

Sherwin Williams Retail Store Project

(APN: 035-600-007, -004)

Biological Resources Assessment



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1.0 INTRODUCTION

Greg Matuzak, a Nevada County and City of Grass Valley Biological Resources Consultant, conducted a reconnaissance-level biological resources survey and required background research related to biological resources in order to develop this Biological Resources Assessment (BRA). In addition, potential California Department of Fish and Wildlife (CDFW), United States Fish and Wildlife Service (USFWS), and United States Army Corps of Engineers (Corps) jurisdiction within the subject parcel was assessed. The proposed Sherwin Williams store would be developed within a subject parcel (APN: 035-600-007, 0.37 Acres – see attached Parcel Report) that is sandwiched in between an existing Lumberjack's eatery and an existing Sierra Motor Sports, which is a Honda motorcycle dealership. The adjacent parcel directly to the east of the Sherwin Williams site (APN: 035-600-004, 3.14 Acres – see attached Parcel Report) is included in this analysis and BRA given the parcel is proposed to be used for access off of Gates Place to access the Sherwin Williams development and to accommodate parking. Additionally, given the size of the adjacent parcel to the Sherwin Williams store site, future development of that site may be proposed at a later date (see attached parcel reports in Appendix A).

The proposed development within the subject parcels would be located within the western subject parcel where the proposed Sherwin Williams retail building will be constructed and located and Project related access and parking is proposed to be located within the western and eastern parcels. Access would be located off Nevada City Highway adjacent to the existing Lumberjack's eatery with a secondary access off of Gates Place (see attached Preliminary Site Plan dated November 2023 in Appendix B). The proposed Project would also include a new 6-inch water pipe, which will connect from a water main along Gates Place to the retail building. A new 4-inch sewer pipe will also be included in the development as well as a 15-inch storm drainpipe. Along the frontage with Nevada City Highway, new concrete hardscape will be developed for pedestrian access along the frontage of the Project area. There are several parking spots proposed along with an ADA parking spot. See the attached parcel reports (Appendix A) and Site Plan (Appendix B) that cover the subject parcels and Project area that are covered in this BRA.

For the purposes of this BRA, the background research and the site visits and reconnaissance-level biological resources surveys conducted within the Project area were intended to determine the potential for sensitive biological resources to occur within the subject parcels and overall Project area, and to conduct an assessment of such resources to ensure the City of Grass Valley complies with the California Environmental Quality Act (CEQA) as part of the Project review as it relates to sensitive and protected biological resources. The attached appendices include the following: parcel reports, a Site Plan, Photo Log of the Project area and overall subject parcels, list of plant and wildlife species identified during the site visit and reconnaissance-level biological resources surveys conducted, and the results of the database searches for such sensitive

biological resources per the CA state and federal databases. The appendices are attached to this report.

The purpose of the BRA is to identify the location and extent of sensitive biological resources within the subject parcel, including special-status plant and wildlife species, and the presence of drainage and wetland features that could potentially meet the Corps' criteria as a "waters of the United States," pursuant to Section 404 of the Clean Water Act (CWA), and streams that could be under the jurisdiction of the California Fish and Wildlife Code Section 1600 *et. seq.* The BRA also satisfies the City of Grass Valley Development Code and General Plan requirements.

Lastly, on October 26, 2023, the City of Grass Valley Planner reviewing the initial Project related information stated that the proposed Project would most likely be exempt under CEQA; however, an evaluation of habitat within the site for endangered, rare, or threatened species is required to ensure the Project has no significant impact on such habitat for protected species. Therefore, this BRA evaluates the habitat within the Project area and the potential for the Project area to contain suitable habitat for endangered, rare, or threatened species.

2.0 REGULATORY OVERVIEW AND DEFINITIONS

Federal Regulations

Section 404 of the Clean Water Act

The U.S. Army Corps of Engineers ("Corps") and the Environmental Protection Agency ("EPA") regulate the discharge of dredge or fill material into "waters of the U.S." under Section 404 of the Clean Water Act. "Waters of the U.S." include wetlands and lakes, rivers, streams, and their tributaries. Wetlands are defined for regulatory purposes as areas "...inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated solid conditions" as specified in 33 Code of Federal Regulations [CFR] 328.3, 40 CFR 230.3.

Generally, wetlands include swamps, marshes, bogs, and similar areas. Lakes, rivers, and streams are defined as "other waters of the U.S." Jurisdictional limits of these features are typically noted by the Ordinary High Water Mark ("OHWM"). The OHWM is the line on the shore established by the fluctuations of water and indicated by physical characteristics such as mark a clear, natural line impressed on the bank, shelving, changes in the character of soil, destruction of terrestrial vegetation, the presence of litter and debris, or other appropriate means that consider the characteristics of the surrounding areas (33 CFR 328 and 33 CFR 329).

Isolated ponds or seasonal depressions had been previously regulated as waters of the U.S. However, in *Solid Waste Agency of Northwestern Cook County (SWANCC) v. USACE et al.* (January 8, 2001), the U.S. Supreme Court ruled that certain "isolated" wetlands (e.g., non-navigable, isolated, and intrastate) do not fall under the jurisdiction of the CWA and are no longer under the jurisdiction of the Corps. Some circuit courts (e.g., *U.S. v. Deaton*, 2003; *U.S. Rapanos*, 2003; *Northern California River Watch v. City of Healdsburg*, 2006), though, have ruled that SWANCC does not prevent CWA jurisdiction if a "significant nexus" such as a hydrologic connection exists, whether it be man-made (e.g., roadside ditch) or natural tributary to navigable waters, or direct seepage from the wetland to the navigable water, a surface or underground hydraulic connection, an ecological connection (e.g., the same bird, mammal, and fish populations are supported by both the wetland and the navigable water), and changes to chemical concentrations in the navigable water is present due to water from the wetland.

Areas considered to be non-jurisdictional waters include non-tidal drainage and irrigation ditches excavated on dry land, artificially-irrigated areas, artificial lakes or ponds used for irrigation or stock watering, small artificial water bodies such as swimming pools, and water-filled depressions with no outlet for drainage (33 CFR, Part 328).

The *Clean Water Rule* is a 2015 regulation published by the EPA and Corps to clarify water resources management in the United States under a provision of the CWA. The regulation defined the scope of federal water protection in a more consistent manner, particularly over streams and wetlands, which have a significant hydrological and ecological connection to traditional navigable waters, interstate waters, and territorial seas. It is also referred to as the *Waters of the United States* rule, which defines all bodies of water that fall under U.S. federal jurisdiction. The rule has been contested in litigation and in 2017 the Trump administration announced its intent to review and rescind or revise the rule. Following a Supreme Court ruling on January 22, 2018 that lifted a nationwide stay on the rule, the Trump administration formally suspended the rule until February 6, 2020, thereby giving the EPA time to issue a draft proposal of replacement water regulatory requirements.

On October 22, 2019, the EPA and the Corps published a final rule to repeal the 2015 Clean Water Rule: Definition of "Waters of the United States" ("2015 Rule"), which amended portions of the Code of Federal Regulations (CFR), and to restore the regulatory text that existed prior to the 2015 Rule. The final rule will become effective on December 23, 2019. The EPA and the Corps will implement the pre-2015 Rule regulations informed by applicable agency guidance documents and consistent with Supreme Court decisions and longstanding agency practice.

However, on April 21, 2020, the EPA and the Corps published the Navigable Waters Protection Rule to define "Waters of the United States" in the *Federal Register*. For the first time, the agencies have streamlined the definition so that it includes four simple categories of jurisdictional waters, provides clear exclusions for many water features that traditionally have not been regulated, and defines terms in the regulatory text that have never been defined before. Congress, in the CWA, explicitly directed the Agencies to protect "navigable waters." The Navigable Waters Protection Rule regulates traditional navigable waters and the core tributary systems that provide perennial or intermittent flow into them.

Under the final rule, four clear categories of waters are federally regulated:

- The territorial seas and traditional navigable waters,
- Perennial and intermittent tributaries to those waters,
- Certain lakes, ponds, and impoundments, and
- Wetlands adjacent to jurisdictional waters

Therefore, as of June 22, 2020, the final rule details 12 categories of exclusions, features that are not "waters of the United States," such as features that only contain water in direct response to rainfall (e.g., ephemeral features); groundwater; many ditches; prior converted cropland; and waste treatment systems. The final rule clarifies key elements related to the scope of federal CWA jurisdiction, including:

- Providing clarity and consistency by removing the proposed separate categories for jurisdictional ditches and impoundments.
- Refining the proposed definition of “typical year,” which provides important regional and temporal flexibility and ensures jurisdiction is being accurately determined in times that are not too wet and not too dry.
- Defining “adjacent wetlands” as wetlands that are meaningfully connected to other jurisdictional waters, for example, by directly abutting or having regular surface water communication with jurisdictional waters.

The Navigable Waters Protection Rule is the second step in a two-step process to review and revise the definition of “waters of the United States” consistent with the February 2017 Presidential Executive Order entitled “Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States.’” This final rule became effective on June 22, 2020 and will replace the Step One Rule published in October, 2019 as outlined above.

However, the 2023 Updated Water of the United States (WOTUS) Rule reversed the 2020 ruling such that only perennial aquatic resources with documented connections to navigable waterways are currently regulated under the CWA. Therefore, the Project area does not contain any “waters of the U.S.” including wetlands, given the lack of perennial streams or drainages with a direct connection to a navigable waterway. Therefore, the Project area does not include any waters subject to regulation under the CWA.

Section 401 of the Clean Water Act

CWA Section 401 compliance is required for any project requiring a federal action (i.e. Corps permit or federal funding) with construction that could have an impact to surface water quality. Project proponents must obtain a permit from the Corps for all discharges of fill material into waters of the U.S., including wetlands, before proceeding with a proposed action. The Project area does not contain any “waters of the U.S.” including wetlands, and therefore, the Project area does not include any waters subject to regulation under the CWA.

Endangered Species Act of 1973

For the proposed Project site, consultation with the USFWS would be necessary if a proposed action may affect suitable habitat for a federally listed species. This consultation would proceed under Section 7 of the Endangered Species Act (ESA) if a federal action is part of the proposed action or through Section 10 of the ESA if no such nexus were

available (USFWS, 1973). There are two federally protected plant species listed under the ESA within the Grass Valley USGS Quad (CDFW 2023). Stebbins morning-glory (*Calystegia stebbinsii*) and Pine Hill flannelbush (*Fremontodendron decumbens*) are ESA listed species as Endangered; however, the Project area does not provide suitable habitat for either of these species and therefore, neither species would be impacted by the development of the proposed Project.

Migratory Bird Treaty Act of 1918 and Bald and Golden Eagle Protection Act

The Migratory Bird Treaty Act (MBTA) (16 USC Section 703-711) and the Bald and Golden Eagle Protection Act (BAGEPA) (16 USC Section 668) protect certain species of birds from direct “take” (i.e. harm or harassment as described above). The MBTA protects migrant bird species from take through setting hunting limits and seasons and protecting occupied nests and eggs (USFWS, 1918). BAGEPA prohibits the take or commerce of any part of the bald or golden eagles (USFWS, 1940). The USFWS administers both Acts and reviews actions that may affect species protected under each Act.

State Regulations

California Endangered Species Act

The California Department of Fish and Wildlife (CDFW) has jurisdiction over plant and wildlife species listed as threatened or endangered under section 2080 of the CDFW Code. The California Endangered Species Act (CESA) prohibits take of state-listed threatened and endangered species. The state Act differs from the federal Act in that it does not include habitat destruction in its definition of *take*. The CDFW defines *take* as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.” The CDFW may authorize *take* under the CESA through Sections 2081 agreements. If the results of a biological survey indicate that a state-listed species would be affected by the project, the CDFW would issue an Agreement under Section 2081 of the CDFW Code and would establish a Memorandum of Understanding for the protection of state-listed species. CDFW maintains lists for Candidate-Endangered Species and Candidate-Threatened Species.

Stebbins morning-glory (*Calystegia stebbinsii*), Scadden Flat checkerbloom (*Sidalcea stipularis*), willow flycatcher (*Empidonax traillii*), and California black rail (*Laterallus jamaicensis coturniculus*) are CESA listed species and these species have been known to occur within the Grass Valley USGS Quad. Additionally, Pine Hill flannelbush (*Fremontodendron decumbens*) is considered Rare by CDFW and the State of California. No other candidate species or CESA protected species have been documented within 3 miles of the Project area (CDFW 2023) and the Project area does not provide suitable habitat for any CESA protected species. Therefore, none of these species would be impacted by the development of the proposed Project.

Streambed Alteration Agreements: CDFG Code Section 1600 et seq.

CDFW has jurisdictional authority over wetland resources associated with rivers, streams, and lakes under Sections 1600–1616. CDFW has the authority to regulate all work under the jurisdiction of the State of California that would substantially divert, obstruct, or change the natural flow of a river, stream, or lake; substantially change the bed, channel, or bank of a river, stream, or lake; or use material from a streambed.

In practice, CDFW marks its jurisdictional limit at the top of the stream or lake bank, or the outer edge of the riparian vegetation (where present) and extends its jurisdiction to the edge of the 100-year floodplain. The Project area does not contain any stream related features that would be regulated by CDFW.

Porter-Cologne Water Quality Control Act & Section 1601 – Section 1607 of CDFG Code

These acts and codes pertain to projects with potential impacts to water quality or waterways. The proposed subject parcels and Project area do not contain waters of the State as defined by the State Water Resources Board (State Board 2014) and therefore, would not be subject to a report of waste discharge requirement.

California Department of Fish and Game Code Sections 3503, 3503.5, and 3800: Nesting Migratory Bird and Raptors

Sections 3503, 3503.5, and 3800 of the CDFG Code prohibit the take, possession, or destruction of birds, their nests or eggs. Implementation of the take provisions requires that project-related disturbance within active nesting territories be reduced or eliminated during critical phases of the nesting cycle (approximately March 1 – August 31). Disturbance that causes nest abandonment and/or loss of reproductive effort (e.g. killing or abandonment of eggs or young), or the loss of habitat upon which birds are dependent, is considered "taking", and is potentially punishable by fines and/or imprisonment (LCC 2013). Such *taking* would also violate federal law protecting migratory birds (e.g. MBTA above).

California Special Species of Concern, Fully Protected, and Special Status Species

California designates Species of Special Concern (SSC) as species of limited distribution, declining populations, diminishing habitat, or unusual scientific, recreational or educational values. These species do not have the same legal protection as listed species but may be added to official lists in the future (CDFW 2014). For example, the coast horned lizard (*Phrynosoma blainvillii*) is designated as SSC and the species is evaluated as part of this BRA since the species has been previously identified within the Grass Valley USGS Quad where the proposed Project is located.

In the 1960's California created a designation to provide additional protection to rare species. This designation remains today and is referred to as "Fully Protected" species, and those listed "may not be taken or possessed at any time" (CDFW 2014). The

California black rail (*Laterallus jamaicensis coturniculus*) for instance has been previously documented within Nevada County and has been previously identified within the Grass Valley USGS Quad, though the Project area does not contain suitable habitat for this species. This species is designated as Fully Protected by the State of California.

California special-status species are identified by the California Natural Diversity Database (CNDDDB) and includes those species considered to be of greatest conservation need by the CDFW.

California Environmental Quality Act Guidelines Section 15380

California Environmental Quality Act (CEQA) Guidelines section 15380(b) provides that a species not listed on the federal or state list of protected species may be considered rare or endangered if the species can be shown to meet certain specific criteria. This section was included in the guidelines to deal primarily with situations in which a public agency is reviewing a project that may have a significant effect on, for example a "candidate species" that has not yet been listed by the USFWS or CDFW. CEQA, therefore, enables an agency to protect a species from significant project impacts until the respective government agencies have had an opportunity to list the species as protected, if warranted (CNRA 2012).

Plants appearing on the California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) are considered to meet CEQA's Section 15380 criteria. Ranks include: 1A) plants presumed extirpated in California and either rare or extinct elsewhere, 1B) plant rare, threatened, or endangered in California and elsewhere, 2A) plants presumed extirpated in California, but more common elsewhere, and 2B) plants rare, threatened, or endangered in California, but more common elsewhere. Impacts to these species would therefore be considered "significant" requiring mitigation.

State Oak Woodland Regulations

State laws that regulate protection of oak woodlands include Professional Forester's Law (PFL) and CEQA according to Public Resources Code Section 21083.4. Oak woodlands are defined as areas having 10% oak canopy cover or greater. "Oaks" are defined in Public Resources Code Section 21083.4 as a native tree species in the genus *Quercus*, that is 5 inches diameter at breast height (DBH) or greater. The Oak Woodlands Conservation Act (SB 1334) provides funding for the conservation and protection of oak woodlands in California. Oak woodland habitats are protected under both the State and the Nevada County General Plan.

City of Grass Valley Tree Ordinance

The City of Grass Valley acknowledges the importance of trees to the community's health, safety, welfare, and tranquility. Trees increase property values, provide visual continuity, provide shade and cooling, decrease wind velocities, control erosion,

conserve energy, reduce stormwater runoff, filter airborne pollutants, reduce noise, provide privacy, provide habitat and food value, and release oxygen. In December 2005, the City Council adopted the Tree Ordinance, Chapter 12.36 of the Municipal Code, to ensure that the community trees would be prudently protected and managed so as to ensure these multiple civic benefits.

What Types of Trees Are Protected Under This Ordinance?

- **Tree:** Any woody plant having a trunk ten (10) caliper inches or larger in Diameter at Breast Height (DBH) (54" above ground height) and as further defined within the definitions section of the Tree Preservation and Protection Ordinance, Chapter 12.36.
- **Significant Tree:**
Any tree which measures twenty-four (24) caliper inches or larger in Diameter at Breast Height (DBH) (54" above ground height).
- **Heritage Trees:**
Any tree listed on the official City of Grass Valley heritage tree list adopted by the City Council due to distinctive form, size, age, location, species, unique qualities, or historical significance.
- **Street Trees:**
Any tree within the public right-of-way.

When Are Permits Required?

The pruning or removal of any of the types of protected trees listed above (including the modification of surrounding area) may require review and/or permitting, depending on the nature of the proposed work. The matrix on the opposite side of this page presents the basic review process for tree permits in the City of Grass Valley. It is the responsibility of property owners and/or residents of the City of Grass Valley to be aware of tree-related regulations before engaging in any planning or activity that may require new tree planting or removal; or may impact existing trees. The City of Grass Valley is not responsible for location of trees marked for removal. All property lines should be verified before submitting your application. It shall be the responsibility of all licensed tree cutters or any other person who is removing the tree to have a copy of the applicable tree permit, a valid city business license and any required state licenses in his or her possession and available for inspection upon request.

City of Grass Valley Development Code 17.50 Creek and Riparian Resource Protection

The City of Grass Valley Development Code 17.50 for Creek and Riparian Resource Protection states that a Resource Management Plan must be prepared for encroachment within the 30-foot stream setback, "and shall include measures which will minimize impacts to the watercourse and enhance runoff filtration." The measure should

include: enhancement and/or restoration of the riparian vegetation area; removal of non-native vegetation; decompaction of soils and/or incorporation of organic material to improve runoff filtration; incorporation of bioswales in drainage plans to filter parking areas and other impervious surfaces; and, incorporation of other Best Management Practices (BMP's) which provide long-term protection of the water quality.

City of Grass Valley 2020 General Plan

The Conservation and Open Space Elements were combined in the 2020 Grass Valley General Plan Update. Both are mandatory General Plan Elements under State law. The Conservation/Open Space Element addresses those aspects of conservation and open space determined most important to Grass Valley. It supplements, but does not replace, the Mineral Resources Element adopted by the City in 1993.

Conservation/Open Space Goals and Objectives

- 1-COSG Provide a balance between development and the natural environment, protecting and properly utilizing Grass Valley's sensitive environmental areas/features, natural resources and open space lands.
 - 1-COSO Inventory of sensitive environmental areas and features.
 - 2-COSO Multi-purpose open space lands, accommodating the needs and requirements of open space/conservation, habitat, recreation, and aesthetics.
 - 3-COSO Protection of rare and endangered animals and plants.
 - 4-COSO Reduction of urban development impacts on native vegetation, wildlife and topography.
 - 5-COSO Encouragement of wildlife through habitat protection.
 - 6-COSO Assurance of appropriate resource conservation and environmental protection measures as prerequisites to development.

- 2-COSG Protect, enhance and restore hydrologic features, including stream corridors, flood plains, wetlands, and riparian zones.
 - 7-COSO Development of an extensive trail network providing recreational and educational opportunities.
 - 8-COSO Minimize interference with the natural functions of flood plains and naturally flood-prone areas.

- 3-COSG Ensure the protection of Grass Valley's trees and forested areas.
 - 9-COSO Identification of heritage trees for special recognition and protection.
 - 10-COSO Identification of significant groves and groupings of trees for permanent open space designation.

- 4-COSG Protect and enhance town entryways, visual corridors and important viewsheds including ridgelines.

- 11-COSO Identification of particular corridors and views requiring protection or enhancement.
- 12-COSO Identification of specific aesthetic considerations important to the protection/enhancement of particular corridors and views.
- 5-COSG Maintain close relationships with public agencies and private organizations regarding conservation, open space and environmental protection.
- 13-COSO Ongoing communication of information, plans, and concepts
- 14-COSO Creation of joint efforts and shared funding responsibilities.
- 6-COSG Assure compliance with and understanding of air and water quality regulations and standards.
- 15-COSO Protection of ground- and surface water quality.
- 16-COSO Inclusion of air and water quality considerations in land use decisions rendered by the Planning Commission and City Council.

Conservation/Open Space Policies

- 1-COSP Continue to identify mineral resources and to develop policies addressing their protection from competing land uses, minimizing impacts on mining activities, in compliance with State law.
- 2-COSP Establish an active program of land/development rights acquisition in order to protect sensitive environmental areas and features.
- 3-COSP Encourage clustering, density averaging, and other techniques in larger-scale new developments, as means of preserving open space and natural systems.
- 4-COSP Establish standards for inclusion and management of permanent open space in new developments.
- 5-COSP Carefully regulate development on steep slopes.
- 6-COSP Prevent excessive alteration of the natural topography.
- 7-COSP Recognize and reinforce Grass Valley's public park system.
- 8-COSP Study the potential for inter-jurisdictional transfer of development rights.
- 9-COSP Carefully regulate development for location in flood hazard areas.
- 10-COSP Establish a city trail network program for friendly acquisition, development and administration of a natural trails system.
- 11-COSP Return to open space, areas within which flooding poses a clear danger to life and property.
- 12-COSP Enhance the City's tree ordinance addressing tree maintenance and protection both within new developments and elsewhere in the City.
- 13-COSP Assist property owners wishing to preserve and protect heritage trees and significant groves.
- 14-COSP Establish a program to identify and administer a viewshed/view corridor protection program.

- 15-COSP Assign responsibility for the viewshed/view corridor program.
- 16-COSP Incorporate viewshed/view corridor standards into the Design Element of the General Plan, City Design Guidelines and other appropriate developmental documents.
- 17-COSP Utilize the services and expertise of organizations involved in resource conservation and open space protection.
- 18-COSP Develop and achieve agreement with the County of Nevada on a strategy for conservation and open space protection within the Grass Valley Planning Area and City's Sphere of Influence.
- 19-COSP Enlist the interest and efforts of appropriate state and federal agencies and private foundations regarding conservation and open space protection.
- 20-COSP Establish, in cooperation with Nevada County, an urban limit line beyond which urban land uses, densities, facilities and services will not extend.
- 21-COSP Continue to implement water quality improvement plans, including storm water separation and sewage treatment plant expansion.
- 22-COSP Implement circulation/transportation measures designed to reduce reliance on the automobile.
- 23-COSP Respond appropriately to state and federal air and water quality policies and policy changes, understanding the implications of regulations and standards, and maintaining a continuing public education program.

3.0 METHODS

In order to evaluate the subject parcel and proposed Project area for the presence of any sensitive biological resources, baseline information from databases and reporting for similar projects in the City of Grass Valley and Nevada County was collected and reviewed prior to conducting reconnaissance-level field biological surveys. The database searches, background research, and habitat level field surveys characterized the baseline conditions of the subject parcel and proposed Project area. Based on the baseline conditions of the subject parcels and the proposed development outlined within the attached Site Plan (Appendix B), an assessment was implemented to determine if any special-status plant or wildlife species have the potential to use the subject parcels and overall Project area at any time during their life cycle. The baseline conditions identified the presence of any sensitive habitat or communities, if they were identified within the subject parcels and the overall Project area.

Sensitive Biological Resources

The following information was used to identify potential special-status plant and wildlife species within the Project region that could be found to use the subject parcels and Project area:

- California Department of Fish and Wildlife's California Natural Diversity Database records search of 3-mile buffer around the Project area (CDFW, 2023);
- The California Native Plant Society's online Inventory of Rare and Endangered Plants of California for the Project area and Nevada County (CNPS, 2023);
- The U.S. Fish and Wildlife Service list of endangered, threatened, and proposed species for the Project area (USFWS, 2023);
- National Wetland Inventory (NWI, 2023);
- United States Department of Agriculture (USDA) Soils Mapper (USDA, 2023);
- Natural Resources Conservation Service (NRCS) Hydric Soils List for Nevada County (NRCS, 2023); and
- City of Grass Valley 2020 General Plan (Quad-Knopf, 1999).

Reconnaissance-level Biological Resources Field Survey

A reconnaissance-level biological field surveys were conducted on foot of the entire 3.51 acres making up the Sherwin Williams parcel and the parcel immediately adjacent to the east by Greg Matuzak, Principal Biologist with Greg Matuzak Environmental Consulting and a Qualified Biologist on the City of Grass Valley's list of such qualified biologists. The site visit and reconnaissance-level survey of the two parcels was initially conducted on September 19, 2023. A follow up site visit and reconnaissance-level survey of the two parcels was also conducted on November 2nd, 2023. A Photo Log is included in the attachments, which documents the parcels during the site visits and field surveys.

4.0 RESULTS

Environmental Setting

The 3.51 acres covering both parcels (Project area) lie in the Sierra Nevada foothills. The general topography of the subject parcel is characterized as relatively flat along the frontage to Nevada City Highway and sloping uphill gradually to the east and sometimes steeply towards the northern and eastern sections of the eastern parcel within the survey area. The eastern parcel appears to be terraced from previous grading such that the slope is steep and then relatively flat and then steep. The subject parcels are located in an area best characterized as a combination of non-native annual grassland and mixed conifer forest dominated by ponderosa pine and incense cedar trees. Ponderosa pines dominate the tree community along with scattered incense cedar trees throughout the subject parcel.

The subject parcels are located within a developed area of Nevada County; however, the subject parcels are adjacent to/nested within fragmented mixed conifer forest and annual grassland habitat. Directly north, south, east, and west of the subject parcels contain commercial and residential development, with larger, partially developed parcels and a more rural setting to the east of the subject parcels on the east side of SR 49/20. Nevada City Highway is located adjacent to the west along with the Fowler Center across the highway. Lumberjack's and the Honda Motorcycle dealership are located adjacent to the proposed Sherwin Williams site. Both Gates Place and SR 49 are located immediately along the southeastern and western borders of the subject parcels. Therefore, there is little potential for wildlife corridors, deer fawning areas, or potential for special-status wildlife or other species to occur within the parcels.

Drainage and Aquatic Resources

There are no streams or wetlands mapped under the National Wetland Inventory (NWI) within or immediately adjacent to the subject parcels (see attached NWI maps in the Appendix D with one zoomed into the site and another zoomed out to show a larger coverage area). The closest mapped wetlands and streams within the NWI include a stream to the north of the parcels, a stream on the eastern side of State Highway 49/20, and what appears to be a wetland where the existing developed Fowler Center is located to the of the west/southwest of the parcels.

The majority of the Project area drains to the southwest towards Nevada City Highway and enters into the City of Grass Valley stormwater system that flows underground before daylighting with Olympia Creek to the south of the Project area. Average elevation within the Project area is approximately 2,675 feet above mean sea level (MSL) with the highest elevation within the eastern section of the Project area

(approximately 2,705 feet above MSL) and with the lowest elevation within the southwestern section of the Project area along Nevada City Highway frontage (approximately 2,655 feet above MSL). In a straight line, the distance between the Nevada City Highway frontage within the Project area to the location of the daylighting of the City of Grass Valley stormwater system with Olympia Creek is approximately 0.5 miles.

Soil Types Mapped within the Project Area

Three soil types were identified within the subject parcels with Secca-Rock outcrop complex, 2 to 50 percent slopes soils being the dominant soil type within each parcel. However, within the Sherwin Williams parcel, the Secca-Rock outcrop complex, 2 to 50 percent slopes soil type covers the entirety of the 0.37-acre parcel except for a tiny area of cut and fill material along the frontage of the parcel with Nevada City Highway. Neither of these soil types are listed as hydric soils on the Nevada County NRCS Hydric Soils List. Hydric soils are considered wetland associated soils.

Within the eastern parcel, Alluvial land, clayey soils have been mapped and appear to associate with a drainage entering into the parcel from the northeast. Alluvial land, clayey soils are listed within the Nevada County NRCS Hydric Soils List, which could identify the soils within that section of the eastern parcel as containing potential soils that associate with wetlands. See the attached soils map in the attachments and the further discussion regarding the lack of jurisdictional drainages, streams, and wetlands within the subject parcels below.

Plant Communities

Plant communities have been classified based on the California Wildlife Habitat Relationships System developed by the California Department of Fish and Wildlife (CDFW). The CDFW also manages the California Natural Diversity Data Base (CNDDDB), which is a database inventory of the locations of rare and endangered plants, wildlife, and natural communities in California. A list of plants and wildlife documented during the field survey are attached in the Appendix of this BRA.

The dominant forested plant community within the subject parcels is Mixed Conifer Forest with a Ponderosa Pine and Incense Cedar Alliance. Within the large open areas within the subject parcels and dominating the proposed Project disturbance areas, non-native annual grassland is the dominant habitat type. Prior to the development of the Project area and removal of trees for such development, the mixed conifer forest habitat would have dominated both parcels similar to the undeveloped areas to the north, east, and west of the parcels. Within a majority of the two parcels, which contain a lack of trees and are dominated by open, cleared areas, the dominant habitat includes non-native annual grassland species.

Mixed Conifer Forest Habitat

A mixed conifer forest habitat, or Ponderosa pine-incense cedar Alliance (CDFG, 2010), comprises the forested vegetation community throughout the Project area. The understory is dominated by upland grasses and forbs, both native and non-native. The overall composite of plant species observed within the Project area during the September 19th and November 2nd, 2023 field surveys are identified in the attached appendices along with wildlife species observed (see Appendix E).

Mixed conifer forests can expand over broad ranges of topography and elevation and consist of a diverse assemblage of vegetation. The species within this alliance type create varying structures and spatial patterns. Tree species found in mixed conifer forests exhibit a wide range of tolerance to shade and low-impact fire. Water availability is a major driver of mixed conifer forest ecosystem distributions and conditions, as well as topography, soil (depth and texture), and solar insolation (Safford, 2013). In moisture limited forests, uncharacteristic increases in tree density commonly facilitate bark beetle (family Scolytinae), mistletoe (*Phoradendron* spp.), and root disease mortality. Additionally, mixed conifer forests have been significantly impacted by logging, fire suppression, gold mining, and population growth (Evans et al. 2011).

Non-Native Annual Grasslands

Non-native annual grassland species occur as the dominant habitat type within the open sections of the Project area. This habitat type is dominated by wild oats (*Avena fatua*), ripgut brome (*Bromus diandrus*), soft chess (*Bromus hordeaceus*), medusa head (*Taeniatherum caput medusae*), and filaree (*Erodium cicutarium*). Orchard grass (*Dactylis glomerata*), wild rye (*Elymus glaucus*), and tall fescue (*Festuca arundinacea*), among other native and non-native grasses, were also identified in these areas of the Project area. Non-native grasslands are known to out-compete native grasses and forbs throughout the valley and foothill regions. Given the heavy disturbance within the subject parcels and adjacent heavy development, the subject parcels contains a degraded annual grassland habitat that is dominated by non-native and invasive species.

Drainage Features and Riparian and Wetland Vegetation

Within the low-lying areas (small pockets where water collects during runoff) of the parcels, a sparse amount of rush or *Juncus* species was identified (representing less than 20% of vegetation within such small pockets). Common rush species associate can associate with wetlands; however, given the overall dominance by non-native grassland and other pasture species within the areas containing rush species, a prevalence and/or dominance of wetland associated vegetation was not identified within the proposed areas of development as part of the Sherwin Williams store and its

access and parking areas. Furthermore, the lack of indicators of hydric soils and wetland hydrology within the subject parcels and proposed areas of disturbance would be in concurrence with the NWI mapping attached that no wetlands occur within the subject parcels.

However, the drainage along the northern border of the Sherwin Williams site does contain some riparian and wetland associated species (willows and small area of cattails). Along the frontage of the site along Nevada City Highway the drainage is dominated by invasive, non-native Himalayan blackberry shrubs (*Rubus armeniacus*) before heading into the underground City of Grass Valley stormwater management system. The City of Grass Valley stormwater management system drains the surrounding areas underground to and through the Brunswick Basin area. To the south of the Brunswick Basin area is the location where much of the City of Grass Valley stormwater management system daylights at the southern side of Timberwood Drive. The outlet from the City of Grass Valley stormwater management system is located along the southern edge of the existing Glenbrook Shopping Center.

Overall, the drainage enters into the Sherwin Williams site from the eastern parcel and that water drains runoff from the northeast of the parcels through the eastern parcel and down the northern border of the Sherwin Williams parcel with the Honda dealer immediately adjacent to it to the north. This drainage along the northern border of the Sherwin Williams parcel is clearly manmade and not a natural drainage feature and was historically intended to manage stormwater and runoff into the City of Grass Valley stormwater management system (it connects directly into an inlet that connects underground with the pipes that transport the stormwater to the southern end of Brunswick Basin). The manmade drainage feature is not mapped as a stream or drainage within the attached Nevada County parcel maps (Appendix A), the NWI wetland maps (Appendix D), or the USDA soils map (Appendix C). The wetland associated vegetation within the drainage includes a small area of broad-leaved cattail (*Typha latifolia*) where there is a small dip in the drainage along with riparian willow species (*Salix sp.*) and dense Himalayan blackberry shrubs within and along the banks of the drainage.

See the attached City of Grass Valley Drainage Atlas sheets covering the parcels (particularly Atlas Pages H2 and H3, see Appendix D) as they identify the drainage inlets and drainage pipes that run along Nevada City Highway and along the frontage of the Sherwin Williams parcel. Apparently, water flows from the north (within underground pipes) and east (within the drainage located in the two parcels) and connects to the drainage inlet at the southwest corner of the Sherwin Williams parcel (see Photo Log in Appendix E). Then it heads along Nevada City Highway to the corner with Gates Place before heading towards the south underground within the City of Grass Valley stormwater management system towards Timberwood Drive along the southern edge

of the existing Glenbrook Shopping Center. At that point most of the drainage associated with Brunswick Basin and the City of Grass Valley stormwater management system daylights within what is known as Olympia Creek. In a straight line, the distance between the Nevada City Highway frontage within the Project area to the location of the daylighting of the City of Grass Valley stormwater system with Olympia Creek is approximately 0.5 miles.

Given the drainage from within the Project area connects directly with the City of Grass Valley stormwater management system and then flows underground towards Timberwood Drive along the southern edge of the existing Glenbrook Shopping Center before daylighting within what is known as Olympia Creek, the drainage area along the frontage with Nevada City Highway and along the northern edge of the Sherwin Williams Project area would not be regulated as a stream by CDFW. Additionally, the drainage along the northern border of the Sherwin Williams parcel and along Nevada City Highway would not be considered jurisdictional "waters of the U.S.," including wetlands by the Corps given the lack of connection upstream and downstream to other jurisdictional features that contain perennial aquatic resources with a direct connection to a navigable waterway.

As part of a previously proposed development project located within the southeastern section of Brunswick Basin along Brunswick Road, CDFW concurred in writing that the drainage and wetland vegetation running along the south side of Brunswick Road in front of the West America Bank and the adjacent parcel to the east of it would not be subject to a CDFW Streambed Alteration Agreement for impacts to the drainage area with wetland vegetation given it would not be regulated as a stream or wetlands area protected by the State of California. CDFW specifically stated that their findings were due to "the project taking place in the City storm water conveyance system." Stormwater conveyance and management systems are not regulated as streams or wetlands by the State of California or by any federal agency.

The intermittent or ephemeral drainage areas within the Project area would not meet the Corps criteria for being regulated under the Clean Water Act (CWA). The 2023 Updated Water of the United States (WOTUS) Rule reversed the 2020 ruling such that only perennial aquatic resources with documented connections to navigable waterways are currently regulated under the CWA (See Section 2.0 above under the Section 404 of the Clean Water Act for details). Therefore, the Project area does not contain any "waters of the U.S." including wetlands, given the lack of perennial streams and wetlands with a direct connection to a navigable waterway. Therefore, the Project area does not include any waters subject to regulation under the CWA. It is recommended in Section 5.0 below that the existing ephemeral drainage within the Project area be piped such that it connects with the inlet along Nevada City Highway that enters the underground City of Grass Valley Stormwater Management System.

Protected Trees by the City of Grass Valley

There are no heritage trees or street trees located within or directly adjacent to the subject parcel; however, the subject parcels do contain trees that meet the City of Grass Valley definition of a tree and some that meet the definition of a significant tree. As part of the tree removal process with the City of Grass Valley, a discussion with the City Planner should include whether a tree removal permit for any trees to be removed is required.

SPECIAL STATUS SPECIES

Special-status species were considered for this Biological Inventory is based on a current review of the California Natural Diversity Data Base (CNDDDB) and database information provided by the United States Fish and Wildlife Service for the subject parcel. The database searches did reveal twenty-two (22) species. Of these species, seven (7) of them are CNPS List 3 and 4 species and based on the California Environmental Quality Act (CEQA) Guidelines Section 15380 (see Section 2.0 above for details), which provides that only impacts to CNPS Ranks 1 and 2 species would therefore be considered "significant" requiring mitigation. Therefore, Project related impacts to CNPS List 3 and 4 species would not be considered "significant" and would not require mitigation measures to reduce a significant impact to less than significant. These species (CNPS List 3 and 4 species) are watchlist species and do not need to be discussed formally as part of any CEQA analysis. Impacts to CNPS List 3 and 4 species requiring mitigation lack any potential to be upheld in a legal finding that evaluates a level of significance under CEQA that would require mitigation for those species. CNPS is not a regulatory agency and therefore, only state and federal agencies have regulatory authority of special-status species.

See Appendix G for a list of special-status species previously identified within the Grass Valley USGS Quad where the proposed Project is located. None of these species was observed during field surveys. Additionally, there is no federally mapped Designated Critical Habitat (DCH) within the Project area (USFWS 2023 – see Appendix G). The following species are included in the BRA analysis for special-status species given they have at least a low likelihood of potentially occurring within the Project subject parcels based on habitat and previous documentation of such species in relation to the Project area (all other species have no likelihood of occurring within the Project area, see attached species list for all 22 species identified within the database searches):

- Brandegee's Clarkia (*Clarkia biloba ssp. brandegeae*) – California Native Plant Society List 4.2

- Sierra foothills brodieae (*Brodieae sierrae*) – California Native Plant Society List 4.3
- Scadden Flat Checkerbloom (*Sidalcea stipularis*) – Federally and CA State Endangered and California Native Plant Society List 1B.1
- Stebbins' morning-glory (*Calystegia stebbinsii*) – CA State and Federally Endangered and California Native Plant Society List 1B.1
- Pine Hill Flannelbush (*Fremontodendron decumbens*) – Federally Endangered and CA State Rare and California Native Plant Society List 1B.2
- Dubious Pea (*Lathyrus sulphureus* var. *argillaceus*) – California Native Plant Society List 3
- Finger Rush (*Juncus digitatus*) – California Native Plant Society List 1B.1
- Brownish Beaked-Rush (*Rhynchospora capitellata*) – California Native Plant Society List 2B.2
- California Black Rail (*Laterallus jamaicensis coturiculus*) – CA State Threatened
- Coast Horned Lizard (*Phrynosoma blainvillii*) – CA State Species of Concern
- Townsend's Big-eared Bat (*Corynorhinus townsendii*) – CA State Species of Concern
- Yellow Breasted Chat (*Icteria virens*) – CA State Species of Concern

Brandegee's Clarkia (*Clarkia biloba* ssp. *brandegeae*) – California Native Plant Society List 4.2

Brandegee's clarkia inhabits chaparral, cismontane woodland, and lower montane coniferous/mixed conifer forest habitats. It is most often found in road cuts between 75 and 915 meters above MSL. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. During the field surveys this species was not identified within the subject parcels and no suitable habitat for this species is located within the subject parcels. Given that this species is most likely found on or near road cuts on north facing slopes, the likelihood of this species occurring within the subject parcels is considered very low given the subject parcel does not include any road cuts.

Sierra Foothills Brodiaea (*Brodiaea sierrae*) – California Native Plant Society List 4.3

Sierra brodiaea is known to occur on serpentinite or gabbroic soils in chaparral, cismontane woodland, lower montane coniferous forests. It is known from Butte, Nevada and Yuba Counties at elevations ranging between 164 and 3,215 feet above MSL. It is potentially threatened by vehicles, road maintenance, widening, development, illegal dumping, horticultural collecting and hydrological alterations (CNPS 2023). Sierra brodiaea is a perennial bulb that blooms May through August. It is an herbaceous plant, with a broad umbel of purple, fluted flowers. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad; however, it was not identified within the Project area during the September and November 2023 surveys covering the two subject parcels. Given the lack of chaparral habitat as well as gabbroic and serpentine soils within the Project area, the likelihood of this species being located within the Project area is considered very low. Therefore, the development proposed within the subject parcels would have no impact on this species.

Scadden Flat Checkerbloom (*Sidalcea stipularis*) – Federally and CA State Endangered and California Native Plant Society List 1B.1

Scadden Flat checkerbloom inhabits marshes and swamps. It is found in wet montane marshes fed by springs, normally between 700 and 740 meters above MSL. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. The species was not identified during the field surveys and suitable habitat for this species does not occur within the subject parcels given that marsh and swamp habitat does not occur within the subject parcels. Therefore, the development proposed within the subject parcels would have no impact on this species.

Stebbins' morning glory (*Calystegia stebbinsii*) – CA State and Federally Endangered and California Native Plant Society List 1B.1

Stebbins' morning glory inhabits chaparral and cismontane woodland. It is found in red clay soils of the pine hill formation on gabbro or serpentine soils in open areas, normally between 980 and 4,330 feet above MSL. The blooming period for this species is April to July. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. Given the lack of chaparral habitat as well as gabbroic soils within the Project area, the likelihood of this species being located within the Project area is considered nil. Therefore, the development proposed within the subject parcels would have no impact on this species.

Pine Hill Flannelbush (*Fremontodendron decumbens*) – Federally Endangered and CA State Rare and California Native Plant Society List 1B.2

Pine Hill flannelbush inhabits rocky ridges on gabbro and serpentine soils within chaparral and cismontane woodlands. This species is endemic to these soil types and is normally documented between 425 and 760 meters above MSL. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. The species was not identified during the field surveys and suitable habitat for this species does not occur within the subject parcels given a lack of required soils and habitat for this species within the Project area. Therefore, the development proposed within the subject parcels would have no impact on this species.

Dubious Pea (*Lathyrus sulphureus* var. *argillaceus*) – California Native Plant Society List 3

Dubious pea inhabits lower and upper montane coniferous forest and cismontane woodlands, normally between 150 and 930 meters above MSL. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. However, the species was not identified during the field surveys and suitable habitat for this species is considered less than marginal within the subject parcels where the proposed development will occur given the high levels of disturbance and dominance of non-native annual grassland species present. Therefore, the development proposed within the subject parcels would have no impact on this species.

Finger Rush (*Juncus digitatus*) – California Native Plant Society List 1B.1

Finger rush inhabits open chaparral habitat surrounded by mixed oak/conifer woodland on low gradient, north-facing, and vernal moist slopes. This species also associates with sandy clay loam soil within substrates underlain by granitic bedrock. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. However, the species was not identified during the field surveys and suitable habitat for this species does not occur within the subject parcels. Therefore, the development proposed within the subject parcels would have no impact on this species.

Brownish Beaked-Rush (*Rhynchospora capitellata*) – California Native Plant Society List 2B.2

Brownish beaked-rush inhabits meadows and seeps, marshes and swamps, and it is found in upper and lower montane coniferous forests, normally between 45 and 2000 meters above MSL. This species is normally identified on mesic sites and has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. The species was not identified during the field surveys and suitable habitat

for this species does not occur within the Project area. Therefore, the development proposed within the subject parcels would have no impact on this species.

California Black Rail (*Laterallus jamaicensis coturiculus*) – CA State Threatened

California black rail inhabits freshwater marshes, wet meadows and shallow margins of saltwater marshes bordering larger bays. The species requires water depths of about 1 inch that does not fluctuate during the year and dense vegetation for nesting habitat. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. The species was not identified during the field surveys and suitable habitat for this species does not occur within the subject parcels. Therefore, the development proposed within the subject parcels would have no impact on this species.

Townsend's Big-eared Bat (*Corynorhinus townsendii*) – CA State Species of Concern

This species inhabits lower montane coniferous and mixed conifer forest habitats where abandoned buildings and structures occur for roosting. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. However, the species was not identified during the field surveys and suitable habitat for this species does not occur within the subject parcels given there are no abandoned structures within the subject parcels. Therefore, the proposed Project within the subject parcels would have no impact on this species.

Yellow-breasted Chat (*Icteria virens*) – CA State Species of Concern

This species inhabits riparian thickets of willow and other brushy tangles near waterways. The species generally nests in low, dense riparian, consisting of willow, blackberry, and wild grape, and it forages and nests within 10 feet of the ground. This species is a summer resident within the greater project area and has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. However, the species was not identified during the field surveys and suitable habitat for this species does not occur within the subject parcels given the lack of extensive, quality riparian habitat required for this species. The willows within the Project area are highly impacted due to site disturbance and adjacent development. Therefore, this species would not occur within the Project area and the proposed Project would have no impact on this species.

Coast Horned Lizard (*Phrynosoma blainvillii*) – CA State Species of Concern

The coast horned lizard occurs in open sandy areas, scattered low bushes, chaparral, manzanita, and oak woodland habitats. It is found in the Sierra Nevada foothills from Butte County to Kern County and throughout the central and southern California coast. Coast horned lizards forage on the ground in open areas, usually

between shrubs and often near ant nests. The species relies on camouflage for protection. Predators and extreme heat are avoided by burrowing into loose soil. Periods of inactivity and winter hibernation are spent burrowed in the soil under surface objects such as logs or rocks, in mammal burrows, or in crevices (Zeiner et al. 2000). They inhabit mostly open country, especially sandy areas, washes, flood plains and wind-blown deposits in a wide variety of habitats and can be found at elevations up to 8,000 feet (2,438 meters) (CaliforniaHerps, 2014).

There is a lack of potential suitable habitat within the subject parcels for the coast horned lizard given the lack of rockier and sandy areas that this species requires. The species has been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. Given the subject parcels do not contain open areas with scattered oak trees with rockier and sandy areas, it is not likely this species would occur within the subject parcels. No coast horned lizards were observed during the September or November 2023 site visits.

Foothill Yellow-legged Frog (*Rana boylei*) – Listed as Endangered under the CA ESA

Foothill yellow-legged frogs inhabit partly shaded, shallow streams and riffles with a rocky substrate in a variety of habitats. The species requires at least some cobble-sized substrate for egg laying. The species requires at least 15 weeks to attain metamorphosis. The species has not been documented within the list of CNDDDB species previously identified in the Grass Valley USGS Quad. However, this species has been previously identified to the north of the Project area within Deer Creek outside of Nevada City (documented within the Nevada City USGS Quad). The previously identified location is dated 1903 within the CNDDDB. However, this population of foothill yellow-legged frog is considered extirpated at this location and the species is not known from any other stream habitats near the Project area (CNDDDB 2023).

This species was not identified during the field surveys and suitable habitat for this species does not occur within or adjacent to the subject parcels given the lack of stream habitat within the subject parcels. No foothill yellow-legged frogs were observed during the site visits and surveys. Therefore, this species would not occur within the Project area and the proposed Project would have no impact on this species.

Nesting raptors and other migratory birds species - Protected under MBTA, Protected under CA State DFG Code Sections 3503, 3503.5, and 3800

There is a low potential for nesting raptors and other nesting migratory bird species protected under the MBTA to occur within the subject parcels given the high level of development and disturbance within and adjacent to the subject parcels and proposed Project area. The subject parcels represent degraded potential habitat for bird species protected under the MBTA, such as tree nesting species (raptors) and

ground nesting species like the spotted towhee (*Pipilo maculatus*) and dark-eyed junco (*Junco hyemalis*). However, active and inactive nests within and adjacent to the proposed areas to be developed within the subject parcels were not identified during field survey. If development within the subject parcels will occur during the nesting season for raptors and ground nesting MBTA protected birds (March 1st through August 31st), a pre-construction survey should be conducted if such development activities pose a risk to nest abandonment prior to the fledging of young from such nests.

Critical Deer Habitat

Known migratory deer ranges outlined in the Nevada County General Plan was reviewed for deer migration corridors, critical range, and critical fawning areas. The subject parcels are not located in any known major deer corridors, known deer holding areas, or critical deer fawning area. Per the Migratory Deer Ranges Nevada County General Plan map, the subject parcels are located in an area of potential Deer Winter Range. The field surveys did not record any observations of deer. The subject parcels do not contain any known major deer migration corridors, known deer holding areas, nor critical deer fawning areas given the high levels of disturbance and development within and adjacent to the subject parcels and proposed Project area. Therefore, the proposed development within the subject parcels would have no potential to impact sensitive deer habitat.

5.0 CONCLUSION

The subject parcels are located within an increasingly developed area of the City of Grass Valley and Nevada County. The subject parcels are located adjacent to/nested within fragmented Mixed Conifer Forest habitat with open areas being dominated by non-native annual grassland and invasive species. The 3.51 acres covering both parcels (Project area) lie within a developed area of Nevada County; however, the subject parcels are adjacent to/nested within fragmented mixed conifer forest and annual grassland habitat. Directly north, south, east, and west of the subject parcels contain commercial and residential development, with larger, partially developed parcels and a more rural setting to the east of the subject parcels on the east side of SR 49/20.

Nevada City Highway is located adjacent to the west along with the Fowler Center across the highway. Lumberjack's and the Honda Motorcycle dealership are located adjacent to the proposed Sherwin Williams site. Both Gates Place and SR 49 are located immediately along the southeastern and western borders of the subject parcels. There is little potential for wildlife corridors, deer fawning areas, or potential for special-status wildlife or other species to occur within the parcels. Therefore, the subject parcels are isolated and heavily disturbed and surrounded by commercial and residential development, so any site disturbance within the 3.51-acre Project area would have an overall low potential to impact sensitive wildlife and other biological resources given the low likelihood of such species to occur within the subject parcels and overall Project area.

Impacts Aquatic Resources

The proposed Project disturbance areas within the subject parcels do not contain any jurisdictional wetlands or "waters of the U.S." and they do not contain any stream or related riparian habitat that would be regulated by CDFW. The intermittent or ephemeral drainage areas within the Project area would not meet the Corps criteria for being regulated under the Clean Water Act (CWA). The 2023 Updated Water of the United States (WOTUS) Rule reversed the 2020 ruling such that only perennial aquatic resources with documented connections to navigable waterways are currently regulated under the CWA (See Section 2.0 above under the Section 404 of the Clean Water Act for details). Therefore, the Project area does not contain any "waters of the U.S." including wetlands, given the lack of perennial streams and wetlands with a direct connection to a navigable waterway. Therefore, the Project area does not include any waters subject to regulation under the CWA.

Furthermore, CDFW would not regulate the drainage areas within the two subject parcels given they are part of the City of Grass Valley Stormwater Management System and not defined as a regulated stream under the California Fish and Game

Code and by CDFW. It is recommended that the existing intermittent/ephemeral drainage within the Project area be piped such that it connects with the inlet along Nevada City Highway that enters the underground City of Grass Valley Stormwater Management System. This would minimize the potential impact of flooding or drainage issues within the Project area during years of high precipitation and runoff.

Therefore, in conclusion, impacts to or the complete removal of the existing drainage within the subject parcels would not be subject to any state or federal permitting jurisdiction. Additionally, given the drainage is not a regulated stream or wetland, Project related disturbance within 30 feet of the drainage area or the filling of the drainage area with a pipe connecting the drainage with the City of Grass Valley Stormwater Management System inlet along the frontage with Nevada City Highway would not require a Resources Management Plan per the City of Grass Valley Development Code 17.50 Creek and Riparian Resource Protection.

Impacts to Protected Nesting Birds

The subject parcels and trees within the subject parcels (see Photo Log in the appendices attached) contain marginal suitable habitat for nesting raptors and MBTA protected nesting bird species. The breeding season for most protected birds in the vicinity of the subject parcels is generally from March 1st to August 31st. Vegetation clearing or tree removal outside of the breeding season for such bird species would not require the implementation of any avoidance, minimization, or mitigation measures. However, construction or development activities during the breeding season could disturb or remove occupied nests of migratory birds or raptors and could require the implementation of a pre-construction survey within 250 feet of the disturbance area within the subject parcels for nesting migratory birds and raptors prior to development.

If any nesting raptors or migratory birds are identified during surveys, active nests should be avoided and a no-disturbance buffer should be established around the nesting site to avoid disturbance or destruction of the nest site until after the breeding season or after a wildlife biologist determines that the young have fledged. The extent of these buffers would be determined by a wildlife biologist and would depend on the special-status species present, the level of noise or construction disturbance, line of sight between the nest and the disturbance, ambient levels of noise and other disturbances, and other topographical or artificial barriers. These factors should be analyzed to make an appropriate decision on buffer distances.

Impacts to Special-Status Plants and Terrestrial Wildlife

Given the subject parcels are surrounded by commercial and residential development as well as the lack of required soil and habitat types for special-status plant and wildlife species previously recorded within the Grass Valley USGS Quad, there is a very low potential for such special-status plant and wildlife species to occur within

the subject parcels. Furthermore, suitable habitat for species listed under the federal and State of California Endangered Species Acts (ESAs) is not located within the subject parcels and proposed areas of disturbance. Therefore, no threatened or endangered species would occur within the Project area and would not be impacted by site development.

Known occurrences of special-status plants and wildlife have been documented and listed within the Grass Valley USGS Quad (see Appendix G) where the Project area is located; however, the Project area does not contain suitable habitat for any known special-status species, including CNPS List 3 and List 4 species that are watch list species and would not require mitigation if they were to be impacted by site development. Though the Project area contains marginal suitable habitat for the coast horned lizard, Brandegees's clarkia (CNPS List 4.2 species), and Dubious pea (CNPS List 3 species), none of these species is listed as threatened or endangered and the level of development and disturbance within and surrounding the Project area would greatly limit any chance of these or any other sensitive species from being located within the subject parcels. Furthermore and as stated within this BRA, CNPS List 3 and List 4 species impacts are not considered "significant" and therefore, would not require mitigation if they were impacted by the Project related disturbance.

Given the lack of such suitable habitat for special-status plant and wildlife species, the proposed development within the subject parcels would have no impact on any special-status species or sensitive habitats. Specifically, the proposed Project would have no potential to impact endangered, rare, or otherwise threatened species or their habitat since the level of disturbance within the Project area is considered high and suitable habitat for such species is not available within the Project area.

Impacts to Tree Resources

Based on site specific field survey, the subject parcels do not contain any heritage trees or street trees as defined by the City of Grass Valley. However, the subject parcels do contain trees and significant trees as defined by the City of Grass Valley Tree Ordinance. A DBH of greater than 24 inches defines a tree as a Significant Trees and a tree with a DBH between 10 and 24 inches defines them as Trees under the City of Grass Valley Municipal Code 12.36. A Tree Removal Permit would be required for the removal of any native tree that is 10 inches or greater in diameter at breast height within the subject parcels. As part of any tree removal process with the City of Grass Valley, a discussion with the City Planner should include whether a tree removal permit for any trees to be removed is required as part of the proposed development within the subject parcels.

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Appendix A

Parcel Reports



County of Nevada

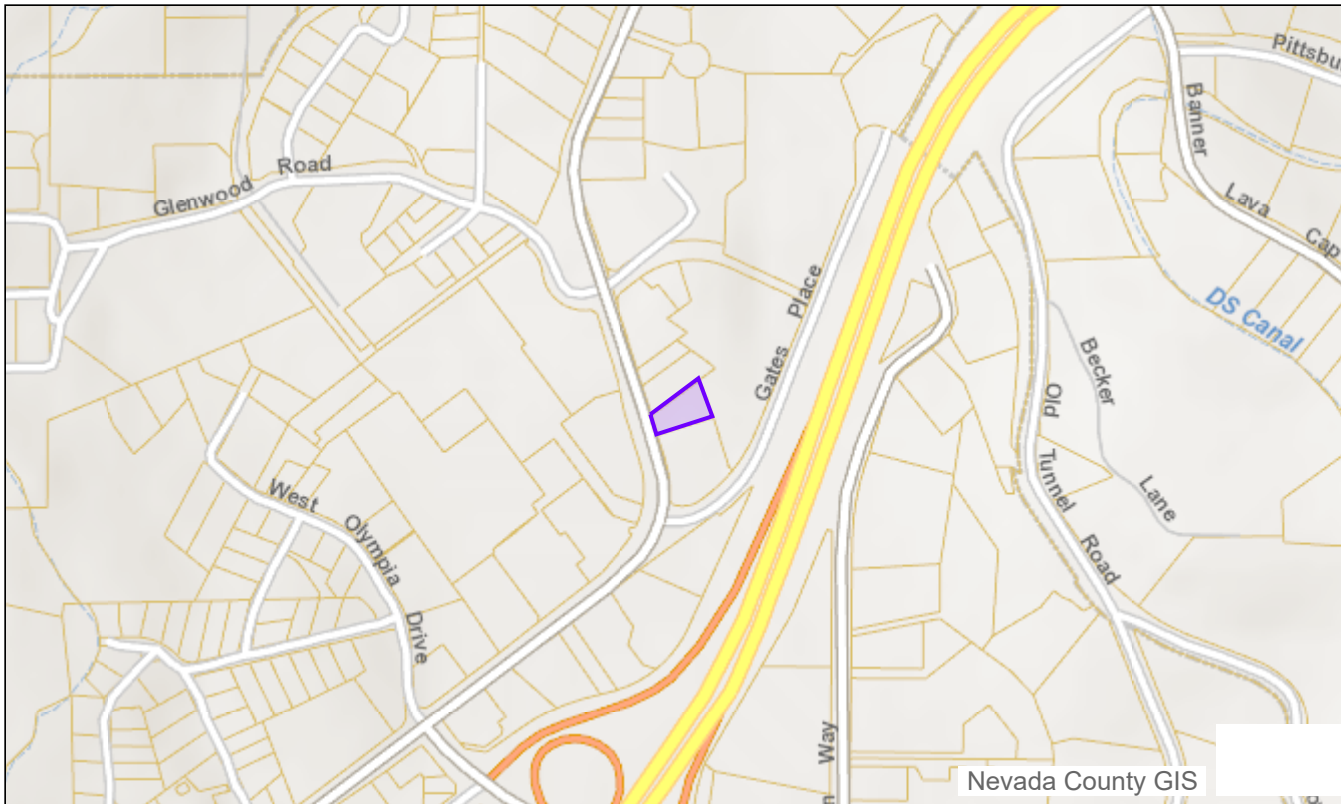
Nevada County, CA Parcel Report
Data current as of: 9/18/2023

Description: The Parcel Report displays information from a variety of sources – Assessor, Building, Code Enforcement, Environmental Health, and Planning departments to list a few. The report is maintained by the County GIS Division.

Search by Assessor's Parcel Number (APN):

035-600-007-000

Search



[View Assessor's Parcel Map PDF](#)

[Site Information](#)

[Property Details](#)

[Districts](#)

[Permits](#)

[Unrecorded Maps](#)

Site Address

N/A

Jurisdiction

GRASS VALLEY CITY

Legal Description

PTN NW 1/4 24-16-8 RS 12-25

Property Summary

| Assessor's Parcel Number | Acreage | Land Value | Improvement Value | Tax Rate Area |
|---------------------------------|---------|-------------|-------------------|-------------------------|
| 035-600-007-000 | 0.37 | \$13,022.00 | \$0.00 | 001-056 |

Property Context

| Zoning | Zoning District Map | General Plan | Census Tract | Census Block Group | Max Elevation | Ground Snow Load (lbs/sqft) | Climate Zone | Wind Exposure |
|---|---------------------|---|----------------------|--------------------|---------------|-----------------------------|--------------------|-------------------|
| C-2 GVCity | 52c | C GVCity | 5.01 | 2 | 2,667 | 49 | 11 | C |



County of Nevada

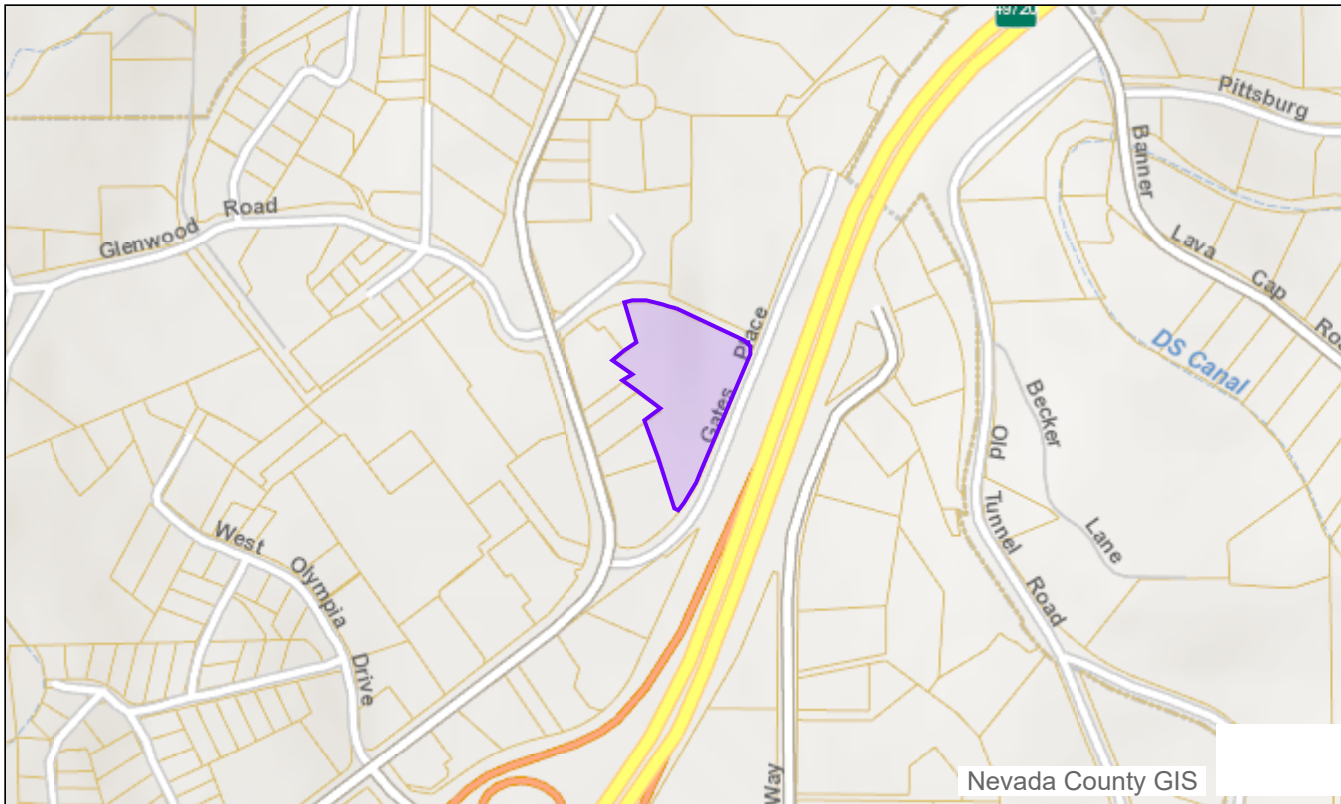
Nevada County, CA Parcel Report
Data current as of: 9/18/2023

Description: The Parcel Report displays information from a variety of sources – Assessor, Building, Code Enforcement, Environmental Health, and Planning departments to list a few. The report is maintained by the County GIS Division.

Search by Assessor's Parcel Number (APN):

035-600-004-000

Search



[View Assessor's Parcel Map PDF](#)

[Site Information](#)

[Property Details](#)

[Districts](#)

[Permits](#)

[Unrecorded Maps](#)

Site Address

N/A

Jurisdiction

GRASS VALLEY CITY

Legal Description

PTN NW 1/4 24-16-8 RS 12-25

Property Summary

| Assessor's Parcel Number | Acreage | Land Value | Improvement Value | Tax Rate Area |
|---------------------------------|---------|--------------|-------------------|-------------------------|
| 035-600-004-000 | 3.14 | \$101,256.00 | \$0.00 | 001-056 |

Property Context

| Zoning | Zoning District Map | General Plan | Census Tract | Census Block Group | Max Elevation | Ground Snow Load (lbs/sqft) | Climate Zone | Wind Exposure |
|---|---------------------|--|----------------------|--------------------|---------------|-----------------------------|--------------------|-------------------|
| CBP GVCity | 52c | BP GVCity | 5.01 | 2 | 2,703 | 51 | 11 | C |

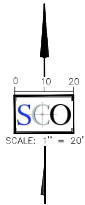
Appendix B

Site Plan



LEGEND

- PROPERTY LINE
- WATER LINE PIPE (SIZE AS NOTED)
- STORM DRAIN PIPE
- SEWER LINE (SIZE AS NOTED)
- GAS LINE (SIZE AS NOTED)
- JOINT TRENCH (DRY UTILITIES)
- ELECTRIC LINE
- FENCE LINE
- FLOW LINE
- DOUBLE WATER SERVICE (W-71.1, SHEET 8.4)
- SINGLE WATER SERVICE (W-70.1, SHEET 8.4)
- FIRE HYDRANT
- DRAINAGE INLET
- STORM DRAIN MANHOLE
- 4" SINGLE SEWER LATERAL CLEAN OUT TO GRADE (ST)
- SEWER TRANSFORMER
- ELECTRIC TRANSFORMER
- COMMUNICATION BOX
- ROADWAY SECTION DELINEATION, SEE SECTION DETAILS
- SIGN
- CONCRETE HARDSCAPE
- ASPHALT PAVEMENT



SITE INFORMATION:

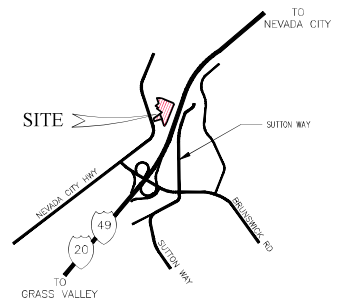
PROPERTY ADDRESS
 NENADA CITY HIGHWAY GATES PLACE
 GRASS VALLEY, CA 95945

OWNER
 PENDOLA ENTERPRISES INC
 P.O.B. 1307
 GRASS VALLEY, CA 95945

MAP PREPARED BY
 SDD PLANNING & ENGINEERING, INC.
 140 LITTON DRIVE, SUITE 240
 GRASS VALLEY, CA 95945
 (530) 272-5841
 CONTACT: MARTIN MOSEL, P.L.S.
 025-603-014; -037

ASSESSOR'S PARCEL NUMBER
 025-603-014-037

LOT AREA
 314 AC, 0.37 AC



VICINITY MAP
 NO SCALE

| | |
|----------------------|---------------|
| DESIGNED: MCM / NJB | DATE |
| DRAWN: MCM | NO. REVISIONS |
| PROJ. NO.: 202345 | |
| DATE: NOVEMBER, 2023 | |
| DWG. SEE DAY STAMP | |

| | |
|-----|-----------|
| NO. | REVISIONS |
| | |
| | |
| | |

CALIFORNIA

SITE PLAN
 SHERWIN WILLIAMS
 PRELIMINARY SITE PLAN

TOWN/CITY/COUNTY



GRASS VALLEY
 (800) 876-6844
 95945
 (530) 582-4045

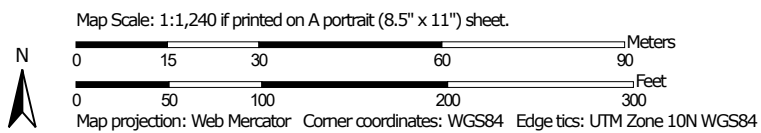


C1.0

Appendix C


USDA Soils Map

Soil Map—Nevada County Area, California



MAP LEGEND

Area of Interest (AOI)

 Area of Interest (AOI)

Soils

 Soil Map Unit Polygons

 Soil Map Unit Lines

 Soil Map Unit Points

Special Point Features



Blowout



Borrow Pit



Clay Spot



Closed Depression



Gravel Pit



Gravelly Spot



Landfill



Lava Flow



Marsh or swamp



Mine or Quarry



Miscellaneous Water



Perennial Water



Rock Outcrop



Saline Spot



Sandy Spot



Severely Eroded Spot



Sinkhole



Slide or Slip



Sodic Spot



Spoil Area



Stony Spot



Very Stony Spot



Wet Spot



Other



Special Line Features

Water Features



Streams and Canals

Transportation



Rails



Interstate Highways



US Routes



Major Roads



Local Roads

Background



Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service

Web Soil Survey URL:

Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Nevada County Area, California

Survey Area Data: Version 15, Sep 1, 2022

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Oct 2, 2022—Oct 3, 2022

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

| Map Unit Symbol | Map Unit Name | Acres in AOI | Percent of AOI |
|------------------------------------|---|--------------|----------------|
| Ao | Alluvial land, clayey | 0.6 | 16.0% |
| Ct | Cut and fill land | 0.0 | 0.4% |
| ScE | Secca-Rock outcrop complex, 2 to 50 percent slopes | 3.3 | 83.6% |
| Totals for Area of Interest | | 4.0 | 100.0% |

Appendix D

National Wetland Inventory Database Maps and City of Grass Valley Drainage Atlas



September 18, 2023

Wetlands

- Estuarine and Marine Deepwater
- Freshwater Emergent Wetland
- Lake
- Freshwater Forested/Shrub Wetland
- Freshwater Pond
- Other
- Riverine

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.



September 18, 2023

Wetlands

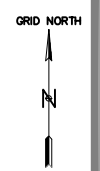
- | | | |
|--------------------------------|-----------------------------------|----------|
| Estuarine and Marine Deepwater | Freshwater Emergent Wetland | Lake |
| Estuarine and Marine Wetland | Freshwater Forested/Shrub Wetland | Other |
| | Freshwater Pond | Riverine |

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.



MATCH TO SHEET G2

MATCH TO SHEET H3



LEGEND

- OPEN DRAINAGE CHANNEL
- HEADWALL
- RETAINING WALL
- GUARD RAIL
- PAVED ROAD
- DIRT ROAD
- DRAINAGE MANHOLE
- DRAIN INLET
- OPEN PIPE
- DRAINAGE PIPE

REVISIONS

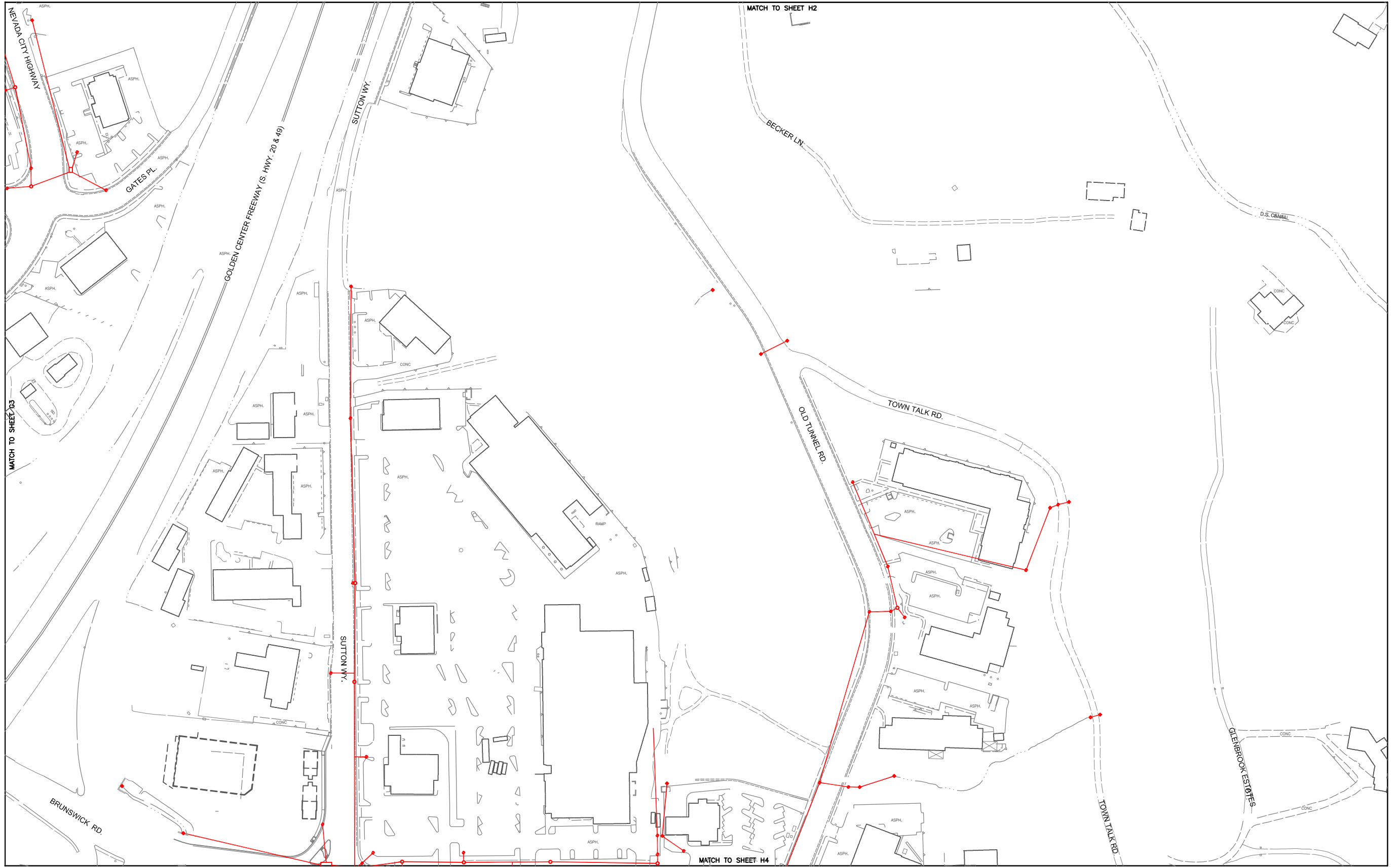
| Description | Date | By | Approved |
|-------------|------|----|----------|
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| | | | |
| | | | |



CITY of GRASS VALLEY
DRAINAGE ATLAS

SCALE
N.T.S.

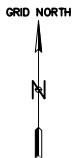
SHEET **H2**
DWG. NO. 1327



MATCH TO SHEET G3

MATCH TO SHEET H2

MATCH TO SHEET H4

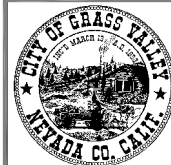


LEGEND

- OPEN DRAINAGE CHANNEL
- HEADWALL
- RETAINING WALL
- GUARD RAIL
- PAVED ROAD
- DIRT ROAD
- DRAINAGE MANHOLE
- DRAIN INLET
- OPEN PIPE
- DRAINAGE PIPE

REVISIONS

| Description | Date | By | Approved |
|-------------|------|----|----------|
| | | | |
| | | | |
| | | | |
| | | | |



CITY of GRASS VALLEY
DRAINAGE ATLAS

SCALE
N.T.S.

SHEET **H3**

DWG. NO. 1327



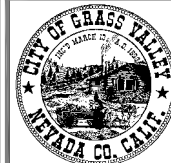
LEGEND

- OPEN DRAINAGE CHANNEL
- HEADWALL
- RETAINING WALL
- GUARD RAIL
- PAVED ROAD
- DIRT ROAD

- DRAINAGE MANHOLE
- DRAIN INLET
- OPEN PIPE
- DRAINAGE PIPE

REVISIONS

| Description | Date | By | Approved |
|-------------|------|----|----------|
| | | | |
| | | | |
| | | | |



CITY of GRASS VALLEY
DRAINAGE ATLAS

SCALE
 N.T.S.

SHEET **G2**
 DWG. NO. 1327

**Appendix E: Plant and Wildlife Species Observed during the Survey of the Subject
Parcels on September 19th and November 2nd, 2023, Grass Valley, California**

| Common Name | Scientific Name | Species Status |
|----------------------------|------------------------------|--------------------------------|
| Plants | | |
| wild oats | <i>Avena</i> spp. | Not FESA, CESA, or CNPS listed |
| brome spp. | <i>Bromus</i> spp. | Not FESA, CESA, or CNPS listed |
| buttercup spp. | <i>Ranunculus</i> spp. | Not FESA, CESA, or CNPS listed |
| California wild rose | <i>Rosa californica</i> | Not FESA, CESA, or CNPS listed |
| California black oak | <i>Quercus kelloggii</i> | Not FESA, CESA, or CNPS listed |
| greenleaf Manzanita | <i>Arctostaphylos patula</i> | Not FESA, CESA, or CNPS listed |
| common mouse ear chickweed | <i>Cerastium fontanum</i> | Not FESA, CESA, or CNPS listed |
| common mullein | <i>Verbascum Thapsus</i> | Not FESA, CESA, or CNPS listed |
| common mustard | <i>Brassica rapa</i> | Not FESA, CESA, or CNPS listed |
| common periwinkle | <i>Vinca minor</i> | Not FESA, CESA, or CNPS listed |
| common sheep sorrel | <i>Rumex acetocella</i> | Not FESA, CESA, or CNPS listed |
| cyptanth spp. | <i>Cryptantha</i> spp. | Not FESA, CESA, or CNPS listed |
| dandelion spp. | <i>Agoseris</i> spp. | Not FESA, CESA, or CNPS listed |
| English plantain | <i>Plantago lanceolate</i> | Not FESA, CESA, or CNPS listed |
| everlasting pea | <i>Lathyrus latifolius</i> | Not FESA, CESA, or CNPS listed |
| honeysuckle spp. | <i>Lonicera</i> spp. | Not FESA, CESA, or CNPS listed |

| Common Name | Scientific Name | Species Status |
|-------------------------------|------------------------------|--------------------------------|
| incense cedar | <i>Calocedrus decurrens</i> | Not FESA, CESA, or CNPS listed |
| interior live oak | <i>Quercus wislizeni</i> | Not FESA, CESA, or CNPS listed |
| iris spp. | <i>Iris</i> spp. | Not FESA, CESA, or CNPS listed |
| mountain misery | <i>Chamaebatia foliolosa</i> | Not FESA, CESA, or CNPS listed |
| mountain violet | <i>Viola purpurea</i> | Not FESA, CESA, or CNPS listed |
| ponderosa pine | <i>Pinus ponderosa</i> | Not FESA, CESA, or CNPS listed |
| ripgut brome | <i>Bromus diandrus</i> | Not FESA, CESA, or CNPS listed |
| rush spp. | <i>Juncus</i> spp. | Not FESA, CESA, or CNPS listed |
| Himalayan blackberry | <i>Rubus armeniacus</i> | Not FESA, CESA, or CNPS listed |
| St. John's wort; Klamath weed | <i>Hypericum perforatum</i> | Not FESA, CESA, or CNPS listed |
| shamrock clover | <i>Trifolium dubium</i> | Not FESA, CESA, or CNPS listed |
| stork's bill spp. | <i>Erodium</i> spp. | Not FESA, CESA, or CNPS listed |
| cattail spp. | <i>Typha</i> spp. | Not FESA, CESA, or CNPS listed |
| willow spp. | <i>Salix</i> spp. | Not FESA, CESA, or CNPS listed |

| Common Name | Scientific Name | Species Status |
|--------------------|-------------------------------|--|
| Birds | | |
| American robin | <i>Turdus migratorius</i> | <i>Not CESA or FESA listed. Migratory (active nests protected)</i> |
| dark-eyed junco | <i>Junco hyemalis</i> | <i>Not CESA or FESA listed. Migratory (active nests protected)</i> |
| house finch | <i>Haemorhous mexicanus</i> | <i>Not CESA or FESA listed. Migratory (active nests protected)</i> |
| mourning dove | <i>Zenaida macroura</i> | <i>Not CESA or FESA listed. Migratory (active nests protected)</i> |
| northern flicker | <i>Colaptes auratus</i> | <i>Not CESA or FESA listed. Migratory (active nests protected)</i> |
| turkey vulture | <i>Cathartes aura</i> | <i>Not CESA or FESA listed. Migratory (active nests protected)</i> |
| western scrub-jay | <i>Aphelocoma californica</i> | <i>Not CESA or FESA listed. Migratory (active nests protected)</i> |

Appendix F

Photo Log

Photo Log of the Project Area on September 19th and November 2nd, 2023



Photo 1: Frontage of the Sherwin Williams Project area to the right looking north along Nevada City Highway. A drainage runs along the frontage of the parcel, but it is not regulated by local, state, or federal jurisdictions given it connects directly underground to the City of Grass Valley stormwater management system.



Photo 2: Frontage of the Sherwin Williams Project area looking east from Nevada City Highway with the existing Lumberjack's driveway to the right. A drainage runs along the frontage of the parcel and goes underground at this corner.



Photo 3: Northwest corner the Project area looking east along a drainage channel with the motorcycle dealer to the left. Survey area is dominated by non-native annual grassland with some scattered pine and oak trees along with the drainage.



Photo 4: Central section of the Sherwin Williams parcel dominated by non-native grassland species and the drainage to the right dominated by blackberry shrubs.



Photo 5: Photo looking SW into the Sherwin Williams site to the right with the Lumberjack's eatery adjacent in the distance. Proposed store to be located within an area dominated by non-native annual grassland.



Photo 6: Gates Place is located to the left and a proposed access into the Sherwin Williams store site would be within this area of the adjacent parcel, which is also dominated by non-native grassland species and mixed native trees.



Photo 7: Photo of adjacent parcel to the east of the Sherwin Williams parcel. Drainage area comes from the northeast along northern boundary of the Sherwin Williams parcel.



Photo 8: Existing culverted drain to the east of the Lumberjack's back parking area. The drainage within the site leaves in culverts and ends up underground within the City's stormwater management system before daylighting at Olympia Creek to the south.



Photo 9: Photo looking west along Gates Place with the survey/Project area to the right. State Highway 49/20 is to the left. A proposed entrance into the survey area is proposed off of Gates Place to connect with the Sherwin Williams store and parking area.



Photo 10: Looking towards the eastern section of the survey area with Gates Place to the right. Non-native annual grasses dominate the survey area with some ponderosa pines.



Photo 11: Eastern section of the survey area also dominated by annual grassland species with native oak and pine trees. Drainage enters the Sherwin Williams site from the northeast and from runoff from the sloped areas to the east.



Photo 12: From the eastern parcel looking west into the Sherwin Williams parcel to the right. Open area dominated with non-native grassland species and a drainage along the northern boundary (right edge) of the Sherwin Williams parcel.

Appendix G

CNDDDB Grass Valley USGS Quad List and USFWS iPac Report

| Element_Type | Scientific_Name | Common_Name | Element_Code | Federal_Status | State_Status | CDFW_Status | CA_Rare_Plant_Rank | Quad_Code | Quad_Name | Data_Status | Taxonomic_Sc |
|--------------------|-------------------------------------|--------------------------|--------------|----------------|--------------|-------------|--------------------|-----------|--------------|------------------------|--|
| Animals - Birds | Icteria virens | yellow-breasted chat | ABPBX24010 | None | None | SSC | - | 3912121 | GRASS VALLEY | Mapped | Animals - Birds Icteriidae - Icteria virens |
| Animals - Birds | Setophaga petechia | yellow warbler | ABPBX03010 | None | None | SSC | - | 3912121 | GRASS VALLEY | Unprocessed | Animals - Birds Parulidae - Setophaga petechia |
| Animals - Birds | Laterallus jamaicensis coturniculus | California black rail | ABNME03041 | None | Threatened | FP | - | 3912121 | GRASS VALLEY | Mapped | Animals - Birds Rallidae - Laterallus jamaicensis coturniculus |
| Animals - Birds | Strix occidentalis occidentalis | California Spotted Owl | ABNSB12013 | None | None | SSC | - | 3912121 | GRASS VALLEY | Mapped | Animals - Birds Strigidae - Strix occidentalis occidentalis |
| Animals - Birds | Contopus cooperi | olive-sided flycatcher | ABPAE32010 | None | None | SSC | - | 3912121 | GRASS VALLEY | Unprocessed | Animals - Birds Tyrannidae - Contopus cooperi |
| Animals - Birds | Empidonax traillii | willow flycatcher | ABPAE33040 | None | Endangered | - | - | 3912121 | GRASS VALLEY | Unprocessed | Animals - Birds Tyrannidae - Empidonax traillii |
| Animals - Mammals | Corynorhinus townsendii | Townsend's big-eared bat | AMACC08010 | None | None | SSC | - | 3912121 | GRASS VALLEY | Mapped | Animals - Mammals Vespertilionidae Corynorhinus townsendii |
| Animals - Reptiles | Emys marmorata | western pond turtle | ARAAD02030 | None | None | SSC | - | 3912121 | GRASS VALLEY | Unprocessed | Animals - Reptiles Emydidae - Emys marmorata |
| Animals - Reptiles | Phrynosoma blainvillii | coast horned lizard | ARACF12100 | None | None | SSC | - | 3912121 | GRASS VALLEY | Mapped and Unprocessed | Animals - Reptiles Phrynosomatidae - Phrynosoma blainvillii |
| Plants - Vascular | Allium sanbornii var. sanbornii | Sanborns onion | PMLIL02212 | None | None | - | 4.2 | 3912121 | GRASS VALLEY | Unprocessed | Plants - Vascular - Alliaceae - Allium sanbornii var. sanbornii |
| Plants - Vascular | Perideridia bacigalupii | Bacigalupis yampah | PDAPI1N020 | None | None | - | 4.2 | 3912121 | GRASS VALLEY | Unprocessed | Plants - Vascular - Apiaceae - Perideridia bacigalupii |
| Plants - Vascular | Calystegia stebbinsii | Stebbins morning-glory | PDCON040H0 | Endangered | Endangered | - | 1B.1 | 3912121 | GRASS VALLEY | Mapped and Unprocessed | Plants - Vascular - Convolvulaceae - Calystegia stebbinsii |
| Plants - Vascular | Carex xerophila | chaparral sedge | PMCYP03M60 | None | None | - | 1B.2 | 3912121 | GRASS VALLEY | Mapped and Unprocessed | Plants - Vascular - Cyperaceae - Carex xerophila |
| Plants - Vascular | Rhynchospora capitellata | brownish beaked-rush | PMCYP0N080 | None | None | - | 2B.2 | 3912121 | GRASS VALLEY | Mapped | Plants - Vascular - Cyperaceae - Rhynchospora capitellata |

| | | | | | | | | | | | |
|-------------------|--------------------------------------|---------------------------|------------|------------|------------|---|------|---------|--------------|------------------------|---|
| Plants - Vascular | Arctostaphylos mewukka ssp. truei | Trues manzanita | PDERI040Q2 | None | None | - | 4.2 | 3912121 | GRASS VALLEY | Unprocessed | Plants - Vascular - Ericaceae - Arctostaphylos mewukka ssp. truei |
| Plants - Vascular | Lathyrus sulphureus var. argillaceus | dubious pea | PDFAB25101 | None | None | - | 3 | 3912121 | GRASS VALLEY | Mapped | Plants - Vascular - Fabaceae - Lathyrus sulphureus var. argillaceus |
| Plants - Vascular | Juncus digitatus | finger rush | PMJUN013E0 | None | None | - | 1B.1 | 3912121 | GRASS VALLEY | Mapped and Unprocessed | Plants - Vascular - Juncaceae - Juncus digitatus |
| Plants - Vascular | Lilium humboldtii ssp. humboldtii | Humboldt lily | PMLIL1A071 | None | None | - | 4.2 | 3912121 | GRASS VALLEY | Unprocessed | Plants - Vascular - Liliaceae - Lilium humboldtii ssp. humboldtii |
| Plants - Vascular | Fremontodendron decumbens | Pine Hill flannelbush | PDSTE03030 | Endangered | Rare | - | 1B.2 | 3912121 | GRASS VALLEY | Mapped | Plants - Vascular - Malvaceae - Fremontodendron decumbens |
| Plants - Vascular | Sidalcea stipularis | Scadden Flat checkerbloom | PDMAL110R0 | None | Endangered | - | 1B.1 | 3912121 | GRASS VALLEY | Mapped | Plants - Vascular - Malvaceae - Sidalcea stipularis |
| Plants - Vascular | Clarkia biloba ssp. brandegeae | Brandegees clarkia | PDONA05053 | None | None | - | 4.2 | 3912121 | GRASS VALLEY | Mapped and Unprocessed | Plants - Vascular - Onagraceae - Clarkia biloba ssp. brandegeae |
| Plants - Vascular | Brodiaea sierrae | Sierra foothills brodiaea | PMLIL0C0J0 | None | None | - | 4.3 | 3912121 | GRASS VALLEY | Unprocessed | Plants - Vascular - Themidaceae - Brodiaea sierrae |

IPaC resource list

This report is an automatic report (trust resources) under the project area related to the project area.

IPaC is experiencing an issue that prevents official species lists and determination key letters from generating. We are working on the issue and hope to have it resolved soon.



actively referred to as a project area, but that could potentially be directly or indirectly affected by activities in the project area. However, determining the likelihood and extent of effects a project may have on trust resources typically requires gathering additional site-specific (e.g., vegetation/species surveys) and project-specific (e.g., magnitude and timing of proposed activities) information.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Below is a summary of the project information you provided and contact information for the USFWS office(s) with jurisdiction in the defined project area. Please read the introduction to each section that follows (Endangered Species, Migratory Birds, USFWS Facilities, and NWI Wetlands) for additional information applicable to the trust resources addressed in that section.

Location

Nevada County, California



Local office

Sacramento Fish And Wildlife Office

☎ (916) 414-6600

📅 (916) 414-6713

Federal Building

2800 Cottage Way, Room W-2605

Sacramento, CA 95825-1846

NOT FOR CONSULTATION

Endangered species

This resource list is for informational purposes only and does not constitute an analysis of project level impacts.

The primary information used to generate this list is the known or expected range of each species. Additional areas of influence (AOI) for species are also considered. An AOI includes areas outside of the species range if the species could be indirectly affected by activities in that area (e.g., placing a dam upstream of a fish population even if that fish does not occur at the dam site, may indirectly impact the species by reducing or eliminating water flow downstream). Because species can move, and site conditions can change, the species on this list are not guaranteed to be found on or near the project area. To fully determine any potential effects to species, additional site-specific and project-specific information is often required.

Section 7 of the Endangered Species Act **requires** Federal agencies to "request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action" for any project that is conducted, permitted, funded, or licensed by any Federal agency. A letter from the local office and a species list which fulfills this requirement can **only** be obtained by requesting an official species list from either the Regulatory Review section in IPaC (see directions below) or from the local field office directly.

For project evaluations that require USFWS concurrence/review, please return to the IPaC website and request an official species list by doing the following:

1. Draw the project location and click CONTINUE.
2. Click DEFINE PROJECT.
3. Log in (if directed to do so).
4. Provide a name and description for your project.
5. Click REQUEST SPECIES LIST.

Listed species¹ and their critical habitats are managed by the [Ecological Services Program](#) of the U.S. Fish and Wildlife Service (USFWS) and the fisheries division of the National Oceanic and Atmospheric Administration (NOAA Fisheries²).

Species and critical habitats under the sole responsibility of NOAA Fisheries are **not** shown on this list. Please contact [NOAA Fisheries](#) for [species under their jurisdiction](#).

1. Species listed under the Endangered Species Act are threatened or endangered; IPaC also shows species that are candidates, or proposed, for listing. See the [listing status page](#) for more information. IPaC only shows species that are regulated by USFWS (see FAQ).
2. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

The following species are potentially affected by activities in this location:

Birds

| NAME | STATUS |
|---|---------------------|
| California Spotted Owl <i>Strix occidentalis occidentalis</i> No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/7266 | Proposed Threatened |

Amphibians

| NAME | STATUS |
|--|------------|
| California Red-legged Frog <i>Rana draytonii</i> Wherever found There is final critical habitat for this species. Your location does not overlap the critical habitat. https://ecos.fws.gov/ecp/species/2891 | Threatened |

Insects

| NAME | STATUS |
|---|-----------|
| Monarch Butterfly <i>Danaus plexippus</i> Wherever found No critical habitat has been designated for this species. https://ecos.fws.gov/ecp/species/9743 | Candidate |

Flowering Plants

| NAME | STATUS |
|--|------------|
| <p>Pine Hill Flannelbush <i>Fremontodendron californicum</i> ssp. <i>decumbens</i></p> <p>Wherever found</p> <p>No critical habitat has been designated for this species.</p> <p>https://ecos.fws.gov/ecp/species/4818</p> | Endangered |
| <p>Stebbins' Morning-glory <i>Calystegia stebbinsii</i></p> <p>Wherever found</p> <p>No critical habitat has been designated for this species.</p> <p>https://ecos.fws.gov/ecp/species/3991</p> | Endangered |

Critical habitats

Potential effects to critical habitat(s) in this location must be analyzed along with the endangered species themselves.

There are no critical habitats at this location.

You are still required to determine if your project(s) may have effects on all above listed species.

Bald & Golden Eagles

Bald and golden eagles are protected under the Bald and Golden Eagle Protection Act¹ and the Migratory Bird Treaty Act².

Any person or organization who plans or conducts activities that may result in impacts to bald or golden eagles, or their habitats³, should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

There are bald and/or golden eagles in your project area.

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

| NAME | BREEDING SEASON |
|---|-------------------------------|
| <p>Bald Eagle <i>Haliaeetus leucocephalus</i></p> <p>This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities.</p> | <p>Breeds Jan 1 to Aug 31</p> |

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

To see a bar's survey effort range, simply hover your mouse cursor over the bar.

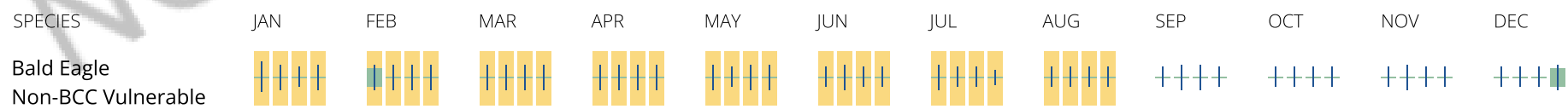
No Data (—)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.

■ probability of presence ■ breeding season | survey effort — no data



What does IPaC use to generate the potential presence of bald and golden eagles in my specified location?

The potential for eagle presence is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply). To see a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What does IPaC use to generate the probability of presence graphs of bald and golden eagles in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to obtain a permit to avoid violating the [Eagle Act](#) should such impacts occur. Please contact your local Fish and Wildlife Service Field Office if you have questions.

Migratory birds

Certain birds are protected under the Migratory Bird Treaty Act¹ and the Bald and Golden Eagle Protection Act².

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats³ should follow appropriate regulations and consider implementing appropriate conservation measures, as described below.

1. The [Migratory Birds Treaty Act](#) of 1918.
2. The [Bald and Golden Eagle Protection Act](#) of 1940.

Additional information can be found using the following links:

- Eagle Management <https://www.fws.gov/program/eagle-management>
- Measures for avoiding and minimizing impacts to birds <https://www.fws.gov/library/collections/avoiding-and-minimizing-incident-take-migratory-birds>
- Nationwide conservation measures for birds <https://www.fws.gov/sites/default/files/documents/nationwide-standard-conservation-measures.pdf>
- Supplemental Information for Migratory Birds and Eagles in IPaC <https://www.fws.gov/media/supplemental-information-migratory-birds-and-bald-and-golden-eagles-may-occur-project-action>

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern \(BCC\)](#) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME

BREEDING SEASON

| | |
|--|-------------------------|
| Bald Eagle <i>Haliaeetus leucocephalus</i> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. | Breeds Jan 1 to Aug 31 |
| Black-throated Gray Warbler <i>Dendroica nigrescens</i> This is a Bird of Conservation Concern (BCC) only in particular Bird Conservation Regions (BCRs) in the continental USA | Breeds May 1 to Jul 20 |
| California Thrasher <i>Toxostoma redivivum</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. | Breeds Jan 1 to Jul 31 |
| Cassin's Finch <i>Carpodacus cassinii</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9462 | Breeds May 15 to Jul 15 |
| Evening Grosbeak <i>Coccothraustes vespertinus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. | Breeds May 15 to Aug 10 |
| Lewis's Woodpecker <i>Melanerpes lewis</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9408 | Breeds Apr 20 to Sep 30 |
| Oak Titmouse <i>Baeolophus inornatus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska. https://ecos.fws.gov/ecp/species/9656 | Breeds Mar 15 to Jul 15 |

Olive-sided Flycatcher *Contopus cooperi*

Breeds May 20 to Aug 31

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

<https://ecos.fws.gov/ecp/species/3914>

Wrentit *Chamaea fasciata*

Breeds Mar 15 to Aug 10

This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.

Probability of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ "Proper Interpretation and Use of Your Migratory Bird Report" before using or attempting to interpret this report.

Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is $0.25/0.25 = 1$; at week 20 it is $0.05/0.25 = 0.2$.

3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

To see a bar's probability of presence score, simply hover your mouse cursor over the bar.

Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

Survey Effort (|)

Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

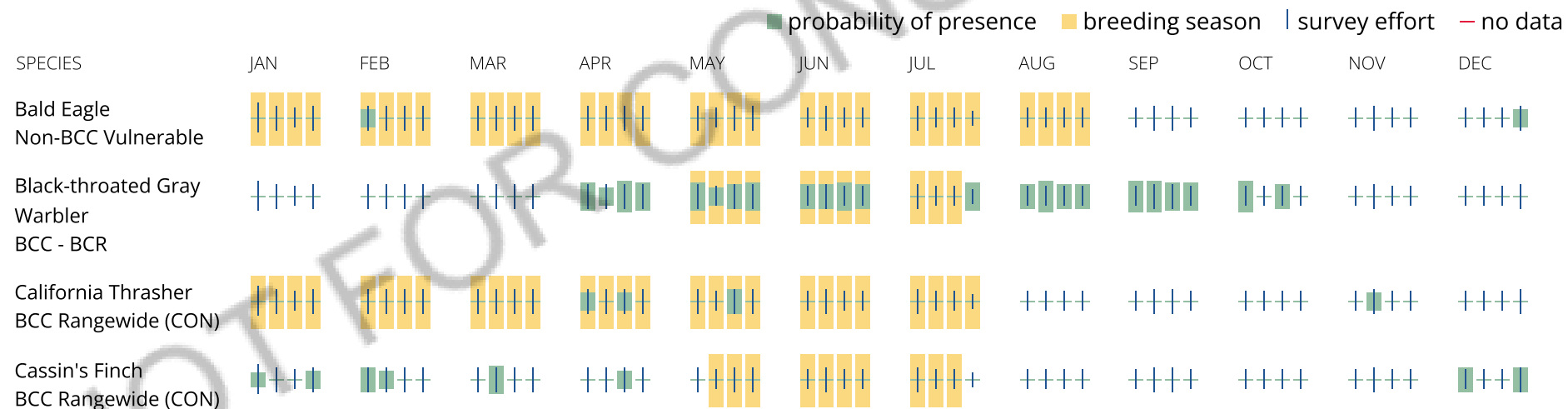
To see a bar's survey effort range, simply hover your mouse cursor over the bar.

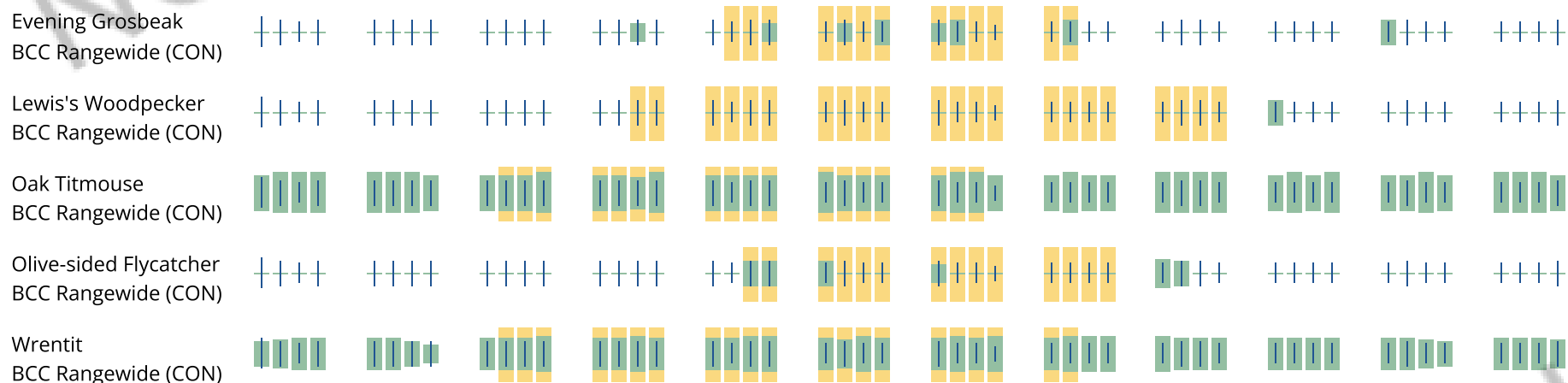
No Data (-)

A week is marked as having no data if there were no survey events for that week.

Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.





Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding in your project area, view the Probability of Presence Summary. [Additional measures](#) or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

What does IPaC use to generate the list of migratory birds that potentially occur in my specified location?

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [Rapid Avian Information Locator \(RAIL\) Tool](#).

What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go to the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

How do I know if a bird is breeding, wintering or migrating in my area?

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may query your location using the [RAIL Tool](#) and look at the range maps provided for birds in your area at the bottom of the profiles provided for each bird in your results. If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

What are the levels of concern for migratory birds?

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

Details about birds that are potentially affected by offshore projects

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

What if I have eagles on my list?

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

Proper Interpretation and Use of Your Migratory Bird Report

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ "Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds" at the bottom of your migratory bird trust resources page.

Facilities

National Wildlife Refuge lands

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

There are no refuge lands at this location.

Fish hatcheries

There are no fish hatcheries at this location.

Wetlands in the National Wetlands Inventory (NWI)

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

This location did not intersect any wetlands mapped by NWI.

NOTE: This initial screening does **not** replace an on-site delineation to determine whether wetlands occur. Additional information on the NWI data is provided below.

Data limitations

The Service's objective of mapping wetlands and deepwater habitats is to produce reconnaissance level information on the location, type and size of these resources. The maps are prepared from the analysis of high altitude imagery. Wetlands are identified based on vegetation, visible hydrology and geography. A margin of error is inherent in the use of imagery; thus, detailed on-the-ground inspection of any particular site may result in revision of the wetland boundaries or classification established through image analysis.

The accuracy of image interpretation depends on the quality of the imagery, the experience of the image analysts, the amount and quality of the collateral data and the amount of ground truth verification work conducted. Metadata should be consulted to determine the date of the source imagery used and any mapping problems.

Wetlands or other mapped features may have changed since the date of the imagery or field work. There may be occasional differences in polygon boundaries or classifications between the information depicted on the map and the actual conditions on site.

Data exclusions

Certain wetland habitats are excluded from the National mapping program because of the limitations of aerial imagery as the primary data source used to detect wetlands. These habitats include seagrasses or submerged aquatic vegetation that are found in the intertidal and subtidal zones of estuaries and nearshore coastal waters. Some deepwater reef communities (coral or tubercid worm reefs) have also been excluded from the inventory. These habitats, because of their depth, go undetected by aerial imagery.

Data precautions

Federal, state, and local regulatory agencies with jurisdiction over wetlands may define and describe wetlands in a different manner than that used in this inventory. There is no attempt, in either the design or products of this inventory, to define the limits of proprietary jurisdiction of any Federal, state, or local government or to establish the geographical scope of the regulatory programs of government agencies. Persons intending to engage in activities involving modifications within or adjacent to wetland areas should seek the advice of appropriate Federal, state, or local agencies concerning specified agency regulatory programs and proprietary jurisdictions that may affect such activities.