

APPENDIX F

1. Biological Resources Technical Memorandum

2. Biological Resources Survey Results

3. Biological Resource Assessment Digested Sludge Dewatering Project (Environmental Collaborative, 2018)

Draft

SLUDGE DEWATERING FACILITY PROJECT

Biological Resources Technical Memorandum

Prepared for
Cathy Correia,
Acting Environmental Compliance Officer,
Sustainability & Compliance Division |
Environmental Services Department,
City of San José

June 2019



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Biological Resources Technical Memorandum

1.0 Introduction

This technical memorandum has been prepared in support of the City of San José (City) San José-Santa Clara Regional Wastewater Facility (Facility) (**Figure 1**) Digested Sludge Dewatering Facility Project (Project). The purpose of this memorandum is to review the Project in sufficient detail to determine what extent the proposed construction and operational activities may affect terrestrial species listed as threatened, endangered, or candidate species and their habitat, and potential effects to wetlands.

“Project sites” include the project components at two different sites on Facility property; one site for the proposed dewatering facility on the east side of Zanker Road, across from the main Facility operational area, and sites for digested sludge conveyance and storage facilities located to the south of the operational area. The “study area” is the area investigated in the reconnaissance-level biological survey¹, which includes the Project sites as well as the sensitive biological resources in the immediate vicinity of them, such as wetlands and the riparian corridor. The study area is a larger area than that in which the Project activities would take place and is displayed in **Figure 2**. These are the areas in which direct, indirect, or cumulative effects to terrestrial biological resources could occur as a result of the Project.

1.1 Review of Background Information

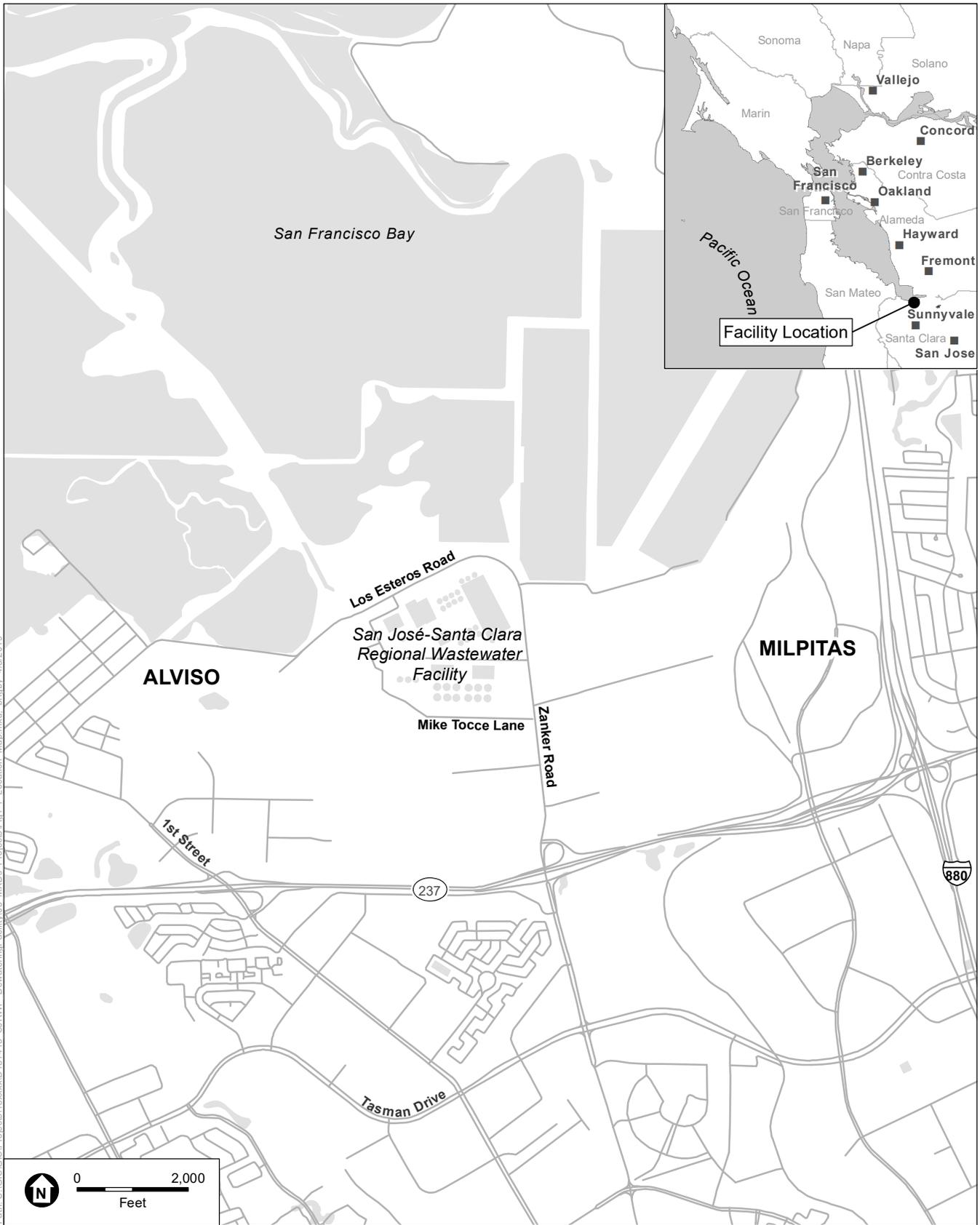
Existing and historic survey data for biological resources within the Facility were accessed and reviewed by Environmental Science Associate’s (ESA) biologist prior to performing the site visit and the drafting of this document. In part, the reconnaissance survey provided confirmation of the general accuracy of publicly available data. Data sources that were reviewed for this analysis include:

- Historic and existing aerial imagery;
- California Department of Fish and Wildlife (CDFW) California Natural Diversity Database (CNDDDB) (Milpitas, Mountain View, Calaveras Reservoir, Niles, San Jose West, and Newark quadrangles)²;
- California Native Plant Society (CNPS) online database³;

¹ Environmental Science Associates (ESA), 2019. San Jose – Santa Clara Regional Wastewater Facility, Digested Sludge Dewatering Facility Biological Reconnaissance Survey. March 29, 2019.

² California Department of Fish and Wildlife (CDFW), 2019. California Natural Diversity Database (CNDDDB) for 7.5-minute topographic quadrangles Milpitas, Mountain View, Calaveras Reservoir, Newark, Niles, and San Jose West, Commercial Version. Accessed March, 2019.

³ California Native Plant Society (CNPS), Rare Plant Program. 2019. Inventory of Rare and Endangered Plants (online edition, v8-03). California Native Plant Society, Sacramento, CA.



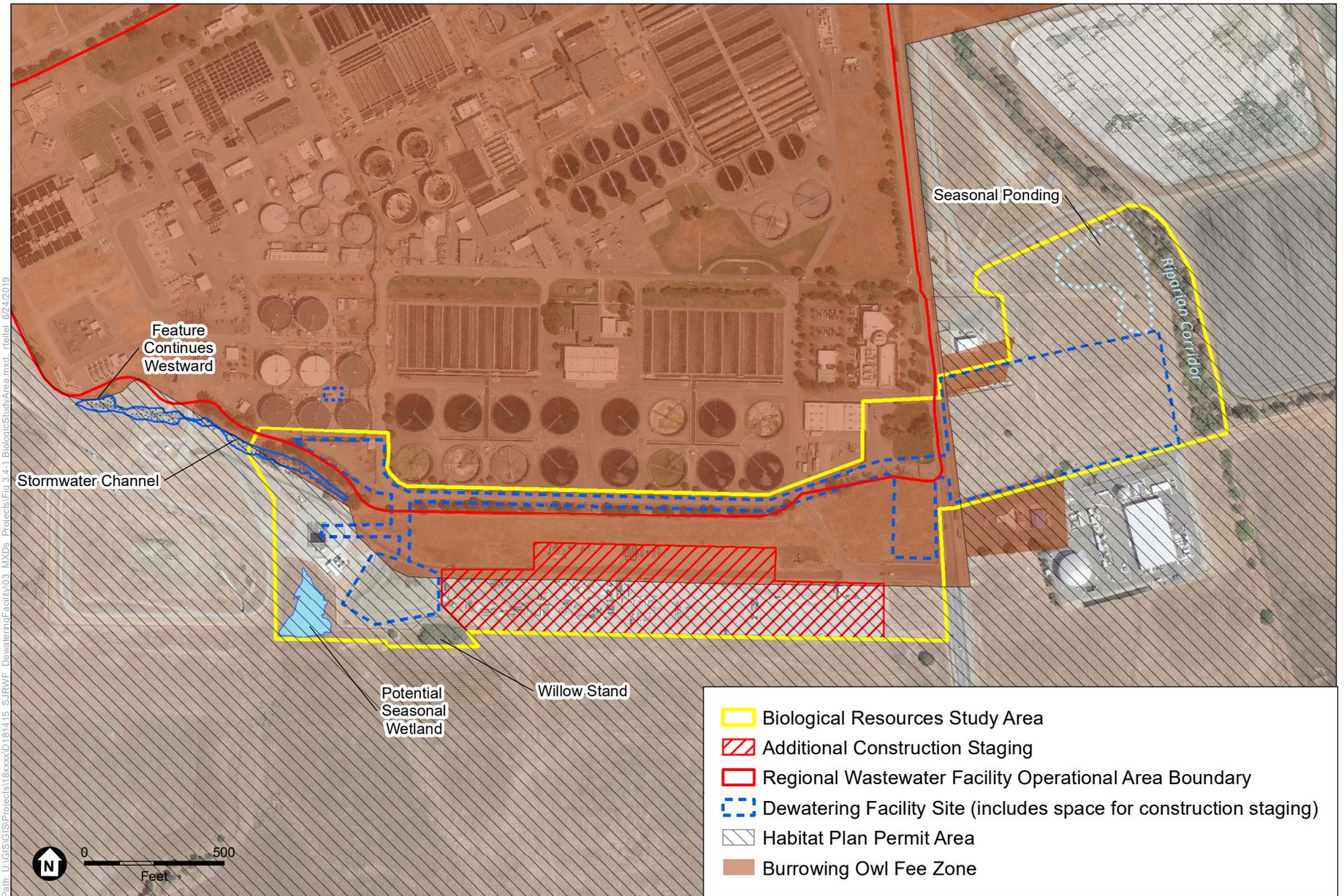
Path: U:\GIS\GIS\Projects\18xxxx\181415_SJRWF_DewateringFacility\03_MXD\Projects\Fig1-1_Location_Map.mxd, brigby, 4/9/2019

SOURCE: ESA, 2019

San José-Santa Clara Regional Wastewater Facility Digested Sludge Dewatering Facility Project

Figure 1
San José-Santa Clara Regional Wastewater Facility Location





SOURCE: GoogleEarth, 2018; ESA, 2019

San José-Santa Clara Regional Wastewater Facility Digested Sludge Dewatering Facility

Figure 2
Biological Study Area

- U.S. Fish and Wildlife Service (USFWS) Endangered Species List Generator⁴;
- Santa Clara Valley Habitat Plan (available online);
- City of San José, Council Policy on Riparian Corridor Protection and Bird-Safe Design (available online);
- San José-Santa Clara Regional Water Facility Plant Master Plan Environmental Impact Report (available online); and
- Best available scientific literature and survey records.

No USFWS Critical Habitat occurs in the study area. The nearest designated Critical Habitat for a USFWS listed species, western snowy plover (*Charadrius nivosus nivosus*), a federally Threatened species, USFWS Bird of Conservation Concern, and CDFW Special Status Species, is located approximately 3 miles to the north of the study area.

2.0 Project Description

This section presents a summary of the Project description, specifically the key elements with potential to affect biological resources in the study area. For a detailed description of the Project, including background please refer to Chapter 2 of the Initial Study/Addendum document.

The need for the Project is predicated on the essential service provided by the Facility: to protect public health and water quality through reliable, high quality, cost-effective wastewater treatment. Upgrades to the biosolids facilities are needed to support this overall service due to the age and state of the infrastructure and changes in operational reliability and regulatory requirements. Since completion of the Plant Master Plan and the Environmental Impact Report (EIR)⁵, the City has further refined the Project components for the proposed improvements to the biosolids operation, including the dewatering process. The City is contemplating several options, as summarized below in **Table 2-1** (and shown on Figure 2-4 in the Initial Study/Addendum document), for implementing the Project.

The main function of the Project is to dehydrate the digested sludge to a dewatered cake⁶ that would be hauled off-site to a composting facility, or used for land application or alternative daily cover.

⁴ USFWS, 2019. List of threatened and endangered species that may occur in San José-Santa Clara Regional Wastewater Facility Digested Sludge Dewatering Facility location, and/or may be affected by your proposed project. Consultation Code: 08ESMF00-2019-SLI-1306. March 8, 2019.

⁵ San José/Santa Clara Regional Water Pollution Control Master Plan Environmental Impact Report; State Clearinghouse No. 2011052074; City of San José File Number PP11-403. November 19, 2013.

⁶ The solid waste generated by dewatering is known as cake, which is the dewatered sludge. This cake would be a Class B biosolid. The type of biosolids is driven by the digestion process. The Digester and DTFU project, which entails converting the anaerobic sludge digestion process from single-stage mesophilic digestion to TPAD, would include future flexibility to achieve Class A biosolids through the addition of batch tanks to the digestion process in the future (not included as part of this Project).

**TABLE 2-1
PROJECT COMPONENTS AND SYSTEMS**

Component	Approximate Disturbance Area Within Facility Operational Area (square feet)		Approximate Disturbance Area Outside Facility Operational Area (square feet)		Maximum Depth of Excavation (feet)	
	Four Story Option	Two Story Option	Four Story Option	Two Story Option	Four Story Option	Two Story Option
Digested Sludge Dewatering Facility						
All items at the dewatering facility building site	-	-	260,000	285,000	12 (foundation) 100 (piles)	12 (foundation) 100 (piles)
Odor treatment facility	-	-	3,700	3,700	3.5	3.5
Digested Sludge Storage Tanks and Digested Sludge Pump Station						
Site Option 1	35,000	35,000	-	-	10 ^a	10 ^a
Site Option 2	-	-	35,000	35,000	10 ^a	10 ^a
Pipelines and Duct Banks						
Centrate pipelines to existing interceptors	-	-	10,000	10,000	5	5
Centrate pipelines from G Street to Emergency Basin Overflow Structure	-	-	5,000	5,000	5	5
Stormwater, plant drain, and digested sludge pipelines along G Street	45,000	45,000	-	-	5	5
Duct Banks to dewatering facility	-	-	2,000	2,000	5	5
Totals^b	80,000 (1.8 acres)		340,700 (7.8 acres)		Max: 12 feet; 100 for piles	

NOTES:

^a Estimates of excavation depths for digested sludge storage tanks assume excavation for construction of foundations and partial burial of tanks.

^b Totals show the maximum disturbance area possible, which would result from the two-story building option.

SOURCE: Brown and Caldwell, 2019.

2.1 Construction Schedule

Design and Construction would require approximately four years, from approximately July 2019 through June 2023. Both building options (four-story or two-story) would require approximately the same construction schedule. Proposed typical construction hours for the Project would be Monday through Friday, 7:00 am to 4:00 pm. However, the selected contractor may be required to work on Saturday and Sunday, or during extended hours.

2.2 Construction Methods

Preceding construction at the site, work to provide a detailed characterization of site features and facility conditions would occur. Some preliminary site characterization activities would assess existing facilities and operations, while other activities would require minor ground disturbance

(such as geotechnical investigations and soil testing). Ground-disturbing activities would occur within areas to be disturbed during construction. Preliminary site characterization activities would include:

- Condition assessments
 - Surveying
 - Geotechnical investigations
 - Soil testing
 - Subsurface facility locating
 - Final equipment selection
 - Traffic planning
 - Hydraulic evaluation
- ***Mobilization and Site Preparation:*** During site preparation, trucks would deliver construction equipment and miscellaneous materials to the Project area and field offices would be set up. Removal of grasses and one tree in the center of the site is required at the dewatering facility. No tree removals would be required at the DS storage and pump station site options.
 - ***Grading and Excavation:*** Excavation and grading for Project would include excavating areas for the dewatering facility, conveyance pipelines, DS storage tanks, and DS pump station. Some excavated soil would be stored at one or more of the construction staging areas prior to disposal or reuse. A total of approximately 80,000 square feet within the Facility operational area and approximately 340,700 square feet outside of the Facility operational area would be disturbed in association with excavation and grading during construction. The maximum depth of excavation would be approximately 12 feet below ground (100 feet for the building piles, if required, which would be driven and not require excavation).
 - ***Facilities Construction:*** This would include construction of the power facilities, DS sludge storage tanks and pump facilities, the dewatering facility, and pipelines. All pipelines would be constructed using open trench (i.e., cut and cover) techniques. The approximate maximum depth of excavation for pipelines would be five feet below ground surface (bgs). The width of pipeline trenches would vary based upon pipeline diameter. Approximately 20 feet on either side of the pipeline trenches would be required for equipment use and pipeline storage during construction. Approximately 2,000 cubic yards of material requiring disposal would be produced during pipeline construction.
 - ***Paving, Finishing, Testing, and Start Up.*** After construction and backfilling is complete, paving would be replaced in areas where it had been removed for pipeline installations. During finishing work, testing, and start up, workers would test and start facilities, but no large equipment or materials would be needed.
 - ***Construction Best Management Practices (BMPs):*** During construction, the contractor would be required to comply with state and City of San José standard runoff, erosion, and dust control best management practices. Groundwater from excavations would be pumped to settling tanks to remove grit from the water and would then be discharged into the Headworks facilities directly or into the Facility stormwater collection system, which drains to the Headworks facilities, for treatment.
 - ***Construction Workforce and Equipment:*** The size of the construction work force would vary over the construction period, ranging from 20 to 30 workers per day with a maximum of 100 workers per day. Construction would require an average of five truck trips per day and a maximum of 20 truck trips per day for removal of demolition debris and excavation spoils and delivery of construction materials and equipment.
 - ***Construction Staging and Access:*** The Project would use the dewatering facility site and an area designated south of the Facility operational area for construction staging, equipment

storage, and worker parking. Traffic associated with import and export of construction materials would primarily use Zanker Road between Highway 237 and the Facility. Construction vehicles would access the construction equipment and staging area through an entrance gate off of Zanker Road.

2.3 Facilities to be Decommissioned

Throughout construction and commissioning of the Project, the existing Digested Sludge Export Pump Station (DSEPS) would continue pumping digested sludge to the storage lagoons. After testing is complete and the dewatering facility is fully commissioned, the DSEPS would be partially decommissioned. The DSEPS building, wet well, and other structural elements would be left intact since the DSEPS building houses electrical equipment used to power other systems at the Facility. Once the Project is operating, the DSEPS would cease pumping and digested sludge in the storage lagoons would remain for a final three years before it is transferred to the drying beds.

3.0 Regulatory Setting

3.1 Federal

Federal Clean Water Act (Sections 401 and 404)

The Clean Water Act (CWA) is the primary federal law protecting the quality of the nation's surface waters, including lakes, rivers, and coastal wetlands. As such, CWA empowers the Environmental Protection Agency (EPA) to set national water quality standards and effluent limitations, and establishes permit review mechanisms to enforce them. Most CWA provisions are at least indirectly relevant to the management and protection of biological resources because of the link between water quality and ecosystem health. The portions that are most directly relevant to biological resources management are contained in Section 404, which regulates the discharge of dredged and fill materials into waters of the United States (comprising wetlands and other waters of the United States), which include:

- All areas within the ordinary high water mark of a stream, including nonperennial streams with a defined bed and bank and any stream channel that conveys natural runoff, even if it has been realigned.
- Seasonal and perennial wetlands, including coastal wetlands.

Section 404 requires project proponents to obtain a permit from U.S. Army Corps of Engineers (USACE) for all discharges of dredged or fill material into waters of the United States, including streams, ponds, and wetlands, before proceeding with a proposed activity. CWA Section 401 requires that applicants for a Section 404 permit must first obtain certification from the Regional Water Quality Control Board (RWQCB) that the proposed project will comply with state water quality standards.

Migratory Bird Treaty Act

All birds native to North America are protected under the Migratory Bird Treaty Act (MBTA), which prohibits the purposeful killing, possessing or trading migratory birds, nests, and eggs except as otherwise provided in 16 USC Section 703-712 (e.g., regulated take of game species). “Take” is broadly defined as “...the action of harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting to engage in any such conduct.” The federal MBTA authorizes the U.S. Secretary of the Interior to protect and regulate the taking of migratory birds. It establishes protects migratory birds, their occupied nests, and their eggs.

3.2 State

California Endangered Species Act

Under the California Endangered Species Act (CESA), CDFW has the responsibility for maintaining a list of threatened and endangered species (California Fish and Game Code Section 2070). CDFW also maintains a list of “candidate species,” which are species formally noticed as being under review for addition to either the list of endangered species or the list of threatened species. In addition, CDFW maintains lists of “species of special concern,” which serve as “watch lists.” Pursuant to the requirements of the CESA, an agency reviewing a proposed project within its jurisdiction must determine whether any state-listed endangered or threatened species could be present on the project site and determine whether the proposed project could have a potentially significant impact on such species. In addition, CDFW encourages informal consultation on any proposed project that may affect a candidate species.

State listing of plant species began in 1977 with the passage of the California Native Plant Protection Act (NPPA), which directed CDFW [CDFG] to carry out the legislature’s intent to “preserve, protect, and enhance endangered plants in this state.”

California Fish and Game Code Section 1600

The California Fish and Game Code regulates activities that interfere with the natural flow or substantially alter the channel, bed, or bank of a lake, river, or stream. Lake and streambed alteration activities are covered under Section 1601 for public agencies and Section 1603 for private parties. Requirements to protect the integrity of biological resources and water quality are often conditions of streambed alteration agreements administered under Section 1600 *et seq.*

California Porter-Cologne Water Quality Control Act

The Porter-Cologne Act provides a mechanism for protecting the quality of the state’s waters through the State Water Resources Control Board (SWRCB) and nine RWQCBs. SWRCB and the San Francisco Bay RWQCB have taken the position that the act and basin plans developed pursuant to the act provide independent authority to regulate discharge of fill material to wetlands outside the jurisdiction of USACE.

California Native Plant Protection Act

The California Native Plant Protection Act (CNPPA), enacted in 1977, prohibits the import of rare and endangered plants into California, the take of rare and endangered plants, and the sale of rare and endangered plants (the threatened category replaced the rare category when CESA was enacted in 1984). CESA defers to the CNPPA, which ensures that state-listed plant species are protected when state agencies are involved in projects subject to CEQA.

3.3 Regional

Santa Clara Valley HCP/NCCP

In December 2010, the County of Santa Clara; Santa Clara Valley Transportation Authority; Santa Clara Valley Water District; and the cities of Gilroy, Morgan Hill, and San José (collectively referred to as the Local Partners) released for public review the Draft Santa Clara Valley Habitat Plan (a habitat conservation plan and natural community conservation plan [HCP/NCCP])⁷. The Santa Clara Valley Habitat Plan promotes the protection and recovery of covered species while accommodating planned public and private development, infrastructure, and maintenance activities. The Santa Clara Valley Habitat Plan was developed in association with USFWS and CDFG in consultation with a stakeholder group and the general public. The Santa Clara Valley Habitat Plan's goal is to protect and enhance ecological diversity in more than 500,000 acres of Santa Clara County.

The upgrade of facilities and subsequent land use activities at the Facility are not listed as “covered activities” under the Santa Clara Valley Habitat Plan. The southern third of the Project site is within the Santa Clara Valley Habitat Plan study area. The entire Project site is within the Expanded Burrowing Owl Conservation Area identified in the Santa Clara Valley Habitat Plan and the Project site is discussed in the draft burrowing owl conservation strategy that was developed as part of the Santa Clara Valley Habitat Plan.

When the Santa Clara Valley Habitat Plan is implemented, the project proponent will be required to either participate in the Habitat Conservation Plan, for those components that are inside the Santa Clara Valley Habitat Plan permit area, or at least be consistent with the provision of the Santa Clara Valley Habitat Plan for projects that occur in those areas. For land uses outside of the Santa Clara Valley Habitat Plan permit area mitigation will need to be consistent with Goal ER-4 and associated policies in the City's 2040 General Plan.

City of San José Tree Ordinance

The City of San José Tree Ordinance requires a Tree Permit Adjustment for the removal of any tree on industrial properties, and offers additional protections to trees measuring 56 inches in circumference or greater when measured two feet above ground level (City of San José Municipal Code Section 13.32.020 I). The Project would result in the removal of one multi-trunk native blue

⁷ County of Santa Clara, City of San José, City of Morgan Hill, City of Gilroy, Santa Clara Valley Water District, and Santa Clara Valley Transportation Authority, Santa Clara Valley Habitat Plan Public Draft, 2010. Available online at: http://www.scv-habitatplan.org/www/site/alias__default/341/public_draft_habitat_plan.aspx.

elderberry (*Sambucus nigra* subsp. *caerulea*) located in the middle of the proposed dewatering facility building site, which would be subject to this ordinance since its size, 166-inch diameter at breast height (DBH), meets the ordinance threshold. Trees protected under the ordinance are referred to as “Ordinance Trees”. Removal of trees located on City owned property requires the posting of a courtesy notice to the public and review by the City Arborist’s Office. Under these conditions, the City’s typical mitigation is to plant five 24-inch box trees for each tree removed; however, final mitigation required is subject to approval by the Director of Planning. Replacement trees can be planted in a suitable location on Facility property or on other City property, to be identified by the City Arborist.

San José Riparian Corridor Policy

The San José Riparian Corridor Policy (Policy) provides guidance for how Riparian Projects⁸ should be designed to protect and preserve the City’s Riparian Corridors. The Policy also provides guidance for the bird-friendly design of buildings and structures in the baylands and riparian habitats of lower Coyote Creek, north of State Route 237. This Policy relates to the proposed location for the dewatering facility, east of Zanker Road. The Project proposes two setback options: Setback Option 1, the dewatering facility would be located approximately 120 feet from the riparian corridor for both the four-story and two-story building; and Setback Option 2, the dewatering facility would be located approximately 280 feet from the riparian corridor for both the four-story and two-story building. Project construction under both setback options would temporarily extend to approximately 60 feet from a remnant riparian corridor.

According to the Policy, Riparian Projects should be designed and implemented to minimize intrusion into Riparian Corridors. Land use related operational issues that could affect Riparian Corridors may need to be addressed through conditions in Development Permits. The following Policy Riparian Guidance elements relate to the Project.

Section 2: Considerations for a Reduced Setback. A reduced setback may be considered under limited circumstances relevant to the proposed project as defined under:

- c. Sites adjacent to small lower order tributaries whose riparian influences do not extend to the 100-foot setback; and
- i. Utility or equipment installations or replacements that involve no significant disturbance to the Riparian Corridor during construction and operation, and generate only incidental human activity.

Section 3: Applicants requesting reduction in setbacks may be required to submit a report by a qualified biologist, stream hydrologist and/or other appropriate qualified professional certifying the existence of some or all of the following conditions:

- b. The reduced setback will not significantly reduce or adversely impact the Riparian Corridor;

⁸ “Riparian Project” means any development or activity that is located within 300 feet of a Riparian Corridor’s top of bank or vegetative edge, whichever is greater, and that requires approval of a Development Permit as defined in Chapter 20.200 of Title 20 of the San José Municipal Code (the Zoning Code), except that projects that only require approval of a Single-Family House Permit under the provisions of the Zoning Code are not subject to this Policy.

- d. There is no evidence of stream bank erosion or previous attempts to stabilize the stream banks that could be negatively affected by the proposed development within the Setback Area; and
- e. The granting of the exception will not be detrimental or injurious to adjacent and/or downstream properties.

Section 4: Materials and Lighting

- a. New development should use materials and lighting that are designed and constructed to reduce light and glare impacts to Riparian Corridors. For example, the use of bright colors, and glossy, reflective, see through or glare producing Building and material finishes is discouraged on Buildings and Structures; and
- b. Lighting should not be directed into Riparian Corridors.

Section 6: the project design and implementation should include erosion-control measures in conformance with the City Council Policies 6-29 and 8-14 (Stormwater Policies) to avoid soil erosion and to minimize runoff.

The following Bird-Safe Design elements relate to the Project.

- 1) Avoid mirrors and large areas of reflective glass.
- 2) Avoid transparent glass skyways, walkways, or entryways, free-standing glass walls, and transparent building corners.
- 3) Avoid funneling open space to a building façade.
- 4) Strategically place landscaping to reduce reflection and views of foliage inside or through glass.
- 5) Avoid or minimize up-lighting and spotlights.
- 6) Turn non-emergency lighting off, or shield it, at night to minimize light from buildings that is visible to birds, especially during bird migration season (February - May and August - November).

4.0 Existing Habitats

Natural communities are assemblages of plant species that occur together in the same area and are defined by species composition and relative abundance. The natural communities classification presented herein is based on field observations and CDFW’s standard “Preliminary Descriptions of the Terrestrial Natural Communities of California.”⁹ Plant communities generally correlate with wildlife habitat types. No rare natural communities are identified in the study area.

Developed/landscaped, disturbed/ruderal, non-native grassland, non-tidal freshwater marsh, and riparian woodland (‘Riparian Corridor’ on Figure 3.4-1) are the dominant vegetation communities found in the study area.

⁹ Holland, R.F. 1986. *Preliminary Descriptions of the Terrestrial Natural Communities of California*, California Department of Fish and Game, Sacramento, CA.

4.1 Reconnaissance-Level Survey

ESA biologist Liz Hill surveyed the study area on March 28, 2019 to identify the potential presence and distribution of common and special-status plant and wildlife species, jurisdictional waters and wetlands, and sensitive natural communities. Weather during the survey was clear with a light breeze and the temperature was 62 degrees Fahrenheit. Vegetation identified during the survey is identified in the habitat descriptions below, along with incidental wildlife sightings documented during the survey.

4.2 Developed/Landscaped Areas

Developed/landscaped areas in the study area include roads, landscaped areas, and the wastewater treatment facilities. These portions of the study area represent low-quality habitat value for plant and wildlife species and support a small number of plant and wildlife species. Directly south of the proposed DS Storage and Pump Station a tree and shrub layer of river red gum (*Eucalyptus camaldulensis*) is present. Other vegetation documented in developed/landscaped areas include oleander (*Nerium oleander*), privet (*Ligustrum* sp.) shrubs, and Monterey Pine (*Pinus radiata*) trees. Portions of this vegetation community support Canada goose (*Branta canadensis*), western scrub jay (*Aphelocoma californica*), northern mockingbird (*Mimus polyglottos*), house finch (*Haemorhous mexicanus*), and California ground squirrel (*Otospermophilus beecheyi*).

4.3 Disturbed/Ruderal

Disturbed/ruderal is typified by a dominance of non-native forbs¹⁰ that thrive in disturbed conditions. Disturbed/ruderal habitat exists in several locations in the study area, including portions of the proposed dewatering facility site, construction staging area, and proposed Site Option 1 and 2 for the DS Storage and Pump Station sites. The limited wildlife that occurs in this community is similar to that of the developed/landscaped community discussed above.

4.4 Non-Native Annual Grassland

This habitat type is found in portions of the proposed dewatering facility site. This habitat is characterized by sparse to dense cover of non-native grasses and forbs. Annual grasslands in the study area are dominated by foxtail barley (*Hordeum jubatum*), bull mallow (*Malva nicaeensis*), black mustard (*Brassica nigra*) and red-stem filaree (*Erodium cicutarium*). The grassland area is subject to Facility maintenance activities, such as mowing and compaction from vehicles. The upland habitat northeast of the proposed dewatering facility site seasonally displays the results of direct precipitation and infiltration, with limited short duration ponding in small depressions as a result of precipitation or overflow from the adjacent riparian community. The land surface is relatively level, so surface runoff is minimal.

Individuals of Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*), a California Rare Plant Rank (CRPR) 1B.1 plant, have been documented in the annual grasslands approximately a

¹⁰ An herbaceous flowering plant other than grasses, sedges, or rushes.

quarter mile west of the proposed Site Option 2 for the DS Storage and Pump Station.¹¹ A systematic survey for Congdon's tarplant was conducted on July 20, 2017 in the proposed dewatering facility site, which confirmed the absence of the species in the study area. A follow-up reconnaissance survey was conducted on July 26, 2017 along the southern edge of the existing Facility.¹² This species' blooming period is May through October; therefore, presence/absence surveys have not been conducted in preparation of this analysis. Pappose tarplant (*Centromadia parryi* ssp. *parryi*), a more common subspecies found in annual grasslands of the region, has been confirmed present in the study area by previous field surveys.¹³

Non-native grasslands east of Zanker Road provides foraging habitat for burrowing owls, and nesting habitat when the grass height is less than 4". During the biological reconnaissance survey in March, non-native grasslands within the proposed dewatering facility site were observed taller than height suitable for nesting burrowing owls. However, due to routine mowing activities to reduce the risk of fire hazard grass height is periodically short enough to support western burrowing owls during times when mowing occurs. Western burrowing owl individuals have been frequently observed in the non-native grasslands south of the staging area and approximately 260 feet south of the dewatering facility at the Silicon Valley Advanced Water Purification Center in 2005.

Non-native annual grasslands support insects, amphibians, reptiles, and small birds and mammals that are preyed on by other wildlife, including red-tailed hawk (*Buteo jamaicensis*), red-shouldered hawk (*Buteo lineatus*), northern harrier (*Circus cyaneus*), American kestrel (*Falco sparverius*), western burrowing owl (*Athene cunicularia hypugaea*), turkey vulture (*Cathartes aura*), coyote (*Canis latrans*), California ground squirrel, California vole (*Microtus californicus*), killdeer (*Charadrius vociferus*), great egret (*Ardea alba*), great blue heron (*Ardea herodias*), song sparrow (*Melospiza melodia*), and western fence lizard (*Sceloporus occidentalis*).

4.5 Seasonal Wetland

Seasonal wetland community occurs in three locations within the study area, as shown in Figure 2: northeast and east of the dewatering facility site; south of the DS Storage and Pump Station, Site Option 1 area, in the form of a stormwater drainage; and, within and adjacent to the proposed DS Storage and Pump Station, Site Option 2 area.

As discussed above, short-term duration ponding occurs northeast and east of the proposed dewatering facility site in the grasslands portion of the study area. This area seasonally displays the results of direct precipitation and infiltration in small depressions as a result of precipitation or overflow from the adjacent riparian community; however, wetland vegetation and hydric soils

¹¹ ICF, 2012. Existing Conditions Report San Jose/Santa Clara Water Pollution Control Plant-Master Plan. January 2012.

¹² Environmental Collaborative, 2018. Biological Resource Assessment for the Digested Sludge Dewatering Project. August 30, 2018.

¹³ Environmental Collaborative, 2018. Biological Resource Assessment for the Digested Sludge Dewatering Project. August 30, 2018.

were not documented as discussed in more detail below. Saturated soil was observed to extend into the eastern portion of the Project's dewatering facility site construction footprint.¹⁴

The seasonal wetland within the stormwater drainage portion of the study area is classified as *Riverine* according to the Cowardin classification system.¹⁵ Although the feature is situated in a channel, consistent with the Cowardin definition of riverine systems, the upper reach of the stormwater channel functions as a semi-closed basin with input from precipitation-based surface water runoff followed by evapotranspiration and infiltration, with limited downstream flow.

The seasonal wetland adjacent to the location of the proposed DS Storage and Pump Station, Site Option 2 site consists of a very shallow depression that correspond with hydrophytic plant species that are distinct from surrounding non-native grassland that typifies the area. Evidence of surface ponding includes cracked soil, algal mats, and water-stained leaves. However, indicators of hydric soils are absent from this feature.¹⁶

Seasonal wetlands are dominated by weedy, non-native, marginally hydrophytic low barley (*Hordeum marinum*), Italian ryegrass (*Festuca perennis*), curly dock (*Rumex crispus*), and perennial pepperweed (*Lepidium latifolium*). Wildlife species commonly found in this habitat include song sparrow, black phoebe, bank swallow (*Riparia riparia*), red-winged blackbird (*Agelaius phoeniceus*), and various species of shorebirds and wading birds.

4.6 Riparian Woodland

The riparian woodland community (part of the study area, but not of the Project site; 'Riparian Corridor' on Figure 3-4.1) is approximately 60 feet east of the proposed dewatering facility site construction limits. Upon completion, the dewatering facility would either be located approximately 105 feet from the riparian corridor (Setback Option 1) or 124 feet from the riparian corridor (Setback Option 2). The riparian corridor is believed to be a portion of remnant riverine drainage that is hydrologically isolated from its former lower reaches by a levee at its northern terminus.¹⁷ The riparian wetland is covered by a canopy of red willow trees (*Salix laevigata*) and boxelder (*Acer negundo*), and predominantly supports mulefat (*Baccharis salicifolia*), California blackberry (*Rubus ursinus*), cutleaf geranium (*Geranium dissectum*), poison hemlock (*Conium maculatum*), coyote brush (*Baccharis pilularis*), and the non-native invasive giant reed (*Arundo donax*). Despite the fact the habitat is hydrologically disconnected from any true fluvial flows, the vegetation is diverse and well developed, and therefore the riparian community provides high-value habitat for many wildlife species. The multilayered riparian community provides escape cover, foraging, and nesting opportunities for common and special-status wildlife. Western pond turtle (*Emys marmorata*) could be found in this habitat, in addition to wildlife species found in

¹⁴ ESA, 2019. Sludge Dewatering Facility Project Biological Reconnaissance-Level Survey performed by Liz Hill. March 28, 2019.

¹⁵ Cowardin, L.M., V. Carter, F.C. Golet, E.T. LaRoe, 1979. Classification of wetlands and deepwater habitats of the United States. U. S. Department of the Interior, Fish and Wildlife Service, Washington, D.C.

¹⁶ ESA, 2015. Area G Wetlands and Burrowing Owl Survey Results. Technical Memorandum from ESA Ecologist, Chris Rogers, to City of San Jose, Julie Benabente. March 12, 2015.

¹⁷ ICF, 2012-2013. Potential Wetlands within the Inactive Biosolids Lagoons Delineation on October 25 and 26, November 2, 2012, and January 28 and 29, 2013.

seasonal wetlands as described above. The riparian community is expected to be inundated from direct rainfall and runoff of adjacent land further south (upstream) as evidenced by the culvert at the southern end of this feature and similar hydrology and vegetation upstream of this location. This feature possesses positive hydric soils characteristics and hydrologic indicators.¹⁸

4.7 Waters of the U.S./Waters of the State

ESA biologists conducted a preliminary draft wetland delineation for areas included in the Project site on May 30, 2014¹⁹; March 6, 2015²⁰; October 7 and 14, 2014²¹; and August 10, 2017²², to identify jurisdictional limits of regulated wetlands and other waters of the U.S. and of the State. All conclusions presented in those assessments are considered preliminary and subject to change pending official review and preliminary jurisdictional determination in writing by the USACE. Potentially jurisdictional features are located adjacent to the Project sites as displayed in Figure 2. The following discussion describes these features as they relate to the Project.

East of Zanker Road

Vegetation, soils and hydrology north of the proposed dewatering facility site were assessed during the October, 2014 wetland assessment. No modifications have occurred to this site since 2014 and the testing locations assessed during the delineation displayed similar to, or greater, ponding characteristics than the community directly adjacent to the proposed dewatering facility site. Only the hydrology indicator is present by virtue of the appearance of inundation in aerial imagery and field reconnaissance; wetland vegetation and hydric soils are not present. Therefore, the site does not meet the three criteria required for geographical jurisdiction under Section 404 of the federal CWA. Furthermore, the wetland is isolated (i.e. does not have a significant nexus with navigable waters of the U.S, such as a demonstrable and regularly occurring surface water connection directly with or via intervening channel to San Francisco Bay), as such, does not meet the federal regulatory definition of a wetland. This feature may still be subject to the regulatory authority of the RWQCB as waters of the state under the Porter-Cologne Water Quality Control Act.

As discussed above, a remnant riverine drainage characterized as riparian woodland, is situated approximately 60 feet east of the proposed dewatering facility site construction footprint. It is hydrologically isolated from its former lower reaches by a levee at its northern terminus, approximately 0.25-mile north of the dewatering facility site. The southern portion of this feature is connected to stormwater runoff from adjacent land to the south as evidenced by a culvert and the presence of similar upstream hydrology and vegetation. This feature displayed the presence of

¹⁸ *Ibid.*

¹⁹ ESA, 2014. City of San José Water Treatment Facility Improvement Projects – Preliminary Delineation of Potential Jurisdictional Waters and/or Wetlands in the vicinity of the proposed Emergency Diesel Generators and Iron Salt facilities. June 13, 2014

²⁰ ESA, 2015. Area G Wetlands and Burrowing Owl Survey Results. Technical Memorandum from ESA Ecologist, Chris Rogers, to City of San Jose, Julie Benabente. March 12, 2015.

²¹ ESA, 2014. San José – Santa Clara Regional Wastewater Facility, Wetland Delineation Summary for Alternative Biosolids Sites A and C, Santa Clara County, California. October 20, 2014.

²² ESA, 2018. San José – Santa Clara Regional Wastewater Facility, Wetland Delineation Report for Headworks Improvements and New Headwords Project, Santa Clara County, California. February, 2018.

water during ESA's March 2019 biological reconnaissance site visit and is dominated by riparian habitat, which could be indirectly affected by the Project. This feature may be subject to the regulatory authority of the RWQCB as waters of the state under the Porter-Cologne Water Pollution Control Act.

West of Zanker Road

A field assessment and preliminary wetland delineation of potential state and federal waters and/or wetlands was conducted on May 30, 2014 and August 10, 2017 by ESA of features that are potentially jurisdictional to the state and federal regulatory agencies in the vicinity of the proposed DS Storage and Pump Station Site Option 1 and drain to EBOS. A linear drainage feature was identified southwest of the proposed DS Storage and Pump Station Site Option 1. This drainage feature conveys stormwater runoff from the Facility into a drainage feature downstream. Although the feature no longer conveys flows downstream and is now maintained by the City by capturing Facility runoff, it provides a physical connection between two historic remnant channels that once drained to San Francisco Bay. The 2017 wetland delineation considered this feature potentially jurisdictional wetlands and other waters under Section 404 of the CWA and the RWQCB under Section 401 of the CWA. In addition, all parts of this drainage channel between the top of bank are waters of the state, and also are subject to RWQCB regulation under Porter-Cologne. Furthermore, CDFW would likely extend Section 1600 jurisdiction of this feature based on top of bank features and vegetation within the drainage, even though all trees above top of bank are eucalyptus.

The seasonal wetland overlapping the location of the proposed DS Storage and Pump Station, Site Option 2 location consists of a very shallow depression containing hydrophytic plant species that are distinct from surrounding non-native grassland that typifies the area. Evidence of surface ponding includes cracked soil, algal mats, and water-stained leaves. However, indicators of hydric soils are absent from this feature. The absence of hydric soils coupled with the isolation of the feature (i.e. no connectivity, either by surface flow or groundwater) precludes this feature from jurisdiction of Section 404 of the CWA. Furthermore, this feature is characterized by a depression that was formed as a result of construction activities, further supporting its exemption from regulation under the CWA. As noted above, the Project area has been subject to extensive excavation and use for construction-related purposes. The current condition of the site is preparatory to further use in a similar manner (i.e., additional pipelines and construction staging), which have been evaluated and planned for at the program level in the Plant Master Plan EIR. At no time has the site been abandoned or subject to recapture under the CWA. Therefore, the shallow depression would not be considered jurisdictional waters of the U.S. under current or possible revisions to the CWA rule, as further discussed under the Regulatory Setting above.

However, the features could still be considered waters of the State regulated by the RWQCB under the Porter Cologne Water Quality Control Act.²³

²³ ESA, 2015. Area G Wetlands and Burrowing Owl Survey Results. Technical Memorandum from ESA Botanist, Chris Rogers, to City of San Jose, Julie Benabente. March 12, 2015.

4.8 Migratory Birds and Raptors

The Migratory Bird Treaty Act and California Fish and Game Code protect raptors, most native migratory birds, and resident breeding birds that may migrate through and/or nest in the study area. Several waterbirds were observed foraging and resting within and adjacent to the study area, including red-winged blackbird, American avocet (*Recurvirostra americana*), bank swallow, black-necked stilt (*Himantopus mexicanus*), short-billed dowitcher (*Limnodromus griseus*), least sandpiper (*Calidris minutilla*), American coot (*Fulica americana*), red-tailed hawk, California gull (*Larus californicus*), killdeer, European starling (*Sturnus vulgaris*), common raven (*Corvus corax*), mallard (*Anas platyrhynchos*), Canada goose, song sparrow, and black phoebe (*Sayornis nigricans*).

4.9 Wildlife Movement Corridors

The study area is along the southern shoreline of San Francisco Bay and is located within the Pacific Flyway. On a smaller scale, two wildlife movement corridors are present within one-mile of the proposed dewatering facility site: Coyote Creek, approximately 0.5 miles to the east, and the remnant riparian corridor, approximately 60 feet to the east of the Project construction limits. Upon completion, the dewatering facility would either be located approximately 105 feet from the riparian corridor (Setback Option 1) or 124 feet from the riparian corridor (Setback Option 2).

5.0 Sensitive Wildlife Species

A list of special-status species with the potential to occur within the study area was compiled based on a six-quad search of the CNDDDB and CNPS Rare Plant Inventory, a generated list of USFWS endangered species with the potential to occur in the project area, and biological literature of the region for the 7.5-minute USGS topographic quadrangles surrounding the project site.

From the full list of species, each was then individually assessed based on habitat requirements and distribution relative to vegetation communities that occur within the study area. No federal- or state-listed plant or animal species were identified during the reconnaissance-level site visit and survey. Species accounts for sensitive plant or wildlife species with a potential to occur in the study area are displayed in **Table 5-1**.

**TABLE 5-1
POTENTIALLY OCCURRING SPECIAL-STATUS SPECIES WITHIN THE STUDY AREA**

Common Name	Scientific Name	Status ¹ (Federal/State/ Other)	Habitat Requirements	Potential to Occur
Plants				
Congdon's tarplant	<i>Centromadia parryi</i> ssp. <i>congdonii</i>	-/-1B.1	Alkaline soils in annual grassland, on lower slopes, flats, and swales, sometimes on saline soils; below 230 meters above MSL. Blooms May - October	Moderate. The species is documented in alkali grassland west of the study area. Suitable habitat for this species does occur in the study area, including the dewatering site. Reconnaissance surveys conducted adjacent to the Construction Staging and dewatering site for this species were negative; however, due to lapsed time since the last survey of the dewatering site, absence of species cannot be confirmed.
Pappose tarplant	<i>Centromadia parryi</i> ssp. <i>parryi</i>	-/-1B.2	Vernally mesic, often alkaline sites in annual grassland; 1-500 meters. Blooms May-November	Moderate. Has been confirmed present in the study area by previous field surveys (Environmental Collaborative, 2018).
Reptiles				
Western pond turtle	<i>Emys marmorata</i>	-/SSC/-	Requires aquatic habitat with suitable access to basking and upland habitats.	Moderate. Potential to occur within the riparian corridor east of the proposed dewatering facility.
Birds				
California black rail	<i>Laterallus jamaicensis coturniculus</i>	-/ST;FP/BCC	Ranges along the Pacific Coast within Monterey and San Luis Obispo Counties. Found in the tidal mudflats and sloughs of the San Francisco Bay-Delta.	Low. Known to occur in the tidal marsh habitat found at the confluence of Artesian Slough and Coyote Creek, as well as the Coyote Creek and Alviso Slough confluence and could migrate through the study area.
Northern harrier	<i>Circus cyaneus</i>	-/SSC/ (nesting)	Often frequents fresh and saltwater emergent vegetation habitat of the San Francisco Bay region.	Moderate. Potential to occur within the emergent riparian habitat east of the proposed dewatering site.
Tricolored blackbird	<i>Agelaius tricolor</i>	-/CE/BCC (nesting colony)	Nests colonially over or near freshwater, in dense cattails, tules, or thickets of willow, blackberry, wild rose or other tall shrubs.	Low. Known to utilize the densely vegetated marsh portions of Artesian Slough for nesting habitat; however, the protected nesting colonies are not known to occur in the study area's riparian corridor.
Western burrowing owl	<i>Athene cunicularia</i>	-/SSC/BCC burrowing sites	Open, dry annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation.	High. Western burrowing owl is known to forage and breed in the non-native grassland south and west of the Project sites. Burrowing owls were observed during Facility sponsored BUOW surveys in 2015 (ESA, 2015).

Common Name	Scientific Name	Status ¹ (Federal/State/ Other)	Habitat Requirements	Potential to Occur
Federal Listings FE = Listed as endangered under the Federal Endangered Species Act (FESA) FT = Listed as threatened under the FESA FC = Candidate for listing under the FESA BCC = Bird of Conservation Concern (USFWS)		State Listings SE = Listed as endangered under the CESA ST = Listed as threatened under the CESA SSC = Species of Special Concern (CDFW) CE = Candidate Endangered (CDFW) FP = Fully Protected (CDFW)		
Environmental Science Associates, 2015. <i>Technical Memorandum: Area G Wetlands and Burrowing Owl Survey Results</i> to Julie Benabente from Chris Rogers. March 12, 2015.				

6.0 Effects on Sensitive Terrestrial Species

As the terrestrial species occupy many different habitats within the study area, potential direct and indirect effects from the Project are discussed by the effect on each respective taxonomic group (e.g., birds, rare plants).

6.1 Effects on Nesting Birds

Project implementation during the breeding season could render the study area temporarily unsuitable for nesting birds due to the noise, vibrations, and increased activity levels associated with vegetation grubbing, earth moving, and heavy equipment operation. Construction impacts during the breeding season would have potential to adversely affect common and special-status nesting birds due to the potential to result in “take”, or loss, of a nest; disturbances during the nesting season can cause reduced incubation, reduced foraging by adults, reduced feeding of chicks, nest predation, nest abandonment, and other forms of nest failure. **Mitigation Measure BIO-2: Raptor and Migratory Bird Nest Measures** and **Mitigation Measure BIO-3: Western Burrowing Owl** would reduce adverse effects to common and special status nesting birds to less than significant by requiring worker environmental training, restricting certain construction activities during the breeding bird season, requiring preconstruction surveys, and implementing avoidance measures if active nests are located.

As discussed in the PMP EIR and shown on Figure 3-4 of that document, expansion of secondary treatment facilities were considered in the programmatic analysis of planned future activities. Temporary and permanent impacts from program-level improvements and other proposed land uses were mitigated through the preservation of 0.9-acre of nesting habitat and 178.2 acres of foraging habitat surrounding the existing artificial burrow complexes in the bufferlands west of Artesian Slough (refer to Table 4.7-7 of the PMP EIR).

Further, potential effects to western burrowing owls during the non-breeding season would be reduced to less than significant through the implementation of a habitat surveys, implementing avoidance measures if active nests are located, and requiring construction monitoring and worker training, as discussed in **Mitigation Measure BIO-3 Western Burrowing Owl**.

The addition of lighting associated with the construction and operation of new facilities may also result in adverse effects on breeding birds. The loss of any active nest or disruption of nesting efforts would be considered a potentially significant impact. However, lights at the Project sites (during construction and operation) shall be directed downward and shielded pursuant to Condition 7 of the Santa Clara Valley Habitat Conservation Plan²⁴ and the *San José-Santa Clara Regional Wastewater Facility Study Number 7-Architectural Design Guidelines*²⁵ to ensure that no fugitive light spills out into natural lands and interferes with typical avian behavior.

²⁴ County of Santa Clara, City of San José, City of Morgan Hill, City of Gilroy, Santa Clara Valley Water District, and Santa Clara Valley Transportation Authority, Santa Clara Valley Habitat Plan Public Draft, 2010. Available online at: http://www.scv-habitatplan.org/www/site/alias__default/341/public_draft_habitat_plan.aspx

²⁵ City of San José, 2015. *San José-Santa Clara Regional Wastewater Facility Study Number 7-Architectural Design Guidelines*. October 20, 2015.

6.2 Effects on Western Pond Turtle

Western pond turtles have the potential utilize both the aquatic and terrestrial portions of the study area. Marginally suitable habitat for western pond turtle occurs in the riparian habitat located east of the proposed dewatering facility site and stormwater drainage seasonal wetland. Since no construction activities are proposed in these areas, no western pond turtle habitat would directly be affected by the Project. However, the species could utilize the Project sites for dispersal or migratory movement to these aquatic features in the surrounding areas. As such, construction activities could adversely affect western pond turtles through direct mortality, increased visual or noise disturbance, or upland habitat disturbance. **Mitigation Measure BIO-4: Western Pond Turtle Protection Measures** would reduce adverse effects on this species to less than significant by requiring project construction workers to complete a worker environmental awareness training, conducting preconstruction surveys, relocation of western pond turtles off the construction site, construction monitoring by a qualified biologist, installation of an exclusion fence, and avoidance of western pond turtle nests.

6.3 Effects on Rare Plants

Although unlikely, if Congdon's tarplant or pappose tarplant are present, indirect impacts to the species could potentially occur from construction activities or trampling by individuals supporting the proposed dewatering facility site. Absence of the species cannot be determined without the completion of a protocol-level floristic survey performed by a botanist. As such, potential impacts to Congdon's tarplant or pappose tarplant would be less than significant with the implementation of **Mitigation Measure BIO-6a: Reduce Impacts to Tarplant** and **Mitigation Measure BIO-6b: Control of Non-Native Invasive Plant Species**, which would require conducting surveys for Congdon's tarplant and pappose tarplant prior to construction; implementing restrictions on mowing activities in suitable tarplant habitat, if present; revegetate areas disturbed during construction with approved native plant species; and remove invasive plant seeds and plant parts from all clothing, shoes, vehicles, and equipment prior to entering or working in or near any environmentally sensitive area, including riparian woodland habitat.

These species were not observed during surveys conducted for the Facility's Iron Salt Feed Station Project (ESA, 2015a) and Headworks Improvements and New Headworks Alternatives Constraints Analysis reconnaissance survey (ESA, 2016) and wetland delineation (ESA, 2018), and therefore is presumed to be absent from locations affected by the DS Storage and Pump Station site Option 2 construction activities. However, pappose tarplant has been confirmed present in the study area by previous field surveys (Environmental Collaborative, 2018).

7.0 Effects on Sensitive Habitats

7.1 Effects on the Riparian Corridor

The Project proposes to construct a 53,000 square-foot building east of Zanker Road to provide space for dewatering process systems, a laboratory room, a control room, and other mechanical and utility spaces for necessary systems. Currently, two design alternatives have been proposed

for the height of the dewatering facility, two stories (45 feet tall) and four stories (90 feet tall), and two alternatives proposed for the setback from Zanker Road; 280 feet (Setback Option 1) and 120 feet (Setback Option 2).

Under Setback Option 1, the proposed dewatering facility would be located approximately 105 feet or 164 feet from the outermost boundary of the riparian corridor; and under Setback Option 2, the dewatering facility would be located approximately 124 feet or 190 feet from the riparian corridor. Under both setback options, mobilization, grading, excavation, and the dewatering facility building construction would last approximately three years. Indirect significant impacts on riparian woodland habitat could result from soil compaction from adjacent grading and construction activities, and erosion and sedimentation from construction activities; and introduction and spread of non-native species due to ground disturbance and transport from construction personnel and equipment. Potential construction related runoff as a result of the Project would not constitute a threat to the health and function of the riparian corridor since groundwater from excavations would be pumped to settling tanks to remove grit from the water and would then be discharged into the Headworks facilities directly or into the Facility stormwater collection system.

Visual or noise disturbance originating from the Project potentially indirectly impacting wildlife within the riparian community during construction would be temporary, and would affect a small footprint of the riparian corridor relative to adjacent and similar quality habitat. As such, these impacts are considered less than significant.

During this time, the Project would implement standard best management practices in compliance with local regulations, such as the San Jose Riparian Corridor Policy, in addition to state regulations, to protect the vegetation and wildlife within the riparian corridor. Further, with the implementation of **Mitigation Measure BIO-7a: Riparian Woodland Habitat Avoidance Measures**, **Mitigation Measure BIO-7b Avoidance and Protection of Jurisdictional Waters**, **Mitigation Measure BIO-7c Regulatory Approval and Wetlands Restoration**, and **Mitigation Measure BIO-6b: Control of Non-Native Invasive Plant Species**, the Project would reduce impacts on the riparian corridor to less than significant by installing orange construction barrier fencing around the boundaries of riparian habitat to be avoided prior to initiation of construction activities; minimizing potential sedimentation or contamination of stormwater runoff generated from the Project site into the riparian community; revegetation of areas disturbed during construction with approved native plant species; and requiring the Project to obtain regulatory agency permits and approvals to ensure the Project results in no net loss of wetland habitat functions and values. Mitigation Measure BIO-7b includes an update to the Mitigation Measure BIO-4a provided under the approved Plant Master Plan EIR to address the potential for stormwater runoff generated from the Project site potentially effecting potential jurisdictional wetlands in proximity of the Project site. The adjusted mitigation measure does not change the original impact conclusion, nor is it considerably different from that analyzed in the Plant Master Plan EIR.

7.2 Effects on Seasonal Wetlands

Temporary impacts to the ponded area northeast and east of the proposed dewatering facility could occur as a result of removal or fill from grading and excavation activities proposed under the Project.

For the large seasonal wetland in proximity with the proposed DS Storage and Pump Station Site Option 2 site, temporary impacts to this feature as a result of removal or fill could occur due to grading and excavation activities proposed under the Project. As discussed above, the Project site has been subject to extensive excavation and use for construction-related purposes. Additionally, ongoing construction activities related to other projects at the Facility observed at the proposed DS Storage and Pump Station, Site Option 2 site appear to currently overlap with this feature. Temporary impacts as a result of Project construction may not constitute as significant adverse impacts due to the historical and ongoing presence of excavation and grading, and that this seasonally water filled feature does not provide a unique habitat for wildlife species based on the surrounding landscape context.

Temporary impacts to the stormwater drainage located in the northwest portion of the study area could occur as a result of the introduction and spread of non-native species due to ground disturbance and transport from construction personnel and equipment, in addition to the degradation or modification of habitat through increased erosion and sedimentation, and changes to hydrologic regimes.

Implementation of **Mitigation Measure BIO-7b Avoidance and Protection of Jurisdictional Waters** would minimize potential sedimentation or contamination of stormwater runoff generated from the Project site into potential jurisdictional wetlands. **Mitigation Measure BIO-7c: Regulatory Approval and Wetlands Restoration** would reduce impacts to jurisdictional features by requiring the Project to obtain regulatory agency permits and approvals to ensure the Project results in no net loss of wetland habitat functions and values.

8.0 Effects on Wildlife Movement Corridors

The open space on and around the study area creates potential wildlife habitat, and birds and mammals using open space areas within the study area may be exposed to an increased risk of noise, vibrations, and increased activity levels associated with vegetation grubbing, earth moving, and heavy equipment operation. However, Project impacts are not likely to significantly adversely affect wildlife movement corridors because of the small footprint relative to adjacent and similar habitat, and because of the limited duration of the project's construction activities.

9.0 Conflicts with Local Ordinances or Conservation Plans

9.1 City of San José Tree Ordinance

Implementation of the following project condition of approval would reduce Project impacts as a result of tree removal to less than significant.

Compensate for Removal of Protected Trees. As part of the project condition of approval, the tree to be removed shall be replaced either on-site or off-site at the accepted ratios, or through payment of an in-lieu fee to Our City Forest to compensate for the loss of the trees. Protected trees that are lost shall be replaced at a minimum of four 24-inch box trees per tree removed. Tree replacement amounts shall be subject to the City's Arborist and/or PBCE, who would determine the final mitigation for impacts to protected trees. Replacement trees shall be planted in a suitable location on Facility property or on other City property, to be identified by the City Arborist and approved by the PBCE.

All other trees onsite or adjacent to the Project site shall be safeguarded from construction activities by conditions identified in the City of San José's Municipal Code 13.32.130 – Safeguarding Trees During Construction and **Mitigation Measure BIO-8: Minimize Construction Effects on Protected Trees to be Retained.** These conditions and measures include no construction equipment within the dripline of any trees and the use of barricades around tree trunks to prevent injury to trees and retaining a certified arborist to oversee protection of native trees to be retained on the project site. With implementation of the project conditions and measures, impacts to ordinance trees are considered less than significant.

9.2 San José Riparian Corridor Policy

The dewatering facility has been designed to minimize intrusion on the riparian corridor. Although Setback Option 1, located 105 feet away from the riparian corridor, and Setback Option 2, located 124 feet away from the riparian corridor, are subject to the San Jose Riparian Corridor Policy because they are within the 300-foot buffer from the riparian corridor, the operational reduced setback would not significantly alter the quality or function of vegetation or wildlife habitat within the corridor. The riparian corridor in the study area is considered a small, lower order remnant tributary, with influences that do not extend to greater than approximately 50 feet beyond the outer vegetation canopy. Furthermore, the Coyote Creek riparian corridor, located less than one-half mile to the east of the study area's riparian corridor, is of higher quality habitat that could support potential riparian species in the unlikely circumstance they are displaced during the operation of the Project. Under both setback options, the construction footprint would be located approximately 60 feet away from the outer edge of the riparian vegetation canopy. Under both of these options, a Construction General Permit for Stormwater and Stormwater Pollution Prevention Plan would be implemented during Project construction. Similarly, the contractor would be required to comply with state and City of San José standard runoff, erosion, and dust control BMPs. Groundwater from excavations would be pumped to settling tanks to remove grit from the water and would then be discharged into the Headworks facilities directly or into the Facility storm water collection system, which drains to the Headworks facilities, for treatment. As

such, potential construction related runoff or erosion as a result of the Project would not constitute a threat to the health and function of the riparian corridor.

Although the four-story dewatering facility (Option 1) would be 90 feet in height, twice that of Option 2, it would not significantly conflict with the Bird-Safe Design elements because building options would be constructed with materials compliant with the Facility's Architectural Design Guidelines and would be consistent with the City's Bird-Safe Design elements. Furthermore, the proposed heights of the facilities would be similar to those in the vicinity, such as Los Esteros Energy Center, located southeast of the dewatering facility or office buildings in the vicinity. Architectural elements, such as facility materials and fences would be consistent with the Facility's Architectural Design Guidelines²⁶; as such, the Project would not substantially conflict with policies set forth in the City's Bird-Safe Design elements.

9.3 Santa Clara Valley Habitat Plan

The Project is subject to the Habitat Plan (effective October 14, 2013). The only species covered by the Habitat Plan that has suitable nesting and foraging habitat or the potential to occur within the Project site is the western burrowing owl. Loss of burrowing owl habitat that would result from activities proposed under the Project could conflict with the burrowing owl conservation strategy described in the Habitat Plan. The facilities proposed by the Project within the current operational area of the Facility, in addition to the dewatering facility, would encroach into the Habitat Plan burrowing owl fee zone area; see Figure 2. The **Mitigation Measure BIO-3: Western Burrowing Owl Measures**, as described below, would ensure burrowing owl habitat supports a stable or increasing burrowing owl population. Similar to the adopted Plant Master Plan EIR, these provisions are consistent with the management objectives and success thresholds defined in the Habitat Plan. The City will adhere to the Habitat Plan requirements through implementation of the mitigation measure.

The Project would comply with conditions identified in the Habitat Plan relative to wetland and riparian community resources within the study area. Pursuant to Condition 11 of the Habitat Plan, the Project would adhere to required setbacks to protect water quality and enhance stream ecology of the riparian wetland corridor in the study area. The study area's riparian corridor is located within the Habitat Plan's 'Urban Service Area'. The applicable local jurisdiction is responsible for making determinations of whether a watercourse qualifies as a Category 2 stream²⁷ and for implementing setbacks. If the waterbody within the riparian corridor is considered a Category 2 stream, Project-related development requires a 35-foot setback from the riparian corridor's outer limit. As discussed above, the dewatering facility would be located

²⁶ City of San José, 2015. San José-Santa Clara Regional Wastewater Facility Study Number 7-Architectural Design Guidelines. October 20, 2015.

²⁷ Category 2 streams are not specifically mapped as part of the Habitat Plan. They include both identified streams (named creeks and USGS blue-line creeks) that are not classified as Category 1 streams (as shown in Figure 6-2 of the HCP) and other unmapped streams that meet the "Criteria to Verify or Identify a Watercourse as a Stream" in the HCP.

approximately 105 feet from the riparian corridor (Setback Option 1) or 124 feet from the riparian corridor (Setback Option 2).

In addition, the Project's compliance with Condition 11, would ensure western pond turtle habitat in the riparian wetland corridor would be protected as it provides key linkages benefiting this Habitat Plan covered species.²⁸

Through the implementation of the Plant Master Plan EIR Mitigation Measure BIO-4a: Wetlands Avoidance Measures and Mitigation Measure BIO-4b: Wetlands Restoration for Project-Level Improvements, as described above, the Project would be compliant with Condition 12 of the Habitat Plan. With implementation of this measure, fencing would be erected between the project area and the wetlands and ponded area; erosion control measures would be used on site to reduce sedimentation into wetlands, the ponded area, and the riparian corridor community, and regulatory agency permits and approvals would be obtained to ensure the Project results in no net loss of wetland or riparian habitat functions.

10.0 Mitigation Measures

The below-outlined mitigation measures would be implemented by the City to avoid and minimize potential Project effects on rare plants, state and federally sensitive species, their habitats, and sensitive communities. The proposed measures include applicable measures from the Plant Master Plan EIR. The approved mitigation measures provided in the adopted Plant Master Plan EIR Mitigation Monitoring and Reporting Program (MMRP) have been incorporated by reference, with modifications (additions, deletions, renumbering/renaming, or other minor revisions) made as necessary to apply to the Project. The adjusted mitigation measures do not change the original impact conclusions from the Plant Master Plan EIR, nor are they considerably different from that analyzed in the Plant Master Plan EIR.

Mitigation Measure BIO-2: Raptor and Migratory Bird Nest Measures (*Same as PMP ERI MM BIO-2d*)

- a. If possible, construction shall be scheduled between September 1st and January 31st (inclusive) to avoid the nesting season. If Project construction is scheduled during breeding bird season (February 1st–August 31st, inclusive), City's Environmental Services Department (ESD) or its contractor shall retain a qualified wildlife biologist to conduct a survey for nesting raptors and migratory bird nests within 7 days of the start of construction or after any construction breaks of 14 days or more, within 7 days prior to the resumption of construction. Surveys shall be performed for the Project areas and for suitable habitat within 300 feet. If an active nest is discovered, a no-disturbance buffer zone around the nest tree (or, for ground-nesting species, or nests identified on Facility buildings, the nest itself) shall be established. The no-disturbance zone shall be marked with flagging or fencing that is easily identified

²⁸ Covered species: Those species addressed in the Plan for which conservation actions will be implemented and for which the Permittees will seek authorization for take under Section 2835 of the California Natural Community Conservation Planning Act and Section 10 of the federal Endangered Species Act.

and avoided by the construction crew, and shall not affect the nesting birds. In general, the minimum buffer zone widths shall be as follows: 100 feet (radius) for non-raptor species and 300 feet (radius) for raptor species; however, the buffer zone widths may be adjusted if an obstruction, such as a building, is within line-of-sight between the nest and construction. Buffer zone widths and other avoidance measures may be modified based on consultation with CDFW and the USFWS. Buffer zones shall remain in place as long as the nest is active or young remain in the area and are dependent on the nest.

- b. Construction activities that are scheduled to begin outside the breeding season (September 1st through January 31st, inclusive) can proceed without surveys. If possible, all necessary tree and vegetation removal shall be conducted before the start of breeding bird season to minimize the opportunity for birds to nest at the Project site and conflict with Project construction activities.
- c. ESD shall notify the PBCE Senior Environmental Planner when the mitigation actions will occur for approval prior to the start of construction.

Mitigation Measure BIO-3: Western Burrowing Owl (*Similar to PMP EIR MM BIO-2e*)

To avoid or minimize direct impacts of Project activities on western burrowing owls, the City shall ensure the following procedures are implemented consistent with the HCP. This survey methodology is consistent with accepted survey protocols for this species.

a. ***Habitat Survey***

- i. Western burrowing owl habitat surveys shall be required in all Project areas in all HCP modeled occupied habitat. Surveys are not required in sites that are mapped as potential burrowing owl nesting or only overwintering habitat. Modeled habitat types may change throughout the permit term based on the best available scientific data. Habitat surveys are required in both breeding and non-breeding seasons.
- ii. Qualified biologist(s) shall conduct a pedestrian survey of all Project areas and accessible areas within 250-feet of Project areas. Pedestrian survey transects shall be spaced to allow 100 percent visual coverage of the ground surface. The distance between transect center lines shall be no more than 50 feet and can be reduced to account for differences in terrain, vegetation density, and ground surface visibility. Poor weather may affect the biologist's ability to detect burrowing owls; therefore, the biologist shall avoid conducting surveys when wind speed is greater than 20 kilometers per hour and there is precipitation or dense fog. The biologist shall map areas with burrows or burrow complexes that could support burrowing owls and all burrows that may be occupied (as indicated by tracks, feathers, egg shell fragments, pellets, prey remains, or excrement).
- iii. To avoid impacts to owls from surveyors, owls and/or occupied burrows shall be avoided by a minimum of 150 feet wherever practical to avoid flushing occupied burrows. Disturbance to occupied burrows shall be avoided during all seasons.
- iv. If suitable habitat is identified during the habitat survey, and if the Project does not fully avoid impacts to the suitable habitat, preconstruction surveys shall be

required. Suitable habitat is fully avoided if the project footprint does not impinge on a 250-foot buffer around the suitable burrow.

b. *Preconstruction Surveys*

- i. A qualified biologist shall conduct preconstruction surveys in all suitable habitat identified in the habitat surveys within 250 feet of construction activity, between 14 and 4 days prior to initiating ground disturbance related to Project construction activities. The 250-foot buffer zone shall be surveyed to identify burrows and owls outside of the Project areas which may be impacted by factors such as noise and vibration (heavy equipment) during project construction. As burrowing owls may recolonize a site after only a few days, time lapses between Project activities shall require subsequent take avoidance surveys including but not limited to a final survey conducted no more than 2 days prior to ground disturbance to ensure absence. A minimum of two surveys shall be conducted (if owls are detected on the first survey, a second survey is not needed).
- ii. The preconstruction survey shall be a minimum of 3 hours, beginning 1 hour before sunrise and continuing until 2 hours after sunrise (3 hours total) or beginning 2 hours before sunset and continuing until 1 hour after sunset. Additional time may be required for large project sites.

c. *Avoidance Measures*

The City shall employ avoidance measures described below to avoid direct take of individual burrowing owls during Project construction.

Breeding Season Avoidance Measures - February 1 to August 31

- i. If preconstruction surveys identify evidence of Western burrowing owls within 250 feet of the Project area during the breeding season, the Project proponent shall avoid all nest sites that could be disturbed by Project construction activities during the remainder of the breeding season or while the nest is occupied by adults or young (occupation includes individuals or family groups foraging on or near the site following fledging). Avoidance shall include establishment of a 250-foot no-disturbance buffer zone around active nest sites by a qualified biologist.
- ii. If active nests cannot be avoided, construction may occur within 250 feet of active nest sites if 1) the nest is not disturbed, and 2) the Project proponent develops and implements an Avoidance, Minimization, and Monitoring Plan, subject to approval by CDFW the Habitat Agency overseeing the HCP. The plan shall incorporate the following criteria:
 1. A qualified biologist shall monitor the owls for at least 3 days prior to Project construction to determine baseline nesting and foraging behavior (i.e., behavior without construction). The same qualified biologist shall monitor the owls during construction and find no change in owl nesting and foraging behavior in response to construction activities.
 2. If there is any change in owl nesting and foraging behavior as a result of Project construction activities, these activities shall cease within the 250-foot buffer. Construction shall not resume within the 250-foot buffer until the adult owls and juveniles from the occupied burrows have moved out of the project site.

3. If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the no-disturbance buffer zone may be removed. The biologist shall excavate the burrow to prevent reoccupation after receiving approval from CDFW.

Non-Breeding Season Avoidance Measures – September 1st to January 31st, (inclusive)

- i. If preconstruction surveys identify evidence of Western burrowing owls within 250 feet of the Project area during the non-breeding season (September 1st to January 31st, inclusive), the Project proponent shall establish a 250-foot no-disturbance buffer around occupied overwintering burrows as determined by a qualified biologist.
 - ii. If occupied burrows cannot be avoided, construction may occur within 250 feet of overwintering burrows sites if:
 1. A qualified biologist monitors the owls for at least 3 days prior to construction to determine baseline foraging behavior (i.e., behavior without construction).
 2. The same qualified biologist monitors the owls during construction and finds no change in owl foraging behavior in response to construction activities.
 3. If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities shall cease within the 250-foot buffer.
 4. If the owls are gone for at least one week, the Project proponent may request approval from the HCP Habitat Agency for qualified biologist to excavate usable burrows to prevent owls from re-occupying the site. After all usable burrows are excavated, the no-disturbance buffer zone shall be removed and construction may continue. Monitoring must continue as described above for the non-breeding season as long as the burrow remains active.
- d. ***Construction Monitoring***

During construction, the no-disturbance buffer zones shall be established and maintained where applicable and based on the Project Avoidance, Minimization, and Monitoring Plan. A qualified biologist shall monitor the site consistent with the requirements described in the Avoidance Measures, described above, to ensure that buffers are enforced and owls are not disturbed. The qualified biological monitor shall include in the Project's environmental training for all Project personnel on the avoidance procedures, buffer zones, and protocols in the event that a burrowing owl flies into an active construction zone.

e. ***Passive Relocation***

If avoidance measures described cannot be implemented with the Project, Passive Relocation shall be implemented according to the protocol described in the HCP and in coordination with, and approval by CDFW.

Mitigation Measure BIO-5: Western Pond Turtle Protection Measures (*Similar to PMP EIR MM BIO-2b*)

- a. Prior to the start of construction activities, the project proponent shall retain a qualified biologist to conduct preconstruction surveys for pond turtles in all suitable

habitats (aquatic and upland) in the vicinity of the work site. Surveys shall take place no more than 72 hours prior to the onset of site preparation and construction activities with the potential to disturb turtles or their habitat.

- b. If preconstruction surveys identify active western pond turtle nests within the Project site, the biologist shall establish no-disturbance buffer zones around each nest using temporary orange construction fencing. The demarcation shall be permeable to allow young turtles to move away from the nest following hatching. The radius of the buffer zone and the duration of exclusion shall be determined in consultation with the CDFW. The buffer zones and fencing shall remain in place until the young have left the nest, as determined by the qualified biologist.
- c. A qualified biologist shall monitor construction activities in the vicinity of suitable habitat within which western pond turtle is found (either during the survey or observed during construction), and remove and relocate western pond turtles in proposed construction areas to suitable habitat outside the project limits, consistent with CDFW protocols and handling permits. Relocation sites shall be subject to CDFW approval.
- d. If any turtles are found in the Project site, construction activities shall halt within 50 feet and the qualified biologist shall be notified. If the biologist determines the turtle is a western pond turtle, the turtle shall be relocated into nearby suitable habitat consistent with CDFW protocols and handling permits.

Mitigation Measure BIO-6a: Reduce Impacts to Tarplant (*Same as PMP EIR MM BIO-1*)

For purposes of reducing direct impacts to Congdon's tarplant and pappose tarplant, the project proponent shall:

- Conduct surveys for Congdon's tarplant and pappose tarplant prior to implementing burrowing owl mitigation measures, including installation of artificial burrows, berm construction, and mowing. This shall be conducted by a qualified biologist.
- Avoid damaging or removing individuals of Congdon's tarplant and pappose tarplant while conducting the above activities whenever possible.
- When mowing is necessary, conduct mowing in areas occupied by Congdon's tarplant and pappose tarplant (known natural and reseeded locations) before June (to avoid the blooming season [May to mid-November]) or after seeds have been set (mid-November). Do not mow in areas with Congdon's tarplant and pappose tarplant from May to mid-November, even if those areas have burrowing owls or are part of the burrowing owl habitat management area. Mow no lower than 6 inches in areas with Congdon's tarplant and pappose tarplant in order to minimize removal of tarplant foliage prior to flowering.

Conditions in areas occupied by burrowing owl, and Congdon's tarplant and pappose tarplant will change over time, and conflicts between measures to reduce impacts to the tarplant and burrowing owl habitat management strategies (e.g., mowing) may arise. To adapt to changing conditions, this measure may require refinement by a qualified biologist in coordination with CDFW to ensure adequate protection of both species. If individuals of Congdon's tarplant cannot be avoided through the provisions listed above, the permanent loss of Congdon's tarplant and pappose tarplant shall be mitigated at a

minimum mitigation-to-impact ratio of 1:1. To address permanent loss of Congdon's tarplant or pappose tarplant individuals, the following measures shall be implemented:

- During October and November, the project proponent shall track Congdon's tarplant and pappose tarplant within the area to determine when plants have set seeds. Once seeds have set, seeds from individuals of Congdon's tarplant and pappose tarplant from within the area will be collected during October or November prior to initiation of activities that will impact individuals, and immediately sown at reseeding location(s) to allow the plant to flower and produce seed before the end of the next blooming period, thereby avoiding a temporal loss (i.e., the species missing a flowering cycle).
- Seed of Congdon's tarplant and pappose tarplant will be applied either alone or as a component of the revegetation mix within the impact area for any temporary impacts and within a proposed replacement area for permanent impacts. The replacement area will be determined in consultation with CDFW.
- Areas seeded with Congdon's tarplant and pappose tarplant will be monitored during the first 5 years following reseeding. Monitoring will be conducted during the peak blooming period (May –November). The planted population will be compared to a known reference population each time monitoring is conducted to accurately verify the degree of success of the planted population.
- During the first year of monitoring, revegetation will be considered successful if the species in 70% of the reseeded area are occurring at densities comparable to the reference population. If unsuccessful, seed will be collected and sown in the unsuccessful areas prior to the rainy season that year. If reseeding is necessary at any point during the monitoring period, the monitoring period will reset (extended by five years) for the affected area.
- During each subsequent year of monitoring, revegetation will be considered successful if the species is found to be occurring in 80% of the reseeded area at densities comparable to the reference population. If revegetation is unsuccessful for two consecutive years, seed will be collected and sown in the unsuccessful areas prior to the rainy season that year.
- During the final two years of monitoring, if seeding of previously unoccupied habitat is successful (plants occur in 80% of the reseeded area at densities comparable to the reference population), then the mitigation will be deemed successful and no additional monitoring will be required. If unsuccessful, the area will be deemed unsuitable habitat. In this case, revegetation of additional areas, determined in consultation with CDFW will occur, and an additional two years of monitoring will be conducted.

For purposes of reducing indirect impacts on Congdon's tarplant and pappose tarplant, the project proponent shall:

- Modify weed control activities, in areas of occupied Congdon's tarplant and pappose tarplant habitat. Broadcast herbicides will not be used in or around areas supporting Congdon's tarplant and pappose tarplant. In areas supporting Congdon's tarplant and pappose tarplant, herbicides will only be applied through spot treatment. Herbicide applications will be conducted by persons familiar with Congdon's tarplant and pappose tarplant and able to identify the species to avoid it.

- Install informational and warning signs in areas adjacent to habitat occupied by Congdon's tarplant and pappose tarplant instructing people utilizing the site to stay clear of known occurrences.

Mitigation Measure BIO-6b: Control of Non-Native Invasive Plant Species (*Same as PMP EIR BIO-3c*)

To minimize introduction and spread of non-native invasive plant species, the project proponent or its contractor shall implement the following:

- a. A qualified biologist or botanist shall conduct field training for construction workers to inform them about invasive species and methods to minimize spread of invasive species for the duration of all associated project and program activities mentioned above.
- b. Revegetate areas disturbed during construction with approved native plant species.
- c. Remove invasive plant seeds and plant parts from all clothing, shoes, vehicles, and equipment prior to entering or working in or near any environmentally sensitive area, including riparian woodland habitat.
- d. Stage construction and maintenance equipment in weed-free areas.
- e. Gather and bag invasive plant seeds or plant parts found in the containment area and take them to an appropriate disposal facility.
- f. Implement the following measures to prevent the spread of noxious weeds and invasive plants when present.
- g. Educate crews in the use of weed-free materials when available, ensure vehicles leaving paved roads do not spread weeds in sensitive habitats (including salt marsh or upland refugia habitat for salt marsh harvest mouse, salt marsh wandering shrew, California clapper rail, California black rail, dusky footed woodrat, and all aquatic and wetland habitat); and
- h. Avoid entering patches of invasive plants to the maximum extent possible.

Mitigation Measure BIO-7a: Riparian Woodland Habitat Avoidance Measures (*Same as PMP EIR MM BIO-3a*)

Design of program-level WPCP improvements and planned land uses will avoid areas of riparian woodland habitat to the extent feasible. Riparian habitat impact avoidance shall be consistent with the City's General Plan Riparian Habitat Policy and setback.

To reduce impacts on riparian woodland habitat during development east of Zanker Road construction and maintenance activities, the project proponent and/or its contractor shall implement the following measures:

- Minimize cutting and trimming of adjacent shrubs and trees during construction and maintenance activities to the maximum extent possible. Shrubs that need to be trimmed should be cut at least 1 foot above ground level to leave the root systems intact and allow for regeneration.

- Contract a certified arborist to perform or oversee necessary trimming of riparian trees.

Install orange construction barrier fencing around the boundaries of riparian habitat to be avoided prior to initiation of construction activities. The protected area shall be designated an environmentally sensitive area and would be clearly identified on the construction specifications. Fencing shall be maintained throughout the construction period.

Mitigation Measure BIO-7b: Avoidance and Protection of Jurisdictional Waters
(*Similar to PMP EIR MM BIO-4a*)

Access roads, work areas, and infrastructure shall be sited to avoid and minimize direct and indirect impacts to jurisdictional features. Prior to the beginning of any construction-related activities, the following measures shall be applied to protect potential jurisdictional features:

- A protective barrier (such as silt fencing) shall be erected around water features adjacent to the Project at the “top of bank” or at the feature boundary to isolate them from Project activities and reduce the potential for incidental fill, erosion, or other disturbance;
- Signage shall be installed on the fencing to identify sensitive habitat areas and restrict construction activities;
- No equipment mobilization, grading, clearing, or storage of equipment or machinery, or similar activity shall occur at the Project site until a representative of the City has inspected and approved the protection fencing; and
- The City shall ensure that the temporary fencing is continuously maintained until the Project is completed.
- Drainage from all proposed facilities where chemical spills could occur during Project operation shall be directed away from sensitive resources and/or include other measures to minimize potential for release of potential pollutants to the environment.

Mitigation Measure BIO-7c: Regulatory Approval and Wetlands Restoration
(*Similar to PMP EIR MM BIO-4b*)

If it is determined during the design phase that impacts on wetland habitat cannot be avoided, the City’s ET shall obtain permits and approvals from the Santa Clara Valley Habitat Agency (SCVHA), USACE, RWQCB, and/or CDFW, as applicable. In order to ensure that the Project results in no net loss of wetland habitat functions and values, the City shall compensate for the loss of wetland resources through on-site restoration/creation, off-site protection and enhancement of riparian and wetland habitat, and/or purchase of mitigation credits consistent with the terms and conditions of USACE Regional General Permit 18 for implementation of covered activities in the HCP. On-site or off-site habitat restoration/creation and/or purchase of mitigation credits consistent with the terms and conditions of USACE Regional General Permit 18 shall be determined in consultation with the resource agencies, as applicable. The City shall prepare a

mitigation plan, which shall include monitoring applicable requirements and success criteria.

Mitigation Measure BIO-8: Minimize Construction Effects on Protected Trees to be Retained (*Same as PMP EIR MM-BIO5b*)

The project proponent shall implement the following tree-protection measures prior to and during project construction.

- Retain a certified arborist to oversee protection of native trees to be retained on the project site.
- Require that any tree or root pruning occurring for construction is first approved by the certified arborist.
- Require that the certified arborist evaluate injuries to retained trees as soon as possible for appropriate treatment.

11.0 Conclusions and Determinations

In summary, although anticipated and potential impacts have been identified, the magnitude of these impacts will be significantly reduced based on: (a) the mitigation measures proposed in this document; and (b) the relatively small percentage of sensitive habitat and temporary nature of most Project activities that would be involved.

12.0 Attachments

Attachment A: Special Status Species Occurrences in Six-Quad Search Encompassing the Project Sites



Summary Table Report

California Department of Fish and Wildlife

California Natural Diversity Database



Query Criteria: Quad< IS > (Mountain View (3712241)< OR > Milpitas (3712148)< OR > Calaveras Reservoir (3712147)< OR > Niles (3712158)< OR > San Jose West (3712138)< OR > Newark (3712251))

Name (Scientific/Common)	CNDDB Ranks	Listing Status (Fed/State)	Other Lists	Elev. Range (ft.)	Total EO's	Element Occ. Ranks						Population Status		Presence		
						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.
<i>Accipiter cooperii</i> Cooper's hawk	G5 S4	None None	CDFW_WL-Watch List IUCN_LC-Least Concern	175 950	116 S:4	0	1	1	0	0	2	0	4	4	0	0
<i>Agelaius tricolor</i> tricolored blackbird	G2G3 S1S2	None Candidate Endangered	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_EN-Endangered NABCI_RWL-Red Watch List USFWS_BCC-Birds of Conservation Concern	5 637	952 S:10	0	0	0	0	3	7	10	0	7	3	0
<i>Ambystoma californiense</i> California tiger salamander	G2G3 S2S3	Threatened Threatened	CDFW_WL-Watch List IUCN_VU-Vulnerable	10 2,600	1188 S:33	1	12	5	2	2	11	7	26	31	1	1
<i>Anniella pulchra</i> northern California legless lizard	G3 S3	None None	CDFW_SSC-Species of Special Concern USFS_S-Sensitive	90 90	375 S:1	0	0	0	0	1	0	1	0	0	1	0
<i>Antrozous pallidus</i> pallid bat	G5 S3	None None	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern USFS_S-Sensitive WBWG_H-High Priority	30 157	416 S:3	0	0	0	0	0	3	3	0	3	0	0
<i>Aquila chrysaetos</i> golden eagle	G5 S3	None None	BLM_S-Sensitive CDF_S-Sensitive CDFW_FP-Fully Protected CDFW_WL-Watch List IUCN_LC-Least Concern USFWS_BCC-Birds of Conservation Concern	1,160 2,200	321 S:2	0	2	0	0	0	0	2	0	2	0	0
<i>Ardea herodias</i> great blue heron	G5 S4	None None	CDF_S-Sensitive IUCN_LC-Least Concern	30 900	155 S:4	1	2	1	0	0	0	2	2	4	0	0
<i>Astragalus tener var. tener</i> alkali milk-vetch	G2T1 S1	None None	Rare Plant Rank - 1B.2	5 20	65 S:5	0	1	0	0	4	0	4	1	1	3	1



Summary Table Report
California Department of Fish and Wildlife
California Natural Diversity Database



Name (Scientific/Common)	CNDDB Ranks	Listing Status (Fed/State)	Other Lists	Elev. Range (ft.)	Total EO's	Element Occ. Ranks						Population Status		Presence		
						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.
<i>Athene cunicularia</i> burrowing owl	G4 S3	None None	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern USFWS_BCC-Birds of Conservation Concern	0 1,733	1978 S:56	3	14	8	14	11	6	14	42	45	9	2
<i>Atriplex depressa</i> brittlescale	G2 S2	None None	Rare Plant Rank - 1B.2	20 20	60 S:1	0	1	0	0	0	0	0	1	1	0	0
<i>Atriplex minuscula</i> lesser saltscale	G2 S2	None None	Rare Plant Rank - 1B.1	2 2	52 S:1	0	0	0	0	0	1	0	1	1	0	0
<i>Bombus caliginosus</i> obscure bumble bee	G4? S1S2	None None	IUCN_VU-Vulnerable	100 700	181 S:2	0	0	0	0	0	2	2	0	2	0	0
<i>Bombus crotchii</i> Crotch bumble bee	G3G4 S1S2	None None		100 100	234 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Bombus occidentalis</i> western bumble bee	G2G3 S1	None None	USFS_S-Sensitive XERCES_IM-Imperiled	10 375	282 S:5	0	0	0	0	0	5	5	0	5	0	0
<i>Buteo swainsoni</i> Swainson's hawk	G5 S3	None Threatened	BLM_S-Sensitive IUCN_LC-Least Concern USFWS_BCC-Birds of Conservation Concern	50 50	2473 S:1	0	0	0	0	1	0	1	0	0	1	0
<i>Campanula exigua</i> chaparral harebell	G2 S2	None None	Rare Plant Rank - 1B.2 BLM_S-Sensitive SB_RSABG-Rancho Santa Ana Botanic Garden	300 1,560	50 S:3	1	1	0	0	0	1	1	2	3	0	0
<i>Centromadia parryi ssp. congdonii</i> Congdon's tarplant	G3T1T2 S1S2	None None	Rare Plant Rank - 1B.1 BLM_S-Sensitive SB_RSABG-Rancho Santa Ana Botanic Garden	5 290	93 S:14	0	4	5	2	2	1	4	10	12	1	1
<i>Charadrius alexandrinus nivosus</i> western snowy plover	G3T3 S2S3	Threatened None	CDFW_SSC-Species of Special Concern NABCI_RWL-Red Watch List USFWS_BCC-Birds of Conservation Concern	0 15	138 S:6	0	2	0	0	0	4	2	4	6	0	0



Summary Table Report
California Department of Fish and Wildlife
California Natural Diversity Database



Name (Scientific/Common)	CNDDB Ranks	Listing Status (Fed/State)	Other Lists	Elev. Range (ft.)	Total EO's	Element Occ. Ranks						Population Status		Presence		
						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.
<i>Chloropyron maritimum ssp. palustre</i> Point Reyes salty bird's-beak	G4?T2 S2	None None	Rare Plant Rank - 1B.2 BLM_S-Sensitive	1 5	68 S:3	0	0	0	0	3	0	3	0	0	2	1
<i>Chorizanthe robusta var. robusta</i> robust spineflower	G2T1 S1	Endangered None	Rare Plant Rank - 1B.1 BLM_S-Sensitive		20 S:1	0	0	0	0	1	0	1	0	0	1	0
<i>Circus hudsonius</i> northern harrier	G5 S3	None None	CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern	5 10	53 S:5	0	1	0	0	0	4	4	1	5	0	0
<i>Clarkia concinna ssp. automixa</i> Santa Clara red ribbons	G5?T3 S3	None None	Rare Plant Rank - 4.3	300 2,000	20 S:3	0	0	0	0	0	3	3	0	3	0	0
<i>Coccyzus americanus occidentalis</i> western yellow-billed cuckoo	G5T2T3 S1	Threatened Endangered	BLM_S-Sensitive NABCI_RWL-Red Watch List USFS_S-Sensitive USFWS_BCC-Birds of Conservation Concern	20 20	156 S:1	0	0	0	0	1	0	1	0	0	0	1
<i>Corynorhinus townsendii</i> Townsend's big-eared bat	G3G4 S2	None None	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern USFS_S-Sensitive WBWG_H-High Priority	90 2,240	628 S:5	0	0	0	0	1	4	4	1	4	1	0
<i>Coturnicops noveboracensis</i> yellow rail	G4 S1S2	None None	CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern NABCI_RWL-Red Watch List USFS_S-Sensitive USFWS_BCC-Birds of Conservation Concern	5 85	45 S:6	0	0	0	1	0	5	5	1	6	0	0
<i>Danaus plexippus pop. 1</i> monarch - California overwintering population	G4T2T3 S2S3	None None	USFS_S-Sensitive	10 150	383 S:3	0	1	1	0	0	1	0	3	3	0	0
<i>Dipodomys heermanni berkeleyensis</i> Berkeley kangaroo rat	G3G4T1 S1	None None		1,000 1,000	7 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Egretta thula</i> snowy egret	G5 S4	None None	IUCN_LC-Least Concern	10 10	20 S:1	0	0	0	0	0	1	0	1	1	0	0



Summary Table Report

California Department of Fish and Wildlife California Natural Diversity Database



Name (Scientific/Common)	CNDDB Ranks	Listing Status (Fed/State)	Other Lists	Elev. Range (ft.)	Total EO's	Element Occ. Ranks						Population Status		Presence		
						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.
<i>Elanus leucurus</i> white-tailed kite	G5 S3S4	None None	BLM_S-Sensitive CDFW_FP-Fully Protected IUCN_LC-Least Concern	5 10	179 S:5	0	1	0	0	0	4	4	1	5	0	0
<i>Emys marmorata</i> western pond turtle	G3G4 S3	None None	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_VU-Vulnerable USFS_S-Sensitive	0 1,200	1360 S:20	0	9	4	1	0	6	2	18	20	0	0
<i>Eryngium aristulatum var. hooveri</i> Hoover's button-celery	G5T1 S1	None None	Rare Plant Rank - 1B.1 SB_RSABG-Rancho Santa Ana Botanic Garden	5 15	16 S:6	0	0	2	0	3	1	4	2	3	3	0
<i>Extriplex joaquinana</i> San Joaquin spearscale	G2 S2	None None	Rare Plant Rank - 1B.2 BLM_S-Sensitive SB_RSABG-Rancho Santa Ana Botanic Garden	6 10	124 S:3	0	1	0	0	0	2	2	1	3	0	0
<i>Falco peregrinus anatum</i> American peregrine falcon	G4T4 S3S4	Delisted Delisted	CDF_S-Sensitive CDFW_FP-Fully Protected USFWS_BCC-Birds of Conservation Concern	85 85	57 S:1	0	0	0	0	0	1	0	1	1	0	0
<i>Fritillaria liliacea</i> fragrant fritillary	G2 S2	None None	Rare Plant Rank - 1B.2 USFS_S-Sensitive	1,000 1,000	82 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Geothlypis trichas sinuosa</i> saltmarsh common yellowthroat	G5T3 S3	None None	CDFW_SSC-Species of Special Concern USFWS_BCC-Birds of Conservation Concern	0 16	112 S:17	0	6	0	0	0	11	11	6	17	0	0
<i>Lasiurus cinereus</i> hoary bat	G5 S4	None None	IUCN_LC-Least Concern WBWG_M-Medium Priority		238 S:4	0	0	0	0	0	4	4	0	4	0	0
<i>Lasthenia conjugens</i> Contra Costa goldfields	G1 S1	Endangered None	Rare Plant Rank - 1B.1 SB_UCBBG-UC Berkeley Botanical Garden	10 10	36 S:3	0	2	0	0	1	0	1	2	2	0	1



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						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.
<i>Laterallus jamaicensis coturniculus</i> California black rail	G3G4T1 S1	None Threatened	BLM_S-Sensitive CDFW_FP-Fully Protected IUCN_NT-Near Threatened NABCI_RWL-Red Watch List USFWS_BCC-Birds of Conservation Concern	4 51	303 S:16	2	7	2	0	0	5	4	12	16	0	0
<i>Lepidurus packardii</i> vernal pool tadpole shrimp	G4 S3S4	Endangered None	IUCN_EN-Endangered	7 10	325 S:2	0	1	0	0	0	1	0	2	2	0	0
<i>Malacothamnus arcuatus</i> arcuate bush-mallow	G2Q S2	None None	Rare Plant Rank - 1B.2	5 5	30 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Malacothamnus hallii</i> Hall's bush-mallow	G2 S2	None None	Rare Plant Rank - 1B.2 BLM_S-Sensitive	40 1,120	36 S:2	0	0	0	0	1	1	2	0	1	1	0
<i>Masticophis lateralis euryxanthus</i> Alameda whipsnake	G4T2 S2	Threatened Threatened		570 1,745	164 S:9	2	2	1	0	0	4	0	9	9	0	0
<i>Melospiza melodia pusillula</i> Alameda song sparrow	G5T2? S2S3	None None	CDFW_SSC-Species of Special Concern USFWS_BCC-Birds of Conservation Concern	3 18	38 S:11	0	5	0	0	0	6	6	5	11	0	0
<i>Myotis yumanensis</i> Yuma myotis	G5 S4	None None	BLM_S-Sensitive IUCN_LC-Least Concern WBWG_LM-Low-Medium Priority	870 1,000	265 S:2	0	1	0	0	0	1	0	2	2	0	0
<i>Navarretia prostrata</i> prostrate vernal pool navarretia	G2 S2	None None	Rare Plant Rank - 1B.1	10 10	60 S:2	0	2	0	0	0	0	0	2	2	0	0
<i>Neotoma fuscipes annectens</i> San Francisco dusky-footed woodrat	G5T2T3 S2S3	None None	CDFW_SSC-Species of Special Concern	190 602	38 S:3	0	2	1	0	0	0	0	3	3	0	0
<i>Northern Coastal Salt Marsh</i> Northern Coastal Salt Marsh	G3 S3.2	None None		10 15	53 S:4	0	1	0	0	0	3	4	0	4	0	0
<i>Oncorhynchus mykiss irideus pop. 8</i> steelhead - central California coast DPS	G5T2T3Q S2S3	Threatened None	AFS_TH-Threatened	190 200	44 S:2	0	0	0	0	0	2	1	1	2	0	0
<i>Plagiobothrys glaber</i> hairless popcornflower	GH SH	None None	Rare Plant Rank - 1A	15 80	9 S:2	0	0	0	0	2	0	2	0	0	2	0



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						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.
<i>Puccinellia simplex</i> California alkali grass	G3 S2	None None	Rare Plant Rank - 1B.2	5 5	71 S:1	0	0	0	0	0	1	0	1	1	0	0
<i>Rallus obsoletus obsoletus</i> California Ridgway's rail	G5T1 S1	Endangered Endangered	CDFW_FP-Fully Protected NABCI_RWL-Red Watch List	0 5	99 S:13	2	3	1	0	0	7	8	5	13	0	0
<i>Rana boylei</i> foothill yellow-legged frog	G3 S3	None Candidate Threatened	BLM_S-Sensitive CDFW_SSC-Species of Special Concern IUCN_NT-Near Threatened USFS_S-Sensitive	100 1,063	2366 S:8	0	2	1	0	4	1	5	3	4	1	3
<i>Rana draytonii</i> California red-legged frog	G2G3 S2S3	Threatened None	CDFW_SSC-Species of Special Concern IUCN_VU-Vulnerable	45 1,992	1515 S:23	1	12	4	3	0	3	2	21	23	0	0
<i>Reithrodontomys raviventris</i> salt-marsh harvest mouse	G1G2 S1S2	Endangered Endangered	CDFW_FP-Fully Protected IUCN_EN-Endangered	0 5	144 S:36	2	8	1	1	1	23	34	2	35	0	1
<i>Riparia riparia</i> bank swallow	G5 S2	None Threatened	BLM_S-Sensitive IUCN_LC-Least Concern	10 10	298 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Rynchops niger</i> black skimmer	G5 S2	None None	CDFW_SSC-Species of Special Concern IUCN_LC-Least Concern NABCI_YWL-Yellow Watch List USFWS_BCC-Birds of Conservation Concern	11 11	7 S:1	0	0	0	0	0	1	0	1	1	0	0
<i>Senecio aphanactis</i> chaparral ragwort	G3 S2	None None	Rare Plant Rank - 2B.2		82 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Sidalcea malachroides</i> maple-leaved checkerbloom	G3 S3	None None	Rare Plant Rank - 4.2	800 800	136 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Sorex vagrans halicoetes</i> salt-marsh wandering shrew	G5T1 S1	None None	CDFW_SSC-Species of Special Concern	0 5	12 S:4	0	0	0	0	1	3	4	0	3	0	1
<i>Spergularia macrotheca var. longistyla</i> long-styled sand-spurrey	G5T2 S2	None None	Rare Plant Rank - 1B.2	10 10	22 S:2	0	0	0	0	0	2	2	0	2	0	0



Summary Table Report
California Department of Fish and Wildlife
California Natural Diversity Database



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						A	B	C	D	X	U	Historic > 20 yr	Recent <= 20 yr	Extant	Poss. Extirp.	Extirp.
<i>Spirinchus thaleichthys</i> longfin smelt	G5 S1	Candidate Threatened	CDFW_SSC-Species of Special Concern	0 0	46 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Sternula antillarum browni</i> California least tern	G4T2T3Q S2	Endangered Endangered	CDFW_FP-Fully Protected NABCI_RWL-Red Watch List	3 3	75 S:4	0	0	0	0	0	4	4	0	4	0	0
<i>Streptanthus albidus ssp. peramoenus</i> most beautiful jewelflower	G2T2 S2	None None	Rare Plant Rank - 1B.2 SB_RSABG-Rancho Santa Ana Botanic Garden USFS_S-Sensitive	400 2,400	103 S:5	0	2	1	0	0	2	2	3	5	0	0
<i>Stuckenia filiformis ssp. alpina</i> slender-leaved pondweed	G5T5 S2S3	None None	Rare Plant Rank - 2B.2	40 40	21 S:1	0	0	0	0	0	1	1	0	1	0	0
<i>Suaeda californica</i> California seablite	G1 S1	Endangered None	Rare Plant Rank - 1B.1	5 10	18 S:2	0	0	0	0	2	0	2	0	0	2	0
<i>Trifolium hydrophilum</i> saline clover	G2 S2	None None	Rare Plant Rank - 1B.2	5 10	49 S:4	0	0	0	0	0	4	2	2	4	0	0
<i>Tryonia imitator</i> mimic tryonia (=California brackishwater snail)	G2 S2	None None	IUCN_DD-Data Deficient	0 5	39 S:2	0	0	0	0	0	2	2	0	2	0	0

California Native Plant Society, Rare Plant Program. 2019. Inventory of Rare and Endangered Plants of California (online edition, v8-03 0.45). Website <http://www.rareplants.cnps.org> [accessed 08 Mar

Scientific Name	Common Name	CRPR	CESA	FESA	Blooming		Habitat	Micro Habitat	Elevation	Elevation	Elevation	Elevation	CA Endemi
					Period				Low (m)	Low (ft)	High (m)	High (ft)	
<i>Acanthomintha lanceolata</i>	Santa Clara thorn-mint	4.2	None	None	Mar-Jun		Chaparral (often serpentinite), Cismontane woodland, Coastal scrub	rocky	80	260	1200	3935	T
<i>Androsace elongata</i> ssp. <i>acuta</i>	California androsace	4.2	None	None	Mar-Jun		Chaparral, Cismontane woodland, Coastal scrub, Meadows and seeps, Pinyon and juniper woodland, Valley and foothill grassland		150	490	1305	4280	F
<i>Astragalus tener</i> var. <i>tener</i>	alkali milk-vetch	1B.2	None	None	Mar-Jun		Playas, Valley and foothill grassland (adobe clay), Vernal pools	alkaline	1	0	60	195	T
<i>Atriplex depressa</i>	brittlescale	1B.2	None	None	Apr-Oct		Chenopod scrub, Meadows and seeps, Playas, Valley and foothill grassland, Vernal pools	alkaline, clay	1	0	320	1050	T
<i>Atriplex minuscula</i>	lesser saltscale	1B.1	None	None	May-Oct		Chenopod scrub, Playas, Valley and foothill grassland	alkaline, sandy	15	45	200	655	T
<i>Campanula exigua</i>	chaparral harebell	1B.2	None	None	May-Jun		Chaparral (rocky, usually serpentinite)		275	900	1250	4100	T
<i>Centromadia parryi</i> ssp. <i>congdonii</i>	Congdon's tarplant	1B.1	None	None	May-Oct(Nov)		Valley and foothill grassland (alkaline)		0	0	230	755	T
<i>Chloropyron maritimum</i> ssp. <i>palustre</i>	Point Reyes bird's-beak	1B.2	None	None	Jun-Oct		Marshes and swamps (coastal salt) Chaparral (maritime), Cismontane woodland (openings), Coastal dunes,		0	0	10	35	F
<i>Chorizanthe robusta</i> var. <i>robusta</i>	robust spineflower	1B.1	None	FE	Apr-Sep		Coastal scrub	sandy or gravelly	3	5	300	985	T
<i>Clarkia concinna</i> ssp. <i>automixa</i>	Santa Clara red ribbons	4.3	None	None	(Apr)May-Jun(Jul)		Chaparral, Cismontane woodland Broadleafed upland forest, Closed-cone coniferous forest, Chaparral, Cismontane woodland, Coastal scrub		90	295	1500	4920	T
<i>Clarkia lewisii</i>	Lewis' clarkia	4.3	None	None	May-Jul		Chaparral, Cismontane woodland, Coastal scrub		30	95	1195	3920	T
<i>Eriophyllum jepsonii</i>	Jepson's woolly sunflower	4.3	None	None	Apr-Jun		Chaparral, Cismontane woodland, Coastal scrub	sometimes serpentinite	200	655	1025	3365	T
<i>Eryngium aristulatum</i> var. <i>hooveri</i>	Hoover's button-celery	1B.1	None	None	(Jun)Jul(Aug)		Vernal pools		3	5	45	150	T

Extriplex joaquinana	San Joaquin spearscale	1B.2	None	None	Apr-Oct	Chenopod scrub, Meadows and seeps, Playas, Valley and foothill grassland	alkaline	1	0	835	2740	T
Fritillaria liliacea	fragrant fritillary	1B.2	None	None	Feb-Apr	Cismontane woodland, Coastal prairie, Coastal scrub, Valley and foothill grassland	Often serpentinite	3	5	410	1345	T
Lasthenia conjugens	Contra Costa goldfields	1B.1	None	FE	Mar-Jun	Cismontane woodland, Playas (alkaline), Valley and foothill grassland, Vernal pools	mesic	0	0	470	1540	T
Leptosiphon acicularis	bristly leptosiphon	4.2	None	None	Apr-Jul	Chaparral, Cismontane woodland, Coastal prairie, Valley and foothill grassland		55	180	1500	4920	T
Leptosiphon ambiguus	serpentine leptosiphon	4.2	None	None	Mar-Jun	Cismontane woodland, Coastal scrub, Valley and foothill grassland	usually serpentinite	120	390	1130	3705	T
Lessingia hololeuca	woolly-headed lessingia	3	None	None	Jun-Oct	Broadleafed upland forest, Coastal scrub, Lower montane coniferous forest, Valley and foothill grassland	clay, serpentinite	15	45	305	1000	T
Malacothamnus arcuatus	arcuate bush-mallow	1B.2	None	None	Apr-Sep (Apr)May-	Chaparral, Cismontane woodland		15	45	355	1165	T
Malacothamnus hallii	Hall's bush-mallow	1B.2	None	None	Sep(Oct)	Chaparral, Coastal scrub		10	30	760	2495	T
Mielichhoferia elongata	elongate copper moss	4.3	None	None		Broadleafed upland forest, Chaparral, Cismontane woodland, Coastal scrub, Lower montane coniferous forest, Meadows and seeps, Subalpine coniferous forest	Metamorphic rock, usually acidic, usually vernal mesic, often roadsides, sometimes carbonate	0	0	1960	6430	F
Monardella antonina ssp. antonina	San Antonio Hills monardella	3	None	None	Jun-Aug	Chaparral, Cismontane woodland		320	1045	1000	3280	T
Navarretia paradoxiclara	Patterson's navarretia	1B.3	None	None	May-Jun(Jul)	Meadows and seeps	Serpentinite, openings, vernal mesic, often drainages	150	490	430	1410	T
Navarretia prostrata	prostrate vernal pool navarretia	1B.1	None	None	Apr-Jul	Coastal scrub, Meadows and seeps, Valley and foothill grassland (alkaline), Vernal pools	Mesic	3	5	1210	3970	T

<i>Plagiobothrys glaber</i>	hairless popcornflower	1A	None	None	Mar-May	Meadows and seeps (alkaline), Marshes and swamps (coastal salt)		15	45	180	590 T
<i>Puccinellia simplex</i>	California alkali grass	1B.2	None	None	Mar-May	Chenopod scrub, Meadows and seeps, Valley and foothill grassland, Vernal pools	Alkaline, vernal mesic; sinks, flats, and lake margins	2	5	930	3050 F
<i>Senecio aphanactis</i>	chaparral ragwort	2B.2	None	None	Jan-Apr(May)	Chaparral, Cismontane woodland, Coastal scrub	sometimes alkaline	15	45	800	2625 F
<i>Sidalcea malachroides</i>	maple-leaved checkerbloom	4.2	None	None	(Mar)Apr-Aug	Broadleaved upland forest, Coastal prairie, Coastal scrub, North Coast coniferous forest, Riparian woodland	Often in disturbed areas	0	0	730	2395 F
<i>Spergularia macrotheca</i> var. <i>longistyla</i>	long-styled sand-spurrey	1B.2	None	None	Feb-May	Meadows and seeps, Marshes and swamps	Alkaline	0	0	255	835 T
<i>Streptanthus albidus</i> ssp. <i>peramoenus</i>	most beautiful jewelflower	1B.2	None	None	(Mar)Apr-Sep(Oct)	Chaparral, Cismontane woodland, Valley and foothill grassland	serpentinite	95	310	1000	3280 T
<i>Stuckenia filiformis</i> ssp. <i>alpina</i>	slender-leaved pondweed	2B.2	None	None	May-Jul	Marshes and swamps (assorted shallow freshwater)		300	980	2150	7055 F
<i>Suaeda californica</i>	California seablite	1B.1	None	FE	Jul-Oct	Marshes and swamps (coastal salt)		0	0	15	50 T
<i>Trifolium hydrophilum</i>	saline clover	1B.2	None	None	Apr-Jun	Marshes and swamps, Valley and foothill grassland (mesic, alkaline), Vernal pools		0	0	300	985 T



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Sacramento Fish And Wildlife Office
Federal Building
2800 Cottage Way, Room W-2605
Sacramento, CA 95825-1846
Phone: (916) 414-6600 Fax: (916) 414-6713

In Reply Refer To:

March 08, 2019

Consultation Code: 08ESMF00-2019-SLI-1306

Event Code: 08ESMF00-2019-E-04220

Project Name: San José-Santa Clara Regional Wastewater Facility Digested Sludge Dewatering Facility

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, under the jurisdiction of the U.S. Fish and Wildlife Service (Service) that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the Service under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Please follow the link below to see if your proposed project has the potential to affect other species or their habitats under the jurisdiction of the National Marine Fisheries Service:

http://www.nwr.noaa.gov/protected_species/species_list/species_lists.html

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2) (c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan (http://www.fws.gov/windenergy/eagle_guidance.html). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment(s):

- Official Species List

Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

Sacramento Fish And Wildlife Office

Federal Building

2800 Cottage Way, Room W-2605

Sacramento, CA 95825-1846

(916) 414-6600

Project Summary

Consultation Code: 08ESMF00-2019-SLI-1306

Event Code: 08ESMF00-2019-E-04220

Project Name: San José-Santa Clara Regional Wastewater Facility Digested Sludge Dewatering Facility

Project Type: WASTEWATER FACILITY

Project Description: Project components include construction new Digested Sludge Conveyance and Storage and a new Dewatering Facility.

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/37.42856676889194N121.94100924921594W>



Counties: Santa Clara, CA

Endangered Species Act Species

There is a total of 17 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries¹, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

-
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

Mammals

NAME	STATUS
Salt Marsh Harvest Mouse <i>Reithrodontomys raviventris</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/613	Endangered
San Joaquin Kit Fox <i>Vulpes macrotis mutica</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/2873	Endangered

Birds

NAME	STATUS
California Clapper Rail <i>Rallus longirostris obsoletus</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/4240	Endangered
California Least Tern <i>Sterna antillarum browni</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/8104	Endangered
Western Snowy Plover <i>Charadrius nivosus nivosus</i> Population: Pacific Coast population DPS-U.S.A. (CA, OR, WA), Mexico (within 50 miles of Pacific coast) There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8035	Threatened
Yellow-billed Cuckoo <i>Coccyzus americanus</i> Population: Western U.S. DPS There is proposed critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/3911	Threatened

Reptiles

NAME	STATUS
Alameda Whipsnake (=striped Racer) <i>Masticophis lateralis euryxanthus</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/5524	Threatened

Amphibians

NAME	STATUS
California Red-legged Frog <i>Rana draytonii</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/2891	Threatened
California Tiger Salamander <i>Ambystoma californiense</i> Population: U.S.A. (Central CA DPS) There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/2076	Threatened

Fishes

NAME	STATUS
Delta Smelt <i>Hypomesus transpacificus</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/321	Threatened

Insects

NAME	STATUS
Bay Checkerspot Butterfly <i>Euphydryas editha bayensis</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/2320	Threatened
San Bruno Elfin Butterfly <i>Callophrys mossii bayensis</i> There is proposed critical habitat for this species. The location of the critical habitat is not available. Species profile: https://ecos.fws.gov/ecp/species/3394	Endangered

Crustaceans

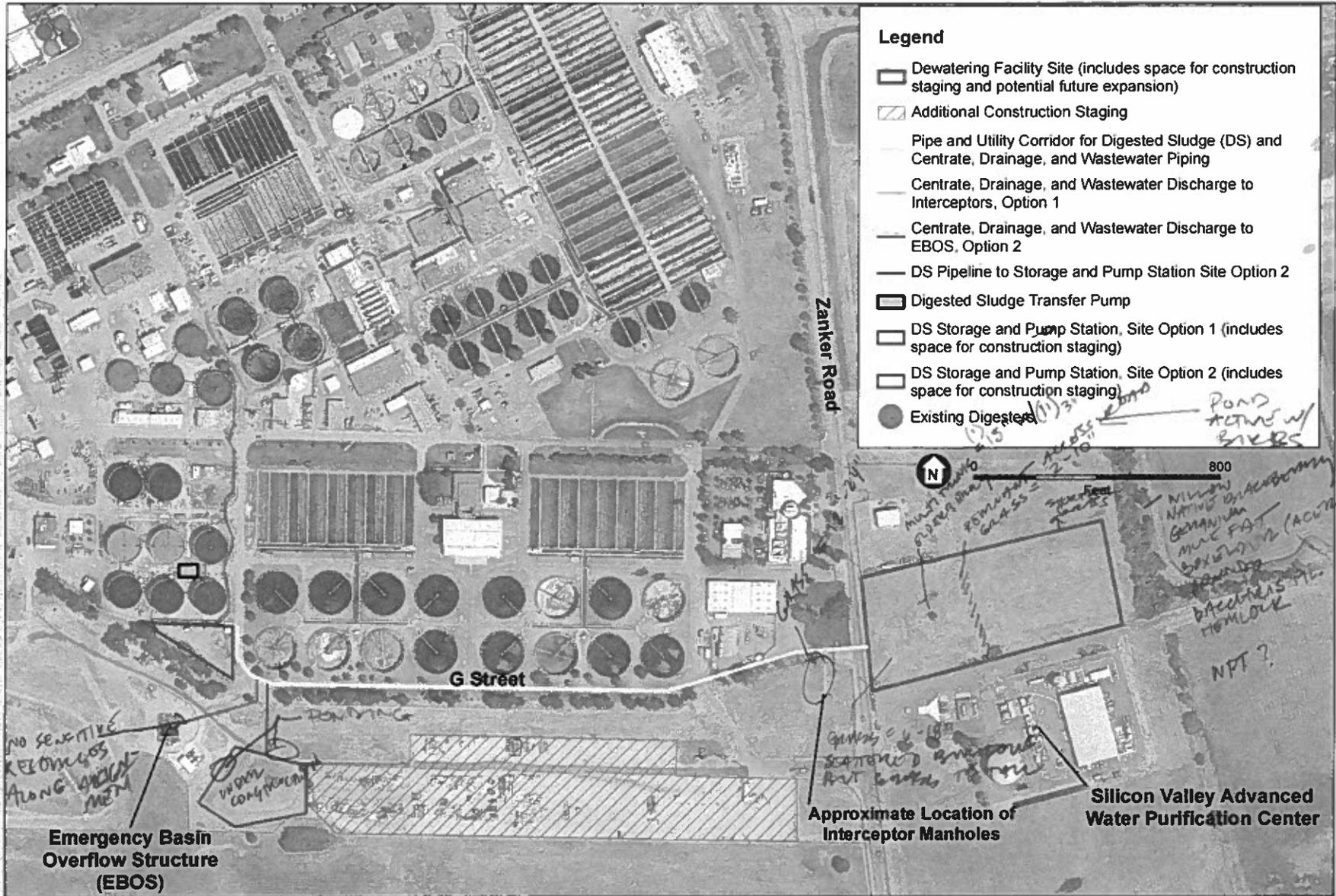
NAME	STATUS
Conservancy Fairy Shrimp <i>Branchinecta conservatio</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/8246	Endangered
Vernal Pool Tadpole Shrimp <i>Lepidurus packardii</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/2246	Endangered

Flowering Plants

NAME	STATUS
California Seablite <i>Suaeda californica</i> No critical habitat has been designated for this species. Species profile: https://ecos.fws.gov/ecp/species/6310	Endangered
Contra Costa Goldfields <i>Lasthenia conjugens</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/7058	Endangered
Robust Spineflower <i>Chorizanthe robusta var. robusta</i> There is final critical habitat for this species. Your location is outside the critical habitat. Species profile: https://ecos.fws.gov/ecp/species/9287	Endangered

Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.



SOURCE: Google Earth, 2018

Ground Squirrel
Swallow
ESA
Least Sandpiper
Crested
R. Oriole

R/W Blackbird
Starling
Black Necked Stilt
Avocet
Anna's Hummingbird
RTT
Sharp Billed Noddy

Brown's Blackbird

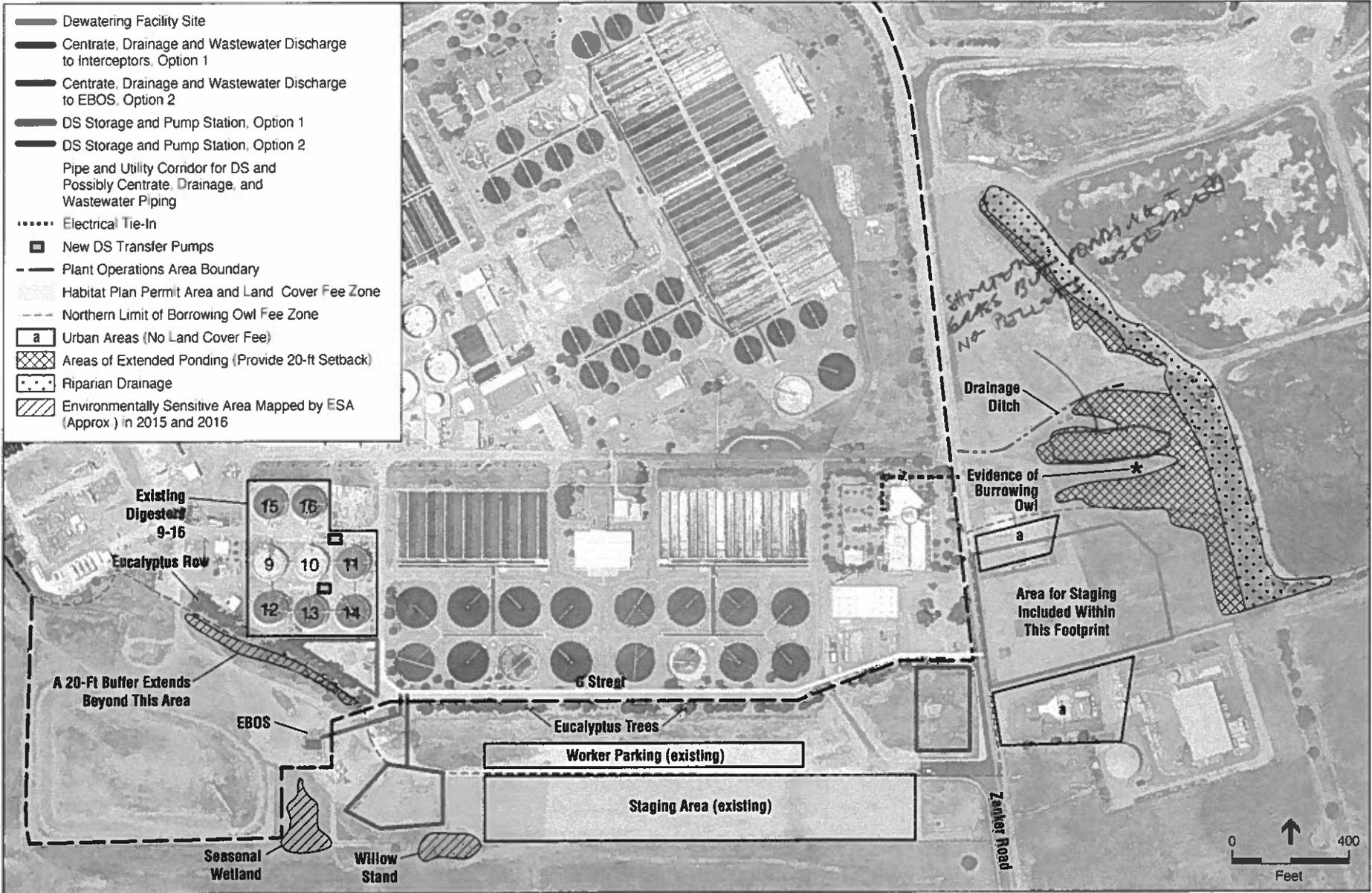
VEGETATION
San José-Santa Clara Regional Wastewater Facility Digested Sludge Dewatering Facility Project
Basilica Nigra
Houderm m.
Elderberry + Dead Oregon Nut
Poppy
Milk Thistle
Fox Tail Ragwort

Bur oak
Cut-leaved

Figure 2-5
Project Components

3/28/19 B10 RECON
 E. HILL
 1:05 - 4:10

2052



Source: TM 4, Reference 9; Santa Clara Valley Habitat Agency Geo Browser

Figure 3.3-1. Biological Resources and SCVHP Zones in Proximity to Project Elements

Appendix D

Biological Resource Assessment

ENVIRONMENTAL COLLABORATIVE

Consultation • Documentation • Restoration
41 Jeanette Court • Walnut Creek, CA 94596
Phone 510-393-0770 • beach127@aol.com

MEMORANDUM

TO: Mr. Paul Scheidegger
Scheidegger & Associates
201 North Civic Drive, Suite 300
Walnut Creek, California 94608

FROM: Jim Martin
ENVIRONMENTAL COLLABORATIVE

DATE: 30 August 2018

SUBJECT: Biological Resource Assessment
Digested Sludge Dewatering Project
San José-Santa Clara Regional Wastewater Facility
City of San José, California

As you requested, I have prepared a Biological Resource Assessment (BRA) of the proposed Digested Sludge Dewatering Facility Project (Project) at the City of San José-Santa Clara Regional Wastewater Facility (RWF). The RWF is located at 700 Los Esteros Road in the northernmost portion of the City of San José. The proposed mechanical dewatering facility would be located on the east side of Zanker Road at McCarthy Lane, just north of the Silicon Valley Advanced Water Purification Center. Project components also extend along the southern edge of the existing treatment plant which include: a Digested Sludge Storage and Pumping Facility at two alternative locations; a pipeline and utility corridor along G street; alternative locations for discharge of centrate, drainage, and wastewater; and an electrical tie-in location. This BRA has been prepared to describe existing biological and wetland resources found on the Project site and to assess the potential impacts of the Project according to the significance criteria of the California Environmental Quality Act (CEQA) Guidelines.

SETTING

Background and Methods

Biological resources associated with the Project site were identified through a review of available background information and conduct of field surveys. Available documentation was reviewed to provide information on general resources in the north Santa Clara County and south Alameda County areas, presence of sensitive natural communities, and the distribution and habitat requirements of special-status species, which have been recorded from or are suspected to occur in the site vicinity. Literature review included: *Initial Study on the San José-Santa Clara*

*Regional Wastewater Facility Cogeneration Plant*¹; *Biosolids Alternatives Sites A, B, C and D – Permitting and CEQA Constraints* (Biosolids Alternatives Memo);² *Wetland Delineation Summary for Alternative Biosolids Sites A and C* (WDS Memo);³ *Initial Study on the San José-Santa Clara Regional Wastewater Facility Iron Salt Feed Station Project*,⁴ the occurrence records of the California Natural Diversity Data Base (CNDDDB) of the California Department of Fish and Wildlife (CDFW); and the California Native Plant Society (CNPS) *Inventory of Rare and Endangered Plants*.

A field reconnaissance survey was conducted by James Martin, biologist and principal of Environmental Collaborative, on April 3, 2017 to determine the vegetation and wildlife resources, presence or absence of any sensitive resources such as potential jurisdictional waters, and the suitability of the Project site to support populations of special-status species. A systematic survey for Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*), a special-status plant species known from nearby grassland habitat, was conducted on July 20, 2017 by a qualified botanist to confirm absence of this species. A follow-up reconnaissance survey was also conducted on July 26, 2017 along the southern edge of the existing treatment plant.

Existing Vegetation and Wildlife Habitat Conditions

Figure 1 shows the location of important biological features in the vicinity of the Project site. Most of the Project site has been highly disturbed by past agricultural development and grading, and now supports a cover of ruderal (weedy) grasslands, as well as improvements associated with construction of the existing treatment plant, or areas stripped of vegetative cover during construction of the Iron Salt facility. A remnant drainage occurs over 200 feet east of the Dewatering Facility site, which supports a cover of native willow (*Salix* spp.), oaks (*Quercus* spp.), and cattail (*Typha latifolia*), along with other riparian and wetland indicator species. An existing metal structure, surrounded by paved and graveled surfaces occurs opposite the Environmental Services Department of the RWF along Zanker Road (see **Figure 1**), together with scattered gravel roadways that bisect the Dewatering Facility site. Areas to the north and east of the Dewatering Facility Site were submerged under water at the time of the field reconnaissance in April 2017, or showed evidence of ponding well beyond the boundaries of the eastern riparian drainage. The boundaries of the proposed Dewatering Facility Site were laid out to avoid these areas of ponding and potential seasonal wetlands (see **Figure 1**). Ruderal plant species found in the grasslands include: wild oak (*Avenua fatua*), bromes (*Bromus* spp.), English plantain (*Plantago lanceolata*), bristly oxtongue (*Picris echioides*), field bindweed (*Convolvulus arvensis*), vetch (*Vicia sativa*), and wild radish (*Raphanus raphanistrum*), among others.

Most of the Project site provides suitable habitat for grassland-dependent species, and others typical of ruderal and urban habitat occur in the vicinity, including: sparrows (*Passer* spp.), house finch (*Haemorhous mexicanus*), house sparrow (*Passer domesticus*), northern mocking bird (*Mimus polyglottos*), Canada goose (*Branta canadensis*), Botta's pocket gopher (*Thomomys*

¹ City of San Jose, 2014, *San José-Santa Clara Regional Wastewater Facility Cogeneration Project, Initial Study, File Number: PP14-005*, April.

² ESA, 2014a, *Biosolids Alternative Sites A, B, C and D – Permitting and CEQA Constraints*, memo to City of San Jose, Environmental Services Department from Priya Finnemore, Jill Hamilton and Michelle Giolli-Hornstein, October 11.

³ ESA, 2014b, *Wetland Delineation Summary for Alternative Biosolids Sites A and C*, memorandum to Project Team from Chris Rogers, dated October 20.

⁴ ESA, 2015, *San José-Santa Clara Regional Wastewater Facility Iron Salt Feed Station Project, Initial Study, File Number PP14-098*, May.

bottae), house mouse (*Mus musculus*), and Norway rat (*Rattus norvegicus*). California ground squirrel (*Otospermophilus beecheyi*) burrows were observed in a number of locations, including the edges of the berm to the north of the Dewatering Facility site, the vicinity of the existing structure, the margins of several utility boxes along Zanker Road, and along the berm on the south side of G Street at the existing treatment plant. Several pellets of western burrowing owl (*Athene cunicularia hypugaea*) were observed near pump equipment north of the Dewatering Facility site (see **Figure 1**). Western burrowing owl is known to frequently occupy underground burrows of ground squirrel for nesting and retreat habitat. No white wash, feathers, pellets or other indications of occupation by western burrowing owl were observed at any of the other ground squirrel burrows during an inspection performed during the field reconnaissance surveys. No evidence of nesting by any bird species was observed in any of the trees or the structure on the Project site during the field reconnaissance surveys, although no detailed surveys were performed.

Special-Status Species

Special-status species are plants and animals that are legally protected under the State and/or Federal Endangered Species Acts⁵ or other regulations, as well as other species that are considered rare enough by the scientific community and trustee agencies to warrant special consideration, particularly with regard to protection of isolated populations, nesting or denning locations, communal roosts, and other essential habitat. Species with legal protection under the Endangered Species Acts often represent major constraints to development, particularly when they are wide-ranging or highly sensitive to habitat disturbance and where proposed development would result in a "take" ⁶ of these species.

A record search of the CNDDDB, together with review of other information indicates that occurrences of numerous plant and animal species with special-status have been recorded from or are suspected to occur in the northern Santa Clara County and southern Alameda County area. **Figures 2** and **3** show the known occurrences of special-status plants and animals, respectively, as mapped by the CNDDDB in an approximately three-mile radius of the Project site. The attached list from the CNDDDB shows the broad list of special-status plants and animals known from a wide range of habitat types found in Santa Clara and Alameda Counties, none of which are likely to occur on the Project site, with the possible exception of western burrowing owl due to the extent of past and on-going disturbance. The following provides a summary of the plant and animal species known or suspected to occur in the surrounding area where suitable habitat remains.

Plant Species. Based on the review of CNDDDB data and the CNPS Inventory, a total of 14 special-status plant species were suspected to occur in the vicinity of the Project site. **Figure 2** shows the distribution of known occurrences of special-status plant species as reported by the CNDDDB. These have varied status, and most are considered rare (list 1B) by the CNPS in their

⁵ The Federal Endangered Species Act (FESA) of 1973 declares that all federal departments and agencies shall utilize their authority to conserve endangered and threatened plant and animal species. The California Endangered Species Act (CESA) of 1984 parallels the policies of FESA and pertains to native California species.

⁶ "Take" as defined by the FESA means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect" a threatened or endangered species. "Harm" is further defined by the U.S. Fish and Wildlife Service (USFWS) to include the killing or harming of wildlife due to significant obstruction of essential behavior patterns (i.e., breeding, feeding, or sheltering) through significant habitat modification or degradation. The CDFW also considers the loss of listed species habitat as take, although this policy lacks statutory authority and case law support under the CESA.

electronic *Inventory of Rare and Endangered Plants of California*. A few have legal protective status under the ESAs, such as the federally-endangered robust spineflower (*Chlorizantha robusta* var. *robusta*) and California seablite (*Suaeda californica*). However, suitable habitat for special-status plant species known from the surrounding area is generally absent from the Project site, and none are expected to be present due to past and on-going disturbance observed during the field reconnaissance surveys. With the exception of the riparian corridor to the east of the Dewatering Facility site, the entire area has been completely disturbed by past agricultural activities, grading, and other activities, which precludes the possibility of presence of most species-status plant species on the Project site. This was confirmed as part of the investigation conducted by ESA as described in the 2014 Biosolids Alternatives Memo.

Based on a review of field conditions, Congdon's tarplant was considered to have a remote potential for occurrence in the remaining ruderal grasslands of the Project site, although considered highly unlikely. This subspecies has no formal listing status under the State or Federal Endangered Species Acts, but has a California Rare Plant Rank of 1B (Plants Rare, Threatened, or Endangered in California and Elsewhere) in the California Native Plant Society *Inventory of Rare and Endangered Plants*. It is found in grassland habitats of the Bay Area, Monterey Bay Area, and San Luis Obispo. As indicated in **Figure 2**, an occurrence of Congdon's tarplant is known from similar grassland habitat under one mile west of the Project site. Given the proximity of this known occurrence of Congdon's tarplant, and similarities in habitat conditions, a systematic survey was considered necessary to confirm absence of this subspecies from the Project site. The detailed survey was conducted on July 20, 2017, and confirmed that this subspecies was absent from the site. The more common subspecies of pappose tarplant (*Centromadia parryi* ssp. *parryi*) was found scattered north of the Dewatering Facility site, but this subspecies is not considered of special status of any kind. A list of all plant species encountered during the systematic surveys is contained in Attachment A, and no special-status plant species were encountered or are believed to occur on the Project site.

Animal Species. Based on the review of CNDDDB data and other information, a total of 29 special-status mammals, birds, reptiles, amphibians, fish, and invertebrate species are known or suspected to occur in the Project site vicinity. **Figure 3** shows the distribution of known occurrences of special-status animal species in the vicinity. Suitable habitat for most of these species is absent from the Project site, with the possible exception of nesting by western burrowing owl and other bird species of concern. No evidence of any bird nesting was observed during the field reconnaissance surveys.

There remains a potential for nesting by burrowing owl in the scattered ground squirrel burrows, although no signs of nesting were observed. Similarly, the mature trees and other dense vegetation along the riparian corridor to the east of the Dewatering Facility site, the eucalyptus trees along the berm south of G Street, and eucalyptus trees along the southern edge of the DS Storage and Pump Station area under Option 1 could support nesting by a number of special-status bird species, such as white-tailed kite (*Elanus lecurus*), northern harrier (*Circus cyaneus*) and more common bird species protected under the federal Migratory Bird Treaty Act. Again, no evidence of any nesting was observed during the field surveys of the Project site, but new nests could be established in the future before construction is initiated.

An approximately 200-acre burrowing owl mitigation area was established on the RWF property to the southwest of the main treatment plant in 2013, as part of the Santa Clara Valley Habitat Plan (SCVHP). The SCVHP is a 50-year regional plan to protect special-status species and their habitat, while allowing for future development in Santa Clara County. The SCVHP was adopted

in 2013 by all local participating agencies, and incidental take permits were issued by the USFWS and CDFW. Most of the Project site is contained within the plan area for the SCVHP (see **Figure 1**), and the burrowing owl mitigation area was established in fulfillment of the habitat protection goals of the SCVHP. The Project site is separated from the boundary of the burrowing owl mitigation area by a distance of over 700 feet at its closest location where the DS Storage and Pump Station would be located under Option 1. As indicated in **Figure 3**, the closest reported colony of burrowing owl is located on the west side of Zanker Road, in the vicinity of the possible tie-ins to the interceptors (under Option 1). No evidence of current occupation by burrowing owl was observed at this location or any of the ground squirrel burrows during the field surveys, but burrowing owls are known to forage throughout the grasslands in the vicinity and new nests could be established in the future before construction proceeds.

Jurisdictional Waters

Although definitions vary, wetlands are generally considered to be areas that are periodically or permanently inundated by surface or groundwater, and support vegetation adapted to life in saturated soil. Wetlands are recognized as important features on a regional and national level due to their inherent value to fish and wildlife, use as storage areas for storm and floodwaters, and water recharge, filtration, and purification functions. Jurisdiction of the U.S. Army Corps of Engineers (Corps) is established through provisions of Section 404 of the Clean Water Act, which prohibits the discharge of dredged or fill material into “waters of the U.S.” without a permit. The Regional Water Quality Control Board (RWQCB) jurisdiction is established through Section 401 of the Clean Water Act, which requires certification or waiver to control discharges in water quality whenever a Corps permit is required under Section 404 of the Clean Water Act. State waters are also regulated under the Porter-Cologne Act. Jurisdictional authority of the CDFW over wetland areas is established under Sections 1600-1607 of the State Fish and Game Code, which pertains to activities that would disrupt the natural flow or alter the channel, bed or bank of any lake, river or stream.

The 2014 Wetland Delineation Memo by ESA covered the currently proposed Dewatering Facility site as well as the adjoining area to the north between Zanker Road and the riparian drainage. ESA concluded that jurisdictional wetlands within this area were limited to a small area of seasonal wetlands (0.03 acre) in the northeastern portion of the site. However, conditions observed during the field reconnaissance in April 2017 indicate a large portion of the eastern edge of this area was either submerged or showed evidence of ponding. This was most likely due to the heavy winter rains which extended well into the spring, and flooded the lower elevations of the area. Algal mats and other indicators of wetland conditions were observed throughout this of ponding and potential seasonal wetlands, as indicated in **Figure 1**. Field conditions could change under more normal rainfall levels, but locations mapped as areas of extended ponding in **Figure 1** should be considered likely to be regulated as State and Federal jurisdictional waters, as is the riparian drainage to the east of the Dewatering Facility site. As noted above, the limits of the proposed Dewatering Facility site were designed to avoid any of these potentially regulated waters and to provide minimum setbacks to prevent any direct or indirect impacts during construction.

The area to the south of the proposed DS Storage (DS) and Pump Station site under Option 1 (see **Figure 1**) was identified as potential seasonal wetlands during a wetland delineation performed by ESA in 2015 as part of the Initial Study on the Iron Salt Feed Station Project.⁷ This low-lying potential seasonal wetland area was believed to be a remnant of the Artesian Slough

⁷ ESA, 2015, *ibid*.

Channel. However, an elevated berm landscaped with eucalyptus trees separates the proposed DS Storage and Pump Station site from this potential seasonal wetlands, and the location where the tanks are proposed is currently used for material storage with no indications of seasonal or other wetlands. A seasonal wetland and stand of native willow were identified during the environmental review of the Iron Salt Project, located to the southwest and southeast of the proposed DS Storage and Pump Station under Option 2 (see **Figure 1**), but both features would be avoided during construction. No other evidence of potential regulated State or Federal waters were observed in the vicinity of the facilities proposed along the southern edge of the existing treatment plant west of Zanker Road during the field reconnaissance surveys conducted as part of this assessment in 2017.

IMPACT ANALYSIS

Control Measures Incorporated by the City

BIO-1. Ornamental trees removed during construction will be replaced by the City on-site or at other public project sites at a ratio specified below, or a fee will be paid to a non-profit organization Our City Forest that plants trees in San Jose. Final mitigation for impacts to protected trees will be determined by the City Planning Division.

Diameter of Tree to be Removed	Type of Tree to be Removed			Minimum Size of Each Replacement Tree
	5:1	4:1	3:1	
18 inches or greater	5:1	4:1	3:1	24-inch box
12-18 inches	3:1	2:1	none	24-inch box
Less than 12 inches	1:1	1:1	none	15-gallon container

x:x = tree replacement to tree loss ratio

BIO-2. The Project is a covered activity subject to the provisions of the Santa Clara Valley Habitat Plan, and the City will comply with all relevant provisions, including any required preconstruction surveys for wildlife species such as burrowing owl.

Significance Criteria

Resource Category/Significance Criteria	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
---	--------------------------------	--	------------------------------	-----------

BIOLOGICAL RESOURCES. Would the Project:

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| 1) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | X | <input type="checkbox"/> | <input type="checkbox"/> |
| 2) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | X |

Resource Category/Significance Criteria	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant Impact	No Impact
3) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	X	<input type="checkbox"/>	<input type="checkbox"/>
4) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
5) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>
6) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	X	<input type="checkbox"/>

Discussion

1) **Less than Significant Impact with Mitigation Incorporated.**

Due to the extent of past development and absence of suitable habitat, no special-status species are believed to occur in the immediate vicinity of the Project site, and no effects are anticipated.

No evidence of any nesting was observed in the vicinity of the Project site, including burrowing owl and other raptors. The known burrowing owl nesting colonies in the burrowing owl mitigation preserve secured under the Owl Habitat Reserve System as part of the Santa Clara Valley Habitat Plan (SCVHP) are located over 700 feet to the southwest of the proposed DS Storage and Pump Station under Options 1 and 2, and dense eucalyptus landscaping provides dense screening between the closest location where construction activities are proposed under Option 1. Any burrowing owls in the nearby area are already acclimated to on-going activity at the RWF, including construction of the Iron Salt Facility and construction of the Staging Area and Worker Parking areas (see **Figure 1**), and construction-related disturbance would not result in disturbance to these owls given the long distance, dense screening, and acclimation.

Although the limited habitat values and extent of on-going disturbance generally precludes the potential for nesting birds on the Project site, there remains a remote possibility that new raptor or other bird nests could be established in the few scattered trees and other vegetation or that burrowing owl could establish a new nesting colony in the ground squirrel burrows located in various locations in the vicinity of the Project site. If construction is initiated during the bird nesting season (February 1 – August 31), construction-related disturbance could result in abandonment of an active nest(s) if any are present in the immediate vicinity. New lighting (both

during and after construction), reflective surfaces of new structures, and other aspects of building design could adversely affect nesting success if careful controls are not implemented as part of the Project. If construction-related noise and disturbance resulted in abandonment of a nest in active use and loss of any eggs or young in the nest, this would be a significant adverse impact and violation of the federal Migratory Bird Treaty Act and State Fish and Game Code. The mitigation measures below would serve to avoid this potential for violation of Federal and State regulations by conducting a preconstruction survey and implementing appropriate construction restrictions if any active nests are encountered until any young birds have successfully fledged.

Mitigation Measure BIO-1a. Raptor and Migratory Bird Nest Measures

Adequate measures shall be taken to avoid inadvertent take of bird nests protected under the federal Migratory Bird Treaty Act and State Fish and Game Code when in active use. This shall be accomplished according to the following steps and criteria.

- *If possible, construction shall be scheduled between September 1st and January 31st (inclusive) to avoid the bird nesting season. If Project construction is scheduled during breeding bird season (February 1^s to August 31st inclusive), City's Environmental Services Department (ESD) or the design-builder shall retain a qualified wildlife biologist to conduct a survey for nesting raptors and migratory bird nests within 7 days of the start of construction or after any construction breaks of 14 days or more, within 7 days prior to the resumption of construction.*
- *Surveys shall be performed for the Project area and for suitable habitat within 300 feet. If an active nest is discovered, a no-disturbance buffer zone around the nest tree (or, for ground-nesting species, or nests identified on Facility buildings, the nest itself) shall be established by the qualified wildlife biologist. The no-disturbance zone shall be marked with flagging or fencing that is easily identified and avoided by the construction crew, and shall not affect the nesting birds. In general, the minimum buffer zone widths shall be as follows: 100 feet (radius) for non-raptor species and 300 feet (radius) for raptor species; however, the buffer zone widths may be adjusted if an obstruction (such as a building) is within line-of-sight between the nest and construction. Buffer zone widths and other avoidance measures may be modified by the qualified wildlife biologist based on consultation with California Department of Fish and Wildlife (CDFW) and U.S. Fish and Wildlife Service (USFWS). Buffer zones shall remain in place as long as the nest is active or young remain in the area and are dependent on the nest.*
- *A report of findings shall be prepared by the qualified wildlife biologist and submitted to the City for review and approval prior to initiation of construction during the nesting season (February 1st to August 31st). The report shall either confirm absence of any active nests or confirm that any young are located within a designated no-disturbance zone and construction can proceed. No report of findings is required if construction is initiated during the non-nesting season (September 1st to January 31st) and continues uninterrupted according to the above criteria.*
- *Construction activities that are scheduled to begin outside the breeding season (September 1st through January 31st, inclusive) can proceed without surveys. If possible, all necessary tree and vegetation removal shall be conducted before the start of breeding bird season to minimize the opportunity for birds to nest at the Project site and conflict with Project construction activities.*

Mitigation Measure BIO-1b. Burrowing Owl Measures

Adequate measures shall be taken to avoid inadvertent take of burrowing owls and active burrowing owl nests protected under the federal Migratory Bird Treaty Act and State Fish and Game Code when in active use. In addition to the provisions addressed above under **Mitigation Measure BIO-1a**, this shall include the following additional steps and criteria.

Preconstruction Measures:

- A qualified wildlife biologist shall conduct preconstruction surveys for burrowing owl in all suitable habitat within 250 feet of construction activity, between 14 and 4 days prior to initiating ground disturbance related to Project construction activities. The 250-foot buffer zone shall be surveyed to identify burrows and owls outside of the Project area which may be impacted by factors such as noise and vibration (heavy equipment) during Project construction. As burrowing owls may recolonize a location after only a few days, time lapses between Project activities shall require subsequent take avoidance surveys including but not limited to a final survey conducted no more than 2 days prior to ground disturbance to ensure absence. A minimum of two surveys shall be conducted (if owls are detected on the first survey, a second survey is not needed).
- The preconstruction surveys shall be conducted for a minimum of 3 hours, beginning 1 hour before sunrise and continuing until 2 hours after sunrise (3 hours total) or beginning 2 hours before sunset and continuing until 1 hour after sunset. Additional time may be required for large construction areas not entirely visible from the survey location.

Avoidance Measure During Breeding Season – February 1st to August 31st:

- If preconstruction surveys identify evidence of burrowing owls within 250 feet of the Project area during the breeding season (February 1st to August 31st), any active nest shall be avoided by Project construction activities during the remainder of the breeding season or while the nest is occupied by adults or young (occupation includes individuals or family groups foraging on or near the location following fledging). Avoidance shall include establishment of a 250-foot no-disturbance buffer zone around active nest locations by a qualified wildlife biologist.
- If active nests cannot be completely avoided, construction may occur within 250 feet of an active nest if 1) the nest is not disturbed, and 2) an Avoidance, Minimization, and Monitoring Plan (Plan) subject to approval by CDFW and the Habitat Agency overseeing the SCVHP. The Plan shall incorporate the following criteria:
 - A qualified wildlife biologist shall monitor the owls within the 25-foot buffer zone for at least 3 days prior to Project construction to determine baseline nesting and foraging behavior (i.e., behavior without construction). The same qualified wildlife biologist shall monitor the owls during construction and find no change in owl nesting and foraging behavior in response to construction activities.
 - If there is any change in owl nesting and foraging behavior as a result of Project construction activities, these activities shall cease within the 25-foot buffer zone. Construction shall not resume within the 25-foot buffer zone until the adult owls and juveniles from the occupied burrow(s) have moved out of the Project site.
 - If monitoring indicates that the nest is abandoned prior to the end of nesting season and the burrow is no longer in use by owls, the no-disturbance buffer zone may be removed. The biologist shall excavate the burrow to prevent reoccupation after receiving approval from CDFW.

Avoidance Measures During Non-Breeding Season - September 1st to January 31st:

- *If preconstruction surveys identify evidence of burrowing owls within 250 feet of the Project area during the non-breeding season (September 1st to January 31st, inclusive), a 250-foot no-disturbance buffer shall be established around the occupied overwintering burrow(s) as determined by a qualified wildlife biologist.*
- *If occupied burrows cannot be avoided, construction may occur within 250 feet of overwintering burrows if:*
 - *A qualified wildlife biologist monitors the owls for at least 3 days prior to construction to determine baseline foraging behavior (i.e., behavior without construction).*
 - *The same qualified wildlife biologist monitors the owls during construction and finds no change in owl foraging behavior in response to construction activities.*
 - *If there is any change in owl nesting and foraging behavior as a result of construction activities, these activities shall cease within the 250-foot buffer.*
 - *If the owls are gone for at least one week, a request may be made to the SCVHP Habitat Agency for the qualified wildlife biologist to excavate usable burrows to prevent owls from re-occupying them. After all usable burrows are excavated, the no-disturbance buffer zone shall be removed and construction may continue.*
 - *Monitoring must continue as described above for the non-breeding season as long as the burrow remains in active use by burrowing owl.*

Construction Monitoring and Environmental Training:

During construction, the no-disturbance buffer zone(s) shall be established and maintained where applicable and based on the Project Avoidance, Minimization, and Monitoring Plan (Plan), if one is required. The qualified wildlife biologist shall monitor the nest location consistent with the requirements in the Avoidance Measures, described above, to ensure that buffers are enforced and owls are not disturbed. The qualified wildlife biological monitor shall prepare and perform an environmental training for all Project personnel on the avoidance procedures, buffer zones, and protocols in the event that a burrowing owl flies into an active construction zone.

Passive Relocation:

If avoidance measures described cannot be implemented with the Project, then passive relocation shall be implemented according to the protocol described in the SCVHP and in coordination with and approval by CDFW.

Mitigation Measure BIO-1c. Minimize Light and Reflective Surfaces

Design characteristics of the Project facilities shall be consistent with the Bird-Safe Design Guidance in the City Council Policy on Riparian Corridor Protection and Bird-Safe Design.⁸

⁸ City of San Jose, Council Policy, 2016, *Riparian Corridor Protection and Bird-Safe Design, Policy*

This shall include the following design characteristics:

- *The exterior of any structures shall not be made of reflective surfaces.*
- *Lights at the Project site (during construction and operation) shall be directed downwards and shielded pursuant to Condition 7 of the Santa Clara Valley Habitat Conservation Plan (HCP) to ensure that no fugitive light spills out into natural lands and interferes with typical avian behavior.*
- *The exterior lighting for the Dewatering Facility shall only be on during night-time hours as minimally required for security and operations.*
- *Interior lighting of any windowed buildings shall use energy-efficient occupancy sensors so that interior lights would only be on when an office or room is occupied.*

Implementation of these mitigation measures would ensure that impacts on special-status species would be less-than-significant.

2) No Impact.

The Project site does not contain any riparian habitat or other sensitive natural community types, and no effects are anticipated. The riparian habitat along the eastern edge of the Dewatering Facility Site will be avoided, and the limits of construction associated with the Dewatering Facility Site have been restricted a minimum of 200 feet from the riparian habitat along this drainage.

3) Less than Significant Impact with Mitigation Incorporated.

The Project site does not contain any federally protected wetlands and no effects are anticipated. The Dewatering Facility Site was designed to provide a minimum 20 foot setback from the nearby seasonally ponded areas (see **Figure 1**), and other potential jurisdictional waters would also be avoided near the DS Storage and Pump Station (under Options 1 and 2). However, if careful controls are not implemented during construction, areas of jurisdictional waters could be directly or indirectly affected by grading, construction equipment operation, sedimentation or water quality degradation. This would be a potentially significant impact given the sensitivity of regulated waters. The mitigation measure below would serve to avoid the potential for adverse impacts on jurisdictional waters.

Mitigation Measure BIO-2. *Appropriate controls shall be taken to prevent any adverse direct or indirect impacts on jurisdictional waters during construction. Access roads, work areas, and infrastructure shall be sited to avoid and minimize direct and indirect impacts to jurisdictional waters. Jurisdictional features of particular concern include the potential seasonal wetlands to the east of the Dewatering Facility site and to the southwest and southeast of the Digested Sludge Storage and Pump Station site under Option 2. This shall be accomplished according to the following steps and criteria.*

- *In advance of any grading or construction, a qualified wetland specialist shall be retained to inspect field conditions and flag the current boundaries with nearby jurisdictional wetlands within 100 feet of proposed construction activities. This includes any proposed staging area activities on the east side of the Dewatering Facility site, where they may occur within 100 feet of potential seasonal wetlands observed in that area.*
- *Orange construction fencing or other temporary fencing shall be used to clearly define the limits of construction disturbance and provide a minimum 20 foot setback from the*

potential jurisdictional waters, with the fencing installed under the supervision of the qualified wetland specialist in advance of grading and development. Signage shall be installed on the fencing to identify sensitive habitat areas and restrict construction activities. The temporary fencing shall remain in place until the Project is completed.

- *Drainage from all proposed facilities where chemical spills could occur during Project operation shall be directed away from sensitive resources and/or include other measures to minimize the potential for release of potential pollutants to the environment.*

Implementation of this mitigation measure would ensure that impacts on jurisdictional waters would be less-than-significant.

4) **Less than Significant Impact.**

The proposed Project would not have any significant adverse impacts on wildlife movement opportunities or adversely impact native wildlife nurseries. Wildlife in the vicinity of the Project site are already acclimated to human activity, and construction-related disturbance would not cause any significant impacts on possible bird nesting in the surrounding area. Preconstruction surveys and design controls recommended in **Mitigation Measure BIO-1a** through **BIO-1c** would insure that disruption to bird nesting activity is minimized and nests in active use are adequately protected. Species common to the area would continue to utilize the surrounding area, even during construction.

The Dewatering Facility site would be located over 200 feet from the riparian corridor along the east edge of the site (see **Figure 1**), providing an adequate setback from this sensitive biological habitat and exceeding the setback recommendations in the City's Riparian Corridor Policies (see discussion under Criterion 5 below). Two building configurations are being considered for the Dewatering Facility site, either a four-story dewatering building with dewatered cake discharged by gravity to storage bins or a two-story dewatering building with dewatered cake pumped into storage bins. The final configuration is to be developed by the design-builder and selected by the City at that time, but would not include any windows at upper levels and would have a non-reflective exterior. As called for in **Mitigation Measure BIO-1c**, the exterior lighting for the Dewatering Facility would only be turned on during night-time hours as minimally required for security and operations, and lighting would be shielded and directed downward to prevent light from spilling off the Project site. Interior lighting of any windowed buildings would use energy-efficient occupancy sensors so that interior lights would only be on when an office or room is occupied. No buildings are expected to have towers or guy wires on top of the structures, and the utilities would not add power poles or lines. These basic characteristics of the new facilities are consistent with the Bird-Safe Design Guidance in the City Council Policy on *Riparian Corridor Protection and Bird-Safe Design*,⁹ and would serve to minimize any adverse impacts on bird activity in the vicinity of the Project site, including the riparian corridor located over 200 feet to the east of the Dewatering Facility site.

5) **Less than Significant Impact.**

Goals and policies specified in the City of San Jose General Plan address the protection of sensitive biological and wetland resources. No sensitive resources in the vicinity of the Project site would be affected, and no conflicts with the City's General Plan are anticipated as a result of Project implementation.

⁹ City of San Jose, Council Policy, 2016, *ibid*.

The City's Tree Ordinance requires a Tree Permit Adjustment for the removal of any tree on industrial properties though a permit is not required for CIP projects at the RWF. Rather, the City's Planning Department and Environmental Services Department have developed tree replacement guidelines. The City's Tree Ordinance offers additional protections to trees measuring 56 inches in circumference or greater at 2 feet above ground level. Trees protected under the ordinance are referred to as "Ordinance Trees". The need for tree removal will not be determined until Project design by the design-builder. Eucalyptus and other ornamental trees occur along the southern edge of the DS Storage and Pump Station under Option 1 and along the southern edge of G Street. If any trees need to be removed as determined during Project design, they would be replaced according to **Control Measure BIO-1**. **Control Measure BIO-1** provides that the trees will either be replaced on-site or at other public project sites at a 1:1 ratio using 15-gallon containers, or a fee would be paid to a non-profit organization that plants trees in San Jose. Final replacement requirements if any trees are to be removed would be determined by the City Planning Director. No conflicts with the City's tree replacement policies are anticipated as a result of Project implementation.

The City of San Jose's *Riparian Corridor Policy Study*¹⁰ design guidelines state that incompatible development generally should be set back 100 feet from the outside edge of riparian habitat (or top of bank, whichever is greater) to reduce anticipated impacts to riparian (streamside) biotic communities and hydrologic regimes. The policy also stipulates that any planting adjacent to the riparian corridor not include invasive, non-native species. The City's Riparian Corridor Policy defines "riparian corridor" as any defined stream channel including the area up to the bank full-flow line, as well as all riparian vegetation in contiguous adjacent uplands. Characteristic woody riparian vegetation includes: willow, alder, box elder, Fremont cottonwood, bigleaf maple, western sycamore, and oaks, among others. The City of San Jose defines the top of bank as the bank full-flow line, which is the point at which overflow onto the floodplain begins. The Dewatering Facility site was deliberately designed to provide an adequate setback from the riparian corridor along the eastern edge of the Project site, with a distance of over 200 feet provided between this feature and the limits of construction. No conflicts with the City's Riparian Corridor Policy are anticipated as a result of Project implementation.

The Project site is contained within the "Bird Safe Building Design Area" north of State Route 237 and new buildings must comply with the City Council Policy on *Riparian Corridor Protection and Bird-Safe Design*,¹¹ As called for under **Mitigation Measure BIO-1c** and described above under Criterion 4), the new buildings associated with the Dewatering Facility would be designed with characteristics that are consistent with the Bird-Safe Design Guidance of the City, and no conflicts with these design guidelines are anticipated as a result of Project implementation.

6) **Less than Significant Impact.**

Most of the Project site is contained within the plan area for the SCVHP (see **Figure 1**) and construction of the dewatering facilities within the SCVHP boundaries would be a covered activity subject to the provisions of the SCVHP, including preconstruction surveys.¹² On April 13, 2016, the City signed a letter of intent to enter into a land-in-lieu (LIL) of fees arrangement with the Santa Clara Valley Habitat Agency. The letter signifies the City's intent to enroll 72 acres of RWF lands into the Owl Habitat Reserve System in exchange for developing 20 acres of land in the Habitat Plan Permit Area. Four RWF Capital Improvement Projects were identified for

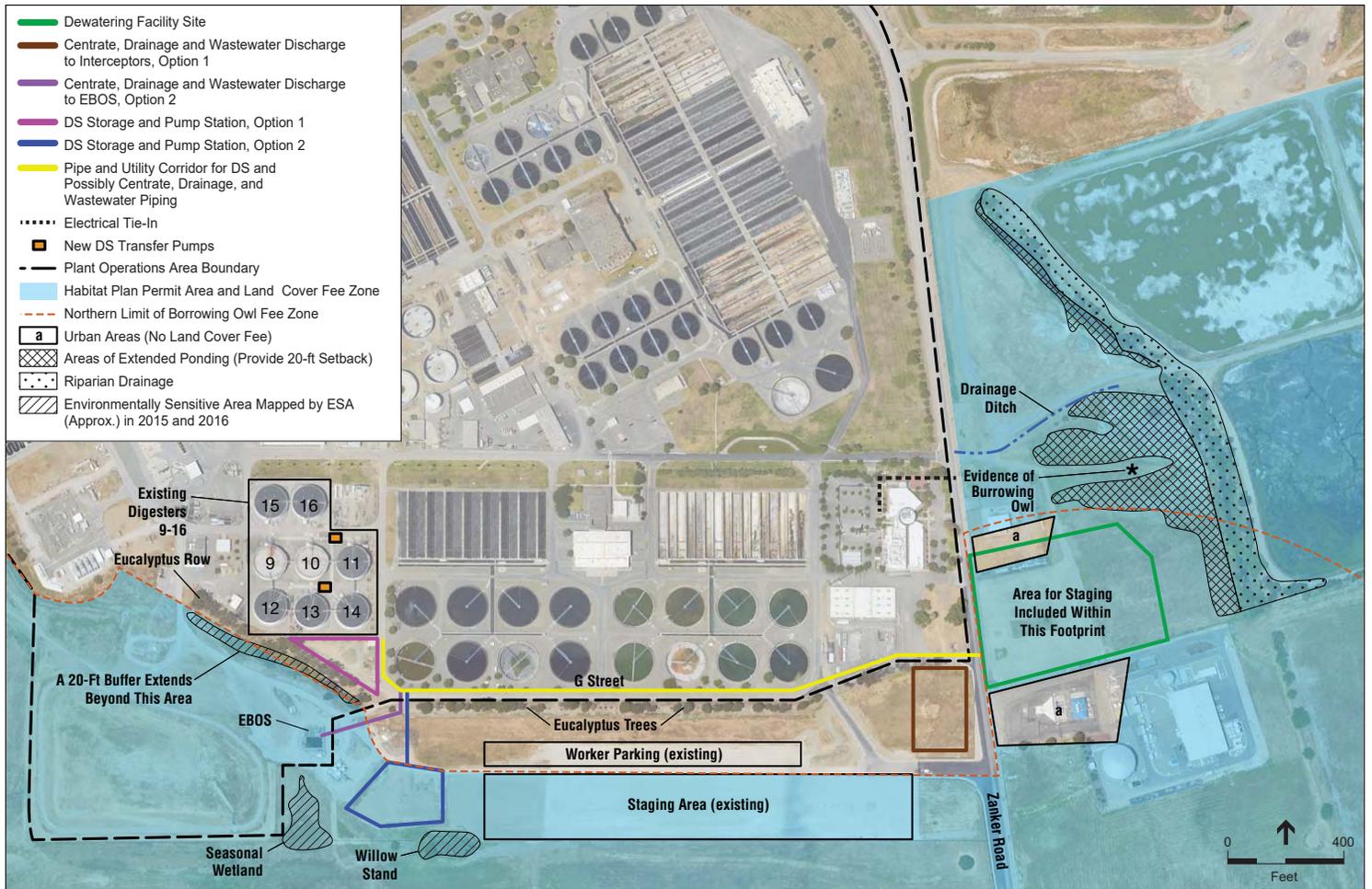
¹⁰ City of San Jose, 1994, *Riparian Corridor Policy Study*. approved by City Council on May 17, revised March 1999.

¹¹ City of San Jose, Council Policy, 2016, *ibid*.

¹² Personal communication from Mr. Andrew Martin, City of San Jose, May 2, 2017.

coverage under the proposed LIL arrangement, including the Digested Sludge Dewatering Project. To date, the LIL arrangement has not been finalized; thus, the Project may be assessed Habitat Agency fees commensurate with its impact to the Habitat Plan Permit Area.

The burrowing owl mitigation lands secured under the Owl Habitat Reserve System as part of the SCVHP are located over 700 feet to the southwest of the Project site, and therefore would not be affected by proposed construction activities. As described above, **Mitigation Measure BIO-1b** would ensure burrowing owl habitat supports a stable or increasing burrowing owl population. These provisions are consistent with the management objectives and success thresholds defined in the SCVHP. The City will adhere to the SCVHP requirements through payment of fees if needed and implementation of the relevant mitigation measure. No conflicts with the SCVHP are anticipated as a result of Project implementation and the impact is less than significant.



Source: TM 4, Reference 9; Santa Clara Valley Habitat Agency Geo Browser

Figure 1. Biological Resources and SCVHP Zones in Proximity to Project Elements

ATTACHMENT A

Plant Species List for Dewatering Project Site

**Plant Species Observed on Dewatering Facility Project Site on July 21 and 26, 2017
San Jose/Santa Clara Regional Wastewater Facility**

Scientific name	Common name	Native
<i>Acer negundo</i>	Box elder	yes
<i>Atriplex suberecta</i>	Sprawling saltbush	no
<i>Avena barbata</i>	Slender wild oats	no
<i>Baccharis glutinosa</i>	Salt marsh baccharis	yes
<i>Baccharis pilularis</i>	Coyote brush	yes
<i>Bassia hyssopifolia</i>	Fivehook bassia	no
<i>Beta vulgaris</i> ssp. <i>maritima</i>	Sea beet	no
<i>Bolboschoenus maritimus</i>	Seacoast bulrush	yes
<i>Brassica nigra</i>	Black mustard	no
<i>Bromus carinatus</i> var. <i>carinatus</i>	California brome	yes
<i>Bromus diandrus</i>	Rippgut brome	no
<i>Bromus hordeaceus</i>	Soft chess	no
<i>Carduus pycnocephalus</i>	Italian thistle	no
<i>Carpobrotus chilensis</i>	Sea fig	no
<i>Centaurea solstitialis</i>	Yellow star thistle	no
<i>Centromadia pungens</i> ssp. <i>pungens</i>	Common tarweed	no
<i>Chenopodium album</i>	Common lambsquarters	no
<i>Chenopodium murale</i>	Nettle-leaf goosefoot	no
<i>Conium maculatum</i>	Poison hemlock	no
<i>Convolvulus arvensis</i>	Bind weed	no
<i>Crypsis schoenoides</i>	Swamp picklegrass	no
<i>Cuscuta campestris</i>	Field dodder	yes
<i>Cynara cardunculus</i>	Artichoke	no
<i>Cynodon dactylon</i>	Bermuda grass	no
<i>Cyperus eragrostis</i>	Tall flatsedge	yes
<i>Dittrichia graveolens</i>	Stinkwort	no
<i>Drosanthemum floribundum</i>	Rosy iceplant	no
<i>Eleocharis macrostachya</i>	Common spikerush	yes
<i>Elymus ponticus</i>	Tall wheat grass	no
<i>Elymus triticoides</i>	Ryegrass	yes
<i>Erigeron bonariensis</i>	Flax-leaved horseweed	no
<i>Erodium botrys</i>	Long beaked filaree	no
<i>Erodium cicutarium</i>	Redstem filaree	no
<i>Eschscholzia californica</i>	California poppy	yes
<i>Eucalyptus camaldulensis</i>	River red gum	no
<i>Euthamia occidentalis</i>	Western goldenrod	yes
<i>Festuca perennis</i>	Italian ryegrass	no
<i>Foeniculum vulgare</i>	Fennel	no
<i>Frankenia salina</i>	Alkali heath	yes
<i>Glycyrrhiza lepidota</i>	American licorice	yes
<i>Heliotropium curassavicum</i>	Chinese parsley	yes
<i>Helminthotheca echioides</i>	Prickly ox-tongue	no
<i>Hirschfeldia incana</i>	Shortpod mustard	no
<i>Hordeum brachyantherum</i>	Meadow barley	yes
<i>Hordeum marinum</i> ssp. <i>gussoneanum</i>	Mediterranean barley	no
<i>Hordeum murinum</i> ssp. <i>leporinum</i>	Lepor barley	no
<i>Iva axillaris</i>	Poverty weed	yes
<i>Lactuca serriola</i>	Prickly lettuce	no

**Plant Species Observed on Dewatering Facility Project Site on July 21 and 26, 2017
San Jose/Santa Clara Regional Wastewater Facility**

<i>Lepidium draba</i>	Hoary cress	no
<i>Lepidium latifolium</i>	Wide-leaved pepper-grass	no
<i>Lepidium strictum</i>	Upright pepperweed	no
<i>Lotus corniculatus</i>	Bird's-foot trefoil	no
<i>Lythrum hyssopifolia</i>	Hyssop loosestrife	no
<i>Malva parviflora</i>	Cheeseweed	no
<i>Malva pseudolavatera</i>	Cornish mallow	no
<i>Malvella leprosa</i>	Alkali mallow	yes
<i>Medicago polymorpha</i>	Bur-clover	no
<i>Melilotus indicus</i>	Small melilot	no
<i>Phalaris aquatica</i>	Harding grass	no
<i>Phalaris minor</i>	Little-seeded canary grass	no
<i>Plantago lanceolata</i>	English plantain	no
<i>Polygonum aviculare</i>	Prostrate knotweed	no
<i>Polypogon monspeliensis</i>	Rabbitfoot grass	no
<i>Pseudognaphalium luteoalbum</i>	Jersey cudweed	no
<i>Raphanus sativus</i>	Wild radish	no
<i>Rapistrum rugosum</i>	Annual bastard cabbage	no
<i>Rubus ursinus</i>	California blackberry	yes
<i>Rumex crispus</i>	Curly dock	no
<i>Rumex obtusifolius</i>	Bitter dock	no
<i>Rumex stenophyllus</i>	Narrowleaf dock	no
<i>Salix laevigata</i>	Red willow	yes
<i>Salix lasiolepis</i>	Arroyo willow	yes
<i>Salsola tragus</i>	Russian thistle	no
<i>Sambucus nigra</i> ssp. <i>caerulea</i>	Blue elderberry	yes
<i>Solanum americanum</i>	American black nightshade	yes
<i>Sonchus asper</i> ssp. <i>asper</i>	Prickly sow thistle	no
<i>Spergularia rubra</i>	Red sandspurry	no
<i>Stipa miliacea</i> var. <i>miliacea</i>	Smilo grass	no
<i>Silybum marianum</i>	Milk weed	no
<i>Ulmus parvifolia</i>	Chinese elm	no
<i>Vicia sativa</i> ssp. <i>sativa</i>	Common vetch	no
<i>Xanthium strumarium</i>	Cocklebur	yes

Nomenclature according to: The Jepson Manual: Vascular Plants of California, Second edition, 2012

APPENDIX G

Special-Status Species with Potential to Occur in the Study Area

**TABLE BIO-1
SPECIAL-STATUS PLANTS AND ANIMALS WITH POTENTIAL TO OCCUR IN THE STUDY AREA**

Scientific and Common Names	Status Federal/State/CRPR	Geographic Distribution	Habitat Requirements	Potential Occurrence in Project Area
Plants				
<i>Astragalus tener</i> var. <i>tener</i> Alkali milk-vetch	--/--/1B.2	Southern Sacramento Valley, northern San Joaquin Valley, east San Francisco Bay Area. Considered extirpated from Santa Clara County.	Alkali playas, on adobe clay in valley and foothill grassland, vernal pools on alkaline soils; below 60 meters above MSL. Blooms March - June	Low; may occur in the seasonal wetland located north of the Study area. Nearest extant occurrence is 4.5 miles north in Fremont. There is no suitable habitat within the study area.
<i>Atriplex depressa</i> Brittlescale	--/--/1B.2	Western and eastern Central Valley and adjacent foothills on west side of Central Valley.	Alkaline clay soils in chenopod scrub, playas, valley and foothill grasslands, meadows and seeps and vernal pools on alkaline, clay soils; below 320 meters above MSL. Blooms April - October	Low; may occur in the grasslands or seasonal wetlands within the study area.
<i>Atriplex joaquiniana</i> San Joaquin spearscale	--/--/1B.2	West edge of Central Valley from Glenn County to Tulare County. Also reported from Monterey and San Luis Obispo Counties.	Alkaline soils in chenopod scrub, meadows and seeps, playas, valley and foothill grassland; below 835 meters above MSL. Blooms April - September	Low; may occur in the grasslands or seasonal wetlands within the study area.
<i>Atriplex minuscula</i> Lesser saltscale	--/--/1B.1	Sacramento and San Joaquin Valley, Butte County and from Merced County to Kern County. Also recorded from Don Edwards NWR in Alameda County.	Sandy alkaline soils in chenopod scrub, playas, valley and foothill grassland; 15-200 meters above MSL. Blooms May - October	Low; may occur in the grasslands or seasonal wetlands within the study area.
<i>Centromadia parryi</i> ssp. <i>congdonii</i> Congdon's tarplant	--/--/1B.1	East San Francisco Bay Area, Salinas Valley, Los Osos Valley.	Alkaline soils in annual grassland, on lower slopes, flats, and swales, sometimes on saline soils; below 230 meters above MSL. Blooms May - October	Moderate; the species is documented in alkali grassland in the western portion of the study area. Suitable habitat for this species does occur in the study area. However, reconnaissance surveys for this species conducted during the blooming period for the Iron Salts project, an area that overlaps the DS Storage and Pump Station site Option 2, were negative. Since then, that area has been exposed to routine disturbance by Facility operations. ESA's Headworks Improvements and New Headworks Alternatives Constraints Analysis reconnaissance surveys for Congdon's tarplant in August 2016 or that project's wetland delineation in August 2017, also in areas overlapping with the Project, confirmed absence of the species. No Congdon's tarplants were observed

TABLE BIO-1 (CONTINUED)
SPECIAL-STATUS PLANTS AND ANIMALS WITH POTENTIAL TO OCCUR IN THE STUDY AREA

Scientific and Common Names	Status Federal/State/CRPR	Geographic Distribution	Habitat Requirements	Potential Occurrence in Project Area
<i>Plants (cont.)</i>				
				within the Project's study area during Environmental Collaborative's 2017 survey of the dewatering facility site. However, due to lapsed time since the last survey of the dewatering site, absence of species cannot be confirmed.
<i>Centromadia parryi</i> ssp. <i>parryi</i> Pappose tarplant	-/-/1B.2	San Francisco Bay Area, southern Sonoma, and Sacramento Valley.	Vernally mesic, often alkaline sites in annual grassland; 1-500 meters. Blooms May-November	Moderate; has been confirmed present in the study area by previous field surveys (Environmental Collaborative, 2018).
<i>Chorizanthe robusta</i> var. <i>robusta</i> Robust spineflower	FE/--/1B.1	Coastal central California, from San Mateo to Monterey County.	Coastal bluff scrub, coastal dunes openings in cismontane woodland, on sandy soil. Blooms April - September	Absent; there is no suitable habitat within the study area.
<i>Chloropyron maritimum</i> ssp. <i>palustre</i> Point Reyes bird's-beak	--/--/1B.2	Coastal northern California, from Humboldt to Santa Clara County, though presumed extirpated from Santa Clara County.	Coastal salt marsh, tidal salt marsh; below 10 meters above MSL. Blooms June - October	Absent; there is no suitable habitat within the study area.
<i>Eryngium aristulatum</i> var. <i>hooveri</i> Hoover's button-celery	--/--/1B.1	South San Francisco Bay area, South Coast Ranges in Alameda, San Benito, Santa Clara, and San Luis Obispo Counties, though presumed extirpated from Santa Clara County.	Vernal pools; 3-45 meters above MSL. Blooms June - August	Low; may occur in the seasonal wetlands within the study area.
<i>Lasthenia conjugens</i> Contra Costa goldfields	FE/--/1B.1	Scattered occurrences in Coast Range valleys and southwest edge of Sacramento Valley, Alameda, Contra Costa, Monterey, Marin, Napa, Solano and Sonoma Counties. Presumed extirpated in Mendocino, Santa Barbara and Santa Clara Counties.	Wet areas in cismontane woodland, valley and foothill grassland, vernal pools, alkaline playas or saline vernal pools and swales; seasonal wetlands below 470 meters above MSL. Blooms March - June	Low; there is no suitable habitat within the study area.
<i>Malacothamnus arcuatus</i> arcuate bush-mallow	-/-/1B.2	Santa Clara, Santa Cruz, and San Mateo Counties.	Chaparral, between 15-355 meters above MSL. Blooms April - September	Absent; there is no suitable habitat within the study area.
<i>Navarretia prostrata</i> Prostrate vernal pool navarretia	--/--/1B.1	Western San Joaquin Valley, interior South Coast Ranges, central South Coast, Peninsular Ranges: Alameda, Los Angeles, Merced, Monterey, Orange, Riverside, San Diego, and San Luis Obispo Counties.	Vernal pools and mesic areas in coastal scrub and alkali grasslands, seasonal wetlands in alkaline soils; between 15-700 meters above MSL. Blooms April - July	Low; may occur in the seasonal wetlands in the study area.

TABLE BIO-1 (CONTINUED)
SPECIAL-STATUS PLANTS AND ANIMALS WITH POTENTIAL TO OCCUR IN THE STUDY AREA

Scientific and Common Names	Status Federal/State/CRPR	Geographic Distribution	Habitat Requirements	Potential Occurrence in Project Area
<i>Suaeda californica</i> California seablite	FE/--/1B.1	Morro Bay, San Luis Obispo County, and San Francisco and Contra Costa Counties; historically found in the south San Francisco Bay.	Margins of tidal salt marsh; below 15 meters above MSL. Blooms June - October	Absent; there is no suitable habitat within the study area.
Plants (cont.)				
<i>Trifolium hydrophilum</i> (<i>T. depauperatum</i> var. <i>hydrophilum</i>) Saline clover	--/1B.2	Sacramento Valley, central western California.	Salt marsh, mesic alkaline areas in Valley and foothill grasslands, vernal pools, marshes and swamps; below 300 meters above MSL. Blooms April - June	Low; may occur in the seasonal wetlands surrounding study area. Nearest documented occurrence is in Alviso, ~ 1-mile away.
Invertebrates				
<i>Euphydryas editha bayensis</i> Bay checkerspot butterfly	FT/--	Disjunct occurrences in San Mateo and Santa Clara Counties.	Associated with specific host plants that typically grow on serpentine soils.	Absent; there is no suitable habitat for this species, as there are no serpentine soils in the study area.
<i>Lepidurus packardii</i> Vernal pool tadpole shrimp	FE/--	Shasta County south to Merced County.	Vernal pools and ephemeral stock ponds.	Absent; there is no suitable habitat in the study area.
Amphibians				
<i>Ambystoma californiense</i> California tiger salamander	FT/ST	Central Valley, including Sierra Nevada foothills, up to approximately 1,000 feet, and coastal region from Sonoma County south to Santa Barbara County.	Small ponds, lakes, or vernal pools in grasslands and oak woodlands for larvae; rodent burrows, rock crevices, or fallen logs for cover for adults and for summer dormancy.	Low; suitable habitat occurs in the annual grassland within the study area and suitable breeding habitat occurs in seasonal wetlands that inconsistently pond for a short period of time annually; however the nearest documented occurrence of this species is 4.5 miles away from the study area near Albrae.
<i>Rana draytonii</i> California red-legged frog	FT/SSC	Found along the coast and coastal mountain ranges of California from Mendocino County to San Diego County and in the Sierra Nevada from Butte County to Stanislaus County.	Permanent and semipermanent aquatic habitats, such as creeks and cold-water ponds, with emergent and submergent vegetation; may aestivate in rodent burrows or cracks during dry periods.	Low; may occur in the drainages of the study area on a transient basis. There is no high-quality suitable breeding habitat in the study area.
Reptiles				
<i>Emys marmorata</i> Western pond turtle	--/SSC	The western pond turtle is uncommon to common in suitable aquatic habitat throughout California, west of the Sierra-Cascade crest and absent from desert regions, except in the	Occupies ponds, marshes, rivers, streams, and irrigation canals with muddy or rocky bottoms and with watercress, cattails, water lilies, or other aquatic vegetation in woodlands, grasslands, and open forests. Nests are typically	Moderate; may occur in the vicinity of the riparian corridor and drainages of the study area on a transient basis. There is no high-quality suitable breeding habitat in the study area.

TABLE BIO-1 (CONTINUED)
SPECIAL-STATUS PLANTS AND ANIMALS WITH POTENTIAL TO OCCUR IN THE STUDY AREA

Scientific and Common Names	Status Federal/State/CRPR	Geographic Distribution	Habitat Requirements	Potential Occurrence in Project Area
		Mojave Desert along the Mojave River and its tributaries.	constructed in upland habitat within 0.25 mile of aquatic habitat.	
Mammals				
<i>Reithrodontomys raviventris</i> Salt marsh harvest mouse	FE/SE	The San Francisco Bay Estuary and Suisun Marsh.	Saline to brackish salt marsh habitat. Pickleweed is primary habitat.	Low; known to use the salt marsh and salt panne habitats within the greater Facility grounds; however, there is no suitable habitat in the study area.
<i>Sorex vagrans halicoetes</i> Salt-marsh wandering shrew	-/SSC	Southern arm of the San Francisco Bay in San Mateo, Santa Clara, Alameda, and Contra Costa Counties.	Salt marshes from 6 to 9 feet above mean sea level (MSL).	Absent; there is no suitable habitat in the study area.
Birds				
<i>Agelaius tricolor</i> Tricolored blackbird	--/SSC	Permanent resident in the Central Valley from Butte County to Kern County. Breeds at scattered coastal locations from Marin County south to San Diego County; and at scattered locations in Lake, Sonoma, and Solano Counties. Rare nester in Siskiyou, Modoc, and Lassen Counties.	Nests in dense colonies in emergent marsh vegetation, such as tules and cattails, or upland sites with blackberries, nettles, thistles, and grainfields. Habitat must be large enough to support 50 pairs. Probably requires water at or near the nesting colony.	Low (foraging only); may occur over the study area on a transient basis. There is no suitable nesting habitat in the study area.
<i>Aquila chrysaetos</i> Golden eagle	--/FP	Foothills and mountains throughout California. Uncommon non-breeding visitor to lowlands such as the Central Valley.	Nest on cliffs and escarpments or in tall trees overlooking open country. Forages in annual grasslands, chaparral, and oak woodlands with plentiful medium and large-sized mammals.	Low (foraging only); may occur over the study area on a transient basis. There is no high-quality suitable nesting habitat in the study area.
<i>Ardea herodias</i> Great blue heron (rookery)	--/--	Nests in suitable habitat throughout California except at higher elevations in Sierra Nevada and Cascade mountain ranges.	Widely distributed in freshwater and calm-water intertidal habitats.	Low (foraging only); may occur over the study area on a transient basis. There is no known rookery in the study area.
<i>Athene cunicularia hypugaea</i> Western burrowing owl	--/SSC	Lowlands throughout California, including the Central Valley, northeastern plateau, southeastern deserts, and coastal areas; rare along south coast.	Level, open, dry, heavily grazed or low stature grassland or desert vegetation with available burrows.	High (foraging and breeding); western burrowing owl is known to forage and breed in the non-native grassland south and west of the study area. Burrowing owls were observed during the Facility BUOW surveys in 2015 (ESA, 2015).
<i>Charadrius alexandrinus nivosus</i> Western snowy plover	FT/SSC	Population defined as those birds that nest adjacent to or near tidal waters, including all nests along the mainland coast, peninsulas, offshore islands, and adjacent bays and	Coastal beaches above the normal high tide limit in flat, open areas with sandy or saline substrates; vegetation and driftwood are usually sparse or absent.	Absent; there is no suitable habitat in the study area.

TABLE BIO-1 (CONTINUED)
SPECIAL-STATUS PLANTS AND ANIMALS WITH POTENTIAL TO OCCUR IN THE STUDY AREA

Scientific and Common Names	Status Federal/State/CRPR	Geographic Distribution	Habitat Requirements	Potential Occurrence in Project Area
		estuaries. Twenty breeding sites are known in California from Del Norte to Diego County.		
Birds (cont.)				
<i>Circus cyaneus</i> Northern harrier	--/SSC	Occurs throughout lowland California. Has been recorded in fall at high elevations.	Grasslands, meadows, marshes, and seasonal and agricultural wetlands.	Moderate (foraging only); northern harrier is documented in the annual non-native grassland areas immediately south and west of the study area and has the potential to forage in the study area. Nest observed nearest study area documented at mouth of Coyote Creek, over 5 miles north of study area.
<i>Elanus leucurus</i> White-tailed kite	--/CFP	Lowland areas west of Sierra Nevada from the head of the Sacramento Valley south, including coastal valleys and foothills to western San Diego County at the Mexico border.	Low foothills or valley areas with valley or live oaks, riparian areas, and marshes near open grasslands for foraging.	Low (foraging and nesting); white-tailed kite may forage in open grasslands within and adjacent to the study area. Suitable nesting habitat is present in the mature trees bordering roads of the study area.
<i>Geothlypis trichas sinuosa</i> Saltmarsh common yellowthroat	BCC/SSC	Found only in the San Francisco Bay Area in Marin, Napa, Sonoma, Solano, San Francisco, San Mateo, Santa Clara, and Alameda Counties.	Freshwater marshes in summer and salt or brackish marshes in fall and winter; requires tall grasses, tules, and willow thickets for nesting and cover.	Low; may occur over the Project on a transient basis. There is no suitable nesting habitat in the study area.
<i>Laterallus jamaicensis coturniculus</i> California black rail	--/ST	Inhabits freshwater marshes, wet meadows & shallow margins of saltwater marshes bordering larger bays.	Require dense cover of upland vegetation for protection. Needs water depths of ~1 inch that do not fluctuate during the year & dense vegetation for nesting.	Low; no known nesting habitat in study area. Known to occur in the tidal marsh habitat found at Coyote Creek and Alviso Slough confluence and could migrate through the study area.
<i>Melospiza melodia pusillula</i> Alameda song sparrow	--/SSC	Found only in marshes along the southern portion of the San Francisco Bay.	Brackish marshes associated with pickleweed; may nest in tall vegetation or among the pickleweed.	Low; there is no suitable habitat in the study area.
<i>Pelecanus occidentalis californicus</i> California brown pelican	FD/SD	The Pacific coast from Canada through Mexico.	Coastal areas. Nests on islands.	Absent; may occur over the Project on a transient basis. There is no suitable habitat in the study area.
<i>Rallus longirostris obsoletus</i> Ridgway's (=California clapper) rail	FE/SE	Found along the Pacific Coast in Monterey and San Luis Obispo Counties.	From tidal mudflats to tidal sloughs. Associated with abundance grow of pickleweed. Feeds on invertebrates from mud-bottom sloughs.	Absent; may occur over the Project on a transient basis. There is no suitable habitat in the study area.
<i>Sternula antillarum browni</i> California least tern	FE/SE/CFP	Found along the Pacific Coast of California from San Francisco to Baja California.	Nest on open beaches kept free of vegetation by natural scouring from tidal action.	Absent; there is no suitable habitat in the study area.

TABLE BIO-1 (CONTINUED)
SPECIAL-STATUS PLANTS AND ANIMALS WITH POTENTIAL TO OCCUR IN THE STUDY AREA

NOTES:**Potential Occurrence in the study area:**

High = Species is expected to occur and habitat meets species requirements.
 Moderate = Habitat is only marginally suitable or is suitable but not within species geographic range.
 Low = Habitat does not meet species requirements as currently understood in the scientific community.

California Rare Plant Rank (CRPR):

Rank 1A = Plants presumed extirpated in California and either rare or extinct elsewhere.
 Rank 1B = Plants rare, threatened, or endangered in California and elsewhere.
 Rank 2A = Plants presumed extirpated in California, but more common elsewhere.
 Rank 2B = Plants rare, threatened, or endangered in California, but more common elsewhere.
 Rank 3 = Plants about which we need more information – a review list
 Rank 4 = Plants of limited distribution – a watch list

An extension reflecting the level of threat to each species is appended to each rarity category as follows:

- .1 – Seriously endangered in California.
- .2 – Fairly endangered in California.
- .3 – Not very endangered in California.

SOURCE: USFWS, 2019, CNPS, 2019, and CDFW, 2019.

Status Codes:**Federal**

FE = listed as endangered under the ESA
 FT = listed as threatened under the ESA
 FD = delisted
 – = no listing

State

SE = listed as endangered under CESA
 ST = listed as threatened under CESA
 SSC = California Department of Fish and Wildlife designated "species of special concern"
 CFP = California Department of Fish and Wildlife designated "fully protected"
 SD = delisted
 – = no listing

APPENDIX H

Preliminary Geotechnical Feasibility Study

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Fugro Project No. 04.72170011
Document No. 04.72170011-PR-001(Rev.00)
May 16, 2017

Brown and Caldwell
201 N. Civic Drive, Suite 115
Walnut Creek, California 94596

Attention: Mr. Michael Walkowiak

Preliminary Geotechnical Feasibility Study, Proposed Digested Sludge Dewatering Facility San Jose-Santa Clara Regional Wastewater Facility, San Jose, California

Dear Mr. Walkowiak,

In accordance with your request, Fugro is pleased to present this preliminary geotechnical feasibility study for the Proposed Digested Sludge Dewatering Facility (Project) that is being added to San Jose-Santa Clara Regional Wastewater Facility (RWF). The Proposed Project will to be located east of the existing Plant on the Project site, in San Jose, California (as shown on Figure 1).

We have prepared this preliminary geotechnical feasibility study for the site to identify the geotechnical and geologic conditions (e.g., soil, groundwater, and geologic hazards such as surface fault rupture, seismic shaking, liquefaction and lateral spreading) that could impact the development of the proposed Project. We have provided a discussion of possible mitigation or special geotechnical design considerations to address the potential geotechnical and geological development issues at the site.

SCOPE OF SERVICES

The purpose of our preliminary geotechnical feasibility study was to obtain readily available geologic information and geotechnical data from nearby sites to determine the primary geotechnical considerations that would need to be evaluated in detail for the final design of the Project. The scope of our services performed included the following tasks:

- Conducting a field reconnaissance of the Project site to observe the current site conditions;
- Compiling and reviewing available geotechnical and geologic data that is contained in our files and is pertinent to the Project; and



- Preparing this preliminary geotechnical feasibility study presenting the results of our geologic and geotechnical data review, field reconnaissance, and a discussion of the anticipated geologic and geotechnical issues that should be evaluated in detail for the Project.

Geotechnical reports reviewed for this study included:

- *Geotechnical Engineering Report, Wet Weather Reliability Improvements Project, San Jose/Santa Clara Water Pollution Control Plant, San Jose, California*; prepared by URS Corporation, dated November 18, 2003.
- *Final Report, Geotechnical Investigation, Advanced Recycled Water Treatment Facilities Project, Santa Clara Valley Water District, San Jose, California*; prepared by URS Corporation, dated October 27, 2009.
- *Geotechnical Study, San Jose Digester & Thickener Facilities Upgrade, San Jose, California*; prepared by Fugro Consultants, Inc., dated March 27, 2015.

PROJECT DESCRIPTION

We understand that the designs for the proposed facility have not been completed. However, drawings provided by Brown and Caldwell of similar facilities indicate that the proposed Project will be a multi-story structure with a footprint of approximately 13,500 square feet and a height of approximately 50 to 90 feet. We expect the new development will also include appurtenant facilities including access roads, subsurface utilities, site lighting and miscellaneous pavement, etc.

SITE RECONNAISSANCE

We performed a site reconnaissance on April 25, 2017 to observe the existing site conditions. A chain-link fence exists along the west side of the parcel, with gated access near the center of the fence.

The Project site is a roughly triangular-shape parcel bounded by Zanker Road to the west, undeveloped land immediately to the north, a tree-lined swale to the northeast and east, and the Silicon Valley Advanced Water Purification Center (SVAWPC) to the south.

A metal building on a concrete slab and surrounded by a concrete apron was situated near the west-central area of the parcel off Zanker Road. This area was further surrounded by an open unpaved area which was fully enclosed by a chain-link fence with a locked, gated entrance off Zanker Road. We understand this building to be the Tempco facility and that this facility is used for parts storage and maintenance for the RWF.

An earthen berm is located along the west side of the property, inside the chain-link fence and parallel to Zanker Road. This berm begins just north of the access gate and continues northward beyond the north edge of the parcel, becoming taller to the north with a maximum height of approximately six to eight feet above the surrounding grades.

A review of the Project site topographic mapping provided to us by Brown and Caldwell (Sheets V-201 through V-203, dated April, 2017; which are attached to this report as Figures 2 through 4) indicated that the berm observed along the west side of the property extends eastward to the east edge of the property. These maps also indicated the

presence of an unimproved road that appears to circle the northern half of the property. This unimproved road continues to the sludge drying ponds which are located just east of the Project site. Also depicted are four gravel piles which are situated in the northeast portion of the property near the line of trees.

Structures noted as utility vaults on the maps were observed near the west property line inside the chain-link fencing just north and south of the Tempco facility. Various other utilities including gas, water and electric are depicted on these plans, predominantly along the west side and central portion of the Project site. The remainder of the Project site appeared relatively level, undeveloped and grass-covered with occasional trees and brush.

GEOLOGIC AND GEOTECHNICAL DATA REVIEW

We have researched published geotechnical and geologic information in our files of the specific area of the proposed facility as well as sites surrounding the Project site. This included a review of previous studies performed by Fugro at the existing treatment plant as well as available reports prepared by others at nearby sites including the geotechnical study for the adjacent SVAWPC that was provided by the City of San Jose.

The following provides our preliminary opinion of the anticipated geologic and geotechnical conditions at the Project site, which are based on our review of the above-referenced geotechnical and geologic information.

GEOLOGIC DATA REVIEW

The Project site is located at the southern end of San Francisco Bay, within Santa Clara Valley, which is an alluvial basin situated between the Santa Cruz Mountains to the southwest and the Diablo Range to the northeast.

The general area, including the Project site, has been geologically mapped^{1,2} as containing interfluvial fresh water basin deposits as well as fluvial deposits at the outer edge of alluvial fans. These deposits consist of cohesionless fine-grained sand, silt and clay. In addition, portions of the adjacent treatment plant, located to the west of the site, were mapped to contain highly compressible estuarine organic clay and silty clay locally known as Young Bay Mud (YBM). YBM was encountered in Fugro's borings or CPTs for the previous site exploration programs for the treatment plant improvements west of The Project site; in addition, YBM was encountered by others at this site.

The general Project area is considered a transition zone of distal fan and basin environments to estuarine environments. Discontinuous sloughs oriented perpendicular to the bay margin are typical of this transition zone and are interpreted to be segments of abandoned creek channels extending from the former margin of the bay. The surface materials of these abandoned sloughs are filled by recent fluvial sediments and are commonly underlain by YBM deposits. The depth to first groundwater has been mapped as 3 to 12 feet³ and is tidally influenced.

¹ Geologic Map, Santa Clara County, California; Brabb, E.E., Dibble, T.W. Jr, Rogers, T.H., Williams, J.W., 1974.

² Quaternary Geology of Santa Clara Valley, Santa Clara, Alameda, and San Mateo Counties, California: A digital database. Helley, E.J., Graymer, R.W., Phelps, G.A., Showalter, P.K., Wentworth, C.M., 1994.

³ Depth to First Groundwater, Santa Clara County, California. Bishop, C.C., Williams, J.W., 1974.



The Project site is in the San Francisco Bay Area, which is considered one of the most seismically active regions in the United States. Significant earthquakes have occurred in the San Francisco Bay Area and are believed to be associated with crustal movements along a system of sub-parallel fault zones that generally trend in a northwesterly direction. The Santa Clara Valley is located between the active San Andreas Fault to the west, and the Hayward and Calaveras Faults to the east.

In 2008, the United States Geological Survey (USGS), in conjunction with Southern California Earthquake Center and the California Geological Survey, published the Uniform California Earthquake Rupture Forecast (UCERF). UCERF updated the forecast made in 2003 by the Working Group for California Earthquake Probabilities (WGCEP). The UCERF report evaluated the probabilities of significant earthquakes occurring in the Bay Area over the next three decades (2007-2036). UCERF found a 63 percent probability that at least one magnitude 6.7 or greater earthquake will occur in the San Francisco Bay region before 2036. This probability is an aggregate value that considers eight principal Bay Area fault systems and unknown faults (background values).

The San Francisco Bay region continues to be seismically active. The principal active faults in the Bay Area include the San Andreas, Hayward, Calaveras and the San Gregorio faults. Earthquakes occurring along these faults can generate strong ground shaking at the Project site.

The California Geological Survey⁴ has mapped the Project site and surrounding areas as an area where historical occurrences of liquefaction, or local geological, geotechnical, and groundwater conditions, indicate a potential for permanent ground displacements. The Association of Bay Area Hazard Governments reports the area as having high to very high liquefaction susceptibility⁵.

The Fault Hazard Map for the City of San Jose⁶ shows a possible northwest striking fault strand approximately through the center of the RWF to the west. Based on our experience in this area we believe the fault strand is located relatively deep and is part of the northern edge of the Silver Creek fault. The exact location of the Silver Creek fault is unknown in the site area and the fault is Projected from the hills to the southeast of the Project site. The Silver Creek fault is mapped by the State of California as inactive and is highly unlikely for surface fault rupture.

GEOTECHNICAL DATA REVIEW

The following is an overview of the subsurface conditions encountered by Fugro during previous investigations at the adjacent RWF to the west, as well as subsurface conditions encountered by others at the RWF and at the SVAWPC which is located immediately south of the Project site.

San Jose-Santa Clara Regional Wastewater Facility

Subsurface explorations were performed by Fugro and others at the RWF, west of the Project site. These previous investigations consisted of soil borings, Cone Penetration Tests (CPTs) and soil probes. Previous laboratory analysis

⁴ Seismic Hazard Evaluation of the Milpitas 7.5 minute quadrangle; California Geological Survey, Seismic Hazards Report 051, October 19, 2004.

⁵ USGS Open-File Report 00-444, Knudser & others, 2000.

⁶ City of San Jose Fault Hazard Maps, 1983.

consisted of soil classification tests (Density and Moisture Content, Gradation and Atterberg Limits), Unconfined Compressive Strength and Consolidation testing.

The subsurface conditions encountered by Fugro were similar to those encountered by others at the RWF. Surficial fill was encountered in many of the previous explorations ranging in depth from 3 up to 13 feet with the deeper fills thought to be associated with fill placed in the former slough channels or fills for subsurface utilities. Buried, relatively shallow, soft "slough deposits" were encountered during construction of the Filtration Building in 1974 as reported by others. These slough materials were recorded as variable depths of soft organic clays containing varying amounts of sand and gravel. The explorations performed by Fugro for the Digester facility encountered sand layers that also appeared to be associated with abandoned alluvial channels within the footprint of the digester structures. A loose to medium dense silty sand/poorly graded sand layer was encountered in several Fugro borings and CPTs at a depth of approximately 60 ft. to 70 ft. Below the fill and slough materials the native soils generally consisted of inter-layered regions of lean (and occasionally fat) clays, sandy clays, silty sands, well graded and poorly graded sands and poorly graded gravels. Below the relatively soft/loose fill and slough materials the density/consistency of the underlying native materials generally increased with depth.

Based on our previous experience at the plant and explorations by others, free groundwater has been measured at elevations of +3 to -11.3 feet (between 2 to 18 feet below the ground surface). In general, the groundwater level expected at the Project site and surrounding areas is considered to be at the elevation of the nearby San Francisco Bay.

The generalized laboratory analysis for these studies indicated that the expansive potential of the upper clayey soils tested were low to moderate and that the unconfined compressive strengths of the clayey soils tested ranged between approximately 1,100 pounds per square foot (silty clay) to 3,400 pounds per square foot (lean clay). Corrosion testing indicated that the upper site soils are moderately to highly corrosive to buried metal and concrete.

Santa Clara Valley Water District Advanced Recycled Water Treatment Facility

Subsurface explorations were performed by others at the SVAWPC, immediately south of the Project site. These previous investigations consisted of soil borings and CPTs. Laboratory analysis for these studies consisted of soil classification tests (Density and Moisture Content, Gradation and Atterberg Limits), strength testing (Unconsolidated Undrained Triaxial Compression Tests) and deformation testing (Consolidation, Expansion Index and Swell Pressure Tests).

These studies indicated that the subsurface materials underlying this facility are variable alluvial/estuarine deposits consisting of medium stiff to stiff, interbedded low to high plasticity silty and sandy clays and loose to medium dense, silty and clayey sands with occasional gravels. A thin layer of Bay Mud was encountered in one boring which was considered to be localized. A thick continuous sequence of fine to coarse sands and gravels was encountered in one other boring from approximately 50 to 100 feet. No fill or bedrock was encountered to the maximum depths explored (100 to 103 feet).

Groundwater at the adjacent RWF was first encountered at depths ranging between 12 feet to 17 feet. The highest stabilized depth to groundwater was recorded at approximately 7.5 feet below the existing ground surface. Nearby

wells, located southeast of the SVAWPC, were described by others and noted that they should be investigated for the potential to influence the nearby groundwater levels due to groundwater pumping.

The laboratory analyses for this study indicated that the expansive potential of the upper clayey soils tested were low to moderate. Tests performed on cohesive samples indicated that the average value for the Coefficient of Consolidation was estimated to be 1.0 foot per day and Over-consolidation Ratio ranged between 1.1 and 5. The shear strengths of the soils tested ranged between 500 pounds per square foot (soft clay) to 1,800 pounds per square foot (silty clays). The friction angle of the granular materials ranged between 33° and 35°. Corrosion testing of the upper soils indicated that these soils were moderately to highly corrosive to buried metal and concrete.

ANTICIPATED GEOLOGIC AND GEOTECHNICAL ISSUES

Based on our review of available geologic literature and data from nearby subsurface investigations the primary geologic and geotechnical considerations anticipated, which will require detailed evaluation for the final design of the proposed Project include:

- Geologic Hazards:
 - Ground Shaking
 - Liquefaction
 - Groundwater
 - Flooding
- Geotechnical Considerations:
 - Expansive Soil
 - Settlement
 - Corrosion
 - Dewatering
 - Foundations

Each of these issues are discussed separately below.

GEOLOGIC HAZARDS

Ground Shaking

The approximate distance of the site from known mapped faults⁷ is summarized in Table 1. The Project site is not located within an Alquist-Priolo Earthquake Fault Zone although, as mentioned previously, a possible northwest striking fault has been mapped in the area.

⁷ According to the Maps of Known Active Fault Near-Source Zones in California and Adjacent Portions of Nevada, prepared by California Department of Conservation, Division of Mines and Geology, (1998).



Table 1. Regional Faults and Seismicity⁸

Fault	Approximate Distance from Site km (mi)	Direction from Site	Maximum Moment Magnitude
Hayward (South)	10.0 (6.2)	Northeast	6.8
Hayward (Total Length)	10.0 (6.2)	North	7.3
Calaveras (North of Calaveras Res)	12.7 (7.9)	Northeast	6.9
Calaveras (South of Calaveras Res)	14.1 (8.8)	East	5.8
Monte Vista - Shannon	17.0 (10.6)	Southwest	6.7
San Andreas (Peninsula)	22.3 (13.9)	West	7.1
San Andreas (1906)	22.3 (13.9)	West	7.9
San Andreas (Santa Cruz Mountain)	28.5 (17.7)	South	7.1

Earthquakes on these or other smaller, more distant or unmapped faults could cause strong ground shaking at the site. Earthquake intensities vary throughout the Bay Area depending upon the magnitude of the earthquake, the distance of the site from the causative fault, the type of materials underlying the site, and other factors. The structures planned for the Project site should be designed to resist lateral and uplift forces generated by earthquake shaking, in accordance with local design practice. This will require a site-specific subsurface investigation to determine the type of materials underlying the site to provide site-specific seismic design criteria.

Fault rupture at this site is considered unlikely due to the distance from known active faults.

Liquefaction and Lateral Spreading

Soil liquefaction is a phenomenon primarily associated with saturated, cohesionless soil including low plasticity silt layers at shallow depths. Loose cohesionless soils have a tendency to densify as a result of shaking. If the loading occurs under such a fast rate that the pore water cannot drain from between the soil particles, the inter-granular stresses are transferred to the pore water, resulting in increased pore water pressure. If the pore pressure builds up to a level equal to or greater than the overburden pressure, a significant reduction in strength can occur. A soil in this state will behave more like liquid than a solid, hence the term liquefaction. Soils most susceptible to liquefaction are loose deposits of saturated sands and relatively cohesionless silts. In addition to settlement from liquefaction, dynamic densification settlement of unsaturated, loose to medium dense sands above the groundwater table may also occur in response to sufficiently strong ground shaking from a significant seismic event.

The traditional depth of liquefaction evaluation is 50 feet. As noted in the California Geological Survey (CGS) Special Publication 117⁹:

Traditionally, a depth of 50 feet (about 15 m) has been used as the depth of analysis for the evaluation of liquefaction. The Seed and Idriss EERI Monograph on “Ground Motions and Soil Liquefaction During Earthquakes” (1982) does not recommend a minimum depth for evaluation, but notes 40 feet (12 m) as a depth to which some of the numerical quantities in the “simplified procedure” can be estimated reasonably. Liquefaction has been known to occur during

⁸ Maximum Moment Magnitude based on 2008 National Seismic Hazard Maps – Source Parameters (http://geohazards.usgs.gov/cfusion/hazfaults_search/hf_search_main.cfm).

⁹ <http://www.scec.org/resources/catalog/sp117.pdf>



earthquakes at deeper depths than 50 feet (15 m) given the proper conditions such as low-density granular soils, presence of ground water, and sufficient cycles of earthquake motion.

Experience has shown that 50-foot (15 m) depth may be adequate for the evaluation of liquefaction potential in most cases, however, there may be situations where this depth may not be sufficiently deep.

A liquefaction analysis was performed by Fugro for the Digester Facility (west of the Project site within the existing RWF). The top 60 to 70 feet of soils encountered within the Digester facility footprint consisted predominantly of medium stiff to stiff lean clays with occasional disconnected medium dense silty sand seams (likely abandoned alluvial channels). The deeper soil borings and CPTs encountered potentially liquefiable materials. We noted that a limited number of borings/CPTs extended deep enough to characterize this liquefiable deposit, but it appeared that the unit was spatially distributed throughout the Digester facility limits. These deposits were screened based on anticipated maximum PGA values as well as PGA values reported by USGS associated with the 1989 Loma Prieta event¹⁰. These analyses estimated liquefaction induced settlements of 1 to 2 inches (Moment Magnitude of 7.0 and PGA of 0.22g). For the maximum scenario (Moment Magnitude of 7.8 and PGA of 0.58g), the estimated liquefaction-induced settlement is on the order of two to four inches although based on our previous conversations with the Brown and Caldwell design team, we understood no appreciable settlements and/or liquefaction induced settlements were observed at the site following the 1989 Loma Prieta event. The fact that no appreciable settlements were observed following Loma Prieta earthquake while the liquefaction estimates predicted one to two inches of settlement, coupled with the depth of the liquefiable layer, results in significant uncertainty as to the actual magnitude of total liquefaction induced settlement within that layer and the actual realized surface expression. Accordingly, to adequately characterize The Project site for the possibility of liquefiable materials (within the planned improvements) future geotechnical explorations will need to consider a sufficient number of explorations and they should be extended deep enough to fully characterize the subsurface and groundwater conditions.

Other geologic hazards associated with ground shaking such as slope instability/lateral spreading or lurching are considered to be unlikely at this site due to the relatively flat terrain and the distance from a known active fault.

Groundwater

Based on our previous experience at the RWF and explorations by others at the adjacent RWF, free groundwater has been measured at elevations of +3 to -11.3 feet (between 2 to 18 feet below the ground surface). Fluctuation of groundwater levels can occur due to tidal fluctuations, seasonal changes, variations in rainfall, and other. In general, the groundwater level at the site is considered to be at the elevation of the nearby San Francisco Bay.

Flooding

The Project site is located within the FEMA 100-year flood zone (i.e. the mapped region has approximately a 1 percent annual probability of flooding). The Project area is protected by the Bay Front Levees, which if breached could allow flooding within the Project site. Future site development should address the potential for flooding. Raising the site grades above the 100-year flood levels should be considered for the Project design.

¹⁰ http://earthquake.usgs.gov/earthquakes/shakemap/nc/shake/LomaPrieta/#Peak_Ground_Acceleration

GEOTECHNICAL CONSIDERATIONS

Expansive Soil

The moderate expansion potential of the clayey surface soils encountered on adjacent sites is a consideration for foundation design for development of the Project site. If encountered, these potentially expansive materials could be subjected to volume changes during seasonal fluctuations in moisture content. To reduce the potential impact of expansive soils (if encountered), resulting from swelling and shrinkage of these materials, mitigation measures such as: supporting structures on deepened footings, excavation and replacement of expansive materials with non-expansive material, construction drilled piers and grade beams, and chemical soil treatment, (to name a few) may be considered during Project design.

Settlement

As described above, settlement can occur as a result of seismic ground shaking due to liquefaction or densification of the subsurface soils. Settlement can also occur due to consolidation of compressible materials such soft cohesive soils and loose unconsolidated materials.

Previous studies for the surrounding sites have indicated the presence of undocumented surficial fills, occasional layers of soft clay and buried loose/soft slough deposits. Depending on the anticipated structure loads, these materials may be subjected to consolidation with increased loads.

In order to reduce the potential impact to structures resulting from settlement, where compressible material is encountered, mitigation measures including: supporting structures on deep foundations, excavation and replacement of compressible materials with granular material, deepening or widening the footings or constructing a structural mat foundation, may be considered during Project design depending on the applicability to the structure involved and the amount of settlement that the structure can tolerate.

Corrosion

Previous soil corrosion testing performed as part of the studies for the adjacent RWF and the SVAWPC indicated the presence of corrosive soils based on resistivity measurements and chloride and sulfate testing. The soils encountered during future investigations on the Project site should be analysed for their corrosive potential to buried structures, concrete and steel. If corrosive soils are identified a corrosion engineer should be consulted to provide measures to mitigate the effects of corrosive soil.

Dewatering

The level and effort of site dewatering for the planned development at the Project site will depend on the planned excavation depths for the new facilities. It is anticipated that any excavations carried below the groundwater levels described above may require temporary construction dewatering and/or permanent dewatering systems for below-grade structures. Future geotechnical investigations performed at the site should address the current groundwater levels and its effect on the planned development.

Foundations

Our experience at the RWF and our review of studies by others at the plant facility, and at the adjacent SVAWPC, indicated that a variety of foundation types have been used successfully to support the existing structures. The foundation types have included shallow and deep strip footings, structural mat foundations and piles.

Our preliminary discussions with you have indicated that the proposed building will have a footprint of approximately 13,500 square feet and a height of approximately 50 to 90 feet and we anticipate that the loads for this structure will be significant. Accordingly, due to the variability in the soil conditions at the adjacent sites, we expect that a deep foundation system may be required for this structure.

The foundation system for the proposed building and appurtenant structures will ultimately depend on the subsurface soil conditions underlying the proposed building location(s) and application of soil improvement techniques, where deemed appropriate.

RECOMMENDATIONS FOR FURTHER GEOTECHNICAL INVESTIGATION

To address the identified potential geologic and geotechnical issues discussed above we recommend that a detailed geotechnical investigation be performed for the proposed Project and ancillary facilities within the Project site. The investigation should include both borings and CPTs and be of sufficient quantity and depth to properly address the potential site issues of soft and/or compressible materials (such as unconsolidated fills, soft clays and buried slough deposits), expansive soils, liquefiable soils and corrosive soils. Future investigations should also accurately determine the site groundwater levels, and provide long-term groundwater readings to measure the seasonal fluctuations if it is determined that future below-grade structures may be impacted by groundwater.

CLOSING

Our services consist of professional opinions, conclusions, and recommendations that are made in accordance with generally accepted geotechnical engineering principles and practices. This warranty is in lieu of all other warranties, either expressed or implied.

This Preliminary Geotechnical Feasibility Study for the proposed Project has been prepared for City of San Jose and Brown and Caldwell solely for the proposed development of the Project site. The applicability the information in this preliminary study is specifically limited to current conditions and considerations for the proposed Project. This preliminary study is not intended to be used for any other purpose nor is it intended to be used for the Project design.

In performing our professional services, we have used that degree of care and skill ordinarily exercised under similar circumstances, by reputable geotechnical engineers currently practicing in this or similar localities. Fugro makes no claim or representation concerning any activity or conditions falling outside its specified purposes to which this preliminary study is directed.

Our discussion of the potential subsurface conditions that may be encountered at the Project site is solely based on interpretation of readily available geologic literature and from a review of previous studies performed at adjacent sites

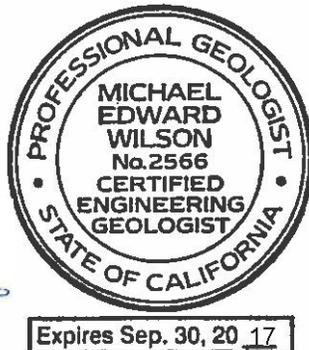


by Fugro and others. Without the benefit of subsurface data specific to the Project site, the actual site conditions may vary considerably from those anticipated. Subsurface conditions also may change with time due to either natural phenomena or people's activities. We note that any statements or absence of statements, in this preliminary study regarding odors, unusual or suspicious items, or conditions observed are strictly for descriptive purposes and are not intended to convey engineering judgment regarding potential hazardous/toxic assessment.

We appreciate this opportunity to be of continued service to Brown and Caldwell. Please contact Mr. Ron Bajuniemi at (925) 949-7107 or Michael Wilson at (916) 813-7549 if you have any questions regarding the information presented in this study.

Sincerely,
 Fugro USA Land, Inc.


 Michael Wilson, PG, C.E.G.
 Associate Geologist




 Ronald L. Bajuniemi, PE, GE
 Principal Engineer



00	Final	MEW	RLB	RLB	July 3, 2017
A	Draft	MEW	RLB	RLB	May 16, 2017
Rev.	Status	Prepared	Reviewed	Approved	Date

Copies Submitted: (1) Michael Walkowiak, Brown and Caldwell

Attachments:

- Figure 1
- Figures 2 through 4 -Topographic Mapping, Sheets V-201 through V-203



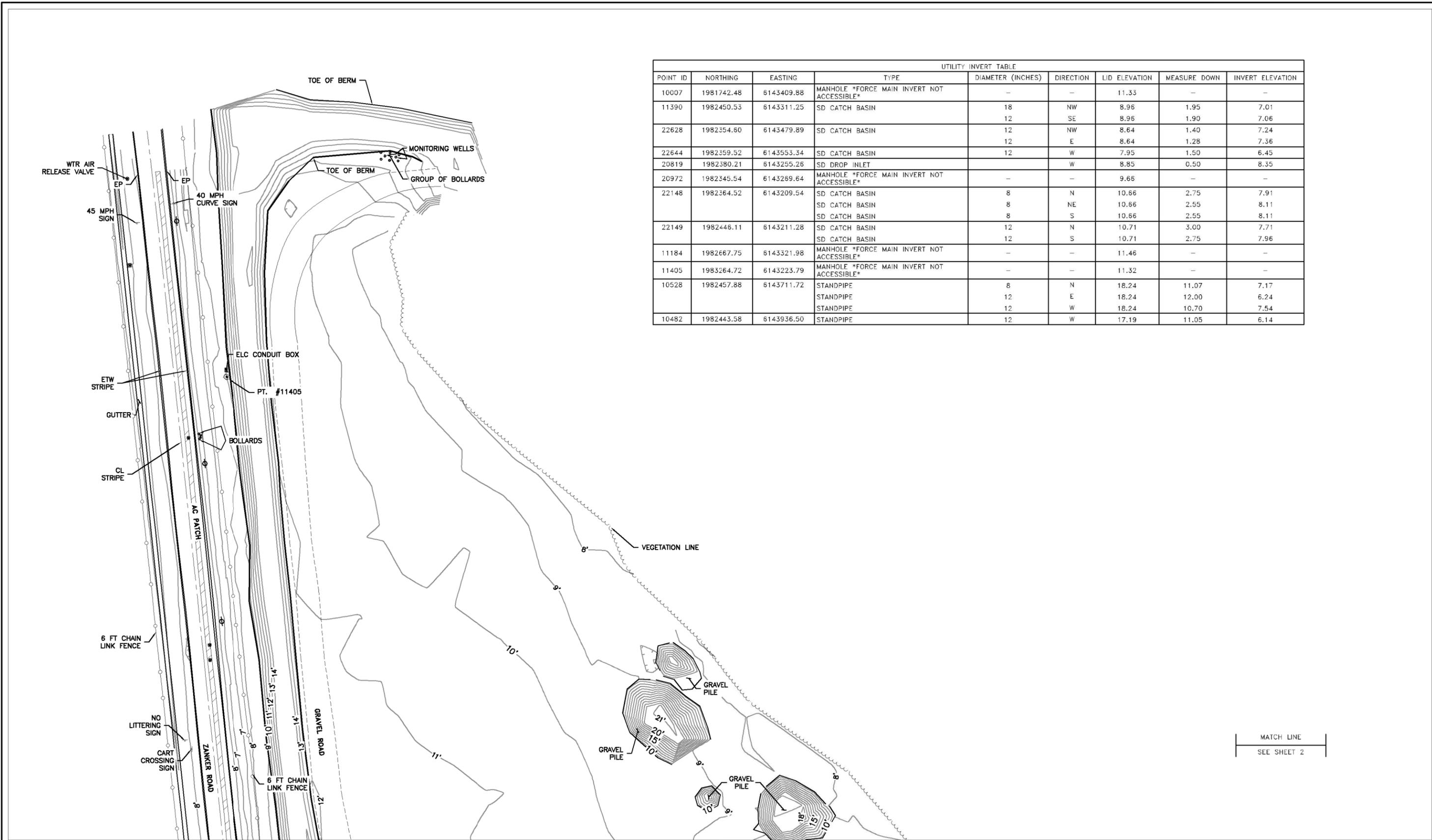
Base Map Source: Brown and Caldwell, 2017

SITE PLAN

PROJECT SITE
PROPOSED DIGESTED SLUDGE DEWATERING FACILITY, SAN JOSE, CA

FIGURE 1

FILE SPEC: P:\2229_SJSC_RWWTP\030_Biosolids_Dewatering_Facility\07_Survey\300_Topo\030_Field_Topo\170413-Topo_Working.dwg
 PLOT DATE: Apr 21, 2017 - 6:18pm

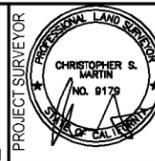


POINT ID	NORTHING	EASTING	UTILITY INVERT TABLE					
			TYPE	DIAMETER (INCHES)	DIRECTION	LID ELEVATION	MEASURE DOWN	INVERT ELEVATION
10007	1981742.48	6143409.88	MANHOLE *FORCE MAIN INVERT NOT ACCESSIBLE*	-	-	11.33	-	-
11390	1982450.53	6143311.25	SD CATCH BASIN	18	NW	8.96	1.95	7.01
				12	SE	8.96	1.90	7.06
22628	1982354.60	6143479.89	SD CATCH BASIN	12	NW	8.64	1.40	7.24
				12	E	8.64	1.28	7.36
22644	1982359.52	6143553.34	SD CATCH BASIN	12	W	7.95	1.50	6.45
20819	1982380.21	6143255.26	SD DROP INLET	-	W	8.85	0.50	8.35
20972	1982345.54	6143269.64	MANHOLE *FORCE MAIN INVERT NOT ACCESSIBLE*	-	-	9.65	-	-
22148	1982364.52	6143209.54	SD CATCH BASIN	8	N	10.66	2.75	7.91
			SD CATCH BASIN	8	NE	10.66	2.55	8.11
			SD CATCH BASIN	8	S	10.66	2.55	8.11
22149	1982446.11	6143211.28	SD CATCH BASIN	12	N	10.71	3.00	7.71
			SD CATCH BASIN	12	S	10.71	2.75	7.96
11184	1982667.75	6143321.98	MANHOLE *FORCE MAIN INVERT NOT ACCESSIBLE*	-	-	11.46	-	-
11405	1983264.72	6143223.79	MANHOLE *FORCE MAIN INVERT NOT ACCESSIBLE*	-	-	11.32	-	-
10528	1982457.88	6143711.72	STANDPIPE	8	N	18.24	11.07	7.17
			STANDPIPE	12	E	18.24	12.00	6.24
			STANDPIPE	12	W	18.24	10.70	7.54
10482	1982443.58	6143936.50	STANDPIPE	12	W	17.19	11.05	6.14



SUBMITTAL	
%	Date

NO.	DESCRIPTION	DATE	APPR.



DESIGN BY	DRAWING SCALE
CSM	1" = 40'
KFN	ORIGINAL DRAWING SCALE
CCS83, ZONE 3	0 1/2" 1"
VERTICAL DATUM NAVD88	

DESIGN BY: CSM
 DRAWN BY: CSM
 CHECK BY: KFN
 HORIZONTAL DATUM: CCS83, ZONE 3
 VERTICAL DATUM: NAVD88

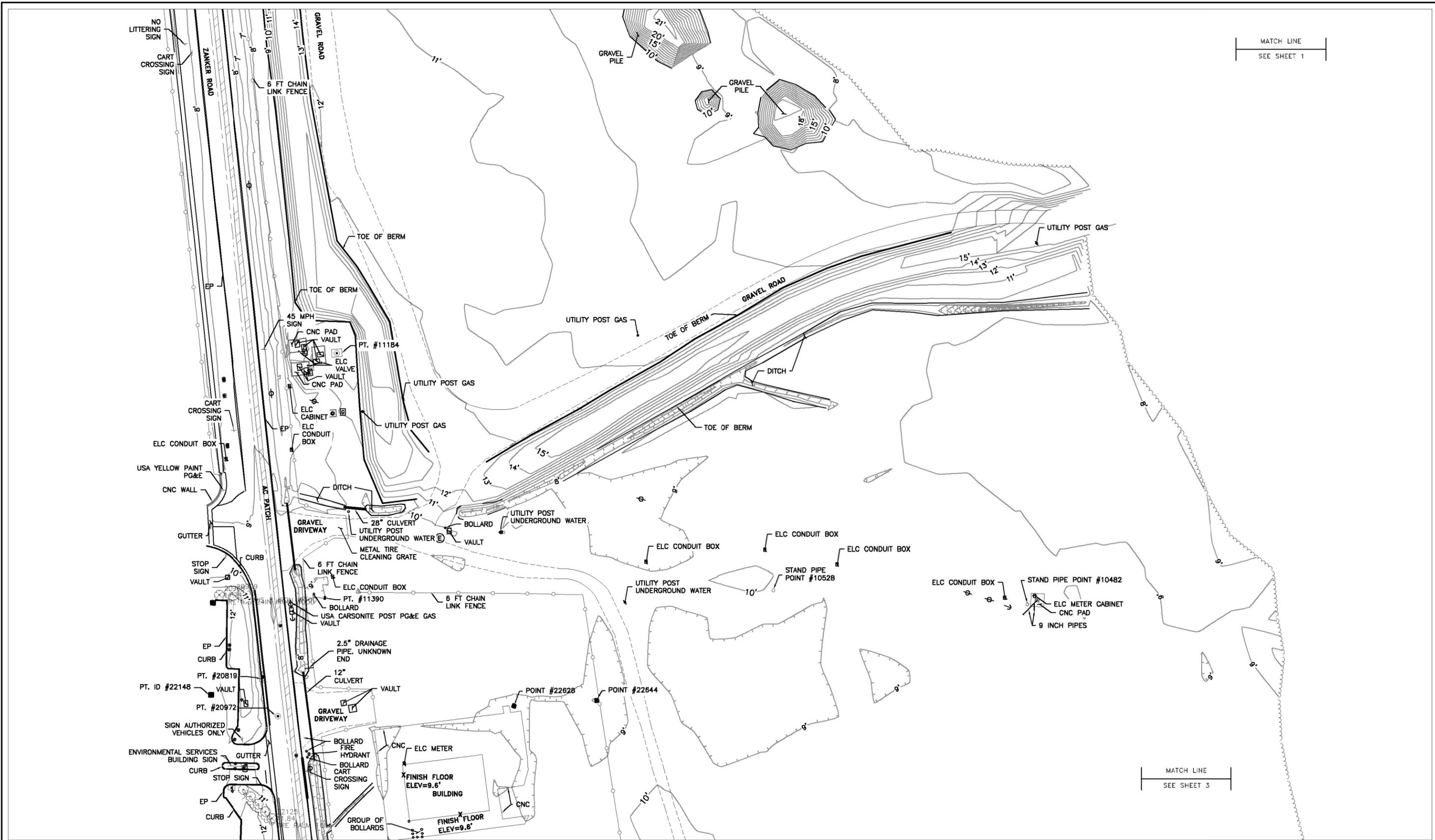
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 1550 Harbor Drive, Suite 212
 West Sacramento, CA 95691
 916-403-8900

BIOSOLICS DEWATERING FACILITY
 SJSC WWTP
 SAN JOSE, CA
TOPOGRAPHIC MAPPING

DATE: APRIL 2017
 SHEET IDENTIFICATION: **V-201**
 SHEET 3 OF 5
 KSN PROJECT FILE NO. 2229-0030

FIGURE 2

FILE SPEC: P:\2229_SJSC_RWWTP\030_Biosolids_Dewatering_Facility\07_Survey\300_Topo\030_Topo\170413-Topo_Working.dwg
 PLOT DATE: Apr 21, 2017 - 6:18pm



SUBMITTAL	
%	Date

NO.	DESCRIPTION	DATE	APPR.



DESIGN BY	DRAWING SCALE
CSM	1" = 40'
KFN	ORIGINAL DRAWING SCALE
CCS83, ZONE 3	0 1/2" 1"
VERTICAL DATUM NAVD88	

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BIOSOLICS DEWATERING FACILITY
 SJSC WWTP
 SAN JOSE, CA

TOPOGRAPHIC MAPPING

DATE: APRIL 2017
 SHEET IDENTIFICATION: **V-202**
 SHEET 4 OF 5
 KSN PROJECT FILE NO. 2229-0030

FIGURE 3

FILE SPEC: P:\2229_SJSC_RWWTP\030_Biosolids_Dewatering_Facility\07_Survey\300_Topo\030_Topo\170413-Topo_Working.dwg
 PLOT DATE: Apr 21, 2017 - 6:15pm



	SUBMITTAL	
	%	Date



PROJECT SURVEYOR				

DESIGN BY	
DRAWN BY	CSM
CHECK BY	KFN
HORIZONTAL DATUM	CCS83, ZONE 3
VERTICAL DATUM	NAVD88

DRAWING SCALE	1" = 40'
ORIGINAL DRAWING SCALE	0 1/2" 1"

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BIOSOLICS DEWATERING FACILITY
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 SAN JOSE, CA

TOPOGRAPHIC MAPPING

DATE	APRIL 2017
SHEET IDENTIFICATION	V-203
SHEET 5 OF 5	
KSN PROJECT FILE NO.	2229-0030

FIGURE 4

APPENDIX I

Sludge Dewatering Facility CEQA Consistency Transportation Analysis

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MEMORANDUM

Date: April 24, 2019
To: Meryka Dirks, ESA
From: Jane Bierstedt, Fehr & Peers
Subject: Sludge Dewatering Facility CEQA Consistency Transportation Analysis

SJ19-1924

This memorandum presents the results of the transportation analysis conducted to assess California Environmental Quality Act (CEQA) consistency for the proposed Sludge Dewatering Facility Project (the Project) located at the San José – Santa Clara Regional Wastewater Facility (RWF) in San José, California. The proposed Sludge Dewatering Facility is located on the east side of Zanker Road opposite the existing Environmental Services Building (ESB) at the primary RWF site.

Background

The City of San José adopted and certified the San José / Santa Clara Water Pollution Control Plant Master Plan (PMP) and the Environmental Impact Report (EIR) in November 2013. The Sludge Dewatering Facility Project is part of the Master Plan and its transportation impacts were addressed in the EIR. This analysis assesses whether the currently proposed Project is consistent with the project evaluated in the EIR. Specifically, it presents estimates of traffic generated by the proposed facility construction and operations and compares them to estimates evaluated in the EIR. If the estimates are similar or lower, then it is concluded that the PMP EIR adequately addressed impacts and no additional analysis is needed.

Project Description

The portions of the Project that are relevant to this transportation analysis are described in this section. They include the number of trucks and workers going to and from the site during construction and during facility operations when construction is completed.



During construction, an average of five trucks per day and a maximum of 20 trucks per day would be needed for the removal of demolition debris and excavation spoils and delivery of construction materials and equipment. The size of the construction workforce would be 20 to 30 workers, with a maximum of 100 workers during short periods.

When construction is completed, the facility will operate 24 hours a day, 7 days a week with 9 employees on three shifts. Approximately 34 trucks on an average day and 68 on a peak day would be required for removal of the dewatered cake.

Setting

The setting is the same as described in the PMP EIR. Construction traffic and traffic during typical operations would access the site via the gate on Zanker Road, circulate through the site, and exit back onto Zanker Road. This traffic would primarily use State Route (SR) 237 to reach Zanker Road.

Impacts Discussion

The relative impacts of the currently proposed Project in relation to the PMP EIR using the current CEQA checklist are summarized in **Table 1**. The PMP EIR identified less-than-significant impacts for conflicts with applicable transportation and traffic plans, effects to levels of service at the Congestion Management Program (CMP) study intersections and freeway segments, increases in traffic-related hazards, and conflicts with adopted policies, plans, and programs supporting alternative transportation. The PMP EIR identified temporary significant impacts that could be mitigated to a less-than-significant level regarding reductions in roadway capacity, pedestrian and bicycle access, and emergency vehicle access during construction activities. (The mitigation measure, preparation a traffic control plan, has been completed.)

The PMP EIR included an analysis of 2040 (the horizon year of the General Plan as well as the Plant Master Plan) based on projected transportation conditions when the General Plan capacities for jobs and housing are fully developed. The assessment indicated that the PMP would not increase in citywide VMT per service population; therefore, the PMP would have a less than significant impact on citywide VMT under General Plan 2040 plus Project conditions. Because this Project would have no impact related to VMT, the checklist box category would be "Less Impact than Approved Project".



A significant and unavoidable cumulative impact to established measures of effectiveness for travel mode share and travel speeds in transit corridors for buildout of the PMP, including the economic development portion, was identified.

The proposed Project generates similar amounts of traffic as the near-term project evaluated in the PMP EIR. Therefore, its impacts were addressed in the PMP EIR and no additional analysis is needed.



Table 1: Impacts Discussion

Issues	New Potentially Significant Impact	New Less than Significant Impact with Mitigation Incorporation	New Less than Significant Impact	Same Impact as Approved Project	Less Impact than Approved Project	Checklist Source(s)
Transportation and Traffic – would the project:						
a) Conflict with a program, plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
b) Conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
c) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
d) Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	



Project Traffic

Construction traffic and typical daily on-going operations traffic estimates for the Project were estimated based on:

- Daily truck volumes hauling materials into or out of the construction site
- Number of construction workers at the site
- Number of trucks entering and exiting the site for typical operations (after construction is completed)
- Number of employees on-site for typical operations

Data for the currently proposed Project was compared to the near-term data from the EIR to see if there are any major differences, as shown in **Table 2**. The number of construction trucks is less than the number evaluated in the EIR and the number of construction workers on a typical day is similar. (A total of 58 workers for all simultaneous construction activities was evaluated in the EIR.) The EIR analysis did not present information regarding truck volumes or employees specifically for sludge dewatering operations. The number of employees at the plant for all new near-term operations was projected to be 321, an increase of 23 employees over conditions in 2012.

Table 2: Construction Truck Volumes, Construction Workers, and Operations Data for Sludge Dewater Facility (Daily Totals)

Source	Construction		Operations	
	Trucks	Workers	Trucks	Employees
2013 PMP EIR	36	10	n/a	23 ²
Proposed Project	20	20/30 to 100 ¹	34 to 68 ³	9

Source:

1. Average day to peak construction period
2. All construction projects combined
3. Daily sludge production plus an additional amount to draw down of two days of storage

The information in **Table 2** was used to develop vehicle trip estimates during the AM and PM peak hours, the time periods when traffic volumes on the roadway system are highest, for the construction period and for facility operations. The results are presented in **Tables 3** and **4**.



Construction Period Traffic

The construction period traffic estimates are presented in **Table 3**. The numbers of construction trucks were multiplied by two (one inbound trip and one outbound trip) to calculate the number of daily truck trips. These truck trips will occur throughout the day. The AM and PM peak hour truck volumes are estimated to be 17 percent of the daily volumes with half of the truck trips inbound and half outbound. To be consistent with the EIR analysis, it was assumed that all construction workers would arrive to the site in single occupancy passenger vehicles during the typical morning peak period and depart from the site during the typical evening commute peak period. The truck trips are converted to Passenger Car Equivalents (PCEs) by multiplying them by a factor of 2.0 (per the EIR analysis) to reflect their relative effect on traffic operations compared to light vehicles. The increase in number of anticipated workers is largely off-set by the decrease in the number of trucks. As a result, the proposed Project will generate similar amounts of construction traffic (within 10 PCEs¹ during each peak hour) as evaluated in the EIR. Therefore, its impacts will be very similar. The same mitigation measure, implementation of a traffic control plan, would be required. (This plan has been prepared.)

Table 3: Construction Period Trip Generation Estimates

Vehicle Trip Type	Morning Peak Hour			Evening Peak Hour		
	Inbound	Outbound	Total	Inbound	Outbound	Total
2013 PMP EIR						
Construction Trucks	6	6	12	6	6	12
Construction Workers	10	0	10	0	10	10
Total	16	6	22	6	16	22
Total (PCEs)	22	12	34	12	22	34
Proposed Project						
Construction Trucks	3	3	6	3	3	6
Construction Workers	30	0	30	0	30	30
Total	33	3	36	3	33	36
Total (PCEs)	36	6	42	6	36	42

Notes:

¹ The addition of 10 passenger cars equivalents over a one-hour period would not be noticeable at the adjacent intersections and would be more dispersed farther from the site.



Source: Fehr & Peers, April 2019

Traffic during Operations

Truck traffic during operations was estimated in a similar fashion as construction traffic. The facility employees will work on three different shifts with five on the day shift and two each on the swing and night shifts. The employee trips were estimated assuming each would use a single-occupant vehicle. The five day-shift employees would arrive during the AM peak hour and depart during the PM peak hour. The two swing shift employees would arrive during the PM peak hour and the two night shift employees would leave during the AM peak hour.

Table 4: Trip Generation Estimates during Operations

Vehicle Trip Type	Morning Peak Hour			Evening Peak Hour		
	Inbound	Outbound	Total	Inbound	Outbound	Total
2013 PMP EIR (All Near-term Capital Improvement Projects)						
Trucks	2	2	4	0	1	1
Employees	9	4	13	6	14	20
Total	11	6	17	6	15	21
Total (PCEs)	13	8	21	6	16	22
Proposed Project						
Trucks	6	6	12	6	6	12
Employees	5	2	7	2	5	7
Total	11	8	19	8	11	19
Total (PCEs)	17	14	31	14	17	31

Notes:

Source: Fehr & Peers, April 2019

The amount of traffic generated by the proposed Project is similar to the amount of traffic evaluated in the EIR (within 10 PCEs) for typical facility operations. Therefore, its impacts are contained with the EIR's analysis.

APPENDIX J

Letter to Tribal Representative

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September 5, 2019

To

Katherine Erolinda Perez, Chairwoman
Northern Valley Yokuts Tribe and Nototomne Cultural Preservation

Re: PP18-018 --San José/Santa Clara Regional Wastewater Facility Digested Sludge
Dewatering Facility.

Dear Ms. Katherine Erolinda Perez.

Thank you for your time and commitment in engaging with the City of San José to provide comments on this project. We sincerely appreciate your comments provided during the site visit on May 8, 2019, and in the comment letter dated May 24, 2019, via email (Attachment 1). Upon receiving the comment letter, we set up a meeting at your convenience to provide response to these comments in person, but the meeting was later canceled due to unexpected change in schedule. The Wastewater Facility is a critical utility facility serving an area of roughly 300 square miles that contains a service population of approximately 2 million people (1.4 million residents and 600,000 workers). The proposed project is a critical capital improvement project with a stringent timeline. Hence we are providing a written response.

Please note that the type of environmental document (addendum) being prepared for this project is not subject to AB 52 and City's CEQA process guidelines do not require consultation for this project. However, as a courtesy, the City has engaged in discussion with tribal representatives to receive feedback on this project. We again appreciate your time and commitment. We have taken into account the comments, concerns, measures, and recommendations provided by you on behalf of the Northern Valley Yokuts Tribe and Nototomne Cultural Preservation (NVYT/NCP). Please see below response to all of your comments.

Response to Comment #1, #2, and #3 (Mitigation Measures):

We have carefully reviewed the mitigation measure languages provided by you. The project is an addendum to the San José/Santa Clara Waste Pollution Control Plan ("PMP") Project Environmental Impact Report (EIR) which was adopted in 2013. The EIR has specific mitigation language which needs to be continued in all addendum documents under the guidelines of CEQA. As such, there has been extensive archeological surveys done in the area, and it is fairly certain that no known tribal cultural resources listed or determined eligible for listing in the California Register, or included in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), pursuant to Public Resources Code Section 21074(a)(1), are expected to be impacted by the Project. Even so, during an inadvertent discovery of tribal cultural resources, the mitigation measures included in the 2013 EIR would be applicable. These mitigation measures include requirements for the City to contact the Native American Heritage Commission and work with the tribal representatives on appropriate measures to treat a tribal cultural resources, if encountered.

Response to Comment #4 (Avoidance of Tribal Cultural Resources):

The project currently proposes to avoid all impacts to tribal cultural resources. Following our discussion with you, the project has incorporated, as a condition of the project, to coordinate with the provision of the Elderberry tree, to the Northern Valley Yokuts Tribe, at the time of its removal. No Oak Trees or Cottonwood Trees are located on the project site. No protected lizards or butterfly species have been identified during the reconnaissance biological survey and therefore are not anticipated to be impacted. The proposed project provides mitigation measures to protect rare plants, including Congdon's tarplant (*Centromadia parryi* ssp. *congdonii*), and other sensitive species including Western pond turtles (*Emys marmorata*). Avoidance measures would also protect riparian woodland habitat and potential jurisdictional wetlands.

Response to Question Regarding Sharing of Archeological Resources:

We understand your frustration that these cultural resources reports were not available during the site visit. Given the sensitivity of the archaeological reports, the City of San José's current CEQA procedural guidelines only allow us to share these reports with qualified archeological consultants. We understand that these reports could be obtained from the Northwest Information Center of the California Historical Resources Information System (CHRIS), an adjunct to Sonoma State University.

Additionally, we will provide you with an update email when the addendum for the Project is available for review.

Once again, we appreciate your interest and commitment in engaging with us during the review of this project. Please do not hesitate to contact me for any questions or comments.

Thank you.

SanhitaG

SANHITA GHOSAL
Project Manager

Attachment: Email received from Katherine Erolinda Perez

Attachment: Email received from Tribal Representatives

From: canutes@verizon.net [<mailto:canutes@verizon.net>]

Sent: Friday, May 24, 2019 8:15 AM

To: Ghosal, Sanhita <Sanhita.Ghosal@sanjoseca.gov>

Subject: San Jose/Santa Clara Water Treatment Plant

Hello Sanhita,

I am not sure I sent this to you but here it is again.

Subject: AB 52 Consultation with Northern Valley Yokuts Tribe and Nototomne Cultural Preservation Pursuant to California Public Resources Code 21080.3.2(b)(1) for the San Jose/Santa Clara Water Treatment Plant - Digested Sludge Dewatering Facility Project (Project)

Dear Sanhita Ghosal, AICP,

Thank you for engaging in AB 52 Consultation with Northern Valley Yokuts Tribe and Nototomne Cultural Preservation. As part of that consultation:

1. We have agreed to measures seek to minimize potentially significant impact to a less than significant level or avoid significant effects to known Tribal Cultural Resources (attached): CUL-1, Avoidance; CUL-2, Tribal Monitoring; CUL-3, Inadvertent Discoveries; and, CUL-5, Cultural Awareness and Sensitivity Training;
2. Impacts to human remains cannot be mitigated to a less than significant level and requires mitigation options for burial and cultural resources treatment, monitoring, lab processing, and final reinterment. No human remains were observed during the site visit.
3. We have agreed to measures that address the inadvertent discovery of Tribal Cultural Resources (attached), however should an inadvertent discovery of tribal cultural resources occur (either during post review or through an inadvertent discovery), then Northern Valley Yokuts Tribe and Nototomne Cultural Preservation reserves the right to reinitiate consultation;
4. Northern Valley Yokuts Tribe/Nototomne Cultural Preservation (NVYT/NCP) completed a coordination meeting and site tour on May 8, 2019. Our tribe's preference would be to avoid all tribal cultural resources observed during the site visit that includes: Oak Trees, Cottonwoods, frogs, lizards, butterflies, and Elderberry. NVYT/NCP has requested these TCR be avoided. If possible, we'd like to see additional habitat for the butterfly. It is our understanding that the Department of Planning, Building and Code Enforcement and NVYT/NCP agree to save the elderberry that is located in the direct impact area.

Please confirm that the attached mitigation measures will be included in the environmental report and the adopted mitigation, monitoring and reporting program (MMRP). Thank you for notifying our Tribe about your Project. Please include this correspondence in the final record of consultation and that you provide Northern Valley Yokuts Tribe and Nototomne Cultural Preservation with a copy of the final environmental report and MMRP.

Native American Monitoring is requested based on the presence of tribal cultural resources (TCR) in the project area. TCRs are described in the CUL-1, TCR Avoidance Measure. Additional sensitive resources are located directly adjacent to the project area which indicates the possible presence of Human Remains in the project area which appears to be heavily disturbed and a large volume of soil fill has been imported. This request is also based on the almost zero visibility of the ground surface due to dense vegetation.

We were disappointed that your agency did not share the archaeological report and records search so that we could comment on both. NVYT/NCP would appreciate a response to this

request and justification on why this information was not shared during consultation. Please contact me by phone 209.649.8972 or email at canutes@verizon.net to continue the consultation.

Sincerely,
Katherine Erolinda Perez, Chairwoman