CONCEPTUAL COASTAL SAGE SCRUB CONSERVATION AND MONITORING PLAN

City of West Covina
Community Development Commission
Sports Park

May 22, 2003 (Revised June 12, 2008)

PREPARED FOR:

CITY OF WEST COVINA
1444 WEST GARVEY AVENUE
WEST COVINA, CALIFORNIA 91790

PREPARED BY:

VANDERMOST CONSULTING SERVICES, INC.
30900 RANCHO VIEJO ROAD, SUITE 100
SAN JUAN CAPISTRANO, CA 92675
PHONE: 949-489-2700
FAX: 949- 489-0309

TABLE OF CONTENTS

I. INTRODUCTION

This conceptual mitigation program provides guidelines for the establishment of Coastal Sage Scrub (CSS) within 23 acres of open space area and manufactured slopes on the City of West Covina Community Development Commission public Golf Course in the City of West Covina, Los Angeles County, California. The project site is depicted on a regional location map, site vicinity map, and USGS map, attached as Figures 1, 2, and 3.

In compliance with the U.S. Army Corps of Engineers Corps Section 404 Permit (199915821-MDC) and U.S. Fish and Wildlife Service Biological Opinion (attached as Appendix A and B respectively). The mitigation program will compensate for project impacts to 11.5 acres of CSS. Mitigation will consist of the establishment of approximately 23 acres of CSS species within disturbed and non-native annual grassland portions of project open space areas as well as on manufactured slopes. The goal of the mitigation program is to: 1) establish CSS species similar to habitat within the project site and with the diversity and structure that could support the federally listed threatened coastal California gnatcatcher *(Polioptila californica californica);* and 2) provide contiguity with preserved and planted CSS habitats, oak woodlands, and walnut woodland habitats throughout the project open space areas.

This document provides an evaluation of project impacts, an evaluation of mitigation site conditions, and guidelines for site preparation, plant establishment, long-term maintenance and establishment, and long-term site performance monitoring.

II. PROJECT DESCRIPTION

Project Summary

The site totals approximately 656 acres. As shown on the attached aerial, Figure 4, the site includes a closed Class I Landfill (Mixed Hazardous and Non-Hazardous Municipal Solid Waste), a closed Class III Landfill (Municipal Solid Waste) and related ancillary uses on approximately 583 acres. The remaining property, approximately 73 acres, is an undisturbed hillside. The site is bordered by residential development to the west and south and by residential development and open space to the north and east.

The City of West Covina Community Development Commission is proposing to redevelop portions of the closed BKK landfill as a brownfield project, as shown on the attached land use map, Figure 5. The proposed project consists of a Big League Dreams sports park and commercial center located along the western boundary of the site adjacent to Azusa Avenue and an 18-hole public golf course and clubhouse located north and northeast of the closed Class III Landfill.

The proposed Big League Dreams sports park consists of 6 theme ball fields and related uses. Additional uses (discussed below as pad 700 and 750) will consist of a corporate office plaza. Pad 700 and pad 750 total approximately 7.2 acres. The Big League Dreams and related sports park uses total approximately 27 acres. The commercial development located south of the sports park may include uses such as office, retail, high technology

research, warehouse, commercial and other uses on approximately 45 acres. The proposed 18-hole public golf course and clubhouse totals approximately 180 acres. Approximately 7 holes of the golf course and most of the driving range will be located on 50 acres on the top deck of the closed Class III Landfill. The remaining 11 holes and the clubhouse will be built on non-landfill area north and northeast of the closed landfills. No development will occur on the closed Class I Landfill, in accordance with EPA regulations.

Pad 750 and 700 Design Parameters

As discussed above, a corporate office plaza is proposed for pads 700 and 750. Since these two pads are located directly adjacent to preserved and revegetated CSS areas, development of the pads will include the following parameters, regardless of specific use:

- Parking pads will be situated toward the access drive and as far away from preserved CSS as possible.

- The northern boundaries of pads 700 and 750 will be buffered from adjacent CSS by an approximately 10 foot wide vegetative barrier. The vegetated buffer will contain native plant species such as; California wild rose, California sagebrush, monkeyflower, toyon, sumac, and lemonadeberry.

- Any night lighting adjacent to preserved and/or revegetated CSS areas will be shielded to direct the lighting onto the development pad and prevent lighting spray onto the adjacent preserved habitat. A shielded lighting plan for the development areas directly adjacent to the preserved and revegetated CSS was submitted to the USFWS on May 2, 2007, attached as Figure 6.

Big League Dreams Lighting and Fencing Design Parameters

The western boundary of the project site, adjacent to Azusa Avenue, currently contains chain link fencing. In addition, the limits of the Big League Dreams will be bordered with fencing. This fencing will be maintained in perpetuity as required by the USFWS. The Big League Dreams ball fields will include night lighting, ranging in height from 14 to 80 feet. The field activity and lighting will be buffered from the adjacent preserved habitat by the proposed 25-foot high stadium replica feature walls. The fencing plan is attached as Figure 7.

Funding Mechanisms

The landowner of the subject real property is the City of West Covina (the 'City'). The City will issue one or more municipal bonds in connection with the construction of the anticipated project, and a portion of those municipal bond proceeds, in an amount between $690,000 and $1,150,000, shall be dedicated prior to ground disturbing activities as assurance that the habitat creation and associated maintenance and monitoring for a 5-year period meets specific performance standards. The City shall guarantee, in writing, by means of a separate written guarantee, the various conservation obligations of the City, as landowner, including habitat creation and associated maintenance and monitoring for a five-year period to specified performance standards. Said guarantee shall be backed by the full faith and credit

of the City and shall be a general obligation of the City, payable from the general fund of the City.

III. PROJECT IMPACTS TO COASTAL SAGE SCRUB

Clearing and grubbing of the site is proposed to occur outside the gnatcatcher nesting season. Clearing and grubbing of the Sports Park site was initiated in May 2005. Clearing and grubbing of the Golf course is expected to be initiated in the summer of 2008. Mass grading is expected to commence in fall of 2008. Golf course and mitigation installation is expected to be complete by March 2010. Project implementation will result in the loss of approximately 11.5 acres of CSS habitat on the project site of which 5 acres is temporary and 6.5 acres is permanent. A total of 24 acres of CSS will be preserved on-site, and approximately 23 acres of CSS will be created, as shown on the attached planting plan and planting palette, Figures 8, 9, and 10.

It is the intent of the CSS habitat mitigation program to: 1) establish CSS species similar to habitat on and within the vicinity of the project site and with the diversity and structure that could support the coastal California gnatcatcher; and 2) provide contiguity with preserved and created CSS habitats, oak woodlands, riparian woodland, and walnut woodland habitats throughout the project open space areas. CSS planting and establishment (as well as coast live oak, California walnut, riparian woodland, native grassland, etc. planting) on manufactured slopes, open space areas, and within the golf course will link and connect preserved native habitats within project open space areas, provide for project-wide habitat contiguity, and facilitate increased dispersal and movement of wildlife species (i.e., California gnatcatcher) throughout the project site.

The mitigation plan includes guidelines for initial implementation, long-term maintenance, and site performance monitoring that facilitate the establishment of quality CSS habitat.

IV. MITIGATION SITE CONDITIONS

As shown on the attached land use plan, Figure 5, preservation of 24 acres of existing sage scrub will occur in the northern portion and southeastern portion of the site. Revegetation will occur on 6.5 acres of manufactured slopes surrounding the Sports Park. The remainder of revegetation (16.5 acres) will occur within and adjacent to the golf course, which currently contains disturbed land, walnut woodland, coast live oak, and cactus scrub habitat. The planting plan and planting palette are attached as Figures 8, 9, and 10.

V. RESPONSIBLITIES

The following outlines the various functions of the key parties responsible for ensuring the successful implementation of the CSS mitigation program. Implementation will include the initial installation of the mitigation program as well as the long-term maintenance and performance monitoring. Successful implementation of the program is dependent upon cooperative efforts of three key parties: (1) Landowner/Applicant, (2) Biological Monitor, and (3) Contractors. Specific roles of the above parties will consist of the following:

Landowner/Applicant

The Landowner/ Applicant or his assignees and successors in interest shall be responsible for retaining qualified Contractors to implement the CSS mitigation program. The Landowner/Applicant will also be responsible for retaining a qualified Biological Monitor to monitor program installation and long-term maintenance. The Landowner/Applicant shall be ultimately responsible for the implementation of the mitigation program. The Landowner/Applicant will be responsible for the funding of the mitigation sites and long-term maintenance. The preserved and revegetated CSS will be included in the City's open space district. The City will amend the General Plan to include the 24 acres of preserved CSS and 23 acres of revegetated CSS as designated open space. A copy of the amendment will be submitted to the USFWS and Corps upon approval by the City Council. Approval is expected to take approximately 6 months after close of escrow.

Biological Monitor

The Landowner/Applicant shall retain a Biological Monitor with experience in planning, designing, and monitoring successful CSS habitat establishment programs in Southern California. The Biological Monitor will have knowledge and experience with conceptual and detailed restoration planning and design, habitat mitigation planning and associated resource agency coordination, non-native species management and control planning, restoration implementation planning and monitoring, and long-term restoration growth performance and maintenance monitoring. The Biological Monitor will be responsible for monitoring: site preparation activities; native seed mix application; the three to five-year maintenance program; and overall site performance. The Biological Monitor will also be responsible for coordinating with the Contractors, Landowner/Applicant, the Corps and the USFWS regarding site status, and for preparing annual site status documentation. The Biological Monitor will attend all onsite meetings during all implementation, long-term maintenance, and site performance monitoring procedures. The Biological Monitor shall be responsible for directing the Contractors and any resource specialists required during plan implementation to ensure compliance with specified performance standards and the successful establishment of CSS species.

Contractor

The Landowner/Applicant will be responsible for retaining a licensed contractor experienced in: 1) non-native species control and management within natural habitat areas; and 2) the installation, establishment and maintenance of successful native CSS habitat establishment programs in Southern California. The Contractors will be responsible for performing all site preparation procedures, irrigation system installation, applying the native seed mix to designated areas, performing maintenance tasks, and facilitating compliance with all site performance standards under the direction of the Biological Monitor. The Contractors will also be responsible for coordinating with the Biological Monitor regarding installation procedures and ongoing site maintenance procedures, and any necessary remedial measures. The City may designate experienced personnel to participate in long-term maintenance of the site until deemed complete.

VI. MITIGATION IMPLEMENTATION GUIDELINES

This section provides guidelines for CSS habitat creation and establishment within project open space areas and manufactured slopes.

Site Preparation

Protection of Existing Native Plant Species

All native species within the CSS planting areas will be protected in place during site preparation and plant establishment activities. Prior to the initiation of site preparation, the Contractors will use colored flagging and/or orange plastic snow fencing to mark all plant species to be protected as directed by the Biological Monitor.

Weed Removal

Weed control will be necessary within the annual grassland portions of the mitigation sites. Weed removal methods may include: 1) cut and paint method of application (Round-up Pro at a two percent application rate); 2) mechanical removal of above ground vegetation and root materials, as appropriate for specific species; 3) the use of alternate herbicides such as Garlon or other appropriate herbicides; 4) adjustments to treatment frequencies and schedules; and 5) mowing and discing (for annual grasses).

Soil Treatments

CSS species require suitable soil microbiological and physical elements for long-term successful habitat establishment. Fairly loose, aerated soils are required for deep root development and overall successful plant establishment. Several soil treatment methods that facilitate the development of a healthy soil structure are described below. Soils tests will be performed for both the manufactured slopes and annual grassland areas prior to the development of implementation level plans to identify any soil problems and to determine the appropriate combination of these treatments.

Ripping

Soil compaction conditions may occur within the annual grassland areas. If necessary, a dozer with a ripper will be used to alleviate compaction where it occurs within areas currently supporting annual grassland species. Soils will be ripped to a minimum depth of 12 inches. Soils surfaces will be left roughened to provide appropriate microhabitats for seed species.

Auguring

The manufactured slope areas will be compacted to ensure slope stability and minimize erosion and sedimentation.

Inoculation

All CSS planting areas will be inoculated with mycorrhizal fungi (VAM 80) to facilitate the development of healthy soil conditions, the establishment of native plant species, and the minimization of weed and ruderal species development. This will include the use of inoculum material as part of the seed mix and the use of mycorrhizal host plant species (see plant establishment below).

Mycorrhizal fungi will also be introduced to the sites through the use of salvaged native topsoils and vegetation (duff). The re-use of native duff will provide a source of site-specific propagules (seeds and root materials), beneficial fungi (including mycorrhizal fungi), nutrients, organic matter, and beneficial soil organisms. Many CSS species can regenerate and re-establish from duff materials and therefore contribute to overall site coverage. If possible, duff will be created by mulching/crushing CSS vegetation designated for removal, and collecting these materials, along with the top four to six inches of topsoil. Only high quality, weed-free vegetation will be used and retained. These materials should then be applied to the CSS mitigation sites to a depth of four inches using a loader or a dozer. If temporary storage of the materials is necessary, the duff will be stockpiled in piles no higher than three feet.

Irrigation Installation

Seeded species will be temporarily irrigated to facilitate germination and plant establishment. This will consist of a temporary irrigation system installed throughout the CSS mitigation areas. The irrigation system may utilize reclaimed water. Once native seed mix has germinated and become established, overhead irrigation will be discontinued. The discontinuation of irrigation will minimize the ongoing establishment of weed species. Irrigation will be scheduled to encourage deep root growth instead of surface root development.

Table 1 includes potential seed mix species for the mitigation sites. Seed mixes containing varying quantities of these species will be seeded throughout the mitigation site to provide perennial grasses, wildflowers, herbaceous, and shrub CSS species.

Seed Mix Application

Seeding shall be performed between October 1 and January 31 and during those periods when weather and soil conditions are suitable. In this way, seasonal rains can be used to facilitate appropriate germination and coverage. The Biological Monitor shall approve timing in advance. Local seed mixes will be obtained from reputable and technically experienced native seed suppliers. The seed will be broadcast throughout the mitigation sites using appropriate hydroseeding devices.

TABLE 1
TYPICAL SEED MIX SPECIES

Common Name	Botanical Name
Golden yarrow	*Eriophyllum confertifolorum*
Deerweed	*Lotus scoparius*
Wood Lupine	*Lupinus trucatus*
California poppy	*Eschscholzia califomica*
Purple needlegrass	*Nassella pulchra*
California sunflower	*Encelia californica*
California sagebrush	*Artemisia califomica*
California buckwheat	*Eriogonum fasciculatum*
Littlseed muhly	*Mulenbergia microsperma*
Wild Canterbury Bells	*Phacelia minor*
Small Fescue	*Vulpia microstachys*
Black sage	*Salvia mellifera*
White sage	*Salvia apiana*
Bush monkeyflower	*Mimulus aurantiacus*

VII. LONG-TERM SITE MAINTENANCE

Three to five-year maintenance operations shall begin immediately after the completion of CSS mitigation installation. The intent of the maintenance program is to facilitate the establishment of CSS species within the mitigation sites. The Biological Monitor, in coordination with the USFWS, will approve any needed revisions to the specified schedule and methodologies. If the site has met the performance standards in years 3 or 4 the applicant/landowner may request early sign off from the regulatory agencies. The maintenance period shall include the following activities:

Protection

The Contractors shall be responsible for providing adequate protection of all seeded and planted areas against herbivores, traffic, vandalism, or other intrusions by erecting fencing, caging, or other acceptable structures upon completion of the installation period. Damaged areas shall be repaired immediately by the Contractors and/or Landowner/Applicant.

Erosion Control

The Contractors shall be responsible for providing erosion and sediment control as appropriate to prevent damage to the mitigation sites and immediately adjacent areas.

Signage

The Contractors shall install signs at the boundaries of the mitigation sites at locations determined by the Biological Monitor. The signs will include information regarding the size of the mitigation effort, the purpose of the mitigation effort, the Landowner/Applicant, and

the permitting agencies. All final text will be approved by the Biological Monitor prior to sign production and installation.

Weed Control

It is important for field crews to be able to distinguish native plant materials from weedy or non-native plants. Before weeding begins, the Biological Monitor shall educate the Contractors and crew as necessary regarding differences in desirable and undesirable plant materials. Weed removal shall occur on a monthly basis from March through August, and on an as-needed basis from September to February during each year of monitoring. Non-native grasses shall be controlled only if they become problematic and discourage native species germination and establishment. The understory grass species provide soil stabilization as well as foraging opportunities for many wildlife species and are considered an important component of the CSS community. Broadleaf weed tree tobacco *(Nicotiana glauca),* castor bean *(Ricinus communis),* black mustard, and sweet fennel *(Foeniculum vulgare)* shall be controlled as necessary using hand removal methods and spot treatments of two percent Round-up Pro. Other methods will include: 1) cut and paint method of application (Round-up Pro at a two percent application rate); 2) mechanical removal of above ground vegetation and root materials; 3) the use of alternate herbicides such as Garlon or other appropriate herbicides; and 4) adjustments to treatment frequencies and schedules.

Replacement

During the maintenance period, plant failure below the required coverage standards and/or poor-health shall be compensated by reseeding and replanting using species and quantities specified by the Biological Monitor. No reseeding or replanting shall occur in any season unfavorable for plant germination and establishment. The Biological Monitor shall make regular inspections of the work as specified in the Biological Monitoring Guidelines to assess the condition of all plants and determine any necessary remedial measures necessary to provide adequate coverage.

Trash Removal

The site shall be kept clear of all trash and debris.

Pest Control

Insects, plant disease, herbivores, and other pests shall be closely monitored during the maintenance period. Diseased or infected plants shall be immediately disposed of offsite at an appropriate landfill to prevent infection of onsite resources. Where possible, biological controls shall be used instead of pesticides, herbicides, etc. Pesticide use shall be in accordance with local codes and regulations and at the recommendation of the Biological Monitor. Rodent control, if necessary, shall occur by use of live traps.

Cowbirds

During the five-year maintenance and monitoring period the Biological Monitor shall be responsible for determining if cowbirds occur within the 47 acres of preserved and revegetated CSS. The biological monitor will determine if cowbirds are present, on an annual basis, during the start of the spring breeding season (February 15). If cowbirds are present, the monitor will draft a trapping plan for submittal to the USFWS for review and approval.

Extended Maintenance

When, in the opinion of the Biological Monitor, there is poor, unhealthy condition of plant materials, inadequate control of weed species, and non-compliance with performance standards, the maintenance period will be extended beyond the required five year time period until performance standards are met. A schedule of maintenance work tasks is provided in Tables 2 and 3.

TABLE 2

FIVE-YEAR MAINTENANCE PROGRAM SCHEDULE FOR YEARS ONE TO THREE

Work Tasks[1]	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Weed Control												
Irrigation maintenance												
Pest Control												
Plant Protection												
Erosion Control												
I.D. Plant Mortality								X	X			
Plant Replacement[2]												
Trash Removal	X	X	X	X	X	X	X	X	X	X	X	X
Symbols:												
	Ongoing Task											
X	Task performed one or more times a month; i.e. 4X=four times a month.											

[1] Maintenance task schedule and frequency will be adjusted as appropriate in coordination with the Biological Monitor.
[2] As needed.

TABLE 3
FIVE-YEAR MAINTENANCE PROGRAM SCHEDULE FOR YEARS FOUR AND FIVE

Work Tasks[1]	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Weed Control[2]			X	X	X	X	X	X				
Irrigation maintenance												
Pest Control												
Plant Protection												
Erosion Control												
I.D. Plant Mortality								X	X			
Plant Replacement[2]												
Trash Removal	X	X	X	X	X	X	X	X	X	X	X	X
Symbols:												
	Ongoing Task											
X	Task performed one or more times a month; i.e. 4X=four times a month.											

[1] Maintenance task schedule and frequency will be adjusted in coordination with the Biological Monitor.
[2] As needed.

VIII. BIOLOGICAL MONITORING GUIDELINES

The Biological Monitor shall be responsible for: monitoring site preparation, irrigation installation, seed mix application, long-term maintenance, and long-term site performance; providing site status documentation; and facilitating the protection of natural resources during initial installation and maintenance activities throughout the mitigation program. The Biological Monitor will also be responsible for coordinating with the Landowner/Applicant, Contractors, Corps, and USFWS regarding site conditions and performance, and required remedial measures.

A schedule of site performance monitoring tasks is provided in Tables 4 and 5.

TABLE 4
LONG-TERM SITE MONITORING SCHEDULE YEAR ONE

Work Tasks	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Site Monitoring												
Qualitative Surveys			X			X			X			X
Quantitative Surveys									X			
Photo documentation									X			
Onsite Meetings[1]			X			X			X			X
Site Status Documentation												
Progress Reports			X			X			X			
Annual Status Reports[2]												X

[1] Onsite meetings will include, as needed, the Project Biologist, the Contractors, resource agencies, and any other appropriate parties and will occur as necessary during the regularly scheduled site monitoring visits.
[2] Submitted by January 1 of each year.

TABLE 5
LONG-TERM SITE MONITORING SCHEDULE YEARS TWO TO FIVE

Work Tasks	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Site Monitoring												
Qualitative Surveys	X	X	X	X	X	X	X	X	X	X	X	X
Quantitative Surveys									X			
Photo documentation	X								X			
Onsite Meetings[1]	X	X	X	X	X	X	X	X	X	X	X	X
Site Status Documentation												
Installation Completion	X											
Progress Reports	X	X	X	X	X	X	X	X	X	X	X	X
Annual Status Reports[2]												X

[1] Onsite meetings will include, as needed, the Project Biologist, the Contractors, resource agencies, and any other appropriate parties and will occur as necessary during the regularly scheduled site monitoring visits.
[2] Submitted by January 1 of each year.

IX. IMPLEMENTATION MONITORING

Meetings between the Contractors, Landowner/Applicant, Biological Monitor, and any other appropriate entities shall be conducted as necessary prior to and during implementation activities to identify and clarify specified methodologies and to resolve any issues that arise during implementation. The Biological Monitor shall have the authority to stop all work in the event of unfavorable site conditions. Deviations from specified methodology will require prior approval from the Biological Monitor. Site inspections will be performed on an as needed basis during site preparation, irrigation installation, and seed mix application will include the tasks listed below:

- Photo document pre-existing site conditions and installation procedures
- Identify non-native species
- Flag native species to be retained (i.e. direct Contractors to do so)
- Monitor weed control, soils treatment, and irrigation installation, activities
- Identify onsite location and layout of seed mixes
- Conduct field inspections during seed mix application and planting activities
- Coordinate (verbal and written) with the Contractors, the hydroseed company, the seed supplier, and the Landowner/Applicant

X. LONG-TERM MONITORING

Maintenance Monitoring

The Biological Monitor shall monitor maintenance activities at the CSS mitigation sites for three to five years to facilitate the successful establishment of quality CSS habitat. The Biological Monitor shall meet with the Contractors as necessary, during regularly scheduled site visits as specified below, to discuss site conditions and recommended remedial measures. Potential remedial measures to be recommended to the Contractors shall include but not be limited to the following:

Protection

In the event of herbivore damage, pedestrian damage, vandalism, or other types of site damage, the Biological Monitor shall make appropriate recommendations to minimize future damage to the site. Possible protection measures may include additional fencing, caging, live traps, signage, etc.

Weed Control

The Biological Monitor shall educate the field crews as necessary regarding the differences between invasive, problem weed species and desired native species on an as-needed basis (frequency will be based on field personnel changes and field conditions). The Biological Monitor shall coordinate with the Contractors on an ongoing basis regarding appropriate problem weed control measures to facilitate the successful control of weed species and establishment of native plant species.

Replacement Planting

The Biological Monitor shall coordinate with the Contractors regarding appropriate replacement planting measures in the event of widespread plant failure and non-compliance with performance standards specified above. Recommended replacement seed mixes shall include plant species and application quantities that result in the establishment of a mix of CSS species similar to species existing onsite and in undisturbed areas of CSS adjacent to the site.

Pest Control

The Biological Monitor shall coordinate with the Contractors regarding the control of insects, ground squirrels, and other herbivores, fungi, rust, and other plant diseases and infestations. Recommended control measures shall include, but not be limited to, biological control methods and herbicides.

Native Plant Species Growth Performance

The Biological Monitor shall use the performance standards listed in Table 6 to evaluate the establishment of quality revegetated habitat. Compliance with the performance standards will be used when evaluating overall mitigation success. The site shall be considered successful when seeded native species coverage standards are complied with and natural recruitment occurs. If the sites reach success prior to the end of the 5-year schedule the agencies will be contacted to attend an on-site meeting confirming success and completion of the requirements. .

Project Performance Standards

The standards listed in Table 6 shall be achieved within the CSS mitigation sites. Refer to Table 7 in the Biological Monitoring Guidelines for definitions of non-compliance. The Biological Monitor shall evaluate compliance and non-compliance with the specified performance standards. The use of the mitigation site by wildlife species, as observed during regular monitoring visits will aid in the overall determination of mitigation success and appropriate remedial measures.

TABLE 6
NATIVE PLANT SPECIES PERFORMANCE STANDARDS

Year	Coverage	Survival Rate
One	25 percent	80 percent
Two	40 percent	80 percent
Three	60 percent	80 percent
Four	75 percent	80 percent
Five	85 to 90 percent	80 percent

Site Monitoring and Evaluation

Monitoring performance shall consist of the following:

Years One to Five

- Twelve qualitative surveys shall be performed the first year and quarterly qualitative surveys will be performed for years two to five following implementation to assess native plant species percent coverage and diversity, native species recruitment and reproduction, plant mortality and germination failure, plant fitness and health, pest problems, irrigation system performance, invasive weed species establishment, and wildlife species use. Qualitative surveys performed each year will include an evaluation of wildlife species use of the site.

- Randomly located line-intercept transects shall be used during the qualitative survey at the end of each year for five years following implementation to more precisely measure native species composition, diversity, and coverage. Species coverage will be listed by native and non-native species. Native species coverage will be further broken down to include coverage by age class (seedling, intermediate, and mature) and plant structure/type (shrub, sub-shrub, herbaceous, and grass species). Bare ground, leaf litter, and detritus coverage will also be recorded along each transect. This information will be used to more precisely determine native and non-native species percent coverage, seed mix germination, native species recruitment and reproduction, species diversity, habitat structural diversity, etc. on a yearly basis. These transect measurements will allow for the yearly determination of compliance/non-compliance with percent coverage performance standards listed in Table 6. Transects locations will be marked on mitigation site maps.

- Plant mortality will be quantified by counting all dead species. The quantification of mortality will allow for a yearly evaluation of compliance with 80 percent survival rates.

- Pre-established photo documentation stations shall be used at the completion of all implementation activities and during each annual quantitative survey to provide visual documentation of the sites' progress.

- The Biological Monitor shall meet with the Contractors as necessary during regularly scheduled site visits listed above to discuss site conditions and recommended remedial measures. Recommended remedial measures shall be based on site observations and survey results and follow the guidelines provided in Table7.

TABLE 7
SITE REMEDIAL PROCEDURES

Performance Standard	Non-Compliance	Remedial Measure
25, 40, 60, 75, and 85-90 percent coverage of native species at years 1, 2, 3, 4, and 5.	>5-percent deviation below specified coverage throughout greater than 10-percent of the entire site.	Reseeding and replanting with an appropriate species and quantities, irrigation system adjustment, and additional weed control shall be recommended as appropriate to facilitate <5-percent deviation below specified coverage throughout greater than 10-percent of the entire site.
80-percent survival rate of species at year 1, 2, 3, 4, and 5.	Less than 80 percent survival for each year.	Reseeding with appropriate quantities, selection of alternate sites shall be considered.

Site Status Documentation

Installation Summary

A letter report that summarizes installation and final as-built conditions (including an as-built map) will be submitted by the Biological Monitor to the Landowner/Applicant and USFWS within six weeks of completion of mitigation installation. The report will include any revisions to site locations, site boundaries, plant materials, etc. listed in the approved mitigation program. The report will include a summary of all plant species planted, seed species broadcast, final grade elevations, and photographs of installation activities and site conditions immediately following installation completion.

Progress Reports

Progress reports summarizing site status and recommended remedial measures shall be submitted by the Biological Monitor to the Landowner/Applicant and the Contractors following each monitoring site visit, with the exception of the site visits immediately preceding the development of each yearly status report. Each progress report shall list estimated native species coverage and diversity, native species health and overall vigor, the establishment of volunteer native species, problem weed species, the use of the site by wildlife species, significant drought stress, and any recommended remedial measures deemed necessary to ensure compliance with specified performance standards.

Annual Status Reports

Annual site status reports (5) that summarize site conditions shall be forwarded by the Biological Monitor to the Contractors, Landowner/Applicant, Corps and USFWS at one-year intervals following initial planting. Each annual report shall list native species coverage and diversity measured during quantitative surveys, plant mortality, compliance/ non-compliance

with required performance standards, native species health and overall vigor, the establishment of volunteer native species, the use of the site by wildlife species, the presence of other invasive weed species, and significant drought stress. In the event of substantial noncompliance with the required performance standards, the reports will include remedial measures deemed necessary to ensure future compliance with specified performance standards.

XI. FINAL PROGRAM APPROVAL

When the three to five-year establishment and monitoring program has been completed and/or when compliance has been documented with all specified performance standards (as listed in the performance standards listed in Table 7), whichever comes first, the Corps and USFWS shall be notified by the Biological Monitor.

Final Agency Approval

The final annual status report shall be forwarded to the Corps and USFWS. The Biological Monitor and the Landowner/Applicant shall meet at the mitigation sites with the Corps and USFWS to verify the successful establishment of CSS habitat. Based on the verification of successful habitat establishment and compliance with all performance standards, a letter confirming successful mitigation program completion and concurrence with maintenance and monitoring program termination shall be forwarded to the Landowner/Applicant from USFWS and shall serve as an official mitigation program sign-off.

XII. CONTINGENCY PLAN

The Landowner/Applicant shall be responsible for establishing, maintaining, and monitoring the mitigation sites for five years or until the performance standards listed in Table 7 are met at the mitigation sites, whichever is longer.

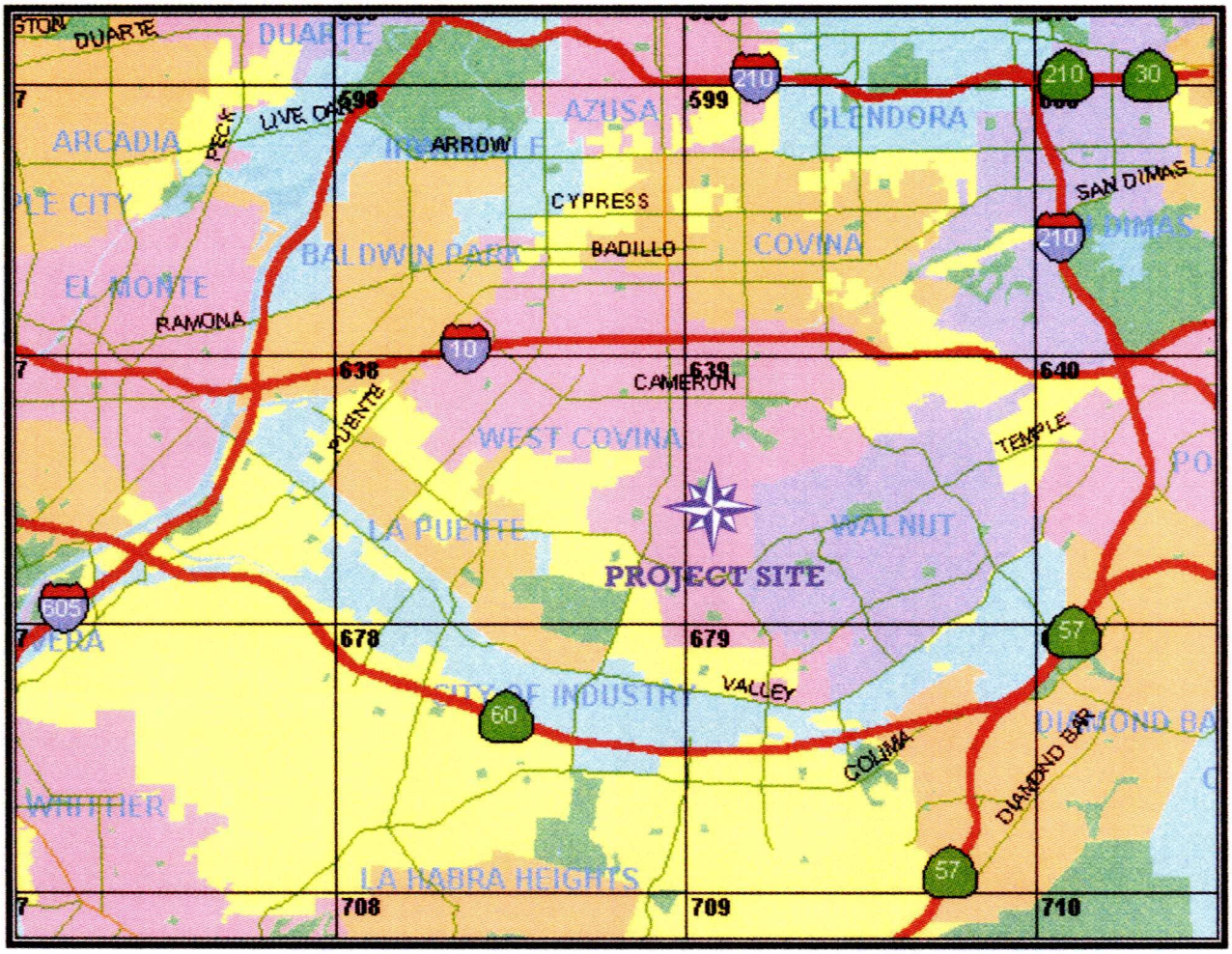
XIII. NON-COMPLIANCE WITH REQUIRED PERFORMANCE STANDARDS

If, at the end of one, two, three, four, and five years, there is little or no indication that performance goals are being achieved at the mitigation site, the Biological Monitor shall analyze noncompliance and poor performance and recommend appropriate remedial measures. The Biological Monitor and the Landowner/Applicant shall meet with the Corps and USFWS regarding site performance and to discuss remedial measures necessary to facilitate the establishment of CSS habitat and compliance with performance goals.

XIV. ALTERNATIVE MITIGATION MEASURES

If it is determined that onsite conditions are unsuitable for remedial measures that will establish self-sustainable CSS habitat that complies with performance goals, an alternative mitigation measure shall be identified that offsets project impacts at the initial compensatory ratios. Alternative mitigation measures may include exotics removal, habitat creation/restoration at an alternative site(s), participation in an approved mitigation bank, or any other appropriate measure, as approved by the resource agencies. Planning,

implementation, monitoring, and establishment of any alternative mitigation measure(s) will be the responsibility of the Landowner/Applicant. The selection process for selecting an alternate CSS habitat establishment program and/or restoration site(s) will include an evaluation of soils conditions, proximity to existing CSS and other native habitats, and non-native weed species coverage.



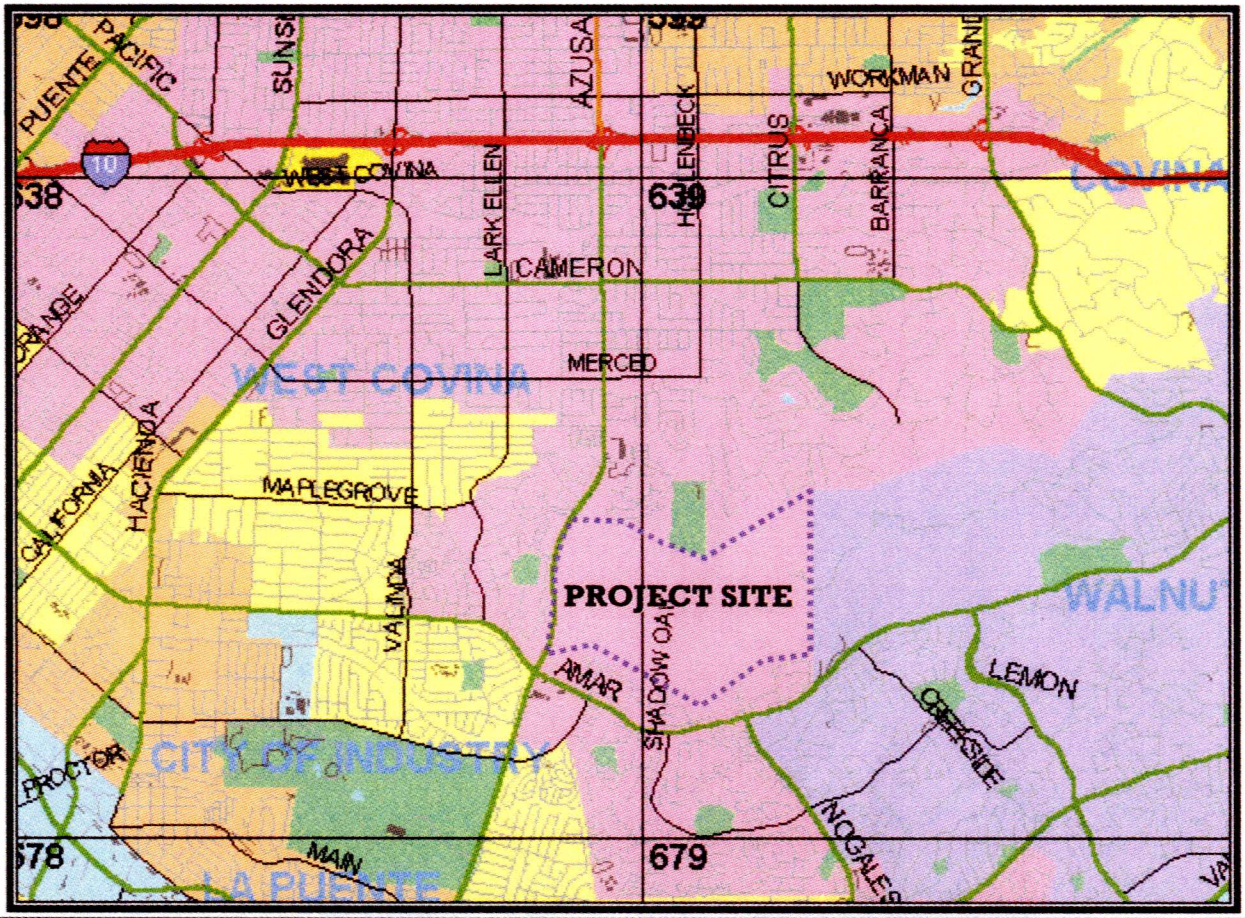
CITY OF WEST COVINA

REGIONAL MAP

** approximate project boundary*

VANDERMOST CONSULTING SERVICES, INC.
30900 Rancho Viejo Road, Suite 100
San Juan Capistrano, CA 92675
(949) 489-2700
fax (949) 489-0309

FIGURE 1



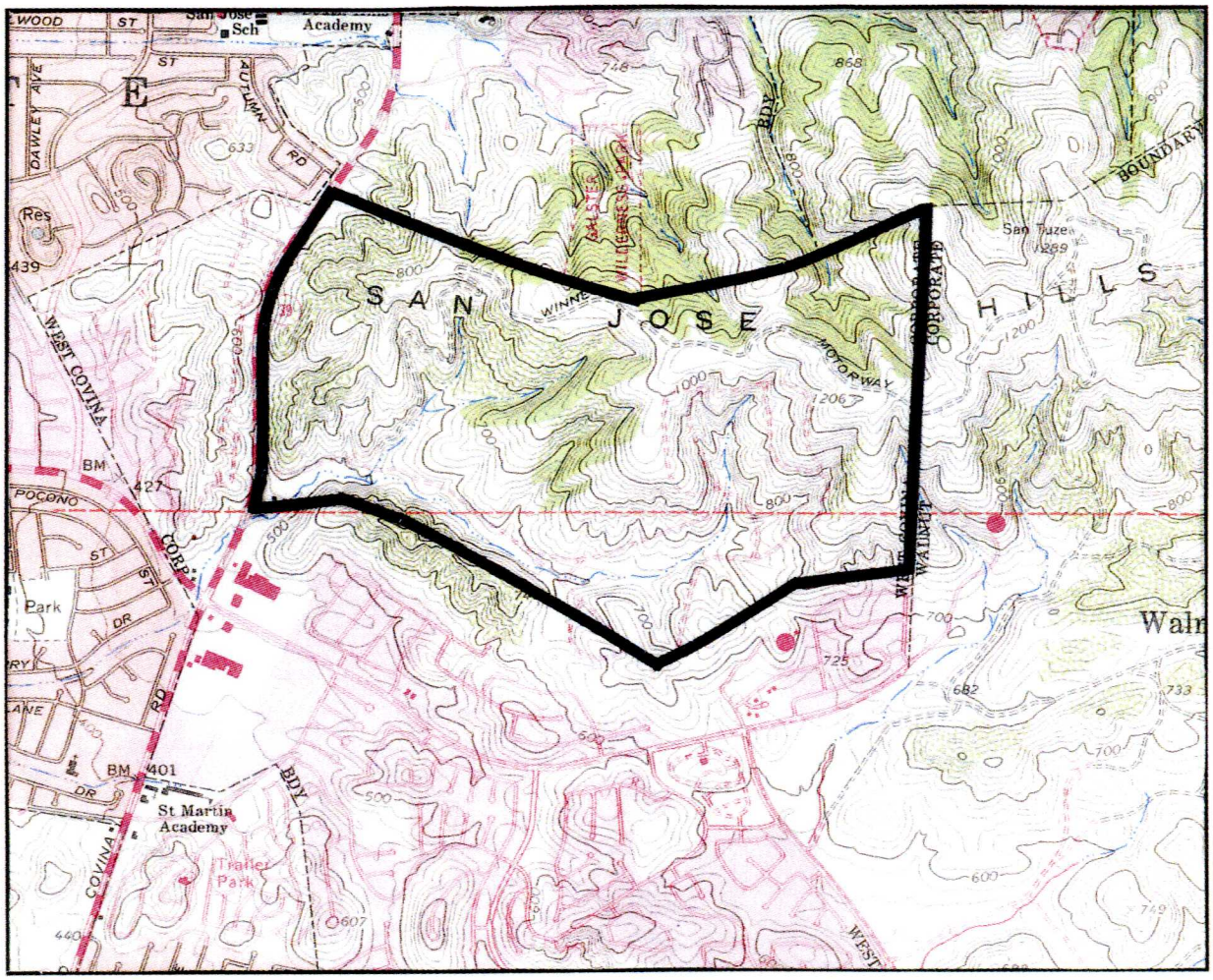
CITY OF WEST COVINA

LOCATION MAP

▪▪▪▪▪▪▪▪▪ *approximate project boundary*

VANDERMOST CONSULTING SERVICES, INC.
30900 Rancho Viejo Road, Suite 100
San Juan Capistrano, CA 92675
(949) 489-2700
fax (949) 489-0309

FIGURE 2



CITY OF WEST COVINA

U.S.G.S. 7.5 Minute Quadrangle Map

Baldwin Park Quadrangle

Township 1S, 2S, Range 10W

* *approximate project boundary*

N

VANDERMOST CONSULTING SERVICES, INC.
30900 Rancho Viejo Road, Suite 100
San Juan Capistrano, CA 92675
(949) 489-2700
Fax (949) 489-0309

Figure 3

SOURCE: BKK Corporation

FIGURE 4

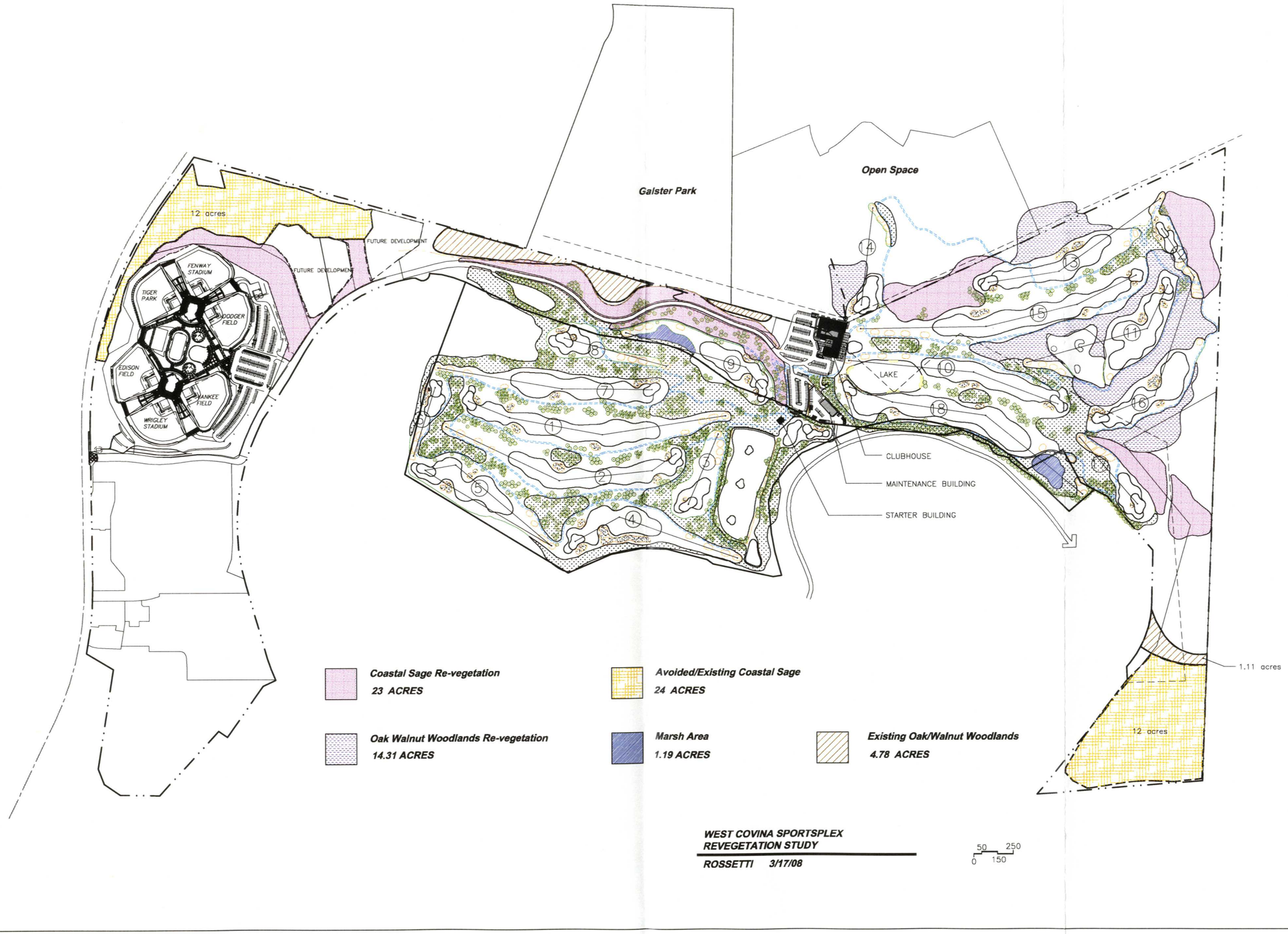

Galster Park
Open Space
12 acres
FUTURE DEVELOPMENT
FUTURE DEVELOPMENT
FENWAY STADIUM
TIGER PARK
DODGER FIELD
EDISON FIELD
YANKEE FIELD
WRIGLEY STADIUM
LAKE
CLUBHOUSE
MAINTENANCE BUILDING
STARTER BUILDING
1.11 acres
12 acres
Coastal Sage Re-vegetation
23 ACRES
Avoided/Existing Coastal Sage
24 ACRES
Oak Walnut Woodlands Re-vegetation
14.31 ACRES
Marsh Area
1.19 ACRES
Existing Oak/Walnut Woodlands
4.78 ACRES
WEST COVINA SPORTSPLEX
REVEGETATION STUDY
ROSSETTI 3/17/08
0 50 150 250

FIGURE 5

VANDERMOST CONSULTING SERVICES, INC.
Government Affairs • Community Relations • Regulatory Assistance

May 2, 2007

Ms. Karen Gobel
U.S. Fish and Wildlife Service
6010 Hidden Valley Road
Carlsbad, CA 92009

Subject: City of West Covina, Biological Opinion FWS-LA-3074.2

Dear Karen;

On behalf of the City of West Covina Redevelopment Agency, Vandermost Consulting Services, Inc. is submitting compliance documents to the U.S. Fish and Wildlife Service in accordance with the Section 7 Biological Opinion for the Sportsplex site (File FWS-LA-3074.2), located in the City of West Covina, California. Specifically, Conservation Measure 9 of the Biological Opinion states:

> *"The Applicant will prepare and submit to our office, for approval, a shielded lighting plan for the development areas adjacent to the 47 acres of preserved and restored habitat. This plan will be submitted no later than 60 days prior to construction activities. The CFWO will respond in writing within 30 days of its receipt."*

In compliance with this measure, attached is a shielded lighting plan and detail of the light fixtures for the Big League Dreams Sports Park. The attached lighting plan shows the light poles as A, B, and C depending on their location, the lighting direction of each pole is shown with a colored arc. Other portions of the project located adjacent to preserved and restored habitat are not being developed at this time and are therefore not included in the attached lighting plan.

As required by the Biological Opinion, please provide your approval of the lighting plan within 30 days. Please feel free to contact me at (949) 489-2700 ext. 206 with any questions.

Sincerely,

for Sherri Conley
Senior Project Manager

cc: Aaron Ledet, City of West Covina
Phil Alongi, Heinbuch Golf

27312 Calle Arroyo • San Juan Capistrano, California 92675
949.489.2700 • Fax 949.489.0309

FIGURE 6


PROPOSED POSTED SIGN (4)
PROPOSED
EXISTING TO REMAIN
PROPOSED OTHER WALL (BLK)
WEST COVINA SPORTSPLEX
CONCEPTUAL RE-VEGETATION STUDY
SCALE 1:200
ROSSETTI
02.01.03
FENCE PLAN 5/16/03

FIGURE 7

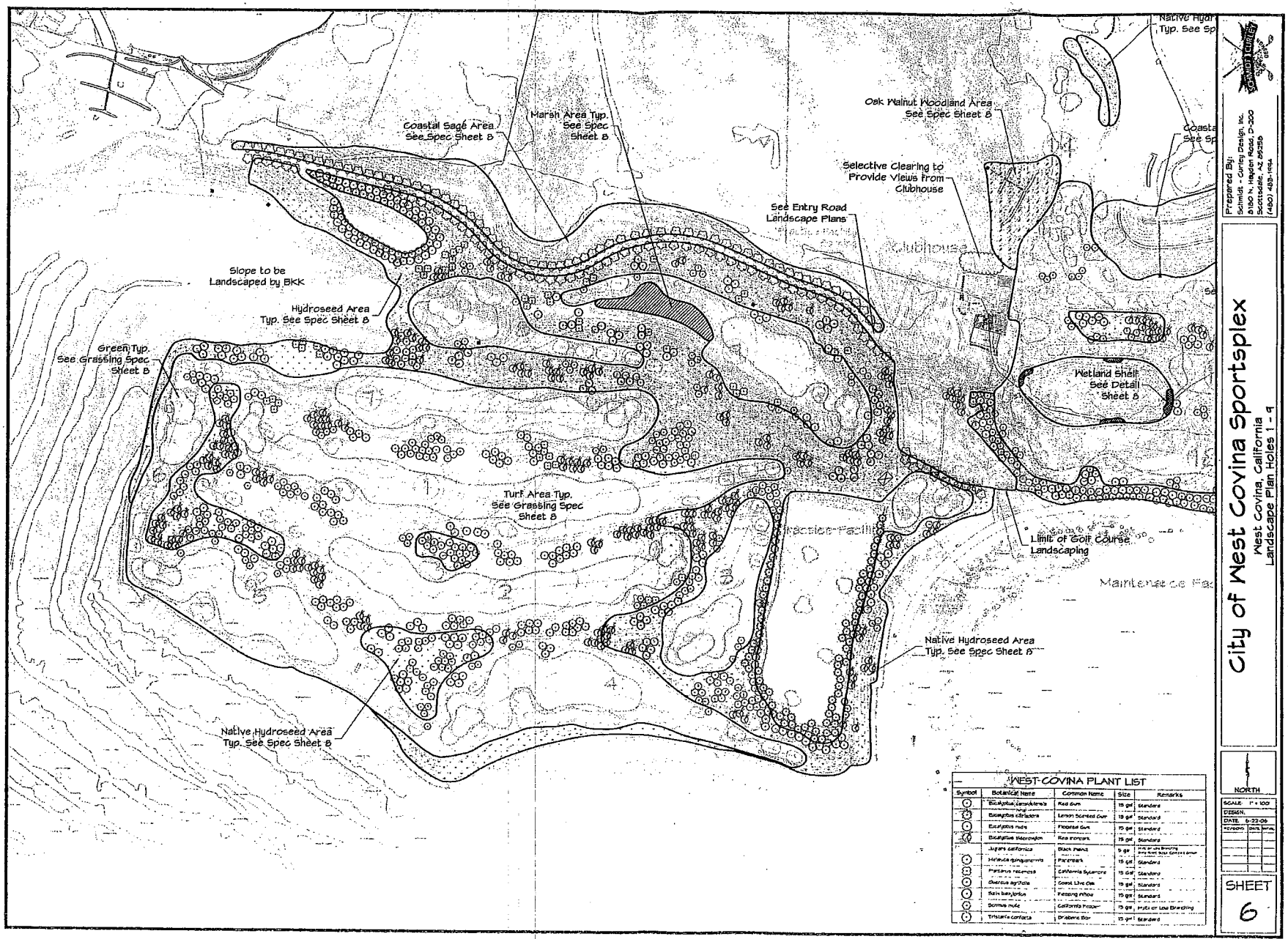
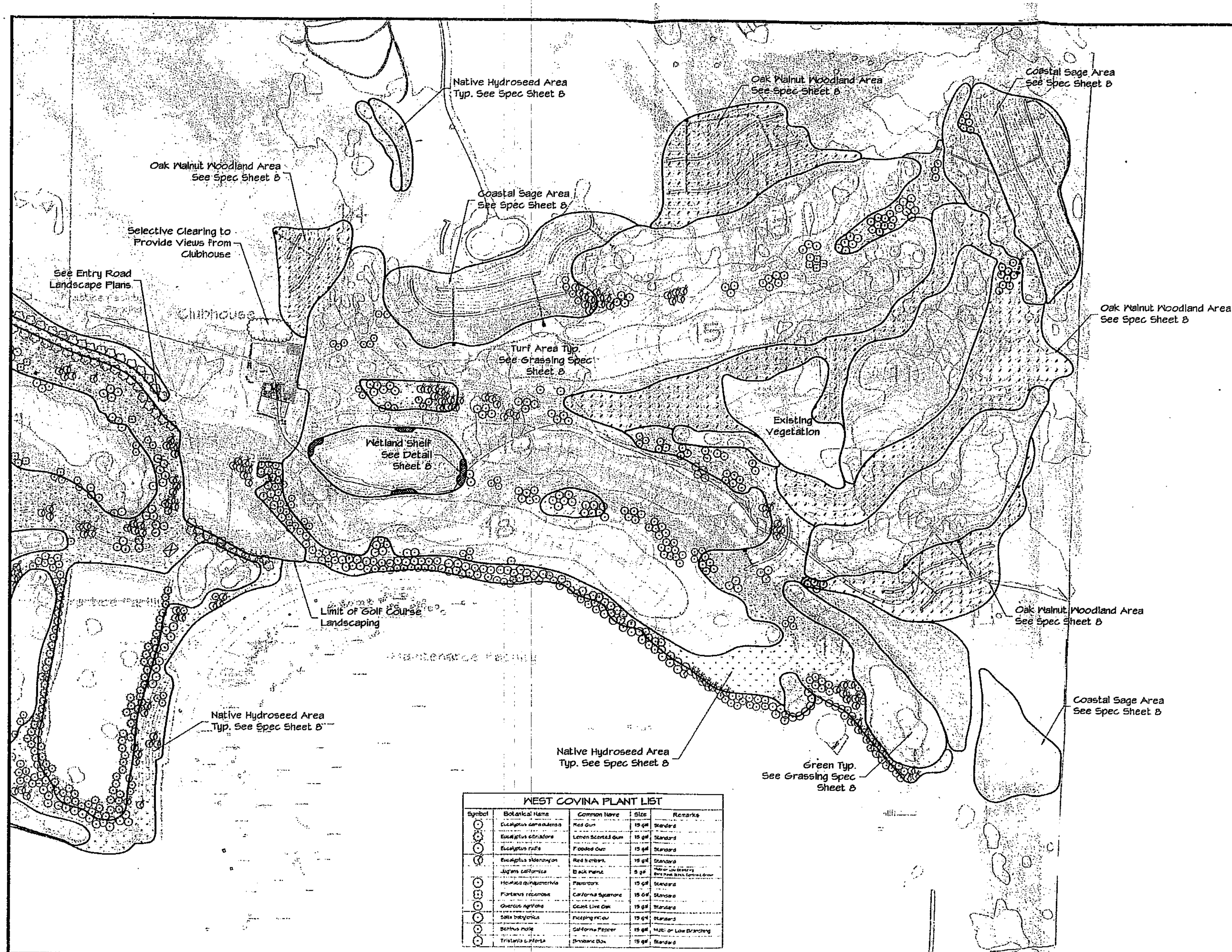

Native Hydroseed Area Typ. See Spec Sheet B
Coastal Sage Area See Spec Sheet B
Marsh Area Typ. See Spec Sheet B
Oak Walnut Woodland Area See Spec Sheet B
Selective Clearing to Provide Views from Clubhouse
See Entry Road Landscape Plans
Slope to be Landscaped by BKK
Hydroseed Area Typ. See Spec Sheet B
Green Typ. See Grassing Spec Sheet B
Wetland Shelf See Detail Sheet B
Turf Area Typ. See Grassing Spec Sheet B
Limit of Golf Course Landscaping
Native Hydroseed Area Typ. See Spec Sheet B
Native Hydroseed Area Typ. See Spec Sheet B
Clubhouse
Maintenance Facility
WEST COVINA PLANT LIST
Symbol
Botanical Name
Common Name
Size
Remarks
Eucalyptus camaldulensis
Red Gum
15 gal
Standard
Eucalyptus citriodora
Lemon Scented Gum
15 gal
Standard
Eucalyptus rudis
Flooded Gum
15 gal
Standard
Eucalyptus Macrocarpa
Rose Mallee
15 gal
Standard
Juglans californica
Black Walnut
5 gal
Multi or Low Branching
Melaleuca quinquenervia
Paperbark
15 gal
Standard
Platanus racemosa
California Sycamore
15 Gal
Standard
Quercus agrifolia
Coast Live Oak
15 gal
Standard
Salix babylonica
Weeping Willow
15 gal
Standard
Schinus molle
California Pepper
15 gal
Multi or Low Branching
Tristania conferta
Brisbane Box
15 gal
Standard
Prepared By:
Schmidt - Cantey Design, Inc.
8150 N. Hayden Road, D-200
Scottsdale, AZ 85258
(480) 483-1144
City of West Covina Sportsplex
West Covina, California
Landscape Plan Holes 1 - 9
NORTH
SCALE: 1" = 100'
DESIGN:
DATE: 6-22-06
REVISIONS
DATE
INITIAL
SHEET
6

FIGURE 8



WEST COVINA PLANT LIST

Symbol	Botanical Name	Common Name	Size	Remarks
	Eucalyptus camaldulensis	Red Gum	15 gal	Standard
	Eucalyptus citriodora	Lemon Scented Gum	15 gal	Standard
	Eucalyptus rudis	Flooded Gum	15 gal	Standard
	Eucalyptus sideroxylon	Red Ironbark	15 gal	Standard
	Juglans californica	Black Walnut	5 gal	Multi or Low Branching [illegible]
	Melaleuca quinquenervia	Paperbark	15 gal	Standard
	Platanus racemosa	California Sycamore	15 gal	Standard
	Quercus agrifolia	Coast Live Oak	15 gal	Standard
	Salix babylonica	Weeping Willow	15 gal	Standard
	Schinus molle	California Pepper	15 gal	Multi or Low Branching
	Tristania conferta	Brisbane Box	15 gal	Standard

Prepared By:
Schmidt - Curley Design, Inc.
8180 N. Hayden Road, D-200
Scottsdale, AZ 85258
(480) 483-1994

City of West Covina Sportsplex

West Covina, California
Landscape Plan Holes 10 - 18

NORTH

SCALE 1" = 100'
DESIGN
DATE 6-22-06
REVISION | DATE | INITIAL

SHEET
7

FIGURE 9

Grassing - Greens

Tifeagle Hybrid Bermudagrass mechanically planted at 20 bushels/1,000 square foot.

Grassing - Tees/Fairways/Roughs

419 Hybrid Bermudagrass
- Features will be sodded
- Other areas stolonized at 500 bushels/acre

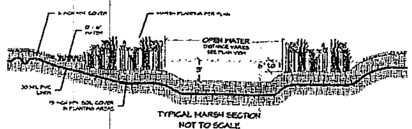
Oak Walnut Woodland Mix - 14 Acres		
Botanical Name	Common Name	LBS/Acre
Artemisia californica	California Sagebrush	0.2
Bromus carinatus	California Brome	8.0
Collinsia heterophylla	Chinese Houses	2.0
Elymus glaucus	Blue Wildrye	8.0
Hordeum californicum	California Barley	4.0
Melica californica	California Melica	5.0
Mimulus aurantiacus	Bush Monkey Flower	0.1
Muhlenbergia microsperma	Littleseed Muhly	2.0
Verbena lasiostachys	Weedy Verbena	2.0
Vulpia microstachys	Small Fescue	8.0
	TOTAL	39.3

Coastal Sage Mix - 17 Acres		
Botanical Name	Common Name	LBS/Acre
Artemisia californica	California Sagebrush	0.2
Encelia californica	California Sunflower	1.0
Eriogonum fasciculatum	California Buckwheat	1.0
Eriophyllum confertiflorum	Golden Yarrow	1.0
Eschscholzia californica	California Poppy	1.5
Lotus scoparius	Deerweed	4.0
Lupinus truncatus	Wood Lupine	1.5
Mimulus aurantiacus	Bush Monkey Flower	0.1
Muhlenbergia microsperma	Littleseed Muhly	2.0
Nassella pulchra	Purple Needle Grass	6.0
Phacelia minor	Wild Canterbury Bells	1.0
Salvia apiana	White Sage	1.0
Salvia mellifera	Black Sage	2.0
Vulpia microstachys	Small Fescue	5.0
	TOTAL	27.3

Native Hydroseed Mix - 31 Acres		
Botanical Name	Common Name	LBS/Acre
Baileya multiradiata	Desert Marigold	1.5
Encelia californica	California Sunflower	1.0
Eschscholzia californica	California Poppy	2.0
Eriophyllum confertiflorum	Golden Yarrow	1.0
Eschscholzia californica	California Poppy	1.5
Lotus scoparius	Deerweed	4.0
Lupinus truncatus	Wood Lupine	1.5
Mimulus aurantiacus	Bush Monkey Flower	0.1
Muhlenbergia microsperma	Littleseed Muhly	2.0
Nassella pulchra	Purple Needle Grass	6.0
Phacelia minor	Wild Canterbury Bells	1.0
Salvia apiana	White Sage	1.0
Salvia mellifera	Black Sage	2.0
Vulpia microstachys	Small Fescue	5.0
	TOTAL	27.3

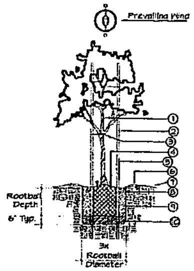
Native Mix to be Hydroseeded with 1,000 lbs. of wood fiber mulch/acre and 350 lbs/acre of 15-15-15 Starter Fertilizer.

Marsh Legend - 1.2 Acres	
Botanical Name	Common Name
Scirpus californicus	California Bulrush
Typha latifolia	Common Cattail



TYPICAL MARSH SECTION
NOT TO SCALE

Tree Legend					
#		Botanical Name	Common Name	Size	Remarks
500	⊙	Eucalyptus camaldulensis	Red Gum	15 gal	Standard
100	⊙	Eucalyptus citriadora	Lemon Scented Gum	15 gal	Standard
300		Eucalyptus rudis	Flooded Gum	15 gal	Standard
300	⊘	Eucalyptus sideroxylon	Red Ironbark	15 gal	Standard
3500		Juglans californica	Black Walnut	5 gal Equiv.	Multi or Low Branching; Bare Root Stock Contract Grown
50	⊙	Melaluca quinquenervia	Paperbark	15 gal	Standard
30	⊙	Plantanus racemosa	California Sycamore	15 gal	Standard
250	⊙	Quercus agrifolia	Coast Live Oak	15 gal	Standard
10	⊙	Salix babylonica	Weeping Willow	15 gal	Standard
150	⊙	Schinus molle	California Pepper	15 gal	Multi or Low Branching
150	⊙	Tristania conforta	Brisbane Box	15 gal	Standard



1 - Tree Trunk

2 - 2" Dia. x 12' Long Min. Lodge Pole Pine Stakes. One Stake for 5 Gal. Trees. Two Stakes for 15 GAL, 24" Box and 36" Box Trees. Pole should be driven a min. of 3' into ground

3 - New 1/2" dia. Green Reinforced Garden Hose, 18" Long Looped at each Branch with Single Strand of #12 Galvanized Wire. Fasten to Stake by Drilling Through the Center and Threading the Wire Through. Wrap Wire Once Around Stake and Twist to Secure. Provide Two Ties for 5 Gal. Trees and Three to Four Ties for 5 Gal., 24" Box and 36" Box Trees.

4 - Tree Rootball: 5 & 15 Gal. Trees 1" Above Grade, 24" Box & Larger Trees 3" Above Grade, Taper Rootball to Grade

5 - Irrigation Emitter/Bubbler Quantity and Location Per Irrigation Specifications.

6 - 5" High Water Retension Basin. Form Soil from Plan Pit Excavation

7 - Finish Grade.

8 - Fertilizer to be Best-Paks 20-10-5. (or approved equal), applied at rates specified by manufacturer for each size/type of plant.

9 - Prepared Backfill - Mix for desert trees and shrubs to be native site soil only.

10 - 6" zone of over excavated and recompacted native soil.

Standard Tree Installation Detail

Not To Scale

Emitter Details
(Bowsmith or Approved Equal)

General Notes.

1. Install one ML-210 emitter per 6 plants in pure ground cover areas
2. Install one SL-210 emitter per shrub or use multis for plant group.
3. Install one ML-220 multi-emitter per tree; use a minimum of 4 outlets. Irrigation Contractor shall determine exact quantities of emitters and outlets required for each tree according to tree size and tree type.
4. Install all emitters upgrade from plant material.
5. Install emitters a maximum of 6" from shrub pit locations and 24" from tree pit locations.
6. Use rigid PVC as emitter laterals throughout, 3/4" or 1" Class 200 PVC and 1/2" Class 315 PVC as emitter branch laterals to emitter locations.

Note: If poly is used instead of PVC, the emitter part numbers are M210, M220, and S210.

7. Install flushing end caps at ends of laterals. Install all flushing end caps in a minimum 6" diameter circular valve box.
8. Install all equipment as per manufacturers instructions and specifications and provide 100% water coverage to all plants, shrubs and trees.
9. Irrigation contractor shall ensure each plant, shrub and tree will have adequate water coverage, note that these Details are only conceptual.

EXHIBIT

LANDSCAPE INSTALLATION PACKAGE

Scope of Work

I. GENERAL REQUIREMENTS

a) Sub-contractor is expected to meet all local City, County, State and Federal general codes required during the Landscape Installation, pertaining to the sub-contractors scope of work.

b) All work shall be performed by a California licensed contractor.

c) Sub-contractor shall obtain, coordinate and pay for any and all permits and agency inspections as required by law pertaining to sub-contractors scope of work.

d) Sub-contractor shall carry all workers compensation, public liability, property damage and any and all other insurance as required by law or by the owner or owners representative.

e) Owner or Owners representative shall be responsible for the initial determination of property lines, right of ways, tract boundaries, grades, easements, utility crossings (above and below grade) and any other legal or physical elements as required for the successful completion of the work. Sub-contractor shall not proceed without determination of the above information. If sub-contractor proceeds with any work without determination, sub-contractor shall be financially responsible for any and all damages.

f) Sub-contractor shall be responsible for any encroachment onto adjacent property, right of ways, easements, setbacks or any other legal property restrictions either marked or unmarked.

g) Sub-contractor shall be liable for damage to all utilities, roadways, buildings, irrigation, etc., existing or new, marked or unmarked that is damaged as a result of sub-contractors work. All damages will be repaired or replaced in a manner acceptable to the Owner at no additional cost to the Owner.

h) All questions relating to interpretation of the drawings and specifications, quality of work, and acceptable fulfillment of intent of the contract documents shall be decided by the Owner, Owners representative or Golf Course Architect concurrently.

II. SITE CONDITIONS

a) The location of the project site is. ______________________________

b) Prior to commencement of work, the sub-contractor shall verify, at the site, all conditions and dimensions shown on the plans affecting the intended design of the landscape work. Any discrepancies shall be reported to the Owner, Owners representative or Golf Course Architect immediately.

c) Any and all discrepancies relating to field/soil conditions, contract documents, specifications and/or the design intent affecting the successful completion and cost of the project shall be reported to the Owner, Owners representative or Golf Course Architect immediately. All work related to the problem area shall cease until the discrepancies have been resolved by the Owner, Owners representative or Golf Course Architect in writing. Any continuation of work without this procedure is at the sub-contractors risk and expense.

d) Sub-contractor will supply all necessary equipment, fuel and labor to control blowing dust in all areas that are under construction and part of the sub-contractors scope of work.

e) Sub-contractor is responsible to become familiar with all local rules and regulations regarding dust mitigation and fully adhere to these laws.

f) The Owner or Owners representative will assign a designated yard area on-site. Sub-contractor will be responsible for the security and maintenance of all materials and equipment, proper storage of materials and fuel, office trailer, temporary power, phone, fax, daily trash removal and restrooms for employees.

g) Sub-contractor must keep yard area organized and neat at all times during construction.

h) Contact ______________________ if you have any other questions or concerns regarding mobilization requirements.

III. COORDINATION / INSPECTIONS

a) Prior to the start of any landscape construction work at the project, a sub-contractor orientation/pre-construction meeting shall take place to discuss the specifications, possible discrepancies, site conditions, interpretation of the golf course architects planting concepts, personnel, scheduling and requirements for starting work. Prior to this meeting, sub-contractor shall thoroughly acquaint themselves with the site conditions and the plans, details and specifications.

b) Any and all necessary field meetings shall be initiated by the sub-contractor and coordinated through the Owner, Owners representative and Golf Course Architect. The Golf Course Architect shall be in a support inspection/observation role to the Owner or Owners representative providing interpretive advice in regards to the scheduling and quality of the sub-contractors landscape construction work.

c) Sub-contractor is responsible for the coordination of all work with other on-site contractors. Sub-contractor must review the project schedule to assure all work is properly completed on time as to not delay other construction phases. Landscape work is estimated to begin in ____________ and be completed by ____________, with maintenance continuing until ____________. Sub-contractor will be responsible for any and all additional costs that may occur as a result of any delays to the construction schedule caused due to the fault of the sub-contractor.

d) The Owner, Owners representative or Golf Course Architect shall perform periodic inspections during landscape construction operations to view progress and to insure the work is in conformance with the plans and specifications. If necessary, Owner, Owners representative or Golf Course Architect may make comments or recommendations regarding the landscape work at which time sub-contractor must make all reasonable efforts to meet these requirements.

IV. SCOPE OF LANDSCAPE WORK

a) PLANT MATERIAL: All plant material will come from: 1) Nursery Supplied Plants

Nursery Supplied Plants - Sub-contractor is not responsible for the purchasing and delivery of the nursery supplied plant material. Sub-contractor is responsible for the coordination of delivery scheduling, inspection, off loading and storage of all nursery supplied plant material. Upon delivery, sub-contractor must inspect all plants for diseases, insects, stress or any other detrimental characteristics. At this time, sub-contractor shall bring any negative comments to the attention of the Owner, Owners representative or Golf Course Architect to determine if the specific plant material shall be rejected. Once plant material is off loaded, sub-contractor becomes responsible for the storage, care, installation, maintenance and viability of all plants until the completed landscape installation and post installation maintenance work has been accepted in writing by the Owner, Owners representative or Golf Course Architect.

b) INSTALLATION OF PLANT MATERIAL (See Details). Sub-contractor is responsible for all labor, equipment, fuel and materials to properly install all plant material as listed in the plant lists. All materials and installation procedures must be in accordance with the details provided on both the plans and specifications. Sub-contractor must understand the Golf Course Architects landscape concepts, and layout all plant material using stakes or wire flags for the Architect to review on-site and approve prior to installation.

c) FINE GRADING. Sub-contractor will supply all necessary materials, equipment, fuel, operators and labor to properly perform the Fine Grading work in all landscaped areas within the Golf Course.

d) IRRIGATION INSTALLATION. Sub-contractor is responsible to supply all necessary materials, equipment, fuel, operators and labor to properly perform the irrigation installation work to all landscaped areas that are part of the sub-contractors scope of work. Sub-contractor is not responsible for the irrigation of any turf or hydroseeded areas, but is to all plant material that is installed by the sub-contractor. Golf Course irrigation contractor will stub-out a 2" PVC pipe with a gate valve and two control wires. These stub-outs will be dispersed along each golf hole as follows: Par 3's = two to three stub-outs, Par 4's = four stub-outs and Par 5's = six stub-outs. It is the responsibility of the sub-contractor to coordinate with the Golf Course irrigation contractor in regards to the precise location of these stub-outs. Sub-contractor is responsible for all irrigation materials and installation from the point of the connection to all installed plant material. All irrigation materials must be of industry standard quality. Sub-contractor is responsible to design the landscape irrigation system to insure all plant material is receiving the proper amount of water for optimum growth. (i.e. adequate pipe sizing, correct amount and size of emitters to each plant, proper placement of emitters to allow for both shallow and deep watering, adequate flushing locations and devices, etc.) See Emitter details for a guide. Sub-contractor shall submit specifications and details of all materials to be used and discuss irrigation design concepts with Owner, Owners representative or Golf Course Architect for approval prior to the start of landscape irrigation installation.

V. POST INSTALLATION MAINTENANCE

a) Sub-contractor is responsible for a maintenance period of ninety (90) continuous calendar days on all installed plant material and completed landscaped areas. Upon completion of each phase (golf hole) Owner, Owners representative or Golf Course Architect will sign and date a form, prepared by sub-contractor, stating the beginning and ending of the ninety day maintenance period. It is the responsibility of the sub-contractor to initiate the signing of this document.

b) During this maintenance period, sub-contractor is responsible for assuring all landscaped areas consist of proper watering, fertilization, weeding, rodent/insect control, clean up, etc. Sub-contractor shall remove all surplus material and debris from the landscaped areas and keep the premises in a neat and clean condition at all times.

c) Sub-contractor is responsible for maintaining adequate protection of all planted areas and surrounds during this maintenance period and any damage to these areas will be repaired at the expense of the sub-contractor.

d) Any and all plant material that becomes extremely stressed, diseased or dies during the maintenance period will be replaced by the sub-contractor at no additional cost to the Owner.

e) The Owner, Owners representative or Golf Course Architect, will perform site visits at the end of each thirty (30) day intervals during the maintenance period to insure the sub-contractor is conforming to all maintenance requirements. At the end of the ninety day maintenance period for each phase, Owner, Owners representative or Golf Course Architect will make a final inspection of each landscaped area. If all work is complete and satisfactory, Owner, Owners representative or Golf Course Architect will sign a document (prepared by sub-contractor), relieving sub-contractor of any further responsibilities. It is the responsibility of the sub-contractor to initiate this turn over procedure.

Prepared By:
Schmidt - Curley Design, Inc.
8180 N. Hayden Road, D-200
Scottsdale, AZ 85258
(480) 483-1944

City of West Covina Sportsplex

West Covina, California
Landscape Detail Sheet

NORTH

SCALE	No Scale
DESIGN	
DATE	10-22-01
REVISION	DATE

SHEET 8

FIGURE 10

Appendix A

U.S. Army Corps of Engineers Section 404 Permit
(199915821-MDC)

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

REPLY TO
ATTENTION OF:

June 10, 2005

Office of the Chief
Regulatory Branch

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

West Covina Community Development Commission
Attn: Mr. Ben Cendejas
P.O. Box 1440
West Covina, CA 91763

Dear Mr. Cendejas:

This is in reply to your request (No. 1991582100-MDC) dated November 8, 2004, for Department of the Army authorization to discharge fill material in an unnamed tributary to Puente Creek in the City of West Covina, Los Angeles County, California associated with the construction of the West Covina Sportsplex. This project would permanently impact 0.03 acres of waters of the U.S.

The Corps of Engineers has determined that your proposed activity complies with the terms and conditions of Nationwide Permit 39 as described in enclosure 1. This verification letter authorizes impacts in addition to the 0.05 acres authorized by our letter dated June 6, 2003. The change in impacts is the result of a project redesign made necessary by grading problems encountered on the site's steep topography. Furthermore, you must comply with the following non-discretionary Special Condition:

To compensate for permanent impacts to the aquatic environment, the permittee shall create 0.27 acres of riparian habitat on site. The permittee shall submit a Mitigation and Monitoring Plan to the Corps for approval within 45 days of the date of this letter.

This letter of verification is valid through March 19, 2007. All nationwide permits expire on March 19, 2007. If you either contract the work or begin construction on or before March 19, 2007 you will have an additional 12 months to complete the activity under the attached nationwide permit terms and conditions. If the work is not under construction or contract by March 19, 2007 the work will be subject to regulations in effect at the time when you re-apply for a permit. It is incumbent upon you to remain informed of changes to the nationwide permits. If the Corps of Engineers modifies, reissues, or revokes any nationwide permit at an earlier date, we will issue a public notice announcing the changes.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with

any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Mark D. Cohen of my staff at (213) 452-3413.

Sincerely,

Bruce S. Henderson

for Antal Szijj
Acting Chief, North Coast Section
Regulatory Branch

Enclosure

LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *991582100-MDC*

Name of Permittee: *West Covina Community Development Commission*

Date of Issuance: *June 10, 2005*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Branch
ATTN: CESPL-CO-R-991582100-MDC
P.O. Box 532711
Los Angeles, California 90053-2325

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

_____ _____

Signature of Permittee Date

SECTION 404
NATIONWIDE PERMIT # 39
TRANSFER AGREEMENT

This transfer agreement refers to the U.S. Army Corps of Engineers Section 404 Nationwide Permit (Permit) No. 1999-15821-MDC and the U.S. Fish and Wildlife Service Biological Opinion FWS-LA-3074.2, authorizing the BKK Corporation San Jose Hills Development. Since issuance of the Section 404 Permit, the property has been sold to the West Covina Redevelopment Agency and renamed the West Covina Sportsplex project.

Since the property associated with the 404 Permit has been transferred or sold, the new owner's signature has been obtained to show recognition and agreement of the transfer of the Section 404 Permit. The terms and conditions of the Permit will continue to be binding on the new owner(s) of the property. The Transferee has signed below to validate the transfer of this Permit including the liabilities and responsibilities associated with compliance with its terms and conditions.

TRANSFEREE (signature) DATE 8/14/2003

Andrew G. Pasmant
TRANSFEREE (print name)
Andrew G. Pasmant
Executive Director

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

REPLY TO
ATTENTION OF:

June 6, 2003

Office of the Chief
Regulatory Branch

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

Vandermost Consulting Services, Inc.
Attention: Sheri Cohen
27312 Calle Arroyo
San Juan Capistrano, California 92675

Dear Ms. Cohen:

This is in reply to your letter (No. 199915821-MDC) dated April 22, 2002, concerning our permit authority under Section 404 of the Clean Water Act of 1972 (33 U.S.C. 1344) over BKK Corporation's proposal to permanently impact 0.05 acres of waters of the U.S. to discharge fill material associated with the construction of a recreation and commercial complex in an unnamed tributary to the Puente Creek in City of West Covina, Los Angeles County, California. The proposed action would impact two drainages, one measuring 1,875 square feet and located in the northeast corner of the site, and the other measuring 400 square feet and located on the western boundary of the site near Azusa Road.

The Corps of Engineers has determined that your proposed activity complies with the terms and conditions of nationwide permit 39 as described in enclosure 1. Furthermore, you must comply with the attached non-discretionary Special Conditions:

This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time. Presently, all nationwide permits are scheduled to expire on March 18, 2007. It is incumbent upon you to remain informed of changes to the nationwide permits. We will issue a public notice announcing the changes when they occur. Furthermore, if you commence or are under contract to commence this activity before the date the nationwide permit is modified or revoked, you will have twelve months from the date of the modification or revocation to complete the activity under the present terms and conditions of the nationwide permit.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Mark D. Cohen of my staff at (213) 452-3413.

Sincerely,

David J. Castanon
Chief, North Coast Section
Regulatory Branch

Enclosure

Copy Forwarded:

Valerie Carrillo
Section 401 Program
Los Angeles Regional Water Quality Control Board
320 W. 4th Street, suite 200
Los Angeles, CA 90013

~~Special Conditions~~

1. The permittee shall provide notification, either written or verbal, to the Corps of Engineers at least one week prior to the start of work as to the begin and end dates of construction.

2. Hay bales, silt fences, or other silt-control appropriate devices shall be placed immediately downslope of exposed soils or fill to prevent the transport of sediment to downstream, or other waters that are not permitted for impacts. Siltation and turbidity control measures (e.g., silt fences, hay bales) shall be implemented in all areas where disturbed soils may potentially wash into the creek or adjacent wetlands via rainfall or runoff. Such measures shall remain in place until the project is complete and exposed soils are stabilized. The diversion dams (straw bales and filter fabric) and pipe necessary for stream diversion shall be installed prior to initiation of construction. Upon completion of the project, the diversion dams and pipe shall be completely removed and the affected area returned to pre-project conditions.

3. No debris, soil, silt, sand, rubbish, cement or concrete washings thereof, oil or petroleum products or washings thereof, shall be allowed to enter into or placed where it may be washed by rainfall or runoff into the waterway. When project operations are completed, any and all excess construction materials, debris, and or other associated excess project materials shall be removed to an appropriate off-site location outside of any waters of the U.S. At no time shall this material be sidecast into the creek.

4. Staging, storage, fueling, and maintenance of equipment and materials shall be located outside of waters of the U.S.

5. A copy of the permit shall be on the job site at all times during construction. The permittee shall provide a copy of this permit to all contractors, subcontractors, and forepersons. The permittee shall require that all contractors and forepersons read this authorization in its entirety and acknowledge they understand its contents and their responsibility to ensure compliance with all general and special conditions contained herein.

6. To compensate for adverse impacts to the aquatic environment, the permittee shall create 0.15 acres of riparian habitat. Due to the lack of a suitable on-site location for mitigation, the permittee has elected to pursue an in-lieu fee agreement with Santa Monica Mountains Conservancy (the Conservancy). Under the proposed agreement, the Conservancy will accept a payment of $15,000 for use in implementing an aquatic habitat creation/restoration project. The commencement of work associated with this permit is conditioned on the Corps' receipt of a letter from the Conservancy confirming the transfer of the funds.

7. This permit incorporates by reference the terms and conditions of Regional Water Quality Control Board certification dated March 13, 2001 (File No. 00-148).

8. This Corps permit does not authorize you to take an endangered species, in particular the Coastal California Gnatcatcher (Polioptila californica californica). In order to legally take a listed species, you must have separate authorization under the ESA (e.g., an ESA

Section 10 permit, or a Biological Opinion (BO) under ESA Section 7. with "incidental take" provisions with which you must comply). The enclosed U.S. Fish and Wildlife Service BO contains mandatory terms and conditions to implement the reasonable and prudent measures that are associated with "incidental take" that is also specified in the BO. Your authorization under this Corps permit is conditional upon your compliance with all of the mandatory terms and conditions associated with incidental take of the attached BO, which terms and conditions are incorporated by reference in this permit. Failure to comply with the terms and conditions associated with incidental take of the BO, where a take of the listed species occurs, would constitute an unauthorized take, and it would also constitute noncompliance with your Corps permit. The U.S. Fish and Wildlife Service is the appropriate authority to determine compliance with the terms and conditions of its BO, and with the ESA

LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *199915821-MDC*

Name of Permittee: *BKK Corporation*

Date of Issuance: *June 6, 2003*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Branch
ATTN: CESPL-CO-R-199915821-MDC
P.O. Box 532711
Los Angeles, California 90053-2325

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

_____ _____

Signature of Permittee Date

DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

REPLY TO
ATTENTION OF:

March 20, 2001

Office of the Chief
Regulatory Branch

DEPARTMENT OF THE ARMY NATIONWIDE PERMIT AUTHORIZATION

BKK Corporation
c/o Vandermost Consulting Services, Inc.
Attention: Sheri Cohen
27312 Calle Arroyo
San Juan Capistrano, CA 92675

Dear Ms. Cohen:

This is in reply to your request (No. 991582100-MDC) dated October 6, 1999, for Department of the Army authorization to permanently impact 0.05 acres of waters of the U.S. to discharge fill material associated with the construction of a business park and golf course in an unnamed tributary to Puente Creek in the City of West Covina, Los Angeles County, California. The applicant's work will impact two drainages, one measuring 1,875 square feet and located in the northeast corner of the site, and the other measuring 400 square feet and located on the western boundary of the site near Azusa Road.

The Corps of Engineers has determined that your proposed activity complies with the terms and conditions of nationwide permit 26 as described in enclosure 1. Furthermore, you must comply with the following non-discretionary Special Condition:

> To compensate for adverse impacts to the aquatic environment, the permittee shall create 0.15 acres of riparian habitat. Due to the lack of a suitable on-site location for mitigation, the permittee has elected to pursue an in-lieu fee agreement with the Santa Monica Mountains Conservancy (the Conservancy). Under the proposed agreement, the Conservancy will accept a payment of $15,000 for use in implementing an aquatic habitat restoration/preservation project. The commencement of work associated with this permit is conditioned on the Corps' receipt and approval of this in-lieu fee agreement

This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time. Presently, nationwide permit 26 is scheduled to expire on February 11, 2002. It is incumbent upon you to remain informed of changes to the nationwide permits. We will issue a public notice announcing the changes when they occur. Furthermore, if you commence or are under contract to commence this activity before the date the nationwide permit is modified or revoked, you will have twelve months from the date of the modification or revocation to complete the

activity under the present terms and conditions of the nationwide permit.

A nationwide permit does not grant any property rights or exclusive privileges. Also, it does not authorize any injury to the property or rights of others or authorize interference with any existing or proposed Federal project. Furthermore, it does not obviate the need to obtain other Federal, state, or local authorizations required by law.

Thank you for participating in our regulatory program. If you have any questions, please contact Mark Cohen of my staff at (805) 585-2140.

Sincerely,

David Castanon
Chief, North Coast Section

Enclosure

LOS ANGELES DISTRICT
U.S. ARMY CORPS OF ENGINEERS

CERTIFICATION OF COMPLIANCE WITH DEPARTMENT OF THE ARMY NATIONWIDE PERMIT

Permit Number: *991582100-MDC*

Name of Permittee: *BKK Corporation*

Date of Issuance: *March, 20 2001*

Upon completion of the activity authorized by this permit and any mitigation required by the permit, sign this certification and return it to the following address:

U.S Army Corps of Engineers
Regulatory Branch
ATTN: CESPL-CO-R-991582100-MDC
P.O. Box 532711
Los Angeles, California 90053-2325

Please note that your permitted activity is subject to a compliance inspection by an Army Corps of Engineers representative. If you fail to comply with this nationwide permit you may be subject to permit suspension, modification, or revocation procedures as contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5.

I hereby certify that the work authorized by the above referenced permit has been completed in accordance with the terms and conditions of the said permit, and required mitigation was completed in accordance with the permit condition(s).

_____ _____

Signature of Permittee Date

NATIONWIDE PERMIT NUMBER 26 TERMS AND CONDITIONS

1. Nationwide Permit 26 Terms:

Your activity is authorized under 26 and is subject to the following terms:

26. Fills Within 100-Year Floodplains. For purposes of this general condition, 100-year floodplains will be identified through the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

(a) Discharges Below Headwaters. Discharges of dredged or fill material into waters of the United States resulting in permanent, above-grade fills within the 100-year floodplain at or below the point on a stream where the average annual flow is five cubic feet per second (i.e., below headwaters) are not authorized by NWPs 29, 39, 40, 42, 43, and 44. For NWPs 12 and 14, the prospective permittee must notify the District Engineer in accordance with General Condition 13 and the notification must include documentation that any permanent, above-grade fills in waters of the United States within the 100-year floodplain below headwaters comply with FEMA or FEMA-approved local floodplain construction requirements.

(b) Discharges in Headwaters (i.e., above the point on a stream where the average annual flow is five cubic feet per second).

(1) Flood Fringe. Discharges of dredged or fill material into waters of the United States resulting in permanent, above-grade fills within the flood fringe of the 100-year floodplain of headwaters are not authorized by NWPs 12, 14, 29, 39, 40, 42, 43, and 44, unless the prospective permittee notifies the District Engineer in accordance with General Condition 13. The notification must include documentation that such discharges comply with FEMA or FEMA-approved local floodplain construction requirements.

(2) Floodway. Discharges of dredged or fill material into waters of the United States resulting in permanent, above-grade fills within the floodway of the 100-year floodplain of headwaters are not authorized by NWPs 29, 39, 40, 42, 43, and 44. For NWPs 12 and 14, the permittee must notify the District Engineer in accordance with General Condition 13 and the notification must include documentation that any permanent, above grade fills proposed in the floodway comply with FEMA or FEMA-approved local floodplain construction requirements.

2. Nationwide Permit General Conditions

The following general conditions must be followed in order for any authorization by a NWP to be valid:

1. Navigation. No activity may cause more than a minimal adverse effect on navigation.
2. Proper Maintenance. Any structure or fill authorized shall be properly maintained, including maintenance to ensure public safety.
3. Soil Erosion and Sediment Controls. Appropriate soil erosion and sediment controls must be used and maintained in effective operating condition during construction, and all exposed soil and other fills, as well as any work below the ordinary high water mark or high tide line, must be permanently stabilized at the earliest practicable date.
4. Aquatic Life Movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species that normally migrate through the area, unless the activity's primary purpose is to impound water. Culverts placed in streams must be installed to maintain low flow conditions.
5. Equipment. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance.
6. Regional and Case-By-Case Conditions. The activity must comply with any regional conditions that may have been added by the division engineer (see 33 CFR 330.4(e)) and with any case specific conditions added by the Corps or by the State or tribe in its Section 401 water quality certification and Coastal Zone Management Act consistency determination.
7. Wild and Scenic Rivers. No activity may occur in a component of the National Wild and Scenic River System; or in a river officially designated by Congress as a "study river" for possible inclusion in the system, while the river is in an official study status; unless the appropriate Federal agency, with direct management responsibility for such river, has determined in writing that the proposed activity will not adversely affect the Wild and Scenic River designation, or study status. Information on Wild and Scenic Rivers may be obtained from the appropriate Federal land management agency in the area (e.g., National Park Service, U.S. Forest Service, Bureau of Land Management, U.S. Fish and Wildlife Service).
8. Tribal Rights. No activity or its operation may impair reserved tribal rights, including, but not limited to, reserved water rights and treaty fishing and hunting rights.
9. Water Quality.
   (a) In certain States and tribal lands an individual 401 water quality certification must be obtained or waived (See 33 CFR 330.4(c)).
   (b) For NWPs 12, 14, 17, 18, 32, 39, 40, 42, 43, and 44, where the State or tribal 401 certification (either generically or individually) does not require or approve a water quality management plan, the permittee must include design criteria and techniques that will ensure that the authorized work does not result in more than minimal degradation of water quality. An important component of a water quality management plan includes stormwater management that minimizes degradation of the downstream aquatic system, including water quality. Refer to General Condition 21 for stormwater management requirements. Another important component of a water quality management plan is the establishment and maintenance of vegetated buffers next to open waters, including streams. Refer to General Condition 19 for vegetated buffer requirements for the NWPs.
10. Coastal Zone Management. In certain states, an individual state coastal zone management consistency concurrence must be obtained or waived (see Section 330.4(d)).
11. Endangered Species.
    (a) No activity is authorized under any NWP which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such

designation, as identified under the Federal Endangered Species Act, or which will destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or designated critical habitat might be affected or is in the vicinity of the project, or is located in the designated critical habitat and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. For activities that may affect Federally-listed endangered or threatened species or designated critical habitat, the notification must include the name(s) of the endangered or threatened species that may be affected by the proposed work or that utilize the designated critical habitat that may be affected by the proposed work. As a result of formal or informal consultation with the FWS or NMFS, the District Engineer may add species-specific regional endangered species conditions to the NWPs.

(b) Authorization of an activity by a nationwide permit does not authorize the "take" of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with "incidental take" provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and non-lethal "takes" of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service or their world wide web pages at http://endangered.fws.gov/ and http://www.nmfs.noaa.gov/prot_res/esahome.html, respectively.

12. Historic Properties. No activity which may affect historic properties listed, or eligible for listing, in the National Register of Historic Places is authorized, until the DE has complied with the provisions of 33 CFR Part 325, Appendix C. The prospective permittee must notify the District Engineer if the authorized activity may affect any historic properties listed, determined to be eligible, or which the prospective permittee has reason to believe may be eligible for listing on the National Register of Historic Places, and shall not begin the activity until notified by the District Engineer that the requirements of the National Historic Preservation Act have been satisfied and that the activity is authorized. Information on the location and existence of historic resources can be obtained from the State Historic Preservation Office and the National Register of Historic Places (see 33 CFR 330.4(g)). For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the notification must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

13. Notification.

(a) Timing: Where required by the terms of the NWP, the prospective permittee must notify the District Engineer with a preconstruction notification (PCN) as early as possible. The District Engineer must determine if the PCN is complete within 30 days of the date of receipt and can request the additional information necessary to make the PCN complete only once. However, if the prospective permittee does not provide all of the requested information, then the District Engineer will notify the prospective permittee that the PCN is still incomplete and the PCN review process will not commence until all of the requested information has been received by the District Engineer. The prospective permittee shall not begin the activity:

(1) Until notified in writing by the District Engineer that the activity may proceed under the NWP with any special conditions imposed by the District or Division Engineer; or

(2) If notified in writing by the District or Division Engineer that an individual permit is required; or

(3) Unless 45 days have passed from the District Engineer's receipt of the complete notification and the prospective permittee has not received written notice from the District or Division Engineer. Subsequently, the permittee's right to proceed under the NWP may be modified, suspended, or revoked only in accordance with the procedure set forth in 33 CFR 330.5(d)(2).

(b) Contents of Notification: The notification must be in writing and include the following information:

(1) Name, address, and telephone numbers of the prospective permittee;

(2) Location of the proposed project;

(3) Brief description of the proposed project; the project's purpose; direct and indirect adverse environmental effects the project would cause; any other NWP(s), regional general permit(s), or individual permit(s) used or intended to be used to authorize any part of the proposed project or any related activity; and

(4) For NWPs 7, 12, 14, 18, 21, 34, 38, 39, 40, 42, and 43, the PCN must also include a delineation of affected special aquatic sites, including wetlands, vegetated shallows (e.g., submerged aquatic vegetation, seagrass beds), and riffle and pool complexes (see paragraph 13(f));

(5) For NWP 7, Outfall Structures and Maintenance, the PCN must include information regarding the original design capacities and configurations of those areas of the facility where maintenance dredging or excavation is proposed.

(6) For NWP 14, Linear Transportation Crossings, the PCN must include a compensatory mitigation proposal to offset permanent losses of waters of the United States and a statement describing how temporary losses of waters of the United States will be minimized to the maximum extent practicable.

(7) For NWP 21, Surface Coal Mining Activities, the PCN must include an Office of Surface Mining (OSM) or state-approved mitigation plan.

(8) For NWP 27, Stream and Wetland Restoration, the PCN must include documentation of the prior condition of the site that will be reverted by the permittee.

(9) For NWP 29, Single-Family Housing, the PCN must also include:

(i) Any past use of this NWP by the individual permittee and/or the permittee's spouse;

(ii) A statement that the single-family housing activity is for a personal residence of the permittee;

(iii) A description of the entire parcel, including its size, and a delineation of wetlands. For the purpose of this NWP, parcels of land measuring 1/4 acre or less will not require a formal on-site delineation. However, the applicant shall provide an indication of where the wetlands are and the amount of wetlands that exists on the property. For parcels greater than 1/4 acre in size, a formal wetland delineation must be prepared in accordance with the current method required by the Corps. (See paragraph 13(f));

(iv) A written description of all land (including, if available, legal descriptions) owned by the prospective permittee and/or the prospective permittee's spouse, within a one mile radius of the parcel, in any form of ownership (including any land owned as a partner, corporation, joint tenant, co-tenant, or as a tenant-by-the-entirety) and any land on which a purchase and sale agreement or other contract for sale or purchase has been executed;

(10) For NWP 31, Maintenance of Existing Flood Control Projects, the prospective permittee must either notify the District Engineer with a PCN prior to each

maintenance activity or submit a five year (or less) maintenance plan. In addition, the PCN must include all of the following:

(i) Sufficient baseline information so as to identify the approved channel depths and configurations and existing facilities. Minor deviations are authorized, provided the approved flood control protection or drainage is not increased;

(ii) A delineation of any affected special aquatic sites, including wetlands; and,

(iii) Location of the dredged material disposal site.

(11) For NWP 33, Temporary Construction, Access, and Dewatering, the PCN must also include a restoration plan of reasonable measures to avoid and minimize adverse effects to aquatic resources.

(12) For NWPs 39, 43, and 44, the PCN must also include a written statement to the District Engineer explaining how avoidance and minimization of losses of waters of the United States were achieved on the project site.

13) For NWP 39, Residential, Commercial, and Institutional Developments, the PCN must include a compensatory mitigation proposal that offsets unavoidable losses of waters of the United States or justification explaining why compensatory mitigation should not be required.

(14) For NWP 40, Agricultural Activities, the PCN must include a compensatory mitigation proposal to offset losses of waters of the United States.

(15) For NWP 43, Stormwater Management Facilities, the PCN must include, for the construction of new stormwater management facilities, a maintenance plan (in accordance with State and local requirements, if applicable) and a compensatory mitigation proposal to offset losses of waters of the United States.

(16) For NWP 44, Mining Activities, the PCN must include a description of all waters of the United States adversely affected by the project, a description of measures taken to minimize adverse effects to waters of the United States, a description of measures taken to comply with the criteria of the NWP, and a reclamation plan (for aggregate mining activities in isolated waters and non-tidal wetlands adjacent to headwaters and any hard rock/mineral mining activities).

(17) For activities that may adversely affect Federally-listed endangered or threatened species, the PCN must include the name(s) of those endangered or threatened species that may be affected by the proposed work or utilize the designated critical habitat that may be affected by the proposed work.

(18) For activities that may affect historic properties listed in, or eligible for listing in, the National Register of Historic Places, the PCN must state which historic property may be affected by the proposed work or include a vicinity map indicating the location of the historic property.

(19) For NWPs 12, 14, 29, 39, 40, 42, 43, and 44, where the proposed work involves discharges of dredged or fill material into waters of the United States resulting in permanent, above-grade fills within 100-year floodplains (as identified on FEMA's Flood Insurance Rate Maps or FEMA-approved local floodplain maps), the notification must include documentation demonstrating that the proposed work complies with the appropriate FEMA or FEMA-approved local floodplain construction requirements.

(c) Form of Notification: The standard individual permit application form (Form ENG 4345) may be used as the notification but must clearly indicate that it is a PCN and must include all of the information required in (b) (1)-(19) of General Condition 13. A letter containing the requisite information may also be used.

(d) District Engineer's Decision: In reviewing the PCN for the proposed activity, the District Engineer will determine whether the activity authorized by the NWP will result in more than minimal individual or cumulative adverse environmental effects or may be contrary to the public interest. The prospective permittee may, optionally, submit a proposed mitigation plan with the PCN to expedite the process and the District Engineer will consider any proposed compensatory mitigation the applicant has included in the proposal in determining whether the net adverse environmental effects to the aquatic environment of the proposed work are minimal. If the District Engineer determines that the activity complies with the terms and conditions of the NWP and that the adverse effects on the aquatic environment are minimal, the District Engineer will notify the permittee and include any conditions the District Engineer deems necessary.

Any compensatory mitigation proposal must be approved by the District Engineer prior to commencing work. If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed. If the prospective permittee elects to submit a compensatory mitigation plan with the PCN, the District Engineer will expeditiously review the proposed compensatory mitigation plan. The District Engineer must review the plan within 45 days of receiving a complete PCN and determine whether the conceptual or specific proposed mitigation would ensure no more than minimal adverse effects on the aquatic environment. If the net adverse effects of the project on the aquatic environment (after consideration of the compensatory mitigation proposal) are determined by the District Engineer to be minimal, the District Engineer will provide a timely written response to the applicant stating that the project can proceed under the terms and conditions of the nationwide permit.

If the District Engineer determines that the adverse effects of the proposed work are more than minimal, then he will notify the applicant either: (1) that the project does not qualify for authorization under the NWP and instruct the applicant on the procedures to seek authorization under an individual permit; (2) that the project is authorized under the NWP subject to the applicant's submission of a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level; or (3) that the project is authorized under the NWP with specific modifications or conditions. Where the District Engineer determines that mitigation is required in order to ensure no more than minimal adverse effects on the aquatic environment, the activity will be authorized within the 45-day PCN period, including the necessary conceptual or specific mitigation or a requirement that the applicant submit a mitigation proposal that would reduce the adverse effects on the aquatic environment to the minimal level. When conceptual mitigation is included, or a mitigation plan is required under item (2) above, no work in waters of the United States will occur until the District Engineer has approved a specific mitigation plan.

(e) Agency Coordination: The District Engineer will consider any comments from Federal and State agencies concerning the proposed activity's compliance with the terms and conditions of the NWPs and the need for mitigation to reduce the project's adverse effects on the aquatic environment to a minimal level.

For activities requiring notification to the District Engineer that result in the loss of greater than 1/2 acre of waters of the United States, the District Engineer will, upon receipt of a notification, provide immediately (e.g., via facsimile transmission, overnight mail, or other expeditious manner), a copy to the appropriate offices of the Fish and Wildlife Service, State natural resource or water quality agency, EPA, State Historic Preservation Officer (SHPO), and, if appropriate, the National Marine Fisheries Service. With the exception of NWP 37, these agencies will then have 10 calendar days from the date the material is transmitted to telephone or fax the District Engineer notice that

they intend to provide substantive, site-specific comments. If so contacted by an agency, the District Engineer will wait an additional 15 calendar days before making a decision on the notification. The District Engineer will fully consider agency comments received within the specified time frame, but will provide no response to the resource agency, except as provided below. The District Engineer will indicate in the administrative record associated with each notification that the resource agencies' concerns were considered. As required by Section 305(b)(4)(B) of the Magnuson-Stevens Fishery Conservation and Management Act, the District Engineer will provide a response to National Marine Fisheries Service within 30 days of receipt of any Essential Fish Habitat conservation recommendations. Applicants are encouraged to provide the Corps multiple copies of notifications to expedite agency notification.

(f) Wetlands Delineations: Wetland delineations must be prepared in accordance with the current method required by the Corps. For NWP 29 see paragraph (b)(9)(iii) for parcels less than 1/4 acre in size. The permittee may ask the Corps to delineate the special aquatic site. There may be some delay if the Corps does the delineation. Furthermore, the 45-day period will not start until the wetland delineation has been completed and submitted to the Corps, where appropriate.

14. Compliance Certification. Every permittee who has received a Nationwide permit verification from the Corps will submit a signed certification regarding the completed work and any required mitigation. The certification will be forwarded by the Corps with the authorization letter. The certification will include: a.) A statement that the authorized work was done in accordance with the Corps authorization, including any general or specific conditions; b.) A statement that any required mitigation was completed in accordance with the permit conditions; and c.) The signature of the permittee certifying the completion of the work and mitigation.

15. Use of Multiple Nationwide Permits. The use of more than one NWP for a single and complete project is prohibited, except when the acreage loss of waters of the United States authorized by the NWPs does not exceed the acreage limit of the NWP with the highest specified acreage limit. For example, if a road crossing over tidal waters is constructed under NWP 14, with associated bank stabilization authorized by NWP 13, the maximum acreage loss of waters of the United States for the total project cannot exceed 1/3 acre.

16. Water Supply Intakes. No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in the proximity of a public water supply intake except where the activity is for repair of the public water supply intake structures or adjacent bank stabilization.

17. Shellfish Beds. No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may occur in areas of concentrated shellfish populations, unless the activity is directly related to a shellfish harvesting activity authorized by NWP 4.

18. Suitable Material. No activity, including structures and work in navigable waters of the United States or discharges of dredged or fill material, may consist of unsuitable material (e.g., trash, debris, car bodies, asphalt, etc.) and material used for construction or discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

19. Mitigation. The project must be designed and constructed to avoid and minimize adverse effects to waters of the United States to the maximum extent practicable at the project site (i.e., on site). Mitigation will be required when necessary to ensure that the adverse effects to the aquatic environment are minimal. The District Engineer will consider the factors discussed below when determining the acceptability of appropriate and practicable mitigation necessary to offset adverse effects on the aquatic environment that are more than minimal.

(a) To be practicable, the mitigation must be available and capable of being done considering costs, existing technology, and logistics in light of the overall project purposes. Examples of mitigation that may be appropriate and practicable include, but are not limited to: reducing the size of the project; establishing and maintaining wetland or upland vegetated buffers to protect open waters such as streams; and replacing losses of aquatic resource functions and values by creating, restoring, enhancing, or preserving similar functions and values, preferably in the same watershed;

(b) The District Engineer will require restoration, creation, enhancement, or preservation of other aquatic resources in order to offset the authorized impacts to the extent necessary to ensure that the adverse effects on the aquatic environment are minimal. An important element of any compensatory mitigation plan for projects in or near streams or other open waters is the establishment and maintenance, to the maximum extent practicable, of vegetated buffers next to open waters on the project site. The vegetated buffer should consist of native species. The District Engineer will determine the appropriate width of the vegetated buffer and in which cases it will be required. Normally, the vegetated buffer will be 25 to 50 feet wide on each side of the stream, but the District Engineer may require wider vegetated buffers to address documented water quality concerns. If there are open waters on the project site and the District Engineer requires compensatory mitigation for wetland impacts to ensure that the net adverse effects on the aquatic environment are minimal, any vegetated buffer will comprise no more than 1/3 of the remaining compensatory mitigation acreage after the permanently filled wetlands have been replaced on a one-to-one acreage basis. In addition, compensatory mitigation must address adverse effects on wetland functions and values and cannot be used to offset the acreage of wetland losses that would occur in order to meet the acreage limits of some of the NWPs (e.g., for NWP 39, 1/4 acre of wetlands cannot be created to change a 1/2 acre loss of wetlands to a 1/4 acre loss; however, 1/2 acre of created wetlands can be used to reduce the impacts of a 1/3 acre loss of wetlands). If the prospective permittee is required to submit a compensatory mitigation proposal with the PCN, the proposal may be either conceptual or detailed.

(c) To the extent appropriate, permittees should consider mitigation banking and other appropriate forms of compensatory mitigation. If the District Engineer determines that compensatory mitigation is necessary to offset losses of waters of the United States and ensure that the net adverse effects of the authorized work on the aquatic environment are minimal, consolidated mitigation approaches, such as mitigation banks, will be the preferred method of providing compensatory mitigation, unless the District Engineer determines that activity-specific compensatory mitigation is more appropriate, based on which is best for the aquatic environment. These types of mitigation are preferred because they involve larger blocks of protected aquatic environment, are more likely to meet the mitigation goals, and are more easily checked for compliance. If a mitigation bank or other consolidated mitigation approach is not available in the watershed, the District Engineer will consider other appropriate forms of compensatory mitigation to offset the losses of waters of the United States to ensure that the net adverse effects of the authorized work on the aquatic environment are minimal.

20. Spawning Areas. Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, in spawning areas during spawning seasons must be avoided to the maximum extent practicable. Activities that result in the physical destruction (e.g., excavate, fill, or smother downstream by substantial turbidity) of an important spawning area are not authorized.

21. Management of Water Flows. To the maximum extent practicable, the activity must be designed to maintain preconstruction downstream flow conditions (e.g., location, capacity,

and flow rates). Furthermore, the activity must not permanently restrict or impede the passage of normal or expected high flows (unless the primary purpose of the fill is to impound waters) and the structure or discharge of dredged or fill material must withstand expected high flows. The activity must, to the maximum extent practicable, provide for retaining excess flows from the site, provide for maintaining surface flow rates from the site similar to preconstruction conditions, and must not increase water flows from the project site, relocate water, or redirect water flow beyond preconstruction conditions. In addition, the activity must, to the maximum extent practicable, reduce adverse effects such as flooding or erosion downstream and upstream of the project site, unless the activity is part of a larger system designed to manage water flows.

22. Adverse Effects From Impoundments. If the activity, including structures and work in navigable waters of the United States or discharge of dredged or fill material, creates an impoundment of water, adverse effects on the aquatic system caused by the accelerated passage of water and/or the restriction of its flow shall be minimized to the maximum extent practicable.

23. Waterfowl Breeding Areas. Activities, including structures and work in navigable waters of the United States or discharges of dredged or fill material, into breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

24. Removal of Temporary Fills. Any temporary fills must be removed in their entirety and the affected areas returned to their preexisting elevation.

25. Designated Critical Resource Waters. Critical resource waters include, NOAA-designated marine sanctuaries, National Estuarine Research Reserves, National Wild and Scenic Rivers, critical habitat for Federally listed threatened and endangered species, coral reefs, State natural heritage sites, and outstanding national resource waters or other waters officially designated by a State as having particular environmental or ecological significance and identified by the District Engineer after notice and opportunity for public comment. The District Engineer may also designate additional critical resource waters after notice and opportunity for comment.

(a) Except as noted below, discharges of dredged or fill material into waters of the United States are not authorized by NWPs 7, 12, 14, 16, 17, 21, 29, 31, 35, 39, 40, 42, 43, and 44 for any activity within, or directly affecting, critical resource waters, including wetlands adjacent to such waters. Discharges of dredged or fill materials into waters of the United States may be authorized by the above NWPs in National Wild and Scenic Rivers if the activity complies with General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with General Condition 11 and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service has concurred in a determination of compliance with this condition.

(b) For NWPs 3, 8, 10, 13, 15, 18, 19, 22, 23, 25, 27, 28, 30, 33, 34, 36, 37, and 38, notification is required in accordance with General Condition 13, for any activity proposed in the designated critical resource waters including wetlands adjacent to those waters. The District Engineer may authorize activities under these NWPs only after he determines that the impacts to the critical resource waters will be no more than minimal.

26. Fills Within 100-Year Floodplains. For purposes of this general condition, 100-year floodplains will be identified through the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or FEMA-approved local floodplain maps.

(a) Discharges Below Headwaters. Discharges of dredged or fill material into waters of the United States resulting in permanent, above-grade fills within the 100-year floodplain at or below the point on a stream where the average annual flow is five cubic feet per second (i.e., below headwaters) are not authorized by NWPs 29, 39, 40, 42, 43, and 44. For NWPs 12 and 14, the prospective permittee must notify the District Engineer in accordance with General Condition 13 and the notification must include documentation that any permanent, above-grade fills in waters of the United States within the 100-year floodplain below headwaters comply with FEMA or FEMA-approved local floodplain construction requirements.

(b) Discharges in Headwaters (i.e., above the point on a stream where the average annual flow is five cubic feet per second).

(1) Flood Fringe. Discharges of dredged or fill material into waters of the United States resulting in permanent, above-grade fills within the flood fringe of the 100-year floodplain of headwaters are not authorized by NWPs 12, 14, 29, 39, 40, 42, 43, and 44, unless the prospective permittee notifies the District Engineer in accordance with General Condition 13. The notification must include documentation that such discharges comply with FEMA or FEMA-approved local floodplain construction requirements.

(2) Floodway. Discharges of dredged or fill material into waters of the United States resulting in permanent, above-grade fills within the floodway of the 100-year floodplain of headwaters are not authorized by NWPs 29, 39, 40, 42, 43, and 44. For NWPs 12 and 14, the permittee must notify the District *Engineer in accordance with General Condition 13 and the notification must include documentation that any permanent, above grade fills proposed in the floodway comply with FEMA or FEMA-approved local floodplain construction requirements.*

3. Further information:

A. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

( ) Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

( ) Section 404 of the Clean Water Act (33 U.S.C. 1344).

B. Limits of this authorization.

1. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.

2. This permit does not grant any property rights or exclusive privileges.

3. This permit does not authorize any injury to the property or rights of others.

4. This permit does not authorize interference with any existing or proposed Federal project.

C. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

1. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.

2. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.

3. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.

4. Design or construction deficiencies associated with the permitted work.

5. Damage claims associated with any future modification, suspension, or revocation of this permit.

D. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

E. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

1. You fail to comply with the terms and conditions of this permit.

2. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).

3. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 330.5 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measure ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

F. This letter of verification is valid for a period not to exceed two years unless the nationwide permit is modified, reissued, revoked, or expires before that time.

G. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition H below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.

H. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.

I. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished with the terms and conditions of your permit.

Appendix B

U.S. Fish and Wildlife Service Biological Opinion

(FWS-LA-3074.2)

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Ecological Services
Carlsbad Fish and Wildlife Office
6010 Hidden Valley Road
Carlsbad, California 92009

In Reply Refer To:
FWS-LA-3074.2

JUN 5 2003

David J. Castanon
Chief, North Coast Section
U.S. Army Corps of Engineers
Los Angeles District
P.O. Box 532711
Los Angeles, California 90053-2325

Attn: Mark Cohen, Regulatory Branch (File No. 199915821-MDC)

Re: Formal Section 7 Consultation/Conference for BKK Landfill Development Project, City of West Covina, Los Angeles County, California

Dear Mr. Castanon:

This document transmits our biological/conference opinion based on our review of the proposed BKK Landfill Development Project located in the City of West Covina (City), Los Angeles County, California, and its effects on the federally threatened coastal California gnatcatcher (*Polioptila californica californica*, "gnatcatcher") and its proposed critical habitat in accordance with section 7 of the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*). Your letter requesting formal consultation was received on February 7, 2003. We also received a request to Conference on the Proposed Critical Habitat for the gnatcatcher from the Corps on April 29, 2003.

This biological opinion is based on information provided in the: (1) *BKK Class III Landfill Closure, Postclosure Development, Environmental Impact Report (EIR), City of West Covina,* prepared by Environmental Science Associates, dated July 1999; (2) *Coastal California Gnatcatcher (Polioptila californica californica) Survey Report, BKK Landfill,* prepared by Jim Jennings, dated August 25, 2002; (3) *Conceptual Coastal Sage Scrub Conservation and Monitoring Plan,* prepared by Vandermost Consulting Services, Inc., dated May 22, 2003; and (4) meetings, correspondence, notes, maps and other information compiled during the course of discussions on the subject project. A complete administrative record of this consultation is on file at this office.

Consultation History

We received the above mentioned EIR in our office on October 28, 2002. On November 7, 2002, we met with the Corps, BKK Corporation, the City, and project consultants on the project site.

The property is owned and operated by the BKK Corporation, however, in the future, the proposed development would be transferred to the ownership and management of the City. The Landfill exclusive of the proposed development will remain part of the BKK Corporation's holdings. Consequently, BKK Corporation and the City are joint applicants (applicants). On December 24, 2002, we received an alternative project design as a result of our comments and discussion at the November 2002 meeting. We met with the applicants and consultants again in our office on February 6, 2003, to discuss additional changes to the project and conservation measures. On February 7, 2003, we received a letter from the Corps requesting formal consultation.

On February 21, 2003, we received the Draft Coastal Sage Scrub Habitat Conservation and Monitoring Plan (Monitoring Plan) for the proposed project. On March 4, 2003, we provided comments on the Monitoring Plan. On March 7, 2003, we received the updated Monitoring Plan that incorporated our comments. Also on March 7, 2003, we notified the Corps and the applicants that the Monitoring Plan contained most of the major elements expected from an adequate monitoring and management proposal and we anticipated submitting a draft biological opinion to the Corps by April 7, 2003. However, upon further review of the Monitoring Plan, we contacted the applicants by telephone on March 27, 2003, to discuss the need to incorporate funding assurances and long-term management goals in the Monitoring Plan. On April 9, 2002, we conducted a conference call with the City to discuss financial assurances for the revegetation and long-term maintenance of the land that will be conserved for the gnatcatcher. On April 15, 2003, we discussed cowbird trapping near conservation easement sites with the project consultant. We received a request to Conference on Proposed Critical Habitat for the gnatcatcher from the Corps on April 29, 2003. On April 30, 2003, we conducted a conference call with the applicants, City, and consultants to discuss conservation, management and funding assurances for the proposed conservation easement on the property and other outstanding issues. On May 22, 2003, we received the revised Conceptual Coastal Sage Scrub Conservation and Monitoring Plan.

BIOLOGICAL/CONFERENCE OPINION

DESCRIPTION OF THE PROPOSED ACTION

The proposed BKK Landfill project consists of a Big League Dreams sports park/commercial center, restaurant, associated parking facilities, and an 18-hole public golf course. The site includes a closed Class I Landfill (Mixed Hazardous and Non-Hazardous Municipal Solid Waste), a closed Class III Landfill (Municipal Solid Waste), and related ancillary uses on approximately 583 acres. Approximately 510 acres of the site consists of dirt fill and plantings of nonnative grasslands, nonnative trees, and some native vegetation. The typical plant palette used for the landfills include eucalyptus, pines, acacia, pepper, myoporum and oleander. Also, present is the nonnative, invasive pampas grass. The remainder of the property consists of approximately 73 acres of native habitat including California walnut woodland, coast live oak woodland, mixed woodland, Diegan coastal sage scrub (CSS), and mulefat scrub. The site is bordered by residential development to the west and south, the proposed development of Walnut Hills to the east, including 27.37 acres of conserved open space and 58 acres of created coastal

sage scrub, and the proposed Pacific Communities residential development and City open space (Galster Wilderness Park) to the north.

According to 50 CFR § 402.02, pursuant to section 7 of the Act, the "action area" includes all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (e.g., Corps' jurisdictional areas proposed to be filled). Subsequent analyses of the environmental baseline, effects of the action, and levels of incidental take are based upon the action area as determined by the Carlsbad Fish and Wildlife Office (CFWO). We define the action area for this project to be between Azuza Ave to the west, Amar Road to the south, Grand Avenue to the east, and the north side of the San Jose Hills to the north. This action area includes the adjacent proposed Pacific Communities residential project, the Walnut Hills site, Galster Wilderness Park, the San Jose Hills and all other open space within the boundaries described in the preceding sentence. Because our action area is a biological determination that must incorporate direct, indirect, and interrelated/interdependent effects to listed species and their habitats, our action area may differ from the scope of analysis used by the Corps under the National Environmental Policy Act as defined in Paragraph 7(b) of Appendix B of 33 CFR 325.

The Corps proposes to issue a nationwide permit authorizing the applicants to fill 0.05 acres of jurisdictional waters of the United States associated with the proposed development in an unnamed tributary to Puente Creek in the City. The proposed project also includes associated geotechnical activities.

Conservation Measures

The applicants and the CFWO have agreed that the following conservation measures will be implemented as part of the proposed action to minimize and offset adverse effects of the project on the gnatcatcher and proposed critical habitat.

1. The Conceptual Coastal Sage Scrub Conservation and Monitoring Plan, prepared by Vandermost Consulting Services, Inc., dated May 22, 2003, will be implemented and is included as an Appendix.

2. Twenty-four acres of CSS will be avoided, conserved and managed in perpetuity. Additionally, twenty-three acres of CSS will be created, conserved and managed in perpetuity on the project site as defined in the Monitoring Plan. The landowner of the subject real property will be the Redevelopment Agency (Agency) of the City of West Covina. The Agency will issue one or more municipal bonds in connection with the construction of the anticipated project, and a portion of those municipal bond proceeds, in an amount between $690,000 and $1,150,000, shall be dedicated prior to ground disturbing activities as assurance that the habitat creation and associated maintenance and monitoring for a 5-year period meets the success and performance standards as specified in the Monitoring Plan. The City will issue bonds for the construction of the project, which will include off-setting measures for impacts to CSS. The City, as separate and apart from the Redevelopment Agency, as landowner, itself shall guarantee, in writing, by means of a separate written guarantee, the various conservation obligations of the

Agency, as landowner, including habitat creation and associated maintenance and monitoring for a five-year period to meet the success criteria as described in the Monitoring Plan. Said guarantee shall be backed by the full faith and credit of the City of West Covina and shall be a general obligation of the City of West Covina, payable from the general fund of the City. A copy of the City's written guarantee will be submitted to the CFWO for approval, prior to ground disturbing activities. Within the Official Statement of the Bond Issue, there will be a statement as to how the bond proceeds will be used, such as bond proceeds will be used for tax-exempt purposes, which will include grading, infrastructure improvements, parking improvements, and landscaping improvements including project landscaping, perimeter landscaping, oak and black walnut tree landscaping, and CSS restoration and management.

3. The City will place a conservation easement over the 47 acres of preserved and restored habitat areas on the project site. The City will submit the draft conservation easement language to CFWO for review and approval no later than 3 months from initiation of construction. The conservation easement will be submitted for recordation immediately after grading is complete. The onsite conservation easement will be conveyed to the City or to any other party approved by the CFWO. Until such time as the applicants complete the conservation easement or fee title transfer, the applicants will preserve this 47-acre area in the form of a deed restriction. Our office will be provided with documentation verifying this deed restriction prior to ground disturbing activities including vegetation clearing. In addition, until management of the conservation easement is transferred to the managing party, the applicants will be responsible for ongoing management of the conservation area. At such time the management responsibility of the conservation easement area is transferred, the City will become responsible for ongoing management and costs. The long-term cost will be distributed through the City's Maintenance District.

4. The conservation easement area will be retained in perpetuity as open space for the sole purpose of gnatcatcher and other existing, native wildlife and habitat conservation. The conservation easement will prohibit all activities that may harm or significantly disturb wildlife or impact their habitat within the conservation area. These activities include, but are not limited to, recreation (e.g., hiking, biking, walking pets), agriculture, gardening, dumping of garbage, off-road vehicle use, and construction of roads or other structures including wireless communication cell towers, except as allowed with prior easement rights.

5. The applicants will ensure that a biological monitor surveys the CSS, chaparral, mule fat, or other suitable gnatcatcher habitats on the project site prior to any vegetation disturbance to determine the location and numbers of gnatcatchers and to flush them from the impact areas. The monitor will be on site and present during all CSS clearing and removal activities to minimize the potential for individual gnatcatchers to be wounded or killed during the clearing of gnatcatcher habitat. The monitor will be a biologist approved by our office. The names, addresses, phone numbers, and at least 3 references of the biological monitor will be provided to the CFWO at least 15 days prior to commencement of surveys. References must be familiar with the relevant qualifications

of the proposed biologist. Proposed activities will not begin until an authorized biologist has been approved by the CFWO.

6. Prior to the commencement of clearing, grubbing, or grading operations, the applicants will demarcate the limits of the impact zone clearly, frequently, and regularly using fencing and flagging. Where the impact zone is adjacent to CSS, silt fence material will be keyed into the soil and caution flagging attached. Any clearing of habitat outside of the designated project footprint will be mitigated to the satisfaction of the CFWO at a 5:1 ratio for each acre impacted.

7. The applicants will clear and grub the project site between August 31 and February 15, which is outside of the gnatcatcher breeding season.

8. The applicants will salvage topsoil and grubbed plant material from high quality CSS communities to be cleared, and then spread the salvaged material across the revegetation areas to the extent possible.

9. The applicants will prepare and submit to our office, for approval, a shielded lighting plan for the development areas adjacent to the 47 acres of preserved and restored habitat. This plan will be submitted no later than 60 days prior to construction activities. The CFWO will respond in writing within 30 days of its receipt.

10. The applicants will implement the draft fencing plan that was submitted to our office on May 16, 2003. In addition, a five-foot-tall chain-link-fence will be installed immediately after grading is completed along the northern border of pad 750 to fill in the fenceless gap along this border of the project (Figure 1).

11. The applicants will prepare and submit to our office, for approval, a brown-headed cowbird monitoring plan and general trapping plan including the estimated financial costs associated with the trapping program. During the five-year maintenance and monitoring period for CSS restoration success, the biological monitor shall be responsible for determining if cowbirds occur on the 47 acres of preserved and revegetated CSS every time he/she is on site. If cowbirds are detected, the monitor will immediately submit a trapping plan to the CFWO for review and approval.

12. The applicants will include wording in the development plans that prohibits landscaping with plants identified by the California Exotic Pest Plant Council as an invasive risk in southern California. The plan will also address appropriate dumping of trash and maintenance of fencing adjacent to the project's preserved and restored areas and to other open space areas.

STATUS OF THE SPECIES

The coastal California gnatcatcher (*Polioptila californica californica*) is a recognized subspecies of the California gnatcatcher (*Polioptila californica* [Brewster]) and is endemic to southern California and northwestern Baja California, Mexico (Atwood 1990). It is a nonmigratory, resident species that is found on the coastal slopes of southern California, ranging from southern Ventura County southward through Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties into Baja California, Mexico, to approximately 30 degrees North latitude near El Rosario (Atwood 1980, 1990). Gnatcatchers were considered locally common in the mid-1940's, but by the 1960's this subspecies had declined substantially in the United States owing to widespread destruction of its habitat (Atwood 1980).

The gnatcatcher occurs in several subassociations of the CSS plant community. CSS vegetation is composed of relatively low-growing, dry-season deciduous, and succulent plants. The CSS formation is generally characterized by California sagebrush (*Artemisia californica*), several species of sage (*Salvia* spp.), California encelia (*Encelia californica*), California buckwheat (*Eriogonum fasciculatum*), and *Eriogonum cinereum* (O'Leary 1990), interspersed with species such as lemonadeberry (*Rhus integrifolia*) and various species of cactus and cholla (*Opuntia* spp.). CSS often occurs in a patchy or mosaic distribution pattern throughout the range of the gnatcatcher.

Gnatcatchers are typically found in moderately dense stands of vegetation (40-70 percent cover) below 620 meters (Atwood 1980). Density of vegetation, however, does not necessarily predict suitability of habitat but rather influences territory size. Territory size increases as vegetation density decreases, probably due to food resource availability. Gnatcatchers will use sparsely vegetated CSS for shelter and foraging as long as perennial shrubs are available.

Gnatcatchers also use chaparral, grassland, and riparian plant communities where they occur adjacent to or intermixed with sage scrub. The use of these habitats appears to be most frequent during late summer, autumn, and winter, with smaller numbers of birds using such areas during the breeding season. However, breeding territories have been documented in non-sage scrub habitats (e.g., chaparral). Potential factors contributing to the gnatcatcher's use of alternative habitats may include more abundant food resources, higher survival rates during dispersal, fire avoidance, and cooler microclimate during heat stress (Campbell *et al.* 1998).

The gnatcatcher breeding season extends from about February 15 through August 30, with the peak of nesting attempts occurring from mid-March through mid-May. Breeding season territories range in size from less than 2.5 acres to greater than 25 acres (Atwood *et al.* 1998, Preston *et al.* 1998), with mean territory size generally being greater for inland populations than coastal populations. In the non-breeding season, the area used by individual gnatcatchers may be almost twice as large as that used during the breeding season (Preston *et al.* 1998). In Riverside County, the estimated average area used during the non-breeding season was 61.7 acres (Braden *et al.* 1995). Gnatcatchers are persistent nest builders and often attempt multiple broods, which

is suggestive of high reproductive potential. The gnatcatcher may produce two or more broods in one nesting season, but the frequency of this behavior is not known. Gnatcatchers typically lay clutches of 3 to 4 eggs. The incubation and nestling periods encompass about 14 and 10 to 15 days, respectively. Parents provide 3 to 5 weeks of care for fledglings before excluding them from their territory (Grishaver *et al.* 1998).

Predation is the most common cause of nest failure, accounting for as many as 30 to 60 percent of nest failures in some areas (Braden *et al.* 1997*b*, Grishaver *et al.* 1998). Most of this predation occurs during egg laying and incubation. The continued fragmentation of habitat over time has increased exposure of gnatcatchers to threats associated with habitat edge. Numerous nest predators thrive on habitat edges, and brood parasitism by the brown-headed cowbird (*Molothrus ater*) appears to be exacerbated by increased edge effects. Cowbird parasitism can limit the distribution and expansion of gnatcatchers in some areas. Thirty-one percent of gnatcatcher nests monitored in Riverside County during the 1992-1995 breeding seasons were parasitized by cowbirds (Braden *et al.* 1997*b*).

Little is known about dispersal in juvenile gnatcatchers. Due to limited resources, the young disperse, or leave the area occupied by the adults, to find other territories in which to forage and raise young. Fledglings may disperse long distances from their natal territory, but data from limited studies indicate that the median distance is 1 km (0.6 miles) when dispersing (Braden *et al.* 1997*a*, Bailey and Mock 1998). Juveniles have been observed to disperse up to six miles from their natal territory (Bailey and Mock 1998) but generally disperse less than two miles on average (Bailey and Mock 1998, Galvin 1998). Dispersing gnatcatchers are apparently able to traverse highly human-modified landscapes for at least short distances (Bailey and Mock 1998).

Today, approximately 96 percent of the gnatcatchers in the United States are found in Orange, western Riverside, and San Diego counties. Small, isolated populations remain in portions of its former range in Los Angeles, San Bernardino, and Ventura counties. Most unprotected populations of gnatcatchers in the United States occur on private lands and have undergone declines in recent years.

In 1993, the U.S. Fish and Wildlife Service (Service) estimated that approximately 2,562 pairs of gnatcatchers remained in the United States. Of these, 757 pairs occurred in Orange County, 261 pairs occurred in Riverside County, and 1,514 pairs occurred in San Diego County. Within Los Angeles County, from 26 to 56 pairs have been documented on the Palos Verdes peninsula, and 41 pairs are at Montebello. Within the rest of the county, formerly extensive populations within the San Fernando Valley and Big Tujunga Wash have been essentially extirpated, and now the northernmost reproducing population occurs within and adjacent to the action area, with up to 12 pairs centered in the San Jose Hills and Bonelli Regional Park. Scattered pairs may also occur to the south in the Puente Hills.

In 1993, approximately 2,800 pairs of coastal California gnatcatchers were estimated to occur in Baja California, Mexico (58 FR 16742). However, a 140-kilometer (87 mile) gap exists between

the United States and Mexican populations due to urban and agricultural development. Also, only one percent of the Mexican population of *Polioptila californica* occurs north of 30 degree north latitude, which represents the southern range limit of *Polioptila californica californica.*

The Service listed the gnatcatcher as threatened on March 30, 1993 (58 FR 16742). Pursuant to section 4(d) of the Act on December 10, 1993, the Service defined specific conditions associated with certain land use activities under which incidental take of gnatcatchers and their habitat would not be a violation of section 9 of the Act (58 FR 65088).

Based on data collected since the time of its listing, we estimate the total number of gnatcatchers in the United States to be 2,899 pairs, after subtracting the gnatcatcher pairs lost via habitat loss permits, approved natural community conservation/habitat conservation plans, and section 7 consultations (Service 1996, 1999). The increased number of gnatcatchers since its listing is believed to be a result of surveys occurring within previously unsurveyed areas. These data should not be construed to represent an increase in the gnatcatcher population but merely represent a snapshot in time and do not account for natural fluctuations in a population (Atwood *et al.* 1998*b*). Overall, the area of CSS available to gnatcatchers has decreased due to habitat loss. The overall average gnatcatcher population through time will be limited by the decreased area of habitat within which annual population changes can occur.

Although the Service concluded that the designation of critical habitat was not prudent at the time of listing, on May 21, 1997, the U.S. Court of Appeals for the Ninth Circuit Court ordered the Service to issue a new decision regarding the prudency of determining critical habitat for the gnatcatcher. On February 8, 1999, the Service concluded that designation of critical habitat on lands within the United States portion of the range of the gnatcatcher is prudent (64 FR 5957). The proposal to designate critical habitat for the gnatcatcher was published February 7, 2000 (65 FR 5946). On October 24, 2000, the Service published a final rule designating critical habitat for the gnatcatcher that encompasses approximately 513,650 acres of land in Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties, California (65 FR 63680). That critical habitat designation was remanded but not vacated by the Central District of California on June 12, 2002. The Service re-proposed critical habitat on April 24, 2003 (68 FR 20228); the project site lies within proposed critical habitat in Unit 12 (East Los Angeles County Linkage).

ENVIRONMENTAL BASELINE

Regulations implementing the Act (50 CFR § 402.02) define the environmental baseline as the past and present impacts of all Federal, State, or private actions and other human activities in the action area. Also included in the environmental baseline are the anticipated impacts of all proposed Federal projects in the action area that have undergone section 7 consultation and the impacts of State and private actions that are contemporaneous with the consultation in progress.

The San Jose Hills provide the closest connection to the southern slope of the San Gabriel Mountains, which is thought to connect gnatcatcher populations of Ventura, western Los

Angeles, San Bernardino and Riverside counties. Surveys in this area suggest that gnatcatchers are sparsely distributed in this portion of their range. As such, the action area is a critical stepping stone for the on-going dispersal and genetic exchange of gnatcatchers throughout the northern extent of their known distribution.

A total of 6 gnatcatcher pairs are known within the action area. These pairs, in conjunction with the 7 pairs at Bonelli Park, represent the northernmost breeding population of gnatcatchers within Los Angeles County. This population is a remnant of pairs that were formerly distributed from Claremont, west through the San Gabriel Mountain foothills, to the San Fernando Valley. The occasional reports of gnatcatcher pairs in the San Gabriel Mountain foothills are likely birds derived from this source population. Should gnatcatchers recolonize remaining habitat in formerly occupied areas within the San Gabriel foothills or edges of the San Fernando Valley, colonists likely would come from this population.

Surveys conducted on the Walnut Hills project site during February and March 2002, revealed 5 pairs of gnatcatchers. An amended biological opinion was issued on August 7, 2002, for that project authorizing take of 4 pairs of gnatcatchers. Since then the project has begun grubbing and clearing within the approved development footprint. During grubbing and clearing surveys, one pair of gnatcatchers was detected on site on January 29, 2003, located near Amar Road and Lemon Avenue. Further grubbing and clearing surveys conducted in February 2003 resulted in no gnatcatchers detected during the completion of grubbing activities. However, protocol surveys to check all remaining habitat have not been completed, so based on the amount of habitat remaining, BonTerra (2003) believe a pair likely still exists onsite.

Gnatcatcher surveys on the subject project in 2002 revealed one pair using CSS at the northwest end of the property adjacent to Azusa Avenue and one additional juvenile using the western patch of CSS along Azusa Avenue (Jennings 2002).

Table 1. Known Gnatcatcher Distribution Within the Action Area (i.e., west San Jose Hills)

Location	**Gnatcatcher Pairs**	**Citation**
Walnut Hills Project Site	1	BonTerra, 2003
Walnut Ranch Park	2	Kimball Garrett, pers. comm. 2001; BonTerra, 2002
Amar Rd. and Lemon Ave.	1	Kimball Garrett, pers. comm. 2001
BKK Landfill	1	Jim Jennings, 2002
Pacific Communities	1	Glenn Lukos Assoc., 2003
Total # of pairs within action area	**6**	

The action area has experienced a major surge in development during the last two decades. The result of this development has been drastically reduced hillsides of native habitat and CSS patches. The few remaining patches of CSS are in the area of the BKK Landfill site and associated action area; there are no other large expanses of CSS in the surrounding area.

Proposed Critical Habitat

Parts of the proposed project site are located in proposed revised critical habitat for the gnatcatcher. The proposed critical habitat present amounts to 75 acres distributed across the site. The proposed project is located within Unit 12 East Los Angeles County Linkage: Unit 12 totals approximately 3,887 acres (68 FR 20228).

EFFECTS OF THE ACTION

Effects of the action refer to the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated and interdependent with that action, that will be added to the environmental baseline. Interrelated actions are those that are part of a larger action and depend on the proposed action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration. Indirect effects are those that are caused by the proposed action and are later in time, but are still reasonably certain to occur.

Direct Effects

The proposed project will result in the permanent removal of 6.5 acres of CSS and the temporary removal of 5 acres of CSS out of approximately 24 of CSS in the northwest corner of the project site. This habitat loss will occur in the existing gnatcatcher pair use area in the west and northwest area of the proposed project site and along the Azusa Avenue frontage. The permanent and temporary removal of CSS results in a reduction of habitat in the northwest corner of the project site from approximately 24 acres to 12 acres. Approximately 12 acres of CSS will be avoided in the southeast corner of the proposed project site. We consider the CSS in the southeast corner detached and not a part of the gnatcatcher use area in the northwest corner because of a lack of gnatcatcher sightings and the several thousand feet of unsuitable habitat in between these two areas across the BKK Landfill.

As discussed above, gnatcatchers use 1.5 to 22 acres during the breeding season but average use is between 4 to 8 acres depending on habitat quality (Atwood *et al.* 1998*b*). This use area may increase two to three times during the non-breeding season (Braden *et al.* 1997*a*). The proposed loss of habitat in the northwest corner would result in approximately a 50% reduction of the isolated habitat patch where gnatcatchers were repeatedly detected during protocol surveys. Although 12 acres of CSS can typically support a pair or more of gnatcatchers along the coast, gnatcatcher territories of the inland valleys are generally larger (Preston *et al.* 1998). Because of the extremely isolated nature of the remaining habitat patch surrounded by a busy arterial road

(Azusa Ave.), housing developments, and non-native vegetation on the landfill, there are no other opportunities for gnatcatchers to find forage and shelter in native habitats. The destruction of such a large portion of this gnatcatcher pair's use area likely will contribute to the loss of this pair, especially through the non-breeding season. These birds could potentially disperse to the adjacent slopes on the Pacific Communities site; however this site is known to be occupied by a pair (Jennings 2002) and likely by different birds, thus making this area less available. Further, the Pacific Communities site is proposed for development and grading may begin as early as fall 2003.

The pair of gnatcatchers may attempt to disperse from the northwest corner of the project site through unsuitable habitat to similarly fragmented and likely occupied areas of CSS further east. Gnatcatchers shifted or displaced from their territories will experience decreased fitness due to increased energy and time spent on competing for and/or finding a new territory. This search for, and establishment of, a new territory likely will result in a delay in the initiation of nest building, fewer nesting attempts per season, a reduced clutch size per attempt, and an overall reduction in reproductive output. However, if displaced birds cannot find suitable habitat to forage and shelter in, we anticipate that they will experience increased rates of predation or otherwise die or be injured.

However, after the 23 acres of CSS is restored and created to meet the success criteria (expected within 5 years), and combined with the 24 acres of avoided CSS, we expect this habitat to support at least one gnatcatcher pair on the project site.

Proposed Critical Habitat

Out of the 75 acres of proposed critical habitat on site, only 29 acres contain primary constituent elements. These elements provide for the essential primary biological needs of foraging, nesting, rearing of young, intra-specific communication, roosting, dispersal, genetic exchange, or sheltering for the gnatcatcher. The proposed project will result in the permanent loss of 6.5 acres of CSS and the temporary loss of 5 acres of CSS containing constituent elements of gnatcatcher critical habitat. The loss of these 11.5 acres will result in reduced breeding, feeding, and sheltering habitat for gnatcatchers primarily in the northwest corner of the site where the pair was observed. However, there will be a long-term net gain in CSS due to the restoration of 23 acres of CSS and the avoidance of 24 acres of CSS on site. In addition, the loss of 11.5 acres out of the 3,887 acres of habitat in Unit 12 East Los Angeles County Linkage is a relatively small impact and would not result in a significant reduction of the critical habitat unit.

Indirect Effects

In Southern California, effects of fragmentation have been shown to decrease the number of resident bird species, decrease the diversity of small rodents, and decrease the diversity and cover of native plant species (Soulé *et al.* 1988; Bolger *et al.* 1991; Alberts *et al.* 1993; Bolger *et al.* 1997*a*). The increased fragmentation of natural habitats within and around the project area will

have a negative effect on the quality of the remaining habitat for gnatcatchers by facilitating the invasion of natural communities by exotic plant and animal species and minimizing the function of an existing wildlife movement corridor.

Invasive, alien plants may include weedy annual plants such as red brome (*Bromus madritensis* ssp. *rubens*) and black mustard (*Brassica nigra*) or shrubby perennials such as fennel (*Foeniculum vulgare*) and artichoke thistle (*Cynara cardunculus*). These plants alter the species composition and structure of the habitat, which may make it less suitable to the gnatcatcher.

Invasive ant species such as the Argentine ant (*Linepithema humile*) are known to be abundant in residential areas and invade habitat edges (Suarez *et al.* 1998). This species alters the native arthropod community, thereby significantly reducing their diversity and abundance (Bolger *et al.* 2000). Any reduction in the native arthropod community related to invasion by Argentine ants as a result of the project is likely to reduce food resources for arthropod predators, including the gnatcatcher.

The wildlife movement corridor between the remaining habitat along Azusa Ave., Galster Wilderness Park and Walnut Hills to the east will be highly constricted by this project. Mule deer (*Odocoileus hemionus*) and coyote (*Canis latrans*) are still commonly encountered on the project site and in the rest of the San Jose Hills (TeraCor 2000, BonTerra 1999). After project completion, large mammals will have to cross many barriers to access the remaining habitat patches around the proposed golf course. This series of barriers, compounded by the proximity of homes, pets, and roads, will likely reduce habitat suitability for these mammals. Coyotes have been shown to be an important regulator of nest predator numbers (Crooks and Soulé 1999) and if their population declines within the project area, the density of nest predators will likely increase onsite. However, the proposed creation of 11 acres of California walnut/coast live oak woodland along the edge of the golf course and the eastern boundary of the property will facilitate maintaining wildlife movement in the long-term along the northeastern boundary of the property and improve wildlife access to open space areas within the project site. Also, the proposed revegetation of strategically placed CSS patches throughout the golf course will retain some value for dispersing gnatcatchers.

Because birds use their sense of hearing to establish and defend territories, maintain intraspecific contact, warn of threats, locate dependent young, and escape predators (Scherzinger 1979), increased noise levels due to project construction and long-term use of the site have the potential to detrimentally affect bird species by masking their ability to hear. Noise may also be detrimental to birds by causing nest neglect or abandonment due to startle effects, cause sleep interference, or otherwise elicit physiological responses or annoyance that have energetic costs (Ward and Stehn 1989). The detrimental effects of noise are likely to be greatest over the short-term in association with project construction. Noise and vibration associated with project construction are thought to be potentially harmful to a variety of bird species (Gunn and Livingston 1974, RECON 1989, Pike and Hays 1992; see also Service 1995). These impacts will be minimized by the avoidance of construction during the breeding season.

After construction of the proposed project, the limits of the sports park will be bordered with fencing. The ball fields will include night lighting, ranging in height from 14 to 80 feet. Despite the paucity of empirical evidence, increased light levels may increase predation risk to gnatcatchers and other resident species by increasing visibility for predators. Increased night time light levels also may disrupt the daily behavioral patterns and energy budgets of these species. The field activity and lighting will be buffered from the adjacent preserved habitat by the proposed 25 foot-high stadium replica-feature walls and the lighting will be shielded from adjacent habitat. While this measure will help to minimize the effect of lighting, we anticipate that the ambient light level will increase in association with increased human habitation of the area, likely reducing the overall quality of adjoining habitat.

Due to the combined direct and indirect effects of the project, it is unlikely that the pair of gnatcatchers known to occur on the project site will be able to persist in the project area. Thus, mortality of the pair is anticipated because the project will reduce the use area to smaller fragments, which will be subjected to the edge effects associated with the development. Gnatcatchers likely will not occupy the project site until the habitat restoration efforts reach a suitable level of maturity. However, given the remoteness of the project area from other known gnatcatcher locations and the reduced function of a wildlife corridor across the property, the amount of time that it will take for gnatcatchers to recolonize the project site is unpredictable.

Conservation Measures

The applicants have proposed a series of conservation measures described in the proposed action to minimize the effects on the gnatcatcher and offset the loss of native habitat due to the project.

Twelve of the 24 acres avoided on site are in the northwest corner of the project site where the gnatcatcher pair was observed. The remaining 12 acres of CSS is on the southeast corner of the project site that is adjacent and contiguous with the CSS on Walnut Hills where a pair was detected.

The applicants will create 23 acres of CSS onsite, including the creation of the 5 acres temporarily impacted. These restored CSS areas will be situated adjacent to the existing gnatcatcher pair use area and throughout the golf course and restaurant pad. After the vegetation has matured, an increased area suitable for foraging and nesting would be available when gnatcatchers recolonize the area. These restoration areas will also contribute to retaining a corridor for gnatcatcher dispersal.

In addition, the applicants will create 11 acres of California walnut/coast live oak woodland along the edge of the golf course and the eastern boundary of the property. However, due to the slow growth of oaks and walnuts, a mature-canopied woodland that functions in a similar manner to the existing habitat will take decades to mature. Therefore, the full benefits to wildlife of this revegetation effort will take time to be realized. The negative effects of this temporal delay in revegetation will be lessened by the planting of CSS species among the tree species, which will

mature more quickly and foster wildlife movement while the woodland matures. Plantings of scrub species in this area will also encourage gnatcatcher dispersal onto the site from the known breeding areas to the east.

CUMULATIVE EFFECTS

Cumulative effects include the effects of future State, tribal, local, or private actions that are reasonably certain to occur in the action area considered in this biological opinion. Future Federal actions that are unrelated to the proposed action are not considered in this section because they require separate consultation pursuant to section 7 of the Act.

We are unaware and have not identified any cumulative effects that may impact the gnatcatcher in relation to the proposed action.

CONCLUSION

After reviewing the current status of the gnatcatcher, the environmental baseline for the action area, the direct and indirect effects of the proposed project, and the cumulative effects, it is our biological opinion that the proposed BKK Landfill Project is not likely to jeopardize the continued existence of the gnatcatcher or adversely modify its proposed critical habitat. We reached this conclusion because:

1. Few gnatcatchers are known from the project site (i.e., one pair).

2. On-site conservation measures proposed as part of the project will minimize the potential for loss of active nests and eggs and the wounding or killing of adult and juvenile gnatcatchers during habitat clearing activities.

3. There will be a permanent loss of 6.5 acres of CSS and a temporary loss of 5 acres of CSS on site; however, 24 acres of avoided CSS and approximately 23 acres of restored CSS on site will be protected in perpetuity and result in a net gain of approximately 11.5 acres of CSS and likely will support at least one gnatcatcher pairs on site.

INCIDENTAL TAKE STATEMENT

Section 9 of the Act and federal regulation pursuant to section 4(d) of the Act prohibit the take of endangered and threatened species, respectively, without special exemption. Take is defined as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt to engage in any such conduct. Harm is further defined by us to include significant habitat modification or degradation that actually kills or injures a listed species by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Harass is defined by us as an action that creates the likelihood of injury to a listed species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding,

feeding, or sheltering. Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. Under the terms of section 7(b)(4) and 7(o)(2) of the Act, such incidental take is not considered a prohibited taking under the Act, provided that such taking is in compliance with this incidental take statement.

The measures described below are nondiscretionary and must be implemented by the Corps and applicants, as appropriate, in order for the exemption in section 7(o)(2) to apply. The Corps has a continuing duty to regulate the activity that is covered by this incidental take statement. If the Corps fails to adhere to the terms and conditions of the incidental take statement through enforceable terms that are added to the permit or grant document, and/or fails to retain oversight to ensure compliance with these terms and conditions, the protective coverage of section 7(o)(2) may lapse. To monitor the impacts of incidental take, the Corps must report the progress of the action and its impact on the species to our agency as specified in the incidental take statement [50 CFR § 402.14(I)(3)].

AMOUNT OR EXTENT OF TAKE

We anticipate that one (1) gnatcatcher pair will be taken as a result of the proposed project. For this pair, incidental take is expected to be in the form of harm, as defined in 50 CFR § 17.3, due to the permanent and temporary loss of 11.5 acres of CSS and other habitat use areas. We reached this determination based on our review of the proposed grading footprint and the loss of approximately 50% of the isolated habitat patch where gnatcatchers were repeatedly detected during protocol surveys.

EFFECT OF THE TAKE

In the accompanying biological opinion, we determined that this level of anticipated take is not likely to result in jeopardy to the coastal California gnatcatcher or adversely modify its proposed critical habitat.

REASONABLE AND PRUDENT MEASURE

We believe the following reasonable and prudent measure is necessary and appropriate to minimize impacts of incidental take on the coastal California gnatcatcher.

The Corps and/or applicants will minimize the effects of the project on gnatcatchers.

TERMS AND CONDITIONS

To be exempt from the prohibitions of section 9 of the Act, the Corps and/or applicants must comply with the following terms and conditions, which implement the reasonable and prudent measure described above. These terms and conditions are nondiscretionary.

To implement the reasonable and prudent measure, the Corps and/or applicants will:

1.1 Ensure implementation of the on-site minimization measures described in the project description of this biological opinion.

1.2 Ensure that prior to and during clearing of any CSS, chaparral, mule fat, or other suitable gnatcatcher habitat, the biological monitor will locate any individual gnatcatchers onsite and direct operators to begin in an area away from birds. In addition, the biologist shall walk ahead of mechanized equipment to flush birds towards areas of habitat that will be maintained onsite (i.e., areas not designated for clearing or grading). During the course of grading and construction activities within gnatcatcher habitat, the biological monitor will track the take of gnatcatchers and provide on a weekly basis to the CFWO a summary of the number and location of all gnatcatchers that were affected by the project.

The reasonable and prudent measure, with its implementing terms and conditions, is designed to minimize incidental take that might otherwise result from the proposed action. With implementation of this measure, we believe that no more than one pair of coastal California gnatcatchers will be incidentally taken as a result of the proposed action. We will not refer the incidental take of any federally listed, migratory bird, including the gnatcatcher, for prosecution under the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. §§ 703-712), if such take is in compliance with the terms and conditions (including amount and/or number) specified herein. If, during the course of the action, this level of incidental take is exceeded, such incidental take represents new information requiring reinitiation of consultation and review of the reasonable and prudent measures provided. The Corps must immediately provide an explanation of the causes of the taking and review with the CFWO the need for possible modification of the reasonable and prudent measure.

Disposition of Sick, Injured, or Dead Specimens

The CFWO is to be notified within three working days should any endangered or threatened species be found dead or injured as a direct or indirect result of the implementation of this project. Notification must include the date, time, and location of the carcass, and any other pertinent information. Dead animals should be marked in an appropriate manner, photographed, and left on-site. Injured animals should be transported to a qualified veterinarian. Should any treated animals survive, this office should be contacted regarding the final disposition of the animals. The office contact person is Kerri Davis, who may be contacted at the letterhead address or at (760) 431-9440.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the Act directs Federal agencies to utilize their authorities to further the purposes of the Act by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to

minimize or avoid adverse effects of a proposed action on listed species or critical habitat, help implement recovery plans, or to develop information.

1. We recommend the Corps work with the applicants to ensure that focused surveys within the impact area are conducted prior to vegetation clearing to locate sensitive plants for transplantation to appropriate microhabitats within the on-site conserved areas. Moreover, we recommend the Corps work with the applicants to salvage other onsite species that are translocatable.

2 The remaining portions of the BKK Landfill exclusive of the proposed project provide a unique opportunity to contribute to the recovery of the gnatcatcher in the action area through CSS restoration efforts. We encourage the applicants to include CSS restoration as part of any future plans for the BKK Landfill.

In order for us to be kept informed of actions that either minimize or avoid adverse effects or that benefit listed species or their habitats, we request notification of the implementation of any conservation recommendations.

REINITIATION NOTICE

This concludes formal consultation on the BKK Landfill Development Project outlined in materials submitted to us. As provided in 50 CFR §402.16, reinitiation of formal consultation is required where discretionary Federal agency involvement or control over the action has been retained (or is authorized by law) and if (1) the amount or extent of incidental take is exceeded; (2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in this opinion; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) a new species is listed or critical habitat designated that may be affected by the action. In instances where the amount or extent of incidental take is exceeded, any operations causing such take must cease pending reinitiation.

Sincerely,

For Karen A. Goebel
Assistant Field Supervisor

Enclosure (1)

cc: Sherri Cohen, Vandermost
Carmen Santos, EPA

LITERATURE CITED

Alberts, A. C., A. D. Richman, D. Tran, R. Sauvajot, C. McCalvin, and D. T. Bolger. 1993. Effects of habitat fragmentation on populations of native and exotic plants in southern California coastal scrub. Pages 103-110 in J. E. Keeley, editor. Interface between ecology and land development in California, southern California Academy of Science, Los Angeles, California.

Atwood, J. 1980. The United States distribution of the California black-tailed gnatcatcher. Western Birds 11:65-78.

Atwood, J. 1990. Status review of the California gnatcatcher (*Polioptila californica*). Manomet Bird Observatory, Manomet, Massachusetts.

Atwood, J. L., S. H. Tsai, C. A. Reynolds, J. C. Luttrell, and M. R. Fugagli. 1998. Factors affecting estimates of California gnatcatcher territory size. Western Birds 29: 269-279.

Bailey, E. A. and P. J. Mock. 1998. Dispersal capability of the California gnatcatcher: A landscape analysis of distribution data. Western Birds 29:351-360.

Bolger, D. T., A. C. Alberts, R. M. Sauvajot, P. Potenza, C. McCalvin, D. Tran, S. Mazzoni, and M. E. Soulé. 1997*a*. Response of rodents to habitat fragmentation in coastal southern California. Ecological Applications 7:552-563.

Bolger, D. T., A. C. Alberts, and M. E. Soulé. 1991. Bird species occurrence patterns in habitat fragments: sampling, extinction and nested species subsets. American Naturalist 137: 155-166.

Bolger, D. T., A. V. Suarez, K. R. Crooks, S. A. Morrison, and T. J. Case. 2000. Arthropods in urban habitat fragments in southern California: area, age, and edge effects. Ecological Applications 10:1230-1248.

BonTerra. 1999. Walnut Hills Development Tentative Tract No. 50867 Final Biological Technical Report, September 1, 1999. 46 pp.

BonTerra. 2003. Survey reports for the Walnut Hills Development. Submitted to U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, January 28, February 3, and February 10, 2003.

Braden, G., R. McKernan, and S. Powell. 1995. Life history of *Polioptila californica californica* in western Riverside County, CA. Paper delivered at the Symposium on the Biology of the California Gnatcatcher held 15-16 September 1995, University of California, Riverside.

Braden, G., R. McKernan, and S. Powell. 1997*a*. Association of within-territory vegetation characteristics and fitness components of California gnatcatchers. The Auk 114:601-609.

Braden, G., R. McKernan, and S. Powell. 1997*b*. Effects of nest parasitism by the brown-headed cowbird on nesting success of the California gnatcatcher. Condor 99:858-865.

Campbell, K., R. Erickson, W. Haas, and M. Patteb. 1998. California gnatcatcher use of habitats other than coastal sage scrub: Conservation and management implications. Western Birds 29:421-433.

Crooks, K. R., and M. E. Soulé. 1999. Mesopredator release and avifaunal extinctions in a fragmented system. Science 400:563-565.

Galvin, J. 1998. Breeding and dispersal biology of the California gnatcatcher in central Orange County. Western Birds 29:323-332.

Grishaver, M., P. Mock, and K. Preston. 1998. Breeding behavior of the California gnatcatcher in southwestern San Diego County, California. Western Birds 29:299-322.

Glenn Lukos Associates. 2003. Draft Biological Assessment for Impacts to the California Gnatcatcher (*Polioptila californica californica*) in Connection with The Pacific Park West Tentative Tract #53354 Project, City of West Covina, Los Angeles County, California.

Gunn, W. and J. Livingston (eds.). 1974. Disturbance to birds by gas compressor noise simulators, aircraft and human activity in the Mackenzie Valley and North Slope, 1972. *Arctic Gas Biol. Rep. Ser.* 14. 280 pp.

Jennings, J. 2002. Coastal California Gnatcatcher (Polioptila *californica californica*) Survey Report. Prepared for BKK Landfill, submitted to USFWS, CFWO, August 29, 2002.

O'Leary, J. 1990. Californian coastal sage scrub: General characteristics and considerations for biological conservation. Pages 24-41 in "Endangered Plant Communities of Southern California", A. Schoenherr (ed.). Southern California Botanists Special Publication Number 3.

Pike, J. and L. Hays. 1992. The status and management of the least Bell's vireo within the Prado Basin, California, 1986-1991. Unpublished report, California State University, Long Beach Foundation and U.S. Fish and Wildlife Service, Laguna Niguel, California.

Preston, K., P. Mock, M. Grisshaver, E. Bailey, and D. King. 1998. California gnatcatcher territorial behavior. Western Birds 29:242-257.

Regional Environmental Consultants (RECON). 1989. Comprehensive Species Management Plan for the Least Bell's Vireo. Prepared for the San Diego Association of Governments.

Scherzinger, W. 1979. On the relations of predators of hazel grouse (*Bonasa bonasa*). *Vogelwelt* 100:205-217. English translation; abstract.

Soulé, M. E., D. T. Bolger, A. C. Alberts, R. Sauvajot, J. Wright, M.. Sorice, and S. Hill. 1988. Reconstructed dynamics of rapid extinction of chaparral requiring birds in urban habitat islands. Conservation Biology 2:75-92.

Suarez, A. V., D. T. Bolger, and T. J. Case. 1998. The effects of fragmentation and invasion on the native ant community in coastal southern California. Ecology 79:2041-2056.

TeraCor. 2000. Presence/Absence Report for Coastal California gnatcatcher *(Polioptila californica californica),* for Forest Lawn Memorial-Park, Covina Hills, Los Angeles County, September 28, 2000. 15 pp. + Appendices.

U.S. Fish and Wildlife Service. 1995. Biological opinion (1-6-95-F-37) on the Rincon Street Phase II at Temescal Wash Project in Prado Basin, Riverside County, California. 38 pp.

U.S. Fish and Wildlife Service. 1996. Reinitiation of the biological opinion on implementation of the special rule for the coastal California gnatcatcher. On file, U.S. Fish and Wildlife Service Carlsbad Fish and Wildlife Office, Carlsbad, California.

U.S. Fish and Wildlife Service. 1999. Reinitiation of intra-service consultation on implementation of the special rule for the coastal California gnatcatcher. On file, U.S. Fish and Wildlife Service Carlsbad Fish and Wildlife Office, Carlsbad, California.

Ward, D. H. and R. A. Stehn. 1989. Response of brant and other geese to aircraft disturbances at Izembek Lagoon, Alaska. Minerals Management Service, Anchorage, AK, Outer Continental Shelf Office, Report No. MMS-90/0046. 241 pp.

Appendix

CONCEPTUAL COASTAL SAGE SCRUB CONSERVATION AND MONITORING PLAN

Revised MAY 22, 2003

PREPARED FOR:

SAN JOSE HILLS DEVELOPMENT
2210 SOUTH AZUSA AVENUE
WEST COVINA, CALIFORNIA 91792

CITY OF WEST COVINA
1444 WEST GARVEY AVENUE
WEST COVINA, CALIFORNIA 91790

PREPARED BY:

VANDERMOST CONSULTING SERVICES, INC.
27312 CALLE ARROYO
SAN JUAN CAPISTRANO, CA 92675
PHONE: 949-489-2700
FAX: 949- 489-0309

I. INTRODUCTION

This conceptual mitigation program provides guidelines for the establishment of Coastal Sage Scrub (CSS) within 23 acres of open space area and manufactured slopes on the BKK Landfill in the City of West Covina, Los Angeles County, California (Figure 1). This plan is being submitted to the U.S. Army Corps of Engineers (Corps) and the U.S. Fish and Wildlife Service (USFWS) to provide information to complete the Section 7 Consultation.

The mitigation program will compensate for project impacts to 11.5 acres of CSS. Mitigation will consist of the establishment of approximately 23 acres of CSS species within disturbed and non-native annual grassland portions of project open space areas as well as on manufactured slopes. The goal of the mitigation program is to: 1) establish CSS species similar to habitat within the project site and with the diversity and structure that could support the federally listed threatened coastal California gnatcatcher *(Polioptila californica californica);* and 2) provide contiguity with preserved and planted CSS habitats, oak woodlands, and walnut woodland habitats throughout the project open space areas.

This document provides an evaluation of project impacts, an evaluation of mitigation site conditions, and guidelines for site preparation, plant establishment, long-term maintenance and establishment, and long-term site performance monitoring.

II. PROJECT DESCRIPTION

Project Summary

The BKK site totals approximately 656 acres. As shown on the attached aerial, Figure 2, the site includes a closed Class I Landfill (Mixed Hazardous and Non-Hazardous Municipal Solid Waste), a closed Class III Landfill (Municipal Solid Waste) and related ancillary uses on approximately 583 acres. The remaining property, approximately 73 acres, is an undisturbed hillside. The site is bordered by residential development to the west and south and by residential development and open space to the north and east.

The City of West Covina is proposing to redevelop portions of the closed BKK landfill as a brownfield project, as shown on the attached land use map, Figure 3. The proposed project consists of a Big League Dreams sports park and commercial center located along the western boundary of the site adjacent to Azusa Avenue and an 18-hole public golf course and clubhouse located north and northeast of the closed Class III Landfill.

The proposed Big League Dreams sports park consists of 6 theme ball fields and related uses. Additional uses (discussed below as pad 700 and 750) will consist of potential recreational uses, restaurants, and/or other related commercial uses. Pad 700 totals approximately 4 acres and pad 750 totals approximately 2 acres. The Big League Dreams and related sports park uses total approximately 26 acres. The commercial development located south of the sports park may include uses such as office, retail, high technology research, warehouse, commercial and other uses on approximately 45 acres. The proposed 18-hole public golf course and clubhouse totals approximately 180 acres. Approximately 7 holes of the golf course and most of the driving range will be located on 50 acres on the top

deck of the closed Class III Landfill. The remaining 11 holes and the clubhouse will be built on non-landfill area north and northeast of the closed landfills. No development will occur on the closed Class I Landfill, in accordance with EPA regulations.

Pad 750 and 700 Design Parameters

As discussed above, a restaurant is proposed for Pad 750. Development of Pad 700 may include a restaurant, aquatic center and gym, a soccer field or similar related uses. Sketches of possible uses for Pad 700 are attached as Figures 4-6. Since these two pads are located directly adjacent to preserved and revegetated CSS areas, development of the pads will include the following parameters, regardless of specific use:

- Parking pads will be situated toward the access drive and as far away from preserved CSS as possible.

- The northern boundaries of pads 700 and 750 will be buffered from adjacent CSS by an approximately 10 foot wide vegetative barrier. The vegetated buffer will contain native plant species such as; California wild rose, California sagebrush, monkeyflower, toyon, sumac, and lemonadeberry. A detailed planting plan for this area will be included with the CSS revegetation plan, which will be submitted 90 days prior to implementation, and will be subject to review and approval by the Corps and USFWS.

- Any night lighting adjacent to preserved and/or revegetated CSS areas will be shielded to direct the lighting onto the development pad and prevent lighting spray onto the adjacent preserved habitat. An example of the proposed light shielding is attached a Figure 7. *A shielded lighting plan for the development areas directly adjacent to the preserved and revegetated CSS will be submitted to the USFWS no later than 60 days prior to building construction. The USFWS will have 30 days to review the plan.*

Big League Dreams Lighting and Fencing Design Parameters

The western boundary of the project site, adjacent to Azusa Avenue, currently contains chain link fencing. In addition, the limits of the Big League Dreams will be bordered with fencing. *This fencing will be maintained in perpetuity as required by the USFWS.* The Big League Dreams ball fields will include night lighting, ranging in height from 14 to 80 feet. The field activity and lighting will be buffered from the adjacent preserved habitat by the proposed 25-foot high stadium replica feature walls.

Funding Mechanisms

The landowner of the subject real property will be the Redevelopment Agency of the City of West Covina (the 'Agency '). The Agency will issue one or more municipal bonds in connection with the construction of the anticipated project, and a portion of those municipal bond proceeds, in an amount between $690,000 and $1,150,000, shall be dedicated prior to ground disturbing activities as assurance that the habitat creation and associated

maintenance and monitoring for a 5-year period meets specific performance standards. The City of West Covina, as separate and apart from the Redevelopment Agency, as landowner, itself shall guarantee, in writing, by means of a separate written guarantee, the various conservation obligations of the Agency, as landowner, including habitat creation and associated maintenance and monitoring for a five-year period to specified performance standards. Said guarantee shall be backed by the full faith and credit of the City of West Covina and shall be a general obligation of the City of West Covina, payable from the general fund of the City. A copy of the City's written guarantee will be submitted to the CFWO, for approval, prior to ground disturbing activities.

III. PROJECT IMPACTS TO COASTAL SAGE SCRUB

Clearing and grubbing of the site is proposed to occur outside the gnatcatcher nesting season. Clearing and grubbing shall be initiated in September of 2003. Mass grading is expected to commence in winter of 2003/04. Project implementation will result in the loss of approximately 11.5 acres of CSS habitat on the project site of which 5 acres is temporary and 6.5 acres is permanent. A total of 24 acres of CSS will be preserved onsite, and approximately 23 acres of CSS will be created.

It is the intent of the CSS habitat mitigation program to: 1) establish CSS species similar to habitat on and within the vicinity of the project site and with the diversity and structure that could support the coastal California gnatcatcher; and 2) provide contiguity with preserved and created CSS habitats, oak woodlands, riparian woodland, and walnut woodland habitats throughout the project open space areas. CSS planting and establishment (as well as coast live oak, California walnut, riparian woodland, native grassland, etc. planting) on manufactured slopes, open space areas, and within the golf course will link and connect preserved native habitats within project open space areas, provide for project-wide habitat contiguity, and facilitate increased dispersal and movement of wildlife species (i.e., California gnatcatcher) throughout the project site.

The mitigation plan includes guidelines for initial implementation, long-term maintenance, and site performance monitoring that facilitate the establishment of quality CSS habitat.

IV. MITIGATION SITE CONDITIONS

As shown on the attached land use plan, Figure 3, preservation of 24 acres of existing sage scrub will occur in the northern portion and southeastern portion of the site. Revegetation will occur on 7 acres of manufactured slopes surrounding the Sports Park. The remainder of revegetation (16 acres) will occur within open space areas of the site, which currently contain disturbed land, walnut woodland, coast live oak and cactus scrub habitat.

V. RESPONSIBLITIES

The following outlines the various functions of the key parties responsible for ensuring the successful implementation of the CSS mitigation program. Implementation will include the initial installation of the mitigation program as well as the long-term maintenance and performance monitoring. Successful implementation of the program is dependent upon cooperative efforts of three key parties: (1) Landowner/Applicant, (2) Biological Monitor, and (3) Contractors. Specific roles of the above parties will consist of the following:

Landowner/Applicant

The Landowner/ Applicant or his assignees and successors in interest shall be responsible for retaining qualified Contractors to implement the CSS mitigation program. The Landowner/Applicant will also be responsible for retaining a qualified Biological Monitor to monitor program installation and long-term maintenance. The Landowner/Applicant shall be ultimately responsible for the implementation of the mitigation program. The Landowner/Applicant will be responsible for the funding of the mitigation sites and long-term maintenance. The preserved and revegetated CSS will be included in the City of West Covina's open space district. The City will amend the General Plan to include the 24 acres of preserved CSS and 23 acres of revegetated CSS as designated open space. A copy of the amendment will be submitted to the USFWS and Corps upon approval by the City Council. Approval is expected to take approximately 6 months after close of escrow.

Biological Monitor

The Landowner/Applicant shall retain a Biological Monitor with experience in planning, designing, and monitoring successful CSS habitat establishment programs in Southern California. The Biological Monitor will have knowledge and experience with conceptual and detailed restoration planning and design, habitat mitigation planning and associated resource agency coordination, non-native species management and control planning, restoration implementation planning and monitoring, and long-term restoration growth performance and maintenance monitoring. The Biological Monitor will be responsible for monitoring: site preparation activities; native seed mix application; the three to five-year maintenance program; and overall site performance. The Biological Monitor will also be responsible for coordinating with the Contractors, Landowner/Applicant, the Corps and the USFWS regarding site status, and for preparing annual site status documentation. The Biological Monitor will attend all onsite meetings during all implementation, long-term maintenance, and site performance monitoring procedures. The Biological Monitor shall be responsible for directing the Contractors and any resource specialists required during plan implementation to ensure compliance with specified performance standards and the successful establishment of CSS species.

Contractor

The Landowner/Applicant will be responsible for retaining a licensed contractor experienced in: 1) non-native species control and management within natural habitat areas; and 2) the installation, establishment and maintenance of successful native CSS habitat establishment programs in Southern California. The Contractors will be responsible for performing all site preparation procedures, irrigation system installation, applying the native seed mix to designated areas, performing maintenance tasks, and facilitating compliance with all site performance standards under the direction of the Biological Monitor. The Contractors will also be responsible for coordinating with the Biological Monitor regarding installation procedures and ongoing site maintenance procedures, and any necessary remedial measures. The City of West Covina may designate experienced personnel to participate in long-term maintenance of the site until deemed complete.

VI. MITIGATION IMPLEMENTATION GUIDELINES

This section provides guidelines for CSS habitat creation and establishment within project open space areas and manufactured slopes. Detailed planting plans will be developed following Corps and USFWS approval of the conceptual mitigation program.

Site Preparation

Protection of Existing Native Plant Species

All native species within the CSS planting areas will be protected in place during site preparation and plant establishment activities. Prior to the initiation of site preparation, the Contractors will use colored flagging and/or orange plastic snow fencing to mark all plant species to be protected as directed by the Biological Monitor.

Weed Removal

Weed control will be necessary within the annual grassland portions of the mitigation sites. Weed removal methods may include: 1) cut and paint method of application (Round-up Pro at a two percent application rate); 2) mechanical removal of above ground vegetation and root materials, as appropriate for specific species; 3) the use of alternate herbicides such as Garlon or other appropriate herbicides; 4) adjustments to treatment frequencies and schedules; and 5) mowing and discing (for annual grasses).

Soil Treatments

CSS species require suitable soil microbiological and physical elements for long-term successful habitat establishment. Fairly loose, aerated soils are required for deep root development and overall successful plant establishment. Several soil treatment methods that facilitate the development of a healthy soil structure are described below. Soils tests will be performed for both the manufactured slopes and annual grassland areas prior to the development of implementation level plans to identify any soil problems and to determine the appropriate combination of these treatments.

Ripping

Soil compaction conditions may occur within the annual grassland areas. If necessary, a dozer with a ripper will be used to alleviate compaction where it occurs within areas currently supporting annual grassland species. Soils will be ripped to a minimum depth of 12 inches. Soils surfaces will be left roughened to provide appropriate microhabitats for seed species.

Auguring

The manufactured slope areas will be compacted to ensure slope stability and minimize erosion and sedimentation.

Inoculation

All CSS planting areas will be inoculated with mycorrhizal fungi (VAM 80) to facilitate the development of healthy soil conditions, the establishment of native plant species, and the minimization of weed and ruderal species development. This will include the use of inoculum material as part of the seed mix and the use of mycorrhizal host plant species (see plant establishment below).

Mycorrhizal fungi will also be introduced to the sites through the use of salvaged native topsoils and vegetation (duff). The re-use of native duff will provide a source of site-specific propagules (seeds and root materials), beneficial fungi (including mycorrhizal fungi), nutrients, organic matter, and beneficial soil organisms. Many CSS species can regenerate and re-establish from duff materials and therefore contribute to overall site coverage. If possible, duff will be created by mulching/crushing CSS vegetation designated for removal, and collecting these materials, along with the top four to six inches of topsoil. Only high quality, weed-free vegetation will be used and retained. These materials should then be applied to the CSS mitigation sites to a depth of four inches using a loader or a dozer. If temporary storage of the materials is necessary, the duff will be stockpiled in piles no higher than three feet.

Irrigation Installation

Seeded species will be temporarily irrigated to facilitate germination and plant establishment. This will consist of a temporary irrigation system installed throughout the CSS mitigation areas. The irrigation system may utilize reclaimed water. Once native seed mix has germinated and become established, overhead irrigation will be discontinued. The discontinuation of irrigation will minimize the ongoing establishment of weed species. Irrigation will be scheduled to encourage deep root growth instead of surface root development.

Table 1 includes potential seed mix species for the mitigation sites. Seed mixes containing varying quantities of these species will be seeded throughout the mitigation site to provide perennial grasses, wildflowers, herbaceous, and shrub CSS species.

Seed Mix Application

Seeding shall be performed between October 1 and January 31 and during those periods when weather and soil conditions are suitable. In this way, seasonal rains can be used to facilitate appropriate germination and coverage. The Biological Monitor shall approve timing in advance. Local seed mixes will be obtained from reputable and technically experienced native seed suppliers. The seed will be broadcast throughout the mitigation sites using appropriate hydroseeding devices.

TABLE 1
TYPICAL SEED MIX SPECIES

Common Name	Botanical Name
Coast goldenbush	*Isocoma menziesii*
Golden yarrow	*Eriophyllum confertifolorum*
California brome	*Bromus Carinatus*
Everlasting	*Gnaphalium califomicum*
Plantain	*Plantago erecta*
Giant wild rye	*Leymus condensatus*
Deerweed	*Lotus scoparius*
Lupine	*Lupinus succulentus*
California poppy	*Eschscholzia califomica*
California melic	*Melica imperfecta*
Purple needlegrass	*Stipa pu/chra*
Blue dicks	*Dichelostemma puichellum*
Coyote bush	*Bacchans pilularis*
California sagebrush	*Artemisia califomica*
California buckwheat	*Eriogonum fasciculatum*
California brittlebush	*Encelia fannosa*
Bladderpod	*lsomeñs arborea*
Encelia	*Encelia califomica*
Black sage	*Salvia mellifera*
White sage	*Salvia apiana*
Bush monkeyflower	*Mimulus aurantiacus*

VII. LONG-TERM SITE MAINTENANCE

Three to five-year maintenance operations shall begin immediately after the completion of CSS mitigation installation. The intent of the maintenance program is to facilitate the establishment of CSS species within the mitigation sites. The Biological Monitor, in coordination with the USFWS, will approve any needed revisions to the specified schedule and methodologies. If the site has met the performance standards in years 3 or 4 the applicant/landowner may request early sign off from the regulatory agencies. The maintenance period shall include the following activities:

Protection

The Contractors shall be responsible for providing adequate protection of all seeded and planted areas against herbivores, traffic, vandalism, or other intrusions by erecting fencing, caging, or other acceptable structures upon completion of the installation period. Damaged areas shall be repaired immediately by the Contractors and/or Landowner/Applicant.

Erosion Control

The Contractors shall be responsible for providing erosion and sediment control as appropriate to prevent damage to the mitigation sites and immediately adjacent areas.

Signage

The Contractors shall install signs at the boundaries of the mitigation sites at locations determined by the Biological Monitor. The signs will include information regarding the size of the mitigation effort, the purpose of the mitigation effort, the Landowner/Applicant, and the permitting agencies. All final text will be approved by the Biological Monitor prior to sign production and installation.

Weed Control

It is important for field crews to be able to distinguish native plant materials from weedy or non-native plants. Before weeding begins, the Biological Monitor shall educate the Contractors and crew as necessary regarding differences in desirable and undesirable plant materials. Weed removal shall occur on a monthly basis from March through August, and on an as-needed basis from September to February during each year of monitoring. Non-native grasses shall be controlled only if they become problematic and discourage native species germination and establishment. The understory grass species provide soil stabilization as well as foraging opportunities for many wildlife species and are considered an important component of the CSS community. Broadleaf weed tree tobacco *(Nicotiana glauca),* castor bean *(Ricinus communis),* black mustard, and sweet fennel *(Foeniculum vulgare)* shall be controlled as necessary using hand removal methods and spot treatments of two percent Round-up Pro. Other methods will include: 1) cut and paint method of application (Round-up Pro at a two percent application rate); 2) mechanical removal of above ground vegetation and root materials; 3) the use of alternate herbicides such as Garlon or other appropriate herbicides; and 4) adjustments to treatment frequencies and schedules.

Replacement

During the maintenance period, plant failure below the required coverage standards and/or poor-health shall be compensated by reseeding and replanting using species and quantities specified by the Biological Monitor. No reseeding or replanting shall occur in any season unfavorable for plant germination and establishment. The Biological Monitor shall make regular inspections of the work as specified in the Biological Monitoring Guidelines to assess the condition of all plants and determine any necessary remedial measures necessary to provide adequate coverage.

Trash Removal

The site shall be kept clear of all trash and debris.

Pest Control

Insects, plant disease, herbivores, and other pests shall be closely monitored during the maintenance period. Diseased or infected plants shall be immediately disposed of offsite at an appropriate landfill to prevent infection of onsite resources. Where possible, biological controls shall be used instead of pesticides, herbicides, etc. Pesticide use shall be in accordance with local codes and regulations and at the recommendation of the Biological Monitor. Rodent control, if necessary, shall occur by use of live traps.

Cowbirds

During the five-year maintenance and monitoring period the Biological Monitor shall be responsible for determining if cowbirds occur within the 47 acres of preserved and revegetated CSS. The biological monitor will determine if cowbirds are present, on an annual basis, during the start of the spring breeding season (February 15). If cowbirds are present, the monitor will draft a trapping plan for submittal to the USFWS for review and approval.

Extended Maintenance

When, in the opinion of the Biological Monitor, there is poor, unhealthy condition of plant materials, inadequate control of weed species, and non-compliance with performance standards, the maintenance period will be extended beyond the required five year time period until performance standards are met.

A schedule of maintenance work tasks is provided in Tables 2 and 3.

TABLE 2
FIVE-YEAR MAINTENANCE PROGRAM SCHEDULE FOR YEARS ONE TO THREE

Work Tasks[1]	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Weed Control												
Irrigation maintenance												
Pest Control												
Plant Protection												
Erosion Control												
I.D. Plant Mortality								X	X			
Plant Replacement[2]												
Trash Removal	X	X	X	X	X	X	X	X	X	X	X	X

Symbols:

	Ongoing Task
X	Task performed one or more times a month; i.e. 4X=four times a month.

[1] Maintenance task schedule and frequency will be adjusted as appropriate in coordination with the Biological Monitor.
[2] As needed.

TABLE 3
FIVE-YEAR MAINTENANCE PROGRAM SCHEDULE FOR YEARS FOUR AND FIVE

Work Tasks[1]	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Weed Control[2]			X	X	X	X	X	X				
Irrigation maintenance												
Pest Control												
Plant Protection												
Erosion Control												
I.D. Plant Mortality								X	X			
Plant Replacement[2]												
Trash Removal	X	X	X	X	X	X	X	X	X	X	X	X

Symbols:

	Ongoing Task
X	Task performed one or more times a month; i.e. 4X=four times a month.

[1] Maintenance task schedule and frequency will be adjusted in coordination with the Biological Monitor.
[2] As needed.

VIII. BIOLOGICAL MONITORING GUIDELINES

The Biological Monitor shall be responsible for: monitoring site preparation, irrigation installation, seed mix application, long-term maintenance, and long-term site performance; providing site status documentation; and facilitating the protection of natural resources during initial installation and maintenance activities throughout the mitigation program. The Biological Monitor will also be responsible for coordinating with the Landowner/Applicant, Contractors, Corps, and USFWS regarding site conditions and performance, and required remedial measures.

A schedule of site performance monitoring tasks is provided in Tables 4 and 5.

TABLE 4
LONG-TERM SITE MONITORING SCHEDULE
YEAR ONE

Work Tasks	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Site Monitoring												
Qualitative Surveys	X	X	X	X	X	X	X	X	X	X	X	X
Quantitative Surveys									X			
Photo documentation	X								X			
Onsite Meetings[1]	X	X	X	X	X	X	X	X	X	X	X	X
Site Status Documentation												
Installation Completion	X											
Progress Reports	X	X	X	X	X	X	X	X	X	X	X	X
Annual Status Reports[2]												X

[1] Onsite meetings will include, as needed, the Project Biologist, the Contractors, resource agencies, and any other appropriate parties and will occur during regularly scheduled site monitoring visits.

[2] Submitted by January 1 of each year.

TABLE 5
LONG-TERM SITE MONITORING SCHEDULE

Work Tasks	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Site Monitoring												
Qualitative Surveys			X			X			X			X
Quantitative Surveys									X			
Photo documentation									X			
Onsite Meetings[1]			X			X			X			X
Site Status Documentation												
Progress Reports			X			X			X			
Annual Status Reports[2]												X

[1] Onsite meetings will include, as needed, the Project Biologist, the Contractors, resource agencies, and any other appropriate parties and will occur as necessary during the regularly scheduled site monitoring visits.
[2] Submitted by January 1 of each year.

YEARS TWO TO FIVE

IX. IMPLEMENTATION MONITORING

Meetings between the Contractors, Landowner/Applicant, Biological Monitor, and any other appropriate entities shall be conducted as necessary prior to and during implementation activities to identify and clarify specified methodologies and to resolve any issues that arise during implementation. The Biological Monitor shall have the authority to stop all work in the event of unfavorable site conditions. Deviations from specified methodology will require prior approval from the Biological Monitor. Site inspections will be performed on an as needed basis during site preparation, irrigation installation, and seed mix application will include the tasks listed below:

- Photo document pre-existing site conditions and installation procedures
- Identify non-native species
- Flag native species to be retained (i.e. direct Contractors to do so)
- Monitor weed control, soils treatment, and irrigation installation, activities
- Identify onsite location and layout of seed mixes
- Conduct field inspections during seed mix application and planting activities
- Coordinate (verbal and written) with the Contractors, the hydroseed company, the seed supplier, and the Landowner/Applicant

X. LONG-TERM MONITORING

Maintenance Monitoring

The Biological Monitor shall monitor maintenance activities at the CSS mitigation sites for three to five years to facilitate the successful establishment of quality CSS habitat. The Biological Monitor shall meet with the Contractors as necessary, during regularly scheduled site visits as specified below, to discuss site conditions and recommended remedial measures. Potential remedial measures to be recommended to the Contractors shall include but not be limited to the following:

Protection

In the event of herbivore damage, pedestrian damage, vandalism, or other types of site damage, the Biological Monitor shall make appropriate recommendations to minimize future damage to the site. Possible protection measures may include additional fencing, caging, live traps, signage, etc.

Weed Control

The Biological Monitor shall educate the field crews as necessary regarding the differences between invasive, problem weed species and desired native species on an as-needed basis (frequency will be based on field personnel changes and field conditions). The Biological Monitor shall coordinate with the Contractors on an ongoing basis regarding appropriate problem weed control measures to facilitate the successful control of weed species and establishment of native plant species.

Replacement Planting

The Biological Monitor shall coordinate with the Contractors regarding appropriate replacement planting measures in the event of widespread plant failure and non-compliance with performance standards specified above. Recommended replacement seed mixes shall include plant species and application quantities that result in the establishment of a mix of CSS species similar to species existing onsite and in undisturbed areas of CSS adjacent to the site.

Pest Control

The Biological Monitor shall coordinate with the Contractors regarding the control of insects, ground squirrels, and other herbivores, fungi, rust, and other plant diseases and infestations. Recommended control measures shall include, but not be limited to, biological control methods and herbicides.

Native Plant Species Growth Performance

The Biological Monitor shall use the performance standards listed in Table 6 to evaluate the establishment of quality revegetated habitat. Compliance with the performance standards will be used when evaluating overall mitigation success. The site shall be considered successful when seeded native species coverage standards are complied with and natural recruitment occurs. If the sites reach success prior to the end of the 5-year schedule the agencies will be contacted to attend an on-site meeting confirming success and completion of the requirements. .

Project Performance Standards

The standards listed in Table 6 shall be achieved within the CSS mitigation sites. Refer to Table 7 in the Biological Monitoring Guidelines for definitions of non-compliance. The Biological Monitor shall evaluate compliance and non-compliance with the specified performance standards. The use of the mitigation site by wildlife species, as observed during regular monitoring visits will aid in the overall determination of mitigation success and appropriate remedial measures.

TABLE 6
NATIVE PLANT SPECIES PERFORMANCE STANDARDS

Year	Coverage	Survival Rate
One	25 percent	80 percent
Two	40 percent	80 percent
Three	60 percent	80 percent
Four	75 percent	80 percent
Five	85 to 90 percent	80 percent

Site Monitoring and Evaluation

Monitoring performance shall consist of the following:

Years One to Five

- Twelve qualitative surveys shall be performed the first year and quarterly qualitative surveys will be performed for years two to five following implementation to assess native plant species percent coverage and diversity, native species recruitment and reproduction, plant mortality and germination failure, plant fitness and health, pest problems, irrigation system performance, invasive weed species establishment, and wildlife species use. Qualitative surveys performed each year will include an evaluation of wildlife species use of the site.

- Randomly located line-intercept transects shall be used during the qualitative survey at the end of each year for five years following implementation to more precisely measure native species composition, diversity, and coverage. Species coverage will be listed by native and non-native species. Native species coverage will be further broken down to include coverage by age class (seedling, intermediate, and mature) and plant structure/type (shrub, sub-shrub, herbaceous, and grass species). Bare ground, leaf litter, and detritus coverage will also be recorded along each transect. This information will be used to more precisely determine native and non-native species percent coverage, seed mix germination, native species recruitment and reproduction, species diversity, habitat structural diversity, etc. on a yearly basis. These transect measurements will allow for the yearly determination of compliance/non-compliance with percent coverage performance standards listed in Table 6. Transects locations will be marked on mitigation site maps.

- Plant mortality will be quantified by counting all dead species. The quantification of mortality will allow for a yearly evaluation of compliance with 80 percent survival rates.

- Pre-established photo documentation stations shall be used at the completion of all implementation activities and during each annual quantitative survey to provide visual documentation of the sites' progress.

- The Biological Monitor shall meet with the Contractors as necessary during regularly scheduled site visits listed above to discuss site conditions and recommended remedial measures. Recommended remedial measures shall be based on site observations and survey results and follow the guidelines provided in Table7.

TABLE 7
SITE REMEDIAL PROCEDURES

Performance Standard	Non-Compliance	Remedial Measure
25, 40, 60, 75, and 85-90 percent coverage of native species at years 1, 2, 3, 4, and 5.	>5-percent deviation below specified coverage throughout greater than 10-percent of the entire site.	Reseeding and replanting with an appropriate species and quantities, irrigation system adjustment, and additional weed control shall be recommended as appropriate to facilitate <5-percent deviation below specified coverage throughout greater than 10-percent of the entire site.
80-percent survival rate of species at year 1, 2, 3, 4, and 5.	Less than 80 percent survival for each year.	Reseeding with appropriate quantities, selection of alternate sites shall be considered.

Site Status Documentation

Installation Summary

A letter report that summarizes installation and final as-built conditions (including an as-built map) will be submitted by the Biological Monitor to the Landowner/Applicant and USFWS within six weeks of completion of mitigation installation. The report will include any revisions to site locations, site boundaries, plant materials, etc. listed in the approved mitigation program. The report will include a summary of all plant species planted, seed species broadcast, final grade elevations, and photographs of installation activities and site conditions immediately following installation completion.

Progress Reports

Progress reports summarizing site status and recommended remedial measures shall be submitted by the Biological Monitor to the Landowner/Applicant and the Contractors following each monitoring site visit, with the exception of the site visits immediately preceding the development of each yearly status report. Each progress report shall list estimated native species coverage and diversity, native species health and overall vigor, the establishment of volunteer native species, problem weed species, the use of the site by wildlife species, significant drought stress, and any recommended remedial measures deemed necessary to ensure compliance with specified performance standards.

Annual Status Reports

Annual site status reports (5) that summarize site conditions shall be forwarded by the Biological Monitor to the Contractors, Landowner/Applicant, Corps and USFWS at one-year intervals following initial planting. Each annual report shall list native species coverage and diversity measured during quantitative surveys, plant mortality, compliance/ non-compliance with required performance standards, native species health and overall vigor, the establishment of volunteer native species, the use of the site by wildlife species, the presence of other invasive weed species, and significant drought stress. In the event of substantial noncompliance with the required performance standards, the reports will include remedial measures deemed necessary to ensure future compliance with specified performance standards.

XI. FINAL PROGRAM APPROVAL

When the three to five-year establishment and monitoring program has been completed and/or when compliance has been documented with all specified performance standards (as listed in the performance standards listed in Table 7), whichever comes first, the Corps and USFWS shall be notified by the Biological Monitor.

Final Agency Approval

The final annual status report shall be forwarded to the Corps and USFWS. The Biological Monitor and the Landowner/Applicant shall meet at the mitigation sites with the Corps and USFWS to verify the successful establishment of CSS habitat. Based on the verification of successful habitat establishment and compliance with all performance standards, a letter confirming successful mitigation program completion and concurrence with maintenance and monitoring program termination shall be forwarded to the Landowner/Applicant from USFWS and shall serve as an official mitigation program sign-off.

XII. CONTINGENCY PLAN

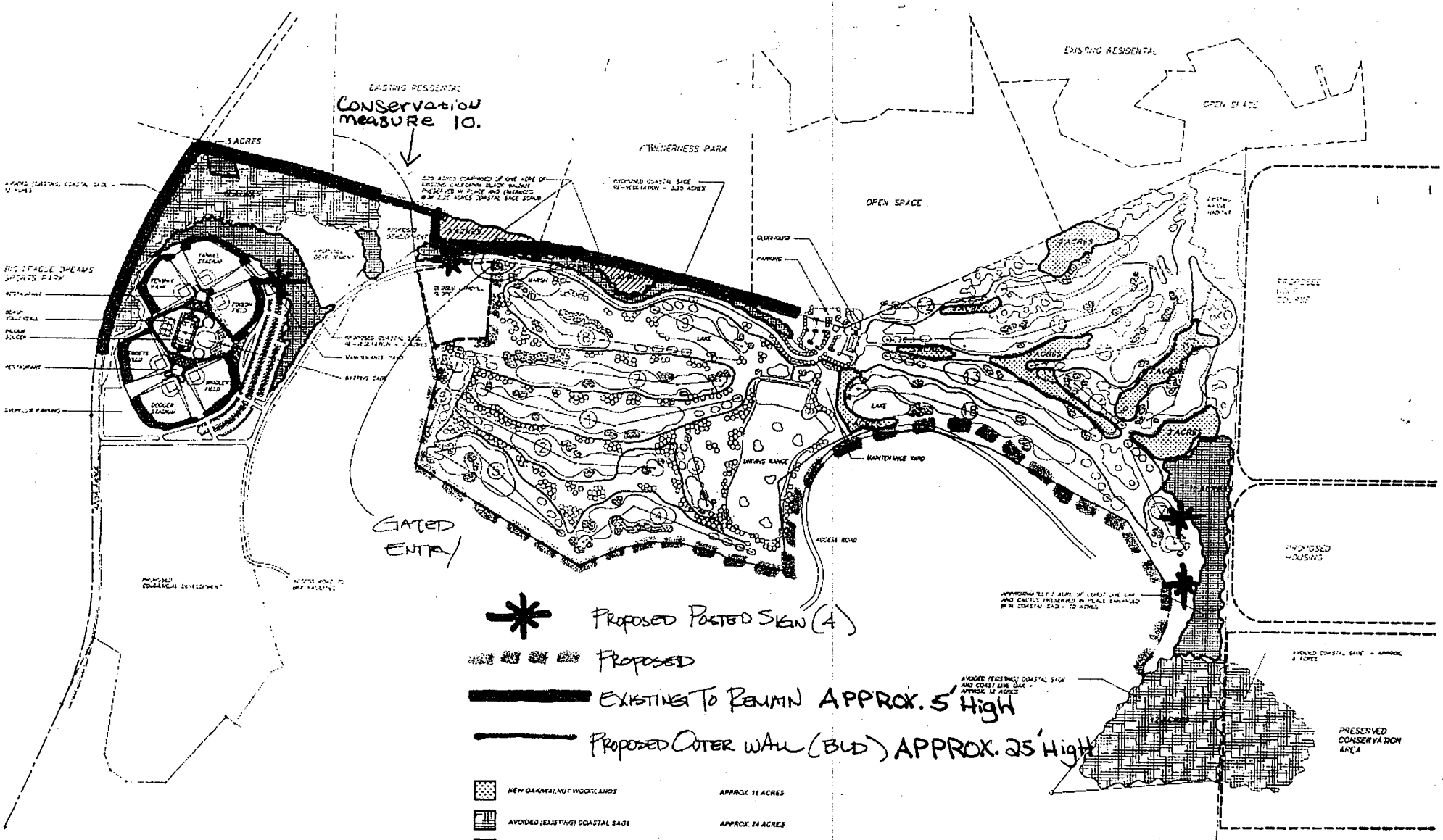
The Landowner/Applicant shall be responsible for establishing, maintaining, and monitoring the mitigation sites for five years or until the performance standards listed in Table 7 are met at the mitigation sites, whichever is longer.

XIII. NON-COMPLIANCE WITH REQUIRED PERFORMANCE STANDARDS

If, at the end of one, two, three, four, and five years, there is little or no indication that performance goals are being achieved at the mitigation site, the Biological Monitor shall analyze noncompliance and poor performance and recommend appropriate remedial measures. The Biological Monitor and the Landowner/Applicant shall meet with the Corps and USFWS regarding site performance and to discuss remedial measures necessary to facilitate the establishment of CSS habitat and compliance with performance goals.

XIV. ALTERNATIVE MITIGATION MEASURES

If it is determined that onsite conditions are unsuitable for remedial measures that will establish self-sustainable CSS habitat that complies with performance goals, an alternative mitigation measure shall be identified that offsets project impacts at the initial compensatory ratios. Alternative mitigation measures may include exotics removal, habitat creation/restoration at an alternative site(s), participation in an approved mitigation bank, or any other appropriate measure, as approved by the resource agencies. Planning, implementation, monitoring, and establishment of any alternative mitigation measure(s) will be the responsibility of the Landowner/Applicant. The selection process for selecting an alternate CSS habitat establishment program and/or restoration site(s) will include an evaluation of soils conditions, proximity to existing CSS and other native habitats, and non-native weed species coverage.



WEST COVINA SPORTSPLEX
CONCEPTUAL RE-VEGETATION STUDY

SCALE 1:200

ROSSETTI 02.01.03

FIGURE 1.

FENCE PLAN 5/16/03
REVISED 6/5/03