



PUBLIC NOTICE

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

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**APPLICATION FOR PERMIT
Murrieta Hills Development Project**

Public Notice/Application Number: SPL-2016-00407-ERS

Project: Murrieta Hills Development Project

Comment Period: February 25, 2020 through March 26, 2020

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

Applicant

Sohail Bokhari

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(949) 330-8541

Location

The proposed project area contains unnamed tributaries that flow to Murrieta, Salt, and Warm Springs Creeks within unincorporated Riverside County at approximately 33.6180, -117.1921 (Figures 1 and 2).

Activity

The applicant proposes to permanently impact approximately 0.59 acre (16,596 linear feet) of non-wetland waters of the U.S. (Figure 3). For more information, see Page 6 of this 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, 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 U.S. 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 (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 State Water Resources Control Board (SWRCB). 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 must obtain the 401 WQC from the SWRCB due to the project's location within the jurisdictions of both the Santa Ana and San Diego Regional Water Quality Control Boards. The applicant is currently pending issuance of the WQC by the SWRCB.

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 Coastal Zone Management plan.

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

Cultural Resources: The Corps consulted the latest version of the National Register of Historic Places (NRHP), which did not identify any NRHP-listed sites currently present within the project area. Additionally, the applicant has submitted the following studies for review by the Corps:

- “Cultural Resources Assessment for Murrieta Hills Specific Plan Project,” by LSA Associates, Inc., dated 2007.
- “Draft Cultural Resources Assessment Murrieta hills Specific Plan Amendment EIR” (Phase 1 Report), by Atkins, dated 2014.
- “Murrieta Hills Specific Plan Amendment Phase II Test and Evaluation Report” (Phase 2 Report), by Atkins, dated 2017.
- “Cultural Resource Summary and Traditional Cultural Properties Management Summary,” by WSP USA, Inc., dated January 2019.

As a result of the records search and survey conducted in 2014, the applicant identified a total of 12 archeological sites within the project boundaries that warranted further testing and significance evaluation. These sites were further tested in 2016 using surface collection and mapping, shovel test pits (STPs), and 1-meter by 1-meter excavation units, with results detailed in the applicant’s 2017 Phase 2 report. Based on these results, the applicant’s archeologist recommended that four of these sites be considered eligible for inclusion in the NRHP. The applicant has also evaluated the project area for the potential presence of Traditional Cultural Properties.

The applicant has indicated that archeological sites would be avoided to the maximum extent feasible. For example, controlled grading would be used in and around NRHP-eligible sites to minimize potential adverse effects. Additionally, the applicant is planning on employing both tribal monitors and County-certified archeologists to observe all ground-disturbing activities.

The Native American Heritage Commission (NAHC) provided 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 February 5, 2020. The Sacred Lands File search returned positive results and indicated that the Pechanga Band of Luiseno Indians should be contacted for more information regarding cultural resources within the proposed project area. The Corps issued tribal coordination letters on February 20, 2020 to all tribes identified on the NAHC contacts with a 30-day comment period. The letters requested information from tribes on potential impacts to cultural resources that may result from the proposed project.

The Corps is currently pending additional information from the tribes and applicant prior to making a determination of effect on historic properties pursuant to Section 106 of the National Historic Preservation Act.

Endangered Species: The Corps’ Action Area would include the entire project area due to the relatively uniform geographic distribution of jurisdictional drainages throughout the site. The Action Area would also include noise effects within a 400-foot buffer surrounding the development footprint.

The applicant submitted a biological report titled, “Murrieta Hills Project General Biological Assessment,” prepared by Helix Environmental Planning, dated September

12, 2019, which summarized the results of previous surveys of the project area. According to this report, previous surveys have identified five federally listed species as potentially present within the project vicinity. These include the Quino checkerspot butterfly (*Euphydryas editha quino*), Stephens' kangaroo rat (*Dipodomys stephensi*), least Bell's vireo (*Vireo bellii pusillus*; vireo), coastal California gnatcatcher (*Polioptila californica californica*; gnatcatcher), and southwestern willow flycatcher (*Empidonax traillii extimus*; flycatcher). The project area does not contain designated critical habitat for any federally listed species.

Federally listed species potentially affected by the proposed project are considered covered species under the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The U.S. Fish and Wildlife Service (USFWS) issued a Section 10(a)(1)(B) permit for the MSHCP on June 22, 2004. The MSHCP established a multiple species conservation program developed to minimize and mitigate habitat loss and incidental take of covered species associated with activities covered under this Section 10(a)(1)(B) permit. As covered species under the MSHCP, take for these species may be covered under this Section 10(a)(1)(B) permit if the proposed project is implemented in a manner consistent with the MSHCP policies and procedures.

Effects on federally listed species identified as potentially occurring within the Corps' Action Area are detailed below:

- **Quino checkerspot butterfly:** The applicant's 2019 biological report indicated that this species has a moderate potential to occur on-site due to the known presence of this species in the area around the proposed development. In total, the proposed project would remove approximately 277.21 acres of potential habitat for Quino checkerspot butterfly consisting of chaparral, coastal sage scrub, Riversidean sage scrub, non-native grassland, coast live oak woodland, and disturbed land cover types.
- **Stephens' kangaroo rat:** The 2019 report indicated that Stephens' kangaroo rat has a low potential to occur in the project area due to the limited availability of habitat for this species on the project site. In total, the project would remove approximately 52.7 acres of potential habitat for Stephens' kangaroo rat consisting of Riversidean sage scrub, non-native grassland, and disturbed land cover.
- **Coastal California gnatcatcher:** Gnatcatchers were incidentally observed moving through chaparral bordering cropland in the northeastern portion of the property during the burrowing owl, rare plants, and vireo surveys. In total, the project would remove approximately 32.6 acres of suitable gnatcatcher habitat consisting of coastal sage scrub and Riversidean sage scrub vegetation types. The project would remove 206.7 acres of chaparral, which may serve as dispersal habitat for gnatcatcher.
- **Least Bell's vireo and southwestern willow flycatcher:** The habitat assessment conducted in 2006 determined that on-site riparian areas containing shrubby willows (*Salix spp.*) and mule fat (*Baccharis salicifolia*) have the potential to support vireo and flycatcher. However, no vireo or flycatcher were observed in subsequent protocol surveys conducted in 2006 for flycatcher and in 2006, 2008

and 2012 for vireo. The southern cottonwood-willow riparian forest that has the most potential to support flycatcher would be completely avoided. Other riparian habitat areas with the potential to support least Bell's vireo would be largely avoided. The 2019 report noted that the amount of suitable habitat for vireo and flycatcher has decreased in recent years due to the cessation of operations at a nearby nursery, which historically provided a source of runoff to the on-site riparian vegetation.

Rare plant surveys conducted in 2006, 2008, and 2012 were all negative for federally listed, or otherwise sensitive, plant species. Previous surveys have also been conducted for the burrowing owl (*Athene cunicularia*), a covered species under the MSHCP though not federally listed, also with negative results.

Total on-site and off-site vegetation impact acreages are detailed in the table below. A vegetation map showing the distribution of vegetation types throughout the development parcel is provided as Figure 4. The project would avoid a total of 611.9 acres of vegetation, of which 607.7 acres would contribute to the assembly of the MSHCP conservation area. This MSHCP conservation area would be made up of high quality habitat with the potential to support migratory and live-in habitat for a wide variety of MSHCP-covered species.

Vegetation Types	Total removed by project (acres)
Southern willow scrub	0.36
Mulefat scrub	0.15
Southern riparian woodland	0.04
Coast live oak woodland	4.71*
Chaparral	206.7
Riversidean sage scrub	21.3
Coastal sage scrub/Chaparral	11.4
Non-native grassland	1.9
Field cropland	87.6
Disturbed	30.8
Developed	1.0

* Includes 3.60 acres for which impacts would be limited to thinning of the understory for fuel management purposes.

Based on the above information, the Corps has made a preliminary "may affect, likely to adversely affect" determination for coastal California gnatcatcher and Quino checkerspot butterfly, a preliminary "may affect, not likely to adversely affect" determination for Stephens' kangaroo rat, and a preliminary "no effect" determination for vireo and flycatcher, pursuant to Section 7 of the Endangered Species Act.

The Corps will initiate formal consultation with the U.S. Fish and Wildlife Service through a streamlined Section 7 consultation process. The Corps will request that any take authorized for the proposed project through the MSHCP be extended to the Corps'

federal action for the purpose of take authorization pursuant to Section 7 of the Endangered Species Act.

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 proposed project would not impact any special aquatic sites. Therefore, establishment of a basic project purpose is not required.**

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 provide housing by constructing a large, 600-800 unit residential development that includes commercial development and other associated infrastructure within western Riverside County.**

Additional Project Information

Baseline Information: The majority (701.7 acres) of the approximately 973.7-acre property is comprised of chaparral. The property is primarily undeveloped with approximately 97 acres in the northeast being used for crop-based agricultural (e.g., growing wheat and oats). The remains of a small, recently vacated nursery is located near the center of the property and disturbed areas are located in the center and southeast. The property is crossed by several dirt roads and includes areas that have been disturbed from off-highway vehicle activity, illegal dumping, and various other unauthorized activities. The off-site area is similar to the main property and is comprised primarily (9.9 acres) of chaparral. The off-site area includes more disturbed and developed habitats relative to the main property.

Project Description: The project would construct 557 single-family residential units, 193 multi-family units, 18 acres of general commercial space, a five-acre public park, 10 acres of privately maintained pocket parks, a community center, and a 37.3-acre linear natural park. The project would be constructed within an approximately 973.7-acre area within the southern portion of Menifee Valley in unincorporated Riverside County, California. The project also would include development of a 4.15-acre off-site area,

which would construct a southern extension to McElwain Road to connect the site to Clinton Keith Road to the south.

The proposed development would involve annexation of the development parcel to the City of Murrieta as well as an amendment to the existing Murrieta Hills Specific Plan SPM-4 to allow residential and commercial uses, a public park, improved open space, and natural open space. The project also includes a northerly extension of McElwain Road to Keller Road. In addition to the Specific Plan Amendment and annexation to the City, the project would require an amendment to change the existing land use from Rural Mountainous in the Riverside County General Plan to Specific Plan Area in the City of Murrieta General Plan, a rezone from the Riverside County zone of Rural Residential to the City of Murrieta Specific Plan zone, and one or more tentative subdivision maps.

The conceptual site plan includes:

- 557 single-family detached residential units on lots/pads ranging in size from 4,800 square feet to 10,000 square feet
- 193 multi-family detached units
- 18 acres of community commercial
- 5-acre public park
- 10 acres of Homeowner Association maintained pocket parks and community center
- 37.33-acre natural open space outside of MSHCP open space
- 607.74 acres of natural MSHCP open space

The development would result in permanent impacts to approximately 0.59 acre (16,596 linear feet) of non-wetland waters of the U.S. (Figure 3). All permanent impacts would be due to grading of the project site and would result in complete loss of waters of the U.S. The project would avoid a total of 1.56 acres of waters of the U.S., including both the on-site and off-site impact areas.

Proposed 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 proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project, is summarized below:

Avoidance: The project was initially designed in 2007 to avoid as much of the primary drainage on-site as possible. The only exceptions are for road crossings required for circulation and fire safety. The Murrieta Hills project has been further redesigned to reduce the impacts. The redesigned project reduces the impact to 0.59 acre of WUS and conserves 70 percent (1.56 acres) of the WUS on the project site.

Minimization: During construction, Best Management Practices (BMPs) to protect onsite avoided waters of the U.S. would include, but are not limited to: gravel basins, gravel bag inlet protection, fiber rolls, mulching, silt fencing, offsite sediment control, energy

dissipation, and designated maintenance and storage areas for equipment (outside of drainages). Descriptions of the BMPs can be found in the Water Quality Management Plan, with complete descriptions included in the Storm Water Pollution Prevention Plan.

Compensation: The applicant has proposed to compensate for unavoidable impacts to 0.59 acre of waters of the U.S. through the purchase of re-establishment and rehabilitation credits from Riverpark Mitigation Bank, located along the San Jacinto River in western Riverside, California. Riverpark Mitigation Bank was recently approved by the Corps and is pending availability of credits. 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 Corps would determine the final amount of mitigation credits required by applying the Corps South Pacific Division's mitigation ratio checklist, which calculates mitigation requirements based on estimated functional loss at the impact site and function gain at the mitigation site(s), among other factors.

Proposed Special Conditions

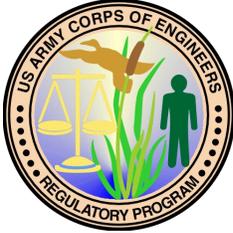
The following list is comprised of proposed Permit Special Conditions, which are required of similar types of projects:

1. 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).
2. Prior to initiating construction in waters of the U.S., and to mitigate for permanent impacts to approximately 0.59 acre (16,596 linear feet) of non-wetland waters of the U.S., the Permittee shall provide documentation verifying purchase of [TBD] credits from Riverpark Mitigation Bank. 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.

3. This Corps permit does not authorize you to take any threatened or endangered species, in particular the Quino checkerspot butterfly (*Euphydryas editha quino*) and coastal California gnatcatcher (*Polioptila californica californica*) or adversely modify any designated critical habitat. In order to legally take a listed species, you must have separate authorization under the Endangered Species Act (ESA) (e.g. ESA Section 10 permit, or a Biological Opinion (BO) under ESA Section 7, with "incidental take" provisions with which you must comply). Your authorization under this Corps permit is conditional upon your consistency with the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP), including their associated implementation agreements and permits. Your authorization for project-related incidental take through the MSHCP is contingent on project implementation being conducted in the manner described in the BO. Failure to maintain consistency with the MSHCP and their authorizations associated with incidental take of these species, where a take of a listed species occurs, would constitute an unauthorized take, and would also constitute non-compliance with your Corps permit. The USFWS is the appropriate authority to determine if the project is being implemented consistent with the MSHCP, and their associated implementation agreements and permits, and with the ESA.
4. Pursuant to 36 C.F.R. section 800.13, in the event of any discoveries during construction of either human remains, archeological deposits, or any other type of historic property, the Permittee shall notify the Corps' Archeology Staff and Corps' Regulatory Staff within 24 hours (Danielle Storey at 213-452-3855 or Meg McDonald at 213-452-3849; and Eric Sweeney at 760-602-4837). The Permittee shall immediately suspend all work in any area(s) where potential cultural resources are discovered. The Permittee shall not resume construction in the area surrounding the potential cultural resources until the Corps Regulatory Division re-authorizes project construction, per 36 C.F.R. section 800.13.

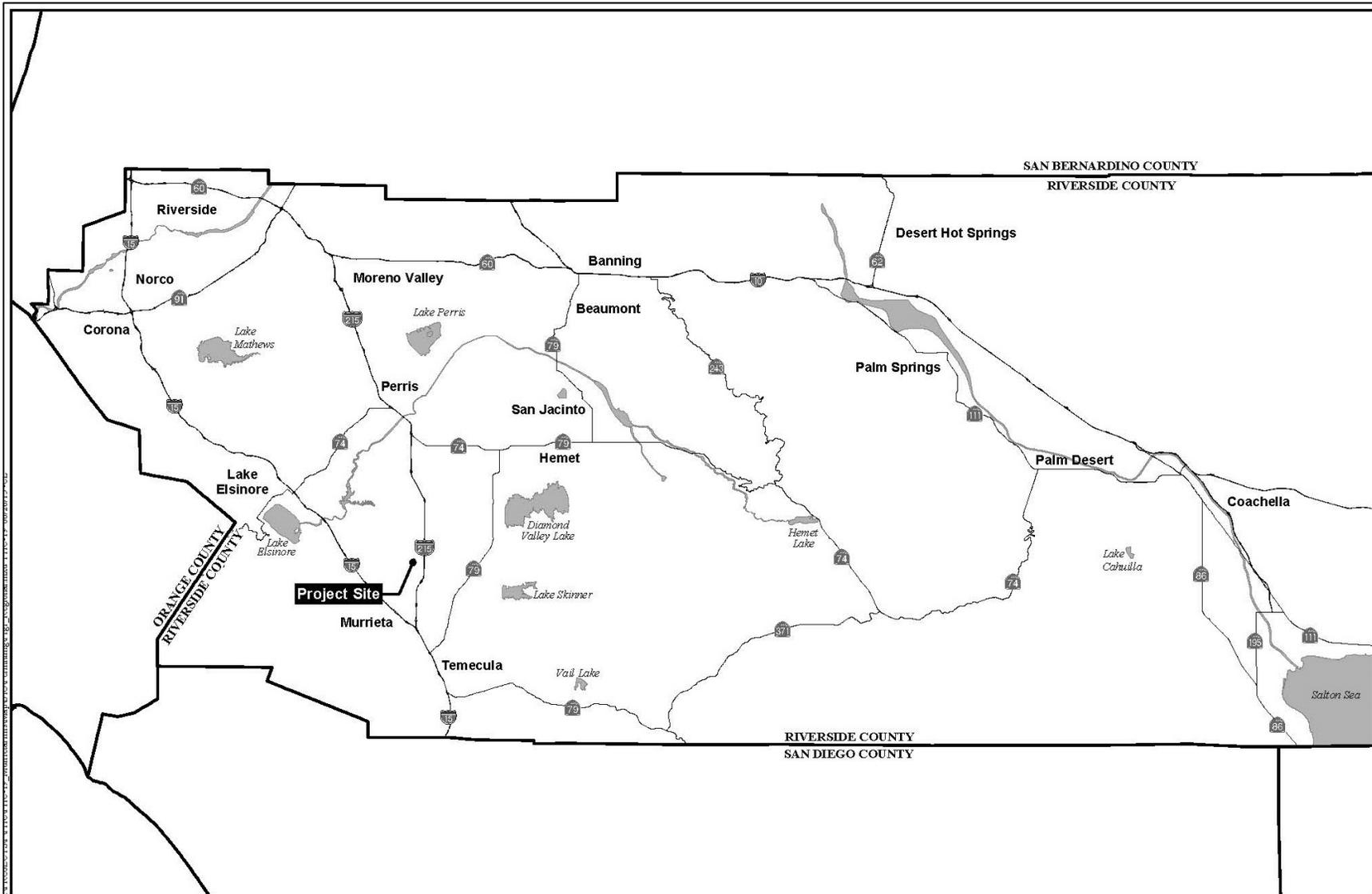
For additional information, please contact Eric Sweeney at 760-602-4837 or via email at Eric.R.Sweeney@usace.army.mil. This Public Notice is issued by the Chief, Regulatory Division.



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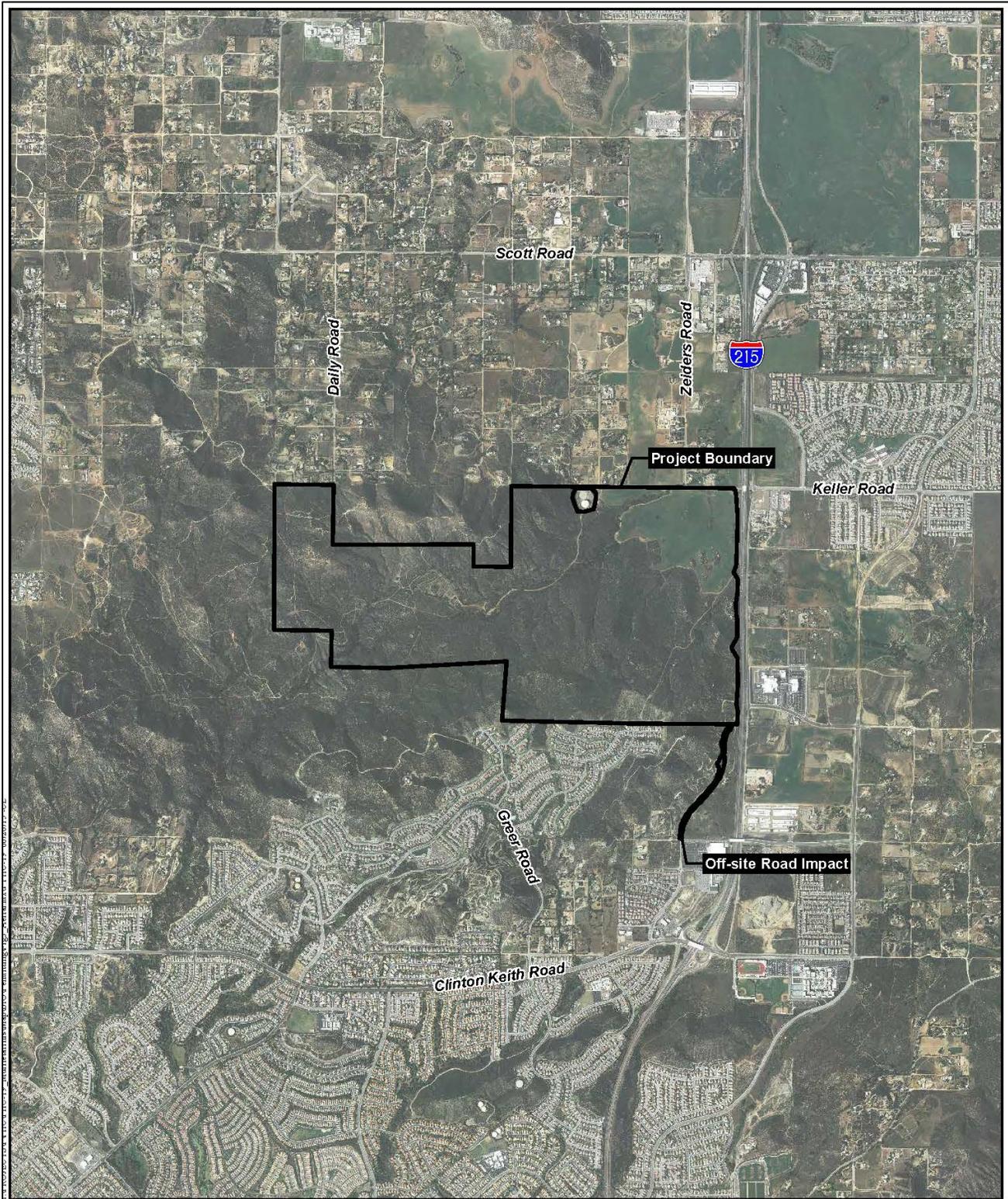


Regional Location Map

MURRIETA HILLS



Figure 1 Regional vicinity of the Murrieta Hills Development Project.



Project Vicinity Map (Aerial Photograph)

MURRIETA HILLS



Figure 2 Aerial photo showing the project area for the Murrieta Hills Development Project as well as the off-site road extension impact area.

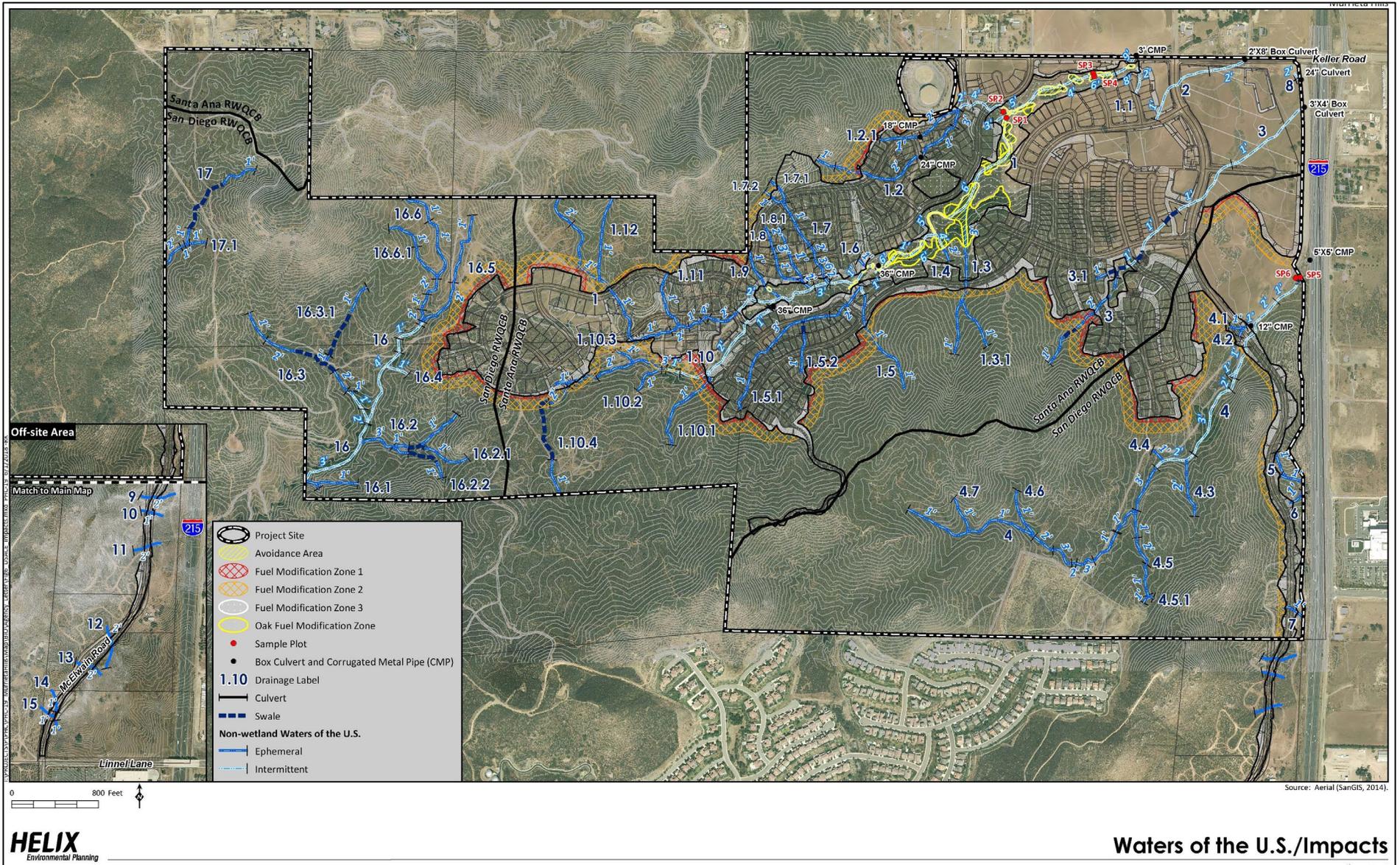


Figure 3 Location of Corps-jurisdictional impacts relative to the proposed development footprint.

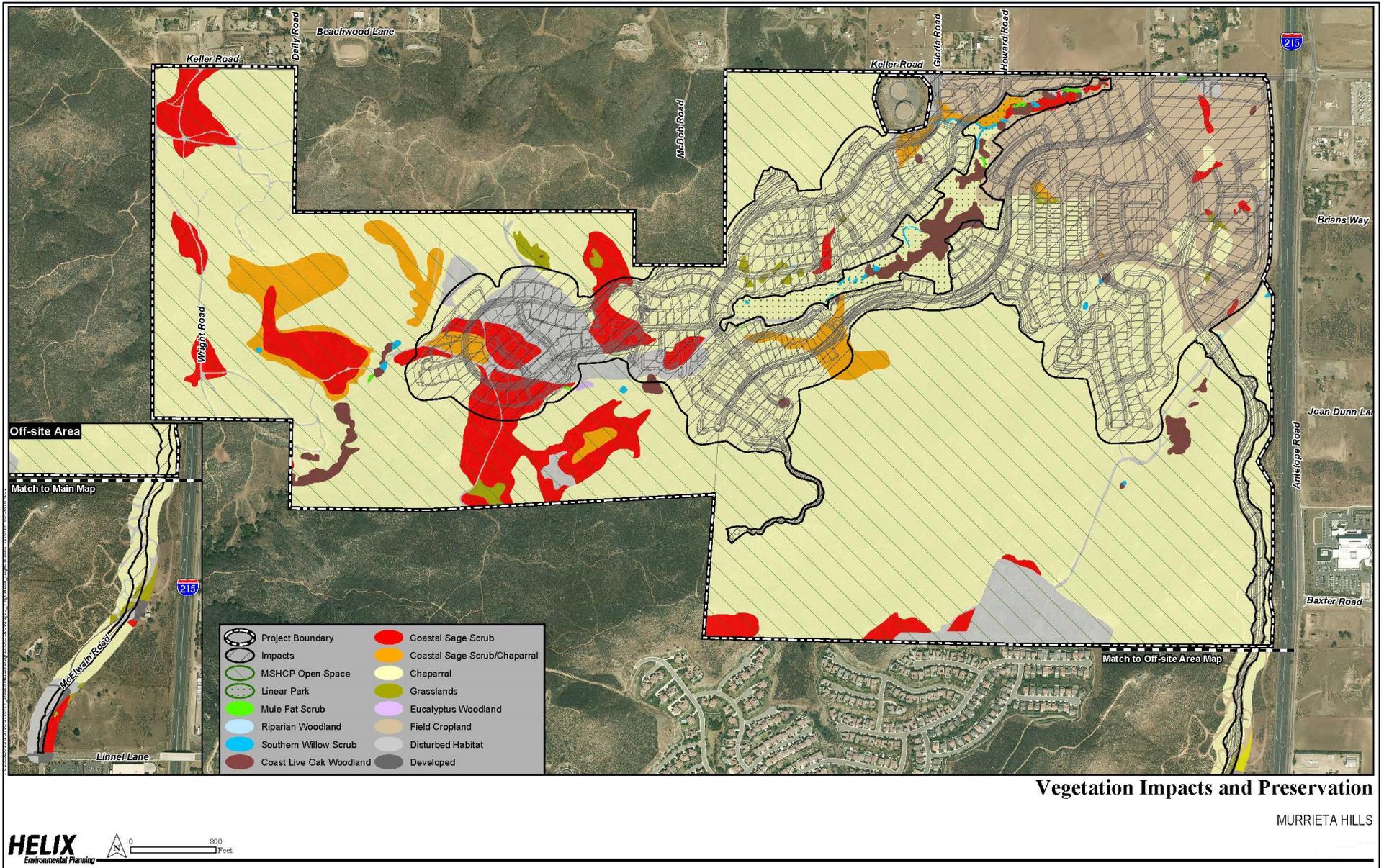


Figure 4 Vegetation types present within the Murrieta Hills Development Project development parcel.