



PUBLIC NOTICE

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

BUILDING STRONG®

**APPLICATION FOR PERMIT
Robert A. Curtis Park Expansion Project**

Public Notice/Application Number: SPL-2020-00568-ERS

Project: Robert A. Curtis Park Expansion Project

Comment Period: March 31, 2021 through April 30, 2021

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

Applicant

Mark Chagnon

City of Mission Viejo

200 Civic Center

Mission Viejo, California 92691

(760) 473-8270

Location

The proposed project area contains an unnamed tributary and wetland that flow to Trabuco Creek within the city of Mission Viejo, Orange County, California at approximately 33.604739, -117.631879 (Figure 1). The proposed project is located within an Aquatic Resource Integrity Area of the San Juan Creek/Western San Mateo Creek Special Area Management Plan (outside of the Rancho Mission Viejo Planning Area).

Activity

The City of Mission Viejo (City) proposes to permanently impact approximately 0.22 acre (899 linear feet) of waters of the United States (U.S.), of which 0.06 acre consists of wetlands (Figures 2 and 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 Santa Ana 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 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 Coastal Zone Management plan.

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

Cultural Resources: The applicant submitted a cultural assessment entitled, "Cultural Resources Assessment, The Lower Curtis Park Mass Grading Project, Mission Viejo, Orange County, California," dated November 18, 2019, prepared by BCR Consulting, LLC. The assessment reported results from a California Historic Resources Information System (CHRIS) cultural records search conducted at the South Central Coastal

Information Center (SCCIC) located at California State University, Fullerton. The records search indicated that a very low-density prehistoric artifact scatter, designated P-30-786, had been previously identified within the project boundaries in 1979. The records search revealed that a total of 22 cultural resources have been previously identified within a one-mile radius of the project site.

The applicant's cultural assessment also included results of an archeological pedestrian survey conducted on August 30, 2019. No cultural resources were identified within the project boundaries as a result of this survey. However, surface visibility was low throughout the project area due to the presence of dense native and non-native vegetation. The overgrowth, combined with the fact that an archeological site (P-30-786) had been previously identified within the project area, necessitated additional vegetation clearing and subsurface test excavation, which were completed on October 23 and 24, 2019. This additional survey work, which included seven shovel scrapes and three shovel test pits, was negative for cultural resources. Based on these results, the cultural assessment concluded that prehistoric site P-30-786 does not remain present within the project boundaries. Additionally, the Corps consulted the latest version of the National Register of Historic Places (NRHP) and did not identify any NRHP-listed sites present within the project area.

The Corps has submitted a request to the Native American Heritage Commission (NAHC) to obtain 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. Following NAHC's response, the Corps will issue tribal coordination letters to all tribes identified on the NAHC contacts list with a 30-day comment period. The letters will request information from tribes on potential impacts to cultural resources that may result from the proposed project.

The Corps' Permit Area defines that Corps' extent of federal control and responsibility under Section 106 of the National Historic Preservation Act. The Permit Area has been defined for the proposed project as the project's footprint in waters of the U.S. inclusive of a 50-foot buffer to account for upland activities, identified per 33 CFR 325 Appendix C (1)(g), associated with heavy machinery operating within jurisdictional waters during the proposed grading activities. The Corps is currently pending results of tribal coordination prior to making a determination of effect on historic properties for activities proposed within the Corps' Permit Area pursuant to Section 106 of the National Historic Preservation Act.

Endangered Species: Observational and habitat data relevant for evaluating effects of the proposed project on federally listed species were provided in the applicant's biological report entitled, "Draft Biological Technical Report for the Lower Curtis Park Expansion, Mission Viejo, California," dated July 2020, prepared by Glenn Lukos Associates (GLA). This report summarized results of general biological surveys conducted by GLA for the project area on January 27, February 19, and June 18, 2020. The biological report also incorporated results of recent surveys of the project site conducted by Gonzales Environmental Consulting (GEC) on September 8, 15, and 22

and October 6, 2019.

Based on the survey results documented in the applicant's biological report, one federally listed species is known to occur within the proposed project area, the coastal California gnatcatcher (*Poliophtila californica californica*; gnatcatcher). GEC observed three gnatcatchers foraging on the site within a 0.49-acre area of Menzies golden bush scrub (see Figure 4) during one of the four survey visits completed by GEC in September and October 2019. GLA did not observe gnatcatchers within the same area during site visits conducted in 2020, including the June 18, 2020 site visit, which was within the gnatcatcher breeding season.

GLA biologists conducted vegetation and land use mapping for the 40.26-acre project area on June 18, 2020. As a result of this mapping, vegetation alliances were determined to include mostly non-native cover types such as mustard fields (*Brassica nigra*), non-native grasslands, artichoke thistle fields (*Brassica nigra*) and ornamental vegetation. The project area was also found to contain limited areas of coyote brush scrub (*Baccharis pilularis*), coast goldenbush scrub (*Isocoma menziesii*), purple needlegrass grassland (*Nasella pulchra*), and a few scattered coast live oaks (*Quercus agrifolia*). A final vegetation map is provided as Figure 4 and total acreages by vegetation/land use type are provided in Table 1 below. Overall, the proposed project would permanently impact 39.52 acres out of the 40.26 acres of mapped vegetation cover. Additionally, the proposed project would partially occur within mapped designated critical habitat for gnatcatcher located throughout the eastern portion of the property (Figure 4).

Vegetation Types	Total (acres)	Total proposed for removal (acres)
Yerba mansa meadows	0.05	0.05
Coyote brush scrub	0.53	0.53
Mulefat thickets	0.29	0.29
Upland mustards	15.01	14.57
Pampas grass patches	0.04	0.04
Artichoke thistle stands	20.36	20.20
Disturbed	1.43	1.31
Menzie's golden bush scrub	0.49	0.49
Mixed Scrub/Disturbed	0.48	0.48
Purple needle grass grassland	0.28	0.28
Ornamental	0.95	0.93
Coast live oak woodland	0.23	0.23
Lemonade berry scrub	0.02	0.02
Arroyo willow thickets	0.04	0.04
Blue elderberry stands	0.02	0.02
Cattail marshes	0.02	0.02
Mexican fan palm	0.02	0.02

Of the project's 39.52 acres of proposed impacts to existing vegetation/land use, 13.07 acres of impacts would occur within areas that are part of the Orange County Southern

Subregion Habitat Conservation Plan (SSHCP) Habitat Reserve. This 13.07-acre area contains a predominance of non-native vegetation alliances, including 11.94 acres of non-native mustard fields. Native habitat present within this area consists of 0.39 acres of coyote brush scrub, 0.29 acre of mulefat scrub, 0.22 acre of purple needlegrass grassland, 0.02 acre of lemonade berry scrub, 0.12 acre of coast live oak, 0.03 acre of pampas grass, and 0.02 acre of elderberry scrub.

The City will be required to offset these proposed impacts to SSHCP Reserve Area through a Minor Amendment to the SSHCP wherein suitable replacement lands are identified in coordination with U.S. Fish and Wildlife Service (USFWS). To meet this requirement, the City is proposing to dedicate 25.70 acres of City-owned lands, located immediately north of the project site, to the SSHCP Habitat Reserve (Figure 5). This 25.70-acre area contains 10.73 acres of high quality coastal sage scrub habitat and 3.08 acres of coast live oak woodland. Dedication of 25.70 acres to the SSHCP Habitat Reserve would offset and replace the proposed loss of 13.07 acres of reserve area at an approximately 2:1 ratio (1.97:1).

The City indicated that it recently completed vegetation clearing in the northern portion of the site as part of initial soil stockpiling activities. The City indicated that it had cleared the 0.49 acre of Menzie's golden bush scrub as part of these initial activities following coordination with the USFWS. The City has already recently begun conducting protocol gnatcatcher surveys in the southern portion of the project area where suitable gnatcatcher habitat (e.g., coyote brush scrub) is present. These surveys will inform the Corps' final effects determination for gnatcatcher and gnatcatcher critical habitat.

The Corps' Action Area defines the Corps' extent of federal control and responsibility under Section 7 of the Endangered Species Act. The Action Area has been defined for the proposed project as the spatial extent of effects within waters of the U.S., as well as effects of upland activities within 50 feet of Corps jurisdiction, that are considered to be caused by the proposed jurisdictional activities. The Action Area includes the spatial extent of noise, generated by heavy machinery operating within 50 feet of jurisdictional waters, up to a distance of 400 feet.

The Corps will continue to coordinate with the City and USFWS regarding effects of the Corps' action on gnatcatcher and gnatcatcher critical habitat. Following receipt of the applicant's pending protocol survey data, the Corps will finalize its effects determination for effects on gnatcatcher and gnatcatcher critical habitat anticipated to occur within the Action Area and request initiation of formal or informal consultation with USFWS 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 basic project purpose is to construct baseball fields.**

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 construct a multiple baseball fields and associated amenities to allow for regional baseball tournament uses by the residents of the city of Mission Viejo and surrounding communities.**

Additional Project Information

Baseline Information: The Robert A. Curtis Park Expansion Project site consists of one parcel (APN 786-601-01) covering approximately 40.26 acres, located in the city of Mission Viejo. Site topography ranges from gently to steeply sloping, with elevations ranging from approximately 619 feet to 782 feet above mean sea level (MSL). As noted above, vegetation communities found on-site consist of mostly non-native cover types such as mustard fields, nonnative grasslands, artichoke thistle fields, and ornamental vegetation, with limited areas of coyote brush scrub, coast goldenbush scrub and purple needlegrass grassland. The site also includes a few scattered coast live oaks. Surrounding land uses include undeveloped land to the south, east, and north, and residential development to the west.

The site contains two drainages that formed following construction of Olympiad Road, adjacent development, and associated storm drains that outlet onto the project site. These drainages were identified Drainages A and B in the applicant's jurisdictional delineation report prepared for the proposed project, dated June 25, 2020. Drainage A is an intermittent drainage that is tributary to Trabuco Creek, which is in turn an intermittent drainage course that flows to San Juan Creek. Drainage A is intermittent because it conveys regular non-stormwater runoff from Olympiad Road and surrounding development. Drainage A contains approximately 0.22 acre of waters of the U.S., of which 0.06 acre consists of wetlands (see Figure 2). In an approved jurisdictional determination issued by the Corps on January 20, 2021, the Corps determined that Drainage B flows only in direct response to precipitation and is therefore considered an ephemeral feature excluded from Corps jurisdiction per 33 CFR Section 328.3(b)(3).

Project Description: The proposed project would construct a minimum of four regulation (320-foot) baseball fields that would add to the park's two existing regulation baseball fields. The addition of four baseball fields would allow the City of Mission Viejo to host

regional tournaments, which requires at least six total baseball fields. The project would also construct associated amenities such as parking areas, internal roads, and restrooms.

Construction of the baseball fields would require the complete filling of Drainage A to create the level area necessary to construct flat pads for the baseball fields while also remediating landslide and other areas of geotechnical instability. The City indicated that because Drainage A traverses an area with active landslides, it would not be possible to grade in the vicinity of the drainage without the need for extensive geotechnical remediation. The proposed project would permanently impact the entire area of jurisdictional waters of the U.S. (0.22 acre), including wetlands (0.06 acre), on the project site.

The City would import approximately 760,000 cubic yards of dirt from a California Department of Transportation (Caltrans) Interstate 5 (I-5) freeway improvement project that is currently underway to accomplish the proposed expansion. Excess dirt from the freeway improvement project would be hauled by truck to the project site, which is located approximately three miles east of I-5. The imported dirt would be graded into a pad that would be used to construct the proposed recreational facilities. The existing 40.26-acre site is vacant and would require approximately 187,000 cubic yards of cut and remedial grading to prepare the area for placement of the approximately 760,000 cubic yards of imported dirt. The 187,000 cubic yards of remedial cut would remain on the site and be incorporated into the grading plan for the proposed park expansion.

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/Minimization: The project would result in permanent impacts to all waters of the U.S. present on the site. The City has indicated opportunities for avoidance and minimization of Drainage A are not available because avoidance would reduce, by a substantial amount, the usable land associated with the proposed expansion site. Extensive geotechnical remediation would be required to grade in the vicinity of Drainage A, which bisects the project area.

Compensation: The City has proposed to offset permanent impacts to 0.16 acre of non-wetland waters of the U.S. and 0.06 acre of wetland waters of the U.S. through implementation of the following compensatory mitigation activities:

- Reestablishment of 0.12 acre of wetlands dominated by yerba mansa (*Anemopsis californica*) in an area currently dominated by upland black mustard as depicted in Figure 6.
- Enhancement of riparian habitat through removal of 0.48-acre of the invasive exotic pampas grass as depicted in Figure 6.

- Preservation of 4.59 acres of willow forest, 0.23 acre of mulefat scrub, and 0.20 acre of southern cattail marsh.

The proposed compensatory mitigation would be implemented within a 5.72-acre area of Trabuco Creek that is owned by the City and which is located immediately north of the Arroyo Trabuco Golf Course (at approximately 33.551213, -117.660294). The 5.72-acre area would be preserved through conveyance of the land to the County of Orange SSHCP Habitat Reserve.

The City's proposed compensatory mitigation measures are detailed in its draft mitigation plan entitled, "Mitigation and Monitoring Plan for Impacts to Areas within the Jurisdiction of the United States Army Corps of Engineers Pursuant to Section 404 of the Clean Water Act for Robert A. Curtis Park Expansion," dated February 2021, prepared by Glenn Lukos Associates. 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 functional 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. The Permittee shall mitigate for permanent impacts to 0.16 acre of non-wetland waters of the U. S. and 0.06 acre of wetland waters of the U.S. through [TBD] acre of wetland establishment, [TBD] acre of riparian buffer enhancement, and [TBD] of riparian buffer preservation as described in the final, approved mitigation plan: "Mitigation and Monitoring Plan for Impacts to Areas within the Jurisdiction of the United States Army Corps of Engineers Pursuant to Section 404 of the Clean

Water Act for Robert A. Curtis Park Expansion,” (dated February 2021 and prepared by Glenn Lukos Associates). The Permittee shall complete site preparation and planting and initiate monitoring as described in the final, approved mitigation plan concurrently with impacts to waters of the U.S. According to the final, approved mitigation plan, responsible parties would be as follows: a) Implementation: City of Mission Viejo; b) Performance: City of Mission Viejo; c) Long-term management: City of Mission Viejo. 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 above final, approved mitigation plan. Any requirements for financial assurances and/or long-term management provisions are also described in the above final, approved mitigation plan, as well as in Special Conditions 3 and 4 below. Your responsibility to complete the required compensatory mitigation as set forth in Special Condition 2 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 December 31 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. Additionally, you shall demonstrate continued success of the compensatory mitigation site, 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/t/abid/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.

3. 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 [TBD]. 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.
4. Permittee shall provide a long-term protection and management plan (LTPMP), in a form approved by the Corps Regulatory Division, obligating the Permittee, its successor and assigns to protect and maintain at least [TBD] acres of wetland establishment, riparian buffer enhancement, and riparian buffer preservation (Mitigation Area) within Trabuco Creek. The LTPMP shall ensure that the Mitigation Area is preserved in its natural, scenic, open condition to maintain its ecological, historical, visual and educational values. Therefore, within the Mitigation Area the LTPMP shall preclude establishment of fuel modification zones and alteration of general topography, including the building of roads, trails, and flood control work, except as approved by the Corps, for safety and maintenance access or as necessary to implement the previously Corps-approved Mitigation Plan. No paved roads shall be approved by the Corps. Further, to the extent practicable, any

such facilities outside the Mitigation Area shall be sited to minimize indirect impacts on the Mitigation Area. Prior to its approval and within six months of issuance of this permit, the Permittee shall submit a draft LTPMP to the Corps Regulatory Division for review and approval.

5. This Corps permit does not authorize you to take any threatened or endangered species, in particular the coastal California gnatcatcher (*Polioptila californica californica*) or adversely modify its 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). Pursuant to the USFWS correspondence dated [TBD], including the required avoidance and minimization measures, the Corps Regulatory Division has determined and the USFWS has concurred that your activity is not likely to adversely affect the above species. Your authorization under this Corps permit is conditional upon your compliance with all of the required avoidance and minimization measures, which are incorporated by reference in this permit. Failure to comply with the required avoidance and minimization measures would constitute non-compliance with your Corps permit.
6. 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 (Daniel Grijalva at 760-520-4736 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.

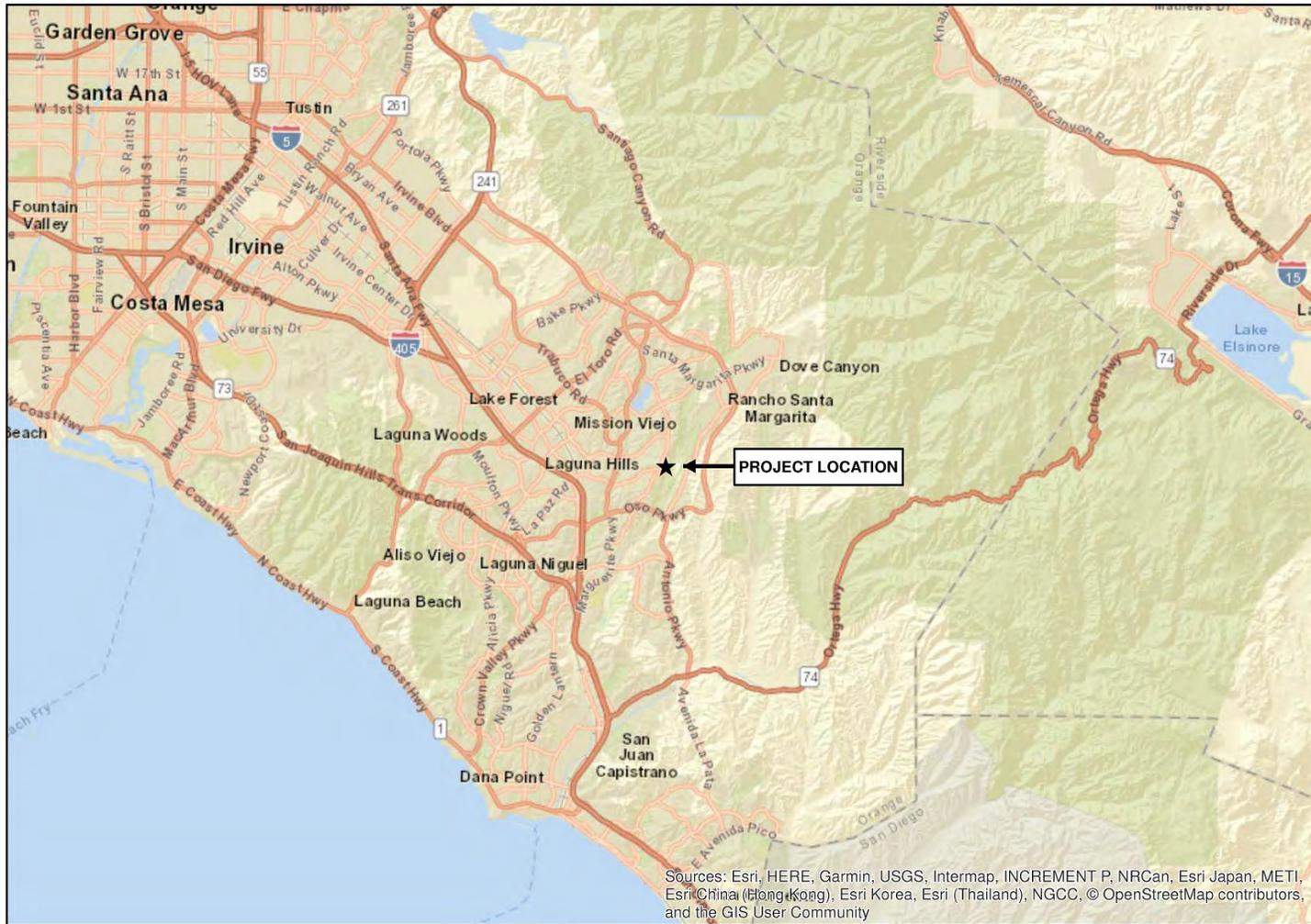


Regulatory Program Goals:

- 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
5900 LA PLACE COURT, SUITE 100
CARLSBAD, CALIFORNIA 92008**
<http://www.spl.usace.army.mil/missions/regulatory>

Source: ESRI World Street Map



LOWER CURTIS PARK EXPANSION
Regional Map

GLENN LUKOS ASSOCIATES

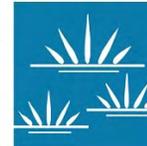


Figure 1: Location of the Robert A. Curtis Park Expansion Project and regional vicinity.

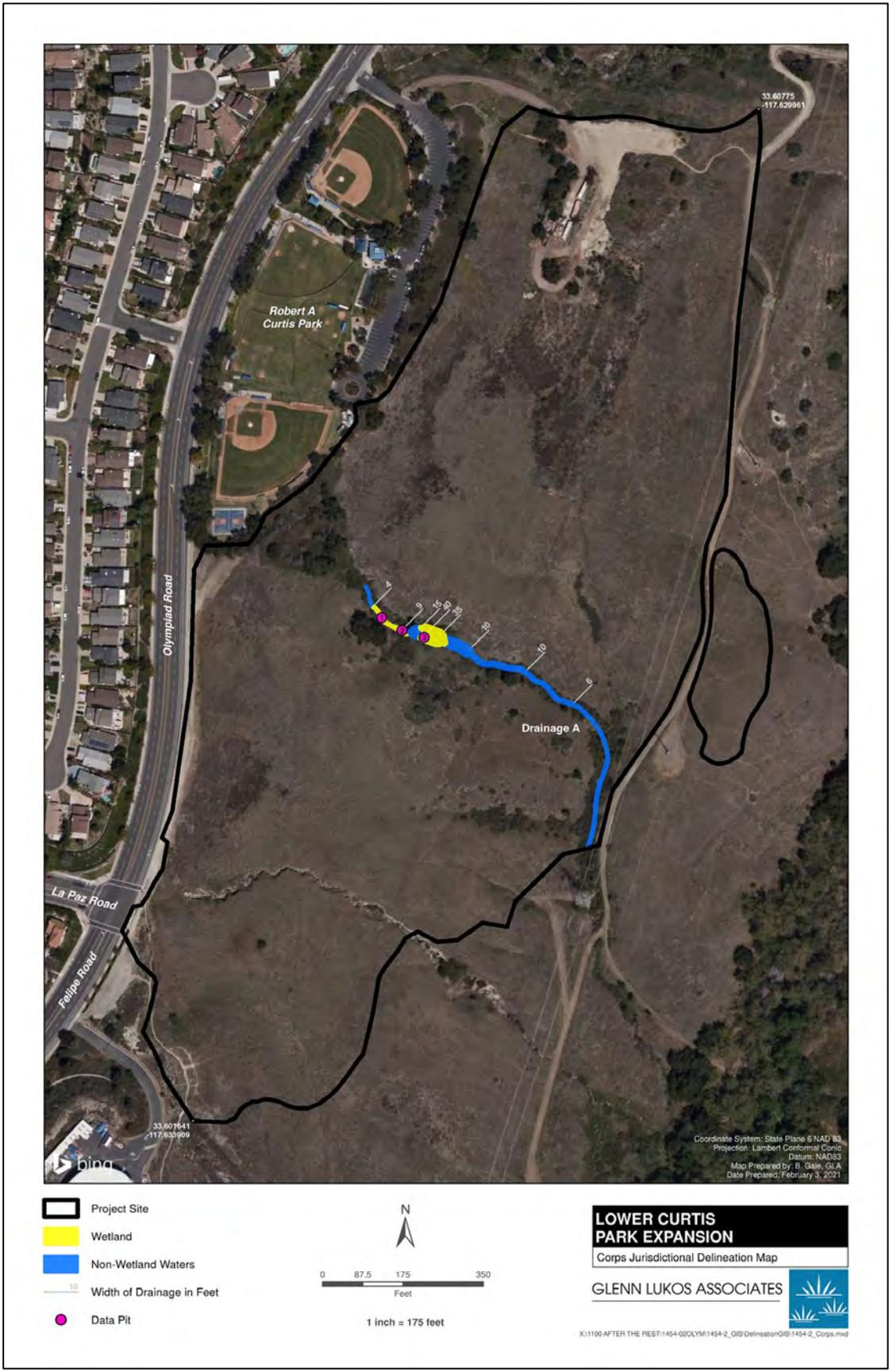


Figure 2: The proposed Robert A. Curtis Park Expansion Project would permanently impact approximately 0.22 acre of waters of the U.S. (899 linear feet), including approximately 0.06 acre wetland waters of the U.S., within “Drainage A” shown above.

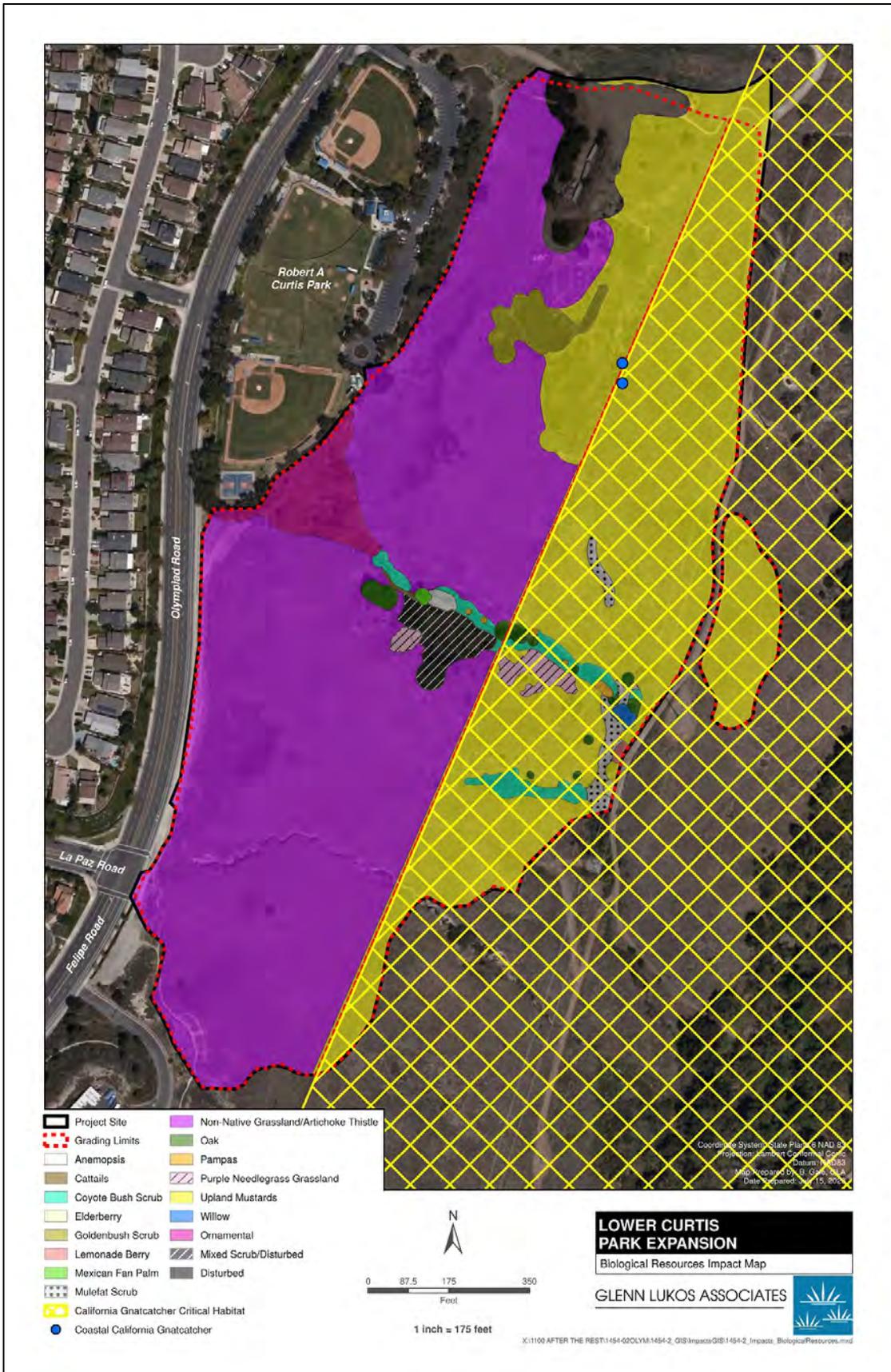


Figure 4: Vegetation map, including designated critical habitat, for the proposed Robert A. Curtis Park Expansion Project.



Figure 5: The City would dedicate 25.70 acres of City-owned lands to the SSHCP Habitat Reserve, shown above, to replace 13.07 acres of SSHCP Habitat Reserve impacted by the proposed project.



Figure 6: The City’s proposed compensatory mitigation site for offsetting 0.22 acre of permanent impacts associated with the Robert A. Curtis Park Expansion Project. The mitigation site is located within Trabuco Creek, approximately four miles downstream of the proposed project.