
June 12, 2024

Nelson Oporto
TAIT & Associates, Inc.
Development Project Manager
701 N. Parkcenter Dr, Santa Ana, CA 92705

RE: Biological Assessment for the 2160 Stonehurst Property, City of Rialto, California

This letter report presents an assessment of any biological resources on the above-referenced site, the purpose of which is to identify any potential adverse biological resource effects resulting from implementation of development of the site. Specifically, this assessment addresses potential impacts to federal and state listed threatened or endangered species and describes any onsite vegetation communities and identifies any potential jurisdictional waters of the U.S. The site is located at 2160 Stonehurst Drive in the City of Rialto (Figure 1) and consists of an existing truck parking facility and associated fencing (Figure 2). Surrounding land uses are a mix of light industrial development such as a concrete plant and storage and parking facilities. The proposed project consists of the development of a commercial truck stop and associated features.

Regulatory Background

Federal Endangered Species Act

The United States Fish and Wildlife Service (USFWS) has jurisdiction over species listed as threatened or endangered under the federal Endangered Species Act (FESA). Section 9 of FESA protects listed species from “take”, which is broadly defined as actions taken to, “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct,” (USFWS). FESA protects threatened and endangered plants and animals and their critical habitat. Candidate species are those proposed for listing; these species are usually treated by resource agencies as if they were listed during the environmental review process.

Procedures for addressing impacts to federally listed species follow two principal pathways, both of which require consultation with the USFWS, which administers the FESA for all terrestrial species. The first pathway is Section 10(a) incidental take permit, which applies to situations where a non-federal government entity must resolve potential adverse impacts to species protected under FESA. The second pathway is Section 7 consultation, which applies to projects directly undertaken by a federal agency or private projects requiring a federal permit or approval.

Federal Migratory Bird Treaty Act

The federal Migratory Bird Treaty Act (MBTA) implements international treaties between the U.S. and other nations devised to protect migratory birds, their parts, eggs, and nests from activities such as hunting, pursuing, capturing, killing, selling, and shipping, unless expressly authorized in the regulations or by permit. The State of California has incorporated the protection of birds of prey in Sections 3800, 3513, and 3503.5 of the FGC. All raptors and their nests are protected from take or disturbance under the MBTA (16 United States Code [USC], Section 703, et seq.) and California statute (FGC Section 3503.5). The golden eagle (*Aquila chrysaetos*) and bald eagle (*Haliaeetus leucocephalus*) are also afforded additional protection under the Bald and Golden Eagle Protection Act, amended in 1973 (16 USC, Section 669, et seq.).

Federal Bald and Golden Eagle Protection Act

With few exceptions, this act (16 USC 668–668d) prohibits take of bald eagles and golden eagles. Unlike the MBTA, which defines “take” to mean only direct killing or taking of birds or their body parts, eggs, and nests, the Bald and Golden Eagle Protection Act defines take in a manner similar to FESA as including “pursuing, shooting, shooting at, poisoning, wounding, killing, capturing, trapping, collecting, molesting, and disturbing,” with “disturb” further defined (50 CFR 22.3) as “to agitate or bother a Bald or Golden Eagle to a degree that causes, or is likely to cause, based on the best scientific information available; (1) injury to an eagle, (2) a decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or (3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior.” Therefore, the requirements for guarding against impacts to eagles generally are far more stringent than those required by the MBTA alone.

Federal Clean Water Act

The United States Army Corps of Engineers (USACE) and the United States Environmental Protection Agency (USEPA) regulates the discharge of dredged or fill material into waters of the U.S., including wetlands, under Sections 10 and 404 of the federal Clean Water Act (CWA). The USACE has established a series of nationwide permits (NWP) that authorize certain activities in waters of the United States, if a proposed activity can demonstrate compliance with standard conditions. Normally, the USACE requires an individual permit (IP) for an activity that will affect (fill or otherwise remove) an area in excess of 0.5-acre of waters of the United States. Projects that result in impacts less than 0.5 acre can typically be conducted pursuant to one of the nationwide permits, if they are consistent with the standard permit conditions. The USACE also has discretionary authority to require an environmental document (e.g. Environmental Impact Statement (EIS) or Environmental Assessment (EA) for projects that result in impacts to an area between 0.1 and 0.5-acre and above 0.5-acre.

Waters of the U.S. include wetlands, lakes, and rivers, streams, and their tributaries. Wetlands that fall under the jurisdiction of the USACE (referred to as jurisdictional wetlands) are defined as areas “inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life

in saturated soil conditions.” Areas not considered jurisdictional waters include, for example, non-tidal drainage and irrigation ditches excavated on dry land; artificially irrigated or created bodies such as small ponds, lakes or swimming pools; and water-filled depressions (33 CFR 328.3; 40 CFR 230.3). Project proponents must obtain a permit from USACE for all discharges of fill material into waters of the U.S., including jurisdictional wetlands, before proceeding with a proposed action. If wetlands are jurisdictional and could be filled as part of the project, USACE may issue either an individual permit or a general permit. Individual permits are prepared on a project-specific basis for projects that are expected to have adverse effects on the aquatic environment. General permits are pre-authorized permits issued to cover similar activities that are expected to cause only minimal individual and cumulative adverse environmental effects.

A Section 404 permit may not be required if the project avoids the discharge of any fill material into waters of the U.S., including wetlands. If the project cannot be designed to avoid the discharge of fill or excavating in waters of the U.S., including wetlands, a Section 404 permit must be obtained. The CWA requires any applicant for a federal license or permit to conduct any activity that may result in a discharge of a pollutant into waters of the U.S. to obtain a certification that the discharge will comply with the applicable effluent limitations and water quality standards. The appropriate Regional Water Quality Control Board (RWQCB) regulates Section 401 requirements.

California Fish and Game Code

Under the state of California Endangered Species Act (CESA), the state of California Department of Fish and Wildlife (CDFW) has the responsibility for maintaining a list of endangered and threatened species (FGC § 2070). Sections 2050 through 2098 of the Fish and Game Code (FGC) outline the protection provided to California’s rare, endangered, and threatened species. Section 2080 of the FGC prohibits the taking of plants and animals listed under the CESA. Section 2081 established an incidental take permit program for state listed species. The CDFW maintains a list of “candidate species,” which it formally notices as being under review for addition to the list of endangered or threatened species. In addition, the Native Plant Protection Act of 1977 (FGC Section § 1900, et seq.) prohibits the taking, possessing, or sale within the State of any plants with a state designation of rare, threatened, or endangered (as defined by CDFW). An exception to this prohibition in the Native Plant Protection Act allows landowners, under specified circumstances, to take listed plant species, provided that the owners first notify CDFW and give that state agency at least 10 days to come and retrieve (and presumably replant) the plants before they are plowed under or otherwise destroyed. (FGC Section 1913 exempts from “take” prohibition “the removal of endangered or rare native plants from a canal, lateral ditch, building site, or road, or other right of way.”) Project impacts to these species are not considered significant unless the species are known to have a high potential to occur within the area of disturbance associated with construction of the proposed project.

CDFW also maintains lists of “Species of Special Concern” that serve as species “watch lists.” The CDFW has identified many Species of Special Concern. Species with this status have limited distribution or the extent of their habitats has been reduced substantially, such that their populations may be threatened. Thus, their populations are monitored, and they may receive special attention during environmental review. While they do not have statutory protection, they may be considered

rare under the state of California Environmental Quality Act (CEQA) and thereby warrant specific protection measures.

Sensitive species that would qualify for listing but are not currently listed are afforded protection under CEQA. CEQA Guidelines Section 15065 (Mandatory Findings of Significance) requires that a substantial reduction in numbers of a rare or endangered species be considered a significant effect. CEQA Guidelines Section 15380 (Rare or Endangered Species) provides for assessment of unlisted species as rare or endangered under CEQA if the species can be shown to meet the criteria for listing. Unlisted plant species on the CNPS's Lists 1A, 1B, and 2 would typically be considered under CEQA.

Sections 3500 to 5500 of the FGC outline protection for fully protected species of mammals, birds, reptiles, amphibians, and fish. Species that are fully protected by these sections may not be taken or possessed at any time. The CDFW cannot issue permits or licenses that authorize the take of any fully protected species, except under certain circumstances such as scientific research and live capture and relocation of such species pursuant to a permit for the protection of livestock. Under Section 3503.5 of the FGC, it is unlawful to take, possess, or destroy any birds in the orders of Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto. To comply with the requirements of CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any state-listed endangered or threatened species may be present in the project study area and determine whether the proposed project will have a potentially significant impact on such species. In addition, CDFW encourages informal consultation on any proposed project that may impact a candidate species. Project-related impacts to species on the CESA endangered or threatened list would be considered significant. State-listed species are fully protected under the mandates of the CESA. "Take" of protected species incidental to otherwise lawful management activities may be authorized under FGC Section 206.591. Authorization from CDFW would be in the form of an Incidental Take Permit.

Section 1602 of the FGC requires any entity to notify CDFW before beginning any activity that "may substantially divert or obstruct the natural flow of, or substantially 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." "River, stream, or lake" includes waters that are episodic and perennial, and ephemeral streams, desert washes, and watercourses with a subsurface flow. A Lake or Streambed Alteration Agreement will be required if CDFW determines that project activities may substantially adversely affect fish or wildlife resources through alterations to a covered body of water.

California Porter-Cologne Water Quality Control Act

The RWQCB has regulatory authority over wetlands and waterways under both the CWA and the State of California's Porter-Cologne Water Quality Control Act (California Water Code, Division 7). Under the CWA, the RWQCB has regulatory authority over actions in waters of the U.S. through the issuance of water quality certifications under Section 401 of the CWA in conjunction with permits issued by the USACE under Section 404 of the CWA. When the RWQCB issues Section 401 certifications, it

simultaneously issues general Waste Discharge Requirements for the project under the Porter-Cologne Water Quality Control Act. Activities in areas that are outside of the jurisdiction of the USACE (e.g., isolated wetlands, vernal pools, seasonal streams, intermittent streams, channels that lack a nexus to navigable waters, or stream banks above the ordinary high-water mark) are regulated by the RWQCB under the authority of the Porter-Cologne Water Quality Control Act. Activities that lie outside of USACE jurisdiction may require the issuance of either individual or general waste discharge requirements.

California Native Plant Society

The California Native Plant Society (CNPS) maintains a ranking of plant species native to California that have low population numbers, limited distribution, or are otherwise threatened with extinction. This information is published in the Inventory of Rare and Endangered Vascular Plants of California. Potential impacts to populations of CNPS ranked plants receive consideration under CEQA review. The following identifies the definitions of the CNPS ranks:

- Rank 1A: Plants presumed Extinct in California.
- Rank 1B: Plants Rare, Threatened, or Endangered in California and elsewhere.
- Rank 2: Plants Rare, Threatened, or Endangered in California, but more numerous elsewhere.
- Rank 3: Plants about which we need more information—A Review List; and
- Rank 4: Plants of limited distribution—A Watch List.

All plants appearing on CNPS Lists 1 or 2 are considered to meet the CEQA Guidelines Section 15380 criteria. While only some of the plants ranked 3 and 4 meet the definitions of threatened or endangered species, the CNPS recommends that all Rank 3 and Rank 4 plants be evaluated for consideration under CEQA.

CEQA Guidelines

The following CEQA Guidelines serve as thresholds of significance for determining potentially significant impacts to the biological resources identified in this report:

- Has a substantial adverse effect, either directly or through habitat modifications, on any species identified as being a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or USFWS;
- Has a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by CDFW or USFWS;
- Has a substantial adverse effect on federally protected wetlands as defined by Sections 10 and/or 404 of the CWA through direct removal or filling;

- Interferes substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impedes the use of native wildlife nursery sites;
- Conflicts with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance; or
- Conflicts with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, state or federal habitat conservation plan.

Methods

The literature review and field survey provide a baseline from which to evaluate the biological resources potentially occurring on the project site as well as the surrounding area. As part of the literature review, information pertaining to habitat requirements of special-status species potentially occurring in the vicinity of the project site included the California Natural Diversity Database (CNDDDB) and the CNPS online Inventory of Rare and Endangered Plants of California.

We also reviewed aerial photography and information obtained from the review of the topographic maps including elevation range, general watershed information, and potential drainage feature locations. Aerial photographs provided a perspective of the most current site conditions relative to on-site and off-site land use, plant community locations, and potential locations of wildlife movement corridors. literature pertaining to habitat requirements of special-status species potentially occurring in the vicinity of the project site; and federal register listings, protocols, and species data provided by the USFWS. Specifically, these documents included:

- California Natural Diversity Database 5-mile radius records search of the USGS 7.5-minute quadrangles;
- California Native Plant Society (CNPS) online Inventory of Rare and Endangered Plants of California records search of the USGS 7.5-minute quadrangles; and
- USFWS Information for Planning and Conservation (IPaC) was developed and provided a list of Federally protected plants, wildlife, and critical habitat for the limits of the proposed project site.

Aerial photographs provided a perspective of the most current site conditions relative to onsite and offsite land use and plant community locations.

Prior to conducting the field survey, Endemic biologists reviewed USGS topographic maps and aerial photography to identify any potential natural drainage features and water bodies. In general, all surface drainage features identified as blue-line streams on USGS and USFWS maps exhibit evidence of flows and are considered potentially subject to federal regulatory authority as “waters of the U.S.” As part of the assessment, we determine the location of any existing drainages and limits of project-related grading activities, to aid in determining any need for regulatory permitting for the project.

The field assessment was conducted on June 6, 2024 by Endemic Environmental Senior Biologist Brant Primrose and involved 100% search coverage of the site. The purpose of the survey was to determine current site conditions. Specifically, the survey included an assessment of general biological site

conditions and vegetation mapping and identification of potentially suitable habitats for special-status plant and wildlife species. Special-status or other sensitive biological resources identified during the literature review were verified during the field surveys to ensure mapping accuracy. Special attention was paid to sensitive habitats and areas potentially supporting special-status floral and faunal species. Additional investigation parameters included general habitat, soil conditions, presence of indicator species, slope, aspect, and hydrology.

Common plant species observed during surveys were identified by visual characteristics and morphology in the field and recorded in a field notebook. Uncommon and less-familiar plants were identified off-site with the use of taxonomical guides, such as Clarke et al. (2007), Hitchcock (1971), McAuley (1996), and Munz (1974). Vegetation communities and boundaries were noted on current aerial photography and through field observation. Habitat types were based on the classification system from A Guide to Wildlife Habitats of California (CDFW 1988). Vegetation community and land cover types used to help classify habitat types are based on Holland (1986) and Oberbauer (1996) and cross-referenced with California Department of Fish and Wildlife's (CDFW) Natural Communities List (2010).

Wildlife species detected during the survey by sight, calls, tracks, scat, or other signs were recorded in a field notebook. Notations were made regarding suitable habitat for those special-status species determined to potentially occur within the project site (CDFW 2018). Appropriate field guides were used to assist with species identification during surveys, such as Peterson (2010), Reid (2006), and Stebbins (2003).

Results

The only vegetation onsite and surrounding the site is sparse ruderal (weedy) vegetation, most of the site is paved and used as a truck parking facility. Non-native weedy plant species that occur include field mustard (*Hirschfeldia incana*), telegraph weed (*Heterotheca grandiflora*), yellow sweet clover (*Melilotus indica*) and soft chess brome (*Bromus hordeaceus*). Wildlife species recorded included common species such as house finch (*Carpodacus mexicanus*) and common raven (*Corvus corax*).

Special-status species that occur in the vicinity of the site include several species as outlined in the CNDDDB such as Parish's desert thorn (*Lycium parishii*) and spineflower (*Chorizanthe parishii*), San Bernardino kangaroo rat (*Dipodomys merriami parvus*), and California gnatcatcher (*Poliophtila californica*) (Figure 3). Specifically, this assessment focuses on any potential effects to these species as they have records of occurrences and potential to occur in the region. None of these species were found during the survey and were not expected given the developed (paved) parking facility and disturbed weedy conditions in the project area.

Conclusions

Although special-status species occur in the region, the project site is mostly developed (paved) and is of little value to common species. Furthermore, special-status species are unlikely to occur in immediate offsite areas due to the extent of developed land uses. No other sensitive biological resources were found and it is unlikely that development of the site will result in adverse effects to

biological resources. For these reasons, development of the site is not expected to impact or otherwise adversely affect biological resources and no further studies are required.

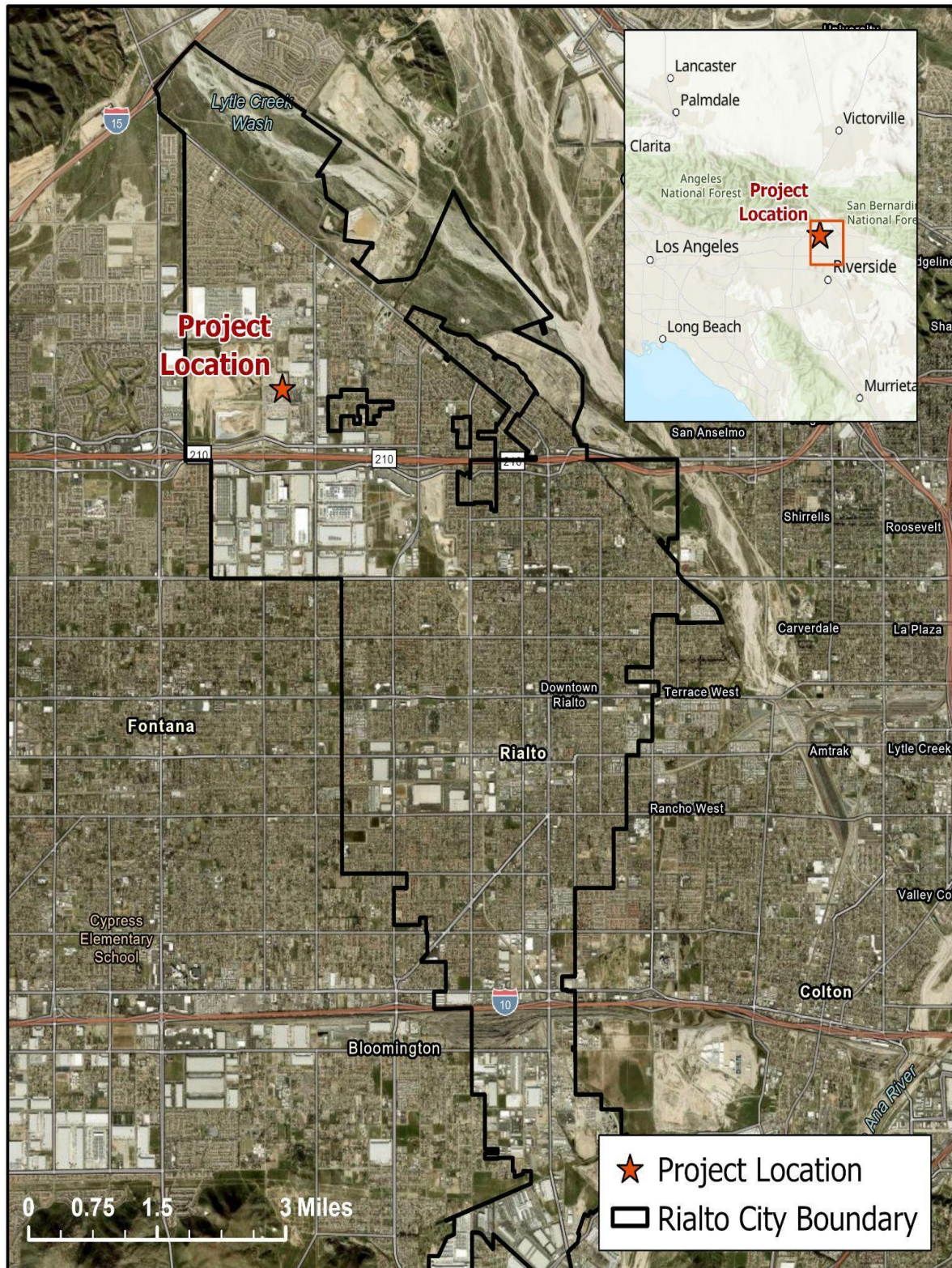
Please contact me if you have any questions or need additional information.

Sincerely,

Brian Mayerle

Brian Mayerle
Senior Ecologist
Endemic Environmental Services, Inc.

Attachment - Figures 1-3



2160 Stonehurst, Rialto

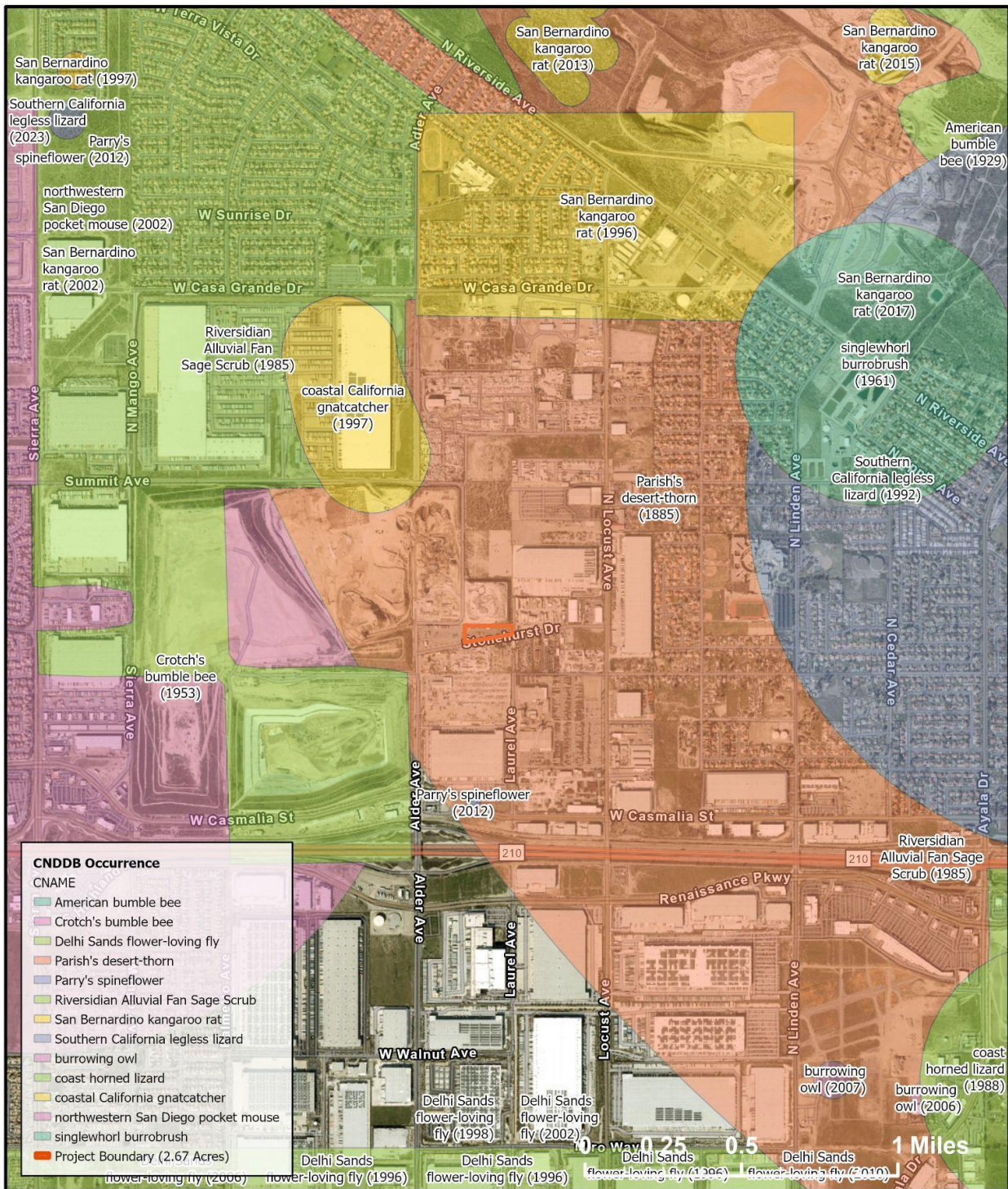
Figure 1

Project Location and Vicinity





2160 Stonehurst, Rialto
Figure 2
Local Project Vicinity



2160 Stonehurst, Rialto

Figure 3

CNDDDB Occurrences in the Project Vicinity

