



PUBLIC NOTICE

**U.S. ARMY CORPS OF ENGINEERS
LOS ANGELES DISTRICT**

BUILDING STRONG®

**APPLICATION FOR PERMIT
Prima Deshecha Landfill Zone 4 Expansion Project**

Public Notice/Application Number: SPL-2016-00168-ERS

Project: Prima Deshecha Landfill Zone 4 Expansion Project

Comment Period: December 22, 2017 through January 21, 2018

Project Manager: Eric Sweeney; 760-602-4837; Eric.R.Sweeney@usace.army.mil

Applicant

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Location

The proposed project area contains drainages and wetlands that flow to Prima Deshecha Cañada within unincorporated Orange County and the city of San Clemente, CA centered at approximately 33.493875, -117.606689 (Figure 1). The project location and surrounding vicinity are shown in Figures 1 and 2.

Activity

The proposed project involves implementation of the Prima Deshecha Landfill Zone 4 expansion. This work would involve preparation of the 473-acre Zone 4 for landfill operations by grading the area, landslide remediation, and installation of a stormwater collection and desilting system. For more information, please see page 4 of this Public Notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawings. We invite you to review today's Public Notice and provide views on the proposed work. By providing substantive, site-specific comments to the U.S. Army Corps of Engineers (Corps) Regulatory Division, you provide information that supports the Corps' decision-making process. All comments received during the comment period become part of the record and will be considered in the decision. This permit will be issued, issued with special conditions, or denied under section 404 of the Clean Water Act.

Comments should be mailed to:

Department of the Army
U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division, Carlsbad Field Office
Attn: Eric Sweeney
5900 La Place Court, Suite 100
Carlsbad, California 92008

Alternatively, comments can be sent electronically to: Eric.R.Sweeney@usace.army.mil.

The mission of the Corps Regulatory Program is to protect the Nation's aquatic resources, while allowing reasonable development through fair, flexible, and balanced permit decisions. The Corps evaluates permit applications for essentially all construction activities that occur in the Nation's waters, including wetlands. The Regulatory Program in the Los Angeles District is executed to protect aquatic resources by developing and implementing short- and long-term initiatives to improve regulatory products, processes, program transparency, and customer feedback considering current staffing levels and historical funding trends.

Corps permits are necessary for any work, including construction and dredging, in the Nation's navigable waters and their tributary waters. The Corps balances the reasonably foreseeable benefits and detriments of proposed projects, and makes permit decisions that recognize the essential values of the Nation's aquatic ecosystems to the general public, as well as the property rights of private citizens who want to use their land. The Corps strives to make its permit decisions in a timely manner that minimizes impacts to the regulated public.

During the permit process, the Corps considers the views of other Federal, state and local agencies, interest groups, and the general public. The results of this careful public interest review are fair and equitable decisions that allow reasonable use of private property, infrastructure development, and growth of the economy, while offsetting the authorized impacts to the waters of the United States. The permit review process serves to first avoid and then minimize adverse effects of projects on aquatic resources to the maximum practicable extent. Any remaining unavoidable adverse impacts to the aquatic environment are offset by compensatory mitigation requirements, which may include restoration, enhancement, establishment, and/or preservation of aquatic ecosystem functions and services.

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impacts, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit, which reasonably may be expected to accrue from the proposal, must be balanced against its reasonably foreseeable detriments. All factors

which may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, if the proposal would discharge dredged or fill material, the evaluation of the activity will include application of the U.S. Environmental Protection Agency (U.S. Environmental Protection Agency (USEPA)) Guidelines (40 C.F.R. part 230) as required by section 404(b)(1) of the Clean Water Act.

The Corps is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination: A preliminary determination has been made that an EIS is not required for the proposed work.

Water Quality: Under Section 401 of the Clean Water Act, the applicant is required to obtain a Water Quality Certification (WQC) from the San Diego Regional Water Quality Control Board (RWQCB). Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps prior to permit issuance. The applicant is currently pending issuance of the WQC by the San Diego RWQCB.

Coastal Zone Management: The proposed project is not located within the California Coastal Commission's coastal zone. There is no evidence or indication from the California Coastal Commission that the project is inconsistent with their CZM plan.

Essential Fish Habitat: There is no Essential Fish Habitat (EFH) present within the project area.

Cultural Resources: The applicant provided a cultural assessment titled, "Cultural Resource Survey of the 641.6-acre Prima Deshecha Landfill Zone 4 Expansion," by LSA, dated 2015. According to the cultural assessment, a cultural records search was completed for the proposed project location on May 21, 2014 using the California

Historical Resources Information System (CHRIS) at the South Central Information Center (SCCIC). In addition, a field investigation consisting of a pedestrian survey was completed during April through December of 2014.

The cultural assessment completed by the applicant identified a presence of prehistoric and historic sites on the property. The applicant has not yet completed testing to determine potential eligibility of the sites for listing in the National Register of Historic Places.

No sites currently known to be listed in the National Register of Historic Places would be located within the project area.

The Corps has also inquired with the Native American Heritage Commission (NAHC) about the project and has received results of a records search of the NAHC's Sacred Lands File as well as a list of contacts with knowledge of Native American cultural resources in the project vicinity in a letter issued to the Corps on September 7, 2017. Coordination letters were issued to the tribes listed on NAHC's contacts list on September 11, 2017 with a 30-day comment period. No responses from the tribes have been received to date.

In consideration of the above information, the Corps Regulatory Division has made a preliminary determination of "No Historic Properties Affected" for the proposed project.

Endangered Species: The project would potentially affect least Bell's vireo (*Vireo bellii pusillus*) (vireo) and coastal California gnatcatcher (*Poliioptila californica californica*) (gnatcatcher) known to occur within the project boundaries. The location of observed vireo and gnatcatcher territories and nests is shown in Figures 3 and 4 and a map showing vegetation/habitat types present within the project boundaries is provided as Figure 5. The project site contains 361.1 acres of vegetation that would be cleared by proposed grading activities. The composition of the vegetation proposed for removal is provided below:

Vegetation Types	Acres
Coastal sage scrub	39.22
Mixed scrub	0.78
Mixed sage scrub	0.05
Sagebrush scrub	0.16
Buckwheat scrub	1.38
Coyote bush scrub	0.52
Mixed sage scrub - grassland	4.64
Toyon-sumac chaparral	34.61
Annual grassland	254.60
Southern coastal needlegrass grassland	7.65
Ruderal	10.16
Mixed perennial grassland	0.36

Giant wild rye grassland	1.75
Riparian herb	0.05
Southern willow scrub	0.45
Southern willow scrub/coyote brush	0.10
Mulefat scrub	0.47
Mulefat scrub/coyote brush	0.08
Southern sycamore riparian woodland	3.55
Mexican elderberry woodland	0.52

The Corps' action area would include activities resulting in vegetation removal within waters of the U.S. inclusive of a 50-foot buffer around the jurisdictional waters. The Corps' action area would also include noise effects within a 400-foot buffer surrounding the project's jurisdictional impact areas.

Based on the above information, the Corps has made a preliminary "may affect, not likely to adversely affect" determination for gnatcatcher and a preliminary "may affect, not likely to adversely affect" determination for vireo. No designated critical habitat for vireo or gnatcatcher would be affected by the proposed project.

Potential adverse effects due to the Corps' permit action are covered under the Southern Subregion Habitat Conservation Plan (SSHCP). The Corps will request formal consultation with the U.S. Fish and Wildlife Service through a streamlined Section 7 consultation process to verify that the Corps' permit action would be consistent with the SSHCP.

Public Hearing: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearing shall state with particularity the reasons for holding a public hearing.

Proposed Activity for Which a Permit is Required

Basic Project Purpose: The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent (i.e., requires access or proximity to or siting within the special aquatic site to fulfill its basic purpose). Establishment of the basic project purpose is necessary only when the proposed activity would discharge dredged or fill material into a special aquatic site (e.g., wetlands, pool and riffle complex, mudflats, coral reefs). **The basic purpose of the proposed project is to increase landfill capacity.**

Overall Project Purpose: The overall project purpose serves as the basis for the Corps' 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. **The overall purpose of the proposed project is to increase landfill capacity within OC**

Waste & Recycling's service area to serve the long-term waste management needs of Orange County and adjacent communities.

Additional Project Information

Baseline Information: The topography of the proposed project site consists of mixed rolling and relatively steep hills with areas of extensive landslide activity. Vegetation present throughout the site includes native and nonnative vegetation types that are listed in the table above. The project would be located within the Prima Deshecha Canada Watershed.

Project Description: The proposed project involves implementation of the Prima Deshecha Landfill Zone 4 expansion. This work would involve preparation of the 473-acre Zone 4 for landfill operations involving grading, landslide remediation, and installation of a stormwater collection and desilting system. The applicant would begin preparation of Zone 4 with excavations occurring in a counter-clockwise direction until an elevation of 1,010 feet is reached. Landfill operations in Zone 4 would then commence in phases moving in a west to east progression.

Per City of San Clemente requirements, the final grading elevation of Zone 4 would be no higher than 1,010 feet in order to minimize the visual impacts to city residents. In addition, the Zone 4 final slopes and deck area have been designed to provide a natural, undulating appearance.

The proposed project would result in permanent impacts to approximately 1.93 acres (25,215 linear feet) of non-wetland waters of the United States and permanent impacts to approximately 0.30 acre (670 linear feet) of wetland waters of the United States (Figure 2). All permanent impacts would be due to grading of the project site and would result in complete loss of waters of the U.S.

Proposed Mitigation: The applicant is currently considering on and off site mitigation opportunities and/or the purchase of credits at a mitigation bank as compensatory mitigation. The proposed mitigation may change as a result of comments received in response to this Public Notice, the applicant's response to those comments, and/or the need for the project to comply with the 404(b)(1) Guidelines.

The applicant had originally proposed compensatory mitigation in the form of 0.42 acre of on-site wetland establishment in addition to 0.42 acre of wetland re-establishment and 3.86 acres of stream rehabilitation at an off-site location along Trabuco Creek. However, they have since indicated that this mitigation proposal is in the process of revision due to input received from the RWQCB and that the final mitigation proposal will differ substantially from what was originally proposed.

Proposed Special Conditions

The following list is comprised of proposed Permit Special Conditions, which are required of similar types of projects:

1. This permit is contingent upon the issuance of a Section 401 WQC by the RWQCB. The Permittee shall abide by the terms and conditions of the Section 401 WQC. The Permittee shall submit the Section 401 WQC to the Corps Regulatory Division (preferably via email) within two weeks of receipt from the issuing state agency. If the RWQCB fails to act on a request for certification within 60 days after receipt of a complete application, please notify the Corps so we may consider whether a waiver of water quality certification is warranted pursuant to 33 CFR 325.2(b)(1)(ii).

2. Within 45 calendar days of completion of authorized work in waters of the U.S., the Permittee shall submit to the Corps Regulatory Division a post-project implementation memorandum including the following information:
 - A. Date(s) work within waters of the U.S. was initiated and completed;
 - B. Summary of compliance status with each special condition of this permit (including any noncompliance that previously occurred or is currently occurring and corrective actions taken or proposed to achieve compliance);
 - C. Color photographs (including map of photopoints) taken at the project site before and after construction for those aspects directly associated with permanent impacts to waters of the U.S. such that the extent of authorized fills can be verified;
 - D. One copy of "as built" drawings for the entire project. Electronic submittal (Adobe PDF format) is preferred. All sheets must be signed, dated, and to-scale. If submitting paper copies, sheets must be no larger than 11 x 17 inches; and
 - E. Signed Certification of Compliance (attached as part of this permit package).

The proposed project would result in permanent impacts to approximately 1.93 acres (25,215 linear feet) of non-wetland waters of the United States and permanent impacts to approximately 0.30 acre (670 linear feet) of wetland waters of the United States (Figure 2). All permanent impacts would be due to grading of the project site and would result in complete loss of waters of the U.S.

3. Prior to initiating construction in waters of the U.S., and to mitigate for permanent impacts to approximately 1.93 acres (25,215 linear feet) of non-wetland waters of the United States and 0.30 acre (670 linear feet) of wetland waters of the United States, the Permittee shall provide documentation verifying purchase of [X] credits from the [Bank/ILF Program]. The Permittee shall not initiate work in waters of the U.S. prior to receiving written confirmation (by letter or e-mail) from the Corps Regulatory Division as to compliance with this special condition. The Permittee retains responsibility for providing the compensatory mitigation until the number and resource type of credits described above have been secured from the sponsor and the district engineer has received documentation that confirms that the sponsor has

accepted the responsibility for providing the required compensatory mitigation. This documentation may consist of a letter or form signed by the sponsor, with the permit number and a statement indicating the number and resource type of credits that have been secured from the sponsor.

4. The Permittee has proposed to mitigate for impacts to waters of the U. S. through implementation of the draft mitigation plan: "Conceptual Mitigation Plan: Prima Deshecha Landfill Zone IV Expansion, County of Orange, California." According to the draft mitigation plan, responsible parties would be as follows: a) Implementation: OC Waste & Recycling; b) Performance: OC Waste & Recycling; c) Long-term management: OC Waste & Recycling. The Permittee retains ultimate legal responsibility for meeting the requirements of the final, approved mitigation plan. Detailed mitigation objectives, performance standards, and monitoring requirements are described in the draft mitigation plan. Any requirements for financial assurances and/or long-term management provisions are also described in the draft mitigation plan, as well as in Special Condition 5 below.

Prior to initiating construction in waters of the U.S., the Permittee shall submit to the Corps a final mitigation plan prepared in accordance with the Corps' South Pacific Division Regional Compensatory Mitigation Guidelines and Monitoring Requirements, dated January 12, 2015 and the Mitigation Rule (33 C.F.R. Part 332; 73 FR 19670-19687 (April 10, 2008)). The final mitigation plan shall address the 2.17 acres of permanent impacts to waters of the U.S. through rehabilitation, re-establishment, and establishment of [X] acres of waters of the U.S. All maps and drawings shall be in compliance with the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated August 6, 2012 (<http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/t/abid/10390/Article/651327/updated-map-and-drawing-standards.aspx>). No work in waters of the U.S. is authorized until the Permittee receives, in writing (by letter or e-mail), Corps approval of the final mitigation plan. The Permittee shall complete site preparation and planting and initiate monitoring as described in the final, approved mitigation plan within 30 days of discharging any fill material in waters of the U.S. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition 3 will not be considered fulfilled until you have demonstrated compensatory mitigation project success and have received written verification of that success from the U.S. Army Corps of Engineers Regulatory Division. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition 4 will not be considered fulfilled until you have demonstrated compensatory mitigation project success and have received written verification of that success from the U.S. Army Corps of Engineers Regulatory Division.

MONITORING: You shall submit monitoring reports for all compensatory mitigation sites as described in the final, approved mitigation plan by September 22 of each year following the construction of mitigation. To assure compensatory mitigation success, you shall monitor the mitigation area(s) for at least five (5) consecutive growing seasons after construction or until the Corps determines the final performance standards are met (monitoring shall be for a minimum of 5 years

unless the Corps agrees earlier that success has been reached and maintained for a sufficient time period, or, if success is not demonstrated to the Corps' satisfaction after the 5th year of monitoring, additional monitoring may be required by the Corps as determined at that time). The monitoring period shall commence upon completion of the construction of the mitigation site(s). Additionally, you shall demonstrate continued success of the compensatory mitigation site(s), without human intervention, for at least two consecutive years during which interim and/or final performance standards are met. The compensatory mitigation project will not be deemed successful until this criterion has been met.

GIS DATA: Within 60 days following permit issuance for Standard Individual Permits or within 60 days following written Corps approval of the mitigation plan for General Permits, you shall provide to this office GIS data (polygons only) depicting the boundaries of all compensatory mitigation sites, as authorized in the above, final mitigation plan. All GIS data and associated metadata shall be provided on a digital medium (CD or DVD) or via file transfer protocol (FTP), preferably using the Environmental Systems Research Institute (ESRI) shapefile format. GIS data for mitigation sites shall conform to the Regulatory_mitigation_template_20160115.lpk labeling requirements, as specified in the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated February 10, 2016 (<http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/651327/updated-map-and-drawing-standards.aspx>), and shall include a text file of metadata, including datum, projection, and mapper contact information. Within 60 days following completion of compensatory mitigation construction activities, if any deviations have occurred, you shall submit as-built GIS data (polygons only) accompanied by a narrative description listing and explaining each deviation.

5. The Permittee shall record a Conservation Easement (CE in a form approved by the Corps Regulatory Division, which shall run with the land, obligating the Permittee, its successors and assigns to protect and maintain the [X]-acre mitigation area as natural open space in perpetuity. The CE must include a 3rd party easement holder qualified to hold easements pursuant to California Civil Code 815.3 and Government Code section 65965. The Permittee must provide monies in the form of an endowment (endowment amount to be determined by Property Analysis Record or similar methodology) for the purposes of fulfilling the 3rd party easement holder's responsibilities under the CE. The CE shall preclude establishment of fuel modification zones, paved public trails, drainage facilities, walls, maintenance access roads and/or future easements, except as provided in the Project Description (described herein). Further, to the extent practicable, any such facilities outside the CE shall be sited to minimize indirect impacts on the avoided, created, restored and enhanced wetland and non-wetland waters of the U.S. Prior to its execution and within six months of issuance of this permit, the Permittee shall submit a draft CE to the Corps Regulatory Division for review. The Permittee shall receive written approval (by letter or email) from the Corps Regulatory Division of this CE prior to it being executed and recorded. No later than 30 calendar days after receiving Corps Regulatory Division approval of the

final draft CE, the CE shall be executed and recorded and a recorded copy furnished to the Corps Regulatory Division.

GIS DATA: Within 60 days following recordation, you shall provide to this office GIS data (polygons only) depicting the CE boundaries, as authorized by the Corps. All GIS data and associated metadata shall be provided on a digital medium (CD or DVD) or via file transfer protocol (FTP), preferably using the Environmental Systems Research Institute (ESRI) shapefile format. GIS data for CE sites shall conform to the Regulatory_mitigation_template_20160115.lpk labeling requirements, as specified in the Final Map and Drawing Standards for the South Pacific Division Regulatory Program dated February 10, 2016 (<http://www.spd.usace.army.mil/Missions/Regulatory/PublicNoticesandReferences/tabid/10390/Article/651327/updated-map-and-drawing-standards.aspx>), and shall include a text file of metadata, including datum, projection, and mapper contact information.

6. Prior to initiating construction in waters of the U.S., the Permittee shall post financial assurance ("financial assurance") in a form approved by the Corps Regulatory Division for the estimated cost of implementing the approved HMMP (including a 20% contingency to be added to the total costs). The purpose of this financial assurance is to guarantee the successful implementation, maintenance and monitoring of the wetland and non-wetland waters establishment, restoration, and enhancement work. Our preferred form of financial assurance is a Performance Bond, in which case, you shall post a Performance Bond for 120% of the anticipated cost of the mitigation and monitoring associated with the project, as indicated above. In addition,
 - A) The bonding company must appear on the Department of Treasury Circular 570, Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies. For a current list of Treasury-authorized companies, write or call the Surety Bond Branch, Financial Management Services, Department of the Treasury, Washington DC 20227; (202) 874-6850 or at the following website: https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm.
 - B) The performance bond shall be released only upon a determination by the Corps Regulatory Division that successful mitigation has been completed.
 - C) Alternatively, the Corps Regulatory Division will accept an irrevocable letter of credit in the same amount in lieu of a Performance Bond. The terms of the irrevocable letter of credit are subject to Corps Regulatory Division approval.
 - D) The Permittee shall clearly mark the limits of the workspace with flagging or similar means to ensure mechanized equipment does not enter preserved waters of the U.S. and riparian wetland/habitat areas shown on Figure 2. Adverse impacts to waters of the U.S. beyond the Corps-approved construction footprint are not authorized. Such impacts could result in permit suspension and revocation, administrative, civil or criminal penalties, and/or substantial, additional, compensatory mitigation requirements.

For additional information, please contact Eric Sweeney at 760-602-4837 or via email at Eric.R.Sweeney@usace.army.mil. This Public Notice is issued by the Chief, Regulatory Division.



Regulatory Program Goals:

- To provide strong protection of the Nation's aquatic environment, including wetlands.
- To ensure the Corps provides the regulated public with fair and reasonable decisions.
- To enhance the efficiency of the Corps' administration of its regulatory program.

**DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, U.S. ARMY CORPS OF ENGINEERS
5900 LA PLACE COURT, SUITE 100
CARLSBAD, CALIFORNIA 92008**
<http://www.spl.usace.army.mil/missions/regulatory>

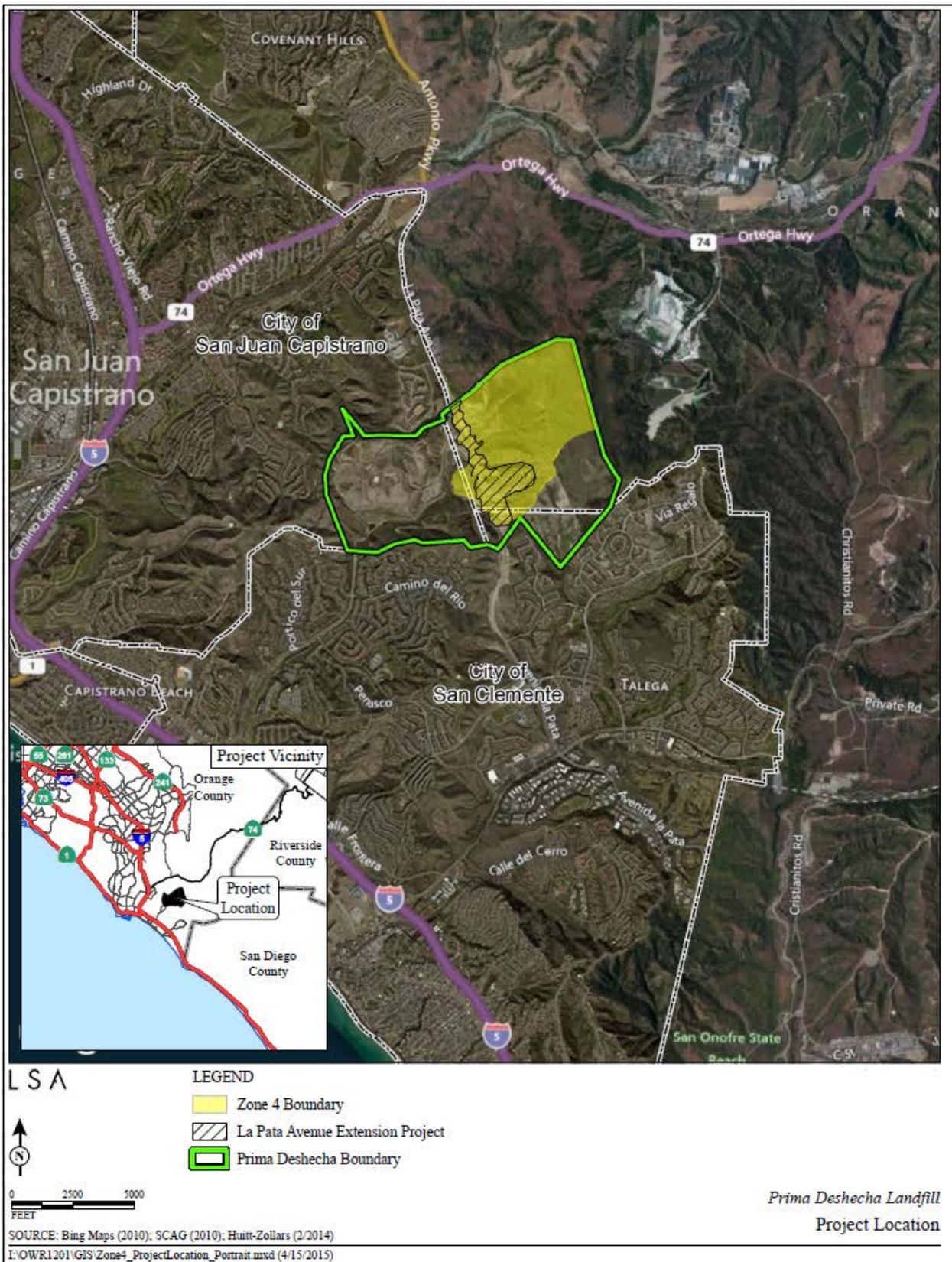


Figure 1 Regional vicinity of the Prima Deshecha Landfill Zone 4 Expansion Project.

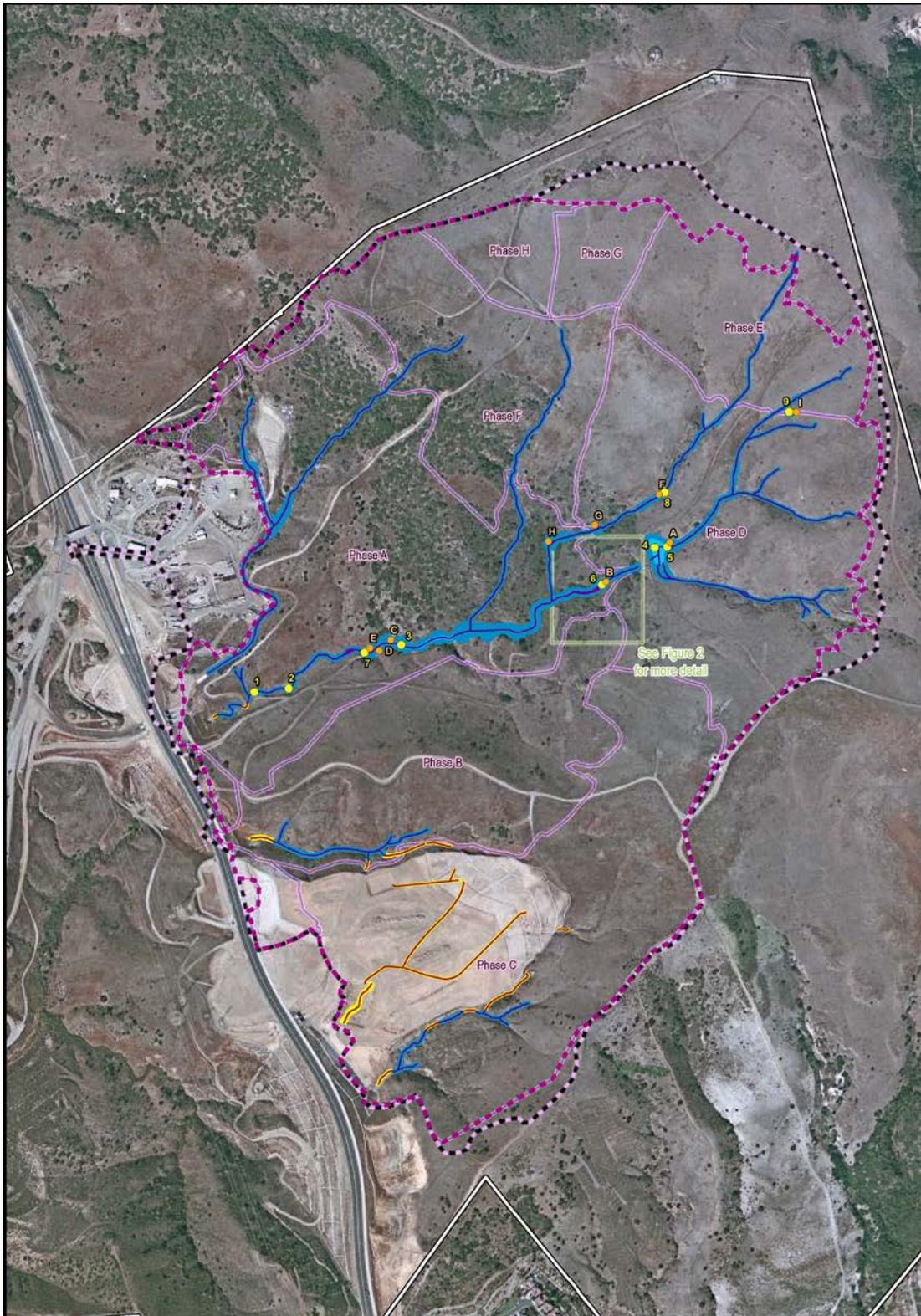


Figure 2 Corps jurisdictional waters proposed for impacts due to the Prima Deshecha Landfill Zone 4 Expansion Project.

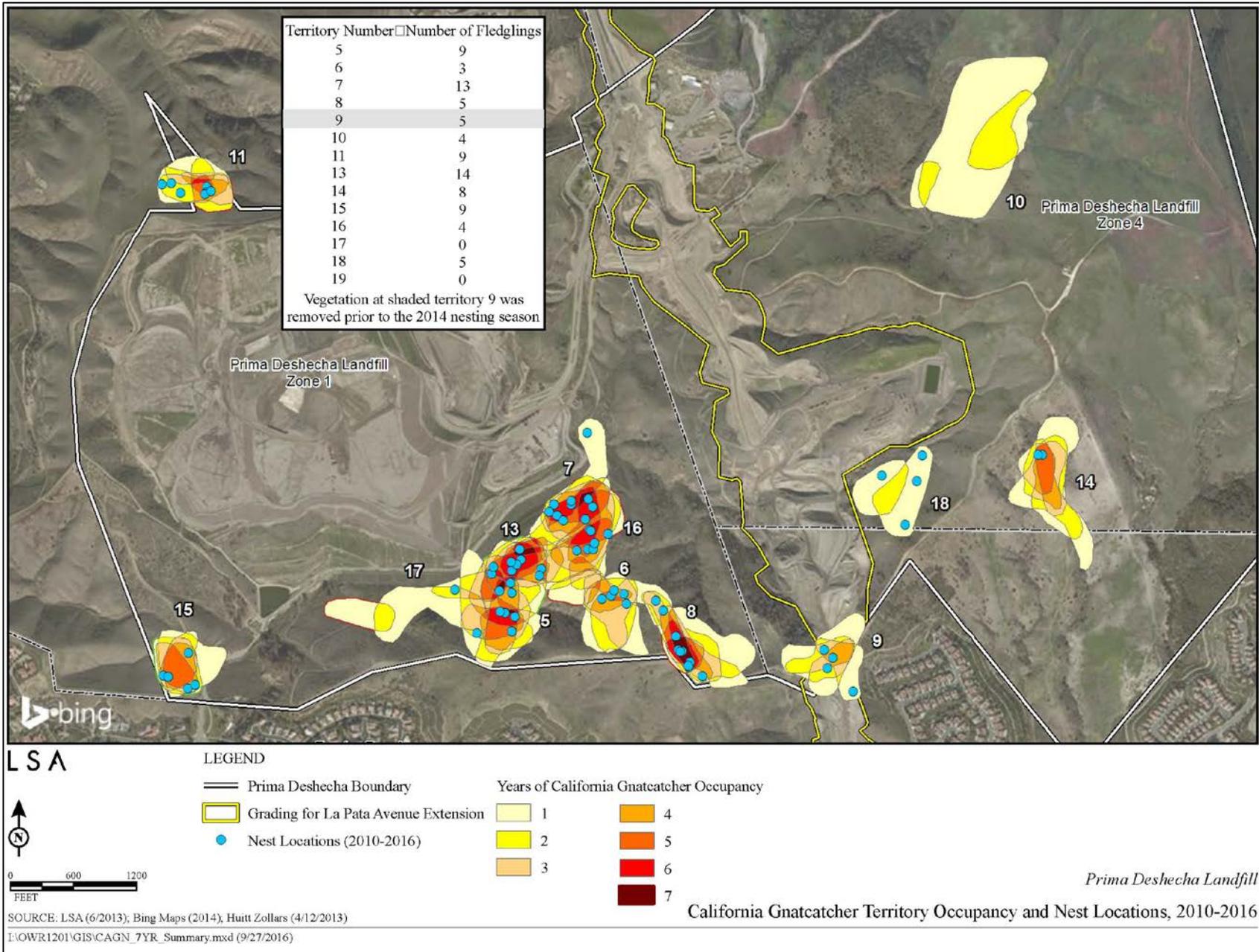


Figure 3 Gnatcatcher territory and nest location data for the Prima Deshecha Landfill Zone 4 Expansion Project.

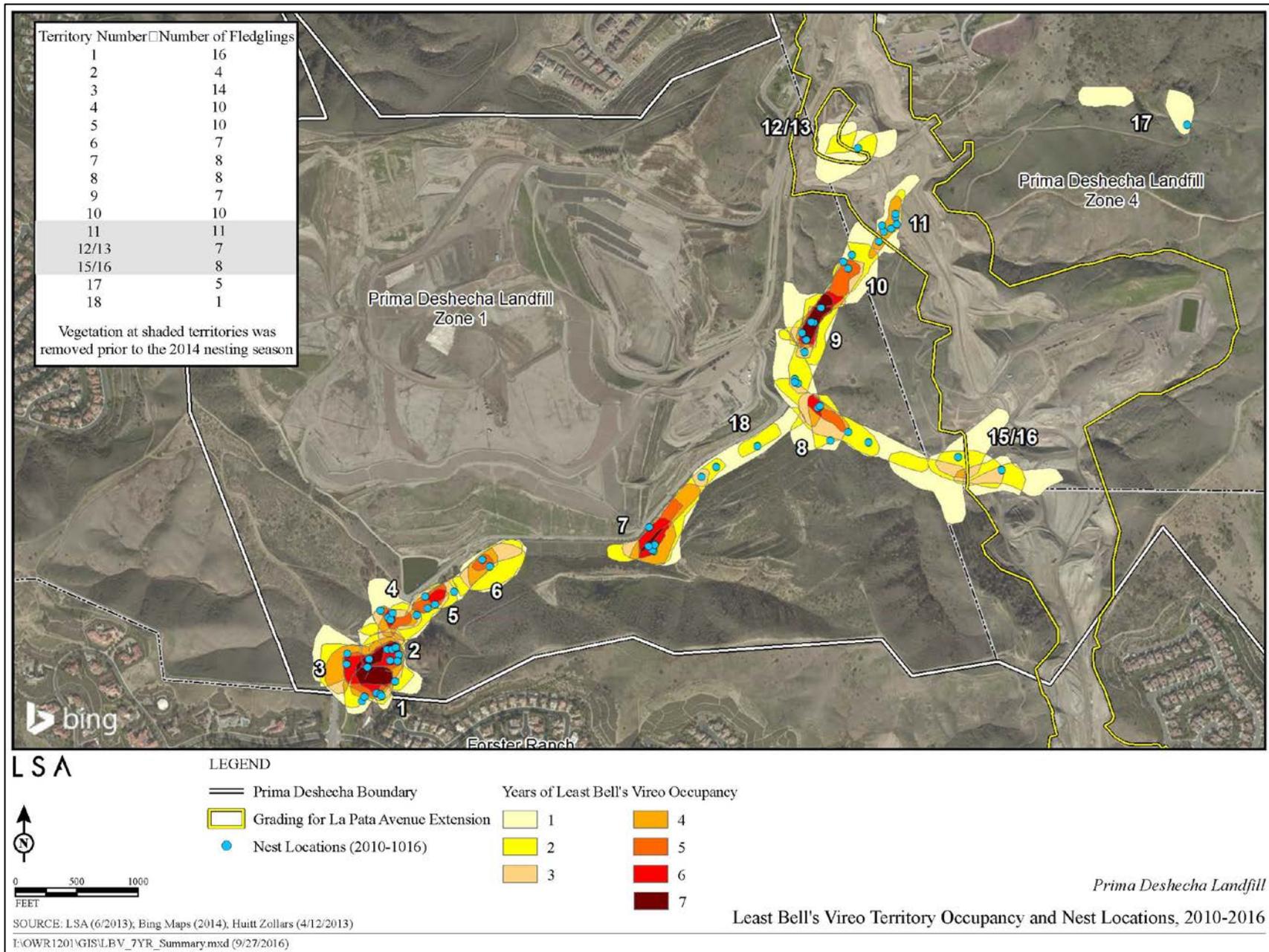
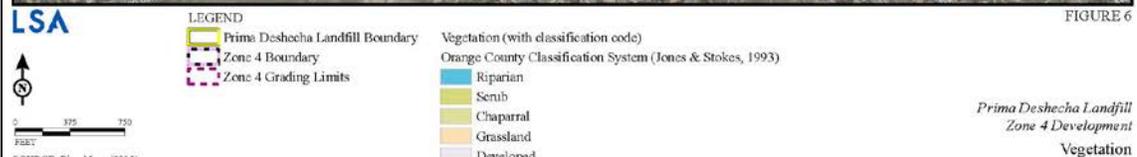
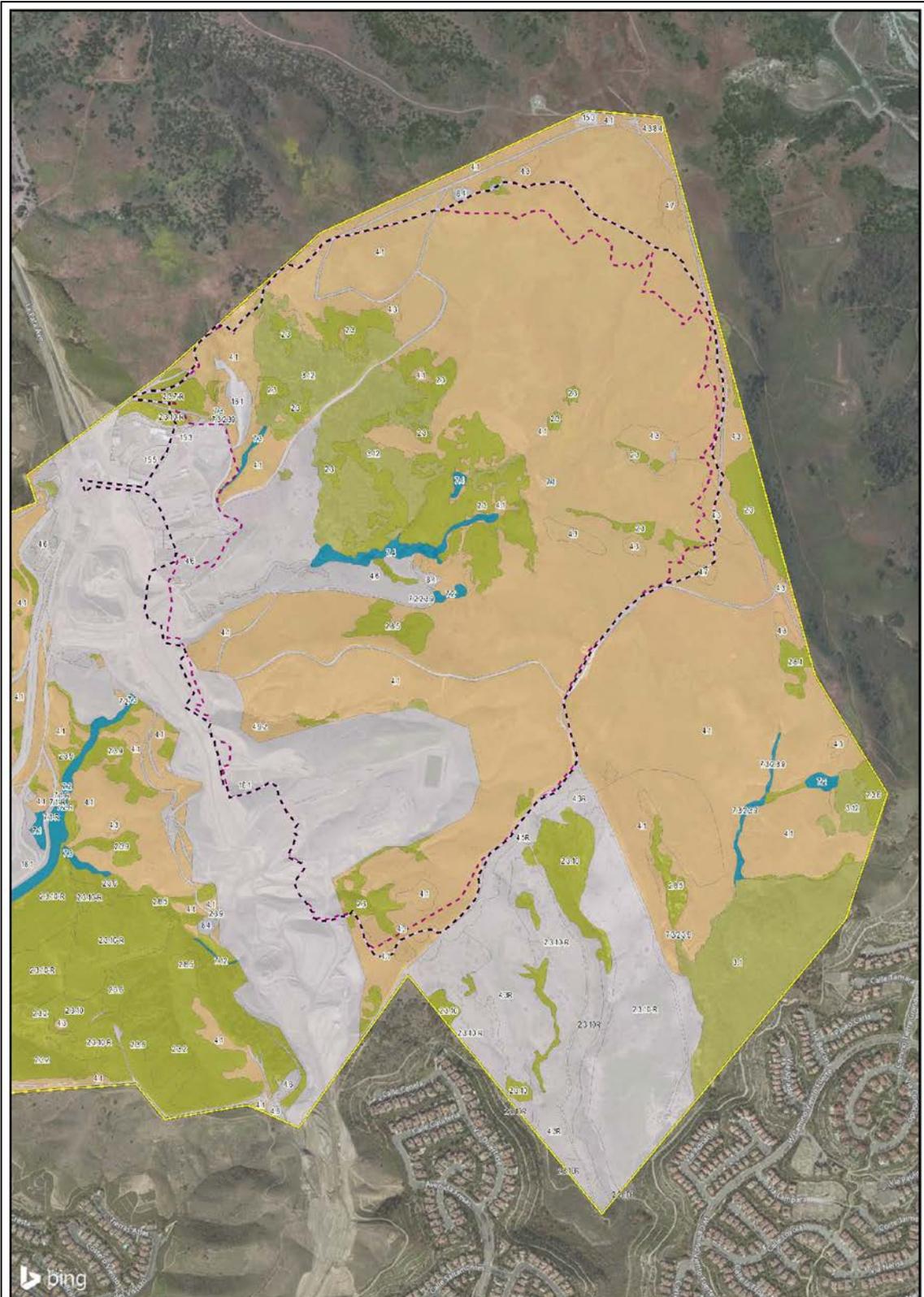


Figure 4 Vireo territory and nest location data for the Prima Deshecha Landfill Zone 4 Expansion Project.



Prima Deshecha Landfill
Zone 4 Development
Vegetation

Figure 5 Vegetation/land use types within the proposed project footprint.