Appendix B

Biological and Aquatic Resources Assessment Memo

Kimley»Horn

MEMORANDUM

To: Ms. Jessie Fan, Kimley-Horn

From: Mr. Keoni Calantas, Rocks Biological Consulting

Date: February 1, 2022

Subject: Kanan Road/Agoura Road Ultimate Intersection Improvements Project – Biological and Aquatic Resources Assessment Memo

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This memorandum provides a high-level summary of the biological and aquatic resources assessment conducted by Rocks Biological Consulting (RBC) for the proposed Kanan Road/Agoura Road Ultimate Intersection Improvements Project (project). This memorandum also discusses the potential impacts that may result from the proposed project as well as mitigation considerations based on the results of the literature review and field survey.

Exact locations of the project components (e.g., monument signage and pilasters) and impact footprint within the project site have not been established at this time, therefore, discussions of potential impacts on biological and aquatic resources are intended to be general. Impact quantification and conclusive determinations of the significance of potential impacts are not provided within this memorandum.

1 INTRODUCTION

1.1 PROJECT LOCATION

The project site is in the City of Agoura Hills (City), which is located along the U.S. Route 101 (Highway 101) in the County of Los Angeles, California. Figure 1 depicts the project site in a regional context. The project site is generally comprised of three discontiguous areas (Figures 2a-2c):

- Kanan Road/Agoura Road intersection - this comprises most of the project site, with the south leg extending to Cornell Way
- Agoura Road/Whizin Market Square access driveway intersection (approximately 605 feet east of Cornell Road) – this is the proposed eastern pilasters location
- Agoura Road/Roadside Drive intersection (approximately 1,585 feet west of Kanan Road) – this is the proposed western pilasters location

The Kanan Road/Agoura Road intersection is in the City's southern portion, approximately 600 feet south of the Kanan Road/Highway 101 interchange. The project site is within the Agoura Village

Specific Plan (AVSP) area, except the proposed western pilasters location, which is at the intersection of Agoura Road and Roadside Drive adjacent and west of the AVSP area.

1.2 PROJECT DESCRIPTION

The project proposes improvements to enhance traffic capacity and improve mobility, safety, and access within the City including widening the intersection of Kanan Road and Agoura Road, providing pilasters and monument signs, and undergrounding overhead power/telecommunication lines as described below.

1.2.1 INTERSECTION AND ROADWAY IMPROVEMENTS

Modified road alignments, including elevations and widths, are proposed to accommodate a widened intersection with a configuration of turn pockets and adequate room for additional queuing capacity at all intersection approaches. The through lanes would vary between 10 and 13 feet wide. The proposed widened pavement improvements would generally match the existing Kanan Road and Agoura Road pavement structural sections. Various additional improvements are proposed such as new pedestrian curb ramps, relocation of traffic signals, landscaping, asphalt replacement, road striping, and a terraced plaza at the northwest corner of Kanan Road and Agoura Road. Additionally, a stairway to connect the westbound sidewalk to the Agoura Pointe Shopping Center parking lot is proposed approximately 190 feet west of the Kanan Road/Agoura Road intersection. It should be noted that the stairway would terminate in the parking lot. The landing zone would be located between a newly proposed landscaped buffer on the west and an existing island with an oak tree on the east. The oak tree would not be impacted by the development of this landing zone and stairway.

1.2.2 MONUMENT SIGNAGE IMPROVEMENTS

The project includes entryway and statement signage on Kanan Road and Agoura Road. The sign improvements are comprised of pilasters and monument signs. In total, six pilasters are proposed, as described below. The pilasters would be up to approximately 10 feet tall, and up to approximately 10 feet wide by 10 feet long. A 15-foot landscaped buffer would be provided surrounding the base of the pilasters. Thus, the total base footprint of the pilasters with the landscaped buffer would be approximately 1,600 square feet each. The monuments would be up to approximately 15 feet tall, and up to approximately 24 feet wide by 24 feet long. A 5-foot landscaped buffer would be provided surrounding the base of the monuments. Thus, the total base footprint of the monuments with the landscaped buffer would be approximately 1,156 square feet each. The structures will be placed as follows:

- Agoura Road East and West Pilasters: four pilasters are proposed on Agoura Road at the two locations (two pilasters for each location, offset from each other on either side of the road).
- Kanan Road South Pilasters: two pilasters are proposed on Kanan Road (two pilasters for this location, offset from each other on either side of the road)
- Kanan Road Monuments: two monuments are proposed on Kanan Road at this location, near the Kanan Road/Cornell Road intersection.

1.2.3 UNDERGROUND UTILITY IMPROVEMENTS

The project proposes undergrounding two existing overhead power/telecommunication lines on the south leg along the east side of Kanan Road, for approximately 1,105 linear feet, from approximately 160 feet south of Agoura Road to Cornell Way.

Utility poles may be installed/upgraded at the utility district's boundary where determined necessary for the transition from the existing overhead system to the proposed underground system. The final utility pole locations will be determined during final engineering design.

2 METHODS

2.1 LITERATURE REVIEW

2.1.1 BIOLOGICAL RESOURCES

The review of background information for biological resources included documented observations of special-status plant and wildlife species, natural communities, and habitats of concern in California with the potential to occur within the project site. This review included the following:

- United States Fish and Wildlife Service (USFWS) Information for Planning and Consultation (IPaC) database[1]
- California Natural Diversity Database (CNDDB)[2] (Figure 3a)
- USFWS Listed Species Database (Figure 3b)
- The California Native Plant Society (CNPS) Online Inventory of Rare and Endangered Plants of California Electronic Inventory[3]
- County and City ordinances, codes, and available general plans to identify requirements for protected trees[4]

2.1.2 WATERS AND WETLANDS

RBC reviewed the United States Geological Survey (USGS) National Hydrography Dataset (NHD)[5] and the USFWS National Wetland Inventory (NWI)[6] for areas within the project site that may be potentially jurisdictional under the United States Army Corps of Engineers (Corps) pursuant to Section 404 of the Clean Water Act (CWA), the Regional Water Quality Control Board (RWQCB) pursuant to Section 401 of the CWA and the Porter-Cologne Water Quality Control Act (Porter-

[1] IPaC: Information for Planning and Consulting, Powered by ECOS – the Environmental Conservation Online System. Website https://ecos.fws.gov/ipac/ (accessed May 23, 2021).

[2] California Department of Fish and Wildlife (CDFW). 2021. Special Animals, August 2021. California Natural Diversity Data Base (CNDDB).

[3] California Native Plant Society (CNPS), Rare Plant Program. 2021. Inventory of Rare and Endangered Plants of California (online edition, v8-03 0.39). Accessed January 18, 2021. http://www.rareplants.cnps.org

[4] Agoura Hills Code of Ordinances. 2021. Oak Tree Preservation Guidelines. https://library.municode.com/ca/agoura_hills/codes/code_of_ordinances?nodeId=ARTIXZO_APXAOATRPRGU

[5] 2021. The National Map, Advanced Viewer. U.S. Department of Interior. Last accessed June 2021. https://viewer.nationalmap.gov/advanced-viewer/

[6] 2021. National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. Last accessed June 2021. http://www.fws.gov/wetlands/

Cologne), and the California Department of Fish and Wildlife (CDFW) pursuant to Section 1602 of the California Fish and Game Code.

2.2 FIELD SURVEY

On June 30, 2021, RBC Senior Biologist Ian Hirschler and Regulatory Specialist Chelsea Polevy conducted a field survey that included vegetation mapping, a general biological survey, habitat assessments for special-status species, and a constraints-level wetland/non-wetland waters jurisdictional assessment for the project site. On January 18, 2022, RBC Senior Regulatory Specialist/Biologist Sarah Krejca conducted an additional field survey that included vegetation mapping, oak tree mapping, and a constraints-level wetland/non-wetland waters jurisdictional assessment for additional areas not previously surveyed within the project site, per the updated site plan (provided to RBC via email on December 13 and 15, 2021). Focused or protocol surveys for special-status species were not conducted during either survey.

Vegetation was mapped to determine the type and condition of habitats/land uses that occur within the project site. Habitats were classified based on the dominant and characteristic plant species in accordance with vegetation community classifications outlined in *A Manual of California Vegetation*[7] and *Preliminary Descriptions of the Terrestrial Natural Communities of California*[8].

The project site was assessed for potentially jurisdictional Corps, RWQCB, and CDFW aquatic resources. Areas with depressions, drainage patterns, wetland vegetation, or riparian vegetation within the project site were assessed for potential jurisdictional status, with focus on the presence of defined channels, soils, and hydrology. A formal jurisdictional aquatic resources delineation was not conducted during the survey.

3 RESULTS

The following includes a summary of the biological resources and potential aquatic resources within the project site based on the results of the preliminary literature review, constraints-level aquatic resources assessment, vegetation mapping, general biological survey, and special-status species habitat assessments.

Please note that the findings outlined in this memo regarding aquatic and biological resources are based on the currently applicable agency regulations and guidance. Determinations outlined in this section are subject to change given the uncertainty of future regulatory changes.

3.1 VEGETATION COMMUNITIES

The project site ranges in elevation between 845 to 900 feet above mean sea level (amsl). The majority of the vegetation in the project site consists of developed land including ornamental vegetation (Figures 2a-2c). The project site also supports California buckwheat (*Eriogonum fasciculatum*) scrub, California buckwheat scrub – disturbed, non-native grassland, and disturbed

[7] Sawyer, John O., et al. 2009. The Manual of California Vegetation. Second edition, California Native Plant Society Press.

[8] Holland, R. F. 1986. Preliminary descriptions of the terrestrial natural communities of California. State of California, The Resources Agency, Department of Fish and Game.

habitat. Table 1 below provides the acreages of the vegetation communities and land cover types within the project site.

Table 1. Summary of Vegetation/Land Covers within the Project Site

Vegetation/Land Cover	Project Site (acres)
California Buckwheat Scrub	0.02
California Buckwheat Scrub – Disturbed	0.39
Non-native Grassland	0.06
Developed	5.43
Disturbed Habitat	1.30
Total	**7.20**

Native and naturalized vegetation including California buckwheat scrub, California buckwheat scrub – disturbed, and non-native grassland occur in the areas adjacent to Kanan Road where the utility improvements are proposed (Figure 2b). Disturbed habitat, which is dominated by non-native grass species such as *Bromus sp.* and receives frequent direct and indirect disturbance from traffic and other human-related activities, occurs along the sides of Kanan Road and Agoura Road as well as the roadsides for the Whizin Road and Roadside Road portions of the project site (Figures 2a-2c). Non-native grassland occurs in the areas located farther from frequent traffic and other human-related disturbance. Developed habitat within the project occurs as landscaped roadsides and medians as well as paved surfaces and other human structures.

3.2 SPECIAL-STATUS SPECIES

No federally or state-listed as threatened or endangered plants were observed within the project site during the field survey. Four federally or state-listed as threatened or endangered plants have been documented within three miles of the project site: Agoura Hills dudleya (*Dudleya cymosa* ssp. *agourensis*; federally threatened [FT]), Braunton's milk-vetch (*Astragalus brauntonii*; federally endangered [FE]), California Orcutt grass (*Orcuttia californica*; FE), and Lyon's pentachaeta (*Pentachaeta lyonia*; FE and state-endangered) (Figure 3b). Due to the lack of suitable habitat and disturbed nature of the project site, no federally or state-listed plant species have moderate or high potential to occur, although Agoura Hills dudleya and Braunton's milk-vetch have low potential to occur (Table 2). The project site does not occur within any USFWS Critical Habitat for listed plant species.

No other special-status plant species were observed during the field survey. Five additional plant species with a California Rare Plant Rank (CRPR) were listed on CNDDB within three miles of the project site and include: chaparral nolina (*Nolina cismontana*; CRPR 1B.2), mesa horkelia (*Horkelia cuneata* var. *puberula*; CRPR 1B.1), Ojai navarretia (*Navarretia ojaiensis*; CRPR 1B.1), Santa Susana tarplant (*Deinandra minthornii*; CRPR 1B.2), and slender mariposa-lily (*Calochortus clavatus* var. *gracilis*; CRPR 1B.2) (Figure 3a). Due to lack of suitable habitat, no plant species with a CRPR rank have moderate or high potential to occur within the project site. The potential for

special-status plant species to occur is based on habitat suitability and documented occurrences (e.g., CNDDB and USFWS records) and is presented in Table 2.

Additionally, oak trees (*Quercus* sp.), which are protected under City Municipal Code Division 7 Section 9657, have been documented within the project site and are discussed below in Section 3.5 (Figures 2a-2c).

Table 2. Special-Status Plant Species with Potential to Occur within the Project Site

Common Name	Status	Habitat	Potential to Occur
Agoura Hills dudleya (*Dudleya cymosa* ssp. *agourensis*)	FT, CRPR 1B.2	Perennial herb. Blooms May-July. Coastal sage scrub, chaparral, yellow pine forest, northern oak woodland, foothill woodland.	Low. Very little suitable habitat is present.
Braunton's milk-vetch (*Astragalus brauntonii*)	FE, CRPR 1B.1	Perennial herb. Blooms January-September. Coastal sage scrub, closed-cone pine forest, chaparral, valley grassland.	Low. Very little suitable habitat is present.
California Orcutt grass (*Orcuttia californica*)	FE, SE, CRPR 1B.1	Annual grasslike herb. Blooms April-September. Freshwater wetlands and valley grasslands.	None. No suitable habitat present.
Chaparral nolina (*Nolina cismontana*)	CRPR 1B.2	Shrub. Blooms May-July	None. This species would have been observed if present.
Lyon's pentachaeta (*Pentachaeta lyonii*)	FE, SE, CRPR 1B.1	Annual herb. Blooms March-September. Chaparral and valley grassland.	None. No suitable habitat is present.
Mesa horkelia (*Horkelia cuneata* var. *puberula*)	CRPR 1B.1	Perennial herb. Blooms February-August. Coastal strand, northern coastal scrub, coastal sage scrub, closed-cone pine forest, foothill woodland, chaparral.	Low. Very little suitable habitat is present.
Ojai navarretia (*Navarretia ojaiensis*)	CRPR 1B.1	Annual herb. Blooms May-July.	None. Suitable habitat not present.
Santa Susana tarplant (*Deinandra minthornii*)	CRPR 1B.2	Shrub. Blooms July-December. Coastal sage scrub and chaparral.	Low. Very little suitable habitat is present.
Slender mariposa-lily (*Calochortus clavatus* var. *gracilis*)	CRPR 1B.2	Perennial herb. Blooms March-July. Chaparral.	None. No suitable habitat is present.

FE = Federally Endangered
FT = Federally Threatened
SE = State-Listed as Endangered
ST = State-Listed as Threatened
CRPR = California Rare Plant Rank

No special-status wildlife species were observed within project site during the survey, and none have moderate or high potential to occur. Coast whiptail (*Aspidoscelis tigris stejnegeri*; a California Species of Special Concern [SSC]) and coastal California gnatcatcher (*Polioptila californica californica;* FT and SSC) have low potential to occur within the project site. The potential for special-status wildlife species to occur within the project site is based on habitat suitability and documented occurrences (e.g., CNDDB and USFWS records) and is presented in Table 3.

Table 3. Special-Status Wildlife Species with Potential to Occur within the Project Site

Common Name	Status	Habitat	Potential to Occur
Invertebrates			
Crotch bumble bee (*Bombus crotchii*)	SE (candidate)	Arid shrublands and grasslands in coastal and foothill areas of southern California. Nectar plants include milkweeds, buckwheat, and lupines.	None. Site is highly disturbed with a lack of appropriate nectar sources.
Riverside fairy shrimp (*Streptocephalus woottoni*)	FE	Vernal pools or other seasonal pools with a depth greater than 30 cm.	None. No suitable ponding features present.
Vernal pool fairy shrimp (*Branchinecta lynchi*)	FT	Natural vernal pools or other seasonal pools.	None. No suitable ponding features present.
Reptiles and Amphibians			
California red-legged frog (*Rana draytonii*)	FT, SSC	Found mainly near water sources in humid forests, woodlands, grasslands, coastal scrub, and streamsides with plant cover.	None. No suitable aquatic features present.
Coast whiptail (*Aspidoscelis tigris stejnegeri*)	SSC	Inhabits hot and dry open areas with sparse foliage.	Low. Minimal suitable habitat present.
Southern California legless lizard (*Anniella stebbinsi*)	SSC	A variety of habitats including scrublands, woodlands, and sandy washes. This species requires moisture near the ground surface and is often found under plant litter or debris.	None. No suitable habitat present.
Western pond turtle (*Actinemys marmorata*)	SSC	Found in ponds, lakes, rivers, creeks, and marshes with abundant vegetation.	None. No suitable aquatic features present.
Birds			

American peregrine falcon (*Falco peregrinus anatum*)	FP (nesting)	Breeds in open landscapes with cliffs or skyscrapers for nest sites. Found along coastlines, lake edges, and mountain chains.	None. No suitable nesting habitat present.
Golden eagle (*Aquila chrysaetos*)	FP, WL (nesting and wintering)	Found in arid scrublands and grasslands. Requires cliffs to nest.	None. No suitable nesting habitat present.
Coastal California gnatcatcher (*Polioptila californica californica*)	FT, SSC	Found in coastal sage scrub, usually at elevations less than 1,600 feet. However, can be observed at high elevation at inland scrub sites.	Low. Marginal habitat present.
Least Bell's vireo (*Vireo bellii pusillus*)	FE, SE	Riparian woodland with understory of dense young willows or mulefat and willow canopy. Nests often placed along internal or external edges of riparian thickets.	None. No suitable habitat present.
Southwestern willow flycatcher (*Empidonax traillii extimus*)	FE, SE	Breeds exclusively in riparian habitats, typically in dense riparian vegetation with surface water present.	None. No suitable habitat present.
Mammals			
Western red bat (*Lasiurus blossevilli*)	SSC	Roosts in tree foliage and commonly associated with cottonwoods in riparian areas at elevations below 6,500 ft.	None. No suitable habitat present.
Western mastiff bat (*Eumops perotis californicus*)	SSC	Chaparral, live oaks, and arid, rocky regions. Requires downward opening crevices.	None. No suitable habitat present.
FE = Federally Endangered FT = Federally Threatened SE = State-Listed as Endangered ST = State-Listed as Threatened FP = State Fully Protected Species SSC = State Species of Special Concern WL = State Watch List Species			

The project site does not occur within any USFWS Critical Habitat for listed wildlife species.

3.3 AQUATIC RESOURCES

As discussed in Section 2 (Methods), RBC performed a constraints-level assessment of the project site for potentially Corps-, RWQCB-, and CDFW-jurisdictional aquatic resources. Based on the assessment, the potentially jurisdictional aquatic resources documented within the project site consist of three concrete ditches and one earthen aquatic resource/drainage, as shown on Figures 2a-2c and discussed below.

Two concrete ditches and one earthen aquatic resource/drainage occur within the southern segment of the Roadside portion of the project site, south of Agoura Road (Figure 2a). The northern concrete ditch originates west of the Roadside portion of the project site, travels east into the project site, then outlets into a small culvert/storm drain under a sidewalk. The southern concrete ditch also originates west of the Roadside portion of the project site. Once entering the project site, the southern concrete ditch travels east, then gradually turns north before continuing east and exiting the eastern boundary of the Roadside portion of the project site.

The earthen aquatic resource/drainage originates southwest of the Roadside portion of the project site and briefly enters and exits the project site along the southern boundary. The earthen aquatic resource/drainage occurs within an area mapped as disturbed habitat with some valley oak (*Quercus lobata*). Based on field observations, flows from the southern concrete ditch and the earthen aquatic resource/drainage eventually outlet into a culvert located east of the project site. No standing water was observed in the two concrete ditches or one earthen drainage.

A concrete ditch occurs along the southern portion of Agoura Road, west of Kanan Road (Figure 2b). The ditch originates on site, briefly travels northwest, then continues west before terminating on site at a small culvert/storm drain under a sidewalk. No standing water was observed in the concrete ditch.

Based on the lack of hydrophytic vegetation and wetland hydrology indicators in the concrete ditches, these features are not anticipated to meet the appropriate wetland parameters to qualify as wetland waters of the U.S./State per the Corps and the RWQCB or associated wetland potentially jurisdictional by the CDFW. The concrete ditches would also not qualify as non-wetland waters of the U.S. per the Corps as the concrete ditches appeared to be excavated in uplands (i.e., did not relocate natural drainages or excavated tributaries) based on the field assessment and an initial review of Google Earth Pro[9] and NetrOnline Historic Aerials[10] aerial imagery. Specifically, the concrete ditches appear to have been constructed on site between May 2015 and October 2016 to manage stormwater runoff from the surrounding developed/paved areas.[11] There were no natural features within this area at least as far back as 1947 (i.e., the earliest aerial image reviewed).[12] Thus, based on the current pre-2015 definition of "waters of the U.S.," which was further defined by the 2001 *Solid Waste Agency of Northern Cook County* (SWANCC) decision and the 2006 *Rapanos* decisions, the concrete ditches should be considered ditches "excavated wholly in and draining only uplands" that do "not carry a relatively permanent flow of water."[13]

The concrete ditches would also likely not qualify as streambed jurisdictional per the CDFW, as the artificially constructed concrete ditches did not replace a natural feature(s)/streambed, lacked

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[9] Google Earth Pro V 7.3.4.8248. 2021. Agoura Hills, California. 34°08'36.92"N, 118°45'55.42"W. Eye alt 1602 feet. Image Google. Last accessed January 2022.

[10] NetrOnline. 2022. Historic Aerials (1947 – 2018). Last accessed January 2022. https://www.historicaerials.com/

[11] Google Earth Pro V 7.3.4.8248. 2021. Agoura Hills, California. 34°08'36.92"N, 118°45'55.42"W. Eye alt 1602 feet. Image Google. Last accessed January 2022.

[12] NetrOnline. 2022. Historic Aerials (1947 – 2018). Last accessed January 2022. https://www.historicaerials.com/

[13] U.S. Environmental Protection Agency (U.S. EPA). 2008. Clean Water Act Jurisdiction Following the Supreme Court's Decision in Rapanos v. United States and Carabell v. United States. December 2.

association with a natural feature(s)/streambed, and did not support wildlife habitat; furthermore, the concrete ditches should also not qualify as surface waters/non-wetland waters of the State jurisdictional by the RWQCB under the Porter-Cologne. The concrete ditches were artificially created to channelize sheet flows off adjacent hillsides and provide no aquatic resource functions other than flow conveyance; additionally, the concrete ditches do not provide/have no impact on potential downstream beneficial uses.

Based on the lack of hydrophytic vegetation observed within the earthen aquatic resource/drainage within the Roadside portion of the project site during the initial assessments, this feature is not anticipated to meet the appropriate wetland parameters to qualify as a wetland waters of the U.S./State per the Corps and the RWQCB, respectively, or associated wetland jurisdictional by the CDFW; however, RBC anticipates a formal aquatic resources delineation would find that this resource qualifies as a non-wetland waters of the U.S./State jurisdictional by the Corps and RWQCB, respectively, and streambed jurisdictional by the CDFW (Figure 2a).

Section 10 navigable waters of the U.S. did not occur within the project site based on field observations.

Because project improvements are proposed in or near the mapped potentially jurisdictional aquatic resources as seen in Figures 2a – 2b, a formal, project-specific aquatic resources delineation and reporting per Corps, RWQCB, and CDFW standards and guidelines and further coordination with the Corps, RWQCB, and CDFW would be required to receive a determination from the regulatory agencies of their concurrence with the findings related to potential aquatic resources on site. Jurisdictional determinations should be made per the latest applicable regulatory requirements and/or guidance.

3.3 WILDLIFE CORRIDORS

A wildlife corridor can be defined as a physical feature that links wildlife habitat, often consisting of native vegetation that joins two or more larger areas of similar wildlife habitat. Corridors enable migration, colonization, and genetic diversity through interbreeding and are therefore critical for the movement of animals and the continuation of viable populations. Corridors can consist of large, linear stretches of connected habitat (such as riparian vegetation) or as a sequence of stepping-stones across the landscape (discontinuous areas of habitat such as wetlands and ornamental vegetation), or corridors can be larger habitat areas with known or likely importance to local fauna.

The project site does not occur within a wildlife corridor. The project site occurs along existing roads and adjacent to existing development within the City.

3.4 LOCAL ORDINANCE – CITY OF AGOURA HILLS OAK TREE PRESERVATION GUIDELINES

The City Municipal Code Article IX Chapter 6 Part 2 Division 7 Section 9657 Oak Tree Preservation Guidelines (Guidelines) provide regulatory measures to protect and preserve oak trees in recognition of their historical, aesthetic and environmental value to the City, including valley oak, coast live oak (*Quercus agrifolia*), Nuttall's scrub oak (*Q. dumosa*), and scrub oak (*Q. berberidifolia*).

The Guidelines require preservation of all healthy oak trees within all public or private land located within the incorporated areas of the City and prohibits the removal, cutting, pruning, and/or encroachment into protected zone of an oak tree without a valid oak tree permit, with exemptions provided in Section 9657.4 of the Guidelines.

Two oak species, valley oak and coast live oak, occur within the project in areas mapped as developed (landscaping) and disturbed habitat (Figure 2a-c). As shown in Figure 2a, two valley oak trees are located on disturbed habitat south of the Agoura Road / Roadside Drive intersection where the western pilasters would be located. As shown in Figure 2b, 43 coast live oak trees and seven valley oak trees occur within the disturbed and developed roadsides where the Agoura Road and Kanan Road intersection improvements, utility improvements, and monument signage would occur. Although no oak trees occur within the eastern pilasters location at the Agoura Road/Roadside Drive intersection, one valley oak tree occurs immediately west of the site and one coast live oak tree occurs immediately east of the project site, as depicted in Figure 2c.

4 POTENTIAL IMPACTS AND MITIGATION CONSIDERATIONS

As stated previously, the impact footprint within the project site has not been established. This section discusses the potential impacts on biological and aquatic resources resulting from the project. A discussion of the mitigation considerations to avoid and minimize potential impacts on biological and aquatic resources is also discussed below.

4.1 VEGETATION COMMUNITIES

No sensitive vegetation communities occur within the project site. However, native vegetation communities occur within the project site and have the potential to be impacted. California buckwheat scrub and California buckwheat scrub – disturbed occur within the underground utility relocation area along the eastern side of Kanan Road (Figure 2b). The underground utility relocation would entail trenching activities, as well as removal of existing utility structures, which may be considered temporary if any of the impact area within California buckwheat scrub or California buckwheat scrub – disturbed was restored to pre-construction conditions. Generally, the project should implement best management practices during construction to avoid and minimize impacts to habitat as well as adhere to the Land Use Development Standards in Chapter 4 of the Agoura Hills Specific Plan. No additional mitigation is anticipated for impacts on native vegetation communities.

4.2 SPECIAL-STATUS SPECIES

Special-status plant species have a low potential to occur within the project site. The non-native grassland and buckwheat scrub within the project site are subject to frequent direct and indirect disturbance resulting from vehicle traffic and other forms of human activity, resulting in low suitability for special-status plant species. Mitigation related to potential impacts to special-status plants is not anticipated.

Special-status animal species have low potential to occur within the project site. The project site's location within and adjacent to developed habitat make it highly unlikely to support special-status animal species. Additionally, because the proposed project is a transportation improvement

project, it is unlikely that the proposed project would increase human-caused disturbance to the project site, and impacts on wildlife resulting from the proposed project aren't likely to increase substantially. Some wildlife species would likely flush at the onset of project construction, including coast whiptail. Coastal California gnatcatcher as low potential to occur within the native habitat surrounding Kanan Road; however, this habitat experiences edge effects from regular traffic and coastal California gnatcatcher was not detected during the field survey. Potential impacts to coastal California gnatcatcher nesting would also be avoided and minimized through pre-construction presence/absence surveys during the bird breeding season with avoidance of active nests, if any. Focused surveys and endangered species permitting for coastal California gnatcatcher is not anticipated.

4.2.1 MITIGATION

Trees within the project site, especially along the southern portion of Agoura Road, and adjacent areas of habitat surrounding Kanan Road have potential to support avian nests, which would be protected by the Migratory Bird Treaty Act (MBTA) and California Fish and Game Code (CFGC) Sections 3503, 3503.5, and 3513. Therefore, pre-construction presence/absence surveys for birds are recommended:

> To avoid direct impacts to raptors and/or native/migratory birds, vegetation removal and ground-breaking activities should occur outside of the breeding season (February 1 to September 15). If removal of habitat in the proposed area of disturbance must occur during the breeding season, a qualified biologist shall conduct a pre-construction survey to determine the presence or absence of nesting birds in the proposed area of disturbance. The pre-construction survey shall be conducted within three (3) calendar days prior to the start of construction activities (including removal of vegetation). If nesting birds are observed, a letter report or mitigation plan in conformance with applicable state and federal law (i.e., appropriate follow up surveys, monitoring schedules, construction and noise barriers/buffers) shall be prepared and include proposed measures to be implemented to ensure that take of birds or eggs or disturbance of breeding activities is avoided. The report or mitigation plan shall be submitted to the CDFW and/or USFWS as applicable for review and approval and implemented to the satisfaction of those agencies. The project biologist shall verify and approve that all measures identified in the report or mitigation plan are in place prior to and/or during construction. If nesting birds are not detected during the pre-construction survey, no further mitigation is required.

Focused surveys for special-status species and federal/state permits for listed species are not anticipated for the project.

4.3 AQUATIC RESOURCES

4.3.1 PERMITTING

The Corps uses two primary jurisdictional determination processes to define its jurisdiction: a preliminary jurisdictional determination (PJD) and an approved jurisdictional determination (AJD). A

PJD serves as an initial, non-legally binding determination by the Corps that a specified area may contain waters of the U.S. A PJD treats "all aquatic resources that would be affected" by the project as jurisdictional under Corps regulations set forth at 33 Code of Federal Regulations (CFR) 328.3 to expedite the permitting process, even when the aquatic resources "may not be jurisdictional."[14] In contrast, an AJD serves as a "definitive, official determination by the Corps that there are, or that there are not, jurisdictional aquatic resources on a parcel."[15] The AJD is the only tool that the Corps may use to deem an aquatic resource non-jurisdictional under 33 CFR 328.3.

If any of the three concrete ditches are determined to be excluded as waters of the U.S. by the Corps under CWA Section 404 and the RWQCB under CWA Section 401 per the current pre-2015 definition of "waters of the U.S.," a request for an AJD from the Corps to conclude the concrete ditches within the project site are non-jurisdictional (concrete ditches "excavated wholly in and draining only uplands" that do "not carry a relatively permanent flow of water"[16]) could be submitted for the project site.

Note that the same methods for determining the extent of aquatic resources potentially jurisdictional under the Corps are used to determine the extent of aquatic resources potentially jurisdictional under the RWQCB pursuant to CWA Section 401 (33 U.S. Code [USC] § 1341).

The applicant would need to obtain permits through the Corps, RWQCB, and CDFW for impacts on jurisdictional aquatic resources (i.e., the earthen aquatic resource/drainage). The regulatory agencies must concur with the findings of a project-specific aquatic resources delineation and estimated impact calculations. Impacts on jurisdictional resources will likely require an AJD and application for a permit (e.g., a Nationwide Permit or Standard Individual permit, depending on total jurisdictional acreage/linear feet and final project impacts) from the Corps, a CWA Section 401 Water Quality Certification from the RWQCB, and a Streambed Alteration Agreement (SAA) from the CDFW. The regulatory agencies must concur with the findings of a project- specific aquatic resources delineation and estimated impact calculations. The Corps, RWQCB, and/or CDFW may also require a functional assessment to quantitatively estimate the stream condition for the evaluation of the project site.

4.3.2 MITIGATION

The applicable regulatory agencies will require compensatory mitigation to offset proposed project impacts associated with the project site. Final mitigation ratios will be determined in consultation with the Corps, RWQCB, and/or CDFW, based on agency evaluation of current resource functions and values. A minimum 1:1 ratio is typically required, though ratios may be higher depending on the functions lost at the impact site in comparison to the functions gained at the proposed mitigation site as well as mitigation type and location. Potential compensatory mitigation to offset impacts on jurisdictional aquatic resources may be implemented through off-site, permittee-

[14] U.S. Army Corps of Engineers (Corps). 2016 Regulatory Guidance Letter No. 16-01. October 2016.

[15] U.S. Army Corps of Engineers (Corps). 2016 Regulatory Guidance Letter No. 16-01. October 2016.

[16] U.S. Environmental Protection Agency (U.S. EPA). 2008. Clean Water Act Jurisdiction Following the Supreme Court's Decision in Rapanos v. United States and Carabell v. United States. December 2.

responsible mitigation, in-lieu fee program or mitigation bank credit purchase, or a combination of these options depending on availability. The proposed mitigation strategy will prioritize in-kind and in-watershed options per the regulatory agencies' preferences. The regulatory agencies will make the final determination of the final compensatory mitigation requirements during the permit evaluation process.

4.4 WILDLIFE CORRIDORS

The project site is not within a wildlife corridor. Therefore, potential impacts on wildlife corridors and their associated mitigation considerations are not anticipated for this project.

4.5 CITY OAK TREE PRESERVATION GUIDELINES

As previously mentioned, the "removal, cutting, pruning, and/or encroachment into protected zone" of any oak tree is prohibited without the appropriate permit from the City Department of Planning and Community Development. Other actions that would impact oak trees include, but are not limited to, trenching, excavating or paving within the protected zone of a tree or at least 15 feet from the trunk, whichever distance is greater.

The project site contains both valley oak and coast live oak trees along the roadsides and landscaped medians of Kanan Road and Agoura Road (Figure 2a-c). Because these trees are likely to be impacted as a result of the project's roadway and intersection improvements at the Kanan/Agoura Road or signage installations, the project would require permits for the oak trees to be impacted. As a part of the permit application process, an additional focused oak tree survey may be required by the City to gather information such as the condition of the impacted trees, and justification for project activities impacting the trees. Please note that some oak trees within the project site are not planned for removal.

4.5.1 MITIGATION

To account for mitigation for impacts to oak trees, the permit would also include conditions such as the planting of new oak trees on/off the project site, relocation of trees, or even the payment of oak trees to be planted elsewhere as determined by the City. Newly planted or relocated trees may also require a maintenance program to insure the continued health and care of the trees, per the Guidelines. The size and quantity of oak trees to be planted are determined by the City and are dependent on the health of the impacted trees, the type of impact occurring on oak trees (e.g., total removal or pruning), and the type of project proposed (residential vs. commercial). It is recommended that once the project impact footprint is refined, a focused oak tree survey be conducted to determine the condition of the trees to be impacted as a result of the project.

5 CONCLUSIONS

Although special-status plant and wildlife species are not anticipated to occur on site, nesting birds, which are protected by the MBTA and CFGC are expected to occur within the project site. As such, pre-construction nesting bird surveys, as detailed in Section 4.2 above, are recommended should work occur during the bird breeding season. Potentially jurisdictional aquatic resources were

documented within the project site. If impacts are proposed in or near the mapped potentially jurisdictional aquatic resources, a formal, project-specific aquatic resources delineation and reporting per Corps, RWQCB, and CDFW standards and guidelines and further coordination with the Corps, RWQCB, and CDFW would be required to receive a determination from the regulatory agencies of their concurrence with the findings related to potential aquatic resources on site. The applicant would need to obtain permits through the Corps, RWQCB, and/or CDFW for any impacts on jurisdictional aquatic resources, as detailed in Sections 4.3.1 and 4.3.2 above. Oak tree species were also documented within the project site. An oak tree permit is required per the City of Agoura Hills Oak Tree Preservation Guidelines since project impacts on oak trees are proposed.

This memo is intended to be a general, constraints-level summary of the biological and aquatic resources within the project site. Conclusive determinations of potential impacts and mitigation measures to reduce potential impacts to a level below significant can be determined once the impact footprint is established and, if impacts to potential aquatic resources are proposed, a formal, project-specific aquatic resources delineation and reporting is completed.

ATTACHMENTS

Figure 1 – Project Location

Figure 2a-c – Biological Resources and Estimated Potential Aquatic Resource Boundaries

Figure 3a – CNDDB Plants and Wildlife

Figure 3b –USFWS Plants and Wildlife

Figure 4 – NHD & NWI

Attachment A – Site Photographs

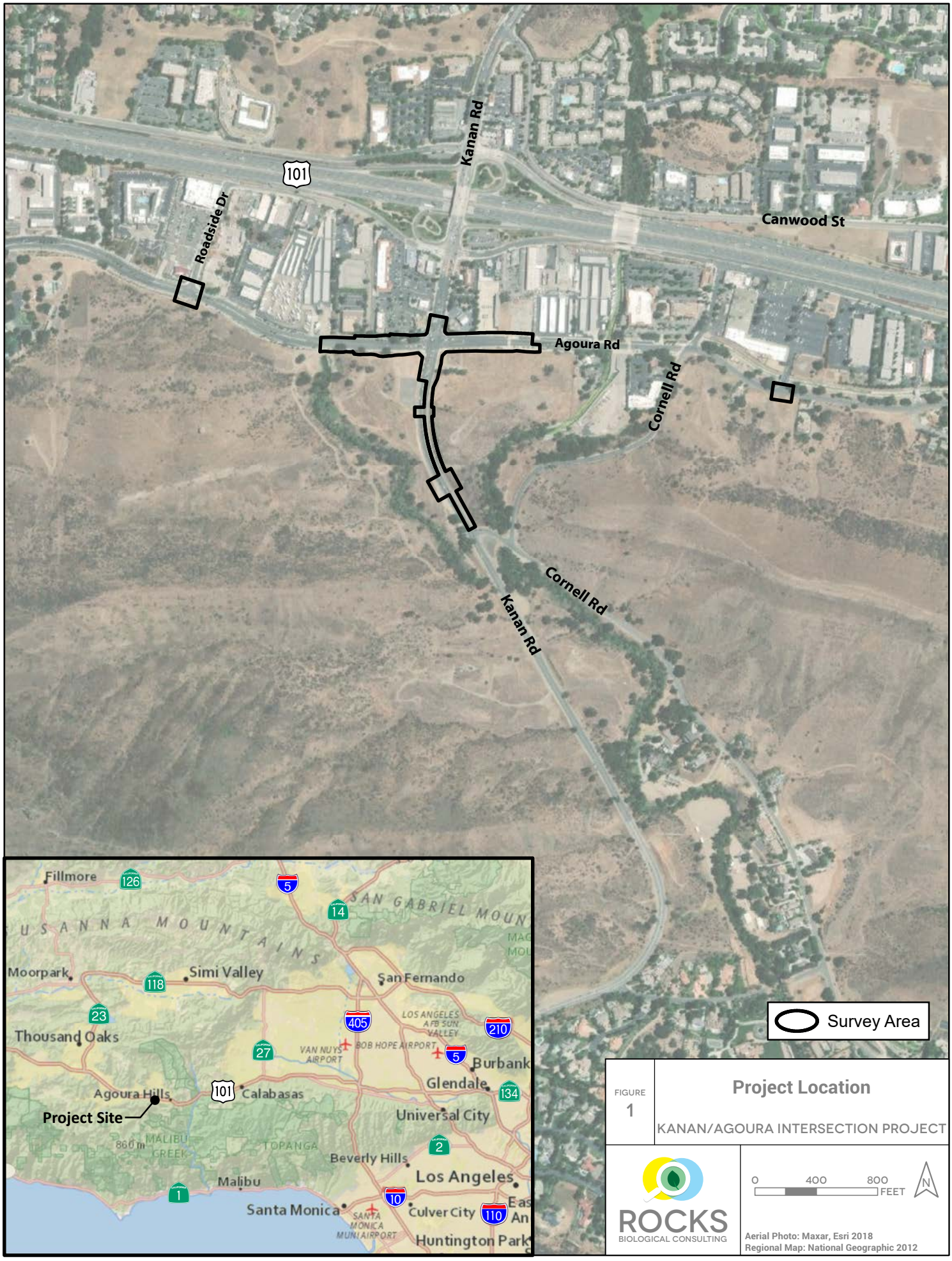


FIGURE 1

Project Location

KANAN/AGOURA INTERSECTION PROJECT

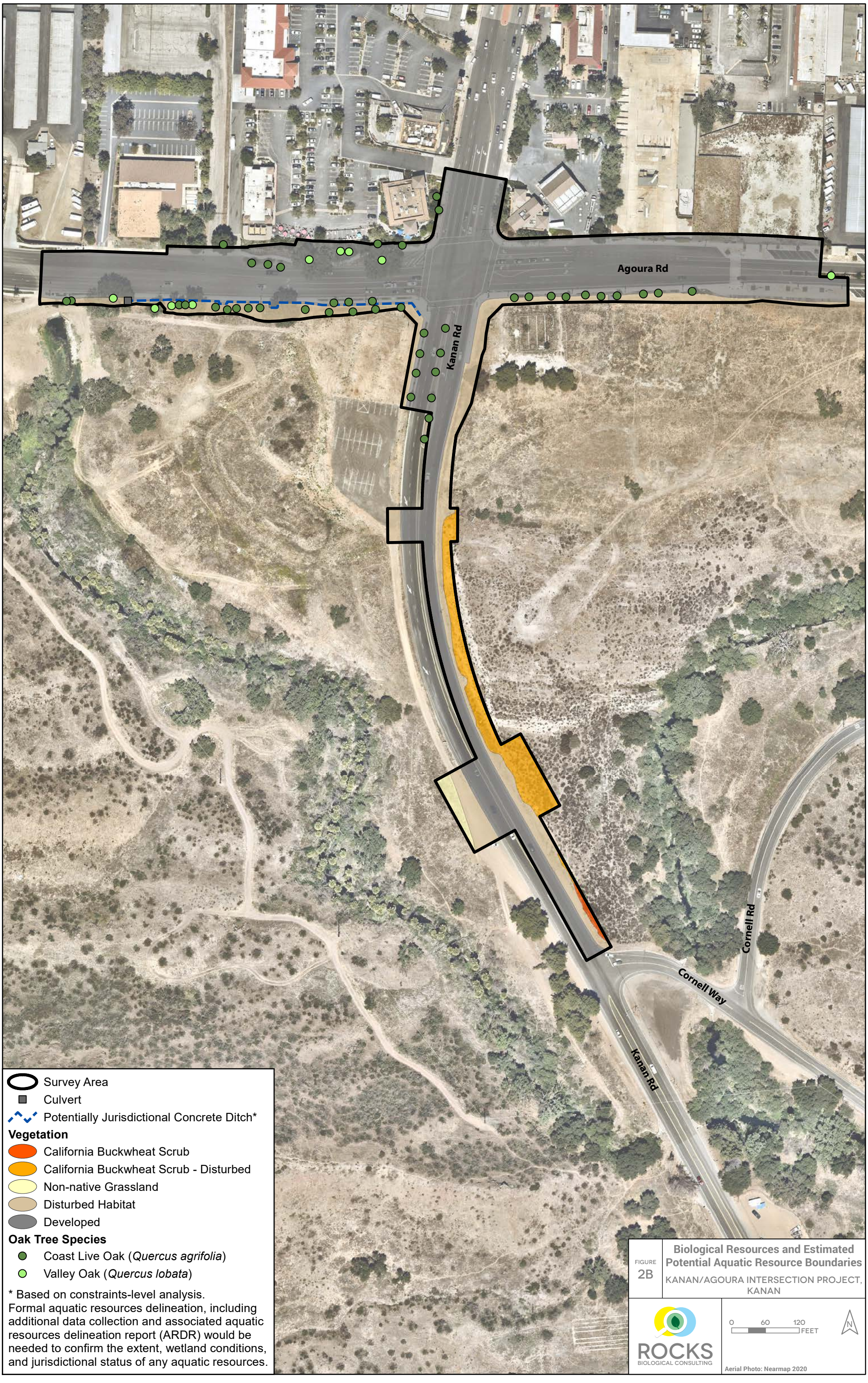
ROCKS BIOLOGICAL CONSULTING

0 400 800 FEET

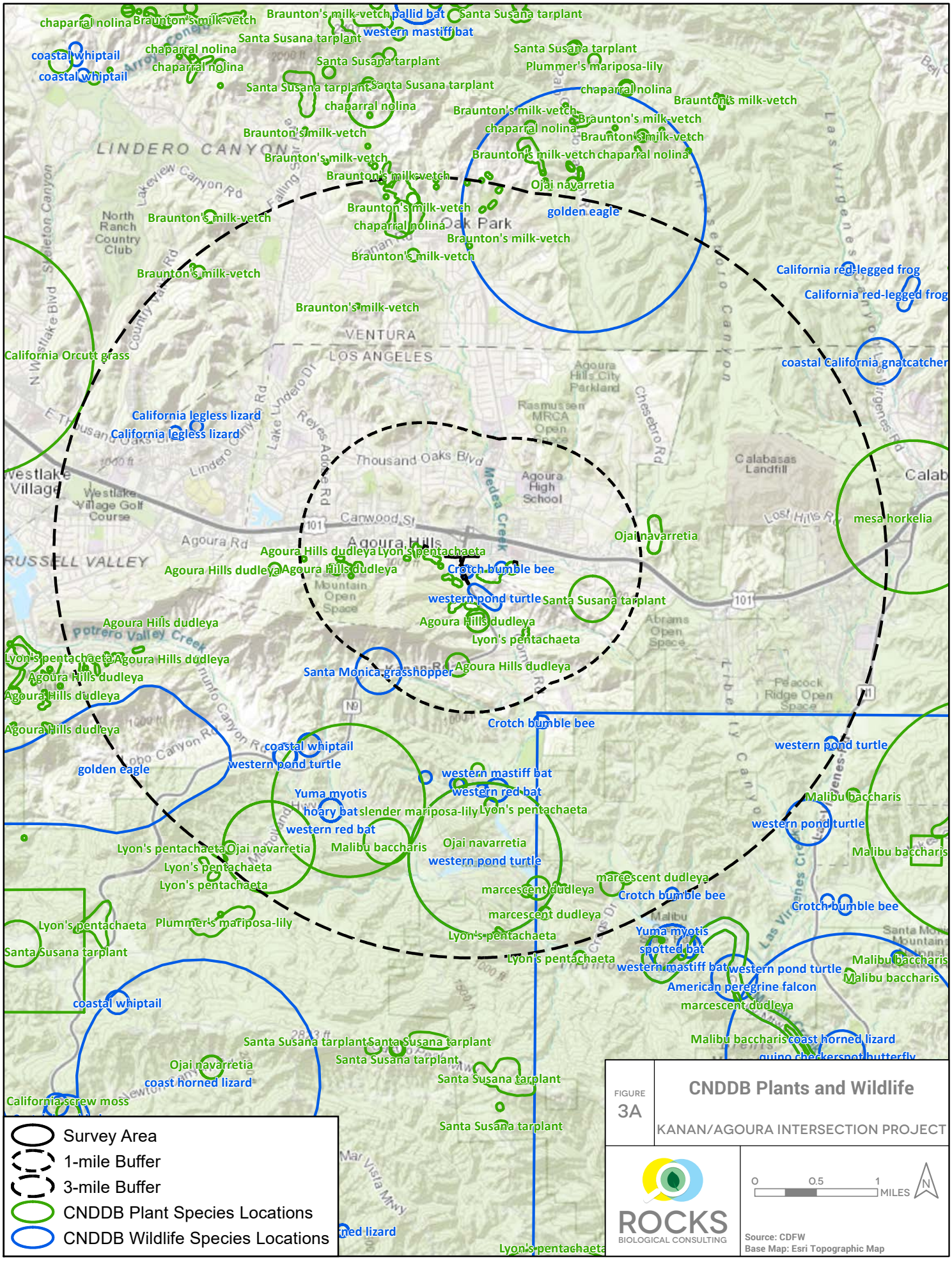
N

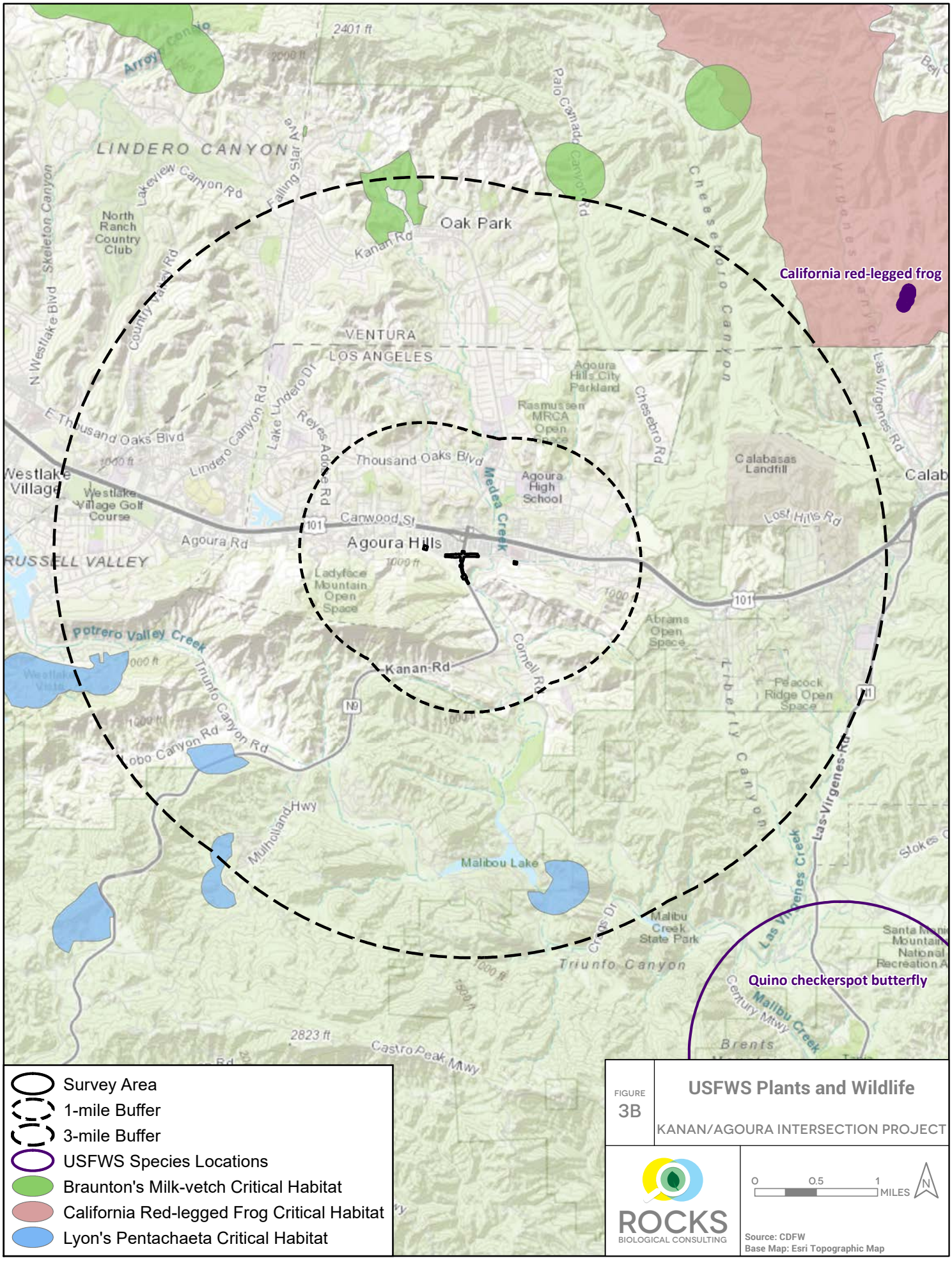
Aerial Photo: Maxar, Esri 2018
Regional Map: National Geographic 2012

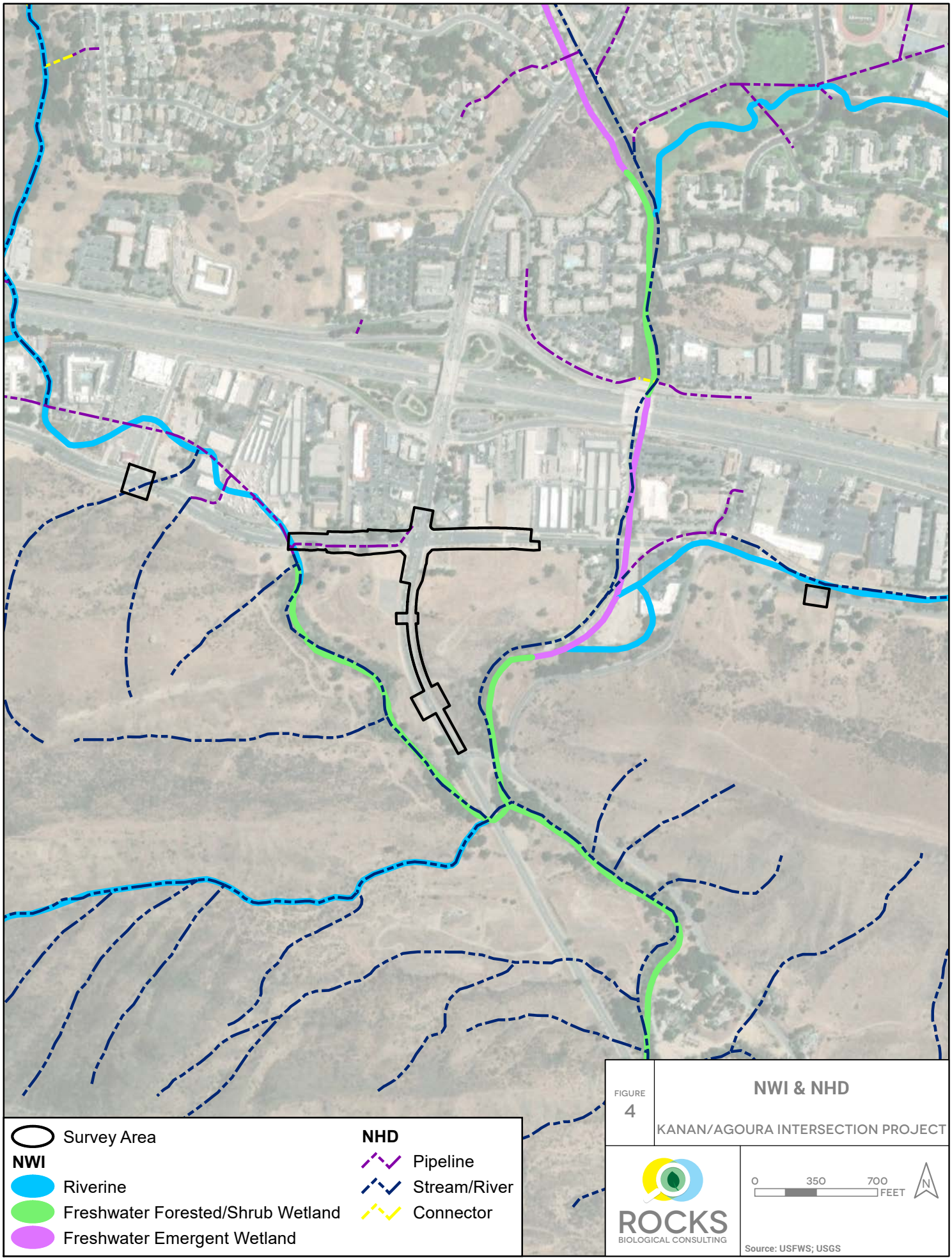

Roadside Dr
Agoura Rd
Survey Area
Culvert
Potentially Jurisdictional Aquatic Resource*
Potentially Jurisdictional Concrete Ditch*
Vegetation
Disturbed Habitat
Developed
Oak Tree Species
Valley Oak (Quercus lobata)
* Based on constraints-level analysis. Formal aquatic resources delineation, including additional data collection and associated aquatic resources delineation report (ARDR) would be needed to confirm the extent, wetland conditions, and jurisdictional status of any aquatic resources.
FIGURE 2A
Biological Resources and Estimated Potential Aquatic Resource Boundaries
KANAN/AGOURA INTERSECTION PROJECT, ROADSIDE
ROCKS BIOLOGICAL CONSULTING
0 25 50 FEET
N
Aerial Photo: Nearmap 2020


Agoura Rd
Kanan Rd
Cornell Rd
Cornell Way
Kanan Rd
Survey Area
Culvert
Potentially Jurisdictional Concrete Ditch*
Vegetation
California Buckwheat Scrub
California Buckwheat Scrub - Disturbed
Non-native Grassland
Disturbed Habitat
Developed
Oak Tree Species
Coast Live Oak (Quercus agrifolia)
Valley Oak (Quercus lobata)
* Based on constraints-level analysis.
Formal aquatic resources delineation, including additional data collection and associated aquatic resources delineation report (ARDR) would be needed to confirm the extent, wetland conditions, and jurisdictional status of any aquatic resources.
FIGURE 2B
Biological Resources and Estimated Potential Aquatic Resource Boundaries
KANAN/AGOURA INTERSECTION PROJECT, KANAN
ROCKS BIOLOGICAL CONSULTING
0 60 120 FEET
N
Aerial Photo: Nearmap 2020


Agoura Rd
Survey Area
Culvert
Vegetation
Disturbed Habitat
Developed
Oak Tree Species
Coast Live Oak (Quercus agrifolia)
Valley Oak (Quercus lobata)
FIGURE 2C
Biological Resources and Estimated Potential Aquatic Resource Boundaries
KANAN/AGOURA INTERSECTION PROJECT, WHIZIN
ROCKS BIOLOGICAL CONSULTING
0 25 50 FEET
N
Aerial Photo: Nearmap 2020


chaparral nolina
Braunton's milk-vetch
Braunton's milk-vetch pallid bat
Santa Susana tarplant
western mastiff bat
Santa Susana tarplant
coastal whiptail
chaparral nolina
Santa Susana tarplant
coastal whiptail
chaparral nolina
Santa Susana tarplant
Santa Susana tarplant
Santa Susana tarplant
Plummer's mariposa-lily
chaparral nolina
Braunton's milk-vetch
chaparral nolina
Braunton's milk-vetch
Braunton's milk-vetch
chaparral nolina
Braunton's milk-vetch
Braunton's milk-vetch
Braunton's milk-vetch
Braunton's milk-vetch chaparral nolina
Braunton's milk-vetch
Ojai navarretia
golden eagle
Braunton's milk-vetch
chaparral nolina
Braunton's milk-vetch
Braunton's milk-vetch
Braunton's milk-vetch
Braunton's milk-vetch
California red-legged frog
California red-legged frog
Braunton's milk-vetch
California Orcutt grass
coastal California gnatcatcher
California legless lizard
California legless lizard
mesa horkelia
Ojai navarretia
Agoura Hills dudleya
Lyon's pentachaeta
Agoura Hills dudleya
Agoura Hills dudleya
Crotch bumble bee
western pond turtle
Santa Susana tarplant
Agoura Hills dudleya
Agoura Hills dudleya
Lyon's pentachaeta
Lyon's pentachaeta
Agoura Hills dudleya
Agoura Hills dudleya
Santa Monica grasshopper
Agoura Hills dudleya
Agoura Hills dudleya
Crotch bumble bee
coastal whiptail
western pond turtle
golden eagle
western mastiff bat
western red bat
Yuma myotis
hoary bat
slender mariposa-lily
Lyon's pentachaeta
western red bat
Malibu baccharis
western pond turtle
Malibu baccharis
Lyon's pentachaeta
Ojai navarretia
Malibu baccharis
Ojai navarretia
western pond turtle
Lyon's pentachaeta
Lyon's pentachaeta
marcescent dudleya
marcescent dudleya
Crotch bumble bee
Crotch bumble bee
marcescent dudleya
Lyon's pentachaeta
Plummer's mariposa-lily
Yuma myotis
spotted bat
Lyon's pentachaeta
western mastiff bat
western pond turtle
Malibu baccharis
Malibu baccharis
Santa Susana tarplant
American peregrine falcon
coastal whiptail
marcescent dudleya
Malibu baccharis
coast horned lizard
Santa Susana tarplant
Santa Susana tarplant
Santa Susana tarplant
Ojai navarretia
coast horned lizard
Santa Susana tarplant
California screw moss
Santa Susana tarplant
Lyon's pentachaeta
LINDERO CANYON
VENTURA
LOS ANGELES
Oak Park
Westlake Village
RUSSELL VALLEY
Agoura Hills
Thousand Oaks Blvd
Agoura Rd
Canwood St
Lake Lindero Dr
Reyes Adobe Rd
Medea Creek
Chesebro Rd
Las Virgenes Canyon
Las Virgenes Rd
Lost Hills Rd
Calabasas Landfill
Agoura High School
Agoura Hills City Parkland
Rasmussen MRCA Open Space
Mountain Open Space
Abrams Open Space
Peacock Ridge Open Space
Malibu
Santa Monica Mountains
Lakeview Canyon Rd
Falling Star
Skeleton Canyon
North Ranch Country Club
Westlake Village Golf Course
Potrero Valley Creek
Arroyo Conejo
Triunfo Canyon Rd
Lobo Canyon Rd
Hollard Hwy
Mar Vista Mwy
Survey Area
1-mile Buffer
3-mile Buffer
CNDDB Plant Species Locations
CNDDB Wildlife Species Locations
FIGURE
3A
CNDDB Plants and Wildlife
KANAN/AGOURA INTERSECTION PROJECT
ROCKS
BIOLOGICAL CONSULTING
0
0.5
1
MILES
N
Source: CDFW
Base Map: Esri Topographic Map


California red-legged frog
Quino checkerspot butterfly
LINDERO CANYON
VENTURA
LOS ANGELES
Oak Park
Agoura Hills
Westlake Village
RUSSELL VALLEY
Thousand Oaks Blvd
Agoura Rd
Kanan Rd
Medea Creek
Potrero Valley Creek
Triunfo Canyon
Malibu Lake
Malibu Creek State Park
Las Virgenes Creek
Las Virgenes Rd
Lost Hills Rd
Calabasas Landfill
Agoura High School
Ladyface Mountain Open Space
Peacock Ridge Open Space
Abrams Open Space
Rasmussen MRCA Open Space
Agoura Hills City Parkland
North Ranch Country Club
Westlake Village Golf Course
Mulholland Hwy
Castro Peak Mwy
Century Mwy
Malibu Creek
Brents
Triunfo Canyon
Survey Area
1-mile Buffer
3-mile Buffer
USFWS Species Locations
Braunton's Milk-vetch Critical Habitat
California Red-legged Frog Critical Habitat
Lyon's Pentachaeta Critical Habitat
FIGURE 3B
USFWS Plants and Wildlife
KANAN/AGOURA INTERSECTION PROJECT
ROCKS BIOLOGICAL CONSULTING
0 0.5 1 MILES
N
Source: CDFW
Base Map: Esri Topographic Map


Survey Area
NWI
Riverine
Freshwater Forested/Shrub Wetland
Freshwater Emergent Wetland
NHD
Pipeline
Stream/River
Connector
FIGURE
4
NWI & NHD
KANAN/AGOURA INTERSECTION PROJECT
ROCKS
BIOLOGICAL CONSULTING
0
350
700
FEET
N
Source: USFWS; USGS

Appendix A. Site Photographs

Kanan/Aguora Intersection Project Biological and Aquatic Resources Constraints Analysis – June 30, 2021

Photo 1. Overview of the northern segment of the Roadside portion of the survey area, dominated by ornamental vegetation and developed land, facing east (34.144590, -118.767299).

Photo 2. Overview of the southern segment of the Roadside portion of the survey area, dominated by disturbed habitat with some valley oak (*Quercus lobata*) just south of the study area boundary, facing east (34.14246, -118.767534).

Photo 3. View of the two potentially jurisdictional concrete ditches within the southern segment of the Roadside portion of the survey area, facing east (northern ditch in foreground, southern ditch in background) (34.144305, -118.767273).

Photo 4. View of the potentially jurisdictional aquatic resource/drainage located in the southern segment of the Roadside portion of the survey area, facing southwest (34.144170, -118.767242).

Photo 5. Overview of the western segment of the Kanan portion of the survey area, dominated by disturbed habitat with some non-native grassland, facing south (34.141166, -118.761870).

Photo 6. Overview of the eastern segment of the Kanan portion of the survey area, dominated by California buckwheat scrub (*Eriogonum fasciculatum*) - disturbed, facing north (34.140231, -118.760778).

Photo 7. Overview of the northern segment of the Whizin portion of the survey area, dominated by disturbed habitat and valley oak, facing east (34.142825, -118.754104).

Photo 8. Overview of the southern segment of the Whizin portion of the survey area, dominated by disturbed habitat, facing east (34.142638, -118.754614).