



# LIVE OAK ASSOCIATES, INC.

an Ecological Consulting Firm

March 27, 2017

Alex H. Jewell, AICP, LEED AP  
Kimley-Horn  
555 Capitol Mall, Suite 300  
Sacramento, CA 95814

**RE: Biological Evaluation of the Corey Residence at 26 Alpine Avenue, Town of Los Gatos, Santa Clara County, California (PN 2124-01).**

Dear Alex,

At your request, Live Oak Associates, Inc. (LOA) completed a biological evaluation for the development of a single-family home at 26 Alpine Avenue (APN 529-37-042) in Los Gatos, California. The project site is approximately 0.47-acres and will include the construction of a 3461-sq. ft. residence and attached 558-sq. ft. garage. The development site is on a significant slope and will require grading and the removal of twelve trees.

LOA ecologists Sarah Piramoon and Pamela Peterson conducted a reconnaissance-level survey on February 28, 2017. The primary objective of the site visit was to 1) identify the constituent species and habitats of the site, and 2) assess the potential of the site to support sensitive habitats (e.g., wetland and riparian habitats) or suitable habitat for special status plant or animal species. Background sources of information reviewed in the preparation of this analysis included the Natural Resource Conservation Service's websoil survey (accessed on-line on March 7, 2017), the on-line National Wetlands Inventory (accessed on-line on March 7, 2017), the *California Natural Diversity Data Base* (accessed on-line on February 27, 2017), special status species lists prepared by the California Department of Fish and Wildlife (CDFW 2017), U.S. Fish and Wildlife Service (USFWS 2017), and California Native Plant Society (CNPS 2017), and manuals and references related to plants and animals found in and around Santa Clara County.

## **EXISTING CONDITIONS**

### ***Regional Setting***

The project site approximately 0.47-acres in a residential area, zoned R1:20, of Los Gatos. The site is approximately 430 feet south of Los Gatos Boulevard, along Alpine Avenue, and approximately 0.5 miles east of downtown Los Gatos. The site is bounded by 27 Jackson Street to the north, Alpine Avenue to the northeast, 38 Alpine Avenue to the south, 50 Alpine Avenue to the southwest, and Jackson Street to the west. An unnamed tributary to Los Gatos Creek runs

parallel to Jackson Street along the boundary of the project area. The stream along Jackson Street is a natural channel, supporting riparian vegetation. However, both upstream and downstream of the site the stream is strictly channelized. The project site is located in the Los Gatos 7.5" U.S. Geological Survey (USGS) quadrangle. Portions of the site are significantly sloped, with the higher elevation along the boundary of 38 Alpine Avenue parcel being approximately 420 feet (128 meters) above sea level and the low end of the property along the Jackson Street boundary being approximately 380 feet (116 meters) above sea level National Geodetic Vertical Datum (NGVD). The surrounding land uses include other single-family homes, community buildings such as the Los Gatos community center and library, as well as commercial and retail uses.

### ***Soils***

Three soil types occur on the site. Along the northeastern edge, along the driveway, the soil is classified as Urbanland-Flaskan Complex, 0 to 2 percent slopes (NRCS 2017; accessed on-line on March, 7, 2017). The majority of the project site, including the build site, is within Katykat-Mouser-Sanikara Complex, 30 to 50 percent slopes. The third soil type is Urbanland-Montavista-Togasara Complex, 9 to 15 percent slope, which occurs along the waterway and Jackson Street, bordering the site to the west. The Geotechnical Update that was prepared for this project identified an active fault scarp in the southern portion of the site (Pollak Engineering, Inc., August 2016) and evidence of a prior fault slip.

### ***Habitats***

The site consists of three land types: developed, an ecotone between oak woodland and riparian woodland, and stream habitat. These are described in greater detail below.

Oak/Riparian Woodland. The majority of the site is made up an oak woodland that transitions to a riparian woodland on the lower portion of the project area. The site is densely vegetated and according to the arborists report (Artisan Landscapes, 2016) there are 56 trees on the project site, with Coast live oak (*Quercus agrifolia*), bay laurel (*Umbellularia californica*), and California buckeye (*Aesculum californica*) being the dominant species in the overstory. Much of the understory was heavily shaded and covered in dense leaf litter. Plant species that dominated the understory included *periwinkle* (*Vinca sp.*), snowberry (*Symphoricarpos albus*), ripgut (*Bromus diandrus*), and poison oak (*Toxicodendron diversilobum*). Other plant species observed include eucalyptus (*Eucalyptus globulus*), black acacia (*Acacia melanoxylon*), valley oak (*Quercus lobata*), Mexican elderberry (*Sambucus nigra*), redwood (*Sequoia sempervirens*), manroot (*Marah fabaceous*), agapantha (*Agapanthus africanus*), miner's lettuce (*Claytonia perfoliata*), and sow thistle (*Sonchus asper*). Potential evidence of Sudden Oak Death Syndrome (SODS), a fungal infection caused by *Phytopthera ramorum*, on several oak and bay laurel trees was observed and documented in the Arborist's Tree Plan and Notes (Artisan Landscapes - Arborist Services, June 2016).

Developed. A small portion of the site is developed with a paved driveway and access gate along Alpine Avenue. The site is bounded by developed properties and paved roads.

Stream. Along the western border of the site, there is an intermittent unnamed stream. The habitat consists of a bare soil-banked stream with some cobble substrate. No wetland vegetation

was present, however there were patches of Himalayan blackberry (*Rubus armeniacus*) growing over the stream.

### ***Jurisdictional Waters***

Jurisdictional waters include rivers, creeks, and drainages that have a defined bed and bank and which, at the very least, carry ephemeral flows. Jurisdictional waters also include lakes, ponds, reservoirs, and wetlands. Such waters may be subject to the regulatory authority of the U.S. Army Corps of Engineers (USACE), the California Department of Fish and Wildlife (CDFW), and the California Regional Water Quality Control Board (RWQCB). The unnamed intermittent tributary to Los Gatos Creek running along the western boundary of the site is a jurisdictional feature, with a channel width of 7 to 9 feet at the ordinary high water mark and a width of 12 to 14 feet at the top of bank. The channel is incised and approximately 6 feet below the top of bank. At the time of the survey the stream was running, with approximately 6-inches of water in the channel.

According to the *User Manual: Guidelines and Standards for Land Use Near Streams* (Santa Clara Valley Water Resources Protection Collaborative, 2005), which has been adopted by the Town of Los Gatos, the creek would be considered a natural intermittent channel, however upstream and downstream of the project area the creek has been significantly modified. Upstream the creek runs within several feet of Jackson Street and the west bank has been reinforced with horizontal wood planks and vertical steel beams. Through the project area, Jackson Street is approximately 2 to 4 feet from the top of bank. Downstream of the project area, the creek is channelized and residential driveways along Jackson Street straddle the stream, encroaching within 2 feet of the top of bank. The stream continues north along Jackson Street and is culverted prior to reaching Main Street.

### ***Wildlife***

The creek and riparian woodland may provide some habitat for wildlife, however the habitat is small and fragmented as it is surrounded by development. This type of habitat is likely to support wildlife species that are common in urban settings. Wildlife species with complex life histories, large home ranges, or those that do not tolerate human disturbances are not likely to find the habitat in the project area suitable.

The creek and associated riparian woodland may support several species of common amphibians, such as Pacific tree frogs (*Hyla regilla*), arboreal salamanders (*Aneides lugubris*), California newts (*Taricha torosa*) and slender salamanders (*Batrachoseps attenuatus*). Reptiles that might be expected to occur here would be limited to common species such as the western fence lizard (*Sceloporus occidentalis occidentalis*). Numerous small mammal species are likely to occur along the creek corridor and in the riparian woodland from time to time, including the western grey squirrel (*Sciurus griseus*) (observed on the site), Virginia opossum (*Didelphis virginiana*), raccoon (*Procyon lotor*), striped skunk (*Mephitis mephitis*), roof rat (*Rattus rattus*), and house mouse (*Mus musculus*). Additionally, several species of bats, including hoary bats (*Lasiurus cinereus*), long-eared myotis (*Myotis evotis*), and Yuma (*Myotis yumanensis*) may roost in the trees on the project site and use the stream for water. All of these bat species prefer habitat with

access to open areas for foraging. The project area is densely vegetated and does not have open areas adjacent to it, making this area less suitable for these species.

Birds observed on the site include Northern flicker (*Colaptes auratus*), western scrub jay (*Aphelocoma californica*), American crow (*Corvus brachyrhynchos*), Bewick's wren (*Thryomanes bewickii*), northern mockingbird (*Mimus polyglottos*), yellow-rumped warbler (*Setophaga coronata*), golden-crowned sparrow (*Zonotrichia atricapilla*), and dark-eyed junco (*Junco hyemalis*).

### ***Special Status Species***

Special status species include plants and animals that are listed as threatened or endangered under the state and federal Endangered Species Acts, as well as other species considered to be species of concern or fully protected species in California, and plants maintained on lists compiled by CDFW and the California Native Plant Society.

A search of published accounts for all relevant special status plant and animal species was conducted for the Los Gatos USGS 7.5" quadrangle in which the project site occurs and for the eight surrounding quadrangles (Cupertino, San Jose West, San Jose East, Santa Teresa Hills, Castle Rock Ridge, Loma Prieta, Laurel, and Felton) using the California Natural Diversity Data Base (CNDDDB) Rarefind (CDFW 2017; accessed on-line on February 27, 2017). Special status species documented as occurring, or historically occurring, within a five-kilometer radius of the project site are depicted in Figure 1.

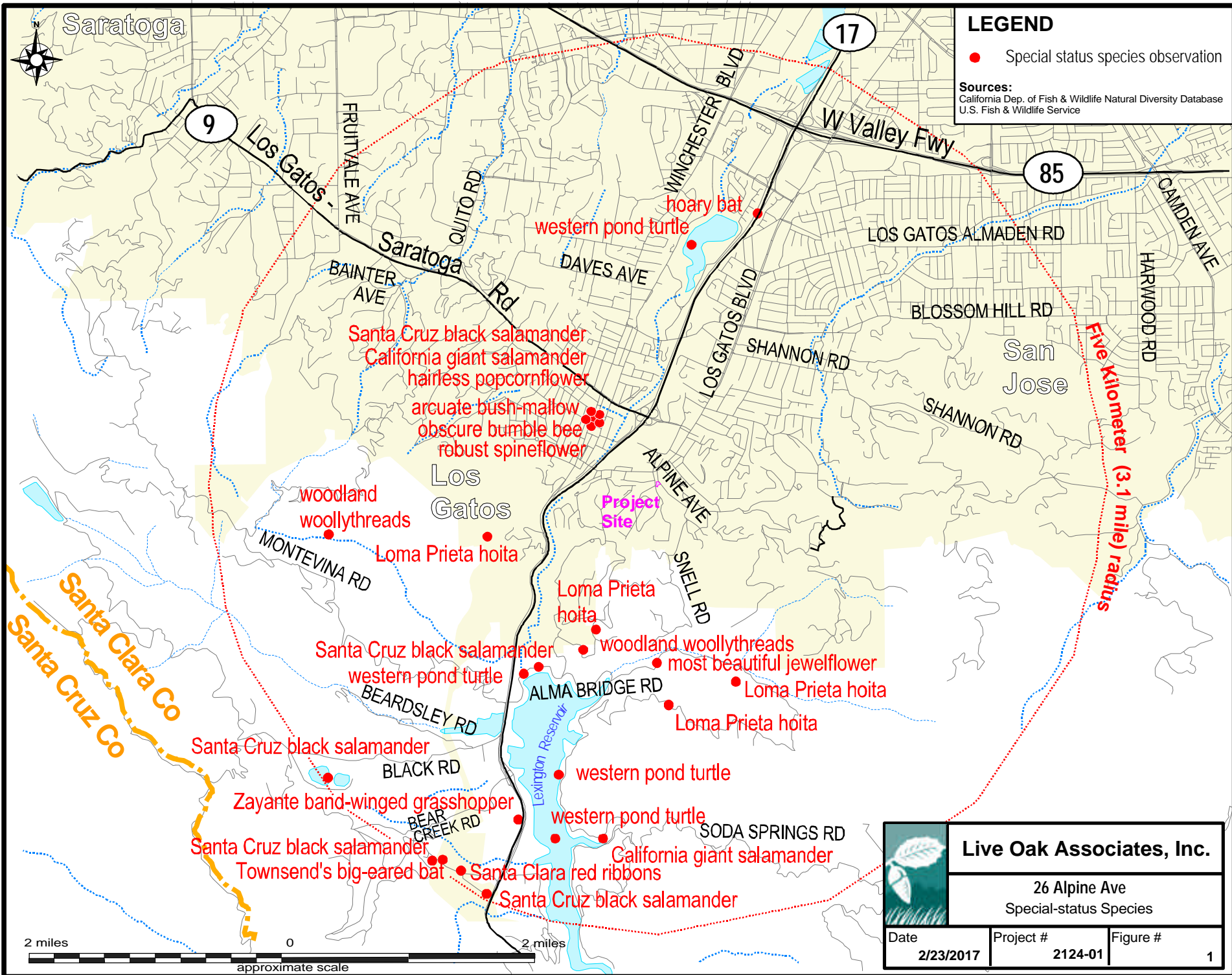
The site provides no habitat for sensitive plant species; therefore, no special status plants are expected to occur on the site and the project will have no impact on special status plants (Table 1A and 1B).

Additionally, due to the development that surrounds the site, the habitat value in the project area is limited to species that would be found in urban areas and is not likely to support special status species. However, trees and the driveways across the creek on Jackson could provide roosting habitat for special status bats and mature trees could potentially provide nesting habitat for special status birds, as well as other birds protected under the federal Migratory Bird Treaty. Impacts to special status animals, bats and nesting birds will be discussed in greater detail below (Table 2A and 2B).

Certain special status plant species have been eliminated from consideration in Table 1A and Table 1B as these species are endemic on serpentine soils and the soils of the site are not serpentine. These species include: Coyote ceanothus (*Ceanothus ferrisiae*), Mt. Hamilton fountain thistle (*Cirsium fontinale* var. *campylon*), San Francisco collinsia (*Collinsia multicolor*), Santa Clara Valley dudleya (*Dudleya abramsii* ssp. *setchellii*), smooth lessingia (*Lessingia micradenia* var. *glabrata*), woodland whollythreads (*Monolopia gracilens*), white-rayed pentachaeta (*Pentachaeta bellidiflora*), Metcalf Canyon jewelflower (*Streptanthus albidus* ssp. *albidus*), and most beautiful jewelflower (*Streptanthus albidus* ssp. *peremoenus*).

Wildlife species that are tracked by the CNDDDB because they once had special status as either a federal candidate species or state species of concern, but that have no current legal status under


the Federal Endangered Species Act (ESA), California Endangered Species Act (CESA), or California Environmental Quality Act (CEQA) are not included in the tables below. These species include Santa Cruz kangaroo rat (*Dipodomys venustus venustus*), hoary bat, western pearlshell (*Margaritifera falcata*), Hom's micro-blind harvestman (*Microcina homi*), long-eared myotis, Yuma myotis, osprey (*Pandion haliaetus*), and Antioch specid wasp (*Philanthus nasalis*).

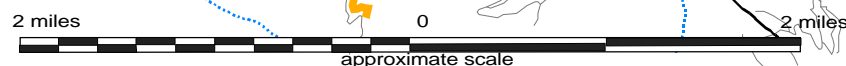


**LEGEND**

- Special status species observation

**Sources:**  
 California Dep. of Fish & Wildlife Natural Diversity Database  
 U.S. Fish & Wildlife Service

 <b>Live Oak Associates, Inc.</b>		
26 Alpine Ave Special-status Species		
Date	Project #	Figure #
2/23/2017	2124-01	1



**TABLE 1A: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY**

**PLANTS (adapted from CDFW 2017 and CNPS 2017)**

***Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Act***

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Marsh Sandwort ( <i>Arenaria paludicola</i> )	FE, CE, CRPR 1B	<u>Habitat:</u> Freshwater wetlands. <u>Elevation:</u> 3-170 m. <u>Blooms:</u> Perennial herb; May-August.	<b>Absent.</b> Habitat is absent from the site for this species.
Ben Lomond Spineflower ( <i>Chorizanthe pungens</i> var. <i>hartwegiana</i> )	FE, CRPR 1B	<u>Habitat:</u> Maritime ponderosa pine sandhills. <u>Elevation:</u> 90-610 m. <u>Blooms:</u> Annual herb; April-July.	<b>Absent.</b> Habitat is absent from the site for this species. Not known from Santa Clara County.
Monterey Spineflower ( <i>Chorizanthe pungens</i> var. <i>pungens</i> )	FT, CRPR 1B	<u>Habitat:</u> Sandy soils within chaparral, cismontane woodland, coastal dunes, coastal scrub and valley and foothill grassland. <u>Elevation:</u> 3-450 m. <u>Blooms:</u> Annual herb; April-June.	<b>Absent.</b> Habitat is absent from the site for this species. Not known from Santa Clara County.
Scott's Valley Spineflower ( <i>Chorizanthe robusta</i> var. <i>hartwegii</i> )	FE, CRPR 1B	<u>Habitat:</u> Sandy soils in meadows and seeps; mudstone and Purisima outcrops in valley and foothill grassland. <u>Elevation:</u> 230-245 m. <u>Blooms:</u> Annual herb; April-July.	<b>Absent.</b> Habitat is absent from the site for this species. Not known from Santa Clara County.
Robust Spineflower ( <i>Chorizanthe robusta</i> var. <i>robusta</i> )	FE, CRPR 1B	<u>Habitat:</u> Occurs in sandy or gravelly soils within cismontane woodland, coastal dunes, and coastal scrub. <u>Elevation:</u> 3-300 m. <u>Blooms:</u> Annual herb; April-September.	<b>Absent.</b> Habitat is absent from the site for this species.
Santa Cruz Wallflower ( <i>Erysimum teretifolium</i> )	FE, CE, CRPR 1B	<u>Habitat:</u> Inland marine sands within chaparral and lower montane coniferous forest. <u>Elevation:</u> 120-610 m. <u>Blooms:</u> Perennial herb; March-July	<b>Absent.</b> Habitat is absent from the site for this species. Not known from Santa Clara County.
Santa Cruz Cypress ( <i>Hesperocyparis abramsiana</i> var. <i>abramsiana</i> )	FE, CE, CRPR 1B	<u>Habitat:</u> Sandstone or granitic soils in chaparral or coniferous forest. <u>Elevation:</u> 280-800 m. <u>Blooms:</u> Evergreen tree.	<b>Absent.</b> Habitat is absent from the site for this species. Not known from Santa Clara County.
Santa Cruz Tarplant ( <i>Holocarpha macradenia</i> )	FT, CE, CRPR 1B	<u>Habitat:</u> Often clay and sandy soils in coastal prairie and scrub, and valley and foothill grassland. <u>Elevation:</u> 10-220 m. <u>Blooms:</u> Annual herb; June-October.	<b>Absent.</b> Habitat is absent from the site for this species.

**TABLE 1A: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY**

PLANTS (adapted from CDFW 2017 and CNPS 2017)

*Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Act*

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Contra Costa Goldfields ( <i>Lasthenia conjugens</i> )	FE, CRPR 1B	<u>Habitat:</u> Vernal pools and mesic areas within cismontane woodland, alkaline playas, and valley and foothill grasslands. <u>Elevation:</u> 0-470 m. <u>Blooms:</u> Annual herb; March-June.	<b>Absent.</b> Habitat is absent from the site for this species.
San Francisco popcornflower ( <i>Plagiobothrys diffusus</i> )	CE, CRPR 1B	<u>Habitat:</u> Coastal prairie and valley and foothill grasslands. <u>Elevation:</u> 60-360 m. <u>Blooms:</u> Annual herb; March-June.	<b>Absent.</b> Habitat is absent from the site for this species.
Scott's Valley polygonum ( <i>Polygonum hickmanii</i> )	FE, CE, CRPR 1B	<u>Habitat:</u> Mudstone and sandstone soils in valley and foothill grassland. <u>Elevation:</u> 210-250 m. <u>Blooms:</u> Annual herb; May-October.	<b>Absent.</b> Habitat is absent from the site for this species.

**TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

PLANTS (adapted from CDFW 2017 and CNPS 2017)

*Other special status plants listed by the CDFW and CNPS*

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Bent-flowered fiddleneck ( <i>Amsinckia lunaris</i> )	CRPR 1B	<u>Habitat:</u> Coastal bluff scrub, cismontane woodland, valley and foothill grassland. <u>Elevation:</u> 3-500 m. <u>Blooms:</u> Annual herb; March-June.	<b>Unlikely.</b> Although potentially suitable habitat occurs on the site, this species is not known from Santa Clara County.
Slender silver moss ( <i>Anomobryum julaceum</i> )	CRPR 4	<u>Habitat:</u> Damp rocks and soil in broadleaved upland forest, lower montane coniferous forest, North Coast coniferous forest. <u>Elevation:</u> 100-1000 m. <u>Blooms:</u> Moss.	<b>Absent.</b> Habitat is absent from the site for this species. Not known from Santa Clara County.
Anderson's manzanita ( <i>Arctostaphylos andersonii</i> )	CRPR 1B	<u>Habitat:</u> Occurs in openings and at edges of broadleaved upland forest, chaparral, and North Coast coniferous forest. <u>Elevation:</u> 60-730 meters. <u>Blooms:</u> Evergreen shrub; November-May.	<b>Absent.</b> Manzanita species are absent from the project site.



**TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**PLANTS (adapted from CDFW 2017 and CNPS 2017)**

**Other special status plants listed by the CDFW and CNPS**

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Bonny Doon manzanita ( <i>Arctostaphylos silvicola</i> )	CRPR 1B	<u>Habitat:</u> Inland marine sands within chaparral and coniferous forest. <u>Elevation:</u> 120-600 m. <u>Blooms:</u> Evergreen shrub; February-March.	<b>Absent.</b> Manzanita species are absent from the project site. Species is not known from Santa Clara County.
Big-scale balsamroot ( <i>Balsamorhiza macrolepis</i> var. <i>macrolepis</i> )	CRPR 1B	<u>Habitat:</u> Chaparral, cismontane woodlands, and valley and foothill grasslands (sometimes on serpentine) <u>Elevation:</u> 90-1400 m. <u>Blooms:</u> Perennial herb; March-June	<b>Absent.</b> Although marginally suitable habitat occurs on the site for this species, this perennial plant would have been observable during the February survey if present and it was not observed.
Round-leaved filaree ( <i>California macrophylla</i> )	CRPR 1B	<u>Habitat:</u> Occurs on clay soils within cismontane woodlands and valley and foothill grasslands. <u>Elevation:</u> 15-1200 meters. <u>Blooms:</u> Annual herb; March-May.	<b>Unlikely.</b> Only marginal habitat occurs on the site due to a lack of clay soils.
Santa Cruz Mountains pussypaws ( <i>Calyptidium parryi</i> var. <i>hesseae</i> )	CRPR 1B	<u>Habitat:</u> Chaparral and cismontane woodland in sandy or gravelly, openings. <u>Elevation:</u> 305-1105 m. <u>Blooms:</u> Annual herb; May-July.	<b>Absent.</b> Habitat is absent from the site for this species.
Swamp harebell ( <i>Campanula californica</i> )	CRPR 1B	<u>Habitat:</u> Wetlands and mesic areas within coniferous forest and coastal prairie. <u>Elevation:</u> 1-405 m. <u>Blooms:</u> Perennial herb; June-October.	<b>Absent.</b> Habitat is absent from the site for this species.
Bristly sedge ( <i>Carex comosa</i> )	CRPR 2	<u>Habitat:</u> Mesic areas, including lake margins, within coastal prairie and valley and foothill grassland. <u>Elevation:</u> 0-425 m. <u>Blooms:</u> Perennial herb; May-September.	<b>Absent.</b> Habitat is absent from the site for this species.
Deceiving sedge ( <i>Carex saliniformis</i> )	CRPR 1B	<u>Habitat:</u> Mesic areas in coastal prairie, coastal scrub, meadows and seeps, and marshes and swamps (coastal salt). <u>Elevation:</u> 3-230 m. <u>Blooms:</u> Perennial herb; May-September.	<b>Absent.</b> Habitat is absent from the site for this species. Species not known from Santa Clara County.
Congdon's tarplant ( <i>Centromadia parryi</i> ssp. <i>congdonii</i> )	CRPR 1B	<u>Habitat:</u> Occurs on alkaline soils within valley and foothill grasslands. <u>Elevation:</u> 1-230 m. <u>Blooms:</u> Annual herb; May-November.	<b>Absent.</b> Soils of the site are not alkaline.

**TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**PLANTS (adapted from CDFW 2017 and CNPS 2017)**

**Other special status plants listed by the CDFW and CNPS**

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Santa Clara red ribbons ( <i>Clarkia concinna ssp. automixa</i> )	CRPR 4	<u>Habitat:</u> Chaparral and cismontane woodland, on slopes and near drainages. <u>Elevation:</u> 90-1500 m. <u>Blooms:</u> Annual herb; April-July.	<b>Unlikely.</b> Habitat is marginal on site due to the heavy canopy cover and thick leaf litter. The nearest occurrence is from 1922, approximately 3 miles south along an inlet to Lexington Reservoir.
Tear drop moss ( <i>Dacryophyllum falcifolium</i> )	CRPR 1B	<u>Habitat:</u> Carbonate soils in North Coast coniferous forest. <u>Elevation:</u> 50-275 <u>Blooms:</u> Moss.	<b>Absent.</b> Habitat is absent from the site for this species.
Western leatherwood ( <i>Dirca occidentalis</i> )	CRPR 1B	<u>Habitat:</u> Broadleaved upland forest, coniferous forest, riparian habitats and chaparral. <u>Elevation:</u> 50-395 m. <u>Blooms:</u> Deciduous shrub; January-April.	<b>Absent.</b> Habitat is marginal on the site for this species and it would have been observed during the February site visit.
Ben Lomond buckwheat ( <i>Eriogonum nudum var. decurrens</i> )	CRPR 1B	<u>Habitat:</u> Sandy soils in chaparral, cismontane woodland and coniferous forest. <u>Elevation:</u> 50-800 m. <u>Blooms:</u> Perennial herb; June-October.	<b>Absent.</b> Habitat is absent from the site for this species.
Minute pocket moss ( <i>Fissidens pauperculus</i> )	CRPR 1B	<u>Habitat:</u> Damp soils within North Coast coniferous forest. <u>Elevation:</u> 10-100 m. <u>Blooms:</u> Moss.	<b>Absent.</b> Habitat is absent from the site for this species.
Fragrant fritillary ( <i>Fritillaria liliacea</i> )	CRPR 1B	<u>Habitat:</u> Occurs on clay soils within coastal prairie, and scrub, and valley and foothill grasslands, often on serpentine. <u>Elevation:</u> 3-410 m. <u>Blooms:</u> Bulbiferous; February-April	<b>Absent.</b> Habitat is absent from the site for this species.
Loma Prieta hoita ( <i>Hoita strobilina</i> )	CRPR 1B	<u>Habitat:</u> Chaparral, cismontane woodland, riparian woodland, often on serpentine and/or in mesic conditions. <u>Elevation:</u> 30-860 meters. <u>Blooms:</u> Perennial herb; May-October.	<b>Absent.</b> Habitat is marginal on site and this species would have been observed during the February site visit.
Kellogg's horkelia ( <i>Horkelia cuneata var. sericea</i> )	CRPR 1B	<u>Habitat:</u> Sandy or gravelly openings in coniferous forest, chaparral, and coastal scrub. <u>Elevation:</u> 10-200 m. <u>Blooms:</u> Perennial herb; April-September.	<b>Absent.</b> Habitat is absent from the site for this species. Species is not known from Santa Clara County.

**TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**PLANTS (adapted from CDFW 2017 and CNPS 2017)**

**Other special status plants listed by the CDFW and CNPS**

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Point Reyes horkelia ( <i>Horkelia marinensis</i> )	CRPR 1B	<u>Habitat:</u> Coastal prairie, dune and scrub habitats. <u>Elevation:</u> 5-350 m. <u>Blooms:</u> Perennial herb; May-September.	<b>Absent.</b> Habitat is absent from the site for this species. Species is not known from Santa Clara County.
Arcuate bush mallow ( <i>Malacothamnus arcuatus</i> )	CRPR 1B	<u>Habitat:</u> Occurs on gravelly soils within chaparral. <u>Elevation:</u> 15-355 meters <u>Blooms:</u> Evergreen shrub; April-September	<b>Absent.</b> Habitat is absent from the site for this species.
Hall's bush mallow ( <i>Malacothamnus hallii</i> )	CRPR 1B	<u>Habitat:</u> Occurs within chaparral and coastal scrub <u>Elevation:</u> 10-760 meters <u>Blooms:</u> Evergreen shrub; May-October	<b>Absent.</b> Habitat is absent from the site for this species.
Marsh microseris ( <i>Microseris paludosa</i> )	CRPR 1B	<u>Habitat:</u> Coniferous forest, cismontane woodland, coastal scrub and valley and foothill grassland. <u>Elevation:</u> 5-300 m. <u>Blooms:</u> Perennial herb; April-June.	<b>Unlikely.</b> Although potentially suitable habitat occurs on the site, this species is not known in Santa Clara County and there are no documented occurrences in the CNDDDB within a three-mile radius of the site.
Northern curly-leaved monardella ( <i>Monardella sinuata</i> ssp. <i>nigrescens</i> )	CRPR 1B	<u>Habitat:</u> Ponderosa pine sandhills, coastal scrub, dunes, and chaparral. <u>Elevation:</u> 0-300 m. <u>Blooms:</u> Annual herb; April-September.	<b>Absent.</b> Habitat is absent from the site for this species. Species is not known from Santa Clara County.
Dudly's lousewort ( <i>Pedicularis dudleyi</i> )	CRPR 1B	<u>Habitat:</u> Maritime chaparral, North Coast coniferous forest, and valley and foothill grassland. <u>Elevation:</u> 60-900 m. <u>Blooms:</u> Perennial herb; April-June.	<b>Absent.</b> Habitat is absent from the site for this species.
Santa Cruz Mountains beardtongue ( <i>Penstemon rattanii</i> var. <i>kleei</i> )	CRPR 1B	<u>Habitat:</u> Occurs in chaparral, lower montane coniferous forest, and north coast coniferous forest. <u>Elevation:</u> 400-1100 meters. <u>Blooms:</u> Perennial herb; May-June.	<b>Absent.</b> Habitat is absent from the site for this species.
White-flowered rein orchid ( <i>Piperia candida</i> )	CRPR 1B	<u>Habitat:</u> Broadleaved upland forest and coniferous forests, sometimes on serpentine. <u>Elevation:</u> 30-1310 m. <u>Blooms:</u> Perennial herb; May-September.	<b>Absent.</b> Habitat is absent from the site for this species. Species is not known from Santa Clara County.
Choris' popcorn-flower ( <i>Plagiobothrys chorisianus</i> var. <i>chorisianus</i> )	CRPR 1B	<u>Habitat:</u> Mesic soils in chaparral, coastal prairie and coastal scrub. <u>Elevation:</u> 15-100 m. <u>Blooms:</u> March-June.	<b>Absent.</b> Habitat is absent from the site for this species. Species is not known from Santa Clara County.

**TABLE 1B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**PLANTS (adapted from CDFW 2017 and CNPS 2017)**  
**Other special status plants listed by the CDFW and CNPS**

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Hairless popcorn-flower ( <i>Plagiobothrys glaber</i> )	CRPR 1A	<u>Habitat:</u> Alkaline meadows and seeps and coastal salt marshes and swamps <u>Elevation:</u> 15-180 meters <u>Blooms:</u> Annual herb; March-May	<b>Absent.</b> Habitat is absent from the site for this species.
Chaparral ragwort ( <i>Senecio aphanactis</i> )	CRPR 2	<u>Habitat:</u> Alkaline soils within chaparral, cismontane woodland, and coastal scrub. <u>Elevation:</u> 15-800 m. <u>Blooms:</u> Annual herb; January-April.	<b>Absent.</b> Habitat is absent from the site for this species.
Santa Cruz microseris ( <i>Stebbinsoseris decipiens</i> )	CRPR 1B	<u>Habitat:</u> Open areas within broadleaved upland forest, closed-cone coniferous forest, chaparral, coastal prairie, coastal scrub, valley and foothill grassland. Sometimes on serpentine. <u>Elevation:</u> 10-500 m. <u>Blooms:</u> Annual herb; April-May.	<b>Absent.</b> Habitat is absent from the site for this species.
Santa Cruz clover ( <i>Trifolium buckwestiorum</i> )	CRPR 1B	<u>Habitat:</u> Gravelly margins of of broadleaved upland forest, cismontane woodland, coastal prairie. <u>Elevation:</u> 105-610 m. <u>Blooms:</u> Annual herb; April-October.	<b>Absent.</b> Habitat is absent from the site for this species. Species is not known from Santa Clara County.
Saline clover ( <i>Trifolium hydrophilum</i> )	CRPR 1B	<u>Habitat:</u> Marshes and swamps, mesic and alkaline areas of valley and foothill grasslands, and vernal pools. <u>Elevation:</u> 0-300 meters. <u>Blooms:</u> Annual herb; April-June.	<b>Absent.</b> Habitat is absent from the site for this species.

**TABLE 2A: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**ANIMALS (adapted from CDFW 2017 and USFWS 2017)**  
**Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Acts**

Common and scientific names	Status	General habitat description	*Occurrence in the study area
California tiger salamander ( <i>Ambystoma californiense</i> )	FT, CT	Grasslands with vernal pools or other seasonal water sources for breeding and small mammal burrows for upland refuge.	<b>Absent.</b> Habitat is absent from the site for this species.

**TABLE 2A: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**ANIMALS (adapted from CDFW 2017 and USFWS 2017)**

**Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Acts**

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Swainson's hawk ( <i>Buteo swainsonii</i> )	CT	Breeds in stands with few trees in juniper-sage flats, riparian areas, and in oak savannah. Requires adjacent suitable foraging areas such as grasslands or alfalfa fields supporting rodent populations.	<b>Absent.</b> Habitat for foraging is absent from the site and surrounding areas for this species.
Marbled murrelet ( <i>Brachyramphus marmoratus</i> )	FT, SE	Feeds near shores and nests inland along the coast from Eureka to the Oregon border and from Half Moon Bay to Santa Cruz. Requires old-growth redwood-dominated forests, up to six miles inland, for nesting.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.
Ohlone tiger beetle ( <i>Cicindela ohlone</i> )	FE	Remnant native grasslands with California oatgrass & purple needlegrass in Santa Cruz County. Found on poorly-drained clay or sandy clay soil over bedrock of Santa Cruz mudstone.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.
Smith's blue butterfly ( <i>Euphilotes enoptes smithi</i> )	CT	Most commonly associated with coastal dunes and coastal sage scrub plant communities in Monterey and Santa Cruz counties. Hostplants <i>Eriogonum latifolium</i> and <i>Eriogonum parvifolium</i> are utilized by both larvae and adults as foodplants.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.
Bay checkerspot butterfly ( <i>Euphydryas editha bayensis</i> )	FT	Restricted to native grasslands on outcrops of serpentine soil in the vicinity of San Francisco Bay.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.
Coho salmon - central California coast ESU ( <i>Oncorhynchus kisutch</i> )	FE, CE	Federal listing includes populations between Punta Gorda and San Lorenzo River. State listing includes the populations south of Punta Gorda. They require beds of loose, silt-free, coarse gravel for spawning and also need cover, cool water and sufficient dissolved oxygen.	<b>Absent.</b> This species needs perennial water and the intermittent stream in the project area is not suitable.
Steelhead - central California coast DPS ( <i>Oncorhynchus mykiss irideus</i> )	FT	From Russian River, south to Soquel Creek to, but not including, Pajaro River. Also, found in San Francisco and San Pablo Bay basins.	<b>Absent.</b> This species needs perennial water and the intermittent stream in the project area is not suitable.

**TABLE 2A: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**ANIMALS (adapted from CDFW 2017 and USFWS 2017)**

***Species Listed as Threatened or Endangered under the State and/or Federal Endangered Species Acts***

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Steelhead - south-central California coast DPS ( <i>Oncorhynchus mykiss irideus</i> )	FT	Federal listing refers to runs in coastal basins from the Pajaro River south to, but not including, the Santa Maria river.	<b>Absent.</b> This species needs perennial water and the intermittent stream in the project area is not suitable.
Mount Hermon (=barbate) June beetle ( <i>Polyphylla barbata</i> )	FE	Known only from sand hills in vicinity of Mount Hermon in Santa Cruz County.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.
California red-legged frog ( <i>Rana draytonii</i> )	FT, CSC	Rivers, creeks and stock ponds of the Sierra foothills and Bay Area, preferring pools with overhanging vegetation.	<b>Absent.</b> The intermittent stream is marginal habitat due to its lack of deep pools or cover and significant human disturbance surrounding the project area. Furthermore, this species is not known to occur within 3 miles of the project area.
Zayante band-winged grasshopper ( <i>Trimerotropis infantilis</i> )	FE	Found in isolated sandstone deposits in the Santa Cruz Mountains (the Zayante sand hills ecosystem); mostly on sand parkland habitat but also in areas with well-developed ground cover and in sparse chaparral with grass.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.

**TABLE 2B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**ANIMALS (adapted from CDFW 2017 and USFWS 2017)**

***California Species of Special Concern and Protected Species***

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Tricolored blackbird ( <i>Agelaius tricolor</i> )	CSC	Breeds near fresh water in dense emergent vegetation.	<b>Absent.</b> Habitat is absent from the site for this species.
Santa Cruz black salamander ( <i>Aneides niger</i> )	CSC	Mixed deciduous and coniferous woodlands and coastal grasslands in San Mateo, Santa Cruz, and Santa Clara Counties. Adults found under rocks, talus, and damp woody debris.	<b>Unlikely.</b> The thick leaf litter along the intermittent stream may provide suitable habitat for this species. There are five known occurrences for this species within 3 miles of the project area, however the records for this species in the last 30 years have occurred in less developed areas, higher in the Santa Cruz Mountains. The surrounding development makes it unlikely for this species to occur in the vicinity.

**TABLE 2B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**ANIMALS (adapted from CDFW 2017 and USFWS 2017)**

*California Species of Special Concern and Protected Species*

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Pallid bat ( <i>Antrozous pallidus</i> )	CSC	Deserts, grasslands, shrublands, woodlands, and forests. Most common in open, dry habitats with rocky areas for roosting. Roosts must protect bats from high temperatures and human disturbance	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.
Golden eagle ( <i>Aquila chrysaetos</i> )	CP	Rolling foothills, mountain areas, sage-juniper flats, and deserts. Prefers cliff-walled canyons or large trees for provide nesting and forages in open areas.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.
Burrowing owl ( <i>Athene cunicularia</i> )	CSC	Open, dry annual or perennial grasslands, deserts, and scrublands characterized by low-growing vegetation. Dependent upon burrowing mammals, such as California ground squirrels, to create suitable nesting sites.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.
Ringtail ( <i>Bassariscus astutus</i> )	CP	Occurs mainly in riparian and heavily wooded habitats near water.	<b>Unlikely.</b> Even though marginal habitat is present onsite, it is highly fragmented and surrounded by unsuitable habitat, making it unlikely for this species to occur on the site. Furthermore, there are no known occurrences of this species in the vicinity of the project area.
Townsend's big-eared bat ( <i>Corynorhinus townsendii</i> )	CSC	Requires caves, mines, tunnels, buildings, or other human-made structures for roosting. May use separate sites for night, day, hibernation, or maternity roosts. Found in all habitats except sub-alpine and alpine.	<b>Absent.</b> Suitable roosting habitat may be found adjacent to the project area in the culverts and bridges that span the intermittent stream; however, it is highly unlikely that this species would roost in the project area as this species is very sensitive to human disturbance and there is significant existing development surrounding the project area.
Black swift (nesting) ( <i>Cypseloides niger</i> )	CSC	Nests on cliffs near the ocean or other aquatic habitat. Forages for insects over a variety of habitats.	<b>Absent.</b> Species would only be expected to occur on the site as a rare forager, but no nesting habitat is present in the project area.
California giant salamander ( <i>Dicamptodon ensatus</i> )	CSC	Wet coastal forests near streams and lakes. Larvae occur in cold, clear streams or occasionally in ponds and lakes. Adults found under rocks and logs in wet forests near streams and lakes.	<b>Absent.</b> Suitable habitat is absent from the site and its immediate vicinity. Last documented within the vicinity of Los Gatos in the early 1900's.

**TABLE 2B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**ANIMALS (adapted from CDFW 2017 and USFWS 2017)**

**California Species of Special Concern and Protected Species**

Common and scientific names	Status	General habitat description	*Occurrence in the study area
White-tailed kite ( <i>Elanus leucurus</i> )	CP	Rolling foothills and valley margins with scattered oaks & river bottomlands or marshes next to deciduous woodland. Prefers open grasslands, meadows, or marshes for foraging close to isolated, dense-topped trees for nesting and perching.	<b>Unlikely.</b> Habitat for foraging is absent from the site and surrounding areas for this species, however this species may pass through the area during migration.
Western pond turtle ( <i>Emys marmorata</i> )	CSC	Thoroughly aquatic turtle of ponds, marshes, rivers, streams & irrigation ditches, Usually with aquatic vegetation, below 6000 ft elevation. Needs basking sites and suitable (sandy banks or grassy open fields) upland habitat up to 0.5 Km from water for egg-laying.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.
Peregrine falcon ( <i>Falco peregrinus anatum</i> )	CP	Wetlands, lakes, rivers, or other water with cliffs, banks, dunes, mounds nearby. Humanmade structures are also used occasionally. Nest consists of a scrape, depression, or ledge in an open site.	<b>Unlikely.</b> Habitat for nesting and foraging is absent from the site and surrounding areas for this species, however this species may pass through the area during migration.
San Francisco dusky-footed woodrat ( <i>Neotoma fuscipes annectens</i> )	CSC	Forest habitats of moderate canopy & moderate to dense understory. May prefer chaparral and redwood habitats. Constructs nests of shredded grass, leaves & other material. May be limited by availability of nest-building materials.	<b>Unlikely.</b> Nest building material is available in the leaf litter and woody debris on site, however due to the sparse understory and fragmented habitat it is not likely for this species to occur. During the site visit possible woodrat nests were observed, however they did not appear to be active because they appeared dilapidated and no latrines were observed.
Coast horned lizard ( <i>Phrynosoma blainvillii</i> )	CSC	Frequents a wide variety of habitats, most common in lowlands along sandy washes with Scattered low bushes. Prefers open areas for sunning, bushes for cover, patches of loose soil for burial, and an abundant supply of ants and other insects.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.



**TABLE 2B: SPECIAL STATUS SPECIES THAT COULD OCCUR IN THE PROJECT VICINITY.**

**ANIMALS (adapted from CDFW 2017 and USFWS 2017)**

*California Species of Special Concern and Protected Species*

Common and scientific names	Status	General habitat description	*Occurrence in the study area
Purple martin ( <i>Progne subis</i> )	CSC	Inhabits woodlands, low elevation coniferous forest of douglas-fir, ponderosa pine, and Monterey pine. Nests in old woodpecker cavities, also in human-made structures. Nests often located in tall, isolated trees or snags.	<b>Possible.</b> Northern flicker, a cavity forming woodpecker, was observed during the site visit, which indicates that there could be suitable nesting cavities in the vicinity of the project. However, snags, isolated trees, or granary trees were not observed onsite, so it is not likely that nesting would take place in the project area. This species could forage in the woodland habitat onsite.
Foothill yellow-legged frog ( <i>Rana boylei</i> )	CSC	Occurs in swiftly flowing streams and rivers with rocky substrate with open, sunny banks in forest, chaparral, and woodland habitats, and can sometimes be found in isolated pools.	<b>Absent.</b> This species needs perennial water and the intermittent stream in the project area is not suitable. This species is not known to occur within 3 miles of the project area and
American badger ( <i>Taxidea taxus</i> )	CSC	Occurs in grasslands, and open areas of scrubland and forests with friable soils that are uncultivated.	<b>Absent.</b> Habitat is absent from the site and surrounding areas for this species.

**Explanation of Occurrence Designations and Status Codes**

Present: Species observed on the sites at time of field surveys or during recent past.

Likely: Species not observed on the site, but it may reasonably be expected to occur there on a regular basis.

Possible: Species not observed on the sites, but it could occur there from time to time.

Unlikely: Species not observed on the sites, and would not be expected to occur there except, perhaps, as a transient.

Absent: Species not observed on the sites, and precluded from occurring there because habitat requirements not met.

FE Federally Endangered

FT Federally Threatened

FPE Federally Endangered (Proposed)

FC Federal Candidate

CSC California Species of Special Concern

CE California Endangered

CT California Threatened

CR California Rare

CP California Protected

CNPS California Native Plant Society Listing

1A Plants Presumed Extinct in California

1B Plants Rare, Threatened, or Endangered in California and elsewhere

2 Plants Rare, Threatened, or Endangered in California, but more common elsewhere

3 Plants about which we need more information – a review list

4 Plants of limited distribution – a watch list

Figure 1. CNDDDB

**LOCAL ORDINANCES AND POLICIES**

**Tree Protection Ordinance.** The Town of Los Gatos has a tree protection ordinance (Section Sec. 29.10.0950) that requires a permit for the removal of protected trees. The trees protected by this ordinance include:

(1) All trees which have a twelve-inch or greater diameter (thirty-seven and one-half-inch circumference) of any trunk or in the case of multi-trunk trees, a total of eighteen inches or greater diameter (fifty-six and one-half inch circumference) of the sum of all trunks, where such trees are located on developed residential property.

(2) All trees which have an eight-inch or greater diameter (twenty-five-inch circumference) of any trunk or in the case of multi-trunk trees, a total of eight inches or greater diameter (twenty-five inch circumference) of the sum of all trunks, where such trees are located on developed Hillside residential property.

(3) All trees of the following species which have an eight-inch or greater diameter (twenty-five-inch circumference) located on developed residential property:

- a. Blue Oak (*Quercus douglasii*)
- b. Black Oak (*Quercus kelloggii*)
- c. California Buckeye (*Aesculus californica*)
- d. Pacific Madrone (*Arbutus menziesii*)

(4) All trees which have a four-inch or greater diameter (twelve and one half-inch circumference) of any trunk, when removal relates to any review for which zoning approval or subdivision approval is required.

**Tree Removal Replacement Ratios.** According to the Town of Los Gatos’s tree ordinances (Sec. 29.10.0985), if the tree removal permit is approved the following replacement standards shall be followed with approved tree species:

TABLE 3. CANOPY REMOVAL TO REPLACEMENT TREE RATIOS	
Canopy Size of Removed Tree	Replacement Requirement
10 feet or less	Two 24-inch box trees
More than 10 feet to 25 feet	Three 24-inch box trees
More than 25 feet to 40 feet	Four 24-inch box trees; or Two 36-inch box trees
More than 40 feet to 55 feet	Six 24-inch box trees; or Three 36-inch box trees

**Riparian Setbacks.** The Town of Los Gatos has adopted a set of Standards and Guidelines for Land Use Near Streams. The Standards and Guidelines indicate that development of single

residences should provide a minimum Slope Stability Protection Area of 20-25 feet from the top of bank when the stream is a natural intermittent channel with little to no hardening. Because the lot is greater than 10,000 sq. ft. the guidelines indicate that an additional 5 feet may be required (Pg 51), resulting in minimum riparian setback of 25-30 feet from the top of bank. However, the guidelines also indicate that an exception to the minimum setbacks may be granted if the applicant is able to provide a site-specific technical report that confirms that a lesser setback will not result in either compromised slope stability or in potential damage to the structure (Pg. 50).

***Native Plant Removal within the Riparian Setback.*** According to the Standards and Guidelines for Land Use Near Streams, native riparian vegetation is not allowed to be removed unless there is a threat to public health and safety including an imminent danger of induced flooding and/or a biologist/arborist confirms that it will improve the stream ecology or habitat. If vegetation is proposed for removal in conjunction with a development project, mitigation will be provided as defined through the CEQA process and as agreed to by the local agencies and appropriate regulatory agencies.

### ***Habitat Conservation Plans***

The Santa Clara Valley HCP/NCCP Study Area does not cover the Town of Los Gatos, and there are no other HCPs or NCCPs known to cover the area.

## **BIOLOGICAL IMPACTS AND MITIGATIONS**

The following analysis of biological impacts is based on the proposed project, which will include the removal of twelve trees, significant grading, and the construction of a single residence and garage.

### ***Jurisdictional Waters***

**Impact.** The intermittent stream along Jackson Avenue is a jurisdictional water. The planned project does not include any grading or construction within 35 feet of top of bank, in accordance with the Town of Los Gatos' minimum setbacks, and no impact to the bed or bank is anticipated. In the Geotechnical Review Pollack Engineering (2016), stated that the proposed project will increase the hillslope stability. This project proposes to remove three native trees within the riparian setback area and those impacts will be addressed in detail in the *Loss of Protected Trees* section below.

**Mitigation.** None required.

### ***Special Status Plants***

**Impact.** Due to its urban setting, being highly shaded and covered in very dense leaf litter, lacking wetland or other special soil types the site provides no habitat for special status plants; therefore, special status plants are considered absent from the site, and the project will have no impact on special-status plants.

**Mitigation.** None required.

## ***Special Status Wildlife***

Most special status animal species would not occur on the site, or be unlikely to occur on the site, because habitats on the site are not suitable for them, the site is located outside of the species' known range, and/or there are no known occurrences in the vicinity of the site. However, a few special status species have been documented in the immediate project vicinity (Figure 1). These latter species, their likelihood to occur on the site, and any potential project impacts are discussed further below.

### Ringtail (California Fully Protected)

**Impact.** There are no known occurrences of ringtail (*Bassariscus astutus*) within 3 miles of the project area, but because this species is highly cryptic, not well documented in the CNDDDB, and there is potential habitat in the project area it will be addressed in this section. Ringtail occur mainly in riparian and heavily wooded habitats near water. The riparian woodland along the intermittent stream could provide marginal habitat for this species; however, the project area is highly fragmented and surrounded by unsuitable habitat. It is unlikely for ringtail to use the project area except for migration purposes; they may move along the stream corridor as a means to get to more suitable habitat. The project does not include any construction or grading within 20 feet of the top of bank and therefore, the stream will likely continue to function as a movement corridor for certain wildlife species and the project is expected to have a less-than-significant impact on ringtails.

**Mitigation.** None required.

### California Black Salamander (State Species of Concern).

**Impact.** There are five occurrences of California black salamanders (*Aneides niger*) documented within 3 miles of the project area, however the potential habitat in the project vicinity is highly fragmented due to the surrounding development and this species is not likely to occur onsite. Furthermore, if it did occur onsite it would likely occur in the moist areas along the creek, not where the construction will take place. The moist habitat along the stream will not be impacted therefore, the project is expected to have a less-than-significant impact on California black salamanders.

**Mitigation.** None required.

### Special Status Birds

**Impact.** Swainson's hawk (*Buteo swainsonii*), white-tailed kite (*Elanus leucurus*), peregrine falcon (*Falco peregrinus anatum*), and osprey (*Pandion haliaetus*) could all occur on the site as infrequent migrants. But, the project area does not contain suitable nesting or foraging for these species and therefore no impact is expected.

Cooper's hawk (*Accipiter cooperii*) and purple martin (*Progne subis*, California Species of Special Concern) could occur and potentially nest in the project area. Cooper's hawks often nest along riparian corridors and tolerate a certain amount of human disturbance. Purple martins are cavity nesters that use old woodpecker holes and sometimes nest in human made structures. The

project is not likely to significantly impact foraging for these species because the majority of the trees will remain intact onsite and their prey items (small birds and insects) will not likely be significantly impacted by the project. Nesting habitat could be impacted by tree removal and construction activities. Should Cooper's hawks, purple martins, or any other protected bird species, nest in trees on or adjacent to the site prior to project demolition, tree removal or other project-related activities, those activities could result in nest abandonment and mortality to young, and this would be considered a violation of the law and a significant impact under CEQA.

**Mitigation.** Mitigation measures to preclude harm or mortality to nesting raptors and migratory birds is provided in the section "Tree-Nesting Raptors and Other Nesting Migratory Birds", below.

#### Bat Species.

**Impact.** Non-special status bat species, such as long-eared myotis, Yuma myotis, and hoary bat could roost in medium or large trees found onsite. Hoary bats will roost in dense foliage, while both species of myotis tend to use cavities, crevices, and snags. These bats are protected under the California Fish and Wildlife Code (Sections 2000, 4150, and Title 14).

If bats are roosting in the trees that are planned for removal, especially if tree removal occurs during the winter torpor (hibernation) period, which is generally accepted to be mid-October through the end of February, or during the maternity season, which is generally accepted to be mid-April through the end of August, during those seasonal periods could result in harm or mortality to these individuals and their young, and this would be considered a violation of the law and a significant impact under CEQA.

**Mitigation.** Conduct the tree removal when bats are not likely to be in winter torpor and outside the maternity season (remove trees from September 1-October 15 or March 1-April 15). If the tree removal cannot be done within these time frames, a biologist specializing in bat ecology should conduct a habitat assessment to identify if the trees planned for removal have the potential to significantly impact bats species and to develop avoidance and minimization measures if needed.

#### Tree-Nesting Raptors and Other Nesting Migratory Birds

**Impact.** Woodland habitat that includes 56 trees and a riparian corridor are in the project area. Twelve trees will be removed and shrubs will be removed in the areas planned for grading. These trees and shrubs, as well as those adjacent to the site, could be used by tree-nesting raptors and other migratory birds for breeding. Most nesting migratory birds, regardless of their status, are protected by state and federal laws. Therefore, development activities that adversely affect the nesting success of raptors and other migratory birds (i.e., grading and tree removal) or that result in the mortality of individual birds constitute a violation of state and federal laws, and a potentially significant impact under CEQA.

**Mitigation.** Project-related activities that occur during the breeding season could be constrained in the vicinity of any active nests. If tree removal or ground disturbance activities are scheduled to commence during the breeding season (February 1st through August 31st), pre-construction nesting bird surveys should be conducted by a qualified biologist to identify possible nesting

activity within 15 days prior to such activities. A construction-free buffer of suitable dimensions must be established around any active raptor and migratory bird nest (up to 250 feet, depending on the location and species) for the duration of the project, or until it has been determined that the chicks have fledged and are foraging independently from their parents.

### ***Impacts to Movement Corridors or Nursery Sites***

**Impact.** The site includes an intermittent stream which is likely movement corridor for native wildlife, however the creek and riparian corridor will be not impacted by the planned project. As indicated previously, trees on the site and in the site's immediate vicinity provide potential nesting habitat for several species of birds, both special status birds as well as more common species. Mitigations have already been provided to ensure that the project does not result in nest abandonment and mortality to unfledged young.

**Mitigation.** None warranted.

### ***Loss of Protected Trees***

**Impact.** This project proposes to remove 12 trees in total; five of the twelve trees planned for removal would qualify as protected trees under the Town's ordinance (for residential development all tree species over 12-inch diameter at breast height are protected). Additionally, three small native trees (a California buckeye, coast live oak, and bay laurel) within the riparian setback zone are being proposed for removal. The riparian habitat in the project area is densely shaded and in some areas the understory layer has been shaded out. Thinning the canopy may create additional light for understory species, which could benefit the diversity of the stream ecology. Removing the three riparian trees would not likely negatively impact the stream ecology because the surrounding trees have significant canopy diameters and creating openings in the canopy cover could lead to an increase in understory diversity, which would benefit native fauna.

Non-native trees (*Acacia melanoxylon* and *Prunus spp.*) are species that are exempt from the protected tree measures and would not be considered biologically-significant. Furthermore, removing the Acacia tree would actually benefit the surrounding habitat as this tree is invasive, especially with it being upslope of the stream which can distribute its seeds further downstream.

**Mitigation.** Develop a mitigation planting plan that includes the following:

- 1) Removal of 5 protected trees (all with 30-35 feet canopy diameters) will require planting four 24-inch box trees or two 36-inch box trees per tree removed. Replacement trees must be species from the Town of Los Gatos' approved tree species list.
- 2) Removal of 3 riparian tree species should be mitigated by additional plantings in the project area. Planting additional trees in the riparian set back is not advised due to the heavily shaded nature of the existing canopy cover.
- 3) Ecologically suitable native understory plants should be planted on the hillside above the riparian set back.
- 4) All landscaping should be done with plants that are not known to be invasive.
- 5) Use a reputable nursery to source native plants that are genetically similar to those found in the Santa Cruz Mountains.

### ***Sudden Oak Death Syndrome (SODS)***

**Impact.** According to the Arborist's Notes, several oaks and bay laurels show signs of *P. ramorum*, including the bay laurel and coast live oak planned for removal in the riparian setback zone, and the nearest confirmed case of SODS in the vicinity of the project is approximately 0.6 miles west. Prior to any ground work or tree removal, the trees in the project area should be tested and samples should be sent to a lab to verify the presence of *P. ramorum* (University of California Statewide Integrated Pest Management Program, 2010) as it cannot be confirmed by visual observations alone. Disturbing the site and removing the trees without taking proper precautions could lead to spreading SODS to neighboring oaks, bay laurels, the stream habitat, and potentially further.

**Mitigation.** Samples of potentially infected trees and carrier species should be sent to a laboratory for verification of SODS. Refer to California Oak Mortality Task Force ([www.suddenoakdeath.org](http://www.suddenoakdeath.org)) for information on labs and testing procedures. If a positive result occurs, additional mitigation measures will be required to decontaminate equipment and prevent the spread of SODS further. If SODS is determined to be present on the site, the applicant shall consult with the Oak Mortality Task Force and follow their current recommendations for the removal, trimming and disposal of vegetation and for decontamination of equipment.

### ***Degradation of Water Quality in Unnamed Intermittent Creek***

**Impact.** The proposed project will require grading, excavation, and vegetation removal, thereby resulting in the project site becoming vulnerable to sheet, rill or gully erosion. Eroded soil is generally carried as sediment in surface runoff to be deposited downslope and potentially in the natural creek bed.

To avoid or minimize sedimentation to offsite waters, the applicant will be required to develop an erosion control plan. The applicant must also comply with standard erosion control measures that employ best management practices (BMPs), develop a SWPPP per State Water Quality Control Board Stormwater Permit, and conform with City's stormwater and grading requirements. If the applicant abides by the above requirements and obtains the required permits prior to starting the project, impacts to downstream waters from erosion and polluted stormwater runoff will be reduced to a less than significant level.

**Mitigation.** The applicant must comply with the provisions of The Town of Los Gatos' grading permit, including standard erosion control measures that employ best management practices (BMPs). Projects involving the grading of large tracts of land must also be in compliance with provisions of a General Construction permit (a type of NPDES permit) available from the California Regional Water Quality Control Board. Compliance with the above permits should result in no impact to water quality.

### **Conclusion**

In summary, the proposed project will result in either no impacts, or in less-than-significant impacts, to most sensitive biological resources that are known to occur in the project vicinity. Exceptions include the potential for the project to impact non-special status roosting bats, nesting birds, protected trees, riparian trees, and water quality in adjacent Los Gatos Creek. However,



mitigation measures have been provided in all cases to ensure that the project results in no significant impacts to these sensitive biological resources.

If you have any questions regarding our conclusions, please contact me at spiramoon@loainc.com or (408) 281-5881.

Sincerely,

A handwritten signature in cursive script that reads "Sarah Piramoon".

Sarah Piramoon  
Assistant Project Manager  
Staff Ecologist

## References

California Department of Fish and Wildlife. 2017. Special Animals List (January 2017). The Natural Resources Agency, Sacramento, CA.

California Department of Fish and Wildlife. 2017. California natural diversity database. The Resources Agency, Sacramento, CA. Accessed on-line on February 27, 2017.

California Native Plant Society. 2017. Inventory of Rare and Endangered Vascular Plants of California (7th Edition). Rare Plant Scientific Advisory Committee, David P. Tibor, Convening Editor. California Native Plant Society, Sacramento, CA.

Gareth Jones Artisan Landscapes - Arborist Services. June 2016. Preliminary Arborist's Tree Plan and Notes.

Natural Resource Conservation Service. 2014. Dillon Project Custom Soil Resource Report for Santa Clara Area, California, USDA. Accessed on February 27, 2017 at <http://websoilsurvey.nrcs.usda.gov/app/WebSoilSurvey.aspx>.

Pollack Engineering, Inc. August 2016. Geotechnical Update & Supplemental Recommendations for Proposed New Residence 26 Alpine Avenue Los Gatos, California.

Santa Clara Valley Water Resources Protection Collaborative. 2005. User Manual: Guidelines and Standards for Land Use Near Streams.

University of California Berkeley Forest Pathology and Mycology Lab. 2017. SODMAP project. Accessed on-line on February 27, 2017.

University of California Statewide Integrated Pest Management Program. September 2010. Pest Notes Publication 74151: Sudden Oak Death- Integrated Pest Management.

U. S. Fish and Wildlife Service. 2017. Endangered and threatened wildlife and plants.

Town of Los Gatos Municipal Code. 2017. Municode Library. Accessed on-line March 20, 2017 <https://www.municode.com/library>

## APPENDIX A:

### **SIGNIFICANCE CRITERIA AND RELEVANT GOALS, POLICIES, AND LAWS**

#### ***Significance Criteria***

Approval of general plans, area plans, and specific projects is subject to the provisions of the California Environmental Quality Act (CEQA). The purpose of CEQA is to assess the significance of a proposed project's impacts on the environment before they are carried out. Whenever possible, public agencies are required to avoid or minimize environmental impacts by implementing practical alternatives or mitigation measures.

According to Section 15382 of the CEQA Guidelines, a significant effect on the environment means a "substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic interest."

Specific project impacts to biological resources may be considered "significant" if they 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; or
- Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan.

Furthermore, CEQA Guidelines Section 15065(a) states that a project may trigger the requirement to make a "mandatory findings of significance" if the project has the potential to "substantially degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten

to eliminate a plant or animal community, reduce the number or restrict the range of an endangered, rare or threatened species, or eliminate important examples of the major periods of California history or prehistory.”

### ***Relevant Goals, Policies, and Laws***

#### Threatened and Endangered Species

State and federal “endangered species” legislation has provided the California Department of Fish and Wildlife (CDFW) and the U.S. Fish and Wildlife Service (USFWS) with a mechanism for conserving and protecting plant and animal species of limited distribution and/or low or declining populations. Species listed as threatened or endangered under provisions of the state and federal endangered species acts, candidate species for such listing, state species of special concern, and some plants listed as endangered by the California Native Plant Society are collectively referred to as “species of special status.” Permits may be required from both the CDFW and USFWS if activities associated with a proposed project will result in the “take” of a listed species. “Take” is defined by the state of California as “to hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture or kill” (California Fish and Game Code, Section 86). “Take” is more broadly defined by the federal Endangered Species Act to include “harm” (16 USC, Section 1532(19), 50 CFR, Section 17.3). Furthermore, the CDFW and the USFWS are responding agencies under the California Environmental Quality Act (CEQA). Both agencies review CEQA documents in order to determine the adequacy of their treatment of endangered species issues and to make project-specific recommendations for their conservation.

#### Migratory Birds

Most birds are also protected by state and federal law. The Federal Migratory Bird Treaty Act (FMBTA: 16 U.S.C., sec. 703, Supp. I, 1989) prohibits killing, possessing, or trading in migratory birds, except in accordance with regulations prescribed by the Secretary of the Interior. This act encompasses whole birds, parts of birds, and bird nests and eggs.

#### Birds of Prey

Birds of prey are also protected in California under provisions of the State Fish and Game Code, Section 3503.5, 1992), which states that it is “unlawful to take, possess, or destroy any birds in the order Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by this code or any regulation adopted pursuant thereto”. Construction disturbance during the breeding season could result in the incidental loss of fertile eggs or nestlings, or otherwise lead to nest abandonment. Disturbance that causes nest abandonment and/or loss of reproductive effort is considered “taking” by the CDFW.

#### Wetlands and Other Jurisdictional Waters

Natural drainage channels and adjacent wetlands may be considered “Waters of the United States” (hereafter referred to as “jurisdictional waters”) subject to the jurisdiction of the U.S. Army Corps of Engineers (USACE). The extent of jurisdiction has been defined in the Code of Federal Regulations but has also been subject to interpretation of the federal courts. Jurisdictional waters generally include:

- All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- All interstate waters including interstate wetlands;
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce;
- All impoundments of waters otherwise defined as waters of the United States under the definition;
- Tributaries of waters identified in paragraphs (a)(1)-(4) (i.e. the bulleted items above).

As recently determined by the United States Supreme Court in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (the SWANCC decision), channels and wetlands isolated from other jurisdictional waters cannot be considered jurisdictional on the basis of their use, hypothetical or observed, by migratory birds. However, the U.S Supreme Court decisions *Rapanos v. United States* and *Carabell v. U.S. Army Corps of Engineers* (referred together as the Rapanos decision) impose a "significant nexus" test for federal jurisdiction over wetlands. In June 2007, the USACE and Environmental Protection Agency (EPA) established guidelines for applying the significant nexus standard. This standard includes 1) a case-by-case analysis of the flow characteristics and functions of the tributary or wetland to determine if they significantly affect the chemical, physical, and biological integrity of downstream navigable waters and 2) consideration of hydrologic and ecologic factors (EPA and USACE 2007).

The USACE regulates the filling or grading of such waters under the authority of Section 404 of the Clean Water Act. The extent of jurisdiction within drainage channels is defined by "ordinary high water marks" on opposing channel banks. Wetlands are habitats with soils that are intermittently or permanently saturated, or inundated. The resulting anaerobic conditions select for plant species known as hydrophytes that show a high degree of fidelity to such soils. Wetlands are identified by the presence of hydrophytic vegetation, hydric soils (soils saturated intermittently or permanently saturated by water), and wetland hydrology according to methodologies outlined in the 1987 Corps of Engineers Wetlands Delineation Manual (USACE 1987).

All activities that involve the discharge of fill into jurisdictional waters are subject to the permit requirements of the USACE (Wetland Training Institute, Inc. 1991). Such permits are typically issued on the condition that the applicant agrees to provide mitigation that result in no net loss of wetland functions or values. No permit can be issued until the Regional Water Quality Control Board (RWQCB) issues a certification (or waiver of such certification) that the proposed activity will meet state water quality standards. The filling of isolated wetlands, over which the USACE has disclaimed jurisdiction under the SWANCC decision, is regulated by the RWQCB. It is unlawful to fill isolated wetlands without filing a Notice of Intent with the RWQCB. The RWQCB is also responsible for enforcing National Pollution Discharge Elimination System (NPDES) permits, including the General Construction Activity Storm Water Permit. All projects requiring federal money must also comply with Executive Order 11990 (Protection of Wetlands).

The California Department of Fish and Wildlife has jurisdiction over the bed and bank of natural drainages according to provisions of Section 1601 and 1602 of the California Fish and Wildlife Code (2011). Activities that would disturb these drainages are regulated by the CDFW via a Streambed Alteration Agreement. Such an agreement typically stipulates that certain measures will be implemented that protect the habitat values of the drainage in question.