups would be required to file lawsuits before they know the stable, finite, final project description, for fear that if they did not, they would be barred by the statute of limitations. Such an application of the "discovery rule" would not only instill public distrust in government agencies, but would also thwart attempts to resolve disputes concerning the design of a project. The purpose of CEQA is to inform the public of plans, so that the public can help guide decision makers about environmental choices. It is not the purpose of CEQA to foment prophylactic litigation.

(*Endangered Habitats League, Inc. v. State Water Resources Control Bd.* (1997) 63 Cal.App.4th 227, 242.) Thus, if an agency approves a project, then makes substantial changes to the project without conducting further CEQA review, an action challenging the agency's noncompliance with CEQA may be filed within 180 days of the time the petitioner knew or reasonably should have known that the project under way differs substantially from the one that was described in the original approval. (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d

929, 939.)

27. Here, the County first told Petitioners (through their counsel) that it intended to install 62 parking spaces on both sides of East Mountain Drive on October 28, 2022. It was not until February 7, 2022, however, that it issued demand letters to residents of East Mountain Drive, announcing that the improvements in the right of way must be removed by April 8, 2022, otherwise the County will take that action itself and assess fines. (Exhibits 3-5.) Thus, February 7, 2022 was the date on which the County committed itself to a definite course of action with regard to the Project and was legally binding itself to that course of action. (Cal. Code Regs., tit. 14, § 15352, subd. (a).) This Petition was timely filed within 180 days of that decision. (Pub. Resources Code, § 21167, subd. (a).)

28. The County's prior September 14, 2021 resolution allocating funding to *study* potential parking improvements at the Hot Springs Trailhead did not commit the County to a definite course of action with regards to actually adding new parking spaces. The resolution was adopted on the Board's consent calendar, without any notice to the public, affected residents, or any opportunity to comment on the action. The Notice of Exemption describes the "project" the Board approved as follows:

> The proposed project is the funding of required studies and implementation of potential rights-of-way restoration to public use at trailhead access within the public road rights-of-way adjacent to the Hot Springs Trailhead along East Mountain Drive.
> This funding would be utilized to provide studies and for the implementation of parking improvements near the area of the Hot Springs Trailhead. East Mountain Drive has public right of way that is currently unusable for parking due to encroachments such as walls, curbing, boulders, landscaping, mailboxes and other features. Studies are required in determining how to provide more parking in the right of way and confirm right of way limits. This would also document the obstacles to creating parking and provide examples to improve parking in the area. Studying the situation would allow the Department to provide solutions and options to work with the adjacent owners on a project that would create parking while minimizing the impacts to their right-of-way encroachments long [sic] the property frontages. Depending on the scope and complexity of work required there may be additional funding needed for implementation of concepts consistent with the rural character of the Montecito area.
> This exemption considers all future administrative activities for the project such as Award of Contract and Statement of Final Quantities.

(Exhibit 6.) The County applied the CEQA "Existing Facilities" Categorical Exemption for the project described in the notice, which applies to the "operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical

features, involving *negligible or no expansion of existing or former use . . . .*" (*Ibid.*; Cal. Code Regs., tit. 14, § 15301, subd. (c), emphasis added.)

29. This Notice of Exemption did not "commit the [County] to a definite course of action" beyond *studying* potential parking improvements, nor does it show the County is legally bound to take any particular action with regard to such improvements. The project description does not describe any proposed actions that impact the physical environment with any specificity, such that a member of the public might understand the nature, scope, and potential impacts of the Project. As such, the Notice of Exemption did not constitute "approval" of the Project to construct the 62 new parking spaces, and it was not effective to start running the statute of limitations. (*County of Amador*, *supra*, 76 Cal.App.4th at p. 965.) The County did not even perform the first step of CEQA review—determining whether bringing more hikers to the Hot Springs Trail "*may cause* either a direct physical change in the environment, or a *reasonably foreseeable indirect physical change* in the environment." *California Bldg. Industry Assn.*, 62 Cal.4th at 382.

30. The Notice of Exemption is also invalid and inapplicable to the County's Project to turn the public right of way into the 62 parking spaces. While the Notice vaguely references "implementation of parking improvements," that description is insufficiently detailed to put the public on notice as to the actual nature, scope, and potential impacts of adding the 62 new parking spaces and removal of existing improvements in the right of way. As part of the first step of the CEQA process, an agency must:

> provide an accurate and complete description of the 'project.' Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.

(*McCann v. City of San Diego* (2021) 70 Cal.App.5th 51, 85, *review denied* (Jan. 5, 2022), internal cites and quotes omitted.) Thus, the date for determining the statute of limitations is when the County sent the letters on February 7, 2022. At the very least, it is October 28, 2021, when Petitioners first learned that the Project exceeded the scope of the Notice of Exemption. Both dates are well within the 180-day statute of limitations period.

FIRST CAUSE OF ACTION

(Violation of CEQA Against all Respondents)

31. Petitioners reallege and incorporate by this reference each and every allegation contained in Paragraphs 1 through 28 of this Petition as though fully set forth herein.

32. The County failed to proceed in the manner required by law because it failed to perform its CEQA obligations, including the first step of the CEQA analysis, determining whether the Project may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

33. Additionally, there is substantial evidence that the proposed Project may have significant adverse impacts on the environment, a condition which requires the County to prepare an Environmental Impact Report under CEQA. Among other things, as described above, the Project has the potential to cause impacts to protected species and habitat, other biological resources, and fire human ignition hazards/evacuation measures, by introducing hundreds of additional visitors to the environmentally sensitive areas and extreme fire hazards of Hot Springs Canyon.

34. Petitioners seek a Writ of Mandate requiring the County to determine whether its proposed Project, clearing of the public right of way and installation of the 62 new parking spots to serve Hot Springs Canyon, is a "project" subject to CEQA, to perform an initial study of the Project's potential environmental impacts, to prepare the appropriate environmental document under CEQA, and to provide that document to the public for review and comment prior to commencing the Project.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray for relief as follows:

1. Declare that the County's approval of a Project to demolish existing improvements in the public right of way on East Mountain Drive and construction of new parking in its place is illegal and invalid;

2. Issue a temporary restraining order, and a preliminary and permanent injunction, barring the County from taking any further action on the Project until the County takes all necessary steps to bring its actions into compliance with CEQA and the writ is discharged;

3. Issue a peremptory Writ of Mandate directing the County to comply with CEQA in all respects prior to approving any actions on the Project;

4. Award Petitioners their attorneys fees as provided by statute and costs of suit; and

5. For such other and further legal and equitable relief as the Court may deem just and proper.

Dated: April 4, 2022

CAPPELLO & NOËL LLP

By: */s/ David L. Cousineau*
A. Barry Cappello
David L. Cousineau
Matthew L. Hofer
Attorneys for Petitioners

VERIFICATION

I, Christopher Anderson, declare as follows:

I am one of the Petitioners in the above-captioned matter. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE and know the contents thereof. The facts contained therein are based upon my own knowledge except as to those matters stated on information and belief, and to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 2 day of April 2022, at Kailua Kona, Hawaii

By: _____

Christopher Anderson

VERIFICATION

I, Ross Bagdasarian, declare as follows:

I am one of the Petitioners in the above-captioned matter. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE and know the contents thereof. The facts contained therein are based upon my own knowledge except as to those matters stated on information and belief, and to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 1st day of April 2022, at Santa Barbara, CA.

By: _____

Ross Bagdasarian

VERIFICATION

I, Peter Barker, declare as follows:

I am one of the Petitioners in the above-captioned matter. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE and know the contents thereof. The facts contained therein are based upon my own knowledge except as to those matters stated on information and belief, and to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 1 day of April 2022, at Santa Barbara, CA.

By: Peter K Barker

Peter Barker

VERIFICATION

I, James Morley, declare as follows:

I am one of the Petitioners in the above-captioned matter. I have read the foregoing VERIFIED PETITION FOR WRIT OF MANDATE and know the contents thereof. The facts contained therein are based upon my own knowledge except as to those matters stated on information and belief, and to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 2 day of April 2022, at Santa Barbara, CA.

By: _____
James Morley

Exhibit 1

CAPPELLO & NOËL LLP
TRIAL LAWYERS

Matthew L. Hofer

April 4, 2022

Via U.S. Mail

The Honorable Rob Bonta, Attorney General
Department of Justice, Office of the Attorney General
1300 "I" Street
Sacramento, California 95814-2919

Re: **Notice of Commencement of CEQA Lawsuit— *Anderson et al. v. County of Santa Barbara*, Santa Barbara Superior Court**

Dear Attorney General Bonta:

Pursuant to Public Resources Code section 21167.7 and Code of Civil Procedure section 388, this letter encloses a service copy of the petition for writ of mandate filed in Santa Barbara Superior Court under the California Environmental Quality Act captioned *Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morley v. County of Santa Barbara; Board of Supervisors of Santa Barbara County*.

I would be happy to discuss or answer any questions you may have about this action.

Sincerely,

CAPPELLO & NOËL LLP

/s/ Matthew L. Hofer

Matthew L. Hofer

Enclosure

831 STATE STREET, SANTA BARBARA, CALIFORNIA 93101-3227 LCONLAN@CAPPELLONOEL.COM
TEL (805) 564-2444 FAX (805) 965-5950 WWW.CAPPELLONOEL.COM

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I AM EMPLOYED IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA. I AM OVER THE AGE OF 18 YEARS AND NOT A PARTY TO THIS ACTION. MY BUSINESS ADDRESS IS 831 STATE STREET, SANTA BARBARA, CALIFORNIA 93101. ON APRIL 4, 2022, I SERVED THE FOREGOING DOCUMENT DESCRIBED AS **NOTICE OF COMMENCEMENT OF CEQA LAWSUIT - *ANDERSON ET AL. V. COUNTY OF SANTA BARBARA*, SANTA BARBARA SUPERIOR COURT** ON THE INTERESTED PARTIES IN THIS ACTION:

SEE ATTACHED SERVICE LIST

☒ **BY U.S. POSTAL SERVICE:** This document was served by United States mail. I enclosed the document in a sealed envelope or package addressed to the person(s) at the address(es) above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with this firm's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Santa Barbara, California, in a sealed envelope with postage fully paid.

☐ **BY OVERNIGHT DELIVERY:** The document(s) were served by overnight delivery via FedEx. I enclosed the document in a sealed envelope or package addressed to the person(s) and the address(es) above and placed the envelope(s) for pick-up by FedEx. I am readily familiar with the firm's practice of collection and processing correspondence on the same day with this courier service, for overnight delivery.

☐ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ **BY HAND DELIVERY:** The document(s) were delivered by hand during the normal course of business, during regular business hours.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the Foregoing is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 4, 2022, at Santa Barbara, California.

/s/ Jennifer Orta

Jennifer Orta

SERVICE LIST

The Honorable Rob Bonta, Attorney General

Department of Justice, Office of the Attorney General

1300 "I" Street

Sacramento, California 95814-2919

Exhibit 2

CAPPELLO & NOËL LLP
TRIAL LAWYERS

Matthew L. Hofer

April 4, 2022

Via U.S. Mail

Santa Barbara County Board of Supervisors
105 East Anapamu Street
Santa Barbara, California 93101

Rachel Van Mullem
County Counsel
105 East Anapamu Street, Suite 201
Santa Barbara, California 93101

Re: **Notice of Commencement of CEQA Lawsuit— *Anderson et al. v. County of Santa Barbara*, Santa Barbara Superior Court**

Dear Board of Supervisors and Ms. Mullem:

This letter is to provide notice under Public Resources Code section 21167.5 that Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morley intend to file a lawsuit in Santa Barbara Superior Court under the California Environmental Quality Act ("CEQA") against the County of Santa Barbara and the Santa Barbara County Board of Supervisors. The lawsuit challenges the County's approval of a project to clear the public right-of-way on East Mountain Drive near the Hot Springs trailhead and install approximately 62 new parking spaces. The enclosed copy of the Petition for Writ of Mandate provides further detail, which is incorporated herein. These actions were taken in violation of state law, including but not limited to CEQA, with no public hearing or review of the project's potential adverse environmental impacts. The violations are ongoing and mandate immediate judicial intervention, with the issuance of a Writ of Mandate ordering the County to comply with law.

Please contact me if you have any questions regarding this action. Thank you for your attention to this matter.

Sincerely,

CAPPELLO & NOËL LLP

/s/ Matthew L. Hofer

Matthew L. Hofer

Enclosure

831 STATE STREET, SANTA BARBARA, CALIFORNIA 93101-3227 LCONLAN@CAPPELLONOEL.COM
TEL (805) 564-2444 FAX (805) 965-5950 WWW.CAPPELLONOEL.COM

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I AM EMPLOYED IN THE COUNTY OF SANTA BARBARA, STATE OF CALIFORNIA. I AM OVER THE AGE OF 18 YEARS AND NOT A PARTY TO THIS ACTION. MY BUSINESS ADDRESS IS 831 STATE STREET, SANTA BARBARA, CALIFORNIA 93101. ON APRIL 4, 2022, I SERVED THE FOREGOING DOCUMENT DESCRIBED AS **NOTICE OF COMMENCEMENT OF CEQA LAWSUIT - *ANDERSON ET AL. V. COUNTY OF SANTA BARBARA,* SANTA BARBARA SUPERIOR COURT** ON THE INTERESTED PARTIES IN THIS ACTION:

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☒ (State) I declare under penalty of perjury under the laws of the State of California that the Foregoing is true and correct.

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Executed on April 4, 2022, at Santa Barbara, California.

/s/ Jennifer Orta

Jennifer Orta

SERVICE LIST

Santa Barbara County Board of Supervisors
105 East Anapamu Street
Santa Barbara, California 93101

Rachel Van Mullem
County Counsel
105 East Anapamu Street, Suite 201
Santa Barbara, California 93101

Exhibit 3

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
TRANSPORTATION DIVISION
4417 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-4990

one COUNTY one FUTURE

SCOTT D. MCGOLPIN
Director

February 7, 2022

Resident
1175 East Mountain Drive
Montecito, CA 93118

RE: Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Resident:

The County of Santa Barbara, Public Works Department has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property. In reviewing the County Road Right-of-Way there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented.

This letter is giving formal notice to the property owners to remove all private encroachments within 10 feet of berm/edge of pavement by April 8, 2022 including but not limited to the following items listed below and as shown in Addendum A:

- *Plants / Landscaping*
- *Rocks / Boulders*

We appreciate your cooperation in this effort for removal of un-permitted private encroachments. If these items are not removed, fines can be assessed per Santa Barbara County Code Chapter 8: Ordinance No. 1491. In addition, you will be liable for the costs the County incurs to remove the encroachments after April 8, 2022.

We appreciate your assistance and patience on this project.

Please call our office as soon as you receive this letter, to let us know your schedule to remove the encroachments at (805) 681-4990. Thank you in advance for your cooperation.

Sincerely,

Eric Pearson P.E.
Construction & Permits Manager

CC: Chris Sneddon, Deputy Director; Andrew Acosta, CEA II

Addendum A: Photos



Figure 1a: Landscaping and rocks to be removed.



Figure 1b: Landscaping and rocks to be removed.

Figures 1a and 1b are examples of items to be removed from County Right of Way.

Exhibit 4

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
TRANSPORTATION DIVISION
4417 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-4990

one COUNTY one FUTURE

SCOTT D. MCGOLPIN
Director

February 7, 2022

Resident
1255 East Mountain Drive
Montecito, CA 93118

RE: Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Resident:

The County of Santa Barbara, Public Works Department has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property. In reviewing the County Road Right-of-Way there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented.

This letter is giving formal notice to the property owners to remove all private encroachments within 10 feet of berm/edge of pavement by April 8, 2022 including but not limited to the following items listed below and as shown in Addendum A:

- *Plants / Landscaping*
- *Rocks / Boulders*
- *Irrigation Lines*

We appreciate your cooperation in this effort for removal of un-permitted private encroachments. If these items are not removed, fines can be assessed per Santa Barbara County Code Chapter 8: Ordinance No. 1491. In addition, you will be liable for the costs the County incurs to remove the encroachments after April 8, 2022.

We appreciate your assistance and patience on this project.

Please call our office as soon as you receive this letter, to let us know your schedule to remove the encroachments at (805) 681-4990. Thank you in advance for your cooperation.

Sincerely,

Eric A Pearson, P.E.
Construction & Permits Manager

CC: Chris Sneddon, Deputy Director; Andrew Acosta, CEA II

Addendum A: Photos

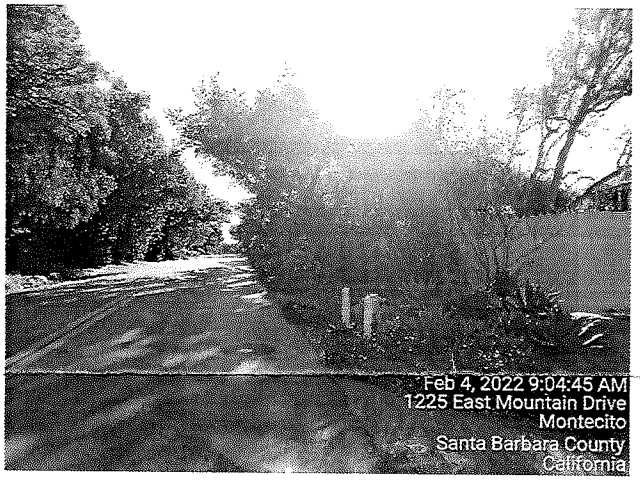


Figure 1a. Landscaping to remove.

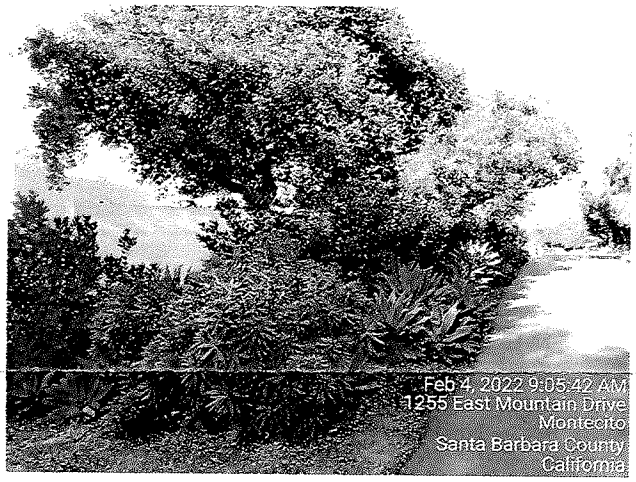


Figure 1b. Landscaping to remove.

Figures 1a and 1b show examples of landscaping to be removed from County Right of Way.



Figure 2a. Irrigation line



Figure 2b. Irrigation line

Figures 2a and 2b are examples of irrigation lines to be removed.

Exhibit 5

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
TRANSPORTATION DIVISION
4417 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-4990

one COUNTY one FUTURE

SCOTT D. MCGOLPIN
Director

February 7, 2022

Resident
1091 East Mountain Drive
Montecito, CA 93118

CERTIFIED MAIL:
7020 0090 0001 1731 7554

RE: Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Resident:

The County of Santa Barbara, Public Works Department has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property. In reviewing the County Road Right-of-Way there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented.

This letter is giving formal notice to the property owners to remove all private encroachments within 10 feet of berm/edge of pavement by April 8, 2022 including but not limited to the following items listed below and as shown in Addendum A:

- *Plants / Landscaping*
- *Rocks / Boulders / Debris*
- *"No parking sign" (14 days to remove, see Addendum B)*

We appreciate your cooperation in this effort for removal of un-permitted private encroachments. If these items are not removed, fines can be assessed per Santa Barbara County Code Chapter 8: Ordinance No. 1491. In addition, you will be liable for the costs the County incurs to remove the encroachments after April 8, 2022.

We appreciate your assistance and patience on this project.

Please call our office as soon as you receive this letter, to let us know your schedule to remove the encroachments at (805) 681-4990. Thank you in advance for your cooperation.

Sincerely,

Eric A Pearson, PE
Construction & Permits Manager

CC: Chris Sneddon, Deputy Director; Andrew Acosta, CEA II

Addendum A: Photos



Figure 1. Illegal "No Parking Sign"

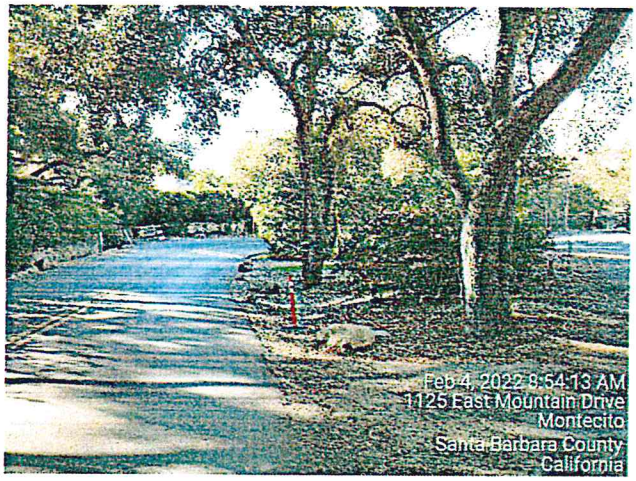


Figure 2a. Ashley Road rocks/debris.



Figure 2b. East Mountain Drive rocks to be removed.

Figures 2a and 2b are examples of rocks and debris to be removed from County Right of Way.

Addendum B: Illegal Sign

This section is to inform you that the sign shown above, in Figure 1 of Addendum A, and presently posted in front of your property at 1091 East Mountain Drive in the Montecito area is illegal. Pursuant to California Vehicle Codes, section 21465 and section 22503:

21465- "No Person shall place, maintain, or display upon, or in view of, any highway any unofficial sign, signal, device, or marking, or any sign, signal, or device, or marking, which purports to be or is an imitation of, or resembles, an official traffic control device or which attempts to direct the movement of traffic or which hides from view any official traffic control device."

It is the responsibility of the Santa Barbara County Public Works Department to determine if such signs are to be posted. Signs of this nature are placed solely for the purpose of Public safety. This Department would appreciate you removing these signs within 14 calendar days. If this sign is not removed by that time we will remove the sign, pursuant to California Vehicle Code 21467:

21467- "Every prohibited sign, signal or device or light is a public nuisance, and the Department of Transportation, members of the California Highway Patrol, and local authorities are hereby authorized and empowered without notice to remove the same, or cause the same to be removed, or the Director of Transportation, the commissioner, or local authorities may bring an action as provided by law to abate such nuisance."

Exhibit 6

NOTICE OF EXEMPTION

RECEIVED
2021 [illegible] A [illegible]:22
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Department of Public Works/Transportation Division
(Lead Department/Division)

Based on a preliminary review of the project the following activity is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970 (Pub. Res. Code Section 21000 et seq.), as defined in the State CEQA Guidelines and County Revised CEQA Guidelines.

APN(s) Varies **Project No.** 900900

LOCATION: 105 E. Anapamu Street, Suite 407, Santa Barbara, CA

PROJECT TITLE: Montecito Trail Access Funding; First Supervisorial District

PROJECT DESCRIPTION: The proposed project is the funding of required studies and implementation of potential rights-of-way restoration to public use at trailhead access within the public road rights-of-way adjacent to the Hot Springs Trailhead along East Mountain Drive.

This funding would be utilized to provide studies and for the implementation of parking improvements near the area of the Hot Springs Trailhead. East Mountain Drive has public right of way that is currently unusable for parking due to encroachments such as walls, curbing, boulders, landscaping, mailboxes and other features. Studies are required in determining how to provide more parking in the right of way and confirm right of way limits. This would also document the obstacles to creating parking and provide examples to improve parking in the area. Studying the situation would allow the Department to provide solutions and options to work with the adjacent owners on a project that would create parking while minimizing the impacts to their rights-of-way encroachments long the property frontages. Depending on the scope and complexity of work required there may be additional funding needed for implementation of concepts consistent with the rural character of the Montecito area.

This exemption considers all future administrative activities for this project such as Award of Contract and Statement of Final Quantities.

RECEIVED
2021 DEC -1 A 11:53
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Public Works Transportation Division

Exempt Status: (Check one)

_____ Ministerial
_____ Statutory Exemption
__X__ Categorical Exemption {15301(c)}
_____ Emergency Project
_____ Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: 15301(c) Existing Facilities – consists of the operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, including but not limited to: (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes), except where the activity will involve removal of a scenic resource including a stand of trees, a rock outcropping, or a historic building.

Reasons to support exemption findings: Consistent with this exemption, the proposed project involves the studies of the existing roadway to maintain the safe traveling condition of the roadway right of way while allowing for safe public parking for pedestrians walking to adjacent public trails. Further, there are no unusual circumstances which would create a possibility that there would be a significant effect. Therefore, the project can be found to be categorically exempt from CEQA.

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

(a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

CEQA Guidelines Section 15301 is a Class 1 exemption; therefore, this exception does not apply.

(b) **Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The project involves studying and potential maintenance of rights-of-way to increase potential trail use parking in public roadways in Montecito. In addition, there are no other identified projects which would contribute to cumulative impacts. Therefore, this exception does not apply.

(c) **Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

The roadway areas to be studied and that may be repaired are in existing developed roadway rights-of-way. The roadway rights-of-way to be studied and locations where repairs or modification of the rights-of-way are proposed will have no impact on the environment. Therefore, this exception does not apply.

(d) **Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.**

The project does not involve a scenic highway or a project which may result in damage to a scenic resource, removal of trees, rock outcropping or similar resource.

(e) **Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

There are no hazardous wastes site locations on this public road. Therefore, this exception does not apply.

(f) **Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

The East Mountain Drive area that is involved with public parking for the Hot Springs trail access is not identified as a historical resource. In addition, the restoration of the public road rights-of-way for public trail parking would not involve any structural modifications to existing public roadway facilities. Therefore, this exception does not apply.

Lead Agency Contact Person: Chris Sneddon, Deputy Director Public Works Transportation/Engineering Division, Phone: (805) 568-3064

Department/Division Representative: Morgan M. Jones, Engineering Environmental Project Team Leader

Acceptance Date: **September 14, 2021**

Distribution: Hearing Support Staff for posting

August 23, 2021

Morgan M. Jones Department Representative Date

NOTE: A copy of this document must be posted with the County's Planning & Development Department at least 6 days prior to consideration of the activity by the decision-makers to comply with County CEQA guidelines and a copy must be filed with the County Clerk of the Board after project approval to begin a 35 day statue of limitations on legal challenges.

Distribution: Date filed with Planning & Development _____.

Distribution: Date Filed by County Clerk: _____.

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*:
A. Barry Cappello (SBN 037835); David L. Cousineau (SBN 298801)
CAPPELLO & NOËL LLP; 831 State Street, Santa Barbara, California 93101

TELEPHONE NO.: (805) 564-2444 FAX NO. *(Optional)*: (805) 965-5950
E-MAIL ADDRESS: abc@cappellonoel.com; dcousineau@cappellonoel.com
ATTORNEY FOR *(Name)*: Petitioners Christopher Anderson et al.

FOR COURT USE ONLY

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/4/2022 5:21 PM
By: Terri Chavez, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA
STREET ADDRESS: 1100 Anacapa Street
MAILING ADDRESS: 1100 Anacapa Street
CITY AND ZIP CODE: Santa Barbara, CA 93121-1107
BRANCH NAME: Anacapa

CASE NAME:
Christopher Anderson et al. v. County of Santa Barbara et al.

CIVIL CASE COVER SHEET

[x] **Unlimited** (Amount demanded exceeds $25,000)
[ ] **Limited** (Amount demanded is $25,000 or less)

Complex Case Designation

[ ] Counter [ ] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 22CV01299

JUDGE:
DEPT.:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort
[ ] Auto (22)
[ ] Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
[ ] Asbestos (04)
[ ] Product liability (24)
[ ] Medical malpractice (45)
[ ] Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
[ ] Business tort/unfair business practice (07)
[ ] Civil rights (08)
[ ] Defamation (13)
[ ] Fraud (16)
[ ] Intellectual property (19)
[ ] Professional negligence (25)
[ ] Other non-PI/PD/WD tort (35)

Employment
[ ] Wrongful termination (36)
[ ] Other employment (15)

Contract
[ ] Breach of contract/warranty (06)
[ ] Rule 3.740 collections (09)
[ ] Other collections (09)
[ ] Insurance coverage (18)
[ ] Other contract (37)

Real Property
[ ] Eminent domain/Inverse condemnation (14)
[ ] Wrongful eviction (33)
[ ] Other real property (26)

Unlawful Detainer
[ ] Commercial (31)
[ ] Residential (32)
[ ] Drugs (38)

Judicial Review
[ ] Asset forfeiture (05)
[ ] Petition re: arbitration award (11)
[ ] Writ of mandate (02)
[ ] Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
[ ] Antitrust/Trade regulation (03)
[ ] Construction defect (10)
[ ] Mass tort (40)
[ ] Securities litigation (28)
[x] Environmental/Toxic tort (30)
[ ] Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
[ ] Enforcement of judgment (20)

Miscellaneous Civil Complaint
[ ] RICO (27)
[ ] Other complaint *(not specified above)* (42)

Miscellaneous Civil Petition
[ ] Partnership and corporate governance (21)
[ ] Other petition *(not specified above)* (43)

2. This case [x] is [ ] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. [ ] Large number of separately represented parties
   b. [x] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. [ ] Substantial amount of documentary evidence
   d. [ ] Large number of witnesses
   e. [ ] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. [ ] Substantial postjudgment judicial supervision
3. Remedies sought *(check all that apply)*: a. [ ] monetary b. [x] nonmonetary; declaratory or injunctive relief c. [ ] punitive
4. Number of causes of action *(specify)*: 1
5. This case [ ] is [x] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

Date: April 4, 2022
David L. Cousineau
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. September 1, 2021]

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courts.ca.gov

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than $25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort
- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death) Tort
- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/ Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice–Physicians & Surgeons
- Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort
- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment
- Wrongful Termination (36)
- Other Employment (15)

Contract
- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
  - Contract/Warranty Breach–Seller Plaintiff *(not fraud or negligence)*
  - Negligent Breach of Contract/ Warranty
  - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case–Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

Real Property
- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer
- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review
- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ–Administrative Mandamus
  - Writ–Mandamus on Limited Court Case Matter
  - Writ–Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment
- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment *(non-domestic relations)*
  - Sister State Judgment
  - Administrative Agency Award *(not unpaid taxes)*
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint
- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition
- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief From Late Claim
  - Other Civil Petition

ATTORNEY OR PARTY WITHOUT ATTORNEY *(NAME AND ADDRESS)*: TELEPHONE NO.:	*FOR COURT USE ONLY*
A. Barry Cappello (SBN 037835); David L. Cousineau (SBN 298801) CAPPELLO & NOËL LLP; 831 State Street, Santa Barbara, California 93101 ATTORNEY FOR *(NAME)*: Petitioners Christopher Anderson et al.	ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 4/4/2022 5:21 PM By: Terri Chavez, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA ☒ Santa Barbara–Anacapa 1100 Anacapa Street Santa Barbara, CA 93101 ☐ Santa Maria-Cook 312-C East Cook Street Santa Maria, CA 93454 ☐ Lompoc Division 115 Civic Center Plaza Lompoc, CA 93436	
PLAINTIFF: Christopher Anderson et al. DEFENDANT: County of Santa Barbara et al.	
CIVIL CASE COVER SHEET ADDENDUM	CASE NUMBER: 22CV01299

Santa Barbara County Superior Court Local Rule, rule 201 divides Santa Barbara County geographically into two separate regions referred to as "South County" and "North County," the boundaries of which are more particularly defined in rule 201. "South County" includes the cities of Carpinteria, Santa Barbara, and Goleta; "North County" includes the cities of Santa Maria, Lompoc, Buellton and Solvang. A map depicting this geographical division is contained in Appendix 1 to the local rules.

Local Rule 203 provides: "When, under California law, 'North County' would be a 'proper county' for venue purposes, all filings for such matters shall be in the appropriate division of the Clerk's office in North County. All other filings shall be made in the Clerk's office in the appropriate division of the Court in South County. The title of the Court required to be placed on the first page of documents pursuant to CRC 2.111 includes the name of the appropriate Court division."

A plaintiff filing a new complaint or petition is required by Local Rule 1310 to complete and file this Civil Case Cover Sheet Addendum to state the basis for filing in North County or South County.

The undersigned represents to the Court:

This action is filed in ☐ North County ☒ South County because venue is proper in this region for the following reason(s):

☐ A defendant resides or has its principal place of business in this region at: 1200 block of East Mountain Drive, Montecito, California 93108

☒ The personal injury, damage to property, or breach of contract that is claimed in the complaint occurred in this region at: _____

☐ There is a related case filed with the court in this region (e.g., the related personal injury action to a petition to transfer structured settlement payments) [identify case, including case number]: _____

☐ Venue is otherwise proper in this region because [explain]: _____

Dated: 4/04/2022

Signature of Plaintiff or Plaintiff's Counsel

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/5/2022 5:19 PM
By: Narzralli Baksh, Deputy

A. Barry Cappello (SBN 037835)
abc@cappellonoel.com
David L. Cousineau (SBN 298801)
dcousineau@cappellonoel.com
Matthew L. Hofer (SBN 307055)
mhofer@cappellonoel.com
CAPPELLO & NOËL LLP
831 State Street
Santa Barbara, California 93101
Telephone: (805) 564-2444
Facsimile: (805) 965-5950

Attorneys for Petitioners
CHRISTOPHER ANDERSON;
ROSS BAGDASARIAN;
PETER BARKER; and
JAMES MORLEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, individuals,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

REQUEST FOR PREPARATION OF ADMINISTRATIVE RECORD

Assigned to:
Department:

REQUEST FOR PREPARATION OF ADMINISTRATIVE RECORD

Under Public Resources Code section 21167.6, Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morley hereby request that Respondent County of Santa Barbara prepare the record of Respondent's proceedings relating to this action. Petitioners request that Respondent include in the record all documents, including all transcripts, minutes of meetings, notices, correspondence, text messages, reports, studies, proposed decisions, final decisions, findings, and any other documents or records relating to Respondents' determination to clear the public right of way near the Hot Springs trailhead on East Mountain Drive and install new parking spaces thereon. Petitioners will pay the costs of preparing the record on notice from Respondent of the estimated costs of preparation.

Dated: April 5, 2022

CAPPELLO & NOËL LLP

By: */s/ David L. Cousineau*
David L. Cousineau
A. Barry Cappello
Matthew L. Hofer
Attorneys for Petitioners

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA STREET ADDRESS: 1100 Anacapa Street CITY AND ZIP CODE: Santa Barbara CA 93101 BRANCH NAME: Anacapa	FOR COURT USE ONLY FILED SUPERIOR COURT of CALIFORNIA COUNTY of SANTA BARBARA 04/06/2022 Darrel E. Parker, Executive Officer BY Chavez, Terri Deputy Clerk
CAPTION: **Christopher Anderson et al vs Board of Supervisors of Santa Barbara County et al**	
ORDER & NOTICE OF CASE ASSIGNMENT	CASE NUMBER: **22CV01299**

The above case is hereby assigned to Honorable Donna D Geck for ALL purposes, including trial. All future matters, including ex-parte matters, are to be scheduled with the assigned judge. Counsel shall include the name of the assigned judge in the caption of every document filed with the court.

ANY NEW PARTY BROUGHT INTO THIS CASE IS TO BE IMMEDIATELY NOTICED BY THE PLAINTIFF/PETITIONER OF THE JUDGE ASSIGNMENT AND A PROOF OF SERVICE OF THIS NOTICE IS TO BE FILED WITH THE COURT WITHIN FIVE (5) DAYS OF SERVICE OF NOTICE. FAILURE TO GIVE NOTICE AND FILE PROOF THEREOF MAY RESULT IN THE IMPOSITION OF SANCTI0NS.

Dated: 4/6/2022

Pauline Maxwell

Judge of the Superior Court
Pauline Maxwell

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this action and that a true copy of the foregoing was mailed first class, postage prepaid, in a sealed envelope addressed as shown, and that the mailing of the foregoing and execution of this certificate occurred at (*place*):Santa Barbara, California on (*date):* 04/06/2022

David L Cousineau
Cappello & Noel LLP
831 State Street
Santa Barbara CA 93101

Darrel E. Parker, Executive Officer By Terri Chavez Deputy Clerk

SUM-100

SUMMONS
(CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/6/2022 10:50 AM
By: Terri Chavez, Deputy

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY and DOES 1 through 10, inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, Individuals

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Santa Barbara Superior Court, Anacapa Division
1100 Anacapa Street, Santa Barbara, California 93121-1107

CASE NUMBER: *(Número del Caso):*
22CV01299

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: *(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):*

A. Barry Cappello, CAPPELLO & NOËL LLP; 831 State Street, Santa Barbara, California 93101; (805) 564-2444

DATE: 4/6/2022 *(Fecha)*
Clerk, by *(Secretario)* /s/ Terri Chavez , Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010)).*

[SEAL] SUPERIOR COURT SANTA BARBARA CO. CA

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☐ on behalf of (specify):
   under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
   ☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
   ☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
   ☐ other *(specify)*:
4. ☐ by personal delivery on *(date)*:

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§ 412.20, 465
www.courts.ca.gov

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Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/6/2022 1:05 PM
By: Terri Chavez, Deputy

A. Barry Cappello (SBN 037835)
abc@cappellonoel.com
David L. Cousineau (SBN 298801)
dcousineau@cappellonoel.com
Matthew L. Hofer (SBN 307055)
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Santa Barbara, California 93101
Telephone: (805) 564-2444
Facsimile: (805) 965-5950

Attorneys for Petitioners
CHRISTOPHER ANDERSON;
ROSS BAGDASARIAN;
PETER BARKER; and
JAMES MORLEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, individuals,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

DECLARATION OF MATTHEW L. HOFER IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER

Hearing Date: April 7, 2022
Time: 8:30 a.m.

Assigned to: Hon. Donna D. Geck
(Ex parte calendar) Dept: 4

DECLARATION OF MATTHEW L. HOFER

I, Matthew L. Hofer, declare as follows:

1. I am an attorney at the firm Cappello & Noel LLP and counsel for Petitioners in the above-captioned matter. The matters set forth herein are within my own personal knowledge, and if called as a witness, I could and would competently testify thereto.

2. On April 6, 2022, at approximately 9:50 a.m., I contacted County Counsel Rachel Van Mullem, counsel for Respondents, by calling the telephone number listed for County Counsel on the Santa Barbara County website. Ms. Van Mullem can be contacted by telephone at (805) 568-2950, and by email at rvanmull@countyofsb.org. The call went directly to voicemail, so I left a voice message for Ms. Van Mullem stating that Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morley had filed this lawsuit and would be seeking a temporary restraining order and order to show cause why a preliminary injunction should not issue, to restrain the County from taking further action to remove improvements in the public right-of-way or otherwise create new parking within 0.5 miles of Hot Springs Canyon trailhead on East Mountain Drive in Montecito, California. I further stated that the hearing on the application for a temporary restraining order was scheduled for April 7, 2022 in Department 4 of the Santa Barbara Superior Court before the Honorable Donna D. Geck. I further requested that Ms. Van Mullem contact me to let me know whether the County would appear at the hearing and/or oppose the relief sought.

3. Notice was subsequently provided to Ms. Van Mullem by email, a true and correct copy of which is attached hereto as **Exhibit A**. At approximately 11:50 a.m. on April 6, 2022, I received a phone call from Deputy County Counsel Amber Holderness. Ms. Holderness stated that she had received the email notice, and that counsel for Respondents would appear at the hearing on April 7, 2022. Ms. Holderness stated that Respondents would not take a position on whether to oppose the relief sought until they had reviewed the application.

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///

///

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 6th day of April, 2022, at Santa Barbara, California.

By: */s/ Matthew L. Hofer*

MATTHEW L. HOFER

Exhibit A

From: Matthew Hofer
To: "Van Mullem, Rachel"; "aholderness@countyofsb.org"
Cc: David Cousineau
Subject: RE: Petition for Writ of Mandate -- Christopher Anderson et al. v. County of Santa Barbara et al.
Date: Wednesday, April 6, 2022 12:15:00 PM
Attachments: Zoom_Instructions.pdf

Rachel and Amber,

The Zoom information for the hearing tomorrow is attached and highlighted below. I will send you a copy of the application and supporting papers as soon as they have been filed.

Judicial Officer	Courtroom	2022 Meeting ID	2022 Passcode
Thomas Anderle	**Dept. SB 3**	160 477 5408	3420786
Donna Geck	**Dept. SB 4**	161 378 7556	1866064
Colleen Sterne	**Dept. SB 5**	161 505 3019	2509581

Best regards,

Matt

Matthew L. Hofer | Cappello & Noël LLP
831 State Street | Santa Barbara, CA 93101
Tel: 805.564.2444 | mhofer@cappellonoel.com

From: Matthew Hofer
Sent: Wednesday, April 6, 2022 9:58 AM
To: Van Mullem, Rachel <Rvanmull@countyofsb.org>
Cc: David Cousineau <dcousineau@cappellonoel.com>
Subject: RE: Petition for Writ of Mandate -- Christopher Anderson et al. v. County of Santa Barbara et al.

Rachel,

This is to provide notice that Petitioners in this case will apply ex parte for a temporary restraining order and order to show cause why a preliminary injunction should not issue to restrain the County from taking further action to remove improvements in the public right-of-way or otherwise create new parking within 0.5 miles of Hot Springs Canyon trailhead on East Mountain Drive in Montecito. The hearing will be tomorrow, 4/7/22 at 8:30 am in Judge Donna Geck's courtroom (Department 4). Please advise whether the County intends to appear at the hearing and/or oppose the relief sought. The case number is 22CV01299.

I just left you a voice message at 805-568-2950 with this information as well.

Best regards,

Matt

Matthew L. Hofer | Cappello & Noël LLP
831 State Street | Santa Barbara, CA 93101
Tel: 805.564.2444 | mhofer@cappellonoel.com

From: Matthew Hofer
Sent: Tuesday, April 5, 2022 12:26 PM
To: Van Mullem, Rachel <Rvanmull@countyofsb.org>
Cc: David Cousineau <dcousineau@cappellonoel.com>
Subject: Petition for Writ of Mandate -- Christopher Anderson et al. v. County of Santa Barbara et al.

Dear Rachel,

I hope you are doing well. I am an attorney with the law firm Cappello & Noel LLP—we met (briefly) during the March 29, 2022 Zoom conference with Joe Cole, Supervisor Williams, his chief of staff, and Public Works Director McGolpin.

I wanted to send you a courtesy copy of the Petition for Writ of Mandate that we filed yesterday in Santa Barbara Superior Court regarding the County's project to create new parking spaces in the public right-of-way near Hot Springs Trail. I have also attached a letter that we sent to you yesterday attaching the Petition.

Best regards,

Matt

Matthew L. Hofer | Cappello & Noël LLP
831 State Street | Santa Barbara, CA 93101
Tel: 805.564.2444 | mhofer@cappellonoel.com

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/6/2022 1:05 PM
By: Terri Chavez, Deputy

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Matthew L. Hofer (SBN 307055)
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Santa Barbara, California 93101
Telephone: (805) 564-2444
Facsimile: (805) 965-5950

Attorneys for Petitioners
CHRISTOPHER ANDERSON;
ROSS BAGDASARIAN;
PETER BARKER; and
JAMES MORLEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, individuals,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER; MEMORANDUM IN SUPPORT; DECLARATION OF JOSEPH COLE

Hearing Date: April 7, 2022
Time: 8:30 a.m.

Assigned to: Hon. Donna D. Geck
(Ex parte calendar) Dept: 4

Petitioners CHRISTOPHER ANDERSON, ROSS BAGDASARIAN, PETER BARKER, and JAMES MORLEY hereby apply ex parte for a temporary restraining order and for an order requiring Respondents to show cause why a preliminary injunction should not issue pending trial in this action, enjoining Respondents and their employees, agents, and persons acting on their behalf, from taking any action to remove improvements in the public right-of-way, or to otherwise create new public parking areas, within 0.5 miles of the Hot Springs Canyon trailhead on East Mountain Drive, Montecito, California 93108.

This Application is made pursuant to the provision of Code of Civil Procedure section 527 on the following grounds:

1. Respondents are presently attempting to conduct a project in the vicinity of the Hot Springs Canyon trailhead to remove longstanding improvements in the public right-of-way, in order to dramatically increase the amount of public parking serving the trailhead, without conducting any of the environmental review and public hearing required by the California Environmental Quality Act ("CEQA"), Public Resources Code section 21000 et seq.

2. This project, if allowed to proceed, will result in hundreds of additional persons each day entering the environmentally sensitive habitat areas in Hot Springs Canyon, posing an imminent threat to the biological resources and endangered species living there, and further complicating and overburdening evacuation measures for the area in the inevitable event of a wind-driven wildfire.

3. Petitioners are likely to prevail on the merits because Respondents are attempting to complete this project without any study or mitigation of these serious impacts to the physical environment, in violation of CEQA.

4. Petitioners and the public at large will suffer irreparable harm if Respondents are not restrained. Respondents intend to clear improvements to the public right-of-way beginning April 8, 2022, at which point the cleared areas will immediately become available as parking, the damage to the environment, and to increased deadly wildfire ignition and evacuation risk, from this huge uptick in visitors will occur, and the remedy of a CEQA-compliant review process for the Project that Petitioners seek in this action may be mooted.

5. Respondents will suffer minimal harm, if any, from the Court enjoining their

proposed Project. Delay will not cause Respondents any monetary losses, and Respondents have recognized that there is no urgency to pursue the Project. Enjoining the Project will maintain the status quo that has existed for decades at the trailhead, while the parties litigate the merits of the issues presented in the Petition.

This Application must be heard on an ex parte basis because Respondents have threatened to begin their Project by April 8, 2022, leaving insufficient time for the formal notice procedure.

Respondents are represented by County Counsel Rachel Van Mullem, who can be reached by telephone at (805) 568-2950, and by email at rvanmull@countyofsb.org. (See Declaration of Matthew L. Hofer at ¶ 2.) On Wednesday, April 6, 2022, after reserving the ex parte date, Ms. Mullem was given notice of the hearing by voice message and email. "Petitioners understand that counsel for Respondents intend to appear at the hearing, but will not take a position on the relief sought until after they have reviewed the application." (Hofer Decl. at ¶ 3.)

This Application is based on the memorandum in support, the Declaration of Joseph Cole set forth below and the exhibits thereto, the verified Petition for Writ of Mandate in this action, the accompanying Declaration of Matthew L. Hofer and exhibits thereto, and on any other evidence as may be presented or received at the hearing of the Application.

Petitioners have not previously applied for similar relief in this action.

Dated: April 6, 2022

CAPPELLO & NOËL LLP

By: */s/ David L. Cousineau*
A. Barry Cappello
David L. Cousineau
Matthew L. Hofer
Attorneys for Petitioners

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Prior to approving an activity, the California Environmental Quality Act ("CEQA") requires any government agency, such as Respondent County of Santa Barbara, to first "determine whether a proposed activity is a 'project,' i.e., an activity that is undertaken, supported, or approved by a public agency and that 'may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.'" (*California Bldg. Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 382.) The County is poised to begin a Project to dramatically increase the parking spaces available at the Hot Springs Canyon trailhead, which currently accommodates approximately 18 vehicles at any given time. The County proposes to create 62 *additional* parking spaces in the vicinity, which would result in 80 parking spaces in total—more than four times the adjacent parking currently available. This translates to a more than fourfold increase in current foot traffic on Hot Springs Trail, home to sensitive, special-status plant and animal species and County-designated environmentally sensitive habitat areas, in and around a blue-line stream. The potential adverse impacts to these environmental resources, and to the area's over-stressed firefighting and evacuation resources, from this tremendous increase in trail use are manifest. Yet the County has not conducted *any* review of these potential impacts through the study and public hearing procedures required by CEQA.

The County recently said that it actually intends to install fewer than 62 parking spaces, but that is irrelevant to the core issue. Any substantial addition of parking spaces must be assessed under CEQA to determine the potential impacts to the surrounding, highly sensitive environment.

Nor can the County proceed with its Project incrementally, as it has also told Petitioners it intends to do, to avoid unwanted public attention to its illegal actions. That is an unlawful practice known as "piecemealing" a project, which has been soundly rejected by the California Supreme Court. (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 396 ["environmental considerations do not become submerged by chopping a large project into many little ones—each with a minimal potential impact on the environment—which cumulatively may have disastrous consequences"].)

To create these new parking spaces, the County intends to demolish any improvements in the public right-of-way along East Mountain Drive that the adjoining landowners have installed over the years, including mature oak and sycamore trees, sandstone walls, vegetation, irrigation, and similar improvements. Already, the County has sent demand letters to three area homeowners, requiring that these landowners scrape any improvements from the right-of-way in front of their properties by April 8, 2022, otherwise the County will do the work itself, charge the landowners for the cost, and assess fines.

If the County is allowed to clear the right-of-way at these three locations, or at four other homes the County is currently targeting, the illegal Project will already be a *fait accompli*—the improvements will be gone for good, and people will be able to begin parking in their place immediately. The harm to Petitioners, the public, and the environment will be great and irreparable, possibly mooting the relief sought in the Petition for Writ of Mandate. By contrast, there will no harm to the County from pausing its efforts for the time being. There is no imminent need for new parking spots—there have been approximately 18 parking spots in the trailhead's vicinity for decades. Only a temporary restraining order and preliminary injunction from this Court will maintain the status quo until the merits of Petitioners' Petition for Writ of Mandate can be ruled upon.

II. FACTUAL BACKGROUND

Hot Springs Canyon is a serene, stunningly gorgeous area tucked into the foothills of the Santa Ynez Mountains above the village of Montecito. (Declaration of Joseph Cole ¶ 2.) A public hiking trail passes through the canyon, beginning on East Mountain Drive, then traversing through the riparian habitat along Hot Springs Creek, oak woodlands, and chaparral. (*Ibid*.) Natural hot springs are also accessible approximately 1.5 miles up the trail. (*Ibid*.)

Hot Springs Creek is identified in the Montecito Community Plan (a part of the County's Comprehensive Plan, with the force of law) as an area of "specific biological importance." (Plan p. 42; available at https://cosantabarbara.app.box.com/s/40p7iwk8zixzuujte847rk620psduve7.) It is commonly known that Hot Springs Canyon is home to special-status wildlife species, including Southern California steelhead, California red-legged frog, coast range newt, southwestern pond

turtle, two-striped gartersnake, and Cooper's hawk. (Cole Decl. ¶ 3; Cole Exh. 1.) The Canyon is also home to four special-status plant species (Plummer's baccharis, ocellated Humbolt lily, umbrella larkspur, and Ojai fritillary), and other biologically valuable plant species (coast live oak woodland, arroyo willow thickets, western sycamore woodland, California bay forest, Santa Barbara honeysuckle, black-flowered figwort, and late-flowered mariposa lily). (Cole Decl. ¶ 3.) These biological resources in Hot Springs Canyon are protected under U.S., California, and Santa Barbara County laws and regulations, including: (a) *Federal*—the Endangered Species Act, the Migratory Bird Treaty Act, the Clean Water Act, and the U.S. Department of Agriculture Environmental Compliance Regulation 9500-4; (b) *California*—the California Endangered Species Act, Native Plant Protection Act, the California Department of Fish and Wildlife's Lake and Streambed Alteration Program, and CEQA; and (c) *Santa Barbara County*—Environmental Thresholds and Guidelines Manual, including Oak Tree Protection and Stream and Riparian Habitat Protection, and the Montecito Community Plan.

Hot Springs Creek is also mapped by the County as an Environmentally Sensitive Habitat Area (ESH), which "is applied to areas with unique natural resources and/or sensitive animal or plant species, where existing and potential development and other activities may despoil or eliminate the resources." (Montecito Land Use and Development Code section 35.428.040, available at https://cosantabarbara.app.box.com/s/gddjgafaocsoadlgg3t8lgca8zgkl670.) ESH "is intended to 1. Protect and preserve specified areas in which plant or animal life or their habitats are either rare or especially valuable because of their role in the ecosystem, and that could be easily disturbed or degraded by human activities and developments; and 2. Ensure that each project permitted in the overlay zone is designed and carried out in a manner that will provide maximum protection to sensitive habitat areas." (*Ibid.*)

The extreme fire danger in the Montecito area—amplified by intensive climate change in the western United States within the past decade—is well-documented. (Cole Decl. ¶ 4.) As noted in the Montecito Fire Department's *Montecito Community Wildfire Protection Plan*, "Montecito and its surrounding area has an extensive history of catastrophic wildfires that have been costly in terms of fatalities and injuries, damage and loss of multiple structures, and extremely high fire suppression

and fire rehabilitation costs." (Protection Plan at p. 6, available at https://s3.amazonaws.com/siteninja/multitenant/assets/32154/files/original/Fire_Station_Location_Study_Community_Risk_Assessment_Standards_of_Cover.pdf.) The fire risk in Montecito is exacerbated by its narrow, winding roads and lack of infrastructure to speed an evacuation—factors that are particularly true of the foothill area that Mountain Drive passes through. Montecito Fire's *Wildfire Protection Plan* notes:

> Montecito presents significant challenges for evacuation due to the transportation system within and adjacent to the District and the speed and intensity in which wildfires in the area burn. As stated in Citygate's 2014 report, Montecito has significant access and egress impediments that can adversely affect emergency response times and evacuations very quickly. This is due to narrow roads, winding roads, steep roads, vegetation encroachment on roads, gates, bridges, addresses not clearly visible from the property access point, speed-reducing features such as bulb-outs, roundabouts, and speed bumps, unlit roads and intersections, and unlit street signage.
>
> A wildfire in the WUI is extremely dangerous, but compound this event with additional factors such as human behavior, population density, limited and overloaded transportation routes, vulnerable and mobility-limited populations, businesses' employees, visitors, and the evacuation of animals makes the task of evacuation exponentially complex. The lead-time required to conduct mass evacuations during a wildfire event in Santa Barbara County is often very short and immediate.

(Protection Plan p. 95.)

Parking in the area near the trailhead for Hot Springs Trail is very limited. (Cole Decl. ¶ 5.) Currently, there are approximately eight parking spaces at the trail head, with another 10 cars commonly parked illegally on the embankment on Riven Rock Road, just feet from the environmentally sensitive creek. (*Ibid*.) In the past, there were about 10 cars parked illegally along Riven Rock Road, blocking access for fire vehicles and fire evacuation for residents, employees, contactors, and trail visitors. (*Ibid*.) After the road was re-striped by the Montecito Fire Protection District to make clear that such parking was dangerous and illegal, visitors began parking on the embankment instead. (*Ibid*.) Thus, assuming there is an average of two people associated with each car, there is a maximum of approximately 36 persons on Hot Springs Trail from adjacent parking at any given time, under current adjacent parking conditions.

On September 14, 2021, the County adopted a CEQA Notice of Exemption for a project to study possible parking improvements near the Hot Springs Canyon trailhead. (Cole Decl. ¶ 6; Cole

Exh. 2.) The Notice was adopted as a consent item, with no opportunity for public comment. (Cole Decl. ¶ 6.)

On October 28, 2021, County Public Works Director Scott McGolpin informed Petitioners' counsel Joseph Cole that the County proposed to create 62 new parking spaces adjacent to the trailhead. (Cole Decl. ¶ 7.) Mr. Cole had engaged with the County after the County had planted stakes along the edge of the public right-of-way on both sides of East Mountain Drive for 4/10ths of a mile, from Hot Springs Road to Ashley Road, with no notice to the homeowners. (*Ibid*.) Over the course of multiple meetings with First District Supervisor Das Williams, Mr. McGolpin, and other County representatives, the County informed Mr. Cole that (1) the County would create additional parking by destroying improvements in the public right-of-way, (2) the County would create up to 62 additional parking spaces near the Hot Springs trailhead in this manner, and (3) the County would proceed with this project in an incremental fashion by clearing the right-of-way in front of only three or more homes at a time. (*Ibid*.) At maximum use, and assuming an average of two persons are associated with each vehicle, this Project would result in approximately 124 *additional* persons on Hot Springs Trail at any given time. Conservatively, this would bring a thousand more hikers into the environmentally sensitive area each week.

The improvements in the right-of-way that the County proposes to destroy, without public notice or environmental impact study, include vegetation, mature oak and sycamore trees, decorative sandstone curbs and boulders, and protective asphalt curbs installed by the County. (Cole Decl. ¶ 8.) In many cases, these improvements have been in place for decades—some with encroachment permits that the County will now revoke, and one adjacent to a historic structure dating from the late 1880's that could be damaged by the County's bulldozer on April 8, 2022. (*Ibid*.) These improvements are an important contributing factor to the bucolic, rural character of the area, and East Mountain Drive in particular, as reflected in the Montecito Community Plan. (*Ibid.*)

Mr. Cole expressed Petitioners' concern that the County's actions would increase the likelihood of wildfire ignition during a time when many residents have lost their fire insurance, increase risk of death due to the inability of people and animals in the vicinity to evacuate during a sundowner wildfire, and create unstudied impacts to the area's rich biological resources, all when the

County had not provided notice to affected homeowners or a public process to approve this work. (Cole Decl. ¶ 9.) On behalf of Petitioners, Mr. Cole sought to work cooperatively with the County to address these issues, including (1) to find prompt replacements for the lost illegal parking along Riven Rock Road, and (2) to organize and fund a cooperative public-private partnership with Montecito stakeholders to provide long-range integrated solutions to the fire ignition and evacuation, parking, trail use access, and environmental issues. (*Ibid*.) Supervisor Williams agreed with Mr. Cole to hold off on any work on the Project while these community conversations took place. (*Ibid*..)

The County breached this agreement on February 7, 2022, when it sent certified demand letters to three homeowners on East Mountain Drive. (Cole Decl. ¶ 10; Cole Exhs. 3-5.) The demand letters state that the County "has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property" and that "there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented." (Cole Exhs. 3-5.) The letters demand that the recipient homeowners "remove all private encroachments within 10 feet of the berm/edge of the pavement by April 8, 2022 . . . ." (*Ibid*.) Otherwise, the County threatens to remove the improvements, charge the homeowners for the work, and assess fines. (*Ibid*.)

With these letters, the County announced its intention to proceed with the Project to create new parking spaces without any formal approval or hearing of the matter by the County, and without studying the Project's environmental impacts under CEQA. If the work described in the letters is done, those now-barren areas of the public right-of-way will be immediately available as additional parking. The County has repeatedly stated its intention to perform further scraping of the right-of-way to create additional parking in the future, in an incremental fashion, without further hearings, environmental review, or formal approval. (Cole Decl. ¶ 10.)

III. ARGUMENT

A. A TRO and Preliminary Injunction Are Necessary to Avoid Irreparable Harm to Petitioners, the Environment, and the Public

"The purpose of a preliminary injunction is the preservation of the status quo until a final

determination of the merits of the action." (*Casmalia Resources, Ltd. v. County of Santa Barbara* (1987) 195 Cal.App.3d 827, 832.) "In exercising its discretion the trial court should evaluate two interrelated factors: The first is the likelihood that the plaintiff will prevail on the merits at trial, and the second is the interim harm the plaintiff is likely to sustain if the injunction were denied as compared to the harm the defendant is likely to suffer if the preliminary injunction were issued." The trial court must "exercise its discretion in favor of the party most likely to be injured." (*Robbins v. Superior Court* (1985) 38 Cal.3d 199, 205.) "If denial of an injunction would result in great harm to the plaintiff, and the defendants would suffer little harm if it were granted, then it is an abuse of discretion to fail to grant the preliminary injunction." (*Ibid.*)

Here, both factors weigh heavily in favor of Petitioners, and support an injunction prohibiting the County from taking any action to remove improvements in the public right-of-way, or to otherwise create new public parking areas in the vicinity of the Hot Springs Canyon trailhead.

B. The Harm to Petitioners, the Environment, and the Public Absent an Injunction Far Exceeds Any Conceivable Harm to Respondents

Where, as here, the Petitioners seek to compel the performance of an act which the law specifically enjoins (Code Civ. Proc., § 1085), mandamus is the appropriate remedy because "there is not a plain, speedy, and adequate remedy, in the ordinary course of law." (*Id.* at § 1086.) As such, no legal remedy like monetary damages is available, much less adequate, to compensate for the injuries to Petitioners and the public. The relief Petitioners seek in this Application is an injunction enjoining the County from taking any action to remove improvements in the public right-of-way, or to otherwise create new public parking areas in the vicinity of the Hot Springs Canyon trailhead, until such time as the Court decides whether the County's attempt to take these actions violates CEQA (as alleged in the Petition).

The County will suffer no harm if the Court enjoins its actions until the Petition's merits are decided. The injunction Petitioners seek here would only apply until the Court determines whether the County violated CEQA. If the Court finds a violation, the County will be required to conduct a CEQA review of the Project; if no violation is found, the County can proceed. The Court will render a decision one way or the other relatively quickly—CEQA cases are entitled to preference over all

other civil actions, "so that the action or proceeding shall be quickly heard and determined. (Pub. Resources Code, § 21167.1., subd. (a).) Evidently, the County agrees there is no urgency to complete the Project, as it recently agreed voluntarily to delay its threat to scrape the right-of-way in front of one property. (Cole Decl. ¶ 10.)

Moreover, pausing its operations will not cost the County money, nor will it inhibit the County from proceeding with the Project if the Court denies the Petition. In the meantime, the public will continue to be able to park where it already does and has parked for decades. That would maintain the status quo, the very purpose of a preliminary injunction. (*Casmalia Resources*, *supra*, 195 Cal.App.3d at p. 832.) It is the County that seeks to upset the status quo and complete portions of its Project before the impacts can be considered.

By contrast, the harm from the County proceeding with its Project, before any CEQA-mandated procedures occur, will be tremendous. (2 Kostka & Zischke, Practice Under the Cal. Environmental Quality Act (Cont.Ed.Bar 2021) § 23.92 ["In a CEQA proceeding, the harm to the petitioner and the public from going forward with the project is often apparent"]; *Friends of Westwood, Inc. v. City of Los Angeles* (1987) 191 Cal.App.3d 259, 264 [both parties would be harmed if a project were begun and then had to be undone because it did not comply with CEQA].) If the County is allowed to force homeowners on East Mountain Drive to clear the public right-of-way in front of their homes, or if the County does this work itself, the immediate result will be a large increase in the number of cars parked near the trailhead, which translates to a large increase in the number of people using Hot Springs Canyon at any given time. The harm from this massive increase is manifest—native plants will be trampled, endangered species disturbed, creek waters polluted, fire ignition risk increased, and the area's ability to safely evacuate in the event of a wind-driven wildfire compromised. The harm will also be irreparable—the trees, landscaping, and other improvements cannot be restored once removed, and it would be difficult to prevent people from parking in those now-barren areas. Moreover, the County's actions violate CEQA, California's seminal environmental protection law—that itself is harm to the public and the rule of law. (C.f. *Woodland Hills Residents Assn., Inc. v. City Council* (1979) 23 Cal.3d 917, 939 ["Of course, the public always has a significant interest in seeing that legal strictures are properly enforced . . ."].)

Based on the above, the balance of potential harms and equities between the parties fully support the issuance of a temporary restraining order and preliminary injunction halting the County's Project until such time as the substantive merits of the Petition can be resolved.

C. Petitioners are Reasonably Likely to Prevail on the Merits

1. The Verified Petition, Substantial Evidence, and the Law All Demonstrate that the County Violated CEQA in Proceeding With the Project

A petitioner seeking a temporary restraining order is required to show only a reasonable probability that they will prevail on the merits. (*Baypoint Mortgage v. Crest Premium Real Estate etc. Trust* (1985) 168 Cal.App.3d 818, 824.) An injunction should be granted when it appears by the operative pleading that the petitioner is entitled to the relief demanded. (Code Civ. Proc., § 526, subd. (a)(1); *Dingley v. Buckner* (1909) 11 Cal.App. 181, 183-184.)

Here, Petitioners have shown an exceedingly high probability of prevailing on more than verified allegations. The plain facts demonstrate that the County has flouted its responsibilities under CEQA, and further that there is substantial evidence that the County's Project may have a significant impact on the environment.

Prior to approving an activity, CEQA requires that a government agency such as the County first "determine whether a proposed activity is a 'project,' i.e., an activity that is undertaken, supported, or approved by a public agency and that 'may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.'" (*California Bldg. Industry Assn.*, *supra*, 62 Cal.4th at p. 382.) Here, the area surrounding and impacted by the Project is a County-designated Environmentally Sensitive Habitat area, possessing "unique natural resources and/or sensitive animal or plant species, where existing and potential development and other activities may despoil or eliminate the resources." (Montecito Land Use and Development Code section 35.428.040.) The Project would result in an *additional* 124 persons on the trail at any given time, which likely translates to over a *thousand* additional persons on the trail per week. Clearly, the addition of this many people using an environmentally sensitive habitat area would cause "a reasonably foreseeable indirect physical change in the environment"—it is a "project" subject to CEQA. Yet the County has not even performed the *first step* of review under CEQA—the

determination of whether creating all this new parking is a "project." (Petition ¶¶ 29; 32.)

Nor has the County performed the next steps that CEQA requires where an activity may cause a change in the physical environment:

> if the proposed activity is a project, the agency must next decide whether the project is exempt from the CEQA review process . . . . If the agency determines the project is not exempt, it must then decide whether the project may have a significant environmental effect. And where the project will not have such an effect, the agency must adopt a negative declaration . . . .
>
> Third, if the agency finds the project may have a significant effect on the environment, it must prepare an EIR before approving the project. Given the statute's text, and its purpose of informing the public about potential environmental consequences, . . . an EIR is required even if the project's ultimate effect on the environment is far from certain. . . . [An] EIR is required whenever it can be fairly argued on the basis of substantial evidence that the project may have significant environmental impact, regardless of whether other substantial evidence supports the opposite conclusion.

(*California Bldg. Industry Assn.*, *supra*, 62 Cal.4th at p. 382-383, internal quotes and cites omitted.) The County has not performed these second and third steps required by CEQA—determining whether the Project is exempt, or preparing the appropriate environmental document for the Project. (Petition ¶¶ 29-30.) Indeed, Supervisor Williams and the County Public Works Director appear to have simply decided they wanted to do the Project, breaching the standstill and cooperation agreement with community stakeholders to pursue integrated long-term solutions, and sent the demand letters to homeowners on East Mountain Drive, without so much as a public hearing or advance notice to the public of their intentions. Even assuming the Project was exempt from CEQA (which it is not, based on the obvious impacts to the environment that the increased intensity of use on Hot Springs Trail will create), at the very least, the County was required to adopt a Notice of Exemption. (*California Bldg. Industry Assn.*, *supra*, 62 Cal.4th at p. 382.) The County has never adopted a Notice of Exemption for its Project to create the 62 new parking spaces. (Petition ¶¶ 29-30.)

An agency's failure to proceed in the manner required by law is an abuse of discretion subject to reversal by issuance of a writ of mandate. (Code Civ Proc., § 1085; Pub. Resources Code, § 21168.5; *Ballona Wetlands Land Trust v. City of Los Angeles* (2011) 201 Cal.App.4th 455, 467-468.) As the Petition alleges, the County failed to follow CEQA in any respect, and Petitioners are

therefore highly likely to succeed on the merits.

2. The County's September 12, 2021 Notice of Exemption is Inapplicable and Invalid as to the Project

The County may argue that a Notice of Exemption adopted on September 14, 2021, which allocated funding to *study* potential parking improvements at the Hot Springs trailhead, covers the Project, and that the statute of limitations has therefore run. But that argument is meritless as a matter of law. The September 14, 2021 Notice of Exemption describes the "project" the Board of Supervisors approved (as a consent item, with no public comment permitted, see Cole Decl. ¶ 6) as exempt as follows:

> The proposed project is the funding of required studies and implementation of potential rights-of-way restoration to public use at trailhead access within the public road rights-of-way adjacent to the Hot Springs Trailhead along East Mountain Drive. This funding would be utilized to provide studies and for the implementation of parking improvements near the area of the Hot Springs Trailhead. East Mountain Drive has public right of way that is currently unusable for parking due to encroachments such as walls, curbing, boulders, landscaping, mailboxes and other features. Studies are required in determining how to provide more parking in the right of way and confirm right of way limits. This would also document the obstacles to creating parking and provide examples to improve parking in the area. Studying the situation would allow the Department to provide solutions and options to work with the adjacent owners on a project that would create parking while minimizing the impacts to their right-of-way encroachments long [sic] the property frontages. Depending on the scope and complexity of work required there may be additional funding needed for implementation of concepts consistent with the rural character of the Montecito area.
>
> This exemption considers all future administrative activities for the project such as Award of Contract and Statement of Final Quantities.

(Cole Exh. 2.) The County applied the CEQA "Existing Facilities" Categorical Exemption for the project described in the notice, which applies to the "operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving *negligible or no expansion of existing or former use* . . . ." (*Ibid.*; Cal. Code Regs., tit. 14, § 15301, subd. (c), emphasis added.)

That Notice of Exemption is facially invalid and inapplicable to the current Project to construct 62 additional parking spaces. The CEQA statute of limitations to challenge an agency's approval of a project runs from the date the agency "approves" the project. "'Approval' means the decision by a public agency *which commits the agency to a definite course of action* in regard to a

project intended to be carried out by any person." (Cal. Code Regs., tit. 14, § 15352, subd. (a), emphasis added; see also *County of Amador v. El Dorado County Water Agency* (1999) 76 Cal.App.4th 931, 965 ["The agency commits to a definite course of action [and therefore 'approves' a project within the meaning of the Guidelines] not simply by being a proponent or advocate of the project, but by agreeing to be legally bound to take that course of action"].) The requirement that "approval" occurs when the agency commits to a definite course of action is fundamental to CEQA. Otherwise,

> citizen groups would be required to file lawsuits before they know the stable, finite, final project description, for fear that if they did not, they would be barred by the statute of limitations. Such an application of the "discovery rule" would not only instill public distrust in government agencies, but would also thwart attempts to resolve disputes concerning the design of a project. The purpose of CEQA is to inform the public of plans, so that the public can help guide decision makers about environmental choices. It is not the purpose of CEQA to foment prophylactic litigation.

(*Endangered Habitats League, Inc. v. State Water Resources Control Bd.* (1997) 63 Cal.App.4th 227, 242.) Thus, if an agency approves a project, then makes substantial changes to the project without conducting further CEQA review, an action challenging the agency's noncompliance with CEQA may be filed within 180 days of the time the petitioner knew or reasonably should have known that the project under way differs substantially from the one that was described in the original approval. (*Concerned Citizens of Costa Mesa, Inc. v. 32nd Dist. Agricultural Assn.* (1986) 42 Cal.3d 929, 939.)

Here, the Notice of Exemption the County adopted says nothing about quadrupling the parking available at Hot Springs Trail, just to study the issue and explore ways to minimize impacts to homeowners. Indeed, the adopted a categorical exemption that only applied where there is "negligible or no expansion of existing or former use." (Cal. Code Regs., tit. 14, § 15301.) It was only on October 28, 2022 that the County first told Petitioners (through their counsel) that it intended to install up to 62 parking spaces on both sides of East Mountain Drive, as staked briefly for 4/10ths of a mile from Hot Springs Road to Ashley Road. (Cole Decl. ¶ 7.) Even then, the scope and nature of the County's proposed work was unclear and had not been formally approved. It was not until February 7, 2022, that the County issued demand letters to residents of East Mountain

Drive, announcing that the improvements in the right of way must be removed by April 8, 2022, otherwise the County will take that action itself and assess fines. (Cole Exhs. 3-5.) While Petitioners have continued to discuss the issue with the County, the County's demand letters made clear that it was set on barreling ahead with its Project, but in an incremental fashion to avoid CEQA and unwanted public attention. Thus, February 7, 2022 was the date on which the County committed itself to a definite course of action with regard to the Project and was legally binding itself to that course of action. (Cal. Code Regs., tit. 14, § 15352, subd. (a).) The Petition was timely filed within 180 days of that decision. (Pub. Resources Code, § 21167, subd. (a).)

Moreover, the September 14, 2021 Notice of Exemption did not commit the County to a definite course of action with regards to actually adding new parking spaces. It did not "commit the [County] to a definite course of action" beyond *studying* potential parking improvements, nor does it show the County is legally bound to take any particular action with regard to such improvements. The project description does not describe any proposed actions that impact the physical environment with any specificity, such that a member of the public might understand the nature, scope, and potential impacts of the Project. Thus, the Notice of Exemption did not constitute "approval" of the Project to construct the 62 new parking spaces, and it was not effective to start running the statute of limitations. (*County of Amador*, *supra*, 76 Cal.App.4th at p. 965.) And while the Notice vaguely references "implementation of parking improvements," that description is insufficiently detailed to put the public on notice as to the actual nature, scope, and potential impacts of adding the 62 new parking spaces and removal of existing improvements in the right of way. As part of the first step of the CEQA process, an agency must:

> provide an accurate and complete description of the 'project.' Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal (i.e., the 'no project' alternative) and weigh other alternatives in the balance. An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR.

(*McCann v. City of San Diego* (2021) 70 Cal.App.5th 51, 85, *review denied* (Jan. 5, 2022), internal cites and quotes omitted.) Thus, the date for determining the statute of limitations is when the County sent the letters on February 7, 2022.

Based on the allegations and evidence submitted, Petitioners are highly likely to establish that the County violated the law by approving the Project without any compliance with CEQA, for which the remedy is a writ of mandate compelling the County to perform its legal duty. An injunction should therefore issue prohibiting any further action on the Project.

D. No Undertaking Should Be Required

An undertaking is not required before obtaining a TRO. (See *Chico Feminist Womens' Health Center v. Scully* (1989) 208 Cal.App.3d 230, 237, fn. 1 [an undertaking is "not essential" for a TRO].) The purpose of an undertaking is to pay the party enjoined any damages that may be sustained by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction. (Code Civ. Proc, § 529, subd. (a); Cal. Rules of Court, Rule 3.1150(f).) Several federal courts have held that only a nominal bond should be imposed in environmental litigation, even where the enjoined respondent may suffer substantial economic loss as a result of the injunction. (See *People ex rel Van de Kamp v. Tahoe Regional Planning Agency* (9th Cir. 1985) 766 F.2d 1319, 1325, opinion amended on other grounds by *People ex rel Van De Kamp v. Tahoe Regional Planning Agency* (9th Cir. 1985) 775 F.2d 998; *Friends of the Earth v. Brinegar* (9th Cir. 1975) 518 F.2d 322, 323.)

Here, if the Court subsequently determines that the TRO should not have issued, the County will be able to proceed with its Project, just the same as it proposes to do now. The delay will not cost the County anything monetarily, nor would it require the County to change the Project in any way. Accordingly, the purpose of an undertaking is not present in this case, and no undertaking should be required.

IV. CONCLUSION

For the foregoing reasons, Petitioners respectfully request that the Court issue a temporary restraining order and an order requiring Respondents to show cause why a preliminary injunction should not issue pending trial in this action.

Dated: April 6, 2022

CAPPELLO & NOËL LLP

By: */s/ David L. Cousineau*
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DECLARATION OF JOSEPH COLE

I, Joseph Cole, declare as follows:

I am one of the attorneys for Petitioners in the above-captioned matter. I know the following facts from my own personal knowledge, and if called as a witness, I could and would competently testify thereto.

1. I have been a resident of Montecito for 46 years—36 years as a full-time homeowner, and 10 years before that as a part-time renter. My experience in Montecito includes serving as a founder of The Project for Resilient Communities ("TPRC"), the private-public partnership that in 2018 and 2019—after the January 2018 Debris Flow killed 23 Montecito residents—raised approximately $6 million in private funds; obtained the federal, state, and county environmental permits required to install the follow-on protective debris-flow nets in Hot Springs Canyon and other Montecito canyons; and installed six nets spanning three canyons that protect Montecito today. My experience also includes service as a Commissioner of the Montecito Planning Commission (including Chair during the January 2018 Debris Flow aftermath), the Montecito Educational Foundation (Co-President), and the Montecito YMCA (youth basketball coach for a decade). My Santa Barbara community experience includes the Scholarship Foundation of Santa Barbara (President), Alice Tweed Tuohy Foundation (Vice President of $32 million South Coast grantmaking foundation), Santa Barbara Zoo (Vice President), the Santa Barbara Independent (Publisher), the Santa Barbara News-Press (Publisher), and six public and private corporate boards (Director).

2. Hot Springs Canyon is a serene, stunningly gorgeous area tucked into the foothills of the Santa Ynez Mountains above the village of Montecito. I know the Hot Springs Canyon public trail well, having first hiked it in 1975 when I was a firefighter for the U.S. Forest Service. In the 46 years that I've lived in Montecito, I have hiked Hot Springs Canyon often, from the trailhead that begins on East Mountain Drive, traverses up the canyon through the riparian habitat along Hot Springs Creek, oak woodlands, and chaparral, to the natural hot springs approximately 1.5 miles up the trail. I have witnessed the unrelenting fire danger in Montecito and Santa Barbara's front country, and I also have studied Hot Springs Canyon's environmentally protected wildlife and plant

species. In January 2019, for example, our TPRC team prepared for county, state, and federal environmental agencies the exhaustive 52-page "Biological Resources Assessment for the Montecito Debris Flow Mitigation." This Assessment provided the environmental facts for the debris flow nets permits in the five Montecito canyons with blue line creeks. A true and correct copy of the 2019 Biological Resources Assessment is attached hereto as Exhibit 1.

3. The Assessment confirms that the Montecito front country is home to special-status wildlife species, including Southern California steelhead, California red-legged frog, coast range newt, southwestern pond turtle, two-striped gartersnake, and Cooper's hawk. The Assessment also describes the four special-status plant species (Plummer's baccharis, ocellated Humbolt lily, umbrella larkspur, and Ojai fritillary), and other biologically valuable plant species (coast live oak woodland, arroyo willow thickets, western sycamore woodland, California bay forest, Santa Barbara honeysuckle, black-flowered figwort, and late-flowered mariposa lily) that are found in the area.

4. The extreme wildfire danger in the Montecito region is well-known to long-time residents and local fire officials. Wildfires ignited by people in the Montecito and Santa Barbara front country—resulting in the risk of death and injury to firefighters, residents, visitors, and wildlife—is a topic of regular conversations, and angst, in our community and with firefighters. After more than four decades living and working in Montecito, I know that: (1) the 1964 Coyote Fire, consuming 65,339 acres and destroying 106 structures, was started by a car's faulty exhaust system (and followed four years later by a destructive debris laden flood); (2) the 1971 Romero Fire, burning 14,538 acres and killing four firefighters, was ignited by a man throwing an improvised fire bomb onto the steep dry slopes off Bella Vista Drive; (3) the 1977 Sycamore Fire, with 90 mph sundowner gusts, burning 234 structures in seven hours, was started when a man tangled a metal kite in power lines near Coyote Road and East Mountain Drive, causing an electric arc to shower the underlying brush with sparks; (4) the 1990 Painted Cave Fire, with sundowner winds gusting to 75 mph, racing downslope from San Marcos Pass to Hope Ranch in several hours, jumping the fire engine line on the 101 Freeway in minutes, and burning 4,900 acres, destroying 440 homes, and killing one resident, was started by an arsonist with an incendiary device; (5) the 2008 Tea Fire ignited in Montecito, in the adjacent canyon west of Hot Springs Canyon, with sundowner winds

with gusts up to 85 mph, burning 1,940 acres and destroying 210 homes within several hours, with hundreds unable to evacuate and sheltering in Westmont College's gym while the wildfire burned to within 10 feet, was started by 10 City College students jumping a locked gate to party and start a bonfire; (6) the 2009 Jesusita Fire, with strong sundowner winds pushing the wildfire into Mission and Rattlesnake Canyons above Santa Barbara, burning 80 homes and destroying 8,733 acres, was started by contractors who had left hot equipment unattended in dry grass; (7) the 2017 Thomas Fire, from which my family evacuated, burning from Santa Paula to Montecito, consuming 281,000 acres and burning 1,063 structures, costing $2.2 billion, with two people losing their lives—one firefighter and a woman who died in a car accident while evacuating the fire, was started by power lines coming into contact during high winds; and (8) the January 2018 Debris Flow, resulting from the Thomas Fire, killing 23 Montecito residents and destroying or damaging 600 homes. (See, e.g., https://sbbucketbrigade.org/santa-barbara-disaster-timeline/.) The trauma of the Coyote Fire, the Romero Fire, the Sycamore Fire, the Painted Cave Fire, the Tea Fire, the Jesusita Fire, the Thomas Fire, and the January 2018 Debris Flow—coupled with the recent loss of fire insurance by Petitioners and many other Montecito residents— causes residents to fear the next sundowner-driven wildfire disaster. Especially fearful are residents, like Petitioners, who live in the Riven Rock, upper Hot Springs Road, and East Mountain Drive neighborhoods that are vulnerable to increased wildfire risk from the County's up to 62-space parking project on East Mountain Drive. Their fear includes the increased risk for firefighters resulting from the hundreds of new daily visitors contemplated by the County from its 62-space project, and for residents. Death and destruction may arise quickly from uncontrolled variables such wind speed, direction, humidity, fuel moisture content, topography, time of day or night, and fuel loads. Montecito residents therefore eagerly await the release in May 2022 of the Montecito Fire Protection District's $86,170 Community Emergency Evacuation Analysis. The public is informed by Montecito Fire that its Emergency Evacuation Analysis will include community education explaining the methods used to model simulations of likely emergency scenarios, an interpretation of the results, and identification of the vulnerabilities of emergency evacuations in Montecito, together with recommendations. Montecito Fire's emergency survival recommendations may include traffic flow improvements, traffic control points, possible

infrastructure improvements, use of emergency signage, and identifying temporary refuge areas/safety zones. The May 2022 Emergency Evacuation Analysis may help residents and the surge of hundreds of new daily visitors facing the increased fire danger from the County's up to 62-space project receive information about whether the project will significantly interfere with Montecito Fire's current evacuation plan; whether residents and the surging additional trail users will have viable evacuation routes other than the primary Hot Springs Road shown on Montecito Fire's emergency Evacuation Plan Map; what other emergency vehicle ingress routes first responders would have given the permanent spike in visitor traffic trips; what shelter-in-place resources on the exposed trail watershed without structures will be available to the hundreds of additional visitors; and what will be the increase in trail rescue and other emergency response times for such visitors. The well-documented front county wildfire ignition risks are exacerbated by Montecito's narrow, winding roads. This is particularly true of evacuation from the Hot Springs trailhead, with four traffic control choke points shown on Montecito Fire's present Evacuation Plan Map. Sheriff Bill Brown of the County, who remains in charge of Montecito evacuations, described Montecito's roads as *". . . a winding spaghetti of neighborhood streets*," when 19 of the 23 Montecito residents killed in the 1/9 Debris Flow in 2018 lived in an evacuation *warning* area, not in a *mandatory* evacuation zone. (https://www.independent.com/2018/01/22/majority-montecito-mudslide-victims-were-not-under-mandatory-evacuation-orders/.)

5. Currently, there are approximately 8 parking spaces at the trailhead for Hot Springs Trail. In the past, about 10 additional cars would park illegally along Riven Rock Road, blocking emergency access for fire vehicles and other first responders. After the road was white-striped by the Montecito Fire Protection District because the illegal parking also blocked one of the few resident evacuation routes, visitors began parking on the bank of Hot Springs Creed on Riven Rock Road, just feet from the creek's designated Environmentally Sensitive Habitat, despite the County's 50-foot riparian setback requirement. I have seen up to 10 cars parked on the creek bank at any given time.

6. On September 14, 2021, the County adopted a CEQA Notice of Exemption for a project to study possible parking improvements near the Hot Springs Canyon trailhead. A true and

correct copy of that Notice is attached hereto as Exhibit 2. The Notice was adopted by the County Board of Supervisors as a consent item, with no opportunity for public comment to the Board.

7. On October 28, 2021, County Public Works Director Scott McGolpin informed me that the County proposed to bulldoze mature landscaping and improvements to construct up to 62 new parking spaces adjacent to the Hot Springs trailhead. I had contacted First District Supervisor Das Williams after the County had—without notice—installed tall lath stakes outside of all the homes along the edge of the public right-of-way, on both sides of East Mountain Drive, in a line stretching for 4/10ths of a mile, from Hot Springs Road to Ashley Road. Because of the stakes, I sought (on behalf of Petitioners) to engage with the County to understand what the County was contemplating. In meetings with Supervisor Williams, First District Chief of Staff Darcel Elliot, Mr. McGolpin, and County Public Works Deputy Director Chris Sneddon, the County informed me that (1) the County would construct additional parking by using heavy equipment to demolish long-standing improvements in the public right-of-way on both sides of the 4/10ths of a mile stretch of East Mountain Drive, (2) the County would construct up to 62 parking spaces near the Hot Springs trailhead in this manner, and (3) the County would proceed with this project in an incremental fashion by clearing the right-of-way in front of about three homes at a time, with six homes on East Mountain Drive targeted initially. The County has repeated the 62-space maximum parking figure to me numerous times, as recently as my February 23, 2022 meeting with Supervisor Williams, Ms. Elliot, and Mr. McGolpin.

8. The right-of-way improvements that the County proposes to destroy, without public notice or environmental impact study, include vegetation, mature oak and sycamore trees, decorative sandstone curbs and boulders, and even asphalt curbs installed by the County to protect such right-of-way improvements. In many cases, these improvements have been in place for decades—one with an encroachment permit that the County says it will now revoke, and one adjacent to a historic structure dating from the late 1880's that may be damaged by the County's bulldozers. These improvements are a crucial contributing factor to the bucolic, rural character of the area, and East Mountain Drive in particular, as reflected in the Montecito Community Plan.

9. During my meetings with these County officials, I expressed Petitioners' concern that

the County's actions, still without public notice or explanation, would increase the risk of death, injury, and destruction to Montecito residents, their employees and contractors, to rare wildlife and protected natural habitat, and to the hundreds of the projected new daily visitors, by: (a) increasing ignition risks from fires potentially caused by the surge of new visitors to the hot springs enabled by the County's up to 62 new parking spaces; (b) increasing the risk to the surging number of hot springs visitors themselves, and to existing residents, their employees, and contractors, of being killed or injured during an evacuation of a sundowner wildfire like the Camp Fire in Paradise, California, particularly without the community's benefit of the scientifically-based recommendations available from Montecito Fire's Community Emergency Evacuation Analysis scheduled for May, 2022; (c) realizing the worst fears of residents who recently lost their fire insurance, including Petitioners, in the vicinity of the trailhead; (d) ignoring the unstudied impacts to the area's rich biological resources; and (e) rejecting fairness and good government due process by failing to provide public notice or a public process. The Petitioners, on behalf of the community, thus sought to work cooperatively with the County in a new public-private partnership—involving a broad range of stakeholders—to balance and mitigate these issues, including to find prompt replacements for the 10 illegal parking spaces along Riven Rock Road. The County agreed to hold off on any work on the Project until after Montecito Fire's new Community Emergency Evacuation Analysis was released and analyzed for 60 days, *in exchange* for the Petitioners agreeing to: (1) organize and fund a comprehensive public-private partnership to resolve the competing parking, recreation, trail access, fire ignition, fire evacuation, and environmental destruction demands surrounding Hot Springs Trail; and (2) promptly fund, procure land, design, and construct three and possibly four additional spaces in the existing space trailhead parking area, with six additional spaces to be provided later after the Montecito Fire Protection District released its emergency evacuation analysis. In reliance on such standstill and cooperation agreement, the Petitioners and I immediately began the public-private partnership process for determining long-range integrated solutions at the trailhead. I engaged on behalf of Petitioners with County officials and community stakeholders, including conversations with regional environmental leaders, neighborhood groups, the Montecito Fire Protection District, the Montecito Trails Foundation, the Head of County Parks, the First District Supervisor, his Chief

of Staff, and the County Public Works Director and his Deputy. Within 45 days after the agreement was reached, Petitioners also located, secured, funded, designed with a professional architect and civil engineer, and presented to the County the proposed improvements to add three and possibly four additional parking spaces to the existing trailhead parking area.

10. The County breached this agreement on February 7, 2022, when it sent certified demand letters to three residents on East Mountain Drive. True and correct copies of those demand letters are attached hereto as Exhibits 3, 4, and 5. As the reason for breaching the cooperative standstill agreement, Supervisor Williams told me at a February 23, 2022 meeting, also attended by Ms. Elliot and Mr. McGolpin, that the three homeowners targeted with the County's scrape letters had, in bad faith, once they discovered the existence of the standstill agreement and community process, moved new "rocks" as parking barriers onto their Mountain Drive rights-of-way. Supervisor Williams also referred to their homes as "low hanging fruit." Such allegations by Supervisor Williams about these three residents are not true: None of the three homeowners receiving such letters moved any such "rocks" onto the right-of-way. One homeowner, as I demonstrated with photographs to Williams, McGolpin, and County Counsel Van Mullen on March 29, 2022, has decades-old dense mature landscaping covering a high-pressure gas line, and, visibly, could not have moved any such "rocks" onto the right-of-way, and denies doing so. The second homeowner (a) recently purchased his family's still vacant home; (b) has not touched any landscaping; (c) lives in Los Angeles; (d) was unaware of the County's up-to-62-space project until I contacted him; (e) denies moving any such rocks; and (f) is graciously donating badly needed matching funds for a National Fish & Wildlife Foundation grant to restore the section of Hot Springs Creek across from the illegal parking on the embankment. The third homeowner (a) only purchased his home seven days before the County's February 7, 2022 certified letter, (b) never received the County's letter and didn't know about the County's April 8 bulldozing deadline until I contacted him last week, (c) also lives in Los Angeles, (d) never knew about the now-breached public-private standstill agreement and cooperative partnership, and (e) denies any such bad faith conduct. None of these three Montecito homeowners are "bad actors," as Supervisor Williams used that term. In addition to the three homes receiving the County's scrape letters, the County has repeatedly told me

that it will bulldoze the mature landscaping and improvements in front of four additional targeted properties to create more parking in the future, in an incremental fashion, without further hearings, environmental review, or formal approval. On March 31, 2022, I learned that the County had given one of the noticed property owners a 45-day day extension before the County would bulldoze the right of way.

11. The County has since tried to back away from the 62-space figure, proposing other still-high numbers like 30 to 40 additional spaces. But the County has not stated that it has given up its intention or right to install all 62 spaces.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 6th day of April 6, 2022, at Montecito, California.

By: 
Joseph Cole

Exhibit 1

STORRER ENVIRONMENTAL SERVICES

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BIOLOGICAL RESOURCES ASSESSMENT
FOR THE
MONTECITO DEBRIS FLOW MITIGATION PROJECT
SANTA BARBARA COUNTY, CALIFORNIA



Prepared for:
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Prepared By:
Storrer Environmental Services, LLC
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October 2018

[Revised January 2019]

EXECUTIVE SUMMARY

The following Biological Resources Assessment (Assessment) presents the results of the biological surveys and background investigation conducted by Storrer Environmental Services, LLC (SES), on behalf of The Partnership for Resilient Communities (TPRC). The Assessment is intended to support applications for regulatory agency permits to install thirteen (13) debris flow nets in four creek corridors in Montecito (Cold Spring Creek, , San Ysidro Creek, Buena Vista Creek, and Romero Creek) (Subject Creeks), Santa Barbara County, California.

The Project involves installation of flexible debris flow nets. The basic debris flow protection system consists of a steel ring net engineered to resist the velocities and dynamic and static pressures unique to debris flows. Support ropes are installed into channel banks and transfer debris impact and pressure loads from ring nets to the ground. Excessive energy is absorbed by net braking elements in the wire support ropes. The ring nets are installed a minimum of three feet above the low-flow channel and allow the passage of water, aquatic wildlife, and fine sediment.

The objectives of this Assessment were to: 1) provide a general characterization of existing conditions in each creek corridor and at each proposed net location; 2) inventory plant and wildlife species; 3) evaluate the potential for federally- or state-listed plants and animals or species afforded other special regulatory protection at net locations; 4) map special-status plant and wildlife populations; 5) delineate jurisdictional areas; and, 6) quantify and describe potential impacts to biological resources that may occur as a result of the installation and maintenance of the debris flow nets, and 7) make recommendations to reduce impacts to existing vegetation and sensitive communities.

A delineation of Waters of the U.S., botanical surveys, and wildlife surveys were conducted in September by SES botanist, Jessica Peak and wildlife biologists, John Storrer and Justine Cooper. Special-status species that are known to occur or have the potential to occur in the Project vicinity were targeted during the subsequent biological field surveys (e.g., Santa Barbara honeysuckle, Plummer's baccharis, black-flowered figwort, late-flowered mariposa lily, Humboldt lily, Cooper's hawk, California red-legged frog, coast range newt.).

All of the creeks surveyed as part of the Project are perennial, ultimately discharging into the Pacific Ocean, and therefore, are considered jurisdictional Waters of the U.S. under current federal guidance.

Coast live oak woodland, arroyo willow thickets, and other riparian habitats (e.g., western sycamore woodland, California bay forest) present in the Subject Creek corridors and at proposed net locations are considered valuable biological resources and are classified as Environmentally Sensitive Habitat (ESH). Two special-status plant species, Plummer's baccharis and ocellated Humboldt lily, were observed at Project locations during the field surveys. Suitable habitat for two additional special-status plant species, umbrella larkspur and Ojai fritillary, is present in the creek channels and at proposed net locations.

The field surveys enabled a characterization of habitat quality and assessment of potential for occurrence of special-status wildlife species (e.g., southern California steelhead, California red-legged frog [CRLF], coast range newt, southwestern pond turtle, two-striped gartersnake,

Cooper's hawk). No special-status wildlife species were observed during the September and December 2018 field surveys. However, nineteen special-status wildlife species have the potential to occur in the Subject Creeks (Table 3).

Net installation and maintenance, including removal of accumulated debris, are considered temporary impacts. The debris nets are intended to be in place for a period of up to 5 years, and then removed. Direct impacts to plant and wildlife habitat would occur through staging and operation of equipment for net installation, accumulation of debris behind the nets, and redistribution of accumulated material downstream if/when an event occurs.

The proposed Project will result in temporary impacts to the native vegetation that has reestablished in the channels and along the banks at the proposed net locations. The vegetation communities present at the net locations are all associated with the riparian corridor of the Subject Creeks and are therefore, considered sensitive per local, state, and federal policies and guidelines. No trees will be removed as part of the Project. Two sycamore saplings (BV-4) and one arroyo willow sapling (BV-5) may need to be trimmed during net installation.

Impacts to individual Plummer's baccharis plants have the potential to occur at two sites (BV-6 and RC-12) during net installation and maintenance. The recommended avoidance and minimization measures have been developed to reduce impacts to special-status plant species, include pre-construction surveys to flag individuals for avoidance, worker environmental awareness training, and biological monitoring.

Two federally- listed species, Southern California steelhead and California red-legged frog, are known to occur in the Subject Creeks. However, all proposed debris net locations are upstream from barriers that are impassible for Southern California steelhead. Potential for incidental injury or mortality of special status wildlife species can be reduced through method of construction and implementation of minimization and avoidance measures during construction (e.g., pre-construction nesting bird surveys, worker environmental awareness training, biological survey and monitoring).

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1.0 INTRODUCTION

This Biological Resources Assessment (Assessment) presents the results of the biological surveys and background investigation conducted by Storrer Environmental Services, LLC (SES), on behalf of The Partnership for Resilient Communities (TPRC). The Assessment is intended to support applications for regulatory agency permits to install thirteen (13) debris flow nets in four creek corridors in Montecito (Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek), Santa Barbara County, California (Project) (Figure 1- Site Vicinity).

Following the Thomas Fire in December 2017, a debris flow impacted the community of Montecito on January 9, 2018. The debris flows resulted in 23 fatalities, damage to more than 400 homes, and extensive economic loss. The goal of the Project is to help protect against rockfall and landslides with the installation of temporary debris flow nets until canyon slopes are sufficiently revegetated thereby reducing the debris flow hazard to the community of Montecito.

The objectives of this Assessment were to: 1) provide a general characterization of existing conditions in each creek corridor and at each proposed net location; 2) inventory plant and wildlife species; 3) evaluate the potential for federally- or state-listed plants and animals or species afforded other special regulatory protection at net locations; 4) map special-status plant and wildlife populations; 5) delineate jurisdictional areas; and, 6) quantify and describe potential impacts to biological resources that may occur as a result of the installation and maintenance of the debris flow nets, and 7) make recommendations to reduce impacts to existing vegetation and sensitive communities.

1.1 PROJECT LOCATION AND DESCRIPTION

The Project is located in four creek corridors north of the community of Montecito in Santa Barbara County, California: Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek (Subject Creeks) (Figures 2a-2d – Project Area Maps).

The Project involves installation of 13 Geobrugg flexible debris flow nets. The basic debris flow protection system consists of a steel ring net engineered to resist the velocities and dynamic and static pressures unique to debris flows. Support ropes are installed into channel banks and transfer debris impact and pressure loads from ring nets to the ground. Excessive energy is absorbed by net braking elements in the wire support ropes. The ring nets are installed 3 to 5 feet above the stream channel and allow the passage of water, aquatic wildlife, and fine sediment (KANE 2018a).

There are two basic versions of the Geobrugg debris net that are being proposed in the Subject Creeks. The VX net, which is intended for relatively narrow channels (up to 40 feet wide), and the Super VX, which is intended for wide channels where foundations cannot be installed. The Super VX (SVX) net is essentially a VX net with additional and stronger top net support ropes (KANE 2018a). Table 1 below provides a description net type, site dimensions, and location of each proposed net. Typical net cross-sectional views are depicted on Figures 3a – 3c.

Table 1 – Net Descriptions and Locations

Net Location	Net Type*	Net Height* (feet)	Bottom Net Width* (feet)	Top Net Width* (feet)	Total Retention Volume (square meters)	Latitude	Longitude
Cold Spring Creek							
CS-11	VX160-H6	18	60	35	2,942	34.460212	-119.653969
CS-18	SVX180-H6	12	81	47	4,421	34.460253	-119.655049
San Ysidro Creek							
SY-7a	SVX180-H6	20	22	60	7,442	34.468114	-119.622978
SY-18	SVX180-H6	16	67	13	4,728	34.459500	-119.623273
Buena Vista Creek							
BV-2	VX140-H4	10	14	41	1,001	34.450823	-119.611076
BV-4	SVX180-H6	17	45	77	5,509	34.454768	-119.611699
BV-5	VX140-H4	12	27	37	1,432	34.455275	-119.610365
BV-6	VX160-H6	15	22.5	44	1,793	34.458348	-119.608772
BV-7	VX160-H6	20	20	50	5,296	34.456103	-119.609459
BV-10	VX160-H6	15	14	56	3,426	34.452384	-119.61148
BV-11	SVX180-H6	20	98	150	11,025	34.455539	-119.611211
Romero Creek							
RC-12	SVX180-H6	12	61	40	2,055	34.465176	-119.590903
RC-15	VX160-H6	10	50	18	960	34.458710	-119.591526

*Net types, site dimensions, and retention volumes provided by the *Design Calculation Report* (KANE 2018b).

The nets are pre-fabricated to specification by the manufacturer for each location. Net installation will be done by Access Limited Construction (ALC), with oversight from KANE Geotech, Inc. (KANE) Engineers. A biologist will be onsite to conduct wildlife surveys, monitor for permit compliance, and provide oversight of construction and maintenance work.

ALC has prepared a Work Plan (ALC 2018) that details the method of installation at each of the 13 net locations. The Work Plan describes access, staging, equipment, and materials to be employed at each net location. The method entails general procedures that are adapted to the specific characteristics unique to each site.

Access to most of the net locations is limited by lack of existing roads and topographic constraints. In general, equipment and materials will be deployed by helicopter. Some staging of equipment and materials may be done at trail heads, outside the stream channel, if available. Equipment and materials will be transported from the staging areas to the work sites by hand if necessary.

Equipment will not be operated in the active stream channel except when a debris flow event should occur and it becomes necessary to restore low-flow conditions, as described in Section

1.1.3 (Net Maintenance). The type of equipment to be used is described in the Work Plan and is illustrated in Attachment A of that document. All equipment will be power-washed prior to mobilization.

Material Data Sheets are provided in Attachment B of the Work Plan. Drilling equipment uses biodegradable fluids and lubricants. No fuel will be stored at the work areas and secondary containment will be used during all fueling operations. Secondary containment will also be set up at grout mixing stations and around anchor locations to prevent spillage.

An Emergency Action Plan (EAP) is appended to the Work Plan (Attachment C). The EAP describes how and under what circumstances work will be curtailed in the event of inclement weather. The EAP explains how weather data will be monitored and analyzed and what thresholds will be used to trigger evacuation protocol.

1.1.1 Net Installation

Anchor installation into the channel banks will be accomplished using a mobile drill with an air rotary percussion drill to advance borings. Anchors will be grouted in place using a non-shrink cement grout mixed with water. Grouting of the annular space around the anchors will be accomplished by pressure grouting through a heavy-duty plastic grout tube with a portable grout pump (KANE 2018c). Storage and mixing of grout will be done within secondary containment, to prevent spillage and any contact with the active stream channel. The grout mixing station will be placed as far as possible from the active stream channel at each net location. Where space is limited, a minimum distance of 15 feet from the active stream channel will be maintained at all locations. Drilling and grouting equipment will be mobilized to the work locations via aerial transport.

Once anchors are installed, wire support ropes are attached to the channel banks and the custom-fabricated ring nets will be hung on the wire ropes, much like a shower curtain, and secured. The net design calls for a minimum elevation of 3 feet above the water surface of the low-flow channel to allow for natural stream processes and wildlife use. This space between the water surface and the bottom of the net will be maintained except during high-flow or debris flow events.

1.1.2 Net Monitoring

Condition of the debris nets will be monitored following storm events. KANE and/or ALC personnel will inspect nets within 72 hours of a rain event to determine whether maintenance is required. Monitoring of the nets will be conducted on-foot via existing trails in the canyons. In the event the net sites cannot be accessed on foot, a drone or helicopter may be used to inspect the nets within the 72-hour time frame.

1.1.3 Net Maintenance and Management of Accumulated Debris

Maintenance of the debris nets may be necessary if damaged and in need of repair. Annual and post-event inspections will be conducted. Minor maintenance can typically be done using tools and materials transported by hand. Major damage may require equipment and materials to be delivered in the same manner as installation (i.e., via helicopter).

The need for removal of accumulated debris will depend on frequency, intensity, and the amount of precipitation experienced in the surrounding watershed. Intense and localized rainfall events as occurred on January 9, 2018 have potential to mobilize soil and debris. The debris retention system will be monitored as described in the following section.

Nets will be inspected within 72 hours of a rain event. Should the nets accumulate sufficient material to block the channel, equipment will be mobilized to the location via aerial transport once streamflow has subsided sufficiently to allow safe access and working conditions. The first action will be to restore the low-flow channel to pre-event elevation. Material removed from above the net will be redistributed downstream in a manner that does not impede surface flow.

Redistribution of accumulated material would be done under the supervision of a biologist with the intent of minimizing impacts to resources while maximizing potential for habitat restoration. This would include assurance that flow conditions are maintained and creation of pools or eddies that mimic natural deposition of material.

1.2 ENVIRONMENTAL SETTING

The Project is located north of the community of Montecito, within the Montecito Planning Area. The Montecito Planning Area is situated between the Pacific Ocean and foothills of the Santa Ynez Mountain Range. The Montecito Planning Area is bounded to the north by East Camino Cielo Road in the Los Padres National Forest (LPNF), by the City of Santa Barbara to the west, the unincorporated community of Summerland to the east, and the Pacific Ocean to the south.

The Montecito region experiences a Mediterranean climate with mild, moist winters and warm, dry summers. A heavy marine layer or fog is often present in late spring and early summer mornings. Temperatures in the region are relatively mild, with an average maximum temperature of 75 degrees Fahrenheit (F) in August and September and an average minimum temperature of 40 degrees (F) in December and January (WRCC 2018). Average annual precipitation is 16.34 inches, with the majority of that falling between October and April.

The Project is located in four drainages depicted as "blue-line streams" (Subject Creeks) on the Santa Barbara and Carpinteria USGS 7.5-minute quadrangles. All four originate on the south slopes of the Santa Ynez Mountains and discharge into the Pacific Ocean. The Subject Creeks are perennial, sustaining surface flow for some of their length throughout the year during years of normal rainfall. Streamflow is augmented by seasonal rainfall.

The drainages are similar in terms of geology and elevational gradient. Upper reaches of the channels are strewn with rock and large boulders that form intermittent pools. Geomorphology of the Project locations is described in the KANE *General Report of Findings* (2018a).

Most of the upper reaches of the Subject Creeks fall within the LPNF boundary and two of the net locations (RC-12 and RC-15) are located on LPNF-owned land. The lower, more urban segments of the creeks are in private ownership.

All of these drainages were burned in the Thomas Fire in the winter of 2018. The condition of the vegetation reflects early succession. The drainages were further impacted by the debris flow that occurred on January 9, 2018. This event profoundly altered the landscape throughout its path.

Santa Barbara County Flood Control District debris dams are present in Cold Spring Creek, San Ysidro Creek, and Romero Creek. There is also an impassible concrete channel in Montecito Creek, south of the confluence of Cold Spring Creek. The concrete channel is just north of the Montecito Creek debris dam, near the private road crossing at the Casa Dorinda retirement community. These barriers are depicted in Figures 2a-2d.

2.0 REGULATORY FRAMEWORK

Biological resources including special-status plant and wildlife species, sensitive plant communities, wildlife corridors, nesting birds, and jurisdictional waters and wetlands, may be protected under various federal, state, and local laws, regulations, and land use policies. The following sections summarize the regulations and policies administered by resource agencies pertaining to biological resources that are known to occur or have the potential to occur in the Project vicinity.

2.1 FEDERAL REGULATIONS

2.1.1 Endangered Species Act (16 U.S.C. § 1531 et seq.)

The Endangered Species Act of 1973 (ESA) provides for the protection of plant and animal species listed by the federal government as "endangered" or "threatened," and "the ecosystems upon which they depend." The USFWS and National Marine Fisheries Service (NMFS) share responsibility for administration of the federal ESA. An "endangered" species is one that is "in danger of extinction" throughout all or a significant portion of its range. A "threatened" species is one that is "likely to become endangered" within the foreseeable future. The ESA prohibits "take" of threatened or endangered species except under certain circumstances and only with authorization from the USFWS. "Take" as defined by the ESA, "means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." This can also include the modification of a species' habitat. For plants, this statute governs removing, possessing, maliciously damaging, or destroying any listed plant on federal land and removing, cutting, digging up, damaging, or destroying any listed plant on non-federal land in knowing violation of state law (16 U.S.C. § 1538(c)).

When non-federal entities, such as states, counties, local governments, and private landowners, wish to conduct an otherwise lawful activity that might incidentally, but not intentionally, "take" a listed species, an incidental take permit must first be obtained via formal consultation with the USFWS using one of two methods. If a federal nexus is not available, an incidental take permit (ITP) must be obtained for the Project following formal consultation with the USFWS via Section 10 of the ESA (ESA § 10(a)(1)(B)).

If a federal nexus is available, then an incidental take permit may be obtained by the federal agency involved in the nexus (e.g., USACE) via Section 7 of the ESA (ESA § 7). Section 7 stipulates that any federal agency action that may affect a species listed as threatened or endangered requires a formal consultation with USFWS to ensure that the action is not likely to jeopardize the continued existence of the listed species or result in destruction or adverse modification of designated critical habitat (16 U.S.C. 1536(a)(2)). The Biological Opinion issued by the USFWS at the conclusion of the consultation may include authorization for incidental take of a listed species.

2.1.2 Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MTBA) of 1918 (16 USC 703-711) is also administered by the USFWS. The MTBA provides protection of nearly all species of birds, their nests, and their eggs, including all native bird species. Under the MTBA, it is it is unlawful to "take", kill, collect, possess, buy, sell, purchase, or barter any migratory bird listed in 50 CFR 10, including feathers or other parts, nests, eggs or products, except as allowed by implementing regulations (50 CFR 21). Certain game bird species are allowed to be hunted for specific periods determined by federal and state governments.

2.1.3 Clean Water Act – Section 404

The Clean Water Act (CWA) is comprehensive legislation established to protect the nation's water from pollution by setting water quality standards and by limiting the discharge of effluents in the waters of the United States. Section 404 of the CWA regulates the discharge of dredged and/or fill material into waters of the U.S., including wetlands. Section 404 of the CWA is jointly administered and enforced by the U.S. Army Corps of Engineers (USACE) and the U.S. Environmental Protection Agency (EPA). Activities in waters of the U.S. regulated under Section 404 include dredge or fill for development, water resources projects (i.e., dams and levees), infrastructure development (i.e., highways and airports), and mining projects. With the exception of certain farming and forestry activities that are exempt from Section 404 regulation, a Section 404 permit is required before any dredged or fill material may be discharged into waters of the U.S. The Section 404 program prohibits discharge of dredged or fill material if waters of the U.S. would be significantly degraded or a practical alternative exists that is less damaging to the aquatic environment.

2.1.3.1 Waters of the U.S.

The limit of USACE's jurisdiction in non-tidal waters extends to the ordinary high water mark (OHWM) and includes all adjacent wetlands.

Waters of the U.S. are defined as:

> *"All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; including all interstate waters including interstate wetlands, all other waters such as intrastate lakes, rivers, streams, mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce."*

U.S. Supreme Court decisions (i.e., Solid Waste Agency of Northern Cook County [SWANCC] v. USACE [531 U.S. 159, 2001] January 9, 2001 and Rapanos *et ux., et al.* v. United States, June 19, 2006) have led to the development of federal guidance that requires a careful examination and documentation of the physical location(s) and hydrologic connections among waters and wetlands. To determine federal jurisdiction, particular focus is given to (1) surface hydrologic connections between a wetland and "navigable waters in fact," (2) "adjacency" of a wetland to traditionally navigable waters, and thus (3) a "significant nexus" to interstate commerce. In addition, waters and wetlands features can be determined to be under federal jurisdiction by the

USACE if a "significant nexus" can be shown between the wetland feature in question and its contribution to the maintenance or restoration of the physical, chemical, or biological integrity of downstream waters that are traditionally navigable.

2.1.4 U.S. Department of Agriculture Environmental Compliance Fish and Wildlife Policy (Departmental Regulation 9500-4)

The Secretary of Agriculture's Policy on Fish and Wildlife directs the U.S. Forest Service (USFS) to "manage habitats for all native and desired nonnative plants, fish and wildlife species to maintain viable populations of each species; identify and recover threatened and endangered plant and animal species" and to avoid actions "which may cause species to become threatened or endangered."

2.1.5 U.S. Forest Service Manual

The Forest Service Manual (FSM) contains legal authorities, objectives, policies, responsibilities, instructions, and guidance for the planning and execution of programs and activities within and related to national forests. FSM Chapter 2670 directs the USFS to "develop/implement management practices to ensure that species do not become threatened or endangered because of Forest Service actions," and to "avoid or minimize impacts to species whose viability has been identified as a concern." If impacts cannot be avoided, the UFSF "can allow or disallow the impact, but the decision must not result in loss of species viability or create a significant trend towards federal listing." FSM Chapter 2672.4 specifies that a Biological Evaluation (BE) be prepared to determine if a project may affect any USFS or USFWS listed species. In addition to protections to federally listed species, FSM Chapter 2672.11 delegates to each Regional Forester the authority to designate "Sensitive" species, which are defined as:

> *"Those plant and animal species identified by a Regional Forester for which population viability is a concern, as evidenced by: a.) significant current or predicted downward trends in population numbers or density, or b.) significant current or predicted downward trends in habitat capability that would reduce a species' existing distribution."*

2.1.6 Land Management Plan: Southern California National Forests

The Land and Resource Management Plans (Plans) established by USFS for the southern California national forests describe the strategic direction at the broad program level for managing the land and its resources over the next 10 to 15 years. As stated in the LPNF Strategy, the objective of USFS threatened, endangered, proposed, candidate, and sensitive species management is to "manage habitat to move listed species toward recovery and de-listing" and to "prevent listing of proposed and sensitive species." For management of species of concern, the primary objective is to "maintain and improve habitat for fish, wildlife, and plants, including those with the following designations: game species, harvest species, management indicator species and watch list species."

2.1.7 National Environmental Policy Act (NEPA)

The National Environmental Policy Act (NEPA) was signed into law on January 1, 1970 to establish policy, set goals, and provide means for carrying out policies to protect the environment

on Federal lands. The Council on Environmental Quality (CEQ) oversees NEPA implementation and reviews and approves Federal agency NEPA procedures. NEPA applies to all Federal actions including not only broad actions, such as establishing or updating management plans, programs, or policies, but also to specific projects (*id*. at § 1508.18(b)). With regard to private actions, NEPA applies to any Federal decisions on approvals, permits, or funding required for the private action. For example, private projects may involve Federal loan guarantees, Clean Water Act section 404 permits, and Endangered Species Act Incidental Take Permits.

The CEQ *Regulations for Implementing the Procedural Provisions of the National Environmental Policy* (40 CFR Parts 1500-1508) encourage integration of the NEPA process with other planning and environmental reviews, such as the California Environmental Quality Act (CEQA) described below. NEPA and CEQA are similar, both in their intent and review process (i.e., the analyses, public engagement, and document preparation). Importantly, both statutes encourage a joint Federal and State review where a project requires both Federal and State approvals.

NEPA requires that an Environmental Impact Statement (EIS) be prepared when the proposed Federal action as a whole has the potential to "significantly [affect] the quality of the human environment…." (42 U.S.C. § 4332) (CEQ 2014). The NEPA determination of significance is based on context and intensity (40 C.F.R. § 1508.27). Under NEPA, an Environmental Assessment (EA) can be prepared to determine whether a finding of no significant impact can be made (*id*. at § 1508.9). An EIS is needed when the proposal has the potential for a significant impact as shown by an EA or when an agency's initial determination indicates an EIS is appropriate (*id*. at § 1501.4).

The portions of the Project located in Romero Canyon are located on LPNF land and are subject to NEPA.

2.2 STATE REGULATIONS

2.2.1 California Endangered Species Act (California Fish and Game Code § 2050, et seq.)

Fish and wildlife resources are protected by a number of laws and programs administered by the CDFW, formerly the California Department of Fish and Game. The California Endangered Species Act (CESA) generally parallels the provisions of the federal ESA, and states that "all native species of fishes, amphibians, reptiles, birds, mammals, invertebrates, and plants, and their habitats, threatened with extinction and those experiencing a significant decline which, if not halted, would lead to a threatened or endangered designation, will be protected or preserved."

Under the CESA, "endangered" is defined as "a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant which is in serious danger of becoming extinct throughout all, or a significant portion, of its range;" and "threatened" is defined as "a native species or subspecies of a bird, mammal, fish, amphibian, reptile, or plant that, although not presently threatened with extinction, is likely to become an endangered species in the foreseeable future in the absence of the special protection and management efforts." "Take" is defined as "to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill" an individual of a species, but the definition does not include "harm" or "harass," as the ESA does. As a result, the threshold for a take under the CESA is higher than that under the federal ESA. Exceptions to the take prohibition are limited to authorization of collection for "necessary scientific research".

Consistent with the CESA, CDFW has established lists of endangered, threatened, and candidate species that may or may not be included on a federal ESA list. CDFW also maintains a list of Species of Special Concern for those species that have declining populations, limited distribution, diminishing habitat, or unusual scientific, educational, or recreational value. In addition, CDFW manages a "watch list" of species that have been de-listed or are vulnerable. Species of Special concern and watch list species are not afforded the same legal protection as listed species.

Pursuant to California Fish and Game Code Section 2081, CESA allows for incidental take permits to otherwise lawful development projects that could result in the take of a state-listed threatened or endangered species. The application for an incidental take permit under Section 2081(b) has a number of requirements including the preparation of a conservation plan, generally referred to as a Habitat Conservation Plan. CESA emphasizes early consultation to avoid potential impacts to rare, endangered, and threatened species and to develop appropriate mitigation planning to offset project-caused losses of listed species.

2.2.2 Native Plant Protection Act (California Fish and Game Code §§ 1900 - 1913, § 2062 and § 2067)

The CDFW also manages the California Native Plant Protection Act (NPPA), which designates and protects species eligible for state listing. Eligible species include those identified on California Native Plant Society (CNPS) Rare Plant Ranks (CRPRs) 1A, 1B, and 2 meet the definitions of Sections 1901, Chapter 10 (NPPA) or Sections 2062 and 2067 (CESA) of the California Fish and Game Code. CRPR 3 and 4 species, though not meeting the criteria for listing by CDFW, may be considered during project review by the agencies.

2.2.3 Clean Water Act – Section 401

The CWA Section 401 Water Quality Certification (Section 401 Certification) provides states and authorized tribes an opportunity to address the aquatic resource impacts of federally issued permits and licenses, to help protect water quality. Under Section 401 of the CWA, any applicant for a federal license or permit to conduct any activity that may result in any discharge into waters of the U.S. must obtain a Section 401 Certification from the State Water Resources Control Board (SWRCB) that the proposed activity will comply with state water quality standards. In California, Section 401 Certifications are issued by Regional Water Quality Control Boards (RWQCB) located throughout the state. The Central Coast RWQCB issues Section 401 Certifications for projects in the County. The federal CWA Section 404 permit is dependent on and subject to the terms of the Section 401 Certification. Therefore, under Section 401, a federal agency cannot issue a permit or license for an activity that may result in discharge into waters of the U.S. until the RWQCB has granted or waived the Section 401 Certification. Section 401 Certification is limited to federally jurisdictional waters and wetlands.

2.2.4 Lake and Streambed Alteration Program (California Fish and Game Code (California Fish and Game Code §1600-1616)

Under Sections 1600-1616 of the California Fish and Game Code, the CDFW regulates all activity that may substantially divert or obstruct the natural flow of any river, stream, or lake; change or use any material from the bed, channel or bank of any river, stream, or lake; or,

deposit debris, waste or other materials that could pass into any river, stream or lake. Notification of Lake or Streambed Alteration must be submitted to CDFW for such activities. CDFW defines a stream as:

> "…*a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.*"

CDFW jurisdiction typically includes all portions of the bed, banks, and channel of a stream, including intermittent and ephemeral streams, and extends outward to the upland edge of the riparian vegetation.

2.2.5 California Environmental Quality Act (CEQA)

The California Environmental Quality Act (CEQA) requires an evaluation of a project's potentially significant impacts on biological resources and ways that such impacts can be avoided, minimized, or mitigated. CEQA also provides thresholds and guidelines for use by lead agencies to assess the significance of proposed impacts.

Section 15065 of the act states that a lead agency shall find that a project may have a significant effect on the environment, and thereby require an Environmental Impact Report to be prepared for the project, where the project has the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, or reduce the number or restrict the range of a rare or endangered plant or animal.

CEQA states that a project will normally have a significant effect on the environment if it will:

> *"(a) Conflict with adopted environmental plans and goals of the community where it is located; (b) Substantially affect a rare or endangered species of animal, plant or the habitat of the species; (c) Interfere substantially with the movement of any resident or migratory fish or wildlife species; and (d) Substantially diminish habitat for fish, wildlife or plants"* (County 2008).

2.3 LOCAL LAND USE POLICIES

Requirements for the protection of biological resources in the unincorporated areas of the County are provided in the Comprehensive Plan Conservation Element, Environmental Resource Management Element, Land Use Element, and the County Code. These Plans/Elements provide a framework of policies designed to protect special-status species and sensitive habitat areas.

2.3.1 Environmental Thresholds and Guidelines Manual

The Environmental Thresholds and Guidelines Manual (County 2008) provides definitions of sensitive biological resources and guidance for determining levels of impacts to sensitive areas, including appropriate methods for avoidance, minimization, and/or mitigation.

Disturbance to habitats or species may be considered significant by the County if a project substantially impacts sensitive resources in the following ways:

1. Substantially reduce or eliminate species diversity or abundance.
2. Substantially reduce or eliminate quantity or quality of nesting areas.
3. Substantially limit reproductive capacity through losses of individuals or habitat.
4. Substantially fragment, eliminate, or otherwise disrupt foraging areas and/or access to food sources.
5. Substantially limit or fragment range and movement (geographic distribution or animals and/or seed dispersal routes).
6. Substantially interfere with natural processes, such as fire or flooding, upon which the habitat depends.

Examples of less than significant impacts, where the habitat is given little or no importance and it is presumed that disturbance would not create a significant impact include:

1. Small acreages of non-native grassland if wildlife values are low.
2. Individuals or stands of non-native trees if not used by important animal species such as raptors or monarch butterflies.
3. Areas of historical disturbance such as intensive agriculture.
4. Small pockets of habitats already significantly fragmented or isolated, and degraded or disturbed.
5. Areas of primarily ruderal species resulting from pre-existing man-made disturbance.

2.3.2 Oak Tree Protection

As described in the Comprehensive Plan Conservation Element Oak Tree Protection in the Inland Rural Areas of Santa Barbara County, Development Standard 1 (2009), the following applies for the protection of all species of mature oak trees:

> *"All development shall avoid removal of or damage to mature oak trees, to the maximum extent feasible. Mature oak trees are considered to be live oak trees six inches or greater diameter at breast height and blue oak trees four inches or greater diameter at breast height, or live and blue oaks six feet or greater in height. Native oak trees that cannot be avoided shall be replanted on site. When replanting oak trees on site is not feasible, replanting shall occur on receiver sites known to be capable of supporting the particular oak tree species, and in areas contiguous with existing woodlands or savannas where the removed species occurs. Replanting shall conform to the County's Standard Conditions and Mitigation Measures. (This development standard applies to oak trees other than valley oaks, valley oak trees are address in separate Development Standards.)"*

The County's Standard Conditions and Mitigation Measures (County 2011) require that grading, trenching, ground disturbance, construction activities and structural development occur beyond six feet of the dripline of all oak trees. Mitigation for impacted oak trees requires posting of a performance security and tree replacement at a 10:1 ratio, preferably on-site.

2.3.3 Stream and Riparian Habitat Protection

The Environmental Thresholds and Guidelines Manual (County 2008) defines riparian habitat as the "terrestrial or upland area adjacent to freshwater bodies, such as the banks of creeks and

streams, the shores of lakes and ponds, and aquifers which emerge at the surface as springs or seeps. This habitat can also occur along arroyos and barrancas, and other types of drainages throughout the County".

The County prescribed setback (i.e., buffer area) from the outer (upland) edge of the riparian canopy, or the top-of-bank of the water body in the absence of riparian vegetation, is 50 feet in urban areas and 100 feet in rural areas. Intrusion within the buffer areas for riparian habitats and streams may be considered significant.

2.3.4 Montecito Community Plan

The Montecito Planning Area is one of seven planning areas under the jurisdiction of the County. The Montecito Community Plan sets out specific goals relating to community development, public facilities and services, and resources and constraints (County 1995). Applicable policies and development standards from the Montecito Community Plan are summarized below.

Policy BIO-M-1.2 The following biological resources and habitats shall be identified as environmentally sensitive and shall be protected and preserved to the extent feasible through the Environmentally Sensitive Habitat (ESH) overlay: riparian woodland corridors, monarch butterfly roosts, sensitive native flora, and coastal sage scrub.

Policy BIO-M-1.3 Environmentally Sensitive Habitat (ESH) areas within the Montecito Planning Area shall be protected, and where appropriate, enhanced.

Policy BIO-M-1.5 Trimming or clearing of vegetation within 50 feet of a known Monarch Butterfly Habitat or along riparian habitats shall not occur without the review and the approval of the Resource Management Department.

Policy BIO-M-1.6 Riparian vegetation shall be protected as part of a stream or creek buffer. Where riparian vegetation has previously been removed, (except for channel cleaning necessary for free-flowing conditions as determined by the County Flood Control District) the buffer shall allow the reestablishment of riparian vegetation to its prior extent to the greatest degree possible. Restoration of degraded riparian areas to their former state shall be encouraged.

Policy BIO-M-1.7 No structures shall be located within a riparian corridor except: public trails that would not adversely affect existing habitat; dams necessary for water supply projects; flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety, other development where the primary function is for the improvement of fish and wildlife habitat and where this policy would preclude reasonable development of a parcel. Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alternative route/location is feasible. All development shall incorporate the best mitigation measures feasible to minimize the impact to the greatest extent.

Policy BIO-M-1.10 All development, including dredging, filling and grading within stream corridors, shall be limited to activities necessary for the construction of uses specified in Policy B-1.7. When such activities would require removal of riparian plant species, revegetation with local native plants shall be required on both banks and extending outward 25 feet from each top of bank, except where it would preclude reasonable development of a parcel.

Policy BIO-M-1.11 Areas of one or more acres of coastal sage scrub shall be preserved to the maximum extent feasible.

Policy BIO-M-1.13 The habitat located on the hillside area north of Mountain Drive and Bella Vista Road and reaching the northern boundary of the Planning Area shall be recognized as particularly valuable because of the presence of chaparral, sensitive native flora and riparian resources to be protected and/or preserved. Any development proposal in this area shall be designed to avoid areas which contain these habitats and/or identified sensitive species.

Policy BIO-M-1.14 Significant biological communities shall not be fragmented into small non-viable pocket areas by development.

Policy BIO-M-1.16 All existing native trees regardless of size that have biological value shall be preserved to the maximum extent feasible.

Policy BIO-M-1.17 Oak trees, because they are particularly sensitive to environmental conditions, shall be protected to the maximum extent feasible. All land use activities, including agriculture shall be carried out in such a manner as to avoid damage to native oak trees. Regeneration of oak trees shall be encouraged.

Policy BIO-M-1.18 Trees serving as known raptor nesting or key raptor roosting sites shall be preserved to the maximum extent feasible.

Policy BIO-M-1.20 Pollution of streams, sloughs, drainage channels, underground water basins, estuaries, the ocean and areas adjacent to such waters shall be minimized.

Policy BIO-M-1.23 Where sensitive plant species and sensitive animal species are found pursuant to the review of a discretionary project, efforts shall be made to preserve the habitat in which they are located to the maximum extent feasible. For the purposes of this policy sensitive plant species are those species which appear on a list in the California Native Plant Society's *Inventory of Endangered Vascular Plants of California.* Sensitive animal species are defined as those animal species identified by the CDFW, the USFWS and/or are listed in Tate's *The Audubon Blue List* (birds).

3.0 METHODS

To document existing conditions and biological resources in the Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek corridors, SES conducted background research,

review of previous botanical and biological assessments completed in in the region, and field investigations at each of the 13 net locations.

3.1 LITERATURE REVIEW

Prior to conducting the field surveys, a background review was performed to identify any special-status plant and wildlife species and sensitive natural communities that have the potential to occur in the Project vicinity. The literature review included an examination of the California Native Plant Society (CNPS) Inventory of Rare and Endangered Plants (CNPS 2018), the California Department of Fish and Wildlife's (CDFWs) California Natural Diversity Database (CNDDB 2018), the USFWS Endangered Species Database (USFWS 2018a), and the USFWS critical habitat portal (USFWS 2018b). SES also reviewed the Steelhead Assessment and Recovery Opportunities in Southern Santa Barbara County, California (Stoecker et al. 2002), the NRCS Web Soil Survey of Santa Barbara County, California, Southern Santa Barbara Area (NRCS 2018), the USGS CA 7.5-minute quadrangle maps, the National Hydrography Dataset (NHD) (USGS-NHD 2018), National Wetlands Inventory (USFWS 2018c), and weather data.

The four-quadrangle CNDDB query provided locations of special-status plant populations, sensitive natural communities, and special-status wildlife documented within the Santa Barbara, Carpinteria, Little Pine Mountain, and Hildreth Peak USGS CA 7.5-minute quadrangles. The CNDDB search included both the Santa Barbara and Carpinteria quadrangles, which encompass the Project area, and the two quadrangles to the north, in order to evaluate the potential for special-status plant and wildlife species documented in the Project vicinity. Special-status species known to occur in the region are depicted in Figures 4 and 5. The likelihood for special-status species to occur within the habitats present at the net locations was evaluated (see Table 3).

3.2 FIELD METHODOLOGY

Biological field investigations included mapping of net locations and impact areas, botanical surveys, wildlife surveys, and a jurisdictional delineation at each net location. Table 2 provides a summary of survey types, dates, locations, and field personnel.

Table 2 – Biological Surveys Conducted in 2018

Type of Survey	Survey Locations	Date	Field Personnel
Field Reconnaissance with KANE Impact Area Mapping Wildlife Surveys	CS-11, CS-18, BV-2, BV-3	September 5, 2018	Jessica Peak John Storrer Bill Kane Mallory Jones
Field Reconnaissance with KANE Impact Area Mapping Wildlife Surveys	SY-18, BV-4, BV-5, BV-6, BV-7, BV-8	September 6, 2018	Jessica Peak John Storrer Bill Kane Mallory Jones
Field Reconnaissance with KANE Impact Area Mapping Wildlife Surveys	RC-12, RC-15	September 11, 2018	Jessica Peak John Storrer Bill Kane Mallory Jones
Field Reconnaissance with KANE Impact Area Mapping Wildlife Surveys	BV-2, BV-10, BV-11, SY-18, CS-18	September 17, 2018	Jessica Peak Justine Cooper Bill Kane Mallory Jones
Botanical Surveys Wildlife Surveys Jurisdictional Delineation	CS-11, CS-18, HS-6, HS-7	September 18, 2018	Jessica Peak Justine Cooper
Botanical Surveys Wildlife Surveys Jurisdictional Delineation	RC-12, RC-15	September 19, 2018	Jessica Peak Justine Cooper
Botanical Surveys Wildlife Surveys Jurisdictional Delineation	BV-5, BV-6, BV-7. BV-10, BV-11	September 20, 2018	Jessica Peak Justine Cooper
Botanical Surveys Wildlife Surveys Jurisdictional Delineation	BV-4, SY-18	September 21, 2018	Jessica Peak Justine Cooper
Field Reconnaissance with KANE & ALC Impact Area Mapping Wildlife Surveys	SY-7a	December 4, 2018	Jessica Peak Bill Kane Mallory Jones Simon Boone
Botanical Surveys Wildlife Surveys Jurisdictional Delineation	SY-7a	December 7, 2018	Jessica Peak Justine Cooper

As part of the initial field reconnaissance, SES accompanied KANE personnel to each of the net locations and mapped proposed impact areas (i.e., net anchor sites, staging areas) and discussed site access for construction and maintenance. Net anchor locations were mapped using an iPad tablet with ArcCollector and an EOS Arrow 100 High Accuracy Global Navigation Satellite System (GNSS) receiver.

Additional field surveys were performed in December 2018 to relocate one net location in San Ysidro Creek (SY-7a) approximately 190 feet downstream to avoid a public trail crossing in the creek channel.

Special-status species that are known to occur or have the potential to occur in the Project vicinity of the were targeted during the subsequent biological field surveys (e.g., Santa Barbara

honeysuckle, Plummer's baccharis, black-flowered figwort, late-flowered mariposa lily, Humboldt lily, Cooper's hawk, California red-legged frog, coast range newt) (Table 3).

3.2.1 Botanical Surveys

Surveys were consistent with the botanical survey guidelines outlined in *Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFG 2009), *Guidelines for Conducting And Reporting Botanical Inventories For Federally Listed, Proposed, And Candidate Plants* (USFWS 1996), and the CNPS *Botanical Survey Guidelines* (CNPS 2001). Special-status plant species were mapped as part of the field reconnaissance using an iPad tablet with ArcCollector and an EOS Arrow 100 High Accuracy GNSS receiver.

A Vegetation Rapid Assessment (RA) was conducted at each net location, per the CDFW-CNPS Vegetation Rapid Assessment Protocol (CDFW 2016). The RA was conducted within a 30 meter radius of each net location and data was collected on the CDFW-CNPS Combined Rapid Assessment Field Form (see Appendix B – Vegetation Rapid Assessment Field Forms). All vascular plant species observed within the 30 meter survey plots and along the surrounding banks at each net location were recorded. At each net location a species list and percent cover intervals for each species were recorded for the both the vegetation communities along the creek channel/lower banks, as well as the vegetation communities along the upper banks/TOB (see Appendix B – Vegetation Rapid Assessment Field Forms). A complete vascular plant inventory for the Project is included as Appendix C.

Plant specimens that were not positively identified in the field were further examined using a dissecting microscope and appropriate botanical keys, including *The Jepson Manual, Second Edition* (Baldwin et al. 2012) and *A Flora of the Santa Barbara Region, California, Second Edition* (Smith 1998).

The botanical survey took place late in the typical blooming season (i.e., spring and summer) for several of the special-status plant species that have the potential to occur in the vicinity of the net locations (see Table 3).

3.2.2 Wildlife Surveys

During the September and December 2018 surveys, a list of all wildlife species observed within the Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek corridors was compiled (see Appendix D – Wildlife Inventory), and a general evaluation of the character and quality of wildlife habitat at each net location was made. Protocol aquatic surveys were not performed as part of the investigation.

The evaluation of wildlife use of the net locations was made in part through field reconnaissance but was also based on habitat suitability and known occurrence of various species in the Project vicinity. Habitat conditions and current status of special-status wildlife species, including California red-legged frog (CRLF) and southern California steelhead, were a particular focus of the wildlife surveys. Potential for nesting, roosting, or foraging by sensitive bird species, including various species of raptors was also assessed.

3.2.3 Delineation of Waters of the U.S.

Pursuant to Section 401 of the CWA, the limit of USACE jurisdiction in non-tidal waters extends to the OHWM and includes all adjacent wetlands. The OHWM is an element used to identify the lateral limits of non-wetland waters based on stream geomorphology and vegetation response to the dominant stream discharge (Lichvar and McColley 2008). The width of the channel at the OHWM was mapped by using an iPad tablet with ArcCollector and an EOS Arrow 100 High Accuracy GNSS receiver and jurisdictional acreages were calculated using aerial imagery and ArcGIS.

Due to the debris flows in January 2018, the creek corridors are highly altered from what would be considered typical or "ordinary", and indicators of high water were not always evident or reliable. "Ordinary high water" implies flow levels that are above average, but less than extreme, that occur with some regularity (USACE 2008). Therefore, the approximate OHWM was established at each net location using physical marks on the landscape (e.g., drainage patterns, topographic breaks in slope, changes in sediment characteristics, etc.) that represented a reasonable judgement of water levels at "above average, but not extreme" levels.

3.2.4 Delineation of CDFW Jurisdiction

The stream banks and canyon walls at the majority of the proposed net locations are steeply incised and most of the vegetation along the slopes was burned in the Thomas Fire. Approximate top-of-bank (TOB) was mapped in the field using obvious topographic changes and ridgelines as boundaries. In many locations the TOB was well above the stream channel (i.e., 30 to 50 feet) and was mapped with the greatest accuracy possible. At all of the proposed net locations, the TOB corresponds to the extent of CDFW jurisdiction and was mapped by using an iPad tablet with ArcCollector and an EOS Arrow 100 High Accuracy GNSS receiver. CDFW jurisdictional acreages were calculated using aerial imagery and ArcGIS.

4.0 RESULTS

The following sections provide a summary of environmental conditions at the Project locations including existing plant communities, wildlife habitat, and jurisdictional areas documented during the field surveys. Representative photographs of environmental conditions present at Project locations are provided in Appendix A.

4.1 HYDROLOGY

All of the creeks surveyed as part of the Project are perennial and ultimately discharge into the Pacific Ocean. With the exception of one location in a tributary to Buena Vista Creek (BV-11), all of the proposed net locations had active flow in the channel. Estimated width of the active channel, depth of flow, and width of channel at OHWM are summarized for each net location in Table 3.

During the December survey of SY-7a, recent scour was evident in the San Ysidro Creek channel from storm events on November 27-29, 2018 and December 4-5, 2018.

Table 3 – Summary of Stream Characteristics at Proposed Net Locations

Net Location	Approximate Width of Active Flow in Channel	Approximate Depth of Flow in Channel	Approximate Width of Channel at OHWM
Cold Spring Creek			
CS-11	16 inches to 3 feet	1 to 6 inches (intermittent pools)	7 to 12 feet
CS-18	8 inches to 2 feet	1 to 2 inches	6 to 12 feet
San Ysidro Creek			
SY-7a	14 inches to 4 feet	2 to 6 inches	10 to 25 feet
SY-18	2 to 6 feet	1 to 6 inches (intermittent pools)	12 to 20 feet
Buena Vista Creek			
BV-2	1 to 3 feet	1 to 8 inches (intermittent pools)	4 to 15 feet
BV-4	6 inches to 3 feet	1 to 5 inches (intermittent pools)	10 to 20 feet
BV-5	8 inches to 3 feet	1 to 3 inches at north end of survey plot, no flow under net location	15 to 20 feet
BV-6	8 inches to 5 feet	1 to 3 inches	10 to 18 feet
BV-7	1 to 2 feet	1 to 2 inches (one pool 4 to 6 inches deep)	8 to 15 feet
BV-10	1 to 5 feet	2 to 10 inches (intermittent pools)	5 to 16 feet
BV-11	no water in channel	N/A	10 to 25 feet
Romero Creek			
RC-12	14 inches to 4 feet	1 to 5 inches	6 to 12 feet
RC-15	10 inches to 3 feet	1 to 6 inches (intermittent pools)	8 to 15 feet

4.2 VEGETATION COMMUNITIES

A CNPS Vegetation Rapid Assessment was performed within a 30-meter plot around each net location to document existing conditions including total vascular vegetation cover, non-vascular cover, individual species cover, and vegetation alliances/associations (see Appendix B – Vegetation Rapid Assessment Field Forms). A plant inventory, including cover intervals for each species, was compiled at each net location for the channel/lower banks, as well as the upper banks/TOB. Although vegetation was sparse at the proposed net locations due to the Thomas Fire and subsequent debris flows, as well as scour and sediment deposition from storms in late November/early December 2018, the vegetation alliances/associations were described based on dominant species present at each survey plot. Adjacent (upslope) vegetation communities were also documented. Descriptions of vegetation communities are adapted from *A Manual of California Vegetation, Second Edition* (MV-II) (Sawyer et al. 2009). Table 4 summarizes the vegetation communities and percent cover at each net location.

Table 4 – Summary of Vegetation Communities and Cover

Net Location	Field-assessed Vegetation Alliance	Field-assessed Vegetation Association	Adjacent Alliances	Percent Total Non-vascular Cover	Percent Total Vascular Vegetation Cover
Cold Spring Creek					
CS-11	Arroyo willow thicket/ Western sycamore woodland	Scarlet monkey flower seep	Coast live oak woodland	85	15
CS-18	Arroyo willow thicket/ Canyon sunflower scrub	California bay forest/ Western sycamore woodland	Coast live oak woodland	65	35
San Ysidro Creek					
SY-7a	Canyon sunflower scrub	California bay forest	Coast live oak woodland	95	5
SY-18	Arroyo willow thicket	California bay forest	Coast live oak woodland	85	15
Buena Vista Creek					
BV-2	White alder grove/ Western sycamore woodland	Western sycamore woodland	Big-pod ceanothus/ Laurel sumac chaparral	55	45
BV-4	Arroyo willow thicket/ Western sycamore woodland	Canyon sunflower scrub	Big-pod ceanothus chaparral	70	30
BV-5	Arroyo willow thicket	Western sycamore woodland	Big-pod ceanothus/ Laurel sumac chaparral (upslope west); Coast live oak woodland (upslope east)	70	30
BV-6	Canyon sunflower scrub	Arroyo willow thicket	Coast live oak/ California bay forest	60	40
BV-7	Arroyo willow thicket	Poison oak scrub	Coast live oak woodland	70	30
BV-10	White alder grove	Western sycamore woodland	Coast live oak woodland	60	40
BV-11	Canyon sunflower scrub	Western sycamore woodland	Big-pod ceanothus chaparral	80	20
Romero Creek					
RC-12	Western sycamore woodland/ California bay forest	Scarlet monkey flower seep	Coast live oak woodland	80	20
RC-15	Arroyo willow thicket/ Western sycamore woodland	Canyon sunflower scrub	Coast live oak woodland	85	15

4.2.1 Woodland and Forest Alliances

There are several woodland/forest communities along the Subject Creek corridors. As a result of the Thomas Fire and debris flows, these communities are sparse along the creek channels and slopes but are regenerating.

4.2.1.1 White Alder Grove (Alnus rhombifolia Forest Alliance)

White alder (*Alnus rhombifolia*) groves occur in riparian corridors, incised canyons, seeps, stream banks, mid-channel bars, floodplains, and terraces (Sawyer et al. 2009). White alder was dominant to co-dominant in the channel and lower banks at two locations: BV-2 and BV-10. Saplings of this species were commonly observed in many of the Subject Creek corridors, particularly Buena Vista and San Ysidro Creeks. Western Sycamore Woodland (Platanus racemosa Woodland Alliance)

Western sycamore (*Platanus racemosa*) woodlands occur in gullies, intermittent streams, springs, seeps, along streambanks, and on terraces adjacent to floodplains (Sawyer et al. 2009). Western sycamore is one of the dominant tree species in all of the Subject Creek corridors. Many of the western sycamores damaged in the fire and debris flows are re-sprouting from the base and saplings are present throughout the creek channels. Western sycamore was dominant to co-dominant in the tree stratum at 11 of the proposed 13 net locations.

4.2.1.2 Coast Live Oak Woodland (Quercus agrifolia Woodland Alliance)

Coast live oak is a drought-resistant evergreen tree ranging from 20 to 80 feet in height, with massive spreading branches and a dense canopy of thick, waxy leaves. Coast live oaks are a long-lived species and can survive for 300 years or more. Although seemingly ubiquitous on the central coast of California, coast live oak woodlands are limited in distribution to a 50-mile wide swath along the coast from Mendocino County to northern Baja California and are absent from the interior ranges and Sierra Nevada (Sawyer et al. 2009).

Coast live oak woodlands are generally present along the upper slopes of the Subject Creek corridors, above the TOB. In many locations, coast live oak trees also extend downslope to the edges of the creek banks and co-dominate the tree canopy with western sycamore. Common understory species in this community include canyon sunflower (*Venegasia carpesioides*), poison oak (*Toxicodendron diversilobum*), toyon (*Heteromeles arbutifolia*), and giant wild rye (*Elymus condensatus*).

Populations of two special-status plant species: Plummer's baccharis (*Baccharis plummerae*) and ocellated Humboldt lily (*Lilium humboldtii* ssp. *ocellatum*) were observed along slopes in the understory of the coast live oak woodland community. Ocellated Humboldt lily was observed at one proposed net location (RC-15) and Plummer's baccharis was observed at seven of the proposed net locations (CS-11, SY-7a, BV-5, BV-6, BV-7, RC-12, and RC-15). Special-status plant populations are discussed in detail in Section 4.4.2 below.

4.2.1.3 California Bay Forest (Umbellularia californica Forest Alliance)

California bay (*Umbellularia californica*) forests occur on alluvial benches, streamsides, valley bottoms, coastal bluffs, inland ridges, steep north-facing slopes, and rocky outcrops. In the Santa Ynez Mountains, they generally occupy either semi-riparian settings or rocky recesses on upper slopes (Sawyer et al. 2009). California bay trees are co-dominant in the tree canopy at several proposed net locations: RC-12, SY-7a, SY-18, and CS-18.

4.2.2 Shrubland Alliances

With the exception of big pod ceanothus chaparral, the shrubland alliances described below are recolonizing the channels and lower banks of the Subject Creek corridors. The species comprising these communities are often the dominant regrowth in the channels and represent the majority of the total vegetation cover that is summarized in Table 5 and on the Vegetation Rapid Assessment Field Forms.

4.2.2.1 Big pod Ceanothus Chaparral (Ceanothus megacarpus Shrubland Alliance)

Big pod ceanothus (*Ceanothus megacarpus*) chaparral is present along the upper slopes of the canyons at several locations. This community is either dominated by big pod ceanothus or it is co-dominant with laurel sumac (*Malosma laurina*). Other shrub species commonly observed in this community include holly-leaf cherry (*Prunus ilicifolia*), toyon, giant wild rye, poison oak, and chaparral yucca (*Hesperoyucca whippleyi*).

4.2.2.2 Arroyo Willow Thicket (Salix lasiolepis Shrubland Alliance)

Arroyo willow (*Salix lasiolepis*) is a riparian shrub or tree that grows to 25 feet in height. Arroyo willows form thickets along stream banks and benches, slope seeps, and drainages. Arroyo willow was the dominant or co-dominant species at 10 of the net locations and was present at all but one site (BV-11). Red willow (*Salix laevigata*), sand bar willow (*Salix exigua*), Fremont cottonwood (*Populus fremontii*), and mulefat (*Baccharis salicifolia*) were also frequently observed in the creek channels at the proposed net locations.

4.2.2.3 Poison Oak Scrub (Toxicodendron diversilobum Shrubland Alliance)

Along the Southern California coast, stands of poison oak often occupy mesic canyons and disturbed dry slopes (Sawyer et al. 2009). Poison oak is abundant in the understory of the coast live oak woodland along the slopes of the Subject Creek corridors and is dominant along the creek channels in numerous locations. This community often intergrades with the canyon sunflower scrub described below. Poison oak scrub was particularly abundant at BV-7, where it co-dominated with arroyo willow.

4.2.2.4 Canyon Sunflower Scrub (Venegasia carpesioides Shrubland Alliance)

Canyon sunflower is one of the most abundant species in the Subject Creek corridors and is present at every proposed net location. Seedlings of this species establish readily after fire or other disturbances and have been found to proliferate significantly after fire in mesic areas (Sawyer et al. 2009). Canyon sunflower comprises the dominant cover in the channel at four proposed net locations (CS-18, SY-7a, BV-6, and BV-11). Other species frequently observed in this community include California blackberry (*Rubus ursinus*), poison oak, golden yarrow (*Eriophyllum confertiflorum*), deerweed (*Acmispon glaber*), and mugwort (*Artemisia douglasiana*).

4.2.3 Herbaceous Alliances

Herbaceous plant species are scattered throughout the Subject Creek corridors, although they are not typically dominant components of the vegetation cover. The species that dominate the alliances described below are ubiquitous in all of the creeks surveyed.

4.2.3.1 Scarlet Monkey Flower Seeps (Erythranthe [Mimulus] cardinalis Herbaceous Alliance)

Although scarlet monkey flower seeps are not an accepted alliance in MV-II, the habitat descriptions for common monkey flower (*Erythranthe guttata*) seeps (which generally occur further north) closely align with what was observed in the field for scarlet monkey flower seeps.

Scarlet monkey flower occurs in moist to wet places along streams and seepage areas (Baldwin et al. 2012). At the time of the field surveys, it was in bloom and was one of the most abundant herbaceous species in the Subject Creek corridors. Scarlet monkey flower dominated the cover in the channel at two of the proposed net locations (CS-11, and RC-12). Other species frequently observed in relatively dense cover in this community include giant flowered phacelia (*Phacelia grandiflora*), Douglas' nightshade (*Solanum douglasii*), smilo grass (*Stipa miliacea*), coast morning-glory (*Calystegia macrostegia* ssp. *cyclostegia*), California figwort (*Scrophularia californica*) and common horsetail (*Equisetum arvense*).

4.2.4 Non-native Plant Infestations

There are several notable non-native plant infestations that were documented in the Subject Creek corridors during the field surveys. All of the non-native plant species noted below are considered invasive by the California Invasive Plant Council (Cal-IPC).

Saltcedar (*Tamarix ramosissima*) seedlings were observed in all of the creeks surveyed and were particularly abundant in San Ysidro Creek and Romero Creek. Due to the highly invasive tendencies of this species, an effort was made to pull all saltcedar seedlings observed during field surveys.

In Cold Spring Creek, saltcedar, greater periwinkle (*Vinca major*), and tree tobacco (*Nicotiana glauca*) were observed at CS-11 and CS-18. Four fig (*Ficus carica*) saplings are also becoming established at CS-18.

Cape ivy was observed at three of the proposed net locations in Buena Vista Creek (BV-5, BV-6, and BV-7).

4.3 SPECIAL-STATUS SPECIES AND SENSITIVE HABITATS WITH THE POTENTIAL TO OCCUR IN THE PROJECT REGION

Special-status species and sensitive habitats include plant and wildlife taxa, vegetation communities, or other unique biological features that are afforded special protection by local land use policies and/or state and federal regulations. Vegetation communities may warrant special status if they are of limited distribution, support protected plants and animals, have high wildlife value, or are particularly vulnerable to disturbance. Special-status plant and animal species are those that are listed as rare, threatened, or endangered under the state and/or federal

Endangered Species Acts or those that appear on various "watch lists" compiled by academic institutions, conservation organizations, and wildlife agencies. These include the CNDDB lists of "*Special Animals*" and "*Special Plants*" (CNDDB 2018), CNPS Inventory of Rare and Endangered Vascular Plants of California (CNPS 2018), "*California Bird Species of Special Concern*" (Shuford and Gardali 2008), "*Amphibian and Reptile Species of Special Concern in California*" (Jennings and Hayes 1994), and "*Mammalian Species of Special Concern in California*" (Williams 1986).

Nineteen (19) special-status plant species and thirty-three (33) special-status wildlife species are documented (i.e., are tracked by the CNDDB) within the four-quadrangle area surrounding the Project. The likelihood for special-status plant and wildlife species documented within the Little Pine Mountain, Santa Barbara, Carpinteria, and Hildreth Peak USGS CA 7.5-minute quadrangles to occur within the habitats present in the vicinity of the proposed Project locations was evaluated. Special-status species known to occur in the four quadrangle CNDDB query area are depicted in Figure 4 – CNDDB Plant Occurrences and Figure 5 – CNDDB Wildlife Occurrences

Species or vegetation communities dependent on coastal habitats (e.g., Miles' milk-vetch, Coulter's saltbush, Davidson's saltscale, salt marsh bird's beak, tidewater goby, western snowy plover, sandy beach tiger beetle, globose dune beetle, obscure bumble bee, yellow rail, California black rail, light-footed Ridgway's rail, snowy egret, Belding's savannah sparrow, California brown pelican, saltmarsh skipper, and California least tern) are excluded from consideration due to the lack of suitable habitat and distance of the proposed Project locations from the coast (2 to 4 miles).

Table 5 lists special status plants and animals that have a reasonable possibility to occur in the vicinity of Project locations based on habitat suitability and requirements, elevation and geographic range, soils, topography, surrounding land uses, and proximity of known occurrences in the CNDDB database. The likelihood for special-status species to occur within or near Project locations was assessed using information from the various listed sources and wildlife and botanical surveys. Narratives are provided for species for which there are land use planning and regulatory implications.

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Plants				
Plummer's baccharis *Baccharis plummerae* ssp. *plummerae*	CRPR 4.3 G3, S3	Rocky slopes near beach, sea bluffs, brushy canyons. Elevation range: 0 – 6,100 feet. Blooming period: August – November.	Yes	Observed and mapped during the September 2018 field surveys along the slopes at seven proposed net locations (CS-11, SY-7a, BV-5, BV-6, BV-7, RC-12, and RC-15).
Late-flowered mariposa lily *Calochortus fimbriatus*	CRPR 1B.3 G3, S3	Dry, open coastal woodland and chaparral. Elevation range: 0 – 3,000 feet. Blooming period: July – August.	No	Suitable coast live oak woodland and chaparral habitat for late-flowered mariposa lily is present along the trails above the creek channels and upland areas surrounding the proposed net locations. This species was observed in fruit along the trail in Buena Vista Canyon during September 2018 surveys. No late-flowered mariposa lily was observed at the net locations and this species would not be expected to occur in the creek channels.
Palmer's mariposa lily *Calochortus palmeri* var. *palmeri*	CRPR 1B.2 G3, S2	Meadows, vernally moist places in yellow-pine forest and chaparral. Elevation range: 3,900 – 7,260 feet. Blooming period: May – July.	No	Suitable habitat for Palmer's mariposa lily is not present in the Subject Creek corridors or at net locations. This species is known from one occurrence documented in 1981 southwest of Juncal Dam (CNDDB 2018). Palmer's mariposa lily is not expected to occur in the creek channels or at the proposed net locations.
Santa Barbara morning glory *Calystegia sepium* ssp. *binghamiae*	1A G5, SX	Coastal marshes and riverbanks. Elevation range: 0 – 70 feet. Blooming period: April – June.	No	All California populations of this species are considered to be extirpated (CNDDB 2018). Santa Barbara morning-glory is not expected to occur in the Project vicinity.
Umbrella larkspur *Delphinium umbraculorum*	CRPR 1B.3 G3, S3	Oak woodland and chaparral, prefers moist locations. Elevation range: 1,320 – 5,300 feet. Blooming period: April – June.	Yes	Suitable habitat for umbrella larkspur is present in the creek corridors and around proposed net locations. This species would not have been detectable at the time of the September 2018 surveys. Spring surveys should be conducted to confirm presence/absence of this species in the Subject Creek corridors.

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Ojai fritillary *Fritillaria ojaiensis*	CRPR 1B.2 G2, S2	Occurs on rocky slopes and in river basins. Known from mesic broadleaf upland forest, chaparral, and lower montane coniferous habitats. Elevation range: 990 – 1,650 feet. Blooming period: February – May.	Yes	Suitable habitat for Ojai fritillary is present in the creek corridors and around proposed net locations. This species would not have been detectable at the time of the September 2018 surveys. Spring surveys should be conducted to confirm presence/absence of this species in the Subject Creek corridors. Ojai fritillary within the Survey Area.
Mesa horkelia *Horkelia cuneata* var. *puberula*	CRPR 1B.1 G4, S1	Dry, sandy, coastal chaparral. Elevation range: 200 – 2,900 feet. Blooming period: March – July.	No	Suitable chaparral habitat for mesa horkelia is present in upland areas above the creek channels. Mesa horkelia is a perennial species that would have been detectable at the time of the September 2018 surveys. No mesa horkelia was observed at the net locations and this species would not be expected to occur in the creek channels.
Coulter's goldfields *Lasthenia glabrata* ssp. *coulteri*	CRPR 1B.1 G4, S2	Saline places, marshes and swamps, playas, and vernal pools. Elevation range: 0 – 3,300 feet. Blooming period: April – May.	No	Suitable habitat for Coulter's goldfields is not present in the Subject Creek corridors or at net locations. This species would not be expected to occur in the creek channels.
Ocellated Humboldt lily *Lilium humboldtii* ssp. *ocellatum*	CRPR 4.2 G4, S4	Oak canyons, chaparral, and yellow-pine forests. Elevation range: 0 – 6,000 feet. Blooming period: May – August.	Yes	Observed and mapped during the September 2018 field surveys along the western slope at RC-15.
Santa Barbara honeysuckle *Lonicera subspicata* var. *subspicata*	CRPR 1B.2 G5, S2	Chaparral, cismontane woodland, coastal scrub. Elevation range: 0 – 3,300 feet. Blooming period: April – May.	Yes	Suitable chaparral and oak woodland habitat is present in the Subject Creek corridors to support Santa Barbara honeysuckle. No Santa Barbara honeysuckle shrubs were observed during the September 2018 surveys and this species is not expected to occur at net locations.

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Carmel Valley malacothrix *Malacothrix saxatilis* var. *arachnoidea*	CRPR 1B.2 G5, S2	Rocky, open banks, shale outcrops, cliff faces, coastal scrub, chaparral. Elevation range: 80 – 3,000 feet. Blooming period: May – August (October)	No	Suitable chaparral habitat for Carmel Valley malacothrix is present in upland areas above the creek channels. This is a perennial species that would have been detectable at the time of the September 2018 surveys. No Carmel Valley malacothrix was observed during field surveys and this species is not expected to occur at proposed net locations.
White-veined monardella *Monardella hypoleuca* ssp. *hypoleuca*	CRPR 1B.3 G4, S3	Oak woodland and chaparral. Elevation range: 0 – 5,000 feet. Blooming period: May – October.	Yes	Suitable chaparral and oak woodland habitat is present in the Subject Creek corridors to support white-veined monardella. White-veined monardella is a perennial species that would have been detectable at the time of the September 2018 surveys. No white-veined monardella was observed during field surveys and this species is not expected to occur at proposed net locations.
Gambel's watercress *Nasturtium gambelii*	FE, ST/ CRPR 1B.1 G1, S1	Marshes, streambanks, lake margins. Elevation range: 0 – 1,200 feet. Blooming period: May – August.	Yes	Suitable habitat is present in the Subject Creek corridors for this aquatic species. Gambel's watercress is a perennial species that would have been detectable at the time of the September 2018 surveys. No Gambel's watercress was observed during field surveys and this species is not expected to occur at proposed net locations.
Nuttall's scrub oak *Quercus dumosa*	CRPR 1B.1 G3, S3	Generally sandy soils near the coast, sandstone, chaparral, coastal sage scrub. Elevation range: 0 – 600 feet. Blooming period: March – May.	No	Suitable chaparral habitat for Nuttall's scrub oak is present in upland areas above the creek channels. This species is typically restricted to elevations less than 600 feet along the coast. No Nuttall's scrub oak was observed during the September 2018 field surveys and this species would not expected to occur in the creek channels or at proposed net locations.

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Black-flowered figwort *Scrophularia atrata*	CRPR 1B.2 G2, S2	Calcium and diatom-rich soils in chaparral, coastal dunes, coastal scrub, and riparian woodland. Elevation range: 0 – 1,300 feet. Blooming period: April – July.	Yes	Suitable chaparral and riparian woodland habitat is present in the Subject Creek corridors to support black-flowered figwort. A similar species, California figwort (*Scrophularia atrata*), was in bloom at the time of the September 2018 field surveys and was observed at numerous net locations. Black-flowered figwort is a perennial species and would have also been detectable during field surveys. No black-flowered figwort was observed during the September 2018 surveys and this species is not expected to occur at net locations.
Sonoran maiden fern *Thelypteris puberula* var. *sonorensis*	CRPR 2B.2 G5, S2	Meadows, along streams and seepage areas. Elevation range: 150 – 2,600 feet. Blooming period: N/A.	Yes	Suitable habitat is present in the Subject Creek corridors to support Sonoran maiden fern. Sonoran maiden fern is a perennial species and would have been detectable during field surveys. No Sonoran maiden fern was observed during the September 2018 surveys and this species is not expected to occur at net locations.
Santa Ynez false lupine *Thermopsis macrophylla*	SR/ CRPR 1B.3 G1, S1	Sandstone and chaparral. Elevation range: 3,300 – 4,600 feet. Blooming period: May – June.	No	Suitable sandstone and chaparral habitat for Santa Ynez false lupine is present in upland areas above the creek channels. Santa Ynez false lupine is a perennial species and would have been detectable during field surveys. No Santa Ynez false lupine was observed during the September 2018 surveys and this species is not expected to occur at net locations.
Invertebrates				

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Monarch Butterfly *Danaus plexippus* (California overwintering population)	SA G4, S2	Overwintering sites (i.e., roosts) extend from Mendocino to Baja California, Mexico and are located in wind-protected tree groves (typically eucalyptus, Monterey pine, and cypress), with nectar source and water nearby.	No	Suitable protected eucalyptus, Monterey pine, or cypress groves for roosting are not present in the Subject Creek corridors or at proposed net locations. Nearby documented occurrences are in Montecito, closer to the coast (e.g., Ennisbrook, Romero Creek near 101) (CNDDB 2018). Overwintering populations of monarch butterflies are not expected to occur at proposed net locations.
Fish				
Southern California steelhead DPS *Oncorhynchus mykiss irideus*	FE, SSC/ G5, S1	Coastal streams less than 8,000 feet in elevation.	Yes	Southern California steelhead are known to occur historically in Cold Spring Creek, Romero Creek, and San Ysidro Creek, but are not able to access proposed net locations due to impassible barriers downstream . Portions of Cold Spring, Romero, and San Ysidro Creek have been designated Critical Habitat by the NMFS.
Amphibians				
Arroyo Toad *Anaxyrus californicus*	FE, SSC/ G2, S2	Inhabits washes, arroyos, sandy riverbanks, riparian areas with willows, sycamores, oaks, cottonwoods. Require exposed sandy stream sides with stable terraces for burrowing with scattered vegetation for shelter, and areas of quiet water or pools free of predatory fishes with sandy or gravel bottoms without silt for breeding.	No	Arroyo toad is not documented on the coastal slopes of the Santa Ynez Mountains. Nearby occurrences are documented from near the Gibraltar reservoir (CNDDB 2018). Arroyo toad is not expected to occur at proposed net locations.

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Foothill yellow-legged frog *Rana boylii*	FC, SSC/ G3, S3	Rocky streams and rivers in forests, chaparral, and woodlands. Sometimes found in isolated pools, vegetated backwaters, and deep, shaded, spring-fed pools. Elevation range: sea level to 6,000 feet.	No	Nearby occurrences are documented from the Santa Ynez River and near the Mono Debris Dam (CNDDB 2018). Museum records show only two records for this species in Santa Barbara County. The likelihood of occurrence of this species at proposed net locations is considered low.
California Red-legged Frog (CRLF) *Rana draytonii*	FT, SSC/ G2, S2	Found primarily in coastal drainages of central California, from Marin County, California, to northern Baja California, Mexico. Uses a variety of aquatic, riparian, and upland habitats. Requires a pond, slow-flowing stream reach, or deep pool within a stream with vegetation or other material to which egg masses may be attached. Uses both riparian and upland habitats for foraging, shelter, cover. Will also use small mammal burrows and moist leaf litter as refugia.	Yes	CRLF have been documented 0.35-mile north of the confluence of Hot Springs Creek and Cold Spring Creek (CNDDB 2018). CRLF have also been recorded in the main stem of Montecito Creek (SES 2005). The likelihood of occurrence of this species at proposed net locations is considered moderate.
Reptiles				
Northern (silvery) legless lizard *Anniella pulchra*	SSC/ G3, S3	Inhabits moist soil in sparsely vegetated areas of beach dunes, chaparral, pine-oak woodlands, desert scrub, sandy washes, and stream terraces with sycamores, cottonwoods, or oaks. Leaf litter under trees and shrubs in sunny areas and dunes stabilized with bush lupine and mock heather often indicate suitable habitat. Can also be found under surface objects such as rocks, boards, driftwood, and logs.	Yes	Suitable stream terrace habitat with sycamores and oaks are present along the Subject Creek corridors and at proposed net locations. Debris present in the channels could provide surface cover as well. The closest known occurrence is Sandyland, northeast El Estero, 2 miles WNW of Carpinteria (CNDDB 2018). The likelihood of occurrence of this species at proposed net locations is considered moderate.

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Southwestern pond turtle *Actinemys pallida*	SSC/ G3, S3	Inhabits permanent or nearly permanent bodies of water in many habitat types; at elevations below 6,000 feet. Requires basking sites such as partially submerged logs, vegetation mats, or open mud banks. Needs suitable upland nesting sites with silty soils for egg laying.	Yes	Closest documented occurrence of southwestern pond turtle is from the Andre Clark Bird Refuge, 0.3-mili ESE of Highway 101 at Salinas Street (CNDDB 2018). The likelihood of occurrence of this species at proposed net locations is considered moderate.
San Diegan Tiger (Coast) whiptail *Aspidoscelis tigris stejnegeri*	SSC/ G5, S3	Found in a variety of ecosystems, primarily hot and dry open areas with sparse foliage; chaparral, woodland, riparian areas.	No	Closest documented occurrence is from the Santa Ynez River, 1.4 miles NW of Gibraltar Dam (CNDDB 2018). This is a possible misidentification, as this subspecies is known to occur from Ventura County south to Baja California. San Diegan tiger whiptail is not expected to occur at proposed net locations.
Blainville's (Coast) horned lizard *Phrynosoma blainvillii*	SSC/ G3, S3	Occur in various scrublands, grasslands, coniferous and broadleaf forests, and woodlands at elevations up to 6,000 feet. Require loose, fine soils with open areas for basking and shrubs for refugia. Often occur in sandy sites.	No	Blainville's (coast) horned lizard was documented 0.2-mile east of Mountain Drive at Coyote Road in 1981 (CNDDB 2018). Suitable dry sandy habitat for this species may be present in upland chaparral areas above the creek channels and proposed net locations. Blainville's (coast) horned lizard would not be expected to occur in the stream channels and is not expected to occur at proposed net locations.

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Coast patch-nosed snake *Salvadora hexalepis virgultea*	SSC/ G5, S2	Inhabits semi-arid brushy areas and chaparral in canyons, rocky hillsides, and plains.	Yes	Suitable chaparral habitat to support coast patch-nosed snake is present in upland areas above the Subject Creek channels. The likelihood of occurrence of this species in at net locations is considered low due to its limited regional distribution.
Coast range newt *Taricha torosa*	SSC/ G4, S4	Occurs in coastal drainages. Breeds in ponds, reservoirs, and slow flowing streams.	Yes	Coast range newt was documented in Cold Spring Creek near the Mountain Drive bridge in 2000 and 2006 (CNDDB 2018). There are several records in SBNHM files, also from Cold Spring Creek. All five of the Subject Drainages offer suitable habitat. The likelihood of occurrence of this species at proposed net locations is considered high.
Two-striped garter snake *Thamnophis hammondii*	SSC/ G4, S3	Generally found around pools, creeks, cattle tanks, and other water sources. Often in rocky areas in oak woodland, chaparral, brushland and coniferous forests.	Yes	Closest documented occurrence of two-striped garter snake is from Rattlesnake Canyon, 1 mile north of Las Canoas Road (CNDDB 2018). There is suitable habitat for this species in each of the Subject Creeks. The likelihood of occurrence of this species at proposed net locations is considered moderate.
Birds				
Cooper's hawk *Accipiter cooperii*	WL, MBTA/ G5, S4	Nests in oak, riparian, and non-native woodlands. Frequents a wide variety of habitats while hunting.	Yes	Closest documented occurrences of Cooper's hawk are from Mission Canyon in Santa Barbara (CNDDB 2018). The likelihood of occurrence of this species at proposed net locations is considered high.

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Southwestern willow flycatcher *Empidonax traillii extimus*	FE, SE, MBTA/ G5, S1	Breeds in relatively dense riparian tree and shrub communities associated with rivers, swamps, and other wetlands including lakes and reservoirs.	No	Dense riparian tree and shrub communities are not currently present in the Survey Area. The three documented nesting occurrences in the region are in the Santa Ynez River near the Gibraltar Reservoir and in Mono Creek (CNDDB 2018). This species is not expected to breed at net locations due to lack of dense riparian habitat. It may occur as a seasonal migrant.
Black-crowned night heron (nesting colonies) *Nycticorax nycticorax*	MBTA/ G5, S4	Found in all types of wetland habitats: fresh, brackish, and salt water in swamps, rivers, streams, impoundments canals, ponds, and reservoirs. Roost in clumps of dense trees (particularly eucalyptus) near large coastal bodies of water.	No	Closest documented occurrence of a black-crowned night heron nesting colony is from Shoreline Drive at Castillo Street in Santa Barbara (CNDDB 2018). This species is not expected to roost at proposed net locations due to a lack of suitable dense clumps of trees and distance from the coast.
Bank swallow *Riparia riparia*	ST, MBTA/ G5, S2	Nest colonially in eroded banks of rivers, streams, lake, reservoirs, and coastal cliffs.	No	Bank swallows are rare to very rare migrants in Santa Barbara County and no longer breed in the County or elsewhere in southern California (Lehman 2018). Nearby historical occurrences of bank swallow are documented from Santa Barbara and Arroyo Burro Beach in 1913 and 1927 (CNDDB 2018). This species is not expected to occur at proposed net locations.
Least Bell's vireo *Vireo bellii pusillus*	FE, SE, MTBA/ G5, S2	Breeds in riparian habitat in southern California, primarily along the coast and the western edge of the Mojave Desert. Nearest recent nesting records are from the upper Santa Ynez River drainage. Require dense riparian areas, dominated by willows and adjacent to freshwater streams.	No	Dense riparian habitat is not currently present in the Subject Creek corridors. The nearest known occurrence of least Bell's vireo in the region is from the Santa Ynez River near Gibraltar Reservoir (CNDDB 2018). This species is not expected to occur at proposed net locations, except as a rare transient.
Mammals				

Table 5. Special-status Plant and Wildlife Species Occurrences Documented within the Project Region.

Common Name ***Scientific Name*** ***(Arranged alphabetically by scientific name)***	**Listing Status/ Rarity Ranking***	**Habitat Requirements/Habitat Affinity**	**Suitable Habitat Present at Project Locations (Y/N)**	**Likelihood for Occurrence within or near Proposed Net Locations**
Townsend's Big-Eared Bat *Corynorhinus townsendii*	SSC/ G3, S2	Found in a variety of habitats including coniferous forests and woodlands, deciduous riparian woodland, semi-desert and montane shrublands. Hibernates in mines or caves in the winter months. Roosts in a variety of features including limestone caves, lava tubes, and man-made structures.	Yes	Townsend's big eared bat may use the canyons in the Project region for foraging and roosting. Occurrences in the region are from El Estero just west of Carpinteria and the Monte Vista Elementary School in Santa Barbara (CNDDB 2018). The likelihood of occurrence of this species in at net locations is considered low.
Big free-tailed bat *Nyctinomops macrotis*	SSC/ G5, S3	Rugged, rocky terrain. Roost in crevices, buildings, caves, tree holes. Migratory.	No	Big free-tailed bat may use the canyons in the Project region for foraging and roosting. There is one documented occurrence of big free-tailed bat in Santa Barbara from 1996 (CNDDB 2018). The range of this species does not extend into Santa Barbara County. No roosting habitat was observed at proposed net locations and this species is not expected to occur.

*Listing Status/ Rarity Ranking Notes:

Federal: FE – Federally listed Endangered
FT – Federally listed Threatened
FC – Federal Candidate Species
WL – USFWS Watch list
BCC – USFWS Bird of Conservation Concern
MTBA – Migratory Bird Treaty Act

State: SE – State listed Endangered
ST – State listed Threatened
SC – State Candidate Species
SR – State Rare Species
SA – State Special Animal
FP – CDFW Fully Protected Species
SSC – CDFW Species of Special Concern
WL – CDFW Watch List

CRPR: California Native Plant Society Rare Plant Rank

CBR – Considered but Rejected
1B – Rare, threatened, or endangered in CA and elsewhere
2 – Rare, threatened, or endangered in CA but common elsewhere
4 – Limited distribution (Watch-list)
CBR – Considered but Rejected

CRPR Extensions
0.1 – Seriously endangered in California
0.2 – Fairly endangered in California
0.3 – Not very endangered in California

CNDDB Element Rankings

Global/State Rarity Ranking:
G1/S1 – Critically imperiled. At very high risk of extinction due to extreme rarity (often 5 or fewer populations), very steep declines, or other factors.
G2/S2 – Imperiled. At high risk of extinction due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors.
G3/S3 – Vulnerable. At moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.
G4/S4 – Apparently Secure. Uncommon but not rare; some cause for long-term concern due to declines or other factors.
G5/S5 – Demonstrably Secure. Common; widespread and abundant.

[1] – Unless otherwise noted, habitat, elevation, and blooming period for special-status plant species is from *The Jepson Manual, Second Edition* 2012 and CNPS 2018.

4.4 BOTANICAL RESOURCES

One-hundred three (103) plant species were observed within or surrounding the proposed net locations during the September and December 2018 field surveys. A comprehensive list of vascular plant species observed in the Survey Area is provided in Appendix C.

Two special-status plant species, Plummer's baccharis and ocellated Humboldt lily, were observed at Project locations during the field surveys. In addition, suitable habitat for umbrella larkspur and Ojai fritillary is present in the creek channels and at proposed net locations. These four species are discussed in detail in Section 4.4.2 below.

Suitable habitat is not present in the creek channels at the proposed net locations for late-flowered mariposa lily, Palmer's mariposa lily, Santa Barbara morning-glory, mesa horkelia, Coulter's goldfields, Carmel Valley malacothrix, Nuttall's scrub oak, and Santa Ynez false lupine. These species are not expected to occur at proposed net locations and are not discussed further.

Perennial special-status plant species know to occur in the Project region (i.e., Santa Barbara honeysuckle, white-veined monardella, Gambel's watercress, black-flowered figwort, and Sonoran maiden fern) would have been detectable at the time of the field surveys and were not observed. These species are not expected to occur at proposed net locations and are not discussed further.

4.4.1 Sensitive Vegetation Communities

Coast live oak woodland, arroyo willow thickets, and other riparian habitats (e.g., western sycamore woodland, California bay forest) present in the Subject Creek corridors and at proposed net locations are considered valuable biological resources and are classified as Environmentally Sensitive Habitat (ESH) per the *Environmental Thresholds and Guidelines Manual* (County 2008). Individual mature coast live oak trees (6 inches or greater diameter at breast height) are considered sensitive by the County and are provided protection by the *Comprehensive Plan Conservation Element Oak Tree Protection Supplement* (2009).

One additional sensitive vegetation community, southern coastal salt marsh was documented by the CNDDB (2018) within the Project region. Salt marsh habitat is not present in the Subject Creek corridors.

4.4.2 Special-status Plant Species with the Potential to Occur at Proposed Net Locations

Umbrella larkspur (*Delphinium umbraculorum*) (*CRPR 1B.3, G3, S3*). Umbrella larkspur is a perennial herb that occurs in moist oak woodlands and occasionally chaparral habitat at elevations between 1,300 and 5,300 feet. This species blooms between April and June. Umbrella larkspur has a rarity ranking of "Vulnerable" at a global and state level and is considered to be rare, threatened, or endangered in California and elsewhere by the CNPS. The Subject Creeks may have suitable habitat to support umbrella larkspur. Botanical surveys conducted during the appropriate blooming period would be necessary to confirm that this species is not present at proposed net locations.

Ojai fritillary (*Fritillaria ojaiensis*) (*CRPR 1B.2*). Ojai fritillary is a perennial bulb-forming herb with three to five large bulb scales. Stems are usually 40 to 70 cm, with whorled leaves at the base, and nodding flowers that are greenish-yellow with brown spots. This plant blooms early, from February to May, and occurs on rocky slopes in mesic locations in woodlands, chaparral, and river basins from 900 to 1,650 feet in elevation. Ojai fritillary is known only from San Luis Obispo, Santa Barbara, and Ventura Counties. This species has a rarity ranking of "Imperiled" at a global and state level and is considered fairly endangered in California by the CNPS. Similar to the umbrella larkspur, Ojai fritillary prefers mesic sites suitable habitat is present at net locations to support this species. Botanical surveys conducted during the appropriate blooming period would be necessary to confirm that this species is not present at proposed net locations.

4.4.3 Special-status Plant Species Observed at Proposed Net Locations

Plummer's baccharis (*Baccharis plummerae* ssp. *plummerae*) (*CRPR 4.2, G3, S3*). Plummer's baccharis is a small, broad-leaved winter-deciduous shrub (< 2 meters tall) in the sunflower family (Asteraceae). Plummer's baccharis typically occurs on rocky, well-drained, north-facing slopes in coastal sage scrub and oak woodland plant communities. Flowers generally bloom between August and November, but are not particularly showy (Appendix A – Site Photographs). Plummer's baccharis has a rarity ranking of "Vulnerable" at a global and state level and is considered uncommon in California by the CNPS, but can be locally abundant where it occurs. It ranges in distribution from southern coastal Santa Barbara County to coastal Los Angeles County, as well as Santa Cruz and Anacapa islands, below 6,000 feet in elevation. Occurrences of Plummer's baccharis were observed and mapped at seven of the proposed net locations (CS-11, SY-7a, BV-5, BV-6, BV-7, RC-12, and RC-15) (Figures 6b, 6c, 6e, 6f, 6g, 6l, 6m – Proposed Net Locations, Jurisdictional Boundaries & Sensitive Resources).

Ocellated Humboldt lily (*Lilium humboldtii* ssp. *ocellatum*) (*CRPR 4.2, G4, S4*). Ocellated Humboldt lily is a bulb-forming perennial herbthat typically blooms from May to August. Flowers are yellow or light orange, with spots margined in red. Ocellated Humboldt lily can be found in oak canyons, chaparral, yellow-pine forest, and riparian woodland at elevations below 6,000 feet. Ocellated Humboldt lily has rarity ranking of "Apparently Secure" at a global and state level and is considered uncommon in California, but can be locally abundant where it occurs. This species ranges in distribution from San Luis Obispo County south to San Diego County and also exists on Anacapa Island and Santa Rosa Island. One ocellated Humboldt lily individual was observed and mapped at RC-15, along the western bank (Figure 6m – Proposed Net Locations, Jurisdictional Boundaries & Sensitive Resources).

4.4.4 Special-Status Plant Species Abundance & Distribution at Proposed Net Locations

Table 6 provides a summary of the occurrences of special-status plant species observed and mapped at the proposed net locations during the 2018 field surveys. CDFW CNDDB forms for observations of special-status species are included in Appendix E.

Table 6 – Summary of Special-status Plant Species Abundance & Distribution

Net Location	Feature Type[1]	Latitude [2]	Longitude [2]	Number of Plants Observed/ Description of Location	Total Area[3] (square feet)
Plummer's baccharis					
CS-11	Polygon	34.460414	-119.65411	27 plants along TOB on east slope	585
	Polygon	34.460267	-119.653856	5 plants on west slope	124
SY-7a	Point	34.468207	-119.622870	4 plants on slope east of net site; 30 feet above the channel and 6 feet downslope of the public trail	16
BV-5	Polygon	34.45539	-119.610297	3 plants on west slope; 30-40 feet above channel	130
BV-6	Polygon	34.458358	-119.608668	12 plants on east bank	349
	Polygon	34.458405	-119.608906	10 plants on west bank	56
BV-7	Polygon	34.456101	-119.609351	8 plants on east bank	298
RC-12	Polygon	34.465268	-119.591019	55 plants along west bank/TOB	1,404
RC-15	Point	34.458732	-119.591580	1 plant on west bank	4
	Point	34.458719	-119.591484	3 plants on west bank	12
Ocellated Humboldt lily					
RC-15	Point	34.458747	-119.591657	1 plant on west bank; 20 feet above channel	2

[1] Populations with multiple individuals were mapped as polygon features; individual plants were mapped as point features.

[2] All features were collected in datum NAD83, State Plane CA Zone 5. Waypoints of polygon features are at the approximate center of the feature.

[3]Approximate area for point features was visually estimated in the field. Area for polygon features was generated using ArcGIS.

4.5 WILDLIFE RESOURCES

The field surveys enabled a characterization of habitat quality and assessment of potential for occurrence of special-status wildlife species (e.g., southern California steelhead, California red-legged frog [CRLF], coast range newt, southwestern pond turtle, two-striped gartersnake, Cooper's hawk.). A list of all wildlife species observed within the Subject Creeks is included as Appendix D – Wildlife Inventory.

4.5.1 General Wildlife Habitat

Bird species typically associated with foothill canyon riparian and chaparral habitats were observed during the field surveys (Appendix D). Exmples include California quail (*Callipepla californica*), red-tailed hawk (*Buteo jamaicensis*), Anna's humminghbird (*Calypte anna*), northern flicker (*Colaptes auratus*) acorn woodpecker (*Melanerpes formicivorus*), black phoebe (*Sayornis nigricans*), Stellar's jay (*Cyanocitta stelleri*), western scrub jay (*Aphelocoma*

californica), Canyon wren (*Ctherpes mexicanus*), spotted towhee (*Pipilo maculatus*), California towhee (*Pipilo crissalis*), and dark-eyed junco (*Junco hyemalis*).

Two amphibian species were observed during field surveys, California treefrog (*Pseudacris cadaverina*) and Baja California treefrog (*P. hypochondriaca*). Four reptile species were recorded: California striped racer (*Coluber lateralis*), coast mountain kingsnake (*Lampropeltis zonata*); western fence lizard (*Sceloporus occidentalis*); and southern alligator lizard (*Elgaria multicarinata*).

Evidence (i.e., scat, and tracks) indicated the presence of grey fox *(Urocyon cinereoargentes*) and mule deer (*Odocoileus hemionus*).

4.5.2 Special-status Wildlife Species Observed in the Survey Area

No special-status wildlife species were observed during the September and December 2018 field surveys. However, nine special-status wildlife species have to the potential to occur, as summarized in Table 5. The narratives below describe the special-status wildlife species with a likelihood of occurrence in the Subject Creeks and/or at proposed net locations. Each species' habitat preferences, distribution, and key characteristics are provided.

4.5.3 Special-status Wildlife Species with the Potential to Occur in the Survey Area

Special-status wildlife species that have the potential to occur in the Subject Creeks based on presence of suitable habitat and/or documented occurrences are discussed below.

Southern California steelhead DPS (*Oncorhynchus mykiss irideus*) (*FE, SSC, G5, S1*). The Southern California Distinct Population Segment (DPS) of steelhead is listed as endangered under the Federal ESA and is considered a Species of Special Concern by CDFW. Steelhead are anadromous, born in freshwater streams, they migrate to the ocean and remain pelagic until returning to freshwater to spawn. Stoecker (2002) cites historic records for Southern California steelhead in three of the four Subject Drainages: Cold Spring, San Ysidro, and Romero Creeks. Portions of Cold Spring, Romero, and San YsidroCreeks are designated Critical Habitat for Southern California steelhead (NMFS 2005) (Figure 5 – CNDDB Wildlife Occurrences).

Stoecker (2002) also identified barriers to migration in several "focal watersheds", including Montecito (= Hot Springs and Cold Spring) Creek and San Ysidro Creek. The lower-most elevation barrier in the drainages that are considered "impassible" for federally listed DPS are shown in Figures 2a through 2d. There is a barrier (concrete channel) in the main stem of Montecito Creek and debris basin dams on Cold Spring, Romero, and San Ysidro Creeks. Given these barriers, each of which is downstream from the proposed debris net locations, there is presently no potential for federally listed DPS to be present in the work areas.

Between 2014 and 2016, CDFW biologists relocated *O. mykiss* from portions of Montecito and San Ysidro Creeks where water quality was degraded by persistent drought conditions (Larson 2018 personal communication). The fish were re-introduced in reaches of Hot Springs, Cold Spring, and San Ysidro Creeks with greater depth and better water quality.

California red-legged frog (*Rana draytonii*) (*FT, SSC, G2, S2*). The CRLF is listed as threatened under the Federal ESA and is considered a Species of Special Concern by CDFW.

CRLF has a rarity ranking of "Imperiled" at a global and state level. CRLF are typically found in segments of streams and rivers sustaining prolonged surface flow or standing pools that afford cover and food resources. Upland dispersal and migration typically occur under wet conditions during fall and winter.

The CNDDB query revealed one record for CRLF in Cinquefoil Creek, 0.35 miles north of the confluence of Cold Spring and Hot Springs Creeks. Adult CRLF were observed in Montecito Creek, below the confluence with Cold Spring/Hot Springs Creeks during nighttime surveys conducted in September of 2005 (SES 2005). There is also a record for San Ysidro Canyon from 1982 (SBMNH unpublished).

Each of the five drainages supports suitable habitat for CRLF. If present, local populations were undoubtedly affected the recent fire and subsequent debris flow. Habitat value will improve with recovery of the riparian overstory and understory.

Northern (silvery) legless lizard (*Anniella pulchra*) (*SSC, G3, S3*). The northern legless lizard has a rarity ranking of "Vulnerable" at a global and state level and is recognized as a California Species of Special Concern. It occurs in scrub and woodland habitats associated with loose, sandy substrates. Based on habitat association and soil type, legless lizards should be considered a likely resident in upland reaches of the Subject Creeks.

Southwestern pond turtle (*Actinemys pallida*) (*SSC, G3, S3*). The southwestern pond turtle has a rarity ranking of "Vulnerable" at a global and state level and is recognized as a California Species of Special Concern. They inhabit freshwater ponds, streams, and artificial impoundments, using the adjacent uplands for egg laying. The CNDDB query did not reveal any records for the Subject Creeks, nor did a review of unpublished museum data (SBMNH undated). However, suitable habitat is present and the species could be encountered at proposed net locations.

Coast patch-nosed snake (*Salvadora hexalepis virgultea*) (*SSC, G5, S2*). The coast patch-nosed snake has a rarity ranking of "Secure" at a global level, "Imperiled" at a state level, and is recognized as a California Species of Special Concern. There are few records for the Santa Barbara Region, but the species could be found in upland habitats above the Subject Creek channels and proposed net locations.

Coast range newt (*Taricha torosa*) (*SSC, G4, S4*). The coast range newt has a rarity ranking of "Apparently Secure" at a global and state level and is recognized as a California Species of Special Concern. Coast range newts are known to occur in Cold Spring and Hot Springs Creeks (SBMNH unpublished, CNDDB 2018). There is suitable habitat for Coast Range Newt in each of the Subject Creeks.

Two-striped gartersnake (*Thamnophis hammondii*) (*SSC, G4, S3*). The two-stripe gartersnake has a rarity ranking of "Apparently Secure" at a global level, "Vulnerable" at a state level, and is recognized as a California Species of Special Concern. There is suitable habitat for two-striped garter snake in each of Subject Creeks.

Cooper's hawk (*Accipiter cooperii*) (*WL, MBTA, G5, S4*). Cooper's hawk is a CDFW Watch List species and is protected by the MBTA. It has a rarity ranking of "Secure" at a global level, "Apparently Secure" at a state level. Cooper's hawks are relatively common, year-round

resident in the Santa Barbara Region. They nest with uncommon frequency in foothill canyons and are likely to occur in the Subject Creek corridors.

Townsend's Big-Eared Bat (*Corynorhinus townsendii*) (*SSC, G3, S2*). The Townsend's big-eared bat has a rarity ranking of "Vulnerable" at a global level, "Imperiled" at a state level, and is recognized as a California Species of Special Concern. Townsend's big-eared bat is widely distributed with the Santa Barbara Region. They typically roost in caves, mine tunnels, or buildings. There is no suitable roosting habitat in the Project vicinity. Foraging would be unlikely to be affected, since all work will occur during daylight hours.

4.6 JURISDICTIONAL WATERS AND WETLANDS

A delineation of waters of the U.S. and CDFW jurisdiction was conducted during the September 2018 surveys (Figures 6a-6m – Proposed Net Locations, Jurisdictional Boundaries & Sensitive Resources).

4.6.1 Waters of the U.S.

All of the creeks surveyed as part of the Project are perennial, ultimately discharging into the Pacific Ocean, and therefore, are considered jurisdictional Waters of the U.S. under current federal guidance. Due to the debris flows in January 2018, the creek corridors are highly altered from what would be considered typical or "ordinary", and indicators of high water were not always evident or reliable. Therefore, the approximate OHWM was established at each net location using physical marks on the landscape (e.g., drainage patterns, topographic breaks in slope, changes in sediment characteristics, etc.) that represented a reasonable judgement of water levels at above average, but not extreme levels (Figures 6a-6m – Proposed Net Locations, Jurisdictional Boundaries & Sensitive Resources). Table 3 summarizes stream characteristics (e.g., estimated width of the active channel, depth of flow, and width of channel at OHWM) at each proposed net location.

No jurisdictional wetlands are present at proposed net locations.

4.6.2 CDFW Jurisdictional Streambed

The stream banks at the majority of the proposed net locations are steeply incised and most of the vegetation along the slopes was burned in the Thomas Fire. In many locations, the TOB was well above the stream channel (i.e., 30 to 50 feet). Approximate TOB was mapped in the field using obvious topographic changes and ridgelines as boundaries. At all of the proposed net locations, the upland limit of CDFW jurisdiction corresponds to the TOB (Figures 6a-6m – Proposed Net Locations, Jurisdictional Boundaries & Sensitive Resources). All proposed net locations are wholly within CDFW jurisdiction.

5.0 IMPACT DISCUSSION

The follow sections describe the potential impacts of the proposed Project on biological resources. For the purposes of this analysis, net installation and maintenance, including removal of accumulated debris, are considered temporary impacts. The debris nets are intended to be in place for a period of up to 5 years, and then removed as the watersheds effected by the Thomas

Fire revegetate. Temporary impacts would result from net installation and required maintenance activities.

Direct impacts to plant and wildlife habitat would occur through staging and operation of equipment for net installation, accumulation of debris behind the nets, and redistribution of accumulated material downstream if/when an event occurs. The construction and maintenance areas are is depicted in Figures 6a through 6m for each proposed net location.

5.1 IMPACTS TO JURISDICTIONAL RESOURCES

The Subject Creeks contain USACE non-wetland Waters of the U.S. and CDFW Streambeds. The impacts to USACE, CDFW, and County are summarized in Table 7 below.

Table 7 – Summary of Impacts to Jurisdictional Resources

Net Location	Construction			Maintenance/Debris Flow Removal		
	Non-Wetland Waters of the U.S. (acres)	CDFW Streambed[1] (acres)	County ESH[2] (acres)	Non-Wetland Waters of the U.S. (acres)	CDFW Streambed[1] (acres)	County ESH[2] (acres)
Cold Spring Creek						
CS-11	0.01	0.04	0.04	0.1	0.32	0.32
CS-18	0.01	0.05	0.05	0.07	0.18	0.18
Subtotal:	**0.02**	**0.09**	**0.09**	**0.17**	**0.5**	**0.5**
San Ysidro Creek						
SY-7a	0.04	0.05	0.05	0.07	0.09	0.09
SY-18	0.01	0.03	0.03	0.1	0.26	0.26
Subtotal:	**0.05**	**0.08**	**0.08**	**0.17**	**0.35**	**0.35**
Buena Vista Creek						
BV-2	0.01	0.03	0.03	0.03	0.07	0.07
BV-4	0.01	0.07	0.07	0.05	0.18	0.18
BV-5	0.01	0.04	0.04	0.05	0.14	0.14
BV-6	0.01	0.03	0.03	0.04	0.11	0.11
BV-7	0.01	0.03	0.03	0.04	0.11	0.11
BV-10	0.01	0.03	0.03	0.06	0.17	0.17
BV-11	0.02	0.08	0.08	0.1	0.18	0.18
Subtotal:	**0.08**	**0.31**	**0.31**	**0.37**	**0.96**	**0.96**
Romero Creek						
RC-12	0.01	0.04	0.04	0.05	0.09	0.09
RC-15	0.01	0.03	0.03	0.06	0.16	0.16
Subtotal:	**0.02**	**0.07**	**0.07**	**0.11**	**0.25**	**0.25**
Totals:	**0.17**	**0.55**	**0.55**	**0.82**	**2.06**	**2.06**

[1] Acreage for CDFW-jurisdictional areas includes Non-wetland Waters of the U.S.
[2] Acreage for County ESH includes Non-wetland Waters of the U.S. and CDFW-jurisdictional areas.

5.2 U.S. ARMY CORPS OF ENGINEERS

USACE jurisdiction extends to the OHWM on the banks of the creek at each net location. Installation and maintenance of the 13 proposed nets will result in cumulative, temporary impacts to 0.99-acre of USACE-jurisdictional Waters of the U.S.

Projects that result in discharge of dredged or fill material to jurisdictional Waters of the U.S. require a CWA Section 404 permit from the USACE. USACE-defined waters are also subject to the permitting authority of the County.

5.3 CDFW JURISDICTIONAL STREAMBED

All of the nets would be installed below the TOB and therefore, wholly within CDFW jurisdiction. The installation and maintenance of the 13 proposed nets will result in cumulative, temporary impacts to 2.61 acres of CDFW-jurisdictional stream bed and bank and associated riparian habitat.

The CDFW administers Streambed Alteration Agreements under Sections 1600-1607 of the Fish & Game Code. Sections 1600-1607 address any project that will "(1) divert, obstruct, or change the natural flow or the bed, channel, or bank of any river, stream, or lake designated by the department [California Fish and Wildlife] in which there is at any time an existing fish or wildlife resource or from which these resources derive benefit, (2) use materials from the streambeds designated by the department, or (3) result in the disposal or deposition of debris, waste, or other material containing crumbled, flaked, or ground pavement where it can pass in to any river, stream, or lake designated by the department" (Section 1601). A Streambed Alteration Agreement (SAA) is required for any work occurring within a water with defined bed and bank features.

5.3.1 Central Coast Regional Water Quality Control Board

All of the Subject Creeks are perennial and discharge into downstream waters (i.e., Pacific Ocean). The Central Coast RWQCB regulates work involving discharge of pollutants into waters/wetlands under Section 402 of the CWA and the National Pollutant Discharge Elimination System permit (NPDES) program. Under the NPDES program, projects involving discharge of pollutants into waters/wetlands must have a Stormwater Pollution Prevention Plan (SWPPP), which is reviewed and approved by the Central Coast RWQCB and the County.

5.3.2 County of Santa Barbara

Jurisdictional streams and associated riparian vegetation are considered ESH by the County. The lateral extent of County jurisdiction in streams corresponds to CDFW jurisdiction, which in this case is the TOB at each net location. The installation and maintenance of the proposed nets will result in cumulative, temporary impacts to 2.61 acres of County-designated ESH. Project-related impacts to streams/riparian areas must be mitigated or avoided, consistent with County land use policies protecting streams and wetlands.

5.4 IMPACTS TO EXISTING VEGETATION AND SENSITIVE COMMUNITIES

The proposed Project will result in temporary impacts to the native vegetation that has reestablished in the channels and along the banks at the proposed net locations. The vegetation communities present at the net locations are all associated with the riparian corridor of the Subject Creeks and are therefore, considered sensitive per local, state, and federal policies and guidelines.

Vegetation at the net locations is sparse due to the Thomas Fire and subsequent debris flows. Total vegetation cover ranges from 5 to 45 percent at net locations (see Table 4). The installation and maintenance of the proposed nets will result in impacts to 2.61 acres of riparian vegetation, which corresponds to the area of impacts to County-designated ESH.

Temporary impacts to vegetation due to net installation include trampling from construction equipment, personnel, and staging of materials. Ground disturbance for net installation is limited to the area where anchors are drilled and grouted into the banks (Figures 6a-6m – Proposed Net Locations, Jurisdictional Boundaries & Sensitive Resources).

No trees will be removed as part of the Project. Two sycamore saplings (BV-4) and one arroyo willow sapling (BV-5) may need to be trimmed during net installation.

Impacts due to net maintenance will include excavation of the accumulated debris behind the nets and redistribution of the material downstream. Avoidance and minimization measures outlined in Section 6.0 are recommended to reduce impacts to existing vegetation and sensitive communities.

5.5 IMPACTS TO SPECIAL-STATUS PLANT SPECIES

Two special-status plant species were observed and mapped at net locations: Plummer's baccharis and ocellated Humboldt lily (Figures 6b, 6c, 6e, 6f, 6g, 6l, 6m).

Populations of Plummer's baccharis are present near construction and maintenance areas at seven proposed net locations: CS-11, SY-7a, BV-5, BV-6, BV-7, RC-12, and RC-15. Impacts to individual Plummer's baccharis plants at two sites (BV-6 and RC-12) have the potential to occur during net installation.

Approximately 64 square feet of Plummer's baccharis is within the Construction Area at BV-6 and 265 square feet of Plummer's baccharis is in the Construction Area at RC-12 (see Figures 6e and 6l). Individual plants within these mapped areas will be flagged during pre-construction surveys and avoided if possible. In the event that Plummer's baccharis individuals are impacted by anchor installation, the number of plants will be documented and appropriate mitigation (e.g., reseeding, replanting) will be developed to compensate for impacts.

Ocellated Humboldt lily is present at one location, RC-15. This plant is located along the west bank, approximately 20 feet above the channel and will not be impacted by net installation. However, if a large debris flow occurs it would likely be removed from the slope.

The recommended avoidance and minimization measures have been developed to reduce impacts to special-status plant species, include pre-construction surveys to flag specimens for avoidance,

worker environmental awareness training, and biological monitoring during construction, maintenance, and removal of nets.

5.6 IMPACTS TO WILDLIFE

5.6.1 Impediment to Wildlife Movement

The nets will not impede dispersal or migration of aquatic wildlife species or small mammals unless filled with debris. The design calls for a freeboard of 3 to 5 feet between the low-flow water surface and bottom of the net. This will allow sufficient space for the majority of wildlife species, including larger animals such as bear and mountain lion, to pass under the net. Some large wildlife, such as mule deer, may not be able to pass under the net and would have to traverse the adjacent canyon slopes to move upstream and downstream.

5.6.2 Potential for Incidental Take of Listed Species

Two federally-listed species, Southern California steelhead and California red-legged frog, are known to occur in the Subject Creeks. There is little or no possibility of incidental take of Southern California steelhead because downstream barriers currently prevent upstream migration.

CRLF could be killed or injured if present in the construction or maintenance areas. The species is most likely to be found in the active stream channel, but may also be present in the adjacent upland where work will occur.

Potential for incidental injury or mortality of special status wildlife species can be reduced through minimization and avoidance measures during construction (e.g., pre-construction nesting bird surveys, worker environmental awareness training, biological survey and monitoring).

5.6.3 Potential for Impacts to Non-listed Resident Salmonids

Resident salmonids could occur in the Subject Creeks and if present, might be killed or injured when accumulated material is redistributed. With the exception of restoring low flow conditions, there will be no operation of equipment in the active stream channel.

5.6.4 Degradation of Water Quality

Degradation of water quality could occur from two main sources: contaminants resulting from spills and increased turbidity during removal of accumulated debris.

Drilling equipment uses biodegradable fluids and lubricants (ALC 2018). No fuel will be stored at the work area and secondary containment will be used during all fueling operations. Secondary containment will also be set up at grout mixing stations and around anchor locations to prevent spillage.

A temporary increase in stream turbidity will occur as the low-flow channel is re-established when accumulated material is removed. Sediment controls (e.g., silt fence, straw wattles) will be installed downstream.

6.0 RECOMMENDED AVOIDANCE & MINIMIZATION MEASURES

Features inherent in the site selection, Project design, and method of debris net installation and maintenance are intended to reduce impacts to biological resources. Sites were initially chosen exclusively on the basis of geotechnical analysis and in consideration of capacity to capture and temporarily store debris. Those sites were vetted through a preliminary biological survey and reconnaissance. At some locations, the design of the debris nets was modified or redesigned in consideration of likely effects on resources. Sites that required soil excavation and/or tree removal were eliminated. Methods of construction that are minimally intrusive were developed. These include aerial deployment of equipment and materials and use of specialized machinery that can accomplish Project objectives with minimal effect on resources.

The following avoidance and minimization measures are recommended to reduce impacts to biological resources that might result from net installation and maintenance. Recommended species-specific and sensitive habitat protection measures are listed first, followed by general construction measures/BMPs.

6.1 SPECIES-SPECIFIC AND SENSITIVE HABITAT AVOIDANCE AND MINIMIZATION MEASURES

- All special-status plant populations (Plummer's baccharis and ocellated Humboldt lily) present near net locations shall be flagged for avoidance prior to commencement of net installation to prevent impacts and/or disturbance. If special-status plant species cannot be avoided during construction, the number of plants impacted shall be documented and appropriate mitigation shall be developed.

- No oak trees shall be removed as part of net installation or maintenance. The area protected from disturbance should include the area 6 feet outside of the dripline of an oak. In the event oak trees are removed or damage to the Critical Root Zone (CRZ) of a tree occurs during net construction or maintenance, they shall be replaced in a manner consistent with County standards.

- A qualified biologist shall conduct a pre-construction survey of the net locations and access points for special-status wildlife that have the potential to occur. Wildlife observed within work areas will be captured and relocated to suitable habitat outside the construction zone. Incidental take permits are not being requested, so no handling (i.e., capture and relocation) of state- and/or federally-listed species is proposed. If listed species are observed within or near the work area, work will be suspended and the CDFW and USFWS notified.

6.2 GENERAL CONSTRUCTION AVOIDANCE AND MINIMIZATION MEASURES

- An agency-approved biologist (Project Biologist) will be onsite to conduct wildlife surveys, monitor for permit compliance, and provide oversight of construction and maintenance work.

- If the Project is implemented during the bird nesting season (February 1 to August 31), an agency-approved biologist shall conduct a pre-construction survey of the proposed

development envelope and adjacent habitats within 7 days of construction commencement (i.e., mobilization, staging, vegetation clearing, or excavation) to avoid impacts to nesting raptors and other birds. Surveys shall be conducted in all areas within 500 feet of proposed disturbance areas, or a lesser distance if dense vegetation renders a 500-foot survey radius infeasible. If breeding birds with active nests are found prior to (or during) Project construction, an agency-approved biologist shall oversee the establishment of a buffer (prescriptively 300 feet for passerines and 500 feet for raptors) around the nest; no activities will be allowed within the buffer(s) until the young have fledged from the nest or the nest fails.

- Prior to the start of work, an agency-approved biologist shall provide worker orientation for all construction contractors (including site supervisors, equipment operators, and laborers) which emphasizes the presence of special-status species within the Subject Creeks and/or adjacent to the net locations, identification of those species, their habitat requirements, applicable regulatory policies and provisions regarding their protection, measures being implemented to avoid and/or minimize impacts, and penalties for noncompliance will be conducted. No staging of equipment or construction supplies shall occur prior to the tailgate meeting.

- All construction equipment shall be limited to designated work and staging areas. Minor adjustments may be made in the field in consideration of topography and current flow conditions, with the approval of the biological monitor.

- No equipment, diesel fuel, or grout will be staged or stored within the stream channel. Fueling of equipment will not be done within 100 feet of the active channel. Grout mixing stations will be placed a minimum of 15 feet from the active flow line of the creek. BMPs (e.g., silt fencing, straw wattles) shall be installed around the anchor construction work area to ensure grout from anchor installation does not enter the stream channel or adjacent habitat.

- Stationary equipment and fluid storage vessels will be equipped with secondary containment. A spill containment and cleanup kit will be onsite at each location while work is in progress.

- No construction shall occur within 24 hours of a National Weather Service forecasted 0.25-inch rain event.

- All motorized equipment used shall be maintained in proper working condition and shall be free of drips and leaks of coolant, hydraulic, and petroleum products. No equipment shall be used for the Project unless such equipment is free of leaks and drips. Equipment will be power-washed before mobilization to the work site.

- Trash and food items will be kept in closed containers and removed daily.

- Sediment controls will be installed downstream from the work area when accumulated material from behind the net is redistributed. Once the low-flow channel has been re-established, soil and rock will be cast to the side of the active channel. If feasible, a temporary retention basin may be used to control turbidity.

- Rocks, boulders, and coarse materials will be redistributed in a manner that mimics natural stream deposition and is favorable to wildlife. Re-distribution of accumulated material will be done under the supervision of a qualified biologist.

7.0 INVASIVE PLANT MANAGEMENT PROGRAM

In addition to the recommended avoidance and minimization measures outlined above, an invasive plant management program is also proposed in portions of the Subject Creek channels, to compensate for 2.61 acres of temporary impacts to ESH, reduce the spread of non-native plants, and assist in the recovery of native species.

The proposed invasive plant management program would include twice-annual removal of target invasive species for a period of five years or until the nets are removed. The non-native plants targeted for management were observed becoming established and spreading in the creek channels during field surveys. All of the target plant species are considered invasive by the California Invasive Plant Council (Cal-IPC). Target species are listed below along with their Cal-IPC rating (i.e., High, Moderate, or Limited):

- giant reed (*Arundo donax*) (High)
- black mustard (*Brassica nigra*) (Moderate)
- cape ivy (*Delairea odorata*) (High)
- fig (*Ficus carica*) (Moderate)
- sweet fennel (*Foeniculum vulgare*) (Moderate)
- tree tobacco (*Nicotiana glauca*) (Moderate)
- castor bean (*Ricinus communis*) (Limited)
- saltcedar (*Tamarix ramosissima*) (High)
- greater periwinkle (*Vinca major*) (Moderate)

Removal of the target invasive plant species will be conducted by crews walking the creek channels and hand pulling plants or removing plants with the assistance of hand tools (e.g., trowels, shovels, hand-held trimmers). The crews will be trained on what species will be targeted for removal and supervised by a restoration specialist or biologist. Plant removal efforts will be timed appropriately to reduce invasive species seed bank (i.e., before plants set seed). All plants will be bagged and disposed of appropriately off-site. No motorized equipment or herbicide will be used.

7.1 INVASIVE PLANT MANAGEMENT AREAS

The proposed invasive plant management areas are depicted in Figure 7. Each management area extends from a designated access point where crews can enter the creek channels (e.g., East Mountain Drive, Hot Springs Road, Park Lane, Edison Catway, or Romero Canyon Road) to the northern-most net location in each of the four Subject Creeks. Table 8 summarizes the areas proposed for invasive plant management in each creek.

Table 8 – Summary of Proposed Invasive Plant Management Areas

Creek Name	Management Area			
	Access Point	Northern Net Location[1]	Approximate Linear Feet	Approximate Acreage[1]
Cold Spring Creek	East Mountain Drive	CS-11 & CS-18	2,270	2.6
San Ysidro Creek	Edison Catway Road Crossing	SY-7a	4,000	4.6
Buena Vista Creek	Park Lane	BV-6 & BV-11	4,200	4.8
Romero Creek	Romero Canyon Road Crossing	RC-12	2,800	3.2
		Total	**13,270**	**15.2**

[1] Two net locations are listed for creek channels that branch.
[2] Acreages were calculated assuming an average 50-foot width of the creek channels.

As described in Section 5.0 (Impact Discussion), the Project has the potential to result in 2.61 acres of temporary impacts to ESH from construction of the nets and removal of accumulated debris, as necessary. Implementation of the proposed invasive plant management program will result in removal of numerous highly invasive plant species within approximately 15.2 acres of the Subject Creek channels.

Although management of the target plants is temporary, species such as saltcedar, giant reed, and cape ivy are known to cause severe ecological impacts on plant and animal communities, particularly in creek channels, due to their high rates of dispersal and establishment. Addressing the spread of these species quickly and repeatedly over the duration of the Project will help considerably to reduce establishment both within the management areas and downstream.

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FIGURES

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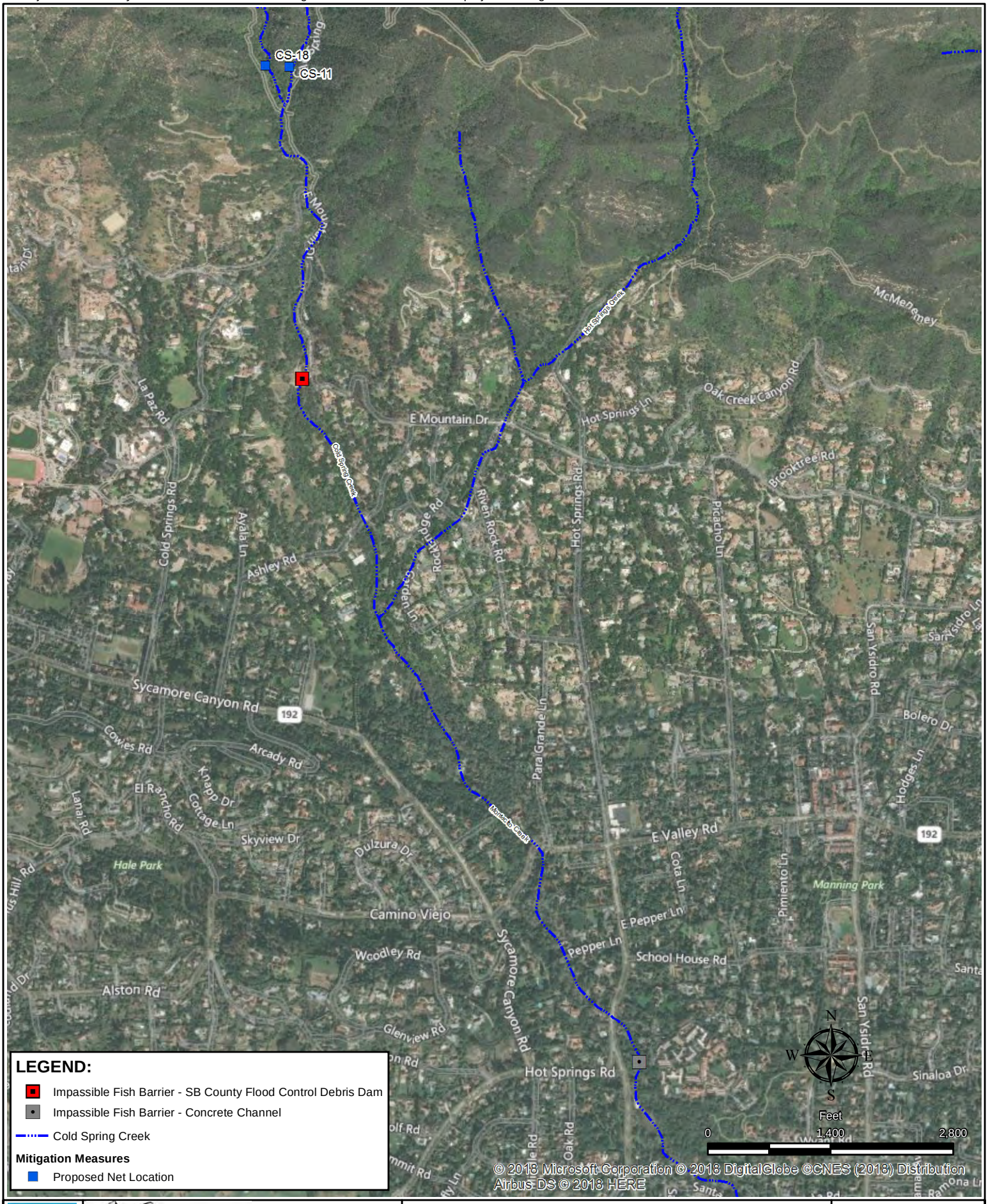
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Site Vicinity Map
Montecito Debris Flow Mitigation Project
The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 1

January 18, 2019

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LEGEND:

- Impassible Fish Barrier - SB County Flood Control Debris Dam
- Impassible Fish Barrier - Concrete Channel
- Cold Spring Creek

Mitigation Measures

- Proposed Net Location

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Project Area Map - Cold Spring Creek
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The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 2a

October 10, 2018

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LEGEND:

- Impassible Fish Barrier - SB County Flood Control Debris Dam
- San Ysidro Creek

Mitigation Measures

- Proposed Net Location

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Project Area Map - San Ysidro Creek
Montecito Debris Flow Mitigation Project
The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 2b

January 18, 2019

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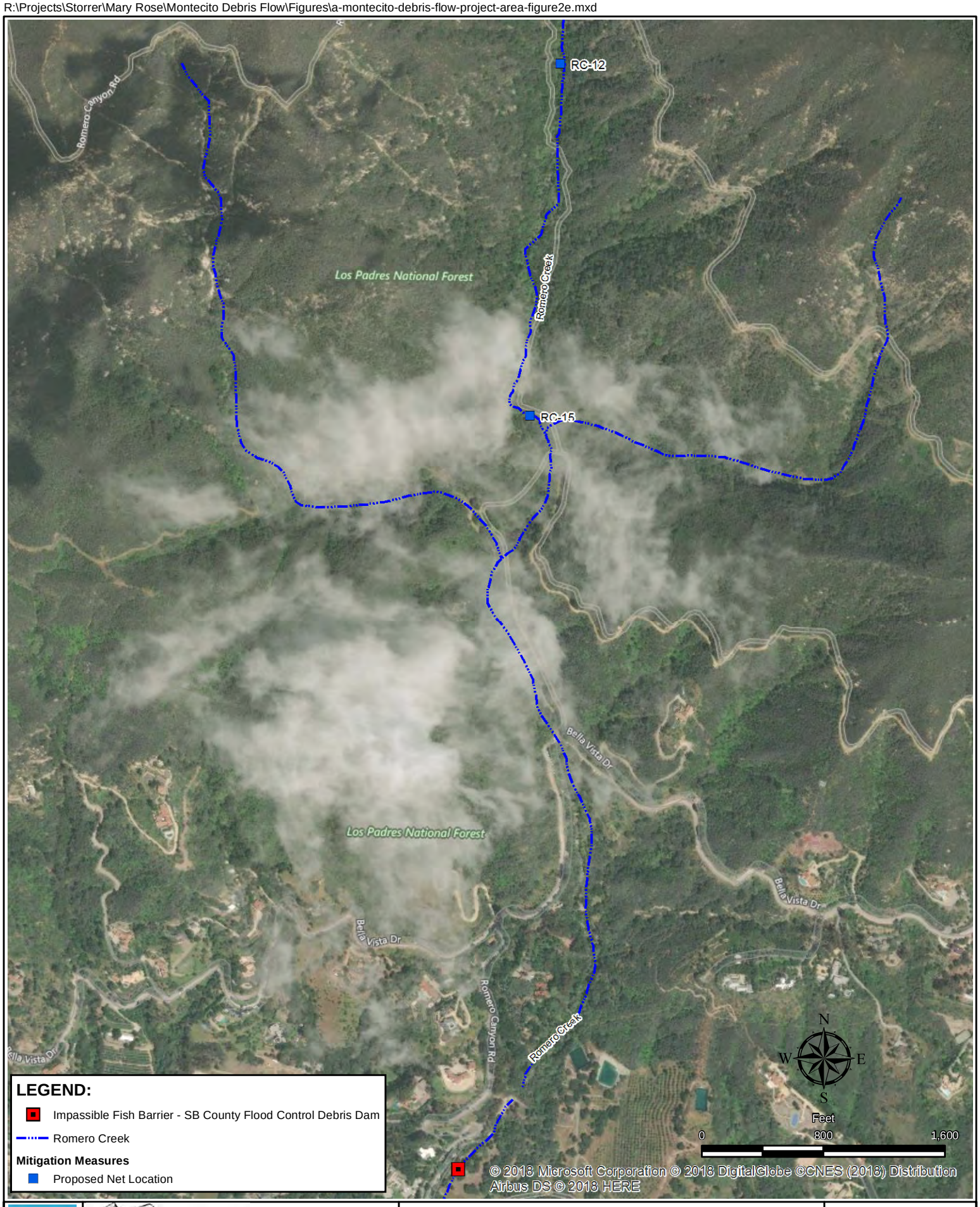
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Project Area Map - Buena Vista Creek
Montecito Debris Flow Mitigation Project
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Santa Barbara County, CA

Figure 2c

October 22, 2018

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LEGEND:

- Impassible Fish Barrier - SB County Flood Control Debris Dam
- Romero Creek

Mitigation Measures

- Proposed Net Location

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Project Area Map - Romero Creek
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The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 2d

October 8, 2018

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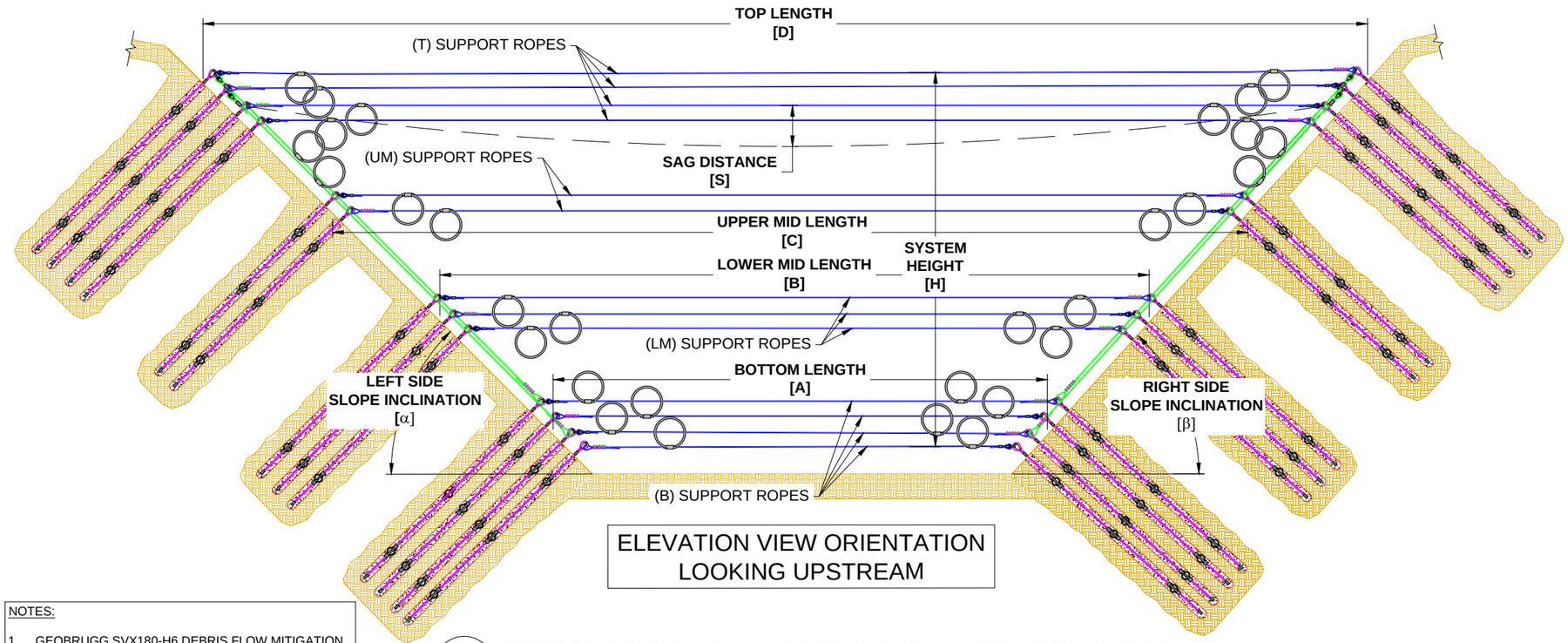
GEOBRUGG SVX180-H6 DEBRIS FLOW MITIGATION SYSTEM DIMENSIONAL SCHEDULE - 1

LOCATION DESIGNATION	SYSTEM HEIGHT [H] (FT)	BOTTOM LENGTH [A] (FT)	LOWER MID LENGTH [B] (FT)	UPPER MID LENGTH [C] (FT)	TOP LENGTH [D] (FT)	SAG DISTANCE [S] (FT)	LEFT SIDE AVG. SLOPE INCLINATION [α] (DEG.)	RIGHT SIDE AVG. SLOPE INCLINATION [β] (DEG.)
BUENA VISTA BV-1	10	70	76	83	90	1.5	45	50
BUENA VISTA BV-4	17	45	54	69	77	1.5	55	66
BUENA VISTA BV-11	20	98	116	134	150	3	30	30
HOT SPRINGS HS-6	17	48	67	81	94	2	65	55
COLD SPRING CS-18	12	47	60	70	81	1.5	45	30
SAN YSIDRO SY-7	20	41	58	65	75	1.5	75	55
SAN YSIDRO SY-18	16	13	47	57	67	1.5	60	60
ROMERO RC-12	12	40	45	52	61	1	55	60

NOTE: SLOPE INCLINATIONS FROM HORIZONTAL PROVIDED ARE AVERAGED.

GEOBRUGG SVX180-H6 SUPPORT ROPE CONFIGURATION SCHEDULE - 2

LOCATION DESIGNATION	BOT. SUPPORT ROPE QUANTITY (B)	LOWER MID SUPPORT ROPE QUANTITY (LM)	UPPER MID SUPPORT ROPE QUANTITY (UM)	TOP SUPPORT ROPE QUANTITY (T)
BUENA VISTA BV-1	5	5	6	6
BUENA VISTA BV-4	5	5	6	6
BUENA VISTA BV-11	6	6	7	7
HOT SPRINGS HS-6	5	5	6	6
COLD SPRING CS-18	5	5	6	5
SAN YSIDRO SY-7	4	5	6	6
SAN YSIDRO SY-18	4	6	8	6
ROMERO RC-12	4	4	5	5



ELEVATION VIEW ORIENTATION
LOOKING UPSTREAM

NOTES:

1. GEOBRUGG SVX180-H6 DEBRIS FLOW MITIGATION SYSTEM DIMENSIONS AND CHANNEL GEOMETRIES ARE APPROXIMATE.
2. DETAIL D-1/8 ELEVATION VIEW IS LOOKING UPSTREAM DIRECTION.
3. SUPPORT WIRE ROPE CONFIGURATIONS VARY BASED ON SITE LOCATION. SEE SCHEDULE 2 FOR WIRE ROPE QUANTITIES FOR EACH SECTION.

D-1 / 13 GEOBRUGG SVX180-H6 DEBRIS FLOW MITIGATION SYSTEM
TYPICAL DIMENSIONAL ELEVATION VIEW
SCALE: N.T.S.

THIS DRAWING IS A DRAFT REVIEW AND NOT FOR CONSTRUCTION

GEOBRUGG SVX180-H6 LOCATION DIMENSIONS

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Montecito Debris Flow Mitigation
Debris Flow Mitigation Systems
Santa Barbara County, California

PREPARED AT THE REQUEST OF
Partnership For Resilient Communities
Montecito, California

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SHEET 13 OF 14

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DESIGNED BY: WFK
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SCALE: N.T.S.
DATE: 2018 10-01
PROJECT NO: KGT18-18

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Net Cross-Sectional Plan View
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Santa Barbara County, CA

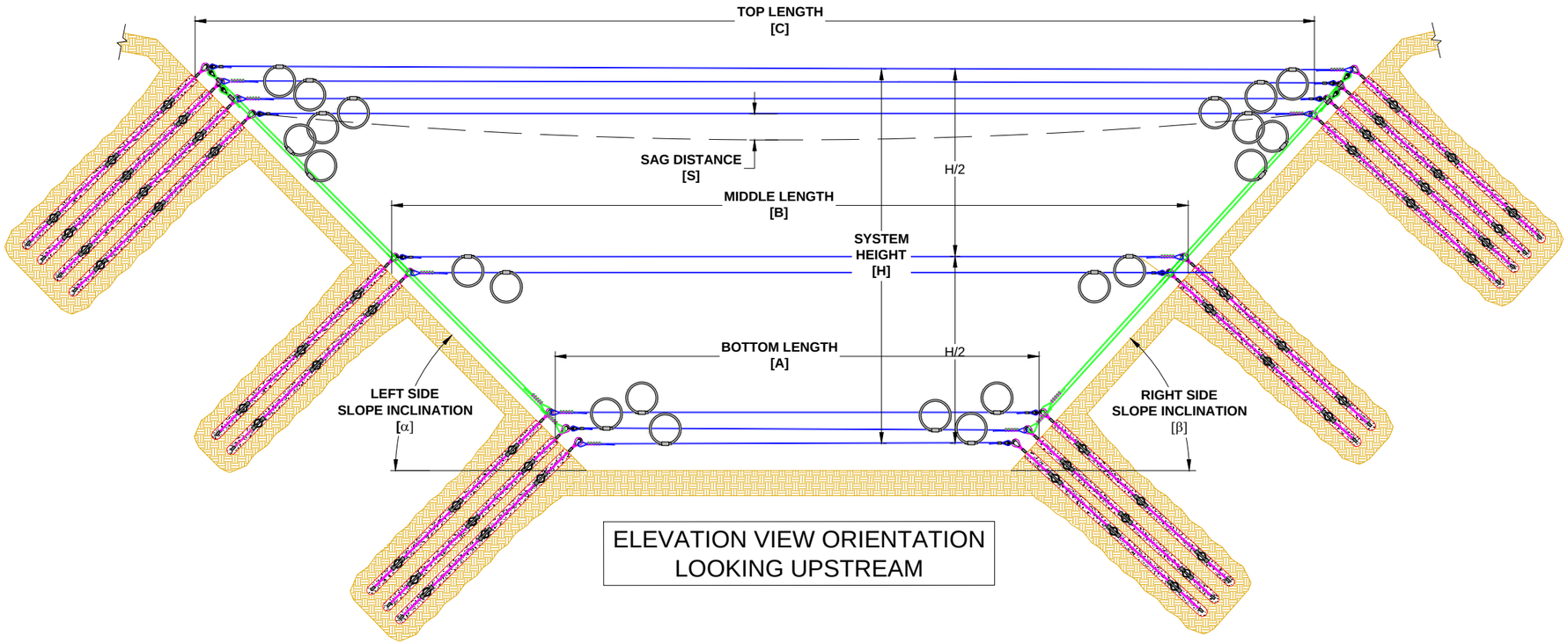
Figure 3a

October 2, 2018

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GEOBRUGG VX140-H4 DEBRIS FLOW MITIGATION SYSTEM DIMENSIONAL SCHEDULE							
LOCATION DESIGNATION	SYSTEM HEIGHT [**H**] (FT)	BOTTOM LENGTH [**A**] (FT)	MIDDLE LENGTH [**B**] (FT)	TOP LENGTH [**C**] (FT)	ALLOWABLE SAG DISTANCE [**S**] (FT)	LEFT SIDE AVG. SLOPE INCLINATION [α]	RIGHT SIDE AVG. SLOPE INCLINATION [β]
BUENA VISTA BV-2	10	14	30	41	1	35°	33°
BUENA VISTA BV-5	12	27	34	37	1	70°	80°
HOT SPRINGS HS-7	11	19	35	49	1	52°	40°

NOTE: SLOPE INCLINATIONS FROM HORIZONTAL PROVIDED ARE AVERAGED.



ELEVATION VIEW ORIENTATION
LOOKING UPSTREAM

NOTES:

1. GEOBRUGG VX140-H4 DEBRIS FLOW MITIGATION SYSTEM DIMENSIONS AND CHANNEL GEOMETRIES ARE APPROXIMATE.
2. DETAIL D-1/8 ELEVATION VIEW IS LOOKING UPSTREAM DIRECTION.

D-1/8 GEOBRUGG VX140-H4 DEBRIS FLOW MITIGATION SYSTEM
TYPICAL DIMENSIONAL ELEVATION VIEW
SCALE: N.T.S.

THIS DRAWING IS A DRAFT REVIEW AND NOT FOR CONSTRUCTION

GEOBRUGG VX140-H4 LOCATION DIMENSIONS

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Santa Barbara County, California

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Figure 3b

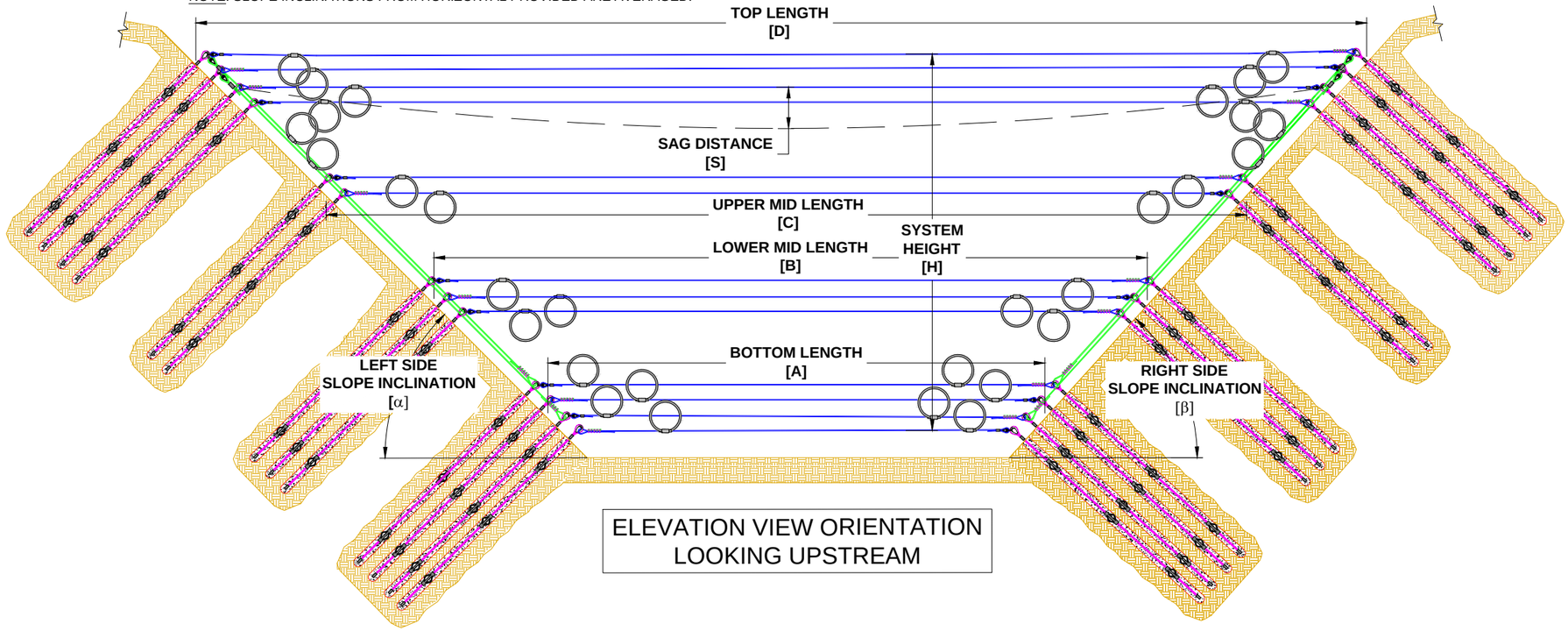
October 2, 2018

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GEOBRUGG VX160-H6 DEBRIS FLOW MITIGATION SYSTEM DIMENSIONAL SCHEDULE

LOCATION DESIGNATION	SYSTEM HEIGHT [**H**] (FT)	BOTTOM LENGTH [**A**] (FT)	LOWER MID LENGTH [**B**] (FT)	UPPER MID LENGTH [**C**] (FT)	TOP LENGTH [**D**] (FT)	ALLOWABLE SAG DISTANCE [**S**] (FT)	LEFT SIDE AVG. SLOPE INCLINATION [α]	RIGHT SIDE AVG. SLOPE INCLINATION [β]
BUENA VISTA BV-6	15	22.5	29	34	44	1	65°	50°
BUENA VISTA BV-7	20	20	33	41	50	1	70°	65°
BUENA VISTA BV-10	15	14	26	50	56	1	55°	25°
COLD SPRING CS-11	15	35	40	52	66	1	45°	50°
ROMERO RC-15	10	18	33	39	50	1	55°	55°

NOTE: SLOPE INCLINATIONS FROM HORIZONTAL PROVIDED ARE AVERAGED.



ELEVATION VIEW ORIENTATION
LOOKING UPSTREAM

NOTES:

1. GEOBRUGG VX160-H6 DEBRIS FLOW MITIGATION SYSTEM DIMENSIONS AND CHANNEL GEOMETRIES ARE APPROXIMATE.
2. DETAIL D-1/11 ELEVATION VIEW IS LOOKING UPSTREAM DIRECTION.

D-1/11 GEOBRUGG VX160-H6 DEBRIS FLOW MITIGATION SYSTEM
TYPICAL DIMENSIONAL ELEVATION VIEW
SCALE: N.T.S.

THIS DRAWING IS A DRAFT REVIEW AND NOT FOR CONSTRUCTION

GEOBRUGG VX160-H6 LOCATION DIMENSIONS

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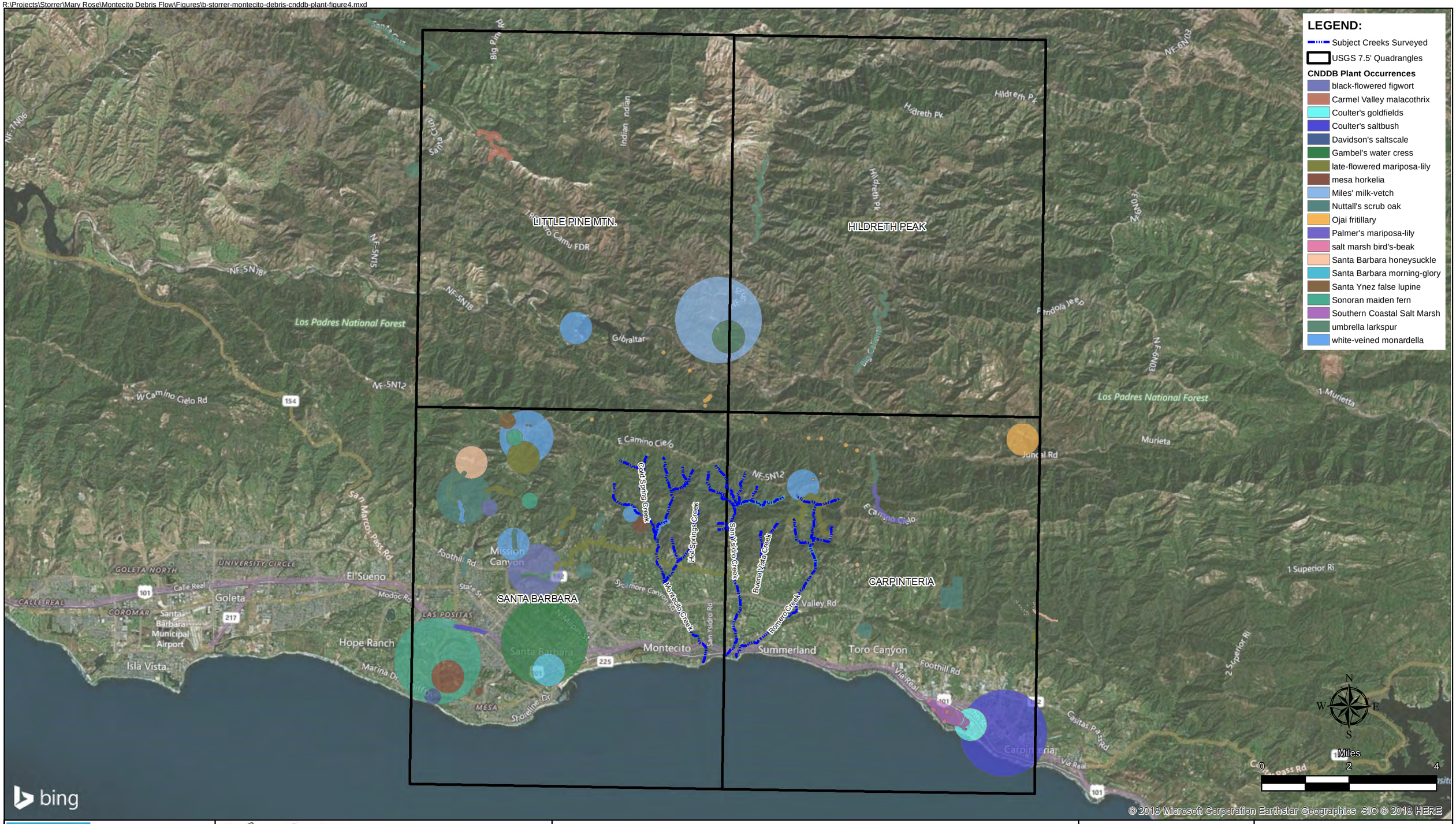
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Figure 3c

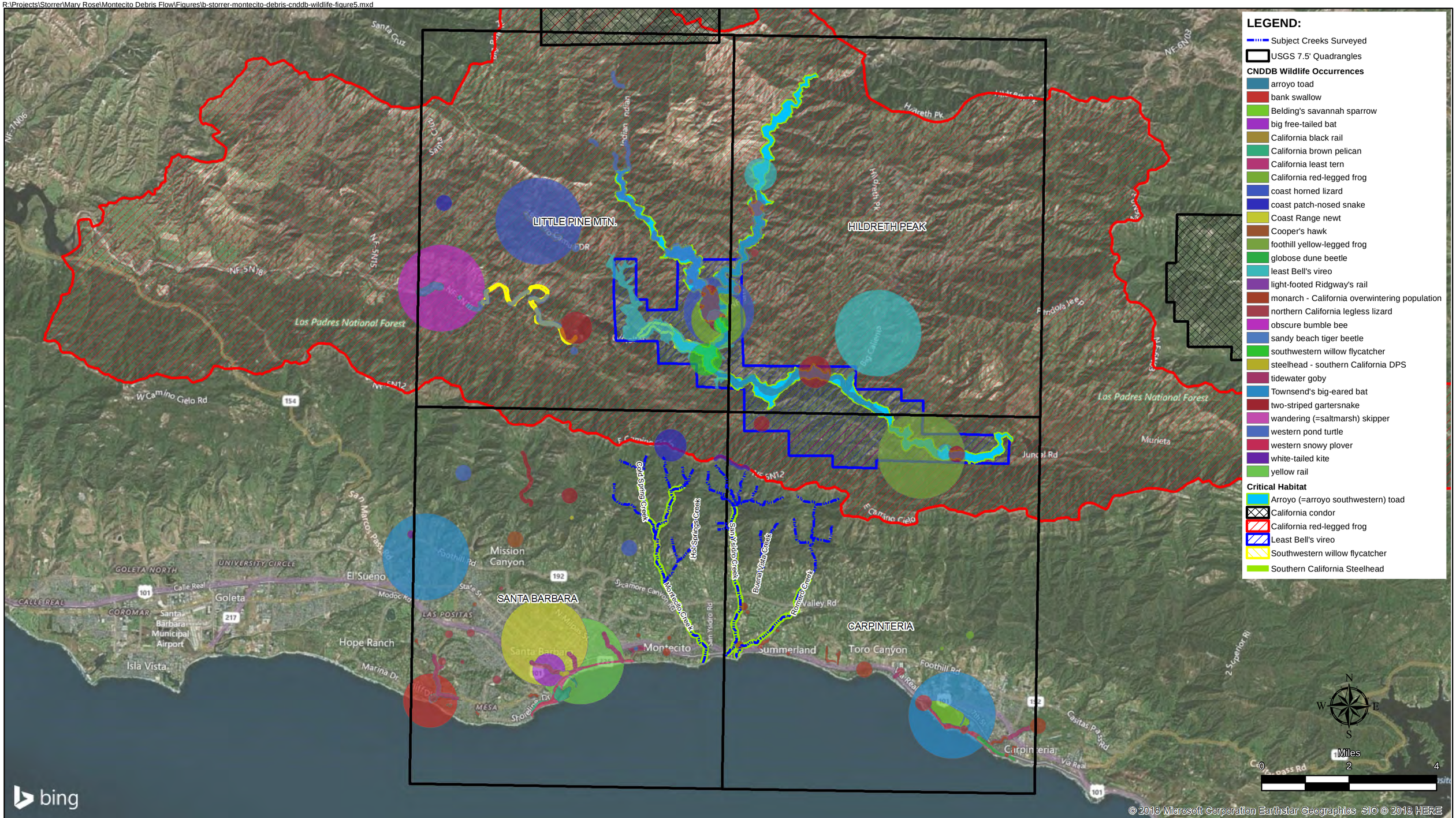
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LEGEND:

- Subject Creeks Surveyed
- USGS 7.5' Quadrangles

CNDDB Wildlife Occurrences

- arroyo toad
- bank swallow
- Belding's savannah sparrow
- big free-tailed bat
- California black rail
- California brown pelican
- California least tern
- California red-legged frog
- coast horned lizard
- coast patch-nosed snake
- Coast Range newt
- Cooper's hawk
- foothill yellow-legged frog
- globose dune beetle
- least Bell's vireo
- light-footed Ridgway's rail
- monarch - California overwintering population
- northern California legless lizard
- obscure bumble bee
- sandy beach tiger beetle
- southwestern willow flycatcher
- steelhead - southern California DPS
- tidewater goby
- Townsend's big-eared bat
- two-striped gartersnake
- wandering (=saltmarsh) skipper
- western pond turtle
- western snowy plover
- white-tailed kite
- yellow rail

Critical Habitat

- Arroyo (=arroyo southwestern) toad
- California condor
- California red-legged frog
- Least Bell's vireo
- Southwestern willow flycatcher
- Southern California Steelhead

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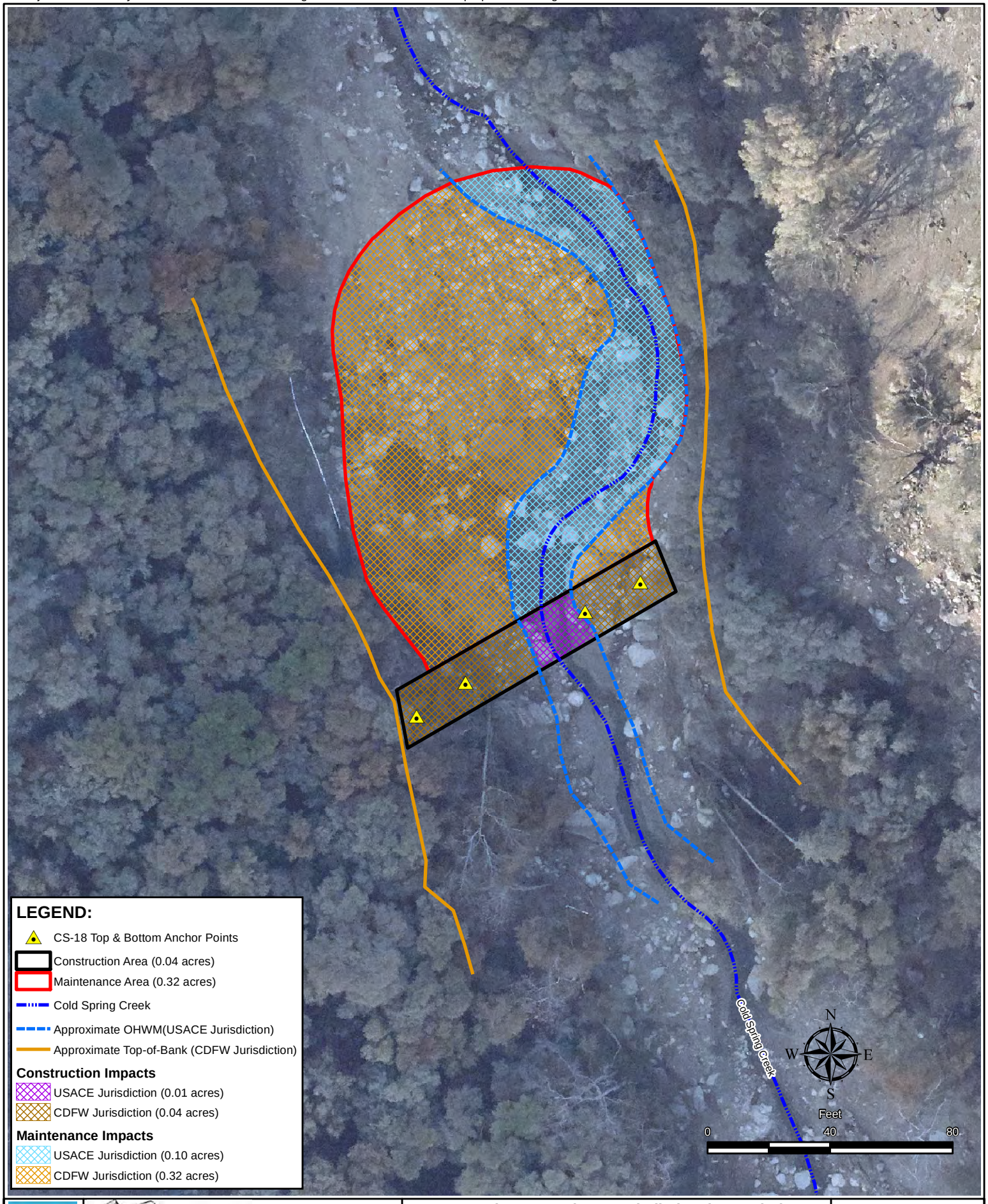
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CNDDB Wildlife Occurrences
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Figure 5

October 6, 2018

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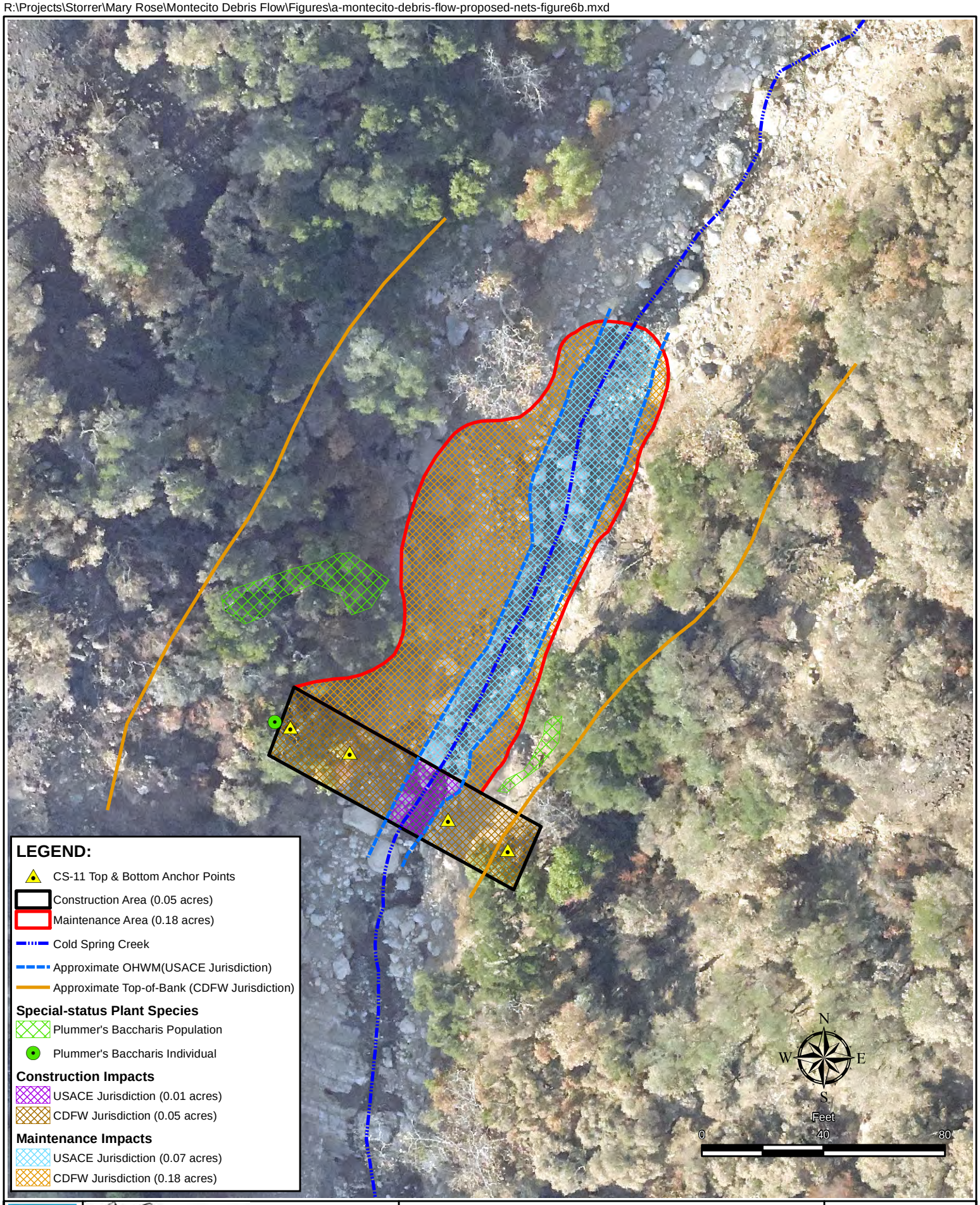
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Proposed Net Locations, Jurisdictional Boundaries, and Sensitive Resources
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Santa Barbara County, CA

Figure 6a

October 11, 2018

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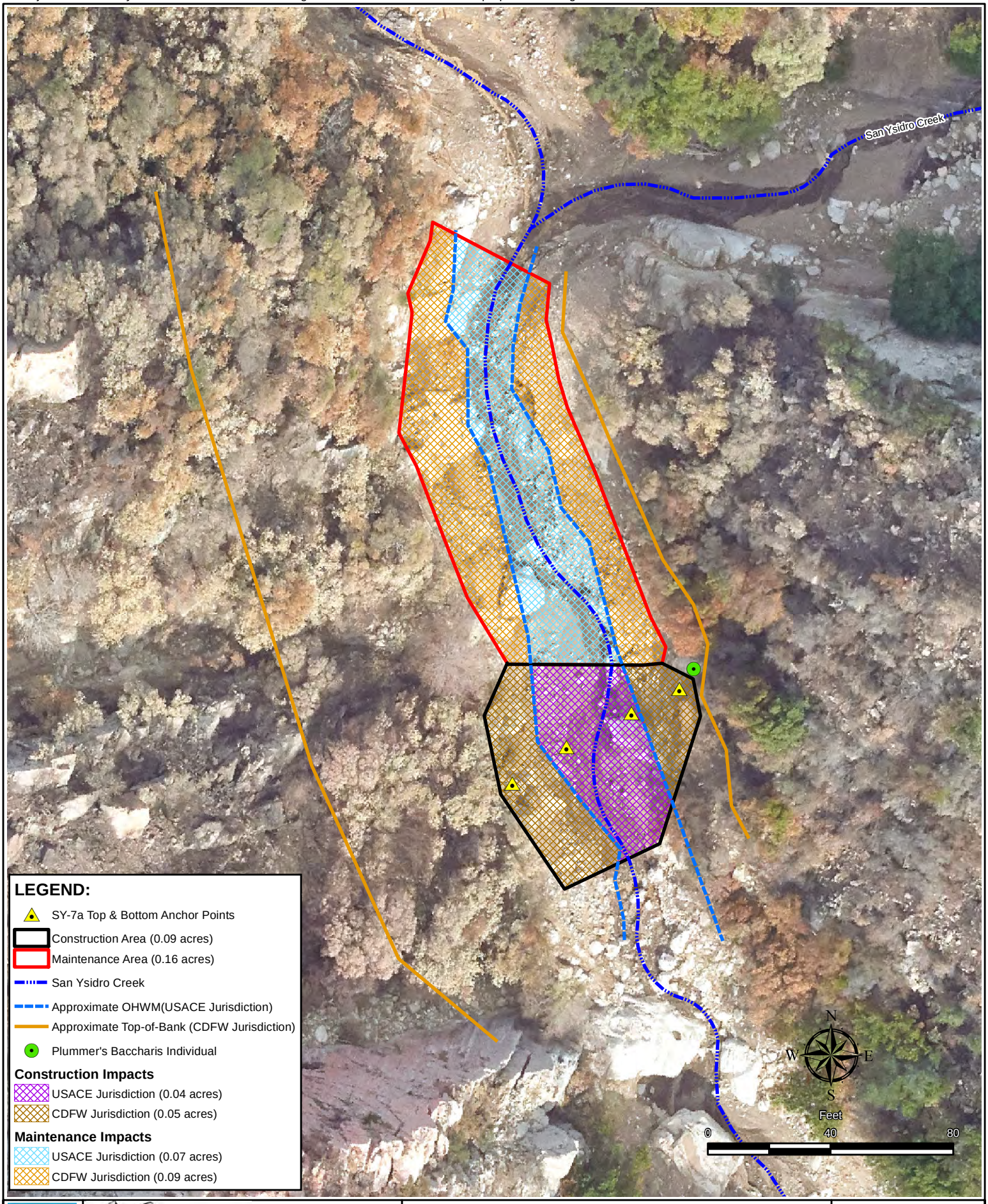
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Proposed Net Locations, Jurisdictional Boundaries, and Sensitive Resources
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The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 6b

October 11, 2018

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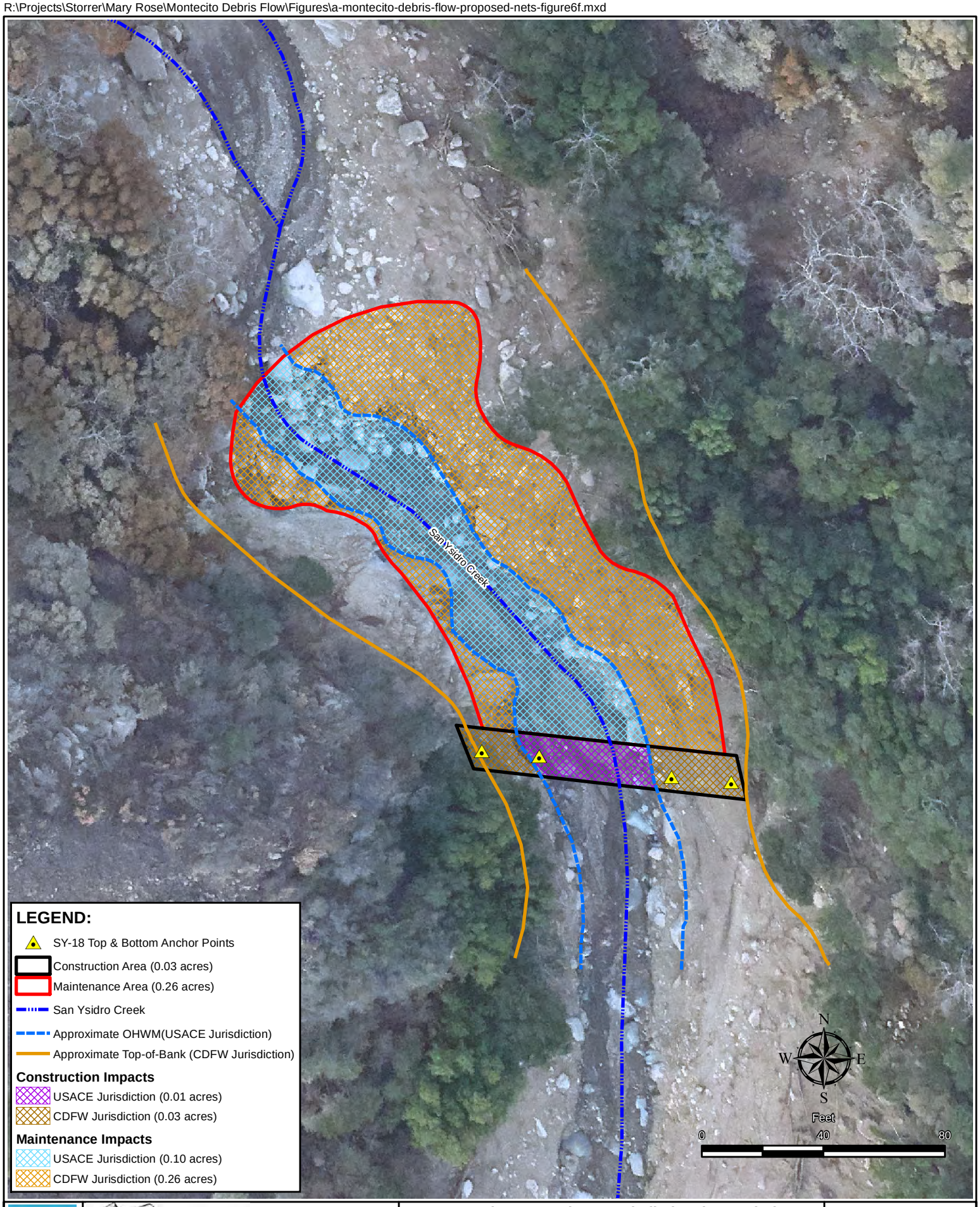
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Santa Barbara County, CA

Figure 6c

December 13, 2018

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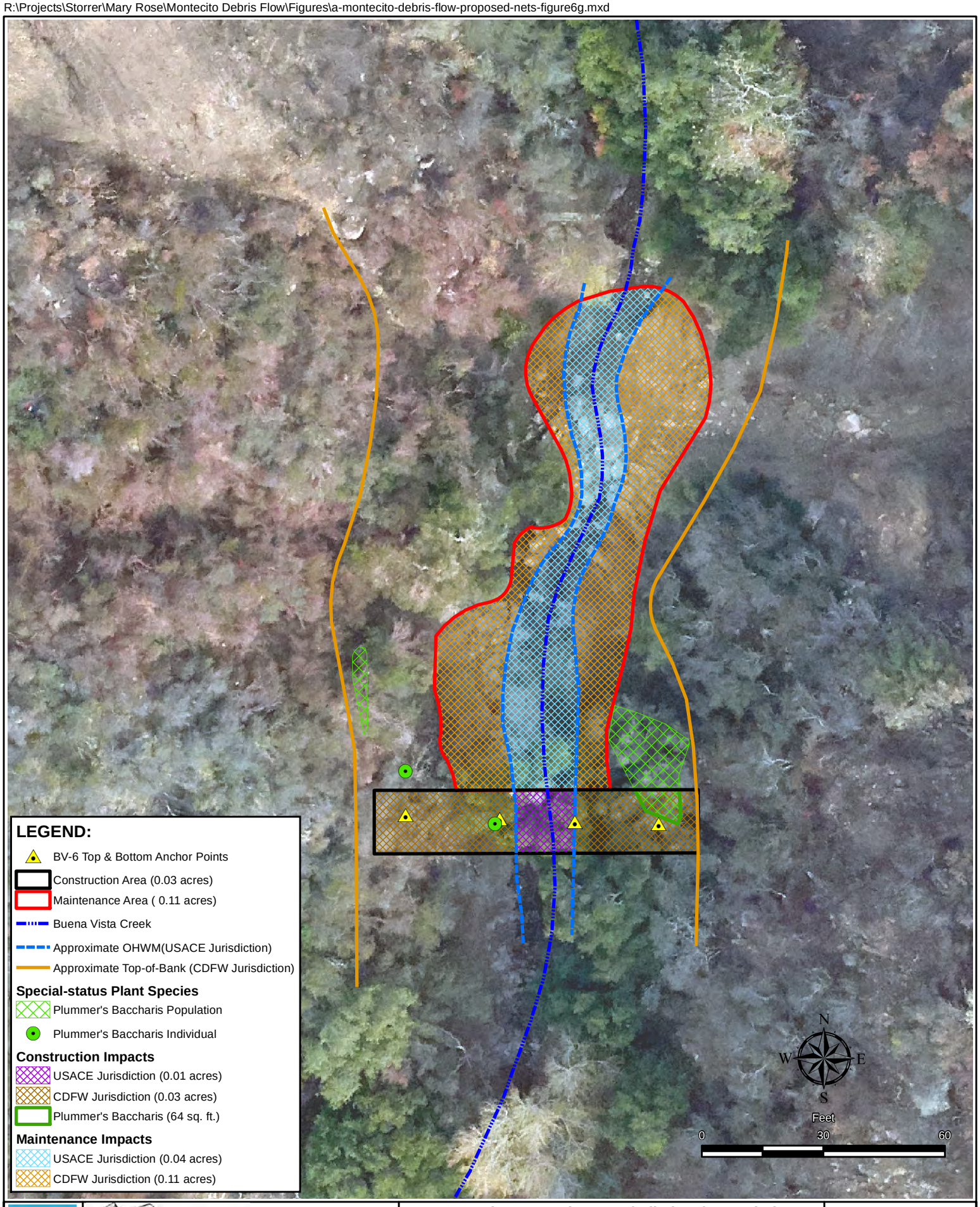
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Proposed Net Locations, Jurisdictional Boundaries, and Sensitive Resources
Montecito Debris Flow Mitigation Project
The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 6d

October 11, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\a-montecito-debris-flow-proposed-nets-figure6g.mxd



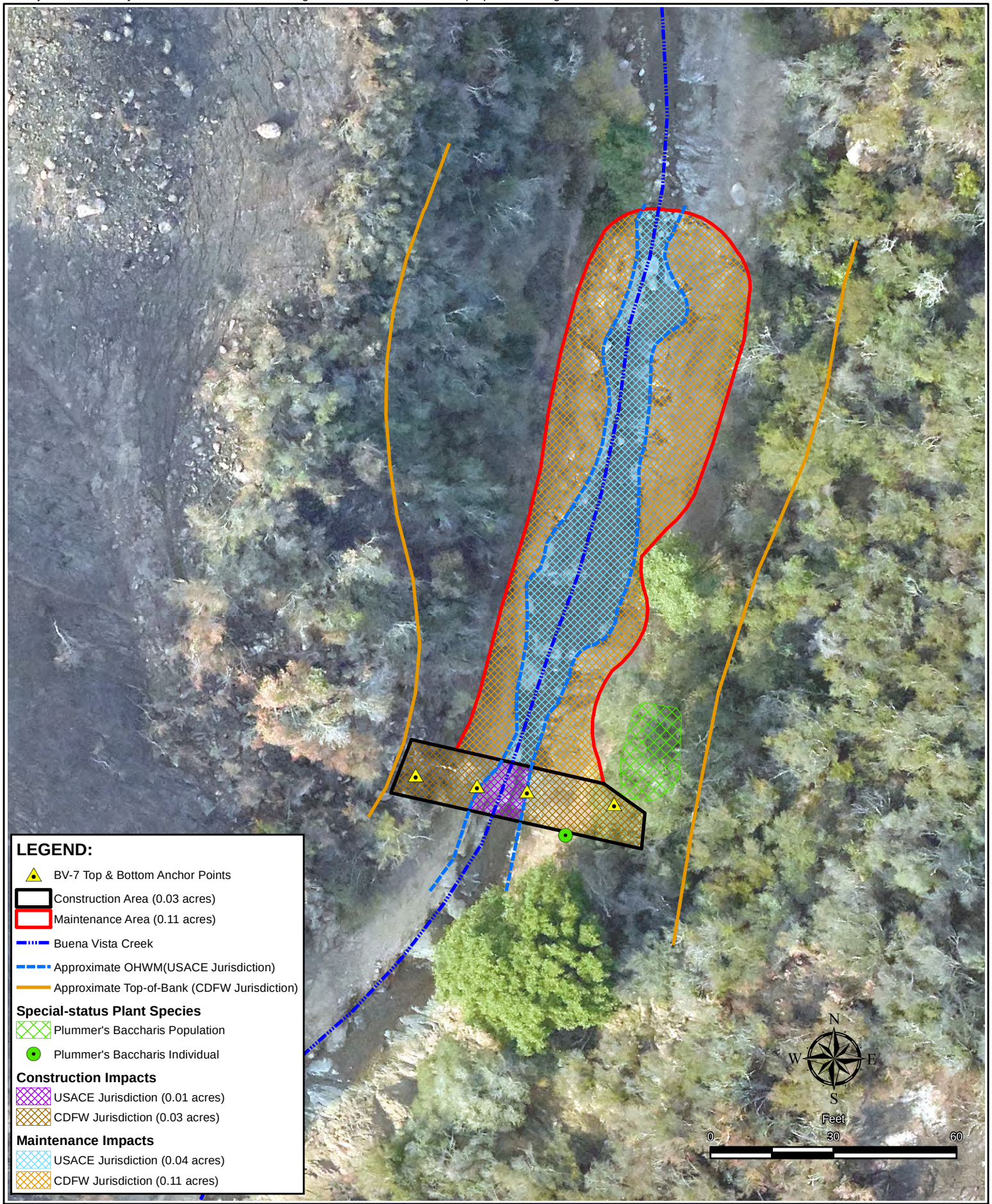
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Figure 6e

October 11, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\a-montecito-debris-flow-proposed-nets-figure6h.mxd



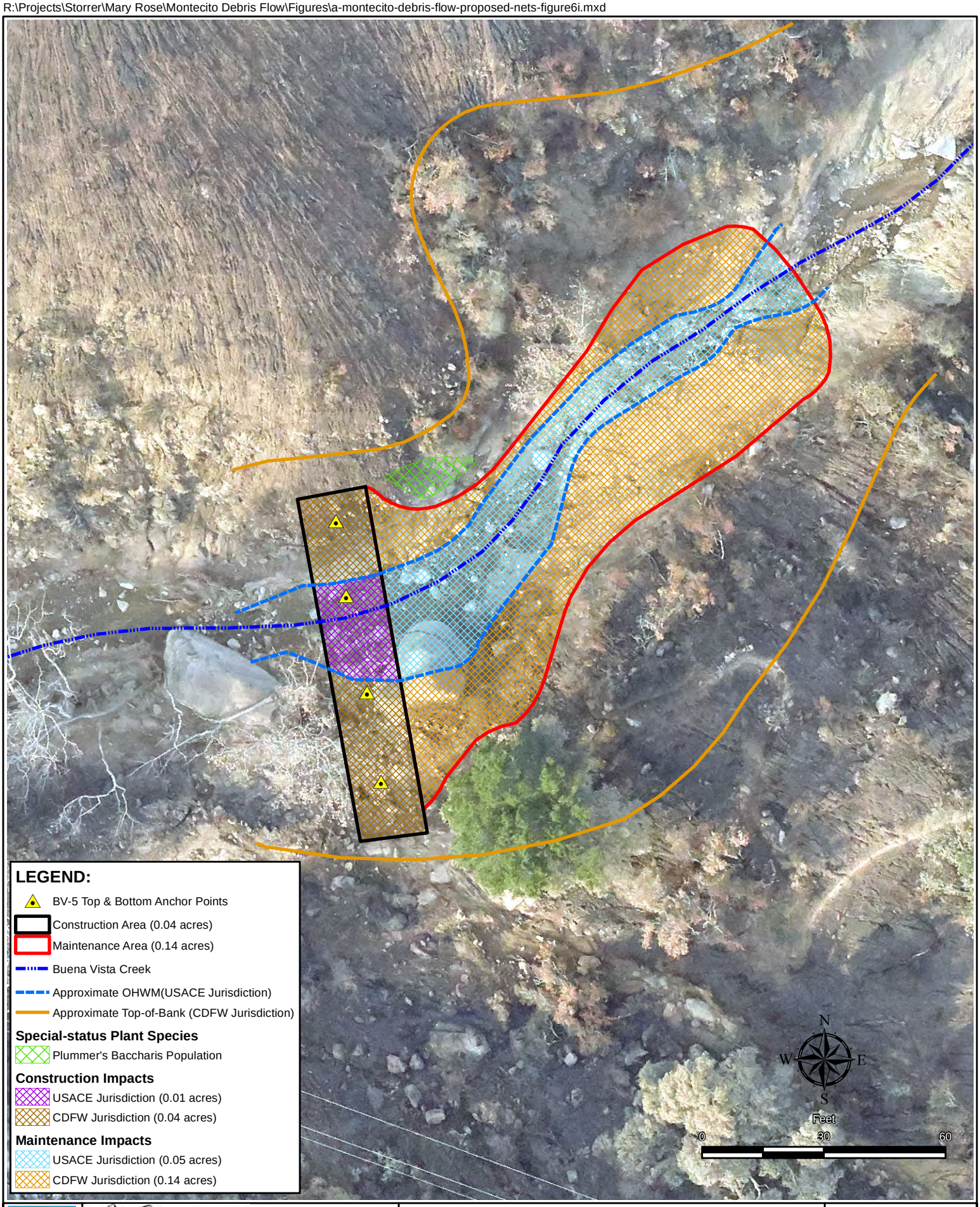
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Santa Barbara County, CA

Figure 6f

October 11, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\a-montecito-debris-flow-proposed-nets-figure6i.mxd



TERRA SOLUTIONS

STORRER ENVIRONMENTAL SERVICES

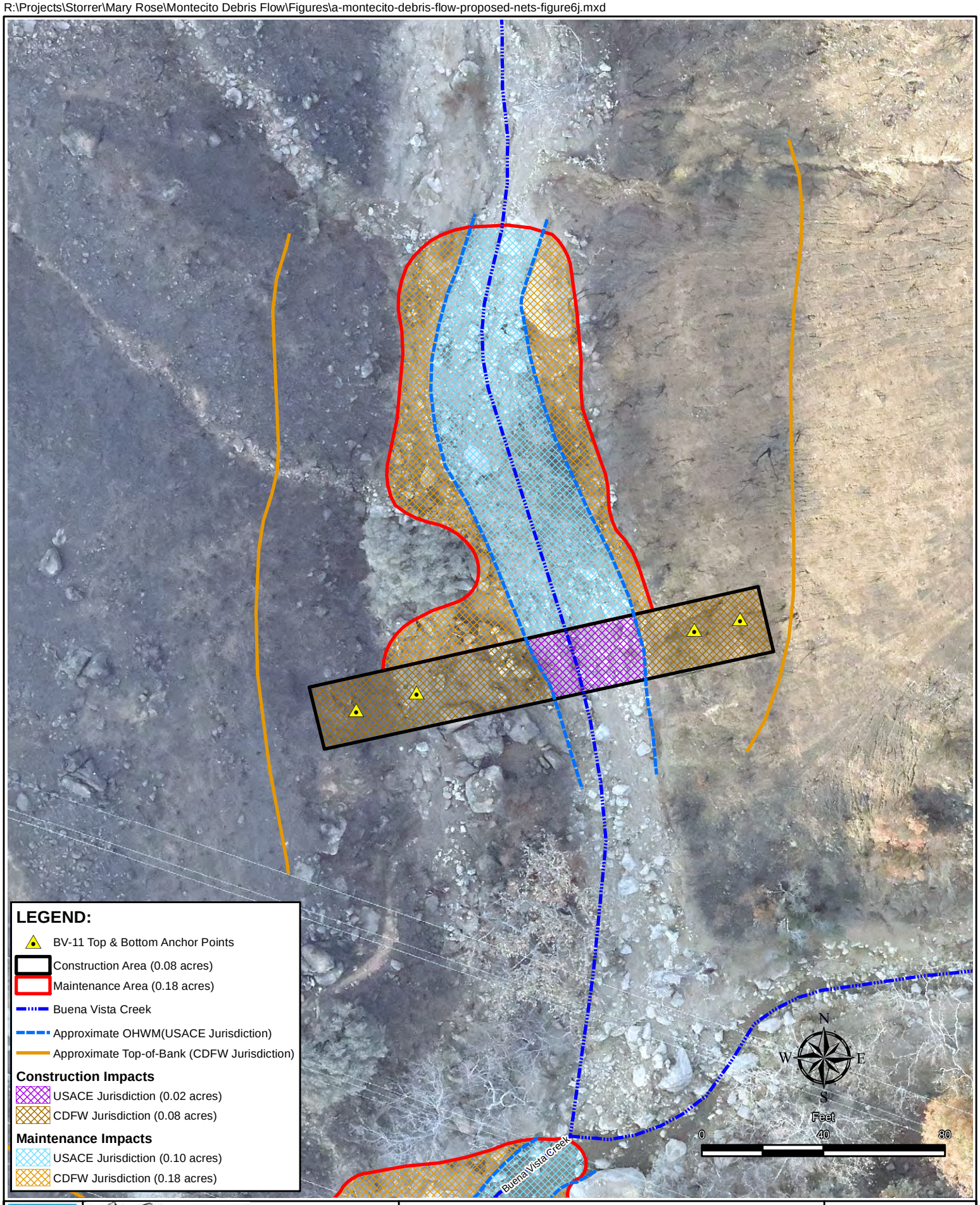
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Santa Barbara County, CA

Figure 6g

October 11, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\a-montecito-debris-flow-proposed-nets-figure6j.mxd



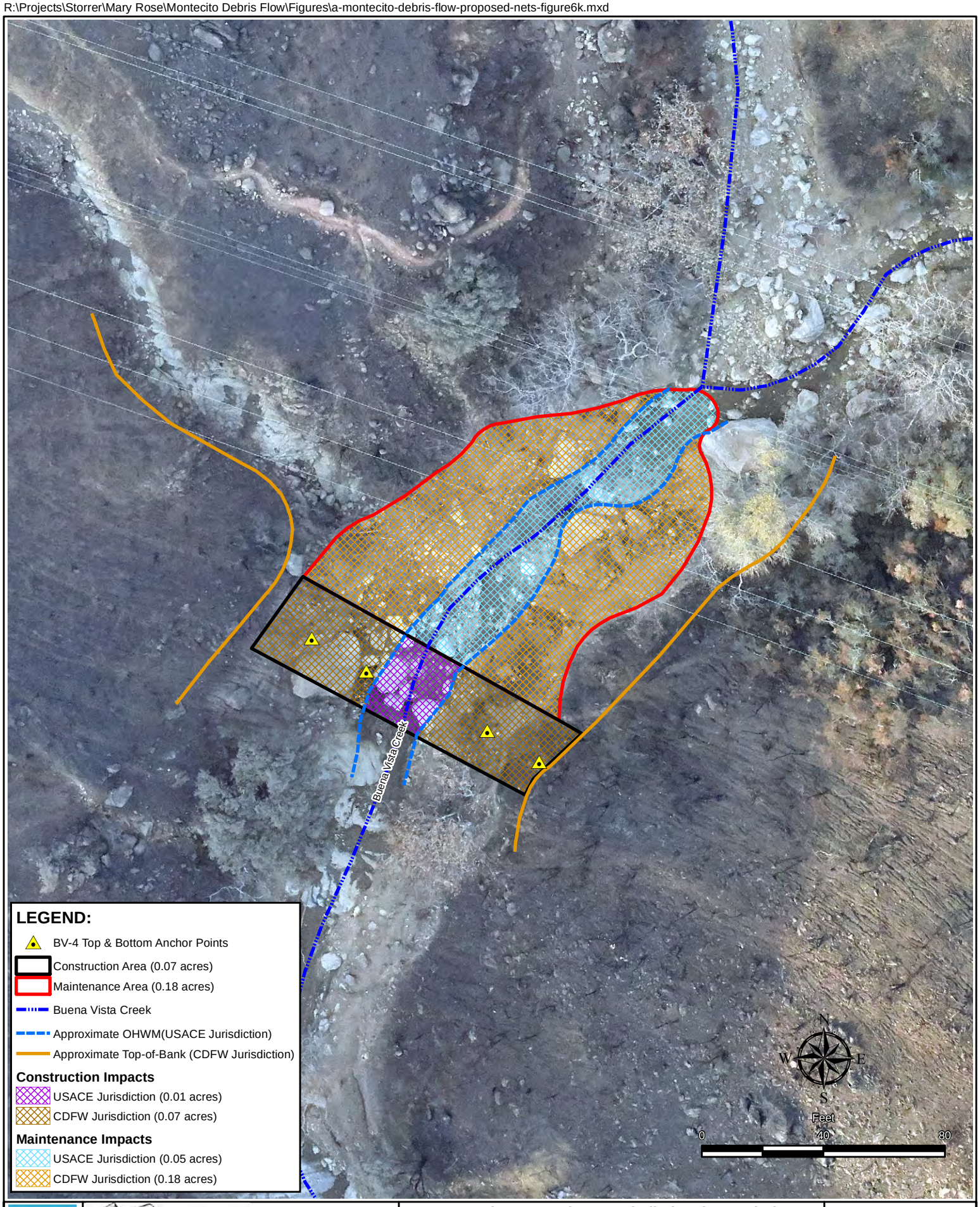
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Proposed Net Locations, Jurisdictional Boundaries, and Sensitive Resources
Montecito Debris Flow Mitigation Project
The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 6h

October 11, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\a-montecito-debris-flow-proposed-nets-figure6k.mxd



TERRA SOLUTIONS

STORRER ENVIRONMENTAL SERVICES

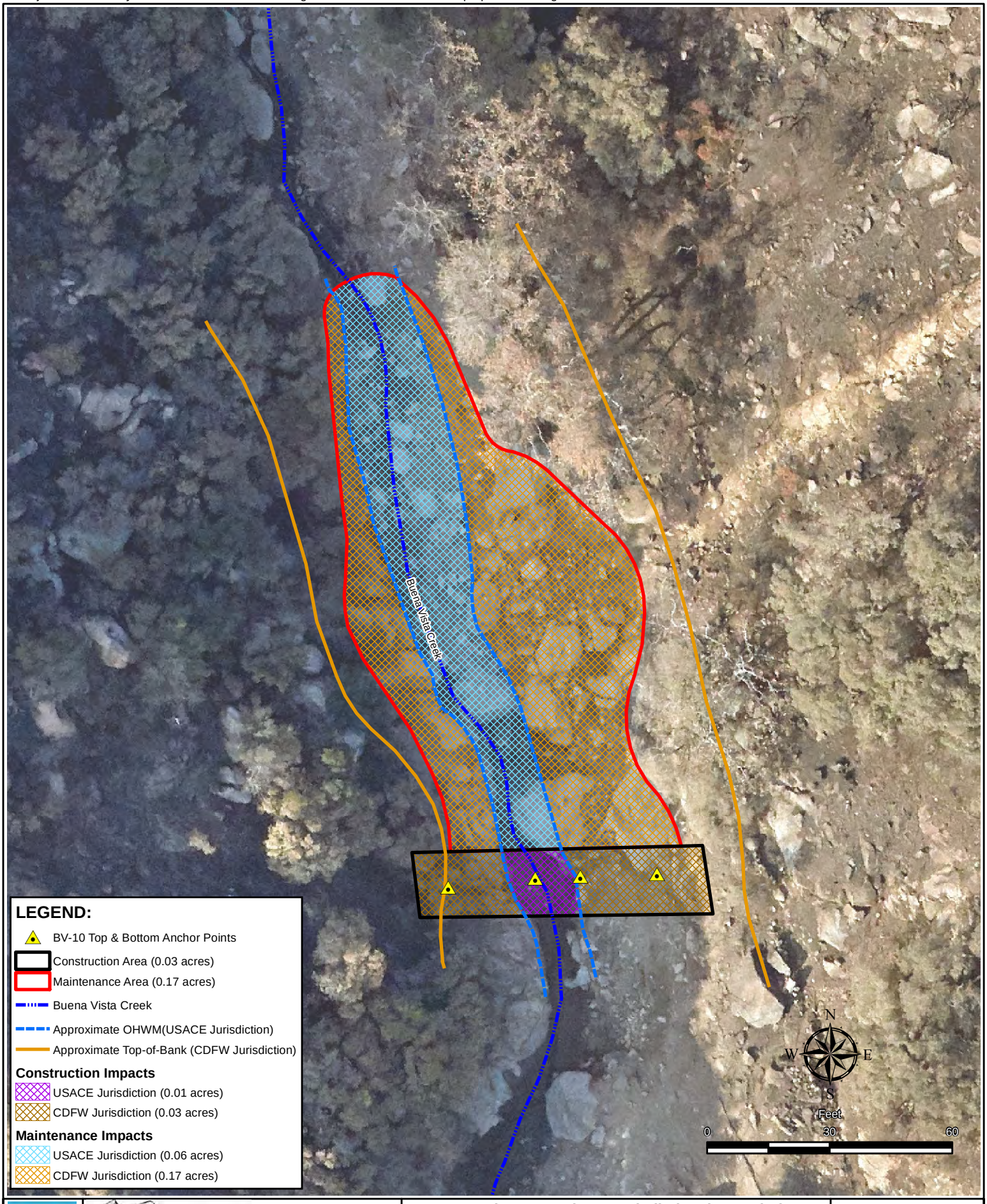
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Proposed Net Locations, Jurisdictional Boundaries, and Sensitive Resources
Montecito Debris Flow Mitigation Project
The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 6i

October 11, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\a-montecito-debris-flow-proposed-nets-figure6l.mxd



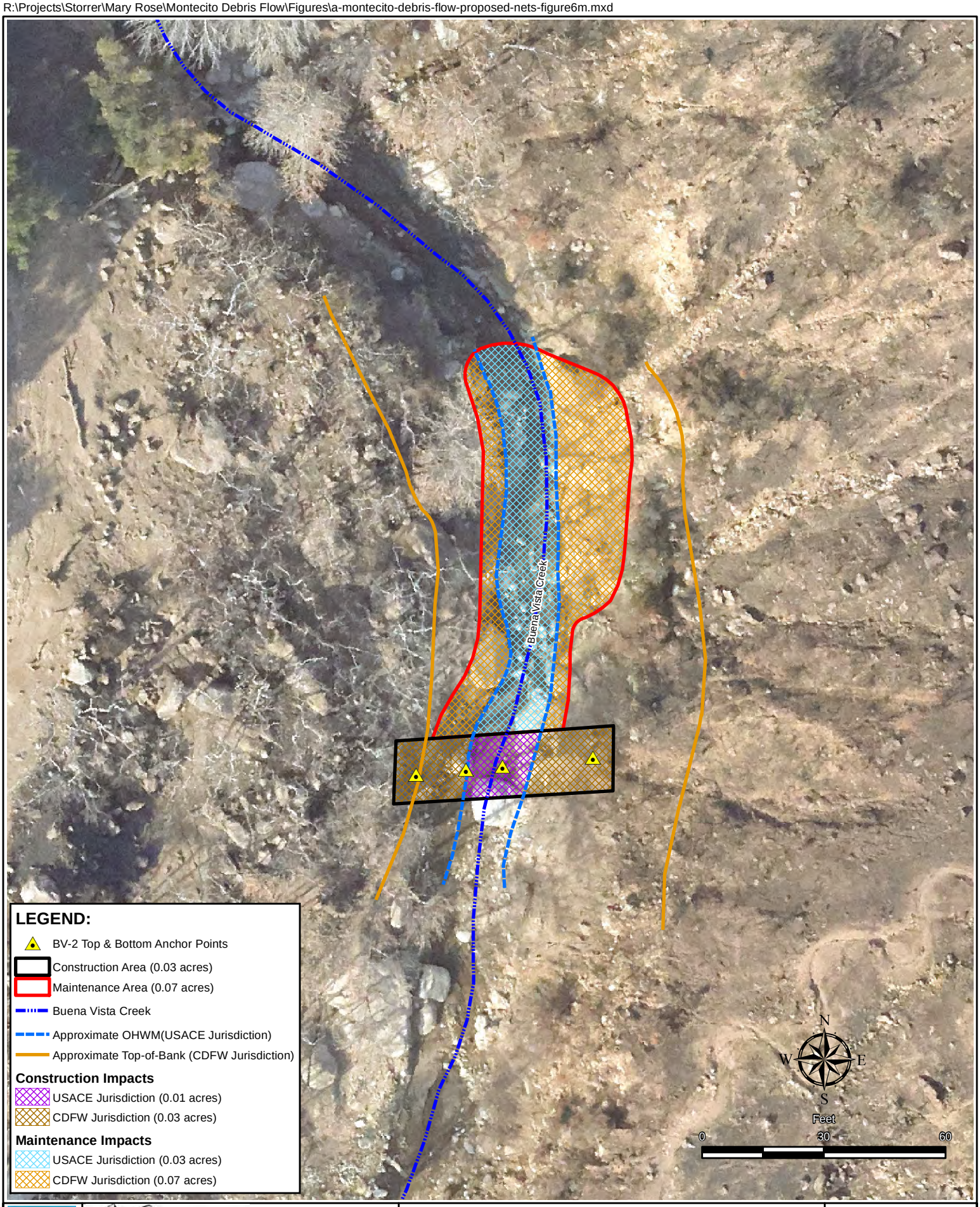
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Montecito Debris Flow Mitigation Project
The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 6j

October 11, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\a-montecito-debris-flow-proposed-nets-figure6m.mxd



TERRA SOLUTIONS

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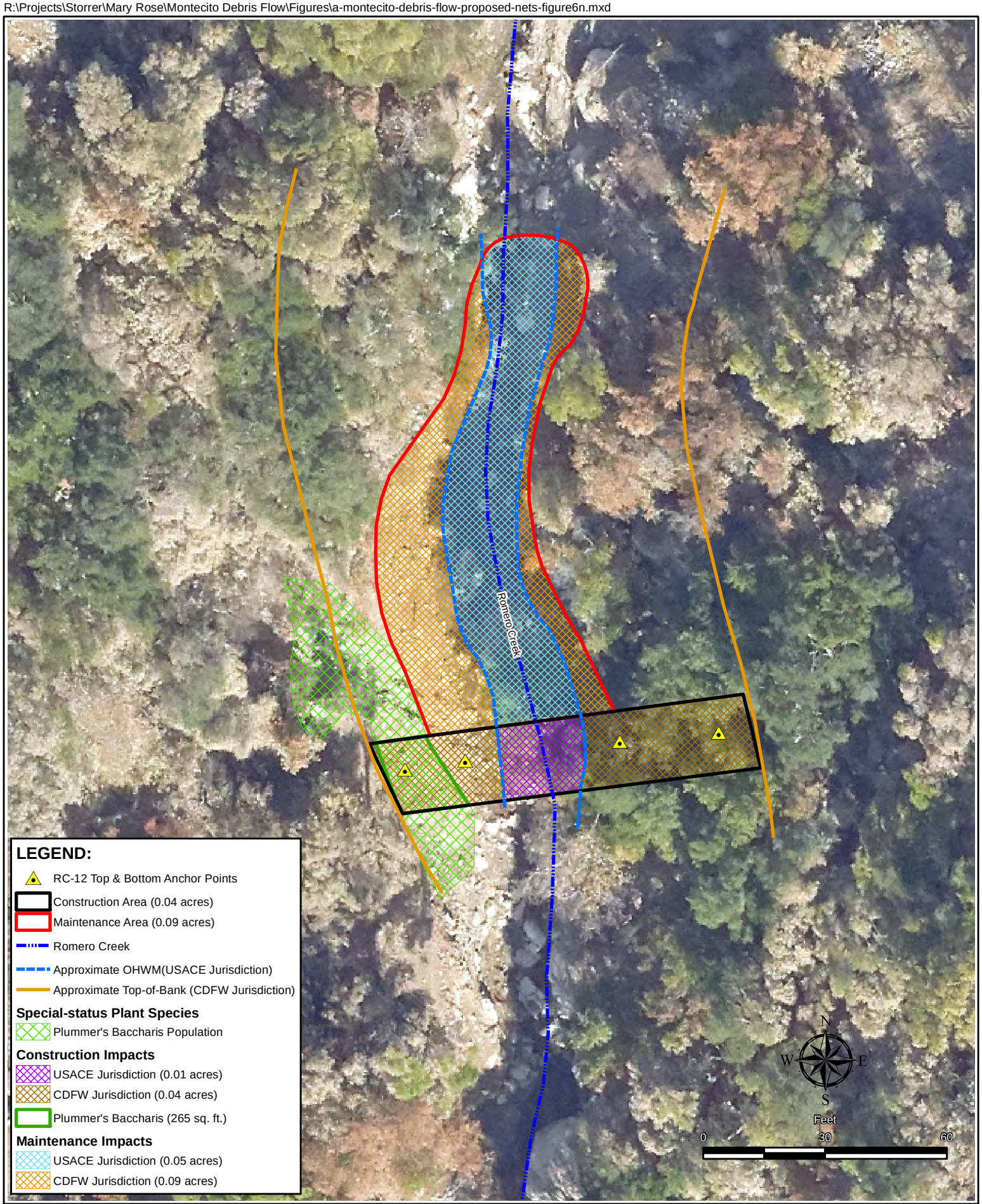
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Proposed Net Locations, Jurisdictional Boundaries, and Sensitive Resources
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Santa Barbara County, CA

Figure 6k

October 11, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\a-montecito-debris-flow-proposed-nets-figure6n.mxd



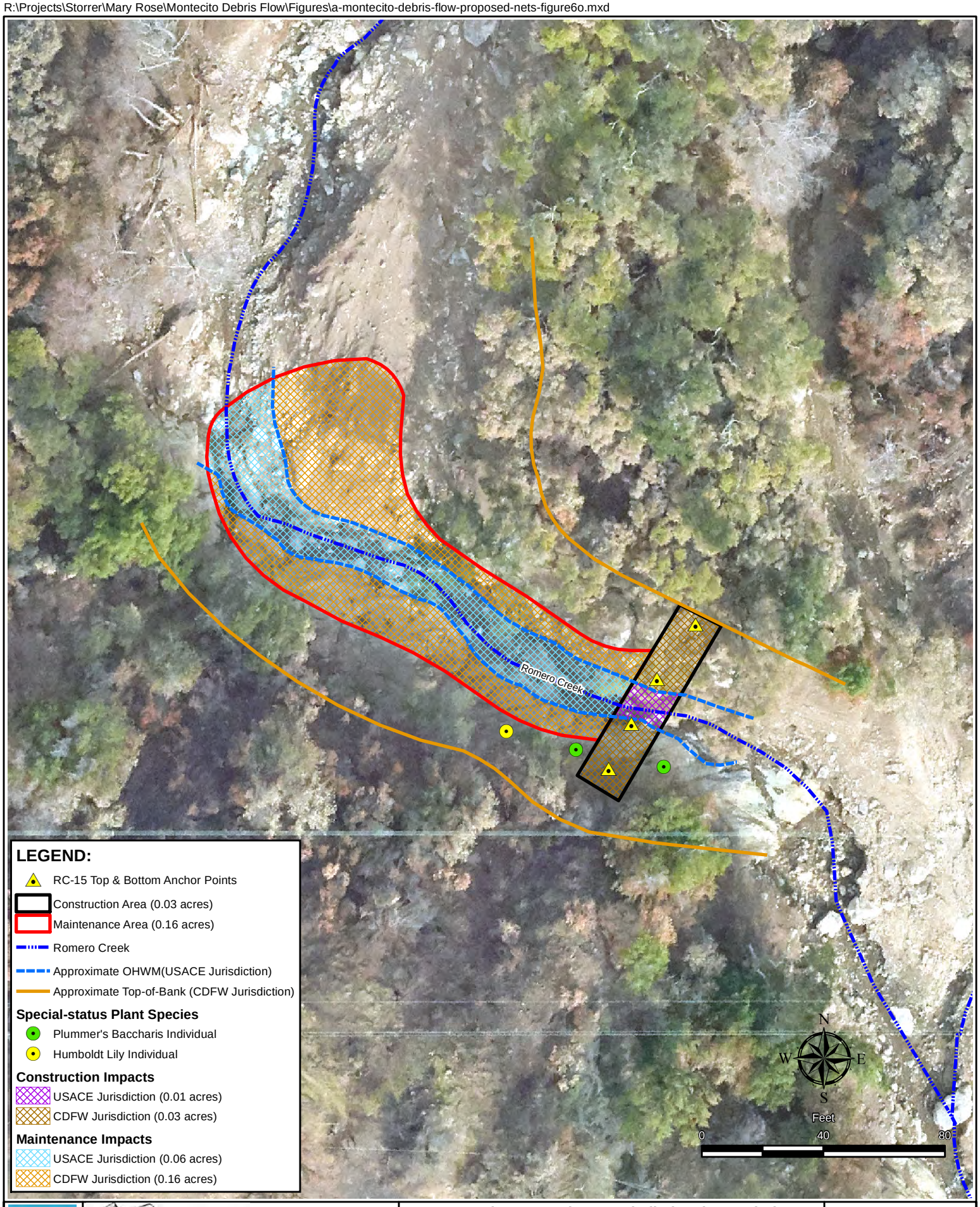
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Proposed Net Locations, Jurisdictional Boundaries, and Sensitive Resources
Montecito Debris Flow Mitigation Project
The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 6l

October 22, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\a-montecito-debris-flow-proposed-nets-figure6o.mxd



LEGEND:

- RC-15 Top & Bottom Anchor Points
- Construction Area (0.03 acres)
- Maintenance Area (0.16 acres)
- Romero Creek
- Approximate OHWM(USACE Jurisdiction)
- Approximate Top-of-Bank (CDFW Jurisdiction)

Special-status Plant Species

- Plummer's Baccharis Individual
- Humboldt Lily Individual

Construction Impacts

- USACE Jurisdiction (0.01 acres)
- CDFW Jurisdiction (0.03 acres)

Maintenance Impacts

- USACE Jurisdiction (0.06 acres)
- CDFW Jurisdiction (0.16 acres)

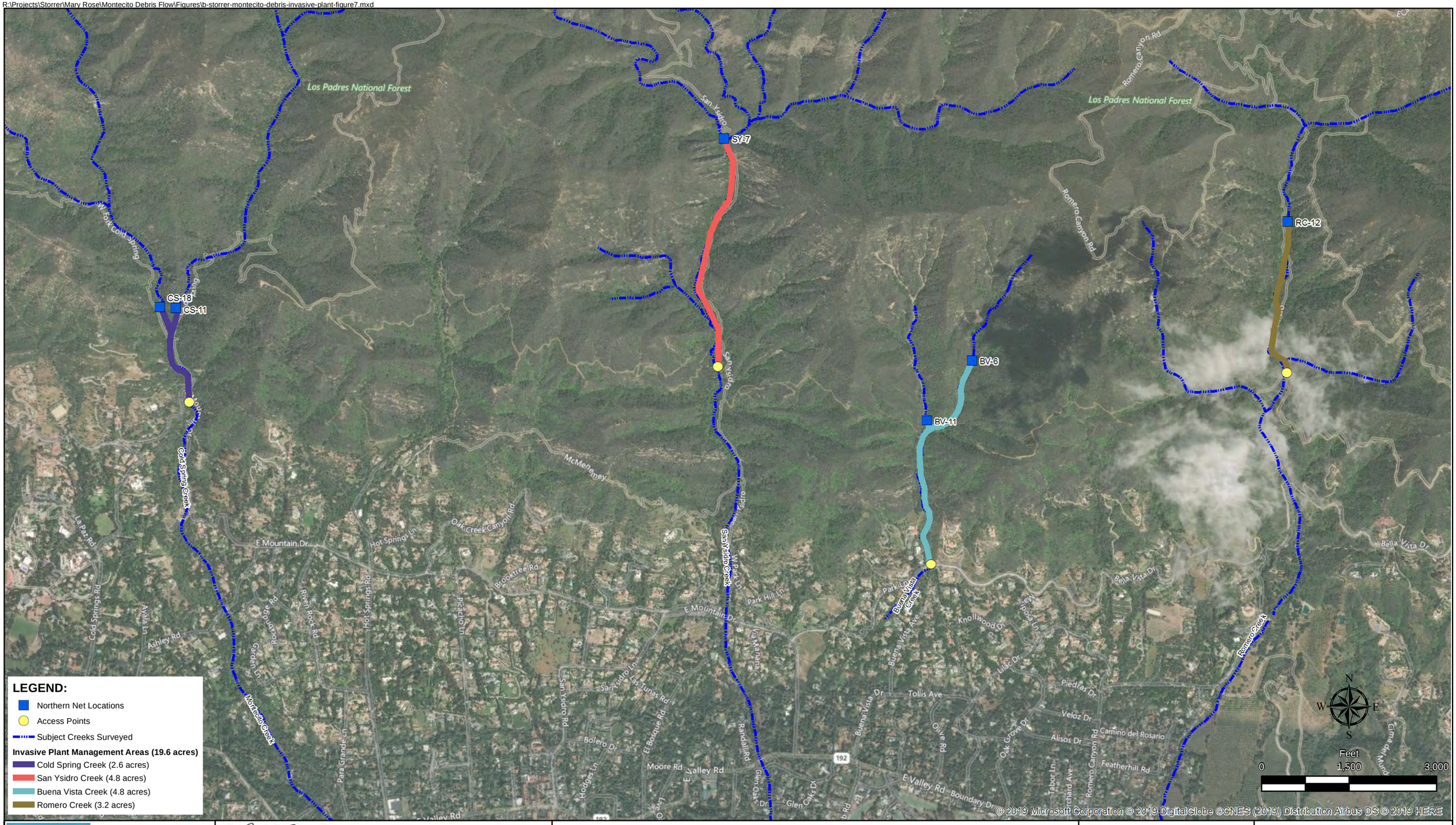
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Proposed Net Locations, Jurisdictional Boundaries, and Sensitive Resources
Montecito Debris Flow Mitigation Project
The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 6m

October 22, 2018

R:\Projects\Storrer\Mary Rose\Montecito Debris Flow\Figures\b-storrer-montecito-debris-invasive-plant-figure7.mxd



LEGEND:

- Northern Net Locations
- Access Points
- Subject Creeks Surveyed

Invasive Plant Management Areas (19.6 acres)

- Cold Spring Creek (2.6 acres)
- San Ysidro Creek (4.8 acres)
- Buena Vista Creek (4.8 acres)
- Romero Creek (3.2 acres)

Terra Solutions
777 Mutsuhito Avenue
San Luis Obispo, CA. 93401
(805) 782-0969

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Invasive Plant Management Areas
Montecito Debris Flow Mitigation Project
The Partnership for Resilient Communities (TPRC)
Santa Barbara County, CA

Figure 7

January 18, 2019

APPENDIX A
SITE PHOTOGRAPHS

Net Location:	**Date of Photo:**
CS-11	09/05/2018

Description:
View looking upstream at the CS-11 net location.



Net Location:	**Date of Photo:**
CS-18	09/18/2018

Description:
View looking upstream at the CS-18 net location.

Net location is downstream of existing PVC waterline.

Four common fig (*Ficus carica*) saplings and tree tobacco (*Nicotiana glauca*) are becoming established in the channel.



Net Location:	Date of Photo:
SY-7a	12/07/2018

Description:

View looking upstream at the SY-7a net location.



Net Location:	Date of Photo:
SY-18	09/06/2018

Description:

View looking upstream at the SY-18 net location.



Net Location:	Date of Photo:
BV-2	09/17/2018

Description:
View looking upstream at the BV-2 net location.



Net Location:	Date of Photo:
BV-4	09/21/2018

Description:
View looking down at the BV-4 net location.

The two western sycamore (*Platanus racemosa*) saplings in the channel will be trimmed for net installation.



Net Location:	Date of Photo:
BV-5	09/20/2018

Description:

View looking downstream at the BV-5 net location.

The arroyo willow (*Salix lasiolepis*) in the middle of the channel will be trimmed for net installation.



Net Location:	Date of Photo:
BV-6	09/20/2018

Description:

View looking upstream at the BV-6 net location.



Net Location:	Date of Photo:
BV-7	09/20/2018

Description:
View looking upstream at the BV-7 net location.



Net Location:	Date of Photo:
BV-10	09/17/2018

Description:
View looking downstream at the BV-10 net location.



Net Location:	Date of Photo:
BV-11	09/20/2018

Description:

View looking upstream at the BV-11 net location.

Net is located in a western tributary to Buena Vista Creek.



Net Location:	Date of Photo:
RC-12	09/19/2018

Description:

View looking downstream at the RC-12 net location.



Net Location:	Date of Photo:
RC-15	09/19/2018

Description:
View looking upstream at the RC-15 net location.



APPENDIX B
VEGETATION RAPID ASSESSMENT FIELD FORMS

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use: | **Final database #:** | **Final vegetation type:** Alliance _____ Association _____

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION

circle: **Relevé** or **RA**

Database #: CS-11

Date: 9/18/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: Cold Springs Canyon

GPS name: iPad/ArcCollector/Arrow 100 For Relevé only: **Bearing°**, left axis at ID point ____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** **NAD83** GPS error: **ft. / m.** / **PDOP** 2.5

Decimal degrees: **LAT** 34.460212 **LONG** -119.693969

GPS within stand? **Yes** / **No** If No, cite from GPS to stand: distance (m) ____ bearing ° ____ inclination ° ____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): **<1**, **1-5**, **>5** | **Plot Size (m²): 100 /** _____ | **Plot Shape** ____ x ____ **m** | **RA Radius** 30 **m**

Exposure, Actual °: 168 S **NE NW SE SW Flat Variable** | **Steepness, Actual °:** NA **0°** **1-5°** **>5-25°** **>25**

Topography: Macro: top upper mid lower bottom | **Micro:** convex flat concave undulating

Geology code: GRAL/SAND **Soil Texture code:** SAND/COLS | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H₂0: 3 **BA Stems:** | **Litter:** | **Bedrock:** 0 **Boulder:** 40 **Stone:** 10 **Cobble:** 10 **Gravel:** 15 **Fines:** 20 **=100%**

% Current year bioturbation 0 **Past bioturbation present? Yes** / **No** | **% Hoof punch** 0

Fire evidence: **Yes** / **No** (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: Site burned in Thomas Fire (Dec. 2017) & scoured by debris flows on 1/9/2018.

- flow in channel ~1-6 inches deep (intermittent pools); ~16 inches - 4 ft wide
- channel ~6-15 ft wide @ OHWM
- Populations of Plummers baccharis on both east & west banks. 1 Plummers baccharis plant near top anchor west location — may be impacted by net installation.
- staging ~1000 sq. ft. west side of channel below TOB

Disturbance code / Intensity (L,M,H): 23 / ___ / ___ / ___ / ___ / ___ **"Other"** Fire / debris flow

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), **T4** (11-24" dbh), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: S1 seedling (<3 yr. old), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: H1 (<12" plant ht.), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Arroyo willow thicket / western sycamore woodland

Field-assessed Association name (optional): Scarlet monkeyflower seep (channel)

Adjacent Alliances/direction: Coast live oak woodland (upslope)

Confidence in Alliance identification: L M H **Explain:** _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: CS-11

IV. VEGETATION DESCRIPTION

% NonVasc cover: 85 **Total % Vasc Veg cover:** 15

% Cover - Conifer tree / Hardwood tree: 0 / 2 Regenerating Tree: 9 Shrub: 10 Herbaceous: 5

Height Class - Conifer tree / Hardwood tree: 0 / Regenerating Tree: 4 Shrub: 3 Herbaceous: 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species Channel / Lower Banks	% cover	C	~~Final species determination~~ Upper Banks / TOB
T	Platanus racemosa	1-5		T Quercus agrifolia 5-15
S	Salix lasiolepis	1-5		T Platanus racemosa 1-5
H	Erythranthe cardinalis	1-5		T Umbellularia californica 1-5
S	Toxicodendron diversilobum	1-5		S Baccharis plummerae +
S	Malosma laurina	+		S Heteromeles arbutifolia 1-5
H	Acmispon grandiflorus	+		S Rhamnus crocea +
H	Sonchus oleraceus	+		S Sambucus nigra ssp. caerulea +
S	Venegasia carpesioides	1-5		H Elymus condensatus 1-5
H	Eschscholzia californica	+		S Toxicodendron diversilobum 1-5
H	Erythranthe guttata	+		H Athyrium felix-femina +
S	Acmispon glaber	+		S Keckiella cordifolia 1-5
S	Baccharis pilularis	+		H Artemisia douglasiana +
H	Oxalis pescaprae	+		H Stephanomeria cichoriaceae +
H	Stipa milincea	1-5		S Ceanothus megacarpus +
H	Solanum douglasii	1-5		H Phacelia cicutaria +
S	Dendromecon rigida	+		
H	Brassica nigra	+		
S	Eriodictyon californica	+		
H	Phacelia cicutaria	+		
H	Elymus condensatus	+		
H	Calystegia macrostegia ssp. cyco.	+		
H	Epilobium ciliatum	+		
S	Vinca major	+		
T	Tamarix ramosissima (pulled)	+		
H	Bromus madritensis	+		
S	Adenostoma fasciculata	+		
S	Salix laevigata	+		

Unusual species: 5 Plummer's baccharis along TOB on east slope (60% fl / 40% fruit)
27 Plummer's baccharis on west slope (80% fl / 20% fruit); 1 Plummer's baccharis plant near top anchor west slope

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use:	Final database #:	Final vegetation type:	Alliance Association

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: Relevé or (RA)

Database #: CS-18 **Date:** 9/18/18 **Name of recorder:** Jessica Peak

Other surveyors: Justine Cooper / John Stokker

Location Name: Cold Springs Canyon

GPS name: iPad / ArcCollector / ARROW 100 For Relevé only: **Bearing°**, left axis at ID point ____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** (NAD83) GPS error: ft./ m./ PDOP 4.1

Decimal degrees: **LAT** 34.460253 **LONG** -119.655049

GPS within stand? (Yes) / No If No, cite from GPS to stand: distance (m) ____ bearing ° ____ inclination ° ____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (<1), 1-5, >5 | **Plot Size (m²):** 100 / _____ | **Plot Shape** ____ x ____ m | **RA Radius** 30 m

Exposure, Actual °: 120 NE NW (SE) SW Flat Variable | **Steepness, Actual °:** NA 0° (1-5°) >5-25° >25

Topography: Macro: top upper mid (lower) bottom | **Micro:** convex flat (concave) undulating

Geology code: GRAL/SAND **Soil Texture code:** SAND/COLS | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H_20: 2 **BA Stems:** | **Litter:** 2 **Bedrock:** **Boulder:** **Stone:** **Cobble:** **Gravel:** **Fines:** =100%

% Current year bioturbation 0 **Past bioturbation present?** Yes / (No) | **% Hoof punch** 0

Fire evidence: (Yes) / No (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: site burned in Thomas Fire (Dec 2017) & scoured by debris flows on 1/9/2018.

- flow in channel ~8 inches - 2ft wide; ~1-2 inches deep
- channel @ OHWM ~6-12 ft wide
- staging w/ 1000 sq ft west side of channel, below TOB

Disturbance code / Intensity (L,M,(H): 23 / ___ / ___ / ___ / ___ / ___ **"Other"** fire / debris flow

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), **T4** (11-24" dbh), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: S1 seedling (<3 yr. old), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: H1 (<12" plant ht.), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Arroyo willow thicket / canyon sunflower scrub (channel)

Field-assessed Association name (optional): California bay / western sycamore woodland (banks)

Adjacent Alliances/direction: Coast live oak woodland (upslope)

Confidence in Alliance identification: L M (H) **Explain:** _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: CS-18

IV. VEGETATION DESCRIPTION

% NonVasc cover: 65 **Total % Vasc Veg cover:** 35

% Cover - **Conifer tree / Hardwood tree:** 0 / 5 **Regenerating Tree:** 15 **Shrub:** 15 **Herbaceous:** 5

Height Class - Conifer tree / Hardwood tree: 0 / 7 **Regenerating Tree:** 4 **Shrub:** 3 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species Channel / Lower Banks	% cover	C	~~Final species determination~~ Upper Banks / TOB
T	Platanus racemosa	1-5		T Umbellularia californica 5-15
T	Umbellularia californica	5-15		T Quercus agrifolia 1-5
S	Salix lasiolepis	5-15		T Platanus racemosa 5-15
H	Solanum douglasii	1-5		S Malosma laurina 1-5
S	Salix exigua	+		H Elymus condensatus 1-5
S	Nicotiana glauca	+		S Toxicodendron diversilobum 1-5
T	Ficus carica	1-5		S Venegasia carpesioides 1-5
S	Eriodictyon californicum	+		
H	Phacelia grandiflora	1-5		
S	Venegasia carpesioides	1-5		
H	Stipa miliacea	1-5		
H	Sonchus oleraceus	+		
H	Pseudognaphalium californicum	+		
S	Diplacus aurantiacus	1-5		
H	Pseudognaphalium luteoalbum	+		
H	Brassica nigra	1-5		
H	Erythranthe cardinalis	1-5		
S	Rubus ursinus	5-15		
H	Calystegia macrostegia ssp. cyclostegia	1-5		
S	Baccharis pilularis	+		
H	Erigeron canadensis	+		
S	Acmispon glaber	+		
S	Sambucus nigra ssp. caerulea	+		
H	Acmispon grandiflorus	+		
S	Toxicodendron diversilobum	1-5		
H	Eschscholzia californica	+		
H	Solanum umbelliferum	+		
H	Phacelia cicutaria	+		
S	Malosma laurina	+		
S	Baccharis salicifolia	+		
S	Ribes sp.	+		
S	Salix laevigata	1-5		

Unusual species: Four ficus saplings becoming established in channel.

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use:	Final database #:	Final vegetation type:	Alliance Association

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: Relevé or (RA)

Database #: SY-7a (New site) **Date:** 12/7/18 **Name of recorder:** Jessica Peak **Other surveyors:** Justine Cooper

Location Name:

GPS name: iPad/ArcCollector/Arrow 100 For Relevé only: **Bearing°**, left axis at ID point____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11 NAD83** GPS error: ft./ m./ PDOP 7.7

Decimal degrees: **LAT** 34.466114 **LONG** -119.629798

GPS within stand? (Yes) / No If No, cite from GPS to stand: distance (m)____ bearing °____ inclination °____

and record: **Base point ID**_____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (<1,) 1-5, >5 | **Plot Size (m²):** 100 / _____ | **Plot Shape** ____ x ____ m | **RA Radius** 30 m

Exposure, Actual °: 150 NE NW (SE) SW Flat Variable | **Steepness, Actual °:** NA 0° (1-5°) >5-25° >25

Topography: Macro: top upper mid (lower) (bottom) | **Micro:** convex flat (concave) undulating

Geology code: QRLA/SAND **Soil Texture code:** sand/COLS | **Upland** or **(Wetland/Riparian)** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H20: 4 **BA Stems:** | **Litter:** | **Bedrock:** 25 **Boulder:** 20 **Stone:** 5 **Cobble:** 9 **Gravel:** 15 **Fines:** 20 **=100%**

% Current year bioturbation 2 **Past bioturbation present?** Yes / (No) | **% Hoof punch** 0

Fire evidence: (Yes) / No (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: site burned in Thomas Fire (Dec. 2017) then scoured by debris flow on 1/9/2018

- Recent scour from rain events on NOV 27-29 & DEC 4-5, 2018 removed most herbaceous vegetation from channel.

- flow in channel ~ 14" - 4ft wide; ~ 2-6 inches deep
- channel ~ 10-25 ft wide @ Othum

Disturbance code / Intensity (L,M,H): 23/ ___/ ___/ ___/ ___/ ___/ ___ **"Other"** fire/debris flows

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), **T4** (11-24" dbh), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: S1 seedling (<3 yr old), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: H1 (<12" plant ht.), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Canyon sunflower scrub

Field-assessed Association name (optional): California Bay forest

Adjacent Alliances/direction: Coast live oak woodland (upslope)

Confidence in Alliance identification: L M (H) **Explain:** _____

Phenology (E,P,L): Herb L **Shrub** L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: SY-7a (New site)

IV. VEGETATION DESCRIPTION

% NonVasc cover: 95 **Total % Vasc Veg cover:** 5

% Cover - **Conifer tree / Hardwood tree:** 0 / 1 **Regenerating Tree:** 3 **Shrub:** 2 **Herbaceous:** <1

Height Class - Conifer tree / Hardwood tree: 0 / 5 **Regenerating Tree:** 4 **Shrub:** 2 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species (channel/lower banks)	% cover	C	Final species determination (upper banks/TOB)	
G	Venegasia carpesioides	1-5		T Umbellularia californica	1-5
T	Umbellularia californica	1-5		T Quercus agrifolia	+
S	Eriodictyon	+		S Baccharis pilularis	+
H	Solanum douglasii	+		S Toxicodendron diversilobum	+
H	Stipa miliacea	+		H Solanum umbelliferum	+
H	Foeniculum vulgare	+		S Ceanothus megacarpus	+
S	Salix lasiolepis	+		S Ribes sp	+
S	Baccharis pilularis	+		S Galium sp.	+
H	Eriophyllum confertiflorum	+		H Scrophularia californica	+
S	Toxicodendron diversilobum	+		S Acmispon glaber	+
				H Calystegia macrostegia ssp. cyclo	+
				S Rubus ursinus	+
				S Artemisia douglasiana	+
				S Artemisia californica	+
				S Baccharis plummerae	+
				H Pteridium aquilinum	+

Unusual species: Four Plummer's baccharis near top of slope/trail above net site

4x4 area (16 sqft); fruiting

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use: | **Final database #:** | **Final vegetation type:** Alliance _____ Association _____

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: **Relevé** or (**RA**)

Database #: SY-18

Date: 9/21/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: San Ysidro Canyon

GPS name: ipad / ArcCollector / Arrow 10D — For Relevé only: **Bearing°**, left axis at ID point____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** (**NAD83**) GPS error: **ft./ m./ PDOP** 4.6

Decimal degrees: **LAT** 34.459500 **LONG** -119.623273

GPS within stand? (**Yes**) / **No** If No, cite from GPS to stand: distance (m)____ bearing °____ inclination °____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (**<1**) **1-5, >5** | **Plot Size (m²): 100 /** _____ | **Plot Shape** ____ **x** ____ **m** | **RA Radius** 30 **m**

Exposure, Actual °: 165 **NE NW SE SW Flat Variable** | **Steepness, Actual °:** NA **0°** (**1-5°**) **>5-25° >25**

Topography: Macro: top upper mid (**lower**) (**bottom**) | **Micro: convex flat** (**concave**) **undulating**

Geology code: GRAL/SAND **Soil Texture code:** sand/COLS | **Upland** or (**Wetland/Riparian**) (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H20: 3 **BA Stems:** | **Litter:** | **Bedrock:** 5 **Boulder:** 40 **Stone:** 20 **Cobble:** 15 **Gravel:** 10 **Fines:** 5 **=100%**

% Current year bioturbation 0 **Past bioturbation present? Yes /** (**No**) | **% Hoof punch** 0

Fire evidence: (**Yes**) / **No** (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: site burned in Thomas Fire (Dec. 2017) & scoured by debris flows on 1/9/2018.

- flow in channel ~ 2-6ft wide; 1-6 inches deep (intermittent pools)
- channel ~12-20ft wide @ OHWM
- staging ~100sq ft on east side of channel below TOB or on TRAIL above TOB

Disturbance code / Intensity (L,M,H): 23 / ___ / ___ / ___ / ___ / ___ **"Other"** fire / debris flows

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), (**T4** (11-24" dbh)), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: (**S1** seedling (<3 yr old)), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: (**H1** (<12" plant ht.)), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Arroyo willow thicket

Field-assessed Association name (optional): California bay forest

Adjacent Alliances/direction: coast live oak woodland (upslope east/west)

Confidence in Alliance identification: L M (**H**) **Explain:** _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: SY-18

IV. VEGETATION DESCRIPTION

% NonVasc cover: 85 **Total % Vasc Veg cover:** 15

% Cover - **Conifer tree / Hardwood tree:** 0 / 2 **Regenerating Tree:** 3 **Shrub:** 7 **Herbaceous:** 3

Height Class - Conifer tree / Hardwood tree: 0 / 6 **Regenerating Tree:** 4 **Shrub:** 3 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species Channel / Lower Banks	% cover	C	~~Final species determination~~ Upper Banks / TOB	
T	Platanus racemosa	1-5		T Quercus agrifolia	1-5
S	Salix lasiolepis	1-5		T Platanus racemosa	1-5
T	Alnus rhombifolia	+		T Umbellularia californica	5-15
T	Salix laevigata	+		S Heteromeles arbutifolia	1-5
S	Venegasia carpesioides	1-5		H Elymus condensatus	1-5
H	Solanum douglasii	1-5		S Artemisia douglasiana	1-5
H	Stipa miliacea	1-5		H Solidago velutina ssp. californica	+
H	Sonchus oleraceus	+			
T	Tamarix ramosissima (pulled)	+			
H	Eriophyllum confertiflorum	+			
S	Toxicodendron diversilobum	1-5			
H	Erythranthe cardinalis	1-5			
S	Acmispon glabra	+			
H	Calystegia macrostegia ssp cyclo.	+			
H	Oxalis pes-caprae	+			
S	Baccharis pilularis	+			
H	Scrophularia californica	+			
H	Juncus sp.	+			
S	Salix exigua	+			
S	Baccharis salicifolia	+			
H	Phacelia grandiflora	+			
H	Epilobium ciliatum	+			
S	Eriodictyon sp	+			
H	Antirrhinum multiflorum	+			
H	Phacelia brachyloba	+			
H	Sanicula arguta	+			
H	Erigeron canadensis	+			
H	Pseudognaphalium luteoalbum	+			
H	Typha latifolia	+			
S	Diplacus aurantiacus	+			

Unusual species: _____

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use: | **Final database #:** | **Final vegetation type:** Alliance _____ Association _____

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: **Relevé** or **(RA)**

Database #: BV-2

Date: 9/17/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: Buena Vista Canyon

GPS name: iPad / ARC Collector / Arrow 100 For Relevé only: **Bearing°**, left axis at ID point ____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** **(NAD83)** GPS error: **ft./ m./ PDOP** 2.5

Decimal degrees: **LAT** 34.450823 **LONG** -119.611076

GPS within stand? **(Yes)** / **No** If No, cite from GPS to stand: distance (m) ____ bearing ° ____ inclination ° ____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): **(<1,)** 1-5, >5 | **Plot Size (m²): 100 /** _____ | **Plot Shape** ___ x ___ m | **RA Radius** 30 m

Exposure, Actual °: 165 NE NW SE SW Flat Variable | **Steepness, Actual °:** N/A 0° **(1-5°)** >5-25° >25

Topography: Macro: top upper mid **(lower)** **(bottom)** | **Micro:** convex flat **(concave)** undulating

Geology code: GRAL/SAND **Soil Texture code:** sand/cols | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H₂0: 5 **BA Stems:** | **Litter:** | **Bedrock:** 0 **Boulder:** 35 **Stone:** 20 **Cobble:** 7 **Gravel:** 10 **Fines:** 10 **=100%**

% Current year bioturbation 0 **Past bioturbation present?** Yes / **(No)** | **% Hoof punch** 0

Fire evidence: **(Yes)** / **No** (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: Site burned in Thomas fire (Dec. 2017) & scoured by debris flows on 1/9/2018.

- flow in channel ~1-3ft wide; 1" to 8" deep (intermittent pools)
- channel @ OHWM ~4-15ft wide
- limited to no staging area near rel location that is outside of the creek channel.

Disturbance code / Intensity (L,M,H): 23 / ___ / ___ / ___ / ___ / ___ **"Other"** fire / debris flow

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), **T4** (11-24" dbh), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: S1 seedling (<3 yr. old), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: H1 (<12" plant ht.), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: White alder grove / western sycamore woodland

Field-assessed Association name (optional): western sycamore woodland

Adjacent Alliances/direction: Big pod ceanothus / laurel sumac chaparral

Confidence in Alliance identification: L M **(H)** **Explain:** _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:** _____

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: BV-2

IV. VEGETATION DESCRIPTION

% NonVasc cover: 55 **Total % Vasc Veg cover:** 45

% Cover - Conifer tree / Hardwood tree: 0 / 1 Regenerating Tree: 30 Shrub: 10 Herbaceous: 5

Height Class - Conifer tree / Hardwood tree: 0 / 9 Regenerating Tree: 4 Shrub: 3 Herbaceous: 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species Channel / lower banks	% cover	C	~~Final species determination~~ upper banks / TDR	
T	Alnus rhombifolia	5-15		T Platanus racemosa	5-15
T	Platanus racemosa	5-15		T Quercus agrifolia	1-5
S	Venegasia carpesioides	1-5		H Elymus condensatus	5-15
S	Salix lasiolepis	1-5		S Heteromeles arbutifolia	5-15
S	Rubus ursinus	1-5		S Ceanothus megacarpus	5-15
S	Toxicodendron diversilobum	1-5		H Stephanomeria cichoriacea	1-5
H	Artemisia douglasiana	1-5		H Melica imperfecta	1-5
S	Acmispon glaber			S Ceanothus cuneatus	1-5
H	Solidago velutina ssp. californica	1-5		S Baccharis pilularis	1-5
H	Sonchus oleraceus	+		S Toxicodendron diversilobum	1-5
H	Pseudognaphalium luteoalbum	+		H Pteridium aquilinum	+
H	Equisetum arvense			H Artemisia douglasiana	+
H	Erigeron canadensis	+			
S	Baccharis salicifolia	1-5			
H	Erythranthe cardinalis	1-5			
S	Salix exigua	+			
H	Elymus condensatus	1-5			
S	Adenostoma fasciculata	+			
H	Calystegia macrostegia ssp. cyclostegia	+			
T	Tamarix ramossisima (pulled)	+			
H	Brassica nigra	1-5			
H	Stipa miliacea	1-5			
H	Scrophularia californica	+			
S	Nicotiana glauca	+			
H	Hordeum brachyantherum	+			
H	Typha latifolia	+			
H	Bidens pilosa	+			

Unusual species: _____

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use: | **Final database #:** | **Final vegetation type:** Alliance _____ Association _____

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: **Relevé** or **RA**

Database #: BV-4

Date: 9/20/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: Buena Vista Canyon

GPS name: ipad / ARCCollector / ARROW 100 — For Relevé only: **Bearing°**, left axis at ID point ____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** (**NAD83**) GPS error: **ft. / m. / PDOP** 1.9

Decimal degrees: **LAT** 34.452768 **LONG** -119.611699

GPS within stand? (**Yes**) / **No** If No, cite from GPS to stand: distance (m) ____ bearing ° ____ inclination ° ____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (**<1**), 1-5, >5 | **Plot Size (m²):** 100 / _____ | **Plot Shape** ____ x ____ m | **RA Radius** 30 m

Exposure, Actual °: 165 S NE NW SE SW Flat Variable | **Steepness, Actual °:** NA 0° 1-5° (**>5-25°**) >25

Topography: Macro: top upper mid (**lower**) (**bottom**) | **Micro:** convex flat (**concave**) undulating

Geology code: GRAL/SAND **Soil Texture code:** Sand/COBLS | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H₂0: 2 **BA Stems:** | **Litter:** | **Bedrock:** 5 **Boulder:** 15 **Stone:** 10 **Cobble:** 20 **Gravel:** 20 **Fines:** 26 **=100%**

% Current year bioturbation 0 **Past bioturbation present?** Yes / (**No**) | **% Hoof punch** 0

Fire evidence: (**Yes**) / No (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: site burned in Thomas Fire (Dec. 2017) & scoured by debris flows 1/9/2018.

- net location below confluence of side channel (west bank) & Buena Vista Creek
- flow in channel ~6 inches – 3ft wide, ~1-5inches deep (small pools)
- channel ~10 – 20ft wide @ ottmm
- trim 2 sycamore saplings in channel for net installation; staging on trail above channel

Disturbance code / Intensity (L,M,H): 23 / ___ / ___ / ___ / ___ / ___ **"Other"** fire/debris flow

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), (**T4** (11-24" dbh)), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: (**S1** seedling (<3 yr. old)), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: (**H1** (<12" plant ht.)), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Arroyo willow thicket / western sycamore woodland

Field-assessed Association name (optional): Canyon sunflower scrub

Adjacent Alliances/direction: Big pod ceanothus chaparral (upslope east / west),

Confidence in Alliance identification: L M (**H**) **Explain:** _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** ___ **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

SPECIES SHEET

Database #: BV-4

IV. VEGETATION DESCRIPTION

% NonVasc cover: 10 **Total % Vasc Veg cover:** 30

% Cover - **Conifer tree / Hardwood tree:** 0 / 1 **Regenerating Tree:** 10 **Shrub:** 15 **Herbaceous:** 5

Height Class - Conifer tree / Hardwood tree: 0 / 6 **Regenerating Tree:** 4 **Shrub:** 3 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular

% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species channel / Lower Banks	% cover	C	~~Final species determination~~ upper Banks / TOP
T	Platanus Racemosa	5-15		T Quercus agrifolia 1-5
S	Salix lasiolepis	1-5		S Ceanothus megacarpus .5-15
S	Salix exigua	1-5		S Prunus ilicifolia 1-5
S	Venegasia carpesioides	1-5		S Eriodictyon sp 1-5
H	Artemisia douglasiana	1-5		S Heteromeles arbutifolia 1-5
H	Solanum douglasii	1-5		H Elymus condensatus 1-5
H	Calystegia Macrostegia ssp. cyclo.	1-5		S Toxicodendron diversilobum 1-5
H	Erythranthe cardinalis	1-5		H Pteridium aquilinum +
H	Stipa miliacea	1-5		H Calystegia macrostegia ssp cyclo. 1-5
T	Populus fremontii	+		
H	Phacelia grandiflora	+		
S	Rubus ursinus	1-5		
S	Toxicodendron diversilobum	1-5		
S	Acmispon glaber	+		
H	Equisetum arvense	1-5		
H	Phacelia cicutaria	+		
H	Emmenanthe penduliflora	+		
H	Melica imperfecta	+		
S	Diplacus aurantiacus	+		
H	Brassica nigra	+		
H	Solanum umbelliferum	+		
S	Ceanothus megacarpus	+		
H	Eriophyllum confertiflorum	+		

Unusual species: _____

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use:	Final database #:	Final vegetation type:	Alliance Association

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: **Relevé** or (**RA**)

Database #: BV-5

Date: 9/20/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Stoffer

Location Name: Buena Vista Canyon

GPS name: ipad / ArcCollector / Arrow 100 — For Relevé only: **Bearing°**, left axis at ID point____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** (**NAD83**) GPS error (**ft.**) **m./ PDOP** 2.2

Decimal degrees: **LAT** 34.455275 **LONG** -119.010365

GPS within stand? (**Yes**) / **No** If No, cite from GPS to stand: distance (m)____ bearing °____ inclination °____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (**<1**) **1-5, >5** | **Plot Size (m²): 100 /** _____. | **Plot Shape** ____ **x** ____ **m** | **RA Radius** 30 **m**

Exposure, Actual °: 242 **NE NW SE** (**SW**) **Flat Variable** | **Steepness, Actual °:** NA **0°** (**1-5°**) **>5-25° >25**

Topography: Macro: top upper mid (**lower**) (**bottom**) | **Micro: convex flat** (**concave**) **undulating**

Geology code: GRALSAND **Soil Texture code:** sand/cobs | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H20: 2 **BA Stems:** 1 **Litter:** 2 **Bedrock:** 30 **Boulder:** 5 **Stone:** 10 **Cobble:** 15 **Gravel:** 15 **Fines:** 10 **=100%**

% Current year bioturbation ~~0~~ **Past bioturbation present? Yes /** (**No**) | **% Hoof punch** ~~0~~

Fire evidence: (**Yes**) / **No** (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: site burned in Thomas Fire (Dec 2017) & scoured by debris flow on 1/9/18.

- flow in channel ~8in-3ft wide (1-3" deep) @ center/north end of plot; no flow under net location
- channel ~15-20ft wide @ OHWM
- one Salix lasiolepis in channel may need to be trimmed for net installation
- staging on trail above channel/TOB

Disturbance code / Intensity (L,M,H): 23 / ___ / ___ / ___ / ___ / ___ **"Other"** fire / debris flow

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), **T4** (11-24" dbh), **T5** (>24" dbh) **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: S1 seedling (<3 yr. old), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: H1 (<12" plant ht.), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Arroyo willow thicket

Field-assessed Association name (optional): Western sycamore woodland

Adjacent Alliances/direction: Big pod ceanothus / laurel sumac chaparral (upslope west) coast live oak woodland (upslope east)

Confidence in Alliance identification: L M (**H**) **Explain:** _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

SPECIES SHEET

Database #: BV-5

IV. VEGETATION DESCRIPTION

% NonVasc cover: 70 **Total % Vasc Veg cover:** 30

% Cover - **Conifer tree / Hardwood tree:** 0 / 1 **Regenerating Tree:** 10 **Shrub:** 15 **Herbaceous:** 5

Height Class - Conifer tree / Hardwood tree: 0 / 7 **Regenerating Tree:** 4 **Shrub:** 3 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular

% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species Channel/Lower Banks	% cover	C	~~Final species determination~~ Upper Banks/TOB	
S	Salix lasiolepis	1-5		T Quercus agrifolia	1-5
T	Platanus racemosa	1-5		S Malosma laurina	1-5
S	Venegasia carpesioides	1-5		S Prunus ilicifolia	1-5
H	Erythranthe cardinalis	1-5		S Eriogonum fasciculatum	+
S	Rubus ursinus	1-5		H Elymus condensatus	1-5
S	Toxicodendron diversilobum	+		S Toxicodendron diversilobum	1-5
S	clematis ligusticifolia	+		S Hesperoyucca whipplei	+
H	Stipa miliacea	1-5		H Calystegia macrostegia ssp. cyclo.	1-5
S	salix exigua	+		S Baccharis plummerae	+
H	Plantago lanceolata	+		S Brickellia californica	1-5
H	Silene laciniata	+		H Solidago velutina ssp. californica	+
T	Tamarix ramosissima (pulled)	+		H Phacelia cicutaria	+
H	Typha latifolia	+		H Phacelia grandiflora	+
H	Sonchus oleraceus	+			
H	Calystegia macrostegia ssp. cyclo.	+			
H	Lysimachia arvensis	+			
H	Solanum douglasii	1-5			
H	Lucia sp.	+			
S	Acmispon glaber	+			
H	Phacelia grandiflora	+			
S	Lupinus hirsutissimus	+			
S	Malosma laurina	+			
H	Delairea odorata	+			
H	Logfia filaginoides	+			
H	Pseudognaphalium californica	+			
S	Diplacus aurantiacus	+			
S	Baccharis salicifolia	+			
H	Scrophularia californica	+			
S	Baccharis pilularis	+			
H	Stachys bullata	+			
H	Artemisia douglasiana	+			
H	Pseudognaphalium luteoalbum	+			
H	Solanum umbelliferum	+			

Unusual species: 3 Plummer's baccharis on west slope (30-40 ft above channel)

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use:	Final database #:	Final vegetation type: Alliance / Association

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: Relevé or (RA)

Database #: BV-6

Date: 9/20/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: Buena Vista Canyon

GPS name: iPad / ArcCollector / ARROW 100 — For Relevé only: **Bearing°**, left axis at ID point ____ **of Long / Short** side

UTME ____ **UTMN** ____ **Zone: 11** (NAD83) GPS error: **ft.** / **m.** / **PDOP** 5.7

Decimal degrees: **LAT** 34.4583348 **LONG** -119.6087722

GPS within stand? (Yes) / No If No, cite from GPS to stand: distance (m) ____ bearing ° ____ inclination ° ____

and record: **Base point ID** ____ **Projected UTMs: UTME** ____ **UTMN** ____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (<1,) 1-5, >5 | **Plot Size (m²):** 100 / ____ | **Plot Shape** ____ x ____ m | **RA Radius** 30 m

Exposure, Actual °: 162 S NE NW SE SW Flat Variable | **Steepness, Actual °:** NA 0° (1-5°) >5-25° >25

Topography: Macro: top upper mid (lower) (bottom) | **Micro:** convex flat (concave) undulating

Geology code: GRAL/SAND **Soil Texture code:** sand/coals | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H₂0: 2 **BA Stems:** | **Litter:** 2 **Bedrock:** 30 **Boulder:** 15 **Stone:** 15 **Cobble:** 10 **Gravel:** 15 **Fines:** 10 **=100%**

% Current year bioturbation 0 **Past bioturbation present?** Yes / (No) | **% Hoof punch** 0

Fire evidence: (Yes) / No (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: Site burned in Thomas fire (Dec. 2017) & scoured by debris flows 1/9/2018.

- flow in channel ~8" – 3ft wide; ~1-3 inches deep; one pool 5ft wide & 3" deep.
- channel ~10-15ft wide @ 0thwm
- moderately dense canopy cover over net location (~30-35%); small staging area in channel – staging area is limited outside of channel
- sparse vegetation cover in channel (~10%)

Disturbance code / Intensity (L,M,H): 23 / ___ / ___ / ___ / ___ / ___ / ___ **"Other"** fire / debris flows

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), **T4** (11-24" dbh), (**T5** (>24" dbh)), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: (**S1** seedling (<3 yr old)), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: (**H1** (<12" plant ht.)), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Canyon sunflower scrub

Field-assessed Association name (optional): Arroyo willow thicket

Adjacent Alliances/direction: Coast live oak woodland / California bay forest (upslope)

Confidence in Alliance identification: L M (H) Explain: ____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** ✓ **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: BV-6

IV. VEGETATION DESCRIPTION

% NonVasc cover: 60 **Total % Vasc Veg cover:** 40

% Cover - **Conifer tree / Hardwood tree:** 0 / 10 **Regenerating Tree:** 1 **Shrub:** 7 **Herbaceous:** 3

Height Class - Conifer tree / Hardwood tree: 0 / 7 **Regenerating Tree:** 2 **Shrub:** 3 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species channel / Lower Banks	% cover	C	~~Final species determination~~ Upper Banks / TOB
S	Venegasia carpesioides	1-5		T Quercus agrifolia 5-15
S	Salix lasiolepis	1-5		T Umbellularia californica 5-15
H	Erythranthe cardinalis	+		S Heteromeles arbutifolia 1-5
H	Stipa miliacea	+		S Toxicodendron diversilobum 1-5
H	Delarea odorata	1-5		H Pteridium aquilinum +
H	Solanum douglasii	+		H Delarea odorata 1-5
S	Toxicodendron diversilobum	+		S Baccharis plummerae 1-5
H	Stachys bullata	+		S Frangula californica 1-5
S	Rubus ursinus	+		S Venegasia carpesioides 1-5
H	Sonchus oleraceus	+		S Prunus ilicifolia +
H	Pseudognaphalium californicum	+		H Solidago velutina ssp. californica +
H	Scrophularia californica	+		H Stephanomeria cichoriacea +
S	Ribes sp.	+		
T	Alnus rhombifolia	+		
T	Platanus racemosa	+		
H	Equisetum arvense	+		

Unusual species: 12 Plummer's baccharis on east bank; 10 Plummer's baccharis on west bank

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use:	Final database #:	Final vegetation type:	Alliance Association

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: Relevé or (RA)

Database #: BV-7

Date: 9/20/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: Buena Vista Canyon

GPS name: ipad / ArcCollector / ARRaw 100 For Relevé only: **Bearing°**, left axis at ID point ____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** (**NAD83**) GPS error: **ft./ m./ PDOP** 2.4

Decimal degrees: **LAT** 34.456103 **LONG** -119.694459

GPS within stand? (**Yes**) / **No** If No, cite from GPS to stand: distance (m) ____ bearing ° ____ inclination ° ____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (**<1**), **1-5**, **>5** | **Plot Size (m²):** 100 / _____ | **Plot Shape** ____ x ____ m | **RA Radius** 30 m

Exposure, Actual °: 208 **NE NW SE** (**SW**) **Flat Variable** | **Steepness, Actual °:** NA **0° 1-5°** (**>5-25°**) **>25**

Topography: Macro: top upper mid (**lower**) (**bottom**) | **Micro: convex flat** (**concave**) **undulating**

Geology code: QLA/SAND **Soil Texture code:** Sand/COLS | **Upland** or (**Wetland/Riparian**) (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H₂0: 2 **BA Stems:** | **Litter:** 2 **Bedrock:** 40 **Boulder:** 5 **Stone:** 5 **Cobble:** 20 **Gravel:** 15 **Fines:** 15 **=100%**

% Current year bioturbation 0 **Past bioturbation present? Yes /** (**No**) | **% Hoof punch** 0

Fire evidence: (**Yes**) / **No** (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: Site burned in Thomas Fire (Dec. 2017) & scoured by debris flows 1/9/2018.

- flow in channel ~12-24 inches wide; ~1-2 inches deep w/ one pool ~4ft; 6 inches deep
- channel ~8-15 ft wide @ OHWM
- NARRaw net location; very sparse vegetation cover in channel (~5% cover) w/ ~25% cover of vegetation on upper banks
- limited to no staging outside creek channel

Disturbance code / Intensity (L,M,H): (23) / ___ / ___ / ___ / ___ / ___ / ___ **"Other"** Fire / debris flow

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), (**T4** (11-24" dbh)), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: (**S1** seedling (<3 yr. old)), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: (**H1** (<12" plant ht.)), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Arroyo willow thicket

Field-assessed Association name (optional): Poison oak scrub

Adjacent Alliances/direction: coast live oak woodland (upslope east/west)

Confidence in Alliance identification: L M (**H**) **Explain:** _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: BV-7

IV. VEGETATION DESCRIPTION

% NonVasc cover: 70 **Total % Vasc Veg cover:** 30

% Cover - **Conifer tree / Hardwood tree:** 0 / 15 **Regenerating Tree:** 0 **Shrub:** 10 **Herbaceous:** 5

Height Class - Conifer tree / Hardwood tree: 0 / 5 **Regenerating Tree:** 0 **Shrub:** 3 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species channel / Lower Banks	% cover	C	~~Final species determination~~ upper Banks / TOB	
S	Salix lasiolepis	1-5		T Quercus agrifolia	5-15
S	Venegasia carpesioides	1-5		T Umbellularia californica	1-5
S	Toxicodendron diversilobum	1-5		S Heteromeles arbutifolia	1-5
H	Bromus diandrus	+		S Elymus condensatus	1-5
H	Equisetum arvense	+		H Artemisia douglasiana	+
H	Vicia sp.	+		S Baccharis plummerae	1-5
H	Eriophyllum confertiflorum	+		S Prunus ilicifolia	1-5
H	Stachys bullata	+		S Malosma laurina	1-5
H	Delairea odorata	+		H Calystegia macrostegia ssp. cyclo	1-5
S	Adenostoma fasciculata	+		S Ceanothus megacarpus	1-5
H	Erythranthe cardinalis	+		H Phacelia grandiflora	+
H	Sonchus oleraceus	+		H Melica imperfecta	+
S	Rubus ursinus	1-5		S Rhamnus crocea	+
H	Solanum douglasii	1-5		H Delairea odorata	1-5
S	Acmispon glaber	+		H Symphyotrichum sp.	+
H	Stipa miliacea	+		H Dudleya cymosa	+
H	Artemisia douglasiana	+		H Pteridium aquilinum	+

Unusual species: 8 Plummer's baccharis on east slope (20% fr / 80% fl.)

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use:	Final database #:	Final vegetation type:	Alliance Association

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: **Relevé** or **(RA)**

Database #: BV-10

Date: 9/17/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: Buena Vista Canyon

GPS name: ipad / ARC Collector / ARROW 100 — For Relevé only: **Bearing°**, left axis at ID point____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** **(NAD83)** GPS error: **ft./ m./ PDOP** ____

Decimal degrees: **LAT** 34.452384 **LONG** -119.611480

GPS within stand? **(Yes)** / **No** If No, cite from GPS to stand: distance (m) ____ bearing ° ____ inclination ° ____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): **(<1,)** 1-5, >5 | **Plot Size (m²):** 100 / _____ | **Plot Shape** ____ x ____ m | **RA Radius** 30 m

Exposure, Actual °: ~~(360)~~ NE NW SE SW Flat Variable | **Steepness, Actual °:** NA 0° **(1-5°)** >5-25° >25

Topography: Macro: top upper mid lower bottom | **Micro:** convex flat **(concave)** undulating

Geology code: GRAL/SAND **Soil Texture code:** sand/cols | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H₂0: 3 **BA Stems:** | **Litter:** | **Bedrock:** 40 **Boulder:** 15 **Stone:** 10 **Cobble:** 10 **Gravel:** 10 **Fines:** 10 **=100%**

% Current year bioturbation ~~0~~ **Past bioturbation present? Yes / (No)** | **% Hoof punch** ~~0~~

Fire evidence: **(Yes)** / **No** (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: site burned in Thomas fire (Dec 2017) & scoured by debris flows 1/9/2018.

- flow in channel ~ 1-5ft wide; 2-10 inches deep (intermittent pools)
- channel @ OHWM ~5-16 ft wide
- staging ~5000 sqft on east side of channel, below TDS

Disturbance code / Intensity (L,M,(H)): 23 / ___ / ___ / ___ / ___ / ___ **"Other"** fire / debris flow

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **(T3** (6-11" dbh)**)**, **T4** (11-24" dbh), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: S1 seedling (<3 yr. old), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: H1 (<12" plant ht.), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: white alder grove

Field-assessed Association name (optional): western sycamore woodland

Adjacent Alliances/direction: Coast live oak woodland (upslope) /

Confidence in Alliance identification: L M (H) Explain: _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

Database #: BV-10 SPECIES SHEET

IV. VEGETATION DESCRIPTION

% NonVasc cover: 60 **Total % Vasc Veg cover:** 40

% Cover - **Conifer tree / Hardwood tree:** 0 / 1 **Regenerating Tree:** 20 **Shrub:** 15 **Herbaceous:** 5

Height Class - Conifer tree / Hardwood tree: 0 / 1 **Regenerating Tree:** 4 **Shrub:** 3 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular

% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species Channel / Lower banks	% cover	C	~~Final species determination~~ Upper banks / TOB	
T	Alnus rhombifolia	5-15		T	Platanus racemosa 1-5
T	Platanus racemosa	1-5		T	Quercus agrifolia 5-15
S	Venegasia carpesioides	1-5		H	Elymus condensatus 1-5
H	Equisetum arvense	1-5		H	Artemisia douglasiana 5-15
S	Salix lasiolepis	1-5		S	Malosma laurina 1-5
S	Acmispon glaber	1-5		S	Venegasia carpesioides 1-5
H	Stipa miliacea	1-5		S	Heteromeles arbutifolia 5-15
T	Quercus agrifolia	+		H	Solidago velutina ssp. cal. +
H	Calystegia macrostegia ssp. cyclostegia	1-5		S	Toxicodendron diversilobum 1-5
S	Toxicodendron diversilobum	1-5		H	Stephanomeria cichoriacea +
S	Rubus ursinus	1-5		S	Solanum umbelliferum +
T	Populus fremontii	+		H	Phacelia grandiflora +
H	Solanum douglasii	1-5		H	Pteridium aquilinum +
H	Sonchus oleraceus	+		S	Eriodictyon sp. +
S	Salix lasiolepis	1-5			
H	Erythranthe cardinalis	1-5			
H	Pseudognaphalium californicum	+			
S	Baccharis pilularis	+			
S	Eriophyllum confertiflorum	+			
H	Pseudognaphalium luteoalbum	+			
S	Ceanothus megacarpus	+			

Unusual species: _____

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use:	Final database #:	Final vegetation type:	Alliance Association

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION circle: **Relevé** or (**RA**)

Database #: BV-11

Date: 9/20/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: Buena Vista Canyon

GPS name: ipad / ArcCollector / Arrow 100 For Relevé only: **Bearing°**, left axis at ID point____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** (**NAD83**) GPS error: **ft./ m./ PDOP** 1.9

Decimal degrees: **LAT** 34.455539 **LONG** -119.611211

GPS within stand? (**Yes**) / **No** If No, cite from GPS to stand: distance (m)____ bearing °____ inclination °____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (**<1**) **1-5, >5** | **Plot Size (m²): 100 /** _____ | **Plot Shape** ____ **x** ____ **m** | **RA Radius** 30 **m**

Exposure, Actual °: 150 **NE NW** (**SE**) **SW Flat Variable** | **Steepness, Actual °:** NA **0°** (**1-5°**) **>5-25° >25**

Topography: Macro: top upper mid (**lower**) (**bottom**) | **Micro: convex flat** (**concave**) **undulating**

Geology code: GRAV/SAND **Soil Texture code:** sand/rocks | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover:	(Incl. outcrops)	(>60cm diam)	(25-60cm)	(7.5-25cm)	(2mm-7.5cm)	(Incl sand, mud)	
H_20: 0	BA Stems:	Litter:	Bedrock: 0	Boulder: 30	Stone: 10	Cobble: 20	Gravel: 15	Fines: 15	=100%

% Current year bioturbation 0 **Past bioturbation present? Yes /** (**No**) | **% Hoof punch** 0

Fire evidence: (**Yes**) / **No** (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: site burned in Thomas Fire (DEC. 2017) & scoured in debris flows on 1/9/2018.

- net location in side channel to Buena Vista Creek
- no flow in channel
- channel ~10–25ft wide @ ottwm
- staging area limited; ~100 sq ft on east side of channel below TOB

Disturbance code / Intensity (L,M,H): 231 / ___ / ___ / ___ / ___ / ___ **"Other"** Fire / debris flows

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), (**T4**) (11-24" dbh), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: (**S1**) seedling (<3 yr. old), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: (**H1**) (<12" plant ht.), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Canyon sunflower scrub

Field-assessed Association name (optional): Western sycamore woodland

Adjacent Alliances/direction: Big pod ceanothus chaparral (upslope)

Confidence in Alliance identification: L M (**H**) **Explain:** _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: BV-11

IV. VEGETATION DESCRIPTION

% NonVasc cover: 90 **Total % Vasc Veg cover:** 20

% Cover - **Conifer tree / Hardwood tree:** 0 / 2 **Regenerating Tree:** 2 **Shrub:** 10 **Herbaceous:** 5

Height Class - Conifer tree / Hardwood tree: 0 / **Regenerating Tree:** 3 **Shrub:** 2 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species channel / lower banks	% cover	C	~~Final species determination~~ upper banks / TOB	
H	Artemisia douglasiana	1-5		S Malosma laurina	5-15
T	Platanus racemosa	1-5		S Ceanothus megacarpus	5-15
S	Rubus ursinus	1-5		H Elymus condensatus	1-5
H	Stipa miliacea	1-5		T Quercus agrifolia	1-5
H	Calystegia macrostegia ssp. cyclo.	1-5		S Heteromeles arbutifolia	1-5
H	Foeniculum vulgare	+		S Toxicodendron diversilobum	1-5
S	Venegasia carpesioides	1-5		S Hesperoyucca whipplei	+
H	Elymus condensatus	1-5		H Calystegia macrostegia ssp. cyclo.	1-5
S	Toxicodendron diversilobum	1-5		H Phacelia grandiflora	+
H	Brassica nigra	+		H Stachys bullata	+
S	Diplacus aurantiacus	+		H Cryptantha sp.	+
H	Phacelia cicutaria	+		S Symphoricarpos albus	1-5
H	Solanum douglasii	+		S Baccharis pilularis	+
S	Ceanothus megacarpus	1-5		H Phacelia cicutaria	+
S	Baccharis pilularis	+		H Eriophyllum confertiflorum	+
S	Acmispon glaber	+			
H	Sonchus oleraceus	+			
H	Solanum umbelliferum	+			

Unusual species: _____

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use:	Final database #:	Final vegetation type:	Alliance Association

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION — circle: Relevé or (RA)

Database #: RC-12

Date: 9/19/18

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: Romero Canyon

GPS name: ipad / ARCCollector / ARROW 100 For Relevé only: **Bearing°**, left axis at ID point ____ **of Long / Short** side

UTME ____ **UTMN** ____ **Zone: 11** (**NAD83**) GPS error: **ft./ m./ PDOP** 2.5

Decimal degrees: **LAT** 34.465176 **LONG** -119.590903

GPS within stand? (**Yes**) / **No** If No, cite from GPS to stand: distance (m) ____ bearing ° ____ inclination ° ____

and record: **Base point ID** ____ **Projected UTMs: UTME** ____ **UTMN** ____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (<1,) 1-5, >5 | **Plot Size (m²):** 100 / ____ | **Plot Shape** ____ x ____ m | **RA Radius** 30 m

Exposure, Actual °: 154 NE NW (SE) SW Flat Variable | **Steepness, Actual °:** NA 0° 1-5° (>5-25°) >25

Topography: Macro: top upper mid (lower) (bottom) | **Micro:** convex flat (concave) undulating

Geology code: GRAV/SAND **Soil Texture code:** sand/cobs | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H₂0: 3 **BA Stems:** | **Litter:** | **Bedrock:** 0 **Boulder:** 30 **Stone:** 25 **Cobble:** 20 **Gravel:** 15 **Fines:** 5 **=100%**

% Current year bioturbation 0 **Past bioturbation present?** Yes / (No) | **% Hoof punch** 0

Fire evidence: (Yes) / No (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: site burned in Thomas Fire (Dec. 2017) & scoured by debris flows on 1/9/2018.

- flow in channel ~ 14" – 4 ft wide; ~ 1-5 inches deep
- channel ~ 6-12 ft wide @ OHWM

- Net location below confluence of side channel (west slope) & Romero Crk.
- staging ~ 700 sq ft on west side of channel, below TOB.

Disturbance code / Intensity (L,M,(H)): 23 / ____ / ____ / ____ / ____ / ____ **"Other"** fire / debris flow

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), (**T4**) (11-24" dbh), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: S1 seedling (<3 yr. old), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: H1 (<12" plant ht.), **H2** (>12" ht.)

Desert Riparian ~~Tree/Shrub~~: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Western sycamore / California bay woodland

Field-assessed Association name (optional): Scarlet monkey flower seep (channel)

Adjacent Alliances/direction: coast live oak woodland (upslope)

Confidence in Alliance identification: L M (**H**) **Explain:** ____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: RC-12

IV. VEGETATION DESCRIPTION

% NonVasc cover: 80 **Total % Vasc Veg cover:** 20

% Cover - **Conifer tree / Hardwood tree:** 0 / 3 **Regenerating Tree:** 10 **Shrub:** 5 **Herbaceous:** 2

Height Class - Conifer tree / Hardwood tree: 0 / 10 **Regenerating Tree:** 4 **Shrub:** 2 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species channel / lower banks	% cover	C	~~Final species determination~~ upper banks / TOB
H	Erythranthe cardinalis	1-5		S Baccharis plummerae 1-5
S	Salix lasiolepis	1-5		T Platanus racemosa 1-5
S	Venegasia carpesioides	1-5		T Umbellularia californica 1-5
S	Baccharis pilularis	+		T Quercus agrifolia 5-15
H	Stipa miliacea	1-5		H Elymus condensatus 1-5
S	Eriodictyon sp.	+		S Venegasia carpesioides 1-5
S	Nicotiana glauca	+		S Toxicodendron diversilobum 1-5
H	Equisetum arvense	+		S Frangula californica +
T	Platanus racemosa	1-5		H Eriophyllum confertiflorum +
T	Populus fremontii	+		S Diplacus aurantiacus +
H	Athyrium felix-femina	+		S Brickellia californica +
H	Stachys bullata	+		
S	Acmispon glaber	+		
S	Keckiella cordifolia	+		
S	Rubus ursinus	1-5		
H	Solanum douglasii	1-5		
H	Calystegia macrostegia ssp. cyclo.	1-5		
H	Phacelia cicutaria	+		
H	Verbena lasiostachys	+		
H	Phacelia grandiflora	+		
H	Centaurea melitensis	+		
S	Toxicodendron diversilobum	1-5		
H	Sonchus oleraceus	+		
S	Baccharis salicifolia	+		

Unusual species: v 55 Plummer's baccharis along west bank / TOB (60% fl / 40% fr.)

Combined Vegetation Rapid Assessment and Relevé Field Form

(Revised April 28, 2016)

For Office Use: | **Final database #:** | **Final vegetation type:** Alliance _____ Association _____

I. LOCATIONAL/ENVIRONMENTAL DESCRIPTION

circle: **Relevé** or **RA**

Database #: RC-15

Date: 9/19/2018

Name of recorder: Jessica Peak

Other surveyors: Justine Cooper / John Storrer

Location Name: Romero canyon

GPS name: iPad/ARCCollector/Arrow 100 For Relevé only: **Bearing°**, left axis at ID point ____ **of Long / Short** side

UTME _____ **UTMN** _____ **Zone: 11** (NAD83) GPS error: (ft.) m./ PDOP 6.6

Decimal degrees: **LAT** 34.458710 **LONG** -119.591526

GPS within stand? (Yes) / **No** If No, cite from GPS to stand: distance (m) ____ bearing ° ____ inclination ° ____

and record: **Base point ID** _____ **Projected UTMs: UTME** _____ **UTMN** _____

Camera Name: JC **Cardinal photos at ID point:**

Other photos:

Stand Size (acres): (<1) 1-5, >5 | **Plot Size (m²):** 100 / _____ | **Plot Shape** ____ x ____ m | **RA Radius** 20 m

Exposure, Actual °: 115 NE NW (SE) SW Flat Variable | **Steepness, Actual °:** NA 0° (1-5°) >5-25° >25

Topography: Macro: top upper mid (lower) (bottom) | **Micro:** convex flat (concave) undulating

Geology code: GRAL/SAND **Soil Texture code:** sand/COLS | **Upland** or **Wetland/Riparian** (circle one)

% Surface cover: (Incl. outcrops) (>60cm diam) (25-60cm) (7.5-25cm) (2mm-7.5cm) (Incl sand, mud)

H_20: 3 **BA Stems:** | **Litter:** | **Bedrock:** 40 **Boulder:** 10 **Stone:** 10 **Cobble:** 10 **Gravel:** 15 **Fines:** 10 **=100%**

% Current year bioturbation 0 **Past bioturbation present?** Yes / (No) | **% Hoof punch** 0

Fire evidence: (Yes) / No (circle one) If yes, describe in Site history section, including date of fire, if known.

Site history, stand age, comments: Site burned in Thomas Fire (Dec. 2017) & scoured by debris flows on 1/9/2018.

- flow in channel ~10 inches - 3ft wide; ~1-6 inches deep (intermittent pools)
- channel ~8 - 15ft wide @ ohwm
- access via Romero Creek channel from SCE Road crossing
- staging ~230 sq ft, south of net location

Disturbance code / Intensity (L,M,H): (3) / ____ / ____ / ____ / ____ / ____ **"Other"** fire/debris flow

II. HABITAT DESCRIPTION

Tree DBH : T1 (<1" dbh), **T2** (1-6" dbh), **T3** (6-11" dbh), **T4** (11-24" dbh), **T5** (>24" dbh), **T6** multi-layered (T3 or T4 layer under T5, >60% cover)

Shrub: S1 seedling (<3 yr. old), **S2** young (<1% dead), **S3** mature (1-25% dead), **S4** decadent (>25% dead)

Herbaceous: H1 (<12" plant ht.), **H2** (>12" ht.)

Desert Riparian Tree/Shrub: 1 (<2ft. stem ht.), **2** (2-10ft. ht.), **3** (10-20ft. ht.), **4** (>20ft. ht.)

Desert Palm/Joshua Tree: 1 (<1.5" base diameter), **2** (1.5-6" diam.), **3** (>6" diam.)

III. INTERPRETATION OF STAND

Field-assessed vegetation Alliance name: Arroyo willow thicket / western sycamore woodland

Field-assessed Association name (optional): canyon sunflower scrub

Adjacent Alliances/direction: coast live oak woodland (upslope)

Confidence in Alliance identification: L M (H) **Explain:** _____

Phenology (E,P,L): Herb P/L **Shrub** P/L **Tree** L **Other identification or mapping information:**

Combined Vegetation Rapid Assessment and Relevé Field Form
(Revised April 28, 2016)
SPECIES SHEET

Database #: RC-15

IV. VEGETATION DESCRIPTION

% NonVasc cover: 85 **Total % Vasc Veg cover:** 15

% Cover - **Conifer tree / Hardwood tree:** 0 / 3 **Regenerating Tree:** 2 **Shrub:** 5 **Herbaceous:** 5

Height Class - Conifer tree / Hardwood tree: 0 / 6 **Regenerating Tree:** 3 **Shrub:** 2 **Herbaceous:** 1

Height classes: 1=<1/2m, 2=1/2-1m, 3=1-2m, 4=2-5m, 5=5-10m, 6=10-15m, 7=15-20m, 8=20-35m, 9=35-50m, 10=>50m

Stratum categories: T=Tree, A = SApling, E = SEedling, S = Shrub, H= Herb, N= Non-vascular
% Cover Intervals for reference: r = trace, + = <1%, 1-5%, >5-15%, >15-25%, >25-50%, >50-75%, >75%

Stratum	Species channel / lower banks	% cover	C	~~Final species determination~~ upper banks / TOB
H	Erythranthe cardinalis	1-5		T Quercus agrifolia 1-5
S	Venegasia carpesioides	1-5		T Umbellularia californica 1-5
H	Stipa miliacea	1-5		S Venegasia carpesioides 1-5
H	Sonchus oleraceus	+		H Lilium humboldtii ssp. ocellatum +
S	Salix lasiolepis	1-5		H Solanum douglasii +
T	Alnus rhombifolia	1-5		S Ceanothus megacarpus 1-5
H	Erodium sp.	+		S Prunus ilicifolia +
S	Acmispon glaber	+		S Heteromeles arbutifolia 1-5
S	Nicotiana glauca	1-5		H Pteridium aquilinum +
T	Populus fremontii	+		S Baccharis plummerae 1-5
H	Erythranthe guttata	+		H Stachys albens +
H	Pseudognaphalium luteoalbum	+		H Elymus condensatus 1-5
S	Salix laevigata	+		H Athyrium felix-femina 1-5
H	Vicia sp	+		
H	Solanum douglasii	1-5		
S	Toxicodendron diversilobum	1-5		
H	Trifolium microcephalum	+		
S	Baccharis salicifolia	+		
S	Diplacus aurantiacus	+		
H	Artemisia douglasiana	1-5		
H	Stachys bullata	+		
T	Tamarix ramossissima (pulled)	+		
T	Platanus racemosa	1-5		
H	Eriophyllum confertiflorum	+		
H/T	Umbellularia californica	1-5		
H	Calystegia macrostegia ssp. cyclo	1-5		
S	Salix exigua	+		

Unusual species: 1 Humboldt Lily on west bank in fruit; 3 Plummer's baccharis on west bank in flower.

APPENDIX C
VASCULAR PLANT INVENTORY

Vascular Plant Species Observed within Proposed Net Locations
Montecito Debris Flow Mitigation Project
Montecito, Santa Barbara County, California

Family	*Scientific Name*	Common Name	Origin	Cal-IPC Rating	CNPS Rare Plant Rank
	GYMNOSPERMS				
Athyriaceae					
	Athyrium filix-femins ssp. *cyclosorum*	western lady fern	N		
Dennstaedtiaceae					
	Pteridium aquilinum var. *pubescens*	bracken fern	N		
Equisetaceae					
	Equisetum arvense	common horsetail	N		
	ANGIOSPERMS - Dicots				
Adoxaceae					
	Sambucus nigrs ssp. *caerulea*	blue elderberry	N		
Agavaceae					
	Hesperoyucca whipplei	chaparral yucca	N		
Anacardiaceae					
	Malosma laurina	laurel sumac	N		
	Toxicodendron diversilobum	poison oak	N		
Apiaceae					
	Foeniculum vulgare	sweet fennel	I	Moderate	
Apocynaceae					
	Vinca major	greater periwinkle	I	Moderate	
Asteraceae					
	Artemisia californica	California sagebrush	N		
	Artemisia douglasiana	mugwort			
	Baccharis pilularis ssp. *consanguinea*	coyote brush	N		
	Baccharis plummerae* ssp. *plummerae	**Plummer's baccharis**	**N**		**4.3**
	Baccharis salicifolia	mulefat	N		
	Bidens pilosa	common beggar-ticks	I		
	Brickeillia californica	California brickellbush	N		
	Centaurea melitensis	tocalote	I	Moderate	
	Delairea odorata	cape ivy	I	High	
	Erigeron canadensis	horseweed	N		
	Eriophyllum confertiflorum	goden yarrow	N		
	Logfia filaginoides	California cottonrose	N		
	Pseudognaphalium californicum	California cudweed	N		
	Pseudognaphalium canescens	Wright's cudweed	N		
	Pseudognaphalium luteoalbum	Jersy cudweed	I		
	Pseudognaphalium stramineum	cottonbatting plant	N		
	Sonchus oleraceus	common sowthistle	I		
	Solidago velutina ssp. Californica	California golenrod	N		
	Stephanomeria cichoriacea	silver rock-lettuce	N		
	Symphyotrichum sp.	aster	N		
	Venegasia carpesioides	canyon sunflower	N		
Betulaceae					
	Alnus rhombifolia	white alder	N		
Boraginaceae					
	Cryptantha sp.	cryptantha	N		
	Emmenanthe penduliflor var.*pendulifora*	whispering bells	N		
	Eriodictyon californicum	yerba santa	N		
	Eriodictyon sp.	yerba santa	N		
	Phacelia brachyloba	short-lobed phacelia	N		
	Phacelia cicutaria	caterpillar phacelia	N		
	Phacelia grandiflora	giant flowered phacelia	N		
Brassicaceae					
	Brassica nigra	black mustard	I	Limited	
Campanulaceae					
	Lobelia dunnii	Dunn's lobelia	N		
Caprifoliaceae					
	Symphoricarpos albus var. *laevigatus*	snowberry	N		
Caryophyllaceae					
	Silene laciniata	cardinal catchfly	N		
Cistaceae					
	Crocanthemum scoparium	peak rush-rose	N		
Convolvulaceae					
	Calystegia macrostegia ssp. *cyclostegia*	coast morning glory	N		
Crassulaceae					
	Dudleya cymosa	rock lettuce	N		
Euphorbiaceae					
	Ricinus communis	castor bean	I	Limited	
Fabaceaae					
	Acmispon glaber	deerweed	N		
	Acmispon grandiflorus	large-leaved lotus	N		
	Lupinus hirsutissimus	stinging lupine	N		
	Trifolium microcephalum	smaill-head clover	N		
	Vicia sp.	vetch	N		

Vascular Plant Species Observed within Proposed Net Locations
Montecito Debris Flow Mitigation Project
Montecito, Santa Barbara County, California

Fagaceae					
	Quercus agrifolia	coast live oak			
Grossulariaceae					
	Ribes sp.	gooseberrry	N		
Lamiaceae					
	Stachys albens	cobwebby hedge nettle	N		
	Stachys bullata	southern hedge nettle	N		
Lauraceae					
	Umbellularia californica	California bay	N		
Moraceae					
	Ficus carica	common fig	I	Moderate	
Myrsinaceae					
	Lysimachia arvensis	scarlet pimpernel	I		
Onagraceae					
	Epilobium ciliatum	slender willowherb	N		
Oxalidaceae					
	Oxalis pes-caprae	Bermuda buttercup	I	Moderate	
Papaveraceae					
	Eschscholzia californica	California poppy	N		
Phyrmaceae					
	Diplacus aurauntiacus	sticky monkey flower	N		
	Erythranthe cardinalis	scarlet monkeyflower	N		
	Erythranthe floribunda	many flowered monkeyflower	N		
	Erythranthe guttata	common seep monkeyflower	N		
Platanaceae					
	Platanus racemosa	western sycamore	N		
Plantaginaceae					
	Antirrhinum multiflorum	sticky snapdragon	N		
	Keckiella cordifolia	heart-leaved keckiella	N		
	Plantago lanceolata	English plantain	I	Limited	
Polemoniaceae					
	Navarretia sp.	naverretia	N		
Polygonaceae					
	Eriogonum fasciculatum	coastal California buckwheat	N		
Ranunculaceae					
	Clematis ligusticifolia	creek clematis	N		
Rhamnaceae					
	Ceanothus cuneatus	buck brush	N		
	Ceanothus megacarpus ssp. m*egacarpus*	big pod ceanothus	N		
	Frangula californica	California coffee berry	N		
	Rhamnus crocea	spiny redberry	N		
Rosaceae					
	Adenostoma fasciculata	chamise	N		
	Heteromeles arbutifolia	toyon	N		
	Prunus ilicifolia	holly-leaf cherry	N		
	Rubus ursinus	California blackberry	N		
Rubiaceae					
	Galium sp.	bedstraw	N		
Salicaceae					
	Populus fremontii ssp. *Fremontii*	Fremont cottonwood	N		
	Salix exigua	sandbar willow			
	Salix laevigata	red willow			
	Salix lasiolepis	arroyo willow	N		
Scrophulariaceae					
	Scrophularia californica	California figwort	N		
Solanaceae					
	Nicotiana glauca	tree tobacco	I	Moderate	
	Solanum dougalsii	Douglas' nightshade	N		
	Solanum umbelliferum	bluewitch nightshade	N		
Tamariaceae					
	Tamarix ramosissima	saltcedar	I	High	
Verbenaceae					
	Verbena lasiostachys	common vervain	N		
	ANGIOSPERMS- Monocots				
Cyperaceae					
	Cyperus sp.	nutsedge	N		
Juncaceae					
	Juncus sp.	rush	N		
Liliaceae					
	Lilium humboldtii* ssp. *ocellatum	**ocellated Humboldt lily**	**N**		**4.2**
Poaceae					
	Arundo donax	giant reed	I	High	
	Bromus diandrus	ripgut brome	I	Moderate	
	Bromus madritensis ssp. *rubens*	red brome	I	High	
	Elymus condensatus	giant wild rye	N		
	Hordeum brachyantherum ssp. *Californicum*	California barley	N		

	Melica imperfecta	little California melic	N	
	Polypogon monspeliensis	rabbitsfoot grass	I	Limited
	Stipa miliacea var. *miliacea*	smilo grass	I	Limited
Typhaceae				
	Typha latifolia	broad-leaved cattail	N	

NOTES

Scientific nomenclature follows: The Jepson Manual: Vascular Plants of California, Second Edition, Baldwin et al. (2012); Jepson Online Interchange (2018).

Origin Codes:

N = Native to Region

I = Introduced to Region (Non-native species which have become naturalized or persist without cultivation).

O = Ornamental/Landscaping (Non-native species that have been planted or are escaped cultivars).

California Rare Plant Ranking System:

Species in bold type are listed as rare, threatened, or endangered by the California Native Plant Society (CNPS 2018).

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

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

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

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

CRPR 3 - Plants About Which More Information is Needed - A Review List

CRPR 4 - Plants of Limited Distribution - A Watch List

CRPR Threat Ranks:

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

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

0.3 - Not very threatened in California (less than 20% of occurrences threatened / low degree and immediacy of threat or no current threats known)

California Invasive Plant Council (Cal-IPC) Rating System:

High – Species that have severe ecological impacts. Moderate to high rates of dispersal and establishment. Most are widely distributed ecologically.

Moderate – Species that have substantial and apparent-but generally not severe-ecological impacts. Moderate to high rates of dispersal, generally dependent upon ecological disturbance. Ecological amplitude and distribution may range from limited to widespread.

Limited – Species that are invasive but their ecological impacts are minor on a statewide level or there was not enough information to justify a higher score. Low to moderate rates of invasiveness. Distribution is generally limited, but species may be locally persistent and problematic.

Alert – Species with High or Moderate impacts that have limited distribution in California, but may have the potential to spread much further.

Watch – These species have been assessed as posing a high risk of becoming invasive in the future in California

Listing Status:

FE - Federally listed Endangered

FT – Federally listed Threatened

FC – Federal Candidate Species

SE – State listed Endangered

ST – State listed Threatened

SC – State Candidate Species

APPENDIX D
WILDLIFE INVENTORY

Wildlife Observed in the Subject Creeks Surveyed for the Montecito Debris Flow Mitigation Project
Montecito, Santa Barbara County, California

Common Name	Scientific Name	Regulatory Status
Amphibians		
California Treefrog	*Pseudacris cadaverina*	N/A
Baja California Treefrog	*Pseudacris hypochondriaca*	N/A
Califoria Treefrog	*Pseudacris regilla*	N/A
Reptiles		
California Striped Racer	*Coluber lateralis lateralis*	N/A
Southern Alligator Lizard	*Elgaria multicarinata*	N/A
Coast Mountain Kingsnake	*Lampropeltis multifasciata*	N/A
Western Fence Lizard	*Sceloporus occidentalis*	N/A
Birds		
California Quail	*Callipepla californica*	MTBA
Turkey Vulture	*Cathartes aura*	MTBA
Red-shoudlered Hawk	*Buteo lineatus*	MTBA
Red-tailed Hawk	*Buteo jamaicensis*	MTBA
Anna's Hummingbird	*Calypte anna*	MTBA
Acorn Woodpecker	*Melanerpes formicivorus*	MTBA
Northern Flicker	*Colaptes auratus*	MTBA
Black Phoebe	*Sayornis nigricans*	MTBA
Stellar's Jay	*Cyanocitta stelleri*	MTBA
Western Scrub-jay	*Aphelocoma californica*	MTBA
American Crow	*Corvus brachyrhynchos*	MTBA
Bushtit	*Psaltriparus minimus*	MTBA
Canyon Wren	*Catherpes mexicanus*	MTBA
Northern Mockingbird	*Mimus polyglottos*	MTBA
Wilson's Warbler	*Cardellina pusilla*	MTBA
Spotted Towhee	*Pipilo maculatus*	MTBA
California Towhee	*Pipilo crissalis*	MTBA
Song Sparrow	*Melospiza melodia*	MTBA
Dark-eyed Junco	*Junco hyemalis*	MTBA
House Finch	*Carpodacus mexicanus*	MTBA
Mammals		
California Ground Squirrel	*Otospermophilus beecheyi*	N/A
Grey Fox	*Urocyon cinereoargenteus*	N/A

Regulatory Status Codes:
FE – Federal endangered species
FT -- Federal threatened species
FC – Federal candidate species
MBTA – Migratory Bird Treaty Act
SE – State endangered species
ST – State threatened species
CSC – California Species of Special Concern
CFP – California Fully Protected Species
MMPA - Marine Mammal Protection Act

APPENDIX E
CNDDB FORMS

Mail to:
California Natural Diversity Database
California Dept. of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
CNDDB@wildlife.ca.gov

For Office Use Only
Source Code: _____ Quad Code: _____
Elm Code: _____ Occ No.: _____
EO Index: _____ Map Index: _____

Date of Field Work (mm/dd/yyyy): 09/20/2018

Clear Form

California Native Species Field Survey Form

Print Form

Scientific Name: *Baccharis plummerae ssp. plummerae*

Common Name: Plummer's baccharis

Species Found? (●) Yes ( ) No _____ If not found, why?

Total No. Individuals: 3 Subsequent Visit? ( ) Yes (●) No

Is this an existing NDDB occurrence? _____ Yes, Occ. # ☒ No ☐ Unk.

Collection? If yes: _____ Number _____ Museum / Herbarium

Reporter: Jessica Peak
Address: 2565 Puesta Del Sol Road #3
Santa Barbara, CA 93015
E-mail Address: jpeak@storrerenvironmental.com
Phone: (805)682-2065

Plant Information

Phenology:

_____ % vegetative _____ % flowering _____ % fruiting

Animal Information

_____ # adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown

☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ lek ☐ other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

3 plants on west slope; 30-40 feet above channel in Buena Vista Canyon

County: Santa Barbara Landowner / Mgr: _____

Quad Name: Santa Barbara Elevation: _____

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

DATUM: **NAD27** ( ) **NAD83** (●) **WGS84** ( )

Coordinate System: UTM Zone 10 ( ) UTM Zone 11 ( ) ***OR*** Geographic (Latitude & Longitude) (●)

Coordinates: 34.45539, -119.610297

Source of Coordinates (GPS, topo. map & type): GPS

GPS Make & Model: iPad w/ArcGIS and Arrow 100 receiver

Horizontal Accuracy: 2.2 feet meters/feet

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope:*

Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):*

Arroyo willow thicket associated with western sycamore woodland. Coast live oak woodland upslope to the east and big pod ceanothus/laurel sumac chaparral upslope to the west. Soils are sandstone and coarse, loamy sand.

Please fill out separate form for other rare taxa seen at this site.

Site Information

Overall site/occurrence quality/viability (site + population): ( ) Excellent ( ) Good (●) Fair ( ) Poor

Immediate AND surrounding land use: Immediate: none/Surrounding: recreational hiking trails

Visible disturbances: burned by Thomas fire in Dec. 2017 and scoured by debris flow on 01/09/2018

Threats: subsequent debris flows

Comments:

Determination: *(check one or more, and fill in blanks)*

☒ Keyed (cite reference): Jepson Manual
☐ Compared with specimen housed at: _____
☐ Compared with photo / drawing in: _____
☐ By another person (name): _____
☐ Other: _____

Photographs: *(check one or more)*

	Slide	Print	Digital
Plant / animal	☐	☐	☐
Habitat	☐	☐	☒
Diagnostic feature	☐	☐	☐

May we obtain duplicates at our expense? (●) yes ( ) no

Mail to:
California Natural Diversity Database
California Dept. of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
CNDDB@wildlife.ca.gov

For Office Use Only
Source Code: _____ Quad Code: _____
Elm Code: _____ Occ No.: _____
EO Index: _____ Map Index: _____

Date of Field Work (mm/dd/yyyy): 09/20/2018

Clear Form

California Native Species Field Survey Form

Print Form

Scientific Name: *Baccharis plummerae ssp. plummerae*

Common Name: Plummer's baccharis

Species Found? (●) Yes ( ) No _____ If not found, why?

Total No. Individuals: 22 Subsequent Visit? ( ) Yes (●) No

Is this an existing NDDB occurrence? _____ Yes, Occ. # ☒ No ☐ Unk.

Collection? If yes: _____ Number _____ Museum / Herbarium

Reporter: Jessica Peak
Address: 2565 Puesta Del Sol Road #3
Santa Barbara, CA 93015
E-mail Address: jpeak@storrerenvironmental.com
Phone: (805)682-2065

Plant Information

Phenology:

_____ % vegetative _____ % flowering _____ % fruiting

Animal Information

_____ # adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown

☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ lek ☐ other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

12 plants on east bank and 10 on west bank in Buena Vista Canyon

County: Santa Barbara Landowner / Mgr: _____

Quad Name: Santa Barbara Elevation: _____

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

DATUM: **NAD27** ( ) **NAD83** (●) **WGS84** ( )

Coordinate System: UTM Zone 10 ( ) UTM Zone 11 ( ) ***OR*** Geographic (Latitude & Longitude) (●)

Source of Coordinates (GPS, topo. map & type): GPS

GPS Make & Model: iPad w/ArcGIS and Arrow 100 receiver

Horizontal Accuracy: 2.2 feet meters/feet

Coordinates: 12 plants east bank: 34.458358, -119.608668
10 plants west bank: 34.458405, -119.608906

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope:*
Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):*

Canyon sunflower scrub associated with Arroyo willow thicket. Coast live oak woodland and California bay forest upslope. Soils are sandstone and coarse, loamy sand.

Please fill out separate form for other rare taxa seen at this site.

Site Information

Overall site/occurrence quality/viability (site + population): ( ) Excellent ( ) Good (●) Fair ( ) Poor

Immediate AND surrounding land use: Immediate: none/Surrounding: recreational hiking trails

Visible disturbances: burned by Thomas fire in Dec. 2017 and scoured by debris flow on 01/09/2018

Threats: subsequent debris flows

Comments:

Determination: *(check one or more, and fill in blanks)*

☒ Keyed (cite reference): Jepson Manual
☐ Compared with specimen housed at: _____
☐ Compared with photo / drawing in: _____
☐ By another person (name): _____
☐ Other: _____

Photographs: *(check one or more)*

	Slide	Print	Digital
Plant / animal	☐	☐	☐
Habitat	☐	☐	☒
Diagnostic feature	☐	☐	☐

May we obtain duplicates at our expense? (●) yes ( ) no

Mail to:
California Natural Diversity Database
California Dept. of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
CNDDB@wildlife.ca.gov

For Office Use Only
Source Code: _____ Quad Code: _____
Elm Code: _____ Occ No.: _____
EO Index: _____ Map Index: _____

Date of Field Work (mm/dd/yyyy): 09/20/2018

Clear Form

California Native Species Field Survey Form

Print Form

Scientific Name: *Baccharis plummerae ssp. plummerae*

Common Name: Plummer's baccharis

Species Found? (●) Yes ( ) No _____ If not found, why?

Total No. Individuals: 8 Subsequent Visit? ( ) Yes (●) No

Is this an existing NDDB occurrence? _____ Yes, Occ. # ☒ No ☐ Unk.

Collection? If yes: _____ Number _____ Museum / Herbarium

Reporter: Jessica Peak
Address: 2565 Puesta Del Sol Road #3
Santa Barbara, CA 93015
E-mail Address: jpeak@storrerenvironmental.com
Phone: (805)682-2065

Plant Information

Phenology:
_____ % vegetative 80 % flowering 20 % fruiting

Animal Information

_____ # adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown

☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ lek ☐ other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

8 plants on east bank in Buena Vista Canyon

County: Santa Barbara Landowner / Mgr: _____

Quad Name: Santa Barbara Elevation: _____

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

DATUM: **NAD27** ( ) **NAD83** (●) **WGS84** ( )

Coordinate System: UTM Zone 10 ( ) UTM Zone 11 ( ) ***OR*** Geographic (Latitude & Longitude) (●)

Coordinates: 34.456101, -119.609351

Source of Coordinates (GPS, topo. map & type): GPS

GPS Make & Model: iPad w/ArcGIS and Arrow 100 receiver

Horizontal Accuracy: 2.4 feet meters/feet

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope:*
Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):*

Arroyo willow thicket associated with poison oak scrub. Coast live oak woodland upslope. Soils are sandstone and coarse, loamy sand.

Please fill out separate form for other rare taxa seen at this site.

Site Information

Overall site/occurrence quality/viability (site + population): ( ) Excellent ( ) Good (●) Fair ( ) Poor

Immediate AND surrounding land use: Immediate: none/Surrounding: recreational hiking trails

Visible disturbances: burned by Thomas fire in Dec. 2017 and scoured by debris flow on 01/09/2018

Threats: subsequent debris flows

Comments:

Determination: *(check one or more, and fill in blanks)*

☒ Keyed (cite reference): Jepson Manual
☐ Compared with specimen housed at: _____
☐ Compared with photo / drawing in: _____
☐ By another person (name): _____
☐ Other: _____

Photographs: *(check one or more)*

	Slide	Print	Digital
Plant / animal	☐	☐	☐
Habitat	☐	☐	☒
Diagnostic feature	☐	☐	☐

May we obtain duplicates at our expense? (●) yes ( ) no

Mail to:
California Natural Diversity Database
California Dept. of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
CNDDB@wildlife.ca.gov

Date of Field Work (mm/dd/yyyy): 09/18/2018

For Office Use Only
Source Code: _____ Quad Code: _____
Elm Code: _____ Occ No.: _____
EO Index: _____ Map Index: _____

Clear Form

California Native Species Field Survey Form

Print Form

Scientific Name: *Baccharis plummerae ssp. plummerae*

Common Name: Plummer's baccharis

Species Found? (●) Yes ( ) No _____ If not found, why?

Total No. Individuals: 32 Subsequent Visit? ( ) Yes (●) No

Is this an existing NDDB occurrence? _____ Yes, Occ. # ☒ No ☐ Unk.

Collection? If yes: _____ Number _____ Museum / Herbarium

Reporter: Jessica Peak
Address: 2565 Puesta Del Sol Road #3
Santa Barbara, CA 93015
E-mail Address: jpeak@storrerenvironmental.com
Phone: (805)682-2065

Plant Information

Phenology:
_____ % vegetative 80 % flowering 20 % fruiting

Animal Information

_____ # adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown

☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ lek ☐ other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

5 Plummer's baccharis along the top of bank on east slope and 27 on west slope in Cold Springs Canyon

County: Santa Barbara Landowner / Mgr: _____

Quad Name: Santa Barbara Elevation: _____

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

DATUM: **NAD27** ( ) **NAD83** (●) **WGS84** ( )

Coordinate System: UTM Zone 10 ( ) UTM Zone 11 ( ) ***OR*** Geographic (Latitude & Longitude) (●)

Source of Coordinates (GPS, topo. map & type): GPS

GPS Make & Model: iPad w/ArcGIS and Arrow 100 receiver

Horizontal Accuracy: 2.5 feet meters/feet

Coordinates: 5 on east slope: 34.460414,-119.65411
27 on west slope: 34.460267,-119.653856

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope:*
Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):*

Arroyo willow thicket/western sycamore woodland alliance associated with scarlet monkeyflower seep in the channel. Coast live oak woodland upslope. Soils are sandstone and coarse, loamy sand.

Please fill out separate form for other rare taxa seen at this site.

Site Information

Overall site/occurrence quality/viability (site + population): ( ) Excellent ( ) Good (●) Fair ( ) Poor

Immediate AND surrounding land use: Immediate: none/Surrounding: recreational hiking trails

Visible disturbances: burned by Thomas fire in Dec. 2017 and scoured by debris flow on 01/09/2018

Threats: subsequent debris flows

Comments:

Determination: *(check one or more, and fill in blanks)*

☒ Keyed (cite reference): Jepson Manual
☐ Compared with specimen housed at: _____
☐ Compared with photo / drawing in: _____
☐ By another person (name): _____
☐ Other: _____

Photographs: *(check one or more)*

	Slide	Print	Digital
Plant / animal	☐	☐	☐
Habitat	☐	☐	☒
Diagnostic feature	☐	☐	☐

May we obtain duplicates at our expense? (●) yes ( ) no

Mail to:
California Natural Diversity Database
California Dept. of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
CNDDB@wildlife.ca.gov

For Office Use Only
Source Code: _____ Quad Code: _____
Elm Code: _____ Occ No.: _____
EO Index: _____ Map Index: _____

Date of Field Work (mm/dd/yyyy): 09/19/2018

Clear Form

California Native Species Field Survey Form

Print Form

Scientific Name: *Baccharis plummerae ssp. plummerae*

Common Name: Plummer's baccharis

Species Found? (●) Yes ( ) No _____ If not found, why?

Total No. Individuals: 55 Subsequent Visit? ( ) Yes (●) No

Is this an existing NDDB occurrence? _____ Yes, Occ. # ☒ No ☐ Unk.

Collection? If yes: _____ Number _____ Museum / Herbarium

Reporter: Jessica Peak
Address: 2565 Puesta Del Sol Road #3
Santa Barbara, CA 93015
E-mail Address: jpeak@storrerenvironmental.com
Phone: (805)682-2065

Plant Information

Phenology:
_____ % vegetative 60 % flowering 40 % fruiting

Animal Information

_____ # adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown

☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ lek ☐ other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

55 plants along west bank/TOB in Romero Canyon

County: Santa Barbara Landowner / Mgr: _____

Quad Name: Santa Barbara Elevation: _____

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

DATUM: **NAD27** ( ) **NAD83** (●) **WGS84** ( )

Coordinate System: UTM Zone 10 ( ) UTM Zone 11 ( ) ***OR*** Geographic (Latitude & Longitude) (●)

Coordinates: 34.465268, -119.591019

Source of Coordinates (GPS, topo. map & type): GPS

GPS Make & Model: iPad w/ArcGIS and Arrow 100 receiver

Horizontal Accuracy: 2.5 feet meters/feet

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope:*
Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):*

Western sycamore/California bay woodland associated with scarlet monkey flower seep in the channel. Coast live oak woodland upslope. Soils are sandstone and coarse, loamy sand.

Please fill out separate form for other rare taxa seen at this site.

Site Information

Overall site/occurrence quality/viability (site + population): ( ) Excellent ( ) Good (●) Fair ( ) Poor

Immediate AND surrounding land use: Immediate: none/Surrounding: recreational hiking trails

Visible disturbances: burned by Thomas fire in Dec. 2017 and scoured by debris flow on 01/09/2018

Threats: subsequent debris flows

Comments:

Determination: *(check one or more, and fill in blanks)*

☒ Keyed (cite reference): Jepson Manual
☐ Compared with specimen housed at: _____
☐ Compared with photo / drawing in: _____
☐ By another person (name): _____
☐ Other: _____

Photographs: *(check one or more)*

	Slide	Print	Digital
Plant / animal	☐	☐	☐
Habitat	☐	☐	☒
Diagnostic feature	☐	☐	☐

May we obtain duplicates at our expense? (●) yes ( ) no

Mail to:
California Natural Diversity Database
California Dept. of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
CNDDB@wildlife.ca.gov

For Office Use Only
Source Code: _____ Quad Code: _____
Elm Code: _____ Occ No.: _____
EO Index: _____ Map Index: _____

Date of Field Work (mm/dd/yyyy): 09/19/2018

Clear Form

California Native Species Field Survey Form

Print Form

Scientific Name: *Baccharis plummerae ssp. plummerae*

Common Name: Plummer's baccharis

Species Found? (●) Yes ( ) No _____ If not found, why?

Total No. Individuals: 4 Subsequent Visit? ( ) Yes (●) No

Is this an existing NDDB occurrence? _____ Yes, Occ. # ☒ No ☐ Unk.

Collection? If yes: _____ Number _____ Museum / Herbarium

Reporter: Jessica Peak
Address: 2565 Puesta Del Sol Road #3
Santa Barbara, CA 93015
E-mail Address: jpeak@storrerenvironmental.com
Phone: (805)682-2065

Plant Information

Phenology:
_____ % vegetative 100 % flowering _____ % fruiting

Animal Information

_____ # adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown

☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ lek ☐ other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

4 plants on west bank in Romero Canyon

County: Santa Barbara Landowner / Mgr: _____

Quad Name: Santa Barbara Elevation: _____

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

DATUM: **NAD27** ( ) **NAD83** (●) **WGS84** ( )

Coordinate System: UTM Zone 10 ( ) UTM Zone 11 ( ) ***OR*** Geographic (Latitude & Longitude) (●)

Source of Coordinates (GPS, topo. map & type): GPS

GPS Make & Model: iPad w/ArcGIS and Arrow 100 receiver

Horizontal Accuracy: 6.6 feet meters/feet

Coordinates: 1 plant on west bank: 34.458732, -119.591580
3 plants on east bank: 34.458719, -119.591484

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope:*
Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):*

Arroyo willow thicket/western sycamore woodland associated with canyon sunflower scrub. Coast live oak woodland upslope. Soils are sandstone and coarse, loamy sand.

Please fill out separate form for other rare taxa seen at this site. ocellated Humboldt lily

Site Information

Overall site/occurrence quality/viability (site + population): ( ) Excellent ( ) Good (●) Fair ( ) Poor

Immediate AND surrounding land use: Immediate: none/Surrounding: recreational hiking trails

Visible disturbances: burned by Thomas fire in Dec. 2017 and scoured by debris flow on 01/09/2018

Threats: subsequent debris flows

Comments:

Determination: *(check one or more, and fill in blanks)*

☒ Keyed (cite reference): Jepson Manual
☐ Compared with specimen housed at: _____
☐ Compared with photo / drawing in: _____
☐ By another person (name): _____
☐ Other: _____

Photographs: *(check one or more)*

	Slide	Print	Digital
Plant / animal	☐	☐	☐
Habitat	☐	☐	☒
Diagnostic feature	☐	☐	☐

May we obtain duplicates at our expense? (●) yes ( ) no

Mail to:
California Natural Diversity Database
California Dept. of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
CNDDB@wildlife.ca.gov

For Office Use Only
Source Code: _____ Quad Code: _____
Elm Code: _____ Occ No.: _____
EO Index: _____ Map Index: _____

Date of Field Work (mm/dd/yyyy): 12/07/2018

Clear Form

California Native Species Field Survey Form

Print Form

Scientific Name: *Baccharis plummerae ssp. plummerae*

Common Name: Plummer's baccharis

Species Found? (●) Yes ( ) No _____ If not found, why?

Total No. Individuals: 4 Subsequent Visit? ( ) Yes (●) No

Is this an existing NDDB occurrence? _____ Yes, Occ. # ☒ No ☐ Unk.

Collection? If yes: _____ Number _____ Museum / Herbarium

Reporter: Jessica Peak
Address: 2565 Puesta Del Sol Road #3
Santa Barbara, CA 93015
E-mail Address: jpeak@storrerenvironmental.com
Phone: (805)682-2065

Plant Information

Phenology:
_____ % vegetative 10 % flowering 90 % fruiting

Animal Information

_____ # adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown

☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ lek ☐ other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

4 Plummer's baccharis in 4x4 area (16 sqft) in San Ysidro Canyon

County: Santa Barbara Landowner / Mgr: Private
Quad Name: Santa Barbara Elevation: _____

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )
T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

DATUM: **NAD27** ( ) **NAD83** (●) **WGS84** ( )

Coordinate System: UTM Zone 10 ( ) UTM Zone 11 ( ) ***OR*** Geographic (Latitude & Longitude) (●)

Coordinates: 34.46820, -119.62287

Source of Coordinates (GPS, topo. map & type): GPS
GPS Make & Model: iPad w/ArcGIS and Arrow 100 receiver
Horizontal Accuracy: 6.6 feet meters/feet

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope:*
Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):*

Canyon sunflower scrub habitat associated with California bay forest habitat adjacent to coast live oak woodland

Please fill out separate form for other rare taxa seen at this site.

Site Information

Overall site/occurrence quality/viability (site + population): ( ) Excellent (●) Good ( ) Fair ( ) Poor

Immediate AND surrounding land use: Recreational hiking trails
Visible disturbances: Site burned by Thomas fire in Dec. 2017 and scoured by debris flow on 01/09/2018
Threats: _____
Comments:

Determination: *(check one or more, and fill in blanks)*

☒ Keyed (cite reference): Jepson Manual
☐ Compared with specimen housed at: _____
☐ Compared with photo / drawing in: _____
☐ By another person (name): _____
☐ Other: _____

Photographs: *(check one or more)*

	Slide	Print	Digital
Plant / animal	☐	☐	☐
Habitat	☐	☐	☒
Diagnostic feature	☐	☐	☐

May we obtain duplicates at our expense? (●) yes ( ) no

Mail to:
California Natural Diversity Database
California Dept. of Fish & Wildlife
P.O. Box 944209
Sacramento, CA 94244-2090
CNDDB@wildlife.ca.gov

For Office Use Only
Source Code: _____ Quad Code: _____
Elm Code: _____ Occ No.: _____
EO Index: _____ Map Index: _____

Date of Field Work (mm/dd/yyyy): 09/19/2018

Clear Form

California Native Species Field Survey Form

Print Form

Scientific Name: *Lilium humboldtii ssp. ocellatum*

Common Name: Ocellated Humboldt lily

Species Found? (●) Yes ( ) No _____ If not found, why?

Total No. Individuals: 1 Subsequent Visit? ( ) Yes (●) No

Is this an existing NDDB occurrence? _____ Yes, Occ. # ☒ No ☐ Unk.

Collection? If yes: _____ Number _____ Museum / Herbarium

Reporter: Jessica Peak
Address: 2565 Puesta Del Sol Road #3
Santa Barbara, CA 93015
E-mail Address: jpeak@storrerenvironmental.com
Phone: (805)682-2065

Plant Information

Phenology:
_____ % vegetative _____ % flowering 100 % fruiting

Animal Information

_____ # adults _____ # juveniles _____ # larvae _____ # egg masses _____ # unknown

☐ wintering ☐ breeding ☐ nesting ☐ rookery ☐ burrow site ☐ lek ☐ other

Location Description (please attach map AND/OR fill out your choice of coordinates, below)

1 plant on west bank; 20 feet above channel in Romero Canyon

County: Santa Barbara Landowner / Mgr: _____

Quad Name: Santa Barbara Elevation: _____

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

T___ R___ Sec___, ___¼ of ___ ¼, Meridian: H ( ) M ( ) S ( )

DATUM: **NAD27** ( ) **NAD83** (●) **WGS84** ( )

Coordinate System: UTM Zone 10 ( ) UTM Zone 11 ( ) ***OR*** Geographic (Latitude & Longitude) (●)

Coordinates: 34.458747, -119.591657

Source of Coordinates (GPS, topo. map & type): GPS

GPS Make & Model: iPad w/ArcGIS and Arrow 100 receiver

Horizontal Accuracy: 6.6 feet meters/feet

Habitat Description (plants & animals) *plant communities, dominants, associates, substrates/soils, aspects/slope:*
Animal Behavior *(Describe observed behavior, such as territoriality, foraging, singing, calling, copulating, perching, roosting, etc., especially for avifauna):*

Arroyo willow thicket/western sycamore woodland associated with canyon sunflower scrub. Coast live oak woodland upslope. Soils are sandsatone and coarse, loamy sand.

Please fill out separate form for other rare taxa seen at this site. Plummer's baccharis

Site Information

Overall site/occurrence quality/viability (site + population): ( ) Excellent ( ) Good (●) Fair ( ) Poor

Immediate AND surrounding land use: Immediate: none/Surrounding: recreational hiking trails

Visible disturbances: burned by Thomas fire in Dec. 2017 and scoured by debris flow on 01/09/2018

Threats: subsequent debris flows

Comments:

Determination: *(check one or more, and fill in blanks)*

☒ Keyed (cite reference): Jepson Manual
☐ Compared with specimen housed at: _____
☐ Compared with photo / drawing in: _____
☐ By another person (name): _____
☐ Other: _____

Photographs: *(check one or more)*

	Slide	Print	Digital
Plant / animal	☐	☐	☐
Habitat	☐	☐	☒
Diagnostic feature	☐	☐	☐

May we obtain duplicates at our expense? ( ) yes ( ) no

Exhibit 2

NOTICE OF EXEMPTION

RECEIVED
2021 [illegible] A [illegible]:22
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Department of Public Works/Transportation Division
(Lead Department/Division)

Based on a preliminary review of the project the following activity is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970 (Pub. Res. Code Section 21000 et seq.), as defined in the State CEQA Guidelines and County Revised CEQA Guidelines.

APN(s) Varies **Project No.** 900900

LOCATION: 105 E. Anapamu Street, Suite 407, Santa Barbara, CA

PROJECT TITLE: Montecito Trail Access Funding; First Supervisorial District

PROJECT DESCRIPTION: The proposed project is the funding of required studies and implementation of potential rights-of-way restoration to public use at trailhead access within the public road rights-of-way adjacent to the Hot Springs Trailhead along East Mountain Drive.

This funding would be utilized to provide studies and for the implementation of parking improvements near the area of the Hot Springs Trailhead. East Mountain Drive has public right of way that is currently unusable for parking due to encroachments such as walls, curbing, boulders, landscaping, mailboxes and other features. Studies are required in determining how to provide more parking in the right of way and confirm right of way limits. This would also document the obstacles to creating parking and provide examples to improve parking in the area. Studying the situation would allow the Department to provide solutions and options to work with the adjacent owners on a project that would create parking while minimizing the impacts to their rights-of-way encroachments long the property frontages. Depending on the scope and complexity of work required there may be additional funding needed for implementation of concepts consistent with the rural character of the Montecito area.

This exemption considers all future administrative activities for this project such as Award of Contract and Statement of Final Quantities.

RECEIVED
2021 DEC -1 A 11:53
COUNTY OF SANTA BARBARA
CLERK OF THE
BOARD OF SUPERVISORS

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Public Works Transportation Division

Exempt Status: (Check one)

_____ Ministerial
_____ Statutory Exemption
__X__ Categorical Exemption {15301(c)}
_____ Emergency Project
_____ Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: 15301(c) Existing Facilities – consists of the operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, including but not limited to: (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes), except where the activity will involve removal of a scenic resource including a stand of trees, a rock outcropping, or a historic building.

Reasons to support exemption findings: Consistent with this exemption, the proposed project involves the studies of the existing roadway to maintain the safe traveling condition of the roadway right of way while allowing for safe public parking for pedestrians walking to adjacent public trails. Further, there are no unusual circumstances which would create a possibility that there would be a significant effect. Therefore, the project can be found to be categorically exempt from CEQA.

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

(a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

CEQA Guidelines Section 15301 is a Class 1 exemption; therefore, this exception does not apply.

(b) **Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The project involves studying and potential maintenance of rights-of-way to increase potential trail use parking in public roadways in Montecito. In addition, there are no other identified projects which would contribute to cumulative impacts. Therefore, this exception does not apply.

(c) **Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.**

The roadway areas to be studied and that may be repaired are in existing developed roadway rights-of-way. The roadway rights-of-way to be studied and locations where repairs or modification of the rights-of-way are proposed will have no impact on the environment. Therefore, this exception does not apply.

(d) **Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.**

The project does not involve a scenic highway or a project which may result in damage to a scenic resource, removal of trees, rock outcropping or similar resource.

(e) **Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.**

There are no hazardous wastes site locations on this public road. Therefore, this exception does not apply.

(f) **Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.**

The East Mountain Drive area that is involved with public parking for the Hot Springs trail access is not identified as a historical resource. In addition, the restoration of the public road rights-of-way for public trail parking would not involve any structural modifications to existing public roadway facilities. Therefore, this exception does not apply.

Lead Agency Contact Person: Chris Sneddon, Deputy Director Public Works Transportation/Engineering Division, Phone: (805) 568-3064

Department/Division Representative: Morgan M. Jones, Engineering Environmental Project Team Leader

Acceptance Date: **September 14, 2021**

Distribution: Hearing Support Staff for posting

August 23, 2021

Morgan M. Jones Department Representative Date

NOTE: A copy of this document must be posted with the County's Planning & Development Department at least 6 days prior to consideration of the activity by the decision-makers to comply with County CEQA guidelines and a copy must be filed with the County Clerk of the Board after project approval to begin a 35 day statue of limitations on legal challenges.

Distribution: Date filed with Planning & Development _____.

Distribution: Date Filed by County Clerk: _____.

Exhibit 3

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
TRANSPORTATION DIVISION
4417 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-4990

one COUNTY one FUTURE

SCOTT D. MCGOLPIN
Director

February 7, 2022

Resident
1175 East Mountain Drive
Montecito, CA 93118

RE: Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Resident:

The County of Santa Barbara, Public Works Department has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property. In reviewing the County Road Right-of-Way there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented.

This letter is giving formal notice to the property owners to remove all private encroachments within 10 feet of berm/edge of pavement by April 8, 2022 including but not limited to the following items listed below and as shown in Addendum A:

- *Plants / Landscaping*
- *Rocks / Boulders*

We appreciate your cooperation in this effort for removal of un-permitted private encroachments. If these items are not removed, fines can be assessed per Santa Barbara County Code Chapter 8: Ordinance No. 1491. In addition, you will be liable for the costs the County incurs to remove the encroachments after April 8, 2022.

We appreciate your assistance and patience on this project.

Please call our office as soon as you receive this letter, to let us know your schedule to remove the encroachments at (805) 681-4990. Thank you in advance for your cooperation.

Sincerely,

Eric Pearson P.E.
Construction & Permits Manager

CC: Chris Sneddon, Deputy Director; Andrew Acosta, CEA II

Addendum A: Photos



Figure 1a: Landscaping and rocks to be removed.



Figure 1b: Landscaping and rocks to be removed.

Figures 1a and 1b are examples of items to be removed from County Right of Way.

Exhibit 4

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
TRANSPORTATION DIVISION
4417 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-4990

one COUNTY one FUTURE

SCOTT D. MCGOLPIN
Director

February 7, 2022

Resident
1255 East Mountain Drive
Montecito, CA 93118

RE: Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Resident:

The County of Santa Barbara, Public Works Department has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property. In reviewing the County Road Right-of-Way there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented.

This letter is giving formal notice to the property owners to remove all private encroachments within 10 feet of berm/edge of pavement by April 8, 2022 including but not limited to the following items listed below and as shown in Addendum A:

- *Plants / Landscaping*
- *Rocks / Boulders*
- *Irrigation Lines*

We appreciate your cooperation in this effort for removal of un-permitted private encroachments. If these items are not removed, fines can be assessed per Santa Barbara County Code Chapter 8: Ordinance No. 1491. In addition, you will be liable for the costs the County incurs to remove the encroachments after April 8, 2022.

We appreciate your assistance and patience on this project.

Please call our office as soon as you receive this letter, to let us know your schedule to remove the encroachments at (805) 681-4990. Thank you in advance for your cooperation.

Sincerely,

Eric A Pearson, P.E.
Construction & Permits Manager

CC: Chris Sneddon, Deputy Director; Andrew Acosta, CEA II

Addendum A: Photos

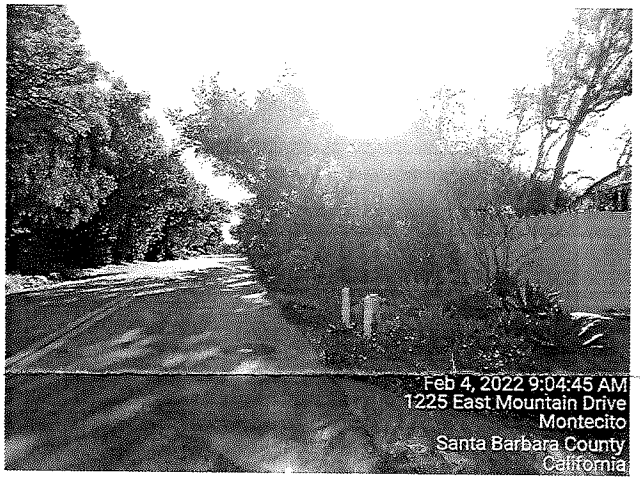


Figure 1a. Landscaping to remove.

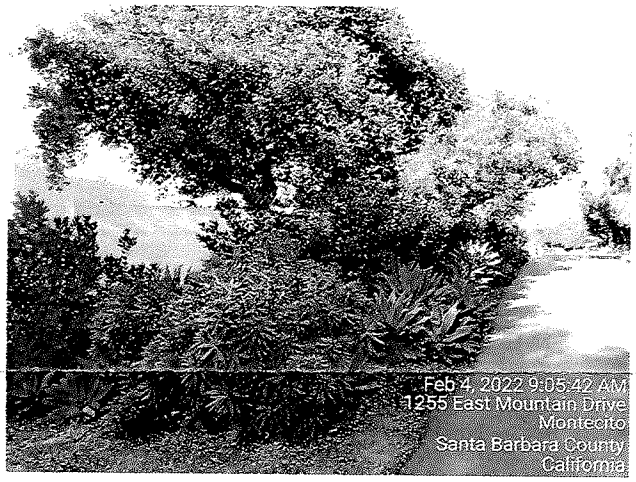


Figure 1b. Landscaping to remove.

Figures 1a and 1b show examples of landscaping to be removed from County Right of Way.



Figure 2a. Irrigation line



Figure 2b. Irrigation line

Figures 2a and 2b are examples of irrigation lines to be removed.

Exhibit 5

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
TRANSPORTATION DIVISION
4417 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-4990

one COUNTY one FUTURE

SCOTT D. MCGOLPIN
Director

February 7, 2022

Resident
1091 East Mountain Drive
Montecito, CA 93118

CERTIFIED MAIL:
7020 0090 0001 1731 7554

RE: Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Resident:

The County of Santa Barbara, Public Works Department has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property. In reviewing the County Road Right-of-Way there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented.

This letter is giving formal notice to the property owners to remove all private encroachments within 10 feet of berm/edge of pavement by April 8, 2022 including but not limited to the following items listed below and as shown in Addendum A:

- *Plants / Landscaping*
- *Rocks / Boulders / Debris*
- *"No parking sign" (14 days to remove, see Addendum B)*

We appreciate your cooperation in this effort for removal of un-permitted private encroachments. If these items are not removed, fines can be assessed per Santa Barbara County Code Chapter 8: Ordinance No. 1491. In addition, you will be liable for the costs the County incurs to remove the encroachments after April 8, 2022.

We appreciate your assistance and patience on this project.

Please call our office as soon as you receive this letter, to let us know your schedule to remove the encroachments at (805) 681-4990. Thank you in advance for your cooperation.

Sincerely,

Eric A Pearson, PE
Construction & Permits Manager

CC: Chris Sneddon, Deputy Director; Andrew Acosta, CEA II

Addendum A: Photos



Figure 1. Illegal "No Parking Sign"

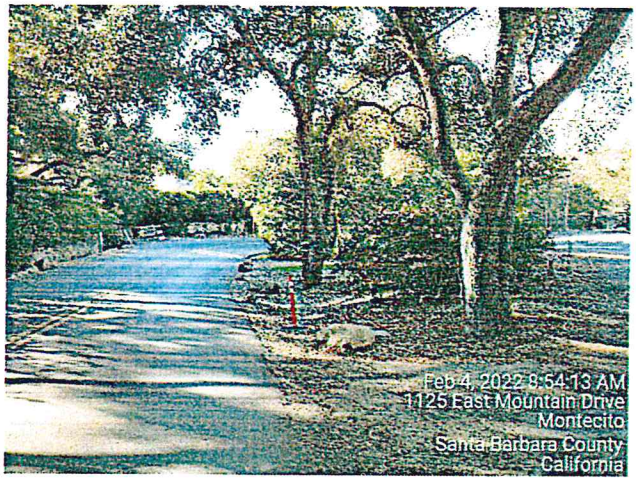


Figure 2a. Ashley Road rocks/debris.



Figure 2b. East Mountain Drive rocks to be removed.

Figures 2a and 2b are examples of rocks and debris to be removed from County Right of Way.

Addendum B: Illegal Sign

This section is to inform you that the sign shown above, in Figure 1 of Addendum A, and presently posted in front of your property at 1091 East Mountain Drive in the Montecito area is illegal. Pursuant to California Vehicle Codes, section 21465 and section 22503:

21465- "No Person shall place, maintain, or display upon, or in view of, any highway any unofficial sign, signal, device, or marking, or any sign, signal, or device, or marking, which purports to be or is an imitation of, or resembles, an official traffic control device or which attempts to direct the movement of traffic or which hides from view any official traffic control device."

It is the responsibility of the Santa Barbara County Public Works Department to determine if such signs are to be posted. Signs of this nature are placed solely for the purpose of Public safety. This Department would appreciate you removing these signs within 14 calendar days. If this sign is not removed by that time we will remove the sign, pursuant to California Vehicle Code 21467:

21467- "Every prohibited sign, signal or device or light is a public nuisance, and the Department of Transportation, members of the California Highway Patrol, and local authorities are hereby authorized and empowered without notice to remove the same, or cause the same to be removed, or the Director of Transportation, the commissioner, or local authorities may bring an action as provided by law to abate such nuisance."

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*
A. Barry Cappello (SBN 037835); David L. Cousineau (SBN 298801)
CAPPELLO & NOËL LLP; 831 State Street, Santa Barbara, California 93101

TELEPHONE NO.: (805) 564-2444 FAX NO. *(Optional):* (805) 965-5950
E-MAIL ADDRESS: abc@cappellonoel.com; dcousineau@cappellonoel.com
ATTORNEY FOR *(Name):* Petitioners Christopher Anderson et al.

FOR COURT USE ONLY

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/6/2022 4:22 PM
By: Narzralli Baksh, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA
STREET ADDRESS: 1100 Anacapa Street
MAILING ADDRESS: 1100 Anacapa Street
CITY AND ZIP CODE: Santa Barbara, CA 93121-1107
BRANCH NAME: Anacapa

CASE NAME:
Christopher Anderson et al. v. County of Santa Barbara et al.

CIVIL CASE COVER SHEET

[x] **Unlimited** (Amount demanded exceeds $25,000)
[ ] **Limited** (Amount demanded is $25,000 or less)

AMENDED

Complex Case Designation

[ ] Counter [ ] Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: 22CV01299

JUDGE: Hon. Donna D. Geck
DEPT.: 4

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort
[ ] Auto (22)
[ ] Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
[ ] Asbestos (04)
[ ] Product liability (24)
[ ] Medical malpractice (45)
[ ] Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
[ ] Business tort/unfair business practice (07)
[ ] Civil rights (08)
[ ] Defamation (13)
[ ] Fraud (16)
[ ] Intellectual property (19)
[ ] Professional negligence (25)
[ ] Other non-PI/PD/WD tort (35)

Employment
[ ] Wrongful termination (36)
[ ] Other employment (15)

Contract
[ ] Breach of contract/warranty (06)
[ ] Rule 3.740 collections (09)
[ ] Other collections (09)
[ ] Insurance coverage (18)
[ ] Other contract (37)

Real Property
[ ] Eminent domain/Inverse condemnation (14)
[ ] Wrongful eviction (33)
[ ] Other real property (26)

Unlawful Detainer
[ ] Commercial (31)
[ ] Residential (32)
[ ] Drugs (38)

Judicial Review
[ ] Asset forfeiture (05)
[ ] Petition re: arbitration award (11)
[x] Writ of mandate (02)
[ ] Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
[ ] Antitrust/Trade regulation (03)
[ ] Construction defect (10)
[ ] Mass tort (40)
[ ] Securities litigation (28)
[ ] Environmental/Toxic tort (30)
[ ] Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
[ ] Enforcement of judgment (20)

Miscellaneous Civil Complaint
[ ] RICO (27)
[ ] Other complaint *(not specified above)* (42)

Miscellaneous Civil Petition
[ ] Partnership and corporate governance (21)
[ ] Other petition *(not specified above)* (43)

2. This case [x] is [ ] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. [ ] Large number of separately represented parties
   b. [x] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. [ ] Substantial amount of documentary evidence
   d. [ ] Large number of witnesses
   e. [ ] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. [ ] Substantial postjudgment judicial supervision
3. Remedies sought *(check all that apply):* a. [ ] monetary b. [x] nonmonetary; declaratory or injunctive relief c. [ ] punitive
4. Number of causes of action *(specify):* 1
5. This case [ ] is [x] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

Date: April 6, 2022
David L. Cousineau
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev.September 1, 2021]

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courts.ca.gov

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than $25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort
- Auto (22)–Personal Injury/Property Damage/Wrongful Death
  - Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death) Tort
- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/ Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice–Physicians & Surgeons
- Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort
- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment
- Wrongful Termination (36)
- Other Employment (15)

Contract
- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
  - Contract/Warranty Breach–Seller Plaintiff *(not fraud or negligence)*
  - Negligent Breach of Contract/ Warranty
  - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case–Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

Real Property
- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer
- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review
- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ–Administrative Mandamus
  - Writ–Mandamus on Limited Court Case Matter
  - Writ–Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment
- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
- Confession of Judgment *(non-domestic relations)*
- Sister State Judgment
- Administrative Agency Award *(not unpaid taxes)*
- Petition/Certification of Entry of Judgment on Unpaid Taxes
- Other Enforcement of Judgment Case

Miscellaneous Civil Complaint
- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition
- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief From Late Claim
  - Other Civil Petition

ATTORNEY OR PARTY WITHOUT ATTORNEY *(NAME AND ADDRESS)*: TELEPHONE NO.:	*FOR COURT USE ONLY*
A. Barry Cappello (SBN 037835); David L. Cousineau (SBN 298801) CAPPELLO & NOËL LLP; 831 State Street, Santa Barbara, California 93101 ATTORNEY FOR *(NAME)*: Petitioners Christopher Anderson et al.	ELECTRONICALLY FILED Superior Court of California County of Santa Barbara Darrel E. Parker, Executive Officer 4/6/2022 4:22 PM By: Narzralli Baksh, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA ☒ Santa Barbara–Anacapa 1100 Anacapa Street Santa Barbara, CA 93101 ☐ Santa Maria-Cook 312-C East Cook Street Santa Maria, CA 93454 ☐ Lompoc Division 115 Civic Center Plaza Lompoc, CA 93436	
PLAINTIFF: Christopher Anderson et al. DEFENDANT: County of Santa Barbara et al.	
AMENDED **CIVIL CASE COVER SHEET ADDENDUM**	CASE NUMBER: 22CV01299

Santa Barbara County Superior Court Local Rule, rule 201 divides Santa Barbara County geographically into two separate regions referred to as “South County” and “North County,” the boundaries of which are more particularly defined in rule 201. “South County” includes the cities of Carpinteria, Santa Barbara, and Goleta; “North County” includes the cities of Santa Maria, Lompoc, Buellton and Solvang. A map depicting this geographical division is contained in Appendix 1 to the local rules.

Local Rule 203 provides: “When, under California law, ‘North County’ would be a ‘proper county’ for venue purposes, all filings for such matters shall be in the appropriate division of the Clerk’s office in North County. All other filings shall be made in the Clerk’s office in the appropriate division of the Court in South County. The title of the Court required to be placed on the first page of documents pursuant to CRC 2.111 includes the name of the appropriate Court division.”

A plaintiff filing a new complaint or petition is required by Local Rule 1310 to complete and file this Civil Case Cover Sheet Addendum to state the basis for filing in North County or South County.

The undersigned represents to the Court:

This action is filed in ☐ North County ☒ South County because venue is proper in this region for the following reason(s):

☐ A defendant resides or has its principal place of business in this region at: _____

_____

☒ The personal injury, damage to property, or breach of contract that is claimed in the complaint occurred in this region at: 1200 block of East Mountain Drive, Montecito, California 93108

☐ There is a related case filed with the court in this region (e.g., the related personal injury action to a petition to transfer structured settlement payments) [identify case, including case number]: _____

_____

☐ Venue is otherwise proper in this region because [explain]: _____

_____

Dated: 4/04/2022

_____

Signature of Plaintiff or Plaintiff’s Counsel

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/6/2022 5:42 PM
By: Narzralli Baksh, Deputy

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Attorneys for Petitioners
CHRISTOPHER ANDERSON;
ROSS BAGDASARIAN;
PETER BARKER; and
JAMES MORLEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, individuals,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

PROOF OF SERVICE

Hearing Date: April 7, 2022
Time: 8:30 a.m.

Assigned to: Hon. Donna D. Geck
(Ex parte calendar) Dept: 4

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 years and not a party to this action. My business address is 831 State Street, Santa Barbara, California 93101. On April 6, 2022, I served the foregoing document described as **DECLARATION OF MATTEW L. HOFER IN SUPPORT OF EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER** on the interested parties in this action:

SEE ATTACHED SERVICE LIST

☐ **BY U.S. POSTAL SERVICE:** This document was served by United States mail. I enclosed the document in a sealed envelope or package addressed to the person(s) at the address(es) above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with this firm's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Santa Barbara, California, in a sealed envelope with postage fully paid.

☐ **BY OVERNIGHT DELIVERY:** The document(s) were served by overnight delivery via FedEx. I enclosed the document in a sealed envelope or package addressed to the person(s) and the address(es) above and placed the envelope(s) for pick-up by FedEx. I am readily familiar with the firm's practice of collection and processing correspondence on the same day with this courier service, for overnight delivery.

☒ **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ **BY HAND DELIVERY:** The document(s) were delivered by hand during the normal course of business, during regular business hours.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 6, 2022, at Santa Barbara, California.

/s/ Andrea Morales

Andrea Morales

SERVICE LIST

Rachel Van Mullem
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County of Santa Barbara;
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County; and Does 1 through 10, inclusive

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Attorneys for Petitioners
CHRISTOPHER ANDERSON;
ROSS BAGDASARIAN;
PETER BARKER; and
JAMES MORLEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, individuals,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

PROOF OF SERVICE

Hearing Date: April 7, 2022
Time: 8:30 a.m.

Assigned to: Hon. Donna D. Geck
(Ex parte calendar) Dept: 4

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 years and not a party to this action. My business address is 831 State Street, Santa Barbara, California 93101. On April 6, 2022, I served the foregoing document described as **EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TEMPORARY RESTRAINING ORDER; MEMORANDUM IN SUPPORT; DECLARATION OF JOSEPH COLE** on the interested parties in this action:

SEE ATTACHED SERVICE LIST

☐ **BY U.S. POSTAL SERVICE:** This document was served by United States mail. I enclosed the document in a sealed envelope or package addressed to the person(s) at the address(es) above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with this firm's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Santa Barbara, California, in a sealed envelope with postage fully paid.

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☐ **BY HAND DELIVERY:** The document(s) were delivered by hand during the normal course of business, during regular business hours.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 6, 2022, at Santa Barbara, California.

/s/ Andrea Morales

Andrea Morales

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Attorneys for Petitioners
CHRISTOPHER ANDERSON;
ROSS BAGDASARIAN;
PETER BARKER; and
JAMES MORLEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, individuals,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

PROOF OF SERVICE

Hearing Date: April 7, 2022
Time: 8:30 a.m.

Assigned to: Hon. Donna D. Geck
(Ex parte calendar) Dept: 4

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 years and not a party to this action. My business address is 831 State Street, Santa Barbara, California 93101. On April 6, 2022, I served the foregoing document described as **[PROPOSED] ORDER GRANTING PETITIONERS' EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION** on the interested parties in this action:

SEE ATTACHED SERVICE LIST

☐ **BY U.S. POSTAL SERVICE:** This document was served by United States mail. I enclosed the document in a sealed envelope or package addressed to the person(s) at the address(es) above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with this firm's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Santa Barbara, California, in a sealed envelope with postage fully paid.

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☐ (Federal) I declare that I am employed in the office of a member of the Bar of this Court, at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 6, 2022, at Santa Barbara, California.

/s/ Andrea Morales

Andrea Morales

SERVICE LIST

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Attorneys for Respondents
COUNTY OF SANTA BARBARA and BOARD
OF SUPERVISORS OF SANTA BARBARA COUNTY

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/7/2022 8:00 AM
By: Yuliana Razo, Deputy

Exempt from filing fees [Gov. Code, § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

RESPONDENTS' PRELIMINARY OPPOSITION TO EX PARTE APPLICATION FOR ORDER TO SHOW CAUSE AND TERMPORARY RESTRAINING ORDER

Hearing Date: April 7, 2022
Time: 8:30 a.m.
Judge: Donna Geck
Dept.: 4
Complaint filed: April 4, 2022

I. INTRODUCTION

Private homeowners in Montecito have deliberately blocked public access to the Hot Springs Canyon Trail by placing boulders, walls, landscaping, illegal "No Parking" signs and other unpermitted private encroachments into the County Road Rights-of-Way that would otherwise be available for parking. Petitioners seek a court order endorsing this illegal conduct under the guise of CEQA. The ex parte application for an OSC/TRO should be denied.

II. FACTS

A. The County's Notice to Home Owners of Unpermitted Private Encroachments

The Petition does not allege that the County is acquiring any new land in connection with the Project. Instead, the Petition concedes that the County will be removing private encroachments from the existing public road right-of-way. (Pet. at ¶ 22.) Petitioners concede that many of these private encroachments are unpermitted. (*Id.*) Petitioners admit that the County has only sent demand letters to three neighborhood residents notifying them that they must remove their unpermitted private encroachments into the County Road Right-of-Way by April 8, 2022. (Pet. at ¶ 23 and Exs. 3-5.) The County has not sent demand letters to all property owners adjacent to East Mountain Drive. (Pet. at ¶ 5.) The three letters attached to the Petition each gave notice of unpermitted private encroachments into the County Road Right-of-Way and requested the removal of those private encroachments within 10 feet of the berm/edge of the pavement. (*Id.*) One property owner placed an illegal "No Parking" sign in the County Road Right-of-Way. (Pet. at Ex. 5.) The County's letters include photos of the unpermitted private encroachments that are at issue: landscaping and rocks, irrigation lines, an illegal "No Parking" sign, and debris.

B. Petitioners' Proposed Order

Petitioners' proposed order seeks to enjoin the County from "taking any action to remove improvements in the public right-of-way, or to otherwise create new public parking areas, within 0.5 miles of the Hot Springs Canyon trailhead on East Mountain Drive, Montecito, California 93108." There is no exception for emergencies or public safety needs. The order also states that "Petitioners shall not be required to file an undertaking, bond, or any other form of security."

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COUNTY COUNSEL
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Santa Barbara, CA 93101
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III. ANALYSIS

The County did not receive a copy of the petition or the ex parte application until Wednesday afternoon. This opposition is therefore preliminary, and the County requests an opportunity to submit a more thorough brief.

A. Petitioners failed to show that they are entitled to ex parte relief.

To obtain ex parte relief, "[a]n applicant must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte." (CRC 3.1202(c).) "A court will not grant ex parte relief 'in any but the plainest and most certain of cases.'" (*People ex rel. Allstate Ins. Co. v. Suh* (2019) 37 Cal.App.5th 253, 257 (quoting *Consolidated Const. Co. v. Pacific E. Ry. Co.* (1920) 184 Cal. 244, 246).) Removing rocks, "No Parking" signs, vegetation and debris from the County Road Rights-of-Way does not rise to the level of irreparable harm. Nor is there any immediate danger identified in the ex parte application or any other basis for granting ex parte relief.

B. Petitioners failed to show that they are entitled to a temporary restraining order.

To decide whether to grant a temporary restraining order, courts often look to the same factors they would consider in determining whether to grant a preliminary injunction. (See *Sarale v. Pacific Gas & Elec. Co.* (2010) 189 Cal.App.4th 225, 243.) "A determination to grant or deny a preliminary injunction requires the trial court to consider the likelihood that the plaintiff will prevail on the merits at trial and to weigh the interim harm to the plaintiff if the injunction is denied against the harm to the defendant if the injunction is granted." (*Department of Fish & Game v. Anderson-Cottonwood Irrigation Dist.* (1992) 8 Cal.App.4th 1554, 1560–1561.) "[T]he more likely it is that plaintiffs will ultimately prevail, the less severe must be the harm that they allege will occur if the injunction does not issue." (*King v. Meese* (1987) 43 Cal.3d 1217, 1227.) "A trial court may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail on the merits of the claim." (*Butt v. State of California* (1992) 4 Cal.4th 668, 678.) The burden is on Petitioner to show that it is entitled to a preliminary injunction. (*Casmalia Resources, Ltd. v. County of Santa*

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Barbara (1987) 195 Cal.App.3d 827, 838.)

1. The statute of limitations has passed.

Attached as Exhibit 6 to the Petition is the County's Notice of Exemption for the Project. The Notice of Exemption was filed on September 14, 2021. (Pet. at Ex. 5.) If a notice of exemption is properly filed, a suit challenging the project approval on any ground under CEQA must be filed within 35 days after the notice is filed. (*Stockton Citizens for Sensible Planning v. City of Stockton* (2010) 48 Cal.4th 481, 505.) Accordingly, Petitioners' action is time-barred.

2. Petitioners failed to show that they are likely to prevail on the merits.

Petitioners have asserted a single cause of action for violation of CEQA.

a. Abating illegal unpermitted private encroachments on the County Road Rights-of-Way is categorically exempt from CEQA.

"A categorical exemption is based on a finding by the Resources Agency that a class or category of projects does not have a significant effect on the environment. Thus, an agency's finding that a particular proposed project comes within one of the exempt classes necessarily includes an implied finding that the project has no significant effect on the environment. On review, an agency's categorical exemption determination will be affirmed if supported by substantial evidence that the project fell within the exempt category of projects." (*Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 115 (internal citations omitted).) If an activity is categorically exempt, "it is not subject to CEQA requirements and may be implemented without any CEQA compliance whatsoever." (*Robinson v. City and County of San Francisco* (2012) 208 Cal.App.4th 950, 955 (internal quotation marks omitted).)

The categorical exemption identified in the Notice of Exemption attached as Exhibit 6 to the Petition is CEQA Guideline Section 15301(c). However, the County is not limited to arguing the exemption identified in the Notice of Exemption. The County may defend its exemption determination by asserting other categorical exemptions. (*California Farm Bureau Federation v. California Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173, 190–191.)

The CEQA exemption for existing facilities applies to code enforcement actions by the County and it also applies to existing roads, streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities. (Cal. Code Regs., tit. 14, § 15301(d) (examples of Class 1 categorical

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exemptions for existing facilities include "[r]estoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood"); Cal. Code Regs., tit. 14, § 15301(c) (examples of Class 1 categorical exemptions for existing facilities include "[e]xisting highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities . . . ."); see also *Apartment Ass'n of Greater Los Angeles v. City of Los Angeles* (2001) 90 Cal.App.4th 1162, 1174 (upholding an exemption determination for adoption of a permanent code enforcement program applicable to all residential rental units in the city based in part on a version of the categorical exemption for restoration or rehabilitation of deteriorated or damaged structures included in the city's CEQA Guidelines.); *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1453 (holding that "[b]ecause the prior illegality was subject to enforcement actions and the enforcing agency participated in the CEQA process, CEQA did not require any further accounting for prior activity at or within the vicinity of the project."); *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 370 (holding that "what *Riverwatch* found to be the 'more prudent method of dealing with alleged prior illegality'—reliance in the first instance on direct enforcement by the agencies charged with the responsibility of doing so, and second, to rely on the enforcing agencies to comment in the EIR process—has no less application" when the lead agency conducting the environmental review is also the agency responsible for code enforcement); Cal. Code Regs., tit. 14, § 15125 ("Where existing conditions change or fluctuate over time, and where necessary to provide the most accurate picture practically possible of the project's impacts, a lead agency may define existing conditions by referencing historic conditions, or conditions expected when the project becomes operational, or both, that are supported with substantial evidence.").)

The County is not creating any parking spaces by removing unpermitted encroachments. Those parking spaces were already there. They exist as a matter of law. Santa Barbara County Code Sec. 23-11 authorizes the County to impose certain parking restrictions. Absent any restriction, the public can park in the County Road Rights-of-Way consistent with the Vehicle

Code. What is preventing people from using the existing parking is the illegal activity of private homeowners. The County is enforcing the County Code to restore the County Road Rights-of-Way.

b. Private homeowners are not entitled to maintain unpermitted encroachments in the County Road Rights-of-Way.

The Santa Barbara County Code requires a permit before encroaching into a County Road Right-of-Way. (Santa Barbara County Code Sec. 28-3(b); see also Sts. & Hy. Code, § 1480 et seq. (describing the County road commissioner's authority to remove encroachments from county highways).) It is also a violation of Vehicle Code sections 21465 and 22503 for a property owner to place a "No Parking" sign in the County Road Right-of-Way. The three notice from the County requesting the removal of private encroachments state that the encroachments were unpermitted. (Pet. at Exs. 3-5.) Petitioners have not provided any evidence that these encroachments were permitted. Accordingly, there is no legal basis for the Court to restrain the County's right to remove unpermitted private encroachments from the County Road Rights-of-Way.

3. Petitioners have not shown that the interim harm if the injunction is denied outweighs the harm to the County and the public if the injunction is granted.

The County's notice letters include photos of the unpermitted private encroachments that are at issue: landscaping and rocks, irrigation lines, an illegal "No Parking" sign, and debris. (Pet. at Exs. 3-5.) Those private homeowners must remove those private encroachments within 10 feet of the berm/edge of the pavement. (*Id.*) There will be no harm to those homeowners from removing landscaping and rocks, irrigation lines, an illegal "No Parking" sign, and debris. The failure to remove those rocks and other encroachments will harm the public by making it difficult for them to access the Hot Springs Trail, which Petitioners concede "is a serene, stunningly gorgeous area." (Pet. at ¶ 1.) The County will also be harmed from the precedent such a TRO would set for other homeowners to attempt to create CEQA issues by blocking access to public areas and seeking to restrain the County's Code enforcement authority through the duration of litigation.

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C. Petitioners must file an undertaking, bond, or other form of security if the Court grants the OSC/TRO.

"On granting an injunction, the court or judge *must require an undertaking* on the part of the applicant to the effect that the applicant will pay to the party enjoined any damages, not exceeding an amount to be specified, the party may sustain by reason of the injunction, if the court finally decides that the applicant was not entitled to the injunction." (Code Civ. Proc., § 529(a) (emphasis added).) If the Court grants the TRO, the County requests an undertaking, bond, or other form of security.

D. If the Court grants the OSC/TRO, the County requests the due date for the opposition to the preliminary injunction be set for April 19, the reply for April 22, and the hearing for the week of April 25.

If the Court grants the OSC/TRO, the County requests that the following deadlines to expedite the resolution of the preliminary injunction:

Opposition Due: April 19, 2022

Reply Due: April 22, 2022

Hearing: Week of April 25, 2022

The County also requests that any OSC/TRO include an exception for public safety and other emergencies.

IV. CONCLUSION

The OSC/TRO requested by Petitioners seeks to restrain the County from abating illegal unpermitted private encroachments into the County Road Rights-of-Way. There is no legal basis for such an order. The ex parte application for an OSC/TRO should be denied.

DATED: April 7, 2022

RACHEL VAN MULLEM
SANTA BARBARA COUNTY COUNSEL

/s/ Lina Somait

By Lina Somait,
Senior Deputy County Counsel
Attorneys for Respondents
COUNTY OF SANTA BARBARA and
BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY

SANTA BARBARA
COUNTY COUNSEL
105 E. Anapamu Street, #201
Santa Barbara, CA 93101
(805) 568-2950

PROOF OF SERVICE
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 East Anapamu Street, Santa Barbara, California.

On April 7, 2022, I served a true copy of the within Opposition to Ex Parte in Case No. 22CV01299 on the Interested Parties in this action by:

☐ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing of correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above mentioned document would have been deposited with the United States Postal Service, after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

☒ by electronic transmission to the persons indicated below:

Judge Geck
dgeck@sbcourts.org

Barry Cappello
abc@cappellonoel.com

David Cousineau
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Matthew Hofer
mhofer@cappellonoel.com

☐ by personal service, to the person listed below:

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on April 7, 2022, at Santa Barbara, California.

Natalie M. Warwick

COUNTY COUNSEL
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101
(805) 568-2950

Pursuant to CRC 2.259 this document has been electronically filed by the Superior Court of California, County of Santa Barbara, on 4/6/2022

FILED
SUPERIOR COURT of CALIFORNIA
COUNTY of SANTA BARBARA
04/11/2022
Darrel E. Parker, Executive Officer
BY Chavez, Terri
Deputy Clerk

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JAMES MORLEY

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, individuals,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

[~~PROPOSED~~] ORDER GRANTING PETITIONERS' EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION

Hearing Date: April 7, 2022
Time: 8:30 a.m.

Assigned to: Hon. Donna D. Geck
(Ex parte calendar) Dept: 4

TO RESPONDENTS COUNTY OF SANTA BARBARA, BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY, and DOES 1 through 10, inclusive ("Respondents"):

Based upon the operative Verified Petition for Writ of Mandate on file in the above-entitled action, the ex parte application, the declarations and exhibits, the memorandum of points and authorities submitted therewith, and any opposition thereto, it appears to the satisfaction of the Court that this is a proper case for granting an order to show cause for preliminary injunction and temporary restraining order, and that, unless the temporary restraining order prayed for be granted, great or irreparable injury will result to Petitioners and to the public, IT IS ORDERED AS FOLLOWS:

RESPONDENTS (AND EACH OF YOU) ARE HEREBY ORDERED TO SHOW CAUSE on May 6, 2022 at 10:00 a.m., or as soon thereafter as counsel may be heard in Department 4 of the above-entitled Court, located at 1100 Anacapa Street, Santa Barbara, California 93101, why you, your officers, agents, servants, employees, attorneys, and those in active concert or participation with them, should not be restrained and enjoined pending trial of this action, from:

1) taking any action to remove improvements in the public right-of-way, or to otherwise create new public parking areas, within 0.5 miles of the Hot Springs Canyon trailhead on East Mountain Drive, Montecito, California 93108.

PENDING HEARING on the above Order to Show Cause, Respondents, their officers, agents, servants, employees, attorneys, and those in active concert or participation with them, are HEREBY RESTRAINED AND ENJOINED from:

1) taking any action to remove improvements in the public right-of-way, or to otherwise create new public parking areas, within 0.5 miles of the Hot Springs Canyon trailhead on East Mountain Drive, Montecito, California 93108.

The above Temporary Restraining Order is effective immediately and will remain effective through May 6, 2022 and Petitioners shall not be required to file an undertaking, bond, or any other form of security.

1. Petitioners' moving papers have been served.

2. If Respondents wish to file additional opposition papers, they may do so, with said

additional opposition papers to be filed and served no later than April 19, 2022.

3. If Respondents have filed additional opposition papers, Petitioners may file additional supporting papers, with said additional supporting papers to be filed and served no later than April 22, 2022.

IT IS SO ORDERED.

Dated: 04/07/2022



Judge of the Superior Court
Donna D. Geck

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*
A. Barry Cappello (SBN 037835); David L. Cousineau (SBN 298801);
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TELEPHONE NO.: (805) 564-2444 FAX NO. *(Optional):* (805) 965-5950
E-MAIL ADDRESS *(Optional):*
ATTORNEY FOR *(Name):* Christopher Anderson et al.

FOR COURT USE ONLY

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Darrel E. Parker, Executive Officer
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA
STREET ADDRESS: 1100 Anacapa Street
MAILING ADDRESS:
CITY AND ZIP CODE: Santa Barbara, 93101
BRANCH NAME: Anacapa Division Courthouse

PLAINTIFF/PETITIONER: Christopher Anderson et al.
DEFENDANT/RESPONDENT: Board of Supervisors of Santa Barbara County et al.

CASE NUMBER: 22CV01299

PROOF OF SERVICE OF SUMMONS

Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
   a. [x] summons
   b. [x] complaint
   c. [x] Alternative Dispute Resolution (ADR) package
   d. [x] Civil Case Cover Sheet *(served in complex cases only)*
   e. [ ] cross-complaint
   f. [x] other *(specify documents):* Civil Case Cover Sheet Addendum and Request for Preparation of Administrative Record
3. a. Party served *(specify name of party as shown on documents served):*
   Rachel Van Mullem, County Counsel;Amber Holderness, Deputy County Counsel, Santa Barbara County Board of Supervisors
   b. [ ] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a):*
4. Address where the party was served:
   105 East Anapamu Street, Suite 201, Santa Barbara, California 93101
5. I served the party *(check proper box)*
   a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*
   b. [x] **by substituted service.** On *(date):* April 7, 2022 at *(time):* 3:35 p.m. I left the documents listed in item 2 with or in the presence of *(name and title or relationship to person indicated in item 3):*
   Jackie Gonzalez, Office Clerk - County Counsel Department
      (1) [x] **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
      (2) [ ] **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
      (3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
      (4) [ ] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* from *(city):* or [ ] a declaration of mailing is attached.
      (5) [ ] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

PLAINTIFF/PETITIONER: Christopher Anderson et al. DEFENDANT/RESPONDENT: Board of Supervisors of Santa Barbara County et al.	CASE NUMBER: 22CV01299

5. c. ☐ **by mail and acknowledgment of receipt of service.** I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
   (1) on *(date):* (2) from *(city):*
   (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. *(Attach completed* Notice and Acknowledgement of Receipt.*)* (Code Civ. Proc., § 415.30.)
   (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

   d. ☐ **by other means** *(specify means of service and authorizing code section):*

   ☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
   a. ☒ as an individual defendant.
   b. ☐ as the person sued under the fictitious name of *(specify):*
   c. ☐ as occupant.
   d. ☐ On behalf of *(specify):*
   under the following Code of Civil Procedure section:

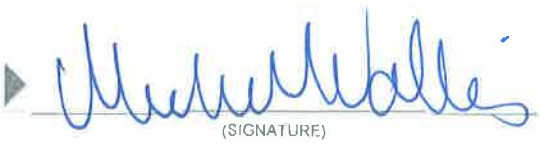
☐ 416.10 (corporation)	☐ 415.95 (business organization, form unknown)
☐ 416.20 (defunct corporation)	☐ 416.60 (minor)
☐ 416.30 (joint stock company/association)	☐ 416.70 (ward or conservatee)
☐ 416.40 (association or partnership)	☐ 416.90 (authorized person)
☐ 416.50 (public entity)	☐ 415.46 (occupant)
	☐ other:

7. **Person who served papers**
   a. Name: Michael Wallis
   b. Address: 831 State Street, Santa Barbara, California 93101
   c. Telephone number: (805) 564-2444
   d. **The fee** for service was: $ 0.00
   e. I am:
      (1) ☒ not a registered California process server.
      (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
      (3) ☐ a registered California process server:
         (i) ☐ owner ☐ employee ☐ independent contractor.
         (ii) Registration No.:
         (iii) County:

8. ☒ **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
   or
9. ☐ **I am a California sheriff or marshal and** I certify that the foregoing is true and correct.

Date: April 7, 2022

Michael Wallis
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)


(SIGNATURE)

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County of Santa Barbara
Darrel E. Parker, Executive Officer
4/19/2022 3:47 PM
By: Narzralli Baksh, Deputy

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OF SUPERVISORS OF SANTA BARBARA COUNTY

Exempt from filing fees [Gov. Code, § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO SHOW CAUSE REGARDING PRELMINARY INJUNCTION

[Filed concurrently with Request for Judicial Notice; Evidentiary Objections; Declaration of Scott McGolpin; Declaration of Gary Smart; and Declaration of Eric Pearson]

Hearing Date: May 6, 2022
Time: 10:00 a.m.
Judge: Donna Geck
Dept.: 4
Complaint filed: April 4, 2022

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I. INTRODUCTION

The Court issued a TRO prohibiting the County Road Commissioner from removing unpermitted private encroachments from the public right of way, as he is statutorily authorized to do, and has ordered the County of Santa Barbara and the Board of Supervisors of the County of Santa Barbara (collectively, "County") to show cause why a preliminary injunction should not issue. A preliminary injunction should not issue because the Court is prohibited by law from issuing an injunction to stay the lawful execution of a valid statute by officers of the law for the public benefit, or the exercise of a public or private office in a lawful manner by the person in possession. (Code Civ. Proc., § 526(b)(4), (6); Civ. Code, § 3423(d), (f); *Jamison v. Department of Transportation* (2016) 4 Cal.App.5th 356, 366 (trial court erred in granting injunction against Caltrans to plaintiff, who, without encroachment permit, placed blocks against ditch culvert within state highway right of way to stop flow of water into parallel culvert).) Petitioners do not dispute that the areas at issue are within the public right of way, nor do they dispute that the properties (except for one) do not have encroachment permits. An injunction would privatize public property contrary to the statutory mandate "protect[ing] a public entity from loss of publicly owned rights through suffering an encroachment." (*Friends of the Trails v. Blasius* (2000) 78 Cal.App.4th 810, 827; see also Civ. Code, § 1007.)

Petitioners have asserted a single cause of action against the County for violation of CEQA related to the County's right of way restoration project in Montecito ("Project"). This Project involves limited removal of road encroachments and minor road grading for the purpose of improving sight distance and to allow parking in the public space adjacent to the Hot Springs Trailhead along East Mountain Drive. Petitioners are unlikely to prevail on the merits of their cause of action. The County filed and posted a Notice of Exemption ("NOE") for the Project on February 28, 2022. Petitioners have not included this NOE in their Petition nor have they addressed it in their ex parte application. Improvements to the existing right of way have long been understood to be categorically exempt from CEQA under CEQA Guideline 15301(c). (See *Erven v. Board of Supervisors* (1975) 53 Cal. App. 3d 1004.) The harm to the County and the public from the unsafe walking, biking, and parking conditions created by the encroachments into

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the right of way is substantial. Furthermore, a preliminary injunction against the County will not prevent homeowners from voluntarily removing the encroachments, which they are likely to do given that they can be placed in jail, fined $350 per day, and sued for nuisance if they do not, and would be liable to the County for any injuries or damages caused by the encroachments.

II. STATEMENT OF FACTS

A. The Montecito Fire Protection District Requests the County's Help.

The County has been working with the Montecito Association, the Montecito Fire Protection District, all other Fire Departments in the County of Santa Barbara, the Santa Barbara County Sheriff's Office, the California Highway Patrol, and other stakeholders on parking issues at the Hot Springs Trailhead since mid-2020 (Smart Decl., ¶ 2.) On January 21, 2021, Fire Chief Kevin Taylor of the Montecito Fire Protection District held the first meeting of the Parking Workgroup of the Fire Chief's Association Public Safety Taskforce. (*Id.* at ¶ 3.) This taskforce includes all fire agencies, the California Highway Patrol, Lompoc Police Department, Santa Barbara County Sheriff's Office, First District Supervisor William's Office, and the Santa Barbara County's Public Works Department. (*Id.*) On February 1, 2021, the parking subgroup of this taskforce sent a memo with recommendations to Fire Chief Greg Fish. (*Id.* at ¶ 4, Ex. 1.) Among the potential remedies and actions recommended by the Montecito Fire Protection District were edge line striping and the County recovering lost roadway easement space from neighborhood encroachment. (*Id.*) At a public meeting on February 2, 2021, Montecito Fire Chief Kevin Taylor reported the recommendations that came out of the parking subgroup. (*Id.* at ¶ 5.) One of those ideas was an edge line on Riven Rock Road. (*Id.*) Over 75% of property owners supported this idea. (*Id.*) On April 1, 2021, Public Works installed an edge line stripe on Riven Rock Road. (*Id.* at ¶ 6; RJN, Ex. 2.) This removed about 50 parking spaces for the Hot Springs Trailhead. (Smart Decl., ¶ 6; RJN, Ex. 2.)

On April 29, 2021, the Montecito Trails Foundation reported that residents on East Mountain Drive were blocking the right of way with yellow tape, rocks, signs, and other things and asked whether the County could clear the right of way. (Smart Decl., ¶ 7.) This kicked off the County's efforts to restore the public parking on East Mountain Drive from unpermitted private

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encroachments. (Smart Decl., ¶ 7.) On September 14, 2021, the County approved an appropriation of $100,000 for Public Works to study and implement improvements to Hot Springs Trailhead access within the public road rights of way on East Mountain Drive that were unusable due to private encroachments. (RJN, Ex. 2.) The County filed and posted an NOE in connection with this funding transfer. (RNJ, Ex. 2.)

The County conducted a survey to determine its rights of way on East Mountain Drive and identify unpermitted encroachments. (Pearson Decl., ¶ 2.) In the 0.5 mile stretch of East Mountain Drive on either side of the Hot Springs Trailhead only one property has an encroachment permit. (Pearson Decl., ¶ 3, Ex. 1; McGolpin Decl., ¶ 3.) The County conducted a neighborhood meeting on October 28, 2021, during which it explained that the County was looking to clear encroachments from the rights of way on East Mountain Drive to restore 5 or 6 parking spots to the East of the Hot Springs Trailhead, and 5 or 6 to the west of the Hot Springs Trailhead. (McGolpin Decl., ¶ 2.) The County has never stated that it planned to use bulldozers to remove encroachment, or create up to 62 new parking spaces near the Hot Springs Trailhead, or revoke encroachment permits, or destroy mature oak or sycamore trees. (*Id.* at ¶ 4.) The County did not enter into any "standstill" agreement with Joseph Cole, Petitioners, or anyone else. (*Id.* at ¶ 5.) Moreover, any such agreement would be invalid because the County cannot contract away its right to exercise its police power to remove encroachments in the future. (*Avco Community Developers, Inc. v. South Coast Regional Com.* (1976) 17 Cal.3d 785, 800.)

On February 7, 2022, the County sent notice of unpermitted encroachments to three properties on East Mountain Drive: 1175 East Mountain Drive, 1255 East Mountain Drive, and 1091 East Mountain Drive. (Pearson Decl., ¶ 4, Ex. 2.) The letters gave those properties until April 8, 2022 to remove the encroachments. (*Id.*) None of the Petitioners in this case own or reside at 1175 East Mountain Drive, 1255 East Mountain Drive, or 1091 East Mountain Drive. (*Id.* at ¶ 5.) The unpermitted encroachments include rocks, boulders, landscaping, irrigation lines, debris, and "No Parking" signs. (*Id.* at ¶ 6, Ex. 2.) The resident of 1255 East Mountain Drive requested and received a 45-day extension to remove his encroachments. (McGolpin Decl., ¶ 6.) The County has not received any response from the other two properties. (Pearson Decl., ¶ 9.)

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B. The County Filed and Posted an NOE for the Montecito Right of Way Restoration Project on February 28, 2022.

The County found the Montecito right of way restoration project ("Project") categorically exempt pursuant to CEQA Guideline Section 15301(c), and that no exceptions apply. (RJN, Ex. 1.) The NOE was filed and posted on February 28, 2022. (*Id.*) The Project is described as follows:

> The proposed project is the implementation of right of way restoration, repair, maintenance and operation of the existing facilities to allow for public parking and continued use near the trailhead access within the public road right of way adjacent to the Hot Springs Trailhead along East Mountain Drive.
>
> The East Mountain Drive public right of way is currently unusable for public parking in many areas due to encroachments such as walls, curbing, boulders, landscaping, irrigation, mailboxes and other private features. Many of these private features were installed in the public road right of way without the required road encroachment permits. The project includes limited removal of road encroachments and minor road grading for the purpose of improving sight distance and to allow parking in the public space. The Department is developing solutions and options to create additional parking while minimizing the impacts to encroachments with the public rights-of-way along the property frontages.

III. THE LEGAL FRAMEWORK FOR ENCROACHMENTS INTO PUBLIC RIGHTS OF WAY

1. The Statutory Scheme

The term "county highway" includes, but is not limited to "any public highway, road, street, avenue, alley, lane, drive, way, place, court, or trail, or any purported county highway, public highway, road, street, avenue, alley, lane, drive, way, place, court, or trail." (Sts. & Hy. Code, § 960.5; see also Veh. Code § 360 (Highway is defined as "a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.").) "The term 'highway' includes all or any part of the entire width of right-of-way of a county highway, whether or not such entire area is actually used for highway purposes. (Sts. & Hy. Code, § 1450(a).) "The term 'encroachment' includes . . . any structure or object of any kind or character not particularly mentioned in this section, which is placed in, under or over any portion of the highway." (*Id.* at § 1450(b).) The County Road Commissioner ("Commissioner") may issue written permits authorizing encroachments. (*Id.* at § 1460.) All permits other than those issued to public agencies or a public utility authority having lawful authority to occupy the highways are revocable on five days' notice and the encroachment must be removed or relocated as may be specified by the road commissioner in the notice revoking the

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permit. (*Id.* at § 1463.) Any person who places an encroachment without the authority of a permit is guilty of a misdemeanor and is liable to the County for all expenses and damages caused thereby. (*Id.* at § 1460.) Placing signs on a county highway without a written permit is a public nuisance and the Commissioner may immediately remove it. (*Id.* at § 1460(c); see also Veh. Code, §§ 21465, 21467 (unauthorized traffic signs are a public nuisance and can be removed without notice by local authorities).) The Commissioner may also immediately remove, or by notice require the removal of, an encroachment which obstructs or prevents the use of a county highway by the public, an encroachment which consists of refuse, or an encroachment which is a traffic hazard and recover the expense of such removal and any other damages caused by the encroachment. (Sts. & Hy. Code, § 1480.5.) The Commissioner may, by notice, require the removal of any other encroachment within 10 days. (*Id.* at § 1481.) If the encroachment is not removed, the person causing, owning, or controlling the encroachment is liable for $350 per day, and can be sued to abate the nuisance, and must reimburse the County for the expense of removal. (*Id.* at §§ 1483–1485.)

There are limited types of encroachments that can be permitted. The encroachment should "(1) serve as a means, or be incident to a means, for the transport or transmission of people, commodities, waste products or information, or serve public safety; (2) serve either the public interest or a private interest of the underlying landowner that does not interfere with the public's use rights; and (3) not unduly endanger or interfere with use of the abutting property." (*Bello v. ABA Energy Corp.* (2004) 121 Cal.App.4th 301, 315–316 (citations omitted).) The initial task of determining whether a proposed use of a county road right of way satisfies the pertinent criteria is vested by statute in the county road commissioner, whose decision will be reversed only if it is found to have been the result of capricious or arbitrary action or abuse of discretion. (*Id.*)

2. County Laws

The Santa Barbara County Code, Chapter 28, Article I, added to the Code by Santa Barbara County Ordinance 1491, requires road encroachment permits for all secondary uses of county roads in order to protect and preserve the primary purpose and use of such roads, which is declared to be travel by the public. (RJN, Exs. 3, 4.) The County's Engineering Design Standards, Section

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4.6, contain the County's encroachment permit policies, which include a clear zone from the edge of the pavement to the proposed encroachment to maintain an adequate safety zone, adequate recovery zones, minimum setbacks for walls, fences, landscaping, and fixed objects (including rocks), and limits the types of trees that can planted. (Smart Decl., ¶ 8, Ex. 2; Pearson Decl., ¶ 7, Ex. 3.) In the Montecito Community Plan area, no landscaping is allowed in the clear zone unless pedestrian facilities are specifically provided for. (*Id.*) The County's website provides extensive information on encroachment permits, including frontage requirements and submittal procedures. (McGolpin Decl., ¶ 7, Ex. 2.)

East Mountain Drive is in the Montecito Community Plan area. All development on East Mountain Drive must be compatible with the policies specified in the Montecito Community Plan. (Gov. Code, §§ 65450–65457; see also *Foothill Communities Coalition v. County of Orange* (2014) 222 Cal.App.4th 1302, 1310.) Those policies include the following (RJN, Ex. 5):

> Policy CIRC-M-2.1: In order to provide for the safety of pedestrians, informal unpaved pathways (rather then [sic] paved sidewalks) shall be encouraged within the County road right-of-ways. Priority shall be given to providing and protecting pedestrian pathways when the County grants encroachment permits along County roadways to private land owners. In keeping with past plans, curbs and sidewalks shall not be constructed except in neighborhood commercial zones and multifamily residential zones.
>
> . . .
>
> Policy CIRC-M-3.9: The County Public Works Department shall not grant new encroachment permits allowing the installation of structures, fences, walls, landscaping, etc. where the placement of such structures, fences, walls, landscaping, etc. would preclude safe pedestrian access and/or adequate site distance in the public right-of-way.

The Montecito Land Use and Development Code Section 35.430.150.B.2. provides that "[n]o portion of any structure, including eaves or roof overhangs, shall extend beyond a property line or into a public street right-of-way, except as provided by Subsection 35.444.020.D.1.d (Extension over neighboring property)." (RJN, Ex. 6.) "Structure" is defined as "[a]nything constructed or erected, the use of which requires location on the ground or attachment to something located on the ground, excluding trailers and sidewalks." (RJN, Ex. 6 at Glossary.) The minimum residential zone development standard for a front setback in a one-family residential zone is 50 ft from the road centerline and 20 ft from the edge of the right of way. (RJN Ex. 6 at

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Sec. 35.423.050, Table 2-6.)

3. Montecito Fire Protection District Development Standards

The Montecito Fire Protection District has adopted the 2019 California Fire Code and amended it to include the District's Development standards. (RJN, Ex. 7.) Development Standard #2 requires property owners to maintain a horizontal clearance of vegetation at a minimum to the road right of way or the edge of the pavement depending on individual easements to maintain maximum traffic circulation in the event of emergency evacuation. (RJN Ex. 8 at V.3.)

IV. IT IS IMPROPER TO PRELIMINARILY ENJOIN THE COUNTY FROM ENFORCING THE LAW.

"It is well settled that courts lack jurisdiction to enjoin the enforcement of a validly adopted constitutional ordinance." (*Carson Mobilehome Park Owners' Assn. v. City of Carson* (1983) 35 Cal.3d 184, 195.) The court is also prohibited by law from issuing an injunction to stay lawful execution of a valid statute by officers of the law for the public benefit, or the exercise of a public or private office in a lawful manner by the person in possession. (Code Civ. Proc., § 526(b)(4), (6); Civ. Code, § 3423(d), (f); *Cohen v. Board of Supervisors* (1986) 178 Cal.App.3d 447, 453.) An exception to this rule may apply if: (1) the statute is unconstitutional on its face; (2) the statute is applied unconstitutionally; (3) the statute does not apply to the plaintiff's activities; or (4) the public official's action exceeds his or her powers. (See *Conover v. Hall* (1974) 11 Cal.3d 842, 850; *Alfaro v. Terhune* (2002) 98 Cal.App.4th 492, 501.)

Jamison v. Department of Transportation (2016) 4 Cal.App.5th 356 is instructive. In that case, the trial court issued a preliminary injunction preventing Caltrans from executing its statutory duties to keep the right of way free from encroachments and to control what encroachment may be placed there. The Court of Appeal reversed and vacated the preliminary injunction relying on Code Civ. Proc., § 526(b)(4) and Civ. Code, § 3423(d) that an injunction may not be granted to prevent the execution of a public statute by officer of the law for the public benefit. As explained by the Court of Appeal:

> Section 670 requires a person to obtain an encroachment permit from Caltrans whenever he seeks to place an encroachment on a state highway. Plaintiff sought to place an encroachment on a state highway, as the statutes define the terms "encroachment" and "highway," and thus was required to obtain an encroachment permit from Caltrans before doing so.

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> Second, plaintiff's actions prevent Caltrans from performing its statutory duty. Plaintiff contends Caltrans introduced no evidence showing his blocks prevented Caltrans from maintaining and protecting SR 49, or that they would cause flooding on the road, injury or damage. Plaintiff also intimates Caltrans would exceed its authority under section 92 to "do any act necessary, convenient or proper" for the improvement, maintenance, and use of state highways by assuming it can do its maintenance work whenever it wants, particularly if that work affects his water rights.
>
> Plaintiff misses the point. One of Caltrans's duties is to determine whether any type of encroachment may be allowed within the state's right-of-way. Plaintiff has not shown that statutory obligation does not apply to him or that Caltrans's fulfillment of that obligation exceeded its authority. His blocks were an encroachment, and he was required to seek an encroachment permit from Caltrans before he placed them at the culvert. Plaintiff cannot show Caltrans exceeded its authority because he never asked Caltrans to exercise its permit authority.

(*Jamison*, 4 Cal.App.5th at 364–365.)

The County Road Commissioner has a statutory duty to keep the right of way free from encroachments and to control what encroachments may be placed there. The encroachment permit statutes apply to the residents of East Mountain Drive, and the Commissioner did not exceed his authority by applying them to the three properties in question nor would he exceed his authority by applying them to any residence on East Mountain Drive. The preliminary injunction seeks to enjoin the Commissioner from enforcing the encroachment statutes. A court may not do indirectly by injunction what the law or a statute forbids be done directly. (*Marquez-Luque v. Marquez* (1987) 192 Cal.App.3d 1513, 1517–1518.)

V. LEGAL STANDARD FOR INJUNCTIVE RELIEF

To determine whether a preliminary injunction should be granted, courts consider two interrelated factors: "(i) the likelihood that the party seeking the injunction will ultimately prevail on the merits of his [or her] claim, and (ii) the balance of harm presented, i.e., the comparative consequences of the issuance and nonissuance of the injunction." (*Jamison*, 4 Cal.App.5th at 361.) These factors are reviewed on sliding scale. (*Id.* at 361–362.) However, "a trial court may not grant a preliminary injunction, regardless of the balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail on the merits of the claim." (*Id.* at 362.)

A. Petitioners failed to submit any admissible evidence.

Strikingly, none of the four Petitioners submitted a declaration in support of injunctive relief, nor did they submit a declaration from any of the three property owners that received notice

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of unpermitted encroachment, or from anyone else who has a property within 0.5 miles of the Hot Springs Trailhead on East Mountain Drive. For the reasons stated in the County's evidentiary objections, practically all of the statements in Joseph Cole's declaration are inadmissible. The majority of the statements in the verified petition, which was verified by each of the four Petitioners, are also inadmissible. If Petitioners fail to make an adequate factual showing, supported by admissible evidence, then injunctive relief must be denied. (Code Civ. Proc., §527(a); *Finnie v. Town of Tiburon* (1988) 199 Cal.App.3d 1, 14–15.)

B. Petitioners are unlikely to prevail on the merits.

The sole cause of action in the Petition is violation of CEQA. Petitioners' brief addresses the NOE for the funding action taken by the Board of Supervisors on September 14, 2021. (RJN, Ex. 2.) It does not address the NOE for the Project.

1. The Project is categorically exempt from CEQA.

"[T]he Guidelines set forth a list of exempt categories or classes of projects which have been determined by the Resources Agency not to have a significant effect on the environment." (*Davidon Homes v. City of San Jose* (1997) 54 Cal.App.4th 106, 112.) "If the agency finds the project is exempt from CEQA under any of the stated exemptions, no further environmental review is necessary." (*Id.* at 113.) CEQA does not require notice or a hearing before deciding a project is categorically exempt. (*Robinson v. City and County of San Francisco* (2012) 208 Cal.App.4th 950, 963, fn. 8.) "[T]here is no requirement that the agency put its exemption decision in writing." (*San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal.App.4th 1356, 1385; see also Cal. Code Regs., tit. 14, § 15062(a).) "A notice of exemption has no significance other than to trigger the running of the limitations period." (*San Lorenzo*, 139 Cal.App.4th at 1385.)

The substantial evidence test applies to an agency's factual determination that a project comes within the scope of a categorical exemption. (*North Coast Rivers Alliance v. Westlands Water Dist.* (2014) 227 Cal.App.4th 832, 852.) Here, the County filed and posted an NOE for the Project finding it categorically exempt pursuant to the existing facilities exemption, subsection (c), and also finding that none of the exceptions apply. The fact that the County only listed

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Guideline 15301(c) in its NOE does not preclude it from defending its exemption determination by asserting other categorical exemptions. (*California Farm Bureau Federation v. California Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173, 191.) Subsection (d) of Section 15301 also applies to the Project. The existing facilities exemption provides:

> Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The types of "existing facilities" itemized below are not intended to be all-inclusive of the types of projects which might fall within Class 1. The key consideration is whether the project involves negligible or no expansion of use.
>
> Examples include but are not limited to:
>
> . . .
>
> (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes).
>
> (d) Restoration or rehabilitation of deteriorated or damaged structures, facilities, or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;

(Cal. Code Regs., tit. 14, § 15301.) This Guideline was amended in 2018 to delete language limiting this exemption to situations in which there would be negligible or no expansion of use beyond the level of use existing at the time of the lead agency's determination. The amended Guideline provides that a lead agency may treat either existing use or former use as the baseline for determining whether use of a structure, a facility, or equipment will be expanded. The Guideline allows a lead agency to find that a project will not expand the level of use if that level is consistent with historic levels of operations. (RJN, Ex. 9 at p. 61.)

> The second change appears in subdivision (c). The purpose of this change is to clarify that improvements within a public right of way that enable use by multiple modes (i.e., bicycles, pedestrians, transit, etc.) would normally not cause significant environmental impacts. This change is consistent with the Complete Streets Act of 2008, which requires cities and counties to plan for the needs of all users of their streets. In this regard, because such improvements involve operation of public rights of way, they may be similar to the imposition of water conservation requirements for existing water facilities (see, *Turlock Irrigation Dist. v. Zanker* (2006) 140 Cal. App. 4th 1047,1065), or the regulation of the right of way for parking (see, *Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4th 786, 793 ("it is clear that the Class 1 exemption applies to the legislation/project here[; it] involves adjusting the particular group of persons permitted

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> to use 'existing facilities,' in other words, the existing, unmetered, curbside parking on residential streets")). Improvements to the existing right of way have long been understood to fall within the category of activities in subdivision (c), provided that the activity does not involve roadway widening. (See, *Erven v. Board of Supervisors* (1975) 53 Cal. App. 3d 1004.)

(RJN, Ex. 9 at p. 62.) The NOE provides the following reasons to support the exemption finding (RNJ, Ex. 1):

> [T]he proposed project involves the restoration of the existing roadway to maintain the safe traveling condition of the roadway right of way. The minor alteration of existing public facilities will allow for safe public parking for the pedestrians and also cyclists going to the adjacent public trails. Further, there are no unusual circumstances which would create a possibility that there would be a significant effect. Therefore, the project can be found to be categorically exempt from CEQA.

In addition to being exempt under Class 1, the Project is also exempt under Class 4, and Class 21. Class 4, "consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes." (Cal. Code Regs., tit. 14, § 15304.) Removal of encroachments is within Class 4. Class 21, covers "[a]ctions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency." (Cal. Code Regs., tit. 14, § 15321.) The County is a regulatory agency within the meaning of the CEQA Guidelines. (See *Save the Plastic Bag Coalition v. City and County of San Francisco* (2013) 222 Cal.App.4th 863, 876; *Save the Plastic Bag Coalition v. County of Marin* (2013) 218 Cal.App.4th 209, 227.) It is enforcing statutes administered by the County Road Commissioner as well as laws and standards adopted by the County, and is therefore within the Class 21 exemption.

2. No exceptions to the exemptions apply.

"If an agency has established that a project comes within a categorical exemption, the burden shifts to the party challenging the exemption to show that it falls into one of the exceptions." (*North Coast Rivers Alliance*, 227 Cal.App.4th at 851.) The exceptions are listed in CEQA Guideline Section 15300.2. Petitioners failed to acknowledge the NOE for the Project or argue that an exception applies. Accordingly, the County does not need to address the exceptions. However, it will do so briefly. Every exception was analyzed in the NOE and was found not to

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apply. (RJN, Ex. 1.) For example, there are no other identified projects which would contribute to cumulative impacts. (*Id.*) The unusual circumstances exception does not apply because the road right of way areas to be restored to public use are within the existing developed roadway right of way. (*Id.*) In addition, "[t]he presence of comparable facilities in the immediate area adequately supports [an] implied finding that there were no 'unusual circumstances' precluding a categorical exemption." (*Walters v. City of Redondo Beach* (2016) 1 Cal.App.5th 809, 820–821.) The public is free to park on all county roads in Montecito consistent with the Vehicle Code unless they are otherwise posted. (RJN, Ex. 3 at Sec. 23-11.)

The only scientific evidence Petitioners provide in support of their application is Exhibit 1 to the declaration of Joseph Cole. The biological resources assessment in that exhibit is limited to four creek corridors: Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek, and specifically to the debris net locations on those creeks. The assessment did not examine Hot Springs Creek or Hot Springs Canyon or the effect of cars or of hikers. The assessment actually supports there being no unusual circumstances since there are many creeks and canyons throughout Montecito where the public is free to park on any county road unless otherwise posted. Petitioners provide no support for their assertion that East Mountain Drive is within the Environmentally Sensitive Habitat ("ESH") overlay. Only a small portion of a few properties within 0.5 miles of the trailhead are within the ESH overlay. (RJN, Ex. 10.) Under the Montecito Land Use and Development Code, in addition to being within the ESH overlay, the Director of Planning and Development must determine that the lot contains the pertinent species or habitat for the ESH overlay zone regulations to attach. (RJN, Ex. 6 at 35.428.040.B.1.) Petitioners provide no evidence of this. With respect to fire and evacuation, Petitioners have provided nothing more than speculation as to these issues. The County works closely with the Montecito Fire Protection District (Smart Decl., ¶¶ 2–5) whose Development Standards require removal of encroachments (RJN, Ex. 8).

As a practical matter, there will be no net increase in parking. Striping Riven Rock Road removed 50 unsafe parking spaces. (Smart Decl., ¶ 6; RJN, Ex. 2.) The Project will restore approximately a dozen parking spaces from unpermitted encroachments. (McGolpin Decl., ¶ 2.)

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Furthermore, the baseline for any environmental review would be East Mountain Drive before any illegal encroachment. (See Cal. Code Regs., tit. 14, § 15125; *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316, 336–337; *Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1453.) Meaning that there would be no change from baseline. Finally, cars are currently parking on East Mountain Drive. (Pearson Decl., ¶ 8, Ex. 4.) They are simply blocking the travel lane. (*Id.*) Restoring the right of way will move the cars off the road onto the shoulder making the area safer. (*Id.*)

C. The issuance of an injunction would harm the interests of the County, the public, and indispensable third parties.

Petitioners must show irreparable injury, "either existing or threatened," if injunctive relief is not granted. (*Cohen v. Board of Supervisors* (1986) 178 Cal.App.3d 447, 453.) As explained above, Petitioners have not provided any admissible evidence with respect to injury. Courts must consider "the degree of adverse effect on the public interest or interests of third parties" in considering whether to impose an injunction. (*Vo v. City of Garden Grove* (2004) 115 Cal.App.4th 425, 435.) If the Court were to enjoin the County from removing private encroachments into the public rights of way on East Mountain Drive, it would harm the County's and the public's interest in having access to safe parking near the Hot Springs Trailhead. Cars continue to park on East Mountain Drive despite the private encroachments. (Pearson Decl., ¶ 8, Ex. 4.) They simply end up partially obstructing a travel lane, which is not safe, particularly if there is a need to evacuate. (*Id.*) By removing the unpermitted encroachments there would not be any increase in parking or people using the trails. (*Id.*) Many of the properties on East Mountain Drive have placed small rocks in the public right of way that are a danger to pedestrians and bicycles, particularly at night. (*Id.* at ¶ 6.) They are also a danger to equestrians and cars. (*Id.*)

The residents and owners whose properties are within 0.5 miles of the Hot Springs Trailhead on East Mountain Drive are necessary and indispensable parties to this action and have an interest that would be affected by an injunction. (Code Civ. Proc., § 389.) "A person is an indispensable party if his or her rights must necessarily be affected by the judgment." (*County of Alameda v. State Bd. of Control* (1993) 14 Cal.App.4th 1096, 1105.) A preliminary injunction will

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make those neighbors liable to the County for fines and all expenses and damages caused by their encroachments. The non-party homeowners and residents on East Mountain Drive would not be bound by the decision of the Court and the County could be subject to legal challenges with respect to removal of the encroachments from those properties even if it prevails in the current litigation. Without joining the other property owners or residents, the Court cannot prevent them from voluntarily complying with the County's requests to remove encroachments from the public right of way. (*Greif v. Dullea* (1944) 66 Cal.App.2d 986, 995 ("An indispensable party is not bound by a judgment in an action in which he was not joined.").) It would be unusual for a property owner or resident to fail to voluntarily comply since this exposes them to jail time for criminal misdemeanor, a $350 per day fine, civil action for public nuisance, and liability for any damages or injuries that result from the encroachment. It is also important to note that there has been a lot of local media coverage of the illegality of the encroachments on East Mountain Drive, and members of the public may attempt to remove encroachments themselves.

VI. AN INJUNCTION, IF ISSUED, MUST BE NARROWLY TAILORED.

No person has a right to place an encroachment in the public right of way without a permit. An injunction that would prevent the County from removing unpermitted encroachments would be overly broad. The harm alleged is to the Hot Springs Trail from an alleged potential increase in the number of hikers that could access the trail. This can be addressed by placing a limit on the number of hikers on the trail or placing parking limits on the right of way. The other harm alleged is with respect to evacuation. This too can be addressed by placing parking limits on East Mountain Drive. There is no need and no legal basis to prevent the County from reclaiming its public property in order to address the harm alleged by Petitioners. Moreover, the County is responsible for keeping its roads safe. Preventing it from removing unpermitted encroachments from the public right of way would hinder its ability to do that and expose it to enormous liability.

VII. ANY INJUNCTION MUST BE CONDITIONED ON THE POSTING OF A SUBSTANTIAL BOND.

If the Court is inclined to grant a preliminary injunction, it must be conditioned on an undertaking by Petitioners. (Code Civ. Proc., § 529(a).) The illegal encroachments on East Mountain Drive endanger pedestrians, bicycles, equestrians, and cars. If any person

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or object were to sustain injury or damage as result of encroachments the County is enjoined from removing, Petitioners must indemnify the County for such injury or damage. In addition, the County is entitled to $350 per day for all unpermitted encroachments, and Petitioners should be required to pay those fees to the extent that any of the residents or owners of the properties subject to the injunction fail to do so. The County is entitled to compensation for the privatization of its public property as a result of the injunction. The County requests a bond of no less than $5,000,000 within 10 days of the Court's order.

VIII. CONCLUSION

The importance of a County Road Commissioner's ability to control the public right of way is reflected in the many tools with which the legislature has armed them to ensure compliance: jail time, fines, civil liability, and indemnification. Weaponizing CEQA to protect well-funded private interests is, unfortunately, not a new phenomenon. It is incredible, however, that Petitioners have filed a lawsuit admitting to criminal conduct and expecting the Court's approval. A preliminary injunction should not issue.

DATED: April 19, 2022

RACHEL VAN MULLEM
SANTA BARBARA COUNTY COUNSEL

/s/ Lina Somait

By Lina Somait, Senior Deputy
Attorneys for Respondents COUNTY OF SANTA BARBARA and BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY

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PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California.

On April 19, 2022, I served a true copy of **RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO CHOW CAUSE REGARDING PRELIMINARY INJUNCTION** on the Interested Parties in said action by:

☐ by electronic mail. I delivered such paperwork via electronic mail on the interested parties in this action from warwick@countyofsb.org to the below electronic mail addresses:

☒ personally delivered it to the person(s) indicated below:

A.Barry Cappello
David L. Cousineas
Matthew L. Hofer
CAPPELLO & NOEL LLP
831 State Street
Santa Barbara, CA 93101

*Courtesy Copies Emailed to:
abc@cappellonoel.com
mhofer@cappellonoel.com
dcousineas@cappellonoel.com

☐ by facsimile transmission.

☐ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned documents would have been deposited with the United States Postal Service on August 2, 2021 after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on April 19, 2022, at Santa Barbara, California.

Natalie M. Warwick
Natalie M. Warwick

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OF SUPERVISORS OF SANTA BARBARA COUNTY

Exempt from filing fees [Gov. Code, § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO SHOW CAUSE REGARDING PRELMINARY INJUNCTION

[Filed concurrently with County's Response to OSC; Evidentiary Objection; Declaration of Scott McGolpin; Declaration of Gary Smart; and Declaration of Eric Pearson]

Hearing Date: May 6, 2022
Time: 10:00 a.m.
Judge: Donna Geck
Dept.: 4
Complaint filed: April 4, 2022

TO THE HONORABLE COURT, PETITIONERS, AND THEIR ATTORNEYS OF RECORD:

In support of their Response to Order to Show Cause Regarding Preliminary Injunction, Respondents County of Santa Barbara and Board of Supervisors of Santa Barbara County (together, "County") through their attorneys of record, request that the Court take judicial notice of the records listed below pursuant to California Evidence Code section 452(b) (regulations and

legislative enactments issued by or under the authority of the United States or any public entity in the United States); section 452(c) (official acts of the legislative, executive, and judicial departments of any state of the United States); and section 452(h) (facts that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy) and California Evidence Code section 453.

1. Exhibit 1: The Notice of Exemption for the Montecito Right of Way Restoration Project. (*Stockton Citizens for Sensible Planning v. City of Stockton* (2012) 210 Cal.App.4th 1484, 1488, fn. 3 (taking judicial notice of an NOE).)

2. Exhibit 2: Materials from the Santa Barbara County Board of Supervisors' September 14, 2021 meeting regarding Hot Springs Trailhead Access Funding. (*City of Chula Vista v. County of San Diego* (1994) 23 Cal.App.4th 1713, 1720 (granting judicial notice of Board of Supervisors minutes and the record of proceedings at its meeting); *McAllister v. County of Monterey* (2007) 147 Cal.App.4th 253, 290–291 (rejecting allegation that consideration of a project violated Monterey County Code in reviewing a ruling on a demurrer because it conflicted with judicially noticed Board of Supervisors hearing transcript and resolution passed at close of the hearing).)

3. Exhibit 3: Excerpts from the Santa Barbara County Code. (*Desmond v. County of Contra Costa* (1993) 21 Cal.App.4th 330, 336 (taking judicial notice of county ordinances); *Consaul v. City of San Diego* (1992) 6 Cal.App.4th 1781, 1800, fn. 10 (taking judicial notice of land development ordinance); *McAllister v. California Coastal Com.* (2008) 169 Cal.App.4th 912, 923, fn. 5 (taking judicial notice of Big Sur Land Use Plan and Coastal Zoning Ordinance).)

4. Exhibit 4: Santa Barbara County Ordinance No. 1491. (*Desmond v. County of Contra Costa* (1993) 21 Cal.App.4th 330, 336 (taking judicial notice of county ordinances).)

5. Exhibit 5: Excerpts from the Montecito Community Plan. (*City of Poway v. City of San Diego* (1991) 229 Cal.App.3d 847, 855, fn. 7 (taking judicial notice of City of San Diego's general plan and its map, and the fact of San Diego's geographic size and diversity); *City of Corona v. Naulls* (2008) 166 Cal.App.4th 418, 420, fn. 1 (taking judicial notice of specific plan*); League for Protection of Oakland's etc. Historic Resources v. City of Oakland* (1997) 52 Cal.App.4th 896, 901, fn. 2 (taking judicial notice of general plan); *Woodward Park Homeowners Assn., Inc. v. City*

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of Fresno (2007) 150 Cal.App.4th 683, 733, fn. 7 (taking judicial notice sua sponte of general plan posted on City's website).)

6. Exhibit 6: Excerpts from the Montecito Land Use and Development Code. (*Consaul v. City of San Diego* (1992) 6 Cal.App.4th 1781, 1800, fn. 10 (taking judicial notice of land development ordinance); *McAllister v. California Coastal Com.* (2008) 169 Cal.App.4th 912, 923, fn. 5 (taking judicial notice of Big Sur Land Use Plan and Coastal Zoning Ordinance).)

7. Exhibit 7: Montecito Fire Protection District Ordinance No. 2019-02.

8. Exhibit 8: Montecito Fire Protection District Development Standard #2.

9. Exhibit 9: Excerpts from California Natural Resources Agency, Final Statement of Reasons for Regulatory Action, Amendments to State CEQA Guidelines, November 2018. (*California Farm Bureau Federation v. California Wildlife Conservation Bd.* (2006) 143 Cal.App.4th 173, 188, fn. 8 (taking judicial notice of final statement of reasons for regulatory action to amend CEQA Guidelines issued by California Natural Resources Agency).)

10. Ex. 10: Screenshot of Santa Barbara County Interactive Map showing Environmentally Sensitive Habitat Overlay on East Mountain Road near the Hot Springs Trailhead. (*Citizens for Responsible Open Space v. San Mateo County Local Agency Formation Com.* (2008) 159 Cal.App.4th 717, 727, fn. 5 (taking judicial notice of map of annexation area found on San Mateo County Local Agency Formation Commission's website); *City of Poway v. City of San Diego* (1991) 229 Cal.App.3d 847, 855, fn. 7 (taking judicial notice of City of San Diego's general plan and its map, and the fact of San Diego's geographic size and diversity); *Venuto v. Owens-Corning Fiberglas Corp.* (1971) 22 Cal.App.3d 116, 130, fn. 2 (taking judicial notice of City of Santa Clara's zoning map).)

11. Joseph Cole's website http://www.josephcolelaw.com/background/, which states: "Joe grew up in a U.S. Navy family in the U.S. and Asia. He earned degrees in journalism, finance and law, from Ventura College, the University of Southern California, and the University of California Hastings College of the Law. After graduation, Joe joined a top-rated business law firm in Santa Barbara, California, which became Seed, Mackall & Cole. In 1999, Joe moved to an investment company as executive vice president and general counsel. In 2007, he founded his present law

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practice."

I. RELEVANCE

These items requested to be noticed are relevant to the County's Response to the Order to Show Cause in that they support the County's arguments that Petitioners have not shown a likelihood of success on the merits or irreparable harm that would warrant injunctive relief.

Exhibit 1 is relevant because it is the Notice of Exemption ("NOE") for the Montecito right of way restoration project at issue in the Petition. Petitioners have not provided the Court with a copy of this NOE and instead make elaborate arguments about an earlier NOE for a funding action by the Board of Supervisors related to the project.

Exhibit 2, the agenda items for the Santa Barbara County Board of Supervisors' meeting on September 14, 2021 regarding Hot Springs Trailhead Access Funding, is relevant because it addresses Petitioners many accusations that the County did not engage with the community or with the Montecito Fire Protection District or conduct any analysis or review prior to its right of way restoration project. Exhibit 2 also contains the NOE that is extensively discussed in Petitioners' brief.

Exhibits 3 through 8 are relevant because they contain local laws regarding encroachments that demonstrate that unpermitted encroachments violate many local laws. The Court does not have the authority to enjoin the County from enforcing valid local laws. (*Carson Mobilehome Park Owners' Assn. v. City of Carson* (1983) 35 Cal.3d 184, 195.)

Exhibit 9 is relevant because it explains recent changed made to CEQA Guideline 15301, which is one of the categorical exemptions that apply to the right of way restoration project.

Exhibit 10 is relevant because Petitioners assert in their brief that East Mountain Drive is in the Environmentally Sensitive Habitat Overlay. The map shows that only a small portion of a few properties on East Mountain Drive are within the overlay.

Joseph Cole's credentials are relevant to the admissibility of the statements made in his declaration. His credentials demonstrate that he is not qualified to opine as an expert in the environment, biology, ecology, transportation safety, civil engineering, emergency services, evacuation, or fire.

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A court must take judicial notice of a matter specified in Evidence Code Section 452 if a party requests the court do so, gives adverse parties sufficient notice of the request to enable them to prepare to meet the request, and furnishes the court with sufficient information to enable the court to take judicial notice of the matter. (Evid. Code, § 453.)

DATED: April 19, 2022

RACHEL VAN MULLEM
SANTA BARBARA COUNTY COUNSEL

/s/ Lina Somait

By Lina Somait, Senior Deputy
Attorneys for Respondents COUNTY OF SANTA BARBARA and BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY

SANTA BARBARA COUNTY COUNSEL
105 E. Anapamu Street, #201
Santa Barbara, CA 93101
(805) 568-2950

EXHIBIT 1

State of California - Department of Fish and Wildlife

2022 ENVIRONMENTAL DOCUMENT FILING FEE

CASH RECEIPT

DFW 753.5a (REV. 01/01/22) Previously DFG 753.5a

Print | StartOver | Save

RECEIPT NUMBER:
42 — 02/28/2022 — 030

STATE CLEARINGHOUSE NUMBER *(If applicable)*

SEE INSTRUCTIONS ON REVERSE. TYPE OR PRINT CLEARLY.

LEAD AGENCY	LEAD AGENCY EMAIL	DATE
Public Works	mmjones@cosbpw.net	02/28/2022

COUNTY/STATE AGENCY OF FILING	DOCUMENT NUMBER
Santa Barbara	

PROJECT TITLE

NOE - Montecito Right of Way Restoration

PROJECT APPLICANT NAME	PROJECT APPLICANT EMAIL	PHONE NUMBER
Morgan Jones	mmjones@cosbpw.net	(805) 568-3064

PROJECT APPLICANT ADDRESS	CITY	STATE	ZIP CODE
123 E. Anapamu Street	Santa Barbara	CA	93101

PROJECT APPLICANT *(Check appropriate box)*

☑ Local Public Agency ☐ School District ☐ Other Special District ☐ State Agency ☐ Private Entity

CHECK APPLICABLE FEES:

☐ Environmental Impact Report (EIR)	$3,539.25	$	0.00
☐ Mitigated/Negative Declaration (MND)(ND)	$2,548.00	$	0.00
☐ Certified Regulatory Program (CRP) document - payment due directly to CDFW	$1,203.25	$	0.00

☑ Exempt from fee

- ☑ Notice of Exemption (attach)
- ☐ CDFW No Effect Determination (attach)

☐ Fee previously paid (attach previously issued cash receipt copy)

☐ Water Right Application or Petition Fee (State Water Resources Control Board only)	$850.00	$	0.00
☑ County documentary handling fee		$	50.00
☐ Other		$	

PAYMENT METHOD:

☐ Cash ☐ Credit ☐ Check ☑ Other **TOTAL RECEIVED** $ 50.00

SIGNATURE	AGENCY OF FILING PRINTED NAME AND TITLE
X A. Ramirez	Angelica Ramirez, Deputy Clerk

ORIGINAL - PROJECT APPLICANT | COPY - CDFW/ASB | COPY - LEAD AGENCY | COPY - COUNTY CLERK | DFW 753.5a (Rev. 01012022)

State of California - Department of Fish and Wildlife

2022 ENVIRONMENTAL DOCUMENT FILING FEE CASH RECEIPT

DFW 753.5a (REV. 01/01/22) Previously DFG 753.5a

NOTICE

Each project applicant shall remit to the county clerk the environmental filing fee before or at the time of filing a Notice of Determination (Pub. Resources Code, § 21152; Fish & G. Code, § 711.4, subdivision (d); Cal. Code Regs., tit. 14, § 753.5). Without the appropriate fee, statutory or categorical exemption, or a valid No Effect Determination issued by the California Department of Fish and Wildlife (CDFW), the Notice of Determination is not operative, vested, or final, and shall not be accepted by the county clerk.

COUNTY DOCUMENTARY HANDLING FEE

The county clerk may charge a documentary handling fee of fifty dollars ($50) per filing in addition to the environmental filing fee (Fish & G. Code, § 711.4, subd. (e); Cal. Code Regs., tit. 14, § 753.5, subd. (g)(1)). A county board of supervisors shall have the authority to increase or decrease the fee or charge, that is otherwise authorized to be levied by another provision of law, in the amount reasonably necessary to recover the cost of providing any product or service or the cost of enforcing any regulation for which the fee or charge is levied (Gov. Code, § 54985, subd. (a)).

COLLECTION PROCEDURES FOR COUNTY GOVERNMENTS

Filing Notice of Determination (NOD):

- ☐ Collect environmental filing fee or copy of previously issued cash receipt. *(Do not collect fee if project applicant presents a No Effect Determination signed by CDFW. An additional fee is required for each separate environmental document. An addendum is not considered a separate environmental document. Checks should be made payable to the county.)*
- ☐ Issue cash receipt to project applicant.
- ☐ Attach copy of cash receipt and, if applicable, previously issued cash receipt, to NOD.
- ☐ Mail filing fees for **CRP** document to CDFW prior to filing the NOD or equivalent final approval (Cal. Code Regs. Tit. 14, § 753.5 (b)(5)). The CRP should request receipt from CDFW to show proof of payment for filing the NOD or equivalent approval. Please mail payment to address below made attention to the Cash Receipts Unit of the Accounting Services Branch.

If the project applicant presents a **No Effect Determination** signed by CDFW, also:

- ☐ Attach No Effect Determination to NOD *(no environmental filing fee is due).*

Filing Notice of Exemption (NOE) *(Statutorily or categorically exempt project (Cal. Code Regs., tit. 14, §§ 15260-15285, 15300-15333))*

- ☐ Issue cash receipt to project applicant.
- ☐ Attach copy of cash receipt to NOE *(no environmental filing fee is due).*

Within 30 days after the end of each month in which the environmental filing fees are collected, each county shall summarize and record the amount collected on the monthly State of California Form No. CA25 (TC31) and remit the amount collected to the State Treasurer. Identify the remittance on Form No. CA25 as "Environmental Document Filing Fees" per Fish and Game Code section 711.4.

The county clerk shall mail the following documents to CDFW on a monthly basis:

- ✓ A photocopy of the monthly State of California Form No. CA25 (TC31)
- ✓ CDFW/ASB copies of all cash receipts (including all voided receipts)
- ✓ A copy of all CDFW No Effect Determinations filed in lieu of fee payment
- ✓ A copy of all NODs filed with the county during the preceding month
- ✓ A list of the name, address and telephone number of all project applicants for which an NOD has been filed. If this information is contained on the cash receipt filed with CDFW under California Code of Regulations, title 14, section 753.5, subdivision (e)(6), no additional information is required.

DOCUMENT RETENTION

The county shall retain two copies of the cash receipt (for lead agency and county clerk) and a copy of all documents described above for at least 12 months.

RECEIPT NUMBER

The first two digits automatically populate by making the appropriate selection in the County/State Agency of Filing drop down menu.
The next eight digits automatically populate when a date is entered.
The last three digits correspond with the sequential order of issuance for each calendar year. For example, the first receipt number issued on January 1 should end in 001. If a county issued 252 receipts for the year ending on December 31, the last receipt number should end in 252. CDFW recommends that counties and state agencies 1) save a local copy of this form, and 2) track receipt numbers on a spreadsheet tabbed by month to ensure accuracy.

DO NOT COMBINE THE ENVIRONMENTAL FEES WITH THE STATE SHARE OF FISH AND WILDLIFE FEES.

Mail to:
California Department of Fish and Wildlife
Accounting Services Branch
P.O. Box 944209
Sacramento, California 94244-2090

2022 CEQA Transmittal Memorandum

County of Santa Barbara - Clerk of the Board of Supervisors

105 E. Anapamu St. Room 407 • Santa Barbara • CA • 93101

(805) 568-2240

Complete this form when filing a Negative Declaration, Mitigated Negative Declaration, Environmental Impact Report or Notice of Exemption.

You will need to submit one original for posting plus one copy for the Department of Fish & Wildlife. A scanned copy including the date/time of posting will be emailed to the Lead Agency and Project Applicant. If you would like a return copy, please submit an extra copy along with a pre-addressed, stamped envelope.

Contact Person		Phone	
Morgan Jones		568-3059	
Lead Agency		Lead Agency Email	
Public Works			
Project Title			
Montecito Right of Way Restoration			
Project Applicant	Email	Phone	
Public Works			
Project Applicant Address	City	State	Zip
123 E ~~Anapamu~~ Anapamu Street	SB	CA	93101

DOCUMENT BEING FILED:

☐ Environmental Impact Report (EIR) .....

☐ 2022 Filing Fee $3,539.25

☐ Previously Paid **(must attach receipt)** $0.00

☐ No Effect Determination **(must be attached)** $0.00

☐ Negative Declaration or Mitigated Negative Declaration .....

☐ 2022 Filing Fee $2,548.00

☐ Previously Paid **(must attach receipt)** $0.00

☐ No Effect Determination **(must be attached)** $0.00

☒ Notice of Exemption $0.00

☒ County Administrative Handling Fee **(required for all filings, effective 7/19/18)** $50.00

TOTAL: $50.00

PAYMENT METHOD: ALL APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING

☐ Cash ☐ Check #_____ ☒ Journal Entry # 0230733

NOTICE OF EXEMPTION

RECEIVED
2022 FEB 28 P 4: 32
COUNTY CLERK

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Department of Public Works/Transportation Division
(Lead Department/Division)

Based on a preliminary review of the project the following activity is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970 (Pub. Res. Code Section 21000 et seq.), as defined in the State CEQA Guidelines and County Revised CEQA Guidelines.

APN(s) Varies **Project No.** 900900

LOCATION: 105 E. Anapamu Street, Suite 407, Santa Barbara, CA

PROJECT TITLE: Montecito right of way restoration; First Supervisorial District

PROJECT DESCRIPTION: The proposed project is the implementation of right of way restoration, repair, maintenance and operation of the existing facilities to allow for public parking and continued use near the trailhead access within the public road right of way adjacent to the Hot Springs Trailhead along East Mountain Drive.

The East Mountain Drive public right of way is currently unusable for public parking in many areas due to encroachments such as walls, curbing, boulders, landscaping, irrigation, mailboxes and other private features. Many of these private features were installed in the public road right of way without the required road encroachment permits. The project includes limited removal of road encroachments and minor road grading for the purpose of improving sight distance and to allow parking in the public space. The Department is developing solutions and options to create additional parking while minimizing the impacts to encroachments with the public rights-of-way along the property frontages.

This exemption considers all future administrative activities for this project such as Award of Contract and Statement of Final Quantities.

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Public Works Transportation Division

Exempt Status: (Check one)
_____ Ministerial
_____ Statutory Exemption
__X__ Categorical Exemption {15301(c)}
_____ Emergency Project
_____ Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: 15301(c) Existing Facilities – consists of the operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, including but not limited to: (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes), except where the activity will involve removal of a scenic resource including a stand of trees, a rock outcropping, or a historic building.

Reasons to support exemption findings: Consistent with this exemption, the proposed project involves the restoration of the existing roadway to maintain the safe traveling condition of the roadway right of way. The minor alteration of existing public facilities will allow for safe public parking for the pedestrians and also cyclists going to the adjacent public trails. Further, there are no unusual circumstances which would create a possibility that there would be a significant effect. Therefore, the project can be found to be categorically exempt from CEQA.

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

(a) **Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.**

CEQA Guidelines Section 15301 is a Class 1 exemption; therefore, this exception does not apply.

(b) **Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.**

The project involves the restoration and maintenance of right of way to for potential trail use parking in public roadways in Montecito. In addition, there are no other identified projects which would contribute to cumulative impacts. Therefore, this exception does not apply.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The road right of way areas to be restored to public use are within the existing developed roadway right of way. The roadway rights-of-way locations where repairs or modification of the right of way are proposed will have no impact on the environment. Therefore, this exception does not apply.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The project does not involve a scenic highway or a project which may result in damage to a scenic resource, removal of trees, rock outcropping or similar resource.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

There are no hazardous wastes site locations on this public road. Therefore, this exception does not apply.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

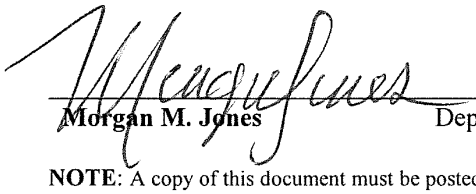
The East Mountain Drive area has been used for decades as public parking for the Hot Springs trail access but is not identified as a historical resource. In addition, the restoration of the public road rights-of-way for public trail parking would not involve any structural modifications to existing public roadway facilities. Therefore, this exception does not apply.

Lead Agency Contact Person: Chris Sneddon, Deputy Director Public Works Transportation/Engineering Division, Phone: (805) 568-3064

Department/Division Representative: Morgan M. Jones, Engineering Environmental Project Team Leader

Acceptance Date: **February 28, 2022**

Distribution: Hearing Support Staff for posting



Morgan M. Jones Department Representative February 28, 2022 Date

NOTE: A copy of this document must be posted with the County's Planning & Development Department at least 6 days prior to consideration of the activity by the decision-makers to comply with County CEQA guidelines and a copy must be filed with the County Clerk of the Board after project approval to begin a 35 day statue of limitations on legal challenges.

Distribution: Date Filed by County Clerk: _____.

Journal Entry

Document Number: JE - 0230733
Document Description: Morgans NOE TBD
Post On:

Batch ID: 2635821
Processed On:
Processed By:

Created On: 2/28/2022 2:48:50 PM
Created By: Brian Gilbert

References

Audit Trail:
Cash Type:

Accounting

Fund	Dept	GL Acct	LI Acct	Debit Amount	Credit Amount	Prog	OUnit	Proj	Act	Area	Equip	Depositor	Description
0016	054	2810	7460	50.00		2810	0500	820755	264	1021			Montecito Trails Access NOE filing fee
0016		0110											Montecito Trails Access NOE filing fee
0001		0110		50.00									Montecito Trails Access NOE filing fee
0001	012	2710	5746		50.00	4020							Montecito Trails Access NOE filing fee
			Total	100.00	50.00								

Signatures

Signed By	Approval Level	Department/Agency-Fund Group	Signed On	Valid

EXHIBIT 2

DocuSign Envelope ID: 391722D4-CA02-4A61-A339-73F7A6CAACF7

BOARD OF SUPERVISORS
AGENDA LETTER

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:

Department Name:	Public Works
Department No.:	054
For Agenda Of:	September 14, 2021
Placement:	Administrative
Estimated Tme:	
Continued Item:	No
If Yes, date from:	
Vote Required:	4/5

TO:	Board of Supervisors	
FROM:	Department Director:	Scott D. McGolpin, Public Works Department, 568-3010
		George Chapjian, Community Services Department, 568-2467
	Contact Info:	Chris Sneddon, Deputy Director, Transportation, 568-3064
		Jeff Lindgren, Deputy Director, CSD-Parks, 568-2475
SUBJECT:	**Hot Springs Trailhead Access Funding; First Supervisorial District**	

DS JH for DS GC

County Counsel Concurrence
As to form: Yes

Auditor-Controller Concurrence
As to form: Yes

Recommended Actions:

That the Board of Supervisors:

a) Approve Budget Revision 0007924 which establishes appropriation for a $100,000 General Fund transfer to Public Works for Hot Springs Trailhead access improvement studies and implementation; and
b) Find that the proposed project is exempt from the provisions of California Environmental Quality Act pursuant to 14 CCR 15301(c) (as the proposed project(s) consists of the operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities), and approve the filing of the attached Notice of Exemption on that basis.

Summary Text:

This item is on the agenda to fund studies and plan improvements to trailhead access within the public road rights-of-way adjacent to the Hot Springs Trailhead. With recent increases in trail users, there is an urgent need to address the imbalance between the available spaces at the Parks access lot and the demand for parking. These funds would be provided from the General Fund's Contingencies committed fund balance.

Background:

Over the last two years, in particular during the COVID-19 pandemic, popularity of the Hot Springs Trail above Montecito has skyrocketed, bringing in dozens to hundreds of hikers a day. Access to the trailhead begins on East Mountain Drive near Riven Rock Road. County Community Services District

(Parks) is responsible for the trailhead and its users, which currently has approximately 6-8 informal parking spaces, which is well below current demand.

As Hot Springs Trail popularity increased, Riven Rock Road became highly impacted with hiker parking. Riven Rock Road is very narrow and complaints soon followed about lack of ingress and egress for homeowners, noise, refuse dumping, and fire access issues. Montecito Fire reviewed the road with Public Works and the determination was made to stripe the shoulder to limit parking to areas where there was sufficient width to allow better emergency access (Attachment A). This safety measure resulted in the elimination of dozens of previous parking spaces that were assisting with the public's demand. As a result access to the trailhead while parking legally can be challenging for hikers.

This funding will provide for studies and initial implementation of parking improvements near the area of the Hot Springs Trailhead. East Mountain Drive has public right-of-way that is currently unusable for parking due to private encroachments such as walls, curbing, boulders, landscaping, mailboxes and other features. The first step in determining how to provide more parking would be to define and stake the right-of-way in the field and confirm right-of-way limits. The next stage would be to document the obstacles to creating public parking and estimates to improve public parking in the area. Using this information, the Department would work with Parks and the adjacent owners on a project that would create public parking while minimizing the impacts to their property frontage. Depending on the scope and complexity of work required to provide additional public parking for trail users, there may be additional funding needed for final implementation.

Fiscal and Facilities Impacts:

Budgeted: No

Fiscal Analysis:

Funding Source	FY 21/22 Revenue
General Fund Contingencies	$100,000

Narrative:

This funding is provided by the General Fund committed fund balance contingencies. Revenues of $100,000 will go to in Department 054, Fund 0016.

Special Instructions:

Please provide a stamped, certified Minute Order to Public Works, Transportation, Attention: Gail Ocheltree x83094.

Attachments:

A) Montecito Fire request for striping on Riven Rock Road
B) BJE 0007924 for fund transfer to Public Works
C) Notice of Exemption

Authored by:

Chris Sneddon, Deputy Director, Public Works Transportation, x83064

To: Greg Fish, Fire Chief

From: Kevin Taylor, Parking Workgroup Facilitator

Subject: Meeting Report

Date: February 1, 2021

The Parking Workgroup of the Fire Chief's Association Public Safety Taskforce has met twice since our January 8, 2021 full taskforce meeting. In addition to all fire agencies, representatives from the California Highway Patrol, Lompoc Police Department, Sheriff's Office, 1st District Supervisor Williams Office, and Public Works are participating in the workgroup.

The objectives of the workgroup are:

1. Develop and implement parking restrictions that maintain community member egress and emergency vehicle ingress on roadways at all times.
2. Develop and implement Red Flag parking restrictions in the most high-risk areas of our communities to preserve evacuation routes and emergency vehicle access routes.

We determined during our initial meeting that our workgroups objectives could be accomplished through three routes:

1. Administrative Level – authorized by the Public Works Director, includes edge line stripping and limiting parking to one side of the street.
2. Policy Level – authorized by the Board of Supervisors (BOS), usually by Resolution. More significant parking modifications like restrictions during Red Flag events falls into this category. Similar requirements apply in the City of Lompoc and City of Santa Barbara.
3. Emergency Level – the BOS appointed the Director of Public Works Parking Commissioner for the duration of the current pandemic emergency. The Parking Commissioner has designated several areas as 2-hour parking to alleviate ingress/egress issues in several areas of the county. These areas can be expanded or reduced at the discretion of the Road Commissioner.

The Administrative process includes neighborhood outreach because any change to street parking arrangements significantly impacts the existing neighborhood character. Any changes proposed in the Coastal Zone will also require Coastal Commission approval.

In our two meetings, each jurisdiction was encouraged to identify areas in their community that may benefit from one or all of the remedies identified above. These issues, potential remedies, and action required are summarized below.

City of Lompoc – RV street parking; Council action in mid-January likely solved this challenge. Consider Red Flag parking restrictions near the riverbed (Lompoc City Council and Santa Barbara County Board of Supervisors Resolution).

Santa Barbara County Fire – Mission Canyon area Red Flag Parking restrictions near Tunnel trailhead; already prohibited by Board Resolution, working with Public Works on signage improvement.

Bucket Brigade on behalf of several neighborhood associations – East and West Camino Cielo; Red Flag Parking restrictions. Roadway maintained by County Roads but owned by Las Padres National Forest (LPF). Working to determine process in the LPF to limit and/or restrict parking during Red Flag.

Montecito Fire – High road system of East Mountain, Park Lane, Bella Vista; edge line stripping (Administrative). Trail head parking areas; Red Flag parking restrictions (Resolution Amendment). Riven Rock, from East Mountain to Hot Springs; parking one side only (Administrative). Eucalyptus, Humphries, and Miramar Roads; parking one side only (in effect from emergency Roads Commissioner action, seeking Administrative change to make one side of street parking permanent; may involve County recovering lost roadway easement space as neighborhood is likely encroaching).

Our next Parking Workgroup meeting will be scheduled after receiving direction from the taskforce.

Budget Journal Entry

Document Number:	BJE - 0007924	Batch ID:	2575016	Created On:	8/20/2021 11:01:29 AM
Document Description:	PW: Montecito Trails Access	Processed On:		Created By:	Andrew Myung
Post On:	9/14/2021	Processed By:			

References

Audit Trail: Actualizing JE:

Budget Revision Request

Agenda Item: Agenda Date: 9/14/2021 Approval: BOS 4/5 Has Board Letter: Yes

Related Event:

Title: PW: Montecito Trails Access

Budget Action: Increase appropriations of $100,000 in the Public Works, Roads-Capital Maintenance Fund for Services and Supplies funded by an operating transfer from the General Fund. Increase appropriations of $100,000 in General County Programs General Fund for Other Financing Uses funded by release of Committed Contingencies Fund Balance.

Justification: Over the last two years, popularity of the Hot Springs Trail above Montecito has skyrocketed, bringing in dozens to hundreds of hikers a day. Access to the trailhead begins on East Mountain Drive near Riven Rock Road. County Community Services District (Parks) maintains the trailhead, which currently has approximately 6-8 informal parking spaces, which is well below current demand.

This funding will provide for the urgent need to address the imbalance between spaces at the Parks access lot and the demand for parking. This item is on the agenda to fund studies and plan improvements to trailhead access within the public road rights-of-way adjacent to the Hot Springs Trailhead. These funds would be provided from the General Fund's Contingencies committed fund balance.

Budget Revision Request Financial Summary

Fund	Department	Project	Object Level	Source Amount	Use Amount
0016 - Roads-Capital Maintenance	054 - Public Works		40 - Other Financing Sources	100,000.00	0.00
0016 - Roads-Capital Maintenance	054 - Public Works		55 - Services and Supplies	0.00	100,000.00
	Fund: 0016 - Roads-Capital Maintenance, Department: 054 - Public Works Total:			100,000.00	100,000.00
0001 - General	990 - General County Programs		70 - Other Financing Uses	0.00	100,000.00
0001 - General	990 - General County Programs		93 - Changes to Committed	100,000.00	0.00

Budget Journal Entry

Fund: 0001 - General, Department: 990 - General County Programs Total:	100,000.00	100,000.00

Accounting

Fund	Dept	GL Acct	LI Acct	Debit Amount	Credit Amount	Prog	OUnit	Proj	Budget Period	Description
0001	990	2420	9898	100,000.00		8300			202206	Montecito Trails Access
0001	990	2530	7901		100,000.00	8300			202206	Montecito Trails Access
0016	054	2420	5910	100,000.00		2810	0500	820755	202206	Montecito Trails Access
0016	054	2530	7510		100,000.00	2810	0500	820755	202206	Montecito Trails Access
			Total	200,000.00	200,000.00					

Signatures

Signed By	Approval Level	Department/Agency-Fund Group	Signed On	Valid
Julie Hagen	Fund/Department	054-Public Works Funds	9/1/2021 2:39:58 PM	Y
Andrew Myung		054-Public Works	9/1/2021 2:55:51 PM	Y
Richard Morgantini	CEO Analyst	All Depts-All Funds	9/1/2021 3:08:01 PM	Y
Wesley Welch	CEO Analyst	All Depts-All Funds	9/1/2021 3:55:28 PM	Y
Sara Weal	FACS	All Depts-All Funds	9/2/2021 8:33:11 AM	Y
Robert Geis	Chief Deputy Controller	All Depts-All Funds	9/2/2021 9:37:09 AM	Y
Paul Clementi	Budget Director	All Depts-All Funds	9/2/2021 9:41:08 AM	Y

NOTICE OF EXEMPTION

TO: Santa Barbara County Clerk of the Board of Supervisors

FROM: Department of Public Works/Transportation Division
(Lead Department/Division)

Based on a preliminary review of the project the following activity is determined to be exempt from further environmental review requirements of the California Environmental Quality Act (CEQA) of 1970 (Pub. Res. Code Section 21000 et seq.), as defined in the State CEQA Guidelines and County Revised CEQA Guidelines.

APN(s) Varies **Project No.** 900900

LOCATION: 105 E. Anapamu Street, Suite 407, Santa Barbara, CA

PROJECT TITLE: Montecito Trail Access Funding; First Supervisorial District

PROJECT DESCRIPTION: The proposed project is the funding of required studies and implementation of potential rights-of-way restoration to public use at trailhead access within the public road rights-of-way adjacent to the Hot Springs Trailhead along East Mountain Drive.

This funding would be utilized to provide studies and for the implementation of parking improvements near the area of the Hot Springs Trailhead. East Mountain Drive has public right of way that is currently unusable for parking due to encroachments such as walls, curbing, boulders, landscaping, mailboxes and other features. Studies are required in determining how to provide more parking in the right of way and confirm right of way limits. This would also document the obstacles to creating parking and provide examples to improve parking in the area. Studying the situation would allow the Department to provide solutions and options to work with the adjacent owners on a project that would create parking while minimizing the impacts to their rights-of-way encroachments long the property frontages. Depending on the scope and complexity of work required there may be additional funding needed for implementation of concepts consistent with the rural character of the Montecito area.

This exemption considers all future administrative activities for this project such as Award of Contract and Statement of Final Quantities.

COSB RJN 000022

Name of Public Agency Approving Project: County of Santa Barbara

Name of Person or Agency Carrying Out Project: Public Works Transportation Division

Exempt Status: (Check one)
_____ Ministerial
_____ Statutory Exemption
__X__ Categorical Exemption {15301(c)}
_____ Emergency Project
_____ Declared Emergency

Cite specific CEQA and/or CEQA Guideline Section: 15301(c) Existing Facilities – consists of the operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, including but not limited to: (c) Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety and other alterations such as the addition of bicycle facilities, including but not limited to bicycle parking, bicycle-share facilities and bicycle lanes, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes), except where the activity will involve removal of a scenic resource including a stand of trees, a rock outcropping, or a historic building.

Reasons to support exemption findings: Consistent with this exemption, the proposed project involves the studies of the existing roadway to maintain the safe traveling condition of the roadway right of way while allowing for safe public parking for pedestrians walking to adjacent public trails. Further, there are no unusual circumstances which would create a possibility that there would be a significant effect. Therefore, the project can be found to be categorically exempt from CEQA.

There is no substantial evidence that there are unusual circumstances (including future activities) resulting in (or which might reasonably result in) significant impacts which threaten the environment. The exceptions to the categorical exemptions pursuant to Section 15300.2 of the State CEQA Guidelines are:

(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located -- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.

CEQA Guidelines Section 15301 is a Class 1 exemption; therefore, this exception does not apply.

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

The project involves studying and potential maintenance of rights-of-way to increase potential trail use parking in public roadways in Montecito. In addition, there are no other identified projects which would contribute to cumulative impacts. Therefore, this exception does not apply.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

The roadway areas to be studied and that may be repaired are in existing developed roadway rights-of-way. The roadway rights-of-way to be studied and locations where repairs or modification of the rights-of-way are proposed will have no impact on the environment. Therefore, this exception does not apply.

(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.

The project does not involve a scenic highway or a project which may result in damage to a scenic resource, removal of trees, rock outcropping or similar resource.

(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.

There are no hazardous wastes site locations on this public road. Therefore, this exception does not apply.

(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

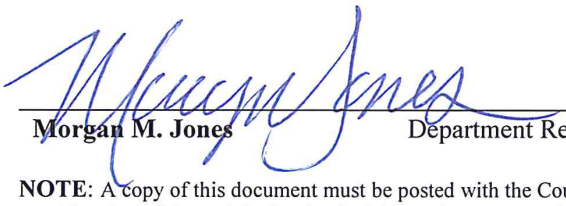
The East Mountain Drive area that is involved with public parking for the Hot Springs trail access is not identified as a historical resource. In addition, the restoration of the public road rights-of-way for public trail parking would not involve any structural modifications to existing public roadway facilities. Therefore, this exception does not apply.

Lead Agency Contact Person: Chris Sneddon, Deputy Director Public Works Transportation/Engineering Division, Phone: (805) 568-3064

Department/Division Representative: Morgan M. Jones, Engineering Environmental Project Team Leader

Acceptance Date: **September 14, 2021**

Distribution: Hearing Support Staff for posting



August 23, 2021

Morgan M. Jones Department Representative Date

NOTE: A copy of this document must be posted with the County's Planning & Development Department at least 6 days prior to consideration of the activity by the decision-makers to comply with County CEQA guidelines and a copy must be filed with the County Clerk of the Board after project approval to begin a 35 day statue of limitations on legal challenges.

Distribution: Date filed with Planning & Development _____.

Distribution: Date Filed by County Clerk: _____.

County of Santa Barbara

BOARD OF SUPERVISORS

Minute Order

September 14, 2021

Present: 5 - Supervisor Williams, Supervisor Hart, Supervisor Hartmann, Supervisor Nelson, and Supervisor Lavagnino

PUBLIC WORKS

File Reference No. 21-00837

RE: Consider recommendations regarding Hot Springs Trailhead access funding, First District, as follows: (4/5 Vote Required)

a) Approve Budget Revision No. 0007924 which establishes appropriation for a $100,000.00 General Fund transfer to Public Works for Hot Springs Trailhead access improvement studies and implementation; and

b) Find that the proposed project is exempt from the provisions of California Environmental Quality Act pursuant to 14 CCR 15301(c) (as the proposed project(s) consist of the operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities), and approve the filing of a Notice of Exemption on that basis.

A motion was made by Supervisor Hart, seconded by Supervisor Williams, that this matter be acted on as follows:

a) and b) Approved.

The motion carried by the following vote:

Ayes: 5 - Supervisor Williams, Supervisor Hart, Supervisor Hartmann, Supervisor Nelson, and Supervisor Lavagnino

EXHIBIT 3

Sec. 2-26. - Same—Composition.

(a) The county planning commission shall consist of five appointive members so selected as to provide that there shall be one member from each supervisorial district.

(b) The Montecito planning commission shall consist of five appointive members who reside in the Montecito planning area as designated by the Montecito community plan.

(Ord. No. 1695, § 4; Ord. No. 4468, § 2)

COSB RJN 000028

Sec. 23-11. - Parking regulations, establishment of crosswalks, loading, etc., zones—Authorized by resolution.

The board of supervisors may by resolution:

(a) Designate portions of any highway under its jurisdiction as a "No Parking Zone" or as a "No Parking Zone—Tow Away Zone."

(b) Designate portions of any highway under its jurisdiction as "Loading Zone."

(c) Designate portions of any highway under its jurisdiction as time-limited, or altogether prohibited parking, during certain hours as recommended by the road commissioner. Portion of highways so designated shall be posted with signs stating the applicable parking limitations and the hours during which parking is time-limited or altogether prohibited.

(d) Designate portions of any highway under its jurisdiction as "Angle Parking Zone," except on state highways.

(e) Establish crosswalks for pedestrian traffic at locations other than street intersections.

(f) Designate portions of any highways under its jurisdiction as "Temporary No Parking Zones."

(g) Cause white lines designating parking spaces to be marked on the pavement, pursuant to section 22508 of the State Vehicle Code.

(h) Designate portions of any highway under its jurisdiction as being areas in which parking is prohibited between the hours of 1:00 A.M. and 6:00 A.M.

(i) Designate portions of any one-way roadways of divided highways under its jurisdiction as "Left-Hand Parking Zones."

(j) Designate portions of any highway or parking facility under its jurisdiction as "Handicapped Parking Zones."

(k) Designate portions of highway or parking facilities as "Car Share Permit Parking" or "Shared Mobility Device Parking".

(Ord. No. 1133, § 1; Ord. No. 1280, § 1; Ord. No. 2016, § 1; Ord. No. 2994, § 1; Ord. No. 3033, § 1; Ord. No. 3060, § 1; Ord. No. 3167, § 1; Ord. No. 3180, § 1; Ord. No. 3641, § 1; Ord. No. 4476, § 1; Ord. No. 4742, § 1, 2-23-2010; Ord. No. 5064, § 1, 11-13-2018)

COSB RJN 000029

Article I. - Excavations and Encroachments

Sec. 28-1. - Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them by this section:

Applicant. Any person making written application to the commissioner for an excavation permit hereunder.

Board. The board of supervisors of the county.

Commissioner. The road commissioner of the county, and such term shall include, where appropriate, his assistants and deputies.

Department. The road department of the county.

Excavation. Any opening in the surface of a road right-of-way made in any manner whatsoever, except an opening into a lawful structure below the surface of a road, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the road.

Facility. Pipe, pipe line, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer or any other material, structure or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under or over any road right-of-way.

Permittee. Any person who has received excavation or encroachment permits pursuant to this article.

Person. Any and all persons and entities, natural or artificial, singular or plural, masculine, feminine and neuter, including but not limited to corporations, individuals, partnerships, joint ventures, estates, trusts, associations, cooperatives, the United States, the state and all other states, the county and all other counties, all cities, cities and counties, and all other public bodies, agencies, districts, or subdivisions, and all other officers, employees, departments and bureaus of the foregoing and any other individuals, groups or combinations, whether acting alone, jointly or in combination; provided, however, that the above enumeration shall not include the road commissioner nor the road department of the county.

Public Agency. The United States, or any department or agency thereof, the state or any department or agency thereof, any county, city, city and county, municipal corporation, political subdivision, public district or any other public officer or public body.

Roads. Any highway, street, alley or way in the county, which is owned, or controlled, or maintained by the county for the purpose of travel.

Substructure. Any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, or other similar structure located below the surface of any road right-of-way.

(Ord. No. 1491, § 3)

Sec. 28-2. - Purpose of article.

The purpose of this article is to regulate and control all secondary uses of county roads in order to protect and preserve the primary purpose and use of such roads which is hereby declared to be traveled by the public.

COSB RJN 000030

(Ord. No. 1491, § 2)

Sec. 28-3. - Permit—Required; exceptions.*

No person shall do or cause to be done any of the following enumerated things without first obtaining a permit therefore and complying with all conditions thereof and all provisions of this article:

(a) Excavate or fill in an excavation within a road right-of-way.

(b) Install, maintain, cut into, repair or remove any sidewalks, curbs, gutters or road surfacing; or install, repair or remove any facilities or substructures in, on, over, or under any road right-of-way. This section shall not apply to telephone and power poles, associated anchors and guy wires located behind existing curbs, in alleys, or where no curb is provided. Any present right which exists prior to the date upon which the portion of the road affected becomes a public county road, shall not be impaired, diminished or affected in any way by the permit requirements of this and other sections of this article.

(Ord. No. 1491, § 4)

* As to licenses generally, see ch. 22 of this Code.

Sec. 28-4. - Same—Application; approval.

Applications for a permit for performance of any of the acts described in section 28-3 shall be made in writing, upon forms furnished by the department and approved by the commissioner. The forms shall be filed with the department and shall set out the following in detail, where applicable:

(a) Name and residence or business address of applicant.

(b) Location, dimensions, purpose, extent and nature of the proposed excavation, fill or obstruction, and the facilities or substructures to be installed, repaired or removed.

(c) Such other information as may be required by the department or the commissioner.

Where one particular job will combine two or more of the acts described in section 28-3, a single application may, in the discretion of the commissioner, be made to cover such job. All applications shall be made by the owner or by his agent duly authorized in writing, who shall set out the owners names above his own. This application, when approved and signed by the commissioner, shall constitute the permit required hereunder.

(Ord. No. 1491, § 6)

Sec. 28-5. - Same—When plat to accompany application.

With each application for a permit hereunder, the road commissioner may, in his discretion, require the applicant to file a plat in triplicate, showing and designating by name, the road or roads which will be affected by such excavation, fill or obstruction, etc., together with the exact proposed location or locations and dimensions thereof as well as any other details required by the commissioner.

This section shall not apply to excavations solely for making or maintaining service connections or for locating troubles or breaks in conduits, lines or pipes and repairing same.

(Ord. No. 1491, § 7)

Sec. 28-6. - Same—When plans to accompany application.

COSB RJN 000031

If, in the opinion of the commissioner, the work proposed to be done by any applicant requires the making of plans, the commissioner may require the application to be accompanied by such plans, and may require that such plans shall be prepared by a licensed surveyor or registered civil engineer.

(Ord. No. 1491, § 17)

Sec. 28-7. - Same—Security prerequisite to approval; conditions of security; continuing security.

With each application for a permit hereunder, applicant shall deposit cash, certified check, cashier's check, irrevocable letter of credit, (no negotiable securities of the kind approved to secure public monies) or post a bond or any other security that the commissioner deems adequate in an amount calculated by the commissioner to be sufficient to cover all fees required hereunder, and to insure complete restoration of the surface of the road or roads to a condition as good as it was in prior to commencing the acts permitted hereunder. If a bond is posted, it shall be executed by a corporation incorporated for the purpose of making, guaranteeing or becoming a surety upon lands or undertakings, and qualified as such under the laws of the state, and shall inure to the benefit of the county and be conditioned upon payment of all fees and other charges required by this article and full and complete repair and restoration of the road or roads affected to a condition as good as they were in prior to commencement of the acts permitted hereunder. Such bond shall further be subject to the approval of the commissioner as to form and sufficiency.

In the event that a portion of any job, for which a permit is required under this article, shall have been permitted under any other provision of this Code or other ordinance and any of the securities enumerated in the first paragraph of this section have been given therefor, the commissioner may, in his discretion, accept such security as complying in full or in part with the requirements of this article and waive the security required hereunder in full or in part.

In lieu of giving of security with each application for a permit hereunder, the commissioner may, in his discretion, permit an applicant to make and maintain a continuing deposit of security in the amount of at least five thousand dollars. If, in the opinion of the commissioner, the amount of work being performed or to be performed by an applicant shall require a greater amount of security, the commissioner may require an appropriate increase in such amount. In the case of applicants defined as a public utility by the Public Utility Commission of the state or if not so defined as a public utility, but performing services of a public utility or quasi public utility nature, and in the case of applicants which are public agencies, and which in such cases have assets in excess of two hundred fifty thousand dollars, no security shall be required to be deposited hereunder, unless the road commissioner shall, for good cause, make a written demand for deposit of security by such applicant.

(Ord. No. 1491, § 8)

Sec. 28-8. - Same—Issuance fees.

The applicant shall pay a fee of five dollars to cover the cost of processing the application, issuing a permit thereunder, and help to defray the cost of county liability insurance covering liability for personal injury and property damage which might arise out of or in connection with work permitted hereunder. This section shall not apply to a public agency as the same is defined herein. Permit fees may be waived by the road commissioner where a permit is required hereunder for work to be done in connection with or as a result of a county project.

(Ord. No. 1491, § 9; Ord. No. 2820, § 1)

COSB RJN 000032

Sec. 28-9. - Same—Changes on permits.

Any permit issued hereunder shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the commissioner for the protection of the highways or to prevent undue interference with traffic or to protect both persons and property within, upon or adjacent to the highways from damage or danger. In the case of changes or limitations or conditions to be made or imposed by the commissioner after a permit is issued hereunder, the commissioner shall notify the permittee thereof, in writing, either by mail to the address set forth in the application or by personal service upon the permittee.

Such change or new limitation or condition shall be effective twenty-four hours after deposit in the United States mail or immediately upon personal service.

(Ord. No. 1491, § 20)

Sec. 28-10. - Same—Special single permits.

The commissioner may issue a single permit for any number of excavations or other work done hereunder which are part of a single project or single job, and may also issue annual permits for service connections or for other routine minor work performed by owners or employees and not exceeding one thousand five hundred dollars cost for any separate job. Either permit shall become effective and be exercised by written notice given to the commissioner not less than twenty-four hours before work is to be commenced thereunder.

(Ord. No. 1491, § 21; Ord. No. 3554, § 1)

Sec. 28-11. - Same—Nontransferable.

Permits issued pursuant to this article are nontransferable.

(Ord. No. 1491, § 24)

Sec. 28-12. - Same—Refusal to issue; revocation.

(a) The commissioner may refuse to issue permits and may revoke any outstanding permits issued or any portion thereof, where the work has not been started, when the work authorized by the permit or any portion thereof is included in the proposed work to be done by any existing assessment district or by any proposed assessment district for which formation proceedings have been instituted by the board of supervisors. Upon such partial or complete revocation of a permit, all or a pro rata portion, as the case may be, of the cash deposit or other security of applicant, shall be returned or all or a pro rata portion, as the case may be, of any bond posted shall be exonerated, provided all fees and charges due have been first paid in full.

(b) The commissioner shall not issue any permit under this article while the applicant is in default of any terms or conditions of any prior excavation permit issued by the commissioner. If there is a question of fact as to the applicant's compliance with any permit issued prior to the permit in question, the applicant may apply to the board for a review of the commissioner's denial of the permit. If the board shall find as a matter of fact that the applicant is not in default under any prior permits, it may order the issuance of a permit to the applicant.

(Ord. No. 1491, § 23)

COSB RJN 000033

Sec. 28-13. - Same—Display.

The permit or a true copy thereof signed by the commissioner shall be available at the job site at all times while the work is in process and until accepted by the commissioner as fully completed.

(Ord. No. 1491, § 50)

Sec. 28-14. - Calculation of restoration costs for bonds.

Restoration costs for bonds shall be calculated in accordance with the current unit price figures set by the board of supervisors.

(Ord. No. 1491, § 11; Ord. No. 2820, § 2)

Sec. 28-15. - When additional charges may be imposed; stop work orders for failure to pay.

If in the course of the work being done under the permit or permits, additional inspections or additional replacement charges over and above the amount of the initial security become necessary, or in the case of continuing security the amount becomes insufficient to cover fees and charges for work in progress, the commissioner may require that additional security be furnished by the permittee. Failure to promptly furnish the same upon request shall be grounds to revoke or suspend the permit or permits as provided in section 28-27 and order all work being done thereunder to be stopped as provided in section 28-52.

(Ord. No. 1491, § 12)

Sec. 28-16. - Restoration; security for completion.

Where work has been done under a permit issued pursuant to this article, the actual cost of restoring the area to the condition that it was in before the work was commenced shall be borne by the permittee. This section shall be applicable to all persons and public agencies as defined herein and all persons and public agencies shall furnish security for the completion of such work as provided herein.

(Ord. No. 1491, § 13)

Sec. 28-17. - Collection of fees and charges; retention of deposits for one year.

All unpaid fees and charges made pursuant to this article may be deducted from cash deposits (where deposits are required) and the balance, if any, returned to permittee, except in the case of continuing cash deposits, upon completion of the work permitted hereunder and approval thereof by the commissioner; provided, however, that one-third of the cash deposit for replacement charges as set out in section 28-14 shall be retained for twelve months after completion of the work; except, that on work involving an amount of five hundred dollars or less, there shall be no retention of any part of the cash deposit. Where work involves an amount in excess of five hundred dollars, but less than seven hundred and fifty dollars, the permittee may apply to the board of supervisors for release of the cash deposit and the board may release the deposit upon recommendation of the commissioner. In all cases where cash deposits are not made, all unpaid fees and charges shall be billed to the permittee.

(Ord. No. 1491, § 14)

Sec. 28-18. - Remedies for collection of unpaid fees and charges.

COSB RJN 000034

In the event any applicant shall fail to pay any fees or charges due under this article when charged for the same, the commissioner may, in his discretion, proceed against the surety for applicant or any bond or bonds or any other security provided for in ~~section 28-7~~ posted by the applicant to collect such fees or charges, or the commissioner may elect to bring an action at law in any court of appropriate jurisdiction to collect the charges or fees from the applicant without the necessity of bringing action against the surety. The commissioner may, in addition, refuse to issue any new permits to an applicant with unpaid fees or charges due on any job.

(Ord. No. 1491, § 15)

Sec. 28-19. - Single deposit fund may be used.

Fees for applications for and issuance of permits, for inspection costs and other charges may be deposited in a single fund from which disbursements are made.

(Ord. No. 1491, § 16)

Sec. 28-20. - "Save harmless" agreement.

Each applicant shall sign a statement on each application agreeing to save and hold harmless the county and each and every officer and employee thereof from any liability or responsibility for any accident, loss or damage to persons or property arising out of or connected in any way with any work done by the applicant under any permit granted hereunder.

(Ord. No. 1491, § 28)

Sec. 28-21. - Proof of right to use road.

The commissioner may require each applicant to file proof of applicant's right to use the road for the purposes set forth in the application.

(Ord. No. 1491, § 33)

Sec. 28-22. - Applicability of article to subdivisions.

The terms of this article shall apply to work on, in or in connection with roads in any subdivision or subdivided lands, as the same are defined by law, provided that requirements of ~~chapter 21~~ and any regulations, resolutions and orders of the board of supervisors relating to subdivisions shall govern all bonds and inspection fees on work done in or in connection with a subdivision.

(Ord. No. 1491, § 5)

Sec. 28-23. - Inspection and testing charges.

All inspection fees and all testing fees shall be charged in accordance with the current rate schedule set by the board of supervisors.

(Ord. No. 1491, § 10)

Sec. 28-24. - Inspection by stages.

COSB RJN 000035

The commissioner may require, in any permit issued by him hereunder, that permittee give written or oral notice of the accomplishment of specified stages in the completion of the work to be done, in order to permit inspection thereof by the department.

In the event the commissioner makes such requirements in the permit, the permittee shall do no further work which would hinder or prevent a complete inspection of such completed stage of the work, until such inspection has been made and the stage completed, and approved by the department, and if such work shall have been done prior to such inspection, the permittee shall take all steps and do all work necessary to permit a full and complete inspection upon demand of the person charged by the commissioner with the duty of making such inspections.

(Ord. No. 1491, § 44)

Sec. 28-25. - Interference with inspection prohibited.

No person shall prevent or obstruct any officer or employee of the department in making any inspection pursuant to this article, nor in taking any sample or making any test.

(Ord. No. 1491, § 32)

Sec. 28-26. - Stake setting.

If, in the opinion of the commissioner, the work proposed to be done by the applicant requires the setting of stakes, the commissioner may require the applicant to set, or cause to be set, such stakes as in the opinion of the commissioner are necessary or expedient under the circumstances. Where the commissioner deems that drainage or other facts are critical, the commissioner may have such stakes set by the department and may make a reasonable charge to applicant to cover the costs of setting such stakes.

(Ord. No. 1491, § 18)

Sec. 28-27. - When work to be commenced; diligence in work; commissioner's right to complete.

Except in the case of annual permits, every permittee shall commence the proposed work within thirty days after the granting of the permit or within such other time from thirty days minimum to sixty days maximum as the road commissioner shall specify, (or in the case of special single permits set out in ~~section 28-10~~ within thirty days from the date when such permit becomes effective as to the particular job concerned) and thereafter shall prosecute the work to completion in a diligent and workmanlike manner and restore roads to their original condition or as near as may be possible. The commissioner may, for good cause, excuse delay in commencement or completion of such work. In the event of unexcused delay or failure to commence, carry out or complete such work in the manner provided herein, the commissioner may, in addition to any other remedies he may have, terminate or suspend such permit by notice in writing effective immediately upon personal delivery to permittee or his agent, or twenty-four hours after being deposited in the United States mail addressed to permittee at the address shown on the application for permit except that the commissioner may elect to have the work completed and the cost thereof charged to the permittee. Thereafter, no work shall be done under the permit unless and until it is reinstated by the commissioner.

(Ord. No. 1491, § 22)

Sec. 28-28. - Satisfactory performance of work required.

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The permittee shall perform all work in accordance with plans (if plans are made), and specifications referred to in the permit to the satisfaction of the commissioner.

(Ord. No. 1491, § 19)

Sec. 28-29. - Notice of completion.

Upon completion of any work or act for which a permit has been granted, the permittee shall notify the commissioner in writing on a form prescribed by the commissioner.

(Ord. No. 1491, § 29)

Sec. 28-30. - Interference with fire hydrants, etc.*

The excavation work shall be performed and conducted so as not to unreasonably interfere with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, and all other vital facilities. The commissioner may prescribe specific conditions or exceptions in writing relating to such vital facilities.

(Ord. No. 1491, § 26)

* As to fire prevention generally, see ~~ch. 15~~ of this Code.

Sec. 28-31. - Protection of traffic.*

The permittee shall maintain safe crossings for two lanes of vehicle traffic at all road intersections where possible and safe crossings for pedestrians at intervals of not more than three hundred feet. If any excavation is made across any road right-of-way, at least one safe crossing shall be maintained when possible for vehicles and pedestrians. If the road is not wide enough to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk.

(Ord. No. 1491, § 27)

* As to motor vehicles and traffic generally, see ~~ch. 23~~ of this Code.

Sec. 28-32. - Protective measures.

It shall be the duty of every person cutting or making an excavation in or upon any road right-of-way to place and maintain such barriers and warning devices necessary for safety as specified by the state division of highways' publication "Manual of Warning Signs, Lights, and Devices for Use in Performance of Work upon Highways," and any revisions, supplements or replacements thereof.

Barriers shall meet the requirements of the commissioner. Warning lights shall be flares, torches, lanterns, electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Torches shall be open wick or flame flares or bombs generally used in connection with roadway repairs or construction and operating on kerosene or similar fluid. Lanterns shall be kerosene or a similar fluid; burning lanterns shall have clear red or ruby globes. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace, light sources.

(Ord. No. 1491, § 34)

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Sec. 28-33. - Routing traffic; notices to interested persons.*

The permittee shall take appropriate measures to assure that during the performance of the work, traffic conditions shall be maintained at all times as near normal as practicable, so as to minimize inconvenience to the occupants of the abutting property and to the general public; provided, that the commissioner may permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if, in his opinion it is necessary.

The commissioner may require that the permittee give notification to specified interested persons before commencement of the work.

(Ord. No. 1491, § 25)

* As to motor vehicles and traffic generally, see ~~ch. 23~~ of this Code.

Sec. 28-34. - Relocation and protection of facilities—Generally.

The permittee shall not move, alter, temporarily relocate, change, or interfere with any existing facility without the consent of the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner, (unless the owner shall otherwise specify in writing). No facility owned by the county shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The permittee (or any other person specified by the owner in writing) shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other facilities which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across such work to the satisfaction of the owner of such facilities. In case any of the pipes, conduits, poles, wires or other facilities should be damaged (and for this purpose pipe coating or other encasement or devices are to be considered as part of a facility), they shall be repaired by the agency or person owning them (or other person specified by the owner in writing) and the expense of such repairs shall be charged to and paid by the permittee. It is the intent of this paragraph that permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such damage and such assumption of liability is a contractual obligation of the permittee. The only exception shall be such instances where damage is exclusively due to causes beyond the control of the permittee. The county shall not be made a party to any action because of this paragraph. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

Every application (except in cases where the easement existed before the road become a public road) shall contain a statement, signed by the permittee that if any facilities placed in the excavation or obstruction for which the application is granted and approved as a permit, shall become incompatible with future travel by the general public, then the permittee or its assigns or successors will, at its own expense, either remove such facilities in cases where such removal is necessary or in cases where the use thereof has been or is to be abandoned, or in other cases, permittee or its successors or assigns, will at its own expense relocate such facilities at a location designated by the commissioner. Unless directed otherwise by the commissioner, the permittee shall, after either such removal, or such relocation, fill in all excavations and restore the surface of the road right-of-way to as good a condition as it was in before such removal or relocation. Removal or relocation shall not be required for a temporary purpose nor for work to be done to the road which is not connected with the primary purpose of a road as defined in ~~section 28-2~~.

The permittee, his successors or assigns shall complete such removal or relocation within a reasonable time specified by the commissioner if the permittee, his successors or assigns, fails to comply with the demand, the commissioner may perform, or cause to be performed, the removal or relocation work and recover the cost thereof

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from the permittee, its successors or assigns by action in a court of competent jurisdiction.

The permittee may, however, by agreement in writing with the commissioner, arrange for necessary removal or relocation of facilities by the county, reimbursement of the cost thereof to be made to the county, upon completion of such removal or relocation.

This section shall not apply to any right which has been continuously exercised since a time prior to the date when the portion of the road affected became a public county road or which right exists by virtue of a document recorded prior to such date in the office of the county recorder of the county, unless such right (in either case) shall have been subordinated by a document recorded in that office to the right of the public in such portion of the road.

(Ord. No. 1491, § 30)

Sec. 28-35. - Same—Exception.

~~Section 28-34~~ insofar as it applies to the cost of removal or relocation of facilities and the statement on the application concerning such removal or relocation of facilities, shall not apply to any public agency as permittee or otherwise which shall have entered into an agreement in writing with the county governing payment of the cost of removal or relocation of facilities and equipment but instead the provisions of such agreement shall regulate and control payment of the cost of such removal or relocations.

(Ord. No. 1491, § 30:1)

Sec. 28-36. - Protection of adjoining property.

The permittee shall at all times and at his own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall first attempt to obtain a license from the owner of such private property for such purpose. If the owner shall refuse to permit entry for such purpose, or if permittee cannot locate the owner, then permittee shall have no liability hereunder to the owner for damage to private property occasioned by careful execution of the work permitted hereunder, provided permittee shall have first taken all reasonable precautions to prevent damage which could reasonably have been taken without entry upon such private property.

The permittee shall, at his own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to any roads or other public or private property, real and personal resulting from its failure properly to protect and carry out such work subject to the foregoing provision relating to entry upon private property. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and shall be replaced or the area shall be reseeded where cutting and replacing sod is impractical, after ditches have been backfilled as required in this ordinance. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as close as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas without first obtaining the consent of the county road commissioner or other county official having control of such property.

(Ord. No. 1491, § 31)

Sec. 28-37. - Protection of water courses.

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The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of such curb at the gutterline. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained.

(Ord. No. 1491, § 36)

Sec. 28-38. - Care of excavated material.

All material excavated from trenches and piled adjacent to the trench in any road shall be laid compactly along the side of the trench and maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the road and so that as little inconvenience as possible is caused to those using streets and adjoining property. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance, toe boards or bins may be required by the commissioner to prevent spreading of dirt into traffic lanes. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the commissioner shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

All trench and tunnel excavations and constructions shall conform with the safety requirements for shoring, bracing and ladders in trenches in accordance with "Trench and Tunnel Construction Safety Orders of the State of California," as they now or may hereafter exist.

(Ord. No. 1491, § 35)

Sec. 28-39. - Clean up.

As the excavation work progresses, all roads shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the commissioner. From time to time, as may be ordered by the commissioner and in any event immediately after completion of work, the permittee shall, at his own expense, clean up and remove all refuse and unused materials of any kind resulting from such work, and upon failure to do so within twenty-four hours after having been notified to do so by the commissioner, the work may be done by the commissioner and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the cash deposit or surety bond provided hereunder.

(Ord. No. 1491, § 36)

Sec. 28-40. - Pavement cuts.

(a) Heavy duty pavement breakers may be prohibited by the commissioner when the use endangers existing substructures or other property.

(b) Saw cutting of Portland cement concrete may be required by the commissioner when the nature of the job or the condition of the road warrants. When required, the depths of the cut shall be not less than one inch in depth; however, depths greater than one inch may be required by the commissioner when circumstances warrant. Saw cutting may be required by the commissioner outside of the limits of the excavation over cave-outs, overbreaks and small floating sections.

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(c) Approved cutting of bituminous pavement surface ahead of excavations may be required by the commissior confine pavement damage to the limits of the trench.

(d) Sections of sidewalks shall be removed to the nearest score line or saw cut edge.

(e) Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

(f) Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

(g) Cutouts outside of the trench lines shall be normal or parallel to the trench line.

(h) Boring or other methods to prevent cutting of pavement may be required by the commissioner.

(i) The permittee shall not be required to repair damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case permittee shall remove and pave the area.

(Ord. No. 1491, § 38)

Sec. 28-41. - Depth substructures to be placed.

No person shall, without written permission of the commissioner, install any substructure, except manholes, vaults, valve casings, culverts, and catch basins at a distance less than the following distances:

(a) Paved Roads. Twenty-four inches below the established flow line of the gutter.

If the flow line is not established, then the depths shall be at a minimum of twenty-four inches below the surface of the outermost edge of the traveled portion of the road.

(b) Parkway.

(1) The minimum depth of any substructure shall be sixteen inches below established gutter grade when such substructure parallels the parkway.

(2) The minimum depth of any substructure shall be twelve inches below the top of the established sidewalk or curb when such substructure is at right angles to the parkway.

(c) Other Roads. The minimum depth of any substructure in any other road shall be twelve inches below the surface; provided, however, that the commissioner may permit a lesser depth in special cases.

Nothing in this section shall impose a duty upon the permittee to maintain the specifications as required herein upon subsequent changes of grade in the surface unless the location of the substructure interferes with the maintenance of, or travel on, a public road.

(Ord. No. 1491, § 39)

Sec. 28-42. - Backfilling.

Fine material, free from lumps and stone, selected from the soil shall be thoroughly compacted around and under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved and the method of consolidation being used. Broken pavement, large stone, roots and other debris shall not be used in the backfill. Each lift shall be flooded, jetted or ponded, or a combination of these methods shall be used, depending upon the type of soil involved, to compact the backfill material. Backfill material having a sand equivalent of less than ten shall not be flooded, jetted or ponded. Such backfill shall be placed in lifts not to exceed eight inches in thickness when compacted with pneumatic tampers or placed in lifts not to exceed four feet when compacted with a hydra hammer. Backfill material having a sand equivalent greater than ten may be flooded, jetted or ponded except

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that no flooding, jetting or ponding shall be allowed within thirty inches of finish grade, unless specific approval for such is received from the commissioner. All backfill shall be done in a manner that will permit the restoration of the surface to condition equivalent to that in which it was prior to excavation. The commissioner may require soil tests to be taken by the county's soil testing laboratory, when, in his opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the commissioner. All expense of such tests shall be borne by the permittee.

(Ord. No. 1491, § 40)

Sec. 28-43. - Surface restoration—Generally.

Permanent resurfacing of excavations may be made where the type of consolidation used in replacing the backfill is adequate, in the opinion of the commissioner, to prevent settling and when the moisture content of the backfill is not excessive. In the event the type of consolidation used in replacing the backfill is not adequate to prevent further settling or the moisture content is excessive, temporary resurfacing shall be provided. If temporary surfacing is provided, the top surface of the backfill shall be covered with one inch of bituminous material. Such temporary paving material shall be cool mix, except that the permittee may use or the commissioner may require hot mix. All temporary paving material shall conform closely enough to the level of the adjoining paving surface and shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it as well as for vehicular traffic to pass safely over it at a legal rate of speed. The permittee shall maintain temporary paving for a period not exceeding ninety days after all backfilling is completed, unless additional time is required by the commissioner, and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving, except that if it is impracticable to maintain the surface of the temporary paving in a safe condition for pedestrian travel or vehicular traffic, then the permittee shall maintain barriers and lights where required herein.

Acceptance or approval of any excavation work by the commissioner shall not prevent the county from asserting a claim against the permittee and his surety under the surety bond required hereunder for incomplete or defective work if discovered within twelve months from and after the completion of the excavation work. The commissioner's presence during the performance of any excavation work shall not relieve the permittee of his responsibilities hereunder.

(Ord. No. 1491, § 41)

Sec. 28-44. - Same—County's right; standards.

Upon completion of the backfilling, (including temporary resurfacing when required), of an excavation within a road right-of-way for the installation or removal of substructures, the commissioner at his option, may require the permittee to resurface that portion of the road surface damaged by the permittee's excavation, in which event resurfacing shall be done in a manner and under specifications prescribed by this article, subject to commissioner's inspection, and shall be completed within a period of ninety days after such authorization to complete final resurfacing. Where required in the interest of public safety, the commissioner may elect to do such resurfacing with county forces, in which event the cost of such resurfacing shall be borne by the permittee.

(a) Subgrades. Shall be restored to that existing prior to the excavation or in accordance with standards for the construction of new paved roads used by the county.

(b) Paving Replacement. Portland cement concrete used in the repair of trenches shall not have a slump

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in excess of two inches.

(c) Thickness of Pavement. Portland cement concrete used in the repair of trenches in streets shall be replaced with a thickness equivalent to that removed, but in no case less than five inches. Bituminous pavement shall be replaced at the same thickness as the existing pavement. All bituminous pavement replaced shall be given a fog seal coat.

(d) Thickness of Sidewalks. Portland cement sidewalks shall be replaced with the thickness of that removed; but in no case less than four inches and shall match the color and texture of the adjoining sidewalk.

(e) Expansion Joints. Expansion joints in Portland cement patches shall be matched with saw cut lines.

(f) Cement. Portland cement shall be furnished to match the texture of that of the adjoining pavement.

(g) Compacting. Concrete shall be compacted by tamping, rodding, or mechanical vibration.

(h) Repairs. Repairs in rock and oil roads shall be made in accordance with the existing specifications for bituminous type pavement.

(i) Chip Seal Coats. Chip seal coats may be required by the commissioner when the street has been chip sealed or when it is a general practice to chip seal bituminous type pavement.

(Ord. No. 1491, § 42)

Sec. 28-45. - Maximum length of open trench permitted.

The maximum length of open trench permissible at any time shall be as may be specified by the commissioner and no greater length shall be open for pavement removal, excavation, construction, backfilling, patching and all other operations without first obtaining the written permission of the commissioner.

(Ord. No. 1491, § 43)

Sec. 28-46. - "Around the clock" work.

If in his judgment, traffic conditions, the safety or convenience of the traveling public or the public interest require that work permitted hereunder be performed as emergency work the commissioner shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee twenty-four hours a day to the end that such excavation work may be completed as soon as possible.

(Ord. No. 1491, § 45)

Sec. 28-47. - Emergency work.

Nothing in this article shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the commissioner for such a permit on the first working day after such work is commenced.

(Ord. No. 1491, § 46)

Sec. 28-48. - Noise, dust and debris.

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Each permittee shall conduct and carry out work permitted hereunder in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the work, noise, dust and unsightly debris. During the hours of 10:00 P.M. to 7:00 A.M. the permittee shall not use, except with the express written permission of the commissioner or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

(Ord. No. 1491, § 47)

Sec. 28-49. - Preservation of monuments.

Any monument set for the purpose of locating or preserving the lines of any road or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the county shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the commissioner so to do. Before monuments, reference points and bench marks are disturbed, or removed, they shall be tied out by a licensed surveyor or registered civil engineer or under the directions of same. After completion of the work, the monuments, reference points and bench marks shall be accurately reset at the expense of permittee.

(Ord. No. 1491, § 48)

Sec. 28-50. - Certificate of acceptance.

After acceptance of the work by the commissioner as fully completed in accordance with the conditions of the permit and all of the provisions of this article and any other applicable laws, the permittee may request that the commissioner issue a certificate of acceptance. Upon such request, the commissioner shall issue the certificate of acceptance which shall contain a statement of the location, nature, and extent of such work so completed under the permit. Such certificate of acceptance shall not release permittee from the twelve months requirements of sections 28-17 and 28-43.

(Ord. No. 1491, § 49)

Sec. 28-51. - Deviations.

The permittee shall notify the commissioner in writing of any proposed deviations or changes in the work to be done under any permit and shall not proceed therewith until he has obtained both the written consent of the commissioner to any such deviation or change in the written, signed and acknowledged consent to such deviation or change of any surety company whose bond or bonds are posted in connection with such work.

(Ord. No. 1491, § 52)

Sec. 28-52. - Stop work orders.

In addition to any other remedies or rights the commissioner may have, he may issue a stop order upon violation of any of the provisions of this article or revocation or suspension of any permit granted hereunder. Such stop order shall be in writing and shall be effective immediately upon personal delivery to the person in charge of the work at

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the job sites. Upon such delivery of such stop order, all further work shall be immediately stopped, other than such work as is immediately necessary for the preservation of life or property and shall not be recommenced until written permission therefor is granted by the commissioner.

(Ord. No. 1491, § 51)

Sec. 28-53. - Acts construed to be violations.

Every person is guilty of a misdemeanor who does any of the following acts:

(a) Violates any provision of this article or any condition of any permit issued hereunder; or

(b) Fails, neglects or refuses to comply with any requirements of the commissioner, this article or any permit issued hereunder; or

(c) Performs any of the acts for which a permit is required by this article without first obtaining such permit.

(Ord. No. 1491, § 54)

Sec. 28-54. - Disclaimer of liability.

This article shall not be construed as imposing upon the county or any official or employee any liability or responsibility for damages to any person insured by the performance of any work for which permit is issued hereunder, nor shall the county or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any work permitted hereunder.

(Ord. No. 1491, § 53)

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EXHIBIT 4

ORDINANCE NO. 1491

INDEX OF INCORPORATING OF ORDINANCE COVERING EXCAVATIONS AND COUNTY ROADS

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ORDINANCE NO. 1491

AN ORDINANCE REGULATING EXCAVATIONS, OBSTRUCTIONS OR ENCROACHMENTS IN COUNTY ROADS, AND THE CONSTRUCTION, REPAIR, CUTTING OR LAYING OF CURBS, SIDEWALKS, GUTTERS, DRIVEWAYS, ROAD SURFACES, DRAINAGE STRUCTURES, PIPE LINES, UTILITY LINES OR CONNECTIONS THERETO, APPURTENANT TO OR IN COUNTY ROADS.

The Board of Supervisors of the County of Santa Barbara do ordain as follows:

PART I — GENERAL PROVISIONS

SECTION 1 — TITLE:

This ordinance may be known and referred to as the "Road Excavation and Encroachment Ordinance of the County of Santa Barbara."

SECTION 2 — PURPOSE:

The purpose of this ordinance is to regulate and control all secondary uses of county roads in order to protect and preserve the primary purpose and use of such roads which is hereby declared to be travel by the public.

SECTION 3 — DEFINITIONS:

For the purposes of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

a) "Roads" means any highway, street, alley or way in the county, which is owned, or controlled, or maintained by the county for the purpose of travel.

b) "County" means the County of Santa Barbara, State of California.

c) "Commissioner" means the Road Commissioner of the County of Santa Barbara, and shall include, where appropriate, his assistants and deputies.

d) "Person" means and shall include any and all persons and entities, natural or artificial, singular or plural, masculine, feminine and neuter, including but not limited to corporations, individuals, partnerships, joint ventures, estates, trusts, association, cooperatives, the United States, the State of California, and all other states, this county and all other counties, all cities, cities and counties, and all other public bodies, agencies, districts, or subdivisions, and all other officers, employees, departments

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and bureaus of the foregoing and any other individuals, groups or combinations, whether acting alone, jointly or in combination; provided, however, that the above enumeration shall not include the Road Commissioner nor the Road Department of this County.

e) "Department" means the Road Department of Santa Barbara County.

f) "Excavation" shall mean any opening in the surface of a road right of way made in any manner whatsoever, except an opening into a lawful structure below the surface of a road, the top of which is flush with the adjoining surface and so constructed as to permit frequent openings without injury or damage to the road.

g) "Substructure" shall mean any pipe, conduit, duct, tunnel, manhole, vault, buried cable, or wire, or other similar structure located below the surface of any road right of way.

h) "Facility" shall mean pipe, pipe line, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, junction box, transformer, or any other material, struture, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under or over any road right of way.

i) "Public agency" means the United States, or any department or agency thereof, the State of California or any department or agency thereof, any county, city, city and county, municipal corporation, political subdivision, public district or any other public officer or public body.

j) "Applicant" means any person making written application to the Commissioner for an excavation permit hereunder.

k) "Board" means the Board of Supervisors of Santa Barbara County.

l) "Permittee" means any person who has received excavation or encroachment permits pursuant to this Ordinance.

SECTION 4 — PERMIT REQUIRED

It is hereby expressly declared unlawful for any person to do or cause to be done any of the following enumerated things without first obtaining a permit therefore and complying with all conditions thereof and all provisions of this Ordinance.

a) Excavate or fill in an excavation within a road right of way.

b) Install, maintain, cut into, repair or remove any sidewalks, curbs gutters or road surfacing; or install, repair or remove any facilities or substructures in, on, over, or under any road right of way. This Section shall not apply to telephone and power poles, associated anchors and guy wires located behind existing curbs, in alleys, or where no curb is provided. Any present right which exists prior to the date upon which the portion of the road affected becomes a public County road, shall not be impaired, diminished or affected in any way by the permit requirements of this and other sections of this Ordinance.

SECTION 5 — SUBDIVISIONS

The terms of this ordinance shall apply to work on, in or in connection with roads in any subdivision or subdivided lands, as the same are defined by law, provided that the requirements of the Subdivision Ordinance and any regulations, resolutions and orders of the Board of Supervisors relating to subdivisions shall govern all bonds and inspection fees on work done in or in connection with a subdivision.

SECTION 6 — APPLICATION FOR PERMIT

Applications for a permit for performance of any of the acts described in Section 4 hereof, shall be made in writing, upon forms furnished by the Department and approved by the Commissioner. The forms shall be filed with the Department and shall set out the following in detail, where applicable:

a) Name and residence or business address of applicant.

b) Location, dimensions, purpose, extent and nature of the proposed excavation, fill or obstruction, and the facilities or substructures to be installed, repaired or removed.

c) Such other information as may be required by the Department or the Commissioner.

Where one particular job will combine two or more of the acts described in Section 4 hereof, a single application may, in the discretion of the Commissioner, be made to cover said job. All applications hereunder shall be made by the owner or by his agent duly authorized in writing, who shall set out the owners names above his own. This application, when approved and signed by the Commissioner, shall constitute the permit required hereunder.

SECTION 7 — PLATS REQUIRED

With each application for a permit hereunder, the Road Commissioner may, in his discretion, require applicant to file a plat in triplicate, showing and designating by name, the road or roads which will be affected by such excavation, fill or obstruction, etc., together with the exact proposed location or locations and dimensions thereof as well as any other details required by the Commissioner.

This Section shall not apply to excavations solely for making or maintaining service connections or for locating troubles or breaks in conduits, lines or pipes and repairing same.

SECTION 8 — SECURITY REQUIRED

With each application for a permit hereunder, applicant shall deposit cash, certified check, cashier's check, irrevocable letter of credit, (or negotiable securities of the kind approved to secure public monies) or post a bond or any other security that the Commissioner deems adequate in an amount calculated by the Commissioner to be sufficient to cover all fees required hereunder, and to insure complete restoration of the surface of the road or roads to a condition as good as it was in prior to commencing the acts permitted hereunder. If a bond is posted, it shall be executed by a corporation incorporated for the purpose of making, guaranteeing or becoming a surety upon lands or undertakings, and qualified as such under the laws of the State of California, and shall inure to the benefit of the county and be conditioned upon payment of all fees and other charges required by this ordinance and full and complete repair and restoration of the road or roads affected to a condition as good as they were in prior to commencement of the acts permitted hereunder. Said bond shall further be subject to the approval of the Commissioner as to form and sufficiency.

In the event that a portion of any job, for which a permit is required under this ordinance shall have been permitted under any other ordinance and any of the securities enumerated in Paragraph one of this section have been given therefore, the Commissioner may, in his discretion, accept such security as complying in full or in part with the requirements of this ordinance and waive the security required hereunder in full or in part.

In lieu of giving of said security with each application for a permit hereunder, the Commissioner may, in his discretion, permit an applicant to make and maintain a continuing deposit of security in the amount of at least $5,000.00. If, in the opinion of the Commissioner, the amount of work being performed or to be performed by an applicant shall require a greater amount of security, the Commissioner may require an appropriate increase in such amount. In the case of applicants defined as a public utility by the Public Utility Commission of the State of California or if not so defined as a public utility, but performing services of a public utility or quasi public utility nature, and in the case of applicants which are public agencies, and which in such cases have assets in excess of Two Hundred Fifty Thousand ($250,000.00) dollars, no security shall be required to be deposited hereunder, unless the Road Commissioner shall, for good cause, make a written demand for deposit of security by such applicant.

SECTION 9 — ISSUANCE FEES

The applicant shall pay a fee of $3.00 to cover the cost of processing the application, issuing a permit thereunder, and help to defray the cost of County liability insurance covering liability for personal injury and property damage which might arise out of or in connection with work permitted hereunder. This section shall not apply to a Public Agency as the same is defined herein. Permit fees may be waived by the Road Commissioner where a Permit is required hereunder for work to be done in connection with or as a result of a County project.

SECTION 10 — INSPECTION AND TESTING CHARGES

All inspection fees and all Testing fees shall be charged in accordance with the current rate schedule set by the Board of Supervisors.

SECTION 11 — RESTORATION COSTS FOR BONDS

Restoration costs for bonds shall be calculated as follows:

SCHEDULE

ITEM	UNIT PRICE
Portland cement concrete pavement	$1.00 per sq. ft.
Asphaltic concrete or plant mix pavement; oil macadam surfaces	0.80 per sq. ft.
Road mix pavement, select material	0.60 per sq. ft.
Oil Surface roadway	0.30 per sq. ft.
Natural soil roadway	0.10 per sq. ft.
Curb and gutter — 18"	3.00 per lin. ft.
Curb and gutter — 36"	4.00 per lin. ft.
Curb	2.00 per lin. ft.
Sidewalk	0.50 per sq. ft.
Driveways	0.60 per sq. ft.
Backfill and compaction	1.00 per cu. yd.

Any and all of the above unit prices may be changed at any time by order of the Board of Supervisors.

SECTION 12 — ADDITIONAL CHARGES

If in the course of the work being done under the permit or permits, additional inspections or additional replacement charges over and above the amount of the initial security become necessary, or in the case of continuing security the amount becomes insufficient to cover fees and charges for work in progress, the Commissioner may require that additional security be furnished by the permittee. Failure to promptly furnish the same upon request shall be grounds to revoke or suspend the permit or permits as provided in Section 22 hereof and order all work being done thereunder to be stopped as provided in Section 51 hereof.

SECTION 13 — WAIVER OF SECURITY

Where work has been done under a permit issued pursuant to this ordinance the actual cost of restoring the area to the condition that it was in before the work was commenced shall be borne by the permittee. This section shall be applicable to all persons and public agencies as defined herein and all persons and public agencies shall furnish security for the completion of such work as provided herein.

SECTION 14 — COLLECTION OF FEES AND CHARGES

All unpaid fees and charges made hereunder may be deducted from cash deposits (where deposits are required) and the balance, if any, returned to permittee, except in the case of continuing cash deposits, upon completion of the work permitted hereunder and approval thereof by the Commissioner; provided, however, that one-third of the cash deposit for replacement charges as set out in Section 11 hereof shall be retained for twelve (12) months after completion of the work, except that on work involving an amount of

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$500.00 or less, there shall be no retention of any part of the cash deposit. Where work involves an amount in excess of $500.00, but less than $750.00, the permittee may apply to the Board of Supervisors for release of said cash deposit and the Board may release the deposit upon recommendation of the Commissioner. In all cases where cash deposits are not made, all unpaid fees and charges shall be billed to permittee.

SECTION 15 — REMEDIES ON UNPAID FEES AND CHARGES

In the event any applicant shall fail to pay any fees or charges due under this ordinance, when charged for same, Commissioner may in his discretion proceed against the surety for applicant or any bond or bonds or any other security provided for in Section 8 posted by applicant to collect said fees or charges, or Commissioner may elect to bring an action at law in any court of appropriate jurisdiction to collect said charges or fees from applicant without the necessity of bringing action against said surety. Commissioner may in addition refuse to issue any new permits to an applicant with unpaid fees or charges due on any job.

SECTION 16 — FUNDS FOR FEES AND CHARGES

Fees for applications for and issuance of permits, for inspection costs and other charges may be deposited in a single fund from which disbursements are made.

SECTION 17 — PLANS REQUIRED

If, in the opinion of the Commissioner, the work proposed to be done by any applicant requires the making of plans, the Commissioner may require the application to be accompanied by such plans, and may require that such plans shall be prepared by a licensed survey or registered civil engineer.

SECTION 18 — STAKE SETTING

If, in the opinion of the Commissioner, the work proposed to be done by applicant requires the setting of stakes, the Commissioner may require applicant to set, or cause to be set, such stakes as in the opinion of the Commissioner are necessary or expedient under the circumstances. Where the Commissioner deems that drainage or other factors are critical, Commissioner may have such stakes set by the Department and may make a reasonable charge to applicant to cover the costs of setting such stakes.

SECTION 19 — SATISFACTORY PERFORMANCE OF WORK

The permittee shall perform all work in accordance with plans (if plans are made, and specifications referred to in the permit to the satisfaction of the Commissioner.

SECTION 20 — CHANGES ON PERMITS

Any permit issued hereunder shall be subject to such conditions, changes or limitations as are from time to time deemed necessary by the Commissioner for the protection of the highways or to prevent undue interference with traffic or to protect both persons and property within, upon or adjacent to said highways from damage or danger. In the case of changes or limitations or conditions to be made or imposed by the Commissioner after a permit is issued hereunder, the Commissioner shall notify the permittee thereof, in writing, either by mail to the address set forth in the application or by personal service upon the permittee.

Such change or new limitation or condition shall be effective twenty-four (24) hours after deposit in the United States Mail or immediately upon personal service.

SECTION 21 — SPECIAL SINGLE PERMITS

The Commissioner may issue a single permit for any number of excavations or other work done hereunder which are part of a single project or single job, and may also issue annual permits for service connections or for other routine minor work performed by owners or employees and not exceeding $500.00 cost for any separate job. Either permit shall become effective and be exercised by written notice given to the Commissioner not less than twenty-four (24) hours before work is to be commenced thereunder.

SECTION 22 — COMMENCEMENT AND COMPLETION OF WORK

Except in the case of annual permits, every permittee shall commence the proposed work within thirty (30) days after the granting of the permit or within such other time from thirty (30) days minimum to sixty (60) days maximum as the Road Commissioner shall specify, (or in the case of special single permits set out in Section 21 above, within thirty (30) days from the date when such permit becomes effective as to the particular job concerned) and thereafter shall prosecute the work to completion in a diligent and workmanlike manner and restore roads to their original condition or as near as may be possible. The Commissioner may, for good cause, excuse delay in commencement or completion of such work. In the event of unexcused delay or failure to commence, carry out or complete such work in the manner provided herein, the Commissioner may, in addition to any other remedies he may have, terminate or suspend such permit by notice in writing effective immediately upon personal delivery to permittee or his agent, or twenty-four hours after being deposited in the United States Mail addressed to permittee at the address shown on the application for permit except that the Commissioner may elect to have the work completed and the cost thereof charged to the permittee. Thereafter, no work shall be done under said permit unless and until it is reinstated by the Commissioner.

SECTION 23 — REFUSAL TO ISSUE PERMIT

a) The Commissioner may refuse to issue permits and may revoke any outstanding permits issued or any portion thereof, where the work has not been started, when the work authorized by the permit or any portion thereof is included in the proposed work to be done by any existing assessment district or by any proposed assessment district for which formation proceedings have been instituted by the Board of Supervisors. Upon such partial or complete revocation of a permit, all or a pro rata portion, as the case may be, of the cash deposit or other security of applicant, shall be returned or all or a pro rata portion, as the case may be, of any bond posted shall be exonerated, provided all fees and charges due have been first paid in full.

b) The Commissioner shall not issue any permit under this ordinance while the applicant is in default of any terms or conditions of any prior excavation permit issued by the Commissioner. If there is a question of fact as to the applicant's compliance with any permit issued prior to the permit in question, the applicant may apply to the Board for a review of the Commissioner's denial of the permit. If the Board shall find as a matter of fact that the applicant is not in default under any prior permits, it may order the issuance of a permit to the applicant.

SECTION 24 — PERMITS NON-TRANSFERABLE

Permits issued pursuant to this ordinance are non-transferable.

SECTION 25 — ROUTING OF TRAFFIC

The permittee shall take appropriate measures to assure that during the performance of the work, traffic conditions are near normal as practicable shall be maintained at all times so as to minimize inconvenience to the occupants of the abutting property and to the general public, provided that the Commissioner may permit the closing of streets and alleys to all traffic for a period of time prescribed by him, if, in his opinion it is necessary.

The Commissioner may require that the permittee give notification to specified interested persons before commencement of the work.

SECTION 26 — CLEARANCE FOR VITAL FACILITIES

The excavation work shall be performed and conducted so as not to unreasonably interfere with access to fire hydrants, fire stations, fire escapes, water valves, underground vaults, valve housing structures, and all other vital facilities. The Commissioner may prescribe specific conditions or exceptions in writing relating to such vital facilities.

SECTION 27 — PROTECTION OF TRAFFIC

The permittee shall maintain safe crossings for two lanes of vehicle traffic at all road intersections where possible and safe crossings for pedestrians at intervals of not more than three hundred feet. If any excavation is made across any road right-of-way, at least one safe crossing shall be maintained when possible for vehicles and pedestrians. If the road is not wide enought to hold the excavated material without using part of the adjacent sidewalk, a passageway at least one-half of the sidewalk width shall be maintained along such sidewalk line.

SECTION 28 — APPLICANT TO HOLD COUNTY HARMLESS

Applicant shall sign a statement on each application agreeing to save and hold harmless the County and each and every officer and employee thereof from any liability or responsibility for any accident, loss or damage to persons or property arising out of or connected in any way with any work done by applicant under any permit granted hereunder.

SECTION 29 — NOTICE OF COMPLETION

Upon completion of any work or act for which a permit has been granted, the permittee shall notify the Commissioner in writing on a form prescribed by Commissioner.

SECTION 30 — RELOCATION AND PROTECTION OF FACILITIES

The permittee shall not move, alter temporarily relocate, change, or interfere with any existing facility without the consent of the owner of the facility. If it becomes necessary to relocate an existing facility, this shall be done by its owner, (unless the owner shall otherwise specify in writing). No facility owned by the County shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The permittee (or any other person specified by the owner in writing) shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other facilities which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work to the satisfaction of the owner of such facilities. In case any of said pipes, conduits, poles, wires or other facilities should be damaged, (and for this purpose pipe coating or other encasement or devices are to be considered as part of a facility) they shall be repaired by the agency or person owning them (or other person specified by the owner in writing) and the expense of such repairs shall be charged to and paid by the permittee. It is the intent of this paragraph that permittee shall assume all liability for damage to facilities and any resulting damage or injury to anyone because of such damage and such assumption of liability is a contractual obligation of the permittee. The only exception will be such instances where damage is exclusively due to causes beyond the control of the permittee. The County shall not be made a party to any action because of this paragraph. The permittee shall inform itself as to the existence and location of all underground facilities and protect the same against damage.

Every application (except in cases where the easement existed before the road became a public road) shall contain a statement, signed by the permittee that if any facilities placed in the excavation or obstruction for which the application is granted and approved as a permit, shall become incompatible with future travel by the general public, then the permittee or its assigns or successors will, at its own expense, either remove such facilities in cases where such removal is necessary or in cases where the use thereof has been or is to be abandoned, or in other cases, permittee or its successors or assigns, will at its own expense relocate such facilities at a location designated by the Commissioner. Unless directed otherwise by the Commissioner, per-

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mittee shall, after either such removal, or such relocation, fill in all excavations and restore the surface of the road right-of-way to as good a condition as it was in before such removal or relocation. Removal or relocation shall not be required for a temporary purpose nor for work to be done to the road which is not connected with the primary purpose of a road as defined in Section 2 hereof.

Permittee, its successors or assigns must complete such removal or relocation within a reasonable time specified by the Commissioner. If permittee, its successors or assigns, fails to comply with the demand, the Commissioner may perform, or cause to be performed, the removal or relocation work and recover the cost thereof from the permittee, its successors or assigns by action in a court of competent jurisdiction.

Permittee may, however, by agreement in writing with the Commissioner, arrange for necessary removal or relocation of facilities by the County, reimbursement of the cost thereof to be made to the County, upon completion of such removal or relocation.

This section shall not apply to any right which has been continuously exercised since a time prior to the date when the portion of the road affected became a public County road or which right exists by virtue of a document recorded prior to such date in the Office of the County Recorder of Santa Barbara County, California, unless such right (in either case) shall have been subordinated by a document recorded in said office to the right of the public in such portion of the Road.

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(a). The foregoing Section 30, insofar as it applies to the cost of removal or relocation of facilities and the statement on the application concerning such removal or relocation of facilities, shall not apply to any public agency as Permittee or otherwise which shall have entered into an agreement in writing with the County governing payment of the cost of removal or relocation of facilities and equipment but instead the provisions of such agreement shall regulate and control payment of the cost of such removal or relocations.

SECTION 31 — PROTECTION OF ADJOINING PROPERTY

The permittee shall at all times and at his or its own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall first attempt to obtain a license from the owner of such private property for such purpose. If the owner shall refuse to permit entry for such purpose, or if permittee cannot locate the owner, then permittee shall have no liability hereunder to the owner for damage to private property occasioned by careful execution of the work permitted hereunder, provided permittee shall have first taken all reasonable precautions to prevent damage which could reasonably have been taken without entry upon such private property.

The permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to any roads or other public or private property, real and personal resulting from its failure properly to protect and carry out said work subject to the foregoing provision relating to entry upon private property. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and shall be replaced or the area shall be reseeded where cutting and replacing sod is impractical, after ditches have been backfilled as required in this ordinance. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as close as possible to that which existed before such work began. The permittee shall not remove, even temporarily, any trees or shrubs which exist in parking strip areas without first obtaining the consent of the County Road Commissioner or other County official having control of such property.

SECTION 32 — INTERFERENCE WITH COMMISSIONER

No person shall prevent or obstruct any officer or employee of the Department in making any inspection pursuant to this ordinance, nor in taking any sample or making any test.

SECTION 33 — PROOF OF RIGHT TO USE ROAD

The Commissioner may require each applicant to file proof of applicant's right to use the road for the purposes set forth in the application.

SECTION 34 — PROTECTIVE MEASURES

It shall be the duty of every person cutting or making an excavation in or upon any road right-of-way to place and maintain such barriers and warning devices necessary for safety as specified by the State Division of Highways' publication "Manual of Warning Signs, Lights, and Devices for Use in performance of Work upon Highways," and any revisions, supplements or replacements thereof.

Barriers shall meet the requirements of the Commissioner. Warning lights shall be flares, torches, lanterns, electrical markers or flashers used to indicate a hazard to traffic from sunset of each day to sunrise of the next day. Torches shall be open wick or flame flares or bombs generally used in connection with roadway repairs or construction and operating on kerosene or similar fluid. Lanterns shall be kerosene or a similar fluid; burning lanterns shall have clear red or ruby globes. Electrical markers or flashers shall emit light at sufficient intensity and frequency to be visible at a reasonable distance for safety. Reflectors or reflecting material may be used to supplement, but not replace, light sources.

SECTION 35 — CARE OF EXCAVATED MATERIAL

All material excavated from trenches and piled adjacent to the trench in any road shall be laid compactly along the side of the trench and maintained in such a manner as not to endanger those working in the trench, pedestrians or users of the road and so that as little inconvenience as possible is caused to those using streets and adjoining property. Whenever necessary, in order to expedite the flow of traffic or to abate the dirt or dust nuisance toe boards or bins may be required by the Commissioner to prevent spreading of dirt into traffic lanes. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the Commissioner shall have the authority to require that the permittee haul the excavated material to a storage site and then rehaul it to the trench site at the time of backfilling. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.

All Trench and tunnel excavations and construction shall conform with the safety requirements for shoring, bracing and ladders in trenches in accordance with "Trench and Tunnel Construction Safety Orders of the State of California," as they now or may hereafter exist.

SECTION 36 — CLEAN UP

As the excavation work progresses, all roads shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the Commissioner. From time to time, as may be ordered by the Commissioner and in any event immediately after completion of said work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within 24 hours after having been notified to do so by the Commissioner, said work may be done by the Commissioner and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the cash deposit or surety bond provided hereunder.

SECTION 37 — PROTECTION OF WATER COURSES

The permittee shall maintain all gutters free and unobstructed for the full depth of the adjacent curb and for at least one foot in width from the face of such curb at the gutterline. Whenever a gutter crosses an intersecting street, an adequate waterway shall be provided and at all times maintained.

SECTION 38 — BREAKING THROUGH PAVEMENT

(a) Heavy duty pavement breakers may be prohibited by the Commissioner when the use endangers existing substructures or other property.

(b) Saw cutting of Portland cement concrete may be required by the Commissioner when the nature of the job or the condition of the road warrants. When required, the depths of the cut shall be not less than one inch in depth; however, depths greater than one inch may be required by the Commissioner when circumstances warrant. Saw cutting may be required by the Commissioner outside of the limits of the excavation over cave-outs, overbreaks and small floating sections.

(c) Approved cutting of bituminous pavement surface ahead of excavations may be required by the Commissioner to confine pavement damage to the limits of the trench.

(d) Sections of sidewalks shall be removed to the nearest score line or saw cut edge.

(e) Unstable pavement shall be removed over cave-outs and overbreaks and the subgrade shall be treated as the main trench.

(f) Pavement edges shall be trimmed to a vertical face and neatly aligned with the center line of the trench.

(g) Cutouts outside of the trench lines must be normal or parallel to the trench line.

(h) Boring or other methods to prevent cutting of pavement may be required by the Commissioner.

(i) Permittee shall not be required to repair damage existing prior to excavation unless his cut results in small floating sections that may be unstable, in which case permittee shall remove and pave the area.

SECTION 39 — DEPTH OF STRUCTURES

No person shall, without written permission of the Commissioner, install any substructure, except manholes, vaults, valve casings, culverts, and catch basins at a distance less than the following distances:

A. PAVED ROADS

(1) 24 inches below the established flow line of the gutter.

(a) If said flow line is not established, then the depths shall be at a minimum of 24 inches below the surface of the outermost edge of the traveled portion of the road.

B. PARKWAY

(1) The minimum depth of any substructure shall be 16 inches below established gutter grade when said substructure parallels the parkway.

(2) The minimum depth of any substructure shall be 12 inches below the top of the established sidewalk or curb when such substructure is at right angles to the parkway.

C. OTHER ROADS

(1) The minimum depth of any substructure in any other Road shall be 12 inches below the surface; provided, however, that the Commissioner may permit a lesser depth in special cases.

Nothing in this section shall impose a duty upon the permittee to maintain said specifications as required herein upon subsequent changes of grade in the surface unless the location of said substructure interferes with the maintenance of, or travel on, a public road.

SECTION 40 — BACKFILLING

Fine Material, free from lumps and stone, selected from the spoil shall be throughly compacted around and

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under the substructure to the upper level of such substructure. Above the upper level of the substructure, backfill material shall be placed to the subgrade of the pavement in lifts consistent with the type of soil involved and the method of consolidation being used. Broken pavement, large stone, roots and other debris shall not be used in the backfill. Each lift shall be flooded, jetted or ponded, or a combination of these methods shall be used, depending upon the type of soil involved, to compact the backfill material. Backfill material having a sand equivalent of less than 10 shall not be flooded, jetted or ponded. Such backfill shall be placed in lifts not to exceed 8 inches in thickness when compacted with pneumatic tampers or placed in lifts not to exceed 4 feet when compacted with a hydra hammer. Backfill material having a sand equivalent greater than 10 may be flooded, jetted or ponded except that no flooding, jetting or ponding shall be allowed within 30 inches of finish grade, unless specific approval for such is received from the Commissioner. All backfill shall be done in a manner that will permit the restoration of the surface to condition equivalent to that in which it was prior to excavation. The Commissioner may require soil tests to be taken by the County's soil testing laboratory, when, in his opinion, backfill for any excavation is not being adequately compacted. In order for the resurfacing to be permitted, such tests must show that the backfill material meets the minimum requirements as prescribed by the Commissioner. All expense of such tests shall be borne by the permittee.

SECTION 41 — RESTORATION OF SURFACE

Permanent resurfacing of excavations may be made where the type of consolidation used in replacing the backfill is adequate, in the opinion of the Commissioner, to prevent settling and when the moisture content of the backfill is not excessive. In the event the type of consolidation used in replacing the backfill is not adequate to prevent further settling or the moisture content is excessive, temporary resurfacing shall be provided. If temporary surfacing is provided, the top surface of the backfill shall be covered with one inch of bituminous material. Such temporary paving material shall be cool mix, except that the permittee may use or the Commissioner may require hot mix. All temporary paving material shall conform closely enough to the level of the adjoining paving surface and shall be compacted so that it is hard enough and smooth enough to be safe for pedestrian travel over it as well as for vehicular traffic to pass safety over it at a legal rate of speed. The permittee shall maintain temporary paving for a period not exceeding ninety days after all backfilling is completed, unless additional time is required by the Commissioner, and shall keep same safe for pedestrian and vehicular traffic until the excavation has been resurfaced with permanent paving, except that if it is impracticable to maintain the surface of the temporary paving in a safe condition for pedestrian travel or vehicular traffic, then the permittee shall maintain barriers and lights where required herein.

Acceptance or approval of any excavation work by the Commissioner shall not prevent the County from asserting a claim against the permittee and his or its surety under the surety bond required hereunder for incomplete or defective work if discovered within twelve (12) months from and after the completion of the excavation work. The Commissioner's presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder.

SECTION 42 — COUNTY'S RIGHT TO RESTORE SURFACE

Upon completion of the backfilling, (including temporary resurfacing when required), of an excavation within a road right-of-way for the installation or removal of substructures, the Commissioner at his option, may require the permittee to resurface that portion of the road surface damaged by the permittee's excavation, in which event resurfacing shall be done in a manner and under specifications prescribed by this ordinance, subject to Commissioner's inspection, and shall be completed within a period of 90 days after such authorization to complete final resurfacing. Where required in the interest of public safety, the Commissioner may elect to do such resurfacing with County forces, in which event, the cost of such resurfacing shall be borne by the permittee.

(a) Subgrades. Subgrades shall be restored to that existing prior to the excavation or in accordance with standards for the construction of new paved roads used by the County.

(b) Paving replacement. Portland cement concrete used in the repair of trenches shall not have a slump in excess of two inches.

(c) Portland cement concrete used in the repair of trenches in streets shall be replaced with a thickness equivalent to that removed, but in no case less than five inches. Bituminous pavement shall be replaced at the same thickness as the existing pavement. All bituminous pavement replaced shall be given a fog seal coat.

(d) Portland cement sidewalks shall be replaced with the thickness of that removed; but in no case less than four (4) inches and shall match the color and texture of the adjoining sidewalk.

(e) Expansion joints in Portland cement patches shall be matched with saw cut lines.

(f) Portland cement shall be furnished to match the texture of that of the adjoining pavement.

(g) Concrete shall be compacted by tamping, rodding, or mechanical vibration.

(h) Repairs in rock and oil roads shall be made in accordance with the existing specifications for bituminous type pavement.

(i) Chip seal coats may be required by the Commissioner when the street has been chip sealed or when it is a general practice to chip seal bituminous type pavement.

SECTION 43 — TRENCHES IN PIPE LAYING

The maximum length of open trench permissible at any time shall be as may be specified by the Commissioner and no greater length shall be open for pavement removal, excavation, construction, backfilling, patching and all other operations without first obtaining the written permission of the Commissioner.

SECTION 44 — NOTICE FOR INSPECTIONS

Commissioner may require, in any permit issued by him hereunder, that permittee give written or oral notice of the accomplishment of specified stages in the completion of the work to be done, in order to permit inspection thereof by the Department.

In the event the Commissioner makes such requirements in the permit, permittee shall do no further work which would hinder or prevent a complete inspection of such completed stage of the work to be done, until said inspection has been made and the stage completed, approved by the Department, and if such work shall have been done prior to such inspection, permittee shall take all steps and do all work necessary to permit a full and complete inspection upon demand of the person charged by Commissioner with the duty of making such inspections.

SECTION 45 — URGENT WORK

If in his judgment, traffic conditions, the safety or convenience of the traveling public or the public interest require that work permitted hereunder be performed as emergency work the Commissioner shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee 24 hours a day to the end that such excavation work may be completed as soon as possible.

SECTION 46 — EMERGENCY ACTION

Nothing in this ordinance shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, or for making repairs, provided that the person making such excavation shall apply to the Commissioner for such a permit on the first working day after such work is commenced.

SECTION 47 — NOISE, DUST AND DEBRIS

Each permittee shall conduct and carry out work permitted hereunder in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the work, noise, dust and unsightly debris. During the hours of 10:00 p.m. to 7:00 a.m. the permittee shall not use, except with the express written permission of the Commissioner or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

SECTION 48 — PRESERVATION OF MONUMENTS

Any monument set for the purpose of locating or preserving the lines of any road or property subdivision, or a precise survey reference point, or a permanent survey bench mark within the County shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Commissioner so to do. Before monuments, reference points and bench marks are disturbed, or removed, they shall be tied out by a Licensed Surveyor or Registered Civil Engineer or under the directions of same. After completion of the work, the monuments, reference points and bench marks shall be accurately reset at the expense of permittee.

SECTION 49 — CERTIFICATE OF ACCEPTANCE

After acceptance of the work by the Commissioner as fully completed in accordance with the conditions of the permit and all of the provisions of this ordinance and any other applicable laws, permittee may request that the Commissioner issue a certificate of acceptance. Upon such request, the Commissioner shall issue the certificate of acceptance which shall contain a statement of the location, nature, and extent of such work so completed under the permit. Such certificate of acceptance shall not release permittee from the twelve (12) months requirements of Section 14 and 41 hereof.

SECTION 50 — DISPLAY OF PERMIT

The permit or a true copy thereof signed by the Commissioner shall be available at the job site at all times while the work is in process and until accepted by the Commissioner as fully completed.

SECTION 51 — STOP ORDERS

In addition to any other remedies or rights the Commissioner may have, he may issue a stop order upon violation of any of the provisions hereof or revocation or suspension of any permit granted hereunder. Such stop order shall be in writing and shall be effective immediately upon personal delivery to the person in charge of the work at the job sites. Upon such delivery of such stop order, all further work shall be immediately stopped, other than such work as is immediately necessary for the preservation of life or property and shall not be recommenced until written permission therefore is granted by the Commissioner.

SECTION 52 — CHANGES IN WORK

Permittee shall notify Commissioner in writing of any proposed deviations or changes in the work to be done under any permit and shall not proceed therewith until he has obtained both the written consent of the Commissioner to any such deviation or change in the written, signed and acknowledged consent to such deviation or change of any surety company whose bond or bonds are posted in connection with such work.

SECTION 53 — LIABILITY OF COUNTY

This ordinance shall not be construed as imposing upon the County

COSB RJN 000051

or any official or employee any liability or responsibility for damages to any person injured by the performance of any work for which permit is issued hereunder, nor shall the County or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any work permitted hereunder.

SECTION 54 — VIOLATION OR MISDEMEANOR

Every person is guilty of a misdemeanor who does any of the following act:

(a) Violates any provision of this ordinance or any condition of any permit issued hereunder, or

(b) Fails, neglects or refuses to comply with any requirements of the Commissioner, this ordinance, or of any permit issued hereunder, or

(c) Performs any of the acts for which a permit is required by this ordinance without first obtaining such permit.

Such person is guilty of a separate offense for each and every day during any part of which any such violation or non-compliance occurs or continues, and is punishable by a fine of not more than $500.00 or by imprisonment in the County jail for not more than six months, or by both such fine and imprisonment.

SECTION 55 — OTHER ORDINANCES

All ordinances or parts of ordinances in conflict herewith, especially Ordinance No. 555 are hereby superseded, provided, however, that no action taken under and pursuant to any such ordinance prior to the objective date of this ordinance shall be rendered illegal nor invalidated by the adoption of this ordinance.

SECTION 56 — SAVINGS CLAUSE

If any section, paragraph or provision of this ordinance shall be declared invalid for any reason, the Board of Supervisors hereby declares that it would have passed and adopted all other portions of this ordinance independently of any such invalid portion.

SECTION 57:

This Ordinance shall take effect and be in force at the expiration of sixty days from and after its passage, and before the expiration of fifteen days after its passage, it shall be published once, with the names of the members of the Board of Supervisors voting for and against the same in the Santa Barbara News-Press, a newspaper of general circulation published in the County of Santa Barbara.

Passed, approved and adopted this 26th day of November, 1963.

JOE J. CALLAHAN
Chairman, Board of Supervisors, County of Santa Barbara, State of California

J. E. LEWIS
County Clerk and Ex-Officio Clerk of said Board of Supervisors (SEAL)

STATE OF CALIFORNIA,)
County of Santa Barbara.) ss.

I, J. E. LEWIS, County Clerk of the County of Santa Barbara, State of California, and ex-officio Clerk of the Board of Supervisors in and for said County, do hereby certify that at a regular meeting of the Board of Supervisors held on the 26th day of November, 1963, the foregoing Ordinance No. 1491, consisting of fifty-seven (57) sections, was adopted by vote of the Board of Supervisors as follows:

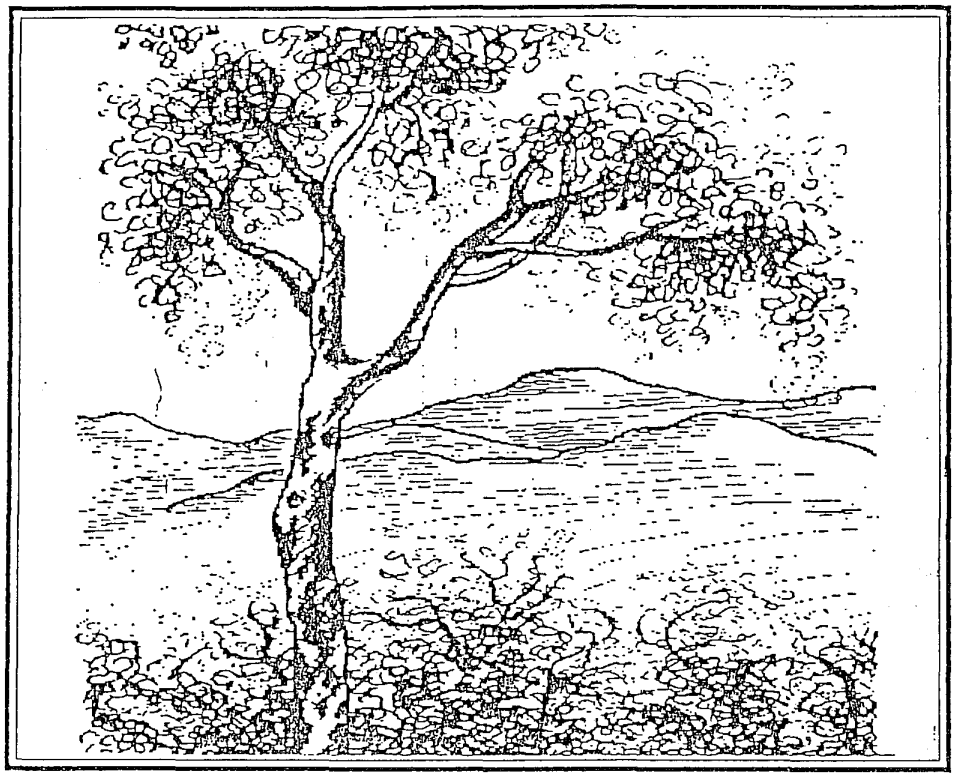
AYES: Joe J. Callahan, Daniel G. Grant, Veril C. Campbell, and Curtis Tunnell.
NOES: None.
ABSENT: C. W. Bradbury.

J. E. LEWIS
County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Santa Barbara, State of California

Dec.6—10263

COSB RJN 000052

EXHIBIT 5



MONTECITO

COMMUNITY PLAN UPDATE

COUNTY OF SANTA BARBARA
RESOURCE MANAGEMENT DEPARTMENT

SEPTEMBER 15, 1992

Text updated through December 1995

COSB RJN 000054

Development Standard CIRC-M-1.8.1: Site design shall encourage pedestrian and bicycle access to adjacent walkways and paths.

Development Standard CIRC-M-1.8.2: Higher intensity residential and commercial development should be located in close proximity to transit lines, bikepaths and pedestrian trails.

Policy CIRC-M-1.9: In its long range land use planning efforts, the County should seek to provide access to retail commercial, recreational and educational facilities via transit lines, bikeways and pedestrian trails.

Action CIRC-M-1.9.1: The County should examine the feasibility of a Transportation Management System for the Montecito Planning Area including but not limited to a Transportation Demand Management program for commuter and student related traffic.

Community Goals, Policies, Actions and Development Standards:

GOAL CIRC-M-2: Recognize That Montecito Roadways Are Important Components Of The Community Character In Addition To Their Primary Role As Corridors For Various Forms Of Transportation (e.g., Automobile, Pedestrian, Equestrian, Bicycle) Through The Community.

Policy CIRC-M-2.1: In order to provide for the safety of pedestrians, informal unpaved pathways (rather then paved sidewalks) shall be encouraged within the County road right-of-ways. Priority shall be given to providing and protecting pedestrian pathways when the County grants encroachment permits along County roadways to private land owners. In keeping with past plans, curbs and sidewalks shall not be constructed except in neighborhood commercial zones and multifamily residential zones.

Policy CIRC-M-2.2: In order to preserve the narrow winding character and the extensive adjacent landscaping of roadways in Montecito, public roadways shall be constructed at a width which shall accommodate no more than two standard travel lanes. Additional pavement area shall be used only to accommodate shoulders, bicycle lanes and turn lanes.

COSB RJN 000055

acceptable levels of service on the affected roadways; and 2) Identify potential funding source(s) and a timetable for all improvements and/or repairs.

Development Standard CIRC-M-3.7.1: Street signs and directional signs shall be "Old Santa Barbara Style" of white lettering on a brown background.

Policy CIRC-M-3.8: Any future CalTrans proposals for Highway 101 widening and interchange improvements and for Highway 192 should have community review to strive to ensure that the design reflects community concerns.

Policy CIRC-M-3.9: The County Public Works Department shall not grant new encroachment permits allowing the installation of structures, fences, walls, landscaping, etc. where the placement of such structures, fences, walls, landscaping, etc. would preclude safe pedestrian access and/or adequate site distance in the public right-of-way.

Policy CIRC-M-3.10: New Major Conditional Use Permits shall be required to demonstrate that the proposed use would not potentially result in traffic levels higher than those anticipated for that parcel by the Community Plan and its associated environmental documents. If higher traffic levels could potentially result from the proposed Major Conditional Use Permit, in order to approve the project, a finding must be made that:

1. The increase in traffic is not large enough to cause the affected roadways and/or intersections to exceed their designated acceptable capacity levels at buildout of the Community Plan, or

2. Road improvements included as part of the project description are consistent with the community plan and are adequate to fully offset the identified potential increase in traffic.

b. ROADWAY CLASSIFICATIONS AND PROJECT CONSISTENCY STANDARDS

The Santa Barbara County Comprehensive Plan Circulation Element Policy A states that:

COSB RJN 000056

EXHIBIT 6

COUNTY OF SANTA BARBARA

Planning and Development

Santa Barbara County
Montecito
Land Use & Development Code



Published January 2020

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COSB RJN 000058

35.423.040 - Residential Zones Lot Standards

A. Minimum lot size.

1. Minimum area and width. Each lot in a proposed subdivision shall comply with the minimum lot area and width requirements in Table 2-5 (Minimum Lot Size). Area requirements are gross or net as noted; minimum lot widths are gross or net, as noted.

2. Minimum depth. Minimum lot depth shall be determined by the review authority through the subdivision approval process.

B. Minimum building site area for residential use. Each primary dwelling and it's allowed accessory structures shall be located on a lot with the minimum area and width shown in Table 2-5 (Minimum Lot Size); except that:

1. A dwelling and its accessory structures and uses may be located on a lot of less area, except for a fraction lot; and

2. A dwelling and its accessory structures and uses may be located on a lot of less width.

Table 2-5 - Minimum Lot Size

Zoning Map Symbol	Minimum Lot Area	Minimum Lot Width
7-R-1	7,000 square feet net	65 feet
20-R-1	20,000 square feet net	100 feet
1-E-1	1 acre gross	120 feet
2-E-1	2 acres gross	150 feet
3-E-1	3 acres gross	210 feet
5-E-1	5 acres gross	270 feet
10-E-1	10 acres gross	380 feet
7-R-2	7,000 square feet net	65 feet
DR (1)	Determined by Final Development Plan	
PRD	Determined by Final Development Plan	

Notes:
(1) The DR zoning map symbol is accompanied by a number that specifies the allowable number of units per gross acre, see Table 2-7 (DR Zone Maximum Density).

35.423.050 - Residential Zones Development Standards

A. General development standards. Development within the residential zones shall be designed, constructed, and established in compliance with the requirements in Table 2-6 (Residential Zone Development Standards) and all applicable standards in Division 35.3 through Division 35.6 of this Development Code.

Table 2-6 Residential Zone Development Standards

Development Feature	Requirement by Zone	
	R-1 /E-1 One-Family Residential	**R-2 Two-Family Residential**
Minimum lot size	*Minimum area and width for lots proposed in new subdivisions.*	
Area, width	See Subsection 35.423.040.A (Minimum lot size).	
Residential density	*Maximum number of dwelling units allowed on a lot. The actual number of units allowed will be determined through subdivision or planning permit approval.*	
Maximum density	One one-family dwelling per lot; plus one or more accessory dwelling units and/or one junior accessory dwelling unit per lot where allowed in compliance with Section 35.442.015 (Accessory Dwelling Units and Junior Accessory Dwelling Units).	One one-family dwelling or one two-family dwelling per lot; plus one or more accessory dwelling units and/or one junior accessory dwelling unit per lot where allowed in compliance with Section 35.442.015 (Accessory Dwelling Units and Junior Accessory Dwelling Units).
Setbacks	*Minimum setbacks required. See Section 35.430.150 (Setback Requirements and Exceptions) for exceptions.*	
Front - Primary	50 ft from road centerline and 20 ft from the edge of the right-of-way.	
Front - Secondary	Lot less than 100 ft wide - 20% of lot width - 10 ft minimum Lot 100 ft wide or more - Same as primary front setback.	
Side	10% of lot width, where minimum lot area requirement is: **2 acres or less** - 5 ft minimum, 10 ft maximum required; **3 acres or more** - 10 ft minimum, 20 ft maximum required.	10% of lot width, 5 ft minimum, 10 ft maximum required.
Rear	25 ft	
Accessory structures	See Section 35.442.020 (Accessory Structures and Uses)	
Building separation	10 ft between a dwelling or guesthouse and any other detached structure on the same site.	
Site coverage	*Maximum percentage of net site area that may be covered by buildings.*	
Maximum coverage	None	
Height limit	*Maximum allowable height of structures, except where a lesser height is required by design review or other provisions of this Development Code. See Section 35.430.090 (Height Measurement, Exceptions and Limitations) for height measurement requirement and height limit exceptions.*	
Maximum height	35 ft and 2 stories	25 ft
Exception	The height is restricted to 16 ft for any portion of a structure located above an area of the site where the finished grade is 10 ft or more above the existing grade, except where a project received final design review approval prior to 11/5/92.	
Landscaping	See Chapter 35.434 (Landscaping Standards).	
Parking	See Chapter 35.436 (Parking and Loading Standards).	
Signs	See Chapter 35.438 (Sign Standards).	

requirements of this Development Code, in addition to the density modifications provided by Subsection B.1 (Density bonus) above.

1. **Zoning or improvement standards.** Facilities, improvements, and/or development or zoning standards normally required for residential development, other than those in this Section, may be modified by the Montecito Commission if deemed necessary to ensure dwelling unit affordability or to provide additional incentives. Examples of the modified facility requirements include the waiver or phasing of any required off-site improvements.

2. **Fees.** If deemed appropriate by the Board, any or all fees normally imposed by the County on development projects may be waived, reduced, or deferred. In these cases, reduced fees shall be based upon the applicant supplying the Board with evidence and assurances that savings realized from the reductions will be passed on to future residents by way of reduced rent or purchase price for units.

3. **Development Standards.** The following modifications may be approved for all qualified AH overlay zone projects in the DR (Design Residential) and PRD (Planned Residential Development) zones.

   a. One side yard setback per lot may be reduced from the requirement of the applicable zone to a zero setback. The width of any setback thereby reduced shall be applied to the opposite side yard setback. In cases of corner lots, the side yard setback may be reduced to zero with no additional setback requirement for the opposite setback.

   b. The total amount of common and/or public open space may be reduced to 30 percent of the gross acreage.

G. Affordable housing agreement. Prior to issuance of a Land Use Permit (Section 35.472.110) or Zoning Clearance (Section 35.472.190) for an AH overlay zone project, each project shall record an affordable housing agreement and resale and rental restrictive covenant, or other equivalent document approved as to form by the County Counsel, which outlines:

1. The sales and/or rental prices for the various types of units to be established; and

2. Provisions for the sale, resale, renting and restrictions that will be applicable to the project, to ensure the continued availability of units for purchase or occupancy by target households, in compliance with the Housing Element.

35.428.040 - Environmentally Sensitive Habitat (ESH) Overlay Zone

A. Purpose and intent. The Environmentally Sensitive Habitat Area (ESH) overlay zone is applied to areas with unique natural resources and/or sensitive animal or plant species, where existing and potential development and other activities may despoil or eliminate the resources. This overlay zone is intended to:

1. Protect and preserve specified areas in which plant or animal life or their habitats are either rare or especially valuable because of their role in the ecosystem, and that could be easily disturbed or degraded by human activities and developments; and

2. Ensure that each project permitted in the overlay zone is designed and carried out in a manner that will provide maximum protection to sensitive habitat areas.

B. Applicability.

1. **Determination of applicability.** The zoning map shall guide determining whether this overlay zone applies to any area of land or water. If a particular lot or lots within an ESH overlay zone are determined by the Director not to contain the pertinent species or habitat, the regulations of this overlay zone shall not apply.

2. **Identification of newly documented sensitive habitat areas.** If an environmentally sensitive habitat area is identified by the Director to be located onsite during permit application review, but the habitat area does not have an ESH overlay zone designation, the applicable requirements of Subsection C through Subsection O below, shall apply. The Director will periodically update the zoning map to

apply the ESH overlay zone to the new habitat areas and applicable setback areas (including the 250-foot area around the habitat).

3. **Relationship to primary zone.** Each land use and proposed project within the ESH overlay zone shall comply with all applicable requirements of the primary zone in addition to the requirements of this Section. If a requirement of this Section conflicts with a requirement of the primary zone, the requirements of this Section shall control.

4. **Relationship to overlay zone**. Each land use and proposed project within the ESH overlay zone shall comply with all applicable requirements of any additional overlay zone, in addition to the requirements of this Section. If a requirement of this Section conflicts with a requirement of the any other overlay zone, the requirements of this Section shall control.

C. Permit and processing requirements. An application for a Conditional Use Permit (Section 35.472.060) or Land Use Permit (Section 35.472.110) for a project located within the ESH overlay zone shall be submitted in compliance with Chapter 35.470 (Permit Application Filing and Processing) and the requirements of this Section.

1. **Land Use Permit requirement.** A Land Use Permit approved in compliance with Section 35.472.110 (Land Use Permits) shall be required for the following activities, in addition to those activities required to have either a Land Use Permit by the primary zone:

   a. The removal of vegetation along 50 linear feet or more of a creek bank or removal that, when added to the previous removal of vegetation within the affected habitat on the site, would total 50 or more linear feet of vegetation along a creek bank.

   b. Grading in excess of 50 cubic yards of cut or fill.

   c. Except for vegetation fuel management required for fire protection within 100 feet of an existing structure:

      (1) The removal of vegetation over an area greater than 5,000 square feet or that, when added to the previous removal of vegetation within the affected habitat on the lot, would total an area greater than 5,000 square feet.

      (2) The removal of any native tree greater than six inches in diameter measured 4.5 feet above existing grade and more than six feet in height, or non-native trees that are used as habitat by Monarch butterflies for roosting, or by nesting raptors, unless the Director makes one or more of the following findings:

         (a) The tree is dead and is not of significant habitat value.

         (b) The tree prevents the construction of a project for which a Land Use Permit has been issued in compliance with Section 35.472.110 (Land Use Permits) and this Section, and project redesign is not feasible.

         (c) The tree is diseased and poses a danger to healthy trees in the immediate vicinity. The Department may require evidence of this to be presented by an arborist, licensed tree surgeon, or other qualified person.

         (d) The tree is so weakened by age, disease, storm, fire, excavation, removal of adjacent trees, or any injury so as to cause imminent danger to persons or property.

2. **Conditional Use Permit requirement.** Except for vegetation fuel management required for fire protection within 100 feet of an existing structure, a Conditional Use Permit approved in compliance with Section 35.472.060 (Conditional Use Permits) is required where vegetation is proposed to be removed which would exceed one acre, or 500 linear feet of creek bank, or where grading would exceed 1,500 cubic yards of cut and fill.

3. **Application review.** Upon receipt of an application for a Conditional Use Permit (Section 35.472.060), Land Use Permit (Section 35.472.110) or Zoning Clearance (Section 35.472.190) for a project located within the ESH overlay zone in compliance with this section or sections governing the primary zone, the Director shall determine if the proposed project is located in or within 100 feet of an environmentally sensitive habitat area.

   a. **Site inspection.**

      (1) If the Director determines that the proposed project is located in or within 100 feet of an environmentally sensitive habitat area, a site inspection shall be required, if the Director determines it necessary, by a qualified biologist to be selected jointly by the Director and the applicant. Upon completion of the site inspection, and if determined to be necessary, conditions shall be applied to the permit that will protect the environmentally sensitive habitat area to the maximum extent feasible, consistent with the applicable development standards in Subsection D through Subsection F below.

      (2) If the Director determines that the proposed project is not located in or within 100 feet of an environmentally sensitive habitat area, then a site inspection by a qualified biologist is not required.

4. **Findings required for Conditional Use Permit, Land Use Permit or Zoning Clearance approval.** An application for a Conditional Use Permit (Section 35.472.060), Land Use Permit (Section 35.472.110) or Zoning Clearance (Section 35.472.190) for a project that is subject to compliance with this section shall be approved or conditionally approved only if the review authority first finds that the proposed project will meet all applicable development standards contained in Subsection D through Subsection F, below, in addition to the findings required to be adopted by the review authority in compliance with Section 35.472.060 (Conditional Use Permits), Section 35.472.110 (Land Use Permits) and Section 35.472.190 (Zoning Clearances), as applicable.

5. **Conditions of approval.** A Conditional use Permit (Section 35.472.060), Land Use Permit (Section 35.472.110) or Zoning Clearance (Section 35.472.190) may be approved with conditions of approval as determined by the Director to be necessary to ensure protection of the habitat areas. The conditions may, among other matters, limit the size, kind, or character of the proposed work, require replacement of vegetation, establish required monitoring procedures and maintenance activity, stage the work over time, or require the alteration of the design of the project to ensure protection of the habitat. The conditions may also include deed restrictions and conservation and resource easements.

   a. The conditions may also expressly alter any regulation of the primary zone in furtherance of the purposes of the ESH overlay zone, except the land uses that are permitted or conditionally permitted by the primary zone, provided that the alteration is not less restrictive than the regulations of the primary zone.

D. Development standards - Monarch butterfly habitats.

1. **Limitation on the timing of construction.** Any construction, grading or development within 200 feet of known or historic butterfly roosts shall be prohibited between November 1 and April 1. This requirement may be modified or deleted on a case-by-case basis where either the Director or additional information or studies with the approval the Director concludes that one or more of these activities would not impact monarchs using the trees or where it would preclude reasonable development of the lot.

2. **Impact determination.** Prior to approval of a Land Use Permit for development within 200 feet of known or historic butterfly roosts, the Director shall determine if the proposed project would have the potential to adversely impact monarch butterfly habitat. This shall be determined based on proximity to known or historic, or potential butterfly trees. The Montecito Biological Resources map shall be considered in determining proximity as well as other available information and maps. In the event the proposed project does have the potential to adversely impact monarch butterfly habitat, the applicant

shall submit a Butterfly Roost Protection Plan to the Department. This plan shall be developed at the applicant's expense and shall be included on any grading designs. The plan shall include the following information and measures:

a. The mapped location of the windrow or cluster of trees where monarch butterflies are known, or have been known, to aggregate;

b. A minimum setback of 50 feet from either side of the roost shall be noted on the plan. Buffers surrounding potential roosts may be increased from this minimum, to be determined on a case by case basis. A temporary fence shall be installed outside of the buffer boundary. All ground disturbance and vegetation removal shall be avoided within the buffer; and

c. Native vegetation shall be maintained within this buffer.

3. Trimming or cleanup plan. A trimming or clean-up plan shall be required for trimming or clearing associated with a Land Use Permit within 50 feet of a monarch butterfly habitat and shall be approved by the Director and shall include supervision by a qualified biologist.

E. Development standards - Coastal sage scrub.

1. Preservation requirement. Each area of coastal sage scrub that is of one or more acres shall be preserved to the maximum extent feasible. Development shall avoid impacts that would isolate, interrupt, or cause a break in a contiguous habitat which would disrupt animal movement patterns, seed dispersal routes, or increase vulnerability of species to local extirpations such as fire, flooding, disease, etc.

2. Native plant buffer. Impacts shall be minimized by providing a 10-foot buffer vegetated with native plant species and placing the project on the outer edge of the buffer rather than in or through the middle of the habitat area, except where this would prevent reasonable development of the lot.

3. Additional onsite mitigation measures. Onsite mitigation such as revegetation, erosion and water quality protection, and other measures which would minimize the impact of development shall be included in project design as necessary.

F. Development standards - Streams.

1. Stream habitat buffer. The minimum buffer strip for development near streams and creeks in Rural Areas as designated on the Comprehensive Plan maps shall be presumptively 100 feet from the top of bank and 50 feet for streams in Urban Areas as designated on the Comprehensive Plan maps. These minimum buffers may be adjusted upward or downward on a case-by-case basis but the buffer shall not preclude reasonable development of a lot. To protect the biological productively and water quality of streams, each buffer shall be established based on an investigation of the following factors, and after consultation with the California Department of Fish and Wildlife and California Regional Water Quality Control Board:

a. Soil type and stability of stream corridors;

b. How surface water filters into the ground;

c. Slope of land on either side of the stream;

d. Location of the 100-year flood plain boundary; and

e. Consistency with adopted plans, particularly Biology/Habitat policies of the Montecito Community Plan.

2. Prohibition on development within a riparian corridor. No structure shall be located within a stream corridor except:

a. Public trails that would not adversely affect existing habitat;

b. Dams necessary for water supply projects;

c. Flood control projects where no other method for protecting existing structures in the floodplain is feasible, and where the protection is necessary for public safety;

d. Other development where the primary function is for the improvement of fish and wildlife habitat; and

e. Other development where this requirement would preclude reasonable development of a lot.

Culverts, fences, pipelines, and bridges (when support structures are located outside the critical habitat) may be permitted when no alterative route/location is feasible. All development shall incorporate the best mitigation measures feasible to minimize the impact to the greatest extent.

3. **Limitation on development, revegetation required.** All development, including dredging, filling, and grading within stream corridors shall be limited to activities necessary for the construction of uses specified in Subsection F.2 (Prohibition on development within a riparian corridor) above.

   a. Development shall be in compliance with the following:

      (1) When development requires the removal of riparian plant species, re-vegetation with local native plants shall be required on both banks and extending outward 25 feet from each top of bank, except where it would preclude reasonable development of a lot.

4. **Riparian protection measures.** Riparian protection measures shall be based on the project's proximity to riparian habitat and the project's potential to directly or indirectly damage riparian habitat through activities related to a Land Use Permit such as grading, brushing, construction, vehicle parking, supply/equipment storage, or the proposed use of the property. Damage could include vegetation removal/disturbance, erosion/sedimentation, trenching, and activities which hinder or prevent wildlife access and use of habitat. Prior to issuance of a Land Use Permit, the applicant shall include a note on the grading and building plans stating the following riparian habitat protection measures:

   a. A setback of 50 feet from either side of top-of-bank of the creek, that precludes all ground disturbance and vegetation removal; and

   b. That protective fencing shall be installed along the outer buffer boundary at the applicant's expense prior to initiation of any grading or development activities associated with a Land Use Permit. Storage of equipment, supplies, vehicles, or placement of fill or refuse, shall not be permitted within the fenced buffer region.

      (1) This measure may be modified or deleted in the event that the Director finds that it is not necessary to protect biological resources (e.g., due to topographical changes or other adequate barriers).

5. **Onsite restoration required.** Onsite restoration of any project-disturbed buffer or riparian vegetation within a creek shall be mandatory. A riparian revegetation plan, approved by the Director, shall be developed by a County approved biologist (or other experienced individual acceptable to the Director) and implemented at the applicant's expense. The revegetation plan shall use native species that would normally occur at the site prior to disturbance. The plan shall contain planting methods and locations, site preparation, weed control, and monitoring criteria and schedules.

35.428.050 - Flood Hazard (FA) Overlay Zone

A. Purpose and intent. The Flood Hazard (FA) overlay zone is intended to promote public health, safety and welfare and to minimize public and private losses due to flood conditions in area within the 100-year flood plain by alerting by alerting property owners that County Code Chapter 15A (Floodplain Management) applies to their property, and avoiding the exposure of new development to flood hazards, minimizing the need for future flood control protective works and resulting alteration of stream and wetland environments.

(3) Slopes of 30 percent or greater;

(4) Existing croplands with a high agricultural suitability rating (see Environmental Resource Management Element) or a Class I or II soil capability classification. However, urban uses may be permitted within urban areas on lots of 10 acres or less;

(5) Mineral resource sites;

(6) Existing parks and recreation sites, historic sites, and archaeological sites; and

(7) Proposed scientific preserves.

b Urbanization limited. Urbanization should be prohibited except in a relatively few special instances on lands subject to one or more of the following environmental factors:

(1) Geologic Problems Index IV (see Seismic Safety and Safety Element);

(2) Slopes of 20 percent or greater but less than 30 percent;

(3) Existing croplands with a moderate or low agricultural suitability rating (see Environmental Resource Management Element) or a Class III or IV soil capability classification;

(4) Land highly suitable for expansion of cultivated agriculture (see Environmental Resource Management Element);

(5) Significant habitats and/or prime examples of common ecological communities (see Environmental Resource Management and Conservation Elements).

35.430.140 - Reserved

35.430.150 - Setback Requirements and Exceptions

A. Purpose. This Section provides standards for the use and minimum dimension of setbacks. These standards provide open areas around structures for: visibility and traffic safety; access to and around structures; access to natural light, ventilation and direct sunlight; separation of incompatible land uses; and space for landscaping and recreation.

B. Setback requirements.

1. General. Each structure shall be located on its site so that it is set back from property lines and other structures in compliance with the setback requirements of the applicable zone in Division 35.2 (Montecito Zones and Allowable Land Uses), and with any setbacks established for specific uses by Chapter 35.442 (Standards for Specific Land Uses), except as otherwise provided by this Section or this Development Code.

2. Property lines and rights-of-way. No portion of any structure, including eaves or roof overhangs, shall extend beyond a property line or into a public street right-of-way, except as provided by Subsection 35.444.020.D.1.d (Extension over neighboring property).

C. Measurement of setbacks. The setbacks required by Subsection B (Setback requirements) above shall be measured as follows.

1. Front setback. A front setback shall be measured at right angles from the front line of the lot.

a. Corner lot. A corner lot shall have a front setback along each property line adjacent to a street. If the corner lot has a lot width of 100 feet or more, then each front setback shall be considered to be a primary front setback. If the corner lot has a lot width of less than 100 feet, then the front setback adjacent to the front line (see definition of Front Line) of the lot shall be considered the primary front setback and the front setback that is not adjacent to the front line shall be considered a secondary front setback. See Figure 3-5 (Corner Lot Setbacks) below.

Sea. The Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through any connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, creeks, and flood control and drainage channels.

Sea Wall. Structures, sand or other materials placed adjacent to the sea to reduce or eliminate upland damage from wave action or flooding during storms.

Secondary Use. A land use subordinate or accessory to a principal land use.

Seismic Retrofit. An alteration to the structural elements of a structure for the purposes of resisting earthquake forces.

Service Station. A retail business supplying goods and services generally required in the normal operation and maintenance of automotive vehicles and to the fulfilling of motorists needs. These include sale of petroleum products, sale and servicing of tires, batteries, automotive accessories and replacement items, washing and lubrication services, the performance of minor automotive maintenance and repair, and the supplying of other incidental customer services and products. Major motor repairs, painting and body and fender work and mechanical car wash are excluded. Incidental products and services may include non-auto related items such as refreshments provided the floor area devoted to these items is no greater than 100 square feet.

Setback. The minimum required distance that a structure must be located away from any property line of the lot on which it is located or street center line or right-of-way line or easement boundary, to provide an open yard area which is unoccupied and unobstructed from the ground upward except as specifically allowed for in this Development Code.

Setback, Front. An open yard area extending across the front of a lot between the side lot lines, the depth of which is the required minimum setback distance as measured perpendicularly between the front lot line and a line parallel thereto on the lot.

1. **Primary Front.** On a corner lot less than 100 feet in width, the primary front setback is the setback which is adjacent to the front line of the lot.
2. **Secondary Front.** On a corner lot less than 100 feet in width, the secondary front setback is the front setback which is not the primary front.

Setback, Rear. An open yard area located opposite the front line and extending across the rear of the lot between the side lot lines, the depth of which is the required minimum setback distance as measured perpendicularly between the rear lot line and a line parallel thereto on the lot.

Setback, Side. An open yard area extending between the front setback and the rear setback, the width of which is the required minimum setback distance as measured perpendicularly between the side lot lines and a line parallel thereto on the lot.

Sewage Treatment Facilities - Central Plant. Central plant facilities for sewage treatment, including wastewater treatment plants, wastewater package plants, reclamation facilities and other similar facilities, proposed to serve 200 or more connections.

Shade Structure. A structure consisting of a frame with no permanent structural elements (e.g. footings, foundations, plumbing, electrical wiring, etc.) and a dark, permeable, removable covering (e.g. netting) used to shade plants grown in the soil or in containers upon the soil.

Shopping Center. A retail commercial center, or group of retail commercial enterprises, planned, developed, managed, and maintained as a unit; with common off-street parking provided to serve all uses on the property.

Short-Term Rental. See "Lodging."

Sign. A structure, device, figure, display, message placard, or other contrivance, or any part thereof, situated outdoors or indoors, which is designed, constructed, intended, or used to advertise, or to otherwise provide

having such right of occupancy. The term "stock cooperative" does not include a limited-equity housing cooperative, as defined in this Chapter.

Storage - Accessory. The indoor storage of materials accessory and incidental to a principal use is not considered a land use separate from the principal use.

Storage - Outdoor. The storage of various materials outside of a structure either as an accessory or principal use.

Story. The portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between the floor and the ceiling next above.

Street. A permanently reserved, public or private right-of-way, not including alleys or driveways, that provides the public a principal means of vehicular access to abutting or adjacent property. The service or frontage road of a freeway or limited access highway shall be considered as a street separate from the freeway or highway.

Street Frontage. The portion of a property abutting a public or private street, except that when this term is used in Chapter 35.438 (Sign Standards) it shall mean the portion of a property that abuts an improved street or streets open to public use to which the property has access.

Structural Alteration. A change in the supporting members of a structure, including bearing walls, column beams, girders, or trusses, or in the dimensions, support members, or configuration of the roof.

Structure. Anything constructed or erected, the use of which requires location on the ground or attachment to something located on the ground, excluding trailers and sidewalks.

Structure Separation. The distance between structures on the same building site.

Studio - Art, Dance, Martial Arts, Music, etc. Small scale facilities, typically accommodating one group of students at a time, in no more than one instructional space. Examples of these facilities include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment. Also includes production studios for individual musicians, painters, sculptors, photographers, and other artists. Does not include artist studios that are accessory to a residential use.

Studio Dwelling Unit. A dwelling unit that does not contain a bedroom and which is located within a two-family dwelling or a multiple dwelling.

Subdivision. The division, by any subdivider, of any unit or portion of land shown on the latest equalized Santa Barbara County assessment roll as a unit or contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units even if it is separated by roads, streets, utility easement or railroad rights-of-way. Subdivision includes the following, as defined in Civil Code Section 1715: a condominium project; a community apartment project; or the conversion of five or more existing dwelling units to a stock cooperative.

Supportive Housing. Housing with no limit on length of stay, that is occupied by the target population, and that is linked to an onsite or offsite service that assists the supportive housing resident in retaining the housing, improving his or her health status, and maximizing his or her ability to live and, when possible, work in the community. (See Government Code Section 65582(g))

T. Definitions, "T."

Target Population. Persons with low incomes who have one or more disabilities, including mental illness, HIV or AIDS, substance abuse, or other chronic health condition, or individuals eligible for services provided pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and may include, among other populations, adults, emancipated minors, families with children, elderly persons, young adults aging out of the foster care

EXHIBIT 7

ORDINANCE NO. 2019-02

AN ORDINANCE OF THE GOVERNING BOARD OF THE MONTECITO FIRE PROTECTION DISTRICT ADOPTING BY REFERENCE AND AMENDING THE 2019 CALIFORNIA FIRE CODE AND APPENDIX CHAPTERS AND APPENDIX STANDARDS PRESCRIBING REGULATIONS GOVERNING CONDITIONS HAZARDOUS TO LIFE AND PROPERTY FROM FIRE, HAZARDOUS MATERIALS OR EXPLOSION; ADOPTING BY REFERENCE THE MONTECITO FIRE PROTECTION DISTRICT DEVELOPMENT STANDARDS; PROVIDING FOR THE ISSUANCE OF PERMITS FOR HAZARDOUS USES OR OPERATIONS; ESTABLISHING A BUREAU OF FIRE PREVENTION AND PROVIDING OFFICERS THEREFORE AND DEFINING THEIR POWERS AND DUTIES WITHIN THE DISTRICT; AMENDING SECTION R313 OF THE 2019 CALIFORNIA RESIDENTIAL CODE; AMENDING SECTION 1505 OF THE 2019 CALIFORNIA BUILDING CODE; AND REPEALING ORDINANCE NOS. 2016-01, 2017-01, 2018-01 & 2019-01.

WHEREAS, the Montecito Fire Protection District operates under the provisions of California's Fire Protection District Law of 1987, wherein the State Legislature declared that the local provision of fire protection services, rescue services, emergency medical services, hazardous material emergency response services and other services relating to the protection of lives and property is critical to the public peace, health and safety of the State of California and that local control over the types, levels and availability of these services is a long-standing tradition in California; and

WHEREAS, the State Legislature has also declared that its intent is to provide broad statutory authority for local fire protection districts, encouraging local officials to adopt powers and procedures set forth in the Fire Protection District Law of 1987 to meet their own circumstances and responsibilities; and

WHEREAS, Health and Safety Code Section 13869.7 expressly authorizes the Montecito Fire Protection District to adopt building standards relating to fire and panic safety that are more stringent than those building standards contained in the California Fire Code and other California Building Standards Code.

NOW THEREFORE, the Governing Board of the MONTECITO FIRE PROTECTION DISTRICT ordains as follows:

Article 1. Repeal of Previous Ordinances.

Ordinance Nos. 2016-01, 2017-01, 2018-01 & 2019-01 of the Montecito Fire Protection District are hereby repealed.

Article 2. Adoption of California Fire Code.

The Board of Directors ("Board") of the Montecito Fire Protection District ("District"), for the purpose of prescribing regulations of governing conditions dangerous to life and property from fire, hazardous materials or explosion, adopts by reference and incorporation, the 2018

International Fire Code and Part 9 of Title 24 of the California Code of Regulations, known as the California Fire Code 2019 Edition ("CFC"), and the Montecito Fire Protection District Development Standards (the "Development Standards"), hereinafter collectively known as the Fire Code of the Montecito Fire Protection District ("Code"). Adoption of the CFC includes Chapters 1-80, Appendix Chapter 4, and Appendices B, BB, C, CC, E, F, G, H and I, as published by the International Code Council, Inc., including necessary California amendments, save and except such portions as are hereinafter amended, deleted, or added by this Ordinance. In the event of an inconsistency or conflict between the provisions and standards set forth in the Code, the more restrictive provision shall apply. The Development Standards, which consist of Development Standard Nos. 1 – 6, are intended to establish regulations governing conditions dangerous to life and property from fire, and to supplement the District's adoption of and amendments to the CFC, the California Residential Code, and the California Building Code herein. Copies of the CFC and the Development Standards, certified to be true copies by the Clerk of the Board, have been and are now filed in the office of the Clerk of the Board and the same are hereby adopted and incorporated as fully as if set out at length herein. From the date on which this Ordinance shall take effect, the provision thereof shall be controlling within the limits of the territory of the District.

Article 3. Definitions.

The following terms in the California Fire Code shall be construed as indicated:

(a) "Jurisdiction" shall mean the territory of the District.

(b) "Fire Code Official" shall mean "Fire Marshal."

(c) "International Wildland Urban Interface Code" shall mean the Montecito Fire Protection District Development Standards as may be amended from time to time.

(d) "Building Department" shall mean the Santa Barbara County Department of Planning & Development.

(e) "County" shall mean the County of Santa Barbara.

(f) "Chief of Police" shall mean the Sheriff of the County of Santa Barbara or his/her designee.

(g) "Police officer" shall mean Sheriff's deputy.

(h) "Mixed-use building" shall mean any building or structure that includes both residential dwelling unit(s) and non-residential unit(s).

Article 4. Amendments Made in the California Fire Code.

The California Fire Code is amended and changed in the following respects:

CHAPTER 1 – SCOPE AND ADMINISTRATION

SECTION 101 - SCOPE AND GENERAL REQUIREMENTS

Section 101.1 "Title" is amended to read as follows:

> **101.1 Title.** These regulations shall be known as the Fire Code of the Montecito Fire Protection District, hereinafter referred to as "the Code".

SECTION 103 – DEPARTMENT OF FIRE PREVENTION

Section 103.1 "General" is amended to read as follows:

> **103.1 General.** The Fire Prevention Bureau ("Bureau") is established in the jurisdiction of the District under the Fire Code Official. The function of the Bureau shall be the implementation, administration and enforcement of the provisions of the Code.

Section 103.2 "Appointment" is amended to read as follows:

> **103.2 Appointment.** A Fire Code Official to be in charge of the Bureau shall be appointed by the Fire Chief on the basis of an examination to determine qualifications.

Section 103.3 "Deputies" is amended to read as follows:

> **103.3 Deputies.** The Fire Chief may recommend to the Board the employment of an assistant fire code official, other related technical officers, inspectors and other employees, who shall be selected in accordance with the prescribed procedures of the District to determine their fitness for the position. The examination shall be open to members and nonmembers of the District at the discretion of the Fire Code Official.

SECTION 105 – PERMITS

Section 105.6.32 "Open Burning" is amended to read as follows:

> **105.6.32 Open Burning.** An operational permit is required for the kindling or maintaining of an open fire, open burning, recreational fire, portable outdoor fireplace, or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.
>
> **Exception**: Recreational fires and portable outdoor fireplaces on private property.

Subsection (4) is added to Section 105.6.51 "Additional Permits" as follows:

4. **General use permit.** A general use permit for any activity or operation not specifically addressed in this article, which in the judgment of the Fire Chief or his/her designee could reasonably be expected to produce conditions hazardous to life or property.

SECTION 109 – BOARD OF APPEALS

Section 109 "Board of Appeals" is deleted.

SECTION 110 – VIOLATIONS

Section 110.4.2 is added to read as follows:

110.4.2.1 False alarms. The Fire Code Official is authorized to seek cost recovery for a fire department response to an alarm system activation which is determined to be a false alarm caused by system malfunction, system misuse, or other non-emergency causes.

110.4.2.2 False alarm frequency. The cost recovery penalty fee may be charged for all responses after the third false alarm in a calendar year

110.4.2.3 False alarm fee. The amount of the cost recovery penalty fee will be in accordance with Article 9 of this Code. Additional fees may be charged for extraordinary circumstances.

CHAPTER 2 – DEFINITIONS

SECTION 202 – GENERAL DEFINITIONS

Section 202 "General Definitions" is amended to include the following definitions:

ADDITION. Any construction change to an existing structure that includes, but is not limited to, the addition of walls outside of the existing building envelope which increases the existing square footage of the building.

BREEZEWAY. A roofed open passage connecting two buildings.

COMBUSTIBLE MATERIAL. Includes seasonal and recurrent weeds, stubble, brush, dry leaves, mulch, tumbleweeds, rubbish, recyclable material, litter or flammable materials of any kind that are readily ignitable and endanger the public safety.

CRITICAL FIRE WEATHER. As determined by the Fire Code Official, a set of weather conditions (usually a combination of low relative humidity, warmer temperatures and/or high winds) favorable to the ignition and the effect of which on

fire behavior makes control of a fire difficult and threatens fire fighter and public safety. This includes, but is not limited to "Red Flag Warnings" and "Fire Weather Watches" as issued by the National Weather Service.

FIRE AND LIFE HAZARD. Any condition, arrangement, or act which will increase, or may cause an increase of, the hazard or menace of fire or a hazardous material release (spill, leak, etc.) to a greater degree than customarily recognized as normal by persons in the public service of preventing, suppressing or extinguishing fire and responding to hazardous material releases; or which may obstruct, delay, hinder or interfere with the operations of the fire department or the egress from a facility or building, or may become the cause of obstruction, delay or hindrance to the prevention, suppression, or extinguishment of a fire or hazardous material release.

FIRE HAZARD SEVERITY ZONES (FHSZ). Geographical areas designated pursuant to California Resources Code Sections 4201 through 4204 and classified as Very High, High, or Moderate in State Responsibility Areas (SRA) or designated pursuant to California Government Code Sections 51175 through 51189 and classified as Very High, High, or Moderate in Local Responsibility Areas (LRA).

FIRE PROTECTION CERTIFICATE (FPC). The application for review by the Bureau of any construction of new buildings or structures, or additions or alterations to existing buildings or structures for which applications for building permits are filed or are required to be filed with the County of Santa Barbara.

HORIZONTAL PROJECTION. Any roofed projection intended for shelter or occupancy and constructed as a roof assembly or floor/ceiling assembly above. Horizontal Projection may include awnings, canopies, marquees, patio covers, covered porches, balconies, eaves, eave overhangs, roofed overhangs, breezeways, covered decks, etc.

PUBLIC NUISANCE. A declaration by the Fire Code Official that the presence of Combustible Material or other conditions on a parcel creates a fire hazard.

STRUCTURE. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

TEMPORARY USE. Unless otherwise specified within this Code, Temporary Use, when allowed, shall not exceed a period of 180 days in a 12-month period.

WILDLAND-URBAN INTERFACE FIRE AREA. A geographical area identified by the state as a "Fire Hazard Severity Zone" in accordance with the Public Resources Code, Sections 4201 through 4204, and Government Code, Sections 51175 through 51189, or other areas designated by the enforcing agency

to be at a significant risk from wildfires.

Section 202 "General Definitions" is amended to include the following amended definitions:

AUTOMATIC SPRINKLER SYSTEM. An automatic fire sprinkler system, for fire protection purposes, is an integrated system of underground and overhead piping designed and installed in accordance with fire protection engineering standards (reference standards) as may from time to time be adopted by the District. The system shall include one or more automatic water supplies. The portion of the system above the ground is a network of specially sized or hydraulically designed piping installed in a structure or area, generally overhead, and to which automatic sprinklers are connected in a systematic pattern. The system is usually activated by heat from a fire and discharges water over the fire area. The reference standards may include:

(a) Standard Nos. 13, 13D, 13R, and 24 as developed and published by the National Fire Protection Association; and

(b) California Fire Code as developed and published by the International Code Council, Inc. and the California Buildings Standards Commission; and

(c) The Montecito Fire Protection District Development Standards as may be amended from time to time.

FIRE APPARATUS ACCESS ROAD. A roadway that provides fire apparatus access from a fire station or other staging area to a facility, building or portion thereof. This is a general term inclusive of all other terms such as fire lane, public street, private street, parking lot lane and access roadway and driveway. This road may provide ingress and egress for both the fire department and the general public during emergency events and normal use.

FIRE CODE OFFICIAL. The Fire Prevention Bureau Chief (Fire Marshal), as appointed by the Fire Chief of Montecito Fire Protection District, charged with the implementation, administration and enforcement of the Code, or a duly authorized representative.

WILDFIRE RISK AREA (WRA) Land which is covered with grass, grain, brush, or forest, whether privately or publicly owned, which is so situated or is of such inaccessible location that a fire originating upon such land would present an abnormally difficult job of suppression or would result in great and unusual damage through fire or resulting erosion or such areas designated by the Fire Code Official. The Fire Code Official is authorized to utilize, as references, the definition of Wildland-Urban Interface Area, State SRA maps, Local Agency Fire Hazard Severity Zone Maps designated pursuant to California Government Code,

Sections 51175 through 51189 and the Montecito Fire Protection District Development Standards.

CHAPTER 3 – GENERAL REQUIREMENTS

SECTION 307 – OPEN BURNING, RECREATIONAL FIRES & PORTABLE OUTDOOR FIREPLACES

Section 307.1.1 "Prohibited open burning" is amended to read as follows:

> **307.1.1 Prohibited open burning.** The Fire Code Official is authorized to prohibit open burning, recreational fires, and the use of portable outdoor fireplaces when atmospheric conditions or other circumstances make such fires hazardous. The burning of rubbish (trash) is prohibited.
>
> **Exception**: Prescribed burning for the purpose of reducing the impact of wildland fire when authorized by the Fire Code Official.

Section 307.3 "Extinguishment authority" is amended to read as follows:

> **307.3 Extinguishment authority.** When open burning, recreational fires, or the use of portable outdoor fireplaces creates or adds to a hazardous situation, is not in compliance with the Code, or a required permit has not been obtained, the Fire Code Official is authorized to prohibit the fire, extinguish or order the extinguishment of the fire.

SECTION 311 – VACANT PREMISES

Section 311.1.3 "Buildings or property damaged by fire or disaster" is added to read as follows:

> **311.1.3 Buildings or property damaged by fire or disaster.** The owner, occupant, or other person having under their control any property or materials on property damaged by fire or other disaster, when access by the public is possible, shall secure the property either by boarding up all openings, fencing, barricading, or other appropriate measures as approved by the Fire Code Official. All debris, and/or damaged materials shall be removed from the property in the manner and within the time frame established by the Fire Code Official.

Section 311.1.4 "Authority to secure property damaged by fire or other disaster" is added to read as follows:

> **311.1.4 Authority to secure property damaged by fire or other disaster.** The Fire Code Official shall be empowered to initiate necessary actions to secure property damaged by fire or other disaster and/or remove and dispose of debris, and other damaged materials when, after giving notice to the owner of record of the

property, the owner fails to secure the property and/or remove debris as ordered by the Fire Code Official.

CHAPTER 5 – FIRE SERVICE FEATURES

SECTION 503 – FIRE SERVICE ACCESS ROADS

Section 503.1.1 "Buildings and facilities", exception 1.3 is deleted.

Section 503.1.4 "Access road design" is added to read as follows:

503.1.4 Access road design. The Fire Code Official may evaluate access road design in terms of total response efficiency. The Fire Code Official is authorized to make modifications to access road network design, access road routes and inter-connectivity with new or existing roads so that response efficiency is maintained.

SECTION 505 – PREMISES IDENTIFICATION

Section 505.1.1 "Mixed-use building" is added to read as follows:

505.1.1 Mixed-use building. A notification system, which indicates the presence of residential dwelling units in a mixed-use building, shall be installed in a manner and location approved by the Fire Code Official.

Section 505.1.2 "Directory" is added to read as follows:

505.1.2 Directory. For complexes and large buildings, an approved directory, premise map, and directional signs may be required by the Fire Code Official. The scale, design, and location shall be approved by the Fire Code Official.

CHAPTER 6 – BUILDING SERVICES AND SYSTEMS

SECTION 604 – ELECTRICAL EQUIPMENT, WIRING AND HAZARDS

Section 604.12 "Signage for electrical generators or other power sources" is added to read as follows:

604.12 Signage for electrical generators or other power sources. Permanent installations of electrical generators or other power sources may require approval from the Fire Code Official. Permanent engraved and affixed signage reading "Caution-Alternate Power Source" shall be permanently installed on each electrical panel subject to back-feed from alternate power sources. Any and all power disabling switches shall be clearly labeled. All provisions of the *National Electric Code*, the *Uniform Fuel Gas Code*, the *California Building Code*, and this Code shall be followed for any such installation.

CHAPTER 9 – FIRE PROTECTION AND LIFE SAFETY SYSTEMS

SECTION 901 – GENERAL

Section 901.6 "Inspection, testing and maintenance" is amended to read as follows:

> **901.6 Inspection, testing and maintenance.** Fire detection and alarm systems, emergency alarm systems, gas detection systems, fire-extinguishing systems, mechanical smoke exhaust systems and smoke and heat vents shall be maintained in an operative condition at all times, and shall be replaced or repaired where defective. Non-required fire protection systems and equipment shall be inspected, tested and maintained or removed only after obtaining written permission from the Fire Code Official.

Section 901.11 "Working space and clearance" is added to read as follows:

> **901.11 Working space and clearance.** A working space of not less than 30 inches in width, 36 inches in depth and 78 inches in height shall be provided in front of the fire protection equipment including, but not limited to: fire sprinkler control valves, fire department connections, hose connections, risers, hood system manual pull stations, fire alarm control panels, fire pumps, and specialized fire protection storage tanks (dry chemical, foam, CO_2, clean agent). Where the fire protection equipment is wider than 30 inches, the working space shall not be less than the width of the equipment. No storage of any materials shall be located within the designated working space. Direct access to the working space shall be provided from aisles or access roadways. Modifications to working space dimensions shall be approved by the Fire Code Official.

SECTION 903 – AUTOMATIC SPRINKLER SYSTEMS

Section 903.1.2 "Concurrent Permits" is added to read as follows:

> **903.1.2 Concurrent Permits.** Additions or modifications where the application for a building permit is submitted prior to the final inspection of any previously issued building permit(s) shall require the installation of an automatic fire sprinkler system throughout the entire structure when the area of the addition or modification of all open permits combined with the new application exceed the exceptions listed under Section 903.2.

Section 903.2 "Where required" is amended to read as follows:

> **903.2 Where required.** Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.20 and Section 903.7. Approved automatic sprinkler systems in existing buildings and structures shall be provided in the locations described by Section 903.7 and Section 1103.5 as amended.

Section 903.2.18 "Exception" is amended to read as follows:

> **Exception:** An automatic residential fire sprinkler system shall not be required when additions or alterations are made to existing carports and/or garages that do not have an automatic residential fire sprinkler system installed in accordance with this section. NOTE: This exception shall not apply if the alteration or addition includes modification such that a habitable space is created.

Section 903.7 "Montecito Fire Protection District Automatic Fire Sprinkler Systems" is added to read as follows:

> **903.7 Montecito Fire Protection District Automatic Fire Sprinkler Systems.** Terminology used within this Section shall be as defined in the reference standards identified in Section 202 as amended. The most current edition of these standards shall be utilized at the time of building permit issuance in the design and installation of any automatic fire sprinkler system required by this Section.
>
> **903.7.1 Application.** This Section shall apply to all occupancies within the District's jurisdiction except for townhouses and one and two-family dwellings, which occupancies are governed by the California Residential Code as amended by the District.
>
> **903.7.2 Locations required.** Notwithstanding any other requirement of the Code of the County of Santa Barbara, and except as otherwise provided in this Section, automatic fire sprinkler systems shall be installed and maintained in all occupancies and locations set forth as follows:
>
> 1. Any new building for which applications for building permits are filed or are required to be filed with the County of Santa Barbara regardless of square footage shall require the installation of an automatic fire sprinkler system throughout the entire building.
>
> 2. Existing buildings and structures as set forth below.
>
>   (a) Aggregate alterations and/or additions of 500 square feet or more to existing non-residential buildings or structures for which applications for building permits are filed or required to be filed with the County of Santa Barbara shall require the installation of an automatic fire sprinkler system throughout the entire non-residential building or structure.
>
>   (b) Any existing residential buildings or structures for which an application for building permits is filed or required to be filed with the County of Santa Barbara that meets either of the following two

requirements shall be required to install automatic fire sprinkler systems throughout the entire building or structure:

i. An aggregate alteration and/or addition that is greater than 50% of the existing square footage of the building or structure floor area; or

ii. An aggregate alteration and/or addition that is greater than 1,500 square feet in gross floor area.

(c) All existing buildings and structures for which applications for building permits for alterations and/or additions are filed or are required to be filed with the County of Santa Barbara, which are not served by water supplies meeting District standards as adopted from time to time shall require the installation of an automatic fire sprinkler system throughout the entire building or structure. The term water supply is more specifically defined in the District standards as adopted from time to time.

(d) All existing buildings for which applications for building permits for alterations and/or additions are filed or required to be filed with the County of Santa Barbara, which are not located within three (3) miles travel distance or a five (5) minute response time by fire apparatus from a staffed District fire station shall require the installation of an automatic fire sprinkler system throughout the entire building or structure.

(e) Any change of occupancy in an existing building where the occupancy changes to a higher hazard classification or as deemed necessary by the Fire Code Official shall require the installation of an automatic fire sprinkler system throughout the entire building.

SECTION 907 – FIRE ALARM AND DETECTION SYSTEMS

Section 907.2.30 "Mixed-use occupancies" is added to read as follows:

907.2.30 Mixed-use occupancies. In mixed-use occupancies, a fire alarm system shall be installed which notifies all occupants in the event of a fire. The system shall include a multiple-station smoke alarm and automatic smoke detection throughout the commercial and common areas.

CHAPTER 11 – CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS

SECTION 1103 – FIRE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS

Section 1103.5 “Sprinkler systems” is amended to read as follows:

1103.5 Sprinkler systems. An automatic sprinkler system shall be provided in existing buildings in accordance with Sections 1103.5.1 through 1103.5.4 and Section 903.2.

CHAPTER 12 – ENERGY SYSTEMS

SECTION 1203 – EMERGENCY AND STANDBY POWER SYSTEMS

Section 1206.2.8.8 “Residential garage installations” is added to read as follows:

1206.2.8.8 Residential garage installations. When an Energy Storage System (ESS) battery equipment is installed at any residential garage location, provide at least one UL listed, standalone, battery-operated heat detector with a minimum 135 degree fixed temperature. Unit shall be mounted directly above the battery equipment not exceeding six (6) feet. Indoor installation options shall be within the garage location mounted on a side wall only and shall be protected from physical damage.

Exception: If the ESS battery system has a listed, built-in overheat detection/alarm system, the external heat detector shall not be required.

CHAPTER 56 – EXPLOSIVES AND FIREWORKS

SECTION 5601 - GENERAL

Section 5608.2 “Prohibition of Fireworks” is added to read as follows:

5608.2 Prohibition of Fireworks. The possession, manufacture, storage, sale, handling and use of any and all fireworks are prohibited within the jurisdiction of the District.

Article 5. Amendments Made in the California Residential Code.

The California Residential Code is amended and changed in the following respects:

CHAPTER 3 – BUILDING PLANNING

SECTION R313 – AUTOMATIC FIRE SPRINKLER SYSTEMS

Section R313.1 “Exception” is deleted in its entirety and replaced with the following:

1. Any existing townhouse for which an application for building permits is filed or required to be filed with the County of Santa Barbara for any alteration and/or

addition that meets either of the following two requirements shall be required to install automatic fire sprinkler systems throughout the entire building:

i. An aggregate alteration and/or addition that is greater than 50% of the existing square footage of the building floor area; or

ii. An aggregate alteration and/or addition that is greater than 1,500 square feet in gross floor area.

2. Any existing townhouse for which an application for building permits for alterations and/or additions is filed or is required to be filed with the County of Santa Barbara, which is not served by water supplies meeting District standards as adopted from time to time shall require the installation of an automatic fire sprinkler system throughout the entire building. The term water supply is more specifically defined in the District standards as adopted from time to time.

3. Any change of occupancy in an existing townhouse where the occupancy changes to a higher hazard classification or as deemed necessary by the Fire Code Official shall require the installation of an automatic fire sprinkler system throughout the entire building.

Section R313.1.2 "Application" is added to read as follows:

R313.1.2 Application. The provisions of this Section shall be applicable within the District's jurisdiction.

Section R313.2 (1) is deleted in its entirety and replaced with the following:

1. Any existing one- and two-family dwellings for which an application for building permits is filed or required to be filed with the County of Santa Barbara for any alteration and/or addition that meets either of the following two requirements shall be required to install automatic fire sprinkler systems throughout the entire building:

i. An aggregate alteration and/or addition that is greater than 50% of the existing square footage of the building floor area; or

ii. An aggregate alteration and/or addition that is greater than 1,500 square feet in gross floor area.

2. Any existing one- and two-family dwellings for which an application for building permits for alterations and/or additions is filed or is required to be filed with the County of Santa Barbara, which is not served by water supplies meeting District standards as adopted from time to time shall require the installation of an automatic fire sprinkler system throughout the entire building. The term water

supply is more specifically defined in the District standards as adopted from time to time.

3. Any change of occupancy in an existing one- or two-family dwelling where the occupancy changes to a higher hazard classification or as deemed necessary by the Fire Code Official shall require the installation of an automatic fire sprinkler system throughout the entire building.

Section R313.2.2 "Application" is added to read as follows:

R313.2.2 Application. The provisions of this Section shall be applicable within the District's jurisdiction.

Section R313.3.1.2, Exceptions (1) through (4) are deleted.

Article 6. Amendments Made in the California Building Code.

The California Building Code is amended and changed in the following respects:

CHAPTER 15 – ROOF ASSEMBLIES AND ROOFTOP STRUCTURES

SECTION 1505 – FIRE CLASSIFICATION

Section 1505 "Fire Classification" is amended to read as follows:

1. "Notwithstanding any other requirement of the Code of the County of Santa Barbara, and except as otherwise provided in this Section, the roof assembly of any new building or the re-roofing of any existing building, regardless of the type or occupancy, shall be one of the following types of roofing:

   (a) Exposed concrete slab roof.

   (b) Sheet ferrous or copper roof covering only when applied over and fastened to non-combustible materials.

   (c) Slate shingles.

   (d) Clay or concrete roof tile.

   (e) Any other roofing assembly which will, as determined by a certified testing laboratory, meet or exceed the then current test standards required by the Underwriters Laboratories for a "Class A" roof assembly. A "Class A" roof assembly meeting such standards is a roof assembly that is effective against severe fire exposures. Under such severe exposures, roof assemblies of this

class are not readily flammable, afford a fairly high degree of fire protection to the roof deck, do not slip from position and pose no flying-brand hazard.

2. Exceptions. Exceptions from the requirements of Section (1) above are the following:

(a) Structures that are detached from and are not a part of any other structure and which detached structure has less than 500 square feet of gross floor area; and

(b) If, as of the effective date of this Section, less than 10% of the roof area of a then existing structure consists in the aggregate of the roofing materials required in (1) above, and if in addition less than 25% of the roof of said existing structure, is to be repaired, re-roofed or replaced, the replacement material need not be the requirements of (1) above. However, said replacement materials must meet the same fire retardant standards as the portion of the roof being replaced. If the replacement materials consist of wood shakes or shingles, the replacement materials must comply with "Class A" fire retardant treated wood shake or shingle assemblies as determined by a certified testing laboratory."

Article 7. Appeals.

Whenever the Fire Chief disapproves an application or refuses to issue a permit applied for, or when it is claimed that the provisions of this Ordinance do not apply or that the true intent and meaning of this Ordinance have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the Fire Chief to the Board of the District within 30 days from the date of the decision of the Fire Chief. All decisions of the Board shall be final. The Board shall cause to be kept accurate written minutes and shall deliver or cause to be delivered written findings and decisions on all appeals considered by the Board to the appellant upon request.

Article 8. New Materials, Processes or Occupancies That May Require Permits.

The Fire Chief and Fire Marshal shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those now enumerated in this Ordinance. The Fire Marshal shall post such list in a conspicuous place at District headquarters and distribute copies thereof to interested persons.

Article 9. Enforcement and Penalties.

(a) Any person who violates any of the provisions of this Ordinance or fails to comply therewith, or who violates or fails to comply with any order made hereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved hereunder, or any certificate or permit issued hereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the Board or by a court of competent jurisdiction, within the required time, shall

severally for each and every such violation and non-compliance, respectively, be guilty of an infraction punishable by a fine of not more than $250. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days that prohibited conditions are maintained shall constitute a separate offense.

(b) The application of the above penalties shall not be held to prevent the enforced removal of prohibited conditions. If a violation is determined to exist or to be impending, the Fire Chief is authorized to take such measures as are deemed necessary or expedient to secure compliance. In carrying out such measures, the Fire Chief and his agents may request, and shall receive, the assistance and cooperation of the County Building Official or other appropriate officials of the County of Santa Barbara.

(c) When the Fire Chief determines that any person has engaged in, is engaged in, or is about to engage in any act(s) or practice(s) which constitute or will constitute a violation of any provision of this Ordinance or the Code hereby adopted, the District Attorney or District Counsel may make application to the Superior Court of Santa Barbara County for an order restraining or enjoining such act(s) or practice(s), a permanent or temporary injunction, restraining order or other corrective order may be granted.

(d) In the event that any person, firm or corporation, whether as a principal, agent, employee or other type of representative shall fail to abate or correct a violation of any provision of this Ordinance or the Code hereby adopted after notice and opportunity to correct or end same, the District Attorney or District Counsel may apply to the Superior Court of the County for an order authorizing the District to undertake actions necessary to abate the violation and to require the violator to pay for the cost of such undertaking.

(e) Any person, whether as principal, agent, employee or other type of representative who maintains any premises in violation of any provision of this Ordinance or the Code hereby adopted shall be liable for and obligated to reimburse the District for all costs incurred by the District in obtaining compliance, or which are attributable to or associated with any enforcement action, whether such action is administrative, injunctive or legal; and for all damages suffered by the District, its agents, officers and employees as a result of such violation or efforts to enforce compliance.

(f) Any violation of any provision of this Ordinance or the Code and any amendment thereto may, in the discretion of the District Attorney for the County of Santa Barbara, be prosecuted as a misdemeanor.

Article 10. Liability.

It is the intent of the Board to establish minimum standards for the protection of the public health, safety and welfare. This Ordinance shall not be construed to establish standards of performance, strength, or durability other than those specified. Neither this Ordinance nor any services rendered in connection with or pursuant to its terms by Fire District officers, agents or employees, are

intended as nor shall be construed to be the basis for any express or implied warranties or guarantees to any person concerning any structure or portion thereof or appurtenance thereto constructed, repaired, replaced or removed pursuant to this Ordinance or the Code hereby adopted.

Article 11. Findings.

The Board, following due consideration, hereby finds and determines that all the amendments, deletions, and additions to the foregoing Codes are reasonably necessary due to local climatic, geological, and topographical conditions existing in the District. The District hereby finds and declares that:

The area within which the District is located regularly experiences strong, hot, dusty, and down canyon winds referred to locally as "Santa Anas" or "Sundowners."

Such wind conditions increase fire danger by significantly contributing to the spread and intensity of fires, and significantly increase the difficulty of effective fire suppression within the District.

If a fire involving a single structure cannot be immediately extinguished, such wind conditions can rapidly spread flames to adjacent structures, significantly endangering lives and/or millions of dollars in property value.

Such winds can spread existing flames from a structure or natural fuel to structures and natural fuel significant distances away, even jumping over fire breaks and freeways, resulting in significant property damage and/or loss of life.

Much of the jurisdiction of the District is within heavy brush and chaparral.

It is generally known to take about 25 years to build up extremely dangerous combustible brush conditions, and the District contains areas where combustible flora has built up for 50 to 100 years.

The District is in an area prone to extensive drought conditions, significantly increasing the already natural combustibility of the chaparral, brush and ornamental shrubbery in the District.

Such fuels can rapidly transform a small manageable fire into an uncontrollable conflagration, compromising the lives and safety of District personnel and residents.

The reduction of such fuels provides a direct correlation to the safety of the lives and property within the District, and will substantially reduce the risk of injury or death to District personnel.

The District is geographically situated such that extreme solar exposure (south, southwest, and west facing slopes) continually results in critically low live fuel moisture levels, further rendering most brush, chaparral and ornamental shrubbery highly combustible.

Due to these conditions even non-structural fires can pose a massive threat to the lives and structures located in the District.

The District is located in close proximity to several active earthquake faults.

During and after an earthquake, there is a high potential for fires and other emergencies threatening the lives of District residents, generally requiring the commitment of all available resources.

Geographic and topographic conditions delay response times for fire apparatus (these conditions include remote structures; narrow, winding roads which hamper the access of modern fire suppression apparatus; and extremely sloping roads which tend to slow fire apparatus response).

Water can be in short supply in the District, and fires in areas with structures with noncombustible roofing typically consume far lesser quantities of water than those not complying with the Ordinance, allowing greater fire suppression coverage, and preventing unnecessary loss of life and/or property within the District.

U.S. Highway 101 traverses the District, and is a transportation route for hazardous materials and some traffic accidents on Highway 101 require the presence of all available fire apparatus, leaving the District with fewer resources to combat structural fires elsewhere in the District.

The Union Pacific Railroad line also traverses the District, and a train accident or derailment could immediately deplete the District's resources, limiting the District's ability to furnish fire protection for the balance of the District.

The Montecito Fire Protection District is in the mutual aid plan and is committed to supply personnel and equipment for serious fires outside the District and which can reduce the personnel and equipment available for response to possible emergencies within the District.

Further, in many instances because of the extra hazardous conditions, a defensible space protection zone around buildings and structures of only one hundred feet is not sufficient to provide for tenable wildland firefighting operations around such buildings and structures. These conditions are common upon lands within the District that are located within the Montecito Resource Management Zone as designated by the County of Santa Barbara. Such areas are generally rural areas with slopes exceeding 40% and are covered with old age class chaparral and dense vegetation, creating conditions that are dangerous to fire fighters.

Portions of the District, however, that are designated on the Montecito Fire Protection District's Fire Hazard Severity Zone Map as High Fire Hazard Severity Zone rather than Very High Fire Hazard Severity Zone as previously designated by the California Director of Forestry and Fire Protection are in residential areas located south of East Valley Road (Highway 192). This area is comprised of more gentle terrain, with less dense brush, and ornamental landscape vegetation around the residences and estates. Road access in this area is moderate. Due to these conditions as compared to the conditions in the Very High Fire Hazard Severity Zone, the District designated this area as Very High Fire Hazard Severity Zone.

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The Board expressly finds and declares that the findings contained herein provide the basis for the amendment, deletions, and additions to the Code contained in this Ordinance.

Article 12. Severability.

If any article, section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Ordinance. The Board hereby declares that it would have passed this Ordinance and each article, section, subsection, sentence, clause, phrase or word thereof irrespective of the fact that any one or more articles, sections, subsections, sentences, clauses, phrases or words may be unconstitutional or invalid.

Article 13. Effective Date and Publication.

(a) Effective Date. This Ordinance was introduced for first reading on November 25, 2019, and passed on December 23, 2019, and shall take effect thirty (30) days after final passage.

(b) Publication. In accordance with Section 25124 of the Government Code, this Ordinance shall be published once, with the names of the members of the Board voting for and against it in a newspaper of general circulation in the District within fifteen (15) days after its adoption.

PASSED, APPROVED AND ADOPTED by the Governing Board of the MONTECITO FIRE PROTECTION DISTRICT on this 23rd day of December, 2019, by the following vote:

AYES: J. Iskanian, P. van Duinwyk, S. Easton, M. Lee

NAYS: None

ABSTAIN: None

ABSENT: J. A. Powell

Sylvia Easton

Sylvia Easton, President
MONTECITO FIRE PROTECTION DISTRICT

ATTEST:

Michael Lee, Secretary

COSB RJN 000088

STATE OF CALIFORNIA)
) ss.
COUNTY OF SANTA BARBARA)

I, Michael Lee, Secretary of the Governing Board of the Montecito Fire Protection District, DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of the California Fire Code hereby adopted Ordinance No. 2019-02 of said District, adopted at a regular meeting of the Governing Board, held on the 23rd day of December, 2019, at which meeting a quorum of the Governing Board was present and acting throughout, and that the same has not been amended or repealed.

DATED: This 23rd day of December, 2019.

Michael Lee, Secretary
MONTECITO FIRE PROTECTION DISTRICT

COSB RJN 000089

EXHIBIT 8

DEVELOPMENT STANDARD #2

VEGETATION MANAGEMENT

This Standard provides provisions intended to identify hazard areas and mitigate the risk to life and structures caused by a wildfire exposure and mitigate fires spreading to wildland fuels that may threaten to destroy life, overwhelm fire suppression capabilities, or result in large property loss.

The purpose of this section is to establish minimum standards for protection of life and property by reducing fuel loading and increasing the ability of a building located in any Fire Hazard Severity Zone within the District to resist the intrusion of flames or burning embers projected by a vegetation fire and contribute to a systematic reduction of conflagration losses through the use of performance and prescriptive requirements.

Code Standard References:

- California Resource Code Section 4291
- California Government Code Sections 51175 through 51189
- California Fire Code 2019 Edition Chapter 49
- California Building Code 2019 Edition Section 705A

DEFINITIONS

DEFENSIBLE SPACE An area either natural or man-made surrounding a structure or building, where material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate of intensity of an advancing wildfire or escaping structure fire. The area is characterized by the establishment and maintenance of fuel modification measures that creates an area for fire suppression operations to occur.

FUEL BREAK An area, strategically located for fighting anticipated fires, where the native vegetation has been modified or replaced so that fires burning into it can be more easily controlled. Fuel Breaks divide fire-prone areas into smaller areas for easier fire control and to provide access for firefighting.

FUEL MODIFICATION A method of modifying fuel load by reducing the amount of non fire-resistive vegetation or altering the type of vegetation to reduce the fuel load.

FUEL MOSAIC A fuel modification system that provides for the creation of islands and irregular boundaries to reduce the visual and ecological impact of Fuel Modification.

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GREENBELTS A facility or land-use, designed for a use other than fire protection, which will slow or resist the spread of a wildfire. May include parking lots, irrigated or landscaped areas, golf courses, parks, playgrounds, maintained vineyards or orchards.

PARCEL A portion of land of any size, the area of which is determined by the assessor's maps and records and may be identified by an assessor's parcel number whether or not any buildings are present.

WILDFIRE EXPOSURE One or a combination of radiant heat, convective heat, direct flame contact and burning embers being projected by vegetation fire to a structure and its immediate environment.

FIRE HAZARD REDUCTION

I. FIRE HAZARD SEVERITY ZONES IN MONTECITO

Fire Hazard Severity Zone (FHSZ) maps are created by the California Department of Forestry and Fire Protection (Cal Fire) to identify areas where a wildfire is more likely to occur. FHSZ maps help homeowners, landscape design and construction professionals determine which exterior wildfire-related construction and landscaping standards, found within the California Building Code apply to their residential or commercial construction projects.

Scientific models are used to geographically identify FHSZ's through an analysis of factors, such as:

- Predominant vegetation type (vegetation is the fuel for a wildfire)
- Terrain (severity of slopes)
- Fire history (past fires are good predictors of future fires)
- Weather patterns (high winds, low humidity, and high temperatures contribute to fire severity)

Please visit www.montecitofire.com/maps to determine whether your property falls in the Moderate, High or Very High Fire Hazard Severity Zone.

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II. VEGETATION CLEARANCE FROM STRUCTURES

DEFENSIBLE SPACE Research clearly demonstrates how defensible space significantly improves the probability of a structure surviving a fire. For the purposes of this standard, defensible space consists of two zones; 0 – 30 feet (Zone 1), and an additional 70 feet (Zone 2) totaling 100 feet from all buildings or structures. A greater distance may be required on a case-by-case evaluation. Final approval of the adequacy of the defensible space shall be at the discretion of the Fire Code Official or his or her designee.

1. Property Owners shall maintain defensible space of 100 feet from all sides of any structure but not beyond the property line except when adverse conditions exist as referenced in paragraph*s 2 and 3* below.

   The level to which the Fire District will require fuel modification will depend on the flammability of the structure pursuant to building materials used, position of the structure in relation to the topography, and characteristics of the surrounding vegetation.

   Defensible space shall be maintained so a wildfire burning under average weather conditions would be unlikely to ignite the structure. Further, a working structure fire would be less likely to ignite adjacent vegetation if adequate defensible space is provided.

   The most aggressive clearing of vegetation occurs within Zone 1, the first 30 feet around the structure. For the purposes of this section, “fuel”, means any combustible material including petroleum-based products and wildland vegetation.

   a. All mature trees shall be trimmed up off the ground 6 feet above ground level. For young/immature trees ensure limbs are trimmed well above ground level. The objective is to prevent a ground fire from spreading into the tree canopy.

   b. All native brush and shrubs within Zones 1 and 2 should be thinned and stripped of dead and/or decadent fuels.

   c. Provide and maintain adequate spacing between the plants in order to minimize fire spread.

   d. Remove that portion of a tree that extends to within 10 feet of the outlet to a chimney or stovepipe, including outdoor kitchen areas

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e. Maintain any tree, shrub, or other plant that is adjacent to or overhanging a building free of dead or dying wood.

f. Maintain the roof of a structure free of leaves, needles, or other vegetative materials.

g. Remove dead trees, plants and other vegetative materials within 100 feet of any structure, driveway, road or as determined necessary by the Fire Code Official.

h. If it is necessary or desirable to re-vegetate, refer to the plant list located on the Fire District website for guidelines.
"Creating Firewise Landscapes" www.*montecitofire.com*

2. A greater distance than that required under paragraph 1 may be required by special order from the Fire Chief or designee if additional distance is necessary due to extreme risks. Such risks could include, but are not limited to, slopes greater than 40% and heavy fuel loading.

3. Fuels reduction on adjacent properties may be required if it is determined that additional clearing is necessary to significantly reduce the risk of transmission of flame, heat, or embers sufficient to ignite the structure and there is no other feasible mitigation measure to reduce that risk. Additionally, the property owner must have done everything reasonable to meet defensible space requirements on their property. Clearance on adjacent properties shall only be conducted following written consent by the adjacent landowner. It is the responsibility of the property owner to obtain such consent.

4. The Fire Chief may authorize the removal of any vegetation on a given property that is not maintained consistent with the standards of this section. Following written notice, the Fire Chief may prescribe a procedure for the removal of such vegetation and seek reimbursement from the property owner for work that was done consistent with the procedures prescribed in the Code.

VEGETATION MANAGEMENT PLAN (VMP) A VMP is a document prepared for a specific project or development that describes ways to minimize and mitigate potential for loss from wildland exposure.

1. A VMP is required for all new construction projects in the Montecito Fire Protection District High & Very High Fire Hazard Areas and may also be required in other plan areas if deemed necessary by the Fire Code Official or designee.

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2. The VMP must be submitted and approved by the District prior to the erection of combustible materials. The VMP must describe all actions that will be taken to prevent fire from being carried toward or away from structures. The requirements of the VMP shall be applicable for the life of the project or development. The plan shall include:

    a. A copy of the site plan that includes a landscape plan, property line boundaries, and topographic reference lines
    b. The building envelope with all structures and improvements
    c. Designated Fuel Modification Zones

        i. Zone 1 - (Cleared Zone) which is from the structure(s) exterior edge to 30' surrounding the structure(s). Vegetation in this zone is limited to ground covers, green lawns, a limited number of selected ornamental plants, select native species listed on the Fire District's "Desired Plants List", and single specimen trees. All plants, shrubs and trees should be spaced and arranged in a manner that makes it difficult for fire to transfer from one fuel source to another, including the structure itself. Ensure at least 5' of separation from the structure and combustible ground cover such as bark, mulch, etc. Trees (when the canopy is fully grown) shall not be planted closer than 15' from a structure. No plantings shall be connected to the structure.

        ii. Zone II – (Reduced Fuel Zone) which is from 30' to 100' from the structure(s) edge surrounding the structure(s). Vegetation in this zone is characterized by disruption of the vertical and /or horizontal continuity of flammable and combustible vegetation with the goal of reducing the rate of fire spread, and providing a safer environment for firefighters to suppress wildfires.

        iii. Zone III – (Constrained Fuel Zone) which is from 100' to 200' from the structure(s) edge surrounding the structure(s). It is defined as having slopes greater than 25% and/or having fuel loads in excess of 100 tons per acre. Clearance distance between vegetation will depend on slope, size, type, and fuel compaction and chemical content.

    d. Elements of the plan shall include removal of dead vegetation, litter, vegetation that may grow into overhead electrical lines; certain ground fuels, and ladder fuels as well as the thinning of live trees.

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III. VEGETATION CLEARANCE FOR VACANT PARCELS

Annual grasses/ readily combustible fuels (less than ¼ inch shaft diameter). This standard applies to all parcels, regardless of proximity to structures.

1. Parcels less than one acre in size: All grasses shall be mowed or disked to less than 3 inches in height.

2. Parcels one acre or larger in size: Create 30 foot wide fuel breaks around and across the property dividing it into approximately one acre sections. Grasses shall be mowed or disked to less than 3 inches in height.

3. Soil disturbance shall be minimized when working on steep slopes, above waterways, and in environmentally sensitive habitat areas.

4. Dead trees, plants and other vegetative materials shall be removed from vacant parcels as determined necessary by the Fire District.

IV. WILDFIRE RISK AREA (WRA)

RESTRICTED ENTRY TO PUBLIC LANDS Fire Code Official is authorized to determine and publicly announce when an WRA shall be closed to entry and when such areas shall again be opened to entry. Entry on and occupation of an WRA, except public roadways, inhabited areas or established trails and campsites that have not been closed during such time when the WRA is closed to entry, is prohibited.

Exceptions:

1. Residents and owners of private property within a HFA and their invitees and guests going to or being on their lands.

2. Entry, in the course of duty, by peace or police officers, and other duly authorized public officers, members of a fire department and members of the Wildland Firefighting Service.

RESTRICTED ENTRY TO PRIVATE LANDS When the Fire Code Official determines that a specific area within an WRA presents a fire danger because of the density of natural growth, difficulty of terrain, proximity to structures or accessibility to the public, such areas shall be restricted or closed until conditions allow termination of such restriction or closure. Signs prohibiting entry by un-authorized persons shall

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be placed on every closed area. Entering and remaining within areas closed and posted is prohibited.

Exception: Owners of private or public property within closed and posted areas; their guests or invitees; authorized persons engaged in the operation and maintenance of necessary utilities such as electrical power, gas, telephone, water and sewer; and local, state and federal public officers and their authorized agents acting in the course of duty.

V. ROADWAY/DRIVEWAY VEGETATION CLEARANCE

1. Property owners are responsible for vegetation maintenance along private roadway / driveways and in most cases along public roads which front their property.
2. A minimum 13 ½ foot vertical clearance shall be maintained above full width of the required roadways and driveways to allow for effective response of emergency vehicles at all times.
3. Horizontal clearance of vegetation shall be maintained, at minimum, to the road right-of-way or the edge of the pavement depending on individual easements to maintain maximum traffic circulation in the event of emergency evacuation.
4. Flammable vegetation such as dead materials, annual grasses, and readily combustible fuels shall be removed for 10 feet on each side of every roadway to prevent wildfire from spreading as a result of vehicular causation (catalytic converters, sparking due to metallic/asphalt abrasion, discarded cigarettes, vehicle fires, etc.).

   Exception: Single specimen trees, ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants used as ground cover, provided they do not form a means of readily transmitting fire.
5. Remove dead trees, plants and other vegetative materials within 100 feet of any driveway, road, or as determined necessary by the Fire District.
6. Excessive accumulation of waste, trash, rubbish and other belongings which prevent fire fighters from accessing the full perimeter of the structure or from gaining access to the structure shall be mitigated.

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VI. PHOTOVOLTAIC SYSTEMS

CLEARANCE The clearance requirements around free standing photovoltaic systems and equipment shall comply with the following:

1. A minimum 10-foot clearance for arrays of panels not exceeding 1,500 square feet of combined panel area.

2. A minimum 30-foot clearance for arrays of panels greater than 1,500 square feet of combined panel area.

3. Arrays shall be separated a minimum of 20 feet.

VII. ENVIRONMENTALLY SENSITIVE HABITAT (ESH)

Selective fuel management shall be practiced to minimize the removal or clearance of dead and/or decadent native riparian vegetation to the extent feasible. Maintain native vegetation to the maximum extent possible, consistent with fuel modification requirements. It is important to make efforts to minimize soil disturbance.

For clarification or advice on clearing in sensitive areas, please contact County of Santa Barbara Planning and Development.

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EXHIBIT 9

CALIFORNIA NATURAL RESOURCES AGENCY



FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

AMENDMENTS TO THE STATE CEQA GUIDELINES

OAL NOTICE FILE NO. Z-2018-0116-12

NOVEMBER 2018

15301. EXISTING FACILITIES

Specific Purposes of the Amendment

Section 15301 of the CEQA Guidelines exempts ongoing operations and minor alterations of existing facilities from CEQA. The key in determining whether the exemption applies is whether the project involves an expansion to an existing use. Projects that involve no or only a negligible expansion may be exempt. This exemption plays an important role in implementing the state's goal of prioritizing infill development.

The Natural Resources Agency made two changes to Section 15301.

The first change appears in the first sentence of the exemption. It deletes the phrase "beyond that existing at the time of the lead agency's determination." Stakeholders noted that this phrase could be interpreted to preclude use of the exemption if a facility were vacant "at the time of the lead agency's determination," even if it had a history of productive use, because compared to an empty building, *any* use would be an expansion of use. (See, Comments of the Building Industry Association, August 30, 2013.) Such an interpretation is inconsistent with California's policy goals of promoting infill development.

It would also not reflect recent case law regarding "baseline." Those cases have found that a lead agency may look back to historic conditions to establish a baseline where existing conditions fluctuate, again provided that it can document such historic conditions with substantial evidence. (See *Communities for a Better Environment v. South Coast Air Quality Management Dist.* (2010) 48 Cal.4th 310, 327-328 ("Environmental conditions may vary from year to year and in some cases it is necessary to consider conditions over a range of time periods") (quoting *Save Our Peninsula Committee v. Monterey County Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 125); see also *Cherry Valley Pass Acres & Neighbors v. City of Beaumont* (2010) 190 Cal.App.4th 316.)

The phrase at issue was apparently added in response to *Bloom v. McGurk* (1994) 26 Cal.App.4th 1307. The court in that case was asked to decide whether the fact that the facility in question had never undergone CEQA review triggered an exception to the exemption. In analyzing that question, the court in *Bloom* relied on the analysis of a prior Supreme Court decision. It explained:

> Under *Wine Train's* analysis, the term "existing facility" in the class 1 exemption would mean a facility as it exists at the time of the agency's determination, *rather than a facility existing at the time CEQA was enacted*. For purposes of the exception to the categorical exemptions, "significant effect on the environment" would mean a change in the environment existing at the time of the agency's determination, rather than a change in the environment that existed when CEQA was enacted.

(*Id*. at p. 1315 (citing *Napa Valley Wine Train, Inc. v. Public Utilities Com*. (1990) 50 Cal.3d 370, 378, fn. 12) (emphasis added).) Nothing in that decision indicates, however, that a lead agency could not consider actual historic use in deciding whether the project would expand beyond that use.

COSB RJN 000101

The second change appears in subdivision (c). The purpose of this change is to clarify that improvements within a public right of way that enable use by multiple modes (i.e., bicycles, pedestrians, transit, etc.) would normally not cause significant environmental impacts. This change is consistent with the Complete Streets Act of 2008, which requires cities and counties to plan for the needs of all users of their streets. In this regard, because such improvements involve operation of public rights of way, they may be similar to the imposition of water conservation requirements for existing water facilities (see, *Turlock Irrigation Dist. v. Zanker* (2006) 140 Cal. App. 4th 1047,1065), or the regulation of the right of way for parking (see, *Santa Monica Chamber of Commerce v. City of Santa Monica* (2002) 101 Cal.App.4th 786, 793 ("it is clear that the Class 1 exemption applies to the legislation/project here[; it] involves adjusting the particular group of persons permitted to use 'existing facilities,' in other words, the existing, unmetered, curbside parking on residential streets")). Improvements to the existing right of way have long been understood to fall within the category of activities in subdivision (c), provided that the activity does not involve roadway widening. (See, *Erven v. Board of Supervisors* (1975) 53 Cal. App. 3d 1004.)

Necessity

These additions are necessary to maintain consistency between this CEQA Guideline section and current case law. These additions are also necessary to ensure that the CEQA Guidelines best serve their function of providing a comprehensive, easily understood guide for the use of public agencies, project proponents, and other persons directly affected by CEQA.

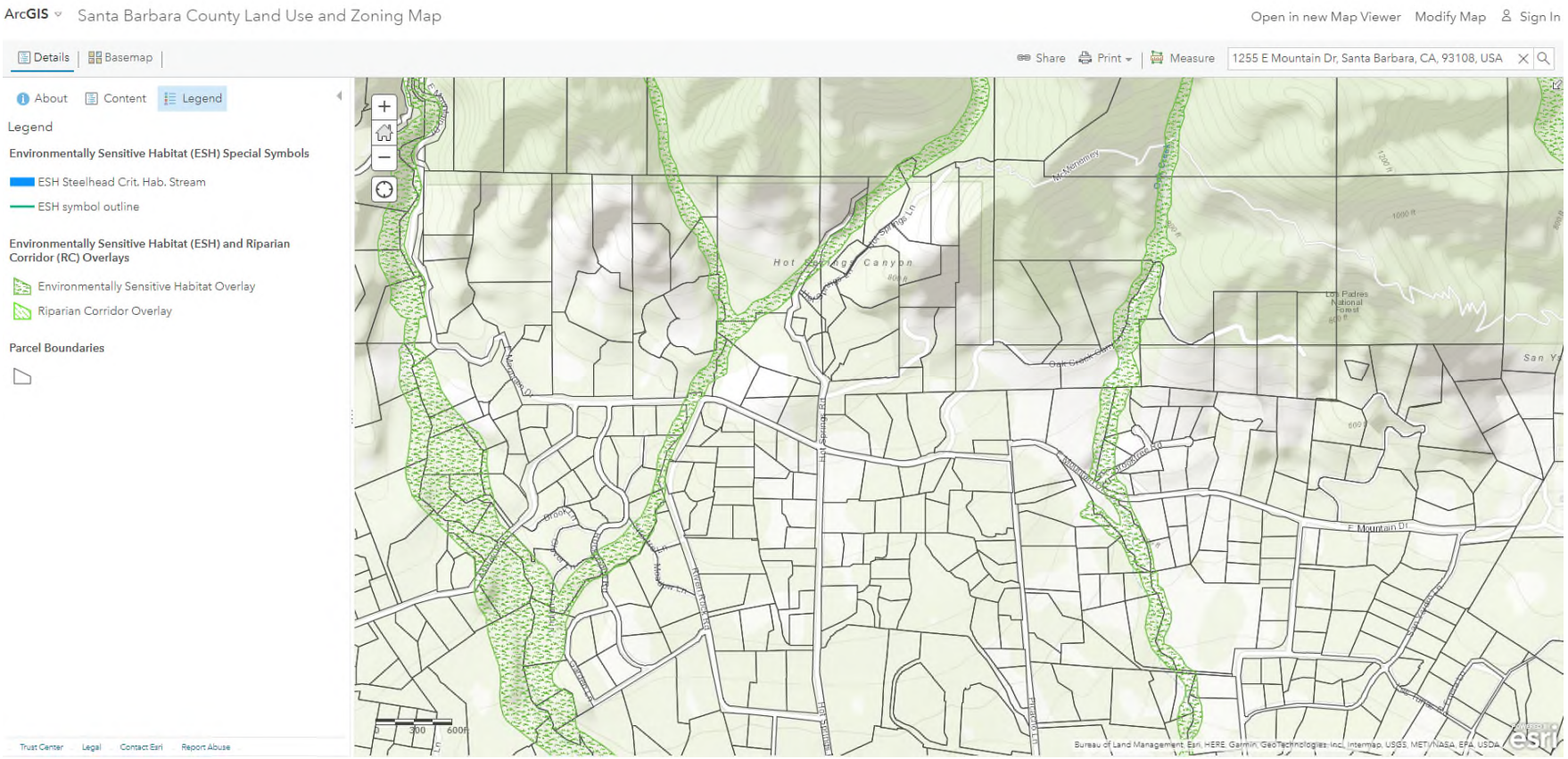
Reasonable Alternatives to the Regulations, Including Alternatives that Would Lessen Any Adverse Impact on Small Business, and the Resources Agency's Reasons for Rejecting Those Alternatives

The Natural Resources Agency considered reasonable alternatives to the proposed action and determined that no reasonable alternative would be more effective in carrying out the purpose for which the action is proposed or would be as effective as, and less burdensome to affected private persons than, the proposed action. This conclusion is based on the Agency's determination that the proposed action is necessary to update the CEQA Guidelines to clarify current case law. The proposed action adds no new substantive requirements. The Agency rejected the no action alternative because it would not achieve the objectives of the proposed revisions. There are no alternatives available that would lessen any adverse impacts on small businesses as the change is a clarifying change only.

Evidence Supporting an Initial Determination That the Action Will Not Have a Significant Adverse Economic Impact on Business

The proposed action implements and clarifies existing law. Because the proposed action does not add any substantive requirements, it will not result in an adverse impact on businesses in California.

EXHIBIT 10


ArcGIS
Santa Barbara County Land Use and Zoning Map
Open in new Map Viewer
Modify Map
Sign In
Details
Basemap
Share
Print
Measure
1255 E Mountain Dr, Santa Barbara, CA, 93108, USA
About
Content
Legend
Legend
Environmentally Sensitive Habitat (ESH) Special Symbols
ESH Steelhead Crit. Hab. Stream
ESH symbol outline
Environmentally Sensitive Habitat (ESH) and Riparian Corridor (RC) Overlays
Environmentally Sensitive Habitat Overlay
Riparian Corridor Overlay
Parcel Boundaries
Trust Center
Legal
Contact Esri
Report Abuse
Hot Springs Canyon
Los Padres National Forest
E Mountain Dr
Bureau of Land Management, Esri, HERE, Garmin, GeoTechnologies, Inc, Intermap, USGS, METI/NASA, EPA, USDA
esri

PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California.

On April 19, 2022, I served a true copy of **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO CHOW CAUSE REGARDING PRELIMINARY INJUNCTION** on the Interested Parties in said action by:

☐ by electronic mail. I delivered such paperwork via electronic mail on the interested parties in this action from warwick@countyofsb.org to the below electronic mail addresses:

☒ personally delivered it to the person(s) indicated below:

A.Barry Cappello
David L. Cousineas
Matthew L. Hofer
CAPPELLO & NOEL LLP
831 State Street
Santa Barbara, CA 93101

*Courtesy Copies Emailed to:
abc@cappellonoel.com
mhofer@cappellonoel.com
dcousineas@cappellonoel.com

☐ by facsimile transmission.

☐ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned documents would have been deposited with the United States Postal Service on August 2, 2021 after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on April 19, 2022, at Santa Barbara, California.

Natalie M. Warwick
Natalie M. Warwick

COUNTY COUNSEL
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101
(805) 568-2950

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/19/2022 3:47 PM
By: Narzralli Baksh, Deputy

SANTA BARBARA COUNTY COUNSEL
RACHEL VAN MULLEM, County Counsel
LINA SOMAIT, Senior Deputy (Bar No. 263876)
105 East Anapamu Street, Suite 201
Santa Barbara, California 93101
Telephone (805) 568-2950 / Fax (805) 568-2982
E-mail: lsomait@countyofsb.org

Attorneys for Respondents
COUNTY OF SANTA BARBARA and BOARD
OF SUPERVISORS OF SANTA BARBARA COUNTY

Exempt from filing fees [Gov. Code, § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

DECLARATION OF SCOTT D. MCGOLPIN IN SUPPORT OF RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO SHOW CAUSE

[Filed concurrently with County Response to OSC; Request for Judicial Notice; Evidentiary Objections; Declaration of Gary Smart; and Declaration of Eric Pearson]

Hearing Date: May 6, 2022
Time: 10:00 a.m.
Judge: Donna Geck
Dept.: 4
Complaint filed: April 4, 2022

I, SCOTT D. MCGOLPIN, declare as follows:

1. I am the Director of the Public Works Department of the County of Santa Barbara. I am also the County Road Commissioner. I am a licensed Civil Engineer.

2. On October 28, 2021, the County conducted a neighborhood meeting in the driveway of one of Joseph Cole's clients. I believe it was Petitioner Ross Bagdasarian. I attended that meeting, as did Deputy Director of Transportation Chris Sneddon, and Chief of Staff to Supervisor

Williams Darcel Elliott. During that meeting, I mentioned that the County could restore over 60 parking spaces in the area's right-of-way, but that the County was not going to do that because we wanted to have a light touch to minimize impacts to the residents and homeowners. I explained that the County was looking to clear encroachments from the rights-of-way on East Mountain Drive to restore 5 or 6 parking spots to the East of the Hot Springs Trailhead, and 5 or 6 to the west of the Hot Springs Trailhead. We have consistently told the public that the County is looking to restore about a dozen parking spaces on East Mountain Drive.

3. All encroachment permits are revocable. In the 0.5 mile stretch of East Mountain Drive on either side of the Hot Springs Trailhead only one property has an encroachment permit.

4. The County should not be performing any vegetation removal work – that is the responsibility of the adjacent property owners with the unpermitted improvements. I have never stated to Mr. Cole or anyone else that the County planned to use bulldozers to remove encroachments, or create up to 62 new parking spaces near the Hot Springs Trailhead, or revoke encroachment permits, or destroy mature oak or sycamore trees. To my knowledge, nobody associated with the County has ever made such statements to Mr. Cole. The County has no such plans.

5. The County did not enter into any agreement with the Petitioners or Mr. Cole or anyone else regarding restoring the right of way on East Mountain Drive. We had discussions with Mr. Cole regarding his clients' concerns. We were unable to resolve them.

6. On February 7, 2022, the County sent out three notice letters of unpermitted encroachments to properties on East Mountain Drive giving them until April 8, 2022 to remove the encroachments. One of those properties was 1255 East Mountain Drive. I met with the resident of that property, Dr. Richard Kahmann, along with Chris Sneddon, Supervisor Williams, and Darcel Elliott. Dr. Kahmann told me that he wanted to do his part for the community and would like to continue our conversation about options; I shared that at a minimum we would like to have removal of unpermitted encroachments to restore one parking spot in the right of way adjacent to his home. I agreed to extend the deadline to remove encroachments by 45 days. Attached as Exhibit 1 is a copy of the letter I sent to Dr. Kahmann memorializing that extension. The County

SANTA BARBARA
COUNTY COUNSEL
105 E. Anapamu Street, #201
Santa Barbara, CA 93101
(805) 568-2950

to date has not received a response to the other two letters it sent.

7. The Public Works Department website provides information to the public about road frontage requirements, including clear zones and encroachment permit policies, signs and temporary road encroachments, road encroachment permit submittal procedures and requirements, and a road encroachment permit application. Printouts of those website pages are attached as Exhibit 2.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct. Executed on April 18, 2022, in Santa Barbara California.

Scott D. McGolpin

SANTA BARBARA
COUNTY COUNSEL
105 E. Anapamu Street, #201
Santa Barbara, CA 93101
(805) 568-2950

EXHIBIT 1

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
123 East Anapamu Street
Santa Barbara, California 93101
(805) 568-3000

SCOTT D. MCGOLPIN
Director

April 1, 2022

Rich Kahmann
Email: RKAHMANN@GMAIL.COM

RE: 45 Day Extension – Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Mr. Kahmann:

You are hereby granted an extension of time for 45 days from April 8, 2022 to remove all Un-Permitted Encroachments at 1255 East Mountain Drive.

This will allow additional time to discuss options (dated: February 7, 2022) by May 24, 2022.

If you should have any questions please feel free to contact Eric Pearson in our Road Encroachment Permit Office at (805) 681-4990.

Sincerely,

Scott D. McGolpin

Scott D. McGolpin, P.E.
Director, County of Santa Barbara Public Works Department

CC: Encroachment Permits Office: PWRDPERMIT@COUNTYOFSB.ORG
Chris Sneddon, Deputy Director
Joseph Billings: jbillings@aklaw.net

Enclosures: Letter Dated: February 7, 2022

EXHIBIT 2

PWD Department

(/pwd/home.c)

Public Works Department

(https://www.facebook.com/CountyOfSbPublicWorks) (https://twitter.com/COSBPublicWorks) (https://www.youtube.com/channel/UC3FeUnlHLdpKG7OBV1z1piQ) (mailto:pwweb@co.santa-barbara.ca.us)

Select Language ▼

(/pwd/transportation.sbc)

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Road Closure Info (/pwd/road.sbc)

ROAD FRONTAGE REQUIREMENTS

1. Clear Zone

Clear zones are unobstructed, relatively flat areas beyond the edge of the road. They provide clear, traversable recover areas, walking paths, and sight distance for the traveling public. To maintain clear zones, required setback for fixed objects such as fences, walls, trees, and other obstructions are as follows:

speed limit (MPH)	clear zone setback (feet)
25	7
25-35	10
35+	see AASHTO stds.

In urban areas, setbacks may be reduced where there is curb and gutter or berm. If you have questions about setbacks, or what items are not allowed in the road right of way clear zone, contact the Road Encroachment Permits at 805-681-4990.

2. Encroachment permit policies

A. General

•Encroachments must conform with applicable community plans.
•Encroachments must conform with current American Disabilities Act (ADA) requirements.
•Public Works may take into account aesthetics in reviewing all encroachment permits.
•Above grade facilities must be set back as far as possible and provide landscape or other approved screening to minimize visual impacts.

B. Clear Zone and pedestrian access

Agreement to maintain clear zones is a requirement of road encroachment permits.

Common items requiring an encroachment permit and required to meet clear zone criteria include walls, fences, trees, plants, utilities, structures, signs, and any other feature meeting fixed object criteria – contact encroachment permits office if you are unsure.

C. Other notes on encroachments

- In the Montecito Community Plan area landscaping is not allowed in the clear zone unless pedestrian facilities are specifically provided for.
- In the Summerland Community Plan area County Codes does not allow any encroachments. Only minimal walls necessary for access to off street parking areas (garage, driveway, due to elevation changes) will be permitted. Landscaping ground will be allowed.
- Street trees and landscaping in the right of way:
    - select trees from the current Board approved (/pwd/asset.c/211)list (http://)
    - select an appropriate tree for the location. The County's Urban Forest supervisor may decide what is appropriate.
    - install root barriers within the drip line.
    - Install drip irrigation with emitters, not spray emitters.
- Mailboxes must be constructed and/or located to meet County of Santa Barbara Engineering Standards' and U.S. Postal Service Standards' criteria for Fixed Objects. Shoulder construction must provide room for a mail truck to pull out of the travel lane everywhere possible.
- Above Ground Utility devices and meters (gas, electric, water, etc.) must not be installed within the Right-of-Way unless previously approved by the County Engineer.
- Fixed objects must be designed to provide the proper sight distance clearance for pedestrian(s), bicyclist(s), and equestrian(s) access when applicable (existing, new, or future).

FAQ: I see other properties around me don't conform to these, why do I have to?
Answer: Just as with building codes, previous encroachments standards may have differed or not applied. Transportation responds to individual complaints as priorities allow, with an emphasis on safety concerns over other requests.

This page includes documents in Adobe PDF format. Mac and PC users can download the Adobe Acrobat reader free of charge using **this link** (https://www.adobe.com/go/getreader). Phone and tablet users should consult their device documentation for instructions on how to view PDF documents.



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PWD Department

(/pwd/home.c)

Public Works Department

(https://www.facebook.com/CountyOfSbPublicWorks) (https://twitter.com/COSBPublicWorks) (https://www.youtube.com/channel/UC3FeUnlHLdpKG7OBV1z1piQ) (mailto:pwweb@co.santa-barbara.ca.us)

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Public Works (/pwd/) / Transportation (/pwd/transportation.sbc) / Signs and Temporary Road Encroachments

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SIGNS AND TEMPORARY ROAD ENCROACHMENTS

Signs and temporary encroachments require road encroachment permits and are generally not allowed.

Traffic related signs

Signs, such as "No Parking", "Children at Play" or any other type which may resemble an official traffic control device cannot be installed by the public in the public right-of-way or on private property where it may attempt to direct traffic in the public right-of-way. Pursuant to California Vehicle Codes, section 21465, which states,

"No Person shall place, maintain, or display upon, or in view of, any highway any unofficial sign, signal, device, or marking, or any sign, signal, or device, or marking, which purports to be or is an imitation of, or resembles, an official traffic control device or which attempts to direct the movement of traffic or which hides from view any official traffic control device."The Santa Barbara County Public Works Department can only install these signs. It is the responsibility of the Santa Barbara County Public Works Department to determine if such signs are to be posted. Signs of this nature are placed solely for the purpose of Public safety. Only the Board of Supervisors has the authority to create parking restrictions in the County right-of-way. For more information or to submit a formal request for a sign, please contact the Public Works Department at 805-568-3094.

Other signs and temporary encroachments

Other signs and features that are not permitted in the road right of way include:

- •advertisements
- •political signs

- shrines or memorials

Any of the above may be removed at any time. However, the department enforces and removes them as a lower-priority task and generally relies on the owner of illegal encroachments to remove them when notified, unless they are creating an immediate safety concern.

Home (/home.c)

Contact The County (/deptlist.sbc)

Terms of Service (/terms.sbc)

Accessibility (/accessibility.sbc)

Feedback (mailto:sbcwebmaster@co.santa-barbara.ca.us)

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PWD Department

(/pwd/home.c)

Public Works Department

(https://www.facebook.com/CountyOfSbPublicWorks) (https://twitter.com/COSBPublicWorks) (https://www.youtube.com/channel/UC3FeUnlHLdpKG7OBV1z1piQ) (mailto:pwweb@co.santa-barbara.ca.us)

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Public Works (/pwd/) / Transportation (/pwd/transportation.sbc) / Road Encroachment Submittal Procedures

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CLICK HERE (http://countyofsb.org/pwd/smdpermitting.sbc) FOR INFORMATION ON SHARED MOBILITY DEVICE PERMITTING

PLAN SUBMITTAL PROCEDURES AND REQUIREMENTS

Road Encroachment Permits are required pursuant to County Ordinance 1491 for all secondary uses of County roads in order to protect and preserve the primary purpose and use of such roads which is hereby declared to be travel by the public. To obtain a Road Encroachment Permit submit a completed application which will set in motion the following procedure.

Step One - Initial Submittal of Application

1. Complete the application form. Describe specifically the type of work being performed in the County's Right of Way.
2. Prepare four (4) sets of plans no larger than 24" x 36", describing the proposed encroachment plus an electronic version for all multiple page plans. One set of plans is acceptable without an electronic version for smaller projects if the required information can be shown on an 11" x 17" sheet of paper. The plans must include the following information:
    a. The private property line, County Road Right-of-Way line, dimensions of pavement and sidewalk, dimensions of the encroachment from the edge of pavement and centerline, and back edge of sidewalk (if any).
    b. The address/location of the encroachment, a North arrow, and scale (not smaller than 1" = 20').
    c. Location of all existing facilities and landscaping located in County Road Right-of-Way (e.g. mail boxes, walls, fences, trees, utility poles/vaults/boxes, drainage facilities, and hardscape). If excavation is involved, show the trench details including depth, width, and length. Show typical section, dimension and setback from the edge of pavement on all new above ground facility installations.
    d. Landscaping plans will require the type of irrigation system to be installed and the species, quantities, and spacing of the vegetation to be planted. Street trees must be selected from the County's Approved Tree List (/pwd/asset.c/211) with a root barrier installed.

3. Submit a copy of the Conditions of Approval and Planning Approved Plans for all development projects.
4. Submit the application form and plans to either the North or South County offices at the addresses shown at the bottom of this page. The submittals may be hand-delivered, mailed, emailed (mailto:PWRDPERMIT@COSBPW.NET?subject=PERMIT%20APPLICATION%20AND%20PLANS%20SUBMITTAL) or faxed to either office. Submittal of original documents would be required from all emailed and faxed applications.

Step Two - Intitial Review of Submittals

Upon receipt, the application and plans will be reviewed to determine if additional submittals (e.g. a traffic control plan, cost estimate form, etc.) will be required. If you submit the application in person, we can do the initial review with you over the counter which may expedite the processing of your permit. Our counter hours are between 9:00 a.m. to 12:00 p.m. Appointments can made for 1:00 p.m. to 3:30 p.m. (if necessary) in the South County. In North County the counter hours are 8:00 a.m. to 9:00 a.m. or by appointment outside of the 8 a.m. to 9 a.m. hour. Monday through Friday.

Step Three - Process and Timetable

After review of your submittals, a plan check review will commence internally. The permit will also be routed internally to various County Departments whose clearances are required for permit issuance. The typical plan check turnaround time is 3 weeks. Some complex permits may take longer than a three week plan check turnaround. Please be aware that County Flood Control may require a separate plan check submittals, contact Flood Control Development Engineer at (805) 568-3446.

Step Four - Issuance of Permit

After receiving all required clearances and plan check comment resubmittals, the permit will be prepared for issuance and you will be notified by telephone when it is ready to issue and the permit fee amount. **Any permit not picked up from our office within 30 days may be voided and all application materials destroyed.**

Fee Schedule (/pwd/asset.c/224) Cost Estimate for Public Improvements (/pwd/asset.c/225)

In addition to the above requirements, the required forms within the Application Package (Departmental Clearance Request Form, Permit Information Contact List, and Property Owner (Permittee) Authorization form) shall be submitted to the appropriate Road Division Permit Office for review and permit issuance.

Please allow a minimum of two (2) working days for initial review. Permit issuance will follow as time allows. For further information, call the appropriate office as follows: South County Road Encroachments: 681-4990, North County Road Encroachments: 739-8750.

Applications (http://countyofsb.org/pwd/asset.c/218) can be submitted to:

(South County) (mailto:PWRDPERMIT@COSBPW.NET?subject=PERMIT%20APPLICATION) Santa Ynez, Santa Barbara, Goleta, Montecito, Summerland areas

4417 Cathedral Oaks, Santa Barbara, CA 93110
Tel (805) 681-4990 Fax (805) 681-4991

(North County) (mailto:PWRDPERMIT@COSBPW.NET?subject=PERMIT%20APPLICATION) Santa Maria, Lompoc, Orcutt areas
Public Works Service Center
Santa Maria Design & Construction Office
620 W Foster Road, Santa Maria, CA 93455
Tel (805) 803-8750 Fax (805) 803-8773

EMAIL: PWRDPERMIT@COSBPW.NET (mailto:PWRDPERMIT@COSBPW.NET?subject=PUBLIC%20WORKS%20RD%20PERMITS)

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County of Santa Barbara
Department of Public Works, Road Division Permit Office
4417 Cathedral Oaks Road 620 West Foster Road
Santa Barbara, CA 93110 Santa Maria CA 93455

Submit by Email | Print This Form

Road Encroachment Permit Application

Permit No. _____

DISCRETIONARY PROJECT: Y/N (If yes, provide copy of Cond of Approval)_____ APN:_____

ENCROACHMENT ADDRESS: _____ City_____ Zip_____

DESCRIPTION OF WORK: _____

_____

OWNERS INFORMATION

Name: _____ E-mail address: _____

Mailing Address: _____ City_____ Zip_____

Telephone: _____ (Cell) _____ (Fax) _____

*Plans must be submitted with application.

Applicant Information **Authorized Agent** ☐ **(fill out Authorization Signature below if checked)**

Check one: CONTRACTOR [◯] **ARCHITECT** [◯] **ENGINEER** [◯]

Company Name: _____ Representative _____

Telephone: _____ (Cell) _____ E-mail _____

Address: _____ State License _____

Worker's Comp. Insurer: _____ Exp. Date: _____

Check one: CONTRACTOR [◯] **ARCHITECT** [◯] **ENGINEER** [◯]

Company Name: _____

Company Representative: _____ Registration No.: _____

Telephone: _____ (Cell) _____ E-mail _____

Address: _____

Worker's Comp. Insurer: _____ Exp. Date: _____

Authorization Signature (**complete authorization section only if Authorized Agent box above is checked**)

I/We_____ authorize and give consent to _____ to act as
(Print Owner Name) (Print Agent Name)
my/our authorized agent to apply for, sign, and receive in my/our behalf, a Road Division Encroachment/Excavation Permit. I/we understand that as the legal property owner where the encroachment/excavation is to take place, that I/we are responsible and liable for all actions, costs, and liabilities associated with this Encroachment/Excavation Permit.

Signed: _____ Date: _____

Owner/Agent Signature (***required to be filled out by owner or agent**)

I _____ hereby make application to excavate and/or encroach in the Public Road/
(Print Name)
Right-of-Way at the location(s) and as described herein, subject to the provisions required by Ordinance No. 1491, of Santa Barbara County, applicable State or Federal Regulations, AND ANY SPECIFIED REQUIREMENTS ATTACHED HERETO.

It is agreed by the owner and applicant that the County of Santa Barbara and any officer or employee thereof shall be saved harmless by the applicant from any liability or responsibility for any accident, loss or damage to persons or property, happening or occurring as the proximate result of any of the work undertaken under the terms of this application and the permit or permits which may be granted in response thereto, and that all of said liabilities are hereby assumed by the owner or applicant.

Signed: _____ Date: _____

Clear Form | Back to Permit Procedure

PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California.

On April 19, 2022, I served a true copy of **DECLARATION IN SUPPORT OF RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO CHOW CAUSE REGARDING PRELIMINARY INJUNCTION** on the Interested Parties in said action by:

☐ by electronic mail. I delivered such paperwork via electronic mail on the interested parties in this action from warwick@countyofsb.org to the below electronic mail addresses:

☒ personally delivered it to the person(s) indicated below:

A.Barry Cappello
David L. Cousineas
Matthew L. Hofer
CAPPELLO & NOEL LLP
831 State Street
Santa Barbara, CA 93101

*Courtesy Copies Emailed to:
abc@cappellonoel.com
mhofer@cappellonoel.com
dcousineas@cappellonoel.com

☐ by facsimile transmission.

☐ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned documents would have been deposited with the United States Postal Service on August 2, 2021 after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on April 19, 2022, at Santa Barbara, California.

Natalie M. Warwick
Natalie M. Warwick

COUNTY COUNSEL
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101
(805) 568-2950

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/19/2022 3:47 PM
By: Narzralli Baksh, Deputy

SANTA BARBARA COUNTY COUNSEL
RACHEL VAN MULLEM, County Counsel
LINA SOMAIT, Senior Deputy (Bar No. 263876)
105 East Anapamu Street, Suite 201
Santa Barbara, California 93101
Telephone (805) 568-2950 / Fax (805) 568-2982
E-mail: lsomait@countyofsb.org

Attorneys for Respondents
COUNTY OF SANTA BARBARA and BOARD
OF SUPERVISORS OF SANTA BARBARA COUNTY

Exempt from filing fees [Gov. Code, § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

DECLARATION OF ERIC PEARSON IN SUPPORT OF RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO SHOW CAUSE

[Filed concurrently with County Response to OSC; Request for Judicial Notice; Evidentiary Objections; Declaration of Scott McGolpin; and Declaration of Gary Smart]

Hearing Date: May 6, 2022
Time: 10:00 a.m.
Judge: Donna Geck
Dept.: 4
Complaint filed: April 4, 2022

I, ERIC PEARSON, declare as follows:

1. I am the Roads Construction & Permits Manager in the Public Works Department of the County of Santa Barbara.

2. Around September – October of 2021, the County conducted a survey to determine its right of way on East Mountain Drive near the Hot Springs Trailhead and identify unpermitted encroachments.

3. In the 0.5 mile stretch of East Mountain Drive on either side of the Hot Springs Trailhead only one property has an encroachment permit. That permit is attached as Exhibit 1.

4. I sent notice of unpermitted encroachments to three properties on East Mountain Drive: 1175 East Mountain Drive, 1255 East Mountain Drive, and 1091 East Mountain Drive. Those letters are dated February 7, 2022. The letters gave those properties until April 8, 2022 to remove the encroachments. Copies of those letters are attached as Exhibit 2.

5. None of the Petitioners in this case, Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Moreley own or reside at 1175 East Mountain Drive, 1255 East Mountain Drive, or 1091 East Mountain Drive.

6. The encroachments on East Mountain Drive include rocks, which are not permitted in the right of way without a recovery zone set back to the edge of pavement. They are fixed objects that are dangerous if a car hits them. Rocks in the right of way are also dangerous for pedestrians, bicyclists, and horses. They stumble or are forced into the travel lane. Walking at night is particularly dangerous if there are rocks in the right of way.

7. A recovery zone next to the travel lane is required pursuant to the County's Engineering Design Standards. Relevant excerpts are attached as Exhibit 3. Section 4.6 addresses the County's policies with respect to encroachment permits. Those policies include maintaining a clear zone to provide for sight distance, proper access, trails, and safety for pedestrians, bicyclists, and equestrians. There are also policies with respect to setbacks for walls, fences, landscaping, and other fixed objects. In the Montecito Community Plan area, which includes East Mountain Drive, no landscaping is allowed in the clear zone unless pedestrian facilities are specifically provided for.

8. Cars continue to park on East Mountain Drive despite the private encroachments. Attached as Exhibit 4 is a photograph recently taken on East Mountain Drive showing 7 cars parked and blocking the west bound travel lane across from 1175 East Mountain Drive. The parked cars end up partially obstructing a travel lane due to the encroachments. By removing the unpermitted encroachments, those cars would be able to park in a safer area. There would not be any increase in parking or people using the trails.

SANTA BARBARA
COUNTY COUNSEL
105 E. Anapamu Street, #201
Santa Barbara, CA 93101
(805) 568-2950

9. The resident of 1255 East Mountain Drive contacted the County to discuss removing the unpermitted encroachments. Director of Public Works Scott McGolpin and Deputy Director of Transportation Chris Sneddon met with Dr. Richard Kahmann and agreed to extend the deadline to remove the encroachments by 45 days. The County to date has not heard from the other two properties that received notice letters.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct. Executed on April 18, 2022, in Santa Barbara California.



Eric Pearson

SANTA BARBARA
COUNTY COUNSEL
105 E. Anapamu Street, #201
Santa Barbara, CA 93101
(805) 568-2950

EXHIBIT 1

COUNTY OF SANTA BARBARA
DEPARTMENT OF PUBLIC WORKS - TRANSPORTATION
ROAD ENCROACHMENT PERMIT

Permit No.: **S52204**

DATE: February 08, 2019 ROAD NAME: MOUNTAIN DR EAST

INSPECTION REQUIRED - SEE ATTACHED REQUIREMENTS

OWNER: - Henry Danser **Address:** 1125 E. Mountain Drive, Montecito, CA 93108

APPLICANT: - **Address:**

hereby makes application for permit to excavate and/or encroach in the Public Road/Right-of-way at the location(s) and as described herein, subject to the provisions required by Ordinance No. 1491, of Santa Barbara County, applicable State or Federal Regulations, AND ANY SPECIFIED REQUIREMENTS ATTACHED HERETO.

In consideration of the granting of this permit the applicant agrees to defend, indemnify and save harmless the County of Santa Barbara its officers, agents and employees from any and all claims, demands, damages, costs, expenses (including attorney's fees), judgments or liabilities arising out of this permit or occasioned by the performance or attempted performance of the permit and any SPECIAL PROVISIONS of the permits hereof including but not limited to, any act or omission to act on the part of the applicant or his agents or employees or other independent contractors directly responsible to him; except those claims, demands, cost, expenses (including attorney's fees), judgments or liabilities resulting from the sole negligence or willful misconduct of the COUNTY. It is further agreed that if any facilities placed in the excavation or obstruction for which the application is granted and approved as a permit, shall become incompatible with future travel by the general public, then the applicant or its assigns or successors will, either remove such facilities in cases where such removal is necessary or in cases where the use thereof has been or is to be abandoned, or in other cases, applicant or its assigns or its successors, will relocate such facilities at a location designated by the Public Works Director, as provided in Section 30 and 30.1 of Ordinance No. 1491 of the County of Santa Barbara.

The provisions of the foregoing sentence shall not apply in any case where the easement for the facilities was in existence prior to the existence as such of the public highway concerned herein.

DESCRIPTION OF ENCROACHMENT:

The type of work permitted is to remove new plantings from the County Road Right of Way at 1125 E. Mountain Drive and Ashley Road. Holes shall be back filled and compacted. In front of the wall on Mountain Drive low growing ground cover may be planted to protect from erosion.

Traffic Control: shall be per the latest revision of the MUTCD or Caltrans "T" series. A 12 foot lane shall be kept open at all times, or as directed by Roads Division Inspector.

NOTIFICATION: Before starting or covering any work, please notify South County Road Division Inspector at (805) 681-4990 a minimum of 72 hours.

Location of Encroachment: 1125 MOUNTAIN DR EAST , Montecito - CROSS STREET: (*ASHLEY RD*)

APN No.:	District No.: 1021	USA No.:	Tract No.:	File No.:

Contractor: Bldg. Permit No.:

Contractor Phone: Cell: Start Date: February 08, 2019

Permit Received By: OWNER **Attachments:** ☐ NO

Signed: _____ Date: _____ Prepared By: Packie Villa _____

Owner Ph: (805) 845-1366 - Agent Ph: Issuer's Signature: _____ Date: Packie Villa 2/8/2019

The work indicated on this permit is complete and acceptable.

By Inspector: _____ **Date:** _____

Encroachment Permit Fees:

Issuance Fee: $68.00

Plan Review + Inspection Fee: $296.00

TOTAL FEES: $364.00

Payment Method: **Check**

Total Payment-(all receipts): **$364.00**

VOID IF WORK IS NOT STARTED IN 30 DAYS AND CONTINUED TO COMPLETION

WHITE - APPLICANT COPY CANARY - FILE COPY PINK - INSPECTION COPY

Public Works Department
Transportation Division
Welcome:

Today's Date: April 13, 2022 | **Encroachment Permit**

◉ All Permit Numbers ○ North County Permit Numbers ○ South County Permit Numbers

Selected Encroachment Permit No.: S52204 Select a link below. 3193 Permit Numbers

Encroachment | Owner/Applicant | Resources | **Tracking** | Fees | Inspections

Location:	1125 MOUNTAIN DR EAST, Montecito	S52204
Applicant:	OWNER	1021
Owner:	Henry Danser	
Agent:	- -	
Project Info:		

Permit Tracking

Plan Checks | Clearances | Missing Information

Plan Checks

Date	Activity	Plan Ck #	Hours Spent	Comment	Plan Ck Days In Office	Plan Checker
2/8/2019	IN	1	0.5	Received Application and processed permit.		Packie Villa
2/8/2019	OUT	1	0.5	Permit is ready to issue.	1	Packie Villa

Plans are OUT for this Encroachment Permit. - Total Hours: 1.00 - Total Plan Check Days for ALL Plan Ck # on this Permit: 1

Refresh Plan Check Count | Hide Plan Checkers

08:56 AM Set Plan Check Time | Time Conversion Chart

New Plan Check

Target 3-weeks / 21days Plan Check turn around for 90% of all Encroachment Permits. | ALL Permits Plans OUT NOT Ready for Issuance

Plan Check Report | Plan Checks IN Office Repo | Plan Checkers Daily Permits | Status of All Plan Checks | Permits WITHOUT Plan Check Activity

Go to All Permits Ready & Prepared for Issuance

Permittee Notification:

Permit Assigned To:	Permit No: **S52204**		
Packie Villa			
Permit Ready Date:	**Permit Prepared By:**	**Notified Date:**	**How & Who Notified:**
2/8/2019	Packie Villa	2/8/2019	In Person & Owner
Permit Issue Date:	**Permit Issued By:**		
2/8/2019	Packie Villa		

Edit

Plan Type of Work

Type of Work:

Select: then click here to **Insert New Type of Work**

#	Type Of Work	Delete
1	MINOR ENCROACHMENTS (Hardscape, Landscape, Etc)	Delete

Go to Permits Plan TOW

S52204

Public Works Department

Transportation Division

Welcome:

Today's Date: April 13, 2022 | **Encroachment Permit**

◉ All Permit Numbers ○ North County Permit Numbers ○ South County Permit Numbers

Selected Encroachment Permit No.: S52204 Select a link below. 3193 Permit Numbers

Encroachment | Owner/Applicant | Resources | Tracking | Fees | **Inspections**

Location:	1125 MOUNTAIN DR EAST, Montecito	S52204
Applicant:	OWNER	1021
Owner:	Henry Danser	
Agent:	- -	
Project Info:		

Inspections

Show Type of Work | Status Report | Search Issued Permits | Permit Logs

Start Of Work

Permit No: **S52204**

Start Constr. Date:	2/8/2019 ☑ **STARTED!**	Finish Constr. Date	2/14/2019	Extension Date:	
Issue Date:	2/8/2019	Permit Issued By:	Packie Villa	Assigned Inspector:	Packie Villa
Project Info.:					

Permit Completion:

Prepared By:	Packie Villa	Ready Date:	2/8/2019
Signed Off By Inspector:		Sign Off Date:	

Edit

This Start to Work has an assigned Inspector!

Inspection Activity

	Date	Hours	Inspected By	Type of Work	Activity Description	Remove
Edit	2/7/2019	1	Packie Villa	FRONTAGE IMPROVEMENTS	I met with Mr. and Mrs. Danser to discuss the stop work and removal of new hedges within the road right of way. I took Mario Almada with me for a witness. They applied and I issued this permit.	Remove

New Inspection Activity | Permit Inspection Report | Inspector's Daily Activity | No Inspection Activity

08:54 AM Set Inspection Time | Time Conversion Chart

EXHIBIT 2

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
TRANSPORTATION DIVISION
4417 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-4990

one COUNTY one FUTURE

SCOTT D. MCGOLPIN
Director

February 7, 2022

Resident
1255 East Mountain Drive
Montecito, CA 93118

CERTIFIED MAIL:
7020 0090 0001 1731 7530

RE: Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Resident:

The County of Santa Barbara, Public Works Department has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property. In reviewing the County Road Right-of-Way there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented.

This letter is giving formal notice to the property owners to remove all private encroachments within 10 feet of berm/edge of pavement by April 8, 2022 including but not limited to the following items listed below and as shown in Addendum A:

- *Plants / Landscaping*
- *Rocks / Boulders*
- *Irrigation Lines*

We appreciate your cooperation in this effort for removal of un-permitted private encroachments. If these items are not removed, fines can be assessed per Santa Barbara County Code Chapter 8: Ordinance No. 1491. In addition, you will be liable for the costs the County incurs to remove the encroachments after April 8, 2022.

We appreciate your assistance and patience on this project.

Please call our office as soon as you receive this letter, to let us know your schedule to remove the encroachments at (805) 681-4990. Thank you in advance for your cooperation.

Sincerely,

Eric A Pearson, P.E.
Construction & Permits Manager

CC: Chris Sneddon, Deputy Director; Andrew Acosta, CEA II

Addendum A: Photos



Figure 1a. Landscaping to remove.



Figure 1b. Landscaping to remove.

Figures 1a and 1b show examples of landscaping to be removed from County Right of Way.



Figure 2a. Irrigation line



Figure 2b. Irrigation line

Figures 2a and 2b are examples of irrigation lines to be removed.

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RESIDENT
1255 E. MOUNTAIN DRIVE
MONTECITO, CA 93118

9590 9402 5896 0049 9982 23

2. Article Number *(Transfer from service label)*
7020 0090 0001 1731 7530

COMPLETE THIS SECTION ON DELIVERY

A. ~~Signature~~
X
☐ Agent
☐ Addressee

B. Received by *(Printed Name)* Richard Kahman
C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
- ☐ Adult Signature
- ☐ Adult Signature Restricted Delivery
- ☒ Certified Mail®
- ☐ Certified Mail Restricted Delivery
- ☐ Collect on Delivery
- ☐ Collect on Delivery Restricted Delivery
- ☐ Insured Mail
- ☐ Insured Mail Restricted Delivery (over $500)
- ☐ Priority Mail Express®
- ☐ Registered Mail™
- ☐ Registered Mail Restricted Delivery
- ☐ Return Receipt for Merchandise
- ☐ Signature Confirmation™
- ☐ Signature Confirmation Restricted Delivery

PS Form 3811, July 2015 PSN 7530-02-000-9053 Domestic Return Receipt

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
TRANSPORTATION DIVISION
4417 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-4990

one COUNTY one FUTURE

SCOTT D. MCGOLPIN
Director

February 7, 2022

Resident
1175 East Mountain Drive
Montecito, CA 93118

CERTIFIED MAIL:
7020 0090 0001 1731 7547

RE: Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Resident:

The County of Santa Barbara, Public Works Department has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property. In reviewing the County Road Right-of-Way there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented.

This letter is giving formal notice to the property owners to remove all private encroachments within 10 feet of berm/edge of pavement by April 8, 2022 including but not limited to the following items listed below and as shown in Addendum A:

- *Plants / Landscaping*
- *Rocks / Boulders*

We appreciate your cooperation in this effort for removal of un-permitted private encroachments. If these items are not removed, fines can be assessed per Santa Barbara County Code Chapter 8: Ordinance No. 1491. In addition, you will be liable for the costs the County incurs to remove the encroachments after April 8, 2022.

We appreciate your assistance and patience on this project.

Please call our office as soon as you receive this letter, to let us know your schedule to remove the encroachments at (805) 681-4990. Thank you in advance for your cooperation.

Sincerely,

Eric Pearson P.E.
Construction & Permits Manager

CC: Chris Sneddon, Deputy Director; Andrew Acosta, CEA II

Addendum A: Photos



Figure 1a: Landscaping and rocks to be removed.

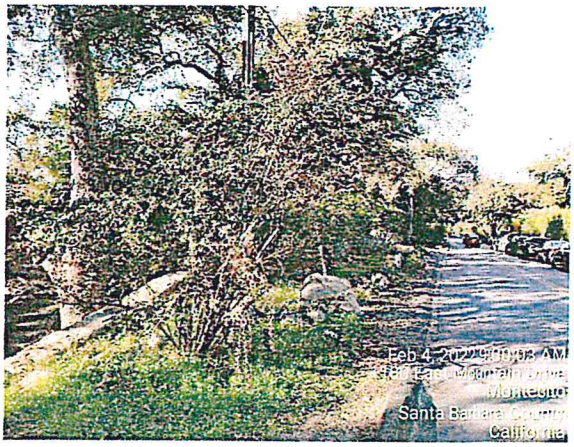


Figure 1b: Landscaping and rocks to be removed.

Figures 1a and 1b are examples of items to be removed from County Right of Way.

COUNTY OF SANTA BARBARA
PUBLIC WORKS DEPARTMENT
TRANSPORTATION DIVISION
4417 Cathedral Oaks Road
Santa Barbara, CA 93110
(805) 681-4990

one COUNTY one FUTURE

SCOTT D. MCGOLPIN
Director

February 7, 2022

Resident
1091 East Mountain Drive
Montecito, CA 93118

CERTIFIED MAIL:
7020 0090 0001 1731 7554

RE: Un-Permitted Encroachment
Hot Springs Trailhead Parking Design & Construction Project

Dear Resident:

The County of Santa Barbara, Public Works Department has a Parking Design & Construction Project scheduled for the Hot Springs Trailhead near your property. In reviewing the County Road Right-of-Way there are private encroachments that have occurred that need to be removed permanently for this parking area to be implemented.

This letter is giving formal notice to the property owners to remove all private encroachments within 10 feet of berm/edge of pavement by April 8, 2022 including but not limited to the following items listed below and as shown in Addendum A:

- *Plants / Landscaping*
- *Rocks / Boulders / Debris*
- *"No parking sign" (14 days to remove, see Addendum B)*

We appreciate your cooperation in this effort for removal of un-permitted private encroachments. If these items are not removed, fines can be assessed per Santa Barbara County Code Chapter 8: Ordinance No. 1491. In addition, you will be liable for the costs the County incurs to remove the encroachments after April 8, 2022.

We appreciate your assistance and patience on this project.

Please call our office as soon as you receive this letter, to let us know your schedule to remove the encroachments at (805) 681-4990. Thank you in advance for your cooperation.

Sincerely,

Eric A Pearson, PE
Construction & Permits Manager

CC: Chris Sneddon, Deputy Director; Andrew Acosta, CEA II

Addendum A: Photos



Figure 1. Illegal "No Parking Sign"

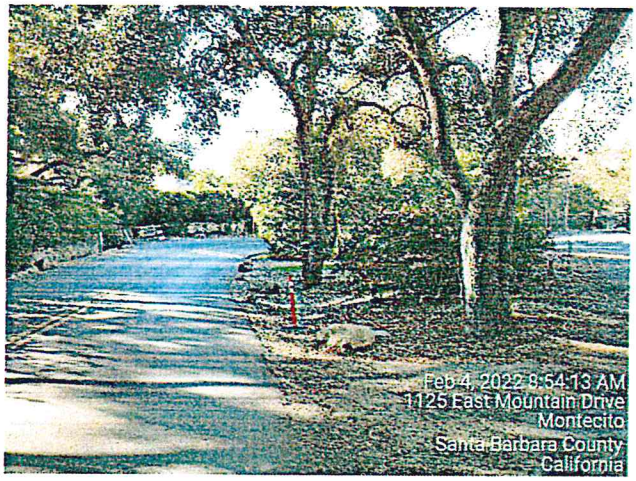


Figure 2a. Ashley Road rocks/debris.



Figure 2b. East Mountain Drive rocks to be removed.

Figures 2a and 2b are examples of rocks and debris to be removed from County Right of Way.

Addendum B: Illegal Sign

This section is to inform you that the sign shown above, in Figure 1 of Addendum A, and presently posted in front of your property at 1091 East Mountain Drive in the Montecito area is illegal. Pursuant to California Vehicle Codes, section 21465 and section 22503:

21465- "No Person shall place, maintain, or display upon, or in view of, any highway any unofficial sign, signal, device, or marking, or any sign, signal, or device, or marking, which purports to be or is an imitation of, or resembles, an official traffic control device or which attempts to direct the movement of traffic or which hides from view any official traffic control device."

It is the responsibility of the Santa Barbara County Public Works Department to determine if such signs are to be posted. Signs of this nature are placed solely for the purpose of Public safety. This Department would appreciate you removing these signs within 14 calendar days. If this sign is not removed by that time we will remove the sign, pursuant to California Vehicle Code 21467:

21467- "Every prohibited sign, signal or device or light is a public nuisance, and the Department of Transportation, members of the California Highway Patrol, and local authorities are hereby authorized and empowered without notice to remove the same, or cause the same to be removed, or the Director of Transportation, the commissioner, or local authorities may bring an action as provided by law to abate such nuisance."

EXHIBIT 3



SANTA BARBARA COUNTY
DEPARTMENT OF PUBLIC WORKS
TRANSPORTATION DIVISION

ENGINEERING DESIGN STANDARDS

September 2011

4.4 Bicycle Lane

Class II Bicycle Lane is a portion of a roadway designated by striping, signing, and / or pavement markers for the preferential or exclusive use of bicycles. Bicycle lanes are always one-way facilities that move in the same direction as motorized vehicles. Bicycle lanes are for bicycles only, and should not be used by pedestrians.

Road Type	**Minimum Bicycle Lane Width**
Curbed	5 feet from face of curb
No curb	4 feet from edge of pavement
With On Street Parking	13 feet from face of curb or edge of pavement

4.5 Clear Zone

The term "Clear Zone" is used to designate the unobstructed, relatively flat area beyond the edge of the traveled way provided for the recovery of errant vehicles. The intent is to provide for arterials as much clear, traversable recovery area as practical. The clear zone includes any shoulders or auxiliary lanes. On rural roads without curbs, where design speed is 25 m.p.h. or less the minimum setback distance for any fixed object from the edge of pavement shall be 7 feet. For rural roads with design speed between 25 mph and 35 mph, the minimum setback distance shall be 10 feet. For 35 mph or greater, refer to AASHTO Standards. In urban areas, setbacks may be reduced where there is curb and gutter or berm.

4.6 Encroachment Permits - Policies

A. General

All encroachments shall be in conformance with applicable community plans and current ADA requirements.

The Commissioner may take into account aesthetics in reviewing all encroachment permits. Above grade facilities, shall be set back as far

as possible and provide landscape or other approved screening to minimize the visual impact of the encroachment.

B. Clear Zone and Pedestrian Access:

Road Encroachment Permits shall not be issued unless the Permitted agrees to assure a clear zone from the curb face and / or edge of pavement to the proposed encroachment. The clear zone is necessary to maintain an adequate safety zone with the following adequacies: sight distance, proper access, trails, safety for pedestrians, bicyclists, and equestrians along County roadways.

C. Retaining Walls, Block Walls, Garden Walls, Fences, etc...:

Shall be set back from the curb face or edge of pavement as follows:

- Speeds of 25 mph or less posted: 7 feet minimum
- Speeds over 25 mph posted: 10 feet minimum
- Additional setback may be required at intersections and driveways for sight distance, safety issues, including Fixed Object Criteria (as defined by the Encroachment Permit Policies) and to provide for pedestrian access for existing, new or future improvements.

D. Landscaping , Storm Water Treatment, and Irrigation:

- For landscaping, a clear zone, set back shall be established as follows:
  - Rural areas (with no curb, edge of pavement condition) of speeds of 25 mph or less posted: 7 feet
  - Rural areas (no curb, edge of pavement condition) over a 25 mph posted speed - 10 feet
  - In urban areas with curb, may have reduced set-back for street trees, water treatment and landscaping.
  - Montecito Community Plan is considered a rural area and shall not allow landscaping in the clear zone unless pedestrian facilities are specifically provided for.
  - The current Summerland Community Plan, County of Santa Barbara's Engineering Standards, and County Codes do not allow any encroachments. Only minimal walls necessary for access to off street parking areas (garage, driveway, due to

elevation changes) will be permitted. Landscaping ground cover will be allowed.

- Landscaping shall be designed to provide adequate sight distance clearance for pedestrian(s), bicyclist(s), and equestrian(s) access when applicable (existing, new or future).
- Street trees shall be selected from the current Board approved street tree lists (South County and North County lists) and shall be appropriate for the location.
- Root barriers shall be installed within the drip line.
- Irrigation shall be drip with emitter, and it shall not be spray type in order to avoid overspray of pavement/sidewalk.

E. Other Fixed Objects:

- Mailboxes shall be constructed and/or located to meet County of Santa Barbara Engineering Standards' and U.S Postal Service Standards' criteria for Fixed Objects. Shoulder construction shall provide room for a mail truck to pull out of the travel lane everywhere possible.

- Above Ground Utility devices and meters (gas, electric, water, etc...) shall not be installed within the Right-of-Way unless previously approved by the County Engineer.

- Fixed Objects, (i.e., rocks, new proposed trees, etc.) shall be required to be set back based on current County of Santa Barbara Engineering Standards from the edge of pavement not less than the following: (providing adequate recovery zone for the traveling public)
  - Rural areas (with no curb) of speeds of 25 mph or less posted : 7 feet minimum
  - Rural areas (with no curb) over 25mph : 10 feet minimum
  - Urban areas (with curb) may have a reduced setback as approved by Public Works
  - Fixed objects shall be designed to provide the proper sight distance clearance for pedestrian(s), bicyclist(s), and equestrian(s) access when applicable (existing, new, or future.)

F. Entry Gates:

Shall be in conformance with Section 5.1 Access Control, paragraph J.

4.7 Retaining Walls

The following table provides the information required by the Public Work Department for Retaining Walls.

Retaining Wall Height < 3 feet with level or sloping backfill	Civil Eng. Plans Required	Structural Calculations Not Required	Temporary Shoring Plans Not Required	Soils Report Not Required
Retaining Wall height ≥ 3 feet with surcharge backfill or load	Civil Eng. Plans Required	Structural Calculations Required	Temporary Shoring Plans Required	Soils Report Required
Retaining wall height > 4 feet	Refer to Caltrans Standard Plans / APWA Standard Plans OR Civil Eng Plans Required	Structural Calculations Not Required if Caltrans / APWA Standard Plans used. Otherwise Structural Calculations Required.	Temporary Shoring Plans Required	Soils Report Required **(*)** Soils letter required to commensurate assumed design values from standard plans.

For any free standing (non-retaining) wall, structural calculations will be required unless manufactures certification justifies otherwise.

EXHIBIT 4


Feb 4, 2022 8:57:26 AM
1160 East Mountain Drive
Montecito
Santa Barbara County
California

PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California.

On April 19, 2022, I served a true copy of **DECLARATION IN SUPPORT OF RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO CHOW CAUSE REGARDING PRELIMINARY INJUNCTION** on the Interested Parties in said action by:

☐ by electronic mail. I delivered such paperwork via electronic mail on the interested parties in this action from warwick@countyofsb.org to the below electronic mail addresses:

☒ personally delivered it to the person(s) indicated below:

A.Barry Cappello
David L. Cousineas
Matthew L. Hofer
CAPPELLO & NOEL LLP
831 State Street
Santa Barbara, CA 93101

*Courtesy Copies Emailed to:
abc@cappellonoel.com
mhofer@cappellonoel.com
dcousineas@cappellonoel.com

☐ by facsimile transmission.

☐ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned documents would have been deposited with the United States Postal Service on August 2, 2021 after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on April 19, 2022, at Santa Barbara, California.

Natalie M. Warwick
Natalie M. Warwick

COUNTY COUNSEL
County of Santa Barbara
105 East Anapamu Street
Santa Barbara, CA 93101
(805) 568-2950

ELECTRONICALLY FILED
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County of Santa Barbara
Darrel E. Parker, Executive Officer
4/19/2022 3:47 PM
By: Narzralli Baksh, Deputy

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Attorneys for Respondents
COUNTY OF SANTA BARBARA and BOARD
OF SUPERVISORS OF SANTA BARBARA COUNTY

Exempt from filing fees [Gov. Code, § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

DECLARATION OF GARY SMART IN SUPPORT OF RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO SHOW CAUSE

[Filed concurrently with County Response to OSC; Request for Judicial Notice; Evidentiary Objections; Declaration of Scott McGolpin; and Declaration of Eric Pearson]

Hearing Date: May 6, 2022
Time: 10:00 a.m.
Judge: Donna Geck
Dept.: 4
Complaint filed: April 4, 2022

I, GARY SMART, declare as follows:

1. I am the Traffic Engineer in the Public Works Department of the County of Santa Barbara.

2. I have been working with the Montecito Association, the Montecito Fire Protection District, all other Fire Departments in the County of Santa Barbara, the Santa Barbara County Sheriff's Office, the California Highway Patrol, and other stakeholders on parking issues at the Hot Springs Trailhead since mid-2020.

3. On January 21, 2021, Fire Chief Kevin Taylor of the Montecito Fire Protection District held the first meeting of the Parking Workgroup of the Fire Chief's Association Public Safety Taskforce. This taskforce includes all fire agencies, the California Highway Patrol, Lompoc Police Department, Santa Barbara County Sheriff's Office, First District Supervisor Williams' Office, and Santa Barbara County's Public Works Department. I was part of the parking subgroup of this taskforce.

4. On February 1, 2021, the parking subgroup sent a memo with recommendations to Fire Chief Greg Fish. That memo is attached as Exhibit 1. Among the potential remedies and actions recommended by the Montecito Fire Protection District were edge line striping and the County recovering lost roadway easement space from neighborhood encroachment.

5. Montecito Fire Chief Kevin Taylor reported the recommendations that came out of the parking subgroup at a public meeting on February 2, 2021. One of those recommendations was an edge line on Riven Rock Road. Surveying the residents on installing the edge line to provide two lanes of traffic on Riven Rock Road had support of over 75% of property owners.

6. On April 1, 2021, Public Works installed an edge line stripe on Riven Rock Road. This removed about 50 parking spaces for the Hot Springs Trailhead.

7. On April 29, 2021, I had a meeting with the President of the Montecito Trails Foundation Ashlee Mayfield and First District Supervisor Williams' Office about parking and encroachments on East Mountain Drive. Ms. Mayfield reported that residents on East Mountain Drive were blocking the right of way with yellow tape, rocks, signs, and other things and asked whether the County could clear the right of way. I also observed that rocks and landscaping had suddenly appeared in the right of way on the south side of East Mountain Drive. This kicked off the County's efforts to restore the public parking on East Mountain Drive from unpermitted private encroachments.

8. The Transportation Division of the Public Works Department has issued Engineering Design Standards. I have attached relevant excerpts from those standards as Exhibit 2. Section 4.6 of addresses the County's policies with respect to encroachment permits. Those policies include maintaining a clear zone to provide for sight distance, proper access, trails, and safety for

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pedestrians, bicyclists, and equestrians. There are also policies with respect to setbacks for walls, fences, landscaping, and other fixed objects. In the Montecito Community Plan area, which includes East Mountain Drive, no landscaping is allowed in the clear zone unless pedestrian facilities are specifically provided for.

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct. Executed on April 18, 2022, in Santa Barbara California.

Gary Smart

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EXHIBIT 1

Memo

To: Greg Fish, Fire Chief

From: Kevin Taylor, Parking Workgroup Facilitator

Subject: Meeting Report

Date: February 1, 2021

The Parking Workgroup of the Fire Chief's Association Public Safety Taskforce has met twice since our January 8, 2021 full taskforce meeting. In addition to all fire agencies, representatives from the California Highway Patrol, Lompoc Police Department, Sheriff's Office, 1st District Supervisor Williams Office, and Public Works are participating in the workgroup.

The objectives of the workgroup are:

1. Develop and implement parking restrictions that maintain community member egress and emergency vehicle ingress on roadways at all times.
2. Develop and implement Red Flag parking restrictions in the most high-risk areas of our communities to preserve evacuation routes and emergency vehicle access routes.

We determined during our initial meeting that our workgroups objectives could be accomplished through three routes:

1. Administrative Level – authorized by the Public Works Director, includes edge line stripping and limiting parking to one side of the street.
2. Policy Level – authorized by the Board of Supervisors (BOS), usually by Resolution. More significant parking modifications like restrictions during Red Flag events falls into this category. Similar requirements apply in the City of Lompoc and City of Santa Barbara.
3. Emergency Level – the BOS appointed the Director of Public Works Parking Commissioner for the duration of the current pandemic emergency. The Parking Commissioner has designated several areas as 2-hour parking to alleviate ingress/egress issues in several areas of the county. These areas can be expanded or reduced at the discretion of the Road Commissioner.

The Administrative process includes neighborhood outreach because any change to street parking arrangements significantly impacts the existing neighborhood character. Any changes proposed in the Coastal Zone will also require Coastal Commission approval.

In our two meetings, each jurisdiction was encouraged to identify areas in their community that may benefit from one or all of the remedies identified above. These issues, potential remedies, and action required are summarized below.

City of Lompoc – RV street parking; Council action in mid-January likely solved this challenge. Consider Red Flag parking restrictions near the riverbed (Lompoc City Council and Santa Barbara County Board of Supervisors Resolution).

Santa Barbara County Fire – Mission Canyon area Red Flag Parking restrictions near Tunnel trailhead; already prohibited by Board Resolution, working with Public Works on signage improvement.

Bucket Brigade on behalf of several neighborhood associations – East and West Camino Cielo; Red Flag Parking restrictions. Roadway maintained by County Roads but owned by Las Padres National Forest (LPF). Working to determine process in the LPF to limit and/or restrict parking during Red Flag.

Montecito Fire – High road system of East Mountain, Park Lane, Bella Vista; edge line stripping (Administrative). Trail head parking areas; Red Flag parking restrictions (Resolution Amendment). Riven Rock, from East Mountain to Hot Springs; parking one side only (Administrative). Eucalyptus, Humphries, and Miramar Roads; parking one side only (in effect from emergency Roads Commissioner action, seeking Administrative change to make one side of street parking permanent; may involve County recovering lost roadway easement space as neighborhood is likely encroaching).

Our next Parking Workgroup meeting will be scheduled after receiving direction from the taskforce.

EXHIBIT 2



SANTA BARBARA COUNTY
DEPARTMENT OF PUBLIC WORKS
TRANSPORTATION DIVISION

ENGINEERING DESIGN STANDARDS

September 2011

4.4 Bicycle Lane

Class II Bicycle Lane is a portion of a roadway designated by striping, signing, and / or pavement markers for the preferential or exclusive use of bicycles. Bicycle lanes are always one-way facilities that move in the same direction as motorized vehicles. Bicycle lanes are for bicycles only, and should not be used by pedestrians.

Road Type	**Minimum Bicycle Lane Width**
Curbed	5 feet from face of curb
No curb	4 feet from edge of pavement
With On Street Parking	13 feet from face of curb or edge of pavement

4.5 Clear Zone

The term "Clear Zone" is used to designate the unobstructed, relatively flat area beyond the edge of the traveled way provided for the recovery of errant vehicles. The intent is to provide for arterials as much clear, traversable recovery area as practical. The clear zone includes any shoulders or auxiliary lanes. On rural roads without curbs, where design speed is 25 m.p.h. or less the minimum setback distance for any fixed object from the edge of pavement shall be 7 feet. For rural roads with design speed between 25 mph and 35 mph, the minimum setback distance shall be 10 feet. For 35 mph or greater, refer to AASHTO Standards. In urban areas, setbacks may be reduced where there is curb and gutter or berm.

4.6 Encroachment Permits - Policies

A. General

All encroachments shall be in conformance with applicable community plans and current ADA requirements.

The Commissioner may take into account aesthetics in reviewing all encroachment permits. Above grade facilities, shall be set back as far

as possible and provide landscape or other approved screening to minimize the visual impact of the encroachment.

B. Clear Zone and Pedestrian Access:

Road Encroachment Permits shall not be issued unless the Permitted agrees to assure a clear zone from the curb face and / or edge of pavement to the proposed encroachment. The clear zone is necessary to maintain an adequate safety zone with the following adequacies: sight distance, proper access, trails, safety for pedestrians, bicyclists, and equestrians along County roadways.

C. Retaining Walls, Block Walls, Garden Walls, Fences, etc...:

Shall be set back from the curb face or edge of pavement as follows:

- Speeds of 25 mph or less posted: 7 feet minimum
- Speeds over 25 mph posted: 10 feet minimum
- Additional setback may be required at intersections and driveways for sight distance, safety issues, including Fixed Object Criteria (as defined by the Encroachment Permit Policies) and to provide for pedestrian access for existing, new or future improvements.

D. Landscaping , Storm Water Treatment, and Irrigation:

- For landscaping, a clear zone, set back shall be established as follows:
  - Rural areas (with no curb, edge of pavement condition) of speeds of 25 mph or less posted: 7 feet
  - Rural areas (no curb, edge of pavement condition) over a 25 mph posted speed - 10 feet
  - In urban areas with curb, may have reduced set-back for street trees, water treatment and landscaping.
  - Montecito Community Plan is considered a rural area and shall not allow landscaping in the clear zone unless pedestrian facilities are specifically provided for.
  - The current Summerland Community Plan, County of Santa Barbara's Engineering Standards, and County Codes do not allow any encroachments. Only minimal walls necessary for access to off street parking areas (garage, driveway, due to

elevation changes) will be permitted. Landscaping ground cover will be allowed.

- Landscaping shall be designed to provide adequate sight distance clearance for pedestrian(s), bicyclist(s), and equestrian(s) access when applicable (existing, new or future).
- Street trees shall be selected from the current Board approved street tree lists (South County and North County lists) and shall be appropriate for the location.
- Root barriers shall be installed within the drip line.
- Irrigation shall be drip with emitter, and it shall not be spray type in order to avoid overspray of pavement/sidewalk.

E. Other Fixed Objects:

- Mailboxes shall be constructed and/or located to meet County of Santa Barbara Engineering Standards' and U.S Postal Service Standards' criteria for Fixed Objects. Shoulder construction shall provide room for a mail truck to pull out of the travel lane everywhere possible.

- Above Ground Utility devices and meters (gas, electric, water, etc...) shall not be installed within the Right-of-Way unless previously approved by the County Engineer.

- Fixed Objects, (i.e., rocks, new proposed trees, etc.) shall be required to be set back based on current County of Santa Barbara Engineering Standards from the edge of pavement not less than the following: (providing adequate recovery zone for the traveling public)
  - Rural areas (with no curb) of speeds of 25 mph or less posted : 7 feet minimum
  - Rural areas (with no curb) over 25mph : 10 feet minimum
  - Urban areas (with curb) may have a reduced setback as approved by Public Works
  - Fixed objects shall be designed to provide the proper sight distance clearance for pedestrian(s), bicyclist(s), and equestrian(s) access when applicable (existing, new, or future.)

F. Entry Gates:

Shall be in conformance with Section 5.1 Access Control, paragraph J.

4.7 Retaining Walls

The following table provides the information required by the Public Work Department for Retaining Walls.

Retaining Wall Height < 3 feet with level or sloping backfill	Civil Eng. Plans Required	Structural Calculations Not Required	Temporary Shoring Plans Not Required	Soils Report Not Required
Retaining Wall height ≥ 3 feet with surcharge backfill or load	Civil Eng. Plans Required	Structural Calculations Required	Temporary Shoring Plans Required	Soils Report Required
Retaining wall height > 4 feet	Refer to Caltrans Standard Plans / APWA Standard Plans OR Civil Eng Plans Required	Structural Calculations Not Required if Caltrans / APWA Standard Plans used. Otherwise Structural Calculations Required.	Temporary Shoring Plans Required	Soils Report Required **(*)** Soils letter required to commensurate assumed design values from standard plans.

For any free standing (non-retaining) wall, structural calculations will be required unless manufactures certification justifies otherwise.

PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California.

On April 19, 2022, I served a true copy of **DECLARATION IN SUPPORT OF RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO CHOW CAUSE REGARDING PRELIMINARY INJUNCTION** on the Interested Parties in said action by:

☐ by electronic mail. I delivered such paperwork via electronic mail on the interested parties in this action from warwick@countyofsb.org to the below electronic mail addresses:

☒ personally delivered it to the person(s) indicated below:

A.Barry Cappello
David L. Cousineas
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☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on April 19, 2022, at Santa Barbara, California.

Natalie M. Warwick
Natalie M. Warwick

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Attorneys for Respondents
COUNTY OF SANTA BARBARA and BOARD
OF SUPERVISORS OF SANTA BARBARA COUNTY

Exempt from filing fees [Gov. Code, § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

EVIDENTIARY OBJECTIONS OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO DECLARATION OF JOSEPH COLE AND VERIFIED PETITION FOR WRIT OF MANDATE

[Filed concurrently with County's Response to OSC; Request for Judicial Notice; Declaration of Scott McGolpin; Declaration of Gary Smart; and Declaration of Eric Pearson]

Hearing Date: May 6, 2022
Time: 10:00 a.m.
Judge: Donna Geck
Dept.: 4
Complaint filed: April 4, 2022

Respondents County of Santa Barbara and Board of Supervisors of Santa Barbara (collectively, "County") submit the following objections to evidence cited by Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Moreley in support of their ex parte application for order to show cause and temporary restraining order.

Objections to Declaration of Joseph Cole

Objection No. 1:

Material Objected To: "I have witnessed the unrelenting fire danger in Montecito and Santa Barbara's front country, and I also have studied Hot Springs Canyon's environmentally protected wildlife and plant species. In January 2019, for example, our TPRC team prepared for county, state, and federal environmental agencies the exhaustive 52-page 'Biological Resources Assessment for the Montecito Debris Flow Mitigation.' This Assessment provided the environmental facts for the debris flow nets permits in the five Montecito canyons with blue line creeks. A true and correct copy of the 2019 Biological Resources Assessment is attached hereto as Exhibit 1."

[Declaration of Joseph Cole, ¶ 2; page 22, line 27 to page 23, line 5.]

Grounds for Objection No. 1: Statement is an improper lay opinion. (Evid. Code, § 800.) Declarant not qualified to express an expert opinion. (Evid. Code, §§ 720, 800-803.) Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) The statement is misleading. (Evid. Code, § 352.) Statement is improper testimony regarding the contents of a writing. (Evid. Code, §§ 1520-1523.) Exhibit 1 does not provide the environmental facts for debris flow net permits in five Montecito canyons. Exhibit 1 is limited to four creek corridors: Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek. (Cole Decl., Ex. 1 at e.g., 1.) The biological field investigations were limited to the debris net locations on Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek. (*Id.* at e.g., 14.) Hot Springs Creek and Hot Springs Canyon are not part of the biological resources assessment in Exhibit 1. (See *id.* at e.g., Executive Summary.) Exhibit 1 looks at the effects of installation and maintenance of the debris flow nets (Cole Decl., Ex.1 at p. 40), not the effects of cars, or of hiking on an existing trail that has never placed a limit on the number of daily hikers. Mr. Cole is an attorney. (RJN, ¶ 11; Cole Decl., ¶ 1.) His degrees are in journalism, finance, and law. (*Id.*) He is not an expert in biology, the environment, fire, hydrology, transportation, evacuation, civil engineering, or emergency services. (*Id.*)

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Court's Ruling on Objection No. 1: Sustained: _____

Overruled: _____

Objection No. 2:

Material Objected To: "The Assessment confirms that the Montecito front country is home to special-status wildlife species, including Southern California steelhead, California red-legged frog, coast range newt, southwestern pond turtle, two-striped gartersnake, and Cooper's hawk. The Assessment also describes the four special-status plant species (Plummer's baccharis, ocellated Humbolt lily, umbrella larkspur, and Ojai fritillary), and other biologically valuable plant species (coast live oak woodland, arroyo willow thickets, western sycamore woodland, California bay forest, Santa Barbara honeysuckle, black-flowered figwort, and late-flowered mariposa lily) that are found in the area."

[Declaration of Joseph Cole, ¶ 3; page 23, line 6 to page 23, line 12.]

Grounds for Objection No. 2: Statement is an improper lay opinion. (Evid. Code, § 800.) Declarant not qualified to express an expert opinion. (Evid. Code, §§ 720, 800-803.) Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) The statement is misleading. (Evid. Code, § 352.) Statement is improper testimony regarding the contents of a writing. (Evid. Code, §§ 1520-1523.) Exhibit 1 is limited to four creek corridors: Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek. (Cole Decl., Ex. 1 at e.g., 1.) The biological field investigations were limited to the debris net locations on Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek. (*Id.* at e.g., 14.) Hot Springs Creek and Hot Springs Canyon are not part of the biological resources assessment in Exhibit 1. (See *id.* at e.g., Executive Summary.) Exhibit 1 looks at the effects of installation and maintenance of the debris flow nets (Cole Decl., Ex.1 at p. 40), not the effects of cars, or of hiking on an existing trail that has never placed a limit on the number of daily hikers. Mr. Cole is an attorney. (RJN, ¶ 11; Cole Decl., ¶ 1.) His degrees are in journalism, finance, and law. (*Id.*) He is not an expert in biology, the environment, fire, hydrology, transportation, evacuation, civil engineering, or emergency services. (*Id.*)

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Court's Ruling on Objection No. 2: Sustained: _____

Overruled: _____

Objection No. 3:

Material Objected To: "Wildfires ignited by people in the Montecito and Santa Barbara front country—resulting in the risk of death and injury to firefighters, residents, visitors, and wildlife—is a topic of regular conversations, and angst, in our community and with firefighters. After more than four decades living and working in Montecito, I know that: (1) the 1964 Coyote Fire, consuming 65,339 acres and destroying 106 structures, was started by a car's faulty exhaust system (and followed four years later by a destructive debris laden flood); (2) the 1971 Romero Fire, burning 14,538 acres and killing four firefighters, was ignited by a man throwing an improvised fire bomb onto the steep dry slopes off Bella Vista Drive; (3) the 1977 Sycamore Fire, with 90 mph sundowner gusts, burning 234 structures in seven hours, was started when a man tangled a metal kite in power lines near Coyote Road and East Mountain Drive, causing an electric arc to shower the underlying brush with sparks; (4) the 1990 Painted Cave Fire, with sundowner winds gusting to 75 mph, racing downslope from San Marcos Pass to Hope Ranch in several hours, jumping the fire engine line on the 101 Freeway in minutes, and burning 4,900 acres, destroying 440 homes, and killing one resident, was started by an arsonist with an incendiary device; (5) the 2008 Tea Fire ignited in Montecito, in the adjacent canyon west of Hot Springs Canyon, with sundowner winds with gusts up to 85 mph, burning 1,940 acres and destroying 210 homes within several hours, with hundreds unable to evacuate and sheltering in Westmont College's gym while the wildfire burned to within 10 feet, was started by 10 City College students jumping a locked gate to party and start a bonfire; (6) the 2009 Jesusita Fire, with strong sundowner winds pushing the wildfire into Mission and Rattlesnake Canyons above Santa Barbara, burning 80 homes and destroying 8,733 acres, was started by contractors who had left hot equipment unattended in dry grass; (7) the 2017 Thomas Fire, from which my family evacuated, burning from Santa Paula to Montecito, consuming 281,000 acres and burning 1,063 structures, costing $2.2 billion, with two people losing their lives—one firefighter and a woman who died in a car accident while evacuating the fire, was started by power lines coming into

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contact during high winds; and (8) the January 2018 Debris Flow, resulting from the Thomas Fire, killing 23 Montecito residents and destroying or damaging 600 homes. (See, e.g., https://sbbucketbrigade.org/santa-barbara-disaster-timeline/.) The trauma of the Coyote Fire, the Romero Fire, the Sycamore Fire, the Painted Cave Fire, the Tea Fire, the Jesusita Fire, the Thomas Fire, and the January 2018 Debris Flow—coupled with the recent loss of fire insurance by Petitioners and many other Montecito residents— causes residents to fear the next sundowner-driven wildfire disaster. Especially fearful are residents, like Petitioners, who live in the Riven Rock, upper Hot Springs Road, and East Mountain Drive neighborhoods that are vulnerable to increased wildfire risk from the County's up to 62-space parking project on East Mountain Drive. Their fear includes the increased risk for firefighters resulting from the hundreds of new daily visitors contemplated by the County from its 62-space project, and for residents. Death and destruction may arise quickly from uncontrolled variables such wind speed, direction, humidity, fuel moisture content, topography, time of day or night, and fuel loads. Montecito residents therefore eagerly await the release in May 2022 of the Montecito Fire Protection District's $86,170 Community Emergency Evacuation Analysis. The public is informed by Montecito Fire that its Emergency Evacuation Analysis will include community education explaining the methods used to model simulations of likely emergency scenarios, an interpretation of the results, and identification of the vulnerabilities of emergency evacuations in Montecito, together with recommendations. Montecito Fire's emergency survival recommendations may include traffic flow improvements, traffic control points, possible infrastructure improvements, use of emergency signage, and identifying temporary refuge areas/safety zones. The May 2022 Emergency Evacuation Analysis may help residents and the surge of hundreds of new daily visitors facing the increased fire danger from the County's up to 62-space project receive information about whether the project will significantly interfere with Montecito Fire's current evacuation plan; whether residents and the surging additional trail users will have viable evacuation routes other than the primary Hot Springs Road shown on Montecito Fire's emergency Evacuation Plan Map; what other emergency vehicle ingress routes first responders would have given the permanent spike in visitor traffic trips; what shelter-in-place resources on the exposed

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trail watershed without structures will be available to the hundreds of additional visitors; and what will be the increase in trail rescue and other emergency response times for such visitors. The well-documented front county wildfire ignition risks are exacerbated by Montecito's narrow, winding roads. This is particularly true of evacuation from the Hot Springs trailhead, with four traffic control choke points shown on Montecito Fire's present Evacuation Plan Map. Sheriff Bill Brown of the County, who remains in charge of Montecito evacuations, described Montecito's roads as ". . . a winding spaghetti of neighborhood streets," when 19 of the 23 Montecito residents killed in the 1/9 Debris Flow in 2018 lived in an evacuation warning area, not in a mandatory evacuation zone. (https://www.independent.com/2018/01/22/majority-montecito-mudslide-victims-were-not-under-mandatory-evacuation-orders/.)"

[Declaration of Joseph Cole, ¶ 4; page 23, line 14 to page 25, line 18.]

Grounds for Objection No. 3: Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.) Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Statement is an improper lay opinion. (Evid. Code, § 800.) Declarant not qualified to express an expert opinion. (Evid. Code, §§ 720, 800-803.) Matter stated is inadmissible hearsay. (Evid. Code, § 1200.) Mr. Cole is an attorney. (RJN, ¶ 11; Cole Decl., ¶ 1.) His degrees are in journalism, finance, and law. (*Id.*) He is not an expert in biology, the environment, fire, hydrology, transportation, evacuation, civil engineering, or emergency services. (*Id.*)

Court's Ruling on Objection No. 3: Sustained: _____

Overruled: _____

Objection No. 4:

Material Objected To: "The right-of-way improvements that the County proposes to destroy, without public notice or environmental impact study, include vegetation, mature oak and sycamore trees, decorative sandstone curbs and boulders, and even asphalt curbs installed by the County to protect such right-of-way improvements. In many cases, these improvements have been in place for decades—one with an encroachment permit that the County says it will now revoke,

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and one adjacent to a historic structure dating from the late 1880's that may be damaged by the County's bulldozers. These improvements are a crucial contributing factor to the bucolic, rural character of the area, and East Mountain Drive in particular, as reflected in the Montecito Community Plan."

[Declaration of Joseph Cole, ¶ 8; page 26, line 20 to page 26, line 27.]

Grounds for Objection No. 4: Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.)

Court's Ruling on Objection No. 4: Sustained: _____

Overruled: _____

Objection No. 5:

Material Objected To: "The County agreed to hold off on any work on the Project until after Montecito Fire's new Community Emergency Evacuation Analysis was released and analyzed for 60 days, in exchange for the Petitioners agreeing to: (1) organize and fund a comprehensive public-private partnership to resolve the competing parking, recreation, trail access, fire ignition, fire evacuation, and environmental destruction demands surrounding Hot Springs Trail; and (2) promptly fund, procure land, design, and construct three and possibly four additional spaces in the existing space trailhead parking area, with six additional spaces to be provided later after the Montecito Fire Protection District released its emergency evacuation analysis. In reliance on such standstill and cooperation agreement,"

[Declaration of Joseph Cole, ¶ 9; page 27, line 16 to page 27, line 24.]

Grounds for Objection No. 5: Inadmissible offer to compromise. (Evid. Code, § 1152.) The County never entered into any agreement with Mr. Cole or his clients or anyone else regarding restoring the right of way on East Mountain Drive. (McGolpin Decl., ¶ 5.)

Court's Ruling on Objection No. 5: Sustained: _____

Overruled: _____

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Objection No. 6:

Material Objected To: "Within 45 days after the agreement was reached, Petitioners also located, secured, funded, designed with a professional architect and civil engineer, and presented to the County the proposed improvements to add three and possibly four additional parking spaces to the existing trailhead parking area."

[Declaration of Joseph Cole, ¶ 9; page 28, line 1 to page 28, line 4.]

Grounds for Objection No. 6: Inadmissible offer to compromise. (Evid. Code, § 1152.) The County never entered into any agreement with Mr. Cole or his clients or anyone else regarding restoring the right of way on East Mountain Drive. (McGolpin Decl., ¶ 5.)

Court's Ruling on Objection No. 6: Sustained: _____

Overruled: _____

Objection No. 7:

Material Objected To: "The County breached this agreement on February 7, 2022, when it sent certified demand letters to three residents on East Mountain Drive. True and correct copies of those demand letters are attached hereto as Exhibits 3, 4, and 5."

[Declaration of Joseph Cole, ¶ 10; page 28, line 5 to page 28, line 7.]

Grounds for Objection No. 7: Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Inadmissible offer to compromise with respect to the first clause "The County breached this agreement on February 7, 2022" referencing the agreement that is the subject of Objection No. 5. (Evid. Code, § 1152.) The County never entered into any agreement with Mr. Cole or his clients or anyone else regarding restoring the right of way on East Mountain Drive. (McGolpin Decl., ¶ 5.)

Court's Ruling on Objection No. 7: Sustained: _____

Overruled: _____

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Objection No. 8:

Material Objected To: "Such allegations by Supervisor Williams about these three residents are not true: None of the three homeowners receiving such letters moved any such 'rocks' onto the right-of-way. One homeowner, as I demonstrated with photographs to Williams, McGolpin, and County Counsel Van Mullen on March 29, 2022, has decades-old dense mature landscaping covering a high-pressure gas line, and, visibly, could not have moved any such 'rocks' onto the right-of-way, and denies doing so. The second homeowner (a) recently purchased his family's still vacant home; (b) has not touched any landscaping; (c) lives in Los Angeles; (d) was unaware of the County's up-to-62-space project until I contacted him; (e) denies moving any such rocks; and (f) is graciously donating badly needed matching funds for a National Fish & Wildlife Foundation grant to restore the section of Hot Springs Creek across from the illegal parking on the embankment. The third homeowner (a) only purchased his home seven days before the County's February 7, 2022 certified letter, (b) never received the County's letter and didn't know about the County's April 8 bulldozing deadline until I contacted him last week, (c) also lives in Los Angeles, (d) never knew about the now-breached public-private standstill agreement and cooperative partnership, and (e) denies any such bad faith conduct. None of these three Montecito homeowners are 'bad actors,' as Supervisor Williams used that term."

[Declaration of Joseph Cole, ¶ 10; page 28, line 12 to page 28, line 27.]

Grounds for Objection No. 8: Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Matter stated is inadmissible hearsay. (Evid. Code, § 1200.)

Court's Ruling on Objection No. 8: Sustained: _____

Overruled: _____

Objection No. 9:

Material Objected To: "On March 31, 2022, I learned that the County had given one of the noticed property owners a 45-day day extension before the County would bulldoze the right of way."

[Declaration of Joseph Cole, ¶ 10; page 29, line 3 to page 29, line 5.]

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Grounds for Objection No. 9: Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.)

Court's Ruling on Objection No. 9: Sustained: _____

Overruled: _____

Objection No. 10:

Material Objected To: "The County has since tried to back away from the 62-space figure, proposing other still-high numbers like 30 to 40 additional spaces. But the County has not stated that it has given up its intention or right to install all 62 spaces."

[Declaration of Joseph Cole, ¶ 11; page 29, line 6 to page 29, line 8.]

Grounds for Objection No. 10: Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.)

Court's Ruling on Objection No. 10: Sustained: _____

Overruled: _____

Objection No. 11:

Material Objected To: Exhibit 1 in its entirety.

[Declaration of Joseph Cole, Exhibit 1, page 31 of pdf (title page of exhibit) to page 164 of pdf.]

Grounds for Objection No. 11: Matter stated is irrelevant. (Evid. Code, §§ 210, 350, 352.) The biological resources assessment in Exhibit 1 is limited to four creek corridors: Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek. (Cole Decl., Ex. 1 at e.g., 1.) The biological field investigations were limited to the debris net locations on Cold Spring Creek, San Ysidro Creek, Buena Vista Creek, and Romero Creek. (Id. at e.g., 14.) Hot Springs Creek and Hot Springs Canyon are not part of the biological resources assessment in Exhibit 1. (See id. at e.g., Executive Summary.) Exhibit 1 looks at the effects of installation and maintenance of the debris flow nets (Cole Decl., Ex.1 at p. 40), not the effects of cars, or of hiking on an existing trail that has never placed a limit on the number of daily hikers.

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Court's Ruling on Objection No. 11: Sustained: _____

Overruled: _____

Objection No. 12:

Material Objected To: Exhibits 3, 4, and 5 in their entirety.

[Declaration of Joseph Cole, page 171 of pdf to page 179 of pdf.]

Grounds for Objection No. 12: These exhibits have not been properly authenticated and are therefore inadmissible.

Court's Ruling on Objection No. 12: Sustained: _____

Overruled: _____

Objections to Verified Petition for Writ of Mandate

Objection No. 13:

Material Objected To: "On February 7, 2022, the County sent letters to three homeowners on East Mountain Drive, who are adjacent to the trailhead, announcing a 'Hot Springs Trailhead Parking Design & Construction Project.' (See Exhibits 3-5.) These letters are the first phase of the County's project to add as many as 62 additional parking spaces—thereby increasing the number of people who can park at the trail at any given time by up to 444%—near the trailhead to Hot Springs Canyon. Yet, the County has not even considered whether the environmental impact the addition of any parking spaces, much less the 62 that are contemplated, must be studied as required by the California Environmental Quality Act ('CEQA'). The County has not even held a hearing or allowed any public comment on this project."

[Petition, ¶ 2; page 2, line 13 to page 2 line 21.]

Grounds for Objection No. 13: Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.) The Petition is verified by Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morely. (Petition, pp. 16–19.) The only information provided about Petitioners in the Petition is that they each own

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property and live in the affected are of East Mountain Drive in Montecito. (Petition, ¶ 7.) They provide no foundation to demonstrate they have personal knowledge of any of the facts alleged in the Petition.

Court's Ruling on Objection No. 13: Sustained: _____

Overruled: _____

Objection No. 14:

Material Objected To: "The potential adverse impacts to the sensitive habitat an area deemed to be of 'specific biological importance'—are manifest. Hot Springs Canyon is home to special-status wildlife species including southern California steelhead, California red-legged frog, coast range newt, southwestern pond turtle, two-striped garter snake, and Cooper's hawk. Hot Springs Canyon is also home to four special-status plant species (Plummer's baccharis, ocellated Humboldt lily, umbrella larkspur and Ojai fritillary), and other biologically valuable plant species (coast live oak woodland, arroyo willow thickets, western sycamore woodland, California bay forest, Santa Barbara honey suckle, black-flowered figwort and late-flowered mariposa lily). If, on average, each car brings two hikers to the trail, the 62 new parking spaces would add an additional 124 hikers at any given time, conservatively bringing a thousand more hikers over an average week. Such an increase in foot traffic on the trail undeniably satisfies the threshold required to perform a CEQA analysis: whether the project may cause, at the very least, a reasonably foreseeable indirect physical change in the environment. See California Bldg. Industry Assn. v. Bay Area Air Quality Management Dist. (2015) 62 Cal.4th 369, 382-383."

[Petition, ¶ 3; page ,2 line 22 to page 3, line 7.]

Grounds for Objection No. 14: Statement is an improper lay opinion. (Evid. Code, § 800.) Petitioners who verified the Petition are not qualified to express an expert opinion. (Evid. Code, §§ 720, 800-803.) Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.) Matter stated is an inadmissible opinion as to a legal conclusion. (Evid. Code, § 800; *Morrow v. Los Angeles Unified School Dist.* (2007) 149 Cal.App.4th 1424, 1445; *People v. Baker* (2012) 204 Cal.App.4th 1234, 1245.) The

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Petition is verified by Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morely. (Petition, pp. 16–19.) The only information provided about Petitioners in the Petition is that they each own property and live in the affected are of East Mountain Drive in Montecito. (Petition, ¶ 7.) They provide no foundation to demonstrate that they are qualified to provide expert opinions on biology, the environment, fire, hydrology, transportation, evacuation, civil engineering, or emergency services.

Court's Ruling on Objection No. 14: Sustained: _____

Overruled: _____

Objection No. 15:

Material Objected To: "Nor has the County considered, as also required by CEQA, the impacts to the community's ability to evacuate the East Mountain Drive/upper Hot Springs Road/Riven Rock neighborhoods during the next sundowner winds-driven wildfire. In fact, the County is rushing to add these parking spaces before the late-May release of the comprehensive wildfire evacuation report from the Montecito Fire Protection District. Local fire officials believe that this $80,000 report will conclude that, even without the County's additional 62 spaces, not all residents would be able to safely evacuate in the event of a wind-driven fire such as the 2008 Tea Fire in Montecito (13 injuries, one critical; 210 homes destroyed within several hours) or the 2018 Camp Fire in Paradise, California (85 civilian fatalities, including seven trapped in their cars while evacuating, and 12 injured civilians and five injured firefighters; 18,000 structures mostly destroyed within first four hours). Adding the 62 cars to what would already be a chaotic evacuation raises significant life safety considerations the County is ignoring."

[Petition, ¶ 4; page 3, line 8 to page 3, line 19.]

Grounds for Objection No. 15: Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Statement is an improper lay opinion. (Evid. Code, § 800.) Petitioners who verified the Petition are not qualified to express an expert opinion. (Evid. Code, §§ 720, 800-803.) Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.) The Petition is verified by Petitioners Christopher

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Anderson, Ross Bagdasarian, Peter Barker, and James Morely. (Petition, pp. 16–19.) The only information provided about Petitioners in the Petition is that they each own property and live in the affected are of East Mountain Drive in Montecito. (Petition, ¶ 7.) They provide no foundation to demonstrate they have personal knowledge of any of the facts alleged in the Petition. They also provide no foundation to demonstrate that they are qualified to provide expert opinions on biology, the environment, fire, hydrology, transportation, evacuation, civil engineering, or emergency services.

Court's Ruling on Objection No. 15: Sustained: _____

Overruled: _____

Objection No. 16:

Material Objected To: "Hot Springs Creek is mapped as an Environmentally Sensitive Habitat Area (ESH), which 'is applied to areas with unique natural resources and/or sensitive animal or plant species, where existing and potential development and other activities may despoil or eliminate the resources.' (Montecito Land Use and Development Code2 section 35.428.040.) Areas designated as ESH require the utmost environmental protection. The ESH overlay zone 'is intended to 1. Protect and preserve specified areas in which plant or animal life or their habitats are either rare or especially valuable because of their role in the ecosystem, and that could be easily disturbed or degraded by human activities and developments; and 2. Ensure that each project permitted in the overlay zone is designed and carried out in a manner that will provide maximum protection to sensitive habitat areas.' (Ibid., emphasis added.) It's commonly known that Hot Springs Canyon is home to special-status wildlife species including southern California steelhead, California red-legged rog, coast range newt, southwestern pond turtle, two-striped garter snake, and Cooper's hawk. The Hot Springs Canyon plant habitat include four special-status species—Plummer's baccharis, ocellated Humboldt lily, umbrella larkspur and Ojai fritillary—as well as coast live oak woodland, arroyo willow thickets, western sycamore woodland, California bay forest, Santa Barbara honeysuckle, black-flowered figwort and late-flowered mariposa lily. These wildlife and plant resources in Hot Springs Canyon are protected

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under U.S., California, and Santa Barbara County laws and regulations, including: (a) Federal—the Endangered Species Act, the Migratory Bird Treaty Act, the Clean Water Act; the U.S. Department of Agriculture Environmental Compliance Fish and Wildlife Policy Regulation 9500-4, (b) California—California Endangered Species Act, Native Plant Protection Act, Lake and Streambed Alteration Program, and CEQA, and (c) Santa Barbara County Environmental Thresholds and Guidelines Manual, including Oak Tree Protection and Stream and Riparian Habitat Protection, and the Montecito Community Plan."

[Petition, ¶ 16; page 6, line 25 to page 7, line 21.]

Grounds for Objection No. 16: Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Statement is an improper lay opinion. (Evid. Code, § 800.) Petitioners who verified the Petition are not qualified to express an expert opinion. (Evid. Code, §§ 720, 800-803.) Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.) Matter stated is an inadmissible opinion as to a legal conclusion. (Evid. Code, § 800; *Morrow v. Los Angeles Unified School Dist.* (2007) 149 Cal.App.4th 1424, 1445; *People v. Baker* (2012) 204 Cal.App.4th 1234, 1245.) The Petition is verified by Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morely. (Petition, pp. 16–19.) The only information provided about Petitioners in the Petition is that they each own property and live in the affected are of East Mountain Drive in Montecito. (Petition, ¶ 7.) They provide no foundation to demonstrate they have personal knowledge of any of the facts alleged in the Petition. They also provide no foundation to demonstrate that they are qualified to provide expert opinions on biology, the environment, fire, hydrology, transportation, evacuation, civil engineering, or emergency services.

Court's Ruling on Objection No. 16: Sustained: _____

Overruled: _____

Objection No. 17:

Material Objected To: "The County's proposed Project is to create up to 62 additional parking spaces in the vicinity of the Hot Springs trailhead. The 62 additional parking space figure has been

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confirmed by First District County Supervisor Das Williams, County Public Works Director Scott McGolpin, and other County representatives, in multiple conversations with Petitioners' legal counsel and with the Montecito Fire Protection District. At maximum use, and assuming a conservative average of two persons are associated with each vehicle, the Project would result in approximately 124 additional persons on Hot Springs Trail at any given time, upwards of 1,000 additional hikers per week."

[Petition, ¶ 21; page 9, line 14 to page 9, line 20.]

Grounds for Objection No. 17: Matter stated is inadmissible hearsay. (Evid. Code, § 1200.) Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.) The Petition is verified by Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morely. (Petition, pp. 16–19.) The only information provided about Petitioners in the Petition is that they each own property and live in the affected are of East Mountain Drive in Montecito. (Petition, ¶ 7.)

Court's Ruling on Objection No. 17: Sustained: _____

Overruled: _____

Objection No. 18:

Material Objected To: "The County proposes to create these parking spaces by demolishing vegetation, mature oak and sycamore trees, decorative sandstone curbs and boulders, protective asphalt curbs installed by the County, and other improvements from the public right-of-way that lines both sides of East Mountain Drive. In many cases, these improvements to the right-of-way have been in place for decades, some with encroachment permits the County says it will now revoke, and some attached to recognized historic structures. The property owners (including Petitioners) have spent substantial money and effort in creating and maintaining the improvements for decades."

[Petition, ¶ 22; page 9, line 21 to page 9, line 27.]

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Grounds for Objection No. 18: Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) The Petition is verified by Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morely. (Petition, pp. 16–19.) The only information provided about Petitioners in the Petition is that they each own property and live in the affected are of East Mountain Drive in Montecito. (Petition, ¶ 7.) They provide no foundation to demonstrate they have personal knowledge of any of the facts alleged in the Petition.

Court's Ruling on Objection No. 18: Sustained: _____

Overruled: _____

Objection No. 19:

Material Objected To: "In addition to the three homeowners receiving letters, County representatives have confirmed their intention with Petitioner's counsel to demolish improvements and create new parking spaces in front of four additional homes with East Mountain Drive frontage near the trailhead. For one of those homes, with lengthy frontage on East Mountain Drive, County representatives told Petitioner's counsel that the County will revoke the decades-old encroachment permit and destroy mature oaks that the County approved decades ago within the right of way. Once the improvements in the right of way are gone, the Project will effectively be complete—people will be able to park there immediately."

[Petition, ¶ 23; page 10, line 5 to page 10, line 12.]

Grounds for Objection No. 19: Matter stated is inadmissible hearsay. (Evid. Code, § 1200.) Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.)

Court's Ruling on Objection No. 19: Sustained: _____

Overruled: _____

Objection No. 20:

Material Objected To: "The County is attempting to complete its Project without any of the formal environmental review, public notice, and comment that are required by CEQA and constitutional due process. The Project is substantially certain to result in significant

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environmental impacts by more than quadrupling the number of persons in Hot Springs Canyon from adjacent parking at any given time. This dramatic increase is sure to impact the environmentally sensitive habitat area along the creek, including the endangered native wildlife and plant species present. This dramatic increase is certain to create additional fire safety hazards by taxing the area's already overwhelmed infrastructure and limited exit routes in case of a fire-related evacuation. Native plants will be trampled and protected animal species will be disturbed in their sensitive habitat, and trash will be left behind along the trail or by the creek bed at the hot springs. And when the next wind-driven wildfire breaks out (a virtually certain eventuality), the additional visitors to the trailhead will be forced to evacuate via the two-lane Hot Springs Road—through four choke points identified on Montecito Fire Protection District's Evacuation Map alongside the area's hundreds of residents, employees, and contractors. At the same time as such outbound evacuation, incoming fire engines and other public safety apparatus will be racing up Hot Springs Road. Based on recent experience and statements from the Montecito Fire Protection District, that route is already inadequate to evacuate the area's residents alone. Even without the additional cars, not everyone will be able to get out in the event of an emergency evacuation from a fire fanned by the frequent and fast-moving sundowner winds, as with the Tea Fire."

[Petition, ¶ 24; page 10, line 13 to page 11, line .]

Grounds for Objection No. 20: Matter stated is an inadmissible opinion as to a legal conclusion. (Evid. Code, § 800; *Morrow v. Los Angeles Unified School Dist.* (2007) 149 Cal.App.4th 1424, 1445; *People v. Baker* (2012) 204 Cal.App.4th 1234, 1245.) Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.) Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Statement is an improper lay opinion. (Evid. Code, § 800.) Petitioners who verified the Petition are not qualified to express an expert opinion. (Evid. Code, §§ 720, 800-803.) Matter stated is inadmissible hearsay. (Evid. Code, § 1200.) The Petition is verified by Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morely. (Petition, pp. 16–19.) The only information provided about Petitioners in the Petition is that they each own property and live in the affected are of East Mountain Drive in Montecito. (Petition, ¶ 7.) They provide no

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foundation to demonstrate they have personal knowledge of any of the facts alleged in the Petition. They also provide no foundation to demonstrate that they are qualified to provide expert opinions on biology, the environment, fire, hydrology, transportation, evacuation, civil engineering, or emergency services.

Court's Ruling on Objection No. 20: Sustained: _____

Overruled: _____

Objection No. 21:

Material Objected To: "The Project will also cause biological and aesthetic impacts by removing mature specimens of protected tree species and other improvements to the public right of way, replacing well-established vegetation with the scraped parking spaces along a substantial portion of a scenic road. Yet the County has charged ahead with its Project without conducting any CEQA review of these potential impacts."

[Petition, ¶ 25; page 11, line 4 to page 11, line 8.]

Grounds for Objection No. 21: Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.) Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Statement is an improper lay opinion. (Evid. Code, § 800.) Petitioners who verified the Petition are not qualified to express an expert opinion. (Evid. Code, §§ 720, 800-803.) The Petition is verified by Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morely. (Petition, pp. 16–19.) The only information provided about Petitioners in the Petition is that they each own property and live in the affected are of East Mountain Drive in Montecito. (Petition, ¶ 7.) They provide no foundation to demonstrate they have personal knowledge of any of the facts alleged in the Petition. They also provide no foundation to demonstrate that they are qualified to provide expert opinions on biology, the environment, fire, hydrology, transportation, evacuation, civil engineering, or emergency services.

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Court's Ruling on Objection No. 21: Sustained: _____

Overruled: _____

Objection No. 22:

Material Objected To: "Among other things, as described above, the Project has the potential to cause impacts to protected species and habitat, other biological resources, and fire human ignition hazards/evacuation measures, by introducing hundreds of additional visitors to the environmentally sensitive areas and extreme fire hazards of Hot Springs Canyon."

[Petition, ¶ 33; page 14, line 11 to page 14, line 14.]

Grounds for Objection No. 22: Matter stated is inadmissible speculation and conclusions. (Evid. Code §§ 400, 403, 410, 803; *Yuzon v. Collins* (2004) 116 Cal.App.4th 149, 166.) Lack of personal knowledge and/or lack of foundation. (Evid. Code, § 702.) Statement is an improper lay opinion. (Evid. Code, § 800.) Petitioners who verified the Petition are not qualified to express an expert opinion. (Evid. Code, §§ 720, 800-803.) The Petition is verified by Petitioners Christopher Anderson, Ross Bagdasarian, Peter Barker, and James Morely. (Petition, pp. 16–19.) The only information provided about Petitioners in the Petition is that they each own property and live in the affected are of East Mountain Drive in Montecito. (Petition, ¶ 7.) They provide no foundation to demonstrate they have personal knowledge of any of the facts alleged in the Petition. They also provide no foundation to demonstrate that they are qualified to provide expert opinions on biology, the environment, fire, hydrology, transportation, evacuation, civil engineering, or emergency services.

Court's Ruling on Objection No. 22: Sustained: _____

Overruled: _____

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DATED: April 19, 2022

RACHEL VAN MULLEM
SANTA BARBARA COUNTY COUNSEL

/s/ Lina Somait

By Lina Somait, Senior Deputy
Attorneys for Respondents COUNTY OF SANTA BARBARA and BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY

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PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California.

On April 19, 2022, I served a true copy of **EVIDENTIARY OBJECTIONS IN SUPPORT OF RESPONSE OF COUNTY OF SANTA BARBARA AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY TO ORDER TO CHOW CAUSE REGARDING PRELIMINARY INJUNCTION** on the Interested Parties in said action by:

☐ by electronic mail. I delivered such paperwork via electronic mail on the interested parties in this action from warwick@countyofsb.org to the below electronic mail addresses:

☒ personally delivered it to the person(s) indicated below:

A.Barry Cappello
David L. Cousineas
Matthew L. Hofer
CAPPELLO & NOEL LLP
831 State Street
Santa Barbara, CA 93101

*Courtesy Copies Emailed to:
abc@cappellonoel.com
mhofer@cappellonoel.com
dcousineas@cappellonoel.com

☐ by facsimile transmission.

☐ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned documents would have been deposited with the United States Postal Service on August 2, 2021 after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on April 19, 2022, at Santa Barbara, California.

Natalie M. Warwick
Natalie M. Warwick

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Attorneys for Respondents
COUNTY OF SANTA BARBARA and BOARD
OF SUPERVISORS OF SANTA BARBARA COUNTY

Exempt from filing fees [Gov. Code, § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

(CEQA)

NOTICE OF SETTLEMENT MEETING

Judge: Donna Geck
Dept.: 4
Action filed: April 4, 2022

NOTICE OF SETTLEMENT MEETING

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Public Resources Code section 21167.8 all parties shall meet and confer regarding anticipated issues to be raised in the above-entitled litigation and shall attempt in good faith to settle the litigation and the dispute which forms the basis of the litigation. This settlement meeting will be held on May 17, 2022 at 10:00 a.m. at the Offices of the Santa Barbara County Counsel located at 105 East Anapamu Street, Suite 201, Santa Barbara, California 93101.

Failure of a party to participate in the settlement process set forth in Public Resources Code section 21167.8 without good cause may result in imposition of sanctions by the Court as provided in Public Resources Code section 21167.8e.

DATED: April 20, 2022

RACHEL VAN MULLEM
SANTA BARBARA COUNTY COUNSEL

/s/ Lina Somait

By Lina Somait, Senior Deputy
Attorneys for Respondents COUNTY OF SANTA BARBARA and BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY

SANTA BARBARA COUNTY COUNSEL
105 E. Anapamu Street, #201
Santa Barbara, CA 93101
(805) 568-2950

PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California.

On April 20, 2022, I served a true copy of **NOTICE OF SETTLEMENT MEETING** on the Interested Parties in said action by:

☐ by electronic mail. I delivered such paperwork via electronic mail on the interested parties in this action from warwick@countyofsb.org to the below electronic mail addresses:

☐ personally delivered it to the person(s) indicated below:

☐ by facsimile transmission.

☒ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned documents would have been deposited with the United States Postal Service on August 2, 2021 after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

A.Barry Cappello
David L. Cousinea
Matthew L. Hofer
CAPPELLO & NOEL LLP
831 State Street
Santa Barbara, CA 93101

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on April 20, 2022, at Santa Barbara, California.

Natalie M. Warwick
Natalie M. Warwick

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County of Santa Barbara
105 East Anapamu Street
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SANTA BARBARA COUNTY COUNSEL
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Attorneys for Respondents
COUNTY OF SANTA BARBARA and BOARD
OF SUPERVISORS OF SANTA BARBARA COUNTY

ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/20/2022 8:51 AM
By: Narzralli Baksh, Deputy

Exempt from filing fees [Gov. Code, § 6103]

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

(CEQA)

LIST OF RESPONSIBLE AGENCIES

(Pub. Resources Code, § 21167.6.5)

Judge: Donna Geck
Dept.: 4
Action filed: April 4, 2022

Pursuant to California Public Resources Code section 21167.6.5, there are no responsible agencies or any public agencies with jurisdiction over a natural resource affected by the project that is the subject of this action.

DATED: April 20, 2022

RACHEL VAN MULLEM
SANTA BARBARA COUNTY COUNSEL

/s/ Lina Somait

By Lina Somait, Senior Deputy
Attorneys for Respondents COUNTY OF SANTA BARBARA and BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY

PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California.

On April 20, 2022, I served a true copy of **NOTICE OF RESPONSIBLE AGENCIES** on the Interested Parties in said action by:

☐ by electronic mail. I delivered such paperwork via electronic mail on the interested parties in this action from warwick@countyofsb.org to the below electronic mail addresses:

☐ personally delivered it to the person(s) indicated below:

☐ by facsimile transmission.

☒ by mail. I am familiar with the practice of the Office of Santa Barbara County Counsel for the collection and processing correspondence for mailing with the United States Postal Service. In accordance with the ordinary course of business, the above-mentioned documents would have been deposited with the United States Postal Service on August 2, 2021 after having been deposited and processed for postage with the County of Santa Barbara Central Mail Room.

A.Barry Cappello
David L. Cousineas
Matthew L. Hofer
CAPPELLO & NOEL LLP
831 State Street
Santa Barbara, CA 93101

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on April 20, 2022, at Santa Barbara, California.

Natalie M. Warwick
Natalie M. Warwick

COUNTY COUNSEL
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ELECTRONICALLY FILED
Superior Court of California
County of Santa Barbara
Darrel E. Parker, Executive Officer
4/22/2022 3:53 PM
By: Narzralli Baksh, Deputy

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORLEY, individuals,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

REPLY TO DEFENDANTS' RESPONSE TO ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION

Hearing Date: May 6, 2022
Time: 10:00 am
Judge: Donna Geck
Dept.: 4
Complaint filed: April 4, 2022

I. Introduction

Petitioners hereby reply to the County's Response to OSC re Preliminary Injunction ("Response"). Often, in litigation, the level of vitriol in a brief is inversely proportional to the party's level of legal support. That is exactly the case here, where the County goes so far as to accuse the Petitioners of "criminal conduct," to threaten landowners with fines or prison, and to claim imminent harm to bikers, pedestrians, equestrians, and cars due to encroachments that the County has allowed to exist for years, if not decades. Demonstrating the emptiness of the County's arguments, it took no action to address these alleged dangers in the 12 months since it claims to have first been notified of their existence. (*See* Response at 7:25-27 [claiming County learned of residents blocking right of way on April 29, 2021].) Nothing has happened to all of a sudden create a drastic need to act before this Court can determine whether the County violated CEQA.

On the merits, the County repeatedly tries to couch its "Project" as enforcing regulations, but that is not, and never was, the Project's purpose. Even in the February 2022 Notice of Exemption ("February NOE")—which the County created surreptitiously and conspicuously never mentioned to Mr. Cole in numerous meetings and communications—the County does not rely on the regulatory enforcement exemption to CEQA. This shows that *at the time* it adopted the February NOE, it did not consider this to be an enforcement project, *i.e.*, "enforcement regulation" is a lawyer-contrived re-casting of the Project's purpose. This is, and always has been, a project to increase access to Hot Springs Trail. The original September 2021 NOE ("September NOE") is titled "Montecito Trail Access Funding," and states that its purpose is to provide parking for Hot Springs Trail. (RJN Ex. 2 at COSB RJN 000022.) The associated Agenda Letter from Scott McGolpin confirms that the Project is "for Hot Springs Trailhead access improvement studies" due to the "skyrocket[ing]" popularity of the trail and associated increase in trail users. (*Id.* at COSB RJN 000016.)

The letters the County sent to homeowners in February 2022 similarly identify the Project as the "Hot Springs Trailhead *Parking Design & Construction Project*." (Pearson Decl. Exs 1-3, emphasis added.) It was only after Mr. Cole told the County that they had serious CEQA issues that the County changed the title of the project to "Montecito right of way restoration." (RJN Ex. 1 at COSB RJN 000010.) Tellingly, the "Project No." for both NOEs is the same, confirming that the

February NOE is just a continuation of the Project identified in the September NOE; not a safety or maintenance project, but one to increase parking for the "skyrocketing" popularity of Hot Springs trail, *i.e.*, to permit increased use of this sensitive habitat.

The County also makes numerous misrepresentations in its Response. For example, it relies on a February 2021 report from Montecito Fire Chief Taylor to argue that the Project is a result of recommendations from the fire district. (Response at 7-8.) But that report was specifically directed at creating "parking restrictions," to "preserve evacuation routes," not to expand parking at the trail or anywhere. (RJN Ex. 2 at COSB RJN 000018.) Further, the report did not recommend recovering lost roadway easement space on East Mountain Drive, as the County asserts. That recommendation was limited to Eucalyptus, Humphries, and Miramar Roads *near the beach*. (*Id.* at COSB RJN 000019.) As to the area at issue here—the 0.5 miles of East Mountain Drive on either side of Hot Springs Trail— the report identified it as one of "the most high-risk areas of our communities," thus requiring that the street be edge line stripped to *limit* parking and that Red Flag restrictions be imposed "to preserve evacuation routes and emergency vehicle access routes." (*Id.* at COSB RJN 000018 [describing Red Flag parking restrictions], 19 ["High road system of East Mountain…; edge line stripping…. Trail head parking areas; Red Flag parking restrictions"].)

Similarly, the County argues that Mr. McGolpin never said that he intended to create up to 62 new parking spaces, but he admits in his declaration that he said the County "could restore over 60 parking spaces." (*Compare* Response at 8:13-15 and McGolpin Declaration at 2:1-2.) Moreover, as Mr. Cole testified, Mr. McGolpin has repeatedly touted that number. (Cole Decl. at ¶ 7.)

Regardless of the actual number, the failure to include the number of spots in the NOEs is the crux of the problem from a CEQA perspective: the County can argue at a later time that the NOEs allow it to install "over 60" spaces, even over 100, because they do not say how many spaces are covered. After all, the half-mile area covered by the NOE could fit well over 60 cars. Nor do they say what the County will do to ensure that visitors to the trail do not continue using illegal spots after these spots are created. Clearly there will be different environmental and evacuation impacts if the County installs 10 or 60 spaces, or if the County replaces illegal spaces with legal spaces or just creates more places to park and does not prevent continued parking in the illegal spaces. The failure

to include these specifics in the NOEs makes it impossible to determine the impact the Project will have on the Hot Springs Trail and renders them invalid. (*See McCann v. City of San Diego* (2021) 70 Cal.App.5th 51, 85, *reviewed denied* (Jan. 5, 2022) ["An accurate, stable and finite project description is the *sine qua non* of an informative and legally sufficient EIR."].)

This Petition is not, as the County contends, "weaponizing CEQA." Hot Springs is a beautiful, confined area that is officially designated as an Environmentally Sensitive Habitat, a designation "applied to areas with unique natural resources and/or sensitive animal or plant species, where existing and potential development and other activities may despoil or eliminate the resources." (See RJN Ex. 10; see also Montecito Land Use and Development Code section 35.428.040, available at https://cosantabarbara.app.box.com/s/gddjgafaocsoadlgg3t8lgca8zgkl670.) People should be able to enjoy the trail, but increasing access must follow the law. The County must study how many spaces it can install without creating significant environmental impacts, including fire evacuation risks, and it must disclose how many spaces it believes it can add so the public can assess and challenge that number if appropriate. Until it does so, it cannot pursue the Project.

II. The County cannot hide behind its "police powers" to avoid a preliminary injunction.

As the County recognizes, it can be enjoined—even from using its "police powers"—if its actions exceed its authority. (Response at 12:15-18, citing *Conover v. Hall* (1974) 11 Cal.3d 842, 850 and *Alfaro v. Terhune* (2002) 98 Cal.App.4th 492, 501.) Exceeding its authority obviously includes violating another law that limits its authority, such as CEQA. (*Save our Schools v. Barstow Unified Sch. Dist. Bd. of Ed.* (2015) 240 Cal.App.4th 128, 142-143 [overruling school district's assertion that resolutions were exempt from CEQA].)

The County asserts that it is just pursuing its duty to keep encroachments clear. (*Id.* at 13:10-17.) As described in Section III, below, that is not the case; this is a specific project to increase parking so that more people can access Hot Springs Trail. But even if this was simply an attempt to remove encroachments for public safety, the County would still have to consider whether CEQA applies, as it does for *any* activity that might impact the environment. (*California Bldg. Industry Assn. v. Bay Area Air Quality Management Dist.* (2015) 62 Cal.4th 369, 382 [agency must "determine whether a proposed activity … that is undertaken … by a public agency … 'may cause

either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.'"].)

There is no exception for "encroachment enforcement" activities. To the contrary, the CEQA exemptions prove that such activities *do* implicate CEQA. For example, the "existing facilities" exemption, on which the County relies, allows agencies to dispense with the CEQA analysis if their activity "involve[s] negligible or no expansion of existing or former use." (Cal. Code Regs., tit. 14, § 15301.) Thus, an agency cannot use its police powers to maintain existing facilities if doing so expands existing or former use. Similarly, an agency cannot rely on the regulation enforcement exemption if unusual circumstances exist, *i.e.*, the project is different than "typical" projects in that category. (*See* Section III.C, *infra*.) If it tries to do so, as the County does here, it is violating CEQA and therefore exceeding its authority. This clearly falls within the "exceeding authority" exception to the general rule against enjoining government agencies.

The County's reliance on *Jamison v. Department of Transportation* (2016) 4 Cal.App.5th 356 is inapt. There, Caltrans had removed culverts plaintiff had placed in the right of way to divert water that he owned the rights to. (*See* 4 Cal.App.5th at 360.) The issue was whether plaintiff's ownership of the water rights overrode Caltrans' authority to keep the right of way clear. (*Id.* at 364.) But there was *no argument or evidence* that Caltrans was violating another law, as the County is doing here. Therefore, *Jamison* provides no probative analysis.

Because, as described in our Ex Parte Application for Order to Show Cause and Temporary Restraining Order ("Application") and below, Petitioners have shown a reasonable likelihood of success on the merits, the County *can be* preliminarily enjoined from creating irreparable environmental harm for the limited time it will take to reach a decision on the merits.

III. Plaintiffs have shown a reasonable likelihood of success on the merits.

A. The County's pro forma objections are not supportable and are irrelevant.

The scope of the County's objections is breathtaking. It objected to more than half of Mr. Cole's declaration, including three exhibits (letters from the County to homeowners) that the County itself submitted and that could have been introduced through an RJN as official County documents. (See Objection No. 12; Pearson Decl. Exs. 1-3.) And, the objections are extensive, many covering

more than half a page, demonstrating that the County is throwing everything against the wall, hoping that something will stick.

But more importantly, the County's objections are largely irrelevant because they do not impact the analysis necessary to rule on our request for a preliminary injunction. In fact, none of the County's objections cover the legal argument in our Application. (See Application at 12:25-20:21.) As any analysis of our Application and this Reply demonstrates, there is significant evidence beyond the County's pro forma objections that supports a preliminary injunction.

B. The CEQA exemptions on which County relies are inapplicable to the Project.

The County's repeated attempts to portray the Project as a simple maintenance project are contradicted by its own actions. The genesis of the Project is the County's desire to create parking to support the "skyrocket[ing]" "popularity of the Hot Springs Trail," which has resulted in "increases in trail users," that number "dozens to hundreds of hikers a day." (RJN Ex. 2 at COSB RJN 000016.) The simple fact that the Project resulted from a desire to accommodate Hot Springs' skyrocketing popularity shows that creating the parking will increase trail usage beyond "historical levels of operation." (*See* Response at 15:21-16:3, quoting CEQA Guidelines, RJN Ex. 9 at 61-62.)

As explained in the September 2021 Agenda Letter that Mr. McGolpin signed:

> With recent increases in trail users, there is an urgent need to address the imbalance between the available spaces at the Parks access lot and the demand for parking.
>
> Over the last two years, in particular during COVID-19 pandemic, popularity at the Hot Springs Trail above Montecito has skyrocketed, bringing in dozens to hundreds of hikers a day…. [The] approximately 6-8 informal parking spaces [are] well below current demand.
>
> As Hot Springs Trail popularity increased, Riven Rock Road became highly impacted with hiker parking, Riven Rock Road is very narrow and complaints soon followed about lack of ingress and egress from homeowners, noise, refuse dumping, and fire access issues…. [T]he determination was made to stripe the should to limit parking to areas where there was sufficient width to allow better emergency access (Attachment A). This safety measure resulted in the elimination of dozens of previous parking spaces that were assisting with the public's demand. As a result, access to the trailhead while parking legally can be challenging for hikers.

(RJN Ex. 2 at COSB RJN 000016-17.)[1]

Funding was therefore requested "for studies and initial implement of parking improvements"; which would be followed by "document[ing] the obstacles to creating public parking" and "work[ing] with Parks and the adjacent owners on a project that would *create public parking* while minimizing the impacts to their property frontage." (*Id.* at COSB RJN 000017, emphasis added.) The associated September NOE therefore called the Project "Montecito Trail Access Funding" and explained that the requested funding was for "studies and … implementation of parking improvements near the area of the Hot Springs Trailhead." (*Id.* at COSB RJN 000022.)

This real reason for the Project—increasing access to an environmentally sensitive habitat—betrays the County's attempt to couch the project as exempt under the "existing facilities" exemption, or the Class 4 or Class 21 exemptions. (*See* Response at 14:26-16:21.) These exemptions, like all CEQA exemptions, must be construed narrowly. (*E.g.*, *Dehne v. County of Santa Clara* (1981) 115 Cal.App.3d 827, 842.)

The County first relies on two provisions of the "existing facilities" exemption, but both those exemptions *only* apply when the contemplated activity involves "negligible or no expansion of existing or former use." (*See* Cal. Code Regs., tit. 14, § 15301; *see also* Response at 14:26-16:16.) But the County has not assessed the impact of additional parking spaces on the environment, including impact to the trail or to fire evacuation. The County never performed a metered traffic count or similar "study" as it stated it was going to do in the September NOE. Without such an analysis, it cannot determine whether additional spaces will expand existing or former use of the trail or parking. This is particularly problematic because neither NOE imposes any limit on how many spaces the County can install. While five or ten spaces might qualify as "negligible"—depending on whether the County actually enforces no parking restrictions in illegal spots, which it is not currently doing[2]—60 presents a vastly different analysis.

Similarly, Class 4 exemptions apply to *minor* alterations. (Response at 14:9-13.) Nothing

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[1] While the County is not required, by CEQA, to limit the public's increased use of natural resources, it is required to assess the impacts of increased use if it takes affirmative steps, as it does here, to increase access to natural resources.

[2] The County claims to have "lost" 50 spots on Riven Rock, but those spots continue to be used.

about adding parking spaces to increase the number of people who can access an Environmentally Sensitive Habitat by hundreds can be considered, especially without analysis, a "minor" alteration. Finally, Class 21 exemptions relate to enforcement activities. But, again, the County is not engaged in enforcement activities. It is simply using its enforcement powers to create new parking. If new parking was not necessary to support its desired increased use of Hot Springs, it would not even be considering removing the encroachments. If this really were an enforcement activity, the County clearly would have identified this as a Class 21 exemption in either the September or February NOE. The fact that it did not shows that it does not even believe this is an enforcement action.

Because the Project is to create additional parking to allow additional hikers to access Hot Springs, the Project does not qualify for any CEQA exemptions.

C. The County cannot rely on any CEQA exemptions due to unusual circumstances.

The County claims incorrectly that no "unusual circumstances" exist that preclude reliance on the CEQA exemptions discussed in the prior section. (Response at 17:2-8.) The purpose of CEQA exemptions is to allow agencies to dispense with CEQA analyses for projects that *typically* do not have significant environmental impacts. (*Berkeley Hillside*, 60 Cal.4th at 1104 [exemptions created where "the environmental changes typically associated with projects in that class are not significant effects within the meaning of CEQA…."].) Unusual circumstances exist where "the project has some feature that distinguishes it from others in the exempt class, such as its size or location" or a showing that "the project will have a significant environmental effect." (*Id.* at 1105.)[3]

The exemptions on which the County relies are all "typically" projects that do not occur near a trailhead, and are not intended to create parking specifically intended to bring more hikers to an environmentally sensitive area. They are also not in an area that is already considered by the fire department to be one of "the most high-risk areas of our communities," thus requiring that the street be edge line stripped to *limit* parking and that Red Flag restriction be imposed "to preserve

[3]Agencies "may not simply ignore," or give lip-service to, the unusual circumstances exception to CEQA exemptions "even if the proposed project faces no opposition." *Berkeley Hillside*, 60 Cal.4th at 1103. Even then, they "'must consider the issue of significant effects … in determining whether the project is exempt from CEQA where there is some information or evidence in the record that the project might have a significant environmental effect.'" (*Id.* alteration in original.)

evacuation routes and emergency vehicle access routes." (See RJN Ex. 2 at COSB RJN 000018-19.) And the County wants to bring anywhere from 10-60 additional cars *at any given time* to this sensitive area without performing even the most basic environmental analysis. No possible interpretation of the "unusual circumstances" exception gives the County that authority.

Accordingly, the County is left with flimsy arguments to avoid the exception. For instance, it disputes, unbelievably, that Hot Springs has significant ecological and biological diversity, by arguing that the report attached as Exhibit 1 to Mr. Cole's declaration does not specifically address Hot Springs, although it addresses the four canyons that surround Hot Springs. Regardless, one of the County's exhibits confirms that Hot Springs is in an Environmentally Sensitive Habitat ("ESH"), and therefore, by definition, has "unique natural resources and/or sensitive animal or plant species." (See RJN Ex. 10; see also Montecito Land Use and Development Code section 35.428.040.)

The County also that East Mountain Drive is not within the ESH. (Response at 17:16-17.) That is irrelevant. East Mountain Drive abuts the ESH. That alone makes the location different than a "typical" project. And, on top of that, the County is trying to increase parking specifically to allow more people to access the ESH, thereby further distinguishing it from "typical" projects.

Finally, the County argues that there will be "no net increase in parking," based on its assumption that people will stop parking illegally when legal spots are created. (*Id.* at 17:26-18:2.) But there is no evidence to support that conjecture. To the contrary, adding additional parking will only bring more people to the trail, unless the County prevents people from using the illegal spots that they are using. Based on the experience with Riven Rock, that is unlikely to happen. Therefore, absent some plan to ensure that people will not be able to continue parking in illegal spots, there is no basis to say there will be "no net increase in parking."

IV. The County identifies no legitimate harm to it or the public from an injunction.

Because it cannot identify any actual harm from a preliminary injunction, the County resorts to bold, unsubstantiated claims and threats. (Response at 18:23-19:13.)[4] The vast majority of the encroachments along East Mountain Drive have existed for years if not decades, and the County has

[4] The County offers no real rebuttal to our showing of harm to the environment and to fire safety2. (*See* Application at 14:11-28.)

not, until now—and even now solely to avoid an injunction—threatened to fine or imprison any of the homeowners. Of course, those homeowners can remove any encroachments if they want, but the County cannot be allowed, during the pendency of a litigation, to coerce them into doing so.

Nor is there any evidence that these encroachments create a risk to pedestrians, bicycles, equestrians, or cars, as the County claims. (*Id.* at 18:19-23.) One, in fact, has to wonder why, if the risk is so imminent that action cannot be delayed, the County has not previously demanded that homeowners remove the encroachments. Or why the County did not remove the encroachments in the year since April *2021*, when it claims to have first received complaints. (Response at 7:5-27.)

The County also argues that there is a public benefit to having access to the trailhead. (Response at 18:14-18.) While that is true in theory, the County has not shown that the public will be harmed if access is delayed a short period of time. That is the question that must be answered. And the answer is the public will suffer absolutely no harm. Finally, the County raises the specter of evacuation problems if cars are packed illegally. (*Id.* at 18:17-19.) The answer is not to allow the County to rush forward with a Project that might have significant environmental consequences; it is for the County to enforce parking regulations.

V. The proposed injunction is already narrowly tailored.

We proposed a basic injunction, that simply prevents the County from "taking any action to remove improvements in the public right-of-way, or to otherwise create new public parking areas, within 0.5 miles of the Hot Springs Canyon trailhead on East Mountain Drive, Montecito, California 9310." (Application at 5:1-7.) Thus, the request covers a short stretch of road during the short time that it will take to get a decision on the merits. (*See* Public Resources Code, § 21167.1, subd. (a) [CEQA proceedings are to be "quickly heard and determined."].)

The County does not show how this injunction is too broad. It only claims that it would not allow it to remove unpermitted encroachments during the pendency of this proceeding. (Response at 19:15-17.) But that does not show overbreadth. As discussed in the prior section, the County claims to have received complaints about encroachments in April 2021 but has not, until now, claimed that it must act quickly. If it could wait almost one year to send out letters demanding that encroachments be removed, it can wait another few months.

Further, the County does not explain how it would limit the number of hikers on Hot Springs Trail or parking on East Mountain Drive. Doing so would require it to position someone at Hot Springs to monitor both access and parking. That will not happen.

VI. The County's bond argument is preposterous.

The County provides no reason why this Court should not follow the federal authority we cited showing that only a nominal bond, if any, should be imposed in environmental litigation. (*See* Application at 20:10-16.) While these cases are not binding on this Court, the analysis is sound: the public interest in preventing damage to the environment, pending a hearing on the merits, is greater than the damage to the project sponsor's pocketbook. (*See Natural Resources Defense Council, Inc. v. Morton* (D.D.C. 1971) 337 F.Supp. 167, 169, aff'd (D.C. Cir. 1972) 458 F.2d 827.)

Instead, the County again conjures the threat of fines and alleged danger to pedestrians, bicycles, equestrians, and cars. (Response at 19:27-7.) But, again, the County has not previously sought to remove them, in the decades that most of these encroachments have existed. Why would it now, during the pendency of a short CEQA dispute, all of a sudden start threatening homeowners? And what has happened in the last few months that makes those encroachments so much more dangerous? And why, if these dangers were so dire, did it not demand that homeowners remove the encroachments after receiving purported complaints in April 2021? If the encroachments actually created the dire risks the County now asserts, including potential multi-million-dollar liability for an accident, it would have acted long ago. It did not. And it cannot now demand an exorbitant bond over a case brought to avoid irreparable harm to an environmentally sensitive area.

Dated: April 22, 2022

CAPPELLO & NOËL LLP

By: */s/ David L. Cousineau*
A. Barry Cappello
David L. Cousineau
Attorneys for Petitioners

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am employed in the County of Santa Barbara, State of California. I am over the age of 18 years and not a party to this action. My business address is 831 State Street, Santa Barbara, California 93101. On April 22, 2022, I served the foregoing document described as **REPLY TO RESPONDENTS' RESPONSE TO OSC RE PRELIMINARY INJUNCTION** on the interested parties in this action:

SEE ATTACHED SERVICE LIST

☐ **BY U.S. POSTAL SERVICE:** This document was served by United States mail. I enclosed the document in a sealed envelope or package addressed to the person(s) at the address(es) above and placed the envelope(s) for collection and mailing, following our ordinary business practices. I am readily familiar with this firm's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Santa Barbara, California, in a sealed envelope with postage fully paid.

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Executed on April 22, 2022, at Santa Barbara, California.

/s/ Andrea Morales

Andrea Morales

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA BARBARA (ANACAPA DIVISION)

CHRISTOPHER ANDERSON; ROSS BAGDASARIAN; PETER BARKER; and JAMES MORELEY, Individual,

Petitioners,

vs.

COUNTY OF SANTA BARBARA; BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY; and DOES 1 through 10, inclusive,

Respondents.

Case No.: 22CV01299

COUNTY OF SANTA BARBARA'S AND BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY'S OBJECTION AND REQUEST TO STRIKE IMPROPER NEW ARGUMENT IN PETITIONERS' REPLY

Hearing Date: May 6, 2022
Time: 10:00 a.m.
Judge: Donna Geck
Dept.: 4
Complaint filed: April 4, 2022

County of Santa Barbara and Board of Supervisors of Santa Barbara County (together, "County") hereby object to the portions of Petitioners' reply to the County's response to order to show cause regarding preliminary injunction that raise new arguments not included in their opening brief. The County requests that the Court strike reply page 2, line 21 to page 3, line 4 (*i.e.*, Reply, Section I, paragraph 6) and page 5, line 8 to page 8, line 22 (*i.e.*, Reply, Section III, Subsections B and C). The County also requests that the court admonish Petitioners regarding civility in the practice of law. The offensive accusations aimed at the County throughout the reply brief are not well taken.

I. INTRODUCTION

Points raised for the first time in a reply brief ordinarily will not be considered because such consideration would either deprive the opposing party of the opportunity to counter the argument or require the effort and delay of an additional brief by permission. Petitioners submitted a reply to the County's response to order to show cause regarding preliminary injunction pivoting from their original theory with respect to the County's alleged non-compliance with CEQA to an entirely new theory. Both in their opening brief and in their verified petition, Petitioners argued that the County violated CEQA because it relied on a September 14, 2021 Notice of Exemption ("NOE") that is allegedly inapplicable and invalid as to the project. In their reply brief, Petitioners now concede that the County did not rely on the September 14, 2021 NOE, and instead argue that the project is not exempt under CEQA and that the unusual circumstances exception applies. The County has had no opportunity to respond to Petitioners' newly raised arguments and legal authority. Accordingly, the Court should apply well-established law and strike the newly raised arguments from the reply to prevent the prejudice that would result from Petitioners' improper tactic.

II. A PARTY CANNOT PRESENT NEW ARGUMENTS ON REPLY.

"Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument." (*Browne v. County of Tehama* (2013) 213 Cal.App.4th 704, 720, fn. 10, quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.) "To withhold a point until the closing brief deprives the respondent of the opportunity to answer it or requires the effort and delay of an additional brief by permission." (*People v. JTH Tax, Inc.* (2013) 212 Cal.App.4th 1219, 1232, quoting *Campos v. Anderson* (1997) 57 Cal.App.4th 784, 794, fn. 3.) As explained in the Rutter Guide, "[i]t is a serious mistake to leave key arguments for the reply brief on the theory it will give you the last word with the court. The court is likely to *refuse to consider new evidence or arguments first raised in reply papers*, or it may grant the other side time for further briefing." (Weil & Brown, Cal. Practice Guide: Civil Procedure Before Trial (The Rutter Group 2022) at 9:106.1 (emphasis in original).) Petitioners have no excuse for failing to address the NOE for the

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project in their opening brief. The NOE was filed with the county clerk and posted in the clerk's office and on the clerk's website (https://www.countyofsb.org/ceo/ceqanotices.sbc). (See Pub. Resources Code, § 21152; Cal. Code Regs., tit. 14, § 15062(c)(2), (3).) Petitioners could have also submitted a written request for copies of all CEQA notices relating to the project. (See Pub. Resources Code, §§ 21092.2, 21167(f).) Counsel for Petitioners had a duty to make a reasonable inquiry into their factual allegations and legal contentions before submitting the petition and opening brief to the Court. (Code Civ. Proc., § 128.7(b).)

Objection No. 23:

Material Objected To: "Regardless of the actual number, the failure to include the number of spots in the NOEs is the crux of the problem from a CEQA perspective: the County can argue at a later time that the NOEs allow it to install 'over 60' spaces, even over 100, because they do not say how many spaces are covered. After all, the half-mile area covered by the NOE could fit well over 60 cars. Nor do they say what the County will do to ensure that visitors to the trail do not continue using illegal spots after these spots are created. Clearly there will be different environmental and evacuation impacts if the County installs 10 or 60 spaces, or if the County replaces illegal spaces with legal spaces or just creates more places to park and does not prevent continued parking in the illegal spaces. The failure to include these specifics in the NOEs makes it impossible to determine the impact the Project will have on the Hot Springs Trail and renders them invalid. (See *McCann v. City of San Diego* (2021) 70 Cal.App.5th 51, 85, reviewed denied (Jan. 5, 2022) ['An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.'].)"

[Reply at page 2, line 21 to page 3, line 4.]

Grounds for Objection No. 23: New arguments raised for the first time in the reply brief. "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument." (*Browne v. County of Tehama* (2013) 213 Cal.App.4th 704, 720, fn. 10, quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.)

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Court's Ruling on Objection No. 23: Sustained: _____

Overruled: _____

Objection No. 24:

Material Objected To: Reply, Section III, Subsections B and C in their entirety.

[Reply at page 5, line 8 to page 8, line 22.]

Grounds for Objection No. 24: New arguments raised for the first time in the reply brief. "Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument." (*Browne v. County of Tehama* (2013) 213 Cal.App.4th 704, 720, fn. 10, quoting *American Drug Stores, Inc. v. Stroh* (1992) 10 Cal.App.4th 1446, 1453.)

Court's Ruling on Objection No. 24: Sustained: _____

Overruled: _____

DATED: April 25, 2022

RACHEL VAN MULLEM
SANTA BARBARA COUNTY COUNSEL

/s/ Lina Somait

By Lina Somait, Senior Deputy
Attorneys for Respondents COUNTY OF SANTA BARBARA and BOARD OF SUPERVISORS OF SANTA BARBARA COUNTY

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PROOF OF SERVICE
(C.C.P. §§ 1013(a), 2015.5)
STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 105 E. Anapamu Street, Room 201, Santa Barbara, California.

On April 25, 2022, I served a true copy of **OBJECTION TO NEW ARGUMENT IN REPLY** on the Interested Parties in said action by:

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☐ personally delivered it to the person(s) indicated below:

☐ by facsimile transmission.

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A.Barry Cappello
David L. Cousinea
Matthew L. Hofer
CAPPELLO & NOEL LLP
831 State Street
Santa Barbara, CA 93101

☒ (State) I declare, under penalty of perjury, that the above is true and correct.

Executed on April 25, 2022, at Santa Barbara, California.

Natalie M. Warwick
Natalie M. Warwick

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