

**BIOLOGICAL RESOURCES ASSESSMENT,
JURISDICTIONAL DELINEATION, AND
NATIVE PLANT PROTECTION PLAN FOR THE
JOSHUA TREE CAMPSITE DEVELOPMENT
(APN: 0631-283-07)
JOSHUA TREE, SAN BERNARDINO COUNTY, CALIFORNIA**

Prepared for:

Tom Dodson & Associates
2150 North Arrowhead Avenue
San Bernardino, California 92405

Prepared by:



Jennings Environmental, LLC
35414 Acacia Ave.
Yucaipa, CA 92399
909-534-4547

October 2022

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

Table of Contents

SECTION 1.0 - INTRODUCTION	4
1.1 PROJECT LOCATION	4
1.2 PROJECT DESCRIPTION	4
SECTION 2.0 – METHODOLOGY	5
2.1 LITERATURE REVIEW	5
2.2 BIOLOGICAL RECONNAISSANCE-LEVEL SURVEY	5
2.3 JURISDICTIONAL FEATURES	5
2.4 VEGETATION	6
2.5 WILDLIFE	6
2.6 WILDLIFE CORRIDORS AND HABITAT CONSERVATION PLAN	6
SECTION 3.0 – RESULTS	6
3.1 LITERATURE REVIEW RESULTS	6
3.1.1 SPECIAL STATUS SPECIES	7
3.1.2 JURISDICTIONAL WATERS	9
3.1.4 DESIGNATED CRITICAL HABITAT	9
3.1.5 HYDROLOGY AND HYDROLOGIC CONNECTIVITY	9
3.1.6 SAN BERNARDINO COUNTY DEVELOPMENT CODE	10
3.2 FIELD STUDY RESULTS	11
3.2.1 HABITAT	11
3.2.2 WILDLIFE	11
3.2.3 SPECIAL STATUS SPECIES	11
3.2.4 NESTING BIRDS	12
3.2.5 JURISDICTIONAL WATERS	13
3.2.6 WETLANDS AND BLUE LINE STREAM	14
3.2.7 NATIVE PLANT PROTECTION PLAN	14
SECTION 4.0 - CONCLUSIONS AND RECOMMENDATIONS	15
4.1 JURISDICTIONAL AREAS	15
4.2 SENSITIVE SPECIES	15
4.3 NESTING BIRDS	15
4.4 CERTIFICATION	16
Section 5 – REFERENCES	17

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

Appendix A - Figures	18
Appendix B - Photos	24
Appendix C – Regulatory Framework	31
Appendix D – Tables	39

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

SECTION 1.0 - INTRODUCTION

Jennings Environmental, LLC (Jennings) was retained by Tom Dodson and Associates to conduct a literature review and reconnaissance-level survey for the proposed Joshua Tree Campsite Development in the unincorporated town of Joshua Tree, California (Project). The survey identified vegetation communities, the potential for the occurrence of special status species, or habitats that could support special status wildlife species, and recorded all plants and animals observed or detected within the Project boundary. This biological resources assessment is designed to address potential effects of the proposed project on designated critical habitats and/or any species currently listed or formally proposed for listing as endangered or threatened under the federal Endangered Species Act (ESA) and the California Endangered Species Act (CESA) or species designated as sensitive by the California Department of Fish and Wildlife (CDFW) or the California Native Plant Society (CNPS).

Information contained in this document is in accordance with accepted scientific and technical standards that are consistent with the requirements of the United States Fish and Wildlife Service (USFWS) and (CDFW). Additionally, the site was surveyed for any drainage features that would meet the definition of the Waters of the US (WOUS), Waters of the State (WOS), or CDFW jurisdiction. Also, the project is located within the desert of San Bernardino County. As such, this report also contains the results of the Native Plant Protection Plan in accordance with San Bernardino County Development Code Section 88.01.060.

1.1 PROJECT LOCATION

The project is generally located in the eastern edge of Section 36, Township 2 North, Range 6 East, and is depicted on the boarder of the *Joshua Tree North* U.S. Geological Survey's (USGS) 7.5-minute topographic map. More specifically the project is located within APN 0631-283-07, within the unincorporated area of Joshua Tree, San Bernardino County, California. The Project site is located on the western side of Stone Hill Ave., just north of the intersection of Stone Hill Ave. and Moonlight Mesa Street. The site is surrounded by a mixture of vacant parcels and rural residential parcels (Figures 1 and 2 in Appendix A).

1.2 PROJECT DESCRIPTION

The proposed Joshua Tree Camp site consists of four geo dome structures. Each unit will consist of the following components: the Camping Dome, wood decking, outdoor jacuzzi, hot tub, fire pit, concrete step seating adjacent to the fire pit, sand base walkway, planter areas (using Desert plant species), stairs to access the Camp site, and perimeter wall and steel fencing around each unit. Each unit will have a four-space vehicle parking area adjacent.

A total of four units will be installed on the approximate 2.4-acre site. Access will be provided to the developed Camp site off of Stonehill Lane. The applicant intends to open the Campground in Spring of 2023. The facility will be open daily and activities will be reduced for quite time at 10 pm. A maximum of 16 people will be allowed at the Campground. A property manager will handle daily operations and units will be visited daily for cleaning and maintenance.

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

SECTION 2.0 – METHODOLOGY

2.1 LITERATURE REVIEW

Prior to performing the field survey, existing documentation relevant to the Project site was reviewed. The most recent records of the California Natural Diversity Database (CNDDDB) managed by CDFW (CDFW 2022), the USFWS Critical Habitat Mapper (USFWS 2023), and the California Native Plant Society's Electronic Inventory (CNPSEI) of Rare and Endangered Vascular Plants of California (CNPS 2022) were reviewed for the following quadrangle containing and surrounding the Project site: *Joshua Tree North*, USGS 7.5-minute quadrangle. These databases contain records of reported occurrences of federal- or state-listed endangered or threatened species, California Species of Concern (SSC), or otherwise special status species or habitats that may occur within or in the immediate vicinity of the Project site. These sources include:

- California Natural Diversity Database (CNDDDB) managed by CDFW (CDFW 2021)
- USFWS Critical Habitat Mapper (USFWS 2022)
- California Native Plant Society's Electronic Inventory (CNPSEI) of Rare and Endangered Vascular Plants of California (CNPS 2022)
- U.S. Fish and Wildlife (USFWS) threatened and endangered species occurrence GIS overlay;
- USGS National Map;
- Calwater Watershed Maps
- USFWS Designated Critical Habitat Maps
- San Bernardino County Development Code, 88.01.060 Desert Native Plant Protection

2.2 BIOLOGICAL RECONNAISSANCE-LEVEL SURVEY

Jennings biologists, Gene Jennings, conducted the general reconnaissance survey within the Project site to identify the potential for the occurrence of special status species, vegetation communities, or habitats that could support special status wildlife species. The survey was conducted on foot, throughout the Project site between 1530 and 1645 hours on October 23, 2022. Weather conditions during the survey included temperatures ranging from 67.2 to 69.3 degrees Fahrenheit, with no cloud cover, no precipitation, 3.6 to 5.1 mile per hour winds. Photographs of the Project site were taken to document existing conditions (Appendix B).

2.3 JURISDICTIONAL FEATURES

A general assessment of jurisdictional waters regulated by the United States Army Corps of Engineers (USACE), Regional Water Quality Control Board (RWQCB), and CDFW was conducted for the proposed Project area. Pursuant to Section 404 of the Clean Water Act, USACE regulates the discharge of dredged and/or fill material into waters of the United States. The State of California (State) regulates the discharge of material into waters of the State pursuant to Section 401 of the Clean Water Act and the California Porter- Cologne Water Quality Control Act (California Water Code, Division 7, §13000 et seq.). Pursuant to Division 2, Chapter 6, Sections 1600-1602 of the California Fish and Game Code, CDFW regulates all substantial diversions, obstructions, or changes to the natural flow or bed, channel, or bank of any river, stream, or lake, which supports fish or wildlife. The initial assessment was conducted by a desktop survey

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT

through the USGS National Hydrography Dataset for hydrological connectivity. Additional assessment findings are discussed in Sections 3.1.2 and 3.2.5. A discussion of the regulatory framework is provided in Appendix C.

2.4 VEGETATION

All plant species observed within the Project site were recorded. Vegetation communities within the Project site were identified, qualitatively described, and mapped onto a high-resolution imagery aerial photograph. Plant communities were determined in accordance with the *Manual of California Vegetation, Second Edition* (Sawyer et al. 2009). Plant nomenclature follows that of *The Jepson Manual, Second Edition* (Baldwin et al. 2012). A comprehensive list of the plant species observed during the survey is provided in Appendix D.

2.5 WILDLIFE

All wildlife and wildlife signs observed and detected, including tracks, scat, carcasses, burrows, excavations, and vocalizations, were recorded. Additional survey time was spent in those habitats most likely to be utilized by wildlife (native vegetation, wildlife trails, etc.) or in habitats with the potential to support state- and/or federally listed or otherwise special status species. Notes were made on the general habitat types, species observed, and the conditions of the Project site. A comprehensive list of the wildlife species observed during the survey is provided in Appendix D.

2.6 WILDLIFE CORRIDORS AND HABITAT CONSERVATION PLAN

According to the California Essential Habitat Connectivity Project, the Project Site, is not mapped within an area for wildlife movement. Additionally, the site is not mapped within a wildlife linkage as mapped by the Mojave Desert Land Trust. The proposed Project is also not within a Habitat Conservation Plan. Therefore, the proposed Project will have no impact on any current wildlife corridors or habitat conservation plans.

SECTION 3.0 – RESULTS

3.1 LITERATURE REVIEW RESULTS

According to the CNDDDB, CNPSEI, and other relevant literature and databases, 6 sensitive species including 1 listed species, have been documented in the *Joshua Tree North* quad. This list of sensitive species and habitats includes any State and/or federally listed threatened or endangered species, CDFW designated Species of Special Concern (SSC) and otherwise Special Animals. “Special Animals” is a general term that refers to all of the taxa the CNDDDB is interested in tracking, regardless of their legal or protection status. This list is also referred to as the list of “species at risk” or “special status species.” The CDFW considers the taxa on this list to be those of greatest conservation need.

An analysis of the likelihood for the occurrence of all CNDDDB sensitive species documented in the *Joshua Tree North* quad is provided in Table 2, in Appendix D. This analysis takes into account species range as well as documentation within the vicinity of the project area and includes the habitat requirements for each species and the potential for their occurrence on the site, based on required habitat elements and

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT

range relative to the current site conditions. According to the databases, no USFWS designated critical habitat occurs within or adjacent to the project site.

3.1.1 SPECIAL STATUS SPECIES

Desert Tortoise (*Gopherus agassizii*)

The desert tortoise is a State and federally listed threatened species. Throughout its range, it is threatened by habitat loss, domestic grazing, predation, collections, and increased mortality rates. The desert tortoise is typically found in creosote bush scrub. They are most often found on level or sloped ground where the substrate is firm but not too rocky. Tortoise burrows are typically found at the base of shrubs, in the sides of washes and hillsides. Because a single tortoise may have many burrows distributed throughout its home range, it is not possible to predict the exact numbers of individuals on a site based upon burrow numbers.

In 1992 the US Bureau of Land Management issued the *California Statewide Desert Tortoise Management Policy* which included categorizing habitat into three levels of classification. The management goal for Category I areas is to maintain stable, viable populations and to increase the population where possible. The management goal for Category II areas is to maintain stable, viable populations. The management goal for Category III areas is to limit population declines to the extent feasible. In April 1993, the BLM amended the CDCA plan to delineate these three categories of desert tortoise habitat on public lands. Although habitat categories apply only to public lands administered by the BLM, regulatory agencies typically determine habitat compensation ratios based on the nearest BLM habitat categories (Desert Tortoise Compensation Team 1991). With the adoption of the West Mojave Plan (U.S. Bureau of Land Management 2005), all lands that are outside Desert Wildlife Management Areas, including the subject parcel, are characterized as Category 3 Habitat, which is the lowest priority management area for viable populations of the desert tortoise.

Burrowing Owl (*Athene cunicularia*)

The burrowing owl (BUOW) is a state and federal SSC. This owl is a mottled, brownish and sand-colored, dove-sized raptor, with large, yellow eyes, a rounded head lacking ear tufts, white eyebrows, and long legs compared to other owl species. It is a ground-dwelling owl typically found in arid prairies, fields, and open areas where vegetation is sparse and low to the ground. The BUOW is heavily dependent upon the presence of mammal burrows, with ground squirrel burrows being a common choice, in its habitat to provide shelter from predators, inclement weather, and to provide a nesting place (Coulombe 1971). They are also known to make use of human-created structures, such as cement culverts and pipes, for burrows.

BUOW spends a great deal of time standing on dirt mounds at the entrance to a burrow or perched on a fence post or other low to the ground perch from which they hunt for prey. BUOW frequently hunt by hovering in place above the ground and dropping on their prey from above. They feed primarily on insects such as grasshoppers, June beetles, and moths, but will also take small rodents, birds, and reptiles. They are active during the day and night but are considered a crepuscular owl; generally observed in the early morning hours or at twilight. The breeding season for BUOW is February 1 through August 31. Up to 11, but typically 7 to 9, eggs are laid in a burrow, abandoned pipe, or other subterranean hollows where incubation is complete in 28-30 days. Young BUOW fledges in 44 days. The BUOW is considered a

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT

migratory species in portions of its range, which includes western North America from Canada to Mexico, and east to Texas and Louisiana. BUOW populations in California are considered to be sedentary or locally migratory.

Throughout its range, the BUOW is vulnerable to habitat loss, predation, vehicular collisions, and destruction of burrow sites, and the poisoning of ground squirrels (Grinnell and Miller 1944, Zarn 1974, Remsen 1978). BUOW has disappeared from significant portions of their range in the last 15 years and, overall, nearly 60% of the breeding groups of owls known to have existed in California during the 1980s had disappeared by the early 1990s (Burrowing Owl Consortium 1993). The BUOW is not listed under the state or federal Endangered Species Act but is considered both a federal and state Species of Special Concern. The BUOW is a migratory bird protected by the international treaty under the Migratory Bird Treaty Act of 1918 and by State law under the California Fish and Game Code (CDFG Code #3513 & #3503.5).

Desert Kit Fox (*Vulpes macrotis*)

The desert kit fox is not federally- or state-listed, but is considered a species of local concern by the County of Los Angeles. It is uncommon to rare permanent resident in arid habitats within southern California (CDFW 2017b). Kit foxes are threatened by a number of human activities, including poaching, pesticide and rodenticide use, and direct poisoning, as well as heavy agricultural and urban development (Eder 2005). Desert kit foxes occur in the desert and other arid habitats, including sagebrush flats, creosote scrub, and annual grassland habitats, and other areas with scattered brush, scrub, and shrubs. They are an important predator of small mammals, preying on black-tailed jackrabbits (*Lepus californicus*), desert cottontails (*Sylvilagus audubonii*), kangaroo rats, ground squirrels, and other rodents, insects, reptiles, birds, and bird eggs. Limited vegetation may be taken. Desert kit foxes excavate burrows in loose-textured sandy or loamy soils for shelter, pupping, and as an escape from extreme heat and cold (Eder 2005, CDFW B). Open, level areas are preferred for burrowing. Man-made structures and infrastructure, including culverts and pipes, also may be used for denning where suitable friable soils are not present (CDFW B).

American Badger (*Taxidea taxus*)

The American badger is a CDFW Species of Special Concern. Badgers are uncommon, permanent residents throughout California, and occur most commonly in open stages of shrub, woodland, and herbaceous habitats. They are tenacious diggers and occur where friable soils support denning and burrowing activities. They are active year-round, and most often nocturnal, although they may be active during the day. They prey upon fossorial rodents, especially California ground squirrels and pocket gophers; rats and mice, some reptiles, insects, eggs, birds, and carrion also may be taken. Breeding typically occurs in the summer and early fall, with pups being born the following March or April in burrows dug in relatively dry, often sandy soil. American badgers are threatened primarily by indiscriminate trapping, agricultural conversion, and the eradication of ground squirrels and other fossorial rodents that comprise the majority of their prey base (CDFW B).

Western Joshua Tree (*Yucca brevifolia*)

Western Joshua trees occur throughout the Mojave Desert in Southern California and are typically found at an elevation of 400 to 1,800 meters (~1,200 to ~5,400 feet). Western Joshua trees within the western

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT

portion of the Mojave Desert typically receive more annual precipitation during "normal" years; consequently, cloning occurs more often resulting in numerous trunks sprouting from the same root system. Western Joshua tree habitats provide habitat for a variety of wildlife species including desert woodrats (*Neotoma* sp.) and night lizards (*Xantusia* sp.) both of which utilize the base of the trees. A variety of birds also utilize Western Joshua trees for nesting such as hawks, common ravens, and cactus wrens. CDFW consider Western Joshua tree woodlands as areas that support relatively high species diversity and as such are considered to be a sensitive desert community. Western Joshua trees are also considered a significant resource under the California Environmental Quality Act (CEQA) and are included in the Desert Plant Protection Act, Food and Agricultural Code (80001 - 80006).

Additionally, pursuant to the provisions of Section 2074.2 of the Fish and Game Code, the California Fish and Game Commission (Commission), at its September 22, 2020, meeting, accepted for consideration the petition submitted to list the western Joshua tree (*Yucca brevifolia*) as threatened or endangered under the California Endangered Species Act. Based on that finding and the acceptance of the petition, the Commission also provided notice that the western Joshua tree is a candidate species as defined by Section 2068 of the Fish and Game Code. Figure 3 in Appendix A shows the location of the one Joshua tree on-site.

3.1.2 JURISDICTIONAL WATERS

Aerial imagery of the site was examined and compared with the surrounding USGS 7.5-minute topographic quadrangle maps to identify drainage features within the survey area as indicated from topographic changes, blue-line features, or visible drainage patterns. The U.S. Fish and Wildlife Service National Wetland Inventory and Environmental Protection Agency (EPA) Water Program "My Waters" data layers were also reviewed to determine whether any hydrologic features and wetland areas had been documented within the vicinity of the site. Similarly, the Soil maps from the U.S. Department of Agriculture (USDA) - Natural Resources Conservation Service (NRCS) Web Soil Survey (USDA 2022) were reviewed to identify the soil series on-site and to check if they have been identified regionally as hydric soils. Upstream and downstream connectivity of waterways (if present) was reviewed in the field, on aerial imagery, and topographic maps to determine jurisdictional status.

3.1.4 DESIGNATED CRITICAL HABITAT

The site is not located within or adjacent to any USFWS designated Critical Habitat. No further action is required.

3.1.5 HYDROLOGY AND HYDROLOGIC CONNECTIVITY

Hydrologically, the project site is located within an undefined Hydrologic Sub-Area (HSA 708.10) which comprises a 129,902-acre drainage area within the larger Coyote Lake Hydrologic Area (Hydrologic Unit Code [HUC10] 1810010017) (CalTrans, 2022). The Coyote Lake watershed in Joshua Tree is bordered to the north by the Surprise Springs-Deadman Lake watershed, to the east by the Mesquite Lake watershed, to the south by the Black Rock Spring-Coyote Well watershed, and to the west by the Pipes Wash watershed. (Figure 3 in Appendix A).

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

3.1.6 SAN BERNARDINO COUNTY DEVELOPMENT CODE

§ 88.01.060 Desert Native Plant Protection.

This Section provides regulations for the removal or harvesting of specified desert native plants in order to preserve and protect the plants and to provide for the conservation and wise use of desert resources. The provisions are intended to augment and coordinate with the Desert Native Plants Act (Food and Agricultural Code §§ 80001 *et seq.*) and the efforts of the State Department of Food and Agriculture to implement and enforce the Act.

(a) *Definitions.* Terms and phrases used within this Section shall be defined in Division 10 (Definitions) and/or defined by the California Food and Agricultural Code. The California Food and Agricultural Code definition, if one exists, shall prevail over a conflicting definition in this Development Code.

(b) *Applicability.* The provisions of this Section shall apply to desert native plants specified in Subdivision (c) (Regulated Desert Native Plants) that are growing on any of the following lands, unless exempt in compliance with § 88.01.030 (Exempt Activities):

(1) Privately owned or publicly owned land in the Desert Region.

(2) Privately owned or publicly owned land in any parts of the Mountain Region in which desert native plants naturally grow in a transitional habitat.

(c) *Regulated Desert Native Plants.* The following desert native plants or any part of them, except the fruit, shall not be removed except under a Tree or Plant Removal Permit in compliance with § 88.01.050 (Tree or Plant Removal Permits). In all cases the botanical names shall govern the interpretation of this Section.

(1) The following desert native plants with stems two inches or greater in diameter or six feet or greater in height:

(A) *Dalea spinosa* (smoketree).

(B) All species of the genus *Prosopis* (mesquites).

(2) All species of the family Agavaceae (century plants, nolinias, yuccas).

(3) Creosote Rings, ten feet or greater in diameter.

(4) All Western Joshua trees.

(5) Any part of any of the following species, whether living or dead:

(A) *Olneya tesota* (desert ironwood).

(B) All species of the genus *Prosopis* (mesquites).

(C) All species of the genus *Cercidium* (palos verdes).

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

- (d) *Compliance with Desert Native Plants Act.* Removal actions of all plants protected or regulated by the Desert Native Plants Act (Food and Agricultural Code §§ 80001 *et seq.*) shall comply with the provisions of the Act before the issuance of a development permit or approval of a land use application.

3.2 FIELD STUDY RESULTS

3.2.1 HABITAT

The habitat on-site consists of *Larrea tridentata - Ambrosia dumosa Shrubland Alliance* (Creosote bush - white bursage scrub), mixed with ruderal vegetation with non-native grasses. The site is relatively void of human disturbance except for some pedestrian tracks. Table 1 in Appendix D contains a list of all plants found on-site. Surrounding land uses include undeveloped parcels and rural residential developments.

3.2.2 WILDLIFE

Species observed or otherwise detected on or in the vicinity of the project site during the surveys included; mourning dove (*Zenaida macroura*), and house finch (*Haemorhous mexicanus*). Table 1 in Appendix D contains a list of all wildlife observed on-site.

3.2.3 SPECIAL STATUS SPECIES

No State and/or federally listed threatened or endangered species or other sensitive species were observed on-site during surveys.

Desert Tortoise

The habitat on site is marginally suitable for desert tortoise. Recent occurrences in the vicinity from 2008 are documented in the CNDDDB Search. However, no sign of desert tortoise (i.e. burrows, tracks, or pellets) was observed during the survey. Additionally, no desert tortoise individuals were observed.

Findings: Because the site is marginally suitable, it is recommended that pre-construction surveys be completed for this species. These surveys should be conducted by a qualified biologist and at an appropriate time of day/year to observe signs of desert tortoise.

Burrowing Owl

Based on the October 2022 field survey, the site does not contain suitable habitat for this species. No burrowing owls were observed during the site visit. No burrows of any kind were located within the Project site. No portion of the Project site showed any evidence of past or present BUOW activity. No feathers, whitewash, or castings were found and no suitable burrow surrogate species are present on-site.

Findings: No suitable habitat exists on-site; therefore, no focused surveys are required.

Desert Kit Fox

The site is marginally suitable for this species. However, this species was not observed during the survey. No burrows or suitable size or shape were observed, and no evidence of this species was observed either

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT

(scat, predation remains, tracks, etc.). As such, this species is considered absent from the project site and no further surveys are required.

American Badger

The site is marginally suitable for this species. However, this species was not observed during the survey. No burrows or suitable size or shape were observed, and no evidence of this species were observed either (scat, predation remains, tracks, etc.). As such, this species is considered absent from the project site and no further surveys are required.

Western Joshua Tree

There is currently 1 western Joshua tree present on-site. The proposed Project is to develop 4 camping sites within the Parcel. As mentioned above this species is currently a candidate for listing under CESA. As such, any impacts to western Joshua trees will require an Incidental Take Permit (ITP) from the CDFW. No impacts to this species are currently proposed. However, the following mitigation measure should be included.

All western Joshua trees should be avoided on-site and the appropriate buffers should be installed.

- 40 feet for western Joshua trees five meters or greater in height.
- 12 feet for western Joshua trees one meter or greater but less than five meters in height.
- 6 feet for western Joshua trees less than one meter in height.

Table 1 below shows detailed information on the Joshua tree present on-site.

Table 1 – Western Joshua Trees

<i>ID Number</i>	<i>Height (ft)</i>	<i>DBH (inches)</i>	<i>Latitude/ Longitude</i>	<i>Health</i>	<i>Clonal</i>	<i>Transplant, Destroy, or Protect in Place</i>	<i>Class 1 (<1 meter)</i>	<i>Class 2 (1 - 4 meters)</i>	<i>Class 3 (>4 meters)</i>
001	9	6	34.216924 / -116.301645	Poor	X	Protect In Place		X	

As indicated above, the one Joshua tree on-site is to be avoided. A 12-foot buffer is recommended. The site plan currently has development taking place 35 feet away from the tree. Figure 4 in Appendix A shows the location of the tree in relation to the proposed site plan. Therefore, no impacts are expected. If future development takes place within the subdivided parcels, further studies to determine the exact impacts to Joshua tree will be required at that time.

3.2.4 NESTING BIRDS

The Project site and immediate surrounding area does contain habitat suitable for nesting birds. As such the Project is subject to the following nesting bird regulations. Recommendations for avoidance and minimization are in section 4.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT

Migratory Bird Treaty Act

The Migratory Bird Treaty Act of 1918. This Act implements four international conservation treaties that the U.S. entered into with Canada in 1916, Mexico in 1936, Japan in 1972, and Russia in 1976. It is intended to ensure the sustainability of populations of all protected migratory bird species. The Act has been amended with the signing of each treaty, as well as when any of the treaties were amended, such as with Mexico in 1976 and Canada in 1995. The Act prohibits the take (including killing, capturing, selling, trading, and transport) of protected migratory bird species without prior authorization by the Department of Interior U.S. Fish and Wildlife Service.

California Fish and Game Code

The Project site is also subject to Sections 3503 and 3503.5 of the Fish and Game Code. Section 3503 states, “It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto”. And Section 3503.5 states, “It is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds-of-prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto”.

3.2.5 JURISDICTIONAL WATERS

Waters of the United States and Waters of the State

The USACE has the authority to permit the discharge of dredged or fill material in Waters of the U.S. (WOUS) under Section 404 CWA. While the Regional Water Quality Board has authority over the discharge of dredged or fill material in Waters of the State under Section 401 CWA as well as the Porter-Cologne Water Quality Control Act. The Project area was surveyed with 100 percent visual coverage and no drainage features were present on site that met the definition for WOUS. As such, the subject parcel does not contain any wetlands, Waters of the U.S., or Waters of the State.

Fish and Game Code Section 1602 - State Lake and/or Streambed

The CDFW asserts jurisdiction over any drainage feature that contains a definable bed and bank or associated riparian vegetation. The Project area was surveyed with 100 percent visual coverage and there is one features present on-site that are considered jurisdictional under CDFW. Table 2 below details the extent of CDFW jurisdiction within the Parcel Boundary (Figure 5 in Appendix A).

Table 2 – CDFW Jurisdiction within Parcel Boundary

Feature	Bank-Full width (feet)	Length (feet)	Max Channel Depth (inches)	WoUS Corps jurisdiction (acres)	FGC 1600 CDFW jurisdiction (acres)	Impacts to Jurisdictional Features
Drainage A	11	127.6	4	N/A	0.02	0.00
Drainage B	4.3	140.6	6	N/A	0.02	0.02
Total					0.04	0.02

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT

The Proposed Project will avoid impacts to Drainage A as shown in Figure 5. Drainage B will be impacted by the installation of one of the buildings, its’ parking lot, and the driveway entrance. As such, a 1602 permit from CDFW will be required before any ground disturbance activities occur. The Project Site also contains some topographical features. These are features where water may flow during rain events, but do not meet the definition of a stream under Fish and Game Code and do not contain any associated Riparian Vegetation. As such, these are not Jurisdictional under Section 1602 of the Fish and Game Code and do not require regulatory permitting.

3.2.6 WETLANDS AND BLUE LINE STREAM

NWI maps did identify Drainage A as a Riverine/Riparian system. However, the Project does not propose any impacts to that feature. Additionally, none of the requirements for wetland designation (hydric vegetation, hydric soils, and/or wetland hydrology) were present on site. As such, there are no wetlands currently present on site.

3.2.7 NATIVE PLANT PROTECTION PLAN

The site contains one western Joshua tree, which are also covered under San Bernardino County Development Code § 88.01.060 and the California Endangered Species Act. As mentioned above there are no proposed impacts to this individual. If future development encounters this individual, an ITP will be required and compliance with the County Development Code will also be required.

The Proposed Project Site also contains 4 *Yucca schidigeras*, a protected species San Bernardino County Development Code § 88.01.060. Table 3 below details the health and translatability of each individual.

ID Number	Height (ft)	DBH (inches)	Latitude/Longitude	Health	Transplant, Destroy, or Protect in Place
YS 1	4	N/A	34.216057 / -116.302312	Poor	Protect in Place
YS 2	3	N/A	34.216058 / -116.302118	Good	Protect in Place
YS 3	5	N/A	34.216014 / -116.302381	Poor	Protect in Place
YS 4	4	N/A	34.216059 / -116.302042	Poor	Protect in Place

As noted above only YS 2 is in good. YS 1,3, and 4 are in poor health and consist of clusters that have sprouted from a dead center stock. Currently, there are no impacts to these individuals as shown on Figure 4 in Appendix A. Should future development require the removal of these individuals, YS 2 is the only one in good health and would survive transplanting. As such, it would need to be relocated at that time.

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

SECTION 4.0 - CONCLUSIONS AND RECOMMENDATIONS

Based on the literature review and personal observations made in the immediate vicinity, no State and/or federally listed threatened or endangered species are documented/or expected to occur within the Project site. Additionally, no plant species with the California Rare Plant Rank (CRPR) of 1 or 2 were observed on-site or documented to occur on-site in the relevant databases. No other sensitive species were observed within the project area or buffer area.

4.1 JURISDICTIONAL AREAS

There are no streams, channels, washes, or swales that meet the definitions of Section 401 (“Waters of the State”) of the Clean Water Act (CWA) under the jurisdiction of the Regional Water Quality Control Board (RWQCB) or “Waters of the United States” (WoUS) as defined by Section 404 of the CWA under the jurisdiction of the U.S. Army Corps of Engineers (Corps) within the subject parcel. Therefore, no permit, or certification is required from the Army Corps or RWQCB, respectively.

The project site does contain two Drainages that meet the jurisdictional definition under Section 1600 of the California Department of Fish and Game Code (CDFG). As such, any disturbance within the Drainage Features on-site is subject to a Streambed Alteration Agreement (SAA) under section 1602 of the CDFG code, as detailed above.

4.2 SENSITIVE SPECIES

western Joshua tree

The proposed Project does not propose any impacts to western Joshua trees. Should impacts to this species become unavoidable in the future, an incidental take permit (ITP) will be required from the CDFW. The ITP will need to detail all impacts to the species and what alternative mitigation measures are proposed.

Additionally, to protect the root system of each tree during construction, the following disturbance limits should be observed and delineated with highly visible construction fencing, when ground disturbance activities are proposed:

- 40 feet for western Joshua trees five meters or greater in height.
- 12 feet for western Joshua trees one meter or greater but less than five meters in height.
- 6 feet for western Joshua trees less than one meter in height.

4.3 NESTING BIRDS

Nesting Birds

Since there is some habitat within the Project site and adjacent area that is suitable for nesting birds in general, the following mitigation measure should be implemented.

Nesting bird nesting season generally extends from February 1 through September 15 in southern California and specifically, March 15 through August 31 for migratory passerine

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

birds. To avoid impacts to nesting birds (common and special status) during the nesting season, a qualified Avian Biologist will conduct pre-construction Nesting Bird Surveys (NBS) prior to Project-related disturbance to nestable vegetation to identify any active nests. If no active nests are found, no further action will be required. If an active nest is found, the biologist will set appropriate no-work buffers around the nest which will be based upon the nesting species, its sensitivity to disturbance, nesting stage, and expected types, intensity, and duration of the disturbance. The nests and buffer zones shall be field-checked weekly by a qualified biological monitor. The approved no-work buffer zone shall be clearly marked in the field, within which no disturbance activity shall commence until the qualified biologist has determined the young birds have successfully fledged and the nest is inactive.

4.4 CERTIFICATION

I hereby certify that the statements furnished herein, and in the attached exhibits present data and information required for this analysis to the best of my ability, and the facts, statements, and information presented are true and correct to the best of my knowledge and belief. This report was prepared in accordance with professional requirements and standards. Fieldwork conducted for this assessment was performed by me. I certify that I have not signed a non-disclosure or consultant confidentiality agreement with the project proponent and that I have no financial interest in the project.

Please do not hesitate to contact me at 909-534-4547 should you have any questions or require further information.

Sincerely,



Gene Jennings
Principal/Regulatory Specialist

Appendices:

- Appendix A – Figures
- Appendix B – Site Photos
- Appendix C – Regulatory Framework
- Appendix D – Tables

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

Section 5 – REFERENCES

Baldwin, B.G., D.H. Goldman, D.J. Keil, R. Patterson, and T.J. Rosatti, and D.H. Wilken (editors)

2012 *The Jepson Manual: Vascular Plants of California, Second Edition*. University of California Press, Berkeley, CA.

Barbour, M.G., J.H. Burk, W.D. Pitts, F.S. Gilliam, and M.W. Schwartz.

1999 *Terrestrial Plant Ecology, Third Edition*. Addison Wesley Longman, Inc. Menlo Park, CA.

California Department of Fish and Wildlife (CDFW)

A. 2022 California Natural Diversity Database (CNDDDB). RareFind Version 3.1.0. Database Query. Wildlife and Habitat Data Analysis Branch. [Accessed October 2022]

B. California Wildlife Habitats Relationships Life History Accounts and Range Maps. (Accessed online at <https://www.wildlife.ca.gov/Data/CWHR/Life-History-and-Range>). Accessed October 2022.

California Department of Fish and Game. 1995. Staff report on burrowing owl mitigation. Memo from C.F. Raysbrook, Interim Director to Biologist, Environmental Services Division, Department of Fish and Game. Sacramento, CA.

California Department of Fish and Game (CDFG). 2012. Staff Report on Burrowing Owl Mitigation. State of California Natural Resources Agency. March 7, 2012

California Department of Transportation. Water Quality Planning Tool.
<http://svctenvims.dot.ca.gov/wqpt/wqpt.aspx> (Accessed October 2022)

California Native Plant Society (CNPS)

2022 Inventory of Rare and Endangered Plants (online edition, v8-03 0.39). Rare Plant Scientific Advisory Committee, California Native Plant Society, Sacramento, California. Website <http://www.rareplants.cnps.org>, California USGS 7.5 minute quadrangles; [Accessed October 2022].

Sawyer, J.O., Jr., T. Keeler-Wolf, J. Evens

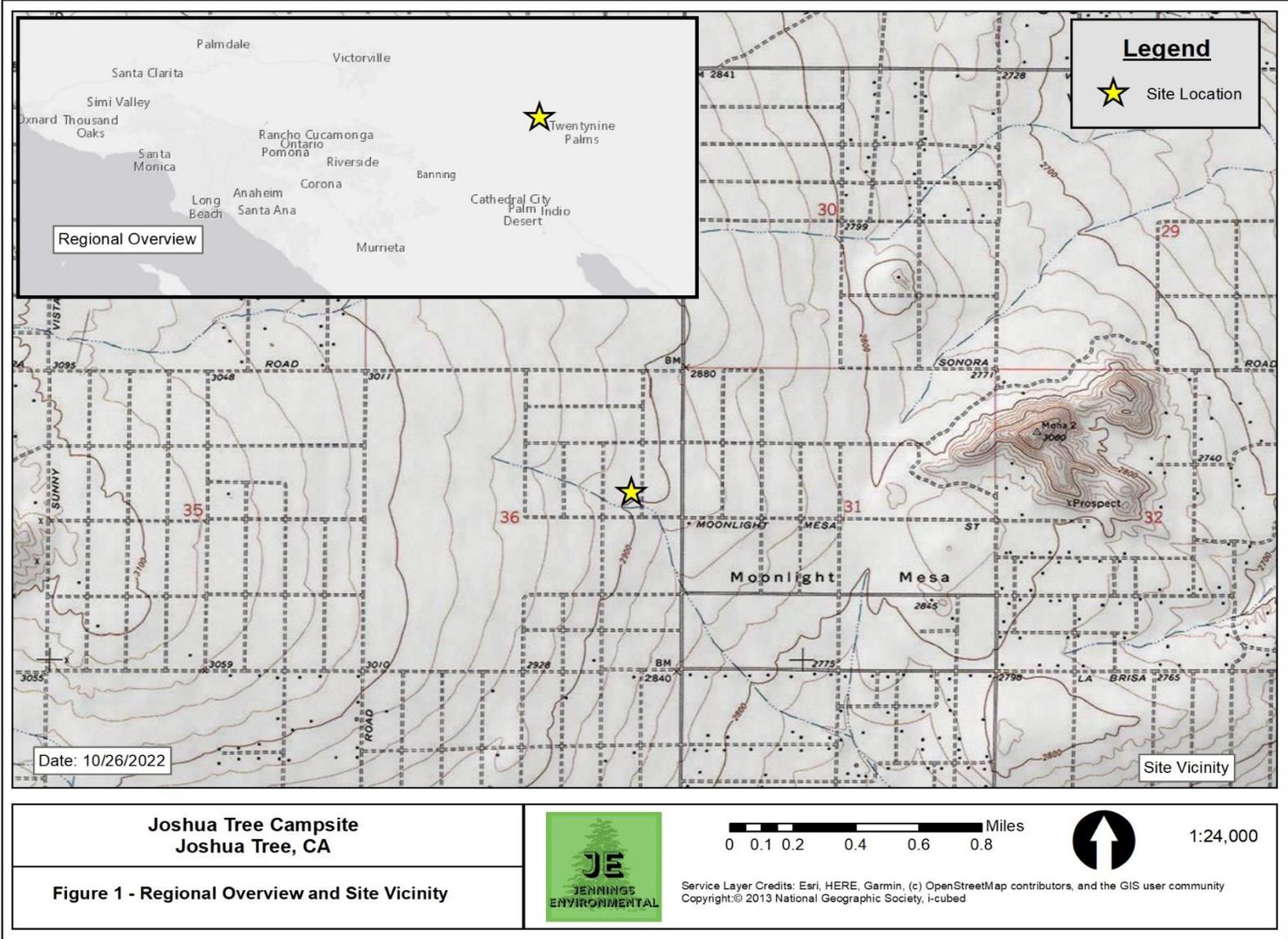
2009 *A Manual of California Vegetation, Second Edition*. California Native Plant Society, Sacramento, CA.

U.S. Department of Agriculture (USDA)

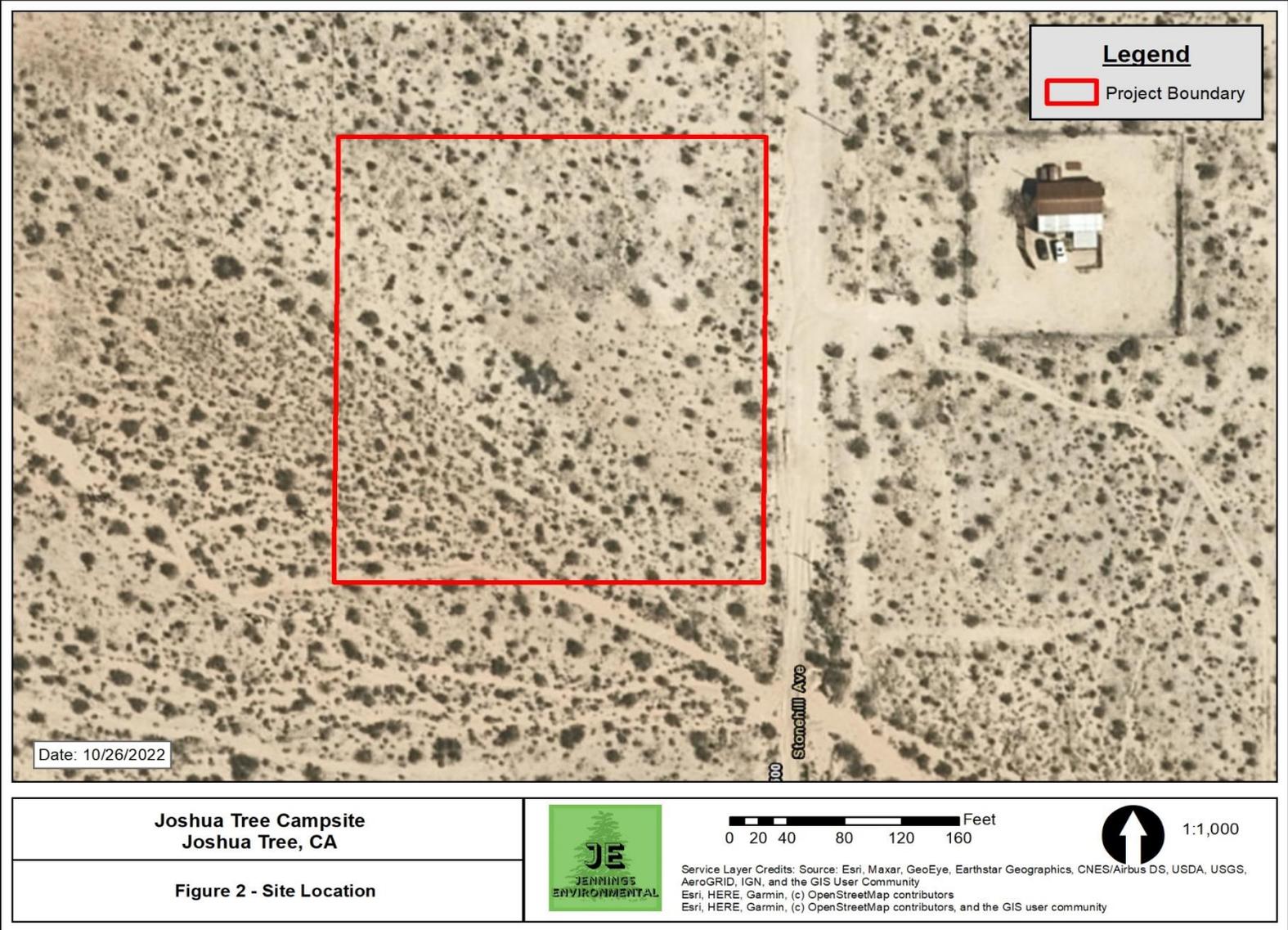
2020 Soil Survey Staff, Natural Resources Conservation Service, United States Department of Agriculture. Official Soil Series Descriptions [Online Edition]. Website <https://websoilsurvey.sc.egov.usda.gov/App/WebSoilSurvey.aspx> [Accessed October 2022].

Appendix A - Figures

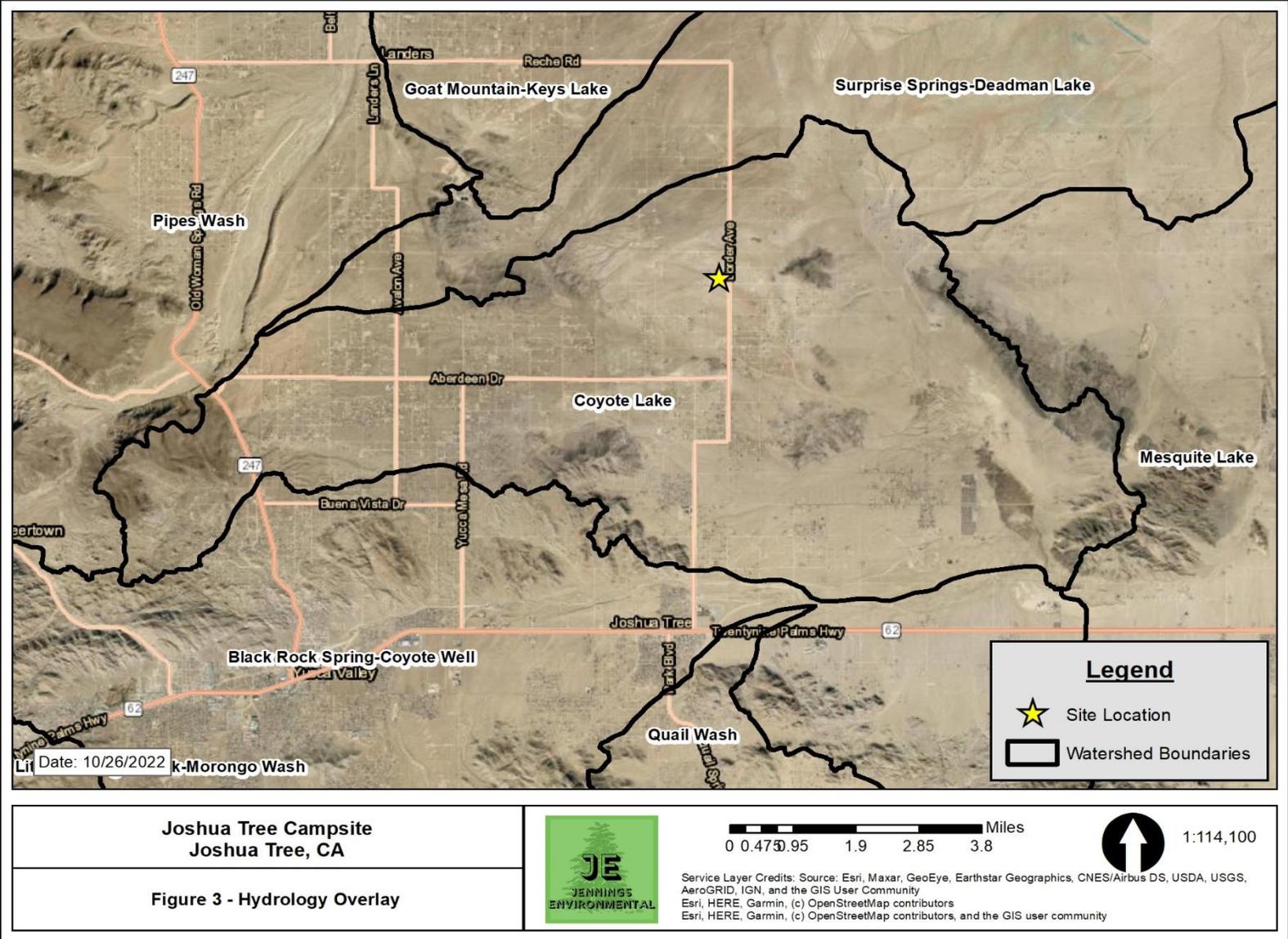
**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE
CAMPSITE DEVELOPMENT**



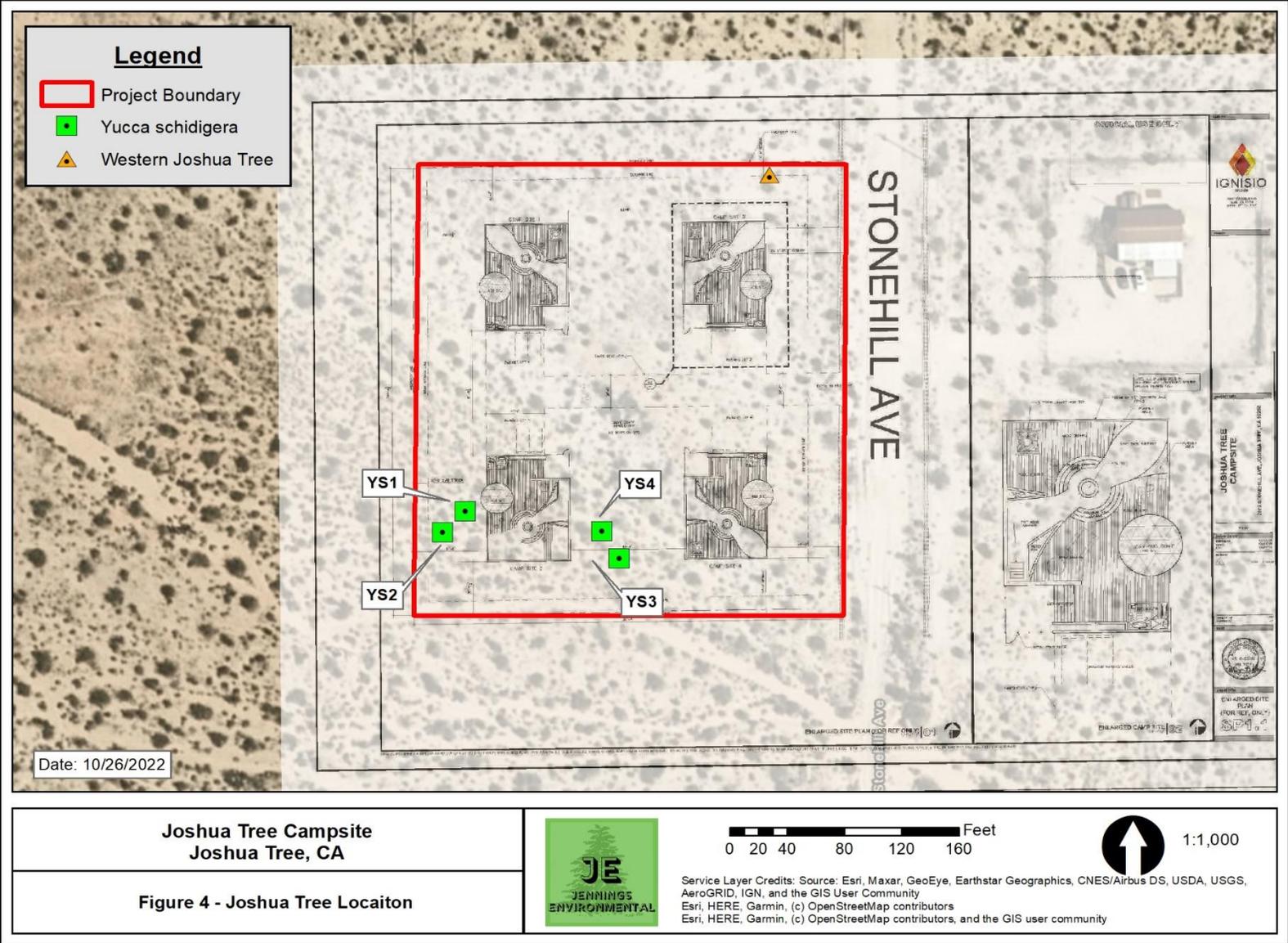
BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



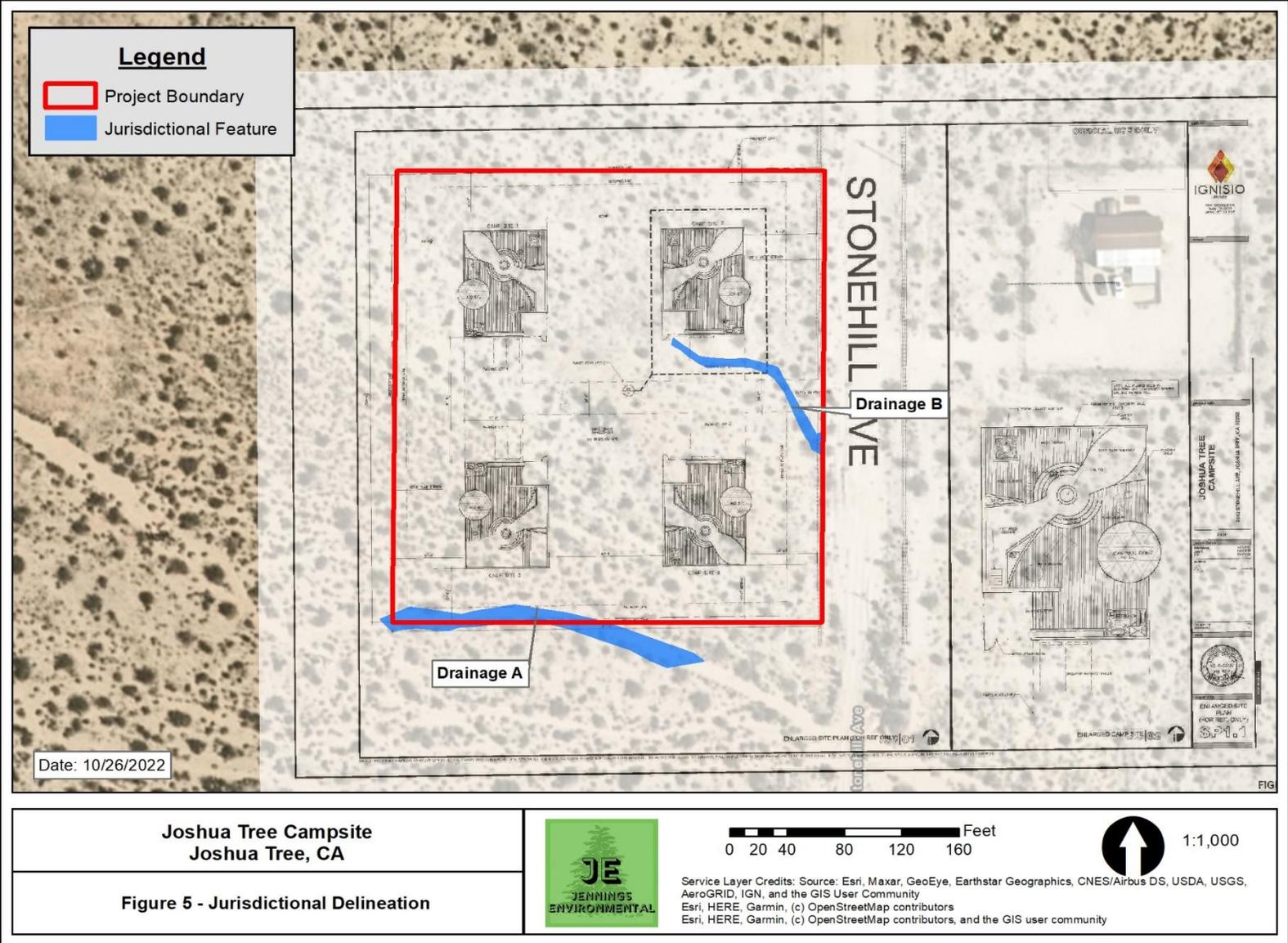
BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



Appendix B - Photos

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



Photo 1 –
Northeast corner
of Project Site,
facing southwest.



Photo 2 –
Northwest corner
of Project Site,
facing southeast.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



Photo 3 – Southwest corner of Project Site, facing northeast.



Photo 4 – Southeast corner of Project Site, facing northwest.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



Photo 5 – One Joshua Tree On-Site.



Photo 6 – *Yucca schidigera* 1 (YS1).

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



Photo 7 – *Yucca schidigera* 2 (YS2).



Photo 8 – *Yucca schidigera* 3 (YS3).

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



Photo 9 – *Yucca schidigera* 4 (YS4).



Photo 10 – Drainage A, facing downstream.

BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT



Photo 10 –
Drainage B, facing
upstream.

Appendix C – Regulatory Framework

1.1 FEDERAL JURISDICTION

1.1.1 United States Army Corps of Engineers

Activities within inland streams, wetlands, and riparian areas in California are regulated by agencies at the federal, state, and regional levels. At the federal level, the U.S. Army Corps of Engineers (USACE) Regulatory Program regulates activities within wetlands and waters of the US pursuant to Section 404 of the Federal Clean Water Act (CWA).

At the state level, the California Department of Fish and Wildlife (CDFW) regulates activities within the bed, bank, and associated habitat of a stream under the Fish and Game Code §§ 1600–1616. The California State Water Resources Board (SWRB) delegates authority at the regional level to Regional Water Quality Control Boards (RWQCB) that are responsible for regulating discharge into waters of the US under Section 401 of the federal CWA and waters of the State under the California Porter-Cologne Water Quality Act.

The CWA was implemented to maintain and restore the chemical, physical, and biological integrity of the Waters of the United States (33 Code of Federal Regulations [CFR] Part 328 Section 328.3). “Waters of the US” are defined as follows:

(a) *Jurisdictional waters.* For purposes of the Clean Water Act, 33 U.S.C. 1251 *et seq.* and its implementing regulations, subject to the exclusions in paragraph (b) of this section, the term “waters of the United States” means:

- (1) The territorial seas, and waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including waters which are subject to the ebb and flow of the tide;
- (2) Tributaries;
- (3) Lakes and ponds, and impoundments of jurisdictional waters; and
- (4) Adjacent wetlands.

(b) *Non-jurisdictional waters.* The following are not “waters of the United States”:

- (1) Waters or water features that are not identified in paragraph (a)(1), (2), (3), or (4) of this section;
- (2) Groundwater, including groundwater drained through subsurface drainage systems;
- (3) Ephemeral features, including ephemeral streams, swales, gullies, rills, and pools;
- (4) Diffuse stormwater run-off and directional sheet flow over upland;
- (5) Ditches that are not waters identified in paragraph (a)(1) or (2) of this section, and those portions of ditches constructed in waters identified in paragraph (a)(4) of this section that do not satisfy the conditions of paragraph (c)(1) of this section;
- (6) Prior converted cropland;
- (7) Artificially irrigated areas, including fields flooded for agricultural production, that would revert to upland should application of irrigation water to that area cease; Artificial lakes and ponds, including water storage reservoirs and farm,

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

irrigation, stock watering, and log cleaning ponds, constructed or excavated in upland or in nonjurisdictional waters, so long as those artificial lakes and ponds are not impoundments of jurisdictional waters that meet the conditions of paragraph (c)(6) of this section;

(8) Water-filled depressions constructed or excavated in upland or in non-jurisdictional waters incidental to mining or construction activity, and pits excavated in upland or in nonjurisdictional waters for the purpose of obtaining fill, sand, or gravel;

(9) Stormwater control features constructed or excavated in upland or in non-jurisdictional waters to convey, treat, infiltrate, or store stormwater runoff;

(10) Groundwater recharge, water reuse, and wastewater recycling structures, including detention, retention, and infiltration basins and ponds, constructed or excavated in upland or in non-jurisdictional waters; and

(11) Waste treatment systems.

(c) *Definitions.* In this section, the following definitions apply:

(1) *Adjacent wetlands.* The term *adjacent wetlands* means wetlands that:

(i) Abut, meaning to touch at least at one point or side of, a water identified in paragraph (a)(1), (2), or (3) of this section;

(ii) Are inundated by flooding from a water identified in paragraph (a)(1), (2), or (3) of this section in a typical year;

(iii) Are physically separated from a water identified in paragraph (a)(1), (2), or (3) of this section only by a natural berm, bank, dune, or similar natural feature; or

(iv) Are physically separated from a water identified in paragraph (a)(1), (2), or (3) of this section only by an artificial dike, barrier, or similar artificial structure so long as that structure allows for a direct hydrologic surface connection between the wetlands and the water identified in paragraph (a)(1), (2), or (3) of this section in a typical year, such as through a culvert, flood or tide gate, pump, or similar artificial feature. An adjacent wetland is jurisdictional in its entirety when a road or similar artificial structure divides the wetland, as long as the structure allows for a direct hydrologic surface connection through or over that structure in a typical year.

(2) *Ditch.* The term *ditch* means a constructed or excavated channel used to convey water.

(3) *Ephemeral.* The term *ephemeral* means surface water flowing or pooling only in direct response to precipitation (e.g., rain or snow fall).

(4) *High tide line.* The term *high tide line* means the line of intersection of the land with the water's surface at the maximum height reached by a rising tide. The high tide line may be determined, in the absence of actual data, by a line of oil or scum along shore objects, a more or less continuous deposit of fine shell or debris on the foreshore or berm, other physical markings or characteristics, vegetation lines, tidal gages, or other suitable means that delineate the general height reached by

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

a rising tide. The line encompasses spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds, such as those accompanying a hurricane or other intense storm.

(5) *Intermittent*. The term *intermittent* means surface water flowing continuously during certain times of the year and more than in direct response to precipitation (e.g., seasonally when the groundwater table is elevated or when snowpack melts).

(6) *Lakes and ponds, and impoundments of jurisdictional waters*. The term *lakes and ponds, and impoundments of jurisdictional waters* means standing bodies of open water that contribute surface water flow to a water identified in paragraph (a)(1) of this section in a typical year either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of this section. A lake, pond, or impoundment of a jurisdictional water does not lose its jurisdictional status if it contributes surface water flow to a downstream jurisdictional water in a typical year through a channelized non-jurisdictional surface water feature, through a culvert, dike, spillway, or similar artificial feature, or through a debris pile, boulder field, or similar natural feature. A lake or pond, or impoundment of a jurisdictional water is also jurisdictional if it is inundated by flooding from a water identified in paragraph (a)(1), (2), or (3) of this section in a typical year.

(7) *Ordinary high water mark*. The term *ordinary high water mark* means that line on the shore established by the fluctuations of water and indicated by physical characteristics such as a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas.

(8) *Perennial*. The term *perennial* means surface water flowing continuously year-round.

(9) *Prior converted cropland*. The term *prior converted cropland* means any area that, prior to December 23, 1985, was drained or otherwise manipulated for the purpose, or having the effect, of making production of an agricultural product possible. EPA and the Corps will recognize designations of prior converted cropland made by the Secretary of Agriculture. An area is no longer considered prior converted cropland for purposes of the Clean Water Act when the area is abandoned and has reverted to wetlands, as defined in paragraph (c)(16) of this section. Abandonment occurs when prior converted cropland is not used for, or in support of, agricultural purposes at least once in the immediately preceding five years. For the purposes of the Clean Water Act, the EPA Administrator shall have the final authority to determine whether prior converted cropland has been abandoned.

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

(10) *Snowpack*. The term *snowpack* means layers of snow that accumulate over extended periods of time in certain geographic regions or at high elevation (e.g., in northern climes or mountainous regions).

(11) *Tidal waters and waters subject to the ebb and flow of the tide*. The terms *tidal waters and waters subject to the ebb and flow of the tide* mean those waters that rise and fall in a predictable and measurable rhythm or cycle due to the gravitational pulls of the moon and sun. Tidal waters and waters subject to the ebb and flow of the tide end where the rise and fall of the water surface can no longer be practically measured in a predictable rhythm due to masking by hydrologic, wind, or other effects.

(12) *Tributary*. The term *tributary* means a river, stream, or similar naturally occurring surface water channel that contributes surface water flow to a water identified in paragraph (a)(1) of this section in a typical year either directly or through one or more waters identified in paragraph (a)(2), (3), or (4) of this section. A tributary must be perennial or intermittent in a typical year. The alteration or relocation of a tributary does not modify its jurisdictional status as long as it continues to satisfy the flow conditions of this definition. A tributary does not lose its jurisdictional status if it contributes surface water flow to a downstream jurisdictional water in a typical year through a channelized non-jurisdictional surface water feature, through a subterranean river, through a culvert, dam, tunnel, or similar artificial feature, or through a debris pile, boulder field, or similar natural feature. The term tributary includes a ditch that either relocates a tributary, is constructed in a tributary, or is constructed in an adjacent wetland as long as the ditch satisfies the flow conditions of this definition.

(13) *Typical year*. The term *typical year* means when precipitation and other climatic variables are within the normal periodic range (e.g., seasonally, annually) for the geographic area of the applicable aquatic resource based on a rolling thirty-year period.

(14) *Upland*. The term *upland* means any land area that under normal circumstances does not satisfy all three wetland factors (i.e., hydrology, hydrophytic vegetation, hydric soils) identified in paragraph (c)(16) of this section, and does not lie below the ordinary high water mark or the high tide line of a jurisdictional water.

(15) *Waste treatment system*. The term *waste treatment system* includes all components, including lagoons and treatment ponds (such as settling or cooling ponds), designed to either convey or retain, concentrate, settle, reduce, or remove pollutants, either actively or passively, from wastewater prior to discharge (or eliminating any such discharge).

(16) *Wetlands*. The term *wetlands* means areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Section 404 (b)(1) compliance must be demonstrated before a Section 404 permit can be issued. Guidelines for a Section 404(b)(1) analysis were developed by the EPA in conjunction with USACE (40 CFR Parts 230). The guidelines allow the discharge of dredged or fill material into the aquatic system only if there is no practicable alternative that would have less adverse impacts.

1.2 STATE JURISDICTION

The State of California (State) regulates discharge of material into waters of the State pursuant to Section 401 of the CWA as well as the California Porter-Cologne Water Quality Control Act (Porter-Cologne; California Water Code, Division 7, §13000 et seq.). Waters of the State are defined by Porter-Cologne as “any surface water or groundwater, including saline waters, within the boundaries of the state” (Water Code Section 13050(e)). Waters of the State broadly includes all waters within the State’s boundaries (public or private), including waters in both natural and artificial channels.

1.2.1 Regional Water Quality Control Board

Under Porter-Cologne, the State Water Resources Control Board (SWRCB) and the local Regional Water Quality Control Boards (RWQCB) regulate the discharge of waste into waters of the State. Discharges of waste include “fill, any material resulting from human activity, or any other ‘discharge’ that may directly or indirectly impact ‘waters of the state.’” Porter-Cologne reserves the right for the State to regulate activities that could affect the quantity and/or quality of surface and/or groundwaters, including isolated wetlands, within the State. Wetlands were defined as waters of the State if they demonstrated both wetland hydrology and hydric soils. Waters of the State determined to be jurisdictional for these purposes require, if impacted, waste discharge requirements (WDRs).

When an activity results in fill or discharge directly below the OHWM of jurisdictional waters of the United States (federal jurisdiction), including wetlands, a CWA Section 401 Water Quality Certification is required. If a proposed project is not subject to CWA Section 401 certification but involves activities that may result in a discharge to waters of the State, the project may still be regulated under Porter-Cologne and may be subject to waste discharge requirements. In cases where waters apply to both CWA and Porter-Cologne, RWQCB may consolidate permitting requirements to one permit.

1.2.2 California Department of Fish and Wildlife

Pursuant to Division 2, Chapter 6, Sections 1600-1602 of the California Fish and Game Code, the California Department of Fish and Wildlife (CDFW) regulates all diversions, obstructions, or

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

changes to the natural flow or bed, channel, or bank of any river, stream, or lake, which supports fish or wildlife.

CDFW defines a “stream” (including creeks and rivers) as “a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having surface or subsurface flow that supports or has supported riparian vegetation” (California Code of Regulations, Title 14, Section 1.72). The jurisdiction of CDFW may include areas in or near intermittent streams, ephemeral streams, rivers, creeks, dry washes, sloughs, blue-line streams that are indicated on USGS maps, watercourses that may contain subsurface flows, or within the flood plain of a water body. CDFW’s definition of “lake” includes “natural lakes or man-made reservoirs.” CDFW limits of jurisdiction typically include the maximum extents of the uppermost bank-to-bank distance and/or the outermost extent of riparian vegetation dripline, whichever measurement is greater.

In a CDFW guidance of stream processes and forms in dryland watersheds (Vyverberg 2010), streams are identified as having one or more channels that may all be active or receive water only during some high flow event. Subordinate features, such as low flow channels, active channels, banks associated with secondary channels, floodplains, and stream-associated vegetation, may occur within the bounds of a single, larger channel. The water course is defined by the topography or elevations of land that confine a stream to a definite course when its waters rise to their highest level. A watercourse is defined as a stream with boundaries defined by the maximal extent or expression on the landscape even though flow may otherwise be intermittent or ephemeral.

Artificial waterways such as ditches (including roadside ditches), canals, aqueducts, irrigation ditches, and other artificially created water conveyance systems also may be under the jurisdiction of CDFW. CDFW may claim jurisdiction over these features based on the presence of habitat characteristics suitable to support aquatic life, riparian vegetation, and/or stream-dependent terrestrial wildlife. As with natural waterways, the limit of CDFW jurisdiction of artificial waterways includes the uppermost bank-to-bank distance and/or the outermost extent of riparian vegetation dripline, whichever measurement is greater.

CDFW does not have jurisdiction over wetlands but has jurisdiction to protect against a net loss of wetlands. CDFW supports the wetland criteria recognized by USFWS; one or more indicators of wetland conditions must exist for wetlands conditions to be considered present. The following is the USFWS accepted definition of a wetland:

Wetlands are lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification, wetlands must have one or more of the following three attributes: (1) at least periodically, the lands supports hydrophytes, (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is nonsoil and is saturated

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

with water or covered by shallow water at some time during the growing season of each year (Cowardin et al. 1979).

In A Clarification of the U.S. Fish and Wildlife Service's Wetland Definition (Tiner 1989), the USFWS definition was further clarified "that in order for any area to be classified as wetland by the Service, the area must be periodically saturated or covered by shallow water, whether wetland vegetation and/or hydric soils are present or not; this hydrologic requirement is addressed in the first sentence of the definition." When considering whether an action would result in a net loss of wetlands, CDFW will extend jurisdiction to USFWS-defined wetland conditions where such conditions exist within the riparian vegetation that is associated with a stream or lake and does not depend on whether those features meet the three-parameter USACE methodology of wetland determination. If impacts to wetlands under the jurisdiction of CDFW are unavoidable, a mitigation plan will be implemented in coordination with CDFW to support the CDFW policy of "no net loss" of wetland habitat.

Appendix D – Tables

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT
PROTECTION PLAN FOR THE JOSHUA TREE CAMPSITE DEVELOPMENT**

Table 1. Species Observed On-Site

Common Name	Scientific Name
<u>Plants</u>	
Creosote bush	<i>Larrea tridentata</i>
Western Joshua tree	<i>Yucca brevifolia</i>
White bursage	<i>Ambrosia dumosa</i>
Pencil cholla	<i>Cylindropuntia ramosissima</i>
Rush milkweed	<i>Asclepias subulata</i>
harem cactus	<i>Echinocactus polycephalus</i>
White ratany	<i>Krameria grayi</i>
<u>Birds</u>	
Mourning dove	<i>Zenaida macroura</i>
House finch	<i>Haemorhous mexicanus</i>

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE
CAMPSITE DEVELOPMENT**

Table 2 – CNDDDB Potential to Occur for the *Yucca Valley North* and *Rimrock* Quadrangles

<u>Scientific Name</u>	<u>Common Name</u>	<u>Federal/State Status</u>	<u>Other Status</u>	<u>Habitat</u>	<u>Potential to Occur</u>
Athene cucularia	burrowing owl	None, None	G4, S3, CDFW-SSC	Open, dry annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. Subterranean nester, dependent upon burrowing mammals, most notably, the California ground squirrel.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Gopherus agassizii	desert tortoise	Threatened, Threatened	G3, S2S3	Most common in desert scrub, desert wash, and Joshua tree habitats; occurs in almost every desert habitat. Require friable soil for burrow and nest construction. Creosote bush habitat with large annual wildflower blooms preferred.	Habitat on-site is marginal for this species. As such, pre-construction surveys are recommended.
Grusonia parishii	Parish's club-cholla	None, None	G3G4, S2, 2B.2	Mojavean desert scrub, Sonoran desert scrub, Joshua tree woodland. Sandy or rocky sites. 840-1600 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Linanthus maculatus ssp. maculatus	Little San Bernardino Mtns. linanthus	None, None	G2T2, S2, 1B.2	Desert dunes, Sonoran desert scrub, Mojavean desert scrub, Joshua tree woodland. Sandy places. Usually in light-colored quartz sand; often in wash or bajada. 135-1220 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE
CAMPSITE DEVELOPMENT**

<u>Scientific Name</u>	<u>Common Name</u>	<u>Federal/State Status</u>	<u>Other Status</u>	<u>Habitat</u>	<u>Potential to Occur</u>
Saltugilia latimeri	Latimer's woodland-gilia	None, None	G3, S3, 1B.2	Chaparral, Mojavean desert scrub, pinyon and juniper woodland. Rocky or sandy substrate; sometimes in washes, sometimes limestone. 120-2200 m.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.
Toxostoma lecontei	Le Conte's thrasher	None, None	G4, S3, CDFW-SSC	Desert resident; primarily of open desert wash, desert scrub, alkali desert scrub, and desert succulent scrub habitats. Commonly nests in a dense, spiny shrub or densely branched cactus in desert wash habitat, usually 2-8 feet above ground.	Suitable habitat for this species does not occur on site. As such, this species is considered absent from the Project site.

**BIOLOGICAL RESOURCES ASSESSMENT, JURISDICTIONAL DELINEATION, AND NATIVE PLANT PROTECTION PLAN FOR THE JOSHUA TREE
CAMPSITE DEVELOPMENT**

Coding and Terms

E = Endangered T = Threatened C = Candidate FP = Fully Protected SSC = Species of Special Concern R = Rare

State Species of Special Concern: An administrative designation given to vertebrate species that appear to be vulnerable to extinction because of declining populations, limited acreages, and/or continuing threats. Raptor and owls are protected under section 3502.5 of the California Fish and Game code: "It is unlawful to take, possess or destroy any birds in the orders Falconiformes or Strigiformes or to take, possess or destroy the nest or eggs of any such bird."

State Fully Protected: The classification of Fully Protected was the State's initial effort in the 1960's to identify and provide additional protection to those animals that were rare or faced possible extinction. Lists were created for fish, mammals, amphibians and reptiles. Fully Protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and relocation of the bird species for the protection of livestock.

Global Rankings (Species or Natural Community Level):

- G1 = Critically Imperiled – At very high risk of extinction due to extreme rarity (often 5 or fewer populations), very steep declines, or other factors.
- G2 = Imperiled – At high risk of extinction due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors.
- G3 = Vulnerable – At moderate risk of extinction due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors.
- G4 = Apparently Secure – Uncommon but not rare; some cause for long-term concern due to declines or other factors.
- G5 = Secure – Common; widespread and abundant.
- ? = Uncertainty in the exact status of an element (could move up or down one direction from current rank)

Subspecies Level: Taxa which are subspecies or varieties receive a taxon rank (T-rank) attached to their G-rank. Where the G-rank reflects the condition of the entire species, the T-rank reflects the global situation of just the subspecies. For example: the Point Reyes mountain beaver, *Aploadontia rufa* ssp. *phaea* is ranked G5T2. The G-rank refers to the whole species range i.e., *Aploadontia rufa*. The T-rank refers only to the global condition of ssp. *phaea*.

State Ranking:

- S1 = Critically Imperiled – Critically imperiled in the State because of extreme rarity (often 5 or fewer populations) or because of factor(s) such as very steep declines making it especially vulnerable to extirpation from the State.
- S2 = Imperiled – Imperiled in the State because of rarity due to very restricted range, very few populations (often 20 or fewer), steep declines, or other factors making it very vulnerable to extirpation from the State.
- S3 = Vulnerable – Vulnerable in the State due to a restricted range, relatively few populations (often 80 or fewer), recent and widespread declines, or other factors making it vulnerable to extirpation from the State.
- S4 = Apparently Secure – Uncommon but not rare in the State; some cause for long-term concern due to declines or other factors.
- S5 = Secure – Common, widespread, and abundant in the State.

California Rare Plant Rankings (CNPS List):

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

Threat Ranks:

- .1 = Seriously threatened in California (over 80% of occurrences threatened / high degree and immediacy of threat)
- .2 = Moderately threatened in California (20-80% occurrences threatened / moderate degree and immediacy of threat)
- .3 = Not very threatened in California (less than 20% of occurrences threatened / low degree and immediacy of threat or no current threats known)