C-1 Biological Assessment Letter Report

BIOLOGICAL ASSESSMENT LETTER REPORT
FOR THE
TORREY CREST
RESIDENTIAL REDEVELOPMENT
CITY OF ENCINITAS

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1.0 SUMMARY OF FINDINGS

This Biological Assessment (BA) letter report documents the results of the biological surveys completed within and surrounding the boundaries of the subject property in support of the proposed development.

The proposed project consists of re-developing the existing residential lots on the approximately 6.646-acre property, which was initially developed as single family residential in the 1930's. The proposed Project supports a total of 30 single family residential homes. The project is located off of private driveways on the north side of Melba Ave. (driveway to 1240 Melba and one to both 1220 and 1230/1230A Melba) and at the terminus (eastern) of Island View, in the City of Encinitas. The Assessor's Parcel Numbers (APNs) on 1220 - 1240 Melba Road (4) are: 259-180-09, -10, -16, and -33-00. The APNs on 1190 Island View Lane (3) APN's: 259-181-02, -03, and -04-00.

A general habitat, sensitive and rare species biological survey, and a protocol wetland delineation was conducted over the approximately 6.646-acre property, and approximately 100' foot perimeter around the Property, on December 22, 2020. The project area was surveyed on foot and resources mapped using a 2017 Google Earth Pro aerial photograph of the area.

All discussions relating to potential take and mitigation is based on the premise that the property will be developed under the City of Encinitas's biological regulations, the Multiple Habitat Conservation Program (MHCP), and CEQA.

Animal species observed directly or detected from calls, tracks, scat, nests, or other sign were noted. All plant species observed on-site were also noted, and plants that could not be identified in the field were identified later using taxonomic keys. The site visit included a directed survey for sensitive plants that would be apparent at the time of the survey. Additionally, surveys were performed during the day and nocturnal animals were not observed.

Limitations to the compilation of a comprehensive floral and faunal checklist were few and only limited to the natural constraints of the season; fall. Since surveys were performed during the day, nocturnal animals were detected by sign. Due to the historic grading of the area as well as the ongoing use and maintenance it was determined that the existing site conditions precluded the recommendation of additional surveys being recommended as a comprehensive checklist was prepared.

Floral nomenclature for common plants follows Hickman (1993). Plant community classifications follow the California Natural Diversity Data Base (CNDDB) and Holland (1986). Zoological nomenclature for birds is in accordance with the American Ornithologists' Union Checklist (1998); for mammals, Jones et al. (1982); and for amphibians and reptiles, Collins (1997). Assessments of the sensitivity of species and habitats are based primarily on CEQA, draft City of Encinitas Subarea Plan (2001), State of California (CDFW, 2014), and U.S. Fish and Wildlife Service (USFWS, 2014).

2.0 INTRODUCTION

The approximately 6.646-acre subject property is located in the City of Encinitas, east of Interstate 5 (I-5) and north of Melba Avenue. (Figures 1-3).

Land Use, Topography, Soils,

The subject property is situated in a developed portion of the City, surrounded by single family residences and road infrastructure. The project is developed and disturbed and has been intensely utilized as orchard, single family residential and greenhouse uses over several decades. To the south of the Property is Melba Ave and single family residential housing, to the west developed with residential and a horse stable and to the north is Oak Crest Elementary. Onsite, as stated the property has been impacted by residential, orchard and nursery operations for several decades.

The property lies in Township 12 South, Range 4 West, San Bernardino Meridian, as depicted on the USGS *Encinitas* 7.5' topographic quadrangle. Physically, the general project area is characterized by a gently sloping flat area. The project elevations range from 372 to 395 feet above mean sea level. The area surrounding the project is characterized by residential development.

Soils onsite are comprised of:

- Carlsbad gravelly loamy sand, 5 to 9 percent slopes 93.2% - Dominant soil type
- Chesterton fine sandy loam, 2 to 5 percent slopes 0.5% - NE Corner of Property
- Chesterton-Urban land complex, 2 to 9 percent slopes 6.3% - NE Corner of Property

Regional Setting

The proposed project is located in the City of Encinitas draft Subarea Plan area. If adopted, this Plan would implement policies to conserve natural biotic communities and sensitive plant and wildlife species throughout the City under the MHCP framework. The Subarea Plan would provide regulatory certainty to the landowners within the City and aid in conserving the region's biodiversity and enhancing the quality of life.

Subarea Plans address the potential impacts to natural habitats and rare, threatened or endangered species caused by projects within Cities having such plans. Subarea Plans also form the basis for Implementing Agreements, which are the legally binding agreements between a City and the Wildlife Agencies to ensure implementation of the plan and provides Cities with state and federal "Take authority."

Participating cities prepared focused planning areas (FPA), which show expected levels of conservation that could be achieved by applying available regulatory mechanisms to conserve biologically valuable areas (primarily but not exclusively within the BCLA). Creation of the FPAs thus considered not only the biological value of lands, but also economic, legal, and other constraints to preserving these lands. The FPAs are represented by a combination of "hardline" preserves, indicating lands that will be conserved and managed for biological resources, and "softline" planning areas. The FPAs are represented by a combination of "hardline" preserves, indicating lands that will be conserved and managed for biological resources, and "softline" planning areas, within which preserve areas will ultimately be delineated based on further data and planning.

3.0 SURVEY METHODOLOGY

BLUE senior qualified biologist, Michael Jefferson, conducted the surveys on December 22, 2020 (Table 1). The site was surveyed on foot and habitat mapped on a current Google Earth aerial (2017; Figure 4).

Mapping was performed following the Guidelines for Determining Significance and Survey, Report Format, Content and Mapping Requirements (City, MHCP). Wildlife species were identified directly by sight or by vocalizations, and indirectly by scat, tracks, or burrows. Field notes were maintained throughout the surveys and species of interest were mapped. The primary focus of the survey was to document and map the size, location, and general quality of all habitat types and the presence or potential presence of any sensitive resources onsite.

TABLE 1
Survey Details

Date	Survey Type	Time	Conditions Temp (ºF), Wind (mph) begin and end, Cloud Cover (CC)	Biologists
12-22-2020	General, Rare, Sensitive	1500-1630	68º, 3-5 mph, 5%cc 66º, 1-2 mph, 5%cc	MJ

MJ – Michael Jefferson

Vegetation communities were assessed and mapped on a color aerial with topography flown in March 2017 (Google earth). Animal species observed directly or detected from calls, tracks, scat, nests, or other sign were noted. All plant species observed on-site were also noted, and plants that could not be identified in the field were identified later using taxonomic keys.

Limitations to the compilation of a comprehensive faunal and floral checklist were few within the survey area – all of which had been previously, legally, graded, cleared, and developed/maintained. The general quality of urbanized habitat within the survey area is, as expected, of low quality.

Prior to conducting the biological survey, a thorough review of relevant maps, databases, and literature pertaining to biological resources was performed. Recent aerial imagery (Google Earth 2017), topographic maps (USGS 2015), soils maps (USDA 2012), and other maps of the project site and immediate vicinity were acquired and reviewed to obtain updated information on the natural environmental setting. In addition, a query of sensitive species and habitat databases was conducted, including the California Natural Diversity Database (CNDDB; CDFG 2012a), the California Native Plant Society Electronic Inventory (CNPSEI; CNPS 2012), and the Consortium of California Herbarium (Consortium 2012) applications, as well as a review of regional species lists produced by the USFWS (USFWS 2012a) and CDFW (CDFW 2011, 2012a, CDFW 2012b, and 2012c).

The pre-survey investigation also included a verification of whether or not the project site falls within areas designated as final or proposed USFWS Critical Habitat for federally threatened or endangered species (USFWS 2012b).The complete list of sensitive species (CNDDB) and habitats that have been previously recorded within the vicinity of the project site was compiled, and all recorded locations of species and other resources were

mapped and overlaid onto aerial imagery using Geographic Information Systems (GIS) software. The CNDDB list of sensitive species included all database results for areas within the USGS 7.5 minute topographic quadrangle.

Delineated boundaries of all features identified within the study area were recorded using a 1" = 100' aerial photograph.

4.0 REGULATORY FRAMEWORK

Federal ESA of 1973

The United States Congress passed the FESA in 1973 to provide a means for conserving endangered and threatened species in order to prevent species extinction, extirpation, etc. The FESA has four major components: the Section 4 provisions for listing species and designating critical habitat; the Section 7 requirement for federal agencies to consult with the USFWS to ensure that their actions are not likely to jeopardize the continued existence of species or result in the modification or destruction of critical habitat-the Section 9 prohibition against "taking" listed species-and the Section 10 provisions for permitting the incidental take of listed species. The term "take" is defined by the FESA to include the concept of "harm," which agency regulations define to include death or injury that results from modification or destruction of a species habitat (50 CFR 17.3).

Section 9 of the FESA

Section 9 of the FESA prohibits any person from "taking" an endangered animal species. Regulations promulgated by USFWS and National Oceanic and Atmospheric Administration make the "take" prohibition generally applicable to threatened animal species as well (50 CFR 17.71). Section 9 thus prohibits the clearing of habitat that results in death or injury to members of a protected species.

An authorization or permit to incidentally take listed species can be obtained either through the Section 7 consultation process or through the Section 10 incidental take permit process. In the context of Section 7, incidental take is authorized through an "incidental take statement" (ITS) that is issued consistent with a Biological Opinion. Measures required to conform to the ITS are contained in "reasonable and prudent measures," as are the terms and conditions necessary to implement those measures. In the context of Section 10, incidental take is authorized through an "incidental take permit" (ITP) issued pursuant to Section 10(a)(1)(B). Measures contained in the ITP reflect the measures set out in a habitat conservation plan developed by the applicant in conjunction with the USFWS.

Section 7 of the FESA

Section 7 of the FESA provides that each federal agency undertaking a federal action which could significantly affect FESA species shall consult with the Secretary of Interior or Commerce, that any actions authorized, funded, or carried out by the agency are "not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of lands determined to be critical habitat" (16 USC Section 1536(a)(2)). The term "agency action" is broadly defined in a manner that includes nearly all actions taken by federal agencies such as permitting or carrying out a project, as well as actions by private parties which require federal agency permits or approval (50 CFR Section 402.02). The consultation requirement of Section 7 is triggered upon a determination that a proposed action "may affect" a listed species or designated critical habitat (50 CFR Section 402.14(a)). If the proposed action is a "major construction" activity, the federal agency proposing the action must prepare a biological assessment to include with its request for the

initiation of Section 7 consultation.

Included in the USFWS Biological Opinion is an Incidental Take Statement (ITS) that authorizes a specified level of take anticipated to result from the proposed action. The ITS contains "reasonable and prudent measures" that are designed to minimize the level of incidental take, adverse modification, or destruction to critical habitat, and that must be implemented as a condition of the take authorization (50 CFR Section 402.14(i)(5)).

The issuance of a Biological Opinion concludes formal consultation, but consultation can be reinitiated if the amount or extent of incidental take authorized is exceeded, the action changes, new information reveals effects of the action not previously considered, or a new species is listed or critical habitat is designated (50 CFR Section 402.16). Once the Biological Opinion is issued, the project applicant must implement the terms and conditions, and conservation measures, mandated by the USFWS. Monitoring and reporting is required to be coordinated with the USFWS during the implementation of conservation measures.

Section 10 of the FESA

Under Section 10(a)(1)(B) of the FESA, the USFWS may permit the incidental take of listed species that may occur as a result of an otherwise lawful activity. To obtain a Section 10(a)(1)(B) permit, an applicant must prepare a habitat conservation plan that meets the following five criteria: 1) the taking will be incidental to an otherwise lawful activity; 2) the applicant will, to the maximum extent practicable, minimize and mitigate the impacts of such taking; 3) the applicant will ensure that adequate funding for the plan will be provided; 4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and, 5) other measures, if any, that the USFWS requires as being necessary or appropriate for purposes of the plan will be met (16 USC Section 1539(a)(2)(A)).

Bald and Golden Eagle Protection Act

Enacted in 1940, this Act prohibits the take, transport, sale, barter, trade, import, export, and possession of bald eagles, making it illegal for anyone to collect bald eagles and eagle parts, nests, or eggs without authorization from the Secretary of the Interior. The Act was amended in 1962 to extend the prohibitions to the golden eagle.

State of California (CDFW)

California Endangered Species Act

The CESA declares that deserving plant or animal species will be given protection by the State because they are of ecological, educational, historical, recreational, aesthetic, economic, and scientific value to the people of the State. CESA establishes that it is State policy to conserve, protect, restore, and enhance endangered species and their habitats. Under State law, plant and animal species may be formally designated as rare, threatened, or endangered through official listing by the California Fish and Wildlife Commission. Listed species are given greater attention during the land use planning process by local governments, public agencies, and landowners than are species that have not been listed.

CESA authorizes that "private entities may take plant or wildlife species listed as endangered or threatened under FESA and CESA, pursuant to a federal incidental take permit issued in accordance with Section 10 of the FESA, if the CDFW certifies that the incidental take statement or incidental take permit is consistent with CESA (Fish and Game Code Section 2080.1(a)).

Section 2081(b) and (c) of the CESA allows CDFW to issue an incidental take permit for a state-listed threatened and endangered species only if specific criteria are met. These criteria can be found in Title 14 CCR, Sections 783.4(a) and (b). No Section 2081(b) permit may authorize the take of “fully protected” species and “specified birds.” If a project is planned in an area where a fully protected species or specified bird occurs, an applicant must design the project to avoid all take; the CDFW cannot provide take authorization under CESA. On private property, endangered plants may also be protected by the Native Plant Protection Act (NPPA) of 1977.

Threatened plants are protected by CESA, and rare plants are protected by the NPPA; however, CESA authorizes that "Private entities may take plant species listed as endangered or threatened under the FESA and CESA through a federal Incidental Take Permit (ITP) issued pursuant to Section 10 of the FESA, if the CDFW certifies that the ITS or ITP is consistent with CESA.” In addition, CEQA requires disclosure of any potential impacts on listed species and alternatives or mitigation that would reduce those impacts.

CEQA: Treatment of Listed Plant and Animal Species

FESA and CESA protect only those species formally listed as threatened or endangered (or rare in the case of the State list). Section 15380 of the CEQA Guidelines independently defines "endangered" species of plants or animals as those whose survival and reproduction in the wild are in immediate jeopardy and "rare" species as those who are in such low numbers that they could become endangered if their environment worsens. Therefore, a project normally will have a significant effect on the environment if it will substantially affect a rare or endangered species of animal or plant or the habitat of the species. The significance of impacts to a species under CEQA must be based on analyzing actual rarity and threat of extinction despite legal status or lack thereof.

Sections 1601 to 1603 of the California Fish and Game Code

Streambeds and other drainages that occur within the project proponent service area and proposed CIP project sites are subject to regulation by the CDFW. The CDFW considers most drainages to be “streambeds” unless it can be demonstrated otherwise. A stream is defined as a body of water that flows at least periodically or intermittently through a bed or channel with banks and supports fish or other aquatic life. This includes watercourses having a surface or sub-surface flow that supports, or has supported, riparian vegetation. CDFW jurisdiction typically extends to the edge of the blue-line streams, and therefore, usually encompasses a larger area than Corps jurisdiction.

Sections 3503, 3503.5, and 3800 of the California Fish and Game Code

These sections of the Fish and Game Code prohibit the take or possession of birds, their nests, or eggs. Disturbance that causes nest abandonment and/or loss of reproductive effort (killing or abandonment of eggs or young) is considered a take. Such a take would also violate federal law protecting migratory birds. ITPs are required from the CDFW for projects that may result in the incidental take of species listed by the State as endangered, threatened, or candidate species. The wildlife agencies require that impacts to protected species be minimized to the extent possible and mitigated to a level of insignificance.

Porter-Cologne Water Quality Control Act

The Porter-Cologne Water Quality Control Act provides for statewide coordination of water quality regulations. The Act established the SWRCB as the State-wide authority and nine separate RWQCBs to oversee smaller regional areas within the State. The Act authorizes the SWRCB to adopt, review, and revise Water Quality

Control Policies for all waters of the State (including both surface and ground waters); and directs the RWQCBs to develop regional Basin Plans. Section 13170 of the California Water Code also authorizes the SWRCB to adopt water quality control plans on its own initiative. The Water Quality Control Plan for the San Diego Basin 9 (Basin Plan) is designed to preserve and enhance the quality of water resources in the San Diego region for the benefit of present and future generations.

The purpose of the plan is to designate beneficial uses of the region's surface and ground waters, designate water quality objectives for the reasonable protection of those uses, and establish an implementation plan to achieve the objectives.

California Natural Community Conservation Planning Act of 1991

The NCCP Act is designed to conserve habitat-based natural communities at the ecosystem scale while accommodating compatible land uses in coordination with CESA. CDFW is the principal state agency implementing the NCCP Program. The Act established a process to allow for comprehensive, long-term, regional, multi-species, and habitat-based planning in a manner that satisfies the requirements of the State and FESAs (through a companion regional habitat conservation plan). The NCCP program has provided the framework for innovative efforts by the State, local governments, and private interests, to plan for the protection of regional biodiversity and the ecosystems upon which they depend. NCCPs seek to ensure the long-term conservation of multiple species, while allowing for compatible and appropriate economic activity to proceed.

Local Jurisdiction

Multiple Habitat Conservation Program

The MHCP is a comprehensive, multiple jurisdictional planning program designed to develop an ecosystem preserve in northern San Diego County. Implementation of the regional preserve system is intended to protect viable populations of key sensitive plant and animal species and their habitats, while accommodating continued economic development and quality of life for residents of the North County region. The MHCP is one of several large multiple jurisdictional habitat planning efforts in San Diego County, each of which constitutes a subregional plan under the California NCCP Act of 1991. The MHCP includes seven incorporated cities in northwestern San Diego County: Carlsbad, Encinitas, Escondido, Encinitas, San Marcos, Solana Beach, and Vista. These jurisdictions may implement their respective portions of the MHCP through citywide "subarea" plans, which describe the specific implementing mechanisms each city will institute for the MHCP. The goal of the MHCP is to conserve approximately 19,000 acres of habitat, of which roughly 8,800 acres (46 percent) are already in public ownership and contribute toward the habitat preserve system for the protection of more than 80 rare, threatened or endangered species.

City of Encinitas General Plan

The City of Encinitas General Plan is the primary source of long-range planning and policy direction used to guide growth and preserve the quality of life within the City of Encinitas. The Encinitas General Plan states that a goal of the City is to analyze proposed land uses to ensure that the designations would contribute to a proper balance of land uses within the community. The Encinitas General Plan contains stated community goals and policies designed to shape the long-term development of the City, as well as protect its environmental, social, cultural, and economic resources.

5.0 EXISTING CONDITIONS

The following discussion summarizes the existing and potentially present biological resources onsite and within the project footprint.

5.1 Vegetation

Habitat descriptions are based on the Terrestrial Vegetation Communities in San Diego County based in Holland's Descriptions (Oberbauer 2010), however, it has been shown that habitats on the project sites in San Diego County are often not pristine and rarely fit into one description. Therefore, the best-fit definition based on the current descriptions and dominant plant species has been applied.

No native and/or natural habitat persists onsite. The property consists of urban disturbed and developed.

TABLE 2
Biological Resources

Habitat Type	Acreage
Disturbed habitat	4.726
Developed	1.92
Total	6.646

*Sensitive Habitat

Urban/Disturbed

Urban/Disturbed land consists of all land graded, disturbed and/or covered by native and non-native ornamental (landscape) vegetation that is maintained and irrigated. For the purposes of this assessment, mature ornamental and maintained oak trees (*Quercus* ssp.) and Torrey Pine trees (*Pinus torreyana*) within the residential development are considered urban and no longer qualifies as a sensitive species.

Onsite, the non-native plat species observed include maintained and irrigated ornamental trees such as Torrey Pine (not considered sensitive due to the irrigated and maintained condition), pine (*Pinus* spp.), pepper (*Schinus* spp.), palm (*Washingtonia* spp., *Phoenix* spp.), and gum; shrubs such as acacia (*Acacia* spp.) and oleander (*Nerium oleander*); and, groundcover such as turf grass, red apple (*Aptenia cordifolia*), and hottentot-fig (*Carpobrotus edulis*), Russian thistle (*Salsola tragus*), telegraph weed (*Heterotheca grandiflora*), horehound (*Marrubium vulgare*), and sow-thistle (S*onchus oleraceus*). Disturbed land typically provides little habitat for wildlife species.

Developed

This designation is used for the portion of the site that includes the areas that have previously been converted to pavement, paths, and structures. Onsite, this area totaling 1.92 acres is limited to the development of the roads, driveways, greenhouses and residential structures (Figure 4).

5.2 Wildlife

A total of 2 wildlife species were identified onsite. Invertebrates observed included butterflies and bees, were not included in the tally. The reptile species observed onsite include the western fence lizard (*Sceloporus*

occidentalis). Bird species observed included a house finch (*Carpodacus mexicanus*). No mammals were observed or detected onsite.

5.3 Sensitive Resources

Sensitive or special interest plant and wildlife species and habitats are those which are considered rare, threatened, or endangered within the state or region by local, state, or federal resource conservation agencies. Sensitive habitats, as identified by these same groups, are those which generally support plant or wildlife species considered sensitive by these resource protection agencies or groups. Sensitive species and habitats are so called because of their limited distribution, restricted habitat requirements, particular susceptibility to human disturbance, degradation due to development or invasion by non- native species, or a combination of all of these factors.

In addition to CEQA and MHCP City Guidelines for Determining Significance, the following were used in the determination of sensitive biological resources: U.S. Fish and Wildlife Service (USFWS), California Native Plant Society (CNPS), and California Department of Fish and Wildlife (CDFW).

No sensitive resources were observed or are expected to occur. In response to the request from USFWS, an onsite survey for sensitive resources with USFWS staff David Zoutendyk and Taylor Curtis and BLUE biologist Mike Jefferson was conducted on August 9, 2022. This survey confirmed the no sensitive species determination as stated in the subsequent email from Taylor Curtis (USFWS), as follows: "Thank you for taking the time to accompany us on a site visit today, August 9th 2022. After this visit, the Service agrees the site has low potential to contain the federally and state threatened Del Mar Manzanita (*Arctostaphylos glandulosa ssp. crassifolia*), Encinitas baccharis (*Baccharis vanessae*) and Orcutt's spineflower (*Chorizanthe orcuttiana*).

5.3.1 Sensitive Habitats

No sensitive habitat types were observed onsite.

5.3.2 Sensitive Plants

Sensitive or special interest plant species are those which are considered rare, threatened, or endangered within the state or region by local, state, or federal resource conservation agencies. Sensitive plant species are so called because of their limited distribution, restricted habitat requirements, or particular susceptibility to human disturbance, or a combination of these factors. Sources used for the determination of sensitive plant species include: USFWS (2016), CDFW (2015), CNPS (2013), and CNDDB (2015).

Because the observed onsite Torrey Pine trees are irrigated and within a maintained/ornamental and developed location (part of residential landscaping), they are not considered sensitive individual(s). Impacts would not be considered significant and mitigation is not required.

5.3.2.1 Sensitive Plants Observed

No sensitive plant species (i.e., naturally occurring and un-maintained and not irrigated) were observed onsite at the time of the surveys. No appropriate habitat or hydrological regime persist onsite. As a result, none were observed or are expected to occur.

5.3.2.2 Sensitive Plant Species with the Potential to Occur Onsite (not observed)

A total of thirty -one sensitive plants were assessed for the potential to occur onsite; none has greater than a low potential to occur onsite due to lack of observations in the area and onsite as well as a lack of appropriate habitat.

As a result of the property being in an Urban/Disturbed condition (graded, developed and disturbed area supporting landscaping consisting of native and non-native ornamental vegetation that is maintained and irrigated), no appropriate habitat or hydrological regime persist onsite that would support sensitive plant species. As a result, none were observed or are expected to occur.

5.3.3 Sensitive Animals

Sensitive or special interest wildlife species and habitats are those which are considered rare, threatened, or endangered within the state or region by local, state, or federal resource conservation agencies. Sensitive species are so called because of their limited distribution, restricted habitat requirements, or particular susceptibility to human disturbance, or a combination of these factors. Sources used for the determination of sensitive biological resources include: USFWS, CDFW. Additional species receive federal protection under the Bald Eagle Protection Act.

The CDFW also lists species as threatened or endangered, or candidates for listing as threatened or endangered. Lower sensitivity animals may be listed as "species of special concern" (CDFW). The CDFW further classifies some species under the following categories: "fully protected," "protected furbearer," "harvest species," "protected amphibian," and "protected reptile." The designation "protected" indicates that a species may not be taken or possessed except under special permit from the CDFW; "fully protected" indicates that a species can be taken only for scientific purposes. The designation "harvest species" indicates that take of the species is controlled by the state government.

5.3.3.1 Sensitive Wildlife Observed

No sensitive wildlife species was observed onsite at the time of the surveys. No appropriate habitat or hydrological regime persist onsite capable of supporting any of the potential sensitive wildlife species. As a result, none were observed or are expected to occur.

5.3.3.2 Sensitive Wildlife Species with the Potential to Occur Onsite (not observed)

As a result of the property being surrounded by existing development and itself being in an Urban/Disturbed condition (graded, developed and disturbed area supporting landscaping consisting of native and non-native ornamental vegetation that is maintained and irrigated), no appropriate habitat or hydrological regime persist onsite that would support sensitive wildlife species. As a result of a lack of appropriate habitat and/or hydrological conditions, none were observed or are expected to occur.

The Property does support numerous scattered mature ornamental landscaping. Mature trees can support raptor nesting. Raptors are large predatory or scavenger birds that typically require tall trees for perching and nesting associated with adjacent open grasslands to forage. Due to declining habitat and the associated declining numbers of these species on the whole, many raptor species have been designated as California Species of Special Concern by the CDFW. These species are protected, especially during their critical nesting and wintering stages. Raptors are protected under the CDFW California Raptor Protection Act (Title 14, Section 670). No historic raptor nests were observed within the trees onsite.

5.4 Wildlife Corridors

Development within San Diego County has reduced the total available open space for wildlife populations, and in some instances, created isolated "islands" of habitat. In general, corridors and linkages are smaller constrained areas of habitat that connect larger areas of habitat which are otherwise separated by rugged terrain, changes in vegetation, or urban development. This allows for an exchange of gene pool between wildlife populations, which increases the genetic viability of otherwise isolated populations. Wildlife corridors are especially important for species with large habitat ranges or seasonal migrations. A corridor is a specific route that is used for the movement and migration of species, and may be different from a linkage in that it represents a smaller or narrower avenue for movement. A linkage is an area of land that supports or contributes to the long-term movement of wildlife and genetic exchange by providing live-in habitat that connects to other habitat areas. Many linkages occur as stepping-stone linkages that are comprised of fragmented archipelago arrangement of habitat over a linear distance. In either case, corridors and linkages will be comprised of land features which accommodate the movement of all sizes of wildlife, including large animals on a regional scale. Their contributing areas will support adequate vegetation cover, providing visual continuity and long lines of sight, so as to encourage the use of the corridor by all types of wildlife. In San Diego County, important corridors/linkages have been identified on the local and regional scale in establishing a connection between the northern and southern regions.

The property is itself developed and actively utilized with the surrounding areas are similarly dominated by high density development. As seen in Figure 3, the property is surrounded by existing high intensity urban development. There is no wildlife corridor adjacent to the property. The Property is not within an existing recognized wildlife habitat corridor. The subject property and the surrounding properties are fenced. As a result, no impacts to a wildlife corridor are possible.

6.0 PROJECT IMPACTS

This section addresses potential direct, indirect, and cumulative impacts to biological resources that would result from implementation of the proposed project, and provides analyses of significance for each potential impact.

Direct Impacts are immediate impacts resulting from temporary and permanent removal of habitat through clearing, grubbing and/or grading.

Indirect Impacts result from changes in land use adjacent to natural habitat and primarily result from adverse “edge effects;” either short-term indirect impacts related to construction or long-term, chronic indirect impacts associated with urban development. During construction of the project, short-term indirect impacts include dust and noise which could temporarily disrupt habitat and species vitality or construction related soil erosion and run-off. Long-term indirect impacts may include intrusions by humans and domestic pets, noise, lighting, invasion by exotic plant and wildlife species, use of toxic chemicals (fertilizers, pesticides, herbicides, and other hazardous materials), soil erosion, litter, fire, and hydrological changes (e.g., groundwater level and quality).

Cumulative Impacts refer to incremental individual environmental effects of two or more projects when considered together. These impacts taken individually may be minor, but collectively significant as they occur over a period of time.

6.1 Avoidance and Minimization

The proposed development is sited within the existing disturbed/developed footprint (Figures 5) that supports no sensitive biological resources. As a result, no potentially significant impacts to biological resources or cumulative biological impacts are proposed.

6.2 Proposed Project and Potential Impacts

The proposed project will permanently impact the entire property (Figure 5), a total of 6.646 within 6 parcels. No sensitive species were observed or are expected to occur onsite, and none are proposed to be impacted.

6.3 Significance of Impacts

Generally, there are three levels of adverse impacts associated with biological resources: significant, locally important, and not significant. These levels of impacts were applied to the project site and are used below in the discussion of specific potential impacts. Figure 5 details the proposed impact footprint.

6.3.1 Significant Impacts

Impacts to sensitive and/or special interest plant and wildlife species and habitats are considered to be potentially significant unless mitigated. The proposed Project does not propose impacts to sensitive or special interest plant and wildlife species and/or habitats. No compensatory biological mitigation is required.

TABLE 3
Proposed Project Impacts and
Mitigation Requirements

Habitat Type	Acreage	Impact onsite	Mitigation Ratio	Mitigation Acreage
Disturbed habitat	4.726	4.726	N/A	N/A
Developed	1.92	1.92	N/A	N/A
Total	**6.646**	**6.646**		**0.0**

Sensitive Habitat

No sensitive habitat(s) were documented onsite. No impacts to sensitive habitat is proposed.

Sensitive Plant Species

No sensitive plant species were documented onsite. No impacts to sensitive plant species is proposed.

Sensitive Wildlife Species

No sensitive wildlife species were documented onsite. No impacts to sensitive wildlife species are expected to occur. Because raptors have been historically observed in the area and there are appropriate raptor nesting sites onsite, raptor nesting within this area may occur. In order to avoid potential impacts to nesting birds, if tree removal is to occur during the nesting season (January to July), preventative mitigation is required. See below, Mitigation Section 7.0.

7.0 PROPOSED MITIGATION

Under CEQA, mitigation is required for all significant biological impacts (e.g. impacts within highly constrained areas). In addition, the CDFW 1600 Streambed Alteration Agreement (SAA) process generally require mitigation for the loss of wetland resources. The following mitigation measures are recommendations to locally important biological impacts. According to Appendix G of the State CEQA guidelines, the proposed project would have a potentially significant impact to onsite biological resources if it would:

- 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 Wildlife or U.S. Fish and Wildlife Service.

- 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 Wildlife or U.S. Fish and Wildlife Service.

- 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.

- 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.

- Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

7.1 Direct Impacts - Mitigation

No potentially significant impacts are proposed; no habitat or species-specific mitigation is recommended at this time.

7.2 Indirect Impacts - Preventative Mitigation Measure

No potentially significant indirect impacts are proposed; no habitat or species-specific indirect impacts mitigation is recommended at this time.

In order to prevent potentially significant indirect impacts, the following Mitigation Measure (MM) is recommended.

MM BIO-1: Pre-Construction General Nesting Bird Survey

Construction activities for the Project should commence outside of the bird breeding season (generally February 1 through August 31; January 1 for raptors). If activities associated with vegetation/tree removal, clearing, grubbing, demolition, grading, staging or other construction activities are planned to occur during the bird nesting/breeding season, a bird nesting survey shall be conducted by a qualified biologist no more than 72-hours

prior to commencement of the construction activities to determine presence or absence of nesting birds or active nests within the proposed area of disturbance plus a 500-foot buffer and a 250-foot buffer for non-listed bird species. Inaccessible parts of the survey area shall be scanned using binoculars to ensure 100 percent visual coverage. The qualified biologist shall be familiar with the identification of bird species known to occur in southern California communities.

If no nesting birds or active nests are found, the Applicant shall submit the results of the Pre-Construction survey to the Development Services Department and wildlife agencies for review and approval prior to initiating any construction activities and no further mitigation would be required.

If active nests (those containing eggs, nestlings, or associated with dependent fledglings) of bird species covered by the Migratory Bird Treaty Act are detected within the proposed area of disturbance during the 10-day preconstruction survey:

- Construction activities shall stay outside a 250-foot avoidance buffer around the active nest. For raptor species, this buffer shall be expanded to 500 feet. A biological monitor shall delineate the boundaries of an avoidance buffer area with (highly visible construction fencing or other exclusionary material that would inhibit entry by personnel or equipment into the buffer zone) and monitor the active nest to ensure that nesting behavior is not adversely affected by construction activity. Once the young have fledged and the qualified biologist has determined the nest is inactive, normal construction activities can occur.
- The biologist and Project Applicant shall postpone construction activity within the buffer area(s) and contact the wildlife agencies and the City's Development Services Department to discuss: 1) the best approach to avoid/minimize impacts to breeding/nesting birds (e.g., sound walls), and
  2) a monitoring program acceptable to the wildlife agencies. Subsequent to these discussions, work may be initiated subject to implementation of the agreed-upon avoidance/minimization approach and monitoring program.
- Upon agreement as to the necessary revisions to the avoidance/minimization approach, work may resume subject to the revisions and continued monitoring. Success or failure of an active nest shall be established by regular and frequent trips to the site, as determined by the biologist and through a schedule approved by the wildlife agencies. Monitoring of an active nest shall continue until fledglings have dispersed or the nest has been determined to be a failure, as approved by the wildlife agencies.
- No project activity shall occur inside an avoidance buffer until the biologist determines that the nest is no longer active.

Reporting. Within 30 days of the completion of the monitoring efforts, the Project Applicant shall submit a final bird survey monitoring report prepared by the project biologist to the wildlife agencies and City's Development Services Department. The report shall include documentation of all bird survey, monitoring activities, coordination efforts with the wildlife agencies, as-built construction drawings with an overlay of any active nests in the survey areas, photographs of habitat areas during pre-construction and post-construction conditions, and other relevant summary information documenting that authorized impacts were not exceeded and that general compliance was achieved for the avoidance/minimization provisions and the biological monitoring program required by the wildlife agencies.

Timing/Implementation:	*Prior to grading permit issuance, during grading and excavation activities, and upon completion of monitoring activities.* *Report documenting pre-construction survey results shall be prepared within 30 days of the completion of the monitoring efforts.*
Enforcement/Monitoring:	*City of Encinitas Development Services*

7.3 Cumulative Impacts

Through the proposed design, the project will not have a cumulatively considerable or significant impact to biological resources. The implementation of mitigation measure for prevention of indirect impacts (to potentially nesting birds; MBTA) would avoid cumulatively considerable impacts. As a result, the project will not have a cumulatively considerable or significant impact to biological resources.

8.0 LITERATURE CITED

AOU. American Ornithological Union. 1998, 2000. Forty-second Supplement to the American Ornithologists' Union Checklist of North American Birds.

CDFW. California Department of Fish and Wildlife. 2012. List of CDFW Special Status Plants, Animals and Natural Communities of San Diego County, CDFW Natural Heritage Division, Sacramento.

California Department of Fish and Wildlife. 2012. "Endangered, Threatened and Rare Plants of California." State of California Dept. of Fish and Wildlife, Natural Heritage Division, Plant Conservation Program, Sacramento. April.

California Department of Fish and Wildlife.2012. CDFW Natural Diversity Data Base. Special Animals. July 2012.

CNPS. 2015. California Native Plant Society's Electronic Inventory of Rare and Endangered Vascular Plants of California, (6th Edition, Electronic Inventory).

City of Encinitas. 2001 Encinitas Subarea Habitat Conservation Plan (HCP)/Natural Community Conservation Plan. March

City of Encinitas. General Plan.

Hickman, J. C. 1993. The Jepson Manual of Higher Plants of California. University of California Press, Berkeley.

Holland, R. F. 1986. Preliminary Descriptions of the Terrestrial Natural Communities of California. Non-game Heritage Program, State of California Department of Fish and Game, Sacramento, CA. 157 pp.

Jennings, M. R. 1983. An Annotated Checklist of the Amphibians and Reptiles of Southern California. California Department of Fish and Game 69(3):151-171.

Jones, J.K., *ET AL*. 1992. Revised Checklist of North American Mammals North of Mexico, 1991.

Oberbauer, T. 1996. Terrestrial Vegetation Communities in San Diego County Based on Holland's Descriptions.

Powell, J.A., C.L. Hogue. 1979. California Insects. University of California Press, Berkeley.

Stebbins, R. C. 2003. Field Guide to Western Reptiles and Amphibians Houghton Mifflin Co., Boston.

Unitt, P. A. 1984. Birds of San Diego County. Memoir 13, San Diego Society of Natural History. 276 pp.

Zeiner, D. C., W. F. Laudenslayer, Jr., K. E. Mayer, and M. White. 1990. California's Wildlife, Volume III, Mammals. State of California Department of Fish and Game, Sacramento.

9.0 CERTIFICATION

The following qualified Biologist completed the stated field survey(s) and preparation of this report:

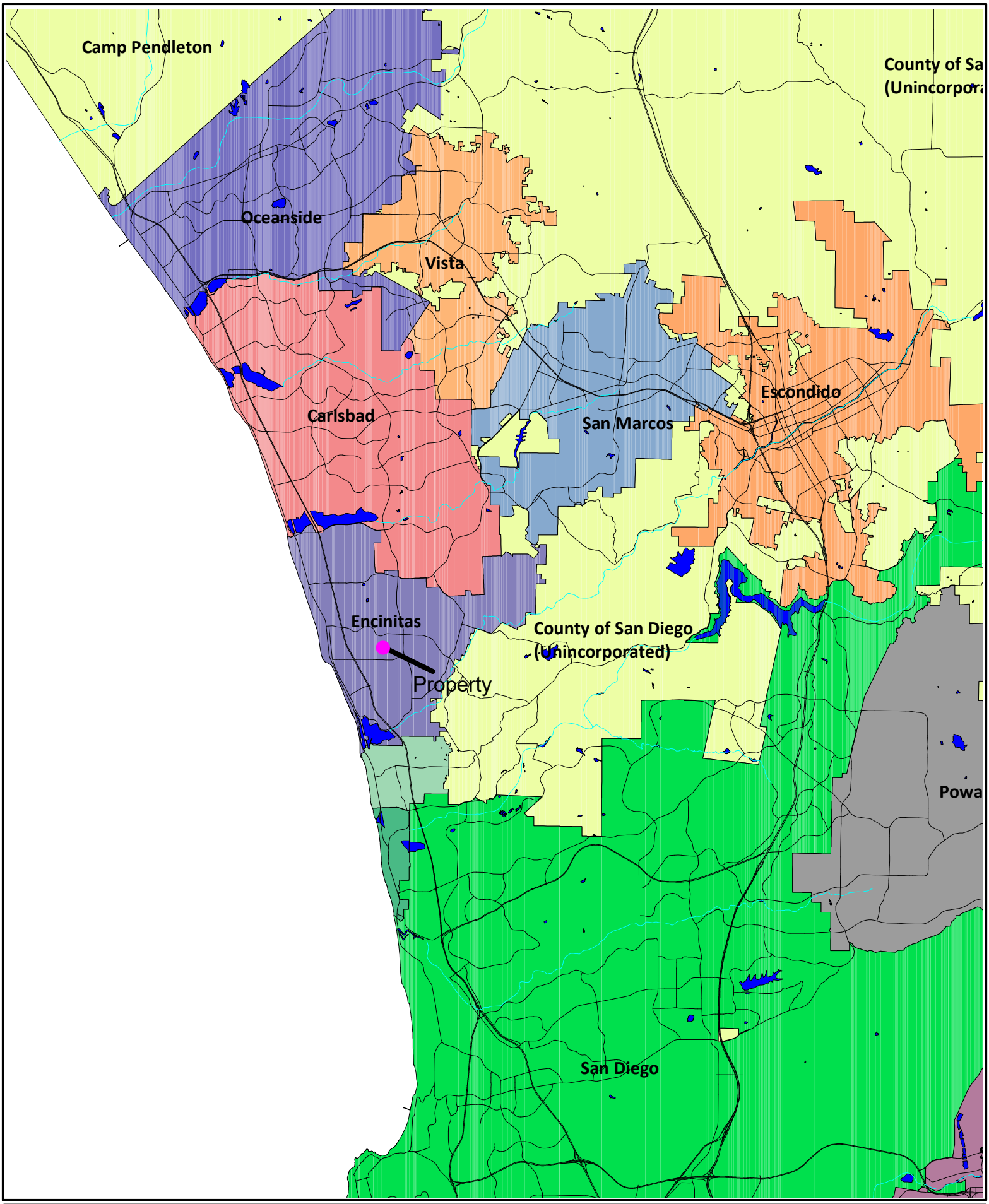
Michael Jefferson – Senior Biologist, BLUE Consulting Group

CERTIFICATION: *I hereby certify that the statements furnished above and in the attached exhibits present data and information required for this biological evaluation, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.*

Signed:

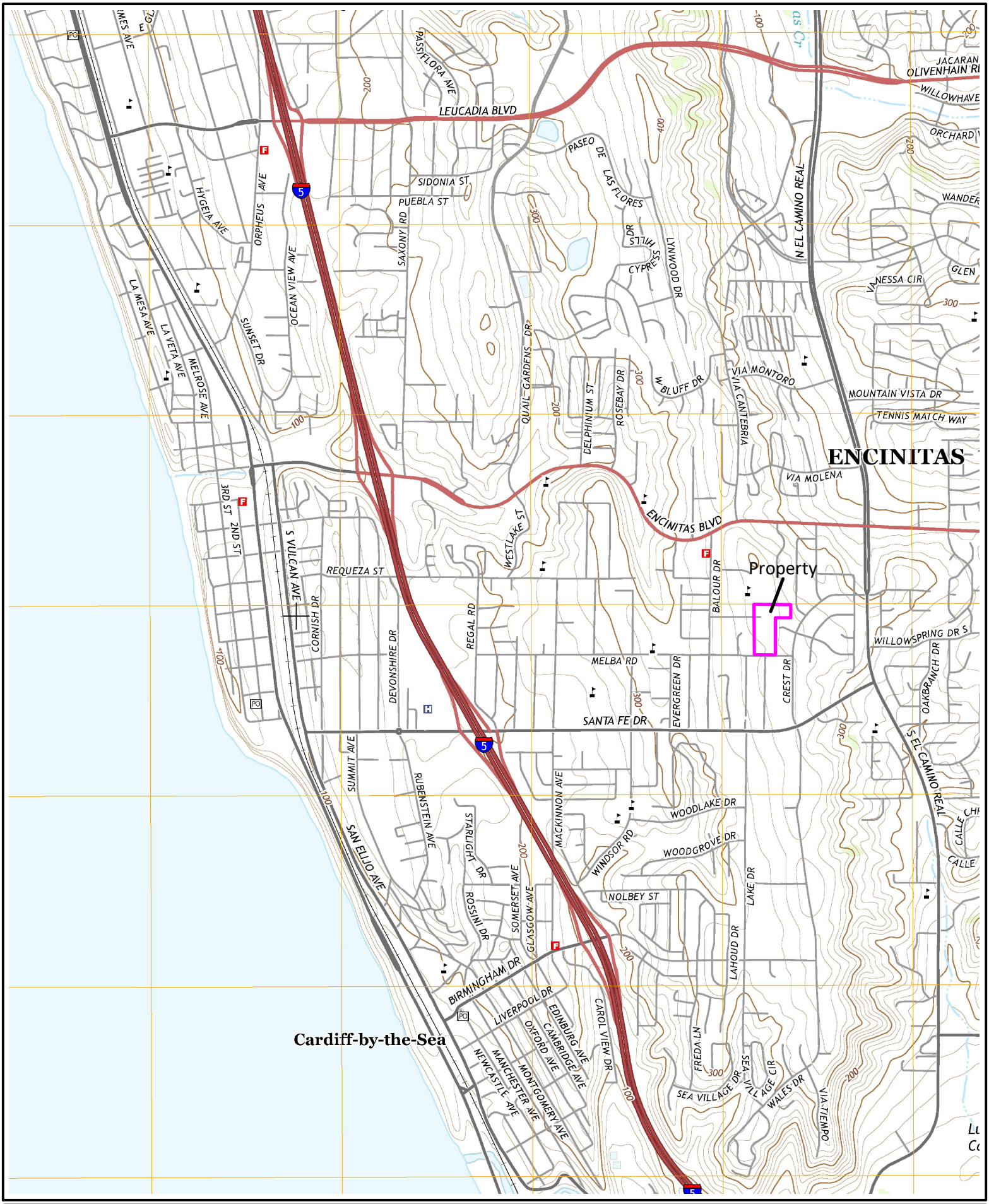
Michael K. Jefferson
BLUE Consulting Group
Senior Biologist

Figures 1-5



Property

FIGURE 1
Regional Project Location



Property

FIGURE 2

USGS Topo Project Location

Property

FIGURE 3
Property Aerial

Developed

Property

Disturbed (Urban Developed)

FIGURE 4
Vegetation Map

Property

Grading Footprint

Developed

Disturbed (Urban Developed)

FIGURE 5
Project Impact Footprint Map